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ENDORSED  
FILED  
MAY -5 2016  
Superior Court  
County of Santa Clara, California  
By: [Signature] Deputy Clerk

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 IN AND FOR THE COUNTY OF SANTA CLARA

14 JANE AA DOE,  
15 Plaintiff,

16 vs.

17 GILROY UNIFIED SCHOOL DISTRICT  
a business entity of form unknown;  
18 GILROY HIGH SCHOOL, a business  
entity of form unknown; DOUGLAS LE,  
19 an individual; and DOES 1-100,  
20 Defendants.

Case No.: 16 CV 294797  
Judge: \_\_\_\_\_  
Department: \_\_\_\_\_

COMPLAINT FOR DAMAGES FOR:

- 1) NEGLIGENCE;
- 2) NEGLIGENT SUPERVISION;
- 3) NEGLIGENT HIRING/RETENTION;
- 4) INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;
- 5) ASSAULT;
- 6) SEXUAL HARASSMENT (C.C. § 51.9);
- and
- 7) GENDER VIOLENCE (C.C. § 52.4);

[DEMAND FOR JURY TRIAL]

23 COMES NOW, Plaintiff JANE AA DOE, who complains and alleges as follows:

24 GENERAL ALLEGATIONS AS TO THE PARTIES

25 1. Plaintiff JANE AA DOE (hereinafter "Plaintiff") is a resident of the County of  
26 Santa Clara, State of California and was so at the time of the abuse alleged herein. The name used  
27 by JANE AA DOE in this Complaint is not the actual name of JANE AA DOE, but is a fictitious  
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1 name utilized to protect the privacy of JANE AA DOE, a minor and victim of childhood sexual  
2 harassment and abuse. Plaintiff JANE AA DOE is a female, born on April 12, 1999 and was a  
3 minor during the entire time of the sexual misconduct alleged herein. Beginning in or around  
4 2014, Plaintiff was sexually harassed and abused by her high school teacher, Defendant  
5 DOUGLAS LE, employee and agent of Defendant GILROY UNIFIED SCHOOL DISTRICT and  
6 GILROY HIGH SCHOOL. Plaintiff was 15 years old when the alleged abuse began, and all  
7 claims arising out of the sexual abuse occurred after January 1, 2009. Pursuant to Government  
8 Code section 905(m), Plaintiff's claim is timely and exempted from the government tort-claim  
9 filing requirement.

10 2. Defendant GILROY UNIFIED SCHOOL DISTRICT (hereinafter the "GILROY  
11 UNIFIED SCHOOL DISTRICT"), at all times mentioned herein was and is, a business entity of  
12 form unknown, having its principal place of business in the County of Santa Clara, State of  
13 California. The GILROY UNIFIED SCHOOL DISTRICT purposely conducts substantial  
14 educational business activities in the State of California, and was the primary entity owning,  
15 operating and controlling GILROY HIGH SCHOOL, employing DOUGLAS LE, and responsible  
16 for monitoring and controlling their activities and behavior.

17 3. GILROY HIGH SCHOOL (hereinafter "GILROY HIGH SCHOOL"), at all times  
18 mentioned herein was and is, a business entity of form unknown, having its principal place of  
19 business in the County of Santa Clara, State of California. GILROY HIGH SCHOOL is a public  
20 educational institution in the GILROY UNIFIED SCHOOL DISTRICT, operating as a High  
21 School for students approximately 13 years of age through approximately 18 years of age.

22 4. Defendant DOUGLAS LE (hereinafter "LE") at all times mentioned herein was  
23 and is an adult male individual, who Plaintiff is informed and believes, and on that basis alleges,  
24 currently resides in the County of Santa Clara, in the State of California. During the period of  
25 time in which the childhood sexual harassment and abuse of Plaintiff JANE AA DOE, alleged  
26 herein, took place, LE was a teacher, mentor, and advisor at GILROY HIGH SCHOOL;  
27 employed by both the GILROY UNIFIED SCHOOL DISTRICT and GILROY HIGH SCHOOL.  
28 At all times herein alleged, LE was an employee, agent, and/or servant of the GILROY UNIFIED

1 SCHOOL DISTRICT and GILROY HIGH SCHOOL, and was under their complete control  
2 and/or active supervision.

3 5. Defendants DOES 1 through 100, inclusive, and each of them, are sued herein  
4 under said fictitious names. Plaintiff is ignorant as to the true names and capacities of DOE  
5 Defendants, whether individual, corporate, associate, or otherwise, and therefore sue said  
6 Defendants by such fictitious names. When their true names and capacities are ascertained,  
7 Plaintiff will request leave of Court to amend this Complaint to state their true names and  
8 capacities herein.

9 6. Plaintiff is informed and believes, and on that basis alleges, that at all times  
10 mentioned herein, each Defendant was responsible in some manner or capacity for the  
11 occurrences herein alleged, and that Plaintiff's damages, as herein alleged, were proximately  
12 caused by all said Defendants. Defendants the GILROY UNIFIED SCHOOL DISTRICT, LE,  
13 GILROY HIGH SCHOOL, and DOES 1-100 are sometimes collectively referred to herein as  
14 "Defendants" and/or as "All Defendants"; such collective reference refers to all specifically  
15 named Defendants.

16 7. Plaintiff is informed and believes, and on that basis alleges, that at all times  
17 mentioned herein, there existed a unity of interest and ownership among Defendants and each of  
18 them, such that any individuality and separateness between Defendants, and each of them, ceased  
19 to exist. Defendants and each of them, were the successors-in-interest and/or alter egos of the  
20 other Defendants, and each of them, in that they purchased, controlled, dominated and operated  
21 each other without any separate identity, observation of formalities, or other manner of division.  
22 To continue maintaining the facade of a separate and individual existence between and among  
23 Defendants, and each of them, would serve to perpetrate a fraud and an injustice.

24 8. At all times mentioned herein, LE was an adult teacher, mentor, and advisor  
25 employee of both the GILROY UNIFIED SCHOOL DISTRICT and GILROY HIGH SCHOOL,  
26 acting as an employee, agent, and/or servant of such and/or was under their complete control  
27 and/or supervision. LE was employed as a Chemistry teacher at the GILROY UNIFIED  
28 SCHOOL DISTRICT and GILROY HIGH SCHOOL. LE was hired by the GILROY UNIFIED

1 SCHOOL DISTRICT and GILROY HIGH SCHOOL to serve as a teacher, mentor, and advisor to  
2 minor high school students at GILROY HIGH SCHOOL. In so doing, the GILROY UNIFIED  
3 SCHOOL DISTRICT and GILROY HIGH SCHOOL held LE out to the public, Plaintiff and  
4 Plaintiff's family to be of high ethical and moral repute, and to be in good standing with the  
5 GILROY UNIFIED SCHOOL DISTRICT, GILROY HIGH SCHOOL, the State of California,  
6 and the public in general. In this capacity, LE taught, mentored, and advised students regarding  
7 personal issues, academics, future employment prospects, and general emotional and  
8 psychological issues. Both the GILROY UNIFIED SCHOOL DISTRICT and GILROY HIGH  
9 SCHOOL held LE out to the public, Plaintiff and Plaintiff's parents to be a highly qualified  
10 teacher, mentor, and advisor who could and would assist Plaintiff with working through personal  
11 and academic issues she faced. Inherent in this representation was the understanding that LE was  
12 a person of high ethical and moral standing, selected to provide leadership, guidance, mentoring,  
13 and advising to students, including Plaintiff. Plaintiff and her family reasonably assumed that LE  
14 was a person worthy of their trust.

