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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 10 FOR THE COUNTY OF LOS ANGELES  
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12 KESHARA SHAW; ALMA ROSA  
 13 FARIAS DE SOLANO; JOSUE  
 RICARDO GASTELUMCAMPISTA;  
 14 MARITZA GONZALEZ; RONNIE  
 HEARD, JR.; DEYANIRA HOOPER;  
 15 JUDITH LARSON; VICENTA  
 MARTINEZ; AND AKELA WROTEN,  
 16 JR.,

17 Plaintiff,

18 v.

19 LOS ANGELES UNIFIED SCHOOL  
 DISTRICT; AUSTIN BEUTNER, Los  
 20 Angeles Unified School District  
 Superintendent; and DOES 1-25,  
 21 inclusive,

22 Defendant.  
 23  
 24  
 25  
 26  
 27  
 28

Case No. 20STCV36489

**LOS ANGELES UNIFIED SCHOOL  
 DISTRICT'S REPLY IN SUPPORT OF  
 MOTION SUPPORTING OSC RE: STAY  
 PENDING RELATED LITIGATION**

Date : February 25, 2021  
 Time : 10:00 am  
 Dept. : 9  
 Judge : Yvette M. Palazuelos

**Trial: None set**

**Complaint Filed: September 24, 2020**

Exempt from filing fees pursuant to Gov.  
 Code, § 6103.

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1 **I. INTRODUCTION**

2 Plaintiffs’ Opposition to LAUSD’s Motion to Stay confirms that the Court’s decision to  
3 request briefing and issue an OSC regarding why this litigation should not be stayed was a good one.  
4 Plaintiffs make mostly procedural arguments—that their case was filed first, that primary  
5 jurisdiction can never apply to pending litigation, and so a stay may not issue. While Plaintiffs are  
6 wrong on those points, those issues largely ignore what is actually most relevant to the Court’s  
7 analysis: a substantive explanation of why this case should proceed when there are so many others  
8 pending on the same issues arising from distance learning. The Court’s decision to request briefing  
9 and set an OSC was wise, as the grounds for a stay are now even clearer.

10 Staying *Shaw* pending resolution of *Cayla J.* and *Martinez* makes perfect sense. Public  
11 education is a statewide system in California, with the State overseeing local school districts. Public  
12 education policymaking is also an incredibly complex field, with the State providing its  
13 administrative expertise in pedagogy, financing, and many other issues. Staying *Shaw*, a local case  
14 against only LAUSD, would allow the nearly identical *Cayla J.* litigation against the State to  
15 proceed and ensure consistent policymaking throughout California, and with the State’s expertise.

16 So too with *Martinez*, Plaintiffs’ Opposition makes clear that they seek an injunction  
17 implementing disabled students’ individualized education programs (“IEPs”). IEPs, however, come  
18 from the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* (“IDEA”), which  
19 provides for an extensive administrative remedial scheme that prospective plaintiffs must exhaust  
20 under well-settled law. The *Martinez* District Court held just that, and the matter is now on appeal  
21 with the prospect of a published opinion from the Ninth Circuit. Again, staying *Shaw* and avoiding  
22 unseemly conflict between state and federal courts, on issues of federal law, serves the policies  
23 behind the doctrines granting courts discretion to issue stays.

24 As the Court suggested through its setting an OSC, a stay should issue in this case.

25 **II. ARGUMENT**

26 **A. Plaintiffs Falsely Characterize the Court’s Ruling on LAUSD’s Notice of Related**  
27 **Cases.**

28 LAUSD’s Motion noted that the Court’s January 20, 2021 Order on LAUSD’s Notice of

1 Related cases ruled only that “[o]ut-of-County cases and federal cases are not related to the instant  
2 case.” (January 20, 2021, Minute Order.) LAUSD noted that, while it understood the Court’s  
3 reasoning regarding cases filed in other venues, under California Rules of Court, rule 3.300, LAUSD  
4 was required to include out-of-County and federal cases in its Notice of Related Cases. LAUSD also  
5 noted the Court’s authority under California Rules of Court, rule 3.515, to stay an action on the  
6 Court’s own Motion based upon the considerations presented by this Motion.<sup>1</sup>

