

ROBERT PATRICK STICHT (SBN 138586)  
 JUDICIAL WATCH, INC.  
 425 Third Street, SW, Suite 800  
 Washington, DC 20024  
 Telephone: (202) 646-5172  
 Facsimile: (202) 646-5199  
 Email: rsticht@judicialwatch.org  
 California Office:  
 2540 Huntington Drive, Suite 201  
 San Marino, CA 91108  
 Telephone: (626) 287-4540

Attorney for Real Party In Interest,  
 Judicial Watch, Inc.

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

YVETTE FELARCA, LORI NIXON,  
 LARRY STEFL,

Plaintiffs/Petitioners,

v.

BERKELEY UNIFIED SCHOOL  
 DISTRICT, DONALD EVANS, JANET  
 LEVENSON,

Defendants/Respondents.

CASE NO.: 17-cv-06282-VC

JUDICIAL WATCH'S NOTICE OF  
 MOTION AND MOTION FOR  
 SUMMARY JUDGMENT

JUDICIAL WATCH,

Real Party In Interest.

Date: October 4, 2018  
 Time: 10:00 a.m.  
 Location: Courtroom 4  
 Judge: Hon. Vince Chhabria

TO THE COURT ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on Thursday, October 4, 2018, at 10:00 a.m., or as soon thereafter as counsel may be heard, before Honorable Vince Chhabria, United States District Judge, in Courtroom 4 - 17th Floor of this Court, located at 450 Golden Gate Avenue, San Francisco, CA 94102, Judicial Watch, by and through its attorney of record, Robert Patrick Sticht, will and hereby does move the Court

1 pursuant to Rule 56 of the Federal Rules of Civil Procedure and this Court’s order filed June 26, 2018  
2 (Doc. 71) for summary judgment in favor of Judicial Watch and against Plaintiffs Yvette Felarca  
3 (“Felarca”), Lori Nixon (“Nixon”), and Larry Stefl (“Stefl”) (collectively “Plaintiffs”).

4 This motion is brought pursuant to Rule 56 on the ground that Plaintiffs’ claims have no merit  
5 and are frivolous. First, Defendants Berkeley Unified School District (“BUSD”), Donald Evans  
6 (“Evans”), and Janet Levenson (“Levenson”) (collectively “Defendants”) are immune from this lawsuit.

7 Second, Plaintiffs’ 42 U.S.C. § 1983 claim is incomprehensible, but whether cast as a traditional  
8 retaliation claim or something else, such as an attempt to compel invocation of the First Amendment  
9 discovery privilege described in *NAACP v. Alabama* and *Perry v. Schwarzenegger*, that claim wholly  
10 lacks merit, since Plaintiffs fail to provide any evidence or credible arguments either that they engaged  
11 in protected First Amendment activity, that Evans and/or Levenson violated Plaintiffs’ First Amendment  
12 rights, that the records qualify as protected speech or even their speech, or that the alleged chilling effect  
13 from disclosure is anything more than speculative conjecture. Even if Plaintiffs could establish an  
14 arguable First Amendment interest that interest is substantially outweighed by the obviously compelling  
15 governmental interest in disclosure.

16 Third, Plaintiffs’ “reverse-CPRA” claim fails as a matter of law because a petition for writ of  
17 mandate under section 1085 of the California Code of Civil Procedure does not lie in federal court. That  
18 claim also fails on the merits because the records themselves as opposed to Plaintiffs’ description of  
19 them clearly are public records as defined in Cal. Gov. Code § 6252(e), and section 6255(a) on which  
20 Plaintiffs now rely is discretionary and therefore not subject to a mandamus procedure. Plaintiffs  
21 various substantive arguments about the four categories of records at issue also are without merit.

22 Fourth, Plaintiffs’ Educational Employment Relations Act (“EERA”) claim, even if it can be  
23 asserted in this lawsuit, fails because Plaintiffs do not present any evidence they raised this claim with  
24 the Public Employment Relations Board, which has exclusive, initial jurisdiction over alleged violations  
25 of the EERA.

26 Fifth, Plaintiffs’ Labor Code claims, even if they can be asserted in this lawsuit, fails as a matter  
27 of law because Cal. Labor Code § 1101 applies to employer rules, regulations and policies, and the  
28 CPRA is not BUSD’s rule, regulation or policy but rather a state law. Further, the CPRA does not

1 regulate employee participation in politics. Plaintiffs' Labor Code claim also fails because Cal. Labor  
2 Code § 1102 plainly requires employer coercion through discharge or "threat of discharge" and  
3 Plaintiffs present no evidence showing BUSD's response to Judicial Watch's CPRA request led to their  
4 being fired or threatened with firing. Moreover, Plaintiffs present no evidence they exhausted  
5 administrative remedies by filing an Equal Employment Opportunity complaint, a necessary prerequisite  
6 to filing a civil lawsuit for alleged violations of Labor Code sections 1101 and 1102.

7 Accordingly, the evidence submitted demonstrates there are no triable issues of any material fact,  
8 and under applicable law and the undisputed facts and evidence before the Court, Judicial Watch is  
9 entitled to judgment as a matter of law on all claims presented by Plaintiffs.

10 This motion is based upon this notice and the accompanying memorandum of points and  
11 authorities, declaration of Robert Patrick Sticht and accompanying exhibits, and proposed order; Judicial  
12 Watch's reply in support of its motion; the file and record in this case; supporting evidence for which the  
13 Court may take judicial notice; and such argument and further evidence as the Court may allow.

14 Dated: August 20, 2018

Respectfully submitted,

JUDICIAL WATCH, INC.

17 By: /s/ Robert Patrick Sticht.  
18 ROBERT PATRICK STICHT

19 Attorneys for Real Party In Interest,  
20 JUDICIAL WATCH  
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**CERTIFICATE OF SERVICE**

I hereby certify that on August 20, 2018, I electronically filed the foregoing JUDICIAL WATCH'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT with the Clerk of the Court for the United States District Court for the Northern District of California by using the district CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the district CM/ECF system.

/s/ Robert Patrick Sticht.  
ROBERT PATRICK STICHT

ROBERT PATRICK STICHT (SBN 138586)  
 JUDICIAL WATCH, INC.  
 425 Third Street, SW, Suite 800  
 Washington, DC 20024  
 Telephone: (202) 646-5172  
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 Email: rsticht@judicialwatch.org  
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 OF POINTS AND AUTHORITIES IN  
 OPPOSITION TO PLAINTIFFS' MOTION  
 FOR SUMMARY JUDGMENT AND IN  
 SUPPORT OF JUDICIAL WATCH'S  
 MOTION FOR SUMMARY JUDGMENT

Date: October 4, 2018  
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JUDICIAL WATCH,

Real Party In Interest.

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**JUDICIAL WATCH'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION  
TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND IN SUPPORT OF  
JUDICIAL WATCH'S MOTION FOR SUMMARY JUDGMENT**

**I. INTRODUCTION**

As much as Plaintiffs might try to argue otherwise, this case is not – and for multiple reasons cannot be – a garden-variety California Public Records Act (“CPRA”) lawsuit that happens to have been filed in federal court. As Judicial Watch understands it, Plaintiffs assert four claims against Defendants BUSD, BUSD Superintendent Donald Evans, and King Middle School Principal Janet Levenson: (1) a petition for writ of mandate posited as a reverse-CPRA claim; (2) a section 1983 claim for alleged violation of Plaintiffs’ rights under the First Amendment to the U.S. Constitution and Article I, section 2 of the California Constitution; (3) a claim under California’s Education Employment Relations Act (“EERA”); and (4) a claim under California’s Labor Code.<sup>1</sup> They invoke the Court’s “federal question” jurisdiction over their section 1983 claim and ask it to exercise supplemental jurisdiction over their state law claims. They seek injunctive relief only. Because Plaintiffs fail to present any admissible evidence supporting their claims and are not entitled to judgment as a matter of law, their motion for summary judgment should be denied and summary judgment should be entered against them on all their claims.

**II. UNDISPUTED FACTS AND PROCEDURAL BACKGROUND.**

**A. Statement of Undisputed Facts.**

Yvette Felarca, a 7th grade teacher at BUSD’s King Middle School, came to Judicial Watch’s attention following her participation in a June 26, 2016 attack on a demonstrator at the State Capitol in Sacramento. A television news video shows Felarca punching the demonstrator in the stomach multiple times while repeatedly yelling “Get the fuck off our streets.” Felarca can be heard referring to the demonstrator as “Nazi scum” and a “piece of shit” as she assaults him. Others join Felarca in the attack, forcing the demonstrator to the ground and repeatedly kicking him as Felarca stands by. When police intervene, Felarca winds up on the ground. *See* Declaration of Robert Patrick Sticht (“Sticht Decl.”) ¶ 3.

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<sup>1</sup> Plaintiffs abandoned their 42 U.S.C. § 1983 claim for alleged violation of their rights under the Fourth Amendment to the U.S. Constitution and Article I, section 1 of the California Constitution. *See* Dkt. Entry No. 73 at 2.

1           Afterwards, Felarca gave an interview<sup>2</sup> to a television news reporter in which she identified  
 2 herself as affiliated with the Coalition to Defend Affirmative Action, Integration & Immigrant Rights,  
 3 and Fight for Equality By Any Means Necessary, also known as “BAMN.”<sup>3</sup> Felarca then states, “The  
 4 goal today was to shutdown the Nazi’s recruitment rally and I want to congratulate everyone who came  
 5 out today because we succeeded in doing that. We defeated them in their efforts. They had to run  
 6 hiding, running from hiding behind the police and then just running away altogether. They were not  
 7 able to hold any kind of demonstration on the west steps or any steps of the capital and that was  
 8 absolutely because of the militant integrated direct action of the people who came out. BAMN  
 9 mobilized to get people out here to shut them down and we’re really, really glad that there’s been such  
 10 an integrated direct action struggle by people who came out to succeed in doing that. To us, there’s no  
 11 free speech for fascists.” Sticht Decl. ¶ 4.

12           Asked by a second reporter about a bandage on her head, Felarca responded, “You know, it  
 13 looks worse that it is. In fact, it’s pretty dramatic, I’m sorry, just because, you know, head injuries have  
 14 a lot of blood. I’m fine and I do not want – I don’t want people to feel, you know, put off by that or  
 15 afraid of that because in the end they came out of this in worse shape than us, not just physically but  
 16 politically they lost.” Sticht Decl. ¶ 5. She makes no mention of being stabbed or bludgeoned, as she  
 17 now claims. Plfs’ Mem. at 2:2. Felarca would later be criminally charged in the attack. The charges  
 18 include felony “assault by means of force likely to produce great bodily injury” (Penal Code § 245(a)(4),  
 19 misdemeanor participation in a “riot” (Penal Code § 404(a)), and misdemeanor incitement to “riot”  
 20 (Penal Code § 404.6(a)). Felarca’s preliminary hearing is set for October 2018. Sticht Decl. ¶ 6.

21           On February 1, 2017, Felarca participated in a protest aimed at shutting down a speech scheduled  
 22 to be given by the British polemicist and political commentator Milo Yiannopoulos at UC Berkeley. As  
 23 described by the Berkeleyside online news website, “a group of about 150 black-clad protesters removed  
 24 metal barricades, threw rocks and incendiary devises at UC police, smashed windows at the MLK  
 25 Student Union building, and later rampaged downtown, breaking bank windows and setting ATM

26  
 27 <sup>2</sup> Full transcripts of Felarca’s interviews discussed herein are attached as exhibits to the  
 accompanying declaration of counsel.

28 <sup>3</sup> Plaintiffs’ counsel, Shanta Driver, is a co-founder of BAMN.

1 machines on fire.” Sticht. Decl. ¶ 7. A day or so later, Felarca gave an interview to a local television  
2 news station, defending the violence, “Well, first of all, Milo Yiannopoulos is a fascist. He’s a white  
3 supremacist. He’s funded by Steve Bannon and Breitbart. He’s an acolyte of Donald Trump and he was  
4 on the UC Berkeley campus to try to recruit more fascists and to wage attacks on Muslim students,  
5 immigrant students, women and trans students.” Sticht Decl. ¶ 8. She continued, “Well, just to go back  
6 to how you characterized the protest, this isn’t a question of violent versus peaceful protests. I was there  
7 and there were thousands of people out there who were united. It was a mass protest. And it was a  
8 militant protest. Everyone was there to shut him down. And so whatever it was going to take to do that,  
9 we were all there with a united cause and we were stunningly successful.” Sticht Decl. ¶ 8.

10 Asked about the use of violence by the protesters, Felarca responded, “You know, I think that the  
11 left has been far too timid for way too long and it’s why we’ve even gotten in this position where we  
12 even have someone like Donald Trump leading a fascist movement as the President of the United States.  
13 We need to make sure that we have more mass protests, more militant protests that are mass and  
14 militant . . . a few broken windows is nothing compared to the lives that are at stake and if that’s what it  
15 takes in order to make sure that more people don’t get targeted, if that’s what it takes to make sure that  
16 Milo Yiannopoulos or another white supremacist is not welcome or allowed to come to UC Berkeley  
17 and attack our community then good, let’s make sure then that that doesn’t happen in the future . . . You  
18 know, what I think what we need to do is we’ve got to draw lessons from this in terms of how we can  
19 build and build even stronger, how we can make sure that we build the movement and also that we  
20 continue to organize because it’s not spontaneous. This is about organizing and fighting by any means  
21 necessary.” Sticht Decl. ¶ 9.

22 On February 13, 2017, Felarca appeared on the nationally broadcast Fox News Channel program  
23 “Tucker Carlson Tonight.” During the interview, Felarca again defended the violence at Berkeley, “But  
24 I’m really, really glad to say that thousands of us were out there last week on February 1st and made  
25 sure that – there were thousands of us – to make sure that we defended our campus, this community and  
26 especially the immigrant and Muslim students who were under attack and have been under attack by him  
27 and other fascists.” Sticht Decl. ¶ 10. Felarca continued, “[T]he alt-right is a neo-fascist movement and  
28 they’re trying to hide behind some softer versions of their more open counterparts who identify

1 themselves as Nazis, but they're still part of the same movement, first of all. Second of all, when  
 2 someone is trying to speak at a campus or at a rally they're doing it not just because they have an  
 3 opinion but someone like Yiannopoulos or any other alt-righter or fascist or neo-fascist is doing it to  
 4 recruit other people. No, we don't let them recruit. And in fact, when you look at the holocaust and the  
 5 lessons that we draw from that, we don't say, oh, well, at least we let them voice their opinion. We say  
 6 never again. (Inaudible) especially after Trump." Sticht Decl. ¶ 11.

7 On September 1, 2017, Judicial Watch served a CPRA request on BUSD for the following  
 8 records: (1) Any and all records of communications between the BUSD Superintendent and any other  
 9 BUSD officials and/or staff of Martin Luther King, Jr. Middle School mentioning "Felarca," "Antifa,"  
 10 "By All Means Necessary," and/or "BAMN." (2) Any and all records of communications between and  
 11 among faculty/staff members of Martin Luther King, Jr. Middle School mentioning "Felarca," "Antifa,"  
 12 "By All Means Necessary," and/or "BAMN." (3) The personnel file of Martin Luther King, Jr. Middle  
 13 School teacher Yvette Felarca." The time frame for the request was identified as "January 1, 2016 to the  
 14 present." Judicial Watch's primary interest was in uncovering information about (1) whether and to  
 15 what extent Felarca's "non-work activities" – as Plaintiffs describe them – were impacting BUSD and  
 16 King Middle School; (2) whether BUSD and the school supported, opposed, or took any position on  
 17 Felarca's "non-work activities;" and (3) if Felarca's "non-work activities" were impacting BUSD, the  
 18 school, other teachers and staff, or parents and students, how the district and school were responding.  
 19 Sticht Decl. ¶ 13.

20 BUSD acknowledged receipt of Judicial Watch's request by letter dated September 19, 2017 and  
 21 granted itself a 14-day extension of time beyond the standard 10-day deadline to provide an initial  
 22 determination or responsive records in its possession. By letter dated October 2, 2017, BUSD advised  
 23 Judicial Watch that it had disclosable records responsive, at least in part, to the request but had  
 24 determined that Felarca's personnel file was exempt from disclosure. BUSD estimated that it could  
 25 make disclosable responsive records accessible by November 9, 2017. Sticht Decl. ¶ 14.

26 **B. Procedural Background.**

27 Plaintiffs filed this putative class action lawsuit on October 30, 2017 to stop BUSD from  
 28

1 searching for or producing records responsive to Judicial Watch's request.<sup>4</sup> Dkt. Entry No. 1. Although  
 2 BUSD had not yet even identified any particular responsive record it would produce, Plaintiffs alleged  
 3 that production of any responsive records would violate their First Amendment rights. *Id.* at 20 (Count  
 4 Two). Judicial Watch intervened on December 1, 2017 to protect its right under the California  
 5 Constitution to inspect the records. Dkt. Entry Nos. 35, 37.

6 BUSD did not complete its search until the spring of 2018. Sticht Decl. ¶ 14. BUSD eventually  
 7 gave Judicial Watch a set of heavily redacted, responsive records that neither BUSD nor Plaintiffs  
 8 sought to withhold. Sticht Decl. ¶ 15. In June 2018, Plaintiffs and BUSD presented logs purportedly  
 9 identifying the records being withheld and the reasons for their withholding.<sup>5</sup> Sticht Decl. ¶ 15. Judicial  
 10 Watch does not take issue with BUSD's redactions.<sup>6</sup>

11 Because Plaintiffs' log was particularly deficient, the Court ordered Plaintiffs to submit a further  
 12 log and ordered parties to meet in the courthouse, beginning July 16, 2018, to confer on Plaintiffs'  
 13 claims that BUSD's disclosure of additional records was unlawful. Sticht Decl. ¶ 16. The Court also set  
 14 a schedule for summary judgment motions. Sticht Decl. ¶ 15.

### 15 **III. Argument.**

#### 16 **A. Summary Judgment Standard.**

17 Summary judgment is proper when the evidence shows that there is "no genuine dispute as to  
 18 any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).  
 19 The opposing party may not rely on generalizations or characterizations to create a genuine issue of  
 20 material fact to defeat summary judgment. *See McInteer v. Ashley Distrib. Servs.*, 40 F. Supp. 3d 1269,  
 21 1275 (C.D. Cal. 2014) ("In ruling on summary judgment, the Court considers the evidence submitted in

22 <sup>4</sup> Plaintiffs have never asked the Court to certify a class or taken any action to pursue this case  
 as a class action lawsuit.

23 <sup>5</sup> Earlier, on April 2, 2018, BUSD presented a separate log of responsive records being withheld  
 24 altogether from Plaintiffs and Judicial Watch and the exemptions under which they were being withheld.  
 Sticht Decl. ¶ 15. Judicial Watch does not challenge these withholdings for purposes of this action only.

25 <sup>6</sup> Judicial Watch typically does not challenge withholdings of obviously personal information –  
 26 telephone numbers, email addresses, names of lower level or non-decisionmaking officials etc., and  
 many of BUSD's withholdings are of this nature. BUSD and Plaintiffs initially attempted to withhold  
 27 records from Felarca's personnel file on privacy grounds until Judicial Watch demonstrated that both  
 28 BUSD and Felarca had put these same personnel records on the public docket in other litigation between  
 them, *Felarca v. Berkeley Unified School District, et al.*, Case No. 3:16-cv-6184-RS (N.D. Cal.). Thus,  
 the issue of the personnel file is now moot.



support of and opposition to the Motion, it does not rely on the parties' characterization of the evidence."), citing *Dalton v. Straumann Co., USA Inc.*, 2001 U.S. Dist. LEXIS 7111 \*12 (N.D. Cal. 2001); see also *Weishaar v. County of Napa*, 2016 U.S. Dist. LEXIS 173833 \*40 (N.D. Cal. 2016) ("the court considers the evidence itself. The parties' characterizations are argument."). A moving party is entitled to judgment as a matter of law when the nonmoving party fails to make a sufficient showing on an essential element of a claim on which the nonmoving party has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1987). As Plaintiffs bear the burden of proof, they must produce admissible evidence supporting every element of their claims. Not only does their motion fail to satisfy this standard, but the materials in the record in this case demonstrate that they are unable to do so. Consequently, Plaintiffs' motion for summary judgment should be denied and summary judgment should be entered against them on all their claims.

**B. BUSD Is Immune from Suit.**

California school districts are state agencies. *Balenger v. Madera Unified Sch. Dist.*, 963 F.2d 248, 251 (9th Cir. 1992); *N.Y. v. San Ramon Valley Unified Sch. Dist.*, 2018 U.S. Dist. LEXIS 92310, \*\*10-11 (N.D. Cal. June 1, 2018); *Roe v. Gustine Unified Sch. Dis.*, 678 F. Supp.2d 1008, 1020-21 (E.D. Cal.); *Kirchmann v. Lake Elsinore Unified Sch. Dist.*, 83 Cal. App. 4th 1098, 1100 (Cal. App 4th Dist. 2000). As such, BUSD is immune from any suit in law or equity brought in federal court. *Balenger*, 963 F.2d at 254; U.S. Const., amend XI. This includes claims brought under state law. *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89 (1984). Accordingly, Plaintiffs cannot maintain any of their claims against BUSD, and summary judgment must be entered against Plaintiffs on all such claims.

Even if it were not immune from suit, BUSD is not a "person" for purposes of a section 1983 claim. *Will v. Mich. Dep't of State Police*, 491 U.S. 58 (1988); *Maldonado v. Harris*, 370 F.3d 945, 951 (9th Cir. 2004); *Kirchmann*, 83 Cal. App. 4th at 1104-05. BUSD cannot be sued under section 1983, and summary judgment should be entered against them for this additional reason. *Id.*

**C. Evans and Levenson Are Immune From Official Capacity Lawsuits Seeking Injunctive Relief for Alleged Violations of State Law.**

A suit against a state official in his or her official capacity is not a suit against the official, but rather is a suit against the official's office. *Will*, 491 U.S. at 71; *Roe*, 678 F. Supp.2d at 1021. It is no



different from a suit against the State itself. *Id.* Nonetheless, the Eleventh Amendment does not bar suits for prospective injunctive relief brought against state officers in their official capacities to enjoin an alleged ongoing violation of federal law. *Ex parte Young*, 209 U.S. 123, 155-57 (1908); *Hanson v. Medical Board*, 279 F.3d 1167, 1171 (9th Cir. 2002); *N.Y.*, 2018 U.S. Dist. LEXIS 92310 at \*11.

The only federal law Evans and Levenson are alleged to have violated is section 1983. While Plaintiffs may pursue official capacity claims against Evans and Levenson for injunctive relief in federal court under section 1983, Evans and Levenson are immune from official capacity lawsuits in federal court for alleged violations of state law even though Plaintiffs seek injunctive relief only. *Id.* Summary judgment must be entered against Plaintiffs on all but their section 1983, official capacity claims against Evans and Levenson for injunctive relief. This includes Plaintiffs' reverse-CPRA petition for writ of mandate and Plaintiffs' EERA and Labor Code claims.

**D. Plaintiffs' 42 U.S.C. § 1983 Claim Against Evans and Levenson Also Lacks Merit.**

Section 1983 provides a cause of action for constitutional torts committed by state or local government officials. To prevail in a section 1983 claim, a plaintiff must plead and prove that each government-official defendant, through the official's own individual actions, violated the Constitution. *OSU Student Alliance v. Ray*, 699 F.3d 1053, 1069 (9th Cir. 2011).

Section 1983 is not itself a source of substantive rights, but merely provides a method for vindicating federal rights conferred elsewhere. *Albright v. Oliver*, 510 U.S. 266, 271 (1994). The first inquiry in any section 1983 suit is whether the plaintiff has been deprived of a right secured by the federal constitution and federal laws. *Baker v. McCollan*, 443 U.S. 137, 140 (1979). Section 1983 does not vindicate rights secured by California's constitution or California law. *Id.*; *Govan v. City of Clovis*, 2013 U.S. Dist. LEXIS 145517, \*15 (E.D. Cal. Oct. 7, 2013). Plaintiffs may not rely on Article I, section 2 of the California Constitution to support their section 1983 claim. *See* Dkt. Entry No. 32, para. 85. To the extent Plaintiffs' section claim against Evans and Levenson seeks to vindicate rights secured by or based on Article I, section 2 of the California Constitution, summary judgment must be entered against Plaintiffs.

The only remaining federal right Plaintiffs seek to vindicate in their section 1983 claim is the First Amendment right to freedom of expression. The specific nature of Plaintiffs' First Amendment

claim is not identified, making it nearly impossible to determine whether the claim is even legally plausible. *See Ashcroft v. Iqbal*, 556 U.S. 662, 677-79 (2009). Plaintiffs' claim plainly does not arise in the context of a privilege raised in response to a discovery demand in ongoing civil litigation, as was the case in *NAACP v. Alabama*, 357 U.S. 449 (1958) and *Perry v. Schwarzenegger*, 591 F.3d 1147 (9th Cir. 2010). In *Perry*, the Court held that "[a] party who objects to a discovery request as an infringement of the party's First Amendment rights is in essence asserting a First Amendment *privilege*." *Perry*, 591 F.3d at 1160; *see also Nat'l Abortion Fed'n v. Ctr. For Med. Progress*, 2015 U.S. App. LEXIS 23397 (9th Cir. Dec. 3, 2015) (claiming privilege in discovery dispute); *Planned Parenthood Fed'n of Am., Inc. v. Ctr. for Med. Progress*, 2018 U.S. Dist. LEXIS 91336 (N.D. Cal. 2018) (same); *Morgan Hill Concerned Parents Ass'n v. Cal. Dep't of Educ.*, 2017 U.S. Dist. LEXIS 114293 (E.D. Cal. July 20, 2017) (same). In such cases it is the underlying dispute between the parties, not section 1983, that provides the basis for the court's jurisdiction and defines the elements of the claim being asserted.

Plaintiffs' section 1983 claim does not appear to challenge the constitutionality of the CPRA on First Amendment grounds, either facially or as applied, making their claim very different from First Amendment challenges to other disclosure statutes. *See, e.g., Doe v. Reed*, 561 U.S. 186 (2010); *Brown v. Socialist Workers '74 Campaign Comm. (Ohio)*, 459 U.S. 87 (1982); *Buckley v. Valeo*, 424 U.S. 1 (1976); *ProtectMarriage.com v. Bowen*, 599 F. Supp.2d 1197, 1213 (E.D. Cal. 2009). Plaintiffs do not ask the Court to declare the CPRA unconstitutional on its face or as applied to them, to public records about them, or even to the particular records identified by the BUSD as responsive to the request. In fact, Plaintiffs invoke the CPRA's provisions, claiming its exemptions afford them the protection they seek. Judicial Watch and the Court should not have to guess about what claim Plaintiffs have brought.

Plaintiffs' claim seems similar to a First Amendment retaliation claim under section 1983, but Plaintiffs do not assert a retaliation claim expressly. *See, e.g.,* FAC at paras. 46, 51, and 91. To prevail on a retaliation claim, a plaintiff must plead and prove that (1) he or she engaged in conduct protected by the First Amendment, *i.e.*, the expression of political opinion or engaging in political activities; and (2) that the plaintiff's protected First Amendment conduct was a substantial factor, or was a motivating factor in the defendant's decision to take adverse action against the plaintiff and chill the plaintiff's protected speech. *Sloman v. Tadlock*, 21 F.3d 1462, 1469 (9th Cir. 1994); *Mendocino Env'tl. Ctr. v.*

1 *Mendocino County*, 14 F.3d 457, 464 (9th Cir. 1994). If Plaintiffs had brought a retaliation claim, they  
 2 would have to prove something they have not even attempted to prove – intent. “The defendant’s intent  
 3 is an element of the claim.” *Mendocino Envtl. Ctr.*, 14 F.3d at 464.

4 If Plaintiffs’ claim is not a retaliation claim, then it would appear to be something entirely new –  
 5 perhaps an attempt to compel invocation of the First Amendment discovery privilege described in  
 6 *NAACP v. Alabama* and *Perry*, albeit through a section 1983 claim. Judicial Watch has found no case in  
 7 which a government official’s failure to invoke the First Amendment privilege was deemed a  
 8 constitutional tort for purpose of a section 1983 claim. Plaintiffs cite none. Judicial Watch also has not  
 9 found and Plaintiffs have not cited any case describing what intent, if any, is required for such a  
 10 constitutional tort under section 1983. Judicial Watch disputes whether such a claim is even cognizable.

11 The elements of the First Amendment privilege are well established. A party claiming the  
 12 privilege must make a prima facie showing of First Amendment infringement, demonstrating that  
 13 disclosure “will result in (1) harassment, membership withdrawal, or discouragement of new members,  
 14 or (2) other consequences which objectively suggest an impact on or ‘chilling’ of the members’  
 15 associational rights.” *Perry*, 591 F.3d at 1160 (internal quotations and citations omitted).<sup>7</sup> If the party  
 16 claiming the privilege makes the necessary prima facie showing, the government must demonstrate that  
 17 disclosure is rationally related to a compelling government interest and is the least restrictive means of  
 18 obtaining the desired information. *Id.* at 1161. The showing required of the government is not meant to  
 19 preclude disclosure. *Id.* Rather, it only balances the burden imposed on the party asserting the First  
 20 Amendment interests against the significance of the interest in disclosure. *Id.*

21 Obviously, the privilege can only be properly invoked to prevent the disclosure of information or  
 22 material that is not already public. Speech cannot be chilled in any objective sense by “disclosing”  
 23 something already in the public domain. The privilege also only applies to information or material that  
 24 is personal or private and reveals or at least plays some role in the expressive activity of the person  
 25 invoking the privilege. The bulk of what Plaintiffs seek to withhold is third party speech. Judicial  
 26 Watch has found no case in which the privilege was upheld or even invoked, as Plaintiffs attempt here,

27 <sup>7</sup> Many First Amendment privilege cases arise in the context of associational rights rather than  
 28 individual expressive conduct, and, as a result, use language reflecting associational rights. The  
 privilege would appear to encompass any type of First Amendment activity.

1 to prevent the disclosure of third party speech or third parties' reaction to the speech of the person  
 2 invoking the privilege. Plaintiffs cite no such case. In *NAACP v. Alabama*, the NAACP successfully  
 3 invoked the privilege to avoid turning over to the State of Alabama the "names and addresses of all its  
 4 Alabama members and agents." 357 U.S. at 451. In *Perry*, proponents of a ballot initiative successfully  
 5 invoked the privilege to prevent turning over in discovery their "private, *internal* campaign  
 6 communications concerning the *formulation of campaign strategy and messages*." *Id.* at 1165, n.12. In  
 7 *Doe*, which concerned names, addresses, and signatures of registered voters who signed a referendum  
 8 petition, the Court described the privilege as protecting against the compelled disclosure of "personal  
 9 information" the disclosure of which was reasonably likely to expose the subject to "threats, harassment,  
 10 or reprisals from either Government officials or private parties." 561 U.S. at 200 (*quoting Buckley*, 424  
 11 U.S. at 74). The privilege plainly does not apply to just any information or material touching on or  
 12 concerning expressive activity.

13       Regardless of whether Plaintiffs' section 1983 claim is a retaliation claim or something else, it  
 14 fails on all fronts. Plaintiffs invoke the First Amendment for only two of the four categories of records  
 15 they object to producing: (1) "internal discussions" among King Middle School staff "about how the  
 16 school should respond to the harassment and threats that Felarca and other King M.S. staff were  
 17 receiving" and (2) communications from third parties to BUSD allegedly containing "vitriol, hate  
 18 speech, and personal attacks against Felarca" by "trolls" "in retaliation for [Felarca's] political  
 19 activities." Plfs' Mem. at 10 and 13-14.

20       Plaintiffs Nixon and Stefl fail to provide any evidence, sworn or otherwise, that they even  
 21 engaged in protected First Amendment activity. Their names are mentioned once, in passing, in their  
 22 brief. *Id.* at 10. There is a complete lack of proof as to these two plaintiffs.

23       Plaintiffs also fail to provide any admissible evidence demonstrating that Evans or Levenson  
 24 violated their First Amendment rights. There is a complete absence of evidence demonstrating that  
 25 Evans or Levenson made, supervised, or were even involved in the decision to disclose any particular  
 26 record. There also is no evidence demonstrating that Evans or Levenson ignored or chose not to invoke  
 27 the First Amendment privilege with respect to any particular, responsive record or in response to the  
 28 request in general. There certainly is no evidence that Evans or Levenson intended to retaliate against

1 Plaintiffs or chill Plaintiffs' speech. The absence of any evidence of intent is all the more glaring  
 2 because the obvious motive behind the decision to disclose – whomever made the decision – was to  
 3 respond to a CPRA request.

4 Even Plaintiffs' unsworn and unsubstantiated assertions about threats and harassment do not  
 5 withstand scrutiny. They are contradicted by Plaintiffs' counsel's own statement during a February 27,  
 6 2017 media interview. With Felarca standing next to her, Plaintiffs' counsel described the "threats" as  
 7 "very unserious." Sticht Decl. ¶ 12.

