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14 (Additional Attorneys for Defendant-Intervenors Listed on the Following Page)

15
16 SUPERIOR COURT OF CALIFORNIA
17 COUNTY OF ALAMEDA, NORTHERN DIVISION

18 LORENZO AVILA, a taxpayer, and as
19 Guardian Ad Litem for Francisco Ching Avila
and Pablo Ching Avila, minors,

20 Plaintiff,

21 v.

22 BERKELEY UNIFIED SCHOOL DISTRICT,
23 and MICHELE LAWRENCE, in her official
24 capacity as Superintendent of Berkeley Unified
School District; and Does 1-50 inclusive.

25 Defendants.

Case No. 03-1103 97

**NOTICE OF MOTION AND MOTION
FOR LEAVE OF COURT TO FILE A
COMPLAINT IN INTERVENTION**

Date: April 1, 2004
Time: 9:00 a.m.
Dept: 31
Judge: James A. Richman

Date Comp. Filed August 6, 2003

Trial Date: None set

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ENCLOSURE
ALAMEDA COUNTY

MAR 04 2004

CLERK OF THE COURT
By Dorothy L. [Signature]

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on April 1, 2004 at 9 a.m. or as soon thereafter as this matter may be heard, in Department 31 of this Court, located at the U.S Post Office Building, 201 13th Street, 2nd Floor, Oakland, California, Proposed Defendant-Intervenors Lorenzo Blades II, a taxpayer and as Guardian Ad Litem for Ralph Blades III, minor; Roia Ferrazares, a taxpayer and as Guardian Ad Litem for Aisha and Toshio Ferrazares, minors; Lenore Goldman, a taxpayer and as Guardian Ad Litem for Joshua Goldman Waters, minor, and the Berkeley Branch of the National Association for the Advancement of Colored People ("Berkeley NAACP") (collectively "Blades Intervenors") will move for an order granting leave to file a Complaint in Intervention in this action to determine the constitutionality of Berkeley Unified School District's New Voluntary Plan to Achieve Racial Desegregation of All Public Schools in the City of Berkeley (May 1995.)

This Motion will be made pursuant to the provisions of Section 387(a) of the California Code of Civil Procedure on the grounds that Blades Intervenors have an interest in the subject of the action and in the success of the Defendants. Additionally, or in the alternative, Blades Intervenors claim an interest in the "property" that is the subject of this litigation under §387 (b) of the Code of Civil Procedure because the disposition of the action may as a practical matter impair or impede proposed intervenors' ability to protect that interest in their taxpayer dollars and in their children's right to receive an education in racially and ethnically integrated schools.

Blades Intervenors hereby move for leave of court to intervene in this action by filing the Complaint in Intervention attached to this Notice of Motion and Motion and incorporated by reference herein.

This Motion will be made based on this Notice of Motion and Motion, the proposed Complaint in Intervention, the Memorandum of Points and Authorities served and filed herewith, the declarations of Ralph Lorenzo Blades, II and Roia Ferrazares in support thereof,

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1 on the papers and records and file herein and on such oral and documentary evidence as may be
2 presented at the hearing on the Motion.

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DATED: March 3, 2004


Respectfully submitted,

NAACP LEGAL DEFENSE
AND EDUCATIONAL FUND, INC.

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NORTHERN CALIFORNIA

LAWYERS' COMMITTEE FOR CIVIL RIGHTS
OF THE SAN FRANCISCO BAY AREA

Of Counsel:
NAACP LEGAL DEPARTMENT

By: 
Erica Teasley Linnick
Attorneys for Blades Defendant-Intervenors

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California; I am over the age of 18 and not a party to the within action; my business address is 1663 Mission Street, Suite 460, San Francisco, CA 94103.

On March 4, 2004, as a member of the Bar of this Court, I served the within:

- **NOTICE OF MOTION AND MOTION FOR LEAVE OF COURT TO FILE A COMPLAINT IN INTERVENTION**
- **[PROPOSED] COMPLAINT IN INTERVENTION [C.C.P. 387]**
- **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR LEAVE TO FILE COMPLAINT IN INTERVENTION**
- **[PROPOSED] ORDER GRANTING LEAVE TO FILE COMPLAINT IN INTERVENTION**
- **DECLARATION OF ROIA FERRAZARES**
- **DECLARATION OF RALPH LORENZO BLADES II IN SUPPORT OF MOTION FOR LEAVE TO FILE COMPLAINT IN INTERVENTION**
- **APPENDIX OF NON-CALIFORNIA AUTHORITIES IN SUPPORT OF MOTION TO INTERVENE**

on the interested parties in this action by placing a true copy in a sealed envelope with postage thereon fully prepaid in a mailbox of the U.S. Postal Service this day at San Francisco, California:

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Executed this 4th day of March 2004, at San Francisco, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

ALAN L. SCHLOSSER