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7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9

10 MARK ADAMS,

CASE NO

11 Plaintiff,

COMPLAINT

12 v.

DEMAND FOR JURY TRIAL

13 METROPOLITAN EDUCATION
DISTRICT FOUNDATION, a California
14 Corporation, ALYSSA LYNCH, an
individual, DOES 1-20.

15 Defendants
16

17 _____ /
18 Plaintiff , by and through her attorney of record Mirch Law Firm LLP,
19 alleges as follows:

20 **Preliminary Provisions**

- 21 1. Plaintiff, Mark Adams is an individual residing in Santa Cruz, County,
22 California.
23 2. Defendant, Metropolitan Education District Foundation, (hereinafter referred
24 to as “MetroED”, is a California Corporation doing business in San Jose,
25 California.
26 3. Defendant, Alyssa Lynch, at all times relevant hereto was a resident of the
27 State of California, and working for MetroED in the City of San Jose.
28

1 4. Defendant, Does 1-10, at all time relevant hereto, were by their conduct
2 responsible, all or in part, for the damages caused by allegations plead herein.
3 At such time as their true names and identities are known, Plaintiff will seek
4 leave from this Court to amend this complaint.

5 5. Plaintiff is informed and believes, and based upon such information and belief
6 alleges, that each of the defendants sued herein was the agent, assignee, parent
7 company, affiliate, wholly owned subsidiary, of each of the remaining
8 defendant, and each of them in doing the actions alleged below were acting
9 within the course and scope of said agency or position.

10 6. Whenever the term Defendant is used without specific exclusion of any other
11 Defendant, then all the Defendants are included in that term. This applies even
12 if the term "Defendant" is used in the singular or the plural, unless otherwise
13 stated.

14 **JURISDICTION**

15 7. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 in
16 that this case arises under federal law, including the Taft Hartly Act (Employer
17 Unfair Labor Practices).

18 8. This Court has supplemental jurisdiction over the related state law claims
19 pursuant to 28 U.S.C. § 1367(a) because Plaintiff state law claims share
20 common operative facts with his federal law claim, and the parties are
21 identical. Resolving all state and federal claims in a single action serves the
22 interests of judicial economy, convenience, and fairness to the parties.

23 **VENUE**

24 9. Venue is proper in the Northern District of California pursuant to Section
25 706(f)(3) of Title VII, 42 U.S.C. § 2000e-5(f)(3), because the unlawful
26 employment practices giving rise to Plaintiff's claims occurred in this District.

27 **JURY DEMAND**

28 10. Plaintiff demand a jury in this action.

FACTUAL ALLEGATIONS

- 11. Plaintiff worked for MetroED from January 2009, until he was constructively terminated.
- 12. Plaintiff filed a grievance with the EEOC.
- 13. On April 14, 2017 the EEOC issued a right to sue letter. Exhibit A.

METROED

- 1. MetroED was created as a joint powers authority by six school districts in Santa Clara County. MetroED is governed by the six districts that comprise the joint powers agreement.
- 2. MetroED is a regional provider of Career Technical Education (CTE) and Adult Education.
- 3. MetroED provides educational opportunities for adults and high school students within their designated districts.
- 4. Silicon Valley Career Technical Education provides career technical education for high school (and adult students, on a space-available basis) in the following districts: (1) Campbell Union High School District; (2) East Side Union High School District; (3) Los Gatos-Saratoga Union High School District; (4) Milpitas Unified School District; (5) San Jose Unified School District; and (6) Santa Clara Unified School District.
- 5. Silicon Valley Career Technical Education uses MetroED facilities to operate.

METROED FUNDING

- 6. MetroED has for years received state, federal, local and charitable funding from the State of California, Federal Government and various Charitable Organizations for career education program and adult education conducted at its campus in San Jose, California.
- 7. At least as early as 2009, MetroED improperly used funds earmarked for its "career education programs" for lobbying and solicitation of political contributions.

1 8. MetroED, Alyssa Lynch and other MetroED employees have concealed the
2 misuse of funds designated for "career education programs", for lobbying and
3 solicitation of political contributions.

4 **DECERTIFICATION OF TEACHING PROGRAM**

5 **(June 25, 2015)**

6 9. On or about June 25, 2015, California's Commission on Teacher Credentialing
7 conducted an investigation of MetroED's teacher credentialing program.

8 10. As a result of the June 25, 2015 investigation, State of California auditors
9 uncovered systemic mismanagement and lack of accountability at MetroED.

10
11 11. At all times relevant hereto, MetroED intentionally concealed its violation of
12 the administrator to teachers' ratio mandated by Education Code Section
13 41402.

14 12. MetroED violated §41402 by providing teaching credentials to administrators
15 that had not earned those degrees.

16 13. The California Commission on Teacher Credentialing (CTC) found that
17 MetroED had failed all but one of the legal benchmarks to teach, train and
18 certify teachers to work in California's public education system. MetroED's
19 teacher credentialing program was indefinitely suspended.

20 14. According to the California Commission on Teacher Credentials MetroED
21 failed the minimum legal benchmarks codified by the California Legislature.
22 Specifically, it was determined that MetroED was not conducting a legitimate
23 teaching training programs from at least 2000-2015.

24 15. MetroED did not allow legitimate audits and/or investigations to be conducted
25 on a consistent basis at MetroED and/or any other school district that was
26 being administered by MetroED pursuant to its authority under the joint
27 powers act.

28 16. At all times relevant hereto, MetroED intentionally concealed its violation of

1 the administrator to teachers' ratio mandated by Education Code Section
2 41402. MetroED violated §41402 by providing teaching credentials to
3 administrators that had not earned those degrees.

4 17. MetroED intentionally violated §41402 in order to use funds earmarked for
5 education to hire administrators for lobbying and solicitation of political
6 contributions.

7 18. Upon information and belief, millions of dollars of education funds were
8 improperly used in direct contravention of their purpose to educate career high
9 school and adult education students.

10 19. In addition to the "career education programs" being fully funded, MetroED
11 received cash revenue from at least three other sources: (1) Revenue
12 generated from a majority interests in Commercial Real Estate owned by
13 MetroED or a related entity and leased to well known companies (e.g., Capital
14 Honda, McDonalds, Shell Oil, Popeyes Chicken, Subway, Self-Storage, and
15 a number of smaller shops); (2) Rent, payroll and other expenses from Alyssa
16 Lynch's lobbying business; (3) Revenue generated from the MetroED
17 Cafeteria of approximately \$80,000.00; and (4) tuition from adult education
18 programs.

19 20. Upon information and belief, MetroED was receiving any where from
20 \$240,000 to \$360,000 in revenue from the Commercial Real Estate.
21 MetroED's majority interest should have generated at least twice that amount
22 of cash revenue or between \$480,000-\$720,000 annually.

23 21. Defendant Lynch operates MetroED as its CEO. Alyssa Lynch was the
24 presiding officer of MetroED and six other school districts that were part of
25 a Joint Powers Agreement operated by Alyssa Lynch and other Administrators.

26 22. Defendant Lynch also operated her lobbying business through MetroED using
27 its facilities without paying rent or any costs associated with that business.

28 23. Upon information and belief, Lynch's lobbying and political contribution

1 solicitation businesses has been operating out of MetroED, using funding set
2 aside strictly for education purposes.

3 24. Up until June 25, 2015, MetroED had successfully used its teacher
4 credentialing authority to fraudulently license administrators as teachers.

5 25. After June 25, 2015, MetroED could no longer show administrators as
6 credentialed teachers.

7 26. After June 25, 2015, Alyssa Lynch, acting individually or as MetroED
8 Superintendent, could not add administrative employees as legitimate
9 MetroED education expenses.

10 **WORKSHEET ANALYSIS**

11 27. The State of California, through its legislative process has enacted a number
12 of statutes intended to prevent legitimate education funds from being used for
13 improper purposes such as "for profit" lobbying, political contribution
14 solicitations and real estate rental businesses.

15 28. The State of California recommended the use of detailed Worksheets to assure
16 compliance with a number of ratio tests designed to assure that
17 teaching/student education funds were not being used for other businesses
18 conducted out of MetroED or any other school facility.

19 29. In order to track spending, many California school districts, including, but not
20 limited to MetroED, used a worksheet analysis to properly track spending.

21 30. MetroED worksheets were fraudulently prepared and used as evidence during
22 audits.

23 31. Because administrators were fraudulently classified as credentialed teachers,
24 MetroED was able to illegally avoid the intent of the California Ratio Statutes
25 simply by mis-characterizing their actual positions as teachers when they were
26 only administrators. As a result, students were deprived of funds set aside for
27 their education.

28 32. The "Employee Ratio Worksheet" was utilized by MetroED to fraudulently

1 summarize staffing data for the purpose of ratio based compliance required
2 under California Education Code sections 41400-41407.

3 **AUDITS**

4 33. MetroED's ratio of administrative employees to teachers as governed by
5 Education Code Section 41402 was required as part of the district's annual
6 audit required by Education Code Section 41020.

