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16 UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT
 17 OF CALIFORNIA – WESTERN DIVISION

18 AMERICA UNITES FOR KIDS, et al.,

19 Plaintiffs,

20 v.

21 SANDRA LYON, et al.,

22 Defendants.

Case No. 2:15-cv-02124-PA-AJW

**PLAINTIFFS’ L.R. 16-5
 WITNESS LIST**

Judge: Hon. Percy Anderson
 Courtroom: 15
 Trial Date: 5/17/16
 Final Pretrial Conference: 4/15/16
 Motion Cut-off Date: 3/14/16
 Discovery Cut-off Date: 3/7/16

1 Plaintiffs America Unites for Kids and Public Employees for Environmental
2 Responsibility respectfully submit their witness list pursuant to Local Rule 16-5.
3 All witnesses will present direct testimony by declaration and 15 minutes should be
4 allotted for each simply to authenticate documents, etc., unless otherwise noted.
5 Asterisks denote witnesses who will testify only if the need arises.

6 1. **Beth Lucas**. Ms. Lucas can be reached through Plaintiffs' counsel Charles
7 Avrith, Nagler & Associates, 2300 S. Sepulveda Boulevard, Los Angeles, California
8 90064-1991, Telephone: (310) 473-1200.

9 Ms. Lucas will testify that she is a supporter of America Unites and has been
10 injured by having to withdraw her son, who previously had cancer, from the Malibu
11 Schools based on the advice of his physician based on the PCBs at the School.

12 2. **Gisselle Borress**. Ms. Borress can be reached through Plaintiffs' counsel
13 Charles Avrith, Nagler & Associates, 2300 S. Sepulveda Boulevard, Los Angeles,
14 California 90064-1991, Telephone: (310) 473-1200.

15 Ms. Borress will testify that she is a former parent at JCES and a supporter of
16 America Unites. She was injured by the presence of illegal levels of PCBs at the
17 school because after the PCBs were found, her doctor recommended removing her
18 daughter and son from the school. She did so and now must pay for private school.

19 3. **Hope Edelman**. Ms. Edelman can be reached through Plaintiffs' counsel
20 Charles Avrith, Nagler & Associates, 2300 S. Sepulveda Boulevard, Los Angeles,
21 California 90064-1991, Telephone: (310) 473-1200.

22 Ms. Edelman will testify that she is a board member and officer of America
23 Unites and a parent at MHS. She will testify that she has been injured by the
24 presence of illegal levels of PCBs at the Malibu Schools, which caused her to
25 remove her younger daughter from the Middle School to attend private school.

26 4. **Jude Brown**. Ms. Brown can be reached through Plaintiffs' counsel Charles
27 Avrith, Nagler & Associates, 2300 S. Sepulveda Boulevard, Los Angeles, California
28 90064-1991, Telephone: (310) 473-1200.

1 Ms. Brown will testify that she is a supporter of America Unites and a parent
2 at JCES. She has suffered injury from the presence of illegal levels of PCBs at
3 JCES because she attempted to remove her daughter from certain classes in rooms
4 which had tested with high levels of PCBs, but was threatened with truancy if she
5 did so, and denied an inter-district transfer.

6 5. **Kimberly Quinn Meyer.** Ms. Quinn Meyer can be reached through her
7 attorney, Alan Gurvey, 5900 Sepulveda Blvd., Suite 500, Sherman Oaks, California
8 91411.

9 Ms. Quinn Meyer will testify that she is a supporter of America Unites and a
10 former teacher at JCES. While teaching in a building at JCES where illegal levels
11 of PCBs were found, she became very ill and was hospitalized. After being directed
12 to return to a room which the District refused to test for PCBs, she decided not to
13 return to teach in the fall of 2015. She recently prevailed in a workers'
14 compensation claim against the District involving her exposure to PCBs.

15 6. ***Kathy Feig.** Ms. Feig can be reached through Plaintiffs' counsel Charles
16 Avrith, Nagler & Associates, 2300 S. Sepulveda Boulevard, Los Angeles, California
17 90064-1991, Telephone: (310) 473-1200.

