

FILED BY FAX

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11 **KIMBERLY BOHNERT**

12 **SUPERIOR COURT OF CALIFORNIA**
13 **COUNTY OF SAN FRANCISCO**
14 **UNLIMITED CIVIL JURISDICTION**

15 KIMBERLY BOHNERT,

16 Plaintiff,

17 vs.

18 THE ARCHDIOCESE OF SAN
19 FRANCISCO; JUNIPERO SERRA HIGH
20 SCHOOL; THE ROMAN CATHOLIC
21 ARCHBISHOP OF SAN FRANCISCO; THE
22 ARCHDIOCESE OF SAN FRANCISCO
23 PARISH AND SCHOOL JURIDIC
24 PERSONS REAL PROPERTY SUPPORT
25 CORPORATION; THE ARCHDIOCESE OF
26 SAN FRANCISCO PARISH, SCHOOL AND
27 CEMETERY JURIDIC PERSONS CAPITAL
28 ASSETS SUPPORT CORPORATION; and
DOES 1 through 25,

Defendants.

Case No.: 060-14-5393-5

**COMPLAINT FOR DAMAGES FOR
HOSTILE ENVIRONMENT
HARASSMENT AND FAILURE TO
PREVENT HARASSMENT IN
VIOLATION OF TITLE VII AND THE
CALIFORNIA FAIR EMPLOYMENT AND
HOUSING ACT, INTENTIONAL
INFLECTION OF EMOTIONAL
DISTRESS, NEGLIGENT INFLECTION
OF EMOTIONAL DISTRESS, AND
DEMAND FOR JURY TRIAL**

Plaintiff alleges:

1. Plaintiff KIMBERLY BOHNERT (hereafter "BOHNERT" or "Plaintiff") is an adult woman.

ENDORSED
FILED
San Francisco County Superior Court

MAY 15 2014

CLERK OF THE COURT
BY: DEBORAH STELLE
Deputy Clerk

1 2. Defendant the Archdiocese of San Francisco, (hereafter "Archdiocese") is an
2 employer subject to suit under Title VII of the Civil Rights Act of 1964 (hereafter "Title VII")
3 and under the California Fair Employment and Housing Act, Government Code §12900 et seq.
4 (hereafter, "FEHA").

5 3. Defendant Junipero Serra High School (hereafter "Serra") is an all-male Catholic
6 High School operated by the Archdiocese and is an employer subject to suit under Title VII and
7 under the FEHA.

8 4. Defendant Roman Catholic Archbishop of San Francisco (hereafter
9 "Archbishop") is an employer subject to suit under Title VII and under the FEHA.

10 5. Defendant Archdiocese of San Francisco Parish And School Juridic Persons Real
11 Property Support Corporation (hereafter "SF RPSC") is an employer subject to suit under Title
12 VII and under the FEHA.

13 6. Defendant Archdiocese of San Francisco Parish, School and Cemetery Juridic
14 Persons Capital Assets Support Corporation (hereafter "SF CASC") is an employer subject to
15 suit under Title VII and under the FEHA.

16 7. Plaintiff is ignorant of the true names and capacities of defendants sued herein as
17 DOES 1 through 25 and therefore sues these defendants by such fictitious names. Plaintiff will
18 amend this complaint to allege their true names and capacities when ascertained. Each of these
19 fictitiously named defendants is responsible in some manner for the occurrences herein alleged,
20 and plaintiff's injuries as herein alleged were proximately caused by the aforementioned
21 defendants.

22 8. Each of the defendants was the agent and employee of each of the remaining
23 defendants and, in doing the things herein alleged, was acting within the course and scope of
24 such agency and employment.

25 9. Plaintiff alleges that the Defendant entities are an integrated enterprise and a "single
26 employer" of Plaintiff for purposes of this action. The entities have overlapping ownership and
27 management and centralized control of operations.

28 10. Plaintiff has met her administrative requirements under Title VII and the FEHA.

1 11. Plaintiff began working for the Archdiocese at Serra at the beginning of the 2006-2007
2 school year as a teacher whose primary responsibility was teaching Biology in the Science
3 Department. She continued in that capacity until she was forced to take an extended leave of
4 absence beginning in May 2013 due to the events described more fully below.

5 12. Throughout her employment Plaintiff received excellent evaluations and was highly
6 regarded by the administration, faculty and student body for her skills as an educator.

7 13. On May 15, 2013 the Serra administration learned that certain students had taken and
8 shared amongst themselves graphic photographs – “up-skirt” photographs – of a female teacher
9 (hereafter Victim #1).