15 9. Plaintiff is informed and believes, and on that basis alleges, that at all times  
16 mentioned herein, Defendants and each of them and LE were the agents, representatives and/or  
17 employees of each and every other Defendant. In doing the things hereinafter alleged,  
18 Defendants and each of them, and LE, were acting within the course and scope of said alternative  
19 personality, capacity, identity, agency, representation and/or employment and were within the  
20 scope of their authority, whether actual or apparent.

21 10. Plaintiff is informed and believes, and on that basis alleges, that at all times  
22 mentioned herein, Defendants and each of them and LE were the trustees, partners, servants, joint  
23 venturers, shareholders, contractors, and/or employees of each and every other Defendant, and the  
24 acts and omissions herein alleged were done by them, acting individually, through such capacity  
25 and within the scope of their authority, and with the permission and consent of each and every  
26 other Defendant and that said conduct was thereafter ratified by each and every other Defendant,  
27 and that each of them is jointly and severally liable to Plaintiff.

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**FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS**

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2 11. At all times material hereto, Plaintiff was a student at GILROY HIGH SCHOOL  
3 and the GILROY UNIFIED SCHOOL DISTRICT, and was under their complete control and  
4 supervision.

5 12. At all times material hereto, LE was employed by GILROY HIGH SCHOOL and  
6 the GILROY UNIFIED SCHOOL DISTRICT as a teacher, mentor, track coach, and advisor. In  
7 such capacities, LE was under the direct supervision, employ, agency, and control of the  
8 GILROY UNIFIED SCHOOL DISTRICT, GILROY HIGH SCHOOL and DOES 1-100. His  
9 employment duties and responsibilities with the named Defendants included, in part, providing  
10 for the mentoring, advisory, educational, and emotional needs and well-being of students of  
11 GILROY HIGH SCHOOL and other children, including Plaintiff.

12 13. Through his positions with GILROY HIGH SCHOOL and the GILROY UNIFIED  
13 SCHOOL DISTRICT, LE was put into direct contact with Plaintiff, a student at GILROY HIGH  
14 SCHOOL. LE was assigned to teach, mentor, and advise Plaintiff. It is under these  
15 circumstances that Plaintiff came to be under the direction and control of LE, who used his  
16 position of authority and trust over Plaintiff to sexually abuse and harass her.

17 14. LE did sexually harass and abuse Plaintiff, who was a minor at the time. Such  
18 conduct was done for LE's sexual gratification, and was performed on Plaintiff without her free  
19 consent, as Plaintiff was a mere minor and thus unable to give valid, legal consent to such sexual  
20 acts. These actions upon Plaintiff constituted conduct in violation of California Penal Code for  
21 felony child enticement, and potentially other Penal Code provisions.

22 15. As a student at GILROY HIGH SCHOOL and the GILROY UNIFIED SCHOOL  
23 DISTRICT, where LE was employed and worked, Plaintiff was under LE's direct supervision,  
24 care and control, thus creating a special relationship, fiduciary relationship, and/or special care  
25 relationship with Defendants, and each of them. Additionally, as a minor child under the custody,  
26 care and control of Defendants, Defendants stood *in loco parentis* with respect to Plaintiff while  
27 she was attending school and school-related functions at GILROY HIGH SCHOOL and the  
28 GILROY UNIFIED SCHOOL DISTRICT. As the responsible parties and/or employers

1 controlling LE, Defendants were also in a special relationship with Plaintiff, and owed special  
2 duties to Plaintiff.

3 16. Plaintiff is informed and believes, and on that basis alleges, that Defendants, knew  
4 that LE had engaged in unlawful sexually-related conduct with minors in the past, and/or was  
5 continuing to engage in such conduct with Plaintiff. Defendants had a duty to disclose to these  
6 facts to Plaintiff, her parents and others, but negligently and/or intentionally suppressed,  
7 concealed or failed to disclose this information. The duty to disclose this information arose by  
8 the special, trusting, confidential, fiduciary, and/or *in loco parentis* relationship between  
9 Defendants and Plaintiff.

10 17. Defendants failed to take reasonable steps and/or implement reasonable safeguards  
11 to avoid acts of unlawful sexual conduct by LE, including, but not limited to preventing abuse of  
12 Plaintiff by LE, avoiding placement of LE in a function or environment in which contact with  
13 children is an inherent part of that function or environment. Instead, Defendants ignored and/or  
14 concealed the sexual harassment and abuse of Plaintiff and others by LE that had already  
15 occurred. Plaintiff is informed and believes, and on that basis alleges, that Defendants and each of  
16 them were given notice of incidents of inappropriate conduct by LE, including such facts as those  
17 set forth in this Complaint.

18 18. Plaintiff is informed and believes, on that basis alleges, that prior to and during the  
19 sexual harassment and abuse of Plaintiff, Defendants knew or should have known that LE had  
20 violated his role as a teacher, mentor, advisor and faculty member, and used this position of  
21 authority and trust acting on behalf of Defendants to gain access to children, including Plaintiff,  
22 on and off the school facilities and grounds, in which he engaged in sexual misconduct,  
23 harassment and abuse, with such children including Plaintiff.

24 19. With actual or constructive knowledge that Defendant LE had previously engaged  
25 in dangerous and inappropriate conduct, including sexually harassing other minors at GILROY  
26 HIGH SCHOOL and other minors, Defendants conspired to and did knowingly fail to take  
27 reasonable steps, and failed to implement reasonable safeguards to avoid acts of unlawful sexual  
28 conduct in the future by LE, including, but not limited to, preventing or avoiding placement of LE

1 in a function or environment in which contact with children is an inherent aspect of that function  
2 or environment.

