

OCT 09 2020

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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

17 **COUNTY OF VENTURA**

18 J.R., a minor, by and through her guardian
19 ad litem, MARICELA ANGELES,

20 Plaintiff,

21 v.

22 OXNARD UNION HIGH SCHOOL
23 DISTRICT, a local educational agency,
24 ADRIAN AYALA, an individual, and DOES
25 1 through 20, inclusive,

26 Defendants.

Case No.:

COMPLAINT FOR DAMAGES FOR:

1. Negligence
2. Negligent Hiring, Training, Supervision, and Retention
3. Negligent Supervision
4. Violations of the Unruh Act
5. Violations of the Bane Act
6. Intentional Infliction of Emotional Distress

DEMAND FOR JURY TRIAL

27 Plaintiff J.R., a minor ("J.R." or "Plaintiff"), by and through her guardian ad litem,
28 MARICELA ANGELES, hereby complains against Defendants OXNARD UNION HIGH
SCHOOL DISTRICT, a local educational agency ("OUHSD"), ADRIAN AYALA, an
individual, and DOES 1 through 20 (collectively "Defendants"), and alleges as follows:

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GENERAL ALLEGATIONS

NATURE OF ACTION

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3 1. During the 2019-2020 school year at Hueneme High School, which is part of the
4 Oxnard Union High School District, a group of students brutally beat Plaintiff J.R. They
5 punched her, they stomped on her, they kicked her, and they pulled on her hair. J.R. was rushed
6 to the emergency room and had to transfer schools. She is still reeling from the physical and
7 emotional effects of the attack to this day and likely will be for the rest of her life. Defendants,
8 including OUHSD and Principal Ayala, were well aware that J.R. was being targeted by this
9 group of students. Defendants knew that J.R. was sexually assaulted, physically threatened, and
10 verbally harassed for an entire year before this attack. In fact, in the weeks leading up to the
11 attack, J.R. pleaded with Defendants to protect her. She spent her lunch periods hiding in the
12 bathroom hoping that no one would attack her. She asked her counselor, teachers, and
13 principals for help. Her mother and attorney pleaded with the school to help safeguard her.
14 Defendants did not help. They treated her like she was less important and less valuable because
15 of her race and disabilities. The consequence was an episode of substantial violence. Plaintiff
16 brings the following causes of action against Defendants, who are responsible for her suffering:
17 negligence; negligent hiring, training, supervision, and retention; negligent supervision;
18 violations of the Unruh Act; violations of the Bane Act; and Intentional Infliction of Emotional
19 Distress.

20 **PARTIES**

21 2. Plaintiff J.R. is a citizen of California and resides in Oxnard. Maricela Angeles is
22 J.R.'s mother.

23 3. Defendant Oxnard Union High School District is a California local educational
24 agency. OUHSD is a public entity duly incorporated and operated under California law as a
25 school district. OUHSD owns, operates, controls, and maintains Hueneme High School, which
26 is located at 500 W. Bard Road, Oxnard, California 93033, and Oxnard High School, which is
27 located at 3400 W. Gonzalez Road, Oxnard, California 93036. OUHSD resides in Ventura
28 County.

1 4. Defendant Adrian Ayala (“Mr. Ayala” or “Principal”) was the principal of
2 Hueneme High School and was an employee of OUHSD at all times relevant herein. On
3 information and belief, Mr. Ayala resides in Ventura County.

4 5. The true names and capacities, whether individual, corporate, associate, or other
5 of Does 1-20 are unknown to Plaintiff, who therefore sues these defendants by such fictitious
6 names. Plaintiff alleges that each Doe defendant is legally responsible in some manner for the
7 events and happenings referred to herein and will ask leave of this court to insert their true
8 names and capacities when they become known.

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

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

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

3 JURISDICTION AND VENUE

4 9. This Court has personal jurisdiction over Defendants because all Defendants
5 reside in California.

6 10. Venue is proper in this judicial district, pursuant to California Code of Civil
7 Procedure § 395.5. The amounts in controversy exceed this Court's jurisdictional minimum.