8 Regarding Plaintiff's first category of records – 10 pages of allegedly internal emails exchanged  
 9 by King Middle School staff about how the school should respond to the disruption caused by Felarca<sup>8</sup> –  
 10 Plaintiffs assume, without presenting any admissible evidence, that the emails are expressive, protected  
 11 speech about a matter of public concern. As described in Plaintiffs' brief, the emails concern an internal  
 12 management issue the school was facing. Plfs' Mem. at 8. "To presume that all matters which transpire  
 13 within a government office are matters of public concern would mean that virtually every office remark  
 14 – and certainly every criticism directed at a public official, would plant the seed of a constitutional  
 15 case." *Connick v. Myers*, 461 U.S. 138, 149 (1983). Moreover, "when public employees make  
 16 statements pursuant to their official duties, the employees are not speaking as citizens for First  
 17 Amendment purposes." *Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006).

18 The internal emails are a far cry from the teacher's letter to the editor found to be protected  
 19 speech in *Pickering v. Board of Educ.*, 391 U.S. 563, 574 (1968). Plaintiffs fail to present any evidence  
 20 demonstrating that the emails are even their speech. They do not assert based on admissible evidence  
 21 that they authored any of the emails or that the emails reflect their comments or viewpoints. With the  
 22 exception of Bates Nos. 206 and 208, which were purportedly sent by Felarca,<sup>9</sup> Plaintiffs present no  
 23 evidence identifying whether they actively participated in the discussion or were merely included on the

24 <sup>8</sup> Plaintiffs identify Bates Nos. 185-188, 206, 207-209, 222, and 241. Plfs' Mem. at 8.  
 25 Descriptions of these and other documents on Plaintiffs' log were developed and noted by Judicial  
 26 Watch during the parties' meet and confer ordered by the Court to compensate for the fact that  
 Plaintiffs' descriptions were on the whole inadequate and unreliable. Sticht Decl. ¶ 17. Judicial  
 Watch's notes are attached as an exhibit to its counsel's declaration. Sticht Decl., Ex. G.

27 <sup>9</sup> Bates No. 206 contains two emails, the first of which Plaintiffs' claim is from Felarca to  
 28 Levenson. Sticht Decl., Ex. G at 14. Bates No. 208 likewise purportedly contains a chain of emails, one  
 of which is from Felarca to school staff. *Id.*

“listserv” email distribution list. Plfs’ Mem. at 8. Plaintiffs also fail to present evidence demonstrating that the emails constitute protected speech about a matter of public concern. Likewise, they present no evidence demonstrating that, to the extent the emails even reflect their speech, there is anything sensitive about them that triggers a First Amendment privilege analysis. *See, e.g., Perry*, 591 F.3d at 1165, n.12 (applying privilege only to private, internal campaign communications about strategy and messaging).

Plaintiffs also fail to present any evidence demonstrating that disclosure is reasonably likely to have an objective chilling effect on their speech. *Perry*, 591 F.3d at 1160. Again, their motion suffers from a fundamental lack of proof. In addition, Plaintiffs conflate the alleged harassment and threats resulting from Felarca’s very public actions and television interviews with supposition about how the public might respond if the school’s internal discussions about how to respond to the public reaction to Felarca’s actions and interviews were disclosed. Not only do Plaintiffs conflate apples and oranges, but their argument about the latter is nothing more than speculation.

Regarding the fourth category of records Plaintiffs seek to withhold from Judicial Watch – 68 pages of third-party communications to BUSD criticizing Felarca<sup>10</sup> – the records at issue are third parties’ speech, not Felarca’s speech. Numerous individuals wrote to and/or called King Middle School or BUSD after seeing video of Felarca attacking the demonstrator in Sacramento, watching interviews Felarca gave on television condoning extreme violence during a public demonstration at Berkeley, or reading or watching reports of Felarca’s arrest. *See generally* Sticht Decl., Ex. \_\_ at Bates Nos. 1-2, 38-39, 40, 43-54, 64, 75, 76, 93, 94, 95, 97, 103, 105, 116, 131, 134-35, 139, 141-42, 183, 192, 210, 211, 213, 214, and 216. Many called for her to be fired. *Id.* at Bates Nos. 14, 47-53, 64, 72, 76, 103, 105, 110-11, 139, 141-42, 165, 192, and 249. Some of them described Felarca in unflattering terms. *Id.* at

<sup>10</sup> Plaintiffs identify and divide these records into three categories:

first, public reaction to Felarca’s participation in a June 26, 2016 attack on a demonstrator at the State Capitol in Sacramento for which she was eventually arrested and charged with felony assault: Bates Nos. 43-44, 72, 75, 76, 96, 97, 98, 100, 139, 153, 150-51;

second, public reaction to Felarca’s February 1, 2017 participation in a violent protest aimed at shutting down a speech by the British polemicist and political commentator Milo Yiannopoulos at UC Berkeley: Bates Nos. 103, 113-14; and

third, public reaction to Felarca’s February 13, 2017 appearance on the nationally broadcast Fox News Channel program “Tucker Carlson Tonight” defending the violence at Berkeley: Bates Nos. 38, 46-54, 64, 94, 104, 160, 162-63, 169, 171, 175, 214, 249.



1 Bates Nos. 64, 96, 98, 104, 158, 162-63, 175, 180, 192, 215, and 249. One or two purported to be  
2 affiliated with “National Socialist” organizations. *Id.* at Bates Nos. 96 and 100.

3 None of the records reveals any personal or private information about Felarca’s political beliefs,  
4 affiliations, or expressive activity. They also do not reveal any private, internal strategies or plans  
5 Felarca may have about engaging in expressive activity. If anything, Felarca has made her political  
6 beliefs, affiliations, and expressive activity extraordinarily public. By seeking to withhold these third-  
7 party communications from Judicial Watch, Plaintiffs in effect are trying to suppress public criticism of  
8 Felarca under the guise of avoiding chilling Felarca’s speech. Their argument is no different from  
9 asserting that the First Amendment requires the suppression of speech they do not like or agree with to  
10 avoid chilling speech they do.<sup>11</sup> Obviously, that is not a correct statement of First Amendment law.

11 Plaintiffs offer nothing other than speculation to support their claim that Felarca’s protected  
12 expression will be chilled if the criticisms of her in this fourth category of records are made public.  
13 They provide no evidence at all, and certainly no specific evidence showing a reasonable probability of  
14 threats, harassment, reprisals, or some other “chilling effect” resulting from disclosure of the records at  
15 issue. And again, the allegation is contradicted by Plaintiffs’ counsel’s own statement: “most of the  
16 threats, I think, have been very unserious.” *Sticht Decl.* ¶ 12. Moreover, the chilling effect must be  
17 objective, not subjective. *Perry*, 591 F.3d at 1160.

18 In addition to suffering from a lack of admissible evidence, Plaintiffs’ chilling effect argument  
19 fails to take into account the broader context of Felarca’s actions. Felarca voluntarily thrust herself into  
20 the public eye, provoking debate, most likely intentionally, by using extreme language and advocating  
21 extreme “militant” tactics. *Sticht Decl.* ¶ 4. Felarca routinely labels persons and entities with whom she  
22 disagrees “fascists,” “racists,”<sup>12</sup> and “Nazis” and advocates “shutting them down” “by any means

23 <sup>11</sup> This is not the first time Plaintiffs’ counsel has made such a seemingly incongruous  
24 argument. Plaintiffs’ counsel sued Michigan’s attorney general on behalf of BAMN to have an  
25 amendment to the Michigan Constitution declared unconstitutional. The amendment prohibited the use  
26 of race-based preferences as part of the admissions process for state universities. Plaintiff’s counsel and  
27 BAMN argued that the amendment violated the Equal Protection Clause. The effort was unsuccessful.  
28 In one of his more memorable concurring opinions, Justice Antonin Scalia wrote: “It has come to this.  
Called upon to explore the jurisprudential twilight zone between two errant lines of precedent, we  
confront a frighteningly bizarre question: Does the Equal Protection Clause of the Fourteenth  
Amendment *forbid* what its text plainly *requires*? Needless to say (except that this case obliges us to  
say it), the question answers itself.” *Schuette v. BAMN*, 572 U.S. 291, 316 (2014).

<sup>12</sup> In an appearance before the BUSD school board, Felarca claimed Judicial Watch is a “racist,

necessary,” including “mass [] more militant protests.” Sticht Decl., Ex. A at 1, 3-4, 5-6, 8, 9, 11; *Id.*, Ex. D at 2-3; *Id.*, Ex. E at 3-4, 7-8, 15-16. Felarca congratulated her fellow rioters in Sacramento, proclaiming “there’s no free speech for fascists,” and described violent protest in Berkeley as “stunningly successful.” Sticht Decl. ¶ 8. While it certainly is Felarca’s right to act as a provocateur, it should come as no surprise that her actions generate significant reactions from members of the public, including negative and sometimes harshly negative criticisms. Comments posted on public websites showing videos of Felarca’s television interviews and community posts on a FaceBook page – Yvette.Felarca.Berkeley – include a great many criticisms of Felarca that are not meaningfully different from the criticisms in the third-party communications Plaintiffs are now seeking to withhold from the public due to their alleged chilling effect. Sticht Decl., Ex. H (FaceBook) and I (YouTube). Plaintiffs fail to explain why disclosure of this relatively small number of third party communications will objectively chill Felarca’s speech, but the mountain of criticism already in the public domain has no effect. In short, Plaintiffs’ chilling effect argument suffers from a causation problem in addition to an evidentiary problem.

Finally, even assuming Plaintiffs could make the necessary *prima facie* showing of an arguable First Amendment interest, that interest is substantially outweighed by the governmental interest in disclosure. One aspect of that interest is complying with the law, in this instance the CPRA. Because the California Constitution guarantees the public’s “right of access to information concerning the public’s business” (Cal. Const., art. I, § 3, subd. (b)(1)), another aspect is vindicating this important constitutional right. As has been noted with respect to the constitutional rights to privacy and public access, “In the CPRA the Legislature has sought to reconcile these two fundamental, but sometimes conflicting rights.” *Marken v. Santa Monica-Malibu Unified School Dist.*, 202 Cal. App. 4th 1250, 1261 (Cal. App. 2012).

Whatever First Amendment interest Plaintiffs might have in non-disclosure of the particular records at issue – and they have failed to present any admissible evidence demonstrating any such interest – that interest is far outweighed by the interest in disclosure. In addition to being a political activist and provocateur, Felarca is a teacher and public employee. Her “non-work activities” have immigrant-bashing group connected to the ‘alt-right’.” Sticht Decl. ¶ 18.



1 plainly impacted her employer, BUSD, and King Middle School in a significant way, and the public has  
 2 a substantial interest in understanding and assessing both the impact Felarca's actions and activities have  
 3 had on BUSD and King Middle School and how the district and the school have responded. *See BRV*  
 4 *Inc. v. Superior Court*, 143 Cal. App. 4th 742, 757 (2006) (public has a significant interest in the  
 5 competence and conduct of school officials and how school district conducts its business). Such issues  
 6 are quintessentially the "public's business" and are what motivated Judicial Watch's request in the first  
 7 instance. Sticht Decl. ¶ 13. The records Plaintiffs seek to withhold represent an important source of  
 8 information that would help the public understand and assess how BUSD and the school have handled  
 9 an extraordinary situation Felarca has created. Because Judicial Watch has approximately 65,000 active  
 10 members in California and has had approximately 137,000 members in California over its 24-year  
 11 history, it is uniquely positioned to vindicate the public's constitutional right of access, as its willingness  
 12 to pursue this matter in the face of Plaintiffs' false attacks demonstrates.<sup>13</sup> Sticht Decl. ¶ 2. Even if the  
 13 Court were to conclude that Plaintiffs had some minimal First Amendment interest in non-disclosure,  
 14 that interest would be far outweighed by the governmental interest in enforcing the constitutional right  
 15 to public access.

16 **E. Plaintiffs' Reverse-CPRA Claim Fails Under Mandate Law and On The Merits.**

17 Plaintiffs' reverse-CPRA claim fails for multiple, additional reasons. First and foremost is the  
 18 nature of the claim itself – a petition for writ of mandate under section 1085 of the California Code of  
 19 Civil Procedure.

20 If a public agency refuses to disclose a requested record, the requester has the right to file suit in  
 21 a "court of competent jurisdiction" to compel disclosure. Cal. Gov't Code § 6258. The CPRA does not  
 22 authorize third-party suits to *prevent* disclosure, however. *Nat'l Conference of Black Mayors v. Chico*  
 23 *Community Publishing, Inc.*, 2018 Cal. App. LEXIS 653, \*11 (Cal. App. July 25, 2018). A reverse-

24 <sup>13</sup> In addition to falsely labeling Judicial Watch a "racist, immigrant-bashing" organization (*see*  
 25 *supra* n.12 at 13), Plaintiffs impute a false motive to the organization – "to harass and to assist  
 26 individuals who seek to threaten and intimidate [King Middle School] teachers and staff due to their  
 27 political beliefs and associations and/or perceived political beliefs and associations." *See* FAC at para.  
 28 61. They also falsely accuse Judicial Watch of pursuing a "political witch hunt" against Felarca. *See*  
 Dkt. Entry No. 5 at 8, 9, 10, and 23. Plaintiffs and their counsel offer no basis for these assertions.  
 There is none. Such material has no place in pleadings and may be stricken by the Court, either on  
 motion or on its own. Fed. R. Civ. P. 12(f).

1 CPRA claim “is not permitted under and does not arise from” the CPRA. *Pasadena Police Officers*  
 2 *Assn. v. City of Pasadena*, 22 Cal. App. 5th 147, 161 (2018). Rather, the California state courts have  
 3 identified a petition for writ of mandate under Cal. Code Civ. P. § 1085 as a procedural mechanism by  
 4 which a third party may try to challenge a public agency’s decision to disclose a requested record.  
 5 *Marken*, 202 Cal. App. 4th at 1266-67.

6 “Mandamus will lie to compel a public official to perform an official act required by law.”  
 7 *Marken*, 202 Cal. App. 4th at 1266. “[T]here must be a clear, present, ministerial duty upon the part of  
 8 the respondent and a correlative clear, present, and beneficial right in the petitioner to the performance  
 9 of that duty.” *Id.* “[M]andamus should be available to prevent a public agency from acting in an  
 10 unlawful manner by releasing information the disclosure of which is prohibited by law.” *Id.*  
 11 “Mandamus will not lie to control an exercise of discretion, i.e. to compel an official to exercise  
 12 discretion in a particular manner.” *Id.*

13 “Cal. Code, Civ. Proc. § 1085 is a procedural rule which a number of courts have held does not  
 14 apply to a federal court.” *Wilridge v. Kernan*, 2018 U.S. Dist. LEXIS 90288, \*8 (N.D. Cal. May 30,  
 15 2018) citing *Hill v. County of Sacramento*, 466 F. App’x 577, 579 (9th Cir. 2012); see also *In re Ke*,  
 16 2017 U.S. Dist. LEXIS 197381, \*\*3-4 (N.D. Cal. Nov. 30, 2017) (same); *San Francisco Apt. Ass’n v.*  
 17 *City & Cnty. of San Francisco*, 142 F. Supp.3d 910, 917 n. 2 (N.D. Cal. 2015) (same); *Shaheen v. Cal.*  
 18 *Supreme Court*, 2002 U.S. Dist. LEXIS 24969 at \*1 (N.D. Cal. Dec. 27, 2002) (same). “This court  
 19 could not issue a writ under § 1085.” *Shaheen*, 2002 U.S. Dist. LEXIS 24969 at \*3.

20 Other courts have analyzed the question from the perspective of supplemental jurisdiction.  
 21 “Mandamus proceedings ‘are uniquely in the interest and domain of the state courts.’” *Fresno Unified*  
 22 *Sch. Dist. v. K.U.*, 980 F. Supp.2d 1160, 1184 (E.D. Cal. 2013) (quoting *Clemes v. Del Norte County*  
 23 *Unified Sch. Dist.*, 843 F. Sup. 583, 596 (N.D. Cal. 1994), overruled on other grounds, *Maynard v. City*  
 24 *of San Jose*, 37 F.3d 1396, 1403 (9th Cir. 1994)). “A federal court’s exercise of jurisdiction over a state  
 25 mandamus issue raises serious considerations regarding comity and federalism.” *Id.* “As a result,  
 26 federal district courts routinely decline to exercise supplemental jurisdiction over California writ of  
 27 mandate claims.” *Id.*; *Mory v. City of Chula Vista*, 2011 U.S. Dist. LEXIS 19874 (S.D. Cal. Mar. 1,  
 28

2011); *City Limits of N. Nev., Inc. v. Cnty. of Sacramento*, 2006 U.S. Dist. LEXIS 75414, \*10 (E.D. Cal. Oct. 6, 2006); *Pac. Bell Tel. Co. v. City of Walnut Creek*, 428 F. Supp.2d 1037, 1055 (N.D. Cal. 2006).

Even if Plaintiffs were able to overcome all these substantial obstacles, their mandate claim would still fail on the merits. Plaintiffs raise two substantive objections in their reverse-CPRA petition for writ of mandate: they claim the records at issue should not be disclosed because they are not “public records” under Cal. Gov’t Code § 6252(e) and because the public interest in withholding them clearly outweighs the public interest in their disclosure under Cal. Gov’t Code § 6255(a). Neither is well-founded.

Section 6252(e) defines “public records” as including “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” Cal. Gov’t Code § 6252(e). The term “public record” is construed broadly. *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified Sch. Dist.*, 139 Cal. App. 4th 1356, 1408 (2006). Plaintiffs invoke their section 6252(e) argument with respect to a subset of the records at issue only, namely, records in Plaintiffs’ fourth category which they describe as communications from “third parties who have no relationship to BUSD.” Plfs’ Mem. at 15. Again, Plaintiffs fail to present any evidence supporting their argument. Many if not most of the records are communications received from members of the public – in some instances from parents – then forwarded among and between BUSD officials. These include the following: Bates Nos. 14, 38, 43-44, 46, 47, 50, 51, 52, 53, 54, 56, 64, 72, 94, 95, 96, 97, 98, 102, 116, 131, 141-42, 158, 179, 192-93, 212, and 214. Sticht Decl., Ex. G. Two others, Bates Nos. 110-11, are photographs taken by the BUSD’s public information officer, then sent to other BUSD officials. Sticht Decl., Ex. G. The obvious purpose of Bates Nos. 110-11 was to apprise BUSD officials of issues and disruptions BUSD was facing because of Felarca and to assist them in addressing these issues and disruptions. The records plainly relate to the conduct of the public’s business and are quintessential public records.

A handful of others were received by BUSD officials, but do not appear to have been forwarded. These include: Bates Nos. 75-76, 100, 103, 104, 105, 159, 160, 162-63, and 180. Sticht Decl., Ex. G. The fact that this particular subset of records does not appear to have been forwarded electronically does

not mean they were not shared, used, or relied on by BUSD officials in some other way or that they do not relate to the public's business. Plaintiffs offer no evidence, admissible or otherwise, either way. The records obviously were received by BUSD, and they put BUSD officials on notice of substantial public concerns about Felarca. BUSD determined these records were public records within the meaning of section 6252(e), and Plaintiffs provide no reason to reject that conclusion.

Plaintiffs are fundamentally mistaken about section 6255(a).<sup>14</sup> The provision does not *require* public agencies to withhold requested records. It *allows* them to do so under certain circumstances. *CBS, Inc. v. Block*, 42 Cal.3d 646, 652 (1986) (Section 6255 "permits the government agency to withhold a record.") Section 6255(a) is permissive, not mandatory. It is fundamentally different from CPRA provisions that mandate certain records be withheld. Because section 6255(a) is permissive rather than mandatory, it is not the proper subject of a writ of mandate proceeding under Cal. Code Civ. P. § 1085. "Mandate will not issue to compel action unless it is shown the duty to do the thing asked for is plain and unmixed with discretionary power or the exercise of judgment." *Unnamed Physician v. Board of Trustees*, 93 Cal. App. 4th 607, 618 (2001). Plaintiffs cannot rely on Cal. Code Civ. P. § 1085 to compel by writ of mandate withholdings that are discretionary under Cal. Gov't Code § 6255(a). They cannot use a mandamus procedure to second-guess an exercise of discretion. Plaintiffs' claim fails for this additional reason, and summary judgment must be entered against them on their reverse-CPRA petition for writ of mandate claim.

In addition to their Cal. Gov't Code § 6252(e) argument, Plaintiffs raise several substantive arguments about four categories of records. None has merit. The first category identified by Plaintiffs are the same records of "internal discussions" at issue in Plaintiffs' 42 U.S.C. § 1983 claim. Plaintiffs' First Amendment arguments fail under their writ of mandate claim for the same reasons they fail under their section 1983 claim. Plaintiffs' other grounds for withholding the records fare no better. They

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<sup>14</sup> Plaintiffs' amended complaint does not cite or invoke section 6255(a) to justify withholding records. It invokes Cal. Gov't Code § 6254(k). FAC at para. 27 and 78. By contrast, Plaintiffs' motion invokes section 6255(a), but not section 6254(k). *See* Dkt. Entry Nos. 76 at 2 (Notice of Motion) and 8, 11, 12 and 15 (Mem.). Judicial Watch submits that Plaintiffs have abandoned any section 6254(k) argument. To the extent Plaintiffs claim otherwise, Judicial Watch incorporates by reference the First Amendment arguments it asserted in response to Plaintiffs' section 1983 (42 U.S.C.) claim.

claim the records, which BUSD has redacted to protect individuals' privacy, should be withheld under the deliberative process privilege (Plfs' Mem. at 8, 9), but they never pled such a claim and have not presented evidence showing that the records would disclose their individual deliberations or comments. Moreover, BUSD chose not to invoke the deliberative process privilege, a discretionary, qualified privilege invoked by senior government officials to protect the process by which government policy is formulated. *See San Joaquin Cnty. Local Agency Formation Comm'n v. Superior Court*, 162 Cal. App. 4th 159, 170-71 (2008). It is not at all clear that the privilege would even apply to teachers' internal discussions. *Id.* Regardless, Plaintiffs invocation of privilege is nothing more than an attempt to second-guess BUSD's decision to produce redacted versions of the records. Plaintiffs' speculative, unsupported, and illogical claim that disclosure of these internal discussions would somehow encourage continued or escalated "harassment" fares no better. It also is a characterization of third-parties' speech that, in a great many instances, is at odds with Plaintiffs' description of the records at the July 16-19 meet and confer. *See discussion infra* at 20; Sticht Decl., Ex. G.

The second category of records identified by Plaintiffs are 9 pages of parent communications with Levenson about their children, who presumably are King Middle School students.<sup>15</sup> BUSD redacted these records to protect the parents' and students' privacy. Plaintiffs second-guess BUSD's redactions and claim that the records should be withheld under the deliberative process privilege, the application of which they readily acknowledge would be novel.<sup>16</sup> Plfs' Mem. at 12. Again, BUSD chose not to invoke the deliberative process privilege. In addition to the fundamental error of trying to use a petition for writ of mandate to second-guess a discretionary decision, Plaintiffs' claim regarding this second category of records fails because they did not raise it in their complaint. It is a new claim they never pled. It also fails because Plaintiffs fail to demonstrate their standing to raise such a claim. Because Plaintiffs seek a writ of mandate, the claim fails for the additional reason that Plaintiffs fail to demonstrate they satisfy the second element of a Cal. Code Civ. P. § 1085 petition: a clear, present, and

<sup>15</sup> Plaintiffs identify Bates Nos. 81, 93, 134-135, 179, 210-211, 216-217. Plfs' Mem. at 11.

<sup>16</sup> To the extent Plaintiffs invoke the First Amendment privilege, it would appear to be on behalf of parents and/or students. Even if the privilege applied, which it does not, Plaintiffs have no standing to try to remedy alleged violations of third parties' speech. They also never asserted such a claim.

1 beneficial right to having the partially redacted records withheld in full. *Marken*, 202 Cal. App. 4th at  
2 1266.

3 Plaintiffs' claim about the third category of records they identify – 32 pages of communications  
4 from third parties and/or among school administrators<sup>17</sup> – suffers from the same flaws as the second  
5 category. Plaintiffs never pled such a claim and fail to demonstrate their standing. They also fail to  
6 establish a clear, present and beneficial right to having the partially redacted records withheld in full.  
7 They simply second-guess the decision to redact rather than withhold. Of three other exemptions  
8 Plaintiffs cite, the first – Cal. Gov't Code § 6255(f) – does not exist, the second – Cal. Gov't Code §  
9 6254(aa) – does not apply on its face because the records are not assessments of “vulnerability to  
10 terrorist attack or other criminal acts” and are “for distribution or consideration in a closed session,” and  
11 the third – Cal. Gov't Code § 6276.10, an alphabetical listing of statutes (cancer, child abuse, custody  
12 and support, etc.) involving records not required to be disclosed under 6254(k) – does not have any  
13 relevance to the records at issue.

14 Plaintiffs describe a fourth category of records as 68 pages of emails from “trolls” containing  
15 “vitriol, hate speech, and personal attacks against Felarca in retaliation for her political activities.” Plfs'  
16 Mem. at 13-14. In many instances, Plaintiffs' characterization of these records in their brief is directly  
17 contradicted by Plaintiffs' counsel's description of the records at the July 16-19 meet and confer. Sticht  
18 Decl., Ex. G. Some are what Plaintiffs' counsel described as “purported parents” expressing concern  
19 about Felarca's conduct. These include Bates Nos. 14, 72, 95, 141-42, 213, 215, 216, 217, and 249. *Id.*  
20 One – Bates No. 94 – is from a self-described former president of the Association of California School  
21 Administrators and a retired principal and teacher. *Id.* Another – Bates No. 131 – is from a former  
22 special education teacher. *Id.* A great many are responding to Felarca's Tucker Carlson interview. *Id.*  
23 at Bates Nos. 46-53, 94, 175, 183, and 214. Some were critical of Felarca's plan to hold a rally at the  
24 school to protest her suspension after she was arrested on riot charges. *Id.* at Bates Nos. 14, 101, and  
25 102. They all show the burden placed on BUSD by Felarca's conduct.

26  
27  
28 <sup>17</sup> Plaintiffs identify Bates Nos. 61, 99, 110-111, 129, 158, 160, 162-163, 165, 169, 171, 173-  
177, 183, 189, 194, 204-205, 224, 226-229, 237-238, 244, 247-248. Plfs' Mem. at 12 n.4.



1 Plaintiffs object on First Amendment grounds to the production of these records, many of which  
 2 have been redacted by BUSD to protect third-parties' privacy. Again, Plaintiffs' First Amendment  
 3 argument under the CPRA fails for the same reason their First Amendment argument fails under 42  
 4 U.S.C. § 1983: the records are third-party speech; they do not reveal any personal or private aspect of  
 5 Felarca's political beliefs, affiliations, or expressive activities; Plaintiffs fail to present any evidence of  
 6 an objective chilling effect and their unsupported legal argument is speculative and illogical; and any  
 7 First Amendment interest Plaintiffs might have in withholding the records is far outweighed by the  
 8 substantial public interest in the records disclosure. *See supra* at 14-15. Summary judgment should be  
 9 entered against Plaintiffs on their reverse-CPRA petition for writ of mandate claim.

10 **F. Plaintiffs' EERA Claim Is Meritless.**

11 Plaintiffs' EERA claim would not be well-founded even if Plaintiffs could assert it in this  
 12 lawsuit. The EERA grants collective bargaining rights to California's public school teachers. Plaintiffs  
 13 fail to demonstrate what provision of the EERA was allegedly violated or how compliance with the  
 14 CPRA could ever constitute a violation of the EERA. Even more significantly, the Public Employment  
 15 Relations Board ("PERB") has exclusive initial jurisdiction over alleged violations of the EERA. *See,*  
 16 *e.g., Sunnyvale Unified School Dist. v. Jacobs*, 171 Cal.App.4th 168, 181 (2009); *Int'l Federation of*  
 17 *Prof. & Technical Engineers v. Bunch*, 40 Cal.App.4th 670, 675-76 (1995); *San Diego Teachers Assn. v.*  
 18 *Superior Court*, 24 Cal.3d 1, 12-13 (1979). Plaintiffs fail to present any evidence that they raised their  
 19 EERA claim with the PERB before filing suit and that the PERB denied them relief.

20 **G. Plaintiffs' Labor Code Claims Are Meritless.**

21 Like with their EERA claim, Plaintiffs' Labor Code claims would not be well-founded even if  
 22 they could assert them in this lawsuit. Plaintiffs allege violation of Cal. Lab. Code §§ 1101 and 1102.  
 23 Labor Code section 1101 provides: "No employer shall make, adopt, or enforce any rule, regulation, or  
 24 policy: (a) forbidding or preventing employees from engaging or participating in politics or from  
 25 becoming candidates for public office; (b) controlling or directing, or tending to control or direct the  
 26 political activities or affiliations of employees." Cal. Lab. Code § 1101. The CPRA is not BUSD's rule,  
 27 regulation, or policy; it is a State law. Plaintiffs also present no evidence about a separate rule,  
 28 regulation, or policy allegedly adopted by BUSD.

Moreover, the CPRA does not forbid or prevent employees from participating in politics, nor does it control, direct, or tend to control or direct employees' political activities. It cannot be the case that complying with one law – the CPRA – violates another – Cal. Lab. Code § 1101. “As a matter of plain language, the prohibition applies only to an employer’s rule, regulation, or policy that *necessarily* forbids or prevents an employee from running for or holding public office and lacks legitimate, apolitical reasons for its implementation.” *Couch v. Morgan Stanley & Co.*, 2015 U.S. Dist. LEXIS 104021, \*33 (E.D. Cal. Aug. 7, 2015). “An employer’s rule, regulation, or policy that is enacted for legitimate, apolitical reasons, but has an unintended effect on an employee’s ability to run for or hold public office does not violate section 1101(a).” *Id.* “Section 1101 is not intended to prohibit an employer’s rule, regulation, or policy that is enacted for wholly apolitical reasons that may, when enforced, infringe on an employee’s ability to express his or her political viewpoints.” *Id.* at \*34.

Labor Code section 1102 provides: “No employer shall coerce or influence or attempt to coerce or influence his employees through or by means of threat of discharge or loss of employment to adopt or follow or refrain from adopting or following any particular course or line of political action or political activity.” The provision plainly requires coercion through discharge or “threat of discharge.” Plaintiffs present no evidence demonstrating that BUSD’s response to Judicial Watch’s CPRA request led to their being fired or threatened with firing.

Finally, Plaintiffs present no evidence that they exhausted administrative remedies by filing an EEO complaint, a necessary prerequisite to filing a civil lawsuit for alleged violations of Cal. Lab. Code §§ 1101 and 1102. *Terris v. County of Santa Barbara*, 20 Cal. App. 5th 551, 555-56 (Cal. App. 5th Dist. 2018). Where a failure to exhaust is clear on the face of the complaint, a defendant may move for dismissal under Fed. R. Civ. P. 12(b)(6). *Albino v. Baca*, 747 F.3d 1162, 1166 (9th Cir. 2014). If undisputed evidence viewed in the light most favorable to the opponent shows a failure to exhaust, a defendant is entitled to summary judgment under Fed. R. Civ. P. 56. *See id.*

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1 **IV. CONCLUSION**

2 For all of the foregoing reasons, this Court should deny Plaintiffs' summary judgment and grant  
3 summary judgment to Judicial Watch on all of Plaintiffs' claims.  
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5 Dated: August 20, 2018

Respectfully submitted,

6 JUDICIAL WATCH, INC.  
7

8 By: /s/ Robert Patrick Sticht.  
9 ROBERT PATRICK STICHT

10 Attorneys for Real Party In Interest,  
11 JUDICIAL WATCH  
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**CERTIFICATE OF SERVICE**

I hereby certify that on August 20, 2018, I electronically filed the foregoing JUDICIAL WATCH'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND IN SUPPORT OF JUDICIAL WATCH'S MOTION FOR SUMMARY JUDGMENT with the Clerk of the Court for the United States District Court for the Northern District of California by using the district CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the district CM/ECF system.

/s/ Robert Patrick Sticht.  
ROBERT PATRICK STICHT

ROBERT PATRICK STICHT (SBN 138586)  
 JUDICIAL WATCH, INC.  
 425 Third Street, SW, Suite 800  
 Washington, DC 20024  
 Telephone: (202) 646-5172  
 Facsimile: (202) 646-5199  
 Email: rsticht@judicialwatch.org  
 California Office:  
 2540 Huntington Drive, Suite 201  
 San Marino, CA 91108  
 Telephone: (626) 287-4540

Attorneys for Real Party In Interest,  
 Judicial Watch, Inc.

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

YVETTE FELARCA, LORI NIXON,  
 LARRY STEFL,

Plaintiffs/Petitioners,

v.

BERKELEY UNIFIED SCHOOL  
 DISTRICT, DONALD EVANS, JANET  
 LEVENSON,

Defendants/Respondents.

JUDICIAL WATCH,  
 Real Party In Interest.