18 Ms. Feig will testify that she is a supporter of America Unites. She removed
19 her 7th grade daughter from MHS because of the PCBs and homeschooled her, but
20 the daughter didn't like it. Then returned her to MHS. She has no other options but
21 she worries about her daughter's health.

22 7. ***Soniya Perl.** Ms. Perl can be reached through Plaintiffs' counsel Charles
23 Avrith, Nagler & Associates, 2300 S. Sepulveda Boulevard, Los Angeles, California
24 90064-1991, Telephone: (310) 473-1200.

25 Ms. Perl will testify that she is a supporter of America Unites and was a
26 parent representative on the District's Environmental Task Force. She had a
27 daughter in MHS for 6th grade but sent her to private school in 7th grade because of
28 the PCBs. She has two other children she is concerned about sending to Malibu

1 High because of the PCBs and is considering moving out of the District.

2 8. ***Caren Leib.** Ms. Leib can be reached through Plaintiffs' counsel Charles
3 Avrith, Nagler & Associates, 2300 S. Sepulveda Boulevard, Los Angeles, California
4 90064-1991, Telephone: (310) 473-1200.

5 Ms. Leib will testify that she is a supporter of America Unites and has a
6 daughter at MHS. Her daughter is afraid to take art because that room tested with
7 high PCBs, or to touch buildings or soil. She will also testify that she has a son in
8 6th grade and is looking for other school options for him because of the PCBs at
9 MHS.

10 9. **Paula Dinerstein.** Ms. Dinerstein can be reached through Public Employees
11 for Environmental Responsibility (PEER), 962 Wayne Ave., Suite 610, Silver
12 Spring, Maryland 20910, Telephone: 202-265-7337.

13 Ms. Dinerstein will testify regarding the organizational purposes of PEER and
14 their relevance to this case.

15 10. **Jennifer DeNicola.** Ms. DeNicola can be reached through Plaintiffs' counsel
16 Charles Avrith, Nagler & Associates, 2300 S. Sepulveda Boulevard, Los Angeles,
17 California 90064-1991, Telephone: (310) 473-1200.

18 Ms. DeNicola will testify regarding her role as an officer of Plaintiff America
19 Unites for Kids (America Unites), the organizational purposes of America Unites
20 and their relevance to this case, and her injury due to the presence of illegal levels of
21 PCBs at MHS, which has caused her to remove her daughter from the School and to
22 suffer anxiety about her son's health.

23 She will testify about her experience on the District's Environmental Task
24 Force, including the presentation of the original PCB testing results to the Task
25 Force in 2013 and the District's plans for further building material testing until its
26 counsel advised at a Task Force meeting to cease further testing to avoid TSCA.

27 She will testify concerning her discussions with Defendants and their
28 representatives concerning the PCB contamination at the Malibu Schools and the

1 ways that the PCB contamination could be mitigated and remediated and how to
2 protect teachers and students. She will also testify about her discussions with
3 parents and teachers concerning their concerns about PCBs at the Malibu Schools,
4 and about her discussions with EPA officials about the PCBs at the Malibu Schools.

5 If necessary Ms. DeNicola will provide the foundation and authentication of
6 various documents which the Plaintiffs seek to place in evidence.

7 11. ***Stephanie Smith.** Ms. Smith's address is 3019 3rd Street Apt 204
8 Santa Monica CA 90405, Telephone: 310 452-2437.

9 If necessary, Ms. Smith will testify to authenticate videos of school board
10 member statements at public meetings which Plaintiffs seek to introduce into
11 evidence.

12 12. **Matt DeNicola** Mr. DeNicola can be reached through Plaintiffs' counsel
13 Charles Avrith, Nagler & Associates, 2300 S. Sepulveda Boulevard, Los Angeles,
14 California 90064-1991, Telephone: (310) 473-1200.

15 Mr. DeNicola will testify about a September 2014 meeting he had with Ben
16 Allen, former member of the Board of Education, and Defendant Oscar De la Torre,
17 current Board of Education member, in which those individuals told him that the
18 Board knew they would find PCBs if they did further materials testing, and did not
19 want to test because then they would have to remediate.