3 20. Plaintiff believes, based on information, and therefore alleges, that at some point  
4 LE began getting investigated by law enforcement. As a result of the investigation, law  
5 enforcement found that LE was posing as a female on-line through social media (believed to be  
6 Facebook), and having minor boys send LE nude photographs. Reports indicate that LE had  
7 contacted approximately 500 minors via Facebook. Plaintiff further alleges that Defendants failed  
8 to report and did hide and conceal from students, parents, teachers, law enforcement authorities,  
9 civil authorities and others, the true facts and relevant information necessary to bring LE to  
10 justice for the sexual misconduct he committed with minors, as well as protect their fiduciaries,  
11 including Plaintiff. Defendants also implemented various measures designed to, or which  
12 effectively, made LE's conduct harder to detect including, but not limited to:

- 13 a. Permitting LE to remain in a position of authority and trust after Defendants  
14 knew or should have known that LE was sexually harassing towards  
15 students;
- 16 b. Placing LE in a separate and secluded environment, including placing him  
17 in charge of children, mentoring programs, advising programs, and youth  
18 programs where they purported to supervise the children, which allowed  
19 him to sexually interact with and sexually harass the children, including  
20 Plaintiff;
- 21 c. Allowing LE to come into contact with minors, including Plaintiff, without  
22 adequate supervision;
- 23 d. Failing to inform, or concealing from Plaintiff's parents and law  
24 enforcement officials the fact that Plaintiff and others were or may have  
25 been sexually harassed after Defendants knew or should have known that  
26 LE may have been sexually abusive and harassing towards Plaintiff or  
27 others, thereby enabling Plaintiff to continue to be endangered and sexually  
28 harassed, and/or creating the circumstance where Plaintiff and others were  
less likely to receive medical/mental health care and treatment, thus  
exacerbating the harm to Plaintiff;
- e. Holding out LE to Plaintiff and her parents, students, and to the school  
community as being in good standing and trustworthy;
- f. Failing to take reasonable steps, and to implement reasonable safeguards to  
avoid acts of unlawful sexual conduct by LE with students, who were minor  
children; and

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1 g. Failing to put in place a system or procedure to supervise or monitor  
2 employees, volunteers, representatives or agents to insure that they did not  
harass or abuse minors in Defendants' care, including Plaintiff.

3 21. By his position within the Defendants' institutions, Defendants and LE demanded  
4 and required that Plaintiff respect LE in his position of teacher, mentor, and advisor at GILROY  
5 HIGH SCHOOL and the GILROY UNIFIED SCHOOL DISTRICT.

6 22. The incidents of abuse outlined herein took place while Plaintiff was under the  
7 control of LE, in his capacity and position as a teacher, mentor, and advisor at GILROY HIGH  
8 SCHOOL and the GILROY UNIFIED SCHOOL DISTRICT, and while acting specifically on  
9 behalf of Defendants, including, but not limited to, the following:

- 10 a. LE was at all times relevant to this Complaint a teacher, mentor, and  
11 advisor at GILROY HIGH SCHOOL, an institution wholly operated by  
GILROY UNIFIED SCHOOL DISTRICT.
- 12 b. While LE sexually harassed and abused Plaintiff, Defendants were well  
13 aware that LE took an unusual interest, and spent an inordinate amount of  
time with Plaintiff.
- 14 c. In or around 2014, LE sexually harassed and abused the Plaintiff, who was  
15 a minor at the time. LE engaged in such activities with Plaintiff while acting  
16 in the course and scope of his employment, agency, duties and  
responsibilities with Defendants, in such locations as the campus of  
GILROY HIGH SCHOOL, via sexually charged and harassing text  
17 messages. LE's sexually harassing messages included statements such as,
- 18 • "you suck dick";
  - 19 • "poo poo in you...\*on" (meaning defecating upon Plaintiff's person);
  - 20 • "You'll die alone,";
  - 21 • "Yeah your whore mouth can fit whole apples in there."
- 22 d. As a result of the sexual harassment and abuse by LE, JANE AA DOE has  
suffered extensive physical, psychological and emotional damages.
- 23 e. JANE AA DOE's sexual harassment and abuse occurred as a result not only  
24 of LE's actions, but because of the actions and/or inactions of the GILROY  
UNIFIED SCHOOL DISTRICT and GILROY HIGH SCHOOL and their  
25 employees, administrators and/or agents, in failing to properly hire, train  
and supervise LE and in failing to prevent her from harming JANE AA  
26 DOE.
- 27 f. At no time did Defendants or any of them take any action to restrict LE's  
28 access and/or interaction with minors, including Plaintiff. Defendants'  
conduct made it a virtual certainty that Plaintiff and other minors would be  
victimized. Despite having notice that Plaintiff was being sexually abused



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and harassed by LE, Defendants failed to protect Plaintiff by preventing the abuse from continuing.

23. As set forth more fully herein above, LE did sexually harass and abuse Plaintiff, who was a minor at the time. Plaintiff is informed and believes, and on that basis alleges, that such conduct by Defendant LE was based upon Plaintiff's gender, and was done for his sexual gratification. These actions upon Plaintiff were performed by Defendant LE without the free consent of Plaintiff, who was a minor.

24. Plaintiff is informed and believes, and on that basis alleges, that Defendants and each of them should have been aware of LE's wrongful conduct at or about the time it was occurring, and thereafter, but took no action to obstruct, inhibit or stop such continuing conduct, or to help Plaintiff endure the trauma from such conduct. Despite the authority and ability to do so, these Defendants negligently and/or willfully refused to, and/or did not, act effectively to stop the sexual assaults on Plaintiff, to inhibit or obstruct such abuse, or to protect Plaintiff from the results of that trauma.

25. During the period of abuse of Plaintiff at the hands of LE, Defendants had the authority and the ability to obstruct or stop LE's sexual assaults on Plaintiff, but negligently and/or willfully failed to do so, thereby allowing the abuse to occur and to continue unabated. This failure was a part of Defendants' plan and arrangement to conceal wrongful acts, to avoid and inhibit detection, to block public disclosure, to avoid scandal, to avoid the disclosure of their tolerance of child sexual harassment and abuse, to preserve a false appearance of propriety, and to avoid investigation and action by public authority including law enforcement. Plaintiff is informed and believes, and on that basis alleges, that such actions were motivated by a desire to protect the reputation of Defendants and each of them, and to protect the monetary support of Defendants while fostering an environment where such abuse could continue to occur.

26. Subsequent to her sexual abuse at the hands of LE, Plaintiff began to experience multiple mental, emotional and psychological problems, due to the sexual harassment and abuse she suffered at the hands of LE, including, but not limited to: Plaintiff being angry; Plaintiff experiencing frequent anxiety; Plaintiff experiencing depression; Plaintiff feeling helpless;

1 Plaintiff experiencing sleeplessness; and Plaintiff having significant trust and control issues.  
2 Plaintiff began to discover her mental and/or emotional issues were and are in some way caused  
3 by the childhood sexual harassment and abuse she suffered at the hands of LE.

4 27. As a direct result of the sexual harassment and abuse of Plaintiff by LE, Plaintiff  
5 has difficulty in reasonably or meaningfully interacting with others, including those in positions  
6 of authority over Plaintiff, including supervisors, and in intimate, confidential and familial  
7 relationships, due to the trauma of childhood sexual harassment and abuse inflicted upon her by  
8 Defendants. This inability to interact creates conflict with Plaintiff's values of trust and  
9 confidence in others, and has caused Plaintiff substantial emotional distress, anxiety, nervousness  
10 and fear. As a direct result of Plaintiff's abuse and harassment by LE, Plaintiff experienced  
11 severe issues with her personal life, including issues with trust and difficulties in maintaining  
12 meaningful relationships, and difficulty with school. These feelings have caused Plaintiff  
13 substantial emotional distress, anxiety, nervousness and fear.

