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8  
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO**  
11

12 SHAWN ALVIN MORRIS, an individual,  
13 Plaintiff,  
14 v.  
15 DOE 1, a public entity; and DOES 2–10,  
16 Defendants.

Case No. 37-2021-00043612-CU-PO-CTL

**COMPLAINT FOR DAMAGES for:**

- 1) Negligence
- 2) Negligent Supervision and Retention
- 3) Sexual Harassment

*[Filed Pursuant to Code of Civil Procedure  
Section 340.1, as Amended by Assembly  
Bill 218]*

**[Jury Trial Demanded]**

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21 Plaintiff Shawn Alvin Morris, (“Plaintiff”) (aka Shawn Alvin Baughman) brings this action  
22 against Defendants DOE 1; and DOES 2–10 (together, “Defendants”), and based on information  
23 and belief alleges as follows:

24 **INTRODUCTION**

25 1. Plaintiff, and potentially other young students of DOE 1, are victims of sexual  
26 battery, assault, abuse, and harassment at the hands of Defendants. Douglas Ray Foster (“Foster”)  
27 used his role as a guidance counselor and teacher to gain access to and assault Plaintiff. Defendants  
28 knowingly, intentionally, willfully, deliberately, and recklessly fostered a pervasive and hostile

1 environment that utterly disregarded the rights and safety of young students who entrusted  
2 Defendants with their education. As a result, Plaintiff, and potentially other young students, have  
3 suffered humiliation, shame, and horror, and they will continue to suffer for the rest of their lives.

4 **PARTIES**

5 2. Plaintiff is an adult male residing in Snohomish County, within the State of  
6 Washington. At all times relevant to this Complaint, Plaintiff was residing in San Diego County,  
7 California. Plaintiff was born in 1967 and was a minor throughout the period of sexual assault  
8 alleged herein. Plaintiff brings this Complaint pursuant to Code of Civil Procedure Section 340.1,  
9 as amended by Assembly Bill 218, for the childhood sexual assault he suffered at the hands of  
10 Defendants. Plaintiff's claims for damages suffered as a result of those sexual assaults are timely  
11 filed as this Complaint is filed within 3 years of January 1, 2020. Pursuant to California Government  
12 Code Section 905(m), as amended by Assembly Bill 218, Plaintiff is specifically exempt from the  
13 claims presentation requirement for his claims against DOE 1.

14 3. DOE 1 at all times mentioned herein was and is a public school district having its  
15 principal place of business in San Diego County, California. DOE 1 purposely conducts substantial  
16 educational business activities in the State of California, and was the primary entity owning,  
17 operating, and controlling Santana High School, and the activities and behavior of its employee, and  
18 agent Foster.

19 4. At all times relevant herein, Foster was a guidance counselor, teacher, employee, and  
20 agent of DOE 1, working at Santana High School. Accordingly, at all times mentioned herein,  
21 Foster acted as an employee, agent, and servant of DOE 1 and was under their complete control and  
22 supervision. On information and belief, Foster is now deceased.

23 5. Pursuant to California Government Code sections 815.2 and 820, DOE 1 is liable  
24 through the acts or omissions of its employees, agents, servants and/or joint venturers acting within  
25 the course and scope of their employment.

26 6. The true names and capacities, whether individual, corporate, partnership, associate,  
27 or otherwise, of Defendants DOES 2–10, inclusive, are unknown to Plaintiff. Accordingly, Plaintiff  
28 sues DOES 2–10 by such fictitious names pursuant to section 474 of the California Code of Civil

1 Procedure. Plaintiff will seek leave to amend this Complaint to allege their true names and  
2 capacities when they are ascertained. Plaintiff is informed and believes and thereon alleges that  
3 DOES 2–10 are legally responsible in some manner for the events, happenings, and/or tortious and  
4 unlawful conduct that caused the injuries and damages alleged in this Complaint.

5 7. On information and belief, at all times material hereto, Defendants were the agents,  
6 representatives, servants, employees, partners, and/or joint venturers of each and every other  
7 Defendant and were acting within the course and scope of said alternative capacity, identity, agency,  
8 representation and/or employment and were within the scope of their authority, whether actual or  
9 apparent. Each of the Defendants is responsible in some manner for one or more of the events and  
10 happenings described herein. Each Defendant approved and/or ratified the conduct of each other  
11 Defendant. Consequently, each Defendant is jointly and severally liable to Plaintiff for the damages  
12 sustained as a proximate result of his, her, or its conduct. Each of the Defendants proximately  
13 caused the injuries and damages alleged.

