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Plaintiffs sanctioned in PCB lawsuit

By [Jeff Goodman](http://smdp.com/author/jeff-goodman) on January 7, 2016 in [Education](http://smdp.com/category/news/education)



Sanctions have been imposed on Malibu activists in their lawsuit over the Santa Monica-Malibu school district's handling of chemical testing and cleanup at Malibu schools.

The penalties, handed down by U.S. District Court Judge Percy Anderson in a Dec. 21 hearing, added to the ongoing legal battle between the plaintiffs and the district that

stems from the discovery of polychlorinated biphenyls on Malibu campuses about two years ago.

The sanctions follow unauthorized independent chemical sampling of caulk by Jennifer deNicola, the leader of America Unites for Kids, according to the court document.

The plaintiffs, America Unites and Public Employees for Environmental Responsibility, will not be allowed to use chemical samples they obtained as evidence in the lawsuit, according to the court.

The plaintiffs' "pattern of unauthorized, illegal, and wrongful testing is an outrageous abuse of the judicial process," reads the court's analysis.

America Unites has also been ordered to pay the district for repairs related to physical damage caused by deNicola's unauthorized testing. The plaintiffs and the district must file a joint report by Jan. 11 with proposals for the compensation amount.

The court also ordered the plaintiffs to pay for SMMUSD legal fees related to the district's motion for sanctions. The district has until Jan. 11 to outline those fees, although the plaintiffs can challenge the figures by Jan. 19.

The case was not dismissed altogether, but the plaintiffs and their supporters were ordered not to conduct any additional testing at Malibu schools without court approval.

Led by deNicola, Malibu activists have repeatedly criticized the school district for spending millions of dollars on consultants and legal fees.

"Why have we spent \$7 million ... to avoid spending \$100,000 to properly test and identify the extent of contamination that

would cost an estimated \$1-\$2 million to remove?” reads last month’s open letter from deNicola’s organization to the local Board of Education. “It has been two very long, emotionally and physically injurious, and stressful years for parents, students and teachers in Malibu. We are obviously no giving up or going away.”

In March, America Unites and PEER filed a lawsuit against Superintendent Sandra Lyon, chief financial officer Jan Maez and all seven school board members over the district’s handling of chemical testing and cleanup at Malibu schools.

About two months later, the judge denied a request by SMMUSD officials to dismiss the suit.

By October, the district was seeking criminal vandalism charges against deNicola after she collected independent caulk samples and provided the district with additional PCB testing results. The alleged crimes were reported to the Los Angeles County Sheriff’s Department.

School board members Craig Foster and Oscar de la Torre sent emails to Lyon criticizing the district’s pursuit of criminal charges.

“Such action will only exacerbate the tensions between the district and those who believe deeply that the district has chosen a wrong, unsafe course regarding PCBs,” Foster wrote.

In November, the Los Angeles County District Attorney’s Office formally declined to file criminal charges. Around that time, the district pursued the aforementioned sanctions.

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