CASE NO.: 17-cv-06282-VC

DECLARATION OF ROBERT PATRICK  
 STICHT IN SUPPORT OF JUDICIAL  
 WATCH'S OPPOSITION TO  
 PLAINTIFFS' MOTION FOR SUMMARY  
 JUDGMENT AND JUDICIAL WATCH'S  
 MOTION FOR SUMMARY JUDGMENT;  
 EXHIBITS A - I

Date: October 4, 2018  
 Time: 10:00 a.m.  
 Place: Courtroom 4  
 Judge: Honorable Vince Chhabria

**DECLARATION OF ROBERT PATRICK STICHT**

I, Robert Patrick Sticht, state:

1. I am an attorney with Judicial Watch, Inc., counsel for real party in interest Judicial Watch in this action. I am a member of the bar of the State of California and this Court. I have personal knowledge of the facts contained in this declaration, and if called as a witness could, and would, competently testify to those facts.

2. Judicial Watch is a conservative, nonpartisan § 501(c)(3) public interest organization headquartered in Washington, D.C. Founded in 1994, Judicial Watch's mission is to promote accountability, transparency and integrity in government, politics, and the law. Judicial Watch is the nation's largest and most effective government watchdog group and perhaps the most active public records requestor and litigator operating today. Judicial Watch has 65,642 active members who live in California and has had over 137,000 members in California over its 24-year history. Judicial Watch is uniquely positioned to vindicate the public's constitutional right of access to the public records at the center of this case.

3. Yvette Felarca ("Felarca"), a 7th grade teacher at Berkeley Unified School District's ("BUSD") King Middle School, came to Judicial Watch's attention following her participation in a June 26, 2016 attack on a demonstrator at the State Capitol in Sacramento. A television news video shows Felarca punching the demonstrator in the stomach multiple times while repeatedly yelling "Get the fuck off our streets." Felarca can be heard referring to the demonstrator as "Nazi scum" and a "piece of shit" as she assaults him. Others join Felarca in the attack, kicking the demonstrator to the ground and repeatedly kicking him as Felarca stands by. When police intervene, Felarca winds up on the ground.

The video was recently re-published on July 20, 2017 after Felarca's arrest for the incident. One video, "Antifa Leader Yvette Felarca Arrested in California for June 2016 Sacramento Riot," was published on the NonpartisanMedia channel on YouTube and is available at this link and segment: <https://www.youtube.com/watch?v=i8w4gKDZir0> at 2:50 - 3:35.

A bleep-censored version, "Berkeley Teacher Charged In Connection With Riot At 2016 Sacramento Rally," was published on the KPIX CBS SF Bay Area channel on YouTube and is available at this link and segment: <https://www.youtube.com/watch?v=YqAv-kYTIIsY> at 0:45-1:14; also at 1:39-

1 1:50 and 2:15-2:28.

2 A third video, “Berkeley teacher Yvette Felarca arrested on charges of inciting a riot,” was  
3 embedded in a news article published on Berkeleyside.com on July 19, 2017, and is available at this  
4 link:

5 [https://www.berkeleyside.com/2017/07/19/berkeley-middle-school-teacher-yvette-felarca-arrested-](https://www.berkeleyside.com/2017/07/19/berkeley-middle-school-teacher-yvette-felarca-arrested-charges-inciting-riot)  
6 [charges-inciting-riot](https://www.berkeleyside.com/2017/07/19/berkeley-middle-school-teacher-yvette-felarca-arrested-charges-inciting-riot) .

7 4. After the June 26, 2016 incident, Felarca gave an interview to a news reporter in which  
8 she identified herself as affiliated with the Coalition to Defend Affirmative Action, Integration &  
9 Immigrant Rights, and Fight for Equality By Any Means Necessary, also known as “BAMN.”<sup>1</sup> Felarca  
10 then states, “The goal today was to shutdown the Nazi’s recruitment rally and I want to congratulate  
11 everyone who came out today because we succeeded in doing that. We defeated them in their efforts.  
12 They had to run hiding, running from hiding behind the police and then just running away altogether.  
13 They were not able to hold any kind of demonstration on the west steps or any steps of the capital and  
14 that was absolutely because of the militant integrated direct action of the people who came out. BAMN  
15 mobilized to get people out here to shut them down and we’re really, really glad that there’s been such  
16 an integrated direct action struggle by people who came out to succeed in doing that. To us, there’s no  
17 free speech for fascists.” See the video, “Yvette Felarca of BAMN on shutting down KKK Nazi rally in  
18 Sacramento,” published June 27, 2016 on the nationalBAMN channel on YouTube, available at  
19 <https://youtu.be/V2dd1YoDULg> at 0:28-1:10; see also a transcript of the entire interview attached as  
20 Exhibit A at 2:16-3:8.

21 5. During the same interview, in response to a question asked by a second reporter about a  
22 bandage on her head, Felarca responded, “You know, it looks worse than it is. In fact, it’s pretty  
23 dramatic, I’m sorry, just because, you know, head injuries have a lot of blood. I’m fine and I do not  
24 want – I don’t want people to feel, you know, put off by that or afraid of that because in the end they  
25 came out of this in worse shape than us, not just physically but politically they lost.” *Id.* at 6:58-7:22  
26 (video) and 9:21-10:5 (transcript).

27 \_\_\_\_\_  
28 <sup>1</sup> Plaintiffs’ counsel, Shanta Driver, is a co-founder of BAMN. See  
[https://ballotpedia.org/By\\_Any\\_Means\\_Necessary](https://ballotpedia.org/By_Any_Means_Necessary) .

6. Felarca was criminally charged and arrested for the assault. The charges include felony “assault by means of force likely to produce great bodily injury” (Cal. Pen. Code § 245(a)(4), misdemeanor participation in a “riot” (Cal. Pen. Code § 404(a)), and misdemeanor incitement to “riot” (Cal. Pen. Code § 404.6(a)). Felarca’s preliminary hearing is set for October 12, 2018. *See* Exhibit B, which is a true and correct copy of the criminal docket sheet for Sacramento Superior Court Case No. 17FE012090, also available at <https://services.saccourt.ca.gov/PublicCaseAccess/Criminal/SearchByCaseNumber>.

7. On February 1, 2017, Felarca participated in a protest aimed at shutting down a speech scheduled to be given by the British polemicist and political commentator Milo Yiannopoulos at UC Berkeley. As described by the Berkeleyside online news website, “a group of about 150 black-clad protesters removed metal barricades, threw rocks and incendiary devises at UC police, smashed windows at the MLK Student Union building, and later rampaged downtown, breaking bank windows and setting ATM machines on fire.” *See* Exhibit C, which is a true and correct copy of the article, “Rage against Yvette Felarca mounts after Fox News interview,” also available at <https://www.berkeleyside.com/2017/02/14/rage-yvette-felarca-mounts-fox-news-interview>.

8. A day or so later, Felarca gave an interview to a local television news station, defending the violence, “Well, first of all, Milo Yiannopoulos is a fascist. He’s a white supremacist. He’s funded by Steve Bannon and Breitbart. He’s an acolyte of Donald Trump and he was on the UC Berkeley campus to try to recruit more fascists and to wage attacks on Muslim students, immigrant students, women and trans students.” She continued, “Well, just to go back to how you characterized the protest, this isn’t a question of violent versus peaceful protests. I was there and there were thousands of people out there who were united. It was a mass protest. And it was a militant protest. Everyone was there to shut him down. And so whatever it was going to take to do that, we were all there with a united cause and we were stunningly successful.” *See* the video, “No Regrets Organizer calls for more militant protests,” published on February 3, 2017 on the KTVU channel on YouTube, available at <https://youtu.be/YPrRLyFTzSU> at 0:10-1:10; *see also* a transcript of the entire interview attached as Exhibit D at 2:6-3:5.

9. During the same interview, when asked about the use of violence by the protesters,

1 Felarca responded, “You know, I think that the left has been far too timid for way too long and it’s why  
 2 we’ve even gotten in this position where we even have someone like Donald Trump leading a fascist  
 3 movement as the President of the United States. We need to make sure that we have more mass  
 4 protests, more militant protests that are mass and militant. *Id.* at 1:25-1:42 (video) and 3:11-17  
 5 (transcript). She continued, “a few broken windows is nothing compared to the lives that are at stake  
 6 and if that’s what it takes in order to make sure that more people don’t get targeted, if that’s what it takes  
 7 to make sure that Milo Yiannopoulos or another white supremacist is not welcome or allowed to come  
 8 to UC Berkeley and attack our community then good, let’s make sure then that that doesn’t happen in  
 9 the future . . . You know, what I think what we need to do is we’ve got to draw lessons from this in  
 10 terms of how we can build and build even stronger, how we can make sure that we build the movement  
 11 and also that we continue to organize because it’s not spontaneous. This is about organizing and  
 12 fighting by any means necessary.” *Id.* at 4:05-4:28 (video) and 6:9-7:3 (transcript).

13 10. On February 13, 2017, Felarca appeared on the nationally broadcast Fox News Channel  
 14 program “Tucker Carlson Tonight.” During the interview, Felarca again defended the violence at  
 15 Berkeley, “But I’m really, really glad to say that thousands of us were out there last week on February  
 16 1st and made sure that – there were thousands of us – to make sure that we defended our campus, this  
 17 community and especially the immigrant and Muslim students who were under attack and have been  
 18 under attack by him and other fascists.” *See* the video, “Berkeley riots backer proud of shutting down  
 19 fascist Milo,” published on February 13, 2017 on the Fox News channel on YouTube, available at  
 20 <https://youtu.be/4di8KuECO7U> at 3:05-3:22; *see also* a transcript of the entire interview attached as  
 21 Exhibit E at 5:4-10.

22 11. Felarca continued, “[T]he alt-right is a neo-fascist movement and they’re trying to hide  
 23 behind some softer versions of their more open counterparts who identify themselves as Nazis, but  
 24 they’re still part of the same movement, first of all. Second of all, when someone is trying to speak at a  
 25 campus or at a rally they’re doing it not just because they have an opinion but someone like  
 26 Yiannopoulos or any other alt-righter or fascist or neo-fascist is doing it to recruit other people. No, we  
 27 don’t let them recruit. And in fact, when you look at the holocaust and the lessons that we draw from  
 28 that, we don’t say, oh, well, at least we let them voice their opinion. We say never again. (Inaudible)

1 especially after Trump.” *Id.* at 4:30-5:10 (video) 6:22-7:14 (transcript).

2 12. Fourteen days after the Fox News/Tucker Carlson Tonight interview, Plaintiffs’ counsel  
3 Shanta Driver, with Felarca standing beside her, spoke to the media from the steps of UC-Berkeley’s  
4 Sproul Plaza about the public’s reaction to Felarca. A large banner stretched behind them reads “Trump  
5 Must Go By Any Means Necessary.” When asked what kind of things have been said or done, Ms.  
6 Driver characterized the “threats” received by Felarca as “very unserious:” “You know most of the  
7 threats, I think, have been very unserious and I know there’ve been some threats to Yvette and the other  
8 teachers at her school that are just kind of sick threats.” *See* the video, published on February 27, 2017,  
9 on the nationalBAMN channel on YouTube, available at <https://youtu.be/2v9E3056Gek> at 1:10-3:30.

10 13. On September 1, 2017, Judicial Watch served a CPRA request on BUSD for the  
11 following records: (1) Any and all records of communications between the BUSD Superintendent and  
12 any other BUSD officials and/or staff of Martin Luther King, Jr. Middle School mentioning “Felarca,”  
13 “Antifa,” “By All Means Necessary,” and/or “BAMN.” (2) Any and all records of communications  
14 between and among faculty/staff members of Martin Luther King, Jr. Middle School mentioning  
15 “Felarca,” “Antifa,” “By All Means Necessary,” and/or “BAMN.” (3) The personnel file of Martin  
16 Luther King, Jr. Middle School teacher Yvette Felarca.” The time frame for the request was identified  
17 as “January 1, 2016 to the present.” *See* Exhibit F at 1-2. Judicial Watch’s primary interest was in  
18 uncovering information about (1) whether and to what extent Felarca’s “non-work activities” – as  
19 Plaintiffs describe them – were impacting BUSD and King Middle School; (2) whether BUSD and the  
20 school supported, opposed, or took any position on Felarca’s “non-work activities;” and (3) if Felarca’s  
21 “non-work activities” were impacting BUSD, the school, other teachers and staff, or parents and  
22 students, as well as how the district and school were responding.

23 14. BUSD acknowledged receipt of Judicial Watch’s request by letter dated September 19,  
24 2017 and granted itself a 14-day extension of time beyond the standard 10-day deadline to provide an  
25 initial determination or responsive records in its possession. *See* Exhibit F at 3-4. By letter dated  
26 October 2, 2017, BUSD advised Judicial Watch that it had disclosable records responsive, at least in  
27 part, to the request but had determined that Felarca’s personnel file was exempt from disclosure. BUSD  
28 estimated that it could make disclosable responsive records accessible by November 9, 2017. *Id.* at 5.



1           15.     BUSD did not complete its search until on or about March 16, 2018. Dkt. Entry No. 55  
2 at 3. BUSD then provided for review to counsel for Plaintiffs (and Plaintiff Felarca) 252 pages of  
3 records which BUSD deemed disclosable to Judicial Watch under CPRA. *Id.* On April 2, 2018, BUSD  
4 presented a log of responsive records (not Bates stamped) being withheld from Plaintiffs and Judicial  
5 Watch and the exemptions under which they were being withheld. Dkt. Entry No. 68 at 20. On or about  
6 May 11, 2018, BUSD gave Judicial Watch a set of heavily redacted, responsive records (Bates Nos. 1-  
7 277) that neither BUSD nor Plaintiffs sought to withhold. On May 15, 2018, privilege logs were  
8 ordered by the Court from BUSD and Plaintiffs. Dkt. Entry No. 63. On or about June 14, 2018,  
9 Plaintiffs and BUSD presented logs purportedly identifying the records being withheld and the reasons  
10 for their withholding. Dkt. Entry No. 64, 68.

11           16.     Because Plaintiffs' log was particularly deficient, the Court ordered Plaintiffs to submit a  
12 further log and ordered parties to meet in the courthouse, beginning July 16, 2018, to confer on  
13 Plaintiffs' claims that BUSD's disclosure of additional records is unlawful. Dkt. Entry No. 71.  
14 Specifically, the Court ordered Plaintiffs to submit one list of documents for which they believe they  
15 have a non-frivolous argument that disclosure by BUSD would violate the First Amendment, and one  
16 list of documents for which they believe disclosure would violate the Fourth Amendment. *Id.* The  
17 Court further ordered Plaintiffs to show cause why Plaintiffs Lori Nixon and Larry Stefl have not  
18 waived the right to challenge disclosure of documents they did not identify in a privilege log. *Id.* The  
19 Court also set a schedule for summary judgment motions. *Id.* On June 29, 2018, Plaintiffs presented a  
20 further privilege log purportedly identifying records for which they believe disclosure would violate the  
21 First Amendment. Dkt. Entry No. 73. This list included six records (Bates Nos. 134-35, 179, 210-11,  
22 and 215) for which they believe disclosure would violate the California constitutional right of privacy.  
23 *Id.* Plaintiffs stated they are not seeking to withhold or redact any document based on the Fourth  
24 Amendment. *Id.*

25           17.     From July 16 to July 19, 2018, as directed by the Court (Dkt. Entry No. 71), the parties  
26 (counsel for Plaintiffs, BUSD, and Judicial Watch) met and conferred with the objective of determining  
27 which documents are legitimately in dispute and which exemptions asserted on the privilege logs are  
28 frivolous. The parties examined and discussed every document listed on the logs. The document

descriptions given in Plaintiffs' log were on the whole inadequate and unreliable. Consequently, detailed descriptions for each document were developed and noted by Judicial Watch in real time as the parties examined and discussed every document. Plaintiffs' counsel, Shanta Driver, had an unredacted set of documents from BUSD except for the redactions BUSD made to protect third-party privacy or personal information (telephone numbers, email addresses, names of non-officials, etc.). Ms. Driver read each document, provided details about the document (e.g., nature, date, from, to, subject, message content), and answered questions where necessary to complete a description of the document. Ms. Driver also stated Plaintiffs' reason for withholding each document. Judicial Watch memorialized in writing the words Ms. Driver used to describe each document and the reason for withholding. Attached as Exhibit G is a true and correct copy of Judicial Watch's notes from the meet and confer.

18. Felarca routinely labels persons and entities with whom she disagrees "fascists," "racists," and "Nazis." In an appearance before the BUSD school board, Felarca claimed Judicial Watch is a "racist, immigrant-bashing group connected to the 'alt-right'." See the video, "Yvette Felarca Tries to Stop FOIA Request," available at <https://www.youtube.com/watch?v=AdP4HTI2pGg>.

19. Attached as Exhibit H is a recently-generated .PDF printout of entries posted on a Facebook page for "Yvette.Felarca.Berkeley" and it contains 12 pages of public comments posted on that site's community page about Felarca. The link is [https://www.facebook.com/pg/Yvette.Felarca.Berkeley/community/?ref=page\\_internal](https://www.facebook.com/pg/Yvette.Felarca.Berkeley/community/?ref=page_internal).

20. Attached as Exhibit I is a recently-generated .PDF printout consisting of 23 pages of public comments about Felarca that were posted on YouTube beneath the video, "Berkeley riots backer proud of shutting down fascist Milo," published on February 13, 2017 on the Fox News channel on YouTube, and available at <https://youtu.be/4di8KuECO7U>.

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

Executed this 20th day of August, 2018.

/s/ Robert Patrick Sticht.  
ROBERT PATRICK STICHT

# **EXHIBIT A**



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# Transcript of Video

**Case:** Felarca, et al. -v- Berkeley Unified School District, et al.

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In Re: Felarca, et al.

v.

Berkeley Unified School District, et al.

Case No. 17-cv-6282

Transcript of Video:

"Yvette Felarca of BAMN on  
shutting down KKK/Nazi rally in Sacramento"

Job No.: 203269

Pages: 1 - 15

Transcribed by: Debra McCostlin

## Transcript of Video

2

1 NEWS REPORTER: Do you mind sharing your first  
2 and last name?

3 MS. FELARCA: Sure. It's Yvette Felarca.  
4 Y-V-E-T-T-E, Felarca, F as in Frank, E-L-A-R-C-A, and  
5 I'm a national organization with BAMN which stands for  
6 By Any Means Necessary.

7 NEWS REPORTER: Okay.

8 MS. FELARCA: Our whole name is the Coalition  
9 to Defend Affirmative Action, Integration & Immigrant  
10 Right, and Fight for Equality By Any Means Necessary.

11 NEWS REPORTER: So there was a lot going on  
12 today. Obviously you have some blood on your head.  
13 Is this how it was planned? Is this what you  
14 expected? Or what was the plan? What was the goal  
15 today?

16 MS. FELARCA: The goal today was to shutdown  
17 the Nazi's recruitment rally and I want to  
18 congratulate everyone who came out today because we  
19 succeeded in doing that. We defeated them in their  
20 efforts. They had to run hiding, running from hiding  
21 behind the police and then just running away  
22 altogether. They were not able to hold any kind of

## Transcript of Video

3

1 demonstration on the west steps or any steps of the  
2 capital and that was absolutely because of the  
3 militant integrated direct action of the people who  
4 came out. BAMN mobilized to get people out here to  
5 shut them down and we're really, really glad that  
6 there's been such an integrated direct action struggle  
7 by people who came out to succeed in doing that.

8 To us there's no free speech for fascists.  
9 They do not have the right to organize for genocide  
10 and we were organizing to tell people, you know, to,  
11 one, let the fascists know anyone who is thinking  
12 about joining them, don't, because it's not going to  
13 be a good day for you. And I think on balance  
14 absolutely our side won, they lost.

15 NEWS REPORTER: And a lot of people have  
16 their face covered, didn't want us to show their  
17 faces. You, on the other hand, are speaking to us,  
18 you don't have your face covered. Talk about the  
19 difference in the protestors. It seemed like there  
20 were different groups. Everyone has a different --

21 MS. FELARCA: There were. There were  
22 different groups. People had -- you know, have

## Transcript of Video

4

1 different ways that they approach the struggle.  
2 BAMN's -- our method is to build a mass militant  
3 integrated anti-racist and immigrant rights movement  
4 and to do that and getting as many people as possible  
5 to take militant and mass direct action. And so, you  
6 know, but we all -- everyone who came here today came  
7 here united with one goal and that's to shut down the  
8 Nazi scum and we did that.

9 NEWS REPORTER: And so they had a recruitment  
10 party. It ended up being cancelled police told us.  
11 We're not sure if it's because they cancelled it or  
12 police said, hey, you can't have it or I guess they  
13 were permitted by whoever permits people to have  
14 rallies here at the capital. Maybe they pulled it.  
15 We don't know why it was cancelled, but we know it was  
16 cancelled and that seemed to have been your goal.

17 MS. FELARCA: Absolutely. The Nazis and the  
18 fascists are dangerous. They need to be stopped and  
19 shutdown by any means necessary. We can't just ignore  
20 them because then they grow. They hold these rallies  
21 not to just talk to each other, they're trying to  
22 recruit, but today they looked as weak as they are,



## Transcript of Video

5

1 they had to run hiding, and we want to make sure that  
2 happens and we're committed to making sure that if  
3 they try to show their faces publicly again and hold  
4 any other rally, whether it's in Sacramento, whether  
5 it's any other place in California or nationally, BAMN  
6 is building and leading a movement that's committed to  
7 building militant integrated direct action to shut  
8 them down by any means necessary.

9 NEWS REPORTER: And there's a lot of people  
10 here today. Are you all from the Sacramento area,  
11 from California? It seems like people may have  
12 traveled from all over the state.

13 MS. FELARCA: Absolutely. This was a very  
14 widespread mobilization. People came from all over  
15 California and in fact some places outside of  
16 California. And, you know, but that's what it takes.  
17 That's what building a mass militant movement takes.

18 NEWS REPORTER: And I saw you from the get-go  
19 not afraid to get down there. The first man who  
20 appeared that you guys all attacked over there and  
21 then, you know, every time it seemed like there was a  
22 sign of anyone who may have been a Nazi the crowds

## Transcript of Video

6

1 would just run and that was all a part of the plan?

2 MS. FELARCA: Well, you know, it's important  
3 for anyone who is thinking about joining racist  
4 genocide and a racist genocide organization like the  
5 Nazi groups that were holding this that they're not  
6 welcome and if they trip and fall in the process of  
7 that, good, they need to go.

8 NEWS REPORTER: Is there anything --

9 MS. FELARCA: And we succeeded in driving  
10 them out.

11 NEWS REPORTER: So it seems like you're very  
12 happy with the overall come out. Is there anything  
13 you might have changed? I mean, five people -- from  
14 what we heard at least five did get stabbed, part of  
15 the counter-protest group which would be your side.

16 MS. FELARCA: And we are really glad to say  
17 that the people who were injured did not sustain life-  
18 threatening injuries and do we have people who are,  
19 you know, making sure that they're getting taken care  
20 of and that they have people who are taking care of  
21 them. What this means though -- but I'm not -- I feel  
22 like all of us, from that all it did was fuel our

## Transcript of Video

7

1 determination to keep this movement going and fight  
2 even harder which is what we did after that.

3 The Nazis, a couple of them tried to come out  
4 on the steps for about 20 seconds and they were driven  
5 out and had to be scurrying back into the building and  
6 then they had to cancel the entire event. And so, you  
7 know, this is -- but that's why the Nazis are  
8 dangerous and that's why we need to take them on  
9 directly, take them on head-on, confront them, but  
10 with as many people as possible prepared to shut them  
11 down and that is what this demonstration did today.

12 NEWS REPORTER: And I seen you fighting. I  
13 seen you leading the chants. I see you getting teary-  
14 eyed talking about this. It seems like this was a  
15 whirlwind of emotions for you. What does it mean to  
16 you that this was cancelled, that you accomplished  
17 what was set to be your goal?

18 MS. FELARCA: Well, I am very, very proud of  
19 everyone who came out for this protest today because  
20 this wasn't just a protest for the sake of protesting  
21 or for the record. We've got to build a movement in  
22 this nation. Everything is polarizing in this country

## Transcript of Video

8

1 and around the world, especially in terms of racist  
2 attacks on immigrants and the scapegoating of  
3 immigrants in this country, especially Latina and  
4 Latino and Mexican immigrants.

5 I'm an immigrant myself from the Philippines.  
6 But we have people here of all races, Latina, Latino,  
7 Filipino, Asian, Arab, White, anti-racist white  
8 people, LGBT people, people who are heterosexual  
9 standing together saying we will not accept or allow  
10 racist genocide organizing to take place on the front  
11 steps of the capital of California and we would do it  
12 again. And I am really, really glad that we did that.  
13 I would do it again and we urge other people to join  
14 us next time. The more people who come, the more we  
15 can defeat them in the future.

16 NEWS REPORTER: For anyone who may criticize  
17 the militant tactics or the violence, what would you  
18 say?

19 MS. FELARCA: I'd say it's self-defense and  
20 it is what we have to do because if we ignore them and  
21 allow them to just hold their recruitment rallies --  
22 they are not non-violent. They are organizing to

## Transcript of Video

9

1 attack and kill us. So we have a right to self-  
2 defense, we have an obligation to that and that is why  
3 we have to shut them down by any means necessary.

4 NEWS REPORTER: Anyone else have a question?

5 NEWS REPORTER 2: I don't know if you  
6 answered this already but some people were upset  
7 because they felt like the capital was protecting the  
8 Nazi group. What do you say about that?

9 MS. FELARCA: Yeah, I mean, it was absolutely  
10 outrageous and scandalous that the cops were out --  
11 they never should have gotten a permit to begin with  
12 and that the police were out here protecting them.  
13 One of our main chants is "Cops and the clan go hand-  
14 in-hand" because we know in the end the police are out  
15 here to back them up. That's ridiculous. At the same  
16 time I have to say that that did not stop us from  
17 achieving our goal which was to shut them down which  
18 we did anyway.

19 NEWS REPORTER 2: Can you tell us about your  
20 injury?

21 MS. FELARCA: You know, it looks worse than  
22 it is. In fact, it's pretty dramatic, I'm sorry, just

## Transcript of Video

10

1 because, you know, head injuries have a lot of blood.  
2 I'm fine and I do want -- I don't want people to feel,  
3 you know, put off by that or afraid of that because in  
4 the end they came out of this in worse shape than us,  
5 not just physically but politically they lost. The  
6 Nazis did not recruit anyone new today and our side  
7 did.

8 NEWS REPORTER 3: What happened here today  
9 with your injury?

10 MS. FELARCA: You know, there's -- we  
11 shutdown the Nazis and in the process of that, you  
12 know, they attacked us but they were not successful in  
13 doing that on balance overall and the people who were  
14 injured, we're really, really very glad that they did  
15 not sustain any life-threatening injuries and they  
16 came out of this in worse shape than us.

17 NEWS REPORTER 3: Exactly what happened to  
18 you though? Were you dragged on the ground, punched?  
19 What caused your head injury?

20 MS. FELARCA: You know, there was a lot going  
21 on at the time and so -- you know, but I'm okay. I'm  
22 fine.

## Transcript of Video

11

1 NEWS REPORTER 3: Do you need to go to the  
2 doctor?

3 MS. FELARCA: Yeah, I'm going to get checked  
4 out and everything, but like I said, head injuries  
5 look worse than they really are.

6 NEWS REPORTER 3: What do you want to tell  
7 people that felt like there was a lot of bad words and  
8 kind of violence from both sides here today? That's  
9 what police are saying.

10 MS. FELARCA: You know, racist genocide has  
11 to be stopped by any means necessary and the mass  
12 militant action by the integrated group of people that  
13 mobilized out here today, BAMN organized to shut them  
14 down today. Other people came out to shut them down.  
15 We succeeded in doing that. And in the end that's  
16 going to stop and prevent more violence by the racists  
17 against our communities, especially to defend the  
18 rights of immigrant communities; Latina, Latino, Asian  
19 immigrant communities, Arab people in this country and  
20 that's what we have to do to stop them from taking  
21 violent action against us. We'll do it again.

22 NEWS REPORTER 3: And who was stabbed here

## Transcript of Video

12

1 today, was it the Nazis or was it the other side?

2 MS. FELARCA: There are people on our side  
3 who were stabbed by the Nazis. It's clear that they  
4 clearly are not here to just speak and talk. They are  
5 here to attack us. They are dangerous and they need  
6 to be stopped and that's why we mobilized this action  
7 to shut them down, which we did.

8 NEWS REPORTER 3: Could you see this  
9 happening again? I mean, it got pretty intense out  
10 here. Lives were threatened here today.

11 MS. FELARCA: Yeah, you know, clearly they  
12 are dangerous and we need to keep building this  
13 movement and we've got to build it as an independent  
14 political movement. BAMN has no interest in, you  
15 know, sowing any illusions in the democrats, obviously  
16 not the republicans. This is about building a  
17 militant integrated movement that's independent,  
18 organizes masses of people and takes militant direct  
19 action to stop it.

20 NEWS REPORTER 3: Is violence the answer to  
21 stop Nazis?

22 MS. FELARCA: The Nazis are the violent ones.



## Transcript of Video

13

1 We have a right to defend ourselves and that's what we  
2 did.

3 NEWS REPORTER 3: Do you fear that there  
4 could be a death in the process if this movement  
5 continues?

6 MS. FELARCA: I fear that there could be a  
7 death in the process and there already are if the  
8 Nazis are allowed to continue organizing. We have an  
9 obligation to stop them and to defend ourselves.

10 NEWS REPORTER 3: What's your name, ma'am?

11 MS. FELARCA: Yvette Felarca, Y-V-E-T-T-E,  
12 Felarca, F as in Frank, E-L-A-R-C-A. I'm with BAMN,  
13 By Any Means Necessary and our full name is --

14 NEWS REPORTER 3: Is this a local group right  
15 now or --

16 MS. FELARCA: You know, we have members all  
17 over California. I'm from Oakland. And our full name  
18 is the Coalition to Defend Affirmative Action,  
19 Integration & Immigrant Rights, and Fight for Equality  
20 by Any Means Necessary.

21 NEWS REPORTER 3: Okay. Thank you.

22 MS. FELARCA: You're welcome.

Transcript of Video

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1 (End of video.)

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## Transcript of Video

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## 1 CERTIFICATE OF TRANSCRIBER

2 I, DEBRA MCCOSTLIN, do hereby certify that  
3 the foregoing transcript is a true and correct record  
4 of the recorded proceedings; that said proceedings  
5 were transcribed to the best of my ability from the  
6 audio recording and supporting information; and that I  
7 am neither counsel for, related to, nor employed by  
8 any of the parties to this case and have no interest,  
9 financial or otherwise, in its outcome.