14 28. As a direct and proximate result of the Defendants' tortuous acts, omissions,  
15 wrongful conduct and/or breaches of their duties, whether willful or negligent, Plaintiff's  
16 employment and personal development has or will be adversely affected. Plaintiff has or will  
17 lose wages as a result of the abuse she suffered at the hands of Defendants, and will continue to  
18 lose wages in an amount to be determined at trial. Plaintiff has suffered economic injury, all to  
19 Plaintiff's general, special and consequential damage in an amount to be proven at trial, but in no  
20 event less than the minimum jurisdictional amount of this Court.

21 29. As is set forth herein, Defendants and each of them have failed to uphold  
22 numerous mandatory duties imposed upon them by state and federal law, and by written policies  
23 and procedures applicable to Defendants, including but not limited to the following:

- 24 \* Duty to use reasonable care to protect students from known or foreseeable  
25 dangers (Government Code §§ 820, 815.2);
- 26 \* Duty to refrain from taking official action that contradicts the provisions of  
27 Article 1, section 28(c) of the California Constitution;
- 28 \* Duty to enact policies and procedures that are not in contravention of the  
Federal Civil Rights Act, section 1983, and the 14th Amendment of the  
United States Constitution;

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- \* Duty to protect students and staff, and provide adequate supervision;
- \* Duty to ensure that any direction given to faculty and students is lawful, and that adults act fairly, responsibly and respectfully towards faculty and students;
- \* Duty to properly train teachers, athletic directors, athletic coaches, youth counselors, mentors, administrators, and staff so that they are aware of their individual responsibility for creating and maintaining a safe environment;
- \* Duty to supervise faculty and students and enforce rules and regulations prescribed for schools, exercise reasonable control over students as is reasonably necessary to maintain order, protect property, or protect the health and safety of faculty and students or to maintain proper and appropriate conditions conducive to learning;
- \* Duty to exercise careful supervision of the moral conditions in the school;
- \* Duty to hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds or during recess;
- \* Duty to properly monitor students, prevent or correct harmful situations or call for help when a situation is beyond their control;
- \* Duty to ensure that personnel are actually on hand and supervising students;
- \* Duty to provide enough supervision to students;
- \* Duty to supervise diligently;
- \* Duty to act promptly and diligently and not ignore or minimize problems;
- \* Duty to refrain from violating Plaintiff's right to protection from bodily restraint or harm, from personal insult, from defamation, and from injury to her personal relations (Civil Code § 43);
- \* Duty to abstain from injuring the person or property of Plaintiff, or infringing upon any of her rights (Civil Code § 1708);
- \* Duty to report suspected incidents of child abuse and more specifically childhood sexual abuse (Penal Code §§ 11166, 11167); and
- \* Duty to prevent discrimination or sexual harassment and abuse from occurring in public educational facilities (Educational Code § 200, et seq.).

30. Compulsory education laws create a special relationship between students and Defendants, and students have a constitutional guarantee to a safe, secure and peaceful school environment. Defendants and each of them failed to acknowledge unsafe conditions, and therefore failed to guarantee safe surroundings in an environment in which Plaintiff was not free to leave, specifically including but not limited to allowing LE to take children for purposes of

1 sexual activity and allowing LE to operate isolated environments, incapable of monitoring from  
2 the outside, wherein LE sexually harassed and abused Plaintiff and others.

3 31. Defendants and each of them had and have a duty to protect students, including  
4 Plaintiff. Defendants were required, and failed, to provide adequate campus and off-site school  
5 event supervision, and failed to be properly vigilant in seeing that supervision was sufficient to  
6 ensure the safety of Plaintiff and others.

7 32. Defendants and each of them lodged with LE the color of authority, by which he  
8 was able to influence, direct and abuse Plaintiff and others, and to act illegally, unreasonably and  
9 without respect for the person and safety of Plaintiff.

10 33. Defendants and each of them had a duty to and failed to adequately train and  
11 supervise all advisors, teachers, mentors and staff to create a positive, safe, spiritual and  
12 educational environment, specifically including training to perceive, report and stop inappropriate  
13 conduct by other members of the staff, specifically including LE, with children.

14 34. Defendants and each of them had a duty to and failed to enact and enforce rules  
15 and regulations prescribed for schools, and execute reasonable control over students necessary to  
16 protect the health and safety of the student and maintain proper and appropriate conditions  
17 conducive to learning.

18 35. Defendants and each of them were required to and failed to exercise careful  
19 supervision of the moral conditions in their school, and provide supervision before and after  
20 school. This duty extended beyond the classroom.

21 36. In subjecting Plaintiff to the wrongful treatment herein described, LE acted  
22 willfully and maliciously with the intent to harm Plaintiff, and in conscious disregard of Plaintiff's  
23 rights, so as to constitute malice and/or oppression under California Civil Code section 3294.  
24 Plaintiff is therefore entitled, to the recovery of punitive damages, in an amount to be determined  
25 by the court, against LE, in a sum to be shown according to proof. Further, in an action for  
26 damages against this defendant based upon that defendant's commission of a felony offense for  
27 which that defendant has been convicted, the court may, upon motion, award reasonable  
28 attorney's fees to the prevailing plaintiff against this defendant who has been convicted of the

1 felony. Code of Civil Procedure section 1021.4. Plaintiff reserves the right to request attorney's  
2 fees from this defendant pursuant to this code section, based upon LE's felony convictions, for  
3 any felony criminal acts perpetrated against Plaintiff.

4 **FIRST CAUSE OF ACTION**  
5 **NEGLIGENCE**  
6 **(Against all Defendants)**

7 37. Plaintiff re-alleges and incorporates by reference herein each and every allegation  
8 contained herein above as though fully set forth and brought in this cause of action.

9 38. Plaintiff is informed and believes, and on that basis alleges that prior to and after  
10 the first incident of LE's sexual harassment and abuse of Plaintiff, through the present,  
11 Defendants, knew or should have reasonably known that LE had or was capable of sexually, and/  
12 or mentally abusing Plaintiff or other victims.

13 39. Defendants and each of them had special duties to protect the minor Plaintiff and  
14 the other students within GILROY HIGH SCHOOL and the GILROY UNIFIED SCHOOL  
15 DISTRICT, when such students were entrusted to their care by their parents. Plaintiff's care,  
16 welfare and/or physical custody was entrusted to Defendants. Defendants voluntarily accepted  
17 the entrusted care of Plaintiff. As such, Defendants owed Plaintiff, a minor child, a special duty  
18 of care, in addition to a duty of ordinary care, and owed Plaintiff the higher duty of care that  
19 adults dealing with children owe to protect them from harm. The duty to protect and warn arose  
20 from the special, trusting, confidential, and/or fiduciary relationship between Defendants and  
21 Plaintiff. Plaintiff felt great trust, faith and confidence in Defendants, and in LE as her teacher,  
22 adviser and mentor.