8 ADMINISTRATIVE EXHAUSTION

9 11. Pursuant to California Government Code section 900 *et seq.*, Plaintiff presented
10 her claim for damages to OUHSD and Mr. Ayala within six months of the acts and omissions
11 alleged herein.

12 12. Defendant OUHSD and Mr. Ayala did not respond to Plaintiff's presentation of
13 her claims, and Plaintiff's claims were thus rejected by operation of law pursuant to California
14 Government Code section 945.6(a)(2).

15 BACKGROUND FACTS

16 13. J.R. has a speech and language impairment. Her speech and language
17 impairment is a disability, medical condition, and a genetic abnormality. Since seventh grade,
18 she has been entitled to special education services.

19 14. Special education students are much more likely to be victims of bullying and
20 physical violence than general education students.¹ In particular, students, like J.R., "with
21 communication disorders are at particularly high risk for being bullied by peers."² These
22 students are likely victims because "they demonstrate impairments in social skills that draw the
23 attention of bullies."³

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27 ¹ Chad Rose, et al., *The Relationship Between School Belonging, Sibling Aggression, and Bullying Involvement: Implications for Students with and without Disabilities*, EDUCATIONAL PSYCHOLOGY 36 (8) pp. 1462-86 (2016).

28 ² Stephanie Hughes, *Bullying: What Speech-Language Pathologists Should Know*, LANGUAGE, SPEECH, AND HEARING SERVICES IN SCHOOLS 45(1) pp. 3-13 (2014).

³ *Id.*

1 15. For student safety, it is very important for schools to be attentive to both the
2 peers surrounding students with disabilities as well as these students' educational placement.⁴

3 **DEFENDANTS KNEW THAT J.R. WAS BEING BULLIED AND THREATENED**
4 **WITH PHYSICAL VIOLENCE FOR OVER A YEAR**

5 16. During the 2018-2019 school year, J.R. was a ninth-grade student at Hueneme
6 High School. She received special education for 72 percent of each school day. J.R. did well in
7 her special education program: An OUHSD employee described her as "delightful to have in
8 class"

9 17. However, outside of special education classes, J.R. was the victim of substantial
10 bullying, threats, and sexual harassment. A male student harassed her on multiple occasions
11 over the course of several months. At one point, the male student blocked J.R. from exiting a
12 classroom and grabbed her buttocks. Other students also bullied and threatened to physically
13 harm J.R. On multiple occasions during her freshman year, J.R. told OUHSD administration,
14 including Mr. Ayala, and teachers about bullying and threats other students made to physically
15 injure her. J.R.'s case manager Joy Fuqua claimed that "[a]t this moment [J.R.] is not able to
16 solve conflicts with peers independently because she has difficulty differentiating bullying from
17 peers being upset/rude at any given moment." OUHSD and Mr. Ayala were aware of Ms.
18 Fuqua's findings. Defendants took no action to either investigate the bullying and threats or to
19 protect J.R.

20 18. In May 2019, OUHSD held an Individualized Education Plan (IEP) meeting to
21 assess J.R.'s needs for the 2019-2020 school year. In the IEP, OUHSD acknowledged that J.R.
22 needed special education classes, rather than general education classes for tenth grade. J.R.'s
23 mother, Maricela Angeles, signed and returned to the school district the May IEP, which
24 provided for special education classes. In June 2019, there was another IEP, but J.R.'s special
25 education program did not change. Again, Ms. Angeles signed and returned the June IEP to the
26 school district.

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⁴ Susan Swearer, et al., *Bullying and Discrimination in Schools: Exploring Variations Across Student Subgroups*,
SCHOOL PSYCHOLOGY REVIEW 44(4), pp. 504-09 (2015).

1 19. In August 2019, at the beginning of J.R.'s tenth grade year at Hueneme High
2 School, J.R. received her class schedule. The schedule included only general education classes
3 and no special education classes, which she was entitled to and which the IEP provided for.

4 20. J.R. needed special education services, and because of her speech and language
5 disorder, she was unable to participate in general education classes.