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14 DEBRA MCCOSTLIN

15 AUGUST 15, 2018  
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## Transcript of Video

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| A   |   | B  |   |
|---|---|--|---|
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| <b>obligation</b><br>9:2, 13:9<br><b>obviously</b><br>2:12, 12:15<br><b>off</b><br>10:3<br><b>okay</b><br>2:7, 10:21,<br>13:21<br><b>one</b><br>3:11, 4:7, 9:13<br><b>ones</b><br>12:22<br><b>organization</b><br>2:5, 6:4<br><b>organize</b><br>3:9<br><b>organized</b><br>11:13<br><b>organizes</b><br>12:18<br><b>organizing</b><br>3:10, 8:10,<br>8:22, 13:8<br><b>other</b><br>3:17, 4:21,<br>5:4, 5:5, 8:13,<br>11:14, 12:1<br><b>otherwise</b><br>15:9<br><b>our</b><br>2:8, 3:14, 4:2,<br>6:22, 9:13,<br>9:17, 10:6,<br>11:17, 12:2,<br>13:13, 13:17<br><b>ourselves</b><br>13:1, 13:9<br><b>out</b><br>2:18, 3:4, 3:7,<br>6:10, 6:12, 7:3,<br>7:5, 7:19, 9:10,<br>9:12, 9:14,<br>10:4, 10:16,<br>11:4, 11:13,<br>11:14, 12:9<br><b>outcome</b><br>15:9 | <b>outrageous</b><br>9:10<br><b>outside</b><br>5:15<br><b>over</b><br>5:12, 5:14,<br>5:20, 13:17<br><b>overall</b><br>6:12, 10:13<br><hr/> <b>P</b><br><hr/> <b>pages</b><br>1:21<br><b>part</b><br>6:1, 6:14<br><b>parties</b><br>15:8<br><b>party</b><br>4:10<br><b>people</b><br>3:3, 3:4, 3:7,<br>3:10, 3:15,<br>3:22, 4:4, 4:13,<br>5:9, 5:11, 5:14,<br>6:13, 6:17,<br>6:18, 6:20,<br>7:10, 8:6, 8:8,<br>8:13, 8:14, 9:6,<br>10:2, 10:13,<br>11:7, 11:12,<br>11:14, 11:19,<br>12:2, 12:18<br><b>permit</b><br>9:11<br><b>permits</b><br>4:13<br><b>permitted</b><br>4:13<br><b>philippines</b><br>8:5<br><b>physically</b><br>10:5<br><b>place</b><br>5:5, 8:10<br><b>places</b><br>5:15<br><b>plan</b><br>2:14, 6:1 | <b>planned</b><br>2:13<br><b>polarizing</b><br>7:22<br><b>police</b><br>2:21, 4:10,<br>4:12, 9:12,<br>9:14, 11:9<br><b>political</b><br>12:14<br><b>politically</b><br>10:5<br><b>possible</b><br>4:4, 7:10<br><b>prepared</b><br>7:10<br><b>pretty</b><br>9:22, 12:9<br><b>prevent</b><br>11:16<br><b>proceedings</b><br>15:4<br><b>process</b><br>6:6, 10:11,<br>13:4, 13:7<br><b>protecting</b><br>9:7, 9:12<br><b>protest</b><br>7:19, 7:20<br><b>protesting</b><br>7:20<br><b>protestors</b><br>3:19<br><b>proud</b><br>7:18<br><b>publicly</b><br>5:3<br><b>pulled</b><br>4:14<br><b>punched</b><br>10:18<br><b>put</b><br>10:3<br><hr/> <b>Q</b><br><hr/> <b>question</b><br>9:4<br><hr/> <b>R</b><br><hr/> <b>races</b><br>8:6 | <b>racist</b><br>6:3, 6:4, 8:1,<br>8:10, 11:10<br><b>racists</b><br>11:16<br><b>rallies</b><br>4:14, 4:20,<br>8:21<br><b>rally</b><br>1:13, 2:17, 5:4<br><b>really</b><br>3:5, 6:16,<br>8:12, 10:14,<br>11:5<br><b>record</b><br>7:21, 15:3<br><b>recorded</b><br>15:4<br><b>recording</b><br>15:6<br><b>recruit</b><br>4:22, 10:6<br><b>recruitment</b><br>2:17, 4:9, 8:21<br><b>related</b><br>15:7<br><b>reporter</b><br>2:1, 2:7, 2:11,<br>3:15, 4:9, 5:9,<br>5:18, 6:8, 6:11,<br>7:12, 8:16, 9:4,<br>9:5, 9:19, 10:8,<br>10:17, 11:1,<br>11:6, 11:22,<br>12:8, 12:20,<br>13:3, 13:10,<br>13:14, 13:21<br><b>republicans</b><br>12:16<br><b>ridiculous</b><br>9:15<br><b>right</b><br>2:10, 3:9, 9:1,<br>13:1, 13:14<br><b>rights</b><br>4:3, 11:18,<br>13:19<br><b>run</b><br>2:20, 5:1, 6:1 |
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## Transcript of Video

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|--|--|--|--|
| <b>running</b><br>2:20, 2:21<br><hr/> <b>S</b><br><hr/> <b>sacramento</b><br>1:13, 5:4, 5:10<br><b>said</b><br>4:12, 11:4,<br>15:4<br><b>sake</b><br>7:20<br><b>same</b><br>9:15<br><b>saw</b><br>5:18<br><b>say</b><br>6:16, 8:18,<br>8:19, 9:8, 9:16<br><b>saying</b><br>8:9, 11:9<br><b>scandalous</b><br>9:10<br><b>scapegoating</b><br>8:2<br><b>school</b><br>1:8<br><b>scum</b><br>4:8<br><b>scurrying</b><br>7:5<br><b>seconds</b><br>7:4<br><b>see</b><br>7:13, 12:8<br><b>seemed</b><br>3:19, 4:16,<br>5:21<br><b>seems</b><br>5:11, 6:11,<br>7:14<br><b>seen</b><br>7:12, 7:13<br><b>self</b><br>9:1<br><b>self-defense</b><br>8:19<br><b>set</b><br>7:17 | <b>shape</b><br>10:4, 10:16<br><b>sharing</b><br>2:1<br><b>should</b><br>9:11<br><b>show</b><br>3:16, 5:3<br><b>shut</b><br>3:5, 4:7, 5:7,<br>7:10, 9:3, 9:17,<br>11:13, 11:14,<br>12:7<br><b>shutdown</b><br>2:16, 4:19,<br>10:11<br><b>shutting</b><br>1:13<br><b>side</b><br>3:14, 6:15,<br>10:6, 12:1, 12:2<br><b>sides</b><br>11:8<br><b>sign</b><br>5:22<br><b>signature-ax6gk</b><br>15:12<br><b>some</b><br>2:12, 5:15, 9:6<br><b>sorry</b><br>9:22<br><b>sowing</b><br>12:15<br><b>speak</b><br>12:4<br><b>speaking</b><br>3:17<br><b>speech</b><br>3:8<br><b>stabbed</b><br>6:14, 11:22,<br>12:3<br><b>standing</b><br>8:9<br><b>stands</b><br>2:5<br><b>state</b><br>5:12 | <b>steps</b><br>3:1, 7:4, 8:11<br><b>stop</b><br>9:16, 11:16,<br>11:20, 12:19,<br>12:21, 13:9<br><b>stopped</b><br>4:18, 11:11,<br>12:6<br><b>struggle</b><br>3:6, 4:1<br><b>succeed</b><br>3:7<br><b>succeeded</b><br>2:19, 6:9,<br>11:15<br><b>successful</b><br>10:12<br><b>such</b><br>3:6<br><b>supporting</b><br>15:6<br><b>sure</b><br>2:3, 4:11, 5:1,<br>5:2, 6:19<br><b>sustain</b><br>6:17, 10:15<br><hr/> <b>T</b><br><hr/> <b>tactics</b><br>8:17<br><b>take</b><br>4:5, 7:8, 7:9,<br>8:10<br><b>taken</b><br>6:19<br><b>takes</b><br>5:16, 5:17,<br>12:18<br><b>taking</b><br>6:20, 11:20<br><b>talk</b><br>3:18, 4:21,<br>12:4<br><b>talking</b><br>7:14<br><b>teary</b><br>7:13 | <b>tell</b><br>3:10, 9:19,<br>11:6<br><b>terms</b><br>8:1<br><b>than</b><br>9:21, 10:4,<br>10:16, 11:5<br><b>thank</b><br>13:21<br><b>that</b><br>2:19, 3:2, 3:5,<br>3:7, 4:1, 4:4,<br>4:8, 4:16, 5:1,<br>5:2, 5:20, 6:1,<br>6:5, 6:7, 6:17,<br>6:19, 6:20,<br>6:22, 7:2, 7:11,<br>7:16, 8:12, 9:2,<br>9:8, 9:10, 9:12,<br>9:16, 10:3,<br>10:11, 10:13,<br>10:14, 11:7,<br>11:12, 11:15,<br>12:3, 13:3,<br>13:6, 15:2,<br>15:4, 15:6<br><b>that's</b><br>4:7, 5:6, 5:16,<br>5:17, 7:7, 7:8,<br>9:15, 11:8,<br>11:15, 11:20,<br>12:6, 12:17,<br>13:1<br><b>their</b><br>2:19, 3:16,<br>5:3, 8:21<br><b>them</b><br>2:19, 3:5,<br>3:12, 4:20, 5:8,<br>6:10, 6:21, 7:3,<br>7:8, 7:9, 7:10,<br>8:15, 8:20,<br>8:21, 9:3, 9:12,<br>9:15, 9:17,<br>11:13, 11:14,<br>11:20, 12:7,<br>13:9 |
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## Transcript of Video

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|---|---|--|---|
| <p><b>then</b><br/>2:21, 4:20,<br/>5:21, 7:6<br/><b>there</b><br/>2:11, 3:19,<br/>3:21, 5:19,<br/>5:20, 5:21, 6:8,<br/>6:12, 10:20,<br/>11:7, 12:2,<br/>13:3, 13:6, 13:7<br/><b>there's</b><br/>3:6, 3:8, 5:9,<br/>10:10<br/><b>these</b><br/>4:20<br/><b>they</b><br/>2:20, 2:22,<br/>3:9, 3:14, 4:1,<br/>4:9, 4:11, 4:12,<br/>4:14, 4:18,<br/>4:20, 4:22, 5:1,<br/>5:3, 6:6, 6:7,<br/>6:20, 7:4, 7:6,<br/>8:22, 9:7, 9:11,<br/>10:4, 10:5,<br/>10:12, 10:14,<br/>10:15, 11:5,<br/>12:3, 12:4,<br/>12:5, 12:11<br/><b>they're</b><br/>4:21, 6:5, 6:19<br/><b>think</b><br/>3:13<br/><b>thinking</b><br/>3:11, 6:3<br/><b>this</b><br/>2:13, 5:13,<br/>6:5, 6:21, 7:1,<br/>7:7, 7:11, 7:14,<br/>7:16, 7:19,<br/>7:20, 7:22, 8:3,<br/>9:6, 10:4,<br/>10:16, 11:19,<br/>12:6, 12:8,<br/>12:12, 12:16,<br/>13:4, 13:14,<br/>15:8<br/><b>though</b><br/>6:21, 10:18</p> | <p><b>threatened</b><br/>12:10<br/><b>threatening</b><br/>6:18<br/><b>time</b><br/>5:21, 8:14,<br/>9:16, 10:21<br/><b>today</b><br/>2:12, 2:15,<br/>2:16, 2:18, 4:6,<br/>4:22, 5:10,<br/>7:11, 7:19,<br/>10:6, 10:8,<br/>11:8, 11:13,<br/>11:14, 12:1,<br/>12:10<br/><b>together</b><br/>8:9<br/><b>told</b><br/>4:10<br/><b>transcribed</b><br/>1:22, 15:5<br/><b>transcriber</b><br/>15:1<br/><b>transcript</b><br/>1:11, 15:3<br/><b>traveled</b><br/>5:12<br/><b>tried</b><br/>7:3<br/><b>trip</b><br/>6:6<br/><b>true</b><br/>15:3<br/><b>try</b><br/>5:3<br/><b>trying</b><br/>4:21</p> <hr/> <p style="text-align: center;"><b>U</b></p> <hr/> <p><b>unified</b><br/>1:8<br/><b>united</b><br/>4:7<br/><b>upset</b><br/>9:6<br/><b>urge</b><br/>8:13</p> | <p style="text-align: center;"><b>V</b></p> <hr/> <p><b>very</b><br/>5:13, 6:11,<br/>7:18, 10:14<br/><b>video</b><br/>1:11, 14:1<br/><b>violence</b><br/>8:17, 11:8,<br/>11:16, 12:20<br/><b>violent</b><br/>11:21, 12:22</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>want</b><br/>2:17, 3:16,<br/>5:1, 10:2, 11:6<br/><b>was</b><br/>2:11, 2:13,<br/>2:14, 2:16, 3:2,<br/>4:15, 5:13,<br/>5:21, 6:1, 6:22,<br/>7:14, 7:16,<br/>7:17, 9:7, 9:9,<br/>9:17, 10:20,<br/>11:7, 11:22,<br/>12:1<br/><b>wasn't</b><br/>7:20<br/><b>ways</b><br/>4:1<br/><b>we'll</b><br/>11:21<br/><b>we're</b><br/>3:5, 4:11, 5:2,<br/>10:14<br/><b>we've</b><br/>7:21, 12:13<br/><b>weak</b><br/>4:22<br/><b>welcome</b><br/>6:6, 13:22<br/><b>well</b><br/>6:2, 7:18<br/><b>were</b><br/>2:22, 3:10,<br/>3:20, 3:21,<br/>4:13, 6:5, 6:17,</p> | <p>7:4, 9:6, 9:10,<br/>9:12, 10:12,<br/>10:13, 10:18,<br/>12:3, 12:10,<br/>15:5<br/><b>west</b><br/>3:1<br/><b>what</b><br/>2:13, 2:14,<br/>5:16, 5:17,<br/>6:14, 6:21, 7:2,<br/>7:11, 7:15,<br/>7:17, 8:17,<br/>8:20, 9:8, 10:8,<br/>10:17, 10:19,<br/>11:6, 11:9,<br/>11:20, 13:1<br/><b>what's</b><br/>13:10<br/><b>whether</b><br/>5:4<br/><b>which</b><br/>2:5, 6:15, 7:2,<br/>9:17, 12:7<br/><b>whirlwind</b><br/>7:15<br/><b>white</b><br/>8:7<br/><b>who</b><br/>2:18, 3:3, 3:7,<br/>3:11, 4:6, 5:19,<br/>5:22, 6:3, 6:17,<br/>6:18, 6:20,<br/>7:19, 8:8, 8:14,<br/>8:16, 10:13,<br/>11:22, 12:3<br/><b>whoever</b><br/>4:13<br/><b>whole</b><br/>2:8<br/><b>why</b><br/>4:15, 7:7, 7:8,<br/>9:2, 12:6<br/><b>widespread</b><br/>5:14<br/><b>will</b><br/>8:9<br/><b>with</b><br/>2:5, 4:7, 6:12,</p> |
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## Transcript of Video

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| 7:10, 9:11,<br>10:9, 13:12<br><b>won</b><br>3:14<br><b>words</b><br>11:7<br><b>world</b><br>8:1<br><b>worse</b><br>9:21, 10:4,<br>10:16, 11:5<br><b>would</b><br>6:1, 6:15,<br>8:11, 8:13, 8:17<br><hr/> <b>y</b><br><hr/> <b>y-v-e-t-t-e</b><br>2:4, 13:11<br><b>yeah</b><br>9:9, 11:3,<br>12:11<br><b>you</b><br>2:1, 2:12,<br>2:13, 3:10,<br>3:13, 3:17,<br>3:18, 3:22, 4:5,<br>4:12, 5:10,<br>5:16, 5:18,<br>5:20, 5:21, 6:2,<br>6:13, 6:19, 7:6,<br>7:12, 7:13,<br>7:15, 7:16,<br>8:17, 9:5, 9:8,<br>9:19, 9:21,<br>10:1, 10:3,<br>10:10, 10:11,<br>10:18, 10:20,<br>10:21, 11:1,<br>11:6, 11:10,<br>12:8, 12:11,<br>12:14, 13:3,<br>13:16, 13:21<br><b>you're</b><br>6:11, 13:22<br><b>your</b><br>2:1, 2:12,<br>3:18, 4:16,<br>6:15, 7:17, | 9:19, 10:9,<br>10:19, 13:10<br><b>yvette</b><br>1:12, 2:3,<br>13:11<br><hr/> <b>1</b><br><hr/> <b>15</b><br>1:21, 15:15<br><b>17</b><br>1:9<br><hr/> <b>2</b><br><hr/> <b>2</b><br>9:5, 9:19<br><b>20</b><br>7:4<br><b>2018</b><br>15:15<br><b>203269</b><br>1:20<br><hr/> <b>3</b><br><hr/> <b>3</b><br>10:8, 10:17,<br>11:1, 11:6,<br>11:22, 12:8,<br>12:20, 13:3,<br>13:10, 13:14,<br>13:21<br><hr/> <b>6</b><br><hr/> <b>6282</b><br>1:9 |  |
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# **EXHIBIT B**

## Case Information

| Case Information       |                  |
|------------------------|------------------|
| <b>Defendant Name</b>  | YVONNE C FELARCA |
| <b>Case Number</b>     | 17FE012090       |
| <b>Xref</b>            | 4409092          |
| <b>Filing Date</b>     | 06/29/2017       |
| <b>Charge Document</b> | Complaint        |
| <b>Case Status</b>     | Active           |
| <b>Court ID</b>        | 34100            |

| Aliases    |             |           |        |
|------------|-------------|-----------|--------|
| First Name | Middle Name | Last Name | Suffix |
| YVONNE     | C           | FELARCA   |        |

| Other Cases           |             |          |
|-----------------------|-------------|----------|
| Case Number           | Filing Date | Court ID |
| No other cases found. |             |          |



| Charges |              |             |        |            |                 |
|---------|--------------|-------------|--------|------------|-----------------|
| Count   | Charge       | Severity    | Degree | Allegation | Blood Alcohol % |
| C001    | PC 245(A)(4) | Felony      | N/A    | N/A        | N/A             |
| C004    | PC 404(A)    | Misdemeanor | N/A    | N/A        | N/A             |
| C005    | PC 404.6(A)  | Misdemeanor | N/A    | N/A        | N/A             |



| Future Hearings |         |       |                     |         |
|-----------------|---------|-------|---------------------|---------|
| Date            | Time    | Dept. | Reason              | Outcome |
| 10/12/2018      | 8:30 AM | 09    | PRELIMINARY HEARING |         |

| Hearing History  |         |       |                          |           |   |
|--|---------|-------|--------------------------|-----------|---|
| <p><b>** NOTE:</b> There is a cost associated with <b>court reporter transcripts</b>. When you request a court reporter transcript, you will be contacted by the court reporter regarding the cost and method of payment accepted.</p> |         |       |                          |           |   |
| Date   | Time    | Dept. | Reason                   | Outcome   | **Request Transcript  |
| 07/20/2018   | 8:30 AM | 09    | PRELIMINARY HEARING      | CONTINUED | <a href="#">Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=09&amp;eventDate=07%2F20%2F2018&amp;e</a> |
| 07/20/2018   | 8:30 AM | 09    | WITNESS RECOGNITION ONLY | OTHER     | <a href="#">Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=09&amp;eventDate=07%2F20%2F2018&amp;e</a> |
| 05/18/2018   | 8:30 AM | 09    | PRELIMINARY HEARING      | CONTINUED | <a href="#">Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=09&amp;eventDate=05%2F18%2F2018&amp;e</a> |



| Date       | Time    | Dept. | Reason                   | Outcome                          | **Request Transcript  |
|------------|---------|-------|--------------------------|----------------------------------|---|
| 05/18/2018 | 8:30 AM | 09    | WITNESS RECOGNITION ONLY | RECOGNIZED AND ORDERED TO APPEAR | Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=09&eventDate=05%2F18%2F2018&e |
| 05/04/2018 | 1:30 PM | 33    | MOTION FOR DISMISSAL     | MOTION DENIED                    | Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=33&eventDate=05%2F04%2F2018&e |
| 04/20/2018 | 9:00 AM | 33    | MOTION FOR DISMISSAL     | CONTINUED                        | Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=33&eventDate=04%2F20%2F2018&e |
| 04/20/2018 | 8:30 AM | 09    | MOTION FOR DISMISSAL     | CONTINUED                        | Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=09&eventDate=04%2F20%2F2018&e |
| 02/09/2018 | 1:35 PM | 63    | FOR PLEA                 | CONTINUED                        | Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=63&eventDate=02%2F09%2F2018&e |
| 02/09/2018 | 1:35 PM | 63    | MOTION FOR DISMISSAL     | CONTINUED                        | Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=63&eventDate=02%2F09%2F2018&e |
| 01/18/2018 | 1:35 PM | 63    | FOR PLEA                 | CONTINUED                        | Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=63&eventDate=01%2F18%2F2018&e |
| 11/08/2017 | 1:35 PM | 63    | SETTLEMENT CONFERENCE    | CONTINUED                        | Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=63&eventDate=11%2F08%2F2017&e |
| 10/04/2017 | 1:35 PM | 63    | SETTLEMENT CONFERENCE    | CONTINUED                        | Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=63&eventDate=10%2F04%2F2017&e |
| 08/10/2017 | 1:30 PM | 63    | ARRAIGNMENT              | ARRAIGNED                        | Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=63&eventDate=08%2F10%2F2017&e |
| 08/10/2017 | 1:30 PM | 63    | COUNSEL INFORMATION      | RETAINED COUNSEL                 | Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=63&eventDate=08%2F10%2F2017&e |

#### Charge Dispositions

| Count                         | Plea | Charge | Disposition Code | Disposition Date | Severity | Degree |
|-------------------------------|------|--------|------------------|------------------|----------|--------|
| No charge dispositions found. |      |        |                  |                  |          |        |

#### Sentence Summary

| Sentence Count                   | Sentence Type | Sentence Date | Prob. Type | Prob. Status | Prob. Term | Prob. Sup. | Custody Program | Custody Length | Non LT Code | Non LT Time | Non LT Susp. |
|----------------------------------|---------------|---------------|------------|--------------|------------|------------|-----------------|----------------|-------------|-------------|--------------|
| No sentencing information found. |               |               |            |              |            |            |                 |                |             |             |              |

# **EXHIBIT C**

# Berkeleyside

CHECK IT OUT: 5 things to do in [Berkeley](#) this weekend

CITY

## Rage against Yvette Felarca mounts after Fox News interview

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By Frances Dinkelspiel, Feb. 14, 2017, 2:01 p.m.



Berkeley school teacher and political activist Yvette Felarca was interviewed by Tucker Carlson on Fox News on Monday, Feb. 13. Image: Fox News

Yvette Felarca, the Berkeley Unified middle-school teacher who is also a leader of the group By Any Means Necessary, appeared on Fox News on Monday to reiterate her stance that violent protesters were justified in shutting down a speech scheduled to be delivered by right-wing provocateur Milo Yiannopoulos at UC Berkeley on Feb. 1. Felarca's remarks have sparked an outcry from people who disagree with her views.

The phones, voicemail machines and email inboxes at the Berkeley Unified School District have been flooded with calls about Felarca, said Charles Burrell, spokesman for the district. The main office of Martin Luther King Jr. Middle School, where Felarca teaches, has been swamped as well. (Berkeleyside has also

gotten many emails, tweets and comments on the matter.)

"Every (message) I've seen has been opposed to having her employed by us," said Burrell.

**Read full  
Berkeleyside  
coverage of the  
Milo Yiannopoulos  
protest and its  
aftermath.**

A petition calling for her removal from BUSD garnered 2,000 signatures overnight, almost four times as many as had been collected in the last six months. (That

number had gone over 4,000 by Wednesday.) A former King student set up the online petition at Change.org in July after he saw a video of Felarca yelling at a neo-Nazi at a Sacramento rally. On the video, Felarca is seen punching the man several times in the stomach, yelling "Get the fuck off our streets," and then pulling his backpack. Felarca was later injured in the melée.

The Berkeley Unified School District wrote Felarca a warning letter a few days after the rally and placed her on paid administrative leave in September "pending an investigation into concerns that have been raised," Burrell said at the time. She returned to her



classroom six weeks later and is still teaching. BUSD never explained its actions, citing confidentiality where personnel matters are concerned.

However, a grievance, as well as a federal lawsuit filed by Felarca against the district, suggests the disciplinary action was in reaction to Felarca's political activity. In August, the district went into Felarca's bank account and withdrew the equivalent of 25.17 days of pay, according to the lawsuit. The district had retroactively un-approved a number of sick and personal days Felarca had taken "claiming that employees could not use their personal leave days to attend political protests and claiming that Felarca had used them for this purpose," according to the lawsuit. Felarca has stated she had doctor's notes for some of the sick days she was absent and that she has the right to attend political rallies.

The next hearing for Felarca's lawsuit against BUSD is on March 2. Former students of Felarca's who were questioned by BUSD representatives also filed a case against the district. That hearing is set for March 25.



Around 9:45 p.m. on Feb 1, Yvette Felarca debriefed people from her BAMN group, telling them that they had accomplished something significant that night. The group is on Bancroft Avenue. Felarca's back is facing the camera. She is the shortest one. Photo: Frances Dinkelspiel

Felarca was at the Feb. 1 rally where a group of about 150 black-clad protesters removed metal barricades, threw rocks and incendiary devices at UC police, smashed windows at the MLK Student Union building, and later rampaged downtown, breaking bank windows and setting ATM machines on fire. Yet she has never stated directly that she and other members of BAMN were part of the violence.

Despite glossing over the specifics of her action, Felarca has taken credit for "shutting down" Yiannopolous.

**Read more about Yvette Felarca on Berkeleyside.**

"He should not be able to speak in public to spread his racist, misogynistic and homophobic lies," Felarca told

Tucker Carlson on Fox News.

Felarca could not be reached for comment Tuesday.

Felarca has become the face of the radical opposition since the majority of the violent "black-bloc" protesters covered their faces with ski masks and bandanas and have not spoken out since Feb. 1, despite widespread criticism of their tactics. But Felarca has been more than eager to talk. Berkeleyside interviewed her during the protests. Her interviews with KTVU and now Fox News have been watched thousands of times.

Felarca's remarks prompted an outpouring of outrage on Twitter and on the YouTube channel featuring the interview, as well as directed to the school district. Critics have tweeted "Let's riot at her house," and then published her home address. (An incorrect address, by the way.) They have listed the phone number for BUSD. They have written that Felarca should be waterboarded and arrested.

“I can not believe this racist is allowed to teach our children!” a Houston man named Brad McPherson wrote to Berkeleyside. “What is wrong with you people???”

Other comments were infused with swear words and derogatory remarks.

The school district issued a statement Wednesday from Ty Alper, the board president. He said the district could not respond to questions about whether Felarca would be reprimanded for her actions because it is a personnel matter. BUSD believes in the right of free speech, said Alper.

“It is important to emphasize that we firmly support the First Amendment right to free speech,” Alper said in the statement. “We also

strongly condemn the use of violence in confronting speech, even speech we might find abhorrent or counter to the values of our community.”

*Editors’ note: This article was updated 2/15 at 3 p.m. to add the comments from the school district.*

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# **EXHIBIT D**



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# Transcript of Video

**Case:** Felarca, et al. -v- Berkeley Unified School District, et al.

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In Re: Felarca, et al.

v.

Berkeley Unified School District, et al.

Case No. 17-cv-6282

Transcript of Video:

"No Regrets Organizer calls for more militant protests"

Job No.: 203269

Pages: 1 - 8

Transcribed by: Debra McCostlin

## Transcript of Video

2

1 NEWS ANCHOR: With me now is Yvette Felarca  
2 with the group By Any Means Necessary, and Yvette, I  
3 know that you were there. First of all, tell me what  
4 specifically is it about Milo Yiannopoulos that you and  
5 others have an issue with?

6 MS. FELARCA: Well, first of all, Milo  
7 Yiannopoulos is a fascist. He's a white supremacist.  
8 He's funded by Steve Bannon and Breitbart. He's an  
9 acolyte of Donald Trump and he was on the UC Berkeley  
10 campus to try to recruit more fascists and to wage  
11 attacks on Muslim students, immigrant students, women  
12 and trans students.

13 NEWS ANCHOR: Now Milo himself denies those  
14 allegations, but again, that's why you were there and  
15 that's why you felt like it was important for him not  
16 to speak. What is the real fear of him having a  
17 conversation with the 500 students or the 500 people  
18 who had bought tickets to the event?

19 MS. FELARCA: Well, just to go back to how  
20 you characterized the protest, this isn't a question  
21 of violent versus peaceful protests. I was there and  
22 there were thousands of people out there who were

## Transcript of Video

3

1 united. It was a mass protest. It was a militant  
2 protest. And everyone was there to shut him down.  
3 And so whatever it was going to take to do that, we  
4 were all there with a united cause and we were  
5 stunningly successful.

6 NEWS ANCHOR: But why not be peaceful about  
7 it? Why not, you know, chant and hold your signs and  
8 things, but when you take the barricades and you  
9 destroy the building and when you set fires, isn't  
10 that counterproductive?

11 MS. FELARCA: You know, I think that the left  
12 has been far too timid for way too long and it's why  
13 we've even gotten in this position where we even have  
14 someone like Donald Trump leading a fascist movement  
15 as the President of the United States. We need to  
16 make sure that we have more mass protests, more  
17 militant protests that are mass and militant.

18 And the reality is that these aren't people  
19 just putting forward their ideas. There's white  
20 supremacists who have already murdered six Muslims  
21 just five days ago in Quebec. There is a woman in  
22 Korea, or not from Korea, but who is from Korea in Los

## Transcript of Video

4

1 Angeles who was just beaten down by a white  
2 supremacist. We have a right to defend ourselves and,  
3 not only a right, we have an obligation to do that,  
4 not for each other but for our communities too.

5 NEWS ANCHOR: Let's go back though to the  
6 speaker and the fact that he was going to be speaking  
7 to 500 people and some say that because of what  
8 happened at the protest this got national attention,  
9 he did national interviews, and so instead of his  
10 voice being heard by 500 people now millions of people  
11 are online Googling Milo Yiannopoulos. So does that  
12 defeat a little bit of what you were trying to do?

13 MS. FELARCA: The right wing and the fascists  
14 in this country already have a spokesperson and  
15 they've already found one in Trump, Steve Bannon and  
16 also now Milo, but now what I think was so important  
17 about our success on Wednesday which is why it should  
18 be the model of how the movement needs to take things  
19 now in the future.

20 NEWS ANCHOR: Really?

21 MS. FELARCA: Yeah, because -- let me finish  
22 -- is because we need to make sure that the millions



## Transcript of Video

5

1 of people out there who are angry and who are scared  
2 under Donald Trump and everything that he's doing now  
3 know that there are people out there who will stand up  
4 and fight the way the movement needs to. Clearly  
5 Wednesday was not business as usual. It was people  
6 fighting united in a mass effort, in a united effort  
7 and by any means necessary.

8 NEWS ANCHOR: But you know though that some  
9 in the business community, they were really upset  
10 because they too were targeted. They were blocks away  
11 from the university. And so when you talk about this  
12 happening again some in the business community have  
13 voiced a lot of frustration with what they seen before  
14 and now to anticipate even more of that, you can  
15 understand that frustration and that there is a lot of  
16 -- there is a lot of concern about what is happening  
17 at these protests --

18 MS. FELARCA: But there's --

19 NEWS ANCHOR: -- and that innocent people,  
20 those that may be with your cause may actually be hurt  
21 as well.

22 MS. FELARCA: But there's two things to that.

## Transcript of Video

6

1 One, Chancellor Dirks is responsible for anything that  
2 happened and if the business community is upset they  
3 should join the professors and students and community  
4 members who are demanding that Dirks step down  
5 immediately because he had a chance to cancel the  
6 event to make sure it didn't happen. There were  
7 hundreds of professors who demanded that for safety  
8 reasons. He didn't listen. One.

9 Two, a few broken windows is nothing compared  
10 to the lives that are at stake and if that's what it  
11 takes in order to make sure that more people don't get  
12 targeted, if that's what it takes to make sure that  
13 Milo Yiannopoulos or another white supremacist is not  
14 welcome or allowed to come to UC Berkeley and attack  
15 our community then good, let's make sure then that  
16 that doesn't happen in the future.

17 NEWS ANCHOR: So no regrets at all about what  
18 took place?

19 MS. FELARCA: You know, what I think what we  
20 need to do is we've got to draw lessons from this in  
21 terms of how we can build and build even stronger, how  
22 we can make sure that we build the movement and also

Transcript of Video

7

1       that we continue to organize because it's not  
2       spontaneous. This is about organizing and fighting by  
3       any means necessary.

4               NEWS ANCHOR: All right. Yvette, thank you  
5       so much for sharing perspective on that.

6               Ted, I'll send it over to you.

7               (End of video.)

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## Transcript of Video

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## 1 CERTIFICATE OF TRANSCRIBER

2 I, DEBRA MCCOSTLIN, do hereby certify that  
3 the foregoing transcript is a true and correct record  
4 of the recorded proceedings; that said proceedings  
5 were transcribed to the best of my ability from the  
6 audio recording and supporting information; and that I  
7 am neither counsel for, related to, nor employed by  
8 any of the parties to this case and have no interest,  
9 financial or otherwise, in its outcome.

