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10 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

11 JANE DOE,

12 Plaintiff,

13 vs.

14 LOS GATOS-SARATOGA UNION HIGH
15 SCHOOL DISTRICT, WILLIE HARMATZ,
16 CHIOKE ROBINSON, and DOES 1 through
17 45, inclusive,

18 Defendants.

Case No.

COMPLAINT FOR DAMAGES

- (1) Sexual abuse of a Minor
(2) Negligence of District Employees
[Government Code §815.2]

[AMOUNT IN EXCESS OF \$25,000]

19 Plaintiff JANE DOE herein alleges against Defendants LOS GATOS-SARATOGA
20 UNION HIGH SCHOOL DISTRICT, WILLIE HARMATZ, CHIOKE ROBINSON, and DOES
21 1 through 45, as follows:

22 **COMMON ALLEGATIONS**

23 1. Defendant LOS GATOS-SARATOGA UNION HIGH SCHOOL DISTRICT
24 ["DISTRICT"] is a public entity in the County of Santa Clara. DISTRICT is charged with the
25 duty to supervise employees and minor students in its schools, including Los Gatos High School
26 ["LGHS"] in Los Gatos, California, and to implement and enforce various policies and procedures
27 for the safe education of students entrusted to its care.

1 2. Defendant CHIOKE ROBINSON [“ROBINSON”], a California resident, was at
2 all relevant times the Girls’ Sprinting and Running Coach at LGHS and an employee of
3 DISTRICT.

4 3. Defendant WILLIE HARMATZ [“HARMATZ”], a California resident, was at
5 all relevant times the Girls’ Head Track Coach at LGHS and an employee of DISTRICT.

6 4. Plaintiff JANE DOE, a California resident, was born in 1984. Plaintiff brings suit
7 herein under the pseudonym “JANE DOE” in light of the unusually sensitive nature of the
8 allegations of this complaint.

9 5. This action is one for damages as a result of childhood sexual abuse. Government
10 Code §§905(m) and 935(f) exempt a claim for childhood sexual abuse from the government tort
11 claim presentation requirements of the Government Claims Act. As such, plaintiff is relieved of
12 any obligation to present a government claim to DISTRICT. This lawsuit is timely pursuant to
13 Code of Civil Procedure §340.1.

14 6. ROBINSON became the LGHS Girls’ Sprinting and Running Coach during the
15 1998-1999 school year. That school year, another female student transferred to LGHS to escape
16 ROBINSON’s sexual abuse and harassment of her at another school. Upon finding ROBINSON
17 at LGHS, that student informed ROBINSON’s supervisor, HARMATZ, that ROBINSON made
18 her feel uncomfortable, that she did not want to be coached by him or around him and/or that
19 ROBINSON was stalking her. HARMATZ instructed her to stay away from ROBINSON and to
20 run on the opposite side of the track with HARMATZ as her coach. Upon information and belief,
21 HARMATZ took no other action in response to that student’s complaints.

22 7. Plaintiff attended LGHS from 1998 through 2001. During the 1998-1999 school
23 year when she was a 14-15-year-old freshman at LGHS, ROBINSON openly showed plaintiff
24 special attention, such as giving her frequent rides home. When plaintiff was 15-years old,
25 ROBINSON kissed her on school grounds and forced her to touch his genitals at a school track
26 meet. ROBINSON repeatedly sexually abused plaintiff, escalating his abuse to include oral sex
27 and sexual intercourse on school grounds, including but not limited to in the track and field shed,
28 from 1999 through 2001.

1 8. In November of 1999, the Los Gatos Police Department ["LGPD"] performed an
2 investigation into ROBINSON's sexual abuse of plaintiff, who denied the same due to fear and/or
3 intimidation. During the investigation, a student disclosed to the LGPD that she had witnessed
4 ROBINSON's sexual abuse of plaintiff. HARMATZ drove to that student's house, requested to
5 speak to that student outside her mother's presence, and then threatened to make her athletic
6 career difficult if she did not stop "lying" about ROBINSON.

7 9. During the November 1999 LGPD investigation, the student who had complained
8 to HARMATZ about ROBINSON stalking and harassing her at a prior school told HARMATZ
9 that she wanted to disclose to the LGPD that she, too, had been a victim of ROBINSON's sexual
10 abuse. HARMATZ threatened her scholarship if she spoke to the LGPD.

11 10. In or about November 1999, HARMATZ told LGHS Principal Trudy McCulloch
12 that the sexual abuse allegations against ROBINSON were false. Principal McCulloch stated that
13 ROBINSON would be terminated a result of the allegations. In response, HARMATZ yelled at
14 Principal McCulloch and told her that she was making a mistake.

15 11. Plaintiff is informed and believes and thereon alleges that HARMATZ and
16 DISTRICT took no disciplinary action against ROBINSON as a result of the information revealed
17 about ROBINSON's sexual abuse of plaintiff in November 1999 other than sending him a letter
18 advising him to use common sense. DISTRICT and HARMATZ permitted ROBINSON to
19 continue coaching minor female athletes, *including plaintiff*, at LGHS for years.