6 21. J.R., Ms. Angeles, and J.R.'s then special education attorney, Heather Zakson,
7 immediately told Defendants that J.R. was incorrectly placed in only general education classes.
8 In the following weeks, J.R., Ms. Angeles, and Ms. Zakson repeatedly told Defendants that J.R.
9 needed to be put in special education classes where she belonged.

10 22. Defendants refused to put J.R. back in the special education classes because they
11 claimed that the May and June IEPs were not signed by Ms. Angeles. In fact, the IEPs were
12 signed by Ms. Angeles. In any case, Ms. Angeles and Ms. Zakson then provided the district
13 with the signed IEPs again. Defendants then ignored J.R.'s, Ms. Angeles', and Ms. Zakson's
14 repeated requests to put J.R. back into the special education classes she belonged in.

15 23. J.R. was badly bullied in the general education classes that she was in. A group
16 of students would insult her based on her disability. They would threaten to attack J.R. both in
17 classrooms and at other locations in school. Defendants, several administrators, and teachers
18 witnessed these threats of physical violence and did nothing to protect J.R. in part due to her
19 disability.

20 24. On an almost daily basis, J.R. complained to Defendants, including her case
21 manager and teacher Andrew Font about the ongoing abuse she was facing in her general
22 education classes. She told Defendants about how scared she was for her own physical safety.
23 She told Defendants that there was a group of students that planned to physically attack her. She
24 told Defendants that she was unable to learn anything in her general education classes because
25 she did not understand the material.

26 25. J.R.'s general education teachers and school, including Defendants, knew that
27 J.R. was supposed to be in special education classes. They knew that J.R.'s safety was being
28 threatened. Nevertheless, Defendants did nothing to put her in the right classes or to protect her.

1 Defendants are much more proactive in protecting non-disabled students' safety than they were
2 in protecting J.R.'s.

3 26. Instead of protecting J.R., her teachers got angry with her and said that she was
4 distracting the class. In fact, J.R.'s first period teacher would regularly scream at J.R. She would
5 attack J.R. for not understanding the lessons. She would disparage J.R.'s intelligence. She even
6 repeatedly marked J.R. absent from her class, even though J.R. was present. Rather than help
7 J.R., a young student with a disability and special needs, get into the appropriate classes, her
8 teacher instead berated and insulted her.

9 27. When J.R. told her OUHSD therapist that she was being harassed by her teacher,
10 the therapist told J.R. to just ignore the teacher. When J.R. told her therapist that she was in
11 danger from a group of students on campus who were targeting her for a physical attack, the
12 therapist did nothing to protect her. The therapist did not report these threats of violence to
13 school administrators, teachers, or law enforcement.

14 28. In person and by phone and email, J.R., Ms. Angeles, and Ms. Zakson told
15 Defendants that J.R. was in serious danger. J.R. reported many of these incidents of verbal
16 abuse and threats of violence to Defendants, including Mr. Ayala. Defendants did nothing to
17 protect her.

18 29. J.R. was so scared for her safety that she regularly spent her lunch periods hiding
19 from the students who wanted to attack her in the bathroom and in her case manager's
20 classroom.

21 **HUENEME HIGH SCHOOL STUDENTS BATTERED PLAINTIFF, WHO WAS THEN**

22 **TAKEN TO THE EMERGENCY ROOM AT A NEARBY HOSPITAL**

23 30. On October 2, 2019, J.R. spoke with Ms. Zakson about how scared she was for
24 her physical safety. On October 3, 2019, Ms. Zakson again told OUHSD that J.R. was in
25 serious danger and that her educational placement was denying her the ability to learn.

26 31. No one at OUHSD took any action to protect J.R. in reaction to Ms. Zakson's
27 communications.

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1 32. In the first two weeks of October 2019, J.R. and Ms. Angeles went in person to
2 several of the OUHSD administrators, including Mr. Ayala and requested that they take some
3 action to protect J.R. from physical attacks.

4 33. On October 16, 2019, J.R. contacted her mother, Ms. Angeles, and said that a
5 group of students planned to attack her. So, Ms. Angeles again went to Hueneme High School
6 to talk to the administration about providing J.R. with security and putting her in the proper
7 special education classes.

