

1 EDMUND G. BROWN JR., State Bar No. 37100  
Attorney General of California  
2 PAUL REYNAGA, State Bar No. 72361  
Supervising Deputy Attorney General  
3 ELIZABETH A. LINTON, State Bar No. 231619  
G. MATEO MUÑOZ, State Bar No. 131296  
4 Deputy Attorney General  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 323-8549  
Fax: (916) 324-5567  
7 E-mail: Elizabeth.Linton@doj.ca.gov  
*Attorneys for Defendants*

8  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE EASTERN DISTRICT OF CALIFORNIA

11  
12  
13 **CALIFORNIA PARENTS FOR THE**  
14 **EQUALIZATION OF EDUCATIONAL**  
15 **MATERIALS,**  
16 Plaintiff,  
17  
18 **v.**  
19 **KENNETH NOONAN, RUTH BLOOM, ALAN**  
20 **BERSIN, YVONNE CHAN, DONALD G.**  
21 **FISHER, RUTH E. GREEN, JOE NUNEZ,**  
22 **JOHNATHAN WILLIAMS, and DAVID**  
23 **LOPEZ, all in their official capacities as**  
24 **Members of the California State Board of**  
25 **Education; and TOM ADAMS, in his official**  
**capacity as Director of the Curriculum**  
**Frameworks and Instructional Resources**  
**Division and Executive Director of the**  
**Curriculum Commission (of the California**  
**State Department of Education),**  
Defendants.

2:06-CV-00532-FCD-KJM  
**STIPULATION FOR DISMISSAL**

Courtroom: 2  
Judge Hon. Frank C. Damrell  
Trial Date September 15, 2009  
Action Filed: March 14, 2006

26 It is HEREBY STIPULATED by and between the parties to this action through their  
27 designated counsel that the above-captioned action be and hereby is dismissed with prejudice  
28 pursuant to Federal Rule of Civil Procedure 41(a)(1) and the parties' Settlement and General

1 Release Agreement, which is hereby incorporated by reference as if set out in full and is  
2 appended hereto as Attachment A. Because time is of the essence in this settlement, the parties  
3 respectfully request the Court expedite its dismissal of this action.

4 Dated: May 27, 2009

Respectfully submitted,

EDMUND G. BROWN JR.  
Attorney General of California  
PAUL REYNAGA  
Supervising Deputy Attorney General

/s/ Elizabeth A. Linton  
/s/ G. Mateo Muñoz

ELIZABETH A. LINTON  
G. MATEO MUÑOZ  
Deputy Attorneys General  
*Attorneys for Defendants*

15 Dated: 27 May 09



VENKAT BALASUBRAMANI  
Balasubramani Law

MICHAEL NEWDOW  
Newdow Law  
*Attorneys for Plaintiff*

21 SA2006102549

**EXHIBIT A**

1 EDMUND G. BROWN JR., State Bar No. 37100  
Attorney General of California  
2 PAUL REYNAGA, State Bar No. 72361  
Supervising Deputy Attorney General  
3 ELIZABETH A. LINTON, State Bar No. 231619  
G. MATEO MUÑOZ, State Bar No. 131296  
4 Deputy Attorney General  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 323-8549  
Fax: (916) 324-5567  
7 E-mail: Elizabeth.Linton@doj.ca.gov  
*Attorneys for Defendants*

8  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE EASTERN DISTRICT OF CALIFORNIA

11  
12  
13 **CALIFORNIA PARENTS FOR THE  
14 EQUALIZATION OF EDUCATIONAL  
15 MATERIALS,**

Plaintiff,

16  
17 **v.**

18 **KENNETH NOONAN, RUTH BLOOM, ALAN  
19 BERSIN, YVONNE CHAN, DONALD G.  
20 FISHER, RUTH E. GREEN, JOE NUNEZ,  
21 JOHNATHAN WILLIAMS, and DAVID  
22 LOPEZ, all in their official capacities as  
23 Members of the California State Board of  
24 Education; and TOM ADAMS, in his official  
25 capacity as Director of the Curriculum  
26 Frameworks and Instructional Resources  
27 Division and Executive Director of the  
28 Curriculum Commission (of the California State  
Department of Education),**

Defendants.

2:06-CV-00532-FCD-KJM

**SETTLEMENT AND GENERAL  
RELEASE AGREEMENT**

26 Defendants Kenneth Noonan, Ruth Bloom, Alan Bersin, Yvonne Chan, Donald G. Fisher,  
27 Ruth E. Green, Joe Nunez, Johnathan Williams, and David Lopez, all in their official capacities  
28 as Members of the California State Board of Education; and Tom Adams, in his official capacity

1 as Director of the Curriculum Frameworks and Instructional Resources Division and Executive  
2 Director of the Curriculum Commission of the California State Department of Education,  
3 (Defendants) and California Parents For The Equalization Of Educational Materials (CAPEEM or  
4 Plaintiff) hereby by and through their representatives enter into this Settlement and General  
5 Release Agreement.

