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21 **UNITED STATES DISTRICT COURT**
22 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

23 DO NO HARM, et al.,

24 *Plaintiffs,*

25 v.

26 THE REGENTS OF THE
27 UNIVERSITY OF CALIFORNIA, et
28 al.,

Defendants.

Case No. 2:25-cv-04131-JWH-JDE

**DEFENDANTS' REPLY IN
SUPPORT OF MOTION TO
DISMISS [ECF NO. 57]**

Date: October 28, 2025
Time: 9:00 a.m.
Place: Courtroom 9D
Judge: Hon. John W. Holcomb

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1 Plaintiffs ask the Court to allow this case to proceed to discovery without
2 evaluating whether plaintiffs with standing have plausibly alleged that suable
3 defendants have violated the law. Their request is not grounded in the pleading
4 rules. Accordingly, as Plaintiffs' Amended Complaint suffers from many of the
5 same defects as the original one, the motion to dismiss should be granted.

6 ARGUMENT

7 I. THE ASSOCIATIONAL PLAINTIFFS CANNOT DEMONSTRATE STANDING

8 Neither Do No Harm nor SFFA has shown its members have standing to sue
9 in their own right, *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333
10 (1977), because neither of the organization's identified members is "able and
11 ready" to apply for admissions at UCLA's David Geffen School of Medicine ("the
12 School of Medicine" or "the School"), *Loffman v. Cal. Dep't of Educ.*, 119 F.4th
13 1147, 1159, 1160-1162 (9th Cir. 2024). Plaintiffs cannot salvage this lack of
14 associational standing by relying on Mahoney's standing, which is irrelevant to the
15 organizations' standing.

16 A. Do No Harm's And SFFA's Members Cannot Sue In Their Own 17 Right

18 The Amended Complaint does not sufficiently plead that any member is
19 "able and ready" to seek admission at the School of Medicine. Indeed, the only
20 allegations about individual members in the Amended Complaint reveal those
21 individuals are presently unable to apply.¹ *See Do No Harm v. Gianforte*, 2025
22 WL 756742, at *7 (D. Mont. Jan. 10, 2025), *report & recommendation adopted*,
23 2025 WL 399753 (D. Mont. Feb. 5, 2025). Member A—the only Do No Harm
24 member identified in the Amended Complaint—is unable to apply to the School

25
26 ¹ Do No Harm's suggestion that it may have other members who are able
27 and ready to apply besides DNH Member A (*see* Opp. 17) cannot supply standing,
28 as the Amended Complaint contains no such allegations. *See Spokeo v. Robins*,
578 U.S. 330, 338 (2016) ("[A]t the pleading stage, the plaintiff must 'clearly ...
allege facts demonstrating' each element of standing.").

1 because he is currently attending another medical school, and the School does not
2 accept transfer students. Am. Compl. ¶¶ 29, 94. Plaintiffs argue that “Member A
3 could ‘reapply’ as a first year,” Opp. 16—but they did not allege he was able and
4 ready to do so in their Amended Complaint. Even if they had done so, an
5 allegation that a student would abandon his current medical school studies, reapply
6 to the School, and re-do his whole first year of studies is implausible.² See
7 *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009) (“Only a complaint that states a
8 plausible claim for relief survives a motion to dismiss.”).

9 As for SFFA, Plaintiffs point to the allegations that Member 1 is “[m]ore
10 than ready,” that she “*will* apply,” and that “[a]ttending Geffen is her ‘dream’” to
11 support standing. Opp. 18 (citing Am. Compl. ¶ 101). But these are conclusory
12 and speculative allegations that provide no indication that Member 1 has anything
13 more than a hypothetical interest in applying. See *Haltigan v. Drake*, 2024 WL
14 150729, *4-5 (N.D. Cal. Jan. 12, 2024) (allegation that plaintiff “desire[d]” a
15 position at defendant university was insufficient to demonstrate ability and
16 readiness). The cases Plaintiffs cite for a relaxed imminence standard are
17 inapposite—the plaintiffs in those cases had the full set of qualifications needed to
18 apply (*Bras v. California Pub. Utilities Comm’n*, 59 F.3d 869, 874 (9th Cir.
19 1995)), had “detailed and specific” plans so redressability was not too speculative
20 (*Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 261-262
21 (1977)), or had demonstrated “real interest” by enrolling in the last qualification
22 course needed to apply (*Koons v. Platkin*, 673 F. Supp. 3d 515, 559 (D.N.J. 2023)).
23
24
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27 ² Plaintiffs’ argument that Member A could apply as a transfer if “this Court
28 enjoin[ed] Geffen from applying its no-transfers policy” is equally unavailing
because Plaintiffs are not entitled to that relief. See Mem. 28; *infra* 15-16.