7 In opposition, Plaintiffs mischaracterize to the Court its own earlier Order in an attempt to  
8 stop LAUSD’s Motion—invited by the Court—out of the gate. Plaintiffs argue “there is no  
9 published California opinion that stays one case in favor of another case after they have been  
10 determined to be unrelated.” (Opposition at p. 2.) Plaintiffs then misconstrue the Court’s Order as  
11 “necessarily determin[ing] that [the cases listed in LAUSD’s Notice of Related Cases] do not . . .  
12 [require] determination of the same or substantially identical questions of law or fact[.]” (*Id.* at p. 7  
13 [emphasis omitted].) Plaintiffs argue “[t]he discussion of stays should end there.” (*Ibid.*)

14 That is, of course, not true. The Court did not rule Plaintiffs’ case was substantively  
15 dissimilar from the cases listed in LAUSD’s Notice of Related Cases. And the Court did not end the  
16 discussion of stays there. Instead, the Court wisely *sua sponte* invited briefing and set an OSC  
17 regarding why this case should not be stayed pending the many others stemming from distance  
18 learning during the COVID-19 pandemic.

19 Under its January 20 Order, the Court may of course consider LAUSD’s Motion and stay this  
20 case. That is why the Court invited LAUSD’s Motion and set an OSC regarding a stay.

21 **B. This Court Should Stay *Shaw* Pending Resolution of *Cayla J.***

22 Under the doctrine of primary jurisdiction, this Court has the discretion to stay *Shaw* pending  
23 resolution of the *Cayla J.* litigation, because the *Cayla J.* litigation seeks to enjoin LAUSD’s State  
24 administrative oversight agency, the California Department of Education or “CDE,” to review and  
25 address the exact allegations Plaintiffs raise in this case.

26 \_\_\_\_\_  
27 <sup>1</sup> Plaintiffs appear to have copied an argument concerning Rule 3.515 from their Opposition to  
28 UTLA’s Motion into their Opposition to LAUSD’s Motion. (Opposition at p. 14.) In any case, as  
LAUSD noted in its Motion, LAUSD may pursue coordination proceedings as an alternative  
pending outcome of this Motion, so Rule 3.515 is not irrelevant.

1 In opposition, Plaintiffs raise two arguments. First, that *Shaw* and *Cayla J.* are not actually  
2 similar cases. Second, that LAUSD “falsely invoked” the doctrine of primary jurisdiction. Each fails.

3 **1. *Shaw* and *Cayla J.* are identical, but for one difference that supports**  
4 **staying *Shaw* pending *Cayla J.***

5 First, *Shaw* and *Cayla J.* are nearly identical cases, and the only respect in which they  
6 differ—that the *Cayla J.* plaintiffs sued CDE, while Plaintiffs here sued LAUSD—is the reason why  
7 this case should be stayed pending *Cayla J.* Plaintiffs concede the *Cayla J.* plaintiffs sued “for  
8 claims and harms similar to those alleged by Plaintiffs.” (Opposition at p. 4.) Plaintiffs argue,  
9 however, the cases do not overlap because *Cayla J.* “concerns whether *the state-level defendants*  
10 [*i.e.*, CDE] failed to properly respond to the pandemic and pay sufficient attention to the actual  
11 circumstances of remote learning, resulting in disparate impact to students and the failure to provide  
12 adequate equipment, training, and resources to teachers and parents” and “*Cayla* requests injunctive  
13 relief concerning the provision of oversight and support by the *state-level defendants.*” (Opposition  
14 at p. 8 [emphasis added].)

15 Exactly. *Cayla J.* should proceed before this case because it seeks statewide relief, consistent  
16 with California’s *statewide* public school system. As stated in LAUSD’s Motion, the California  
17 Constitution provides for the provision of public education through “a system of common schools.”  
18 (Cal. Const., art. IX, § 5.) The State Legislature has plenary power over California’s public  
19 education. (*Cal. Redevelopment Assn. v. Matosantos* (2011) 53 Cal.4th 231, 254 [the Legislature  
20 “may exercise any and all legislative powers which are not expressly or by necessary implication  
21 denied to it by the Constitution”]; *Marine Forests Society v. Cal. Coastal Com.* (2005) 36 Cal.4th 1,  
22 31 [the Legislature wields “*plenary* legislative authority except as specifically limited by the  
23 California Constitution” [emphasis original].) And when one district educates students differently  
24 than other students, it can violate the State Constitution. (*Butt v. State* (1992) 4 Cal.4th 668, 680.)  
25 Thus, the only difference between the two cases means that *Cayla J.* is the better case to proceed.

