

**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

GILROY UNIFIED SCHOOL DISTRICT, a business entity of form unknown; DOUGLAS LE, an individual; and DOES 1-100

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

JOHN JG DOE

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**ENDORSED  
FILED**

2016 JUN 22 A 11:56

David H. Yamashiki, Clerk of Superior Court  
County of Santa Clara, California  
Dr. \_\_\_\_\_  
Deputy Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): Santa Clara County Superior Court  
Downtown Superior Court  
191 North First Street, San Jose, CA 95113

CASE NUMBER:  
(Número del Caso):  
**16CV296774**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
J. Manly, Esq. #149080, ManlyStewart & Finaldi, 19100 Von Karman Ave. #800, Irvine, CA 92612, 9492529990

DATE: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy  
(Fecha) \_\_\_\_\_ (Secretario) \_\_\_\_\_ (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

**NOTICE TO THE PERSON SERVED: You are served**

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify):
- by personal delivery on (date):

[SEAL]

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State number, and address):  
John C. Manly, Esq. SBN 149080  
MANLY, STEWART & FINALDI  
19100 Von Karman Avenue, Suite 800  
Irvine, CA 92612  
TELEPHONE NO.: 949-252-9990 FAX NO.: 949-252-9991  
ATTORNEY FOR (Name): JOHN JG DOE

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ENDORSED FILED  
2016 JUN 22 A 11:56  
David H. Yamaseki, Clerk of the Superior Court  
County of Santa Clara, California  
Dr. \_\_\_\_\_ Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA  
STREET ADDRESS: 191 North First Street  
MAILING ADDRESS:  
CITY AND ZIP CODE: San Jose, CA 95113  
BRANCH NAME: Downtown Superior Court

CASE NAME:  
JOHN JG DOE v. GILROY UNIFIED SCHOOL DISTRICT, et al.

CIVIL CASE COVER SHEET  
 Unlimited (Amount demanded exceeds \$25,000)  Limited (Amount demanded is \$25,000 or less)  
Complex Case Designation  
 Counter  Joinder  
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:  
**16CV296774**

JUDGE:  
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- |   |  |   |
|---|--|---|
| <b>Auto Tort</b><br><input type="checkbox"/> Auto (22)<br><input type="checkbox"/> Uninsured motorist (46)<br><b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b><br><input type="checkbox"/> Asbestos (04)<br><input type="checkbox"/> Product liability (24)<br><input type="checkbox"/> Medical malpractice (45)<br><input checked="" type="checkbox"/> Other PI/PD/WD (23)<br><b>Non-PI/PD/WD (Other) Tort</b><br><input type="checkbox"/> Business tort/unfair business practice (07)<br><input type="checkbox"/> Civil rights (08)<br><input type="checkbox"/> Defamation (13)<br><input type="checkbox"/> Fraud (16)<br><input type="checkbox"/> Intellectual property (19)<br><input type="checkbox"/> Professional negligence (25)<br><input type="checkbox"/> Other non-PI/PD/WD tort (35)<br><b>Employment</b><br><input type="checkbox"/> Wrongful termination (36)<br><input type="checkbox"/> Other employment (15) | <b>Contract</b><br><input type="checkbox"/> Breach of contract/warranty (06)<br><input type="checkbox"/> Rule 3.740 collections (09)<br><input type="checkbox"/> Other collections (09)<br><input type="checkbox"/> Insurance coverage (18)<br><input type="checkbox"/> Other contract (37)<br><b>Real Property</b><br><input type="checkbox"/> Eminent domain/inverse condemnation (14)<br><input type="checkbox"/> Wrongful eviction (33)<br><input type="checkbox"/> Other real property (26)<br><b>Unlawful Detainer</b><br><input type="checkbox"/> Commercial (31)<br><input type="checkbox"/> Residential (32)<br><input type="checkbox"/> Drugs (38)<br><b>Judicial Review</b><br><input type="checkbox"/> Asset forfeiture (05)<br><input type="checkbox"/> Petition re: arbitration award (11)<br><input type="checkbox"/> Writ of mandate (02)<br><input type="checkbox"/> Other judicial review (39) | <b>Provisionally Complex Civil Litigation</b><br>(Cal. Rules of Court, rules 3.400-3.403)<br><input type="checkbox"/> Antitrust/Trade regulation (03)<br><input type="checkbox"/> Construction defect (10)<br><input type="checkbox"/> Mass tort (40)<br><input type="checkbox"/> Securities litigation (28)<br><input type="checkbox"/> Environmental/Toxic tort (30)<br><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)<br><b>Enforcement of Judgment</b><br><input type="checkbox"/> Enforcement of judgment (20)<br><b>Miscellaneous Civil Complaint</b><br><input type="checkbox"/> RICO (27)<br><input type="checkbox"/> Other complaint (not specified above) (42)<br><b>Miscellaneous Civil Petition</b><br><input type="checkbox"/> Partnership and corporate governance (21)<br><input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|---|

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive
4. Number of causes of action (specify): 6
5. This case  is  is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-016.)

Date: June 2016  
JOHN C. MANLY, ESQ.  
(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

1 JOHN C. MANLY, Esq. (State Bar No. 149080)  
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9 Attorneys for Plaintiff, JOHN JG DOE

ENDORSED  
FILED

2016 JUN 22 A 11:56

David H. Yarnes, Clerk of Superior Court  
County of Santa Clara  
By: \_\_\_\_\_  
Deputy Clerk

10  
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 IN AND FOR THE COUNTY OF SANTA CLARA

13  
14 JOHN JG DOE,  
15 Plaintiff,

16 vs.