8 34. That day, while Ms. Angeles was at school, no adults at OUHSD were looking
9 out for J.R. No adult at OUHSD kept track of the group of students who Defendants knew
10 wanted to attack J.R.

11 35. A group of students followed J.R. while still on Hueneme High School property.
12 The students chased J.R. As J.R. ran, she tried to call her mom, but her phone fell out of her
13 hand as she was running. Finally, the students caught up to J.R. and the group of them badly
14 punched, kicked, and stomped on her. J.R. was rushed to the emergency room at a nearby
15 hospital. J.R. suffered severe head trauma and trauma to her back. She had wounds and bruises
16 all over her body.

17 36. J.R. later transferred to Oxnard High School, which is also at OUHSD. During
18 the 2018-2019 school year, Oxnard High School had a violent attack on campus on over 18
19 percent of school days. So, even after J.R. was badly beaten, OUHSD has still not taken action
20 to meaningfully protect her or other disabled students.

21 37. As set forth herein, Defendants and each of them failed to uphold numerous
22 mandatory duties imposed upon them by law and written policies and procedures applicable to
23 Defendants, including, but not limited to the following:

- 24 * Duty to provide “[a]ll students and staff of public primary, elementary, junior
25 high, and senior high schools, and community colleges, colleges, and
26 universities [] the inalienable right to attend campuses which are safe, secure
27 and peaceful.” California Constitution, Article I § 28.

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- * Duty to have protocols to address the mental health care of pupils who have been a victim of a violent act on campus. Cal. Ed. Code § 32282(a)(2)(H).
- * Duty to work together with parents to create a mutually supportive and respectful partnership with the school to help children succeed. Cal. Ed. Code § 51101.
- * Duty to assign a student who is the victim of emotional or physical abuse to counseling sessions.
- * Duty to “not directly or indirectly use . . . the official authority or influence of [a school] employee for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce and command any person” Cal. Ed. Code § 44113(a).
- * Duty to have and follow policies and procedures for protecting people at school from bodily harm. Cal. Civ. Code § 43; Cal. Ed. Code § 47605(b)(5)(F); Cal. Code Regs, tit. 5 § 111967.5.1(f)(6).
- * Duty to “supervise at all times the conduct of children on school grounds and to enforce those rules and regulations necessary to” ensure the protection of students, faculty, and staff.” Cal. Ed. Code § 44807.
- * Duty to have a comprehensive school safety plan. Cal. Ed. Code § 32282.
- * Duty to not permit a minor to suffer unjustifiable physical pain or mental suffering. Penal Code § 273.
- * Duty to not cause a minor unjustifiable physical pain or mental suffering. Penal Code § 273.
- * Duty to not use corporal punishment. Cal. Ed. Code § 49001.
- * Duty to have and follow procedures for tactical responses to criminal incidents. Cal. Ed. Code § 32282(a)(2)(H).
- * Duty to have school counselors that “possess the knowledge, abilities, skills, and attitudes necessary to lead individual counseling and group counseling

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and person/social development for every student. *Oxnard Union High School District Employee Handbook*, p. 7.

- * Duty to have school counselors, parents, teachers, administrators, leaders, and other stakeholders collaborate to ensure student counseling and safety. *Oxnard Union High School District Employee Handbook*, p. 9.
- * Duty to hire only people whose qualifications are “sufficient to ensure the health and safety of the school’s faculty, staff, and pupils.” Cal. Code Regs, tit. 5 § 11967.5.1(f)(5)(A).
- * Duty to ensure the safe ingress and egress of pupils to and from school. Cal. Ed. Code § 32282(a)(2)(G).
- * Duty to have safety training programs to protect students from physical harm.

FIRST CAUSE OF ACTION

NEGLIGENCE

(Against All Defendants)

38. Plaintiff refers to all preceding paragraphs and incorporates them as if set forth in full in this cause of action.

39. Defendants committed the negligent acts and/or negligent failures to act set forth above, which caused the physical and emotional harm suffered by Plaintiff.

40. As detailed and alleged above, Defendants owed Plaintiff a duty of care to act.

41. As detailed and alleged above, Defendants breached their duty of care towards Plaintiff by their conduct and failed to exercise reasonable care.