23 40. Plaintiff is informed and believes, and on that basis alleges, that Defendants  
24 breached their duties of care to the minor Plaintiff by allowing LE to come into contact with the  
25 minor Plaintiff and other students, without supervision; by failing to adequately hire, supervise  
26 and/or retain LE who they permitted and enabled to have access to Plaintiff; by failing to  
27 investigate or otherwise confirm or deny such facts about LE; by failing to tell or concealing from  
28 Plaintiff, her parents, guardians and law enforcement officials that LE was or may have been  
sexually harassing and abusing minors; by failing to tell or concealing from Plaintiff's parents,

1 guardians or law enforcement officials that Plaintiff was or may have been sexually harassed and  
2 abused after Defendants knew or should have known that LE may have sexually harassed, and  
3 abused Plaintiff or others, thereby enabling Plaintiff to continue to be endangered and sexually  
4 harassed, and abused, and/or creating the circumstance where Plaintiff was less likely to receive  
5 medical/mental health care or treatment, thus exacerbating the harm done to Plaintiff; and/or by  
6 holding out LE to Plaintiff and to his parents as being in good standing and trustworthy.

7 Defendants cloaked within the facade of normalcy, Defendants' conduct, contact and actions with  
8 Plaintiff and/or disguised the nature of the sexual harassment and abuse and contact.

9 41. Defendants, and each of them, breached their duty to Plaintiff by, *inter alia*, failing  
10 to investigate or otherwise confirm or deny such facts, failing to reveal such facts to Plaintiff, the  
11 community of the school, students, minors, and law enforcement agencies, placing and continuing  
12 to place LE in positions of trust and authority within GILROY HIGH SCHOOL and the GILROY  
13 UNIFIED SCHOOL DISTRICT, and holding out, and continuing to hold out LE to Plaintiff, the  
14 public, the community of the school, students, minors, and law enforcement agencies as being in  
15 good standing and trustworthy.

16 42. Defendants, and each of them, breached their duty to Plaintiff by, *inter alia*, failing  
17 to adequately monitor and supervise LE and/or stopping LE from committing wrongful sexual  
18 acts with minors including Plaintiff. This belief is founded on the fact that Plaintiff was informed  
19 and believed that the Principal and other faculty members at the GILROY HIGH SCHOOL had  
20 suspected the abuse and/or harassment was occurring at the time, and failed to investigate into the  
21 matter further. Based on these facts, Defendants knew and/or should have known of LE's  
22 incapacity to supervise and/or stop employees of Defendants from committing wrongful sexual  
23 acts with minors.

24 43. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through  
25 their employees and agents, were child care custodians and were under a statutory duty to report  
26 known or suspected incidents of sexual harassment or abuse of minors to a child protective  
27 agency, pursuant to California Penal Code § 11166, and/or not to impede the filing of any such  
28 report.

1           44. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew  
2 or should have known that LE, their agent, teacher, advisor, mentor and other counselors,  
3 advisors, coaches, teachers and staff of Defendants had sexually abused, or harassed, or caused  
4 harm, and other injuries to minors, including Plaintiff, giving rise to a duty to report such conduct  
5 under California Penal Code § 11166.

6           45. Plaintiff is informed and believes, and on that basis alleges, that Defendants also  
7 knew, or should have known in the exercise of reasonable diligence, that an undue risk to minors,  
8 including Plaintiff, existed because Defendants did not comply with California's mandatory  
9 reporting requirements.

10           46. By failing to report the continuing harassment and abuse, which Defendants and  
11 each of them knew or should have known, and by ignoring the fulfillment of the mandated  
12 compliance with the reporting requirements provided under California Penal Code § 11166,  
13 Defendants created the risk and danger contemplated by the Child Abuse and Neglect Reporting  
14 Act, and as a result, unreasonably and wrongfully exposed Plaintiff and other minors to sexual  
15 harassment and abuse.

16           47. Plaintiff was a member of the class of persons for whose protection California  
17 Penal Code § 11166 was specifically adopted to protect.

18           48. Had Defendants adequately reported the abuse and harassment of Plaintiff and  
19 other minors as required by California Penal Code § 11166, further harm to Plaintiff and other  
20 minors would have been avoided.

21           49. As a proximate result of Defendants' failure to follow the mandatory reporting  
22 requirements of California Penal Code § 11166, Defendants wrongfully denied Plaintiff and other  
23 minors, the intervention of child protection services. Such public agencies would have changed  
24 the then-existing arrangements and conditions that provided the access and opportunities for the  
25 abuse and sexual harassment of Plaintiff by LE.

26           50. The physical, mental, and emotional damages and injuries resulting from the  
27 sexual abuse and harassment of Plaintiff by LE, were the type of occurrence and injuries that the  
28 Child Abuse and Neglect Reporting Act was designed to prevent.





1 and/or sexual harassment, and abuse of children, nor did they implement a system or procedure to  
2 oversee or monitor conduct toward minors, students and others in Defendants' care.

3 57. Defendants and each of them were or should have been aware and understood how  
4 vulnerable children were to sexual harassment and abuse by counselors, advisors, mentors,  
5 coaches, teachers and other persons of authority within Defendants.

6 58. Defendants' conduct was a breach of their duties to Plaintiff.

7 59. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through  
8 their employees and agents, were child care custodians and were under a statutory duty to report  
9 known or suspected incidents of sexual abuse of minors to a child protective agency, pursuant to  
10 California Penal Code section 11166, and/or not to impede the filing of any such report.

11 60. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew  
12 or should have known that their agent, counselor, advisor, and mentor LE, and other teachers and  
13 staff of Defendants, had sexually abused or caused harm, and other injuries to minors, including  
14 Plaintiff, giving rise to a duty to report such conduct under California Penal Code section 11166.

15 61. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew,  
16 or should have known in the exercise of reasonable diligence, that an undue risk to minors,  
17 including Plaintiff, existed because Defendants did not comply with California's mandatory  
18 reporting requirements.

19 62. By failing to report the continuing abuse, which Defendants and each of them  
20 knew or should have known, and by ignoring the fulfillment of the mandated compliance with the  
21 reporting requirements provided under California Penal Code section 11166, Defendants created  
22 the risk and danger contemplated by the Child Abuse and Neglect Reporting Act, and as a result,  
23 unreasonably and wrongfully exposed Plaintiff and other minors to sexual harassment and abuse.

24 63. Plaintiff was a member of the class of persons for whose protection California  
25 Penal Code section 11166 was specifically adopted to protect.

26 64. Had Defendants adequately reported the sexual abuse and harassment of Plaintiff  
27 and other minors as required by California Penal Code section 11166, further harm to Plaintiff  
28 would have been avoided.

1           65.     As a proximate result of Defendants' failure to follow the mandatory reporting  
2 requirements of California Penal Code section 11166, Defendants wrongfully denied Plaintiff and  
3 other minors the intervention of child protection services. Such public agencies would have  
4 changed the then-existing arrangements and conditions that provided the access and opportunities  
5 for the sexual harassment and abuse of Plaintiff by LE.

6           66.     The physical, mental, and emotional damages and injuries resulting from the  
7 sexual harassment and abuse of Plaintiff by LE, were the type of occurrence and injuries that the  
8 Child Abuse and Neglect Reporting Act was designed to prevent.

9           67.     As a result, Defendants' failure to comply with the mandatory reporting  
10 requirements of California Penal Code section 11166 also constituted a *per se* breach of  
11 Defendants' duties to Plaintiff.