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

Case No.: 16CV296774  
Judge: \_\_\_\_\_  
Department: \_\_\_\_\_

COMPLAINT FOR DAMAGES FOR:

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

[DEMAND FOR JURY TRIAL]

20  
21  
22  
23 COMES NOW, Plaintiff JOHN JG DOE, who complains and alleges as follows:

24 GENERAL ALLEGATIONS AS TO THE PARTIES

25 1. Plaintiff JOHN JG DOE (hereinafter "Plaintiff") is a resident of the County of  
26 Santa Clara, State of California and was so during the entire period alleged herein. The name used  
27 by JOHN JG DOE in this Complaint is not the actual name of JOHN JG DOE, but is a fictitious  
28

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1 name utilized to protect the privacy of JOHN JG DOE, a minor and victim of childhood sexual  
2 harassment and abuse. Plaintiff JOHN JG DOE is a male who was born on November 20, 1997.  
3 Commencing in 2013 and continuing through April of 2016, Plaintiff was verbally, mentally and  
4 sexually harassed by his teacher, Defendant DOUGLAS LE, an employee and agent of Defendant  
5 GILROY UNIFIED SCHOOL DISTRICT and Gilroy High School and Does 1-100. Plaintiff was  
6 only 15 years old when the abuse began, and all claims arising out of the abuse stated herein  
7 occurred after January 1, 2009. Pursuant to Government Code section 905(m), Plaintiff's claim is  
8 timely and exempt from the government tort-claim filing requirement.

9 2. Defendant GILROY UNIFIED SCHOOL DISTRICT is, and at all times stated  
10 herein was, a business entity of form unknown, having its principal place of business in the  
11 County of Santa Clara, State of California. GILROY UNIFIED SCHOOL DISTRICT conducts  
12 significant educational activities in the State of California, and is the primary entity that owns,  
13 operates, supervises and controls Gilroy High School, DOUGLAS LE, and Does 1-100.

14 3. Defendant DOUGLAS LE ("LE") is, and at all times stated herein was, an adult  
15 male, residing in the County of Santa Clara, in the State of California. During the period of time  
16 in which the childhood sexual harassment and abuse of Plaintiff JOHN JG DOE occurred, LE  
17 was a teacher, tutor and coach employed by GILROY UNIFIED SCHOOL DISTRICT, Gilroy  
18 High School and Does 1-100.

19 4. Defendants DOES 1 through 100, inclusive, and each of them, are sued herein  
20 under fictitious names. Plaintiff is, as of yet, unaware of the true names and capacities of the DOE  
21 Defendants and therefore sues them by fictitious names. When their true names and capacities are  
22 ascertained, Plaintiff will request leave of Court to amend this Complaint to state their true names  
23 and capacities herein.

24 5. At all times stated herein, each Defendant was responsible in some manner or  
25 capacity for the occurrences herein alleged, and Plaintiff's damages, as herein alleged, were  
26 proximately caused by all Defendants.

27 6. At all times stated herein, there existed a unity of interest and ownership  
28 amongst Defendants, and each of them, such that any individuality and separateness between

1 them ceased to exist. Defendants are successors-in-interest and/or alter egos of each other, in that  
2 they purchased, controlled, dominated and operated each other without any separate identity,  
3 observation of formalities, or other manner of division. To continue maintaining the facade of a  
4 separate and individual existence between and amongst Defendants, and each of them, would  
5 serve to perpetrate a fraud and an injustice.

6 7. At all times stated herein, GILROY UNIFIED SCHOOL DISTRICT, Gilroy High  
7 School and Does 1-100 represented that LE was a highly qualified teacher, tutor and coach, a  
8 person of high ethical and moral standing who would competently fulfill these roles. Based upon  
9 these representations, Plaintiff's parents reasonably believed that LE was a person worthy of their  
10 trust and entrusted Plaintiff to the care of GILROY UNIFIED SCHOOL DISTRICT, Gilroy High  
11 School, LE and Does 1-100.

12 8. At all times stated herein, LE acted within the course and scope of his employment  
13 by GILROY UNIFIED SCHOOL DISTRICT, Gilroy High School and Does 1-100.

14 9. At all times stated herein, the acts and omissions committed by each Defendant  
15 occurred with the permission, consent and ratification of each and every other Defendant and, as  
16 such, each Defendant is jointly and severally liable to Plaintiff.

17 **FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS**

18 10. Until his graduation in June of 2015, Plaintiff was a student at Gilroy High School  
19 and GILROY UNIFIED SCHOOL DISTRICT, and was under their control and supervision.

20 11. At all times material herein, LE was employed by Gilroy High School and  
21 GILROY UNIFIED SCHOOL DISTRICT as a teacher, tutor and coach. In such capacities, LE  
22 was under the direct supervision, employ, agency, and control of the GILROY UNIFIED  
23 SCHOOL DISTRICT, Gilroy High School and DOES 1-100. LE's duties and responsibilities  
24 included, but were not limited to, teaching, tutoring, coaching, mentoring, and advising students  
25 of Gilroy High School.

26 12. Through his position with Gilroy High School and GILROY UNIFIED SCHOOL  
27 DISTRICT, LE was put into direct contact with Plaintiff, a student at Gilroy High School. LE  
28 used his position of authority and trust to verbally, mentally and sexually abuse and harass

1 Plaintiff. Such conduct was done for LE's sexual gratification, and was inflicted upon Plaintiff  
2 without Plaintiff's consent. LE's conduct violated numerous California Penal Code provisions,  
3 including but not limited to California Penal Code §243.

4 13. As a student at Gilroy High School Plaintiff was under LE's direct supervision,  
5 care and control, thus creating a special, fiduciary relationship, and/or special care relationship  
6 with Gilroy High School, GILROY UNIFIED SCHOOL DISTRICT and Does 1-100.  
7 Additionally, as a minor child under their custody, care and control, Gilroy High School and  
8 GILROY UNIFIED SCHOOL DISTRICT and Does 1-100 stood *in loco parentis* with respect to  
9 Plaintiff while he was attending school and school-related functions.

10 14. Prior to and during the period of LE's harassment and abuse of Plaintiff, GILROY  
11 UNIFIED SCHOOL DISTRICT, Gilroy High School and Does 1-100 knew that LE had  
12 previously engaged in unlawful sexually-related conduct with minors at Gilroy High School.  
13 GILROY UNIFIED SCHOOL DISTRICT, Gilroy High School and Does 1-100 had a duty to  
14 disclose to these facts to Plaintiff, to his parents and to others, but negligently and/or intentionally  
15 suppressed, concealed and failed to disclose this critical information. The duty to disclose this  
16 information arose via the special, trusting, confidential, fiduciary, and/or *in loco parentis*  
17 relationship between Plaintiff and GILROY UNIFIED SCHOOL DISTRICT, Gilroy High  
18 School, LE and Does 1-100.

