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8 Attorneys for Plaintiff,  
9 JANE MC DOE, an individual

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

12 JANE MC DOE, an individual, by and  
13 through her Guardian ad litem JANE MG  
14 DOE

15  
16 Plaintiff,

17 v.

18 SANTA CLARA COUNTY OFFICE OF  
EDUCATION; a business entity of form  
19 unknown; MOUNT PLEASANT  
ELEMENTARY SCHOOL DISTRICT,  
20 business entity of form unknown; EDGAR  
COVARRUBIAS-PADILLA, an individual;  
21 and DOES 1 through 100,

22 Defendants.  
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Case No.: \_\_\_\_\_  
Judge: \_\_\_\_\_  
Dept.: \_\_\_\_\_

**COMPLAINT FOR DAMAGES FOR:**

- 1) **NEGLIGENCE;**
- 2) **NEGLIGENT SUPERVISION;**
- 3) **NEGLIGENT HIRING/RETENTION;**
- 4) **NEGLIGENT FAILURE TO WARN  
TRAIN OR EDUCATE;**
- 5) **INTENTIONAL INFLICTION OF  
EMOTIONAL DISTRESS;**
- 6) **SEXUAL ASSAULT;**
- 7) **SEXUAL BATTERY (C.C. § 1708.5);**
- 8) **SEXUAL HARASSMENT (C.C. § 51.9)**
- 9) **GENDER VIOLENCE (C.C. § 52.4);**
- 10) **BREACH OF FIDUCIARY DUTY;**
- 11) **CONSTRUCTIVE FRAUD (C.C. §  
1573);**
- 12) **PUBLIC ENTITY LIABILITY FOR  
FAILURE TO PERFORM  
MANDATORY DUTY;**
- 13) **SEXUAL HARASSMENT AND ABUSE  
IN AN EDUCATIONAL SETTING.**

**[DEMAND FOR JURY TRIAL]**

1 COMES NOW, Plaintiffs JANE MC DOE, by and through her Guardian ad litem, JANE MG  
2 DOE, who complains and alleges as follows:

3 **GENERAL ALLEGATIONS AS TO THE PARTIES**

4 **THE PARTIES**

5 **(PLAINTIFF)**

6 1. Plaintiff JANE MC DOE (hereinafter “Plaintiff”) is a resident of the County of Santa  
7 Clara, State of California and was so at the time of the abuse alleged herein. The name used by  
8 JANE MC DOE in this Complaint is not the actual name of JANE MC DOE, but is a fictitious  
9 name utilized to protect the privacy of JANE MC DOE, a victim of childhood sexual harassment  
10 and molestation. Plaintiff JANE MC DOE is a female, born on August 29, 2003, and was a minor  
11 during the time of the sexual misconduct alleged herein. Plaintiff JANE MC DOE was a minor at  
12 the time of all incidents alleged herein.

13 2. All pertinent claims arising out of the sexual abuse occurred after January 1, 2009.  
14 Pursuant to Government Code section 905(m), Plaintiff's claim is timely and exempted from the  
15 government tort-claim filing requirement. As such, pursuant to California Government Code §  
16 905(m), Plaintiff JANE MC DOE is specifically exempted from the claims presentation  
17 requirements for her claims against Defendant SANTA CLARA COUNTY OFFICE OF  
18 EDUCATION and Defendant MOUNT PLEASANT ELEMENTARY SCHOOL DISTRICT, for  
19 the sexual harassment, molestation and abuse she suffered at the hands of Defendants.

20 **(DEFENDANTS)**

21 3. Defendant SANTA CLARA COUNTY OFFICE OF EDUCATION (hereinafter the  
22 “SCCOE”), at all times mentioned herein was and is, a business entity of form unknown, having  
23 its principal place of business in the County of Santa Clara, State of California. The SCCOE  
24 purposely conducts substantial educational business activities in the State of California, and was  
25 the primary entity owning, operating and controlling Walden West Science Camp, employing  
26 Defendant EDGAR COVARRUBIAS-PADILLA, and responsible for monitoring and controlling  
27 his and other employees activities and behavior.

1 4. Walden West Science Camp (hereinafter “Walden West”) is a public educational science  
2 camp owned and operated by SCCOE, providing outdoor school experiences including overnight  
3 camp for the children of Santa Clara County.

4 5. Defendant MOUNT PLEASANT ELEMENTARY SCHOOL DISTRICT (hereinafter  
5 “MPESD”) is at all times mentioned herein was and is, a business entity of form unknown, having  
6 its principal place of business in the County of Santa Clara, State of California. Plaintiff is  
7 informed and believes and on that basis allege that Defendant MPESD is a local public entity.  
8 MPESD purposely conducts substantial educational business activities in the State of California,  
9 and was the primary entity owning, operating and controlling Ida Jew Academy and sanctioning  
10 the sending of its minor students, including Plaintiff to Walden West, wherein students came into  
11 contact with Defendant EDGAR COVARRUBIAS-PADILLA.

12 6. Defendant EDGAR COVARRUBIAS-PADILLA (hereinafter “PADILLA”) at all times  
13 mentioned herein was and is an adult male individual, who Plaintiff is informed and believes, and  
14 on that basis alleges, is currently incarcerated at the California Correctional Institution in the  
15 County of Kern, in the State of California serving an 18 year prison sentence. During the period of  
16 time in which the childhood sexual harassment and abuse of Plaintiff JANE MC DOE, alleged  
17 herein, took place, PADILLA was a camp counselor, night monitor, mentor, and advisor at  
18 Walden West; employed by both the SCCOE and Walden West. At all times herein alleged,  
19 PADILLA was an employee, agent, and/or servant of the SCCOE, and was under their complete  
20 control and/or active supervision.

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

26 8. Plaintiff is informed and believes, and on that basis alleges, that at all times mentioned  
27 herein, each Defendant was responsible in some manner or capacity for the occurrences herein  
28 alleged, and that Plaintiff's damages, as herein alleged, were proximately caused by all said

1 Defendants. Defendants SCCOE, MPESD, PADILLA, and DOES 1-100 are sometimes  
2 collectively referred to herein as “Defendants” and/or as “All Defendants”; such collective  
3 reference refers to all specifically named Defendants.

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

12 10. At all times mentioned herein, PADILLA was an adult camp counselor, mentor, and  
13 advisor employee of both the SCCOE and Walden West, acting as an employee, agent, and/or  
14 servant of such and/or was under their complete control and/or supervision, as well as the  
15 complete control of all administrative personnel of SCCOE, MPESD and Walden West.

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

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

**FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS**

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13. At all times material hereto, Plaintiff was a student at Ida Jew Academy, a charter school within MPESD who contracted with SCCOE to provide an outdoor education experience for minor students, including Plaintiff. As a result thereof, and at all materials times hereto, the Plaintiff was under SCCOE's, MPESD, and Walden West's supervisory personnel's, care, control and supervision.

14. SCCOE, among others, hired PADILLA to work at Walden West and/or failed at all facets of their obligations, including in the hiring, retention, training and supervision of PADILLA as outlined herein. Among these failures, as detailed in greater specificity herein, PADILLA was:

- a. Hired and retained without a background check that met the applicable standard of care;
- b. Hired and retained without conducting personal and professional background references;
- c. Allowed to be alone with students in violation of MPESD and State policy, without supervision;
- d. Encouraged to be alone with students;
- e. Allowed and encouraged to be alone behind closed doors with students;

15. By hiring PADILLA to serve as an employee, night monitor, mentor, and counselor to minor students, SCCOE and MPESD held PADILLA out to the public, Plaintiff and her family to be of high ethical and moral repute, and to be in good standing with SCCOE, the County of Santa Clara, the State of California, and the public. SCCOE and MPESD represented to the public, Plaintiff and her family that PADILLA was a highly qualified aide, night monitor, mentor, and counselor who would assist Plaintiff with working through academic, social, and personal issues they faced and oversee their needs during the time Plaintiff was residing at Walden West. Inherent in these representations was the understanding that PADILLA was selected to aide, lead, guide, teach, support, mentor and counsel the Plaintiff. Plaintiff and her family reasonably assumed that PADILLA was worthy of their trust. SCCOE and MPESD represented that PADILLA was worthy of that trust as well. As a result, PADILLA was put into a position to counsel, supervise, support

1 and advise minor students at Walden West, including Plaintiff.

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3 16. At all times material hereto, PADILLA was employed, retained, and/or allowed to live on  
4 the Walden West property to supervise, mentor, and/or aide children at Walden West. In such  
5 capacity, children at Walden West were encouraged to visit PADILLA at night when they were  
6 lonely, homesick, or in need. In this capacity PADILLA was under the direct supervision, employ,  
7 agency, and control of SCCOE, Walden West, MPESD, and DOES 1-100. His employment duties  
8 and responsibilities with the named Defendants included, in part, providing for the supervision,  
9 counseling, advisory, educational, and emotional needs and well-being of students at Walden West  
10 and other children, including the Plaintiff.

11 17. Through his position with SCCOE, PADILLA was put into direct contact with Plaintiff  
12 and students at Walden West. PADILLA was assigned to supervise, aide, counsel, advise and  
13 mentor Plaintiff. It is under these circumstances that Plaintiff came to be under the direction and  
14 control of PADILLA, who used his position of authority and trust over Plaintiff to sexually harass,  
15 molest and abuse her.

16 18. PADILLA did sexually harass, molest and abuse Plaintiff who was a minor at the time.  
17 Such conduct was done for PADILLA's sexual gratification, and was performed on Plaintiff  
18 without her free consent, as Plaintiff was a mere minor and thus unable to give valid, legal consent  
19 to such sexual acts. These actions upon Plaintiff constituted conduct in violation of California  
20 Penal Code §§ 647.6, 288(a), and others.