26 **2. The doctrine of primary jurisdiction supports a stay here.**

27 Plaintiffs’ argument that LAUSD “falsely invoked” the primary jurisdiction doctrine “in a  
28 desperate attempt” relies more on hyperbolic rhetoric than the actual doctrine. (Opposition at p. 9.)

1 Plaintiffs’ opposition misstates the doctrine, and so a restating of the law is warranted.  
2 Primary jurisdiction “comes into play whenever enforcement of the claim requires the resolution of  
3 issues which, under a regulatory scheme, have been placed within the special competence of an  
4 administrative body; in such a case the judicial process is suspended pending referral of such issues  
5 to the administrative body for its views.” (*Farmers Ins. Exchange v. Superior Court* (1992) 2 Cal.4th  
6 377, 390.) Primary jurisdiction warrants a stay pending administrative action even where a claim is  
7 ““originally cognizable in the courts[.]”” (*Id.* at 391.)

8 “No rigid formula exists for applying the primary jurisdiction doctrine.” (*Ibid.*) Instead,  
9 courts weigh the extent to which the policies behind the doctrine would be furthered by a stay.  
10 (*Ibid.*) Those policies include: (1) “enhance[ment of] court decisionmaking and efficiency by  
11 allowing courts to take advantage of administrative expertise”; (2) “assur[ance of] uniform  
12 application of regulatory laws”; (3) “the alleged ‘inadequacy’ of administrative remedies”; and (4)  
13 “other factors affecting litigants,” including delay and expense. (*Id.* at 391, fn. 9.)

14 In its Motion, LAUSD described at length why this case meets the policy goals of the  
15 primary jurisdiction doctrine. Stated again here briefly:

16 **Administrative Expertise:** To rule in *Shaw*, the Court will need to decide what performance  
17 constitutes “grade level,” what constitutes “adequate integrated instruction in English language  
18 development,” and what constitutes “adequate interaction with teachers and peers.” (*See* RJN, Ex. A  
19 at p. 44 [emphasis added].) These inquiries would improperly pull the Court into the thicket of  
20 educational policymaking, especially improper without the benefit of administrative expertise. (*See*  
21 *Campaign for Quality Education v. State of California* (2016) 246 Cal.App.4th 896, 903 [“the  
22 constitutional sections leave the difficult and policy-laden questions associated with educational  
23 adequacy and funding to the legislative branch”]; *see also* *Hoelt v. Tucson Unified School Dist.* (9th  
24 Cir. 1992) 967 F.2d 1298, 1305 [“Eligibility criteria and methodology are classic examples of the  
25 kind of technical questions of educational policy best resolved with the benefit of agency expertise  
26 and a fully developed administrative record.”].)

27 **Uniform Application of Regulatory Laws:** *Shaw* and *Cayla J.* raise statewide concerns—that  
28 something about distance learning leads to wealth and race discrimination—and it would make little



1 sense for this Court to require (or not require) LAUSD to implement Plaintiffs’ requested distance  
2 learning program, only for CDE to ask LAUSD and every other school district in the State to  
3 implement some other distance learning program as a result of *Cayla J.* Indeed, differing educational  
4 programs throughout the state could violate the State Constitution. (*Butt*, 4 Cal.4th at 680.)

5 **Adequacy of the Administrative Forum:** Both this Court and the *Cayla J.* Court are equally  
6 capable of adjudicating these issues. Further, the administrative scheme provided by SB 98 itself  
7 provides adequate administrative relief on its own. (*See* Ed. Code, § 43509.)