42. As a result of the above-described conduct, 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 performing daily activities and obtaining the full enjoyment of life; and has

1 incurred and will continue to incur expenses for medical and psychological treatment, therapy,
2 and counseling.

3 43. Defendants were the actual and proximate causes of Plaintiff's injuries.

4 **SECOND CAUSE OF ACTION**

5 **NEGLIGENT HIRING, TRAINING, SUPERVISION, AND RETENTION**

6 (Against All Defendants)

7 44. Plaintiff refers to all preceding paragraphs and incorporates them as if set forth
8 in full in this cause of action.

9 45. Defendants owed a duty to the public and to the plaintiff to hire, train, retain, and
10 supervise their employees, agents, servants, and independent contractors, including Does 1
11 through 20, with reasonable care.

12 46. Defendants negligently breached that duty and authorized and ratified their
13 employees' agents', servants', and independent contractors', including Does 1 through 20's,
14 misconduct.

15 47. Defendants' employees, agents, servants, and independent contractors were unfit
16 and incompetent to perform their roles and duties, including those duties herein alleged above.

17 48. Defendants' knew or should have known that their employees, agents, servants,
18 and independent contractors, including Does 1 through 20, were unfit and incompetent to
19 perform their roles and duties and that lack of fitness or incompetence created a particular risk
20 to others, including Plaintiff.

21 49. Defendants' breaches caused and were a substantial factor in causing Plaintiff's
22 harm.

23 50. As a direct, proximate, and legal cause of Defendants' wrongful conduct,
24 Plaintiff suffered foreseeable past and future physical and emotional injuries and general,
25 special, and incidental damages in an amount according to proof in excess of the jurisdictional
26 requirements of this court.

27 51. As a direct, proximate and legal cause of Defendants' wrongful conduct,
28 Plaintiff has suffered, without limitation:

- 1 a. Past and future medical and healthcare expenses;
2 b. Past and future lost earnings and diminution of earning capacity;
3 c. Past and future household services;
4 d. Past and future incidental expenses; and
5 e. Past and future non-economic damages, including physical pain, mental
6 suffering, loss of enjoyment of life, disfigurement, physical impairment, inconvenience, grief,
7 anxiety, humiliation, and emotional distress.

8 **THIRD CAUSE OF ACTION**

9 **NEGLIGENT SUPERVISION**

10 (Against All Defendants)

11 52. Plaintiff repeats, realleges, and incorporates herein by this reference all prior
12 allegations.

13 53. Defendants committed the negligent acts and/or negligent failures to act set forth
14 above, which caused the physical and emotional harm suffered by Plaintiff.

15 54. Defendants owed Plaintiff a duty to supervise the students under its charge.

16 55. As detailed and alleged above, Defendants breached their duty of care towards
17 Plaintiff by their conduct and failed to exercise reasonable care.

18 56. As alleged, Defendants was or should have been aware that several students
19 posed a threat to the safety of all students at school, including J.R. No Defendant took any
20 steps to protect J.R. or the other students at school.

21 57. Defendants' failure to supervise the students that attacked J.R. was the actual
22 and proximate cause of Plaintiff's damages.

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

3 **FOURTH CAUSE OF ACTION**

4 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

5 **CALIFORNIA CIVIL CODE §§ 51 AND 52**

6 (Against All Defendants)

7 59. Plaintiff repeats, realleges, and incorporates herein by this reference all prior
8 allegations.

9 60. Defendant OUHSD is a "business establishment" for purposes of the Unruh Civil
10 Rights Act. Defendants Mr. Ayala and Does 1-20, acting as OUHSD's agents at all times,
11 denied and/or incited a denial, discriminated, or made a distinction contrary to California Civil
12 Code § 51 pursuant to California Civil Code §§ 52 and 52.1(b).

13 61. Defendants denied Plaintiff her full and equal accommodations, advantages,
14 facilities, privileges, and services when they did not protect her from the threat and ultimately
15 acts of physical violence that she was the victim of.