20 13. **Ken Miller** Ken Miller can be reached at Gorman & Miller, 201 Santa
21 Monica Blvd., Suite 300, Santa Monica, CA 90401, Telephone: (310) 656-8000.

22 Mr. Miller will testify that in January 2015 he met with Defendants Ralph
23 Mechur and Oscar de la Torre, current members of the Board of Education, who
24 conceded to him the fact of widespread PCB contamination at the Malibu Schools.
25 Mr. Mechur said the District would not test because the majority of the Board knew
26 it would find PCBs and did not want to remediate. Mr. De la Torre said the caulk
27 should be tested and remediated.

28 14. **Lisa Lambert.** Ms. Lambert can be reached through Plaintiffs' counsel

1 Charles Avrith, Nagler & Associates, 2300 S. Sepulveda Boulevard, Los Angeles,
2 California 90064-1991, Telephone: (310) 473-1200.

3 Ms. Lambert will testify that she has been a physical education teacher at
4 MHS since 2006, is a parent at JCES and a supporter of America Unites. She will
5 testify that she had thyroid cancer, but not all of her thyroid could be removed and
6 the remaining part could become cancerous. She also has thyroid disease. She is
7 concerned that the continued presence of PCBs at the Malibu Schools may harm her
8 health. She is also worried about the health of her son, who is a student at JCES.

9 She will also testify that she was a member of the District's Environmental
10 Task Force, and at the time of the first round of building material testing in late
11 2013, she was promised by Defendant Lyon that her room would be tested in the
12 next round of testing. However, after the District's counsel recommended at a
13 December 2013 meeting of the Task Force that no more caulk should be tested and
14 that "there are ways around TSCA," testing was discontinued and her room was not
15 tested.

16 She will also testify that she was told by her principal that her office was to be
17 remediated in the summer of 2015, but it was not. Another unoccupied office was
18 remediated instead. Mr. Upton, an official of the District, admitted to her that they
19 had remediated the wrong room because they read the school map wrong, but that
20 they would still not remediate her room.

21 She will testify that she has witnessed repeated cleanings at MHS just before
22 air and dust tests are scheduled, but not at other times.

23 She will also testify that Mr. Upton admitted in a January 2016 meeting with
24 teachers that BMPs were not being done.

25 15. **Oscar de la Torre**. Mr. la Torre can be reached at the Santa Monica-Malibu
26 Unified School District, 1651 Sixteenth St., Santa Monica, CA 90404, Telephone:
27 (310) 450-8338. His testimony will be live and consume approximately 30 minutes.

28 Mr. de la Torre is a Defendant member of the Board of Education. He will

1 testify that he has been an elected member of the school board for 16 years. He will
2 testify that he believes there is caulk with over 50 ppm PCBs at the Malibu Schools
3 beyond the caulk which has been tested by the District. He will testify that he has
4 personally been present in conversations with other Board members who have said
5 that if the District tests the caulk they will find more caulk over 50 ppm and have to
6 remove it.

7 He will testify that on August 3, 2014, he met with Jennifer and Matt
8 DeNicola and a fellow Board member. He and the fellow Board member told the
9 DeNicolas that the Board knew that if they tested the caulk they would find caulk
10 over 50 ppm and have to remove it.

11 He will also testify that in January 2015 he met with a different school board
12 member and Malibu School parents and America Unites supporters Ken Miller and
13 Hope Edelman in Mr. Miller's office. In their conversation, they all agreed that
14 there is widespread PCB contamination at the Malibu Schools, and that if it is in one
15 window, it must be in other windows in the same building installed at the same time.

16 Mr. de la Torre will testify that he believes that the District should
17 comprehensively test and remediate PCBs, and move teachers and children into
18 portable classrooms until remediation is complete.

19 16. **Craig Foster.** Mr. Foster can be reached at the Santa Monica-Malibu
20 Unified School District, 1651 Sixteenth St., Santa Monica, CA 90404, Telephone:
21 (310) 450-8338. His testimony will be live and consume approximately 30 minutes.