10 14. On May 16, 2013 Plaintiff was informed by the administration that a rumor was
11 circulating in the school that there were similar “up-skirt” photographs of her being disseminated
12 electronically among the student body.

13 15. Upon learning that the administration had taken no steps to determine whether such
14 photographs existed, identify the perpetrators of the photographs, identify the students with
15 whom the photographs had been shared, determine the scope of the distribution of the
16 photographs beyond the immediate student body, or take steps to limit in any way the
17 distribution of the photographs, Plaintiff left the meeting with the administrators and began her
18 own investigation into the existence, perpetrators, and distribution of the photographs.

19 16. In conversation with students Plaintiff was immediately able to determine that graphic
20 photographs of her and other female teachers did, in fact, exist and had been shared
21 electronically among many students. Plaintiff conveyed the details of those conversations,
22 including the identities of individual perpetrators and the fact that there was apparently also a
23 graphic video of Plaintiff circulating among the students, with administrators that same day.

24 17. Upon arrival at school on the morning of May 17, 2013, Plaintiff inquired whether the
25 administration had notified the San Mateo Police Department of the photographs and was told
26 the police had not been notified. Plaintiff immediately stated that she was leaving the campus to
27 report the illegal conduct of the students to the police for further investigation. At that point the
28 administration agreed to contact the police, which they did later that day.

1 18. Shortly after noon on May 17, 2013 Plaintiff went to the San Mateo Police Department
2 and informed officers that, in addition to her female co-worker, she believed that she had been a
3 victim of graphic photographs. Later that afternoon, Plaintiff provided the police with the names
4 of students who, as of that time, she believed were involved in the taking and sharing of the
5 photographs. Plaintiff also informed the police that she had learned of the existence of graphic
6 videos taken of her that had circulated among certain students.

7 19. In the course of the ensuing police investigation, it was determined that in the days
8 before reporting the matter to the police Serra administrators had conducted their own
9 "investigation," which included identifying some individuals who had taken the graphic
10 photographs, as wells as some students who had shared the photographs, had ordered certain of
11 the students to hand over their cell phones for inspection, whereupon the administrator deleted
12 the incriminating photographs and returned the phones to the students. Further, the Serra
13 administrators failed to report to the police that such incidents of graphic "up-skirt" photographs
14 of other female teachers had occurred in the recent past at the school, that in the previous year
15 Plaintiff had been the victim of sexually graphic and violent graffiti in the boys' bathroom at the
16 school, and that she had been the subject of graphic and offensive tweets shared among the
17 students. Further, Serra administrators failed to investigate verified reports that one of its
18 coaches had directed student athletes to delete any photographs and/or videos on their cell
19 phones and tablets before they were discovered.

20 20. The police were also able to confirm that the practice of taking graphic "up-skirt"
21 photographs and videos of female teachers had been the result of a "challenge" engaged in by the
22 male student body and had been going on for at least three years.

23 21. Additionally, shortly after the incidents described above, Plaintiff reported to Serra
24 administrators that a sexually graphic and violent meme referencing her was circulating on the
25 internet, that the meme used the identical language as that of the graffiti found in the boy's
26 bathroom a year earlier and contained video footage of two other Serra teachers taken on
27 campus. Serra administrators nevertheless refused to investigate or take any other action.
28

1 22. Throughout the incidents described above and in the weeks and months that followed,
2 including up through the present, the Serra administration actively misrepresented the scope and
3 breadth of the problems relating to the photographs and videos to the Serra community and the
4 police, deleted or otherwise destroyed relevant evidence, failed to share all relevant information
5 with the police, failed to take any action to isolate, retrieve or otherwise minimize the ongoing
6 and further distribution of the photographs and videos, purposely truncated its own investigation
7 so as not to learn or reveal the scope of the problem existing on its campus, and failed to take
8 effective remedial measures to address the behavior of its student body and/or assure that such
9 conduct would not be repeated in the future. Nor did the Serra administration take effective
10 remedial measures to ensure that Plaintiff and other female staff would have a safe environment
11 in which to work.

12 23. As a result of the extreme sexual harassment described above, coupled with
13 Defendants' failure to take prompt and effective remedial action to correct such harassment,
14 Plaintiff was forced to take an extended leave from the school. To date she has been unable to
15 resume her teaching duties.

16
17 **FIRST CAUSE OF ACTION:**
18 **HOSTILE ENVIRONMENT HARASSMENT IN VIOLATION OF THE FEHA**
[All Defendants]

19 24. Plaintiff hereby realleges paragraphs 1 through 23.