16 62. A substantial motivating reason for Defendants' conduct in denying Plaintiff full
17 and equal accommodations, advantages, facilities, privileges, and services was that Plaintiff is
18 Latinx, disabled, had a medical condition, and had genetic abnormalities as alleged above.

19 63. In engaging in and performing the acts, omissions and conduct alleged
20 above, Defendants denied Plaintiff, and/or aided or incited the denial of the benefits that
21 Plaintiff was entitled to as a student at OUHSD. This denial was undertaken as a direct result of
22 disdain for Plaintiff's race, disability, medical condition, and genetic abnormality.

23 64. As a proximate result of the above-mentioned conduct, Plaintiff suffered
24 general damages including, but not limited to, emotional distress and pain, suffering, and
25 inconvenience.

26 65. As a further proximate result of the above-mentioned conduct, Plaintiff suffered
27 special damages, including, but not limited to medical expenses, counseling, and educational
28 expenses, in amounts to be determined at trial.

1 and it reasonably appears the recipient of the threat that such threat could
2 be carried out, is guilty of a public offense”);

3 * California Education Code § 441133(a) (Students have the right to be
4 free from a school employee directly or indirectly using “the official
5 authority or influence of the employee for the purpose of intimidating,
6 threatening, coercing, commanding, or attempting to intimidate, threaten,
7 coerce and command any person”);

8 * Penal Code § 273 (every minor has the right to not be the victim of
9 unjustifiable physical pain or mental suffering);

10 * Civil Code § 43 (“every person has . . . the right of protection from
11 bodily restraint or harm, from personal insult, from defamation, and from
12 injury to his personal relations”);

13 * Code of Civil Procedure § 527.8;

14 * Education Code § 47605;

15 * Education Code § 48907(a); and

16 * Code of Regulations, title 5 § 111967.5.1.

17 70. Defendants, including the students that attacked Plaintiff, acted violently against
18 her.

19 71. Defendants interfered with Plaintiff’s rights with threats of violent acts,
20 intimidation, and coercion.

21 72. Defendants repeatedly committed and ratified threatening, harassing, and
22 intimidating acts, including, but not limited to, repeated threats of violence, repeated threats of
23 injury to Plaintiff’s person and to her property, harassing insults that invaded Plaintiff’s sense of
24 security, identity, and ability to learn, intentional infliction of emotional distress, and
25 educational conditions so hostile that Plaintiff had to be removed from school.

26 73. In committing the foregoing acts, Defendants intended to cause physical and
27 emotional distress to Plaintiff. Specifically, Defendants intentionally interfered with Plaintiff’s
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1 rights with the intent to cause him severe emotional distress or at least without regard to the
2 consequences of Plaintiff's livelihood and emotional well-being.

3 74. Such conduct was performed or ratified by Defendants and each of them is
4 responsible for a substantial portion of the violent and tortious conduct.

5 75. OUHSD, Mr. Ayala, and Does 1-20 endorsed and ratified the students who
6 attacked J.R.'s actions by being on notice that the students would almost certainly physically
7 harm Plaintiff and by doing nothing to (a) protect Plaintiff and (b) take action afterwards to
8 penalize the students who attacked her.

9 76. As a proximate result of the acts and omissions of Defendants, Plaintiff has
10 sustained and continues to sustain substantial losses in earnings and other employment benefits.
11 Plaintiff is thereby entitled to an award of special damages in amounts to be proven at trial.

12 77. As a proximate result of the acts and omissions of Defendants, as detailed above,
13 Plaintiff has suffered and will continue to suffer pain and suffering, extreme and severe mental
14 anguish, and emotional distress. Plaintiff is thereby entitled to general and compensatory
15 damages in amounts to be proven at trial. Plaintiff is also entitled to punitive damages as against
16 Mr. Ayala and Does 1-20 only. Plaintiff is entitled to up to treble damages.

17 78. Plaintiff also seeks to recover attorneys' fees and costs of action to be paid by
18 Defendants, as provided under Civil Code § 52.

19 **SIXTH CAUSE OF ACTION**

20 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

21 (Against All Defendants)

22 79. Plaintiff refers to all preceding paragraphs and incorporates them as if set forth
23 in full in this cause of action.

