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2016 FEB 25 PM 2:48

CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

9 Attorneys for Plaintiff

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN DIEGO**

13 John Roe 3, Individually,
14 Plaintiffs,
15
16 v.
17 Grossmont Union High School District;
and Does 2 through 100, inclusive,
18 Defendants.
19

CASE NO.: 37-2016-00006251-CU-PO-CTL

COMPLAINT FOR DAMAGES FOR:

- 1. NEGLIGENCE
- 2. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
- 3. INTENTIONAL CONCEALMENT (Civ. Code § 1709)

[Demand for Jury Trial]

1 described in this Complaint, and the Defendants, and each of them, ratified the acts of the other
2 Defendants as described in this Complaint.

3 **BACKGROUND FACTS APPLICABLE TO ALL COUNTS**

4 7. Plaintiff's son, Victim, was born on April 12, 1996. Victim attended Granite Hills High
5 School in El Cajon, California. Victim met Perpetrator in September 2013. Perpetrator was
6 Victim's drama teacher.

7 8. Over a period of months, Perpetrator groomed Victim. Perpetrator cultivated Victim's
8 trust by encouraging Plaintiff to confide in him regarding school, family, friends and other
9 personal issues. Perpetrator presented himself as a confidant and friend that Victim could trust
10 and talk to freely. Plaintiff almost immediately felt comfortable with Perpetrator due to
11 Perpetrator always joking and playing around with Plaintiff and the other students.

12 9. Perpetrator sexually molested Victim between September 2013 and February 2014. This
13 began as subtle touches and became increasingly more inappropriate. Perpetrator began by
14 placing his hand on Victim's lower back close to his buttocks. Perpetrator rubbed Victim's
15 back and chest, including under his shirt. Perpetrator then began to grab Victim's legs and rub
16 up his legs, eventually to Victim's upper thighs and in between his legs. Perpetrator
17 additionally played a kissing game in which he would pretend to kiss Victim and then back
18 away at the last minute. Perpetrator kissed Victim on the lips one time.

19 10. Plaintiff is informed and believes and on that basis alleges that Perpetrator sexually
20 molested at least one other minor prior to his sexual molest of Victim.

21 11. Plaintiff is informed and believes and on that basis alleges that multiple complaints were
22 made to Defendant School District regarding Perpetrator's inappropriate conduct and sexual
23 molest of other minors prior to Perpetrator's sexual molest of Victim. Granite Hills High
24 School Principal Georgette Torres received complaints regarding Perpetrator's inappropriate
25 conduct with minors and failed to act on that knowledge.

26 12. Plaintiff is informed and believes and on that basis alleges that on January 31, 2014 an
27 individual made a report to El Cajon Police Officer Lesagonicz, the officer assigned to Granite
28 Hills High School, regarding Perpetrator's sexual abuse of a minor.

1 13. Officer Lesagonicz contacted Granite Hills High School Principal Mike Fowler.
2 Perpetrator was placed on paid administrative leave on January 31, 2014.

3 14. Between February 2, 2014 and February 19, 2014 Officer Lesagonicz conducted
4 interviews with multiple alleged victims of Perpetrator, including both current and former
5 students of Defendant School District. Officer Lesagonicz learned through these interviews that
6 Perpetrator inappropriately touched at least five male students.

7 15. On February 19, 2014 Officer Lesagonicz viewed a clip of a cell phone video depicting
8 Perpetrator engaging in the kissing game, as described above, with Victim.

9 16. On February 20, 2014 Officer Lesagonicz confronted Victim about the video and other
10 allegations of abuse. At that time Victim confided to Officer Lesagonicz that Perpetrator would
11 rub his leg up to his crotch area and touch him under his shirt and additionally wrote out a
12 statement to that effect.

13 17. No agent or employee of Defendant School District ever reported the abuse of Victim to
14 Plaintiff.

15 18. Victim self-reported the abuse to Plaintiff in or around October 2015. Plaintiff was
16 unaware of the abuse until that time.

17 19. If Plaintiff had been informed of the abuse or any suspected abuse suffered by Victim
18 prior to October 2015 he would have taken steps to protect his minor child, Victim, from
19 additional harm.

20 20. On December 16, 2015, a date within six months of the date that Plaintiff first
21 discovered that Victim had been sexually abused by an agent/employee of Defendant School
22 District and that Defendant School District failed to notify him of such abuse, Plaintiff timely
23 presented Defendant School District with a claim for damages to person or property as required
24 by Government Code section 911.2. Defendant School District wrongfully returned Plaintiff's
25 claim without action on January 4, 2015, on the basis that the claim was not timely presented.