12           68.     Defendants, and each of them, breached their duty to Plaintiff by, *inter alia*, failing  
13 to adequately monitor and supervise LE and/or stopping LE from committing wrongful sexual  
14 harassment and abuse of minors including Plaintiff. This belief is founded on the fact that  
15 Plaintiff was informed and believed that the administration at GILROY HIGH SCHOOL and  
16 GILROY UNIFIED SCHOOL DISTRICT had suspected the abuse was occurring at the time, and  
17 failed to investigate into the matter further. Based on these facts, Defendants knew and/or should  
18 have known of LE's incapacity to supervise and/or stop employees of Defendants from  
19 committing wrongful sexual acts with minors.

20           69.     As a result of the above-described conduct, Plaintiff has suffered and continues to  
21 suffer great pain of mind and body, shock, emotional distress, physical manifestations of  
22 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of  
23 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be  
24 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain  
25 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for  
26 medical and psychological treatment, therapy, and counseling.

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**THIRD CAUSE OF ACTION**  
**NEGLIGENT HIRING/RETENTION**  
**(Against Defendant GILROY UNIFIED SCHOOL DISTRICT and GILROY HIGH SCHOOL Only)**

70. Plaintiff re-alleges and incorporates by reference herein each and every allegation contained herein above as though fully set forth and brought in this cause of action.

71. By virtue of Plaintiff's special relationship with Defendants and each of them, and Defendants' relation to LE, Defendants owed Plaintiff a duty to not hire and/or retain LE, given his dangerous and exploitive propensities, which Defendants knew or reasonably should have known had they engaged in a meaningful and adequate investigation of his background prior to hiring him.

72. As an educational institution and operator of a school, where all of the students are minors entrusted to the schools and its employees and agents, Defendants expressly and implicitly represented that the counselors, advisors, mentors, coaches, teachers and others, including LE, were not a sexual threat to children and others who would fall under LE's influence, control, direction, and guidance.

73. Plaintiff is informed and believes, and on that basis alleges, that at no time during the periods of time alleged did Defendants have in place a system or procedure to reasonably investigate, supervise and/or monitor teachers, including LE, to prevent pre-sexual grooming and/or sexual harassment and abuse of children, nor did they implement a system or procedure to oversee or monitor conduct toward minors, students and others in Defendants' care.

74. Defendants and each of them were or should have been aware and understood how vulnerable children were to sexual harassment, and abuse by teachers and other persons of authority within the control of Defendants.

75. Plaintiff is informed, and believes, and on that basis alleges, that the Defendants were put on notice, and should have known that LE had previously engaged in dangerous and inappropriate conduct, and that it was, or should have been foreseeable that he was engaging, or would engage in illicit sexual activities with Plaintiff, and others, under the cloak of his authority, confidence, and trust, bestowed upon him through Defendants.

1           76. Defendants were placed on actual and/or constructive notice that LE had engaged  
2 in dangerous and inappropriate conduct, both before his employment within Defendants, and  
3 during that employment. Plaintiff is informed, and thereon alleges, that other third parties,  
4 minors, students, law enforcement officials and/or parents informed Defendants of inappropriate  
5 conduct committed by LE.

6           77. Even though Defendants knew or should have known of these activities by LE,  
7 Plaintiff is informed that Defendants failed to use reasonable care in investigating LE and did  
8 nothing to investigate, supervise or monitor LE to ensure the safety of the minor students.

9           78. Defendants' conduct was a breach of their duty to Plaintiff.

10          79. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through  
11 their employees and agents, were child care custodians and were under a statutory duty to report  
12 known or suspected incidents of sexual abuse of minors to a child protective agency, pursuant to  
13 California Penal Code section 11166, and/or not to impede the filing of any such report.

14          80. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew  
15 or should have known that their agent, counselor, advisor and mentor, LE, and other employees,  
16 agents, teachers and staff within Defendants, had sexually abused or caused harm, and other  
17 injuries to minors, including Plaintiff, giving rise to a duty to report such conduct under  
18 California Penal Code section 11166.

19          81. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew,  
20 or should have known in the exercise of reasonable diligence, that an undue risk to minors,  
21 including Plaintiff, existed because Defendants did not comply with California's mandatory  
22 reporting requirements.

23          82. By failing to report the continuing harassment and abuse, which Defendants and  
24 each of them knew or should have known, and by ignoring the fulfillment of the mandated  
25 compliance with the reporting requirements provided under California Penal Code section 11166,  
26 Defendants created the risk and danger contemplated by the Child Abuse and Neglect Reporting  
27 Act, and as a result, unreasonably and wrongfully exposed Plaintiff and other minors to sexual  
28 harassment and abuse.

1 83. Plaintiff was a member of the class of persons for whose protection California  
2 Penal Code section 11166 was specifically adopted to protect.

3 84. Had Defendants adequately reported the sexual harassment and abuse of Plaintiff  
4 and other minors as required by California Penal Code section 11166, further harm to Plaintiff  
5 and other minors would have been avoided.

6 85. As a proximate result of Defendants' failure to follow the mandatory reporting  
7 requirements of California Penal Code section 11166, Defendants wrongfully denied Plaintiff and  
8 other minors the intervention of child protection services. Such public agencies would have  
9 changed the then-existing arrangements and conditions that provided the access and opportunities  
10 for the harassment and abuse of Plaintiff by LE

11 86. The physical, mental, and emotional damages and injuries resulting from the  
12 harassment and abuse of Plaintiff by LE, were the type of occurrence and injuries that the Child  
13 Abuse and Neglect Reporting Act was designed to prevent.

14 87. As a result, Defendants' failure to comply with the mandatory reporting  
15 requirements of California Penal Code section 11166 also constituted a *per se* breach of  
16 Defendants' duties to Plaintiff.

17 88. As a result of the above-described conduct, Plaintiff has suffered and continues to  
18 suffer great pain of mind and body, shock, emotional distress, physical manifestations of  
19 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of  
20 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be  
21 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain  
22 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for  
23 medical and psychological treatment, therapy, and counseling.

24 **FOURTH CAUSE OF ACTION**  
25 **INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS**  
26 **(Against ALL DEFENDANTS)**

27 89. Plaintiff re-alleges and incorporates by reference herein each and every allegation  
28 contained herein above as though fully set forth and brought in this cause of action.

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1           90. Defendants' conduct toward Plaintiff, as described herein, was outrageous and  
2 extreme.

3           91. A reasonable person would not expect or tolerate the sexual harassment, and abuse  
4 of Plaintiff by LE. Plaintiff had great trust, faith and confidence in LE and in Defendants, which,  
5 by virtue of LE's and Defendants' wrongful conduct, turned to fear.

6           92. Defendants' conduct toward Plaintiff, as described herein, was outrageous and  
7 extreme.

8           93. A reasonable person would not expect or tolerate Defendants putting LE in a  
9 position of authority at GILROY HIGH SCHOOL and the GILROY UNIFIED SCHOOL  
10 DISTRICT, which enabled LE to have access to minor students so that he could commit wrongful  
11 sexual acts, including the conduct described herein, with minors, including Plaintiff. Plaintiff had  
12 great trust, faith and confidence in Defendants, which, by virtue of Defendants' wrongful conduct,  
13 turned to fear.