14 8. Each of the Defendants aided and abetted each other Defendant and Foster. Each  
15 Defendant knowingly gave substantial assistance to each other Defendant who performed the  
16 wrongful conduct alleged herein. Accordingly, each Defendant is jointly and severally liable for  
17 the damages proximately caused by each other Defendant’s wrongful conduct.

18 9. Each of the Defendants is, and at all relevant time herein mentioned was, the co-  
19 conspirator of each other Defendant and Foster, and, therefore, each Defendant is jointly and  
20 severally liable to Plaintiff for the damages sustained as a proximate result of each other Defendant.  
21 Each Defendant entered into an express or implied agreement with each of the other Defendants and  
22 Foster to commit the wrongs herein alleged. This includes, but is not limited to, the conspiracy to  
23 perpetrate sexual violence against Plaintiff, and potentially other young students of DOE 1.

24 10. Whenever reference is made to “Defendants” in this Complaint, such allegation shall  
25 be deemed to mean the acts of Defendants acting individually, jointly, and/or severally.

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1 **FACTUAL ALLEGATIONS**

2 **I. *Defendants Employed Foster and Afforded Foster Unfettered Access to Minor Students,***  
3 ***Allowing Him To Groom And Sexually Assault Plaintiff.***

4 11. On information and belief, DOE 1 hired Foster as a guidance counselor and teacher  
5 at Santana High School in the late 1970s. Through his role as a guidance counselor, Foster worked  
6 closely with Santana High School students, including Plaintiff.

7 12. In approximately November of 1981, Plaintiff enrolled as a freshman student at  
8 Santana High School within DOE 1.

9 13. Having transferred in the middle of the school year, Plaintiff did not have any friends  
10 or know any of his classmates or teachers when he started school.

11 14. On his first day as a freshman, Plaintiff was directed to meet with his assigned  
12 guidance counselor, Foster, to register for his classes. After entering the counselors' offices, Foster  
13 introduced himself to Plaintiff, made Plaintiff feel welcome, and helped Plaintiff choose his classes  
14 for the semester. While registering for classes, Foster assigned Plaintiff to be his aide for one period  
15 each day.

16 15. Using his authority as a guidance counselor, Foster began asking Plaintiff personal  
17 questions, such as asking about his family and homelife. Foster encouraged Plaintiff to be honest  
18 with him. Plaintiff confided in Foster that his parents were divorced, and that his stepfather was  
19 both psychologically and physically abusive. In fact, Plaintiff told Foster that Plaintiff would often  
20 step in for his mother as the target of his stepfather's abuse. Plaintiff told Foster that he enjoyed  
21 school and used it as a way to escape from his troubled homelife.

22 16. Foster targeted Plaintiff for sexual grooming based on his emotional, psychological,  
23 and physical vulnerability as Plaintiff was drawn to and sought guidance from male figures who  
24 showed concern for him. It was during Plaintiff's time as Foster's student assistant that Foster began  
25 grooming Plaintiff physically, as well.

26 17. As a student aide, Plaintiff was required to report to Foster on a daily basis. Foster  
27 would meet with Plaintiff in Foster's office. Inside the office, Foster would close his door and draw  
28 the blinds. This behavior was obviously suspicious conduct that raised red flags from the

1 perspective of Foster's potential to harm. School staff and leadership should have put an immediate  
2 stop to it, and counseled Foster accordingly. Unfortunately, nothing was done.

3 18. When entering the counseling office, there was typically a staff member or student  
4 at the desk whom Plaintiff would see on his way to report to Foster. Within the counseling office,  
5 there were three or four individual offices, each of which belonged to a guidance counselor. Plaintiff  
6 recalls that no other counselor in the office would lock their door or close their blinds. On  
7 information and belief, doing so would be contrary to school policies and/or procedures.

8 19. When Plaintiff was inside Foster's office, both during his time as Foster's assistant  
9 and during his other classes, Foster would close and lock the door and draw the blinds to obscure  
10 the windows. Again, obvious red flags that should have been immediately corrected. Within a few  
11 weeks, Foster began brushing against Plaintiff. Foster would hug Plaintiff, caress his arm or rub his  
12 shoulders, and act as if he were consoling Plaintiff, as Plaintiff revealed his home life situation.  
13 Foster's physical grooming of Plaintiff escalated to include rubbing Plaintiff's back and asking  
14 Plaintiff if the physical touches were alright. Because of Foster's authority as an adult and as a  
15 guidance counselor, Plaintiff was scared and froze while Foster touched him.