26 21. As a result of the wrongful conduct alleged herein, Plaintiff has suffered, and continues
27 to suffer, great pain of mind and body, shock, and emotional distress.
28

FIRST CAUSE OF ACTION
NEGLIGENCE
Government Code Sections 815.2 & 820
(Against All Defendants)

22. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

23. Defendants, acting through managing agents and school administrators, had a duty to Plaintiff when he entrusted them with the care of his minor son, Victim. Victim's care, welfare, and/or physical custody was temporarily entrusted to Defendants and Defendants voluntarily accepted the entrusted care of Victim. As such, Defendants owed Victim, a minor child, a special duty of care, in addition to a duty of ordinary care, and owed Victim the higher duty of care that adults dealing with children owe to protect them from harm. Additionally, Defendants owed Plaintiff, the parent of a minor child entrusted to the care of Defendants, a special duty of care.

24. Defendants, by and through their agents, servants and employees, knew or reasonably should have known of the Perpetrator's dangerous and exploitive propensities and/or that the Perpetrator was an unfit agent. Moreover, Defendants knew that Victim, specifically, had been subjected to sexual abuse by Perpetrator. It was foreseeable that if Defendants did not carry out their duties to Plaintiff, and inform him of the harm Victim had experienced, that both Victim and Plaintiff would suffer harm.

25. Defendants, acting through managing agents and school administrators, breached their duty of care to the Plaintiff by allowing the Perpetrator to come into contact with the minor Victim without supervision; by failing to adequately hire, supervise, or retain the Perpetrator who they permitted and enabled to have access to Victim; by failing to investigate or otherwise confirm or deny such facts about the Victim; by failing to tell or concealing from Plaintiff that the Perpetrator was or may have been sexually abusing minors; by failing to tell or concealing from Plaintiff that Victim was or may have been sexually abused after Defendants knew or had reason to know that the Perpetrator may have sexually abused Victim, thereby enabling Victim to continue to be endangered and sexually abused, and/or creating the circumstance where Victim was less likely to receive medical/mental health care and treatment, thus exacerbating

1 the harm done to Victim; by holding out the Perpetrator to the Victim and Plaintiff as being in
2 good standing and trustworthy; by failing to tell or concealing from Plaintiff that Victim was or
3 may have been sexually abused after Defendants knew or had reason to know that the
4 Perpetrator may have sexually abused Victim, thereby causing increased emotional distress to
5 Plaintiff when he later learned of the abuse from Victim, and/or increased emotional distress
6 from witnessing Victim's psychological struggles without information about a possible cause.

7 26. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer
8 great pain of mind and body, shock, and emotional distress.

9 **SECOND CAUSE OF ACTION**
10 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

11 **Government Code Sections 815.2 & 820**
(Against All Defendants)

12 27. Plaintiff incorporates by reference all paragraphs of this Complaint as if fully set forth
13 herein.

14 28. Defendants' conduct, by way of managing agents and school administrators, was
15 extreme and outrageous and was intentional or done recklessly.

16 29. As a result of Defendants' conduct, Plaintiff experienced and continues to experience
17 severe emotional distress resulting in bodily harm.

18 30. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer
19 great pain of mind and body, shock, and emotional distress.

20 **THIRD CAUSE OF ACTION**
21 **INTENTIONAL CONCEALMENT**

22 **Civil Code Section 1709**
(Against All Defendants)

23 31. Plaintiff incorporates by reference all paragraphs of this Complaint as if fully set forth
24 herein.

25 32. Defendants misrepresented, concealed, and/or failed to disclose from Plaintiff the danger
26 posed by Perpetrator and Perpetrator's abuse of Victim.

27 33. Due to the special relationship between Defendants and Plaintiff, Defendants owed a
28 duty to Plaintiff to disclose the information to Plaintiff.

1 34. Defendants knowingly and intentionally misrepresented, concealed, and/or failed to
2 disclose the information to Plaintiff with the intent to defraud the Plaintiff.

3 35. Plaintiff justifiably relied upon Defendants' misrepresentation, concealment, and/or
4 nondisclosure. Plaintiff was unaware of the information and would not have acted as he did if
5 he had knowledge of the concealed information.

6 36. Plaintiff sustained damage as a result of the misrepresentation, concealment, and/or
7 nondisclosure.

8 37. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer
9 great pain of mind and body, shock, and emotional distress.

10 WHEREFORE, Plaintiff prays for damages; costs; interest; attorney's fees;
11 statutory/civil penalties according to law; and such other relief as the court deems appropriate
12 and just.

13 **JURY DEMAND**

14 Plaintiff demands a jury trial on all issues so triable.

15
16 THE ZALKIN LAW FIRM, P.C.

17
18 Dated: 2/24/16

By: 

Jacqueline J. McQuarrie
Attorney for Plaintiff