20 25. Defendants' conduct described above constitutes violations of the FEHA in that
21 Plaintiff has been subjected to sexual harassment.

22 26. As a proximate result of the harassment, as alleged above, Plaintiff has been harmed in
23 that Plaintiff has suffered the loss of wages, benefits, and additional amounts of money Plaintiff
24 would have received if she had not been subject to said harassment. As a result of such
25 harassment and consequent harm, Plaintiff has suffered damages in an amount according to
26 proof.

27 27. As a further proximate result of the harassment, as alleged above, Plaintiff has been
28 harmed in that Plaintiff has suffered humiliation, mental anguish, and emotional and physical

1 distress. As a result of such harassment and consequent harm, Plaintiff has suffered damages in
2 an amount according to proof.

3 28. The above-cited actions of Defendants in subjecting Plaintiff to gross harassment were
4 done with malice, fraud and/or oppression, and in reckless disregard of Plaintiff's rights under
5 the FEHA. Specifically, Defendants engaged in the intentional conduct alleged above and/or
6 ratified said intentional conduct.

7
8 **SECOND CAUSE OF ACTION:**
9 **HOSTILE ENVIRONMENT HARASSMENT IN VIOLATION OF TITLE VII**
10 **[All Defendants]**

11 29. Plaintiff hereby realleges paragraphs 1 through 23.

12 30. Defendants' conduct described above constitutes violations of Title VII in that Plaintiff
13 was subjected to sexual harassment.

14 31. As a proximate result of the harassment, as alleged above, Plaintiff has been harmed in
15 that Plaintiff has suffered the loss of wages, benefits, and additional amounts of money Plaintiff
16 would have received if Plaintiff had not been subject to said harassment. As a result of such
17 harassment and consequent harm, Plaintiff has suffered damages in an amount according to
18 proof.

19 32. As a further proximate result of the harassment, as alleged above, Plaintiff has been
20 harmed in that Plaintiff has suffered humiliation, mental anguish, and emotional and physical
21 distress. As a result of such harassment and consequent harm, Plaintiff has suffered damages in
22 an amount according to proof.

23 33. The above-cited actions of Defendants in subjecting Plaintiff to gross harassment were
24 done with malice, fraud and/or oppression, and in reckless disregard of Plaintiff's rights under
25 Title VII. Specifically, Defendants engaged in the intentional conduct alleged above and/or
26 ratified said intentional conduct.

1 **THIRD CAUSE OF ACTION:**
2 **FAILURE TO PREVENT HOSTILE ENVIRONMENT HARASSMENT**
3 **IN VIOLATION OF THE FEHA**
4 **[All Defendants]**

5 34. Plaintiff hereby realleges paragraphs 1 through 23.

6 35. Defendants' conduct described above constitutes violations of the FEHA in that
7 Defendants failed to take all reasonable steps necessary to prevent harassment from occurring in
8 violation of Government Code section 12940(k).

9 36. As a proximate result of Defendants' actions against Plaintiff, as alleged above,
10 Plaintiff has been harmed in that Plaintiff has suffered the loss of wages, benefits, and additional
11 amounts of money Plaintiff would have received if Defendants had prevented the harassment
12 described above. As a result of such failure to prevent harassment and consequent harm,
13 Plaintiff has suffered damages in an amount according to proof.

14 37. As a further proximate result of Defendants' actions against Plaintiff, as alleged above,
15 Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish, and
16 emotional and physical distress. As a result of such failure to prevent harassment and
17 consequent harm, Plaintiff has suffered damages in an amount according to proof.

18 38. The above-cited actions of Defendants in subjecting Plaintiff to gross harassment and
19 were done with malice, fraud and/or oppression, and in reckless disregard of Plaintiff's rights
20 under the FEHA. Specifically, Defendants engaged in the intentional conduct alleged above
21 and/or ratified said intentional conduct.

22 **FOURTH CAUSE OF ACTION:**
23 **FAILURE TO PREVENT HOSTILE ENVIRONMENT HARASSMENT**
24 **IN VIOLATION OF TITLE VII**
25 **[All Defendants]**

26 39. Plaintiff hereby realleges paragraphs 1 through 23.

27 40. Defendants' conduct described above constitutes violations of Title VII in that
28 Defendants failed to take all reasonable steps necessary to prevent harassment from occurring.