22 Mr. Foster will testify that he is a Defendant and member of the Board of
23 Education. He will testify that he and fellow Board members have discussed the
24 fact that there is caulk above 50 ppm PCBs at the Malibu Schools beyond that which
25 has already been tested. We believe that he will testify that all of the pre-1980
26 buildings at the Malibu Schools should be remediated.

27 17. **Carla Bowman-Smith.** Ms. Bowman-Smith can be reached at through the
28 SMMUSD at 1651 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-

1 8338.

2 Ms. Bowman-Smith will testify that she has been a teacher at MHS for 19
3 years in Room 402. She will testify that the District's testing found that caulk in the
4 room next to hers (Room 401) had 190,000 ppm PCBs, but her room which shares a
5 wall with Room 401 and has same caulk was never tested or remediated despite her
6 requests.

7 She will also testify as to the condition of the caulk at the Malibu Schools
8 during her tenure.

9 She will also testify that the District's Best Management Practices were not
10 properly implemented, and that even after a purported deep cleaning last summer,
11 her room was dirty and she found a huge rat's nest. Rat feces were falling from the
12 ceiling where the District's contractors had left holes after removing PCB light
13 ballasts.

14 18. **Nicole Fisher.** Ms. Fisher can be reached through the SMMUSD at 1651
15 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

16 Ms. Fisher will testify that she had been an art teacher JCES since 2010, and
17 previous to that she was a teacher's aide and worked in the school office. She will
18 testify that four rooms out of eight in JCES Building F tested high for PCBs, but
19 despite promises from District officials, the other four rooms were never tested or
20 remediated.

21 She will also testify that the summer 2015 remediation work in her room
22 (Room 18) was sloppy and left cracks between the window and the wall which had
23 supposedly been encapsulated. She and family members and friends later painted
24 the whole room with epoxy paint to achieve the encapsulation which the District's
25 work had failed to do.

26 19. **Kim Widner.** Ms. Widner can be reached through the SMMUSD at 1651
27 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

28 Ms. Widner will testify that he has been a custodian MHS for 15 years. He

1 will testify that many doors and windows appear to be original construction and
2 caulk has not been replaced during his tenure.

3 She will also testify that the custodians ran out of cleaning supplies spring
4 2015 and cannot do BMPs. She will testify as to the directions to her by District
5 staff regarding BMPs.

6 20. **Ernest Watkins.** Mr. Watkins can be reached through SMMUSD at 1651
7 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

8 Mr. Watkins will testify that he has been a custodian at MHS for 17 years and
9 that he is unaware of any caulk replacement during his tenure at MHS.

10 Mr. Watkins will also testify that He will testify that he was denied protective
11 gear for BMP cleaning in building 500. He will also testify that around spring break
12 of 2015 cleaning supplies ran out and district did not replenish them despite the
13 requests of custodial staff. He will testify that because of this lack of supplies,
14 BMPs cannot be done.

15 21. **Mike Anderson.** Mr. Anderson can be reached through SMMUSD at 1651
16 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

17 Mr. Anderson will testify that he is a custodian at JCES. He will testify that
18 JCES is dirty and BMPs have not been taking place. He will also testify that
19 although some windows were replaced at JCES, the upper windows were not
20 replaced and remain the original windows.

21 22. **Brigette Leonard** Ms. Leonard can be reached through Plaintiffs' counsel
22 Charles Avrith, Nagler & Associates, 2300 S. Sepulveda Boulevard, Los Angeles,
23 California 90064-1991, Telephone: (310) 473-1200.

24 Ms. Leonard will testify that she is a teacher at MHS and a supporter of
25 America Unites. She will testify that her classroom tested above 50 ppm and that
26 she was diagnosed with and treated for three types of thyroid cancer. She is
27 concerned for her own health and that of her colleagues and students due to the
28 continued presence of PCBs at the Malibu Schools.

1 She will testify that she has taught at the Malibu Schools for over 16 years
2 and attended JCES as a child, and she will testify to the condition of the caulk over
3 this period. She will testify that there is deteriorating caulk throughout pre-1980
4 buildings at the Malibu Schools, and she has seen children play with it.