1 **B. Mahoney’s Standing Does Not Supply Standing To The**
2 **Organizational Plaintiffs**

3 Plaintiffs overstate the law in pronouncing that one party with standing is
4 sufficient for a lawsuit to proceed as to *all* parties. First, the general proposition
5 that a court need not address each plaintiff’s standing has been applied in cases
6 seeking injunctive relief—but not in cases involving damages that require more
7 individualized inquiry, such as the compensatory and punitive damages that
8 Plaintiffs purport to seek here.³ *See Nat’l Ass’n of Optometrists & Opticians*
9 *LensCrafters, Inc. v. Brown*, 567 F.3d 521, 523 (9th Cir. 2009) (describing rule as
10 applicable to “injunctive case[s]”); *see generally NetChoice, LLC v. Bonta*, 2025
11 WL 2600007, at *6-7 (9th Cir. Sept. 9, 2025) (affirming finding of no associational
12 standing where the “claim asserted” and the “relief requested” depended on
13 individualized analyses for each member). Second, courts have discretion to
14 evaluate standing as to each plaintiff if such analysis is warranted. *See, e.g., We*
15 *Are Am./Somos Am., Coal. of Arizona v. Maricopa Cnty. Bd. of Supervisors*, 809 F.
16 Supp. 2d 1084, 1091-1092 (D. Ariz. 2011) (assessing standing for each
17 associational plaintiff and dismissing one). Do No Harm and SFFA should not be
18 permitted to “piggyback” off the lone individual plaintiff’s standing.

19 **II. THE INDIVIDUAL DEFENDANTS ENJOY IMMUNITY**

20 Plaintiffs initially named 40 defendants. Dkt. 1. Plaintiffs then voluntarily
21 dismissed 37 defendants by stipulation. Dkt. 27. That stipulation nowhere
22 “promise[s] that the remaining defendants were sufficient,” or that Defendants
23 agreed to “waive[] [Chancellor] Frenk’s sovereign-immunity defense.” Opp. 29-
24 30. Just the opposite—the stipulation explicitly provides that “Defendants *do not*

25
26 ³ Plaintiffs insinuate that Do No Harm should be allowed to proceed because
27 at least nominal damages are available to associations or their members, including
28 DNH-Member A. Opp. 16. But Plaintiffs do not and cannot argue that either Do
 No Harm or SFFA are able to seek *other* types of damages on behalf of their
 members, including compensatory and punitive damages. *See* Mem. 12 n.4.

1 *waive* any defenses or objections in this action by agreeing to this stipulation.”
2 Dkt. 27 at 3 (emphasis added). Plaintiffs cannot parlay the stipulated dismissal of
3 defendants they improperly named into an exemption from the pleading
4 requirements as to the remaining defendants.