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14 DEBRA MCCOSTLIN

15 AUGUST 15, 2018  
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## Transcript of Video

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|---|---|---|--|
| <b>ability</b><br>8:5<br><b>about</b><br>2:4, 3:6, 4:17,<br>5:11, 5:16,<br>6:17, 7:2<br><b>acolyte</b><br>2:9<br><b>actually</b><br>5:20<br><b>again</b><br>2:14, 5:12<br><b>ago</b><br>3:21<br><b>al</b><br>1:6, 1:8<br><b>all</b><br>2:3, 2:6, 3:4,<br>6:17, 7:4<br><b>allegations</b><br>2:14<br><b>allowed</b><br>6:14<br><b>already</b><br>3:20, 4:14,<br>4:15<br><b>also</b><br>4:16, 6:22<br><b>anchor</b><br>2:1, 2:13, 3:6,<br>4:5, 4:20, 5:8,<br>5:19, 6:17, 7:4<br><b>angeles</b><br>4:1<br><b>angry</b><br>5:1<br><b>another</b><br>6:13<br><b>anticipate</b><br>5:14<br><b>any</b><br>2:2, 5:7, 7:3,<br>8:8<br><b>anything</b><br>6:1<br><b>aren't</b><br>3:18 | <b>attack</b><br>6:14<br><b>attacks</b><br>2:11<br><b>attention</b><br>4:8<br><b>audio</b><br>8:6<br><b>august</b><br>8:15<br><b>away</b><br>5:10   | <b>building</b><br>3:9<br><b>business</b><br>5:5, 5:9, 5:12,<br>6:2   | <b>correct</b><br>8:3<br><b>counsel</b><br>8:7<br><b>counterproductive</b><br>3:10<br><b>country</b><br>4:14<br><b>cv</b><br>1:9   |
|   | B   | C   | D  |
|   | <b>back</b><br>2:19, 4:5<br><b>bannon</b><br>2:8, 4:15<br><b>barricades</b><br>3:8<br><b>beaten</b><br>4:1<br><b>because</b><br>4:7, 4:21,<br>4:22, 5:10, 6:5,<br>7:1<br><b>been</b><br>3:12<br><b>before</b><br>5:13<br><b>being</b><br>4:10<br><b>berkeley</b><br>1:8, 2:9, 6:14<br><b>best</b><br>8:5<br><b>bit</b><br>4:12<br><b>blocks</b><br>5:10<br><b>bought</b><br>2:18<br><b>breitbart</b><br>2:8<br><b>broken</b><br>6:9<br><b>build</b><br>6:21, 6:22 | <b>calls</b><br>1:12<br><b>campus</b><br>2:10<br><b>can</b><br>5:14, 6:21,<br>6:22<br><b>cancel</b><br>6:5<br><b>case</b><br>1:9, 8:8<br><b>cause</b><br>3:4, 5:20<br><b>certificate</b><br>8:1<br><b>certify</b><br>8:2<br><b>chance</b><br>6:5<br><b>chancellor</b><br>6:1<br><b>chant</b><br>3:7<br><b>characterized</b><br>2:20<br><b>clearly</b><br>5:4<br><b>come</b><br>6:14<br><b>communities</b><br>4:4<br><b>community</b><br>5:9, 5:12, 6:2,<br>6:3, 6:15<br><b>compared</b><br>6:9<br><b>concern</b><br>5:16<br><b>continue</b><br>7:1<br><b>conversation</b><br>2:17 | <b>days</b><br>3:21<br><b>debra</b><br>1:22, 8:2, 8:14<br><b>defeat</b><br>4:12<br><b>defend</b><br>4:2<br><b>demanded</b><br>6:7<br><b>demanding</b><br>6:4<br><b>denies</b><br>2:13<br><b>destroy</b><br>3:9<br><b>did</b><br>4:9<br><b>didn't</b><br>6:6<br><b>didn't</b><br>6:8<br><b>dirks</b><br>6:1, 6:4<br><b>district</b><br>1:8<br><b>does</b><br>4:11<br><b>doesn't</b><br>6:16<br><b>doing</b><br>5:2<br><b>don't</b><br>6:11<br><b>donald</b><br>2:9, 3:14, 5:2 |

## Transcript of Video

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| <b>down</b><br>3:2, 4:1, 6:4<br><b>draw</b><br>6:20<br><hr/> <b>E</b><br><hr/> <b>each</b><br>4:4<br><b>effort</b><br>5:6<br><b>employed</b><br>8:7<br><b>end</b><br>7:7<br><b>et</b><br>1:6, 1:8<br><b>even</b><br>3:13, 5:14,<br>6:21<br><b>event</b><br>2:18, 6:6<br><b>everyone</b><br>3:2<br><b>everything</b><br>5:2<br><hr/> <b>F</b><br><hr/> <b>fact</b><br>4:6<br><b>far</b><br>3:12<br><b>fascist</b><br>2:7, 3:14<br><b>fascists</b><br>2:10, 4:13<br><b>fear</b><br>2:16<br><b>felarca</b><br>1:6, 2:1, 2:6,<br>2:19, 3:11,<br>4:13, 4:21,<br>5:18, 5:22, 6:19<br><b>felt</b><br>2:15<br><b>few</b><br>6:9<br><b>fight</b><br>5:4 | <b>fighting</b><br>5:6, 7:2<br><b>financial</b><br>8:9<br><b>finish</b><br>4:21<br><b>fires</b><br>3:9<br><b>first</b><br>2:3, 2:6<br><b>five</b><br>3:21<br><b>foregoing</b><br>8:3<br><b>forward</b><br>3:19<br><b>found</b><br>4:15<br><b>from</b><br>3:22, 5:11,<br>6:20, 8:5<br><b>frustration</b><br>5:13, 5:15<br><b>funded</b><br>2:8<br><b>future</b><br>4:19, 6:16<br><hr/> <b>G</b><br><hr/> <b>get</b><br>6:11<br><b>go</b><br>2:19, 4:5<br><b>going</b><br>3:3, 4:6<br><b>good</b><br>6:15<br><b>googling</b><br>4:11<br><b>got</b><br>4:8, 6:20<br><b>gotten</b><br>3:13<br><b>group</b><br>2:2<br><hr/> <b>H</b><br><hr/> <b>had</b><br>2:18, 6:5 | <b>happen</b><br>6:6, 6:16<br><b>happened</b><br>4:8, 6:2<br><b>happening</b><br>5:12, 5:16<br><b>has</b><br>3:12<br><b>have</b><br>2:5, 3:13,<br>3:16, 3:20, 4:2,<br>4:3, 4:14, 5:12,<br>8:8<br><b>having</b><br>2:16<br><b>he's</b><br>2:7, 2:8, 5:2<br><b>heard</b><br>4:10<br><b>hereby</b><br>8:2<br><b>him</b><br>2:15, 2:16, 3:2<br><b>himself</b><br>2:13<br><b>his</b><br>4:9<br><b>hold</b><br>3:7<br><b>how</b><br>2:19, 4:18,<br>6:21<br><b>hundreds</b><br>6:7<br><b>hurt</b><br>5:20<br><hr/> <b>I</b><br><hr/> <b>i'll</b><br>7:6<br><b>ideas</b><br>3:19<br><b>immediately</b><br>6:5<br><b>immigrant</b><br>2:11<br><b>important</b><br>2:15, 4:16 | <b>information</b><br>8:6<br><b>innocent</b><br>5:19<br><b>instead</b><br>4:9<br><b>interest</b><br>8:8<br><b>interviews</b><br>4:9<br><b>isn't</b><br>2:20, 3:9<br><b>issue</b><br>2:5<br><b>it's</b><br>3:12, 7:1<br><b>its</b><br>8:9<br><hr/> <b>J</b><br><hr/> <b>job</b><br>1:20<br><b>join</b><br>6:3<br><b>just</b><br>2:19, 3:19,<br>3:21, 4:1<br><hr/> <b>K</b><br><hr/> <b>know</b><br>2:3, 3:7, 3:11,<br>5:3, 5:8, 6:19<br><b>korea</b><br>3:22<br><hr/> <b>L</b><br><hr/> <b>leading</b><br>3:14<br><b>left</b><br>3:11<br><b>lessons</b><br>6:20<br><b>let</b><br>4:21<br><b>let's</b><br>4:5, 6:15<br><b>like</b><br>2:15, 3:14 |
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## Transcript of Video

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| <b>listen</b><br>6:8<br><b>little</b><br>4:12<br><b>lives</b><br>6:10<br><b>long</b><br>3:12<br><b>los</b><br>3:22<br><b>lot</b><br>5:13, 5:15,<br>5:16<br><hr/> <b>M</b><br><hr/> <b>make</b><br>3:16, 4:22,<br>6:6, 6:11, 6:12,<br>6:15, 6:22<br><b>mass</b><br>3:1, 3:16,<br>3:17, 5:6<br><b>may</b><br>5:20<br><b>mccostlin</b><br>1:22, 8:2, 8:14<br><b>means</b><br>2:2, 5:7, 7:3<br><b>members</b><br>6:4<br><b>militant</b><br>1:12, 3:1, 3:17<br><b>millions</b><br>4:10, 4:22<br><b>milo</b><br>2:4, 2:6, 2:13,<br>4:11, 4:16, 6:13<br><b>model</b><br>4:18<br><b>more</b><br>1:12, 2:10,<br>3:16, 5:14, 6:11<br><b>movement</b><br>3:14, 4:18,<br>5:4, 6:22<br><b>much</b><br>7:5<br><b>murdered</b><br>3:20 | <b>muslim</b><br>2:11<br><b>muslims</b><br>3:20<br><hr/> <b>N</b><br><hr/> <b>national</b><br>4:8, 4:9<br><b>necessary</b><br>2:2, 5:7, 7:3<br><b>need</b><br>3:15, 4:22,<br>6:20<br><b>needs</b><br>4:18, 5:4<br><b>neither</b><br>8:7<br><b>news</b><br>2:1, 2:13, 3:6,<br>4:5, 4:20, 5:8,<br>5:19, 6:17, 7:4<br><b>nor</b><br>8:7<br><b>not</b><br>2:15, 3:6, 3:7,<br>3:22, 4:3, 4:4,<br>5:5, 6:13, 7:1<br><b>nothing</b><br>6:9<br><b>now</b><br>2:1, 2:13,<br>4:10, 4:16,<br>4:19, 5:2, 5:14<br><hr/> <b>O</b><br><hr/> <b>obligation</b><br>4:3<br><b>one</b><br>4:15, 6:1, 6:8<br><b>online</b><br>4:11<br><b>only</b><br>4:3<br><b>order</b><br>6:11<br><b>organize</b><br>7:1<br><b>organizer</b><br>1:12 | <b>organizing</b><br>7:2<br><b>other</b><br>4:4<br><b>others</b><br>2:5<br><b>otherwise</b><br>8:9<br><b>our</b><br>4:4, 4:17, 6:15<br><b>ourselves</b><br>4:2<br><b>out</b><br>2:22, 5:1, 5:3<br><b>outcome</b><br>8:9<br><b>over</b><br>7:6<br><hr/> <b>P</b><br><hr/> <b>pages</b><br>1:21<br><b>parties</b><br>8:8<br><b>peaceful</b><br>2:21, 3:6<br><b>people</b><br>2:17, 2:22,<br>3:18, 4:7, 4:10,<br>5:1, 5:3, 5:5,<br>5:19, 6:11<br><b>perspective</b><br>7:5<br><b>place</b><br>6:18<br><b>position</b><br>3:13<br><b>president</b><br>3:15<br><b>proceedings</b><br>8:4<br><b>professors</b><br>6:3, 6:7<br><b>protest</b><br>2:20, 3:1, 3:2,<br>4:8<br><b>protests</b><br>1:12, 2:21, | 3:16, 3:17, 5:17<br><b>putting</b><br>3:19<br><hr/> <b>Q</b><br><hr/> <b>quebec</b><br>3:21<br><b>question</b><br>2:20<br><hr/> <b>R</b><br><hr/> <b>real</b><br>2:16<br><b>reality</b><br>3:18<br><b>really</b><br>4:20, 5:9<br><b>reasons</b><br>6:8<br><b>record</b><br>8:3<br><b>recorded</b><br>8:4<br><b>recording</b><br>8:6<br><b>recruit</b><br>2:10<br><b>regrets</b><br>1:12, 6:17<br><b>related</b><br>8:7<br><b>responsible</b><br>6:1<br><b>right</b><br>4:2, 4:3, 4:13,<br>7:4<br><hr/> <b>S</b><br><hr/> <b>safety</b><br>6:7<br><b>said</b><br>8:4<br><b>say</b><br>4:7<br><b>scared</b><br>5:1<br><b>school</b><br>1:8 |
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## Transcript of Video

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| <b>seen</b><br>5:13<br><b>send</b><br>7:6<br><b>set</b><br>3:9<br><b>sharing</b><br>7:5<br><b>should</b><br>4:17, 6:3<br><b>shut</b><br>3:2<br><b>signature-aiw0b</b><br>8:12<br><b>signs</b><br>3:7<br><b>six</b><br>3:20<br><b>some</b><br>4:7, 5:8, 5:12<br><b>someone</b><br>3:14<br><b>speak</b><br>2:16<br><b>speaker</b><br>4:6<br><b>speaking</b><br>4:6<br><b>specifically</b><br>2:4<br><b>spokesperson</b><br>4:14<br><b>spontaneous</b><br>7:2<br><b>stake</b><br>6:10<br><b>stand</b><br>5:3<br><b>states</b><br>3:15<br><b>step</b><br>6:4<br><b>steve</b><br>2:8, 4:15<br><b>stronger</b><br>6:21<br><b>students</b><br>2:11, 2:12, | 2:17, 6:3<br><b>stunningly</b><br>3:5<br><b>success</b><br>4:17<br><b>successful</b><br>3:5<br><b>supporting</b><br>8:6<br><b>supremacist</b><br>2:7, 4:2, 6:13<br><b>supremacists</b><br>3:20<br><b>sure</b><br>3:16, 4:22,<br>6:6, 6:11, 6:12,<br>6:15, 6:22<br><hr/> <b>T</b><br><hr/> <b>take</b><br>3:3, 3:8, 4:18<br><b>takes</b><br>6:11, 6:12<br><b>talk</b><br>5:11<br><b>targeted</b><br>5:10, 6:12<br><b>ted</b><br>7:6<br><b>tell</b><br>2:3<br><b>terms</b><br>6:21<br><b>thank</b><br>7:4<br><b>that</b><br>2:3, 2:4, 3:3,<br>3:10, 3:11,<br>3:16, 3:17,<br>3:18, 4:3, 4:6,<br>4:7, 4:11, 4:22,<br>5:2, 5:3, 5:8,<br>5:14, 5:15,<br>5:19, 5:20,<br>5:22, 6:1, 6:4,<br>6:7, 6:10, 6:11,<br>6:12, 6:15,<br>6:16, 6:22, 7:1, | 7:5, 8:2, 8:4,<br>8:6<br><b>that's</b><br>2:14, 2:15,<br>6:10, 6:12<br><b>their</b><br>3:19<br><b>then</b><br>6:15<br><b>there</b><br>2:3, 2:14,<br>2:21, 2:22, 3:2,<br>3:4, 3:21, 5:1,<br>5:3, 5:15, 5:16,<br>6:6<br><b>there's</b><br>3:19, 5:18,<br>5:22<br><b>these</b><br>3:18, 5:17<br><b>they</b><br>5:9, 5:10,<br>5:13, 6:2<br><b>they've</b><br>4:15<br><b>things</b><br>3:8, 4:18, 5:22<br><b>think</b><br>3:11, 4:16,<br>6:19<br><b>this</b><br>2:20, 3:13,<br>4:8, 4:14, 5:11,<br>6:20, 7:2, 8:8<br><b>those</b><br>2:13, 5:20<br><b>though</b><br>4:5, 5:8<br><b>thousands</b><br>2:22<br><b>tickets</b><br>2:18<br><b>timid</b><br>3:12<br><b>too</b><br>3:12, 4:4, 5:10<br><b>took</b><br>6:18 | <b>trans</b><br>2:12<br><b>transcribed</b><br>1:22, 8:5<br><b>transcriber</b><br>8:1<br><b>transcript</b><br>1:11, 8:3<br><b>true</b><br>8:3<br><b>trump</b><br>2:9, 3:14,<br>4:15, 5:2<br><b>try</b><br>2:10<br><b>trying</b><br>4:12<br><b>two</b><br>5:22, 6:9<br><hr/> <b>U</b><br><hr/> <b>uc</b><br>2:9, 6:14<br><b>under</b><br>5:2<br><b>understand</b><br>5:15<br><b>unified</b><br>1:8<br><b>united</b><br>3:1, 3:4, 3:15,<br>5:6<br><b>university</b><br>5:11<br><b>upset</b><br>5:9, 6:2<br><b>usual</b><br>5:5<br><hr/> <b>V</b><br><hr/> <b>versus</b><br>2:21<br><b>video</b><br>1:11, 7:7<br><b>violent</b><br>2:21<br><b>voice</b><br>4:10 |
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## Transcript of Video

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| <b>voiced</b><br>5:13<br><hr/> <b>W</b><br><hr/> <b>wage</b><br>2:10<br><b>was</b><br>2:9, 2:15,<br>2:21, 3:1, 3:2,<br>3:3, 4:1, 4:6,<br>4:16, 5:5<br><b>way</b><br>3:12, 5:4<br><b>we've</b><br>3:13, 6:20<br><b>wednesday</b><br>4:17, 5:5<br><b>welcome</b><br>6:14<br><b>well</b><br>2:6, 2:19, 5:21<br><b>were</b><br>2:3, 2:14,<br>2:22, 3:4, 4:12,<br>5:9, 5:10, 6:6,<br>8:5<br><b>what</b><br>2:3, 2:16, 4:7,<br>4:12, 4:16,<br>5:13, 5:16,<br>6:10, 6:12,<br>6:17, 6:19<br><b>whatever</b><br>3:3<br><b>when</b><br>3:8, 3:9, 5:11<br><b>where</b><br>3:13<br><b>which</b><br>4:17<br><b>white</b><br>2:7, 3:19, 4:1,<br>6:13<br><b>who</b><br>2:18, 2:22,<br>3:20, 3:22, 4:1,<br>5:1, 5:3, 6:4,<br>6:7 | <b>why</b><br>2:14, 2:15,<br>3:6, 3:7, 3:12,<br>4:17<br><b>will</b><br>5:3<br><b>windows</b><br>6:9<br><b>wing</b><br>4:13<br><b>with</b><br>2:1, 2:2, 2:5,<br>2:17, 3:4, 5:13,<br>5:20<br><b>woman</b><br>3:21<br><b>women</b><br>2:11<br><hr/> <b>Y</b><br><hr/> <b>yeah</b><br>4:21<br><b>yiannopoulos</b><br>2:4, 2:7, 4:11,<br>6:13<br><b>you</b><br>2:3, 2:4, 2:14,<br>2:15, 2:20, 3:7,<br>3:8, 3:9, 3:11,<br>4:12, 5:8, 5:11,<br>5:14, 6:19, 7:4,<br>7:6<br><b>your</b><br>3:7, 5:20<br><b>yvette</b><br>2:1, 2:2, 7:4<br><hr/> <b>1</b><br><hr/> <b>15</b><br>8:15<br><b>17</b><br>1:9<br><hr/> <b>2</b><br><hr/> <b>2018</b><br>8:15<br><b>203269</b><br>1:20 | <hr/> <b>5</b><br><hr/> <b>500</b><br>2:17, 4:7, 4:10<br><hr/> <b>6</b><br><hr/> <b>6282</b><br>1:9 |  |
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# **EXHIBIT E**



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# Transcript of Video

**Case:** Felarca, et al. -v- Berkeley Unified School District, et al.

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**Email:** [transcripts@planetdepos.com](mailto:transcripts@planetdepos.com)

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In Re: Felarca, et al.

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v.

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Berkeley Unified School District, et al.

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Case No. 17-cv-6282

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Transcript of Video:

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"Berkeley riots backer proud

13

of shutting down 'fascist' Milo"

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18

19

20 Job No.: 203269

21 Pages: 1 - 17

22 Transcribed by: Debra McCostlin

## Transcript of Video

2

1 MR. CARLSON: Well, it's been two weeks since  
2 rioters at UC Berkeley used violence to force the  
3 cancellation of a speech by Milo Yiannopoulos. Most  
4 people were appalled by what happened, but Yvette  
5 Felarca is not among those people. Besides working as  
6 a public school teacher in California, she is the  
7 national organizer for the Coalition to Defend  
8 Affirmative Action, Integration & Immigrant Rights, and  
9 Fight for Equality By Any Means Necessary. BAMN is the  
10 acronym. Felarca is willing to integrate violence into  
11 her political agenda as you can see from this clip of  
12 her disrupting a rally last summer in Sacramento.

13 (Clip played.)

14 MR. CARLSON: Felarca helped organize the  
15 Berkeley protests and she says activists ought to copy  
16 its tactics for other speakers and events around the  
17 country. Yvette Felarca is with us now.

18 Yvette, thanks for joining us. So you did a  
19 bunch of interviews after and you were asked about  
20 this and you were, to your credit, I think very  
21 straightforward about it and unapologetic and you  
22 said, yeah, this guy was a fascist, Milo is a fascist

## Transcript of Video

3

1 and we shut him down. You didn't pretend otherwise.  
2 We shut him and that's what you do with fascist. I  
3 think I'm characterizing what you said correctly.  
4 Just so we can understand the standard here, what is a  
5 fascist?

6 MS. FELARCA: So a fascist is someone who is  
7 organizing a mass movement that's attacking women,  
8 immigrants, black people, other minority groups in a  
9 movement of genocide. That's what a fascist is.

10 MR. CARLSON: Okay. So it's someone who is  
11 committing violence?

12 MS. FELARCA: And it's someone who is  
13 committing violence and who is trying to organize  
14 other people to commit violence.

15 MR. CARLSON: Okay.

16 MS. FELARCA: And Milo Yiannopoulos is a  
17 fascist.

18 MR. CARLSON: Okay. So he's committed acts  
19 of violence against the protected groups you  
20 mentioned?

21 MS. FELARCA: Well, what he's doing is he is  
22 trying to be the youth face and the token that other

## Transcript of Video

4

1 people who are organizing violence try to hide behind.

2 MR. CARLSON: Right.

3 MS. FELARCA: And so in all of his talks all  
4 over the country what Yiannopoulos has done is whip up  
5 a whole lynch mob mentality where people who come to  
6 see him or his supporters not only agree with his  
7 views but also attack other people. And that was  
8 certainly true in Washington State when one of his  
9 supporters came and actually shot an anti-fascist  
10 protestor. But in Berkeley we made sure that didn't  
11 happen because we were able to shut him down.

12 MR. CARLSON: But you're conceding that Milo  
13 himself has not committed acts of violence nor has he  
14 incited violence. By the legal definition he'd be in  
15 jail if he did, but you're saying that because people  
16 who agree with him have committed violence he should  
17 not be allowed to speak?

18 MS. FELARCA: No fascist movement takes many  
19 forms and it always tries to have one form that looks  
20 respectable and a little bit milder. But Yiannopoulos  
21 isn't just a stand-up comedian and he isn't someone  
22 who just has ideas and posts them up on YouTube. He

## Transcript of Video

5

1 is someone who is funded by Breitbart and Steve Bannon  
2 to go around to college campuses to try to recruit  
3 other young people to then conduct those attacks on  
4 his behalf and on Trump's behalf. But I'm really,  
5 really glad to say that thousands of us were out there  
6 last week or February 1st and made sure that there  
7 were thousands of us to make sure that we defended our  
8 campus, this community and especially the immigrant  
9 and Muslim students who were under attack and have  
10 been under attack by him and other fascists.

11 MR. CARLSON: Right. And by using violence.  
12 I mean, you don't shy away from that. By Any Means  
13 Necessary is the name of your group and so it implies  
14 violence. So what should we do with fascists? I  
15 mean, if you think that someone is espousing genocide,  
16 what should we do with them? I mean, should that  
17 person be allowed to walk free? Should we put them in  
18 jail? Should we kill them? Should we exile them? I  
19 mean what -- it's a sincere question. If you're  
20 willing to use violence because you think someone is  
21 espousing genocide, what's the penalty for that?

22 MS. FELARCA: Well, first we've got to make



## Transcript of Video

6

1     sure that we nip it in the bud and we make sure that  
2     they're not allowed to recruit and act as if it's  
3     respectable to call for the mass murder of millions of  
4     people, in fact millions who make up the majority of  
5     people in this nation at this point and so they can't  
6     be behind the platform of free speech.

7             MR. CARLSON: Okay. So just to be clear,  
8     there's no -- Milo Yiannopoulos -- this is not a  
9     defense of him -- just a factual point, has not ever  
10    said that in public anyway, not that we have a record  
11    of. There's no evidence that he has called for the  
12    genocide of anybody, as you know. But you're saying  
13    by transference in some way he inspires people who  
14    believe that, I guess.

15            But you're not getting my question. Like  
16    what -- when you say "nip in the bud", should he be  
17    allowed to go on the subway and talk to the guy next  
18    to him about perhaps joining his movement or should he  
19    be allowed to talk to people in restaurants? Or what  
20    should we do with the fascists who you believe is  
21    inspiring genocide?

22            MS. FELARCA: So first of all, the alt-right

## Transcript of Video

7

1 is a neo-fascist movement and they're trying to hide  
2 behind some softer versions of their more open  
3 counterparts who identify themselves as Nazis, but  
4 they're still part of the same movement, first of all.

5 Second of all, when someone is trying to  
6 speak at a campus or at a rally they're doing it not  
7 just because they have an opinion but someone like  
8 Yiannopoulos or any other alt-righter or fascist or  
9 neo-fascist is doing it to recruit other people.

10 No, we don't let them recruit. And in fact,  
11 when you look back at the holocaust and the lessons  
12 that we draw from that, we don't say, oh, well, at  
13 least we let them voice their opinion. We say never  
14 again. (Inaudible) especially after Trump.

15 MR. CARLSON: And when we say that we elevate  
16 people like Dietrich Bonhoeffer or members of the plot  
17 against the leader of Nazi Germany to kill him. So, I  
18 mean, that was the response of course to the leader of  
19 that fascist movement and most people think it was  
20 legitimate. Do you think, you're not answering my  
21 question, that people like Milo who you've decided are  
22 fascists should be allowed to speak in public. You

Transcript of Video

8

1 said they weren't allowed to speak at Berkeley.

2 Should he be allowed to speak on a street corner?

3 MS. FELARCA: He should not be allowed to  
4 speak in public to spread his racist and misogynistic  
5 and homophobic lies. No, he does not have the right  
6 to do that.

7 MR. CARLSON: What about the --

8 MS. FELARCA: When he's using his speech to  
9 whip up attacks on people, no, he doesn't have the  
10 right to do that.

11 MR. CARLSON: So I wonder --

12 MS. FELARCA: To spread lies about our  
13 humanity, no, he doesn't.

14 MR. CARLSON: Okay. So you're not allowed to  
15 say things that you think are untrue.

16 MS. FELARCA: And we have a right to defend  
17 ourselves in that.

18 MR. CARLSON: Well, I mean, of course in the  
19 case of Berkeley he was not --

20 MS. FELARCA: No, that's not what I said.

21 MR. CARLSON: Okay.

22 MS. FELARCA: I didn't say you're not allowed

## Transcript of Video

9

1 to say things that are untrue.

2 MR. CARLSON: Okay. But let me ask --

3 MS. FELARCA: If you're trying to spread  
4 racism and hostility, misogyny, rape, whip up people  
5 to lynch people or to certainly have that mentality to  
6 rape people or to lynch them, absolutely not.

7 MR. CARLSON: So --

8 MS. FELARCA: And any decent human being,  
9 whether it was in a classroom or at a restaurant, if  
10 they heard someone doing that would turn around and  
11 tell them you need to stop talking, you are not  
12 welcome here, this is not a safe environment, you need  
13 to go. Well, that's what we did at UC Berkeley and  
14 that was (inaudible).

15 MR. CARLSON: Yeah. I wonder if they would  
16 hit them or set fire. So you're a middle school  
17 teacher which may surprise some of our students -- or  
18 rather some of our viewers that you have students.  
19 The First Amendment was always kind of the cornerstone  
20 of American civic life, the idea that you have the  
21 right to say something that other people may  
22 vehemently disagree with, but you have that right.

## Transcript of Video

10

1 It's enshrined in the Bill of Rights. Do you teach  
2 that to your students?

3 MS. FELARCA: The First Amendment is about  
4 free speech but that's not an abstraction and if there  
5 were someone in my classroom who was espousing rape or  
6 genocide or attacks on Muslims, I would certainly make  
7 sure that I stood up for the rest of my students and  
8 told them they need to stop and if they refuse to they  
9 would need to leave.

10 MR. CARLSON: Would you hit them?

11 MS. FELARCA: So in fact fascism isn't just  
12 about abstract --

13 MR. CARLSON: But hold on, wait. Let's --

14 MS. FELARCA: No, no, I'm not finished though  
15 yet. I'm not finished yet. If there was a fascist in  
16 any situation that I was in, I would call for other  
17 people to take action too, but it's not just about the  
18 immediate moment.

19 MR. CARLSON: Right. Okay. But --

20 MS. FELARCA: It's also within the context of  
21 building a movement.

22 MR. CARLSON: But I don't want this to be

Transcript of Video

11

1 abstract as you have --

2 MS. FELARCA: And there is a movement against  
3 Donald Trump --

4 MR. CARLSON: Hold on now. You're getting  
5 abstract. You're getting --

6 MS. FELARCA: -- and against fascism. Not at  
7 all.

8 MR. CARLSON: I want to bring this back to  
9 concrete, as you said and rightly so. So if there was  
10 a student in your class who started espousing what you  
11 believe is fascism and you said you need to leave, you  
12 need to be quiet --

13 MS. FELARCA: This is not --

14 MR. CARLSON: -- you need to leave and they  
15 didn't leave, would you hit him as you hit that  
16 protestor?

17 MS. FELARCA: This is not about --

18 MR. CARLSON: Would you beat him up?

19 MS. FELARCA: No, of course not, but that's  
20 not what we're talking about here.

21 MR. CARLSON: What do you mean of course not?  
22 We have tape with you hitting people.

## Transcript of Video

12

1 MS. FELARCA: We're talking about people who  
2 -- you know what, in Sacramento there were fascists  
3 who had knives tied at the ends of sticks and they  
4 stabbed people including us.

5 MR. CARLSON: Not the man that you hit. He  
6 looked kind of unarmed to me.

7 MS. FELARCA: And so -- oh, yes, actually  
8 they did.

9 MR. CARLSON: Oh.

10 MS. FELARCA: And so -- and, no, and it's  
11 funny to you, but it's actually not funny to the rest  
12 of us --

13 MR. CARLSON: No, I just want to know what  
14 you --

15 MS. FELARCA: -- and that's why we take this  
16 really seriously.

17 MR. CARLSON: I know that you take it  
18 seriously and that's why I'm asking you a really  
19 simple question. To what length would you go --

20 MS. FELARCA: But I am serious as a heart --

21 MR. CARLSON: Oh, I know you're serious.

22 MS. FELARCA: I am serious as a heartbeat

Transcript of Video

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1 too.

2 MR. CARLSON: Oh, I believe you. Oh, I  
3 believe that you're serious. There's no doubt about  
4 that.

5 MS. FELARCA: And we're not talking about a  
6 classroom.

7 MR. CARLSON: But I'm just saying --

8 MS. FELARCA: We are talking about people who  
9 are trying --

10 MR. CARLSON: I got it.

11 MS. FELARCA: -- to kill and murder people  
12 and who have already done it --

13 MR. CARLSON: I got it. But if you're  
14 standing --

15 MS. FELARCA: -- and who are trying to create  
16 a hostile environment on these campuses in order to do  
17 that, no, that's not a safe environment for immigrant  
18 students, that's not a safe environment for women or  
19 Muslim students or trans students.

20 MR. CARLSON: Okay.

21 MS. FELARCA: And so, yeah, we have a right  
22 to defend ourselves --



Transcript of Video

14

1 MR. CARLSON: You're about to be committing a  
2 violation of my First Amendment rights here.

3 MS. FELARCA: -- and real (inaudible).

4 MR. CARLSON: Let me just ask you one last  
5 question, Yvette, if I may. So if you're standing --  
6 I just want to know like the protocol for anti-fascist  
7 activists like yourself. You're standing on a street  
8 corner and someone starts saying something you don't  
9 like and you think, boy, that's an act of hostility,  
10 that person is a fascist, be quiet you would tell  
11 them?

12 MS. FELARCA: No, you are misrepresenting the  
13 words that I have been saying. This isn't about not  
14 liking something.

15 MR. CARLSON: Well, it's a question.

16 MS. FELARCA: This isn't about Ben & Jerrys  
17 versus Stonecold Pizza or something.

18 MR. CARLSON: Uh-huh.

19 MS. FELARCA: This is about the lives of real  
20 people. Immigrants who are under attack now.

21 MR. CARLSON: I got it. So you've expressed  
22 that.

## Transcript of Video

15

1 MS. FELARCA: Muslims who are being  
2 massacred. Women who are being raped.

3 MR. CARLSON: And I'm asking you, how deep is  
4 your commitment --

5 MS. FELARCA: So you're the one trivializing  
6 this and not me.

7 MR. CARLSON: I'm not in any way  
8 trivializing. I asked you a sincere question. To  
9 what extent would you go to stop that person from  
10 spreading genocidal propaganda? Would you --

11 MS. FELARCA: I would call for people to  
12 counter-protest, to stand up and to shutdown any  
13 attempts for fascists to recruit and organize.

14 MR. CARLSON: But what do you mean by  
15 shutdown? Like what if I want to keep talking? I'm  
16 saying something that you find appalling but, you know  
17 what, I've got a First Amendment right. I'm an  
18 American. What would you do? So a bunch of people  
19 come and say stop that. I say, no, I'm not going to  
20 stop that. I'm an American. What are you going to do  
21 next? I'm just asking.

22 MS. FELARCA: You know, the First Amendment -

## Transcript of Video

16

1 - you know, you want to talk about the First  
2 Amendment, Coretta Scott King's letter wasn't allowed  
3 to be read on the floor of the Senate last week under  
4 the Constitution (inaudible) and yet --

5 MR. CARLSON: Okay. That wasn't exactly what  
6 happened.

7 MS. FELARCA: -- and yet at the same time --

8 MR. CARLSON: As a teacher you might want to  
9 try to keep up a little bit more.

10 MS. FELARCA: -- you're the one then who is  
11 actually trying to defend someone like a fascist  
12 speaking and recruiting at a college campus.