5 She will also testify that the District's promised "best management practices"
6 have been poorly implemented, if at all, and that the School remains dusty and dirty.

7 She will also testify that at the time of the discovery of PCBs in the soil of the
8 Malibu Schools and their removal in the 2009-2011 time period, teachers and
9 parents were not informed that the soil contained PCBs and other toxic substances,
10 or that the soil was being removed because it was toxic. She did not learn this was
11 the case until 2013.

12 She will also testify that she attended a meeting with the MHS principal in
13 which teachers were threatened with discipline, up to firing, if they did not return to
14 classrooms with illegal levels of PCBs.

15 23. **Katy Lapajne.** Ms. Lapajne can be reached through Plaintiff PEER's
16 counsel Paula Dinerstein, at 962 Wayne Ave., Suite 610, Silver Spring, MD 20910,
17 202-265-7337.

18 Ms. Lapajne will testify that she has been a teacher at MHS for over 16 years
19 and is a supporter of PEER and America Unites. She will testify that she is injured
20 by the presence of illegal levels of PCBs at the Malibu Schools, because she was
21 required by the District to teach in a room that had tested above legal limits for
22 PCBs for a full school year before it was purportedly remediated, and that she is
23 concerned about the continuing presence of PCBs and the possible effects on her
24 health because the door in her room was not remediated, and neighboring rooms
25 with apparently the same caulk were not remediated.

26 She will also testify concerning the condition of the caulk during her 16 years
27 at MHS. She will also testify that BMPs are not occurring, and that this was
28 admitted in a meeting with the facilities manager, Mr. Upton, which she attended.

1 She will testify that she signed a letter along with 31 other teachers in January 2016
2 to request that the promised “best management practices” be implemented, as they
3 had not yet occurred.

4 She will also testify that at the time of the discovery of PCBs in the soil of the
5 Malibu Schools and their removal in the 2009-2011 time period, teachers and
6 parents were not informed that the soil contained PCBs and other toxic substances,
7 or that the soil was being removed because it was toxic. She did not learn this was
8 the case until 2013.

9 **24. Cristi Green.** Ms. Green can be reached through the SMMUSD at 1651
10 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

11 Ms. Green will testify that she had been an instructor at JCES since Aug
12 2014, in Room 22. She will testify that her room was filthy after the 2015
13 remediation, and she spent a full week cleaning it with her assistant. She will testify
14 that in general the classrooms at the school are dirty and BMPs are not being done.

15 She will further testify that Mr. Upton admitted at January 2016 meeting with
16 teachers and staff that BMPs not being done and therefore teachers and students are
17 being exposed to PCBs.

18 **25. Maureen Rosen.** Ms. Rosen can be reached through the SMMUSD at 1651
19 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

20 Ms. Rosen will testify that she has been an MHS Special Ed teacher for 13
21 years in Rooms 4 and 6 of Building E. She will testify that her room was filthy even
22 after the District’s purported summer deep cleaning. She will also testify that she
23 requested that her room, which is next to rooms testing over legal limits, be tested,
24 but the District refused.

25 ***26. Mark Katchen.** Mark Katchen. Mr. Katchen can be reached through the
26 Phylmar Group, 2342 Manning Ave., Los Angeles, CA 90046, Telephone: (310)
27 474-3937.

28 If needed, Mr. Katchen will testify regarding the PCB testing he conducted at

1 MHS of building materials, air and dust, including the methodology and results of
2 that testing. He will also testify regarding his recommendation for an air level to
3 serve as a health guideline for the Malibu Schools.

4 27. **Carey Upton**. Mr. Upton can be reached through the SMMUSD at 1651
5 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

6 Mr. Upton's direct testimony will be presented through his deposition. It will
7 address the District's lack of knowledge and documentary evidence concerning the
8 brand, composition and installation of caulk at the Malibu Schools, and the
9 problems with the District's PCB remediation during the summer of 2015. Mr.
10 Upton's testimony also covers his communications with teachers about the lack of
11 BMPs at the Malibu Schools.

12 28. **Ana Isabel Flores**. Ms. Flores can be reached through the SMMUSD at 1651
13 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

14 Ms. Flores' direct will be presented through her deposition. It will concern
15 the District's lack of knowledge and documentary evidence concerning the brand,
16 composition and installation of caulk at the Malibu Schools.

