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9 Attorneys for Plaintiffs

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 Aída Esmeralda Campos; Amy O'Neill;
13 Autumn Byars; Beldaja Jama; Breanna
14 Broker; Emma Davis; Fatima Jabardi;
15 Guadalupe Chavez Morales; Harry Smith;
16 Ian Sherwood; José Maciel; Michaela
17 Koert; Mya Vallejo; Michael Phillips
18 Clancy; Nolan Quinn; Noor Odeh; Rachel
19 Lim; Rebecca Huang; Salam Jabaieh; and
20 Zahra Alam,

21 *Plaintiffs,*

22 v.

23 Arizona Board of Regents d/b/a Arizona
24 State University, a constitutionally created
25 body corporate; Does I-X,

26 *Defendants.*

Case No.

COMPLAINT

JURY TRIAL DEMANDED

27 Plaintiffs Aída Esmeralda Campos, Amy O'Neill, Autumn Byars, Beldaja Jama,
28 Breanna Broker, Emma Davis, Fatima Jabardi, Guadalupe Chavez Morales, Harry Smith,
Ian Sherwood, José Maciel, Michaela Koert, Mya Vallejo, Michael Phillips Clancy, Nolan

1 Quinn, Noor Odeh, Rachel Lim, Rebecca Huang, Salam Jabaieh, and Zahra Alam (together
2 as “Plaintiffs”) bring this action against the Arizona Board of Regents (“ABOR”) (d/b/a
3 Arizona State University or “ASU”) and Does I-X, and allege as follows:

4 **JURISDICTION AND VENUE**

5 1. This Court has Jurisdiction to hear this matter pursuant to 28 U.S.C. § 1331
6 and 42 U.S.C. § 1983 because Plaintiffs allege a violation of the First Amendment to the
7 United States Constitution.

8 2. Venue is proper in this District under 28 U.S.C. § 1391(b)(1) because
9 Defendant is a public Arizona entity with the capacity to sue and be sued in its common
10 name under applicable law in this Court and therefore resides in Arizona. Venue is also
11 proper here pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or
12 omissions giving rise to the claim occurred in the District.

13 **PARTIES**

14 3. Plaintiffs are students currently enrolled at Arizona State University.

15 4. Defendant ABOR is a constitutionally created body corporate established by
16 the Arizona Constitution as the governing body for Arizona’s state university system.

17 5. Plaintiffs do not know the true names, but are informed and believe, and on
18 that basis allege, that the Defendants sued herein as Does I through X are in some manner
19 legally culpable for the damages suffered by the Plaintiffs. On such information and belief,
20 Plaintiffs allege that the list of Doe Defendants I-X includes officers, agents and employees
21 of ABOR involved in the decision to unilaterally suspend Plaintiffs from enrollment at
22 ASU following the events of April 26, 2024, and April 27, 2024.

23 6. All acts and omissions of Defendants as alleged herein are alleged to have
24 been committed through agents of Defendants acting within the course and scope of their
25 agency, including members of the ASU administration and members of the ASU campus
26 police department.

27 **FACTS**

28 7. On or about April 26, 2024, Plaintiffs joined a large group of like-minded

1 individuals in front of the conference center known as “Old Main” on the Tempe campus
2 of ASU in order to peacefully protest the United States’ involvement in current events
3 taking place in the Middle East.

4 8. The protest format was that of a “sit in”, where participants make their protest
5 known through their presence, gathering in solidarity.

6 9. At no time were Plaintiffs violent, disruptive, or dangerous.

7 10. At no time did Plaintiffs assault, harass, or otherwise intimidate anyone.

8 11. The sit in protest lasted through the evening, until at or around 11:30pm ASU
9 campus police began forcibly removing protesters and arresting any individuals who
10 refused to voluntarily leave.

11 12. Plaintiffs were among those who refused to voluntarily leave and were
12 consequently arrested on charges of trespassing.

13 13. From the outset ASU police made their intentions clear; they fully intended
14 to break up any protest, peaceful or otherwise.