6 **RECITALS & SETTLEMENT AGREEMENT**

7 A. CAPEEM filed the current action on March 14, 2006, and filed the operative  
8 complaint, the Second Amended Complaint (SAC), on August 25, 2006, alleging violations of the  
9 Equal Protection, Establishment, Free Speech, and Free Association Clauses of the Constitution  
10 under 42 U.S.C. § 1983. The action challenges several aspects of the content of sixth grade  
11 history/social science textbooks. CAPEEM also alleges process grievances pertaining to the  
12 treatment of “Hindu groups” in the school textbook adoption process.

13 B. On February 26, 2006, the Court ruled on Defendants’ Motion for Summary  
14 Judgment or, Alternatively, Partial Summary Judgment (Defendants’ Motion for Summary  
15 Judgment), and Plaintiff’s Motion for Partial Summary Judgment as to its Establishment Clause  
16 claim. Dkt. 212; *CAPEEM v. Noonan*, 600 F. Supp. 2d 1088 (E.D. Cal. 2009).

17 C. In order to avoid the uncertainty of litigation and to resolve all outstanding matters  
18 between them, the parties hereby agree to settle the remaining claim and all potential claims  
19 between them related to the facts giving rise to the SAC.

20 **THEREFORE, AND IN CONSIDERATION** of the mutual terms, covenants and  
21 conditions set forth in this Settlement and General Release Agreement, the parties agree and  
22 stipulate as follows:

23 1. Defendants agree to pay, and Plaintiff agrees to accept, the sum of \$175,000 in full  
24 and complete satisfaction of any and all of the claims arising from or related to the facts recited in  
25 Plaintiff’s SAC.

26 2. In exchange for Defendants’ agreement to pay Plaintiff the sum of \$175,000, Plaintiff  
27 will agree to a stipulated dismissal and proposed order in which the Court dismisses this action in  
28 its entirety, and with prejudice.



1           9. Plaintiff and Defendants agree that this Settlement and General Release is intended to  
2 be a full and final compromise, release and settlement of all claims, demands, actions, causes of  
3 actions, known or unknown, suspected or unsuspected, relating to the SAC and this litigation.  
4 Plaintiff expressly waives the provisions of Section 1542 of the California Civil Code, which  
5 reads as follows:

6                   A general release does not extend to claims which the creditor does not  
7 know or suspect to exist in his or her favor at the time of executing the  
8 release, which if known by him or her must have materially affected his  
or her settlement with the debtor.

9 Plaintiff and Defendants acknowledge that different or additional facts may be discovered in  
10 addition to what it now knows or believes to be true with respect to the matters herein released,  
11 and that this Settlement and General Release shall be a complete and final release of the matters  
12 released, notwithstanding discovery of any different or additional facts.

13           10. Plaintiff represents that it is the sole possessor of the claims or causes of action being  
14 released, and that it has not assigned or otherwise transferred said claims or causes of actions.

15           11. Plaintiff agrees that it will not, at any time hereafter, commence, maintain or  
16 prosecute any action, at law or otherwise, or assert any claim against the parties herein released,  
17 for damages, losses or for equitable relief relating to the matters herein released.

18           12. The parties hereby authorize and direct their respective attorneys to dismiss with  
19 prejudice the above described action pending in the United States District Court for the Eastern  
20 District of California, 2:06-CV-00532-FCD-KJM.

21           13. The parties hereby acknowledge and agree that all parties to this action (2:06-CV-  
22 00532-FCD-KJM) shall bear their own attorney fees and costs, including any outstanding costs, in  
23 connection with said lawsuit, including those associated with this compromise settlement and  
24 release. The parties hereby waive any rights to such attorney's fees and costs. The parties further  
25 agree that, notwithstanding the foregoing language in this paragraph, in the event of a dispute or  
26 any legal action to enforce the terms of this Settlement, the prevailing party in such dispute or  
27 legal action shall be entitled, in addition to any other relief provided by law, to such costs and  
28 expenses as may be incurred by said party, including court costs and reasonable attorney's fees.

**EXECUTION AND ENFORCEMENT**

1  
2 14. Time is of the essence in this Settlement and General Release.

3 15. Each party agrees that it will execute such further documents as may be reasonably  
4 necessary to implement the intent and letter of the Settlement and General Release set forth herein  
5 and shall deliver all such documents to the appropriate parties or entities, as reasonably necessary  
6 or contemplated by the terms of this Settlement and General Release.