16 20. Foster soon escalated his physical behavior and began sexually assaulting Plaintiff  
17 while Plaintiff was in Foster's office at the school. Foster began kissing Plaintiff, and fondling  
18 Plaintiff's genitals outside his clothing. Foster would unzip Plaintiff's pants, pull out Plaintiff's  
19 penis, and fondle Plaintiff's genitals. Foster would also forcibly pull Plaintiff onto Foster's lap,  
20 where he would continue fondling Plaintiff's genitals.

21 21. Plaintiff was too scared to stop Foster. Foster utilized his authority as a well-liked  
22 counselor to escalate his abuse of Plaintiff. Foster would orally copulate Plaintiff, have Plaintiff  
23 orally copulate him, and digitally penetrate his anus on countless occasions.

24 22. These assaults continued at least three to four times a week, and sometimes daily,  
25 throughout the time Plaintiff attended Santana High School. Even after Plaintiff's assignment as a  
26 student aide ended, Foster would pull Plaintiff out of his other classes under the guise of  
27 "counseling" Plaintiff. Despite being pulled out of class on an abnormally frequent basis, none of  
28 Plaintiff's teachers ever questioned Foster's actions.

1           23.     The complete lack of supervision at Santana High School allowed these assaults to  
2 occur in Foster’s office, in classrooms, and in custodial closets. School leadership failed Plaintiff  
3 in the most tragic way imaginable.

4           24.     On occasion, when Plaintiff left Foster’s office, one of DOE 1’s staff members, Mrs.  
5 Zimmerman, who worked as a counselor in the office, would stare at Plaintiff and Foster. She would  
6 peer into Foster’s office while Plaintiff was there. This counselor implicitly recognized the  
7 abnormality of Foster’s interactions and frequent seclusion of Plaintiff. On information and belief,  
8 students, teachers, and other staff of DOE 1 knew that Plaintiff frequently visited Foster in his office,  
9 including visits for extended periods of time, knew that the frequency and length was abnormal, and  
10 knew or should have known of the inappropriate behavior. Unfortunately, no one did anything,  
11 which allowed the horrific abuse of Plaintiff to continue.

12           25.     Foster’s abuse was not limited to the school campus. Emboldened by the free reign  
13 over Plaintiff that DOE 1 had given him, Foster began abusing Plaintiff off campus as well.  
14 Beginning in his sophomore year, Foster began taking Plaintiff to an adult entertainment  
15 establishment called “The Tubs.”

16           26.     Now defunct, The Tubs marketed itself as a nearly 24-hour Adult Entertainment day  
17 spa, where customers could rent “private suites equipped with Jacuzzis,” showers, beds, CD  
18 players/radios, and “dimnable lighting.” The Tubs prided itself on renting private suites by the  
19 hour.

20           27.     Despite being an adults only establishment, Foster was able to bring Plaintiff inside  
21 the establishment by telling management that Plaintiff was Foster’s son. Foster rented a private  
22 suite for an hour. Upon entering the private suite, Foster removed Plaintiff’s clothes, removed his  
23 own clothing, and anally raped Plaintiff. Plaintiff was paralyzed with fear, wishing he could scream,  
24 but afraid of Foster as an adult and authority figure.

25           28.     When Foster finished raping Plaintiff for the first time, Plaintiff quickly pulled on  
26 his underwear and ran out of the room before he could grab any other clothing. Foster called out  
27 for Plaintiff to stop, but Plaintiff did not care about anything other than escaping The Tubs. Plaintiff  
28 walked many miles, barefoot, to reach home—which took nearly eight hours.

1           29.       Unfortunately, the abuse at The Tubs did not end Foster’s torment of Plaintiff. Foster  
2 continued sexually assaulting Plaintiff at Santana High School, bringing Plaintiff back to The Tubs  
3 on approximately 2 other occasions.

4           30.       After years of enduring Foster’s repeated and relentless sexual assaults, Plaintiff  
5 finally decided to drop out of high school. Plaintiff told his older brother that he could not handle  
6 the stress any longer and wanted to leave high school. However, his brother convinced Plaintiff that  
7 he needed to finish high school and enrolled Plaintiff in DOE 1’s Phoenix Program. On information  
8 and belief, the Phoenix Program was an alternative education program created to prevent DOE 1’s  
9 students from dropping out and allowed students to work with faculty for four hours every day,  
10 rather than attend regular classes.

11           31.       On the first day of Plaintiff’s new start in the Phoenix Program, Plaintiff opened the  
12 door to his new classroom and found Foster sitting alone as his educator. Plaintiff was shocked to  
13 learn that he was assigned to Foster, alone, for 4 hours a day. Unsurprisingly, Foster took advantage  
14 of his unsupervised and unfettered access to Plaintiff to continue the horrific sexual abuse. After  
15 only a few short weeks, unable to endure the relentless sexual abuse, Plaintiff dropped out of high  
16 school. Plaintiff did not obtain his GED until 2015.