8 **Other Factors Affecting Litigants:** The absence of other factors affecting Plaintiffs such as  
9 expense (which Plaintiffs do not argue they have individually incurred) and delay (which Plaintiffs  
10 do not identify) weighs in favor of a stay.

11 Plaintiffs ignore this standard, and do not discuss any of these factors aside from a few lines  
12 of conclusory argument. (Opposition at p. 11:15-20.) Plaintiffs, thus, leave LAUSD’s discussion of  
13 why it satisfies the factors of primary jurisdiction essentially unopposed. (See Motion at pp. 13-18.)

14 Instead, Plaintiffs argue primary jurisdiction does not apply because the doctrine, they  
15 contend, applies only to pending administrative proceedings, and *Cayla J.* is not an administrative  
16 proceeding. (*See, e.g.*, Opposition at p. 9:24-25.) Plaintiffs argue *Farmers* supports this  
17 interpretation of the primary jurisdiction doctrine, but that is not what *Farmers* said. As discussed  
18 (and as Plaintiffs quote but misconstrue in their brief) *Farmers* held “no rigid formula exists for  
19 applying the primary jurisdiction doctrine” and that courts should instead determine “the extent to  
20 which the policies noted above are implicated in a given case.” (*Farmers, supra*, 2 Cal.4th at 391;  
21 *see also* Opposition at p. 11:11-13.) As discussed, those policies support staying *Shaw* here.

22 Notably, there is no requirement of the primary jurisdiction doctrine that administrative  
23 proceedings need to be then-currently pending when the doctrine is invoked. (*Farmers, supra*, 2  
24 Cal.4th at 390 [“the judicial process is suspended pending *referral* of such issues to the  
25 administrative body for its views” [emphasis added]]; *Wise v. Pacific Gas & Electric Co.* (1999) 77  
26 Cal.App.4th 287, 298 [administrative proceeding before the Public Utilities Commission  
27 “indicate[d] that the PUC *may be commencing* the process of formulating a policy” [emphasis  
28 added]). Thus, LAUSD did not make an “astounding claim that *Cayla . . .* is equivalent to

1 administrative proceeding because it ‘seeks to compel the State and the [Department of Education] .  
2 . . . to undertake the exact type of administrative policymaking and oversight of school districts to  
3 which the doctrine applies.’” (Opposition at p. 10 [emphasis omitted].) Courts like the *Farmers* and  
4 *Wise* courts often invoke primary jurisdiction when administrative proceedings are not yet pending  
5 but may be in the future, as LAUSD does here. Allowing *Cayla J.* to proceed could lead to  
6 administrative proceedings resulting in the precise relief Plaintiffs seek here, but with the benefit of  
7 CDE’s administrative expertise and with a consistent approach across districts throughout California,  
8 an important goal in light of California’s common system of public schools. (*See Butt, supra*, 4  
9 Cal.4th at 680.) LAUSD’s argument is well supported under cases like *Farmers* and not  
10 “astounding” at all.

11 Without their argument that primary jurisdiction does not fit the framework of this case,  
12 Plaintiffs’ other secondary arguments regarding primary jurisdiction easily fail.

13 Plaintiffs’ characterization that LAUSD “[c]uriously . . . does not argue that Plaintiffs should  
14 first bring their case before an administrative agency” is disingenuous. (Opposition at p. 10.)  
15 LAUSD has stated for months, including in its Motion to Stay, that it intends to argue Plaintiffs must  
16 exhaust administrative remedies in its initial responsive pleading. (Motion at p. 13, fn. 5.) That  
17 LAUSD has not yet done so is simply a function of the calendar in this case, with the Initial Status  
18 Conference and its related discussion of responsive pleadings, having not yet occurred.

19 Plaintiffs’ citation to cases standing for the unremarkable proposition that courts are capable  
20 of interpreting statutes and the State constitution does not undermine the value of administrative  
21 expertise and regulatory consistency. (See Opposition at p. 10:10-14, fn. 14.) Indeed, Plaintiffs’  
22 argument—that primary jurisdiction should not be invoked because courts can interpret statutes—  
23 would write the primary jurisdiction doctrine out of California law. In every case invoking the  
24 doctrine, plaintiffs allege defendants violated some law. *Farmers*, for example, involved a Business  
25 and Professions Code claim seeking to enforce an Insurance Code section. (*Farmers, supra*, 2  
26 Cal.4th at 390.) Courts of course routinely interpret the Insurance Code, but that did not stop the  
27 Supreme Court from directing the Court of Appeal to issue a writ directing the Superior Court to  
28 stay the *Farmers* action. The relevant inquiry is not whether the case involves a statute, but a

1 weighing of the policies described above that favor primary jurisdiction here and that Plaintiffs all  
2 but ignore.