19 15. GILROY UNIFIED SCHOOL DISTRICT, Gilroy High School and Does 1-100  
20 failed to take reasonable steps and/or implement reasonable safeguards to avoid acts of unlawful  
21 sexual conduct by LE, including, but not limited to termination of LE's employment. Instead,  
22 Defendants ignored and/or actively concealed the sexual harassment and abuse of Plaintiff and  
23 others by LE that had already occurred. The incidents of abuse outlined herein occurred while  
24 Plaintiff was under the control of GILROY UNIFIED SCHOOL DISTRICT, Gilroy High School,  
25 LE and Does 1-100. LE, employed as a teacher, tutor and coach, committed his actions while in  
26 the course and scope of his employment by GILROY UNIFIED SCHOOL DISTRICT and Does  
27 1-100. While so employed, LE targeted Plaintiff in the following fashion:  
28

- 1 a. As part of his pedophilic “grooming” LE sadistically broke down the  
2 confidence of targeted students, including Plaintiff, by referencing the  
3 targeted students, including Plaintiff, as “stupid” and “dumb”;
- 4 b. LE manipulated the grades of Plaintiff who, through no fault of his own,  
5 triggered LE’s sadistic and abusive tendencies. LE maintained an A, B or F  
6 grading scale. No other teacher in the school maintained this bizarre,  
7 pretextual, mentally abusive and scholastically demoralizing type of grading  
8 scale. LE would assign the students who triggered his pedophilic  
9 tendencies, including Plaintiff, an “F” on their progress reports. The “F”  
10 was assigned notwithstanding the actual percentage grade that the targeted  
11 students, including Plaintiff, achieved. In order to bring the grade up, the  
12 targeted students, including Plaintiff, were required to attend LE’s after  
13 school “tutoring” sessions, during which LE would verbally and sexually  
14 harass, intimidate and abuse the targeted students, including Plaintiff;
- 15 c. LE, on numerous occasions, would attach the school projector to LE’s  
16 personal laptop and expose the students to youtube videos which contained  
17 profanity and content of a sexual nature;
- 18 d. Through acts of both verbal and physical abuse, including, but not limited  
19 to, verbal insults and slamming students’ books off of their desks, taking  
20 food off their desks and consuming it while massaging their backs, telling  
21 the students that he would “fuck your mother”, “I fucked your mother”, “I  
22 bet my dick is bigger than yours”, LE sadistically and maliciously “tested  
23 the waters” to determine which students were more vulnerable and would  
24 not verbally or physically rebuff LE’s escalating verbal and physical abuse;
- 25 e. Posing as a female on Facebook, LE sent Plaintiff messages of a sexual  
26 nature, urging Plaintiff to send graphic photographs of Plaintiff to LE.

16 16. Plaintiff further alleges that, GILROY UNIFIED SCHOOL DISTRICT, Gilroy  
17 High School and Does 1-100 failed to report and did hide and conceal from students, parents,  
18 teachers, law enforcement authorities, civil authorities and others, the true facts and relevant  
19 information necessary to bring LE to justice for the sexual misconduct he committed with minors,  
20 as well as protect their fiduciaries, including Plaintiff.

21 17. GILROY UNIFIED SCHOOL DISTRICT, Gilroy High School and Does 1-100  
22 also implemented various measures designed to, or which effectively, made LE's conduct harder  
23 to detect including, but not limited to:

- 24 a. Permitting LE to remain in a position of authority and trust after Defendants  
25 knew or should have known that LE was sexually harassing students;
- 26 b. Placing LE in a separate and secluded environment, including placing him  
27 in charge of children in the positions of teacher, tutor and coach, which  
28 allowed LE to sexually harass the children, including Plaintiff;

- c. Allowing LE to come into contact with minors, including Plaintiff, without adequate supervision;
- d. Failing to inform, or concealing from Plaintiff's parents and law enforcement officials the fact that LE was sexually harassing students, thereby enabling LE's actions;
- e. Holding out LE to Plaintiff and his parents, students, and to the school community as being in good standing and trustworthy;
- f. Failing to take reasonable steps, and implement reasonable safeguards to avoid acts of unlawful sexual conduct by LE with students, who were minor children; and
- g. Failing to put in place a system or procedure to supervise and/or monitor employees, volunteers, representatives or agents to ensure that they did not harass or abuse minors in Defendants' care, including Plaintiff.

18. During the period of abuse of Plaintiff at the hands of LE, Defendants had the authority and the ability to terminate LE's verbal abuse and sexual assaults on Plaintiff, but Defendants 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, avoid and inhibit detection, block public disclosure, avoid scandal, avoid the disclosure of their tolerance of child sexual harassment and abuse, preserve a false appearance of propriety, and avoid investigation and action by public authorities, including law enforcement. Such actions were motivated by a desire to protect the reputation of Defendants and protect the monetary support of Defendants while fostering an environment where such abuse could continue to occur.

19. As a direct result of the verbal and physical abuse, intimidation and sexual harassment that he suffered at the hands of LE, Plaintiff began and continues to experience multiple emotional, physical and psychological problems which include, but are not limited to: depression; academic demoralization; dread that LE's actions would destroy Plaintiff's ability to gain entrance into a good college; sleeplessness; distrust, isolation and alienation. LE's actions thwarted and destroyed what should have been the happiest and most carefree period in Plaintiff's life.

20. As a direct and proximate result of the Defendants' tortious acts, omissions, wrongful conduct and/or breaches of their duties, whether willful or negligent, Plaintiff's



1 employment and personal development has or will be adversely affected. Plaintiff has or will  
2 lose wages as a result of the abuse he suffered at the hands of Defendants, and will continue to  
3 lose wages in an amount to be determined at trial. Plaintiff has suffered economic injury, all to  
4 Plaintiff's general, special and consequential damage in an amount to be proven at trial, but in no  
5 event less than the minimum jurisdictional amount of this Court.