17           32.       During the time Plaintiff attended Santana High School, Plaintiff was sexually  
18 assaulted countless times, including, but not limited to at least a dozen acts of sodomy and numerous  
19 occasions of digital penetration of Plaintiff’s anus in DOE 1’s Phoenix Building, DOE 1’s  
20 classrooms, Foster’s office, and even custodial closets on DOE 1’s Santana High School campus.

21           33.       Plaintiff was unable to give free and/or voluntary consent to the sexual acts  
22 perpetrated against him by Foster, as he was a minor at the time of the assaults alleged herein.

23 **II.     *DOE 1 Was Negligent In Its Duties to Plaintiff And Ratified Foster’s Sexual Assaults of***  
24 ***Plaintiff.***

25           34.       At all times relevant hereto, Foster was an adult male employed by DOE 1 as a  
26 guidance counselor and teacher at Santana High School. In such capacity, Foster was under the  
27 direct supervision, employ, agency, and control of DOE 1 and DOES 2-10. Therefore, DOE 1 had  
28 a special relationship with Foster, and thus a duty to warn and protect Plaintiff from harm by Foster.

1 Foster's duties and responsibilities with DOE 1 included, in part, providing for the supervision,  
2 counseling, advisory, educational, and emotional needs and well-being of the students of Santana  
3 High School.

4 35. Plaintiff is informed and believes, and thereon alleges, that at all times relevant  
5 herein, DOE 1 owned, operated, maintained, controlled, and staffed Santana High School. DOE 1  
6 promoted Santana High School as a safe place where students could obtain a quality and safe  
7 education.

8 36. Plaintiff is informed and believes and thereon alleges, that in hiring Foster as a  
9 guidance counselor and teacher at Santana High School, Defendants gave Foster full power, control,  
10 and authority to provide teaching, mentoring, and/or counseling services to DOE 1's students. By  
11 continuing to employ Foster, DOE 1 held Foster out to be a professional and safe counselor and  
12 teacher at Santana High School.

13 37. As a guidance counselor and teacher, and with the endorsement of DOE 1, Foster  
14 stood in a position of power, respect, confidence, trust, and authority among Plaintiff and numerous  
15 other minor students. Defendants lodged with Foster the color of authority, through which he was  
16 able to influence, direct, and assault Plaintiff, and to act illegally, unreasonably, and without respect  
17 for the person and safety of Plaintiff.

18 38. At all times relevant hereto, DOE 1 was responsible for the supervision of its  
19 employees' and agents' activities, including those of Foster, and assumed responsibility for the well-  
20 being of the minors in its care, including Plaintiff.

21 39. The sexual acts perpetrated upon Plaintiff by Foster constitute child sexual assault as  
22 defined by California Code of Civil Procedure Section 340.1, as modified by Assembly Bill 218,  
23 and were a violation of the California Penal Code, including, but not limited to, Penal Code Sections  
24 286(b), 287(b), 289(h), and 647.6. Plaintiff is informed and believes and thereon alleges that all of  
25 the sexually abusive and harassing conduct alleged herein was done to satisfy Foster's own prurient  
26 sexual desires.

27 40. Additionally, as a minor child under the custody, care, and control of Defendants,  
28 Defendants stood *in loco parentis* with respect to Plaintiff while he attended class, other educational



1 and extracurricular activities, and other school-related functions at Santana High School. As the  
2 responsible party and/or employer controlling Foster, DOE 1 also was in a special relationship with  
3 Plaintiff and owed special duties to Plaintiff.

4 41. Prior to and during the sexual harassment, molestation, and assault of Plaintiff, DOE  
5 1 knew or should have known, or was otherwise on notice, that Foster had violated his roles as a  
6 guidance counselor and a teacher and used these positions of authority and trust acting on behalf of  
7 DOE 1 to gain access to children, including Plaintiff, on and off DOE 1's facilities and grounds,  
8 which he used to inappropriately touch, molest, abuse, and assault Plaintiff.

9 42. DOE 1 is liable both directly and as a result of vicarious liability for the failure of its  
10 administrative staff to reasonably supervise its employees. *See C.A. v. Williams S. Hart Union High*  
11 *School Dist.* (2012) 53 Cal.4<sup>th</sup> 861, 868.

12 43. It simply cannot be disputed under California law that a special relationship and  
13 heightened duty extended to Plaintiff in these circumstances. "A special relationship is formed  
14 between a school district and its students resulting in the imposition of an affirmative duty on the  
15 school district to take all reasonable steps to protect its students." *See M.W. v. Panama Buena Vista*  
16 *Union School Dist.* (2003) 110 Cal. App. 4<sup>th</sup> 508, 517, 520.