21 19. As a student at Walden West and SCCOE, where PADILLA was retained and worked,  
22 Plaintiff was under PADILLA's direct supervision, care and control, thus creating a special  
23 relationship, fiduciary relationship, and confidential relationship with Defendants. Additionally,  
24 as a minor child under the custody, care and control of Defendants, Defendants stood in loco  
25 parentis with respect to Plaintiff while she was attending camp at Walden West. As the responsible  
26 parties and employers controlling PADILLA, Defendants were also in a special relationship with  
27 Plaintiff, and owed special duties to Plaintiff.

28 20. Before Plaintiff was sexually assaulted by PADILLA, Defendants knew or should have  
known that PADILLA had engaged in unlawful sexually-related conduct with minors in the past,

1 and/or was continuing to engage in such conduct. Specifically, upon information and belief,  
2 PADILLA was under investigation for possession and distribution of child pornography at least six  
3 months prior to being arrested. Defendants had a duty to disclose to these facts to Plaintiff, their  
4 parents and others, but suppressed, concealed or failed to disclose this information. The duty to  
5 disclose this information arose by the special, trusting, confidential, fiduciary, and in loco parentis  
6 relationship between Defendants and Plaintiff.

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8 21. Defendants failed to take reasonable steps and implement reasonable safeguards to avoid  
9 acts of unlawful sexual conduct by PADILLA, including preventing abuse of Plaintiff by  
10 PADILLA, avoiding placement of PADILLA in a function or environment in which contact with  
11 children is an inherent part of that function or environment. Instead, Defendants ignored and  
12 concealed the sexual abuse of Plaintiff and others by PADILLA that had already occurred.  
13 Defendants failed to properly supervise PADILLA at Walden West, which led to many students,  
14 including Plaintiff, being repeatedly sexually abused by PADILLA

15  
16 22. Defendants failed to take reasonable steps and implement reasonable safeguards to avoid  
17 acts of unlawful sexual conduct by PADILLA, including preventing abuse of minor children by  
18 PADILLA, avoiding placement of PADILLA in functions or environments in which contact with  
19 children is an inherent part of that function or environment. Defendants similarly failed to notify  
20 Plaintiff or government authorities. Had Defendants timely made such disclosures/notifications  
21 Plaintiff's parents would have been in a position to prevent the abuse to their minor children or, at  
22 least, prevent the continued abuse of their minor child. Instead, Defendants ignored and concealed  
23 the sexual abuse of Plaintiff's parents' minor child and others by PADILLA that had already  
24 occurred and had previously been known or suspected by the Defendants.

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26 23. Prior to and during the sexual harassment, molestation and abuse of the Plaintiff,  
27 Defendants knew or should have known that PADILLA had violated his role as a night monitor,  
28 mentor, aide, counselor, advisor and faculty member, and used this position of authority and trust  
acting on behalf of Defendants to gain access to children, including Plaintiff, in which he sexually  
abused harassed and molested such children including Plaintiff.

24. Plaintiff further alleges that Defendants failed to report and did hide and conceal from

1 students, parents, teachers, law enforcement authorities, civil authorities and others, the true facts  
2 and relevant information necessary to bring PADILLA to justice for the sexual misconduct she  
3 committed with minors, as well as protect minors under their care, including Plaintiff.

4 25. Defendants also implemented various measures designed to, or which effectively, made  
5 PADILLA's conduct harder to detect including:

- 6 a. Permitting PADILLA to remain in a position of authority and trust after  
7 Defendants knew or should have known that he was a molester of children;
- 8 b. Placing PADILLA in a separate and secluded environment, including placing  
9 him in charge of young children at night, where he purported to supervise  
10 children, which allowed him to sexually and physically interact with and abuse  
11 the children, including Plaintiff;
- 12 c. Allowing PADILLA to come into contact with minors, including Plaintiff,  
13 without any supervision;
- 14 d. Failing to inform, or concealing from Plaintiff and her parents and law  
15 enforcement officials the fact that Plaintiff and others were or may have been  
16 sexually abused after Defendants knew or should have known that PADILLA  
17 may have sexually abused Plaintiff or others, thereby enabling Plaintiff to  
18 continue to be endangered and sexually abused, and creating the circumstance  
19 where Plaintiff and others were less likely to receive medical/mental health care  
20 and treatment, thus exacerbating the harm to Plaintiff;
- 21 e. Holding out PADILLA to Plaintiff and her parents, students, and to the school  
22 community as being in good standing and trustworthy;
- 23 f. Failing to take reasonable steps, and to implement reasonable safeguards to  
24 avoid acts of unlawful sexual conduct by PADILLA with students, who were  
25 minor children; and
- 26 g. Failing to put in place a system or procedure to supervise or monitor employees,  
27 volunteers, representatives or agents to insure that they did not molest or abuse  
28 minors in Defendants' care, including Plaintiff;
- h. Upon information and belief, subsequent to the arrest of PADILLA SCCOE  
expressly informed parents that PADILLA had no contact with children at  
Walden West.

26. By his position within the Defendants' institutions, Defendants and PADILLA demanded  
and required that the Plaintiff and her parents respect PADILLA in his position of night monitor,  
advisor, youth counselor, and mentor at Walden West and SCCOE.

27. Plaintiff is informed and believes, and on that basis allege, that there had been reports of  
sexual abuse and/or misconduct with children that involved or implicated PADILLA prior to  
and/or during the time he was retained with Defendants SCCOE, Walden West and such



1 knowledge was discoverable by SCCOE and MPESD and others, had a reference check, proper  
2 investigation and proper reporting been performed in accordance with the applicable standard of  
3 care. As a direct result of Defendants’ failures PADILLA was allowed to remain as a aide/night  
4 monitor/counselor/student supervisor at WALDEN WEST where he went on to sexually abuse  
5 numerous minor children, including Plaintiff.

6 28. In addition, there were multiple “red flags” regarding PADILLA’s behavior that alerted or  
7 should have alerted SCCOE and Walden West to PADILLA's inappropriate behavior and sexual  
8 abuse of children, including:

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- 10 a. PADILLA being given the opportunity to seclude students in private areas, such  
as his own cabin;
  - 11 b. Children being encouraged to visit PADILLA at night if they were homesick,  
lonely or needed help;
  - 12 c. PADILLA spending an inordinate amount of time with students;

13 29. California law requires that allegations of child abuse be reported immediately by calling a  
14 law enforcement entity and filing a report within 36 hours. State regulations also require school  
15 districts to report to the Commission within 30 days cases of a certificated employee's change of  
16 employment status, such as dismissal or other termination that results from allegations of  
17 misconduct or while the allegation is pending.

18 30. Facts Regarding the Sexual Harassment and Abuse of Plaintiff JANE MC DOE:

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- 20 a. In or around 2013, when Plaintiff was 10 years old, PADILLA sexually  
21 harassed, abused and molested JANE MC DOE, who was a minor at the time.  
22 PADILLA engaged in such abuse of Plaintiff while acting in the course and  
23 scope of his employment, agency, duties and responsibilities with Defendants, in  
24 such locations as Plaintiff’s cabin and/or PADILLA’s residence at Walden West.  
25 JANE MC DOE, a minor at the time of the abuse and currently, was born on  
26 August 29, 2003, was a minor student at Ida Jew Academy who sent her to  
27 Walden West where Plaintiff came into contact with PADILLA, the night  
28 monitor of the camp. While Plaintiff was staying on the property of Walden  
West as a camper, PADILLA sexually assaulted Plaintiff which included, but

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was not limited to: PADILLA sexually abusing Plaintiff on three separate nights while she was staying at Walden West. This was all done for PADILLA's sexual gratification.

b. As a result of the sexual harassment, molestation and abuse by PADILLA, JANE MC DOE has suffered extreme and extensive physical, psychological and emotional damages. JANE MC DOE's sexual harassment, molestation and abuse occurred as a result not only of PADILLA's actions, but because of the action and inactions of Ida Jew Academy, MPESD, Walden West, SCCOE and their employees, administrators and agents, in failing to properly hire, train and supervise PADILLA and in failing to prevent him from harming JANE MC DOE. At no time did Defendants or any of them take any action to restrict PADILLA's access and interaction with minors, including JANE MC DOE. In fact, Defendants' conduct made it a virtual certainty that JANE MC DOE and other minors would be victimized, via permissive and approval of such sexual abuse and conduct.

c. Subsequent to JANE MC DOE's sexual abuse at the hands of PADILLA, she began to experience multiple mental, emotional and psychological problems, due to the sexual harassment, molestation and abuse, including, but not limited to: severe post-traumatic stress disorder, severe anxiety, depression, body memory trauma, suicidal ideation, multiple attempted suicides, feelings of helplessness, moodiness, and significant trust and control issues.

31. As set forth more fully herein above, PADILLA did sexually harass, molest and abuse Plaintiff, who was a minor at the time. Such conduct by PADILLA was based upon Plaintiff's gender, and was done for PADILLA's sexual gratification. These actions upon Plaintiff was performed by PADILLA without the free consent of Plaintiff, who was a minor at all times of the abuse. These actions upon Plaintiff constitute conduct in violation of California Penal Code § 647.6 and others.

32. As a direct result of the sexual harassment, molestation and abuse of Plaintiff by

1 PADILLA, Plaintiff has difficulty in reasonably or meaningfully interacting with others, including  
2 those in positions of authority over Plaintiff, and in intimate, confidential and familial  
3 relationships, due to the trauma of childhood sexual harassment, molestation and abuse inflicted  
4 upon them by Defendants. This inability to interact creates conflict with Plaintiff's values of trust  
5 and confidence in others, and has caused Plaintiff substantial emotional distress, suicidal ideation,  
6 multiple suicide attempts, anxiety, nervousness, post-traumatic stress disorder, body memory  
7 trauma, and fear. As a direct result of Plaintiff's molestation by PADILLA, Plaintiff experienced  
8 severe issues with their personal life, including issues with trust and difficulties in maintaining  
9 meaningful familial relationships and friendships. These feelings have caused Plaintiff substantial  
10 emotional distress, depression, anxiety, nervousness and fear.