17 *29. **Cami Winikoff**. Ms. Winikoff can be reached through Plaintiffs' counsel
18 Charles Avrith, Nagler & Associates, 2300 S. Sepulveda Boulevard, Los Angeles,
19 California 90064-1991, Telephone: (310) 473-1200.

20 Ms. Winikoff will testify only if needed. She will testify that she is an officer
21 of the Malibu Community Alliance, the organization which brought litigation before
22 the California Coastal Commission concerning redevelopment activities at the
23 Malibu Schools. She will testify concerning Measure BB and the Coastal
24 Commission litigation and their effects on the ability to conduct removal and
25 remediation of PCBs at the Malibu Schools and the timing of such activities.

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**WITNESSES TO BE CROSS-EXAMINED IF
PRESENTED BY DEFENDANTS**

Allot 30 minutes each for cross-examination.

30. **Richard Tahvildaran-Jesswein**. Mr. Tahvildaran-Jesswein can be reached at the Santa Monica-Malibu Unified School District, 1651 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

31. **Maria Leon-Vazquez**. Ms. Leon-Vazquez can be reached at the Santa Monica-Malibu Unified School District, 1651 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

32. **Dr. Jose Escarce**. Mr. Escarce can be reached at the Santa Monica-Malibu Unified School District, 1651 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

33. **Ralph Mechur**. Mr. Mechur can be reached at the Santa Monica-Malibu Unified School District, 1651 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

34. **Laurie Lieberman**. Ms. Lieberman can be reached at the Santa Monica-Malibu Unified School District, 1651 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

35. **Sandra Lyon**. Ms. Lyon can be reached at the Santa Monica-Malibu Unified School District, 1651 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

36. **Jan Maez**. Ms. Maez can be reached at the Santa Monica-Malibu Unified School District, 1651 Sixteenth St., Santa Monica, CA 90404, Telephone: (310) 450-8338.

37. **Douglas Daugherty**. Mr. Daugherty can be reached through Ramboll-Environ, 18100 Von Karman Ave., Suite 300, Irvine, CA 92612, Telephone: (949) 261-5151.

38. **Rebecca Herrmann**. Ms. Herrmann can be reached through Ramboll-

1 Environ, 18100 Von Karman Ave., Suite 300, Irvine, CA 92612, Telephone: (949)
2 261-5151.

3 39. **Ted Bowie**. Mr. Bowie can be reached through Ramboll-Environ, 18100
4 Von Karman Ave., Suite 300, Irvine, CA 92612, Telephone: (949) 261-5151.

5 40. **Ahleah Rohr-Daniel**. Ms. Rohr-Daniel can be reached through Ramboll-
6 Environ, 18100 Von Karman Ave., Suite 300, Irvine, CA 92612, Telephone: (949)
7 261-5151.

8 41. **Yi Tian**. Mr. Tian can be reached through Ramboll-Environ, 18100 Von
9 Karman Ave., Suite 300, Irvine, CA 92612, Telephone: (949) 261-5151.

10 42. **Julian Pacheco** of CastleRock Environmental, Inc.

11

12 **EXPERT WITNESSES**

13 1. **David Carpenter**. Mr. Carpenter's direct testimony will be submitted
14 in the form of a declaration attaching his expert report. His report covers his
15 qualifications supporting his expert opinion, the chemistry of PCBs, including
16 different routes of exposure and health effects of different PCB congeners; and
17 scientific evidence of the health effects of PCBs, including several different types of
18 cancer, neurobehavioral effects, suppression of the immune system, thyroid disease,
19 hypertension, hyperlipidemia, infertility and disorders of the reproductive system,
20 diabetes, asthma and other respiratory diseases, osteoarthritis, low birth weight
21 babies and hearing deficits.

