

1 SCOTT M. KENDALL, SBN 166156
2 Law Offices of Scott M. Kendall
3 9401 East Stockton Blvd Suite 210
4 Elk Grove, CA 95624-1768
5 (916) 685-7700

6 Attorney for Plaintiff PLANS, INC.

7
8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 PLANS, Inc.,

12 Plaintiff,

13 vs.

14 SACRAMENTO CITY UNIFIED SCHOOL
15 DISTRICT, TWIN RIDGES ELEMENTARY
16 SCHOOL DISTRICT, DOES 1-100,

17 Defendant

) Case No.: CIV. S-98-0266 FCD PAN

) Date: April 1, 2005

) Time: 10:00 a.m.

) Place: Courtroom 2

) OPPOSITION TO DEFENDANTS' JOINT
) MOTION IN LIMINE NO. THIRTEEN (13) TO
) EXCLUDE "EXPERTS"

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20 I. INTRODUCTION

21 Plaintiff PLANS does not intend to offer any expert testimony (opinion testimony)¹. As
22 defendants had previously so expertly argued in their earlier motions in limine to exclude plaintiff's
23 experts, the issue of whether or not Anthroposophy is a religion is a legal question, and is not properly
24 the subject of expert opinion.

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27 ¹ Plaintiff withdraws its request to offer the testimony of witness no. 2 Robert L. Anderson and witness no. 8. Eugene
28 Schwartz.

1 II. ARGUMENT IN OPPOSITION

2 Plaintiff does not intend to offer any expert testimony. Instead, each of the identified
3 remaining witnesses are percipient witnesses in that they either administrators, teachers, teacher trainers,
4 or have taken teacher training for Waldorf education. In addition, and in response to defendants’
5 Requests for Admission, PLANS recently identified its last three witnesses, nos. 32-34, who teach
6 Anthroposophy in a church setting.

7 Each of these witnesses are necessary and relevant to provide this court with the factual
8 foundation necessary to determine whether or not Anthroposophy is a religion, and whether or not there
9 is excessive entanglement.

10 Particularly disconcerting is defendants’ efforts to exclude the testimony of Betty Staley.
11 She is the key witness that acted to interface Rudolf Steiner College with publicly funded education.
12 Her deposition was taken over a two day period. Defendants should not be permitted to exclude her
13 relevant percipient testimony by first identifying her as an expert, and then withdrawing her as an expert.

14 PLANS is agreeable to an order limiting each of its witnesses to percipient testimony.

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16 DATED: March 18, 2005

/s/ Scott M. Kendall

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19 SCOTT M. KENDALL
20 Attorney for Plaintiffs
21 PLANS, Inc.
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