17 44. Pursuant to the inquiry notice standards applicable to this situation "[i]t is not  
18 necessary to prove that the very injury which occurred must have been foreseeable by the school  
19 authorities in order to establish that their failure to provide additional safeguards constituted  
20 negligence. Their negligence is established if a reasonably prudent person would foresee that injuries  
21 of the same general type would be likely to happen in the absence of such safeguards." *J.H. v. Los*  
22 *Angeles Unified School Dist.* (2010) 183 Cal. App.4<sup>th</sup> 123, 146. Furthermore, it is well-settled that  
23 "[f]oreseeability is determined in light of all the circumstances and does not require prior identical  
24 events or injuries." *M.W., supra*, 110 Cal. App 4<sup>th</sup> at 516.

25 45. The act of grooming, in and of itself, is a crime under California law. It is also  
26 foreseeable to DOE 1 that Foster's grooming behavior could lead to sexual assault if unchecked. This  
27 is particularly true in light of the specific grooming that took place in this case.

28

1 46. DOE 1 had inquiry notice of the risks presented by Foster, as alleged herein, and had  
2 a special relationship with Plaintiff that required it to warn and protect Plaintiff from the abuse by  
3 Foster.

4 47. Defendants had a duty to disclose these facts to Plaintiff, his parents, and others, but  
5 negligently and/or intentionally suppressed, concealed, or failed to disclose this information for the  
6 express purposes of maintaining Foster's image as an ethical, wholesome, safe, and trusted guidance  
7 counselor and teacher at and within DOE 1. The duty to disclose this information arose from the  
8 special, trusting, confidential, fiduciary, and *in loco parentis* relationship between Defendants and  
9 Plaintiff.

10 48. As a direct and proximate result of Plaintiff's sexual assault by Foster, which was  
11 enabled and facilitated by Defendants, and Defendants' cover-up, Plaintiff has suffered injury, all  
12 to Plaintiff's general, special, and consequential damage in an amount to be proven at trial, but in  
13 no event less than the minimum jurisdictional amount of this Court.

14 **FIRST CAUSE OF ACTION**

15 **NEGLIGENCE**

16 **(Against All Defendants)**

17 49. Plaintiff repeats, re-alleges and incorporates herein by reference all consistent  
18 paragraphs of this Complaint as if fully set forth herein.

19 50. Pursuant to California Government Code section 815.2, DOE 1 is liable for injuries  
20 proximately caused by the acts or omissions of its employees, agents, servants and/or joint venturers,  
21 where such acts or omissions were within the course and scope of employment.

22 51. Defendants' employees' conduct, actions, and omissions served to create an  
23 environment in which Foster was afforded years of continuous secluded access to minor children,  
24 including Plaintiff, who was sexually abused, molested and assaulted by Foster between the ages of  
25 fifteen and eighteen years old. As set forth herein, other teachers, staff, and administration failed to  
26 act so as to protect and warn students, including Plaintiff, of troubling and improper behavior that  
27 was clearly suspicious and thus subjected Plaintiff to harm.

1           52.     Compulsory education laws create a special relationship between students and  
2 Defendants, and students have a constitutional guarantee to a safe, secure, and peaceful school  
3 environment. Defendants failed to acknowledge and correct unsafe conditions and red flags in  
4 Foster’s behavior, and therefore failed to guarantee safe surroundings in an environment in which  
5 Plaintiff was not free to leave. Because of the special relationship with Plaintiff, DOE 1 had a duty  
6 to protect him from peril.

7           53.     As is set forth herein, Defendants have failed to uphold numerous mandatory duties  
8 imposed upon them by state and federal law, and by written policies and procedures applicable to  
9 Defendants, including, but not limited to, the following: (1) duty to use reasonable care to protect  
10 students from known or foreseeable dangers; (2) duty to protect students and staff and provide  
11 adequate supervision; (3) duty to supervise faculty and students and enforce rules and regulations  
12 prescribed for schools, exercise reasonable control over students as is reasonably necessary to  
13 maintain order, protect property, or protect the health and safety of faculty and students or to  
14 maintain proper and appropriate conditions conducive to learning; (4) duty to act promptly and  
15 diligently and not ignore or minimize problems; (5) duty to warn Plaintiff and other students of  
16 potential harm; and (6) duty to refrain from violating Plaintiff’s right to protection from bodily  
17 restraint or harm.