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

17 34. Defendants should have been aware of PADILLA's wrongful conduct at or about the time  
18 it was occurring, and thereafter, but took no action to obstruct, inhibit or stop such continuing  
19 conduct, or to help prevent Plaintiff (as well as her parents) from enduring the trauma from such  
20 conduct. Despite the authority and ability to do so, Defendants refused to, and did not act  
21 effectively to stop the sexual assaults on Plaintiff, to inhibit or obstruct such abuse, or to protect  
22 Plaintiff from the results of that trauma.

23 35. During the period of abuse of Plaintiff at the hands of PADILLA, Defendants had the  
24 authority and ability to obstruct or stop PADILLA's sexual assaults on Plaintiff, but failed to do  
25 so, thereby allowing the abuse to occur and to continue unabated. This failure was a part of  
26 Defendants' plan and arrangement to conceal wrongful acts, to avoid and inhibit detection, to  
27 block public disclosure, to avoid scandal, to avoid the disclosure of their tolerance of child sexual  
28 molestation and abuse, to preserve a false appearance of propriety, and to avoid investigation and

1 action by public authority including law enforcement. Such actions were motivated by a desire to  
2 protect the reputation of Defendants, and to protect the monetary support of Defendants while  
3 fostering an environment where such abuse could continue to occur.

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

- 7 \* Duty to use reasonable care to protect students from known or foreseeable  
8 dangers (Government Code §§ 820, 815.2);
- 9 \* Duty to refrain from taking official action that contradicts the provisions of  
10 Article 1, § 28(c) of the California Constitution;
- 11 \* Duty to enact policies and procedures that are not in contravention of the Federal  
12 Civil Rights Act, § 1983, and the 14th Amendment of the United States  
13 Constitution;
- 14 \* Duty to protect students and staff, and provide adequate supervision;
- 15 \* Duty to ensure that any direction given to faculty and students is lawful, and that  
16 adults act fairly, responsibly and respectfully towards faculty and students;
- 17 \* Duty to properly train teachers, athletic directors, athletic coaches, youth  
18 counselors, mentors, administrators, and staff so that they are aware of their  
19 individual responsibility for creating and maintaining a safe environment;
- 20 \* Duty to supervise faculty and students and enforce rules and regulations  
21 prescribed for schools, exercise reasonable control over students as is reasonably  
22 necessary to maintain order, protect property, or protect the health and safety of  
23 faculty and students or to maintain proper and appropriate conditions conducive  
24 to learning;
- 25 \* Duty to exercise careful supervision of the moral conditions in the school;
- 26 \* Duty to hold pupils to a strict account for their conduct on the way to and from  
27 school, on the playgrounds or during recess;
- 28 \* Duty to properly monitor students, prevent or correct harmful situations or call  
for help when a situation is beyond their control;
- \* Duty to ensure that personnel are actually on hand and supervising students;
- \* Duty to provide enough supervision to students;
- \* Duty to supervise diligently;
- \* Duty to act promptly and diligently and not ignore or minimize problems;
- \* Duty to refrain from violating Plaintiff's right to protection from bodily restraint  
or harm, from personal insult, from defamation, and from injury to her personal  
relations (Civil Code § 43);

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- \* Duty to abstain from injuring the person or property of Plaintiff, or infringing upon any of her rights (Civil Code § 1708);
- \* Duty to report suspected incidents of child abuse and more specifically childhood sexual abuse (Penal Code §§ 11166, 11167); and
- \* Duty to establish various school safety and violence prevention programs (Education Code §§ 32228, 32228.5, 35294.10-35294.15).

37. Compulsory education laws create a special relationship between students and Defendants, and students have a constitutional guarantee to a safe, secure and peaceful school environment. Defendants and each of them failed to acknowledge unsafe conditions, and therefore failed to guarantee safe surroundings in an environment in which Plaintiff was not free to leave, specifically including but not limited to allowing PADILLA to take children for purposes of sexual activity and allowing PADILLA to operate isolated environments, incapable of monitoring from the outside, wherein Defendants sexually harassed, molested and abused Plaintiff and others.

38. Defendants had and have a duty to protect students, including Plaintiff. Defendants were required to, and failed to provide adequate campus and site school event supervision, and failed to be properly vigilant in seeing that supervision was sufficient to ensure the safety of Plaintiff and others.

39. Defendants lodged with PADILLA the color of authority, by which he was able to influence, direct and abuse Plaintiff and others, and to act illegally, unreasonably and without respect for the person and safety of Plaintiff.

40. Defendants had a duty to and failed to adequately train and supervise all counselors, advisors, teachers, aides, coaches, mentors and staff to create a positive, safe, spiritual and educational environment, specifically including training to perceive, report and stop inappropriate conduct by other members of the staff, specifically including PADILLA, with children.

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

42. 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

1 beyond the classroom.

2 43. In subjecting Plaintiff to the wrongful treatment herein described, Defendant PADILLA  
3 and DOES 1-100, acted willfully and maliciously with the intent to harm Plaintiff, and in  
4 conscious disregard of Plaintiff's rights, so as to constitute malice and oppression under California  
5 Civil Code §3294. Plaintiff is therefore entitled to the recovery of punitive damages, in an amount  
6 to be determined by the court, against PADILLA and DOES 1-100, in a sum to be shown  
7 according to proof.

8 44. Under the Child Abuse and Neglect Reporting Act ("CANRA"), Defendants were child  
9 care custodians and were under a statutory duty to report known or suspected incidents of sexual  
10 molestation or abuse of minors to a child protective agency, pursuant to California Penal Code  
11 §11166, and/or not to impede the filing of any such report.

12 45. Defendants knew or should have known that their agent, employee, counselor, advisor,  
13 aide, and mentor, PADILLA, and other teachers and staff of Defendants had sexually molested,  
14 abused or caused touching, battery, harm, and other injuries to minors, giving rise to a duty to  
15 report such conduct under California Penal Code § 11166, et seq. had Defendants simply complied  
16 with this legal duty much of the abuse could have been prevented or lessened.

17 46. Defendants knew, or should have known in the exercise of reasonable diligence, that an  
18 undue risk to minors, including Plaintiff, existed because Defendants did not comply with  
19 California's mandatory reporting requirements.

20 47. By failing to report the continuing molestations and abuse, which Defendants new of or  
21 should have known of, and by ignoring the fulfillment of the mandated compliance with the  
22 reporting requirements provided under California Penal Code § 11166, Defendants created the risk  
23 and danger contemplated by CANRA, and as a result, unreasonably and wrongfully exposed  
24 Plaintiff and other minors to sexual molestation and abuse and effectively prevented Plaintiff's  
25 parents from taking steps to protect their child.

26 48. Had Defendants adequately reported the molestation of Plaintiff and other minors as  
27 required by California Penal Code §11166, further harm to Plaintiff and other minors would have  
28 been avoided.

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

6 50. The physical, mental, and emotional damages and injuries resulting from the sexual  
7 molestation of Plaintiff by PADILLA, were the type of occurrence and injuries that CANRA was  
8 designed to prevent.

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

11 52. Under the Education Code (Education Code §§32228,32228.5,35294.10-35294.15),  
12 Defendants had a duty to establish various school safety and violence prevention programs  
13 designed to protect minor students such as Plaintiff from the sexually exploitive acts of serial  
14 predators such as PADILLA.

15 53. Defendants knew, or should have known in the exercise of reasonable diligence, that an  
16 undue risk to minors, including Plaintiff, existed because Defendants did not comply with  
17 California's Education Code school safety and protection requirements.

18 54. By failing to adhere to the Education Code's school safety and protection requirements,  
19 Defendants created the risk and danger contemplated by the Education Code and as a result,  
20 unreasonably and wrongfully exposed Plaintiff and other minors to sexual molestation and abuse.

21 55. In subjecting Plaintiff to the wrongful treatment herein described, Defendants PADILLA  
22 and DOES 1-100 acted willfully and maliciously with the intent to harm Plaintiff, and in conscious  
23 disregard of Plaintiff's rights, so as to constitute malice and oppression under California Civil  
24 Code §3294. Plaintiff is therefore entitled to the recovery of punitive damages, in an amount to be  
25 determined by the court, against PADILLA and DOES 1-100, in a sum to be shown according to  
26 proof holders, contractors, and/or employees of each and every other Defendant, and the acts and  
27 omissions herein alleged were done by them, acting individually, through such capacity and within  
28 the scope of their authority, and with the permission and consent of each and every other

1 Defendant and that said conduct was thereafter ratified by each and every other Defendant, and  
2 that each of them is jointly and severally liable to Plaintiff.

3 56. Defendants failed to take reasonable steps and implement reasonable safeguards to avoid  
4 acts of unlawful sexual conduct by PADILLA, and, upon information and belief, actually  
5 undertook a concerted effort to cover up for the childhood sexual abuse. As a result, Defendants  
6 are liable for treble damages pursuant to Code of Civil Procedure section 340.1.

7 **STATUTE OF LIMITATIONS AND ASSEMBLY BILL-218**

8 57. Effective January 1, 2020, California’s statute of limitations for childhood sexual assault  
9 cases has been amended pursuant to Assembly Bill 218, providing for a three (3) year window for  
10 any and all claims of childhood sexual assault, which have not already been finally adjudicated, to  
11 be brought. This lawsuit, involving acts of childhood sexual assault perpetrated by PADILLA, an  
12 agent, employee, and/or servant of SCCOE, MPESD and Walden West, falls within the scope of  
13 Code of Civil Procedure §340.1, thus, is timely as an “action commenced on or after the date of  
14 enactment of that act, and to any action filed before the date of enactment, and still pending on that  
15 date, including any action or causes of action that would have been barred by the laws in effect  
16 before the date of enactment.” Code of Civil Procedure §340.1(r). Regardless of the Plaintiff’s age  
17 or date upon which the Plaintiff discovers or “reasonably should have discovered that  
18 psychological injury or illness occurring after the age of majority was caused by the sexual  
19 assault...”, the Plaintiff’s action is timely as it is pending before the Court and has been filed prior  
20 to January 1, 2023.