13 MR. CARLSON: All right, Yvette. We're out  
14 of time.

15 MS. FELARCA: I'm proud to say that we all  
16 stood up and we shut him down.

17 MR. CARLSON: I don't want to abridge your  
18 speech rights. All right. Thanks for coming on.

19 (End of video.)  
20  
21  
22

## Transcript of Video

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| 14:20, 16:3<br><b>understand</b><br>3:4<br><b>unified</b><br>1:8<br><b>untrue</b><br>8:15, 9:1<br><b>use</b><br>5:20<br><b>used</b><br>2:2<br><b>using</b><br>5:11, 8:8  | 12:13, 14:6,<br>15:15, 16:1,<br>16:8, 16:17<br><b>was</b><br>2:22, 4:7,<br>7:18, 7:19,<br>8:19, 9:9, 9:14,<br>9:19, 10:5,<br>10:15, 10:16,<br>11:9<br><b>washington</b><br>4:8<br><b>wasn't</b><br>16:2, 16:5<br><b>way</b><br>6:13, 15:7<br><b>we're</b><br>11:20, 12:1,<br>13:5, 16:13<br><b>we've</b><br>5:22<br><b>week</b><br>5:6, 16:3<br><b>weeks</b><br>2:1<br><b>welcome</b><br>9:12<br><b>well</b><br>2:1, 3:21,<br>5:22, 7:12,<br>8:18, 9:13,<br>14:15<br><b>were</b><br>2:4, 2:19,<br>2:20, 4:11, 5:5,<br>5:7, 5:9, 10:5,<br>12:2, 17:5<br><b>weren't</b><br>8:1<br><b>what</b><br>2:4, 3:2, 3:3,<br>3:4, 3:9, 3:21,<br>4:4, 5:14, 5:16,<br>5:19, 6:16,<br>6:19, 8:7, 8:20,<br>9:13, 11:10,<br>11:20, 11:21,<br>12:2, 12:13, | 12:19, 15:9,<br>15:14, 15:15,<br>15:17, 15:18,<br>15:20, 16:5<br><b>what's</b><br>5:21<br><b>when</b><br>4:8, 6:16, 7:5,<br>7:11, 7:15, 8:8<br><b>where</b><br>4:5<br><b>whether</b><br>9:9<br><b>which</b><br>9:17<br><b>whip</b><br>4:4, 8:9, 9:4<br><b>who</b><br>3:6, 3:10,<br>3:12, 3:13, 4:1,<br>4:5, 4:16, 4:22,<br>5:1, 5:9, 6:4,<br>6:13, 6:20, 7:3,<br>7:21, 10:5,<br>11:10, 12:1,<br>12:3, 13:8,<br>13:12, 13:15,<br>14:20, 15:1,<br>15:2, 16:10<br><b>whole</b><br>4:5<br><b>why</b><br>12:15, 12:18<br><b>willing</b><br>2:10, 5:20<br><b>with</b><br>2:17, 3:2, 4:6,<br>4:16, 5:14,<br>5:16, 6:20,<br>9:22, 11:22<br><b>within</b><br>10:20<br><b>women</b><br>3:7, 13:18,<br>15:2<br><b>wonder</b><br>8:11, 9:15<br><b>words</b><br>14:13 | <b>working</b><br>2:5<br><b>would</b><br>9:10, 9:15,<br>10:6, 10:9,<br>10:10, 10:16,<br>11:15, 11:18,<br>12:19, 14:10,<br>15:9, 15:10,<br>15:11, 15:18<br><hr/> <b>Y</b> <hr/> <b>yeah</b><br>2:22, 9:15,<br>13:21<br><b>yes</b><br>12:7<br><b>yet</b><br>10:15, 16:4,<br>16:7<br><b>yiannopoulos</b><br>2:3, 3:16, 4:4,<br>4:20, 6:8, 7:8<br><b>you</b><br>2:11, 2:18,<br>2:19, 2:20,<br>2:21, 3:1, 3:2,<br>3:3, 3:19, 5:12,<br>5:15, 5:20,<br>6:12, 6:16,<br>6:20, 7:11,<br>7:20, 7:22,<br>8:15, 9:11,<br>9:12, 9:18,<br>9:20, 9:22,<br>10:1, 10:10,<br>11:1, 11:9,<br>11:10, 11:11,<br>11:14, 11:15,<br>11:18, 11:21,<br>11:22, 12:2,<br>12:5, 12:11,<br>12:14, 12:17,<br>12:18, 12:19,<br>13:2, 14:4,<br>14:8, 14:9,<br>14:10, 14:12,<br>15:3, 15:8, |
| <b>v</b>   |  |  |  |
| <b>vehemently</b><br>9:22<br><b>versions</b><br>7:2<br><b>versus</b><br>14:17<br><b>very</b><br>2:20<br><b>video</b><br>1:11, 16:19<br><b>viewers</b><br>9:18<br><b>views</b><br>4:7<br><b>violation</b><br>14:2<br><b>violence</b><br>2:2, 2:10,<br>3:11, 3:13,<br>3:14, 3:19, 4:1,<br>4:13, 4:14,<br>4:16, 5:11,<br>5:14, 5:20<br><b>voice</b><br>7:13 |  |  |  |
| <b>w</b>   |  |  |  |
| <b>wait</b><br>10:13<br><b>walk</b><br>5:17<br><b>want</b><br>10:22, 11:8,   |  |  |  |

Transcript of Video

|  |   |  |
|--|---|--|
| 15:9, 15:10,<br>15:14, 15:16,<br>15:18, 15:20,<br>15:22, 16:1,<br>16:8<br><b>you're</b><br>4:12, 4:15,<br>5:19, 6:12,<br>6:15, 7:20,<br>8:14, 8:22, 9:3,<br>9:16, 11:4,<br>11:5, 12:21,<br>13:3, 13:13,<br>14:1, 14:5,<br>14:7, 15:5,<br>16:10<br><b>you've</b><br>7:21, 14:21<br><b>young</b><br>5:3<br><b>your</b><br>2:20, 5:13,<br>10:2, 11:10,<br>15:4, 16:17<br><b>yourself</b><br>14:7<br><b>youth</b><br>3:22<br><b>youtube</b><br>4:22<br><b>yvette</b><br>2:4, 2:17,<br>2:18, 14:5,<br>16:13 | <div>6</div> <div>6282</div> <div>1:9</div> |  |
| <div>1</div> <div>15</div> <div>17:15</div> <div>17</div> <div>1:9, 1:21</div> <div>1st</div> <div>5:6</div>   |   |  |
| <div>2</div> <div>2018</div> <div>17:15</div> <div>203269</div> <div>1:20</div>  |   |  |

# **EXHIBIT F**



**Judicial  
Watch®**  
*Because no one  
is above the law!*

September 1, 2017

**VIA CERTIFIED MAIL**

Berkeley Unified School District  
Attn: Custodian of Records  
2020 Bonar Street  
Berkeley, CA 94702

**Re: California Public Records Act Request**

Dear Sir/Madam:

Pursuant to the provisions of the California Public Records Act (CPRA), Cal. Gov't Code §§ 6250 *et seq.*, Judicial Watch, Inc. requests from the Berkeley Unified School District ("BUSD") access to and a copy of any and all record(s) within ten (10) business days concerning or relating to the following:

- 1) Any and all records of communications between the BUSD Superintendent and any other BUSD officials and/or staff of Martin Luther King, Jr. Middle School mentioning "Felarca", "Antifa", "By All Means Necessary", and/or "BAMN."
- 2) Any and all records of communications between and among faculty/staff members of Martin Luther King, Jr. Middle School mentioning "Felarca," "Antifa," "By All Means Necessary," and/or "BAMN."
- 3) The personnel file of Martin Luther King, Jr. Middle School teacher Yvette Felarca.

The time frame for the requested communications is January 1, 2016 to the present.

For the purposes of this request, the term "public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by the Mayor's Office, regardless of physical form or characteristics. Cal. Gov't Code § 6252(e).

Also for purposes of this request, the term "writing" means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thin any form of communication or



**Custodian of Records**  
**CPRA/Sunshine Request**  
**September 1, 2017**  
**Page 2 of 2**

representation, including letters, words, pictures, sounds or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. Cal. Gov't Code § 6252(g).

Within ten (10) days of receipt of this request, you are required to determine whether the request, in whole or in part, seeks copies of disclosable public records in your possession and to notify us promptly of your determination and the reasons therefore. Cal. Gov't Code § 6253(c).

Except with respect to records exempt from disclosure by express provision of law, you are also required to make the requested records promptly available up on payment of any fees covering direct costs of duplication or any applicable statutory fees. Cal. Gov't Code § 6253(b).

Any reasonably segregable portion of a record otherwise exempt from disclosure is required to be made available after deletion of the portions that are exempted by law. Cal. Gov't Code § 6253(a).

Finally, Judicial Watch requests a waiver of any direct costs of duplication or statutory fees. Judicial Watch is a non-profit, tax-exempt 501(c)(3) educational organization dedicated to increasing public understanding of the operations of government as well as the importance of ethics and the rule of law. Judicial Watch regularly requests information from public agencies about their operations and activities and disseminates this information to the public in furtherance of its educational mission.

If you do not understand this request or any portion thereof, or if you feel you require clarification of this request or any portion thereof, please contact us immediately at 202-646-5172 or [bmarshall@judicialwatch.org](mailto:bmarshall@judicialwatch.org).

Very respectfully,



William F. Marshall  
Judicial Watch, Inc.  
Senior Investigator



From: **Charles Burress** <charlesburress@berkeley.net>  
Date: Mon, Sep 11, 2017 at 4:11 PM  
Subject: Your California Public Records Request to Berkeley Unified School District  
To: info@judicialwatch.org  
Cc: Donald Evans <donaldevans@berkeley.net>

To: Mr. Willam F. Marshall, Senior Investigator, Judicial Watch

Dear Mr. Marshall:

Your California Public Records Act request, dated Sept. 1, 2017 (copy attached), reached my desk only this afternoon.

Please accept this email as notification that we will require a 14-day extension beyond the standard 10-day deadline to provide you with our initial determination of responsive records in our possession. Section 6253(c) of the California Public Records Act permits such an extension under "unusual circumstances," including two that apply in this case: the need to search a large volume of records and the need to search records not maintained in our district office.

Please let me know if you have any questions in the meantime.

Sincerely,  
Charles Burress

---

Charles Burress  
Public Information Officer  
Berkeley Unified School District  
[510-644-6320](tel:510-644-6320)



2020 Bonar Street, Berkeley 94702  
(510) 644-8764  
www.berkeleyschools.net

Sept. 19, 2017

Mr. William F. Marshall, Senior Investigator  
Judicial Watch, Inc.  
425 Third St., SW, Suite 800  
Washington, DC 20024

Dear Mr. Marshall:

Your California Public Records Act request, dated Sept. 1, 2017, was received by a Berkeley Unified School District receptionist from the U.S. Postal Service on Sept. 8 and made its way to my desk on Sept. 11.

I emailed you on Sept. 11 to provide our notification that we will require a 14-day extension beyond the standard 10-day deadline to provide you with our initial determination of responsive records in our possession. Section 6253(c) of the California Public Records Act permits such an extension under "unusual circumstances," including two that apply in this case: the need to search a large volume of records and the need to search records not maintained in our district office.

I am sending this letter as a backup copy of our notification. Please let me know if you have any questions in the meantime.

Sincerely,

A handwritten signature in blue ink that reads "Charles Burress".

Charles Burress



2020 Bonar Street, Berkeley 94702  
(510) 644-8764  
www.berkeleyschools.net

Via email and U.S. Postal Service

Oct. 2, 2017

Mr. William F. Marshall, Senior Investigator  
Judicial Watch, Inc.  
425 Third St., SW, Suite 800  
Washington, DC 20024

Dear Mr. Marshall:

Regarding your California Public Records Act request, dated Sept. 1, 2017 (copy attached), the District interprets your request to be for correspondence on District email between and among the Superintendent and teachers/administrators at Martin Luther King Jr. Middle School identified in your request using the terms "Felarca," "Antifa," "BAMN," and "By Any Means Necessary" in compliance with the California Public Records Act. However, the District will not produce any privileged document(s) which are encompassed by an exemption under the PRA or any state or federal law. (See e.g., Gov't Code §§ 6254 and 6255.)

Based on this interpretation, we have determined that we have disclosable public records responsive, at least in part, to your request. However, we have determined that the personnel files you requested are exempt from disclosure under California Government Code section 6254(c) (personnel file privacy) and the right to privacy under the California Constitution.

We estimate that we can make the disclosable responsive records accessible by Nov. 9, 2017.

Sincerely,

A handwritten signature in blue ink that reads "Charles Burrell".

Charles Burrell



Fagen Friedman & Fulfroft LLP

70 Washington Street, Suite 205  
Oakland, California 94607  
Main: 510-550-8200  
Fax: 510-550-8211  
www.f3law.com

Roy A. Combs  
Direct Dial: 5105508220  
rcombs@f3law.com

November 2, 2017

**Via Email**

info@judicialwatch.org  
(202) 646-5199

William F. Marshall  
Senior Investigator  
Judicial Watch, Inc.  
425 Third Street, SW, Suite 800  
Washington, DC 20024

Re: ***Yvette Felarca et al. v. Berkeley Unified School District et al.***  
**Case No. 17-cv-06282-VC (N.D. Cal.)**

Dear Mr. Marshall,

This office represents Berkeley Unified School District (“District”) in connection with Judicial Watch’s September 1, 2017 California Public Records Act (“CPRA”) request.

You may already be aware that on October 30, 2017, Yvette Felarca and two other individuals (“Plaintiffs”) filed a class action against the District naming Judicial Watch as Real Party in Interest. That same day, Plaintiffs filed a motion for a Temporary Restraining Order (“TRO”) and preliminary injunction to prevent the District from collecting and producing documents that might be responsive to your request.

On Tuesday, October 31, 2017, United States District Judge Vince Chhabria issued an order preliminarily granting Plaintiffs’ TRO. A copy of the order is attached. The order states, in relevant part:

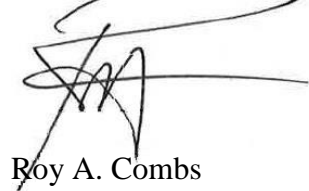
To allow the District to respond in an orderly fashion to the TRO application, the Court is tentatively inclined to enter an order delaying the deadline for faculty and staff to disclose email to the district by seven days, until November 9, and preventing the District from either searching these employees email accounts or providing documents to Judicial Watch until after November 9.

William F. Marshall  
November 2, 2017  
Page 2

In light of the Court's order, the District will not produce any documents that might be responsive until we receive further guidance from the Court, which will be sometime after November 9, 2017.

Sincerely,

~~FAGEN FRIEDMAN & FULFROST, LLP~~

A handwritten signature in black ink, appearing to be "Roy A. Combs", written over the crossed-out firm name.

Roy A. Combs

RAC:blk

Enclosure (1)

cc: Charles Burress, PIO Berkeley Unified School District

00233-00007/4134839.1

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

YVETTE FELARCA, et al.,

Plaintiffs,

v.

BERKELEY UNIFIED SCHOOL  
DISTRICT, et al.,

Defendants.

Case No. 17-cv-06282-VC

**ORDER RE: APPLICATION FOR  
TEMPORARY RESTRAINING ORDER**

Re: Dkt. No. 5

To allow the District to respond in an orderly fashion to the TRO application, the Court is tentatively inclined to enter an order delaying the deadline for faculty and staff to disclose emails to the district by seven days, until November 9, and preventing the District from either searching these employees email accounts or providing documents to Judicial Watch until after November 9. If the district opposes this approach, it should file a preliminary opposition by 5 p.m. today. Otherwise the court will enter such an order, and the district will be ordered to respond to the TRO application by Friday at 5 p.m.

**IT IS SO ORDERED.**

Dated: October 31, 2017



VINCE CHHABRIA  
United States District Judge

# **EXHIBIT G**

**FELARCA MEET AND CONFER NOTES**

**BUSD000001-2**

Email from a member of public (“father, husband, U.S. Citizen, voter”) to BUSD officials and forwarded to BUSD officials; writer calls for F’s firing; says BUSD board is negligent in allowing F to continue teaching; writer claims F solicited students to participate in protests; writer refers to F’s arrest in Sacramento for an alleged felony; writer characterizes F as violent and references F’s protest activity; includes a definition of negligence.

**BUSD000008**

F agreed to produce.

**BUSD000011**

F agreed to produce.

**BUSD000012**

F agreed to produce.

**BUSD000014**

Message from purported parent to Janet Levenson and forwarded to other BUSD officials; purported parent asks that F be fired and that a rally F plans to hold at school, before school hours, be prohibited.

**BUSD000016**

Email from a member of the public forwarded to BUSD officials and partially redacted by BUSD on deliberative process grounds; F agreed to produce the public statement in original email message.

**BUSD000019**

F agreed to produce.

**BUSD000038-39**

Email from a member of public forwarded to BUSD officials, then forwarded again to other BUSD officials; writer saw “several” interviews of F; writer asks for F’s firing and criticizes BUSD; writer disagrees with F’s speech.



**BUSD000040**

Email from a member of public to Janet Levenson forwarded to other BUSD officials; writer asks for F's firing based on F's views/speech; writer cites F's "documented behavior out of the classroom;" writer attributes to F political viewpoints that are not hers; claims F assaulted someone; cites her absences from the classroom due to her involvement in political protests; poses rhetorical questions about whether an openly racist person who attends a white supremacist rally would continue to be employed by BUSD; F agreed to produce header.

**BUSD000041-42**

Email from a member of public forwarded to BUSD officials; email is similar to BUSD000040; writer asks for F's firing based on writer's assertion that F's actions and speech are not protected by the 1<sup>st</sup> Amendment; writer is responding to a letter sent out by BUSD saying it supports 1<sup>st</sup> Amendment right to free speech and condemns violence; F agreed to produce header and closing.

**BUSD000043-54**

Collection of email messages to BUSD's general mailbox forwarded to BUSD officials:

Email on BUSD000043-44 is from a member of the public who suggests unidentified, adverse action be taken against F; writer says he/she saw a video of F "hitting a peaceful man on a Berkeley public school campus."

Email on bottom of BUSD000045 and continuing to the top of BUSD000046 is a CPRA request; F agreed to produce request.

Email beginning in the middle of BUSD000046 from a member of the public who says he/she saw F's Tucker Carlson interview and asks that F be terminated based on the interview.

Emails on BUSD000047-53 are from different members of the public, but are substantively similar; all are relatively short; writers all say they "saw F's interview on Tucker Carlson and want her fired," or use words to that effect; some mention an "interview" but not specifically the Tucker Carlson interview; emails reflect writers' opinions; "She should be committed to a mental hospital;" some refer to the 1<sup>st</sup> Amendment; email on BUSD000047 asks that F be fired for the Tucker Carlson interview; email on BUSD000048 asks that F be fired; first email on BUSD000049 says writer saw F on Tucker Carlson and she should be fired and committed to a mental institution; second message on BUSD000049 says writer saw F on Tucker Carlson and says F should be fired; email on BUSD000050 says writer watched F on Tucker Carlson and says F should be fired; BUSD000051 contains two messages in which the writers call for F's firing, but do not specify why or reference any particular interview; "She doesn't understand the 1<sup>st</sup> Amendment;" F "appears to be violent" and is purported to "advocate violence;" first email on BUSD000052 is a continuation of a message that begins on BUSD000051; second email on BUSD000052 calls for F to be fired and references F's Tucker

Carlson interview; first email on BUSD000053 calls for F's termination; second email on BUSD000053 doesn't call for F's firing, but asserts "she's dangerous to be around children;" F agreed to produce the email on the top of BUSD000054; second (full) email on BUSD000054 calls for F to be fired based on F's alleged assertion that Milo Yiannopoulos is a "homophobe;" F objects to writers characterizing her speech, asking that she be fired because of her speech, and portraying her in a "false light."

#### **BUSD000056**

Email from a purported resident forwarded to BUSD officials; writer volunteers to be a witness against F for allegedly engaging in political activity on school property during work hours "going back to 2001;" F agreed to produce header without subject line.

#### **BUSD000064**

Email from a member of public, forwarded to BUSD officials, with subject line "Fire Nutjob Communist Agitator Felarca!;" writer calls for F's firing based on political views ascribed to her; writer characterizes F as a "Maoist" and a "radical nutjob" who should "work in North Korea;" writer says F calls people who disagree with her "fascists" and asserts that kids will be "killed or murder someone with a different opinion" if F continues to teach them; asks BUSD to not allow her to continue to teach; writer also references a TV interview of F, but doesn't identify a particular interview.

#### **BUSD000072**

Email from a purported "parent/mother" forwarded to BUSD officials; writer ask that F be fired for being an "embarrassment, unstable, and dangerous" and because of her "disgusting vulgarity;" writer says she doesn't know BUSD's political beliefs, but asserts that BUSD should protect students because F is regarded as "unstable" and "dangerous;" writer makes no specific reference to any particular speech, interview, activity, or article; F agreed to produce header.

#### **BUSD000075**

Email from a member of the public to Janet Levenson and other BUSD officials; writer erroneously claims F mischaracterized a group – the Traditionalist Workers Party – as a Nazi organization; claims F attacked the group, but doesn't say whether alleged attack was physical or verbal; may be a reference to Sacramento; makes an obscure reference to Angela Merkel; asks that F be removed from the school and terminated "for the safety of American children" and spare them of her politics; writer defends Traditionalist Workers Party; appears to be predicated on an interview of F seen by writer; appears to be a tv interview; represents information writer received from TWP website and Washington Post; F agreed to produce header and signature block.

**BUSD000076**

Continuation of BUSD000075, but separate email from different date – 12/4/16 – on the top of the page; email is from a member of the public to Janet Levenson and other BUSD officials and urges BUSD to fire F for allegedly assaulting people in front of police officers; writer asserts F's claims about the 1<sup>st</sup> Amendment are incorrect and says BUSD will be liable for any future indiscretions related to F's employment.

**BUSD000077**

Series of emails; 1<sup>st</sup> email has been disclosed; 2<sup>nd</sup> email is from a member of the public to BUSD officials and asks that F be suspended for "off duty protest activities;" writer also claims, without explanation, that BUSD has violated the Brown Act; F agreed to produce 3<sup>rd</sup> email, which continues onto the top of BUSD000078.

**BUSD000078-80**

F agreed to produce.

**BUSD000081-82**

F agreed to produce.

**BUSD000093**

Email from purported parent to Janet Levenson forwarded to another BUSD official, Javier Mendieta, praising F's performance; middle paragraph of email largely concerns a detailed discussion between the purported parent and child, a 7<sup>th</sup> grader, regarding F; names are redacted; point of discussion in middle paragraph is to make it possible for the child to respond to rumors about F's Fox interview; F agreed to produce 1<sup>st</sup> paragraph and 3<sup>rd</sup> paragraph of email, but not middle paragraph.

**BUSD000094**

Email from a member of the public to Janet Levenson forwarded to other BUSD officials; writer, who identifies herself as a former president of the Association of California School Administrators and a retired principal and teacher, asks for F's removal from school based on what she gleaned from F's Tucker Carlson interview, which, in the writer's view, promoted violence and could have a "treasonous influence" on the students F teaches; F agreed to produce header.

**BUSD000095**

Email from a purported parent to Janet Levenson and other BUSD officials forwarded to other BUSD officials; purported parent refers to F's interview on "nat'l television;" mentions report that F was arrested for assault and inciting a riot; purported parent asks BUSD to take unspecified action against F to show it does not condone F's message and that F is an

“unacceptable model” for children; purported parent is critical of BUSD for not already taking action.

**BUSD000096**

Email from “Außenminister der Nationalsozialistischen Bewegung” to Janet Levenson forwarded to other BUSD officials; signature block bears a symbol of an eagle and swastika; writer asserts that F meets definition of terrorist under the U.S. Code, citing 18 U.S.C. § 2321 (foreign terrorism); writer claims he saw F on a video calling for a terrorist attack and that makes her a terrorist by legal definition.

**BUSD000097**

Email from a member of the public to Janet Levenson forwarded to other BUSD officials; writer asks that F be terminated for her “political points of view,” then cuts off: F’s “points of view are not only dangers to th . . . ;” F agreed to produce header.

**BUSD000098**

Email from third party to BUSD calling for F to be removed as a teacher; “maintaining her would be a disaster waiting to happen;” cites a video in which F is alleged to be acting violently, references F’s membership in BAMN, which allegedly was previously investigated by the FBI due to its alleged involvement with violent criminal groups; accuses F of being “paranoid,” a “liar” and a “manipulator;” summed up as a “very dangerous individual connected with a very dangerous group;” F agrees to produce header.

**BUSD000099**

Short email (bottom of page) from the school secretary to Janet Levenson regarding a call to the school; caller threatened to protest if F not removed; no threat of violence; F agreed to produce header.

**BUSD000100**

Email dated June 30, 2016 from the Nat’l Director of the National Socialist Movement re: a “Draft of Formal Form Letter;” letter concerns alleged criminal behavior by F and accompanying or resultant potential liability on the part of BUSD; F agreed to produce, except sentence about F’s alleged criminal behavior and BUSD’s resultant liability.

**BUSD000101**

Email from a purported parent to BUSD officials asking that BUSD prevent F from holding a rally at the school; purported parent wants the rally stopped and is surprised F would be at school because she had been suspended; parent asserts that F attracts danger to the school.

**BUSD000102**

Email from a member of the public to BUSD officials about an upcoming protest; writer asserts that the protest is being planned by an “anarchist” group called Fireworks Bay that aims to cultivate revolutionary solidarity and communication in the Bay Area among full-fledged, old school revolutionaries and budding insurgents; writer believes F and BAMN may be involved or become involved and wishes to make Levenson aware of the rally; F agreed to produce without the reference to F’s and BAMN’s involvement in the rally.

**BUSD000103**

Email from a member of the public to BUSD officials asking BUSD to fire F for her participation in what the writer describes as “riots in Berkeley” and “inciting violence;” F acknowledged she was in Berkeley at the time; F agreed to produce header.

**BUSD000104**

Email from a member of the public to BUSD officials; writer describes F as a “psychotic woman” and says BUSD should be ashamed of itself for maintaining her as a teacher; writer asserts that BUSD (or F?) “preaches tolerance but doesn’t tolerate opposition.”

**BUSD000105**

Email from a member of the public to BUSD officials; writer alleges, based on a video, that F attacked an unidentified person at a protest and uses “very foul language;” asks that F be fired; F agreed to produce header, but not subject line.

**BUSD000110-11**

Email containing photographs of three posters taken by Charles Burress, BUSD’s public information officer; F alleges the posters contain false information and claims and/or disclose her home address; 1<sup>st</sup> poster has F’s picture, says she was arrested, and cites 3 alleged criminal charges against F, two of which F claims are inaccurate; 1<sup>st</sup> poster describes F as “Criminal Yvonne Felarca;” 2<sup>nd</sup> poster includes F’s home address, asserts F was “fired,” and gives Janet Leveson’s email address and phone number and the school’s general email; 2<sup>nd</sup> poster is from a reporter’s twitter account; 3<sup>rd</sup> poster has F’s picture and a picture of a male teacher from another district (not a Berkeley) who was convicted of child molestation and terminated; 3<sup>rd</sup> poster states, “Two public employees; 13 Violent Felonies;” photo on top of BUSD000111 is same as photo No. 3 on BUSD000110; photo on bottom of BUSD000111 is same as photo No. 1 on BUSD000110.

**BUSD000113**

Same email as BUSD000103, just part of a different email chain; F acknowledges being at the event referenced in the email; F agreed to produce header.

**BUSD000114**

Same email as BUSD000103 and BUSD000113; F agreed to produce header.

**BUSD000116**

Chain of 3 emails; 1<sup>st</sup> email is from Charles Burrell, BUSD's public information officer, to BUSD officials and another individual re: "possible reason for flurry of new calls about Ms. Felarca;" 1<sup>st</sup> email references a video on an unidentified website that, at the time, had 215,000 views; no link to the website was provided; F asserts that the information in the video is misleading and/or "fraudulent;" 2<sup>nd</sup> email is from a BUSD official (redacted) to "Jay" and includes in the subject line, "Yvette is assaulting people in the street;" no other information was provided; 3<sup>rd</sup> email is from "redacted" and to "redacted" and includes a link to a YouTube video; the subject line again is "Yvette is assaulting people in the street;" the message accompanying the 3<sup>rd</sup> email asks, "Why hasn't she been fired yet?" F agreed to produce header on 1st email and the video link in the 3<sup>rd</sup> email.

**BUSD000121-22**

F agreed to produced.

**BUSD000124**

Withheld email in center of page is same email withheld on BUSD000101.

**BUSD000125**

Withheld email in center of page is same email withheld on BUSD000101 and BUSD000124.

**BUSD000126**

Withheld email in center of page is same email withheld on BUSD000101, BUSD000124, and BUSD000125.

**BUSD000127-28**

Withheld email at end of page and continuing on BUSD000128 is same email withheld on BUSD000101, BUSD000124, BUSD000125, and BUSD000126.

**BUSD000129**

Withheld email in center of page is same email withheld on BUSD00099.

**BUSD000131**

Message from a former special education teacher to BUSD officials asking that F be terminated based on what the writer gleaned from an interview of F on ABC; writer "mischaracterizes" F's views on people who disagree with her about how to respond to Nazis

and fascists; writer is concerned F is “an immediate danger to those that disagree with her;” “I would [not] feel safe with her around my children;” letter falsely describes BAMN as “passively aggressively calling for violence against Americans;” F agreed to produce header, salutation, and closing.

**BUSD000134-35**

Emails from purported parents to BUSD officials forwarded to other BUSD officials; “gist” of parents’ concern is F’s political activity/commentary; purported parents ask that their children not be placed in F’s class; according to F, some students, not her students, but two who were or would have been F’s students were accommodated (put in other classrooms).

**BUSD000136**

F agreed to produce.

**BUSD000139**

Chain of 2 emails; 1<sup>st</sup> email is from Janet Levenson to BUSD officials re: Draft of a Formal Form Letter from the “National Socialist Movement” (“NSM”); 2<sup>nd</sup> email is from the “Director” of the NSM to BUSD officials and includes an attachment that has been copied into the text of the email; writer asks that F be fired for being un-American and anti-American; writer accuses F of engaging and/or potentially engaging in criminal activity; writer asserts that F promotes violence and “falls into category of domestic terrorist;” says there is a video of her physically attacking someone that will be a public relations disaster for BUSD; writer represents that, when a NSM member publicly embarrasses the organization, NSM “immediately expels” the individual; urges BUSD to do the same; F agreed to produce 1<sup>st</sup> email and header of 2<sup>nd</sup> email.

**BUSD000140**

Withheld email is same email withheld on BUSD000101, BUSD000124, BUSD000125, BUSD000126, and BUSD000127-28.

**BUSD000141-42**

Chain of emails; 1<sup>st</sup> withheld email is the same email withheld on BUSD000101, BUSD000124, BUSD000125, BUSD000126, and BUSD000127-28; email withheld on the bottom of BUSD000142 (3<sup>rd</sup> email in chain) is from a purported parent of a student in F’s 7<sup>th</sup> grade class to BUSD officials and is dated 10/7/16; purported parent wants F fired because F’s belief that “violence as a first strike” is acceptable is at odds with Martin Luther King Jr.’s teaching; writer also objects to a poster in F’s classroom, which is described as an “extremist left wing poster that promotes violence and stepping on other people’s 1<sup>st</sup> Amendment rights;” writer thinks F should have a poster quoting King’s six principles of non-violence; writer bases his/her opinion on the video of F in Sacramento, where F is alleged to have punched a counterprotester.

**BUSD000143**

Withheld email is same email withheld on BUSD000101, BUSD000124, BUSD000125, BUSD000126, BUSD000127-28, BUSD000140, and BUSD-000141-42.

**BUSD000147-48**

F agreed to produce.

**BUSD000149-51**

Same as BUSD000139; F agreed to produce header.

**BUSD000152-53**

F agreed to produce.

**BUSD000154**

Email from a member of the public on the bottom of BUSD000154 is same as email on bottom of BUSD000012; F agreed to produce email from member of public only.

**BUSD000158**

Email from a member of the public to Janet Levenson forwarded to other BUSD officials; writer asks how/why Levenson justifies allowing F to continue to teach and threatens that he will come to the school and “beat her up” if F implies he is a Nazi; writer doesn’t identify himself as having any connection to the school.

**BUSD000159**

Email from a member of the public to Janet Levenson asking for F’s termination; writer references “the movement that she was so vehemently opposing” and asks “why do you allow her to continue in her position?;” writer asserts that BUSD would be complicit in “denial of rights specified in the 1<sup>st</sup> amendment of the constitution” and criticizes BUSD for not terminating F for expressing her beliefs; F agreed to produce header.

**BUSD000160-61**

Chain of 4 emails; F agreed to produce 1<sup>st</sup> and 2<sup>nd</sup> emails; 3<sup>rd</sup> email is from a third party to Janet Levenson dated 2/13/17 that contains what Levenson characterizes is a “terroristic threat” about F from a “right-wing type;” the subject line of the 3<sup>rd</sup> email reads “theater ingredients email (sic);” 3<sup>rd</sup> email also includes a person’s name, but it is unclear whether it is the writer’s name or the name of the person who learned of or received the threat and forwarded it to Levenson; 4<sup>th</sup> email begins on the bottom of BUSD000160 and continues on to the top of BUSD000161; F agreed to produce header of the 3<sup>rd</sup> email and the entirety of the 4<sup>th</sup> email.