3 Plaintiffs warn that if the Court were to apply primary jurisdiction to this case, “unnecessary  
4 and unmanageable conflicts between different court proceedings” would result. (Opposition at p.  
5 11.) Plaintiffs do not explain what these supposed conflicts actually are, or why a stay of *Shaw*  
6 pending resolution of *Cayla J.* would not work to *avoid* conflicts resulting from one injunction  
7 against CDE to regulate school districts in one manner and another injunction against LAUSD to  
8 operate its schools in some other way.

9 Plaintiffs argue “the resolution of *Cayla* undoubtedly will not resolve the issues raised in  
10 Plaintiffs’ case” because *Cayla J.* is a suit against the State, not LAUSD. (Opposition at p. 11.)  
11 Again, this ignores California’s statewide system of common schools, over which the State has  
12 plenary power. (Cal. Const., art. IX, § 5; *Matosantos, supra*, 53 Cal.4th at 254; *Marine Forests*  
13 *Society, supra*, 36 Cal.4th at 31.) That is why the *Cayla J.* plaintiffs—ten of which are LAUSD  
14 students (RJN, Ex. B at pp. 11-19)—sued the CDE for the exact relief Plaintiffs seek here under the  
15 exact same legal theories of race and wealth discrimination. (*Compare* RJN, Ex. A at pp. 44-45  
16 [“enjoining Defendants from further depriving of their constitutional rights”] *with* RJN, Ex. B at pp.  
17 61-62 [“Enjoining Defendants from further depriving Plaintiffs of their constitutional rights”].) Of  
18 course CDE has authority to regulate school districts in California, and Plaintiffs do not argue  
19 otherwise.

20 Finally, Plaintiffs’ string cite of cases discussing the first-filed rule is irrelevant. (*See*  
21 *Opposition* at p. 9:8-19.) As Plaintiffs appear to acknowledge, the primary jurisdiction doctrine  
22 “circumvent[s] the protections afforded to first-filed state actions[.]” (*Opposition* at p. 2.) The rule  
23 that later-filed cases should be stayed in favor of earlier-filed cases is irrelevant to the primary  
24 jurisdiction doctrine, which operates to stay litigation in favor of administrative action (whether  
25 currently pending or not). Plaintiffs’ *Opposition*, in this regard, opposes an argument LAUSD never  
26 made and should be ignored.

27 Primary jurisdiction provides the framework for the Court to stay *Shaw* pending resolution of  
28 *Cayla J.*, and the policies relevant to primary jurisdiction strongly support its application here.

1           **C.       This Court Should Stay *Shaw* Pending Resolution of *Martinez*.**

2           This Court should also stay *Shaw* pending an earlier-filed federal case, *Martinez*.

3           Plaintiffs apparently agree with LAUSD that “[i]t is black letter law that, when a Federal  
4           action has been filed covering the same subject matter as is involved in a California action, the  
5           California court has the discretion but not the obligation to stay the state court action.” (*Caiafa Prof.*  
6           *Law Corp. v. State Farm Fire & Cas. Co.* (1993) 15 Cal.App.4th 800, 804 [citing *Farmland Irr. Co.*  
7           *v. Dopplmaier* (1957) 48 Cal.2d 208, 215].) Plaintiffs also apparently agree with LAUSD on the  
8           relevant factors: “the importance of discouraging multiple litigation designed solely to harass an  
9           adverse party, and of avoiding unseemly conflicts with the courts of other jurisdictions. It should  
10          also consider whether the rights of the parties can best be determined by the court of the other  
11          jurisdiction because of the nature of the subject matter, the availability of witnesses, or the stage to  
12          which the proceedings in the other court have already advanced.” (*Farmland, supra*, 48 Cal.2d at  
13          215.) Plaintiffs, however, neglect that “[t]he California Supreme Court also has isolated another  
14          critical factor favoring a stay of the state court action in favor of the federal action, a factor which  
15          happens to be present in this case—the federal action is pending in California not some other state.”  
16          (*Caiafa, supra*, 15 Cal.App.4th at 804.)