5 **A. Sovereign Immunity Bars All Claims Against Chancellor Frenk**

6 Plaintiffs’ Opposition appears to concede that Chancellor Frenk can only be
7 sued in his official capacity and that claims for damages against him are barred by
8 sovereign immunity under the Eleventh Amendment. Plaintiffs argue, rather, that
9 he can be sued for forward-looking relief pursuant to the *Ex parte Young* exception
10 to sovereign immunity. Opp. 29-30. But *Ex parte Young* does not apply. The
11 Amended Complaint contains no allegations, let alone plausible ones, averring an
12 “essential causal connection” between him and the alleged conduct, which is
13 “necessary to invoke the *Ex parte Young* exception to sovereign immunity.” *Ass’n*
14 *for Information Media and Equipment v. Regents of the Univ. of Cal.*, 2012 WL
15 7683452, at *4 (C.D. Cal. Nov. 20, 2012) (dismissing claims against the UC
16 President and UCLA Chancellor because “[s]imply overseeing or supervising the
17 infringing activity is not enough”).⁴

18 Plaintiffs’ cited cases are inapposite. In those cases, the facts showed direct
19 involvement in enforcing the relevant policy. *See, e.g., R. W. v. Columbia Basin*
20 *Coll.*, 77 F.4th 1214, 1227-1228 (9th Cir. 2023) (no immunity where dean was
21 “directly involved with the alleged constitutional violation” because he issued the
22 relevant no-trespass order against plaintiff and led the investigation into student’s
23 conduct); *Christian Legal Soc’y Chapter of Univ. of Cal. v. Kane*, 2005 WL
24 850864, at *9 (N.D. Cal. Apr. 12, 2005) (finding no immunity where Board of
25 Directors had direct authority to amend the relevant policy). Plaintiffs’ reliance on
26 *Coalition to Defend Affirmative Action v. Brown*, 674 F.3d 1128, 1135-1136 (9th
27

28 ⁴ Whether the required causal connection exists is the question and not, as Plaintiffs suggest, the Chancellor’s relative position in the “org chart.” Opp. 30.

1 Cir. 2012), is similarly misplaced. There the Court found the “buck stop[ped]”
2 with the UC President in enforcing state law. Here, Plaintiffs do not challenge the
3 enforcement of state law, but rather the School’s admissions policies and
4 processes. And yet, they do not allege Chancellor Frenk had any involvement with
5 those policies and processes, let alone the required causal connection. *Ex parte*
6 *Young* therefore does not apply, and Chancellor Frenk enjoys immunity from this
7 suit.

8 **B. The Claims Against Chancellor Block Must Be Dismissed Because**
9 **They Fail To Allege Personal Or Intentional Discrimination**

10 Plaintiffs have also failed to plead sufficient facts about Chancellor Block’s
11 personal participation in the alleged discriminatory conduct—let alone that he
12 engaged in *intentional* discrimination—which is required for each of Plaintiffs’
13 claims against a defendant in their individual capacity. *See* Mem. 18-19 (citing
14 cases). Plaintiffs argue that Chancellor Block was a “supervisor” who can be held
15 liable for Section 1983 claims arising from a “sufficient causal connection” to a
16 subordinate’s discriminatory conduct. Opp. 30-31. But Plaintiffs gravely
17 misconstrue the law. The very cases Plaintiffs cite make plain that a supervisor
18 can only be held vicariously liable under Section 1983 if they “breached a *duty* to
19 plaintiff which was the proximate cause of the injury.” *Starr v. Baca*, 652 F.3d
20 1202, 1207 (9th Cir. 2011) (emphasis added); *see also Silverbrand v. Woodford*,
21 2010 WL 3635780, at *6 (C.D. Cal. Aug. 18, 2010) (“Under § 1983, a supervisor
22 is not liable on a theory of *respondeat superior*.”).⁵ The Amended Complaint falls
23 woefully short of this threshold.

24 The bare allegation that former Chancellor Block “had the power” to fire or
25

26 ⁵ As Plaintiffs’ cited authorities state, a similarly heightened standard for
27 vicarious liability applies under Section 1981, *see Amin v. Quad/Graphics, Inc.*,
28 929 F. Supp. 73, 78 (N.D.N.Y. 1996), and the Unruh Act, *see Gurrola v. Jervis*,
2009 WL 9548218, at *8-9 (C.D. Cal. Apr. 2, 2009).