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

- 9 \* Duty to use reasonable care to protect students from known or foreseeable  
10 dangers (Government Code §§ 820, 815.2);
- 11 \* Duty to refrain from taking official action that contradicts the provisions of  
12 Article 1, section 28(c) of the California Constitution;
- 13 \* Duty to enact policies and procedures that are not in contravention of the  
14 Federal Civil Rights Act, section 1983, and the 14th Amendment of the  
15 United States Constitution;
- 16 \* Duty to protect students and staff, and provide adequate supervision;
- 17 \* Duty to ensure that any direction given to faculty and students is lawful, and  
18 that adults act fairly, responsibly and respectfully towards faculty and  
19 students;
- 20 \* Duty to properly train teachers, athletic directors, athletic coaches, youth  
21 counselors, mentors, administrators, and staff so that they are aware of their  
22 individual responsibility for creating and maintaining a safe environment;
- 23 \* Duty to supervise faculty and students and enforce rules and regulations  
24 prescribed for schools, exercise reasonable control over students as is  
25 reasonably necessary to maintain order, protect property, protect the health  
26 and safety of faculty and students and/or to maintain proper and appropriate  
27 conditions conducive to learning;
- 28 \* Duty to exercise careful supervision of the moral conditions in the school;
- \* Duty to properly monitor students, prevent or correct harmful situations or  
calls 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;

- 1                   \*       Duty to refrain from violating Plaintiff's right to protection from bodily
- 2                               restraint or harm, from personal insult, from defamation, and from injury to
- 3                               his personal relations (Civil Code § 43);
- 4                   \*       Duty to abstain from injuring the person or property of Plaintiff, or
- 5                               infringing upon any of his rights (Civil Code § 1708);
- 6                   \*       Duty to report suspected incidents of child abuse and more specifically
- 7                               childhood sexual abuse (Penal Code §§ 11166, 11167); and
- 8                   \*       Duty to prevent discrimination or sexual harassment and abuse from
- 9                               occurring in public educational facilities (Educational Code § 200, et seq.).

10           22.       Compulsory education laws create a special relationship between students and

11       Defendants, and students have a constitutional guarantee to a safe, secure and peaceful school

12       environment. Defendants failed to acknowledge unsafe conditions, and therefore failed to

13       guarantee safe surroundings in an environment in which Plaintiff was not free to leave,

14       specifically including but not limited to allowing LE to take children for purposes of sexual

15       activity and allowing LE to operate in isolated environments, incapable of monitoring from the

16       outside, wherein LE sexually harassed and abused Plaintiff and others.

17           23.       Defendants had and have a duty to protect students, including Plaintiff.

18       Defendants were required, and failed, to provide adequate campus and off-site school event

19       supervision, and failed to be properly vigilant in seeing that supervision was sufficient to ensure

20       the safety of Plaintiff and others.

21           24.       Defendants lodged with LE the color of authority, by which he was able to

22       influence, direct and abuse Plaintiff and others, and to act illegally, unreasonably and without

23       respect for the person and safety of Plaintiff.

24           25.       Defendants had a duty to and failed to adequately train and supervise the advisors,

25       teachers, mentors and staff to create a positive and safe educational environment, specifically

26       including training to perceive, report and stop inappropriate conduct by other members of the

27       staff, specifically including LE, with children.

28           26.       Defendants were required to and failed to exercise careful supervision of the moral

          conditions in their school, and provide supervision before and after school. This duty extended

          beyond the classroom.

1           27.     In subjecting Plaintiff to the wrongful treatment herein described, LE acted  
2 willfully and maliciously with the intent to harm Plaintiff, and in conscious disregard of Plaintiff's  
3 rights, so as to constitute malice and/or oppression under California Civil Code section 3294.  
4 Plaintiff is therefore entitled to an award of punitive damages against LE, in an amount to be  
5 determined by the court according to proof. Plaintiff is also entitled to recovery of reasonable  
6 attorney's fees against LE who has or will be convicted of a felony. Code of Civil Procedure  
7 section 1021.4. Plaintiff reserves the right to request attorney's fees pursuant to this code section,  
8 based upon LE's felony convictions, for any felony criminal acts perpetrated against Plaintiff.

9  
10   **FIRST CAUSE OF ACTION**  
  **NEGLIGENCE**  
  **(Against all Defendants)**

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

13           29.     Plaintiff is informed and believes, and on that basis alleges that prior to and after  
14 the first incident of LE's sexual harassment and abuse of Plaintiff, through the present,  
15 Defendants, knew or should have reasonably known that LE had or was capable of verbally,  
16 physically, sexually, and/or mentally abusing Plaintiff and other victims.

17           30.     Defendants had special duties to protect the minor Plaintiff and the other students  
18 within Gilroy High School and the GILROY UNIFIED SCHOOL DISTRICT, when such  
19 students were entrusted to their care. Plaintiff's care, welfare and/or physical custody was  
20 entrusted to Defendants. Defendants voluntarily accepted the entrusted care of Plaintiff. As such,  
21 Defendants owed Plaintiff, a minor child, a special duty of care, in addition to a duty of ordinary  
22 care, and owed Plaintiff the higher duty of care that adults dealing with children owe to protect  
23 them from harm. The duty to protect and warn arose from the special, trusting, confidential,  
24 and/or fiduciary relationship between Defendants and Plaintiff. Before the onslaught of abuse,  
25 Plaintiff felt great trust, faith and confidence in Defendants, and in LE as his teacher, tutor,  
26 adviser and mentor.

27           31.     Defendants breached their duties of care to the Plaintiff by allowing LE to come  
28 into contact with Plaintiff and other students, without supervision; by failing to adequately hire,

1 supervise and/or retain LE who they permitted and enabled to have access to Plaintiff; by failing  
2 to investigate or otherwise confirm or deny such facts about LE; by failing to tell or concealing  
3 from Plaintiff, his parents, guardians and law enforcement officials that LE was or may have been  
4 sexually harassing and abusing minors; by failing to terminate LE; by failing to tell or concealing  
5 from Plaintiff's parents, guardians and/or law enforcement officials that Plaintiff was or may have  
6 been sexually harassed and abused after Defendants knew or should have known that LE may  
7 have sexually harassed and abused Plaintiff or others, thereby enabling Plaintiff to continue to be  
8 endangered and sexually harassed, and abused, and/or creating the circumstance where Plaintiff  
9 was less likely to receive medical/mental health care or treatment, thus exacerbating the harm  
10 done to Plaintiff; and/or by holding out LE to Plaintiff and to his parents as being in good  
11 standing and trustworthy. Defendants cloaked LE's conduct, contact and actions with Plaintiff  
12 within a façade of normalcy and/or disguised the nature of the sexual harassment and abuse and  
13 contact.