17          Plaintiffs’ argument LAUSD’s “Motion fails to address these factors” is odd, given  
18          LAUSD’s pages of argument devoted to them. (Motion at pp. 19-21.) In any case, Plaintiffs’  
19          arguments concerning these factors fail.

20          Plaintiffs argue *Shaw* is not designed to harass LAUSD because “the counsel, plaintiffs, and  
21          claims in each case are different” but that is beside the point. Plaintiffs cannot dispute that California  
22          school districts generally—and LAUSD specifically—have been subjected to a multitude of lawsuits  
23          all stemming from distance learning.

24          Plaintiffs argue there is no risk of unseemly conflict between state and federal courts because  
25          they bring state law claims while the *Martinez* plaintiffs bring federal ones. But Plaintiffs’  
26          Opposition makes clear that they seek “injunctive relief specific to the LAUSD’s distance learning  
27          policies, including the provision of any IEP services that can be provided through distance learning.”  
28          (Opposition at p. 12.) Plaintiffs argue their case is not similar to *Martinez* because *Martinez* seeks

1 relief under the IDEA, but that is not so. *Martinez*, like *Shaw*, involves issues of whether those  
2 plaintiffs must exhaust the IDEA’s robust scheme of administrative remedies. (*See, e.g., Martinez v.*  
3 *Newsom* (C.D. Cal. Nov. 24, 2020) No. 520CV01796SVWAFM, 2020 WL 7786543.) Whether  
4 IDEA exhaustion applies is equally an issue in Plaintiffs’ case. That is because “in a case  
5 purportedly invoking statutes other than the IDEA[,]” whether exhaustion is required turns on  
6 “whether the gravamen of the plaintiff’s suit is something other than the denial of the IDEA’s core  
7 guarantee—a free appropriate public education.” (*Paul G. by & through Steve G. v. Monterey*  
8 *Peninsula Unified Sch. Dist.* (9th Cir. 2019) 933 F.3d 1096, 1100 [quoting *Fry v. Napoleon Cmty.*  
9 *Sch.* (2017) 137 S. Ct. 743, 748].) “The crucial issue is therefore whether the relief sought would be  
10 available under the IDEA.” (*Id.*) By seeking an injunction involving “the provision of any IEP  
11 services that can be provided through distance learning,” Plaintiffs are expressly seeking relief  
12 available under the IDEA—indeed, IEPs exist in the first place because they come from the IDEA.  
13 (20 U.S.C. § 1401(14).)

14 And to the extent the two cases do not *perfectly* overlap, that is no barrier to a stay either, as  
15 instructed by the *Caiifa* Court of Appeal. (*Caiifa, supra*, 15 Cal.App.4th at 806 [while “the federal  
16 court action which was pending at the time *Caiifa* filed the petition to compel arbitration in state  
17 court raised issues much broader than the” amount of fees, “resolution of those broader issues almost  
18 certainly would determine whether *Caiifa* was entitled to . . . fees at all and, if so, the proper amount  
19 of those fees.”].) Plaintiffs do not address this argument in opposition.

20 For similar reasons, the factor of whether the rights of the parties can best be determined by  
21 this Court or another also supports a stay here. Plaintiffs argue all parties are located in California,  
22 and a federal court would lack subject matter jurisdiction. Plaintiffs’ claims, however, properly  
23 framed, are at least in part IDEA claims, over which a federal court has jurisdiction, and the IDEA is  
24 clear a plaintiff cannot avoid administrative exhaustion by calling IDEA claims something else.  
25 (*Fry, supra*, 137 S. Ct. 743.) Further, Plaintiffs ignore LAUSD’s argument that while this Court is as  
26 capable as the Ninth Circuit to address the claims overlapping between *Shaw* and *Martinez*, this  
27 Court’s ruling would not result in citable precedent (*see Bolanos v. Superior Court* (2008) 169  
28 Cal.App.4th 744), while a Ninth Circuit decision would. (*Haligowski v. Superior Court* (2011) 200