**BUSD000162-63**

Continuation of email chain that began on BUSD000160?; redaction at issue begins on the bottom of BUSD000162 and continues on the top of BUSD000163; appears to have been copied from a letter sent by a member of the public requesting F's termination; writer says if F is allowed to teach, BUSD would be endorsing the maintenance of a "crazy left-wing, neo-socialist POS;" includes a statement to the effect that, if you support F, you also are a crazy, left-wing, neo-socialist POS, and "you all better start thinking about the fact that the people on the right ARE THE PEOPLE WITH THE GUNS;" "You don't want to start violence with them;" writer accuses F of committing violence and accuses BUSD of committing violence by keeping F; writer asserts, "The longer you do that, we will get fucking pissed and fight back."

**BUSD000165**

Chain of three emails dated 2/14/17 (not 2/22/17, as stated on log); F agreed to produce 1<sup>st</sup> email; 2<sup>nd</sup> email from "redacted" to Janet Levenson regarding something that happened to a student; F agreed to produce the 1<sup>st</sup> sentence of 2<sup>nd</sup> email; F maintains that the 2<sup>nd</sup> sentence of the 2<sup>nd</sup> email should be withheld as a student safety issue; it allegedly contains a description of concerns derived from something that happened to a student; the description doesn't mention F; 3<sup>rd</sup> email is from Janet Levenson to King Staff regarding pressure to fire F following F's Fox news interview; Levenson states that the school received 400 phone calls following the interview; Levenson also references a third-party email sent to the entire staff that raised safety issues for students and staff; Levenson asserts that the school is attempting to make adjustments to deal with the phone calls, some of which, according to Levenson, contain undescribed "threats;" F agreed to produce 1<sup>st</sup>, 5<sup>th</sup>, and 6<sup>th</sup>, paragraphs of 3<sup>rd</sup> email.

**BUSD000166-67**

F agreed to produce.

**BUSD000169**

Same email as BUSD000162-63.

**BUSD000170-71**

F agreed to produce.

**BUSD000173**

Email chain; F agreed to produce 1<sup>st</sup> email; 2<sup>nd</sup> email is same as email on BUSD000165; F agreed to produce 1<sup>st</sup>, 5<sup>th</sup>, and 6<sup>th</sup> paragraphs of 2<sup>nd</sup> email.

**BUSD000174**

Chain of 4 emails; 1<sup>st</sup> email was sent at 4:33 p.m.; 2<sup>nd</sup> email was sent at 4:23 p.m.; 3<sup>rd</sup> email was sent at 1:00 p.m., 4<sup>th</sup> email was sent at 12:53 p.m.; F agreed to produce 1<sup>st</sup>, 2<sup>nd</sup>, and

4<sup>th</sup> emails; 3<sup>rd</sup> email is from Janet Levenson to a teacher (name redacted) regarding F; Levenson describes the effect of phone calls received by the school; Levinson attributes the calls to F's interview on Fox and asserts that BUSD is under pressure to terminate F.

**BUSD000175**

Chain of 3 emails; 1<sup>st</sup> email is from a teacher (name redacted) to (name redacted) on the night of F's Tucker Carlson interview; subject is "Berkeley;" 2<sup>nd</sup> email is from "redacted" to "redacted" re: "Berkeley;" 2<sup>nd</sup> email is described as a "rant" that is hard to comprehend; is both positive and negative in describing F; the writer says F is "un-American" and that he/she "disagrees" with F's actions "outside of school," but that F is a "great teacher;" "I would like to point out that the idea with the person with the gun is ambiguous, as your statement is unclear;" F wants the 2<sup>nd</sup> email withheld because, to an average reader, it would likely be interpreted as applying to F; 3<sup>rd</sup> email is same as BUSD000163; F agreed to produce the 1<sup>st</sup> email and the 3<sup>rd</sup> as per BUSD000163.

**BUSD000176**

Same as BUSD000165; F agreed to produce 1<sup>st</sup>, 5<sup>th</sup>, and 6<sup>th</sup> paragraphs.

**BUSD000177**

Chain of 2 emails; 1<sup>st</sup> email is from third party to Janet Levenson dated 03/06/17; 2<sup>nd</sup> email is from Janet Levenson to "everyone" stating and/or implying that F's involvement in a rally on March 4<sup>th</sup> is responsible for school's receiving threats and people feeling threatened; no dispute that F attended a rally on March 4; F agreed to produce 1<sup>st</sup> email and header on 2<sup>nd</sup> email.

**BUSD000179**

Email from school staff member to Janet Levenson about a call from purported parent considering enrolling his child in F's school; purported parent wants to speak to F, but only reached voice mail; asks to speak to F; writer says caller would not give name because he is concerned F "would take it out on his son;" purported parent suggests his child is afraid something will happen to the child if he is enrolled in F's class; F agreed to provide header.

**BUSD000180**

Chain of 2 emails; 1<sup>st</sup> email is to Janet Levenson from "redacted" and is dated 03/11/17; 2<sup>nd</sup> email is to Janet Levinson and school staff and is dated 03/7/17; 3<sup>rd</sup> email is to Janet Levenson from a member of the public and is dated 03/06/17; writer asks for F's firing and characterizes F as "nothing short of a domestic terrorist;" writer claims F advocated violence at a rally in Berkeley; writer says F was the organizer of "violent protesting" and "such protesting" leads to arrests and "metal pipes, baseball bats, 2 by 4 blocks of wood and bricks" were confiscated from protestors; F agreed to produce headers.

**BUSD000181**

F agreed to produce.

**BUSD000183**

Email from Janet Levenson to school staff at 9:35 p.m. on February 13, 2017, regarding anticipated, potentially threatening emails and phone calls; ascribes the cause of the emails/calls to unidentified media statements by F; appears to have been sent right after F's Tucker Carlson interview; Levenson asks staff not to share what they receive with other staff members, but to rely on her to read every email and listen to every phone call; F agreed to produce header.

**BUSD000184**

F agreed to produce.

**BUSD000185-88**

Chain of 6 emails sent between February 26 and February 27, 2017; 1<sup>st</sup> email is from 2/26 at 11:00 p.m.; 2<sup>nd</sup> email is from 2/27 at 7:14 a.m.; 3<sup>rd</sup> email is from 2/27 at 8:09 a.m.; 4<sup>th</sup> email is from 2/27 at 8:39 a.m.; 5<sup>th</sup> email is from 2/27 at 10:23 a.m.; 6<sup>th</sup> email is from 2/27 at 10:xx a.m.; senders and/or recipients include F, Lori Nixon, and Larry Stefl; remainder are school staff; emails contain discussion about the causes of and reactions and responses to threats received by the school; 6<sup>th</sup> email is same as BUSD000184, which F agreed to produce; remainder are withheld on 1<sup>st</sup> Amendment and privacy grounds.

**BUSD000189**

Email from Janet Levenson to school staff and "redacted" re: "Update on Messages Related to Ms. Felarca;" describes a safety protocol for responding to threats to F, among other subjects; says "redacted has fielded many of them;" F withholds on security grounds because she wants to maintain the protocol for the future.

**BUSD000190**

F agreed to produce.

**BUSD000192**

Email from a member of the public to Janet Levenson and a group of others (redacted) and forwarded to BUSD officials; original email has the subject line "Yvette Felarca Fascists Terrorist;" writer asks that F be fired and asserts that F was "captured on video pledging allegiance to a fascist terrorist organization" identified as "Ministry of Truth;" writer refers to F as "degenerate subhuman" a "violent racist" and "mentally unstable;" F agreed to produce headers, without the subject line, and the closing.

**BUSD000193**

Same as BUSD000192.

**BUSD000194**

Same as 3<sup>rd</sup> email on BUSD000165; F agreed to produce 1<sup>st</sup>, 5<sup>th</sup>, and 6<sup>th</sup> paragraphs.

**BUSD000200**

F agreed to produce.

**BUSD000201**

F agreed to produce.

**BUSD000202**

F agreed to produce.

**BUSD000203**

F agreed to produce.

**BUSD000204**

Email from Janet Levenson to F advising F about a very detailed threat on F's life; Levenson tells F she is concerned about F's personal safety on a particular day of the week; the source of the information is not identified, nor is it possible to tell how recent the threat was made; F seeks to withhold on privacy grounds only.

**BUSD000205**

Same as BUSD000158.

**BUSD000206**

Chain of 2 emails; 1<sup>st</sup> email is from F to Janet Levenson and has the subject line "King Staff Bulletin;" 1<sup>st</sup> email begins the internal discussion reflected on BUSD000185-88 about the causes of and reactions and responses to threats received by the school; 2<sup>nd</sup> email is from Janet Levenson to school staff, dated February 20, 2017 and also having the subject line "King Staff Bulletin;" F agreed to produce the 1<sup>st</sup> and 3<sup>rd</sup> paragraphs of the 2<sup>nd</sup> email only; remainder is withheld on 1<sup>st</sup> Amendment and privacy grounds.

**BUSD000207**

Same as one of the emails in the email chain on BUSD000185-88; email is from a school staff member to F and other school staff members about the causes of and reactions and responses to threats received by the school; F withholds on 1<sup>st</sup> Amendment and privacy grounds.

**BUSD000208-09**

Email chain is similar to or same as email chain on BUSD000185-88; email is from F to school staff and continues an internal discussion about reactions and responses to threats; a large portion is the same as the email on BUSD000207; F withholds on 1<sup>st</sup> Amendment and privacy grounds.

**BUSD000210**

Email from purported parent to Janet Levenson forwarded to BUSD Official Javier Mendieta; original email is dated July 6, 2016; purported parent says she received information from other parents concerning F's actions at the Sacramento rally and asks that her child not be placed in F's 7<sup>th</sup> grade class; purported parent accuses F of, among other things, creating an "endless war" and "takes it from what other people are telling her that what F said occurred was not true;" purported parent also is concerned about F intentionally or unintentionally proselytizing to her child; F asserts that the purported parent's email portrays her in a false light and says things about her that are not true; F agreed to produce headers.

**BUSD000211**

Email from purported parents to Janet Levenson forwarded to BUSD Official Javier Mendieta; original email is dated July 8, 2016 and is from a group of purported parents who say they want to opt their children out of F's class; purported parents condemn F for her "aggressive and violent actions and her words" and express concerns about F's attitude damaging the community; F agreed to produce headers.

**BUSD000212**

Email from a member of the public to Janet Levenson forwarded to BUSD Official Javier Mendieta; writer asks that "disciplinary action" be taken against F because F uses intimidation to threaten people at public land grant universities and is "violent;" writer asserts that F should not be allowed to "corrupt the malleable young minds of innocent children;" subject line is "Yvette Felarca at UC Berkeley;" F agreed to produce headers.

**BUSD000213**

Message from purported parent to Janet Levenson dated November 3, 2016 (not March 11<sup>th</sup>) and forwarded to other BUSD officials; purported parent references an alleged interview of F about Donald Trump and asserts that "YF promotes violence on a school day;" states she intends to participate in parent-teacher conferences the following week and will meet with all her daughter's teachers except F, who she says "is scary;" F agreed to produce header, but not subject line.

**BUSD000214**

Message from a member of the public to Janet Levenson forwarded to other BUSD officials; writer refers Levenson to video clip from F's Tucker Carlson interview and includes a video attachment; writer asserts F "needs to be taken out of the classroom;" F agreed to produce header only, to the extent not redacted by BUSD.

**BUSD000215**

Message from purported parent to Janet Levenson forwarded to other BUSD officials; purported parent asserts that F is returning to work the next day; purported parent says she read a "legal complaint" attributed to F, believes it is "full of lies," and doesn't believe F is "fit to teach my daughter;" purported parent appears to request that her daughter be transferred to another teacher's class; subject line is "Redacted teacher YF"; F agreed to produce header.

**BUSD000216**

Message from purported parent to Janet Levenson forwarded to other BUSD officials; purported parent requests child be given a new teacher; calls for F's arrest for inciting riot based on interview on Channel 2 KTV News; F agreed to produce header only, to extent not redacted by BUSD.

**BUSD000217**

Message from purported parent to Janet Levenson forwarded to another BUSD official; purported parent describes child/student as very upset by F being absent for 2 days; child read claim about F on Google; what appears to be child's name is redacted; F agreed to produce header only, to extent not redacted by BUSD.

**BUSD000218**

F agreed to produce.

**BUSD000222**

Same as BUSD000206.

**BUSD000224**

Email chain; same as BUSD000174; F agreed to produce 1<sup>st</sup> and 2<sup>nd</sup> emails, header on 3<sup>rd</sup> email, and 4<sup>th</sup> email.

**BUSD000225**

F agreed to produce (same as BUSD000201).

**BUSD000226**

Chain of 3 emails; F. agreed to produce 1<sup>st</sup> email; 2<sup>nd</sup> email was forwarded by Janet Levenson; is a detailed report on safety protocols to protect F; 3<sup>rd</sup> email is from Janet Levenson to King Staff re: contingency plan for “keep[ing] [F] and the entire school community safe”; F wants to maintain privacy/strategy of plan; no 1<sup>st</sup> Amendment claim.

**BUSD000227**

Chain of 3 emails; F agreed to produce 1<sup>st</sup> and 2<sup>nd</sup> emails; 3<sup>rd</sup> email is same as email on BUSD000189.

**BUSD000228**

Chain of 3 emails; 1<sup>st</sup> email is from Janet Levenson on April 27, 2017 at 11:13 a.m. to “redacted” re: “Today;” is the beginning of a discussion of safety measures; 2<sup>nd</sup> email is from “redacted” at 11:11 a.m. to “redacted” re: “Today;” concerns contingency plans; 3<sup>rd</sup> email is from Janet Levenson to King Conference at 10:25 a.m. re: “Today;” 3<sup>rd</sup> email is identical to 3<sup>rd</sup> email on BUSD000226; F agreed to produce only headers on 3<sup>rd</sup> email.

**BUSD000229**

Same as 3<sup>rd</sup> email on BUSD000165 and BUSD000176; F agreed to produce 1<sup>st</sup>, 5<sup>th</sup>, and 6<sup>th</sup> paragraph.

**BUSD000233**

F agreed to produce.

**BUSD000235**

F agreed to produce.

**BUSD000237**

Same as BUSD000228.

**BUSD000238**

Chain of 4 emails exchanged among school staff with subject line “Update on Messages Related to Ms. Felarca;” F agreed to produce 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> email; 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> emails are same as 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> emails on BUSD000227; 4<sup>th</sup> email also is same as 3<sup>rd</sup> email on BUSD000227 and is the same as the only email on BUSD000189.

**BUSD000240**

F agreed to produce.

**BUSD000241**

Chain of 4 emails; F agreed to produce 1<sup>st</sup> and 2<sup>nd</sup> emails; 3<sup>rd</sup> and 4<sup>th</sup> emails are same as 2<sup>nd</sup> and 3<sup>rd</sup> emails on BUSD000175.

**BUSD000243**

F agreed to produce.

**BUSD000244**

Chain of 4 emails; F agreed to produce 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> emails; 4<sup>th</sup> email is same as BUSD000226 and BUSD000228; F agreed to produce header only on 4<sup>th</sup> email.

**BUSD000245**

F agreed to produce.

**BUSD00246**

F agreed to produce.

**BUSD000247**

Email chain; F agreed to produce 1<sup>st</sup> email; F withholds 2<sup>nd</sup> email on safety grounds; 3<sup>rd</sup> email is same as BUSD000173 and BUSDU000229; 3<sup>rd</sup> email continues on BUSD000248 and BUSD000249.

**BUSD000249**

Email chain F forwarded to herself; original email is from purported parent to F asking F to be fired; purported parent says son will be attending KMS in fall; accuses F of being a Fascist and describes F's teaching as ignorant and stupid; ends saying F is a "scumbag and piece of shit."



# **EXHIBIT H**

 facebook.com/pg/Yvette.Felarca.Berkeley/community



FACIST!



You are a disgrace to educators.



Free speech means exactly that even for (especially) for those u dont agree with. . It is not up to you to determine who can and cannot speak.....



Because I believe in right and wrong ,good and bad and respect.



What do you tell a people  
that are in the middle that want to live their normal life.





you are a disgrace to the teaching profession.



So, where is she today?



Victory for the anti-Trump and anti-fascist movement--full acquittal on all counts for the Berkeley 5! Congratulations to Dustin Sawtelle, Jeff Armstrong, Nathan Perry, Scott Hedrick, and Taylor Fuller! Thank you for standing up to the alt-right and to holding your ground against this witch-hunt by the police and court system. This is a victory for all of us.



Yvette throwing up a white power hand sign!



Will the felony conviction be enough to finally fire her from teaching? Only brain-dead Berkeley parents know!



Looks like you are going to trial for you hateful, disgusting, treasonous behavior. I hope you fry in hell after you go to jail. You and everyone like you need to be eliminated from this country one way or another.



antifa are a bunch of assholes, just saying.



Hope they throw your ass in jail where you belong.



This woman is a cunt.



I'm in love with this woman, she's so badass! I love her passion! She's crazy town but I love her!



Ur the most hypocritical unself aware person I've ever seen. And it makes u seem weak and uneducated as well as unwilling to acknowledge ur own flaws which lead to you getting on to national tv accusing others of facist racist tactics that you are absolutely guilty of, and unless you change some of the aforementioned behaviors no one will ever take you seriously because u are blind to ur own bad behavior and no one has any respect for the level of hypocrisy that u show. So until u figure that out plz stop making yourself look like an idiot and a liar in front of the whole nation



I'm with you Yvette Felarca



The pendulum is swinging

<http://www.sfgate.com/.../Berkeley-teacher-ordered-to-pay-leg...>



About this website

sfgate.com

Berkeley teacher ordered to pay legal fees of Republican group's ex-leader

An Alameda County Court Commissioner ordered a Berkeley middle school teacher and activist to pay \$11,100 in legal fees to the former head of the Berkeley College Republicans after the teacher dropped a demand for a restraining order against the ex-leader of the Republican group. The tentative court...



You are a fucking nut

Stupid idiot

Yvette Felarca who helped to ruin the left by promoting violence is arrested! Lets hope she gets killed in prison, after having her spirit broken



About this website

foxnews.com

Antifa leader, teacher Yvonne Felarca arrested at 'empathy tent' Berkeley brawl

A middle school teacher-turned-Antifa leader was among the four people arrested after opposing political groups clashed Tuesday inside a so-called "empathy tent" at the University of California, Berkeley.



Ummmm....what could I put in her mouth to for her to shut-up...?



Dumb bitch.





I've never seen a bigger moron than Felarca, people in BAMN and rest of the AnCom bloc. Destroying their own movement with their own action. How stupid can you be? I am glad that you are my opponent.



How come you guys are employing the same tactics as the brown shirts but then calling yourself anti-fascist?



You're an idiot! I'm glad the court ruled against you thugs.



Gettin what you deserve dirt bag!!!



Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.



11 K !!! Wow, how many of your anarchist friends are chipping in to pay that ? Or, are they putting their hands in their pockets and slinking away ?

Got what you deserved, babe !



Hah! Hah! Hah! Payback time! See how you like a taste of your own medicine.



Ms Felarca, words can't actually convey the gratification so many Americans feel now that you have been ordered to pay 11,000 dollars in court costs because you attempted to silence a conservative American exercising his right to free speech.

We also witnessed your violent, and brutal physical attack on another American conservative, caught on video. In the name of "anti-fascism", you actually imitate, by action and word, the exact deeds of Hitler's Brown Shirts. Here's hoping that more punitive sanctions come your way in 2018. Your physical violence against Americans is a stark reminder of the blatant hypocrisy of the "Antifa terrorists".



You are a sorry individual.



Go fuck yourself cunt.



So you got hit with \$11 000 fine to be paid to a MAGA supporter, is that right?



He profile pic looks like she's getting teabagged.



#yvetteFalarcaPRISONbound , you are disgustingly repulsive physically, intellectually, AND philosophically...bitter, lonely, hateful, crazy cat freak-lady!!! Sad really.



## PROGRESSIVES

Just because you're "moving forward" doesn't mean you're going to a better place.





Comrade Snuffaluffagus reporting from inside the Official Columbus Ohio Antifa headquarters on to discuss new tactics in fighting the Nazis. #resist #notmypresident #NoTrumpNoWallNoUSAatAll #Kekistan #PraiseKek #Fashtag Yvette Felarca Official Columbus Ohio antifa Anti-Antifa Columbus, Ohio



-2:40



These are the type of people George Soros funding groups produce. George is a criminal and needs to be put behind bars.



Hopefully she's been fired from her job. We don't need bigotry and racism in our schools also she's a very violent person.



when are you gonna wake up dummy? you are your own definition of fascism of which your definition is wrong but that's beside the point considering your a communist which is just slavery and even worse then fascism, but of course 5 minutes of research would show you this but you still wont get it cuz your a brainwashed sheep fighting for tyranny for things you clearly dont even understand, because if you did understand what tyranny was socialist marxist fascist or communist th...

[See More](#)



How much is George Soros paying you



Ms. Felarca is herself an anarchist. She should be arrested and locked up for inciting anarchy.



Felarca you are an embarrassment to our country. The only people you try to stifle are the city dwellers and anyone else who seems weak. You and your minions are nothing but a bunch of puppets for a nazi idiot, Sorros. You are gutless cowards who wouldn't dare show your faces anywhere you might be powerless. Take your little moronic masks and show yourselves for the cowards you are. PUNKS!!



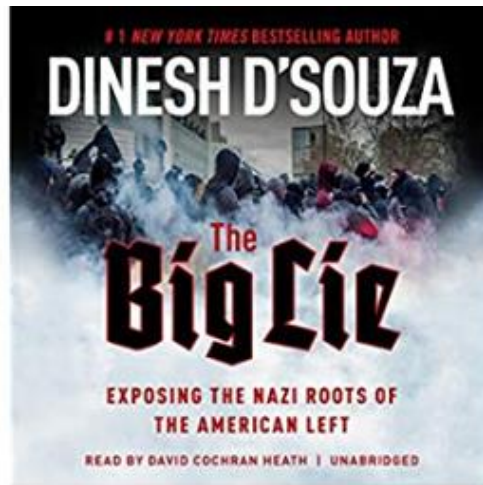
Is she in prison yet?



Yvette Felarca is a Humanities teacher at Martin Luther King Jr. Middle School in Berkeley and an organizer at By All Means Necessary aka BAMN. She was put on leave in September 2016 for questionable activities, but has since returned to work.



Turns out the anti-Fascists/Nazis are themselves Fascists and Nazis - both far left historical ideologies. They use the same tactics as the Nazi Brown Shirts and the Italian Black shirts. How the labels got switched around to mean Conservative is explained in great detail in this book. Pass this on so others can benefit from the truth.



★★★★★ (873 Reviews)

amazon.com

### The Big Lie: Exposing the Nazi Roots of the American Left

The explosive new book from Dinesh D'Souza, author of the New York Times best sellers Hillary's America, America, and Obama's America. What is "the big lie" of the Democratic Party? That conservatives - and President Donald Trump in particular - are fascists. Nazis, even. In a typical comment, MS...



SCRAP



Ayaan Hirsi Ali

"I lived in countries that had no democracy... so I don't find myself in the same luxury as you do. You grew up in freedom, and you can spit on freedom because you don't know what it is not to have freedom."



L



This bitch is headed for the 3 Strikes law in California. Put the commi bitch in prison for 25 to Life.



you should be ashamed you did violence, and incited violence and organized people to do violence in case you do not get it you are a fascist, you are what you hate.



Yvette Felarca does not give a shit about anybody she wanna show off



Just another big mouth POS liberal. You are nothing and a loser. You are a violent pot that should never teach children.



Yvette your a true Anti-American and your calling yourself an Anti Fascist yet you use Facsist Methods to shut down the voices of those you call Facsist who don't shut down your voice.

Pure Hypocrisy on your part.



What an amazing and inspiring hero she is to all of us and our children! Milo and his racist goons will be denied a safe space anywhere they go!

# **EXHIBIT I**

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#Tucker

## Berkeley riots backer proud of shutting down 'fascist' Milo



Fox News

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495,471 views

Published on Feb 13, 2017

Tucker takes on national organizer for BAMN, which was one of the biggest supporters of the protests of Breitbart editor Milo Yiannopoulos's campus speech #Tucker

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COMMENTS • 3,312



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B

**Bonni Walls** 1 year ago

By her own definition, she is in fact the Fascist! What a closed minded clueless idiot!

Reply • 630

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**DJ Schotzi** 1 year ago

She is a sick woman and should not be teaching at a school

Reply • 83

[View 2 replies](#)

C

**CarlRayburg** 1 year ago

if she helped organize the riots. . . she should be arrested. she is the one organizing violence.

Reply • 73



**Alex B** 1 year ago

Seeing that teacher punch that guy and for her to still be allowed anywhere near that campus is sickening

Up next



Autoplay

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MILO  
1,756,236 views



**Tucker vs Antifa supporter: Are you really a professor?**

Fox News  
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Real Time with Bill Maher  
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Fox News  
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**Roger Stone associate challenges Mueller's authority**

Fox News  
59,848 views **NEW**



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-  **ryan carson** 1 year ago  
"Spreading homophobic lies"...I didn't know someone who is gay could be homophobic.  
Reply • 66  
[View 2 replies](#)
-  **Mark Spicer** 1 year ago  
This is the face of our education system.  
Reply • 543  
[View 31 replies](#)
-  **Mister E** 7 months ago  
I thought Asians were supposed to be smart.  
Reply • 29
-  **Equites** 1 year ago  
"Alt-Right spreads violence" As far-left assholes are breaking windows and vandalizing in the background.  
Reply • 22  
[View reply](#)
-  **William Henry Van Etta** 1 year ago  
How is she allowed to assault someone, especially when it's recorded... and fire those police that didn't act  
Reply • 19  
[View 2 replies](#)
-  **denymenot** 1 year ago (edited)  
She made zero sense ...and she is calling on other people to do her dirty work and what she doesn't agree with .. she and her goons committed at least three felonies on that video....how is she she still teaching...  
Reply • 13  
[View reply](#)
-  **Marxone** 1 year ago  
Are the mental hospitals so overbooked that she can't get in?  
Reply • 340  
[View 9 replies](#)
-  **Francais Lover** 1 week ago  
My woman  
Couldnt be prouder of her shutting down this racist troll.  
Reply • 1  
[View reply](#)
-  **Paul Corona** 1 year ago  
I can see her becoming a new meme.  
Reply • 11
-  **LightsCameraEdwin** 1 year ago  
There's video evidence of Milo asking his audiences to consider the viewpoints of every ideology before blindly accepting any. He notes that, unfortunately, the only way to draw attention to his own ideas is through an "offensive" edgy platform.  
Reply • 11
-  **raymond80hr** 1 year ago  
She is bat shit crazy  
Reply • 10
- cjordanhoward** 1 year ago



**Student ejected for telling professor there**  
Fox News  
938,934 views [Sign in](#)



**Milo: Media legitimizes violence on conservatives**  
Fox News  
521,589 views



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Fox News  
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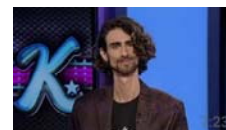
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ABC News  
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Fox News  
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**Milo Yiannopoulos Interview | Real Time with Bill Maher (HBO)**  
Real Time with Bill Maher  
4,176,284 views



**College professor placed on leave over 'dead cops' tweet**  
Fox Business  
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**Gowdy: Peter Strzok didn't need my help to get fired**  
Fox News  
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Reply • 320

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**Isaac Sanders** 10 months ago

Isn't a fascist someone who would shut down someone's speech?

Reply • 11

[View reply](#)



**Brian Collins** 1 year ago

that lady hasnt been laid in years

Reply • 13



**DOC Ohm** 1 year ago

She teaches at Martin Luther King Jr middleschool Berkley Ca. Call the school and ask for her to be fired. No child should be mentored by this lunatic!

Reply • 17

[View reply](#)



**Darqueness Gaming** 1 year ago

So by her definition of a fascist, someone who incites violence, she is admitting that she is a fascist?

Reply • 7

[View reply](#)



**Melissa Dennis** 1 year ago

she is openly assaulting that man. why isn't she charged?

Reply • 322

[View 18 replies](#)



**nikko baron** 1 year ago

Why isn't there a law were we can shoot these people

Reply • 8

[View reply](#)



**Brandonius Brando** 1 year ago

Doesnt say hello, doesnt say thank you, hateful to the core. And shes a gd teacher for kids. No wonder everyones getting dumber

Reply • 8



**Stowbot** 1 year ago

It's Edna

Reply • 6

[View 2 replies](#)



**Mandamelli** 1 year ago

the level of cognitive dissonance is unreal.

Reply • 4



**DeathLordNero666** 1 year ago (edited)

"The fascist of the future will call themselves anti-fascist" ~ Some Troll

Reply • 408

[View 17 replies](#)



**Moneyfrommaps** 1 year ago


now this is why trump won


Reply • 54

**citizenintime** 1 year ago

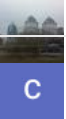
What a truly frightening, evil woman.

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---



**Ethan Back** 1 year ago (edited)

She tries to use violence to shut down opposition, to silence people of different opinions. That's exactly what a fascist would do.

Reply • 3




**James Maxwell** 1 year ago

Fascism is defined as a system of government where a dictator has complete control. An example of fascism is the government led by Benito Mussolini in Italy. Sure sounds like what obama and the Democrat Socialist party tried to do to our nation and are now continuing with the Anti Fascist groups in Berkeley and other college campuses around the

[Read more](#)

Reply • 3




**AiiR** 1 year ago

Did anyone else notice what she described a fascist to be, was her.

Reply • 633

[View 13 replies](#)




**Harold Ian** 1 year ago

ter-ror-ist: Yvette Felarca  
a person who uses unlawful violence and intimidation, especially against civilians, in the pursuit of political aims

[Read more](#)


Reply • 3



**Max Seman** 1 year ago

She makes me shake with anger


Reply • 3



**Just Visiting** 1 year ago

I'm a liberal and disgusted by the people trying to shut down these conservative speakers at college campuses. Protest peacefully outside the building all you want but don't prevent the speaker and audience from entering the building. Free speech isn't only reserved for what you agree with.


Reply • 3



**Talia Ferro** 6 months ago

Why are we giving so much power to people who are clearly severely mentally ill?

Reply • 2




**Mauro Perasso** 1 year ago

She seriously doesn't hear her self?? this person is DELUSIONAL.

Reply • 266


[View 3 replies](#)



**Tacos & Gold Chainz** 1 year ago

Stone Cold Pizza lol

Reply • 3




**Daniel Malinovskiy** 1 year ago

Yeah so glad their president didn't win..

Reply • 2

[View 2 replies](#)



**Danny Timmons** 1 year ago

This women has brain damage, she should be in an institution for the mentally insane. She is the pot calling the kettle black.

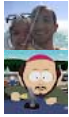
Reply • 2

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The real question is why hasn't Tucker ever questioned a violent Trump supporter for attacking peaceful protestors at a Trump rally? You're only going to defend hate speech and nazism, Tucker?



Reply • 2



**Vril Dox** 1 year ago

I love her definition of fascist.... it's amazing she didn't realize it was a description of her.

Reply • 171



**Statikal** 1 year ago

She ran the best book promotion Milo could have ever asked for, lol.

Reply • 3



**Alex Burds** 2 weeks ago (edited)

people like her make me sick (idiot people that yoy i am talking about)

Reply • 1



**Brad Johnson** 1 year ago

this lady is insane!!!

Reply • 1



**inc\_thunder** 1 year ago

milo is homophobic?

Reply • 1



**R Jewell** 1 year ago (edited)

WOW!! SHE IS A NUT JOB!!

Reply • 165

[View reply](#)



**Greg Townsend** 1 year ago

I really hope this lady dies.

Reply • 1



**Jason Gild** 1 year ago

5:35 anyone notice she called Milo (who is openly gay) a homophobe

Reply • 1



**Jackup460** 1 year ago

Cunt is "Insane! Got no brain!"

Reply • 1



**Michael S** 7 months ago

Trump making America Great every day

This women is Insane!

Reply • 1



**Robyn Boone** 1 year ago

she has no business teaching our children.

Reply • 172

[View 5 replies](#)



**Bad quality productions** 1 year ago

I may have lost a few brain cells...

Reply • 1



**moonvapors** 1 year ago

Right.Why use violence to keep people from using violence. She's an insane idiot who wants to control everyone else

Reply • 1

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**William Hutton** 1 year ago

You know pointing out a handful of sociopaths on the left doesn't actually deflect nor distract from the inbred lunacy innate in the entire right wing spectrum of political philosophy. As this only demonstrates the exception that proves the rule that liberalism is better for society by having so few genuine left winners to bash. The only people you're

[Read more](#)

Reply • 1

[View 4 replies](#)



**KnuteVonMemesburg** 9 months ago

I'd rather be a liberal than a communis...  
wait, they are the same...

Reply • 1



**Tommy Buff** 1 year ago

Did she just call Milo homophobic?

Reply • 159

[View 3 replies](#)



**Jacobs Travels** 10 months ago

8:56 - "This isn't about Ben & Jerry's vs Stone Cold Pizza.