21 58. It is upon information, and therefore belief, that the sexual assault perpetrated upon the  
22 Plaintiff as a child (as more fully described *supra*), was the result of a “cover-up” or a “a concerted  
23 effort to hide evidence relating to childhood sexual assault.” See Code of Civil Procedure  
24 §340.1(b). Specifically, it is based upon information and therefore belief, that the Defendant  
25 SCCOE and MPESD engaged in conduct to conceal the sexually inappropriate behavior of  
26 PADILLA and to hide facts from the Plaintiff, which would have apprised the Plaintiff, her family,  
27 and those who could have intervened in PADILLA abusive behavior (including but not limited to  
28 law enforcement, administrative authorities, and child protective agencies) and prevented the



1 Plaintiff's sexual assault as a child. Therefore, the Plaintiff is entitled to the enhanced remedy  
2 provided for in Code of Civil Procedure §340.1(b)(1) and may recover up to treble damages.

3 59. Further, it is upon information, and therefore belief, that the Defendants SCCOE, MPESD  
4 and DOES 1 through 100, were specifically aware, or based on the availability of information to  
5 them had reason to know, that PADILLA was a sexual threat to children in his presence, including  
6 the Plaintiff.

7 60. Despite having this knowledge and prior warning PADILLA risk of childhood sexual  
8 assault posed to children, Defendant SBUSD, MPESD and DOES 1 through 100 did nothing to  
9 protect the Plaintiff, inform her of the risk that the she was placed at, and further, actively  
10 concealed this information from the Plaintiff and her family. Regardless of its knowledge about the  
11 danger posed to the Plaintiff (and other minors) by PADILLA , Defendant SCCOE and DOES 1  
12 through 100 refused to inform the Plaintiff about the danger that PADILLA posed to her.

13 **FIRST CAUSE OF ACTION**

14 **NEGLIGENCE**

15 (Plaintiff Against Defendant SCCOE, MPESD and Does 1 through 100)

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

18 62. Prior to and after the first incident of Defendant PADILLA 's sexual harassment,  
19 molestation and abuse of the Plaintiff, through the present, Defendants, knew or should have  
20 known that PADILLA had or was capable of sexually, physically, and mentally abusing the  
21 Plaintiff and other victims.

22 63. Defendants had special duties to protect the Plaintiff and the other students within  
23 Defendants SCCOE, MPESD and DOES 1 through 100, when such students were entrusted to  
24 their care by their parents. Plaintiff's care, welfare and physical custody was entrusted to  
25 Defendants. Defendants voluntarily accepted the entrusted care of the Plaintiff. As such,  
26 Defendants owed the Plaintiff, a minor child, a special duty of care, in addition to a duty of  
27 ordinary care, and owed the Plaintiff the higher duty of care that adults dealing with children owe  
28 to protect them from harm. The duty to protect and warn arose from the special, trusting,

1 confidential, and fiduciary relationship between Defendants and the Plaintiff. The Plaintiff  
2 instilled great trust, faith and confidence in Defendants and in Defendant PADILA as her  
3 supervisor, adviser and mentor.

4 64. Defendants breached their duties of care to the Plaintiff by allowing Defendant PADILLA  
5 to come into contact with the Plaintiff and other students and campers, without supervision; by  
6 failing to adequately hire, supervise and retain Defendant PADILLA who they permitted and  
7 enabled to have access to the Plaintiff; by failing to investigate or otherwise confirm or deny such  
8 facts about Defendant PADILLA; by failing to tell or concealing from the Plaintiff, her parents,  
9 guardians and law enforcement officials that Defendant PADILLA was or may have been sexually  
10 harassing, molesting and abusing minors; by failing to tell or concealing from the Plaintiff's  
11 parents, guardians or law enforcement officials that the Plaintiff was or may have been sexually  
12 harassed, molested and abused after Defendants knew or should have known that Defendant  
13 PADILLA may have sexually harassed, molested and abused the Plaintiff or others, thereby  
14 enabling the Plaintiff to continue to be endangered and sexually harassed, molested and abused,  
15 and creating the circumstance where the Plaintiff was less likely to receive medical/mental health  
16 care or treatment, thus exacerbating the harm done to the Plaintiff; and by holding out Defendant  
17 PADILLA to the Plaintiff and her parents as being in good standing and trustworthy. Defendants  
18 cloaked within the facade of normalcy Defendants' conduct, contact and actions with the Plaintiff  
19 and disguised the nature of the sexual harassment, molestation and abuse and contact.

20 65. Defendants breached their duty to the Plaintiff by, inter alia, failing to investigate or  
21 otherwise confirm or deny such facts, failing to reveal such facts the Plaintiff, the community of  
22 the school, the community at large, students, minors, and law enforcement agencies, placing and  
23 continuing to place Defendant PADILLA in positions of trust and authority within Defendants  
24 SCCOE, MPESD, and DOES 1 through 100, and holding out, and continuing to hold out  
25 Defendant PADILLA to the Plaintiff, the public, the community of the school, students, minors,  
26 and law enforcement agencies as being in good standing and trustworthy.

27 66. Defendants breached their duty to the Plaintiff by, inter alia, failing to adequately monitor  
28 and supervise Defendant PADILLA and stopping Defendant PADILLA from committing wrongful

1 sexual acts with minors including the Plaintiff. This belief is founded on the fact that the Plaintiff  
2 is informed and believes that the employees and staff, had suspected the abuse was occurring at the  
3 time, and failed to investigate into the matter further. Based on these facts, Defendants knew and  
4 or should have known of Defendant PADILLA's incapacity to supervise and stop employees of  
5 Defendants from committing wrongful sexual acts with the Plaintiff, who were minors at the time  
6 of the abuse.

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

12 **NEGLIGENCE PER SE-PENAL CODE MANDATORY CHILD ABUSE REPORTING**

13 68. Under the Child Abuse and Neglect Reporting Act, Defendants were child care custodians  
14 and were under a statutory duty to report known or suspected incidents of sexual molestation or  
15 abuse of minors to a child protective agency, pursuant to California Penal Code § 11166, and/or  
16 not to impede the filing of any such report.

17 69. Defendants knew or should have known that their agent, employee, counselor, advisor and  
18 mentor, Defendant PADILLA, and/or other teachers and staff of Defendants had sexually  
19 molested, abused or caused touching, battery, harm, and other injuries to minors, including the  
20 Plaintiff, giving rise to a duty to report such conduct under California Penal Code § 11166.

21 70. Defendants knew or should have known in the exercise of reasonable diligence, that an  
22 undue risk to minors, including the Plaintiff, existed because Defendants did not comply with  
23 California's mandatory reporting requirements.

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

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

3 74. Had Defendants adequately reported the molestation of the Plaintiff as required by  
4 California Penal Code § 11166, further harm to the Plaintiff would have been avoided.

5 75. As a proximate result of Defendants' failure to follow the mandatory reporting  
6 requirements of California Penal Code § 11166, Defendants wrongfully denied the Plaintiff the  
7 intervention of child protection services. Such public agencies would have changed the  
8 then-existing arrangements and conditions that provided the access and opportunities for the  
9 molestation of the Plaintiff by PADILLA.

10 76. The physical, mental, and emotional damages and injuries resulting from the sexual  
11 molestation of the Plaintiff by PADILLA, were the type of occurrence and injuries that the Child  
12 Abuse and Neglect Reporting Act were designed to prevent.

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

16 **NEGLIGENCE PER SE-EDUCATION CODE SAFETY AND VIOLENCE PROGRAMS**

17 78. Under the Education Code (Education Code §§ 32228, 32228.5, 35294.10-35294.15),  
18 Defendants had a duty to establish various school safety and violence prevention programs  
19 designed to protect minor students such as the Plaintiff from the sexually exploitive acts of serial  
20 predators such as Defendant PADILLA.

21 79. Defendants knew or should have known that their agents, employees, counselors, advisors  
22 and mentors, Defendant PADILLA, and other teachers and staff of Defendants were engaging in  
23 sexually exploitive acts with the Plaintiff and other minor children.

24 80. Defendants knew or should have known in the exercise of reasonable diligence, that an  
25 undue risk to minors, including the Plaintiff, existed because Defendants did not comply with  
26 California's Education Code school safety and protection requirements. Defendants knew or  
27 should have known that PADILLA, their teacher, agent, tutor, counselor and mentor, had sexually  
28

1 molested, abused, or caused touching, battery, harm, and other injuries to minors, including the  
2 Plaintiff, giving rise to a duty to report such conduct under California Penal Code § 11166.  
3 Defendants also knew, or should have known, in the exercise of reasonable diligence, that an  
4 undue risk to minors, including Plaintiff, existed because Defendants did not comply with  
5 California's mandatory reporting requirements.

6  
7 81. By failing to adhere to the Education Code's school safety and protection requirements,  
8 Defendants created the risk and danger contemplated by the Education Code and as a result,  
9 unreasonably and wrongfully exposed the Plaintiff to sexual molestation and abuse.

10 82. The Plaintiff was a member of the class of persons for whose protection the Education  
11 Code's school safety and violence protection programs were specifically adopted to protect.

12 83. Had Defendants established various school safety and violence prevention programs  
13 designed to protect minor students such as the Plaintiff from the sexually exploitive acts of serial  
14 predators such as Defendant PADILLA, further harm to the Plaintiff and other minors would have  
15 been avoided.

16 84. As a proximate result of Defendants' failure to establish various school safety and  
17 violence prevention programs designed to protect minor students such as the Plaintiff from the  
18 sexually exploitive acts of serial predators such as Defendant PADILLA, Defendants wrongfully  
19 denied the Plaintiff the benefit of the protection of such programs.

20 85. The physical, mental, and emotional damages and injuries resulting from the sexual  
21 molestation of the Plaintiff by Defendant PADILLA, were the type of occurrence and injuries that  
22 the Education Code's school safety and violence prevention programs were designed to prevent.

23 86. As a result, Defendants' failure to comply with the Education Code's school safety and  
24 violence prevention programs also constituted a per se breach of Defendants' duties to the Plaintiff.