7 34. For several years, MetroED failed, refused and/or neglected to conduct
8 independent audits to assure compliance with mandatory education spending
9 requirements.

10 35. California Education statutes, rules and regulations used a ratio analysis to
11 assure that education funds were being used for education and not for
12 lobbying and related administrative expenditures.

13 36. Since at least 2009, MetroED has mis-classified certain of its expenditures as
14 being "qualified educational" spending.

15 37. One method used by MetroED was to improperly credential administrators as
16 teachers. That mis-classification would increase the number of teachers to
17 administrators, causing the ratio of education spending to be overstated.

18 38. By falsely inflating "education" spending, MetroED was able to improperly
19 fund unqualified expenditures such as lobbying.

20 39. From 2013 through the present, Alyssa Lynch operated her lobbying business
21 through MetroED using funds designated for education for political purposes;
22 school facilities for non-education purposes, including but not limited to
23 political luncheons, dinner meetings and fund raising events.

24 40. Additional administrative employees were necessary to carry on non education
25 events. By classifying the administrators used for its non-education purposes,
26 MetroED concealed administrators as teachers and the violation of spending
27 associated with the same.

28 41. It was not mandatory that the worksheet be utilized as long as the district was

1 capable of providing state auditors with accurate data required by Education
2 Code §§41403 and 41404.

3 42. The data which was maintained on the worksheets in MetroED files was false
4 as a result of categorizing administrators as teachers credentialed by MetroED
5 instead of administrators.

6 43. These administrators should not have been classified as credentialed teachers
7 as they had not completed schooling associated with a teachers credential.

8 44. After an audit, MetroED lost its right to issue a teaching credentials.

9 45. MetroED did not provide accurate Forms to the California Department of
10 Education as required by §41020 for most, if not all years between 2008-2015,
11 but instead represented that it maintained the forms at the school and that it
12 was within compliance of California Education Ratio Statutes.

13 46. MetroED, as a California Public School district under a joint powers act,
14 represented that it complied with provisions of Education Code Section 35111
15 when it analyzed all the districts under its joint powers authority.

16 47. MetroED intentionally manipulated the administrator/teacher ratio analysis by
17 fraudulently awarding teaching credentials to administrators that were not
18 qualified to receive such an award.

19 48. By awarding unearned teaching credentials, MetroED Administrators were
20 able to intentionally overstate the number of teachers to administrators at
21 MetroED whenever necessary.

22 49. Since the unqualified and fraudulent teaching credentials reduced the amount
23 of remuneration paid to those unqualified individuals, MetroED hired cheaper
24 less qualified individuals to teach students and thereby, spend the savings on
25 unqualified non-education projects.

26 50. As a result, MetroED was not a full time school, but instead, a camouflaged
27 lobbying institution diverting education funding from MetroED to be used for
28 its administrative and political agendas.

1 51. MetroED by and through its Administrative Staff used specifically designated
2 high school and adult education funds for fraudulent purposes, including, but
3 not limited to, Alyssa Lynch's lobbying business, various Administrator's
4 personal purposes not related the MetroED, mandate.

5 52. The scheme involved the termination of teachers and simultaneous hiring of
6 administrative staff.

7 53. MetroED's scheme to misappropriate funds set aside for other specific
8 purposes, was intentional, and designed to undermine student and adult
9 education programs in school districts subject to a the MetroED Joint Powers
10 Act.

11 54. Alyssa Lynch and other MetroED Administrators and/or related individuals
12 and entities, fraudulently listed Administrators as being teachers. This was
13 accomplished by fraudulently awarding administrators with teaching
14 credentials, even though no work had been done to justify the same.

15 55. By conspiring to, and actually designating administrative staff as teachers,
16 MetroED avoided California Ration Statutes that limited the number of
17 administrators to teachers on Staff at MetroED.

18 56. California Statutes limit the number of administrative employees that can be
19 hired in comparison to its teaching staff.

20 57. California Statutes require its school districts and joint powers act entities to
21 summarize school district certificated staffing data for the purpose of annually
22 monitoring the district's administrator-teacher ratio as required by Education
23 Code Sections 41400-41407.

24 58. The teacher to administrator certification staff data is required to be reviewed
25 as part of the district's annual audit required by California Education Code
26 Section 41020. This data is required to be retained and made available upon
27 request of a district's independent auditors.

28 59. MetroED intentionally violated Education Code Sections 41400-41407 by

1 fraudulently providing unearned teaching credentials to unqualified
2 administrators that had not been involved , thereby making it appear that its
3 administrative employees salaries and hourly payments were equal to or less
4 than the mandatory upper ratio limit allowed by California Education Codes
5 and Statutes.

6 **PLAINTIFF MARK ADAMS' EXPERIENCE WITH METROED**
7 **TEACHING**

8 60. As of January 2, 2009, Plaintiff had practiced law full time as a "Sole
9 Practitioner" in the State of California for nearly THIRTY (30) years. Plaintiff
10 received his Juris Doctorate Degree from McGeorge School of Law.

11 61. On or about January 9, 2009, Plaintiff started teaching at MetroED.

12 62. Prior to being hired by MetroED, Plaintiff had disclosed that he was "hard of
13 hearing", but was not required to wear hearing aids and was physically able to
14 teach.

15 63. While working for MetroED, Plaintiff established a legal careers education
16 program that included the construction of a courtroom at the MetroED campus
17 and with students acting as advisory jurors for teenage peers that had been
18 charged with committing criminal offenses.

19 64. Plaintiff had developed the concept of a juvenile court program during the
20 time that he practiced law prior to his employment at MetroED.

21 65. Plaintiff believed that by teaching high school students about how the legal
22 system worked that eventually the general public would have access to the
23 legal system in such a way that it would reduce criminal and civil mistakes
24 made by the general public when confronted with every day problems.

25 66. Plaintiff used his own personal legal forms, notes from actual cases and his
26 own knowledge developed from practicing law for over thirty (30) years to
27 develop the legal curriculum he eventually used at MetroED.

28 67. Plaintiff was advised after five (5) months of teaching at MetroED that he was

1 required by State of California to create a legal and/or probation employer
2 advisory board panel to participate and provide guidance to the him and his
3 students. A legal and/or probation advisory board which was required to
4 consist of experienced members of the legal and probation professions (i.e.,
5 judges, lawyers, probation employees and/or paralegals). At the time that
6 Plaintiff was hired he had no idea that requirement existed.

7 68. When Plaintiff asked John Fox, Director of CCOC (Central County
8 Occupational Center), Fox stated that "look you know about the law so just
9 go in there and teach what you know. Just do your best." Previous instructors
10 of the probation and legal career program, had been unqualified teachers
11 incapable of instructing the program. The breach in this instance was a direct
12 violation of California law.

13 69. Plaintiff taught without incident at MetroED, until December 8, 2014.

14 **PLAINTIFF INJURED BREAKING UP FIGHT**

15 **(Lack of Security)**

16 70. Prior to December 8, 2014, Plaintiff had complained directly to a number of
17 MetroED officers, directors, superintendents and/or upper level managers,
18 including, but not limited to, Alyssa Lynch, Sharon Brown, and Marianne
19 Cartan about the lack of security at MetroED.

20 71. On or about, December 8, 2014, Plaintiff was injured at work while breaking
21 up a fight between two female students. The injury was a back injury.

22 72. Marianne Cartan, at the time of the fight was a managing Director of SVCTE
23 (Silicon Valley Career Technical Education Center).

24 73. In her capacity as Mr. Adams' supervisor she was required to prepare a work
25 injury incident report. Marianne Cartan refused to prepare and/or file an injury
26 incident report for Mr. Adams.

27 74. Plaintiff reported his back injury to Marianne Cartan on December 8, 2014, and
28 requested that it be filed with his personnel file at MetroED.

1 75. Ms. Cartan was required to prepare and/or cause to be prepared an injury/fight
2 incident report whenever a teacher was injured.

3 76. Instead of conducting a reasonable investigation of the fight, Cartan focused
4 fault on Plaintiff by alleging safety issues caused by Plaintiff's hearing loss
5 disorder.

6 77. Believing that the injury incident report would not be filed by Cartan, Plaintiff
7 prepared and filed his own injury incident report with MetroED. Plaintiff
8 insisted on reporting the work related injury and did so in writing on or about,
9 December 8, 2014.

10 78. MetroED was required to conduct an investigation of any student fighting
11 and/or injuries related to a student fight. MetroED refused to investigate the
12 December 8, 2014, fight in Plaintiff's classroom.

13 79. Despite a zero tolerance for any form of student violence, the students
14 involved in the December 8, 2014, fight in Plaintiff's classroom were not
15 expelled or otherwise disciplined by MetroED. In order to protect the names
16 of the students directly involved in the December 8, 2014, fight in Plaintiff's
17 classroom, they are referred to herein as students and "a student".