18           54.     Defendants had and have a duty to protect students, including Plaintiff, who were  
19 entrusted to Defendants’ care. Defendants owed Plaintiff, as a minor at the time, a special duty of  
20 care, in addition to a duty of ordinary care, and owed Plaintiff the higher duty of care that adults  
21 dealing with minors owe to protect them from harm. Defendants were required, but failed, to  
22 provide adequate supervision and failed to be properly vigilant in ensuring that such supervision  
23 was sufficient to ensure the safety of Plaintiff and others.

24           55.     Defendants were required but failed to exercise careful supervision of the moral  
25 conditions in their school. This duty extended beyond the classroom. Defendants had a duty to put  
26 rules and regulations in place to protect their students from the possibility of childhood sexual abuse  
27 at the hands of DOE 1’s teachers and staff.

28

1           56. Defendants had a duty to and failed to adequately train and supervise all counselors,  
2 advisors, teachers, administrators, mentors and staff to create a positive, safe, and educational  
3 environment, specifically including training to perceive, report and stop inappropriate conduct by  
4 other members of the staff, specifically including Foster, with minors. Defendants owed Plaintiff a  
5 duty to institute reasonable protective measures to protect Plaintiff and other minor children in their  
6 charge from the risk of sexual assault, harassment and molestation by Foster by properly warning,  
7 training, or educating DOE 1's staff members about how to spot red flags in other staff members',  
8 and specifically Foster's, behavior with minor students.

9           57. By virtue of his unique authority and position as a guidance counselor and teacher,  
10 Foster was able to identify vulnerable victims, such as Plaintiff, upon which he could perform sexual  
11 assault; to manipulate his authority to procure compliance with his sexual demands from his victims;  
12 and to induce the victims to continue to allow the sexual assault. As a guidance counselor and  
13 teacher, Foster had unique access to, and held a position of authority among, students who were  
14 attending DOE 1, like Plaintiff, and their families who either belonged to and attended DOE 1 or  
15 approved of their minor children doing so, like Plaintiff's parents.

16           58. Defendants, by and through their agents, servants, and employees, knew or  
17 reasonably should have known of Foster's sexually abusive and exploitative propensities and/or that  
18 Foster was an unfit agent. It was foreseeable that if Defendants did not adequately exercise or  
19 provide the duty of care owed to minors in their care, including but not limited to Plaintiff, the  
20 minors entrusted to Defendants' care would be vulnerable to sexual assault by Foster.

21           59. Defendants breached their duty of care to Plaintiff by allowing Foster to come into  
22 contact with Plaintiff as a minor without supervision; by failing to properly investigate Foster and  
23 the numerous instances of behavior that clearly raised red flags; by failing to supervise and/or stop  
24 Foster from committing wrongful sexual acts with minor children, including Plaintiff; by shielding  
25 Foster from responsibility for his sexual assault of Plaintiff; by failing to inform or concealing from  
26 Plaintiff's parents, guardians, or law enforcement officials that Foster was or may have been  
27 sexually abusing minors; by holding out Foster to the DOE 1 community at large as being in good  
28 standing and trustworthy as a person of stature and integrity; by failing to take reasonable steps or

1 implement reasonable safeguards to protect Plaintiff and other minor children in their charge from  
2 the risk of sexual assault, harassment, and molestation, including by failing to enact adequate  
3 policies and procedures or failing to ensure their policies and procedures were followed; and by  
4 failing to properly warn, train or educate DOE 1's staff members about how to spot red flags in  
5 other staff members', and specifically Foster's, behavior with minor students.

6 60. As a direct and proximate result of Defendants' multiple and continuous breaches,  
7 Plaintiff has suffered injury, all to Plaintiff's general, special, and consequential damage in an  
8 amount to be proven at trial, but in no event less than the minimum jurisdictional amount of this  
9 Court.

10 61. As a result of the above-described conduct, Plaintiff has suffered and continues to  
11 suffer in many ways, including but not limited to pain of mind and body, emotional distress, physical  
12 manifestations of emotional distress, anxiety, depression, a lost sense of trust, and was prevented  
13 and will continue to be prevented from performing daily activities and obtaining the full enjoyment  
14 of life.

15 **SECOND CAUSE OF ACTION**

16 **NEGLIGENT SUPERVISION AND RETENTION**

17 **(Against All Defendants)**

18 62. Plaintiff repeats, re-alleges and incorporates herein by reference all consistent  
19 paragraphs of this Complaint as if fully set forth herein.

20 63. Pursuant to California Government Code section 815.2, DOE 1 is liable for injuries  
21 proximately caused by the acts or omissions of its employees, agents, servants and/or joint venturers,  
22 where such acts or omissions were within the course and scope of employment.