20 12. ROBINSON continued sexually abusing plaintiff on school grounds during the
21 1999-2000 and 2000-2001 school years. ROBINSON's sexual abuse of plaintiff as a minor
22 continued until she turned 18 years old in January of 2002.

23 13. Upon information and belief, ROBINSON was not terminated as a coach at LGHS
24 until March of 2001.

25 14. In or about April of 2001, the LGHS school newspaper, El Gato, published an
26 article entitled "School fires track coach, offers no explanation" with a sub-heading, "Controversy
27 surrounds 'Chee' Robinson's sudden dismissal." The article stated that ROBINSON, who had
28 served as both Varsity and Junior Varsity Sprinting and Running Coach for LGHS during the

1 2000 and 2001 tracks seasons, was abruptly dismissed from his coaching position in March of
2 2001 for poor judgment, that Principal McCulloch denied that rumors of ROBINSON's sexual
3 relationship with a minor female student were factual or were the reason for ROBINSON's
4 termination, and that HARMATZ insisted ROBINSON is still an active and necessary part of the
5 team. Upon information and belief, ROBINSON and HARMATZ attempted to have the school
6 newspaper retract the article.

7 15. After the El Gato Article was published, the Los Gatos Weekly Times ["LGWT"]
8 published an article on April 25, 2001 entitled, "Dismissal leads to friction between head coach
9 and school principal" with the subheadings " McCulloch calls Harmatz's actions 'inexcusable'"
10 and "Harmatz criticizes coverage." According to the article: HARMATZ apparently defied the
11 school by retaining the dismissed coach; Principal McCulloch called HARMATZ's actions
12 "inexcusable"; HARMATZ stated that two years earlier two best friends on the track team had a
13 fight over a guy, "one girl decided to spread false rumors about the other girl and [Robinson]. It
14 was blown out of proportion completely;" and "I've been coaching for 25 years, I've gotten 20
15 [Central Coast Section] Championships for the school-- more than any other high school coach.
16 I know what's going on in my team." HARMATZ threatened he would no longer provide track
17 results to the LGWT and that "track doesn't exist to you guys anymore" when the newspaper
18 refused his request to exclude his statements or to advise him of what would be included in the
19 April article.

20 16. On May 9, 2001, HARMATZ is quoted in a Los Gatos Weekly Article entitled
21 "LGHS Track Coach Speaks Out" as stating "Robinson is a very good coach who doesn't deserve
22 this" and in a LGWT Editorial entitled "Coach should not restrict coverage of Los Gatos Weekly
23 Times" as describing the LGWT coverage as "stirring the pot."

24 17. The true names and/or capacities, whether individual, corporate, associate, or
25 otherwise, of defendants named herein as DOES 1 through 45, inclusive are unknown to plaintiff
26 at this time, and plaintiff therefore sues said defendants by such fictitious names. Plaintiff will
27 seek leave to amend this Complaint to allege their true names and capacities when the same have
28 been ascertained. Plaintiff is informed and believes and thereon alleges that each of the

1 defendants designated herein as a DOE is responsible in some manner or is otherwise legally
2 liable to plaintiff for the injuries complained of herein.

3 18. At all times herein mentioned, each of the defendants was an agent, servant,
4 employee, partner, joint venturer, franchisee, alter ego, aider and abettor, and/or co-conspirator,
5 and engaged in a common or common enterprises with each of the remaining defendants herein,
6 and was at all relevant times acting within the course and scope of said agency, service,
7 employment, partnership, joint venture, franchise, unlawful enterprise, conspiracy and/or other
8 lawful or unlawful conduct as herein alleged.

9
10 **FIRST CAUSE OF ACTION**
Sexual abuse of a Minor

11 As and for a First Cause of Action, Plaintiff alleges against defendants LOS GATOS-
12 SARATOGA UNION HIGH SCHOOL DISTRICT, WILLIE HARMATZ, CHIOKE
13 ROBINSON, and DOES 1 through 5 as follows:

14 19. Plaintiff hereby incorporates all paragraphs of the Common Allegations, as though
15 set forth in full herein.

16 20. As a minor and a student enrolled at LGHS, a special relationship existed between
17 DISTRICT and plaintiff by which plaintiff was entitled to protection, including a reasonably safe
18 environment in which to learn and engage in school sport activities, free from inappropriate sexual
19 displays, grooming behaviors, inappropriate touching, and sexual abuse from coaches and others
20 employed in a position of trust and authority at said school.

21 21. ROBINSON used his position of trust and authority as a coach to groom and
22 sexually abuse plaintiff as a minor. HARMATZ used his position of trust and authority to
23 intimidate students possessing critical information about ROBINSON's proclivities towards
24 minors to remain silent, thereby subjecting plaintiff to ROBINSON's sexual abuse.