18 80. MetroED ignored and/or concealed security issues at this and/or other school
19 districts it managed under the joint powers act.

20 81. MetroED buildings did not have security personnel during school hours.

21 82. When Plaintiff asked about security, often times, a security guard would be
22 posted at his building on an inconsistent basis.

23 83. When Plaintiff would ask about consistent security needs, he was told that
24 there was not enough funding for full time security.

25 84. Plaintiff had no reason to disbelieve the "funding excuse" as that was a regular
26 problem which had been used when extra funds were needed at MetroED.

27 85. If MetroED had proper security in place, Mr. Adams would not have suffered
28 his permanent back injury.

1 86. By ignoring and concealing security issues at MetroED, it was able to use its
2 funds for Alyssa Lynch's lobbying business conducted at MetroED.

3 87. The lobbying business conducted by Alyssa Lynch at MetroED, was
4 concealed from the public by various MetroED managers including, but not
5 limited to Alyssa Lynch, Marianne Cartan and Sharon Brown.

6 88. After being injured in the December 8, 2014, fight, Plaintiff again complained
7 to MetroED management that the school was not safe for a number of reasons,
8 including, but not limited to: (1) lack of security guards; (2) no scanning
9 devices located at various school access points such as those used in Airports
10 and Court Buildings; (3) school policies did not encourage and/or require new
11 security planning; and (4) the MetroED School Handbook security rules were
12 not followed with respect to the December 8, 2014, fight in Plaintiff's
13 classroom. Specifically, both students were required to be terminated for
14 participating in a fight at MetroED, no discipline was imposed. Instead of
15 suspending and/or expelling the students involved in the December 8, 2014
16 fight, at least one of the students was returned to Plaintiff's class without any
17 meaningful discipline.

18 89. Rico Sciaky taught the Law Enforcement Careers Program at MetroED while
19 Plaintiff taught the Legal Careers Program. During 2014, Rico Sciaky
20 complained that there were not enough security guards and other security in
21 place to protect students, teachers and other MetroED employees. As a result,
22 Plaintiff suffered a severe injury on December 8, 2015, while breaking up a
23 fight. Instead of hiring additional security guards, Alyssa Lynch reduced the
24 number of security hours necessary to protect MetroED students, teachers and
25 other employees, replacing the same with administrators

26 **FRAUDULENT WORKERS COMPENSATION**

27 90. As a result of breaking up the December 8, 2014 fight, Plaintiff suffered a
28 severe back injury and was referred to a specific Workers Compensation

1 Clinic that MetroED had an exclusive relationship with.

2 91. While discussing Plaintiff's injury, diagnosis and treatment plan, an allegedly
3 licensed physician at MetroED's Workers' Compensation clinic told Plaintiff
4 that he could not diagnose the actual injury, because of constraints placed on
5 physicians as to what they could diagnose. Severe injuries could not be
6 diagnosed. He told Plaintiff to retire.

7 92. Because less expensive workers compensation claims were fraudulently
8 diagnosed by MetroED's Workers Compensation Clinic, Defendant did not
9 provide sufficient care to its injured employees.

10 93. Plaintiff was told by one physician at MetroED's Workers Compensation
11 Clinic that he could not diagnose a back injury as anything other than a "strain"
12 and in most, if not all incidents involving back pain, was not allowed to take
13 x-rays, EKG's and/or MRI's. Consequently, Worker's Compensation Injuries
14 were often intentionally/recklessly diagnosed and mistreated causing long
15 term and/or permanent unnecessary injuries.

16 94. Thereafter, Workers' Compensation medical assistants failed, refused and/or
17 neglected to provide even the most basic medical care such as aspirin;
18 determining the body temperature by using modern thermometers; new blood
19 pressure devices; clean/new/unused medical equipment was not available.

20 95. Upon information and belief, MetroED had established capitated Workers'
21 Compensation agreements that were not sufficient to treat patients profitably
22 and/or without suffering a loss at the clinic.

23 **SECOND OPINION FROM PLAINTIFF'S FAMILY PRACTITIONER**

24 96. After Plaintiff suffered injuries associated with breaking up the December 8,
25 2014, fight between the two MetroED female students, Plaintiff presented to
26 his family practitioner, Dr. Michael Charney, who diagnosed him with nerve
27 injury and advised him not to work for at least a couple of weeks pending a
28 reevaluation of Plaintiff's condition to be determined after the Christmas break.

1
2 97. Plaintiff's family practitioner conducted an examination that last nearly forty
3 (40) minutes and found that Plaintiff had sustained a severe neurological back
4 injury requiring home rest for at least fourteen (14) work days.

5 98. After Plaintiff got home, he provided notice that he would would not be able
6 to go to work and that his family physician had ordered him not to work for at
7 least 14 school days, not including Saturdays, Sundays and Holidays.

8 99. Plaintiff's physician's note was provided to the appropriate MetroED employee.

9 **FAILURE TO FOLLOW METROED SICK LEAVE PROTOCOLS**

10 100. As of December 8, 2014, the Teacher Union's Negotiated Contract rule for sick
11 leave was that a doctor's excuse was necessary only after three consecutive sick
12 days off.

13 101. When a teacher was sick for one or two days a teacher had to call by 6:30 a.m.
14 in the morning. The school was then required to find a substitute.

15 102. In an abundance of caution, it was Plaintiff's practice to call twice (2) before
16 the 6:30 a.m. deadline.

17 103. After the December 8, 2014, Plaintiff followed all of the mandatory sick leave
18 procedures, following the injury he sustained in breaking up the fight at
19 MetroED.

20 104. Despite Plaintiff's compliance, Plaintiff was ordered to attend school on
21 December 9, 2014.

22 105. As a result of being ordered to teach at MetroED on December 9, 2014, even
23 though he had an a doctor's order not to work on that date, Plaintiff painfully
24 presented at MetroED. As a result, Plaintiff suffered additional injury, pain,
25 suffering and permanent injury to his back.

26 106. On or about December 9, 2014, Plaintiff received a call at home from Marianne
27 Cartan, which ordered him to return immediately. Despite explaining his
28 family physician's diagnosis and treatment plan, Ms. Cartan made it clear that

1 Plaintiff's failure return to work immediately would result in severe discipline.

2 107. Plaintiff returned to work fearing that he would be harshly disciplined and
3 "blackballed" by MetroED from teaching in any other facility in California.

4 108. In accordance with Marianne Cartan's demand, Plaintiff went to work on
5 December 12 and/or 13, 2014, to post his grades. Marianne Cartan refused to
6 pay Plaintiff for the time required to post the grades. She did this knowing that
7 the physician's orders overrode her authority. Despite knowing that she was
8 violating state and federal rules, regulations and/or statutes, Ms. Cartan
9 required Mr. Adams to return to work and required Plaintiff to post the time as
10 sick leave, despite Plaintiff's protest to the contrary.

11 109. Plaintiff took stress leave in December 2014.

12 110. On or about, January 5, 2015, Plaintiff returned to work at MetroED.

13 111. From January 5, 2015, through March 18, 2015, Plaintiff resumed his teaching
14 responsibilities at MetroED.

15 112. On or about, March 18, 2015, Plaintiff was assigned a new classroom at
16 MetroED.

17 113. Plaintiff was required to directly teach two legal career classes each day. The
18 morning session lasted from 8:00 a.m. - 11:00 a.m. The afternoon session took
19 place from 1:00 p.m. - 4:00 p.m.. Between morning and afternoon classes,
20 Plaintiff was required to meet with students and other teachers; interact with
21 the MetroED administration over a number of issues, including, but not limited
22 to, curriculum, student affairs, teacher and student security, and funding for the
23 various programs. Preparation for each day's class schedule required at least
24 six (6) hours per day.

25 114. During the Winter of 2016, Plaintiff's Legal Education Program was defunded,
26 but the Legal Program was not "formally" terminated from MetroED. Instead,
27 Plaintiff was informed that his program would not be renewed in full. Instead,
28 the program was partially terminated in September of 2015. During September

1 of 2016, Plaintiff was told that the legal careers program was cancelled. This
2 was retaliation and constructive termination of the Plaintiff.

3 **RETALIATION IN VIOLATION OF TAFT HARTLY ACT**

4 115. During April and May, 2014, Plaintiff was asked, and did participate as a
5 group of teacher's union negotiations on behalf of MetroED teachers, as
6 member of a union negotiating team on a collective bargaining agreement.

7 116. As a union negotiator, Plaintiff specifically questioned the lack of funds for
8 basic school needs, including, but not limited to teacher raises, maintenance of
9 MetroED facilities, and security.

10 117. Over the years, union negotiators were threatened with reprisal for seeking
11 these basic needs. The reprisals included but were not limited to termination,
12 defamation, interference with current and prospective business opportunities,
13 false findings in Skelly hearings.