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1 Cal.App.4th 983, 990, fn. 4; U.S. Ct. of App. 9th Cir. rule 36-3, subd. (b).) Further, that both actions  
2 are pending in California is all the more reason to stay *Shaw* pending resolution of *Martinez*. Again,  
3 “[t]he California Supreme Court also has isolated another critical factor favoring a stay of the state  
4 court action in favor of the federal action, a factor which happens to be present in this case—the  
5 federal action is pending in California not some other state[,]” and “[t]his factor is one which the  
6 Supreme Court found so important it accounted for the several earlier California decisions which  
7 appeared to make a stay of state court proceedings *a matter of right* not merely a matter of  
8 discretion. While reemphasizing a stay was a discretionary decision for the California trial courts not  
9 a right held by litigants who preferred the federal forum, our high court also recognized the  
10 significance of this factor in the trial court’s exercise of its discretion.” (*Caiafa, supra*, 15  
11 Cal.App.4th at 804, 808 [emphasis added].) Plaintiffs ignore this “critical” factor entirely.

12 Finally, Plaintiffs’ argument concerning the factor of “the stage to which the proceedings in  
13 the other court have already advanced” has that standard backward. (*See Farmland, supra*, 48 Cal.2d  
14 at 215.) Plaintiffs argue the fact that *Martinez* has proceeded to appeal while *Shaw* is still in  
15 preliminary, limited discovery allowed only by Court order means their case should go forward.  
16 (Opposition at p. 13.) Again, the *further* stage of the *Martinez* proceedings—with the prospect of a  
17 published Ninth Circuit opinion on the issue of IDEA exhaustion that, as discussed, will apply  
18 equally to *Shaw*—means that case should proceed before this one, not the other way around.


19 For at least these reasons, the Court should exercise its discretion to stay this case while the  
20 Ninth Circuit resolves *Martinez*.

21 **III. CONCLUSION**

22 LAUSD respectfully requests a stay of this case pending resolution of the related matters.

23 DATED: February 18, 2021

DANNIS WOLIVER KELLEY

24  
25 By:   
26 Sue Ann Salmon Evans  
27 Attorneys for Defendants Los Angeles  
28 Unified School District and Austin Beutner

**PROOF OF SERVICE**

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 115 Pine Avenue, Suite 500, Long Beach, CA 90802.

On the date set forth below I served the foregoing document described as **LOS ANGELES UNIFIED SCHOOL DISTRICT'S REPLY IN SUPPORT OF MOTION SUPPORTING OSC RE: STAY PENDING RELATED LITIGATION** on interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

- (VIA U.S. MAIL) I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses on the attached service list. I deposited such document with the U.S. Mail at Redondo Beach, California with postage thereon fully prepaid I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- (VIA U.S. MAIL/REGISTERED/CERTIFIED) I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses on the attached service list. I deposited such document with the U.S. Mail at Redondo Beach, California with postage thereon fully prepaid to cover the cost of certified mailing, attaching a registration number for the certified mailing and a postcard complete with the addressee's name and address for a return receipt as requested. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- (VIA FACSIMILE) I caused such document to be transmitted via facsimile to the addressee from the facsimile machine of DANNIS WOLIVER KELLEY whose phone number is 855.933.2611. The transmission by facsimile was reported as complete and without error.
- (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.
- (VIA OVERNIGHT MAIL) I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses on the attached service list. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- (VIA CASE ANYWHERE ELECTRONIC SERVICE) A true and correct copy through DANNIS WOLIVER KELLEY's electronic mail system from [sfriend@dwkesq.com](mailto:sfriend@dwkesq.com) was electronically served by transmission to CASE ANYWHERE. The transmission was reported as complete and without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 18, 2021 at Redondo Beach, California.

Shanti Friend

DANNIS WOLIVER KELLEY  
115 PINE AVENUE, SUITE 500  
LONG BEACH, CA 90802

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