23 64. As an educational institution entrusted with the care of minors, where all students are  
24 entrusted to the teachers, counselors, advisors, mentors, faculty members, and administrators, DOE  
25 1 expressly and implicitly represented that these individuals, including Foster, were not a sexual  
26 threat to minors and others who would fall under Foster's influence, control, direction, and guidance.

27 65. It is well-settled that a school district, such as DOE 1, has a duty to supervise its  
28 students and employees. Supervision requires more than simply the presence of staff or

1 administration on campus. It requires the knowledge and care as an institution as to the types of  
2 foreseeable harm that a student may encounter, and protecting against those harms by establishing,  
3 implementing, and enforcing adequate policies and procedures. Supervision requires adequate  
4 training, adequate staff, and adequate involvement by staff and administration.

5 66. DOE 1 failed to provide such supervision to the Plaintiff by allowing Foster to be  
6 alone with minor students in violation of its own policies and/or the applicable standard of care. DOE  
7 1 failed to take reasonable measures to prevent the grooming and childhood sexual abuse of its  
8 students, including Plaintiff.

9 67. On information and belief, DOE 1 did not have in place a system or procedure to  
10 reasonably investigate, supervise and monitor teachers, nor safeguards designed to prevent pre-  
11 sexual grooming and sexual abuse of children. Even if such procedures existed on paper, DOE 1  
12 did not implement any system or procedure to oversee or monitor conduct towards minors, students  
13 and others in its care during the time period at issue.

14 68. Once hired by DOE 1, Foster undertook to openly and obviously groom multiple  
15 students, including Plaintiff. It thus appears that school leadership, staff and employees were not able  
16 to recognize the signs of grooming by Foster due to inappropriate training or lack thereof.

17 69. On information and belief, had school leadership and staff been trained to recognize  
18 red flags associated with grooming, they would have undertaken to cease, report and stop the behavior  
19 of Foster before Plaintiff was actually sexually assaulted, as explained herein.

20 70. By the time Plaintiff was sexually abused by Foster, DOE 1, knew or should have  
21 known of the ongoing grooming and abuse of Plaintiff, but due to their lack of training, failed to  
22 recognize those signs

23 71. Defendants were aware or should have been aware of their minor students'  
24 significant vulnerability to sexual harassment, molestation and assault by mentors, advisors,  
25 teachers, counselors, and other persons of authority within DOE 1.

26 72. Defendants owed Plaintiff a duty to provide reasonable supervision of both Plaintiff  
27 and Foster, to use reasonable care in investigating Foster, and to provide adequate warning to  
28

1 Plaintiff and his family, and to families of other minor students who were entrusted to Foster, of  
2 Foster's sexually abusive and exploitative propensities and unfitness.

3 73. Defendants owed Plaintiff a duty not to retain Foster given his proclivity towards  
4 pedophilia, which Defendants knew, or should have known had they engaged in a meaningful and  
5 adequate investigation of his background, allegations of sexual assault of Plaintiff and other minor  
6 students at DOE 1, or red flags in Foster's behavior.

7 74. Defendants, by and through their agents, servants and employees, knew or should  
8 have known of Foster's sexually abusive and exploitative propensities and/or that Foster was an  
9 unfit agent. Despite such knowledge, Defendants negligently failed to supervise Foster in his  
10 position of trust and authority as a teacher and counselor, in which position he was able to commit  
11 the wrongful acts against Plaintiff alleged herein. Defendants failed to provide reasonable  
12 supervision of Foster, failed to use reasonable care in investigating Foster, and failed to provide  
13 adequate warning to Plaintiff and his family regarding Foster's sexually abusive and exploitative  
14 propensities and unfitness. Defendants further failed to take reasonable measures to prevent future  
15 sexual assault despite clear warning and signs that such sexual assaults were taking place.

16 75. Defendants failed to properly evaluate Foster's conduct and performance as an  
17 employee of, or provider of services to Defendants, and failed to exercise the due diligence  
18 incumbent upon employers to investigate employee misconduct, or to take appropriate disciplinary  
19 action. Defendants negligently continued to retain Foster in service as a guidance counselor and  
20 teacher, working or providing services for Defendants, which enabled him to continue engaging in  
21 the sexually abusive and predatory behavior described herein.

22 76. Defendants should have known that Foster had engaged in dangerous and  
23 inappropriate conduct, and it was reasonably foreseeable that Foster was engaging, or would engage  
24 in illicit sexual activities with Plaintiff, under the cloak of his authority, confidence, and trust,  
25 bestowed upon him through Defendants.

26 77. Defendants breached their duty to Plaintiff by, *inter alia*, failing to adequately  
27 monitor and supervise Foster, failing to stop Foster from committing wrongful sexual acts with  
28

1 minor students, including Plaintiff, and continuing to retain Foster despite clear warning and signs  
2 that sexual assaults of minors were taking place.