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

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

4 **SECOND CAUSE OF ACTION**

5 **NEGLIGENT SUPERVISION**

6 (Plaintiff Against Defendant SCCOE, MPESD Only and Does 1 through 100)

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

9 89. As an educational institution for minors, where all of the students are entrusted to the  
10 teachers, counselors, advisors, mentors, coaches, faculty members and administrators, Defendants  
11 MPSC, SCCOE and DOES 1 through 100 expressly and implicitly represented that these  
12 individuals, including Defendant PADILLA, were not a sexual threat to children and others who  
13 would fall under Defendant PADILLA's influence, control, direction, and guidance.

14 90. Defendants negligently failed to supervise Defendant PADILLA in his position of trust  
15 and authority as a counselor and mentor, and/or other authority figure, where he was able to  
16 commit wrongful acts against the Plaintiff. Defendants failed to provide reasonable supervision of  
17 Defendant PADILLA. Defendants further failed to take reasonable measures to prevent sexual  
18 harassment, molestation and abuse of minors, including the Plaintiff.

19 91. At no time during the periods of time alleged did Defendants have in place a system or  
20 procedure to reasonably investigate, supervise and monitor teachers, including Defendant  
21 PADILLA, to prevent pre-sexual grooming and sexual harassment, molestation and abuse of  
22 children, nor did they implement a system or procedure to oversee or monitor conduct toward  
23 minors, students and others in Defendants' care.

24 92. Defendants were or should have been aware of how vulnerable children were to sexual  
25 harassment, molestation and abuse by counselors, advisors, mentors, coaches, teachers and other  
26 persons of authority within Defendants.

27 93. By virtue of Plaintiff's special relationship with Defendants, and Defendants' relation to  
28

1 Plaintiff, Defendants owed Plaintiff a duty to provide reasonable supervision of PADILLA, to use  
2 reasonable care in investigating PADILLA's background, and to provide adequate warning to  
3 Plaintiff, Plaintiff's family, and minor students of PADILLA's dangerous propensities and  
4 unfitness.

5 94. Defendants, by and through their respective agents, servants and employees, knew or  
6 should have known of PADILLA's dangerous and exploitive propensities and that PADILLA was  
7 an unfit agent. Despite such knowledge, Defendants negligently failed to supervise PADILLA in  
8 his position of trust and authority as a teacher, tutor, advisor, counselor and authority figure over  
9 children, where he was able to commit wrongful acts of sexual misconduct against the Plaintiff.  
10 Defendants failed to provide reasonable supervision of PADILLA, failed to use reasonable care in  
11 investigating PADILLA, and failed to provide adequate warning to Plaintiff and Plaintiff's family  
12 of PADILLA's dangerous propensities and unfitness. Defendants further failed to take reasonable  
13 steps to ensure the safety of minors, including Plaintiff, from sexual harassment, molestation and  
14 abuse.

15 95. Defendants were put on notice, knew and should have known that PADILLA had  
16 previously engaged and/or was continuing to engage in unlawful sexual conduct with minors, and  
17 had committed other felonies, for his own personal sexual gratification, and that it was foreseeable  
18 that he was engaging, or would engage in damaging and illicit sexual activities with Plaintiff, and  
19 others, under the cloak of the authority, confidence, and trust, bestowed upon him through  
20 Defendants.

21 96. Even though Defendants knew or should have known of these illicit sexual activities by  
22 PADILLA, Defendants did not reasonably investigate, supervise or monitor PADILLA to ensure  
23 the safety of the minor students.

24 97. Defendants breached their duty to the Plaintiff by, inter alia, failing to adequately monitor  
25 and supervise Defendant PADILLA and stopping Defendant PADILLA from committing wrongful  
26 sexual acts with minors including the Plaintiff. The Plaintiff is informed and believes that  
27 employees and staff of Defendants MPSC, SCCOE and DOES 1 through 100, including the  
28

1 supervisors at Walden West and supervisors at MPSC, had reasonable knowledge of and suspected  
2 the abuse was occurring at the time, and failed to investigate into the matter further. Based on  
3 these facts, Defendants knew or should have known of Defendant PADILLA's incapacity to  
4 supervise and stop employees of Defendants from committing wrongful sexual acts with minors.

5 98. Defendants' conduct was a breach of their duties to the Plaintiff.

6 99. Defendants, and each of them, breached their duty to Plaintiff by, inter alia, failing to  
7 adequately monitor and supervise PADILLA and stop PADILLA from committing wrongful  
8 sexual acts with minors including Plaintiff.

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

16 **THIRD CAUSE OF ACTION**

17 **NEGLIGENT HIRING/RETENTION**

18 (Plaintiff Against Defendant SCCOE, and MPSC Only and Does 1 through 100)

19 101. 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.

21 102. By virtue of Plaintiff's special relationship with Defendants, and Defendants' relation to  
22 PADILLA, Defendants owed Plaintiff a duty to not hire or retain PADILLA, given his dangerous,  
23 abusive and exploitive propensities, which Defendants knew or had reason to know about had they  
24 engaged in a reasonable, meaningful and adequate investigation of his background prior to his  
25 hiring or retaining him in subsequent positions of employment.

26 103. Defendants SCCOE and MPSC and DOES 1 through 100, expressly and implicitly  
27 represented that the tutors, agents, counselors, coaches, mentors and teachers, including  
28



1 PADILLA, were not a sexual threat to children and others who would fall under PADILLA's  
2 influence, control, direction, and guidance.

3 104. At no time during the periods of time alleged did Defendants have in place a reasonable  
4 system or procedure to investigate, supervise and monitor teachers and tutors, including  
5 PADILLA, to prevent pre-sexual grooming or sexual harassment, molestation and abuse of  
6 children, nor did they implement a system or procedure to oversee or monitor conduct toward  
7 minors, students and others in Defendants' care.

8 105. By virtue of Plaintiff's special relationship with Defendants and Defendants' relation to  
9 Defendant PADILLA, Defendants owed the Plaintiff a duty to not hire and retain PADILLA, given  
10 his dangerous, abusive and exploitive propensities, which Defendants knew or should have known  
11 of had they engaged in a meaningful and adequate investigation of his background prior to his  
12 hiring.

13 106. As an educational institution and operator of an educational camp and schools, where all  
14 of the students are minors entrusted to the schools and its employees and agents, Defendants  
15 expressly and implicitly represented that the counselors, advisors, mentors, coaches, teachers and  
16 others, including Defendant PADILLA, was not a sexual threat to children and others who would  
17 fall under Defendant PADILLA's influence, control, direction, and guidance.

18 107. At no time during the periods of time alleged did Defendants have in place a system or  
19 procedure to reasonably investigate, supervise and monitor teachers, including Defendant  
20 PADILLA, to prevent pre-sexual grooming and sexual harassment, molestation and abuse of  
21 children, nor did they implement a system or procedure to oversee or monitor conduct toward  
22 minors, students and others in Defendants' care.

23 108. Defendants were or should have been aware of and understood how vulnerable children  
24 were to sexual harassment, molestation and abuse by teachers and other persons of authority  
25 within the control of Defendants.

26 109. Defendants were put on notice and should have known that Defendant PADILLA had  
27 previously engaged in dangerous and inappropriate conduct, and that it was, or should have been  
28

1 foreseeable that he was engaging, or would engage in illicit sexual activities with the Plaintiff, and  
2 others, under the cloak of his authority, confidence, and trust, bestowed upon him through  
3 Defendants.

4 110. Defendants were placed on notice that Defendant PADILLA had engaged in dangerous  
5 and inappropriate conduct, both before his employment within Defendants, and during that  
6 employment. The Plaintiff is informed, and therein believes and alleges, that other third parties,  
7 minors, students, law enforcement officials and parents informed Defendants of inappropriate  
8 conduct committed by Defendant PADILLA.

9 111. Even though Defendants knew or should have known of these activities by Defendant  
10 PADILLA, Defendants failed to use reasonable care in investigating PADILLA and did nothing to  
11 reasonably investigate, supervise or monitor Defendant PADILLA to ensure the safety of the  
12 minor students.

13 112. Plaintiff is informed and believes, and on that basis alleges that Defendants were placed  
14 on actual or constructive notice that PADILLA had molested or was molesting and sexually  
15 exploiting minors and students, both before his employment within Defendants, and during that  
16 employment. Defendants had knowledge of inappropriate conduct and molestations committed by  
17 PADILLA before and during his employment yet chose to allow him to remain in unrestricted  
18 contact with the Plaintiff, where he sexually abused Plaintiff.

19 113. Even though Defendants knew or should have known of these sexually illicit activities by  
20 PADILLA, Defendants failed to use reasonable care in investigating PADILLA and did nothing to  
21 reasonably investigate, supervise or monitor PADILLA to ensure the safety of the minor students.

22 114. Defendants' conduct was a breach of their duties to Plaintiff.

23 115. As a result of the above-described conduct, Plaintiff has suffered and continue to suffer  
24 great pain of mind and body, shock, emotional distress, physical manifestations of emotional  
25 distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of enjoyment of life;  
26 has suffered and continues to suffer and was prevented and will continue to be prevented from  
27 performing daily activities and obtaining the full enjoyment of life; will sustain loss of earnings  
28

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

3 **FOURTH CAUSE OF ACTION**

4 **NEGLIGENT FAILURE TO WARN TRAIN OR EDUCATE**

5 (Plaintiff Against Defendant SCCOE and MPSC Only and Does 1 through 100)

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

8 117. Defendants owed Plaintiff a duty to take reasonable protective measures to protect  
9 Plaintiff and other minor students from the risk of childhood sexual harassment, molestation and  
10 abuse by PADILLA by properly warning, training or educating Plaintiff and other students about  
11 how to avoid such a risk.

12 118. Defendants breached their duty to take reasonable protective measures to protect Plaintiff  
13 and other minor students from the risk of childhood sexual harassment, molestation and abuse by  
14 PADILLA, such as the failure to properly warn, train or educate Plaintiff and other students about  
15 how to avoid such a particular risk that PADILLA posed-of sexual misconduct.