LOL! Is that Stone Cold Steven Austin's chain of pizzarias!? :)

Reply • 1



**ScotsmaninUtah** 1 year ago

She has no understanding of what a fascist is, and I agree with a previous comment in that it is very worrisome that she is a teacher.

She obviously has no respect for the 1st Amendment.

Reply • 1



**Sandy Simpson** 1 year ago

That crazy hypocrite is teaching our children? Wow.

Reply • 1



**ancladoen1990** 7 months ago

Holy shit, you can see the level of mental illness in her dead eyes

Reply • 1



**Shilohaura** 1 year ago

"We are justified to use violent fascism to shut down peaceful fascists." Makes perfect liberal sense. ☺

Reply • 136

[View 2 replies](#)



**Tim B** 1 year ago

Holy Shit, this woman is so scary and appears out of her mind. This is a great video which clearly shows how crazy these people really are and how delusional they are. I can't even follow the crap that she is saying, she is claiming that Milo calls for the death of thousands of people?? Her and her group are the fascists which is completely ironic since

[Read more](#)

Reply • 1



**Eich Kay** 1 year ago

She needs to be placed under surveillance, she is literally advocating and committing violence.

Reply • 1

**Joann Reynolds** 8 months ago

Watch you. Even imagine this violent sociopath is teaching school and spreading her sick ideology to poor innocent children. children are in danger with this violent woman

Reply • 1

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**Robyn Boone** 1 year ago (edited)

she is a violent person.

Reply • 119

[View 5 replies](#)



**Jacobs Travels** 10 months ago

And now, Asian reporter Trisha Takanawa shows you how to not be an immigrant.

Reply • 1



**Spider Web** 10 months ago

I'm sensing Bipolar in this lady. She's dangerous and poisonous. She is in serious need of psychological help.

Reply • 1



**Ari Lynn** 1 year ago

Dear god she is scary.

Reply • 2

[View reply](#)



**Joeballs** 1 year ago

Is overcrowding really this severe in mental hospitals?

Reply • 3

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**Joe Wdowski** 1 year ago

Has this woman ever even listened to Milo? I have seen many of his speeches and he has never called for attacking anyone. He has never called for genocide against any group. This woman is either a complete loon or is extremely intellectually dishonest.

Reply • 120

[View 4 replies](#)



**Brad Warren** 7 months ago

She is disgusting. She's the real facisit. Any means possible? She should be locked up.

Reply • 1



**David Doroteo** 1 year ago

So is the Main Stream Media going to retract and apologize for claiming that it was Milo who hired them to make himself popular?

CRICKETS

Reply • 4



**Aenon E. Moss** 11 months ago

Malcomb X was AGAINST integration.

Reply • 1

[View reply](#)



**Jimmy Olsen** 1 year ago

This thing ignores the white genocide taking place in the country while proclaiming a genocide of minorities that isn't taking place ? This thing is a teacher ?

Reply • 2



**Akash Pawar** 1 year ago

Imao, milo shouldn't go to campuses, where there are a lot of liberals. Don't you think it would be less confrontational and better if Milo just booked his alt right festivals in like a basketball arena?

Reply • 3

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She was pushed to the side like a piece of garbage that she is.

Reply • 1

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**Moneyfrommaps** 1 year ago  
how does this woman exist

Reply • 1



**KatchouroBlade** 1 year ago  
This woman is an absolute lunatic. It's sickening that she holds a position as a teacher, she's unstable.

Reply • 3



**akolodesh** 1 year ago (edited)  
That, folks, is the modern face of evil in our society. Oh yeah, and I don't mean Tucker's🤖.

Reply • 107

[View 2 replies](#)



**Nymphonomicon** 1 year ago  
'I am not the fascists, you are the fascists because you disagree with me.'

Reply • 2



**TheJJJeep** 1 year ago  
Free speech for all! (list of all in attachment)

Reply • 1



**berdgar** 1 year ago  
she looks a lot like senator nadeer from agents of shield... lol

Reply • 1



**Savage Kill** 1 year ago  
SHE'S BEEN FIRED!!!! Great news!!!

Reply • 1



**P Hirokashimoto** 1 year ago  
What a diseased mind.

And.....of course she's a teacher.

Reply • 198

[View 4 replies](#)



**Devansh Sharma** 1 year ago  
Who else thinks this journalist guy has the mannerisms of Matthew Perry aka Chandler from Friends?

Reply • 1



**itumblers** 1 year ago  
lol what a waste of skin.

Reply • 1



**Al Lone** 1 year ago  
STOP LYING TO US FAKE FOX NEWS!

Reply • 2



**Milhouse** 1 year ago  
Carlson's face is funny everytime he listens to someone talks.

Reply • 1

**sushiboots** 1 year ago

Wow this woman needs to be put in prison. This rhetoric is as poisonous as it gets and it's already taken hold on her followers. Look at that video and how they started beating a man who disagreed with them. No questions asked. Just beat him.

Reply • 109

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**Rene Mauricio Bermudez** 1 year ago

You can say whatever you like lady, but fact is you were caught red handed doing exactly what you are against others doing!

Reply • 2



**terrypussypower** 1 year ago (edited)

Felarca is a HORRIBLE horrible person. Screaming "get off our streets"....listen love, they're NOT YOUR STREETS!! They're everyone's streets! This scumbag should not be allowed anywhere near children, never mind teaching them!

Reply • 3

[View reply](#)



**Poot poot Gaming** 1 year ago

did she just basically describe herself as a fascist ?

Reply • 2



**psygn0sis** 1 year ago (edited)

"When fascism comes to America it will be called anti-fascism."

Reply • 1



**Brad R** 1 year ago

You can practically feel the anger seething in Ms. Felarca. It looks like she's barely keeping it together the entire interview.

Reply • 110

[View 2 replies](#)



**DrRockso1987** 1 year ago

I don't like Milo. I think he's a douchebag but this woman is seriously a hypocritical lunatic. Lady, get help! You can't just punch someone because you called them a fascist!

Reply •



**Ted X** 2 months ago

Tucker should first have introduced the bimbo to the original definition of Fascism, traced back to the ancient Grecian Empire and represented by a bundle of twigs -- as seen on Roman symbols all over Washington, D.C. The bundle of twigs represents the powerless ( working class, peasants, etc. ) uniting to access power. Fascism = Democracy.

[Read more](#)

Reply •



**Benjamin** 7 months ago

She teaches children 😏oh boy

Reply •



**The Dollar Guy** 10 months ago

BAMN, right in the kisser. BAMN, right in the kisser. BAMN, right in the kisser. As long as she had her shots.

Reply •



**William D Smith** 1 year ago

Why do I get the feeling I am looking into the face of true evil?

Reply • 96

[View reply](#)



**Akhnaten** 6 months ago (edited)

Felarca calls him (Yiannopoulos) a fascist. By definition: "A political philosophy characterized by authoritarian views and a strong central government — and no tolerance for opposing opinions" Yet what would she say if the ultra left organised a mass

move. Watch the YouTube with the band with Chris. I've seen it. I know how it was done. Just look at the

Reply •

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**Larry Sanger** 1 year ago

Dogmatic, self-important, arrogant, unreasonable, would not listen to the questions, would not address the questions, simply kept repeating herself. Apparently she came on Fox News not in order to engage in a dialogue but in order to brainlessly repeat the sort of drivel she tells her fellow activists (and no doubt, God help them, her students).

Reply •



**Nicolaus Wegner** 1 year ago (edited)

Her definition is so twisted it's ridiculous. Saying Milo is a fascist is like saying Barney 'the purple I love you dinosaur' is a real life T-Rex. Is Milo an ego driven individual out looking to stir up shit and get attention? Probably. I've listened to some podcast interviews with him and any valid points he may or may not have are overshadowed by his overwhelming

[Read more](#)

Reply •



**Circumpolar Bear Cult** 1 year ago

Extremist, and 'agitator', not to mention Hypocrite. The fatalities soon to follow. I hate to say it, but this video could be an indictment against public education.

Reply •



**GPH** 1 year ago

Tucker was way too easy on this domestic terrorist.

Isn't Milo gay?—but she calls him homophobic?

[Read more](#)

Reply • 122

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**Jerod Bork** 1 year ago

This woman is not representative of liberals and democrats

Reply •



**Jake Moreh** 11 months ago

This is really scary. This woman is a threat to our first amendment rights. This is really really scary.

Reply •



**naynay sploogle** 7 months ago

PLEASE OFFICER hehehe he helped him; It was like a gd movie man I was on the edge of my seat screaming.

I thought that man was dead; Then our knights in shining armor saved him!<3

Reply •



**chrisj1011** 1 year ago

she is the fascist. wow

Reply •



**don ski** 1 year ago

she should be the poster child of a fascist.

Reply • 153

[View 3 replies](#)



**Nick** 1 year ago

Cant cuck the tuck!

Reply •




**Stevie V Brown** 1 year ago

This woman clearly has no understanding of the concept of fascism, or the fact that half of what she says is, in fact, quite fascist. Lol



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- 

**Stevie V Brown** 1 year ago

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She's so far left, she's actually right.

Reply •
- 

**Berenabas Lukas** 1 year ago


SHE WAS A TEACHER AT MY MIDDLE SCHOOL

Reply •
- 

**DerickTherving** 1 year ago


Isn't telling others to attack people she considers fascists, isn't that inciting violence and ACTUALLY illegal.

Reply • 86

[View 2 replies](#)
- 


**Dazarabia** 1 year ago

Stop her then. Quit complaining and stop her.

Reply •
- 


**Mohammed Lebbie** 1 year ago

I wonder if she's teaching this to her students

Reply •
- 


**perry theplatypus** 1 year ago

This lady looks like Edna Mode from the Incredibles

Reply •
- 


**NELL** 4 months ago

She's incapable of seeing her own hypocrisy!! ☹️

Reply •
- 


**Mark Withers** 1 year ago

dam sure did and that's the jest of this whole anti fascist movement by calling others fascist they think they are not this is marxism 101 insane

Reply •
- 


**Mark Withers** 1 year ago

this is the people that are indoctrinating our kids to be Marxists we have to purge this from our schools if we want or kids to understand true democracy

Reply •
- 


**Da Frontyardigans** 1 year ago

[#letsmakeapetitiontobanthe1stamendment](#)

Reply •
- 

**Da Frontyardigans** 1 year ago

She must think that she is intelligent because she is using common history knowledge like nazis and the holocaust

Reply •
- 

**cherylynn927** 1 year ago (edited)

This woman is a teacher? She has no business teaching children with this behavior and being proud of it. I just wrote a letter to the board of education. This teacher is dangerous and should not be near children. She is setting quite an example. She is mentally disturbed.

Reply • 102

[View 3 replies](#)
- Brian Donovan** 9 months ago

Watch her as she is finally charged on multiple criminal violations for this very incident. She has since been out on bail and has been arrested 3 times in the last few months. Hopefully the

Reply •

Search

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**Willa Herrera** 7 months ago

Tucker is a genius lol

Reply •



**doghous3** 7 months ago

And this person teaches kids...

Reply •



**TehPiemaygor** 1 year ago

But that guy who shot a protester did it to defend himself. He was perfectly in the right.

Reply • 86

[View 7 replies](#)



**josephpa05** 1 year ago

I bet she gives awesome head

Reply •



**Mar tin** 1 year ago

Feminism is evil -rosa parks

Reply •



**Austin FJ** 1 year ago (edited)

The actual United States Law regarding hate speech applies to none of the examples that she's given in this video at all; yet some lawyers can argue that it does in fact apply to some of the things that this lady has done and said herself in her crusade against "fascism".

Reply •



**Islet of Langerhans** 1 year ago

What ATTACKS is she talking about? One person got shot (in self defense) in Seattle. What attacks is Milo inspiring? Where are they happening?

Reply •



**Connie Karstedt** 1 year ago

Genocide, Milo, right. Milo has never promoted or committed genocide. Ever. This woman is a lunatic and she teaches children.

Reply • 62

[View 2 replies](#)



**Kenneth Russell** 3 months ago

She is the Fascist!

Reply •



**drweetabix** 3 months ago

Fucking nutcase

Reply •



**Talia Ferro** 6 months ago

Why is this allowed to happen?

I bet if someone shot one of them, that person would go to jail.

Reply •

[View reply](#)



**Phill White** 2 months ago

She is obviously crazed on soy drinks ..

Reply •



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She is a fascist and she should have been arrested right there at the beginning.

Reply • 52

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**Manmohan Singh** 1 year ago (edited)

Why she is not in jail, killing opponents like Chinese communists.

Reply •



**Push Back** 1 year ago

I'm of the opinion she's more suited to perform in a Tijuana donkey show than as an educator of children.

Reply •



**Melancholia09** 1 year ago

The Astounding thing about this woman, & other Radical Alt-Left Regressive Terrorists is they believe their Violence is Justified because everyone on the Right is Evil!! Scary.....

Reply •



**Jay B** 1 year ago

Let's see, so she preaches violence against those she disagrees with, specifically those of a particular race and belief system, indicating they should be stopped by any means necessary... Yup, she's definitely a fascist. By her own definition.

Reply •



**Tommy Buff** 1 year ago

so she is an anti-fascist fascist. got it.

Reply • 53

[View reply](#)



**exzisd** 11 months ago

If you want to learn more about Yvette Falarca check out the video BAMN is a Violent Cult by the channel Sargon of Akkad. It's most enlightening.

Reply •



**RythmBoy** 1 year ago

Milo gonna have a hard time selling his white supremacist views :/ sad

Reply •



**why not** 1 year ago (edited)

Barf! Why the close up?

Reply •



**Joe Gibbs** 1 year ago

Her students should be encouraged to do their 'homework' on this witch.

Reply •



**Nokomisclub** 1 year ago

This lady is Nuts! If she is so sure she is right, she should offer to debate Milo. Of course she won't. She knows she would get crushed by Milo. She is a violent coward. Also she is totally insane!

Reply • 20

[View reply](#)



**Jim Lahey** 1 year ago

Stone cold pizza ?


Reply •



**ultragarrison** 8 months ago

Lol what an idiotic lady. We dont need Milo to recruit people. Smart people are already against antifa and the likes of you.

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- 

**Auatin Moon** 1 year ago

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So what she describes as a fascists (which isn't correct) is what she is

Reply •
- 

**simonyricools** 1 year ago


Wow, I suppose they weren't charged for that violence. Should have gone to jail imo.

Reply •
- 

**Ashwin Raju** 1 year ago


I do not agree with Milo at all, however the first amendment was created for all people to be able to voice their opinions. That is what makes America so great. At the same time however, the freedom of speech, etc is not selective to certain people. That is the down side, people can voice their hate as much as anything else. That is what allows the KKK

Reply • 40

[View 6 replies](#)
- 


**Nathan Jarrett** 3 weeks ago

Yoko ono's Evil Twin.

Reply •
- 


**New Leaf** 1 year ago

This Lady is NUTS! I would Protest her teaching my children! What a poor excuse for a woman!

Reply •
- 


**InvisiBear Geek** 1 year ago

If your kids are in her class get them out of there. She is a fascist. I challenge her to quote Milo. I also love she dodges every question and and everything that could paint her in a bad light. Love the video of her attacking a man and then encouraging other people to beat him just because he was there.

Reply •
- 

**Abu Hajaar** 1 year ago

ugh her students... i can only imagine she should be reviewed... college is bad enough. now middle school

Reply •
- 

**Abu Hajaar** 1 year ago

i wish milo was born in the US. Milo for president


Reply •
- 

**Robert McNeal** 10 months ago

Definition of Fascism: A form of government which is a type of one-party dictatorship. Fascists are against democracy.


They work toward a totalitarian one-party state to have absolute power, forcibly suppressing

[Read more](#)

Reply •
- 

**jt** 1 month ago

This woman is ridiculous.

Reply •
- 

**Luana Alger** 7 months ago (edited)

She's a teacher and she doesn't even know that a fascist is a follower of a political philosophy characterized by authoritarian views and a strong central government — and no tolerance for opposing opinions... In other words, SHE and her group are fascists! Her adding a twisted and opinionated 'spin' to the actual definition doesn't make it so... She

[Read more](#)

Reply •

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I am a Berkeley native and am disgusted by what has happened to my hometown. It has become a slum and natives have fled in droves. The MSM has conveniently hidden information about Yvette Felarca who is a teacher at a grammar school in Berkeley and a violent thug. You can hear her voice screeching, "Burn it Down!" in the background of the

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Reply • 15

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**Ike U** 1 year ago (edited)

It really pisses me off when I see the cops wait so long do do anything. Especially since the ones who are protesting are all anticop. If they don't step up then people will start fighting back. Hipster's have brittle bones.

Reply •



**Nat Frat** 1 year ago

She completely avoids answering his last question. lol she's creating the hostile environment she claims she's trying to prevent.

Reply •



**Nat Frat** 1 year ago

Also she doesn't even know what alt right is. Alt right is stupid, as is all conservatism in my opinion (no not a liberal), but it isn't all Nazis and white supremacy. Thought plenty of alt rights seem to identify as alt right.

Reply •



**Nat Frat** 1 year ago

Anyone who promotes violence against freedom of speech is a fascist in their own right. She does know that Milo, though he is pretty right, has given speeches in how white nationalism and racism is stupid. I think Milo is a troll and I disagree with him a lot, but he isn't a fascist and he isn't completely alt right. He himself says he doesn't really call

[Read more](#)

Reply •



**MarekzAnglii** 1 year ago (edited)

SERIOUSLY... if I were in the U.S. and a parent of a student SHE teaches (or will teach), I would 100% organize all parents to march on her school in vehement protest to ensure she gets FIRED and is NEVER allowed to teach again! EVER!!! I would take this video and make sure all parents from her school see it, then Tweet it, FB it, Social Media share it.

Reply • 43

[View 4 replies](#)



**SanFranGirl1982** 11 months ago

Yvette Felarca, you are AWESOME!!!!

Reply •



**Millenial Sunshine** 9 months ago

Yvette Felarca is the True facist I see here. I've watched Milo, everything she said about him is a lie.

Reply •



**Jeremy Smith** 1 year ago

we should have protested her speaking on this show

Reply •



**Kardel** 1 year ago

Tucker is in absolute shock holy hell.

Reply •



**bee14ish** 1 year ago

I couldn't disagree more with Milo on his social views, but this woman takes protest a little too far.

Reply • 33

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I agree. The Berkeley riots were a success 🙄

Reply •

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**MomanSLM** 1 year ago

And her proof is in her word but obviously not in any actual documented actions. She is completely blind to her fascism.

Reply •



**Miles Colley** 1 year ago

This lady is a genius - this fox dude is tool

Reply •



**Dan Peal** 1 year ago

"Fascism /ˈfæʃɪzəm/ is a form of radical authoritarian nationalism[1][2] that came to prominence in early 20th-century Europe. The first fascist movements emerged in Italy during World War I, before it spread to other European countries. Opposed to liberalism, Marxism, and anarchism, fascism is usually placed on the far-right within the traditional [Read more](#)

Reply •



**Grand1Admiral** 1 year ago

She is creepy as hell, inciting violence is what she does

Reply • 33



**Aria Carmela** 1 year ago

Milo brought the black shirts. He'd just dressed in black HIMSELF at MSU to protest his own show. Stupid douchbag tried it again at UC Berkeley. These are mostly his paid guys.

Reply •



**Space BluNova** 1 month ago

Tucker's a dummy

Reply •



**soundmixer** 1 year ago

Someone should explain to her that World War 2 ended over 70 years ago. Hitler, Nazis. all of them are gone, it's in the past. They want a cause to fight so bad they are trying to create one. They're seeing nazis, and fascists, where there are none.

Reply •



**soundmixer** 1 year ago

There's an episode of Spongebob where Spongebob and Patrick thought a butterfly was a monster. They warned the people in town about their imaginary monster causing the people to panic, riot, and set the town on fire. They then patted themselves on the back thinking they had did good not realizing they had actually made things worse. That's [Read more](#)

Reply •



**Sketch & Enopt** 1 year ago

Is this woman not a fascist based upon her own definition? I don't want a woman like this teaching my child or any child for that matter?

Reply • 31

[View reply](#)



**Bertin van Vliet** 1 year ago

google: berkeley free speech movement 1964

Reply •



**Andrew Trevenna** 1 year ago

The easiest action that Berkeley can do is FIRE her for obviously and self declaringly causing the physical violence. If they do NOT, then all their rhetoric that they could do nothing, and the violence was out of their control, is null and void.

Reply •


Watch my YouTube videos with Chrome. Yes, get Chrome now.


she lost me when she said milo is "homophobic" HES GAY


Reply •


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---


 **JEFFREY** 1 year ago  
There are crazy people on both sides. Why do they always get the attention  
Reply •


 **Ren** 1 year ago (edited)  
I'd gladly punch that woman, take me to jail it would be worth it  
Reply • [128](#)  
[View 11 replies](#)


 **shitpost** 1 year ago  
i wouldve lost my mind trying to talk to her...  
Reply •


 **Darrylizer1** 1 month ago  
Wow, pot meet kettle.  
Reply •


 **Project -iFi-** 1 year ago  
her ignorance must be hereditary  
Reply •


 **PG II** 1 year ago  
this woman NEEDS to be fired RIGHT NOW  
Reply • [36](#)


 **grajmahal** 1 year ago  
She's so far gone that she thinks that her tactics will resonate with others and there will be a "movement". She accuses Milo of "whipping" up crowds in his speeches, but the violence she claims doesn't exist. It's pretty obvious who is whipping up crowds. Unfortunately, the kids that follow her do not have the intestinal fortitude to carry it that  
[Read more](#)  
Reply •

 **jahshta** 1 week ago  
What a confused little person  
Reply •

 **Karlwison Duarte** 6 months ago  
They are the reason why leftist movements are dying. I was a feminist for 3 years and now I found it repulsive thanks to their hypocrisy.  
Reply •

 **sig nykyforiak** 1 year ago  
If my kid were in her class I would yank them out of it and go to a different school. Any school who lets this maniac teach is not a good school at all.  
Reply •

 **pam0077** 1 year ago  
I seriously think this is one of Kim Jong Il's far flung spawn.  
Reply •

 **sage kath** 1 year ago  
This lady needs professional help. She must have a GAF score of 20.  
Reply •

**Frank Marti** 5 months ago

Watch the video back to the title field. [Yes, get Chrome now.](#)

Reply •

Search

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**Cosmic Connection** 1 year ago

This woman is bored, she's just looking for something to do.

Reply •



**Jorn Soer** 1 year ago

This woman is a domestic terrorist and needs to be arrested.

Reply • 207

[View 5 replies](#)



**Kimi K** 10 months ago

I'm always trying to be silenced by ladies like you and yet you 'believe' you stand for things like independence in women and such things ☹️ your like a nasty virus you 'people'

Reply •



**Juan M** 1 year ago

Tucker was a good sport, although she did drown in her arguments.

Reply •



**paw crawl Owens** 11 months ago

I'm a brand new recruit

Reply •



**bobby evans** 1 year ago

A Milo PROTESTOR shot another Milo PROTESTOR. She is incorrect in saying a Milo fan shot a protestor.

Reply •



**johnlyn1** 1 year ago

Her name is Yvette Felarca. She teaches at Martin Luther King Jr. Middle School in Berkeley California. The principal's name is Janet Levenson. 510-644-8783. This school is run by the Berkeley Unified School District. Donald Evans, EdD, Superintendent of Schools 510-644-6206. Everyone needs to call both these numbers and demand she be terminated!

Reply • 175

[View 12 replies](#)



**Digdeep TV** 1 week ago

How many calories in this nutbar?

Reply •



**Bob's Tank** 1 year ago

I do hope that the BAMN (By Any Means Necessary) thugs and Ms. Felarca realize that BAMN's methods, can work BOTH WAYS.

Reply •



**Bryan Smith** 1 year ago

LoL...She needs to look up the definition of fascist. She'd realize it's her that is a fascist.

Reply •



**Alex Glase** 7 months ago (edited)

"Fascists are people that organize violence"  
Look in the mirror, 4-eyes

Reply •



**Luke Skywalker** 1 year ago

I hope charges are pressed against this woman. If you support violence against those who agree with you then you should be punished

Reply • 34

[View 4 replies](#)





top YouTube videos with Chrome. [Yes, get Chrome now.](#)

you and the hard left are Stalinists what's the difference?

Reply •

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**Dez Hoffert** 1 year ago

So.... thinking is dangerous now?

Reply •



**Watogo** 1 year ago

I might have to start hating teachers Im glad I know what I already know before these type of people started un educating America. She has tolerance for only being intolerant nice lesson. Glad my kids can't afford to go to Berkeley. She's dragging our country down the drain. Big thanks.

Reply •



**tom kumar** 7 months ago

What was that example about Scott or something she used in the end there?

Reply •



**Mel hooprah** 1 year ago

Tucker is letting this lady talk herself into the ground hahahaha

Reply •



**Go fly Yourself** 1 year ago

This monster should NOT be allowed within 500 ft near any school.

Reply •



**Rocking Royalty** 1 year ago

Who is the fascist? I don't think it's Milo.

Reply •



**battlehardened37** 1 year ago

4:16 her mind just fried from his response. she's either a synth or scientologist.

Reply •



**JJ Hart** 1 year ago

She teaches children? Where? She shouldn't be anywhere near children. What school does she work at? I saw the video twats like this need to be knocked out if they strike anyone. Any further riots and she touches anyone those people should beat her down so bad she will think twice about doing it again.

Reply • 27

[View 2 replies](#)



**William Stickroe** 1 year ago

Liberal Socialism is a psychosis. This woman is proof.

Reply •



**Detis Broham** 1 year ago

he's trying to retain his iq listening to here

Reply •



**Detis Broham** 1 year ago

they'll learn what a ccw is soon enough

Reply •



**Melissa Dennis** 1 year ago

this woman is hysterical. milo and his group have killed no one. her grievances are imaginary.

Reply •

**Hoder Harris** 1 year ago

Watch you may not like her but she did best Tucker on the merits of her argument. Tucker was reduced to laughing and cheap shots. Tucker usually wins not this time in my opinion.

Reply •

Search

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**SisterDanger** 1 year ago

Every oppressive regime starts by excusing their own violence in the name of "right & good".

Reply •



**TVBalkan** 1 year ago (edited)

Official definition of fascism:

"A governmental system led by a dictator having complete power, forcibly suppressing opposition and criticism, regimenting all industry, commerce etc. and emphasizing an

[Read more](#)

Reply •



**Matt Casey** 1 year ago

Damn. My girl is crazy. Wonder what she would be like

Reply •



**Rainman** 1 year ago

She is doing EXACTLY THAT she accuse other people she does not agree of. She incite VIOLENCE and does not accept another point of view in fact she wished to squander the one with different opinions. THAT IS EXACTLY WHAT THE NAZIS DID YOU UTTER MORON.

Reply • [32](#)



**I like Twurtles** 1 year ago

Bring down fascism

Reply •



**Léttucé** 1 year ago

this guy is a reporter?

Reply •



**Symon Mailhot** 1 year ago

"Safe environnement"

Reply •



**Bethany Kosacek** 1 month ago

All I'm gathering from this woman is that she lacks the ability to substantiate her claims through words, so she resorts to organized violence instead.

Reply •



**Stefanie Blaine** 1 year ago

How is this IDIOT allowed around kids?????

Reply • [84](#)

[View 3 replies](#)



**Ruthlessnoodle** 11 months ago

Everything that she charges Milo with.... SHE is describing HERSELF!!!! She is mentally ill.

Reply •



**Michael Campion** 1 year ago

This Teacher is a NUT! .. and needs to be fired and put in jail !!!!!

Reply •



**Zofia Mazur** 6 months ago

Delusional and dangerous to keep position as a teacher.

Reply •

Watch James M. Kirk videos with Chrome. Yes, get Chrome now.

WINSTON CHURCHILL : " THE ANTI FASCIST OF THE FUTURE WILL BE THE FASCIST . "

Reply •

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**Mohinder Suresh** 1 year ago  
I bet she is friends with Zarna Joshi.  
Reply • 19  
[View reply](#)

**MeezersRcool** 1 year ago  
Ironic she acts violent and like a Brownshirt Facist while deploying her own lynch mob on those of differing opinions...  
  
Disgusting - she is a p+ss poor teacher and should not be in the teaching  
Reply •

**Klicity's alt** 1 year ago  
no capes!  
Reply •

**Archie Phillips** 1 year ago  
It's so ironic how she protests somebody apparently inciting violence by inciting violence  
Reply •

**TuberTwoU** 1 year ago (edited)  
I can play 0:58 to 1:01 over and over to make me feel good about this clip.  
Reply •

**A. P.** 1 year ago  
I'm so glad this nut job isn't teaching my children!! She's a total fascist "brown shirt"! The very thing she appears to hate so much is who she is. & She's so delusional that she doesn't see that. She doesn't see that she is the one who is actually being a fascist by her own statements & actions. She obviously doesn't know one thing about Milo, except leftist  
[Read more](#)  
Reply • 20

**TheRandomMan210** 1 year ago  
Fox isnt as bad as it used to be  
Reply •

**Law Coomer** 1 year ago  
burn it  
Reply •

**steve markey** 1 year ago  
THE LEFT IS LOST IN DARKNESS  
Reply •

**mbPhase23** 5 months ago  
I have only watched 20 min YouTube videos of Milo. Perhaps 15 to 20 of those. Am I missing the bits where he spreads hate and whips up the crowd into a violent frenzy? Its become quite clear to me that if you go far enough to the left you find yourself on the hard right. If she really believes in her cause, forget the misguided protests and indefensible  
Reply •

**Travelator** 1 year ago  
That's it, I'm homeschooling my future kids.  
Reply • 10

**le epic bass whip** 11 months ago  
love how the "left" redefines words to support their ass backwards ideology  
Reply •



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This women represents the very fascism she is so against

Reply •

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[RandomAutodidact](#) 1 year ago

she is insane.

Reply •



[Jaq Clark](#) 1 year ago

She's 100% nuts!!! The look in her eyes reminds me of Chinese communist red guard looking to kill people.

Reply • 130

[View reply](#)



[WWK Bubba Knife Lead](#) 1 year ago

How does tucker find these people good lord

Reply •



[Ryan Lynch](#) 1 year ago

That's actually not what a fascist is...

Reply •



[agentorange20](#) 11 months ago

Very telling in her response to what she thinks fascism is. Only women, migrants, and minorities. And this person is a teacher? Jeezus.

Leftists:" it's not fascism when we do it."

[Read more](#)

Reply •



[Wagonator](#) 11 months ago

She is a textbook fascist. And the scary part is that she don't realize this her self. How the hell is she a teacher?

Reply •



[Sam Dawson](#) 1 year ago

Milo is not a Fascist.If he is lot of people are fascist.

Reply • 16



[r II](#) 1 year ago

This wench & a-hole needs to be shipped to North Korea. They welcome women like her, and she would be happier there since she sounds like a communist.

Reply •



[C-Note Mac](#) 1 year ago

We don't need low life dirtbags like her teaching our children.

Reply •



[Richard Hayduk](#) 1 year ago

I'm really surprised she hasn't been knocked on her ass. I don't consider myself to be a bad ass but if someone did that to me I can guarantee a response that you aren't going to find pleasurable and likely require you to visit the local emergency room.

Reply •



[The Once-Ler](#) 1 year ago

She's literally a fascist.

Reply •

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1 ROBERT PATRICK STICHT (SBN 138586)  
2 JUDICIAL WATCH, INC.  
3 425 Third Street, SW, Suite 800  
4 Washington, DC 20024  
5 Telephone: (202) 646-5172  
6 Facsimile: (202) 646-5199  
7 Email: rsticht@judicialwatch.org  
8 California Office:  
9 2540 Huntington Drive, Suite 201  
10 San Marino, CA 91108  
11 Telephone: (626) 287-4540

12 Attorney for Real Party In Interest,  
13 Judicial Watch, Inc.

14 UNITED STATES DISTRICT COURT  
15  
16 NORTHERN DISTRICT OF CALIFORNIA

17 YVETTE FELARCA, LORI NIXON,  
18 LARRY STEFL,  
19  
20 Plaintiffs/Petitioners,  
21  
22 v.

23 BERKELEY UNIFIED SCHOOL  
24 DISTRICT, DONALD EVANS, JANET  
25 LEVENSON,  
26  
27 Defendants/Respondents.

28  
\_\_\_\_\_  
29 JUDICIAL WATCH,  
30  
31 Real Party In Interest.

CASE NO.: 17-cv-06282-VC  
[PROPOSED] ORDER

ORDER

Upon consideration of Judicial Watch's opposition to Plaintiffs' motion for summary judgment and Judicial Watch's motion for summary judgment and the entire record in this case, it is hereby ORDERED that

1. Plaintiffs' motion for summary judgment is denied; and
2. Judicial Watch's motion for summary judgment is granted.

SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
HONORABLE VINCE CHHABRIA  
United States District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on August 20, 2018, I electronically filed the foregoing [PROPOSED] ORDER with the Clerk of the Court for the United States District Court for the Northern District of California by using the district CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the district CM/ECF system.

/s/ Robert Patrick Sticht.  
ROBERT PATRICK STICHT