14 32. Defendants breached their duty to Plaintiff by, *inter alia*, failing to investigate or  
15 otherwise confirm or deny such facts, failing to reveal such facts to Plaintiff, the community of  
16 the school, students, minors, and law enforcement agencies, placing and continuing to place LE in  
17 positions of trust and authority within Gilroy High School and the GILROY UNIFIED SCHOOL  
18 DISTRICT, and holding out, and continuing to hold out LE to Plaintiff, the public, the  
19 community of the school, students, minors, and law enforcement agencies as being in good  
20 standing and trustworthy.

21 33. Defendants breached their duty to Plaintiff by, *inter alia*, failing to adequately  
22 monitor and supervise LE and/or stopping LE from committing wrongful sexual acts with minors  
23 including Plaintiff. This belief is founded on the fact that the Principal and other faculty members  
24 at Gilroy High School and GILROY UNIFIED SCHOOL DISTRICT had suspected the abuse  
25 and/or harassment was occurring at the time, and failed to investigate into the matter further.  
26 Based on these facts, Defendants knew and/or should have known of LE's incapacity to supervise  
27 and/or stop employees of Defendants from committing wrongful sexual acts with minors.  
28

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

6           35. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew  
7 or should have known that LE, their agent, teacher, tutor, coach, advisor and mentor and had  
8 sexually abused, or harassed, or caused harm, and other injuries to minors, giving rise to a duty to  
9 report such conduct under California Penal Code § 11166.

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

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

20           38. Plaintiff was a member of the class of persons for whose protection California  
21 Penal Code § 11166 was specifically adopted to protect. Had Defendants adequately reported the  
22 abuse and harassment of Plaintiff and other minors as required by California Penal Code § 11166,  
23 further harm to Plaintiff and other minors would have been avoided.

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

1           40.     The physical, mental, and emotional damages and injuries resulting from the  
2 sexual abuse and harassment of Plaintiff by LE, were the type of occurrence and injuries that the  
3 Child Abuse and Neglect Reporting Act was designed to prevent. As a result, Defendants' failure  
4 to comply with the mandatory reporting requirements of California Penal Code section 11166  
5 also constituted a *per se* breach of Defendants' duties to Plaintiff.

6           41.     As a result of the above-described conduct, Plaintiff has suffered and continues to  
7 suffer great pain of mind and body, shock, emotional distress, physical manifestations of  
8 emotional distress, embarrassment, loss of self-esteem, disgrace, academic demoralization,  
9 humiliation, and loss of enjoyment of life; has suffered and continues to suffer and was prevented  
10 and will continue to be prevented from performing daily activities and obtaining the full  
11 enjoyment of life; will sustain loss of earnings and earning capacity, and/or has incurred and will  
12 continue to incur expenses for medical and psychological treatment, therapy, and counseling.

13                                       **SECOND CAUSE OF ACTION**  
14                                       **NEGLIGENT SUPERVISION**  
15                                       **(Against Defendant GILROY UNIFIED SCHOOL DISTRICT and GILROY HIGH**  
16                                       **SCHOOL and Does 1-100 Only)**

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

19           43.     As an educational institution for minors, where all of the students are entrusted to  
20 the counselors, advisors, mentors, coaches, faculty members, administrators and teachers,  
21 Defendants expressly and implicitly represented that these individuals, including LE, were not a  
22 sexual threat to children and others who would fall under LE's influence, control, direction, and  
23 guidance.

24           44.     Defendants negligently failed to supervise LE in his position of trust and authority  
25 as a teacher, tutor, coach, advisor and mentor, and/or other authority figure, where he was able to  
26 commit wrongful acts against the Plaintiff. Defendants failed to provide reasonable supervision  
27 of LE. Defendants further failed to take reasonable measures to prevent sexual harassment and  
28 abuse of minors, including Plaintiff.

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

6           46. Defendants were or should have been aware and understood how vulnerable  
7 children were to sexual harassment and abuse by counselors, advisors, mentors, coaches, teachers  
8 and other persons of authority. Defendants' conduct constituted numerous breaches of their duties  
9 to Plaintiff.

10           47. 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 Defendants knew or should have known that LE had sexually abused or caused harm, and other  
15 injuries to minors, including Plaintiff, giving rise to a duty to report such conduct under  
16 California Penal Code section 11166.

17           48. Defendants knew, or should have known in the exercise of reasonable diligence,  
18 that an undue risk to minors, including Plaintiff, existed because Defendants did not comply with  
19 California's mandatory reporting requirements. By failing to report the continuing abuse, of which  
20 Defendants and each of them knew or should have known, and by ignoring the fulfillment of the  
21 mandated compliance with the reporting requirements provided under California Penal Code  
22 section 11166, Defendants created the risk and danger contemplated by the Child Abuse and  
23 Neglect Reporting Act, and as a result, unreasonably and wrongfully exposed Plaintiff and other  
24 minors to sexual harassment and abuse.

25           49. Plaintiff was a member of the class of persons for whose protection California  
26 Penal Code section 11166 was specifically adopted to protect. Had Defendants adequately  
27 reported the sexual abuse and harassment of Plaintiff and other minors as required by California  
28 Penal Code section 11166, further harm to Plaintiff would have been avoided.

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1           50. 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           51. 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. As a result, Defendants' failure  
9 to comply with the mandatory reporting requirements of California Penal Code section 11166  
10 also constituted a *per se* breach of Defendants' duties to Plaintiff.

11           52. Defendants breached their duty to Plaintiff by, *inter alia*, failing to adequately  
12 monitor and supervise LE and/or stopping LE from committing wrongful sexual harassment and  
13 abuse of minors including Plaintiff. The administration at Gilroy High School and GILROY  
14 UNIFIED SCHOOL DISTRICT had suspected the abuse was occurring at the time, and failed to  
15 investigate into the matter further. Based on these facts, Defendants knew and/or should have  
16 known of LE's incapacity to supervise and/or stop employees of Defendants from committing  
17 wrongful sexual acts with minors.

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

25  
26                                   **THIRD CAUSE OF ACTION**  
27                                   **NEGLIGENT HIRING/RETENTION**  
28                                   **(Against Defendant GILROY UNIFIED SCHOOL DISTRICT, GILROY HIGH SCHOOL**  
                                      **and Does 1-100 Only)**

54. Plaintiff re-alleges and incorporates by reference herein each and every allegation



1 contained herein above as though fully set forth and brought in this cause of action.