24 80. The conduct of Defendants, as described herein, was outrageous and extreme.
25 A reasonable person would not expect or tolerate the bullying, emotional abuse, and physical
26 abuse of Plaintiff under the care of Defendants. Further, no reasonable person would tolerate or
27 expect Defendants' knowledge of, and callous indifference to, said bullying, physical abuse,
28 and emotional abuse. Plaintiff put her trust and confidence in Defendants, which, by virtue of

1 Defendants' wrongful conduct, have now caused Plaintiff extensive emotional trauma. The
2 conduct of Defendants fell far below the acceptable standards of physical and emotional safety
3 to staff and residents.

4 81. Defendants' conduct was outrageous. By forcing Plaintiff to attend general
5 education classes rather than her appropriate special education classes, Defendants put Plaintiff
6 in harm's way. Defendants made Plaintiff be in classes with students who openly threatened to
7 physically attack her. Defendants witnessed these attacks in the classroom and elsewhere in the
8 school and did nothing to protect her. Defendants knew that Plaintiff had to hide during lunch to
9 avoid being violently attacked, yet Defendants took no action to protect her. Plaintiff, her
10 mother, and attorney pleaded with the school to protect her, and yet they did nothing.
11 Defendants knowingly endangered Plaintiff's mental and emotional well-being. By verbally
12 attacking Plaintiff, Defendants harmed her willingly and knowingly. Defendants intended to
13 cause Plaintiff suffering, anguish, fright, horror, nervousness, grief, anxiety, worry, shock,
14 humiliation, and shame. Defendants intended to cause emotional distress that was substantial
15 and of such a long duration that a reasonable person in a civilized society should not be
16 expected to bear it. Defendants knew that emotional distress would probably result from their
17 conduct and/or gave little or no thought to the probable effects of their conduct. Defendants'
18 conduct went beyond all possible bounds of decency. A reasonable person would regard
19 Defendants' conduct as intolerable in a civilized community.

20 82. Defendants' conduct described herein was intentional and malicious and done
21 for the purpose of causing or with the substantial certainty that Plaintiff would suffer
22 humiliation, mental anguish, and emotional distress.

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

1 incurred and will continue to incur expenses for medical and psychological treatment, therapy,
2 and counseling.

3 84. In subjecting Plaintiff to the wrongful treatment described herein, Mr. Ayala and
4 Does 1-20 acted willfully and maliciously with the intent to harm Plaintiff, and in conscious
5 disregard of his rights, to as to constitute malice and oppression under California Civil Code §
6 3294. Plaintiff is therefore entitled to recover punitive damages against Mr. Ayala and Does 1-
7 20 in an amount to be determined by the Court.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, PLAINTIFF prays for a jury trial and for judgment against Defendants
10 as follows:

11 FOR ALL CAUSES OF ACTION:

- 12 1. For compensatory damages according to proof at the time of trial;
- 13 2. For general and special damages, including damages for emotional and mental
14 distress and prejudgment interest in an amount to be determined at trial;
- 15 3. For attorneys' fees;
- 16 4. For punitive damages as against Mr. Ayala and Does 1-20 only;
- 17 5. For civil penalties;
- 18 6. For treble damages;
- 19 7. For costs of suit incurred herein;
- 20 8. For pre-judgment and post-judgment interest at the legal rate; and
- 21 9. For such other and further relief as the court deems just and proper.

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QURESHI LAW
1625 W. Olympic Boulevard, Suite 500
Los Angeles, California 90015

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Dated: October 8, 2020

QURESHI LAW

By: 
Omar G. Qureshi
Attorney for Plaintiff

Dated: October 8, 2020

NEWMAN AARONSON VANAMAN

By: 
David W. German
Attorney for Plaintiff

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DEMAND FOR JURY TRIAL

Plaintiff J.R., by and through her guardian ad litem, Maricela Angeles, hereby demands a trial by jury as to all causes of action.

Dated: October 8, 2020

QURESHI LAW

By: 
Omar G. Qureshi
Attorney for Plaintiff

Dated: October 8, 2020

NEWMAN AARONSON VANAMAN

By: 
David W. German
Attorney for Plaintiff