14 118. As a result of the union-administration negotiations, teachers secured their
15 first raise in approximately seven (7) years; the negotiators also secured a raise
16 for the teachers and a commitment to "work to rule". "Work to Rule" meant
17 that teachers had to work precisely as set out in the collective bargaining
18 agreement.

19 119. After acting as a union negotiator in May 2014 Plaintiff suffered repeated
20 retaliation from Alyssa Lynch and other Administrators.

21 120. Sharon Brown was a high level MetroED managers who told that "you and
22 your work to rule, you don't know how much trouble you caused us". Prior to
23 union negotiations, the administration required teacher to work excessive hours
24 without any remuneration. During union negotiations in May 2015, it was
25 made clear that the teachers were only required to "work to rule" which meant
26 a normal 8 hour per day time period without additional remuneration.

27 121. Upon information and belief, the retaliation was intended to force Plaintiff to
28 resign rather than having MetroED terminate him.

1 122.

The retaliation included but was not limited to:

- 2 a. After the December 8, 2014, student altercation in Plaintiff's
3 classroom, Plaintiff reported the incident in writing even though
4 he was instructed not to do so by Alyssa Lynch and other high
5 level Administrators. This was retaliation as it was designed to
6 conceal security designated funds which were being misused for
7 Lynch's lobbying business, personal expenditures, payment of
8 golden parachutes designed to prevent long term employees from
9 disclosing fraudulent mismanagement at MetroED.
- 10 b. After participating as a union negotiator in May 2014, students
11 attempting to enroll in Plaintiff's law program were told that the
12 same was full when it had vacancies. This retaliation was
13 designed to discourage demand and mislead upper level officers
14 and directors employed at the State of California level, that
15 demand for the program did not exist. Alyssa Lynch and other
16 MetroED administrators misrepresented little or no demand, to
17 justify their plan to terminate the Plaintiff's legal program based
18 on a failure of demand for the same. By misrepresenting the
19 demand, Plaintiff's program could be discontinued with
20 terminating Plaintiff, thereby, further concealing missing funds
21 needed for the program.
- 22 c. After participating as a union negotiator in May 2014, monthly
23 board meeting written agendas included references to terminating
24 the legal careers program because of a lack of demand and
25 funding. These statements were retaliatory as they were made in
26 order to justify the termination of the legal careers program and
27 Plaintiff.
- 28 d. After participating as a union negotiator in May 2014, Plaintiff

1 was threatened with the Board making up false complaints,
2 including but not limited to, improper sexual advances upon
3 students, incompetence, and preventing Plaintiff from teaching
4 ever again simply by providing a negative letter of conduct made
5 available to other schools and/or districts.

6 f. On or about March of 2015, Marianne Cartan contacted the
7 MetroED peer review court and asked for a meeting with the
8 Court Administrator. Upon information and belief, the judges
9 involved in the peer review court program and annual meeting
10 were told that Plaintiff would no longer act as a liaison between
11 MetroED and participating superior court judges. When judges
12 asked why Plaintiff was no longer directly involved in the
13 program, they were told that he had a hearing deficit which
14 created a security risk that MetroED was not willing to assume;

15 d. While Plaintiff was recuperating from his back injury, Marianne
16 Cartan, repeatedly called, texted and E-Mailed Plaintiff despite
17 being told not to work and to remain immobile. Plaintiff was
18 ordered to go to work during his physician's ordered recovery
19 time to post grades and physically shut down his classroom
20 because of the break;

21 F. Plaintiff was denied competent worker's compensation care
22 benefits after being injured in the November 8, 2014, student
23 fight.

24 G. MetroED ignored a second medical opinion from his personal
25 family physician. Specifically, Marianne Cartan, intentionally
26 ignored Plaintiff's injury and the second medical opinion that
27 Plaintiff received from his personal family physician. As a result
28 of ignoring Plaintiff's personal physician, he sustained additional

1 injuries that required additional time for recuperation.

2 H. When Plaintiff reported his work injury in writing to MetroED,
3 Alyssa Lynch, other MetroED administrators, officers and/or
4 directors fraudulently place fault for the December 8, 2014,
5 classroom fight on Plaintiff claiming that his "hearing deficit
6 disorder" caused his back injury and that because of that
7 impairment he was a danger to his students.

8 I. After serving as a union negotiator in May 2014, Plaintiff was
9 told by Marianne Cartan that he needed hearing aids or cochlear
10 implants in order to continue teaching at MetroED because his
11 health deficit made his classroom unsafe. Marianne Cartan told
12 Plaintiff that if his hearing was better he would have prevented
13 the student altercation. Plaintiff had never been diagnosed as
14 being deaf and his hearing had nothing to do with the December
15 8, 2014, fight as communications leading to the same were made
16 on concealed I-Phones and/or their equivalents.

17 J. Because Plaintiff was an attorney, Defendants assumed that
18 Plaintiff was considering litigation which would uncover missing
19 and/or improper mismanagement of funding specifically set aside
20 for MetroED's various programs.

21 K. False/altered September Evaluation. During September of 2014,
22 Plaintiff was given a superior employee evaluation which was
23 later fraudulently altered by Sharon Brown with negative
24 comments which were based upon false allegations.

25 L. Sharon Brown's alterations to Plaintiff's initial exemplary
26 evaluation by leaving the original evaluation, but additionally
27 checking negative boxes on Plaintiff's evaluation form, was not
28 approved nor discussed with Plaintiff before the changes were

1 made and were false and misleading designed to destroy his
2 teaching career.

3 123. When Plaintiff questioned Brown's unauthorized and fraudulent amendment,
4 he was told to sign the false amendment, which he refused to do. Sharon
5 Brown immediately thereafter said to Mr. Adams: "You and your 'work to
6 rule'. You have caused us a lot of problems".

7 **CTA COMPROMISED BY METROED**

8 124. While employed by MetroED, Plaintiff was a member of the California
9 Teachers Union. ("CTA")

10 125. Because Plaintiff was a member of the California Teacher's Union, each month
11 \$100.00, was withheld from his pay check.

12 126. Plaintiff sought, but did not receive any help from the union related to the
13 allegations contained in this case.

14 127. Upon information and belief, the union representative assigned to Plaintiff
15 participated in a MetroED advisory board.

16 128. Upon information and belief, local union officers from the MetroED CTA unit
17 that represented Plaintiff, were paid by MetroED at least \$1,000.00 per year.

18 129. Upon information and belief, MetroED officers, directors, and supervisors
19 were improperly paid from education funds designated for specific education
20 matters: (1) excessive salaries for Alyssa Lynch, Sharon Brown and similarly
21 situated administrative employees; (2) lobbying efforts by Alyssa Lynch on
22 behalf of major national political action committees; (3) providing trips to
23 various destinations, including, but not limited to venues inside of California,
24 but also to other states receiving federal education funding, subject to specific
25 gifting instructions from its donors; (4) to purchase luxury automobiles; (5) to
26 travel first class; and (6) various and/or sundry expenses that did not legally
27 benefit MetroEd its students, teachers and/or staff.
28

UNION FRAUD -- ADMINISTRATION PAYS UNION REPS - BOARD

130. Upon information and belief, that CTA union members (i.e., MetroED teachers) had been compromised by MetroED Administrators, including, but not limited to Alyssa Lynch, by establishing a number of boards, with no authority and whose appointees were paid for by sitting on the same without any real purpose of benefit to MetroED students and teachers.

131. Members of these "artificial" boards were paid by MetroED in violation of the Federal Taft Hartly Act.

132. Board members that were named to these phony Boards had no duties or power. Instead, they were paid cash in order to assure union cooperation in negotiations in later years.

133. CTA union representatives allegedly sat on boards established by Alyssa Lynch with no authority, political power or purpose, but none-the-less were improperly paid with funds set aside for legitimate educational needs.

134. Union members sitting on boards while being paid for the same, violated the Taft Hartly Act:

135. a. Threatening to start an investigation into allegations of sexual misconduct with students;

b. Threats to terminate Plaintiff is he continued to question where funds for his legal program had gone;

c. Threatening to prevent Plaintiff from working in any school if he discussed or insisted on an audit related to missing funds.

d. Threatening to close his Legal Careers Program if he questioned where funds had gone which were supposed to be available for his Legal Careers Program;

e. Threatening to terminate his Legal Careers Program should Plaintiff question where funding from rental property owned at least in part had gone.

f. Threatening to terminate his Legal Careers Program if he questioned where funds for maintenance of MetroED had gone. In that regard, the kitchen used in the

1 schools cafeteria and culinary class room was infested with hundreds of mice which
2 should have been destroyed on a regular basic.

3 136. Plaintiff also suffered retaliation by Alyssa Lynch and other responsible
4 MetroED Administrative Staff through threats they made to other MetroED
5 career teachers if they advised Plaintiff about the misappropriation of funds set
6 aside for career programs such as Legal Careers. These threats were made to
7 Jan and Nancy Joseph (culinary careers); Rico Sciaky (law enforcement),
8 Robert Bouleau (Administrative Director of MetroED computer operations);
9 and Collette Betters (career teacher).