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

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

11 57. Plaintiff is informed and believes, and on that basis alleges, that at no time during  
12 the periods of time alleged did Defendants have in place a system or procedure to reasonably  
13 investigate, supervise and/or monitor teachers, including LE, to prevent pre-sexual grooming  
14 and/or sexual harassment and abuse of children, nor did they implement a system or procedure to  
15 oversee or monitor conduct toward minors, students and others in Defendants' care. Defendants  
16 were or should have been aware and understood how vulnerable children were to sexual  
17 harassment, and abuse by teachers and other persons of authority within the control of  
18 Defendants.

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

24 59. Defendants were placed on actual and/or constructive notice that LE had engaged  
25 in dangerous and inappropriate conduct, both before his employment within Defendants, and  
26 during that employment. Plaintiff is informed, and thereon alleges, that other third parties,  
27 minors, students, law enforcement officials and/or parents informed Defendants of inappropriate  
28 conduct committed by LE. Even though Defendants knew or should have known of these

1 activities by LE, Plaintiff is informed that Defendants failed to use reasonable care in  
2 investigating LE and did nothing to investigate, supervise or monitor LE to ensure the safety of  
3 the minor students. Defendants' conduct was a breach of their duty to Plaintiff.

4 60. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through  
5 their employees and agents, were child care custodians and were under a statutory duty to report  
6 known or suspected incidents of sexual abuse of minors to a child protective agency, pursuant to  
7 California Penal Code section 11166, and/or not to impede the filing of any such report. Plaintiff  
8 is informed and believes, and on that basis alleges, that Defendants knew or should have known  
9 that their agent, counselor, advisor and mentor, LE, and other employees, agents, teachers and  
10 staff within Defendants, had sexually abused or caused harm, and other injuries to minors,  
11 including Plaintiff, giving rise to a duty to report such conduct under California Penal Code  
12 section 11166.

13 61. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew,  
14 or should have known in the exercise of reasonable diligence, that an undue risk to minors,  
15 including Plaintiff, existed because Defendants did not comply with California's mandatory  
16 reporting requirements. By failing to report the continuing harassment and abuse, which  
17 Defendants and each of them knew or should have known, and by ignoring the fulfillment of the  
18 mandated compliance with the reporting requirements provided under California Penal Code  
19 section 11166, Defendants created the risk and danger contemplated by the Child Abuse and  
20 Neglect Reporting Act, and as a result, unreasonably and wrongfully exposed Plaintiff and other  
21 minors to sexual harassment and abuse.

22 62. Plaintiff was a member of the class of persons for whose protection California  
23 Penal Code section 11166 was specifically adopted to protect. Had Defendants adequately  
24 reported the sexual harassment and abuse of Plaintiff and other minors as required by California  
25 Penal Code section 11166, further harm to Plaintiff and other minors would have been avoided.

26 63. As a proximate result of Defendants' failure to follow the mandatory reporting  
27 requirements of California Penal Code section 11166, Defendants wrongfully denied Plaintiff and  
28 other minors the intervention of child protection services. Such public agencies would have

1 changed the then-existing arrangements and conditions that provided the access and opportunities  
2 for the harassment and abuse of Plaintiff by LE

3 64. The physical, mental, and emotional damages and injuries resulting from the  
4 harassment and abuse of Plaintiff by LE, were the type of occurrence and injuries that the Child  
5 Abuse and Neglect Reporting Act was designed to prevent.

6 65. As a result, Defendants' failure to comply with the mandatory reporting  
7 requirements of California Penal Code section 11166 also constituted a *per se* breach of  
8 Defendants' duties to Plaintiff.

9 66. As a result of the above-described conduct, Plaintiff has suffered and continues to  
10 suffer great pain of mind and body, shock, emotional distress, physical manifestations of  
11 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of  
12 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be  
13 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain  
14 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for  
15 medical and psychological treatment, therapy, and counseling.

16 **FOURTH CAUSE OF ACTION**  
17 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
18 **(Against DEFENDANT LE only)**

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

21 68. LE's conduct toward Plaintiff, as described herein, was outrageous and extreme.  
22 A reasonable person would not expect or tolerate the sexual harassment, and abuse of Plaintiff by  
23 LE. Plaintiff had great trust, faith and confidence in LE and in Defendants, which, by virtue of  
24 LE's and Defendants' wrongful conduct, turned to fear. LE's conduct described herein was  
25 intentional and malicious and done for the purpose of causing or with the substantial certainty that  
26 Plaintiff would suffer humiliation, mental anguish, and emotional and physical distress.

27 69. As a result of the above-described conduct, Plaintiff has suffered and continues to  
28 suffer great pain of mind and body, shock, emotional distress, physical manifestations of  
emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of

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

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

11  
12 **FIFTH CAUSE OF ACTION**  
13 **SEXUAL HARASSMENT: CIVIL CODE § 51.9**  
14 **(Against ALL DEFENDANTS)**

15 71. 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 72. 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 73. 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 74. 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 75. “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 76. 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: verbally, physically and sexually harassing  
24 the Plaintiff, all while LE was acting in the course and scope of his agency/ employment with  
25 Defendants, and each of them.

26 77. 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, tutor, coach, advisor and mentor and  
28 while acting specifically on behalf of Defendants.

1           78.     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           79.     Because of Plaintiff's relationship with LE as a student at Gilroy High School and  
7 the GILROY UNIFIED SCHOOL DISTRICT, and Plaintiff's young age as a minor student,  
8 Plaintiff was unable to easily terminate the student-teacher, student-advisor, and student-mentor  
9 relationships that he had with Defendant LE. Because of LE's position of authority over Plaintiff,  
10 and Plaintiff's mental and emotional state, and Plaintiff's young age under the age of consent,  
11 Plaintiff was unable to, and did not give meaningful consent to such acts.

12           80.     Prior to removing LE from his position as a teacher, GILROY UNIFIED  
13 SCHOOL DISTRICT and Gilroy High School's administrations had launched an investigation  
14 into LE's inappropriate behavior towards students at the Gilroy High School. Clearly, apprised  
15 that LE was engaging in suspicious behavior, Gilroy High School nevertheless continued LE in  
16 employment. Even though the Defendants knew or should have known of these activities by  
17 Defendant LE, Defendants did nothing to investigate, supervise or monitor Defendant LE to  
18 ensure the safety of the minor students, but instead ratified such conduct by retaining LE in  
19 employment and retaining the benefits of his employment.