15 14. In fact, at or around 9am on the 26th, Plaintiff Harry Smith was arrested for
16 no apparent reason. In fact, later that day the court and prosecutor dropped all charges
17 against Plaintiff Smith for lack of any probable cause for the arrest.

18 15. Despite the charges being dropped, Mr. Smith has faced identical boiler plate
19 charges by Defendant resulting in Mr. Smith being kicked out of his student housing
20 rendering him temporarily homeless.

21 16. On or about April 28th, Plaintiffs began receiving messages from ASU
22 administration informing them that their enrollment at the school had been suspended,
23 effective immediately.

24 17. The messages further informed Plaintiffs that they were not permitted back
25 on ASU campus grounds, on threat of arrest for trespassing.

26 18. The messages also informed Plaintiffs that they were prohibited from
27 communicating with any ASU faculty or staff, including professors.

28 19. ASU’s decision to suspend Plaintiffs, ban Plaintiffs from the ASU campus,

1 and prohibit communication with Plaintiffs' professors, made just as semester finals are
2 about to be administered, has effectively made it inevitable that Plaintiffs will all fail their
3 classes this semester.

4 20. Being suspended and banned from the campus, Plaintiffs cannot attend the
5 semester finals in person.

6 21. Being prohibited from communicating with their professors, Plaintiffs
7 cannot make arrangements to take the semester finals remotely.

8 22. ASU's disciplinary actions – related to the Plaintiffs' exercise of free speech
9 – were taken without providing advanced written notice and without affording Plaintiffs
10 the opportunity to review the evidence in support of ASU's allegations, confront any
11 witnesses against them, to present a defense, or to call witnesses before an impartial person
12 or panel, in violation of A.R.S. § 15-1866.

13 23. Further, ASU's disciplinary actions were taken without providing Plaintiffs
14 the right to an appeal or the right to active assistance of counsel, in violation of A.R.S. §
15 15-1866.

16 24. ASU's decision to enact harsh, immediate disciplinary action without any
17 recourse was based solely upon the anti-Israel message being communicated by Plaintiffs'
18 protest.

19 25. There were fraternity members nearly partying, drinking, and videoing the
20 events of the protests when Plaintiffs were arrested; ASU chose to arrest and discipline the
21 protesters instead of the bystanders, demonstrating the targeted nature of ASU's actions.

22 26. ASU therefore retaliated against Plaintiffs on the basis of Plaintiffs'
23 expression of protected free speech, and – absent immediate Court intervention – ASU's
24 retaliation will have significant and detrimental effects on the Plaintiffs' academic futures
25 and livelihoods.

26 **COUNT I – FIRST AMENDMENT RETALIATION**
27 **42 U.S.C. § 1983 – U.S. CONST. AMEND. I**

28 27. Plaintiffs incorporate by reference all other paragraphs in this Complaint as

1 though fully alleged herein.

2 28. ABOR and Does I-X are persons as that term is used under 42 U.S.C. § 1983.

3 29. ABOR and Does I-X, in their individual capacity and as the final decision-
4 making authority on behalf of ASU, were acting under the color of law when engaging in
5 the actions set forth in the preceding paragraphs.

6 30. The actions set forth in the preceding paragraphs deprived Plaintiffs of their
7 right to be free from retaliation for exercising their First Amendment rights under the
8 United States Constitution.

9 31. The peaceful sit-in in which Plaintiffs engaged is a constitutionally protected
10 activity that did not involve substantial disruption of or material interference with school
11 activities.

12 32. Suspending Plaintiffs indefinitely, banning Plaintiffs from setting foot on
13 campus, and prohibiting Plaintiffs from communicating with their professors just prior to
14 the administration of final exams, all for engaging in a peaceful sit-in, would chill a person
15 of ordinary firmness from continuing to engage in the constitutionally protected activity.