10 **FIRST CLAIM FOR RELIEF**

11 **(Breach of Contract)**

12 137. On or about September of 2009, the parties entered into a contract for
13 teaching.

14 138. The contract was evidenced by the transfer of adequate legal consideration
15 between the respective parties.

16 139. Defendant intentionally breached a number of the contract provisions:

- 17 a. Failure to follow protocols established before terminating a teacher and/or
18 a career program offered by MetroED;
- 19 b. Failing to pay Plaintiff while still employed by MetroED;
- 20 c. Created and operated a hostile teaching environment which disclosure of
21 illegal conduct occurring at MetroED.
- 22 d. Retaliating against teachers and certain administrators that wanted to and/or
23 insisted that disclosures of mismanagement of funding be addressed and corrected.
- 24 e. When Plaintiff insisted on disclosure to state, federal and charitable sources
25 of funding, Plaintiff was immediately threatened with his termination from MetroED
26 and/or cancelling the Legal Careers Program that he taught;
- 27 f. Alyssa Lynch and administrators under her control breached Plaintiff's
28 teaching contract by representing to other MetroED teachers, administrators, and

1 other community college teachers and administrators that he had a hearing deficit
2 disorder that made him ineligible to teach.

3 g. The disclosure of Plaintiff's hearing issue by MetroED Administrators,
4 including, but not limited to Alyssa Lynch, violated Plaintiff's HIPAA rights; was
5 false as it inflated the extent of his hearing deficit; and violated his rights to teach
6 under the Americans' With Disabilities Act.

7 g. After Plaintiff had served as a union negotiator in May of 2015, he was
8 threatened with termination if he truthfully voiced his concerns about MetroED
9 mismanagement. The threat of a wrongful termination constituted a breach of contract.

10 h. The failure to fund the Legal Careers Program breached Plaintiff's contract
11 with MetroED Plaintiff was informed that the program had sufficient funds to teach
12 the same.

13 I. The failure to provide security sufficient to secure a safe workplace was
14 missing. As a result, it was unsafe to work at MetroED until such time a legitimate
15 number of security guards were hired.

16 j. MetroED breached its contract with Plaintiff by failing to pay Plaintiff for
17 the curriculum he had developed before going to work for MetroED and while he was
18 unable to work as a result the injury he sustained breaking up the December 8, 2015
19 classroom fight.

20 k. Without Plaintiff's permission Alyssa Lynch absconded with Plaintiff's
21 curriculum before his termination and used the same after Plaintiff was terminated.
22 Using the Plaintiff's common law copyrighted curriculum was a breach of his
23 teaching contract with MetroED.

24 l. It was a breach of Plaintiff's contract to tell students that Plaintiff's Legal
25 Careers program was full, while knowing that spaces were available.

26 m. It was a breach of Plaintiff's contract to discourage enrollment in Plaintiff's
27 "Legal Careers Program" after the initial funding had been paid to MetroED and used
28 for other matters.

1 n. It was a breach of Plaintiff's contract to fail, refuse and/or neglect to provide
2 clean facilities from which Mr. Adams could teach his curriculum.

3 o. It was a breach of contract to file an exemplary employee review for Mr.
4 Adams, thereafter altering his employee review with false poor ratings. The rating
5 were change by Sharon Brown in retaliation for Plaintiff negotiating a union contract
6 that included work to rule. Prior to union negotiations, the administration required
7 teacher to work excessive hours without any remuneration. During union
8 negotiations in May 2015, it was made clear that the teachers were only required to
9 "work to rule" which meant a normal 8 hour per day time period without additional
10 remuneration.

11 p. MetroED and Alyssa Lynch destroyed records in order to deny accusations
12 made by teachers, including, but not limited to retaliation based management
13 prompted by disclosure of wrongdoing by MetroED Management.

14 q. MetroED, by and through Alyssa Lynch, breach Plaintiff's contract with
15 MetroED by providing false letters of recommendation necessary to obtain
16 employment at other schools.

17 140. The breaches were material.

18 141. Plaintiff satisfied all the terms and conditions of the contract.

19 142. Plaintiff requested that the breaches be cured on several occasions.

20 143. Defendants failed or refused to cure the breaches even though been notified
21 of the same.

22 144. As a direct and proximate result of the breach of contract, Plaintiff has been,
23 and will be in the future, prevented from earning maximum profits from the
24 operation of his business. The exact amount of the lost profits and loss of
25 future earnings is thus far undetermined and accordingly, will be proven at the
26 time of trial.

27 145. As a result of material breach of contract, retained an attorney in order to
28 prosecute this action and as a consequence entitled to reasonable attorney fees

1 and costs related thereto.

2 146. As a result of breach of contract, been damaged substantially in excess of
3 \$10,000.

4 **WHEREFORE**, Plaintiff prays for relief as set forth below.

5 **SECOND CLAIM FOR RELIEF**
6 **(Breach of Covenant of Good Faith and Fair Dealing)**

7 147. Plaintiff incorporates by reference all paragraphs of this complaint as if more
8 fully set forth herein.

9 148. The parties had a special relationship that required reliance upon the
10 representations and conduct of each other. The reliance which eventually lead
11 to performance by the was as a result of that same relationship and was
12 reasonable.

13 149. On or about during September of 2009, the parties entered into a contract for
14 teaching.

15 150. As described above, MetroED intentionally breached a number of the contract
16 provisions. Specifically, the breached the covenant of good faith and fair
17 dealing in the following manner:

18 a. Failure to follow protocols established before terminating a teacher
19 and/or a career program offered by MetroED;

20 b. Failing to pay Plaintiff while still employed by MetroED;

21 c. Created and operated a hostile teaching environment which disclosure
22 of illegal conduct occurring at MetroED.

23 d. Retaliating against teachers and certain administrators that wanted to
24 and/or insisted that disclosures of mismanagement of funding be addressed and
25 corrected.

26 e. When Plaintiff insisted on disclosure to state, federal and charitable
27 sources of funding, Plaintiff was immediately threatened with his termination from
28 MetroED and/or cancelling the Legal Careers Program that he taught;

1 f. Alyssa Lynch and administrators under her control breached the
2 covenant of good faith and fair dealing by representing to other MetroED teachers,
3 administrators, and other community college teachers and administrators that he had
4 a hearing deficit disorder that made him ineligible to teach. Prior to being hired by
5 MetroED, Plaintiff had disclosed that he was "hard of hearing", but was not required
6 to wear hearing aids and was physically able to teach.

7 g. The disclosure of Plaintiff's hearing issue by MetroED
8 Administrators, including, but not limited to Alyssa Lynch, violated Plaintiff's
9 HIPAA rights; was false as it inflated the extent of his hearing deficit; and violated
10 his rights to teach under the Americans' With Disabilities Act.

11 h. On or about January 2015, DeAnza Community College
12 administrators were informed of repeated conversations between teachers and
13 administrators concerning his alleged hearing disorder. The conversations were
14 initiated by a MetroED administrator. Under information and belief, that
15 administrator was Alyssa Lynch. Margaret Bdzil was one of the individuals that told
16 Plaintiff about statements made by MetroED management employees to DeAnza
17 College administrators and teachers.

18 I. After Plaintiff had served as a union negotiator in May of 2015, he
19 was threatened with termination if he truthfully voiced his concerns about MetroED
20 mismanagement. The threat of a wrongful termination constituted a breach of
21 contract.

22 j. The failure to fund the Legal Careers Program breached the covenant
23 of good faith and fair dealing. Plaintiff was informed that the program had sufficient
24 funds to teach the same.

25 k. Reduced the number of security hours necessary to protect MetroED
26 students, teachers and other employees, replacing the same with administrators.

27 l. MetroED breached the covenant of good faith and fair dealing with
28 Plaintiff by failing to pay Plaintiff for the curriculum he had developed before going

1 to work for MetroED and while he was unable to work as a result the injury he
2 sustained breaking up the December 8, 2014 classroom fight.

3 m. Without Plaintiff's permission Alyssa Lynch absconded with
4 Plaintiff's curriculum before his termination and used the same after being terminated.
5 Using the Plaintiff's common law copyrighted curriculum was a breach of the
6 covenant of good faith and fair dealing.

7 n. It was a breach of the covenant of good faith and fair dealing to tell
8 students that Plaintiff's Legal Careers program was full, while knowing that spaces
9 were available.

10 o. It was a breach of the covenant of good faith and fair dealing to
11 discourage enrollment in Plaintiff's "Legal Careers Program" after the initial funding
12 had been paid to MetroED and used for other matters.

13 p. It was a breach of the covenant of good faith and fair dealing to fail,
14 refuse and/or neglect to provide clean facilities from which Mr. Adams could teach
15 his curriculum.

16 q. It was a breach of the covenant of good faith and fair dealing to file
17 an exemplary employee review for Mr. Adams, thereafter altering his employee
18 review with false poor ratings.