7 16. The terms, conditions and covenants of this Settlement and General Release shall be  
8 interpreted under the laws of the State of California.

9 17. The parties agree that this Settlement and General Release is the product of joint  
10 draftsmanship and negotiation, and should any of its terms be determined by a court to be vague,  
11 ambiguous, or unintelligible, that the words, phrases, sentences or other verbiage shall not be  
12 construed against the drafting party and that all words and phrases shall be interpreted according  
13 to their customary usage.

14 18. Each party hereby acknowledge that it has discussed this Settlement and General  
15 Release with its counsel, who has explained this document, and each party acknowledges that it  
16 understands all the terms and conditions of this Settlement and General Release and that this is  
17 the total and final settlement and compromise of all claims being released.

18 19. Each party to this Settlement and General Release and each person executing this  
19 Settlement and General Release on behalf of any party hereby represents that they have the  
20 authority and capacity to make the releases set forth herein and have and or have been granted the  
21 authority to execute this document on behalf of the named principal.

22 20. The parties agree that this Settlement and General Release shall bind and be binding  
23 upon its heirs, personal representatives, executors, administrators, assigns, agents and successors  
24 and shall inure to the benefit of their agents, employees, servants, and successors.

25 21. Both parties understand and agree that this Settlement and General Release sets forth  
26 the full and complete agreement of the parties, and that no statements or representations, other  
27 than those contained herein, have been made or relied upon by the parties as an inducement for  
28 executing this Settlement and General Release.



1 22. This Settlement may be executed in one or more counterparts, and by facsimile, each  
2 one of which shall be considered to be an original, equally admissible in evidence, but all of  
3 which shall constitute one and the same instrument.

4 23. Every provision of this Settlement and General Release Agreement is consideration  
5 for every other provision.

6 24. This Settlement is effective upon its filing with the Court.

7 25. The parties agree that the Court retains jurisdiction to enforce this Settlement and  
8 General Release and that nothing in this agreement precludes the parties from seeking an order or  
9 other relief from the Court at any time in order to enforce this agreement.

10 **DEFENDANTS**

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

\_\_\_\_\_  
Theresa Garcia  
Executive Director  
California State Board of Education

12  
13  
14  
15 Dated: 5/28/09 \_\_\_\_\_

\_\_\_\_\_  
Gavin Payne  
Chief Deputy Superintendent  
California State Department of Education

16  
17  
18 **APPROVED AS TO FORM:**

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

\_\_\_\_\_  
ELIZABETH A. LINTON  
G. MATEO MUÑOZ  
Deputy Attorney General

EDMUND G. BROWN JR.  
Attorney General of California  
PAUL REYNAGA  
Supervising Deputy Attorney General  
*Attorneys for Defendants*

1 22. This Settlement may be executed in one or more counterparts, and by facsimile, each  
2 one of which shall be considered to be an original, equally admissible in evidence, but all of  
3 which shall constitute one and the same instrument.

4 23. Every provision of this Settlement and General Release Agreement is consideration  
5 for every other provision.

6 24. This Settlement is effective upon its filing with the Court.

7 25. The parties agree that the Court retains jurisdiction to enforce this Settlement and  
8 General Release and that nothing in this agreement precludes the parties from seeking an order or  
9 other relief from the Court at any time in order to enforce this agreement.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DEFENDANTS**

Dated: 5/28/09

  
Theresa Garcia  
Executive Director  
California State Board of Education

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

\_\_\_\_\_  
Gavin Payne  
Chief Deputy Superintendent  
California State Department of Education

**APPROVED AS TO FORM:**

Dated: 6/1/09

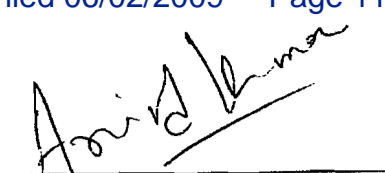
  
ELIZABETH A. LINTON  
G. MATEO MUÑOZ  
Deputy Attorney General

EDMUND G. BROWN JR.  
Attorney General of California  
PAUL REYNAGA  
Supervising Deputy Attorney General  
*Attorneys for Defendants*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PLAINTIFF**

Dated: 5/27/09



**ARVIND KUMAR,**  
Director  
California Parents for the Equalization of  
Educational Materials

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

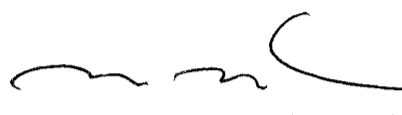
\_\_\_\_\_

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

\_\_\_\_\_

**APPROVED AS TO FORM:**

Dated: 27 MAY 09



**VENKAT BALASUBRAMANI**  
Balasubramani Law

**MICHAEL NEWDOW**  
Newdow Law  
*Attorneys for Plaintiff*

SA2006102549