16 33. The Plaintiffs' act of participating in a peaceful sit-in to bring attention to
17 politically significant actions on the part of the United States government – including
18 sending aid to Israel – was a substantial or motivating factor in Defendants' decision to
19 punish and suspend Plaintiffs from enrollment at ASU.

20 34. As a direct and proximate result of Defendants' actions, Plaintiffs have
21 suffered and will continue to suffer harm, including damage to their academic standing,
22 perceived character and standing in the community, and future prospects, as well as
23 emotional and psychological distress, in amounts to be determined by the jury.

24 35. Additionally, due to the wanton and outrageous conduct of Defendants,
25 Plaintiffs ask that punitive damages be imposed in amounts to be determined by the jury.

26 36. Finally, Plaintiffs' claims arise under 42 U.S.C. § 1983. As an action to
27 enforce this provision and seek redress for a violation of civil rights, Plaintiffs are entitled
28 to an award of reasonable costs and attorneys' fees in an amount to be deemed reasonable

1 by this Court pursuant to 42 U.S.C. § 1988 in the event that Plaintiffs prevail at trial.

2
3 **JURY DEMAND**

4 Plaintiffs hereby demand trial by jury for all issues and claims raised in this
5 Complaint.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, the Plaintiffs demand judgment against the Defendants, and each
8 of them, for the violations of Plaintiffs' constitutional rights as follows:

- 9
- 10 1. Preliminary injunctive relief requiring that Defendants revoke all disciplinary
11 actions taken against Plaintiffs arising out of the events of April 26, 2024, and
12 April 27, 2024, until such time as the constitutionality of such actions are
13 determined;
 - 14 2. Final injunctive relief requiring that Defendants permanently revoke all
15 disciplinary actions taken against Plaintiffs arising out of the events of April 26,
16 2024, and April 27, 2024;
 - 17 3. Money damages to fairly and reasonably compensate plaintiffs for the deprivation
18 of their rights, including compensatory, consequential, and presumed damages;
 - 19 4. Punitive damages against the individual Defendants in an amount to be determined
20 by the trier of fact;
 - 21 5. A declaration that Defendants violated Plaintiffs' constitutional rights;
 - 22 6. Pre-judgment and post-judgment interest;
 - 23 7. Attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and
 - 24 8. Any such other and further relief as the Court deems just and proper.

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Respectfully submitted this 30th day of April 2024,

/s/David Chami
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Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s): **Aída Esmeralda Campos , ; Amy O'Neill , ; Autumn Byars , ; Beldaja Jama , ; Breanna Broker , ; Emma Davis , ; Fatima Jabardi , ; Guadalupe Chavez Morales , ; Harry Smith , ; Ian Sherwood , ; José Maciel , ; Michaela Koert , ; Mya Vallejo , ; Michael Phillips Clancy , ; Nolan Quinn , ; Noor Odeh , ; Rachel Lim , ; Rebecca Huang , ; Salam Jabaieh , ; Zahra Alam , ;**

Defendant(s): **Arizona Board of Regents d/b/a Arizona State University , ;**

County of Residence: Maricopa

County of Residence: Maricopa

County Where Claim For Relief Arose: Maricopa

Plaintiff's Atty(s):

David Chami ,
Consumer Attorneys, PLC
8245 N 85th Way
Scottsdale, Arizona 85258
480-626-2359

Defendant's Atty(s):

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IFP REQUESTED

REMOVAL FROM COUNTY, CASE #

II. Basis of Jurisdiction:

3. Federal Question (U.S. not a party)

III. Citizenship of Principal Parties(Diversity Cases Only)

Plaintiff:-

N/A

Defendant:-

N/A

IV. Origin :

1. Original Proceeding

V. Nature of Suit:

440 Other Civil Rights

VI.Cause of Action:

42 U.S.C. § 1983 – U.S. CONST. AMEND. I

VII. Requested in Complaint

Class Action:

No

Dollar Demand:

Jury Demand:

Yes

VIII. This case is not related to another case.

Signature: /s/David Chami

Date: 4/30/2024

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Revised: 01/2014