14           94. A reasonable person would not expect or tolerate Defendants to be incapable of  
15 supervising and/or stopping employees of Defendants, including LE, from committing wrongful  
16 sexual acts with minors, including Plaintiff, or to supervise LE. Plaintiff had great trust, faith and  
17 confidence in Defendants, which, by virtue of Defendants' wrongful conduct, turned to fear.

18           95. LE's and Defendants' conduct described herein was intentional and malicious and  
19 done for the purpose of causing or with the substantial certainty that Plaintiff would suffer  
20 humiliation, mental anguish, and emotional and physical distress.

21           96. As a result of the above-described conduct, Plaintiff has suffered and continues to  
22 suffer great pain of mind and body, shock, emotional distress, physical manifestations of  
23 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of  
24 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be  
25 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain  
26 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for  
27 medical and psychological treatment, therapy, and counseling.

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1 97. Plaintiff is informed and based thereon alleges that the conduct of Defendants and  
2 LE was oppressive, malicious and despicable in that it was intentional and done in conscious  
3 disregard for the rights and safety of others, and was carried out with a conscious disregard of  
4 Plaintiff's right to be free from such tortious behavior, such as to constitute oppression, fraud or  
5 malice pursuant to California Civil Code section 3294, entitling Plaintiff to punitive damages  
6 against this Defendant in an amount appropriate to punish and set an example of Defendants.

7 **FIFTH CAUSE OF ACTION**  
8 **ASSAULT**  
9 **(Against Defendant LE Only)**

10 98. Plaintiff re-alleges and incorporates by reference herein each and every allegation  
11 contained herein above as though fully set forth and brought in this cause of action.

12 99. Defendant LE, in doing the things herein alleged all while LE was acting in the  
13 course and scope of his agency/employment with Defendants, put Plaintiff in imminent  
14 apprehension of such contact or was intended to put Plaintiff in imminent apprehension of such  
15 contact.

16 100. In doing the things herein alleged, Plaintiff was put in imminent apprehension of a  
17 harmful or offensive contact by LE, and actually believed LE had the ability to make harmful or  
18 offensive contact with Plaintiff's person.

19 101. Plaintiff did not consent to LE's intended harmful or offensive contact with  
20 Plaintiff's person, or intent to put Plaintiff in imminent apprehension of such contact.  
21 Additionally, because Plaintiff was a minor during the time herein alleged, she lacked the ability  
22 to consent to sexual contact with any person, especially with a mentor, teacher, coach and  
23 counselor at the school she attended.

24 102. In doing the things herein alleged, LE violated Plaintiff's right, pursuant to Civil  
25 Code section 43, of protection from bodily restraint or harm, and from personal insult. In doing  
26 the things herein alleged, LE violated his duty, pursuant to Civil Code section 1708, to abstain  
27 from injuring the person of Plaintiff or infringing upon her rights.

28 103. As a result of the above-described conduct, Plaintiff has suffered and continues to  
suffer great pain of mind and body, shock, emotional distress, physical manifestations of

1 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of  
2 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be  
3 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain  
4 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for  
5 medical and psychological treatment, therapy, and counseling.

6 104. Plaintiff is informed and based thereon alleges that the conduct of Defendant LE  
7 was oppressive, malicious and despicable in that it was intentional and done in conscious  
8 disregard for the rights and safety of others, and was carried out with a conscious disregard of  
9 Plaintiff's right to be free from such tortious behavior, such as to constitute oppression, fraud or  
10 malice pursuant to California Civil Code section 3294, entitling Plaintiff to punitive damages  
11 against this Defendant in an amount appropriate to punish and set an example of him.

12 **SIXTH CAUSE OF ACTION**  
13 **SEXUAL HARASSMENT: CIVIL CODE § 51.9**  
14 **(Against ALL DEFENDANTS)**

15 105. Plaintiff re-alleges and incorporates by reference herein each and every allegation  
16 contained herein above as though fully set forth and brought in this cause of action.

17 106. Education Code section 220 states “**No person shall be subjected to**  
18 **discrimination on the basis of disability, gender, gender identity, gender expression,**  
19 **nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is**  
20 **contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code in**  
21 **any program or activity conducted by an educational institution that receives, or benefits**  
22 **from, state financial assistance or enrolls pupils who receive state student financial aid.”**

23 107. Education Code section 201 states “**All pupils have the right to participate fully**  
24 **in the educational process, free from discrimination and harassment [...]** **California's public**  
25 **schools have an affirmative obligation to combat racism, sexism, and other forms of bias,**  
26 **and a responsibility to provide equal educational opportunity [...]** **Harassment on school**  
27 **grounds directed at an individual on the basis of personal characteristics or status creates a**  
28 **hostile environment and jeopardizes equal educational opportunity as guaranteed by the**  
**California Constitution and the United States Constitution [...]** **There is an urgent need to**



1 prevent and respond to acts of hate violence and bias-related incidents that are occurring at  
2 an increasing rate in California's public schools [...] It is the intent of the Legislature that  
3 this chapter shall be interpreted as consistent with [...] Title IX of the Education Amendments  
4 of 1972 (20 U.S.C. Sec. 1681, et seq.) [...] the Unruh Civil Rights Act (Secs. 51 to 53, incl.,  
5 Civ. C.), and the Fair Employment and Housing Act (Pt. 2.8 (commencing with Sec. 12900),  
6 Div. 3, Gov. C.), except where this chapter may grant more protections or impose additional  
7 obligations, and that the remedies provided herein shall not be the exclusive remedies, but  
8 may be combined with remedies that may be provided by the above statutes.”

9 108. The California Supreme Court has determined: “Responsibility for the safety of  
10 public school students is not borne solely by instructional personnel. School principals and other  
11 supervisory employees, to the extent their duties include overseeing the educational environment  
12 and the performance of teachers and counselors, also have the responsibility of taking reasonable  
13 measures to guard pupils against harassment . . .” C.A. v. William S. Hart Union High School  
14 Dist. et. al., (2012) 53 Cal. 4th 861, 871.

15 109. “A principal is liable when it ratifies an originally unauthorized tort. The failure to  
16 discharge an agent or employee may be evidence of ratification. . . If the employer, after  
17 knowledge or opportunity to learn of the agent’s misconduct, continues the wrongdoer in service,  
18 the employer may become an abettor and may make himself liable in punitive damages.” Murillo  
19 v. Rite Stuff Foods Inc., (1998) 65 Cal. App. 4th 833, 852 (internal citations omitted).

20 110. During Plaintiff's time as a student at GILROY HIGH SCHOOL, Defendant LE  
21 intentionally, recklessly and wantonly made sexual advances, solicitations, requests, demands for  
22 sexual compliance of a hostile nature based on Plaintiff's gender that were unwelcome, pervasive  
23 and severe, including but not limited to Defendant LE: sending sexually explicit and harassing  
24 messages to the Plaintiff, all while LE was acting in the course and scope of his agency/  
25 employment with Defendants, and each of them.