19 r. The covenant of good faith and fair dealing was breached when
20 MetroED and Alyssa Lynch destroyed records in order to deny accusations made by
21 teachers, including, but not limited to retaliation based management prompted by
22 disclosure of wrongdoing by MetroED Management.

23 s. MetroED, by and through Alyssa Lynch, breached the covenant of
24 good faith and fair dealing by providing false letters of recommendation necessary
25 to obtain employment at other schools.

26 151. The breaches of the covenant of good faith and fair dealing are material and
27 intentional.

28 152. All contracts are subject to a covenant of good faith and fair dealing.

1 153. Plaintiff requested that the breaches be cured on several occasions.

2 154. Defendants refused without excuse to cure the breaches even though notified
3 of the same.

4 155. Defendants intentionally violated the implied covenant of good faith and fair
5 dealing.

6 156. As a direct and proximate result of the breach of the implied covenant of good
7 faith and fair dealing, Plaintiff has been, and will be in the future, prevented
8 from earning maximum profits from the operation of its business. The exact
9 amount of the lost profits and loss of future earnings is thus far undetermined
10 and accordingly, will be proven at the time of trial.

11 157. As a further proximate result of the breach of the covenant of good faith and
12 fair dealing, Plaintiff has suffered physical and mental pain and suffering and
13 will continue to suffer therefrom in the future.

14 158. Plaintiff has had to retain an attorney to prosecute this action and as a
15 consequence entitled to reasonable attorney fees and costs related thereto.

16 159. As a result of breach of the implied covenant of good faith and fair dealing,
17 Plaintiff has been damaged substantially in excess of \$10,000.

18 160. In breaching the covenant of good faith and fair dealing, Defendants acted
19 with malice and exhibited a reckless disregard for the rights of the Plaintiff
20 Therefore, Plaintiff is entitled to punitive damages in an amount to be
21 determined at the time of trial.

22 **WHEREFORE**, Plaintiff prays for relief as set forth below.

23 **THIRD CLAIM FOR RELIEF**

24 **RETALIATION IN VIOLATION OF TAFT HARTLY ACT**

25 161. Plaintiff incorporates by reference all paragraphs of this complaint as if more
26 fully set forth herein.

27 162. Defendant MetroED engaged in unfair labor practices in violation of the Taft
28 Hartly Act.

1 163. During April and May, 2014, Plaintiff was asked, and did participate as a
2 group of teacher's union negotiations on behalf of MetroED teachers, as
3 member of a union negotiating team on a collective bargaining agreement.

4 164. As a result of the union-administration negotiations, teachers secured their first
5 raise in approximately seven (7) years; the negotiators secured a raise for the
6 teachers and a commitment to "work to rule". "Work to Rule" meant that
7 teachers had to work precisely as set out in the collective bargaining
8 agreement.

9 165. After acting as a union negotiator in May 2014 Plaintiff suffered repeated
10 retaliation from Alyssa Lynch and other Administrators.

11 166. Upon information and belief, the retaliation was intended to force Plaintiff to
12 resign rather than having MetroED terminate him.

13 167. The retaliation included but was not limited to:

14 a. After the December 8, 2014, student altercation in Plaintiff's
15 classroom, Plaintiff reported the incident in writing even though
16 he was instructed not to do so by Alyssa Lynch and other high
17 level Administrators. This was retaliation as it was designed to
18 conceal security designated funds which were being misused for
19 Lynch's lobbying business, personal expenditures, payment of
20 golden parachutes designed to prevent long term employees from
21 disclosing fraudulent mismanagement at MetroED.

22 b. After participating as a union negotiator in May 2014, students
23 attempting to enroll in Plaintiff's law program were told that the
24 same was full when it had vacancies. This retaliation was
25 designed to discourage demand and mislead upper level officers
26 and directors employed at the State of California level, that
27 demand for the program did not exist. Alyssa Lynch and other
28 MetroED administrators misrepresented little or no demand, to

1 justify their plan to terminate the Plaintiff's legal program based
2 on a failure of demand for the same. By misrepresenting the
3 demand, Plaintiff's program could be discontinued with
4 terminating Plaintiff, thereby, further concealing missing funds
5 needed for the program.

6 c. After participating as a union negotiator in May 2014, monthly
7 board meeting written agendas included references to terminating
8 the legal careers program because of a lack of demand and
9 funding. These statements were retaliatory as they were made in
10 order to justify the termination of the legal careers program and
11 Plaintiff.

12 d. After participating as a union negotiator in May 2014, Plaintiff
13 was threatened with the Board making up false complaints,
14 including but not limited to, improper sexual advances upon
15 students, incompetence, and preventing Plaintiff from teaching
16 ever again simply by providing a negative letter of conduct made
17 available to other schools and/or districts.

18 f. On or about March of 2015, Marianne Cartan contacted the
19 MetroED peer review court and asked for a meeting with the
20 Court Administrator. Upon information and belief, the judges
21 involved in the peer review court program and annual meeting
22 were told that Plaintiff would no longer act as a liaison between
23 MetroED and participating superior court judges. When judges
24 asked why Plaintiff was no longer directly involved in the
25 program, they were told that he had a hearing deficit which
26 created a security risk that MetroED was not willing to assume;

27 d. While Plaintiff was recuperating from his back injury, Marianne
28 Cartan, repeatedly called, texted and E-Mailed Plaintiff despite

1 being told not to work and to remain immobile. Plaintiff was
2 ordered to go to work during his physician's ordered recovery
3 time to post grades and physically shut down his classroom
4 because of the break;

5 e. Plaintiff was denied competent worker's compensation care
6 benefits after being injured in the December 8, 2014, student
7 fight.

8 f. MetroED ignored a second medical opinion from his personal
9 family physician. Specifically, Marianne Cartan, intentionally
10 ignored Plaintiff's injury and the second medical opinion that
11 Plaintiff received from his personal family physician. As a result
12 of ignoring Plaintiff's personal physician, he sustained additional
13 injuries that required additional time for recuperation.

14 g. When Plaintiff reported his work injury in writing to MetroED,
15 Alyssa Lynch, other MetroED administrators, officers and/or
16 directors fraudulently place fault for the December 8, 2014,
17 classroom fight on Plaintiff claiming that his "hearing deficit
18 disorder" caused his back injury and that because of that
19 impairment he was a danger to his students.

20 h. After serving as a union negotiator in May 2014, Plaintiff was
21 told by Marianne Cartan that he needed hearing aids or cochlear
22 implants in order to continue teaching at MetroED because his
23 health deficit made his classroom unsafe. Marianne Cartan told
24 Plaintiff that if his hearing was better he would have prevented
25 the student altercation. Plaintiff had never been diagnosed as
26 being deaf and his hearing had nothing to do with the December
27 8, 2014, fight as communications leading to the same were made
28 on concealed I-Phones and/or their equivalents.

1 I. Because Plaintiff was an attorney, Defendants assumed that
2 Plaintiff was considering litigation which would uncover missing
3 and/or improper mismanagement of funding specifically set aside
4 for MetroED's various programs.

5 j. False/altered September Evaluation. During September of 2014,
6 Plaintiff was given a superior employee evaluation which was
7 later fraudulently altered by Sharon Brown with negative
8 comments which were based upon false allegations.

9 k. Sharon Brown's alterations to Plaintiff's initial exemplary
10 evaluation by leaving the original evaluation, but additionally
11 checking negative boxes on Plaintiff's evaluation form, was not
12 approved nor discussed with Plaintiff before the changes were
13 made and were false and misleading designed to destroy his
14 teaching career.

15 l. When Plaintiff questioned Brown's unauthorized and fraudulent
16 amendment, he was told to sign the false amendment, which he
17 refused to do. Sharon Brown immediately thereafter said to Mr.
18 Adams: "You and your 'work to rule'. You have caused us a lot
19 of problems".

20 As a direct and proximate result of the breach of the implied covenant of good faith
21 and fair dealing, Plaintiff has been, and will be in the future, prevented from earning
22 maximum profits from the operation of its business. The exact amount of the lost
23 profits and loss of future earnings is thus far undetermined and accordingly, will be
24 proven at the time of trial.

25 168. As a further proximate result of Defendant's conduct, Plaintiff has suffered
26 physical and mental pain and suffering and will continue to suffer therefrom
27 in the future.

28 169. Plaintiff has had to retain an attorney to prosecute this action and as a

1 consequence entitled to reasonable attorney fees and costs related thereto.

2 170. As a result of breach of the implied covenant of good faith and fair dealing,
3 Plaintiff has been damaged substantially in excess of \$10,000.

4 171. In breaching the covenant of good faith and fair dealing, Defendants acted
5 with malice and exhibited a reckless disregard for the rights of the Plaintiff
6 Therefore, Plaintiff is entitled to punitive damages in an amount to be
7 determined at the time of trial.

8 **WHEREFORE**, Plaintiff prays for relief as set forth below.