 41. As a proximate result of Defendants' actions against Plaintiff, as alleged above,
Plaintiff has been harmed in that Plaintiff has suffered the loss of wages, benefits, and additional

1 amounts of money Plaintiff would have received if Defendants had prevented the harassment
2 described above. As a result of such failure to prevent harassment and consequent harm,
3 Plaintiff has suffered damages in an amount according to proof.

4 42. As a further proximate result of Defendants' actions against Plaintiff, as alleged above,
5 Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish, and
6 emotional and physical distress. As a result of such failure to prevent harassment and
7 consequent harm, Plaintiff has suffered damages in an amount according to proof.

8 43. The above-cited actions of Defendants in subjecting Plaintiff to gross harassment were
9 done with malice, fraud and/or oppression, and in reckless disregard of Plaintiff's rights under
10 Title VII. Specifically, Defendants engaged in the intentional conduct alleged above and/or
11 ratified said intentional conduct.

12
13 **FIFTH CAUSE OF ACTION:**
14 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
[All Defendants]

15 44. Plaintiff hereby realleges paragraphs 1 through 23.

16 45. Defendants engaged in outrageous conduct towards Plaintiff with the intention to cause,
17 or with reckless disregard for the probability of causing, Plaintiff to suffer severe emotional
18 distress, and with wanton and reckless disregard for the injurious result to Plaintiff.

19 46. As a proximate result of Defendants' actions against Plaintiff, as alleged above,
20 Plaintiff has been harmed in that Plaintiff has suffered the loss of wages, benefits, and additional
21 amounts of money Plaintiff would have received if Defendants had not engaged in the conduct
22 described above. As a result of Defendants' tolerance of and complicity in the creation and
23 perpetuation of a hostile environment Plaintiff has suffered damages in an amount according to
24 proof.

25 47. As a further proximate result of Defendants' actions against Plaintiff, as alleged above,
26 Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish, and
27 emotional and physical distress. As a result of Defendants' tolerance of and complicity in the
28

1 creation and perpetuation of a hostile environment Plaintiff has suffered damages in an amount
2 according to proof.

3 48. The above-cited actions of Defendants were done with malice, fraud and/or oppression,
4 and in reckless disregard of Plaintiff's rights.

5
6 **SIXTH CAUSE OF ACTION:**
7 **NEGLIGENT NFICTION OF EMOTIONAL DISTRESS**
8 **[All Defendants]**

9 49. Plaintiff hereby realleges paragraphs 1 through 23.

10 50. Defendants engaged in negligent conduct towards Plaintiff in its tolerance of and
11 complicity in the creation and perpetuation of a hostile environment, in failing to provide her
12 with a workplace free of sexual harassment, and in failing to properly and fully investigate and
13 remediate said hostile environment.

14 51. As a proximate result of Defendants' negligence, as alleged above, Plaintiff has been
15 harmed in that Plaintiff has suffered the loss of wages, benefits, and additional amounts of
16 money Plaintiff would have received if Defendants had prevented the harassment described
17 above. As a result of such failure to prevent harassment and consequent harm, Plaintiff has
18 suffered damages in an amount according to proof.

19 52. As a further proximate result of Defendants' negligence, as alleged above, Plaintiff has
20 been harmed in that Plaintiff has suffered humiliation, mental anguish, and serious emotional
21 distress. As a result of such failure to prevent harassment and consequent harm, Plaintiff has
22 suffered damages in an amount according to proof.

1 WHEREFORE, Plaintiff prays for judgment as follows:

- 2 1. For back pay, front pay, and other monetary relief according to proof;
- 3 2. For general damages according to proof;
- 4 3. For punitive damages in an amount appropriate to punish Defendants for their wrongful
- 5 conduct and set an example for others;
- 6 4. For injunctive relief;
- 7 5. For interest on the sum of damages awarded according to proof;
- 8 6. For reasonable attorney's fees and costs, including expert witness fees, pursuant to any
- 9 and all such authority as is proper;
- 10 7. For costs of suit herein incurred; and
- 11 8. For such other and further relief as the court deems proper.
- 12

13 **DEMAND FOR JURY TRIAL**

14 Plaintiff hereby demands a trial for each and every claim for which she has a right to a

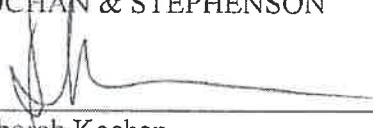
15 jury trial.

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18 Dated: May 14, 2014

KOCHAN & STEPHENSON

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20 _____
21 Deborah Kochan
22 Attorneys for Plaintiff
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