3 78. As a direct and proximate result of Defendants' multiple and continuous breaches,  
4 Plaintiff has suffered injury, all to Plaintiff's general, special, and consequential damage in an  
5 amount to be proven at trial, but in no event less than the minimum jurisdictional amount of this  
6 Court.

7 79. As a result of the above-described conduct, Plaintiff has suffered and continues to  
8 suffer in many ways, including but not limited to pain of mind and body, emotional distress, physical  
9 manifestations of emotional distress, anxiety, depression, a lost sense of trust, and was prevented  
10 and will continue to be prevented from performing daily activities and obtaining the full enjoyment  
11 of life.

12 **THIRD CAUSE OF ACTION**

13 **SEXUAL HARASSMENT**

14 **(Against all Defendants)**

15 80. Plaintiff repeats, re-alleges and incorporates herein by reference all consistent  
16 paragraphs of this Complaint as if fully set forth herein.

17 81. Pursuant to California Government Code section 815.2, DOE 1 is liable for injuries  
18 proximately caused by the acts or omissions of its employees, agents, servants and/or joint venturers,  
19 where such acts or omissions were within the course and scope of employment.

20 82. As stated above, there was a business, service, and/or professional relationship  
21 between Foster and Plaintiff, as he was Plaintiff's guidance counselor and teacher.

22 83. Plaintiff was a minor student at DOE 1 where Foster was an employee. Plaintiff was  
23 compelled to be at school by law. Because Foster was an adult employee of the school, the  
24 relationship between them was such that Foster was in a position of power and authority over  
25 Plaintiff.

26 84. During Plaintiff's time as a minor student at DOE 1, Foster intentionally, recklessly,  
27 and wantonly made sexual advances, requests, and demands for sexual compliance of a hostile  
28 nature that were unwelcome, pervasive, and severe. The sexual harassment and assault included,



1 but was not limited to, fondling Plaintiff's genitals, digitally penetrating Plaintiff's anus, orally  
2 copulating Plaintiff, and sodomizing Plaintiff.

3 85. These acts of sexual assault occurred while Plaintiff was under the control and care  
4 of Foster in his capacity as a teacher and guidance counselor and while acting specifically on behalf  
5 of DOE 1.

6 86. Because of Plaintiff's relationship with Defendants and Plaintiff's age of minority,  
7 Plaintiff was unable to terminate the relationship he had with DOE 1 and Defendants.

8 87. Defendants, through its employees and agents, denied Plaintiff his rights pursuant to  
9 section 51.9 of the Civil Code, and aided, incited, and conspired in the denial of those rights.  
10 Plaintiff is informed and believes and thereupon alleges that Defendants were made aware of  
11 Foster's sexual assaults of minor students. Further, Plaintiff is informed and believes and thereupon  
12 alleges that Defendants, specifically school administration and staff, ratified Foster's conduct and  
13 aided and abetted his conduct by (1) allowing Foster to be in a Foster's office at the school with the  
14 door locked and the blinds shut with minor students, alone; (2) failing to properly investigate Foster  
15 and the numerous instances of behavior that clearly raised red flags; (3) failing to supervise and/or  
16 stop Foster from committing wrongful sexual acts with minor children, including Plaintiff; (4)  
17 shielding Foster from responsibility for his sexual assault of Plaintiff and other minors; (5) failing  
18 to inform or concealing from Plaintiff's parents, guardians, or law enforcement officials that Foster  
19 was or may have been sexually abusing minors; (6) holding out Foster to the DOE 1 community at  
20 large as being in good standing and trustworthy as a person of stature and integrity; (7) failing to  
21 take reasonable steps or implement reasonable safeguards to protect Plaintiff and other minor  
22 children in their charge from the risk of sexual assault, harassment, and molestation, including by  
23 failing to enact adequate policies and procedures or failing to ensure their policies and procedures  
24 were followed; and (8) failing to properly warn, train or educate DOE 1's staff members about how  
25 to spot red flags in other staff members', and specifically Foster's, behavior with minor students.

26 88. As a result of Foster's sexual harassment, Plaintiff has suffered injury, all to  
27 Plaintiff's general, special, and consequential damage in an amount to be proven at trial, but in no  
28 event less than the minimum jurisdictional amount of this Court.



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**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury in this action for any and all claims so triable.

DATED: October 5, 2021

GREENBERG GROSS LLP

By:



Brian L. Williams  
Jemma E. Dunn  
Bailee B. Pelham

*Attorneys for Plaintiff Shawn Alvin Morris*