1 discipline Associate Dean Lucero (Am. Compl. ¶ 9) establishes neither that he had
2 knowledge of nor supervisory responsibility over admissions.⁶ That former
3 Chancellor Block allegedly “announced no action or reform in response to the
4 whistleblowers’ revelations,” *id.*, similarly fails to allege that he had a duty to
5 investigate the whistleblowers’ claims or that he was even aware of them.
6 Plaintiffs therefore fail to plausibly allege that former Chancellor Block should be
7 held vicariously liable for others’ conduct.

8 Nor does the Amended Complaint sufficiently allege former Chancellor
9 Block should be liable based on his own conduct. Plaintiffs’ Opposition, like the
10 Amended Complaint, rattles off a list of conclusory allegations containing
11 Plaintiffs’ suppositions that former Chancellor Block must have had knowledge
12 about alleged consideration of race in admissions at the School of Medicine, that
13 he must have “failed to use his power to remedy it,” or that he must have been
14 “culpably indifferent” to its use—all on account of his position as head of UCLA.
15 Opp. 31-32. But such conclusory allegations are not enough. They fall far short of
16 the personal conduct alleged in *Starr*, for example, where the plaintiff alleged that
17 the sheriff defendant had personal knowledge about unconstitutional conditions
18 and failed to act despite that knowledge. 652 F.3d at 1208.

19 **C. Former Chancellor Block And Associate Dean Lucero Are Entitled**
20 **To Qualified Immunity**

21 Plaintiffs suggest that the Court need not address qualified immunity
22 because none of the damages claims in this case predate the June 2023 *Harvard*
23 decision. Opp. 24. But the Amended Complaint is replete with allegations
24 predating June 2023. *See, e.g.*, Am. Compl. ¶¶ 53-55; *id.* at ¶¶ 69-71, 73-75, 77-
25 80. Defendants appreciate Plaintiff’s concession that these allegations are
26

27 ⁶ Plaintiffs also state in their Opposition that Chancellor Block “hired Lucero
28 knowing she supported the use of race,” but no such allegation appears in the
Amended Complaint. *Cf.* Am. Compl. ¶¶ 8-9, 22, 56-86.

1 irrelevant to their claims. In any event, Plaintiffs are wrong: qualified immunity is
2 an immunity from *suit*, *Pearson v. Callahan*, 555 U.S. 223, 231 (2009), and former
3 Chancellor Block and Associate Dean Lucero are immune from damages claims
4 that arise from any alleged conduct before *Harvard*.

5 Plaintiffs also are wrong that qualified immunity does not bar damages for
6 alleged pre-*Harvard* conduct. Opp. 25-26. They ignore the standard for defeating
7 qualified immunity, which requires that “every reasonable official” would have
8 understood the alleged conduct to be unlawful—*i.e.*, that the constitutionality of
9 the conduct was “beyond debate.” *District of Columbia v. Wesby*, 583 U.S. 48, 62-
10 63 (2018) (citations omitted) (qualified immunity applies unless the alleged
11 unlawfulness “was *clearly* established at the time”) (emphasis added). The
12 Amended Complaint does not plausibly allege former Chancellor Block engaged in
13 any discriminatory conduct whatsoever, *see supra* 10-11, and its allegations
14 regarding Associate Dean Lucero, even accepted as true, do not reflect conduct
15 that “every reasonable official” would have agreed was unconstitutional pre-
16 *Harvard*. Indeed, the Amended Complaint contains no non-conclusory allegations
17 that Associate Dean Lucero used race as more than a “plus factor” to maintain a
18 diverse student body. *Grutter v. Bollinger*, 539 U.S. 306, 334 (2003).⁷

19 **III. FORMER CHANCELLOR BLOCK AND ASSOCIATE DEAN LUCERO ARE**
20 **NOT LIABLE UNDER THE UNRUH ACT**

21 **A. No Defendant Is A “Business Establishment”**

22 As a threshold matter, Plaintiffs’ Unruh Act claims must be dismissed
23 because the School of Medicine is not a “business establishment,” and the alleged
24 conduct in this case does not relate to any actions taken by former Chancellor
25

26 ⁷ By accepting the allegations of the Complaint as true for purposes of this
27 motion, Defendants do not concede that race was considered in admissions at the
28 School of Medicine in any way that would have been permissible under federal law
prior to *Harvard*, but not permissible under California law.