26 111. The incidents of abuse outlined herein above took place while Plaintiff was under  
27 the control of LE, in his capacity and position as a teacher, advisor and mentor and while acting  
28 specifically on behalf of Defendants.

1           112. During Plaintiff's time as a student at GILROY HIGH SCHOOL, Defendant LE  
2 intentionally, recklessly and wantonly did acts which resulted in psychological harm to the  
3 Plaintiff, including but not limited to, using his position as a teacher, coach, advisor, and mentor  
4 to sexually harass and abuse the Plaintiff, and to use his authority and position of trust to exploit  
5 the Plaintiff emotionally.

6           113. Because of Plaintiff's relationship with LE as a student at GILROY HIGH  
7 SCHOOL and the GILROY UNIFIED SCHOOL DISTRICT, and Plaintiff's young age as a minor  
8 student, Plaintiff was unable to easily terminate the student-teacher, student-advisor, and student-  
9 mentor relationships she had with Defendant LE.

10           114. Because of LE's position of authority over Plaintiff, and Plaintiff's mental and  
11 emotional state, and Plaintiff's young age under the age of consent, Plaintiff was unable to, and  
12 did not give meaningful consent to such acts.

13           115. Prior to removing LE from his position as a teacher, the GILROY HIGH  
14 SCHOOL administration had launched an investigation into LE's relationship with the Plaintiff.  
15 Clearly, apprised that LE was engaging in suspicious behavior, GILROY HIGH SCHOOL  
16 nevertheless continued LE in employment.

17           116. Even though the Defendants knew or should have known of these activities by  
18 Defendant LE, Defendants did nothing to investigate, supervise or monitor Defendant LE to  
19 ensure the safety of the minor students, but instead ratified such conduct by retaining LE in  
20 employment and retaining the benefits of his employment.

21           117. Defendants' conduct was a breach of their duties to Plaintiff. Defendant GILROY  
22 UNIFIED SCHOOL DISTRICT and GILROY HIGH SCHOOL ratified LE's illicit sexual  
23 harassment of Plaintiff by retaining ho, in employment despite having knowledge that the sexual  
24 harassment was occurring.

25           118. As a result of the above-described conduct, Plaintiff has suffered and continues to  
26 suffer great pain of mind and body, shock, emotional distress, physical manifestations of  
27 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of  
28 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be

1 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain  
2 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for  
3 medical and psychological treatment, therapy, and counseling.

4 119. The aforesaid acts directed towards the Plaintiff were carried out with a conscious  
5 disregard of Plaintiff's right to be free from such tortious behavior, such as to constitute  
6 oppression, fraud or malice pursuant to California Civil Code section 3294, entitling Plaintiff to  
7 punitive damages against Defendant LE in an amount appropriate to punish and set an example of  
8 him, and also pursuant to Civil Code section 52. Plaintiff is also entitled to attorney's fees and  
9 costs from Defendants LE and GILROY UNIFIED SCHOOL DISTRICT pursuant to Civil Code  
10 section 52, especially given GILROY UNIFIED SCHOOL DISTRICT's authorization or  
11 ratification of such acts by its managing agents, officers or directors.

12 **SEVENTH CAUSE OF ACTION**  
13 **GENDER VIOLENCE: CIVIL CODE § 52.4**  
14 **(Against Defendant LE Only)**

15 120. Plaintiff re-alleges and incorporates by reference herein each and every allegation  
16 contained herein above as though fully set forth and brought in this cause of action.

17 121. Defendants' acts committed against Plaintiff, as alleged herein, including the  
18 sexual harassment and abuse of the minor Plaintiff constitute gender violence and a form of sex  
19 discrimination in that one or more of Defendants' acts would constitute a criminal offense under  
20 state law that has as an element the use, attempted use, or threatened use of physical force against  
21 the person of another, committed at least in part based on the gender of the victim, whether or not  
22 those acts have resulted in criminal complaints, charges, prosecution, or conviction.

23 122. Defendants' acts committed against Plaintiff, as alleged herein, including the  
24 sexual harassment and abuse of the minor Plaintiff constitutes gender violence and a form of sex  
25 discrimination in that Defendants' conduct caused a threatened physical intrusion or physical  
26 invasion of a sexual nature upon Plaintiff under coercive conditions, whether or not those acts  
27 have resulted in criminal complaints, charges, prosecution, or conviction.

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**MANLY, STEWART & FINALDI**  
ATTORNEYS AT LAW  
19100 Von Karman Ave., Suite 800  
Irvine, California 92612  
Telephone: (949) 252-9990

1           123. As a proximate result of Defendant LE's acts, Plaintiff is entitled to actual  
2 damages, compensatory damages, punitive damages, injunctive relief, any combination of those,  
3 or any other appropriate relief pursuant to Civil Code section 3294 and Civil Code section 53.  
4 Plaintiff is also entitled to an award of attorney's fees and costs pursuant to Civil Code § 52.4,  
5 against Defendant LE.

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MANLY, STEWART & FINALDI  
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Telephone: (949) 252-9990

1           **WHEREFORE**, Plaintiff prays for a jury trial and for judgment against Defendants, and  
2 each of them, as follows:

3   **FOR ALL CAUSES OF ACTION**

4           1.       For past, present and future general damages in an amount to be determined at  
5 trial;

6           2.       For past, present and future special damages, including but not limited to past,  
7 present and future lost earnings, economic damages and others, in an amount to be determined at  
8 trial;

9           3.       Any appropriate punitive or exemplary damages against Defendant LE;

10          4.       Any appropriate statutory damages;

11          5.       For costs of suit;

12          6.       For interest as allowed by law;

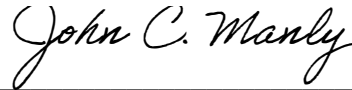
13          7.       For attorney's fees and costs as applicable pursuant to *California Code of Civil*  
14 *Procedure* §§ 52.4, 1021.4 and 1021.5 against Defendant LE; *Civil Code* §52 against Defendants  
15 LE and GILROY UNIFIED SCHOOL DISTRICT, or otherwise as allowable by law;

16          8.       For such other and further relief as the court may deem proper.

17  
18 Dated: May 5, 2016

**MANLY, STEWART & FINALDI**

19  
20 By:

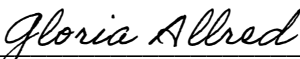


JOHN C. MANLY, Esq.  
Attorney for Plaintiff, JANE AA DOE

21  
22  
23 Dated: May 5, 2016

**ALLRED MAROKO & GOLDBERG**

24  
25 By:



GLORIA ALLRED, Esq.  
Attorney for Plaintiff, JANE AA DOE

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**DEMAND FOR JURY TRIAL**

Plaintiff JANE AA DOE hereby demands a trial by jury.

Dated: May 5, 2016

**MANLY, STEWART & FINALDI**

By: *John C. Manly*  
JOHN C. MANLY Esq.  
Attorney for Plaintiff, JANE AA DOE.

Dated: May 5, 2016

**ALLRED MAROKO & GOLDBERG**

By: *Gloria Allred*  
GLORIA ALLRED, Esq.  
Attorney for Plaintiff, JANE AA DOE.