20           81.     Defendants' conduct was a breach of their duties to Plaintiff. Defendants' ratified  
21 LE's despicable harassment of Plaintiff by retaining LE in employment despite having knowledge  
22 that the verbal, mental, emotional abuse and sexual harassment was occurring. As a result of the  
23 above-described conduct, Plaintiff has suffered and continues to suffer great pain of mind and  
24 body, shock, emotional distress, physical manifestations of emotional distress, embarrassment,  
25 loss of self-esteem, disgrace, humiliations, and loss of enjoyment of life; has suffered and  
26 continues to suffer and was prevented and will continue to be prevented from performing daily  
27 activities and obtaining the full enjoyment of life; will sustain loss of earnings and earning  
28

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1 capacity, and/or has incurred and will continue to incur expenses for medical and psychological  
2 treatment, therapy, and counseling.

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

11 **SIXTH CAUSE OF ACTION**  
**GENDER VIOLENCE: CIVIL CODE § 52.4**  
**(Against Defendant LE Only)**

12 83. Plaintiff realleges and incorporates by reference herein each and every allegation  
13 contained herein above as though fully set forth and brought in this cause of action.

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

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

25 86. As a proximate result of Defendant LE's acts, Plaintiff is entitled to actual  
26 damages, compensatory damages, punitive damages, injunctive relief, any combination of those,  
27 or any other appropriate relief pursuant to Civil Code section 3294 and Civil Code section 53.  
28

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1 Plaintiff is also entitled to an award of attorney's fees and costs pursuant to Civil Code § 52.4,  
2 against Defendant LE.

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

5 **FOR ALL CAUSES OF ACTION**

- 6 1. For past, present and future general damages in an amount to be determined at  
7 trial;
- 8 2. For past, present and future special damages, including but not limited to past,  
9 present and future lost earnings, economic damages and others, in an amount to be determined at  
10 trial;
- 11 3. Any appropriate punitive or exemplary damages against Defendant LE;
- 12 4. Any appropriate statutory damages;
- 13 5. For costs of suit;
- 14 6. For interest as allowed by law;
- 15 7. For attorney's fees and costs as applicable pursuant to *California Code of Civil*  
16 *Procedure* §§ 52.4, 1021.4 and 1021.5 against Defendant LE; *Civil Code* §52 against Defendants  
17 LE and GILROY UNIFIED SCHOOL DISTRICT, or otherwise as allowable by law;
- 18 8. For such other and further relief as the court may deem proper.

19  
20 Dated: June , 2016

**MANLY, STEWART & FINALDI**

21  
22  
23 By: 

JOHN C. MANLY, Esq.  
Attorney for Plaintiff, JOHN JG DOE

24  
25 Dated: June , 2016

**ALLRED MAROKO & GOLDBERG**

26  
27 By: 

GLORIA ALLRED, Esq.  
Attorney for Plaintiff, JOHN JG DOE



**DEMAND FOR JURY TRIAL**

Plaintiff JOHN JG DOE hereby demands a trial by jury.


Dated: June , 2016

**MANLY, STEWART & FINALDI**

By:   
JOHN C. MANLY Esq.  
Attorney for Plaintiff, JOHN JG DOE

Dated: June , 2016

**ALLRED MAROKO & GOLDBERG**

By:   
GLORIA ALLRED, Esq.  
Attorney for Plaintiff, JOHN JG DOE

MANLY, STEWART & FINALDI  
ATTORNEYS AT LAW  
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Irvine, California 92612  
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**CIVIL LAWSUIT NOTICE**

Superior Court of California, County of Santa Clara  
191 N. First St., San Jose, CA 95113

CASE NUMBER: 16CV296774

**PLEASE READ THIS ENTIRE FORM**

**PLAINTIFF** (the person suing): Within 60 days after filing the lawsuit, you must serve each Defendant with the *Complaint*, *Summons*, an *Alternative Dispute Resolution (ADR) Information Sheet*, and a copy of this *Civil Lawsuit Notice*, and you must file written proof of such service.

**DEFENDANT** (The person sued): You must do each of the following to protect your rights:

1. You must file a **written response** to the *Complaint*, using the proper legal form or format, in the Clerk's Office of the Court, within **30 days** of the date you were served with the *Summons* and *Complaint*;
2. You must serve by mail a copy of your written response on the Plaintiff's attorney or on the Plaintiff if Plaintiff has no attorney (to "serve by mail" means to have an adult other than yourself mail a copy); and
3. You must attend the first Case Management Conference.

**Warning: If you, as the Defendant, do not follow these instructions,  
you may automatically lose this case.**

**RULES AND FORMS:** You must follow the California Rules of Court and the Superior Court of California, County of Santa Clara Local Civil Rules and use proper forms. You can obtain legal information, view the rules and receive forms, free of charge, from the Self-Help Center at 99 Notre Dame Avenue, San Jose (408-882-2900 x-2926), [www.sccselfservice.org](http://www.sccselfservice.org) (Select "Civil") or from:

- State Rules and Judicial Council Forms: [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms) and [www.courtinfo.ca.gov/rules](http://www.courtinfo.ca.gov/rules)
- Local Rules and Forms: <http://www.sccsuperiorcourt.org/civil/rule1toc.htm>

**CASE MANAGEMENT CONFERENCE (CMC):** You must meet with the other parties and discuss the case, in person or by telephone, at least 30 calendar days before the CMC. You must also fill out, file and serve a *Case Management Statement* (Judicial Council form CM-110) at least 15 calendar days before the CMC.

*You or your attorney must appear at the CMC. You may ask to appear by telephone – see Local Civil Rule 8.*

Your Case Management Judge is: Maureen Folan Department: 8

The 1<sup>st</sup> CMC is scheduled for: (Completed by Clerk of Court)

Date: OCT 18 2016 Time: 3:30pm In Department: 8

The next CMC is scheduled for: (Completed by party if the 1<sup>st</sup> CMC was continued or has passed)

Date: \_\_\_\_\_ Time: \_\_\_\_\_ In Department: \_\_\_\_\_

**ALTERNATIVE DISPUTE RESOLUTION (ADR):** If all parties have appeared and filed a completed *ADR Stipulation Form* (local form CV-5008) at least 15 days before the CMC, the Court will cancel the CMC and mail notice of an ADR Status Conference. Visit the Court's website at [www.sccsuperiorcourt.org/civil/ADR/](http://www.sccsuperiorcourt.org/civil/ADR/) or call the ADR Administrator (408-882-2100 x-2530) for a list of ADR providers and their qualifications, services, and fees.