1 Block or Associate Dean Lucero in the School’s alleged “capacity as a business or
2 commercial enterprise.” Opp. 35. The cases relied upon by Plaintiffs only further
3 underscore this point. Both *Nartey v. Regents of University of California*, and
4 *Brinkley v. California State University, Northridge*, rejected Unruh Act claims
5 against California public universities, citing the California Supreme Court’s
6 decision in *Brennon B. v. Superior Ct.*, 513 P.3d 971 (Cal. 2022). See *Nartey*,
7 2024 WL 566882, at *5-6 (Cal. Ct. App. Feb. 13, 2024) (dismissing Unruh Act
8 claims against the Regents where claims arose from “UCLA’s activity as an
9 institution of public education”); *Brinkley*, 2022 WL 16627781, at *9-10 (Cal. Ct.
10 App. Nov. 2, 2022) (rejecting Unruh Act claims where school tuition and
11 incidental charges did not render state university a “business establishment”).
12 Indeed, as the Court explained in *Brennon*, “the focus of the [Unruh] Act is the
13 conduct of *private business establishments*,” 513 P.3d at 978 (emphasis original),
14 and a public school “engaged in the work of educating students” is not a private
15 business establishment, nor the “functional equivalent” of one. *Id.* at 982.

16 Even if, despite the Unruh Act’s “presumption against finding a government
17 entity is acting in commerce,” *Frazier v. City of Fresno*, 2023 WL 4108322, at *59
18 (E.D. Cal. June 21, 2023), the University of California or its employees could
19 theoretically be liable under the Act for acts in the University’s alleged “capacity
20 as a business or commercial enterprise,” Opp. 35, this is not that case. Plaintiffs’
21 Unruh Act claims relate to medical school admissions, a “core educational
22 capacity” closely related to the University’s “work of educating students.”
23 *Brennon*, 513 P.3d at 982. The mere fact that the School charges an “application
24 fee” or tuition, Am. Compl. ¶ 172, does not render the admissions process
25 “commercial.” See *Curran v. Mount Diablo Council of the Boy Scouts*, 952 P.2d
26 218, 223, 239 (Cal. 1998) (Unruh Act did not apply to Boy Scout’s membership
27 policies despite the fact that applicants paid a “fee” and members paid “annual
28 dues”). And the unpublished decision in *Sherman v. Regents of Univ. of*

1 *California*, 2022 WL 1137090, at *15 n.6 (N.D. Cal, Apr. 18, 2022), decided
2 before the California Supreme Court’s decision in *Brennon*, is not a basis to hold
3 otherwise, particularly in light of subsequent California Court of Appeals cases
4 like *Nartey* and *Brinkley* that come to the opposite conclusion. Nor do any of
5 Plaintiffs’ other allegations—*e.g.*, that the School advertises to “compete against
6 other elite medical schools,” Am. Compl. ¶ 172—plausibly show that the “overall
7 function” of the School’s admissions process is “to protect and enhance ...
8 economic value,” *Brennon*., 513 P.3d at 982, rather than to attract and admit the
9 best students to contribute to a vibrant and enriching educational community.