9
10 **FOURTH CLAIM FOR RELIEF**
(NEGLIGENCE)

11 172. Plaintiff incorporates by reference all paragraphs of this complaint as if more
12 fully set forth herein.

13 173. Defendant owed the following duties to the Plaintiff:

- 14 a. Provide a safe workspace;
- 15 b. Provide security;
- 16 c. Investigate the incident which lead to Plaintiff's back injury;
- 17 d. Comply with all state, federal and local rules regarding teaching
18 credentials;
- 19 e. Allocate funds to the programs for which they are designated;
- 20 f. Provide competent workman's compensation independent of MetroED;
- 21 g. Follow MetroEd policies on sick leave;

22 174. Defendants breached the foregoing duties.

23 175. As a direct and proximate result of Defendants' negligence, Plaintiff has
24 sustained substantial damages in excess of \$10,000.00. The exact amount of
25 damages will be determined at trial.

26 176. As a direct and proximate result of the negligence of Defendants, Plaintiff has
27 been, and will be in the future, prevented from earning maximum profits from
28 the operation of business. The exact amount of the lost profits and loss of

1 future earnings is thus far undetermined and accordingly, will be proven at the
2 time of trial.

3 177. As a further proximate result of the negligence of Defendants, Plaintiff has
4 suffered physical and mental pain and suffering and will continue to suffer
5 therefrom in the future.

6 178. Plaintiff has retained an attorney in order to prosecute this action and
7 accordingly, entitled to reasonable attorney fees and costs related thereto.

8 179. In committing the acts herein mentioned, Defendants acted arbitrarily,
9 capriciously, maliciously and with reckless disregard for . Consequently,
10 Plaintiff is entitled to punitive damages in an amount to be determined at the
11 time of trial.

12 **WHEREFORE,** for relief as set forth below:

13 **FIFTH CLAIM FOR RELIEF**

14 **(Fraudulent Misrepresentation)**

15 180. Plaintiff incorporates by reference all paragraphs of this complaint as if more
16 fully set forth herein.

17 181. Defendants MetroEd through Alyssa Lynch, made the following statements
18 to Plaintiff:

- 19 a. MetroED would allocate funding to Plaintiff's program;
- 20 b. MetroEd would comply with all state, federal and local rules
21 regarding teaching credentials; would have only properly
22 credentialed teachers;
- 23 c. Plaintiff could participate in union negotiations without
24 retaliation;
- 25 d. MetroED provided a safe working environment;
- 26 e. MetroED would allocate funds to the programs for which they are
27 designated

28 182. The statements were false.

1 183. The statements were made from January 2009 to December 2014.

2 184. Ms. Lynch knew the statements were false.

3 185. The statements were made in order to induce Plaintiff to work for and continue
4 his employment with MetroEd.

5 186. The statements were made by Alyssa Lynch at MetroED from January 2009 to
6 December 2014.

7 187. Defendant knew that Plaintiff would reasonable rely on the statements.

8 188. Plaintiff reasonably relied on the statements.

9 189. As a direct and proximate result of Fraudulent Misrepresentations, Plaintiff
10 has been, and will be in the future, prevented from earning maximum profits
11 from the operation of his business. The exact amount of the lost profits and
12 loss of future earnings is thus far undetermined and accordingly, will be proven
13 at the time of trial.

14 190. As a direct and proximate result of the fraudulent misrepresentations by
15 Defendants, Plaintiff has been, and will be in the future, prevented from
16 earning maximum profits from the operation of business. The exact amount
17 of the lost profits and loss of future earnings is thus far undetermined and
18 accordingly, will be proven at the time of trial.

19 191. As a further proximate result of the fraudulent misrepresentations by
20 Defendants, Plaintiff suffered physical and mental pain and suffering and
21 will continue to suffer therefrom in the future.

22 192. As a result of improper conduct, Plaintiff has been damaged substantially in
23 excess of \$10,000.

24 193. Plaintiff has retained an attorney in order to prosecute this action and
25 accordingly, entitled to reasonable attorney fees and costs related thereto.

26 194. In committing the acts herein mentioned, Defendants acted arbitrarily,
27 capriciously, maliciously and with reckless disregard for and accordingly
28 entitled to punitive damages in an amount to be determined at the time of trial.

1 **WHEREFORE**, for relief as set forth herein.

2 **SIXTH CLAIM FOR RELIEF**

3 **(Negligent Misrepresentation)**

4 195. Plaintiff incorporates by reference all paragraphs of this complaint as if more
5 fully set forth herein.

6 196. Defendants MetroEd through Alyssa Lynch, made the following statements
7 to Plaintiff:

- 8 a. MetroED would allocate funding to Plaintiff's program;
- 9 b. MetroEd would comply with all state, federal and local rules
10 regarding teaching credentials; would have only properly
11 credentialed teachers;
- 12 c. Plaintiff could participate in union negotiations without
13 retaliation;
- 14 d. MetroED provided a safe working environment;
- 15 e. MetroED would allocate funds to the programs for which they are
16 designated

17 197. The statements were false.

18 198. The statements were made by Alyssa Lynch at MetroED from January 2009 to
19 December 2014.

20 199. Ms. Lynch made the representations negligently in order to induce Plaintiff to
21 work for and continue his employment with MetroEd.

22 200. Defendant knew that Plaintiff would reasonable rely on the statements.

23 201. Plaintiff reasonably relied on the statements.

24 202. As a direct and proximate result of Fraudulent Misrepresentations, Plaintiff
25 has been, and will be in the future, prevented from earning maximum profits
26 from the operation of his business. The exact amount of the lost profits and
27 loss of future earnings is thus far undetermined and accordingly, will be proven
28 at the time of trial.

1 203. As a direct and proximate result of the fraudulent misrepresentations by
2 Defendants, Plaintiff has been, and will be in the future, prevented from
3 earning maximum profits from the operation of business. The exact amount
4 of the lost profits and loss of future earnings is thus far undetermined and
5 accordingly, will be proven at the time of trial.

6 204. As a further proximate result of the fraudulent misrepresentations by
7 Defendants, Plaintiff suffered physical and mental pain and suffering and will
8 continue to suffer therefrom in the future.

9 205. As a result of improper conduct, Plaintiff has been damaged substantially in
10 excess of \$10,000.

11 206. Plaintiff has retained an attorney in order to prosecute this action and
12 accordingly, entitled to reasonable attorney fees and costs related thereto.

13 207. In committing the acts herein mentioned, Defendants acted arbitrarily,
14 capriciously, maliciously and with reckless disregard for and accordingly
15 entitled to punitive damages in an amount to be determined at the time of trial.

16 **WHEREFORE,** for relief as set forth herein.

17 **SEVENTH TH CLAIM FOR RELIEF**

18 **(BUSINESS DISPARAGEMENT)**

19 208. Plaintiff incorporates by reference all paragraphs of this complaint as if more
20 fully set forth herein.

21 209. On or about January 2015, upon information and belief Defendant Alyssa
22 Lynch, individually and as an agent of MetroEd, made the following
23 statements to Margaret Bdzil and DeAnza Community College administrators
24 and teachers at De Anza College:

25 a. That Plaintiff had a hearing problem that prevented him from teaching;

26 b. Plaintiff's hearing loss made him dangerous to be in the classroom with
27 students.

28 210. On or about March of 2015, Marianne Cartan contacted the MetroED peer

1 review court and asked for a meeting with the Court Administrator. Upon
2 information and belief, the judges involved in the peer review court program
3 and annual meeting were told that Plaintiff would no longer act as a liaison
4 between MetroED and participating superior court judges. When judges asked
5 why Plaintiff was no longer directly involved in the program, they were told
6 that he had a hearing deficit which created a security risk that MetroED was
7 not willing to assume.

8 211. The statements were false.

9 212. Defendants knew the statements were false.

10 213. As a direct and proximate result of the business disparagement, Plaintiff has
11 been, and will be in the future, prevented from earning maximum profits from
12 the operation of his business. The exact amount of the lost profits and loss of
13 future earnings is thus far undetermined and accordingly, will be proven at the
14 time of trial.

15 214. As a direct and proximate result of the business disparagement by Defendants,
16 Plaintiff has been, and will be in the future, prevented from earning maximum
17 profits from the operation of business. The exact amount of the lost profits
18 and loss of future earnings is thus far undetermined and accordingly, will be
19 proven at the time of trial.

20 215. As a further proximate result of the business disparagement by Defendants,
21 Plaintiff suffered physical and mental pain and suffering and will continue to
22 suffer therefrom in the future.

23 216. As a result of improper conduct, Plaintiff has been damaged substantially in
24 excess of \$10,000.

25 217. Plaintiff has retained an attorney in order to prosecute this action and
26 accordingly, entitled to reasonable attorney fees and costs related thereto.

27 218. In committing the acts herein mentioned, Defendants acted arbitrarily,
28 capriciously, maliciously and with reckless disregard for and accordingly

1 entitled to punitive damages in an amount to be determined at the time of trial.