16 119. Defendants breached their duty to take reasonable protective measures to protect Plaintiff  
17 and other minor students from the risk of childhood sexual harassment, molestation and abuse by  
18 PADILLA, by failing to supervise and stop employees of Defendants, including PADILLA, from  
19 committing wrongful sexual acts with minors, including Plaintiff.

20 120. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through their  
21 employees and agents, were child care custodians and were under a statutory duty to report known  
22 or suspected incidents of sexual molestation or abuse of minors to a child protective agency,  
23 pursuant to California Penal Code section 11166, and not to impede the filing of any such report.

24 121. Defendants knew or should have known that their agent, teacher, tutor, advisor, counselor  
25 and mentor, PADILLA, and other teachers and staff of Defendants, had sexually molested, abused  
26 or caused touching, battery, harm, and other injuries to minors, including Plaintiff, giving rise to a  
27 duty to report such conduct under Penal Code section 11166.

28 122. Defendants knew or should have known in the exercise of reasonable diligence, that an

1 undue risk to minors, including Plaintiff, existed because Defendants did not comply with  
2 California's mandatory reporting requirements.

3 123. By failing to report the continuing molestations and abuse, which Defendants knew or  
4 should have known about, and by ignoring the fulfillment of the mandated compliance with the  
5 reporting requirements provided under Penal Code section 11166, Defendants created the risk and  
6 danger contemplated by the Child Abuse and Neglect Reporting Act, and as a result, unreasonably  
7 and wrongfully exposed Plaintiff and other minors to sexual molestation and abuse.

8 124. Plaintiff was a member of the class of persons for whose protection Penal Code section  
9 11166 was specifically adopted to protect.

10 125. Had Defendants adequately reported the molestation of Plaintiff and other minors as  
11 required by Penal Code section 11166, further harm to Plaintiff and other minors would have been  
12 avoided.

13 126. As a proximate result of Defendants' failure to follow the mandatory reporting  
14 requirements of Penal Code section 11166, Defendants wrongfully denied Plaintiff and other  
15 minors the intervention of child protection services. Such public agencies would have changed the  
16 then-existing arrangements and conditions that provided the access and opportunities for the  
17 molestation of Plaintiff by PADILLA.

18 127. The physical, mental, and emotional damages and injuries resulting from the sexual  
19 molestation of Plaintiff by PADILLA, were the type of occurrence and injuries that the Child  
20 Abuse and Neglect Reporting Act was designed to prevent.

21 128. As a result of Defendants' failure to comply with the mandatory reporting requirements of  
22 California Penal Code section 11166, also constitutes a per se breach of Defendants' duties to  
23 Plaintiff.

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

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

3 **FIFTH CAUSE OF ACTION**

4 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

5 (Plaintiff Against All Defendants and Does 1 through 100)

6 130. Plaintiffs re-allege and incorporate by reference herein each and every allegation contained  
7 herein above as though fully set forth and brought in this cause of action.

8 131. Defendants' conduct toward Plaintiff, as described herein, was outrageous and extreme.

9 132. A reasonable person would not expect or tolerate Defendants putting PADILLA positions  
10 of authority at Walden West, which enabled PADILLA to have access to minor students, including  
11 Plaintiffs, so that he could commit wrongful sexual acts with them, including the conduct  
12 described herein above. Plaintiffs held great trust, faith and confidence in Defendants, which, by  
13 virtue of Defendants' wrongful conduct, turned to fear.

14 133. A reasonable person would not expect or tolerate Defendants to be incapable of  
15 supervising and preventing employees of Defendants, including PADILLA, from committing  
16 wrongful sexual abuse of minor students, including Plaintiffs, or to properly supervise PADILLA  
17 to prevent such sexual exploitation from occurring, or to promptly notify parents or authorities.

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

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

28 ///

**SIXTH CAUSE OF ACTION**

**SEXUAL ASSAULT**

(Plaintiff Against Defendant PADILLA Only and Does 1 through 100)

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

137. Defendant PADILLA, in doing the things herein alleged, including intending to subject Plaintiff to numerous instances of sexual abuse and harassment by Defendant PADILLA, during Plaintiff's time as a minor student at Defendant MPESD, SCCOE, and DOES 1 through 100, in 2013 on three separate occasions, all while Defendant PADILLA acted in the course and scope of his agency/employment with Defendants, and each of them and were intended to cause harmful or offensive contact with Plaintiff's person, or intended to put Plaintiff in imminent apprehension of such contact.

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

139. Plaintiff did not consent to Defendant PADILLA's intended harmful or offensive contact with Plaintiff's person, or intent to put Plaintiff in imminent apprehension of such contact. Additionally, because Plaintiff was a minor during the time herein alleged, she lacked the ability to consent to sexual contact with any person.

140. In doing the things herein alleged, Defendant PADILLA violated Plaintiff's rights, pursuant to Civil Code section 43, of protection from bodily restraint or harm, and from personal insult. In doing the things herein alleged, Defendant PADILLA violated his duty, pursuant to Civil Code section 1708, to abstain from injuring the person of Plaintiff or infringing upon her rights.

141. As a result of the above-described conduct, the Plaintiff suffered and continues to 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 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be prevented from

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

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

10 **SEVENTH CAUSE OF ACTION**

11 **SEXUAL BATTERY (C.C. §1708.5)**

12 (Plaintiff Against Defendant PADILLA Only and Does 1 through 100)

13 143. The Plaintiff re-alleges and incorporate by reference herein each and every allegation  
14 contained herein above as though fully set forth and brought in this cause of action.

15 144. During the Plaintiff's time as a minor student at Defendants MPESD, SCCOE, and DOES  
16 1 through 100, Defendant PADILLA intentionally, recklessly and wantonly did acts which were  
17 intended to, and did result in harmful and offensive contact with intimate parts of the Plaintiff's  
18 body, including but not limited to being subjected to numerous instances of sexual abuse by  
19 Defendant PADILLA stated in paragraphs, supra, all while Defendant PADILLA acted in the  
20 course and scope of his agency/employment with Defendants, and each of them.

21 145. Defendant PADILLA did the aforementioned acts with the intent to cause a harmful or  
22 offensive contact with an intimate part of Plaintiff's person and would offend a reasonable sense  
23 of personal dignity. Further, said acts did cause a harmful or offensive contact with an intimate  
24 part of Plaintiff's persons that would offend a reasonable sense of personal dignity.

25 146. Because of the Defendant PADILLA's position of authority over the Plaintiff, and  
26 Plaintiff's mental and emotional state, and Plaintiff's young age under the age of consent, Plaintiff  
27 was unable to, and did not, give meaningful consent to such acts.  
28

1 147. As a direct, legal and proximate result of the acts of the Defendant PADILLA, the Plaintiff  
2 sustained serious and permanent injuries to her person, all of this damage in an amount to be  
3 shown according to proof and within the jurisdiction of the unlimited Court.

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

11 149. The Plaintiff is informed and based thereon alleges that the conduct of Defendant  
12 PADILLA was oppressive, malicious and despicable in that it was intentional and done in  
13 conscious disregard for the rights and safety of others, and were carried out with a conscious  
14 disregard of her right to be free from such tortious behavior, such as to constitute oppression, fraud  
15 or malice pursuant to California Civil Code section 3294, entitling the Plaintiff to punitive  
16 damages against Defendant PADILLA, in an amount appropriate to punish and set an example of  
17 the Defendant PADILLA.

18 **EIGHTH CAUSE OF ACTION**

19 **SEXUAL HARASSMENT: (C.C. § 51.9)**

20 (Plaintiff Against All Defendants and Does 1 through 100)

21 150. Plaintiffs re-allege and incorporate by reference herein each and every allegation contained  
22 herein above as though fully set forth and brought in this cause of action.

23 151. During Plaintiff's time as a student at Walden West, MPSC, and SCCOE PADILLA  
24 intentionally, recklessly and wantonly made sexual advances, solicitations, requests, demands for  
25 sexual compliance of a hostile nature based on Plaintiff's gender that were unwelcome, pervasive  
26 and severe. PADILLA intentionally, recklessly and wantonly did acts which resulted in harmful  
27 and offensive contact with intimate parts of Plaintiff's person, including but not limited to  
28 PADILLA using the authority and trust inherent in his position as a counselor and supervisor to



1 exploit them physically, psychologically and emotionally. These acts were done for INFANTE's  
2 sexual gratification; all while PADILLA was acting in the course and scope of his  
3 agency/employment with Walden West and SCCOE.

4 152. The incidents of abuse outlined herein above took place while Plaintiff was under the care  
5 of PADILLA, in his capacity and position as night monitor and counselor, while acting specifically  
6 on behalf of Walden West, MPESD and SAUSD.

7 153. Because of Plaintiff's young age and relationship with PADILLA as a student and camper  
8 at Walden West, MPESD and SCCOE, Plaintiff was unable to easily terminate her student-teacher  
9 and student-counselor relationships with PADILLA.

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

13 155. Even though Defendants knew or should have known of these activities by PADILLA,  
14 Defendants did nothing to investigate, supervise or monitor PADILLA to ensure the safety of the  
15 Plaintiff. Defendants ratified the sexual misconduct of PADILLA by retaining him in employment  
16 after discovering his misconduct.

17 156. Defendants' conduct was a breach of their duties to Plaintiff.

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

25 158. In subjecting Plaintiff to the wrongful treatment herein described, Defendant acted  
26 willfully and maliciously with the intent to harm Plaintiff, and in conscious disregard of Plaintiff's  
27 rights, so as to constitute malice and oppression under California Civil Code section 3294.  
28

1 Plaintiff are therefore entitled to the recovery of punitive damages, in an amount to be determined  
2 by the court, against PADILLA, in a sum to be shown according to proof.

3 **NINTH CAUSE OF ACTION**

4 **GENDER VIOLENCE: (C.C. § 52.4)**

5 (Plaintiff Against Defendant PADILLA Only and Does 1 through 100)

6 159. The Plaintiff re-alleges and incorporate by reference herein each and every allegation  
7 contained herein above as though fully set forth and brought in this cause of action.