10 **B. Section 820.2 Provides Immunity From Suit**

11 Contrary to Plaintiffs’ assertions, Opp. 32-34, Section 820.2 immunity
12 applies to “a discretionary act which otherwise violates the Unruh Act,” *C.N. v.*
13 *Wolf*, 2006 WL 8434249, at *11 (C.D. Cal. Nov. 1, 2006), and claims of Section
14 820.2 immunity may be resolved at the pleading stage, *see, e.g., Brust v. Regents of*
15 *Univ. of Cal.*, 2007 WL 4365521, at *2, *9 (E.D. Cal. Dec. 12, 2007); *Caldwell v.*
16 *Montoya*, 897 P.2d 1320, 1331-1332 (1995). *Brust*, which Plaintiffs elected not to
17 address in their Opposition, is dispositive. There, the court dismissed Unruh Act
18 claims against individual University of California employees for alleged sex
19 discrimination against female athletes after finding that a “fair reading” of the
20 allegations revealed considered, discretionary policy decisions for which
21 defendants were entitled to Section 820.2 immunity. 2007 WL 4365521, at *8-9.
22 As in *Brust*, the allegations here are that Associate Dean Lucero and former
23 Chancellor Block violated the Unruh Act by “causing Geffen to favor certain
24 applicants and disfavor others because of their race,” and by “wield[ing]
25 significant influence over [the School’s] admissions policies and practices.” Am.
26 Compl. ¶¶ 175, 7. The Amended Complaint thus accuses them of discrimination
27
28

1 stemming from “those basic policy and personnel decisions” for which they are
2 squarely entitled to immunity under Section 820.2. *Caldwell*, 897 P.2d at 1331.⁸

3 **IV. CERTAIN OF PLAINTIFFS’ REQUESTED RELIEF MUST BE DISMISSED**

4 **A. Plaintiffs Cannot Obtain An Injunction Broadly Lifting The School’s**
5 **Limitations On Transfers And Multiple Applications**

6 Plaintiffs request an order enjoining the School of Medicine’s limitations on
7 transfers and multiple applications on behalf of their proposed “injunctive
8 subclass,” Am. Compl. ¶ 116, but their opposition makes clear that Mahoney, the
9 sole representative of that class, is not entitled to such relief. Indeed, Plaintiffs’
10 argument in briefing that Mahoney “likely and imminently needs” this injunction,
11 Opp. 21, flatly contradicts their Amended Complaint, which alleges Mahoney
12 applied to the School once in 2023, plans to apply again “this year,” and would
13 possibly apply a third time in the future if she is rejected again. Am. Compl.
14 ¶¶ 109, 113, 114. None of these hypothetical applications would be barred by the
15 School’s prohibition on more than three applications. *Id.* at ¶ 29. But rather than
16 conceding the point, Plaintiffs argue different facts in their brief, claiming that
17 Mahoney “just submitted her *third* application to Geffen.” Opp. 21 (emphasis
18 added). “It is axiomatic that the complaint may not be amended by the briefs in
19 opposition to a motion to dismiss.” *Cork v. CC-Palo Alto, Inc.*, 534 F. Supp. 3d
20 1156, 1183 n.8 (N.D. Cal. 2021) (cleaned up and citation omitted).⁹

21
22 ⁸ The fact that the alleged use of race in admissions was otherwise prohibited
23 under Proposition 209 does not alter that immunity. *See Caldwell*, 897 P.2d at
24 1331 (under Section 820.2, “such personal immunity applies even against
25 liabilities imposed by prohibitory state statutes of general application” unless there
is “a clear indication of legislative intent that immunity be withdrawn”); Mem. 25
n.12.

26 ⁹ Contrary to Plaintiffs’ assertion, Opp. 21, the allegations regarding DNH
27 Member A are not sufficient to save this requested relief from dismissal because
28 Do No Harm lacks standing altogether, *see supra* 6-8, and the Amended Complaint
does not put forth DNH Member A as a representative of the injunctive subclass
seeking this relief. *See* Am. Compl. ¶ 114.

1 Additionally, Defendants do not challenge this Court’s authority to craft an
2 injunction offering “complete relief to the *plaintiffs before the court*,” *Trump v.*
3 *CASA, Inc.*, 606 U.S. 831, 852 (2025) (emphasis in original), but that is not the
4 issue. Defendants seek dismissal of Plaintiffs’ request for an order enjoining the
5 School’s limitations on transfers and multiple applications *generally*, Am. Compl.
6 ¶ 116, untethered to their claims. “Injunctive relief must be tailored to remedy the
7 specific harm alleged,” and an “overbroad injunction is an abuse of discretion.”
8 *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1140 (9th Cir. 2009) (cleaned up and
9 citation omitted). An injunction requiring the School to lift its transfer and
10 reapplication restrictions would extend far “beyond the parties” in this case and
11 would thus exceed the Court’s equitable power. *CASA*, 606 U.S. at 843. It would
12 also be improper, as the Amended Complaint does not allege that this policy is in
13 any way “related to” any alleged consideration of race, and it is not a
14 “discriminatory barrier” preventing Plaintiffs from applying to the School “on an
15 equal basis.” *Loffman*, 119 F.4th at 1159 n.6.