22 Dr. Carpenter's testimony also covers the routes of exposure to PCBs at the
23 Malibu Schools, including inhalation, incidental ingestion, and dermal contact. He
24 will testify that EPA's suggested guideline for the Malibu Schools of 200 ng per
25 cubic meter in air is not scientifically based and does not adequately account for the
26 exposures at the Malibu Schools, and therefore is not adequately protective of the
27 health of students, teachers and staff at the schools. His testimony covers scientific
28 evidence that air levels of PCBs much lower than those detected at the Malibu

1 Schools will add to body burden (accumulation of PCBs in the body) and adverse
2 health effects, that there is no safe level of PCBs, and that sensitive population such
3 as the fetuses of pregnant teachers are especially vulnerable. His testimony also
4 covers his opinion that the report of the Los Angeles County Department of Health
5 finding that PCBs are not a risk factor for thyroid cancer and that there is no excess
6 of thyroid cancers at the Malibu Schools is faulty and inaccurate.

7 Dr. Carpenter's testimony includes his conclusions that students and teachers
8 at the Malibu Schools are exposed to dangerous levels of PCBs continuously from
9 many different exposure pathways every moment they spend at the school and that
10 they can only be protected by identification and removal of the source material.

11 2. **George Weymouth**. Mr. Weymouth's direct testimony will be
12 presented through a declaration attaching his expert report.

13 Mr. Weymouth's expert report covers his experience in the construction
14 industry with waterproofing, caulking, industrial hygiene, and in taking samples of
15 caulk from buildings. His report also covers information he learned from discussions
16 at union meetings with caulkers from all over the country. His report covers the
17 method of use of PCB-containing caulk products, how the same caulk product was
18 used in the construction of an entire building, and the reasons tested PCBs levels in
19 old caulk may vary. Mr. Weymouth's report includes his conclusion that based on
20 the District's PCB sampling results and his experience, except in areas where caulk
21 was replaced with non-PCB caulk, the caulk throughout pre-1980 buildings in
22 windows, doors and joints at the Malibu Schools contain 50 ppm or more PCBs.

23 3. **Bradley Green**. Mr. Green's direct testimony will be presented
24 through a declaration attaching his expert report.

25 Mr. Green's report describes his experience as a construction project manager
26 on hundreds of projects. Mr. Green's report details his experience that the same
27 type of caulk is used in construction projects on all exterior windows and doors. His
28 report also states that his company has found PCBs in buildings during construction

1 projects, and that the appropriate response in compliance with state and federal law
2 is to then completely characterize and identify the extent of the contamination and
3 have it completely removed.

4 4. **Hugh B. Kaufman**. Mr. Kaufman's direct testimony will be presented
5 through a declaration attaching his expert report.

6 Mr. Kaufman's report is a rebuttal to the report of Defendants' expert, David
7 L. MacIntosh. Mr. Kaufman's report recounts his educational background and
8 experience over 45 years as an employee of the U.S. Environmental Protection
9 Agency (EPA) in the fields of hazardous site control, solid and hazardous waste
10 management, emergency response and hazardous material remediation. Mr.
11 Kaufman took part in the development of the PCB regulations. Mr. Kaufman's
12 report is not submitted on behalf of the EPA or in his official capacity as an
13 employee of the EPA.

14 Mr. Kaufman's report addresses the irrelevance of air and dust levels to the
15 PCB regulatory scheme, which regulates the concentration of PCBs in materials,
16 and addresses why EPA chose a standard based on concentrations in materials rather
17 than air or dust. He addresses the fact that the 50 ppm limit in the TSCA regulations
18 is a health-based standard. His report addresses the fact that PCBs over 50 ppm
19 cannot be left in place based on any mitigation measures, and that EPA's consistent
20 practice for over thirty-five years has been that when toxic substances such as PCBs
21 above legal levels are found at a site, EPA will require a full characterization of the
22 site to determine the nature and extent of the contamination and necessary
23 remediation, or it will allow the site or building owner to assume that all like
24 materials are likewise in violation of the law and remediate them all. Mr.
25 Kaufman's report also addresses the meaning and import of EPA guidance
26 concerning PCBs in schools generally and in the Malibu Schools in particular.

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Dated: April 1, 2016

Respectfully submitted,
NAGLER & ASSOCIATES

By: 
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Dated: April 1, 2016

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