25 22. DISTRICT and HARMATZ ratified ROBINSON's conduct by failing to repudiate
26 his predatory behavior and/or sexual abuses by, *inter alia*, intimidating students to keep quiet
27 about ROBINSON's conduct via threats to their athletic careers, the Principal's failure to act upon
28 her initial inclination to terminate ROBINSON upon learning of the report of his sexual abuse of

1 plaintiff, failing to take appropriate disciplinary measures against ROBINSON [rather than the
2 issuance of a letter to use “common sense”], and/or retaining ROBINSON in DISTRICT’s employ
3 as a coach possessing direct physical access to underaged female students, *including plaintiff*,
4 thereby subjecting plaintiff to his continued sexual abuse.

5 23. As a legal result of the foregoing, plaintiff was injured in health, strength and
6 activity, sustaining bodily injuries and shock and injury to her nervous system and person, all of
7 which caused and continue to cause plaintiff great mental, physical and nervous pain and
8 suffering. Plaintiff has thereby sustained damages in an amount in excess of the minimum
9 jurisdictional limits of this court.

10 24. The acts of defendant ROBINSON perpetrated upon plaintiff were intentional,
11 malicious, and/or oppressive, entitling plaintiff to punitive damages against ROBINSON pursuant
12 to Civil Code §3294.

13
14 **SECOND CAUSE OF ACTION**
Negligence of District Employees [Government Code §815.2]

15 As and for a Second Cause of Action, Plaintiff alleges against defendants LOS GATOS-
16 SARATOGA UNION HIGH SCHOOL DISTRICT, WILLIE HARMATZ, CHIOKE
17 ROBINSON, and DOES 6 through 45, and each of them, as follows:

18 25. Plaintiff hereby incorporates all paragraphs of her Common Allegations and First
19 Cause of Action, as though set forth in full herein.

20 26. As plaintiff was a student within DISTRICT, DISTRICT employees [including
21 HARMATZ and ROBINSON] owed her a duty of care to, *inter alia*, properly supervise school
22 personnel to detect and deter inappropriate conduct around minor students, to properly supervise
23 plaintiff to protect her from potential dangers while on school grounds, to conduct themselves in
24 a manner which would not impose harm on plaintiff, and/or to repudiate predatory behavior by
25 teachers.

26 27. DISTRICT’s employees breached said duties owed to plaintiff by, *inter alia*,
27 failing to require reports from students relating to inappropriate behavior by an employee to be
28 forwarded to administration for appropriate action, failing to properly supervise ROBINSON

1 such that he was allowed to openly groom plaintiff to thereafter sexually molest her, failing to
2 properly supervise plaintiff such that she was allowed to be escorted alone by ROBINSON to the
3 shed and other locations on school grounds where he sexually molested her, failing to report a
4 reasonable suspicion of child abuse upon the student's report of ROBINSON stalking her at
5 another school,¹ and/or subjecting plaintiff to continued abuse by ROBINSON by retaining him
6 as her coach after the LGPD investigation.

7 28. As a legal result of the foregoing, plaintiff was repeatedly sexually assaulted,
8 abused, and/or molested, and thereby suffered physical, mental, and emotional injuries, all to her
9 general damages as hereinbefore alleged.

10 29. DISTRICT and its employees/administrators, including but not limited to
11 HARMATZ and ROBINSON, engaged in a concerted effort to hide evidence relating to
12 childhood sexual abuse which resulted in plaintiff's abuse. Such concerted effort to cover up
13 abuse entitles plaintiff to claim treble damages pursuant to Code of Civil Procedure §340.1(b)(1).

14 30. Defendant HARMATZ acted despicably in, *inter alia*, failing to report the new
15 student's experiences with ROBINSON to the legal authorities as was his duty under Penal Code
16 §11165.7(a)(42), knowingly exposing plaintiff to a person alleged to have exhibited predatory
17 behaviors, covering up ROBINSON's misconduct, and/or intimidating students who were willing
18 to report ROBINSON's misconduct. Accordingly, plaintiff seeks punitive damages against
19 HARMATZ pursuant to Civil Code §3294.

20 **PRAYER**

21 WHEREFORE, plaintiff prays for judgment as follows:

- 22 1. For general damages and other non-economic relief, according to proof;
- 23 2. For punitive damages against defendants ROBINSON and HARMATZ;
- 24 3. For treble damages based on Code of Civil Procedure §340.1;
- 25 4. For prejudgment interest, as allowed by law;
- 26 5. For costs of suit herein; and

27
28 ¹ "Child abuse" under the Child Abuse and Neglect Reporting Act includes Penal Code §647.6. Penal Code §11165.1(a). Penal Code §647.6 condemns behavior which "annoys" or molests a child.

1 6. For such other and further relief as the court may deem fit and proper.
2

3 Dated: January 26, 2021

CORSIGLIA, MCMAHON & ALLARD LLP

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5 By: 

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8 MARK J. BOSKOVICH
9 Attorneys for PLAINTIFF
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