2 **WHEREFORE**, for relief as set forth herein.

3 **EIGHTH CLAIM FOR RELIEF**
4 **(SLANDER)**

5 219. Plaintiff incorporates by reference all paragraphs of this complaint as if more
6 fully set forth herein.

7 220. On or about January 2015, upon information and belief Defendant Alyssa
8 Lynch, individually and as an agent of MetroEd, made the following
9 statements to Margaret Bdzil and DeAnza Community College administrators
10 and teachers at De Anza College:

11 a. That Plaintiff had a hearing problem that prevented him from teaching;

12 b. Plaintiff's hearing loss made him dangerous to be in the classroom with
13 students.

14 On or about March of 2015, Marianne Cartan contacted the MetroED peer review
15 court and asked for a meeting with the Court Administrator. Upon information and
16 belief, the judges involved in the peer review court program and annual meeting were
17 told that Plaintiff would no longer act as a liaison between MetroED and
18 participating superior court judges. When judges asked why Plaintiff was no longer
19 directly involved in the program, they were told that he had a hearing deficit which
20 created a security risk that MetroED was not willing to assume.

21 221. The statements were false.

22 222. Defendants knew the statements were false.

23 223. As a direct and proximate result of the business disparagement, Plaintiff has
24 been, and will be in the future, prevented from earning maximum profits from
25 the operation of his business. The exact amount of the lost profits and loss of
26 future earnings is thus far undetermined and accordingly, will be proven at the
27 time of trial.

28 224. As a direct and proximate result of the business disparagement by Defendants,

1 Plaintiff has been, and will be in the future, prevented from earning maximum
2 profits from the operation of business. The exact amount of the lost profits
3 and loss of future earnings is thus far undetermined and accordingly, will be
4 proven at the time of trial.

5 225. As a further proximate result of the business disparagement by Defendants,
6 Plaintiff suffered physical and mental pain and suffering and will continue to
7 suffer therefrom in the future.

8 226. As a result of improper conduct, Plaintiff has been damaged substantially in
9 excess of \$10,000.

10 227. Plaintiff has retained an attorney in order to prosecute this action and
11 accordingly, entitled to reasonable attorney fees and costs related thereto.

12 228. In committing the acts herein mentioned, Defendants acted arbitrarily,
13 capriciously, maliciously and with reckless disregard for and accordingly
14 entitled to punitive damages in an amount to be determined at the time of trial.

15 **WHEREFORE,** for relief as set forth herein.

16 **NINTH CLAIM FOR RELIEF**
(CLAIM FOR WAGES)

17 229. Plaintiff incorporates by reference all paragraphs of this complaint as if more
18 fully set forth herein.

19 230. Plaintiff was required to come to work when he was on sick leave.

20 231. Defendants did not pay Plaintiff for his sick leave.

21 232. Plaintiff was not paid for all of the hours he spent at work doing his job.

22 233. As a result of Defendants' failure to pay wages, Plaintiff been substantially
23 damaged in excess of \$10,000.00. The exact amount of these damages will be
24 determined at trial.

25 234. Plaintiff has retained an attorney in order to prosecute this action and
26 accordingly, entitled to reasonable attorney fees and costs related thereto.

27 **WHEREFORE,** for relief as set forth herein.
28

i. **TENTH CLAIM FOR RELIEF**
(WRONGFUL TERMINATION)

1
2 235. Plaintiff incorporates by reference all the previous paragraphs of this
3 complaint as if more fully set forth herein.

4 236. Plaintiff was hired by Defendant in January, 2009.

5 237. Plaintiff undertook and continued employment, and duly performed all the
6 conditions of his employment.

7 238. Defendants defunded Plaintiff's program. This constituted a constructive
8 termination.

9 239. At the time of Plaintiff's termination, he was ready, willing, and able to
10 perform all the conditions of her employment.

11 240. Defendant's constructive termination was retaliatory as part of the retaliation
12 described above.

13 241. As a direct and proximate result of Defendants' conduct Plaintiff has
14 sustained and continues to suffer damages in terms of lost wages, lost bonuses,
15 lost benefits, and other pecuniary loss according to proof that will be provided
16 at trial. Plaintiff has also suffered and will continue to suffer physical and
17 emotional injuries, including humiliation, depression, anguish, embarrassment,
18 shock, pain, discomfort, fatigue and anxiety. The amount of Plaintiff's
19 damages will be determined at trial.

20 242. The conduct against the Plaintiff, as described herein, subjected the Plaintiff
21 to cruel and unjust hardship in conscious disregard of Plaintiff's rights. The
22 Defendants anticipated such hardship and knew that Plaintiff would suffer
23 damages. As a consequence of the aforesaid oppressive, malicious, and
24 despicable conduct, Plaintiff is entitled to an award of punitive damages in a
25 sum to be shown according to proof.

26 243. Plaintiff has retained an attorney in order to prosecute this action and
27 accordingly, entitled to reasonable attorney fees and costs related thereto.
28

1 **WHEREFORE**, for relief as set forth herein.

2 **ELEVENTH CLAIM FOR RELIEF**

3 **(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)**

4 244. Plaintiff incorporates by reference all the previous paragraphs of this
5 complaint as

6 if more fully set forth herein.

7 245. The conduct complained of herein was outside the conduct expected to exist
8 in the workplace, was intentional and malicious and done for the purpose of
9 causing Plaintiff to suffer humiliation, mental anguish, and emotional and
10 physical distress. Defendant in confirming and ratifying the complained of
11 conduct, was done with the knowledge that Plaintiff's emotional and physical
12 distress would thereby increase, and was done with a wanton and reckless
13 disregard of the consequences to Plaintiff.

14 246. The Defendants' conduct constitutes extreme and outrageous conduct against
15 Plaintiff. The Defendants engaged in this conduct with the intention of
16 causing, or reckless disregard of the probability of causing, emotional distress
17 to Plaintiff.

18 247. As a proximate result of Defendant's intentional infliction of emotional
19 distress as herein alleged, Plaintiff has been harmed in that Plaintiff has
20 suffered severe and/or extreme emotional distress including humiliation,
21 mental anguish, and emotional and physical distress, and has been injured in
22 mind and health. As a result of said distress and consequent harm, Plaintiff has
23 suffered such damages in an amount in accordance with proof at time of trial.

24 248. Defendant engaging in the conduct as herein above alleged, acted
25 fraudulently, maliciously, oppressively and with reckless disregard of
26 Plaintiff's rights and safety, and thereby entitling Plaintiff to an award of
27 punitive damages. Defendants, and each of them, authorized, ratified, knew of
28 the wrongful conduct complained of herein, but failed to take immediate and

1 appropriate corrective action to remedy the situation and thereby acted
2 fraudulently, maliciously, oppressively and with reckless disregard of
3 Plaintiff's rights and safety, and thereby entitling

4 Plaintiff to an award of punitive damages.

5 WHEREFORE, Plaintiff requests relief as hereinafter provided.

6 **TWELFTH CLAIM FOR RELIEF**

7 **(NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS)**

8 249. Plaintiff incorporates by reference all the previous paragraphs of this
9 complaint as if

10 more fully set forth herein.

11 250. In the alternative, if said conduct of Defendant and of its agents and
12 employees,

13 including Alyssa Lynch was not intentional, it was negligent and Plaintiff is thereby
14 entitled to general damages for the negligent infliction of emotional distress.

15 WHEREFORE, Plaintiff requests relief as hereinafter provided.

16 **PRAYER FOR RELIEF**

17
18 With respect to the preceding claims for relief, Plaintiff prays for relief as set
19 forth below:

20 1. That Defendant be ordered to pay to Plaintiff a sum in excess of
21 \$100,000.00, the exact amount of which will be proven at the time of trial;

22 2. That Defendant be ordered to pay to Plaintiff a sum, the exact amount of
23 which will be proven at the time of trial, for Plaintiff's lost earnings, both past and
24 future;

25 3. That Defendant be ordered to pay Plaintiff a sum in excess of \$100,000.00,
26 the exact amount of which will be proven at the time of trial, for Plaintiff's physical
27 and mental pain, and for Plaintiff's personal property damage;

28 5. That Plaintiff be awarded exemplary damages, as permitted by law, as a

1 result of Defendant willful and wanton misconduct in a sum in excess of
2 \$100,000.00;

3 6. That Plaintiff be awarded the attorney's fees and court costs that Plaintiff
4 incurred in the prosecution of this Complaint; and

5 7. For an award of interest, including prejudgment interest, at the legal rate.

6 8. Such other and further relief as the court may deem just and equitable in this
7 matter.

8 Dated this 13th day of July, 2017.

9
10 By /s/ Marie Mirch

11 Mirch Law Firm LLP
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13 San Diego, CA 92101
14 Kevin J. Mirch, Bar No. 106973
15 Marie C. Mirch, Bar No. 200833
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