8 160. Defendant PADILLA's acts committed against the Plaintiff, as alleged herein, including  
9 the sexual harassment, molestation and abuse of the Plaintiff constitutes gender violence and a  
10 form of sex discrimination in that one or more of Defendant PADILLA's acts would constitute a  
11 criminal offense under state law that has as an element of use, attempted use, or threatened use of  
12 physical force against the person of another, committed at least in part based on the gender of the  
13 victim, whether or not those acts have resulted in criminal complaints, charges, prosecution, or  
14 conviction.

15 161. Defendant PADILLA's acts committed against the Plaintiff, as alleged herein, including  
16 the sexual harassment, molestation and abuse of the Plaintiff constitutes gender violence and a  
17 form of sex discrimination in that Defendant PADILLA's conduct caused a physical intrusion or  
18 physical invasion of a sexual nature upon the Plaintiff under coercive conditions, whether or not  
19 those acts have resulted in criminal complaints, charges, prosecution, or conviction.

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

1 163. As a proximate result of the Defendant PADILLA's acts, the Plaintiff is entitled to actual  
2 damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or  
3 any other appropriate relief. The Plaintiff is also entitled to an award of attorney's fees and costs  
4 pursuant to Civil Code § 52.4, against the Defendant PADILLA, the perpetrator of this Gender  
5 Violence.

6 **TENTH CAUSE OF ACTION**  
7 **BREACH OF FIDUCIARY DUTY**

8 (Plaintiff Against All Defendants and Does 1 through 100)

9 164. The Plaintiff re-allege and incorporate by reference herein each and every allegation  
10 contained herein above as though fully set forth and brought in this cause of action.

11 165. Defendants, as school teachers, staff, faculty, administrators and/or Defendants MPESD  
12 and SCCOE, and DOES 1 through 100's officials were in a fiduciary relationship with the  
13 Plaintiff, owing her a special duty of due care. All Defendants are mandated reporters with respect  
14 to claims of child abuse and child safety.

15 166. Moreover, Defendants owed the Plaintiff a statutory, common law and constitutional duty  
16 to protect her and guarantee her safety at school.

17 167. Defendants breached their fiduciary duty by failing to properly supervise Defendant  
18 PADILLA and take appropriate steps to prevent the lewd and lascivious conduct perpetrated by  
19 PADILLA against the Plaintiff. Defendants MPESD and SCCOE, and DOES 1 through 100 also  
20 failed to implement or follow appropriate policies and procedures to protect the Plaintiff,  
21 including, but not limited to their own policies.

22 168. Defendants MPESD, SCCOE, and DOES 1 through 100, willfully and intentionally  
23 ignored behavior in Defendant PADILLA and complaints against Defendant PADILLA that should  
24 have been reported due to their responsibility as mandated reporters. Based on information and  
25 belief, there were reports of sexual misconduct with minor children by Defendant PADILLA as a  
26 nigh monitor at Defendant SCCOE.

1 169. As a result of the above-described conduct, the Plaintiff suffered and continues to suffer  
2 great pain of mind and body, shock, emotional distress, physical manifestations of emotional  
3 distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life;  
4 has suffered and continues to suffer and was prevented and will continue to be prevented from  
5 performing daily activities and obtaining the full enjoyment of life; will sustain loss of earnings  
6 and earning capacity, and has incurred and will continue to incur expenses for medical and  
7 psychological treatment, therapy, and counseling.

8 **ELEVENTH CAUSE OF ACTION**

9 **CONSTRUCTIVE FRAUD: (C.C. § 1573)**

10 (All Plaintiffs Against All Defendants and Does 1 through 100)

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

13 171. By holding themselves out as qualified institutions of learning for children, by holding  
14 Defendant PADILLA out as an agent of Defendants, and by allowing undertaking the academic,  
15 psychological and emotional instruction and guidance of the minor Plaintiff through the actions of  
16 Defendant PADILLA, MPESD and SCCOE entered into a fiduciary, special and confidential  
17 relationship with the Plaintiff.

18 172. Defendants PADILLA, MPESD and SCCOE breached their fiduciary, special and  
19 confidential duties to the Plaintiff by the wrongful and negligent conduct described herein above,  
20 and by so doing gained an advantage over the Plaintiff in matters relating to her safety, security  
21 and health. In breaching such duties, Defendants PADILLA, MPESD and SCCOE were able to  
22 sustain their status as institutions of high moral repute, preserve their reputation in the community,  
23 including their administrators and staff, all at the expense of the Plaintiff's further injury and in  
24 violation of Defendants' mandatory duties.

25 173. By virtue of their fiduciary relationship and special relationship with the Plaintiff,  
26 Defendants PADILLA, MPESD and SCCOE owed the Plaintiff a duty to:

- 27 a. Investigate or otherwise confirm or deny such claims of sexual abuse;
- 28

- 1 b. Reveal such facts to the Plaintiff, her parents and caretakers, the school
- 2 community, and law enforcement agencies;
- 3 c. Refuse to place Defendant PADILLA and other molesters in positions of
- 4 trust and authority within Defendants' institutions;
- 5 d. Refuse to hold out Defendant PADILLA and other molesters to the public, the school
- 6 community, students, minors, parents and law enforcement agencies as being in good
- 7 standing and, trustworthy in keeping with his and their position as a teacher, counselor,
- 8 advisor, mentor and authority figure;
- 9 e. Refuse to assign Defendant PADILLA and other molesters to positions of power
- 10 within the camp and over minor students; and
- 11 f. Disclose to Plaintiff, her parents, the public, the community, the school, students,
- 12 minors, and law enforcement agencies the wrongful, tortious, and criminal acts of
- 13 Defendant PADILLA and others.

14 174. At the time that Defendants PADILLA, MPESD and SCCOE engaged in such suppression  
15 and concealment of acts, such acts were done for the purpose of causing Plaintiff to forbear on her  
16 rights by repeatedly failing to inform students and their parents of all of the above conduct by  
17 PADILLA, including in violation of MPESD's and SCCOE's own policies.

18 175. Defendants PADILLA, MPESD and SCCOE's misconduct did reasonably cause the  
19 Plaintiff to forbear on her rights.

20 176. The misrepresentation, suppression and concealment of facts were likely to mislead  
21 Plaintiff and others to believe that Defendants PADILLA, MPESD and SCCOE had no knowledge  
22 of any charges, or that there were no other charges of unlawful and sexual misconduct against  
23 Defendant PADILLA or others and that there was no need for them to take further action or  
24 precaution.

25 177. Defendants PADILLA, MPESD and SCCOE knew or should have known at the time they  
26 suppressed and concealed the true facts regarding Defendant PADILLA's and others' dangerous  
27 and inappropriate conduct that the resulting impressions were misleading.

28 178. Defendants suppressed and concealed the true facts with the purpose of: preventing the  
Plaintiff, Plaintiff's parents, and others, from learning that Defendant PADILLA and others had  
been engaging in dangerous and inappropriate conduct and were continuing to sexually harass,  
molest and abuse minors and others under Defendant PADILLA's and Defendants' control,

1 direction, and guidance, with complete impunity; inducing people, including the Plaintiff and other  
2 benefactors and donors to participate and financially support Defendants' school and other  
3 enterprises of Defendants; preventing further reports and outside investigations into Defendant  
4 PADILLA's and Defendants' conduct; preventing discovery of Defendants' own conduct;  
5 avoiding damage to the reputations of Defendants; protecting Defendants' power and status in the  
6 community and the academic community; avoiding damage to the reputation of Defendants and  
7 Defendants' institutions; and avoiding the civil and criminal liability of Defendants, of Defendant  
8 PADILLA, and of others.

9 179. Defendants PADILLA, MPESD and SCCOE, with knowledge of the tortious nature of  
10 their own and each other's conduct, gave each other substantial assistance to perpetrate the  
11 misrepresentations, fraud and deceit alleged herein.

12 180. Defendants' suppression and concealment of facts, and in reliance thereon, were induced  
13 to act or induced not to act, exactly as intended by Defendants. Specifically, the Plaintiff and her  
14 parents were induced to believe that there were no allegations of dangerous or inappropriate  
15 behavior of Defendant PADILLA. Had the Plaintiff or others known the true facts, they would  
16 have not participated further nor continued to financially support the Defendants' activities alleged  
17 herein; they would have reported the matters to the proper authorities, to other students and their  
18 parents so as to prevent future recurrences; they would not have allowed children, including the  
19 Plaintiff, to be alone with, or have any relationship with Defendant PADILLA; they would not  
20 have allowed children, including the Plaintiff, to attend or be under the control of Defendants; they  
21 would have undertaken their own investigations which would have led to discovery of the true  
22 facts; and they would have sought psychological counseling for the Plaintiff, and for other children  
23 molested and abused by Defendant PADILLA.

24 181. By giving Defendant PADILLA the position of counselor, advisor and mentor, Defendants  
25 impliedly represented that Defendant PADILLA was safe and morally fit to give children  
26 instruction, direction and guidance.

1 182. When Defendants PADILLA, MPESD and SCCOE made these representations or  
2 non-disclosure of material facts, Defendants knew or should have known that the facts were  
3 otherwise. Defendants SCCOE, MPESD and PADILLA knowingly and intentionally suppressed  
4 the material facts that Defendant PADILLA had engaged in dangerous and inappropriate conduct,  
5 and knew of or learned of conduct, or should have learned of conduct by Defendant PADILLA  
6 which placed Defendants PADILLA, MPESD and SCCOE on notice that Defendant PADILLA  
7 had previously been suspected, charged, arrested, and was likely abusing children.

8 183. Because of the Plaintiff's young age, and because of the status of Defendant PADILLA as  
9 an authority figure to the Plaintiff, the Plaintiff was vulnerable to Defendant PADILLA.  
10 Defendant PADILLA sought the Plaintiff out, and was empowered by and accepted Plaintiff's  
11 vulnerability. Plaintiff's vulnerability also prevented her from effectively protecting herself from  
12 the sexual advances of Defendant PADILLA.