**WARNING:** Sanctions may be imposed if you do not follow the California Rules of Court or the Local Rules of Court.

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**SANTA CLARA COUNTY SUPERIOR COURT  
ALTERNATIVE DISPUTE RESOLUTION  
INFORMATION SHEET**

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Many cases can be resolved to the satisfaction of all parties without the necessity of traditional litigation, which can be expensive, time consuming, and stressful. The Court finds that it is in the best interests of the parties that they participate in alternatives to traditional litigation, including arbitration, mediation, neutral evaluation, special masters and referees, and settlement conferences. Therefore, all matters shall be referred to an appropriate form of Alternative Dispute Resolution (ADR) before they are set for trial, unless there is good cause to dispense with the ADR requirement.

***What Is ADR?***

ADR is the general term for a wide variety of dispute resolution processes that are alternatives to litigation. Types of ADR processes include mediation, arbitration, neutral evaluation, special masters and referees, and settlement conferences, among others forms.

***What are the advantages of choosing ADR instead of litigation?***

ADR can have a number of advantages over litigation:

- **ADR can save time.** A dispute can be resolved in a matter of months, or even weeks, while litigation can take years.
- **ADR can save money.** Attorney's fees, court costs, and expert fees can be reduced or avoided altogether.
- **ADR provides more participation.** Parties have more opportunities with ADR to express their interests and concerns, instead of focusing exclusively on legal rights.
- **ADR provides more control and flexibility.** Parties can choose the ADR process that is most likely to bring a satisfactory resolution to their dispute.
- **ADR can reduce stress.** ADR encourages cooperation and communication, while discouraging the adversarial atmosphere of litigation. Surveys of parties who have participated in an ADR process have found much greater satisfaction than with parties who have gone through litigation.

***What are the main forms of ADR offered by the Court?***

**Mediation** is an informal, confidential, flexible and non-binding process in the mediator helps the parties to understand the interests of everyone involved, and their practical and legal choices. The mediator helps the parties to communicate better, explore legal and practical settlement options, and reach an acceptable solution of the problem. The mediator does not decide the solution to the dispute; the parties do.

Mediation may be appropriate when:

- The parties want a non-adversary procedure
- The parties have a continuing business or personal relationship
- Communication problems are interfering with a resolution
- There is an emotional element involved
- The parties are interested in an injunction, consent decree, or other form of equitable relief

**Neutral evaluation**, sometimes called "Early Neutral Evaluation" or "ENE", is an informal process in which the evaluator, an experienced neutral lawyer, hears a compact presentation of both sides of the case, gives a non-binding assessment of the strengths and weaknesses on each side, and predicts the likely outcome. The evaluator can help parties to identify issues, prepare stipulations, and draft discovery plans. The parties may use the neutral's evaluation to discuss settlement.

Neutral evaluation may be appropriate when:

- The parties are far apart in their view of the law or value of the case
- The case involves a technical issue in which the evaluator has expertise
- Case planning assistance would be helpful and would save legal fees and costs
- The parties are interested in an injunction, consent decree, or other form of equitable relief

-over-

**Arbitration** is a less formal process than a trial, with no jury. The arbitrator hears the evidence and arguments of the parties and then makes a written decision. The parties can agree to binding or non-binding arbitration. In binding arbitration, the arbitrator's decision is final and completely resolves the case, without the opportunity for appeal. In non-binding arbitration, the arbitrator's decision could resolve the case, without the opportunity for appeal, unless a party timely rejects the arbitrator's decision within 30 days and requests a trial. Private arbitrators are allowed to charge for their time.

Arbitration may be appropriate when:

- The action is for personal injury, property damage, or breach of contract
- Only monetary damages are sought
- Witness testimony, under oath, needs to be evaluated
- An advisory opinion is sought from an experienced litigator (if a non-binding arbitration)

**Civil Judge ADR** allows parties to have a mediation or settlement conference with an experienced judge of the Superior Court. Mediation is an informal, confidential, flexible and non-binding process in which the judge helps the parties to understand the interests of everyone involved, and their practical and legal choices. A settlement conference is an informal process in which the judge meets with the parties or their attorneys, hears the facts of the dispute, helps identify issues to be resolved, and normally suggests a resolution that the parties may accept or use as a basis for further negotiations. The request for mediation or settlement conference may be made promptly by stipulation (agreement) upon the filing of the Civil complaint and the answer. There is no charge for this service.

Civil Judge ADR may be appropriate when:

- The parties have complex facts to review
- The case involves multiple parties and problems
- The courthouse surroundings would be helpful to the settlement process

**Special masters and referees** are neutral parties who may be appointed by the court to obtain information or to make specific fact findings that may lead to a resolution of a dispute.

Special masters and referees can be particularly effective in complex cases with a number of parties, like construction disputes.

**Settlement conferences** are informal processes in which the neutral (a judge or an experienced attorney) meets with the parties or their attorneys, hears the facts of the dispute, helps identify issues to be resolved, and normally suggests a resolution that the parties may accept or use as a basis for further negotiations.

Settlement conferences can be effective when the authority or expertise of the judge or experienced attorney may help the parties reach a resolution.

#### *What kind of disputes can be resolved by ADR?*

Although some disputes must go to court, almost any dispute can be resolved through ADR. This includes disputes involving business matters; civil rights; collections; corporations; construction; consumer protection; contracts; copyrights; defamation; disabilities; discrimination; employment; environmental problems; fraud; harassment; health care; housing; insurance; intellectual property; labor; landlord/tenant; media; medical malpractice and other professional negligence; neighborhood problems; partnerships; patents; personal injury; probate; product liability; property damage; real estate; securities; sports; trade secret; and wrongful death, among other matters.

*Where can you get assistance with selecting an appropriate form of ADR and a neutral for your case, information about ADR procedures, or answers to other questions about ADR?*

#### **Contact:**

Santa Clara County Superior Court  
ADR Administrator  
408-882-2530

Santa Clara County DRPA Coordinator  
408-792-2784