16 **B. Plaintiffs Have Not Plausibly Alleged Conduct Sufficient To Warrant**
17 **Punitive Damages**

18 Punitive damages are only available “when the defendant’s conduct is
19 shown to be motivated by evil motive or intent, or when it involves reckless or
20 callous indifference to the federally protected rights of others.” *Smith v. Wade*,
21 461 U.S. 30, 56 (1983). Plaintiffs acknowledge as much in their Amended
22 Complaint (¶ 150). Yet in opposing this motion, Plaintiffs argue that “intentional
23 discrimination *alone* justifies punitive[] [damages],” pointing primarily to
24 inapposite employment discrimination cases. Opp. 23. This is not the law. *See*
25 *Kolstad v. Am. Dental Ass’n*, 527 U.S. 526, 536 (1999) (“There will be
26 circumstances where intentional discrimination does not give rise to punitive
27 damages liability.”). And in any event, the Amended Complaint does not plausibly
28 allege former Chancellor Block engaged in intentional discrimination of any kind,

1 nor that he is vicariously liable for alleged discrimination by Associate Dean
2 Lucero. *Supra* Sec. 10-11. Nor does it allege “specific facts,” *Grimberg v. United*
3 *Airlines, Inc.*, 2023 WL 2628708, at *3 (C.D. Cal. Jan. 10, 2023), showing evil
4 motive or reckless or callous indifference, as would be required to maintain a claim
5 for punitive damages against Associate Dean Lucero.

6 **V. PLAINTIFFS’ CLASS ALLEGATIONS SHOULD BE STRICKEN BECAUSE IT**
7 **IS OBVIOUS THAT CLASSWIDE RELIEF IS NOT AVAILABLE**

8 As Plaintiffs concede, Opp. 26, it is well-settled that courts have “the
9 authority to strike class allegations that ‘cannot possibly move forward on a
10 classwide basis.’” *Am. W. Door & Trim v. Arch Specialty Ins. Co.*, 2015 WL
11 1266787, at *3, *7 (C.D. Cal. Mar. 18, 2015) (collecting cases) (citations omitted).
12 Yet they overstate the law in claiming that motions to strike class allegations are
13 “premature” before class certification has been briefed. Opp. 26. Plaintiffs’ class
14 allegations cannot move forward because individual issues predominate over
15 allegedly common claims. Mem. 29. In cases involving university admissions,
16 courts agree that any commonality shared by the putative class is predominated by
17 individualized assessments in each applicant’s case, since admissions decisions by
18 their very nature “always legitimately involve[] subjective criteria.” *Radke v.*
19 *Univ. Of Illinois at Urbana-Champaign*, 263 F.R.D. 498, 499 (N.D. Ill. 2009).
20 With respect to commonality and typicality, Plaintiffs’ arguments fare no better
21 given the breadth of the class alleged in the Amended Complaint—it is implausible
22 on its face that all non-Black applicants denied admission to the School inherently
23 share commonality and typicality.

24 **CONCLUSION**

25 For the foregoing reasons, Defendants respectfully request that the Court
26 grant Defendants’ motion to dismiss.

1 DATED: October 3, 2025

Respectfully submitted,

2
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CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.1 AND
STANDING ORDER OF HON. JOHN W. HOLCOMB

The undersigned, counsel of record for Defendants, certifies that this brief contains 12 pages or fewer, which complies with the page limit set by the Court's Standing Order revised February 24, 2023.

Dated: October 3, 2025

/s/ Felicia H. Ellsworth
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