13 184. Defendants PADILLA, MPESD and SCCOE had the duty to obtain and disclose  
14 information relating to misconduct of Defendant PADILLA.

15 185. Defendants PADILLA, MPESD and SCCOE misrepresented, concealed or failed to  
16 disclose information relating to misconduct of Defendant PADILLA.

17 186. Defendants PADILLA, MPESD and SCCOE knew that they had misrepresented,  
18 concealed or failed to disclose information related to misconduct of Defendant PADILLA.

19 187. The Plaintiff justifiably relied upon Defendants for information relating to misconduct of  
20 Defendant PADILLA.

21 188. Defendants PADILLA, MPESD and SCCOE, in concert with each other and with the  
22 intent to conceal and defraud, conspired and came to a meeting of the minds whereby they would  
23 misrepresent, conceal or fail to disclose information relating to the misconduct of Defendant  
24 PADILLA, the inability of Defendants to supervise or stop Defendant PADILLA from sexually  
25 harassing, molesting and abusing the Plaintiff, and their own failure to properly investigate,  
26 supervise and monitor his conduct with minors and students.

1 189. By so concealing, Defendants PADILLA, MPESD and SCCOE committed at least one act  
2 in furtherance of the conspiracy.

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

10 191. In addition, when the Plaintiff finally discovered the fraud of Defendants PADILLA,  
11 MPESD and SCCOE, and continuing thereafter, the Plaintiff experienced recurrences of the  
12 above-described injuries. In addition, when the Plaintiff finally discovered the fraud of  
13 Defendants PADILLA, MPESD and SCCOE, and continuing thereafter, the Plaintiff experienced  
14 extreme and severe mental anguish and emotional distress that Plaintiff had been the victim of  
15 Defendants' fraud; that the Plaintiff had not been able to help other minors being molested because  
16 of the fraud, and that Plaintiff had not been able because of the fraud to receive timely medical  
17 treatment needed to deal with the problems the Plaintiff had suffered and continues to suffer as a  
18 result of the sexual harassment, molestation and abuse.

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

26 193. In subjecting the Plaintiff to the wrongful treatment herein described, Defendants  
27 PADILLA acted willfully and maliciously with the intent to harm the Plaintiff, and in conscious  
28



1 disregard of Plaintiff’s rights, so as to constitute malice and oppression under California Civil  
2 Code section 3294. The Plaintiff is therefore entitled to the recovery of punitive damages, in an  
3 amount to be determined by the court, against Defendants PADILLA, in a sum to be shown  
4 according to proof.

5 **TWELFTH CAUSE OF ACTION**

6 **PUBLIC ENTITY LIABILITY FOR FAILURE TO PERFORM MANDATORY DUTY**

7 (Plaintiff Against Defendants SCCOE and MPESD Only and Does 1 through 100)

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

10 195. Plaintiffs was harmed because Defendants violated the following statutes, which state  
11 (with relevant provisions cited below):

- 12 a. Education Code §200: “It is the policy of the State of California to afford all persons in  
13 public schools, regardless of their disability, gender, gender identity, gender  
14 expression, nationality, race or ethnicity, religion, sexual orientation, or any other  
15 characteristic that is contained in the definition of hate crimes set forth in Section  
16 422.55 of the Penal Code, equal rights and opportunities in the educational institutions  
17 of the state. The purpose of this chapter is to prohibit acts that are contrary to that  
18 policy and to provide remedies therefor.”
- 19 b. Education Code §201(a): “All pupils have the right to participate fully in the  
20 educational process, free from discrimination and harassment.”
- 21 c. Education Code §201(b): “California’s public schools have an affirmative obligation  
22 to combat racism, sexism, and other forms of bias, and a responsibility to provide  
23 equal educational opportunity.”
- 24 d. Education Code §201(c): “Harassment on school grounds directed at an individual on  
25 the basis of personal characteristics or status creates a hostile environment and  
26 jeopardizes equal educational opportunity as guaranteed by the California Constitution  
27 and the United States Constitution.”
- 28 e. Education Code §201(d): “There is an urgent need to prevent and respond to acts of  
hate violence and bias-related incidents that are occurring at an increasing rate in  
California’s public schools.
- f. Education Code §201(e): “There is an urgent need to teach and inform pupils in the  
public schools about their rights, as guaranteed by the federal and state constitutions,  
in order to increase pupils’ awareness and understanding of their rights and the rights  
of others, with the intention of promoting tolerance and sensitivity in public schools  
and in society as a means of responding to potential harassment and hate violence.”
- g. Education Code §201(f): “It is the intent of the Legislature that each public school  
undertake educational activities to counter discriminatory incidents on school grounds

1 and, within constitutional bounds, to minimize and eliminate a hostile environment on  
2 school grounds that impairs the access of pupils to equal educational opportunity.”

- 3 h. Civil Code §51.9: “(a) A person is liable in a cause of action for sexual harassment  
4 under this section when the plaintiff proves all of the following elements:
- 5 (1) There is a business, service, or professional relationship between the plaintiff  
6 and defendant. Such a relationship may exist between a plaintiff and a person,  
7 including, but not limited to, any of the following persons:
    - 8 (A) Physician, psychotherapist, or dentist. For purposes of this section,  
9 “psychotherapist” has the same meaning as set forth in paragraph (1) of  
10 subdivision (c) of Section 728 of the Business and Professions Code.
    - 11 (B) Attorney, holder of a master’s degree in social work, real estate agent,  
12 real estate appraiser, accountant, banker, trust officer, financial planner  
13 loan officer, collection service, building contractor, or escrow loan  
14 officer.
    - 15 (C) Executor, trustee, or administrator.
    - 16 (D) Landlord or property manager.
    - 17 (E) Teacher.
    - 18 (F) A relationship that is substantially similar to any of the above.
  - 19 (2) The defendant has made sexual advances, solicitations, sexual requests, demands  
20 for sexual compliance by the plaintiff, or engaged in other verbal, visual, or  
21 physical conduct of a sexual nature or of a hostile nature based on gender, that  
22 were unwelcome and pervasive or severe.
  - 23 (3) There is an inability by the plaintiff to easily terminate the relationship.
  - 24 (4) The plaintiff has suffered or will suffer economic loss or disadvantage or  
25 personal injury, including, but not limited to, emotional distress or the violation  
26 of a statutory or constitutional right, as a result of the conduct described in  
27 paragraph (2).”
- 28 i. Title IX of 20 U.S.C. §1681: ...No person in the United States shall, on the basis of  
sex, be excluded from participation in, be denied the benefits of, or be subjected to  
discrimination under any education program or activity receiving Federal financial  
assistance.”

196. As a result of allowing PADILLA to sexually abuse, molest, and harass minor students,  
including the Plaintiff, Defendants violated Education Code §§200, 201, Civil Code §51.9, and  
United States Code Article 20, §1681. Under these code sections Defendants had a mandatory duty  
to prevent sexual harassment, which they failed to do, thus, violating these statutes.

1 197. As a result of Defendants failure to perform these mandatory duties, Plaintiff suffered  
2 immense harm.

3 198. Defendants' failure to perform these mandatory duties, was a substantial factor in causing  
4 the harm suffered by Plaintiff.

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

12 200. In subjecting Plaintiff to the wrongful treatment herein described, Defendant PADILLA  
13 acted willfully and maliciously with the intent to harm Plaintiff, and in conscious disregard of  
14 Plaintiff's rights, so as to constitute malice and oppression under California Civil Code section  
15 3294. Plaintiff is therefore entitled to the recovery of punitive damages, in an amount to be  
16 determined by the court, against PADILLA, in a sum to be shown according to proof.

17 **THIRTEENTH CAUSE OF ACTION**

18 **SEXUAL HARASSMENT AND ABUSE IN EDUCATIONAL SETTING: EDUCATION**

19 **CODE § 220.**

20 **(Against All Defendants and DOES 1-100)**

21 201. The Plaintiff re-alleges and incorporate by reference herein each and every allegation  
22 contained herein above as though fully set forth and brought in this cause of action.

23 202. The Plaintiff was harmed by being subjected to harassment at Defendant SCCOE and  
24 MPESD and under administrators DOES 1 through 100 because of their gender and Defendants  
25 are responsible for that harm.  
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203. The Plaintiff suffered harassment that was so severe, pervasive, and offensive that it effectively deprived the Plaintiff of the right of equal access to educational benefits and opportunities.

204. Plaintiff is informed and believes, and on that basis alleges, that Defendants had actual knowledge that this sexual harassment, abuse, and molestation was occurring.

205. In the face of this knowledge of sexual abuse, harassment, and molestation that was being perpetrated upon the Plaintiff by PADILLA, Defendants SCCOE, MPESD and PADILLA acted with deliberate indifference towards responding to these alarms and preventing further abuse. Defendants SCCOE and MPESD allowed PADILLA to remain in contact with minor children, in order to sexually harass and abuse the Plaintiff. It was not until PADILLA was arrested that he was removed from Walden West.

206. As a result of the above-described conduct, the Plaintiff suffered and continue to 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 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be prevented from performing daily activities and obtaining the full enjoyment of life; will sustain loss of earnings and earning capacity, and has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

207. In subjecting the Plaintiff to the wrongful treatment herein described, Defendants PADILLA acted willfully and maliciously with the intent to harm the Plaintiff, and in conscious disregard of Plaintiff's rights, so as to constitute malice and oppression under California Civil Code section 3294. The Plaintiff is therefore entitled to the recovery of punitive damages, in an amount to be determined by the court, against Defendants PADILLA, in a sum to be shown according to proof.

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**DEMAND FOR JURY TRIAL**

Plaintiff JANE MC DOE hereby demands a trial by jury.

Dated: December 14, 2020

MANLY, STEWART & FINALDI

By: Morgan A. Stewart  
MORGAN A. STEWART  
Attorneys for Plaintiffs