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FILED
 ALAMEDA COUNTY

JAN 31 2020

CLERK OF THE SUPERIOR COURT
 By Darrell G. Drew
 Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF ALAMEDA

10 JANE DOE,
 11
 12 Plaintiff,
 13 vs.
 14 BERKELEY UNIFIED SCHOOL DISTRICT;
 15 TONIA COLEMAN; JASDEEP MALHI; and
 16 Does 1-50,
 17
 18 Defendants.

Case No. **RG20052743**
COMPLAINT FOR DAMAGES
JURY TRIAL DEMANDED

ORIGINAL

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 ATTORNEYS AT LAW
 A Professional Corporation
 P.O. Box 2079, Oakland, CA 94604-2079

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Jane Doe complains and alleges as follows:

I. JURISDICTION AND VENUE

1. The Court has personal jurisdiction over the defendants because they are residents of and/or public entities in the State of California.

2. Pursuant to Code of Civil Procedure section 395(a), venue in the County of Alameda is proper because that is the “county where the defendants or some of them reside at the commencement of the action.”

3. Pursuant to California Government Code section 905(m), Plaintiff Jane Doe was not required to exhaust administrative remedies because her claims are brought under California Code of Civil Procedure section 340.1 for the recovery of damages suffered as a result of childhood sexual abuse.

II. PARTIES

4. Plaintiff Jane Doe (“Plaintiff”) was a student at Berkeley High School in the Berkeley Unified School District in Berkeley, California. Defendants, and each of them, are aware of the true first name and last name of Plaintiff.

5. Defendant Berkeley Unified School District (hereinafter “BUSD”) was a public entity duly organized and existing under and by virtue of the laws of the State of California at all times material to this complaint. Defendant BUSD administers and operates Berkeley High School in the County of Alameda, State of California.

6. Defendant Tonia Coleman was an employee of Defendant BUSD and assistant principal of Berkeley High School in the County of Alameda, State of California and was acting in the course and scope of her employment at all times material to this complaint.

7. Defendant Jasdeep Malhi was an employee of Defendant BUSD and a counselor at Berkeley High School in the County of Alameda, State of California and was acting in the course and scope of her employment at all times material to this complaint.

8. Plaintiff is ignorant of the true names and capacities of the defendants

1 sued herein as Does 1-50, inclusive, and therefore sues these defendants by such
2 fictitious names and capacities. Plaintiff is informed and believes, and on that basis
3 alleges, that each defendant sued under such fictitious names is in some manner
4 responsible for the occurrences herein alleged, and that Plaintiff's injuries as herein
5 alleged were proximately caused by the conduct of such defendants.

6 **III. FACTUAL SUMMARY**

7 9. Jane Doe was a student at Berkeley High School when she was sexually
8 assaulted by another student during school hours in an unlocked classroom.

9 10. On May 3, 2019, a male student pulled Jane Doe into a classroom that is
10 normally locked. The male student forced his hands up Jane's Doe's dress and groped
11 her buttocks and vagina. Jane Doe tried to push him away, but he was too strong. He
12 then picked her up, threw her onto a desk, spread her legs and forced himself on her,
13 while groping her breasts, buttocks and vagina. Jane Doe repeatedly said no and asked
14 him to stop, until she was able to push him away and flee the classroom.

15 11. On or around May 8, 2019, Jane Doe reported the assault to Defendant
16 Jasdeep Malhi, a counselor at Berkeley High School. Defendant Malhi told Jane Doe
17 that her assailant had assaulted 6-10 other girls at Berkeley High School. Defendant
18 Malhi was a mandatory reporter, yet she did not report the assault to Child Protective
19 Services (CPS) or the police.

20 12. The following day, Defendant Malhi informed Defendant Tonia Coleman,
21 assistant principal, of the sexual assault on Jane Doe. Ms. Coleman failed to promptly
22 notify Jane Doe's parents that she was a victim of assault and failed to implement any
23 kind of safety plan to ensure that Jane Doe felt safe at school and was able to learn in an
24 environment free of sexual harassment.

25 13. Defendant Malhi and Defendant Coleman were aware that the male
26 student that assaulted Jane Doe had assaulted numerous other students at the school, yet
27 nothing was done to adequately supervise this student and ensure that he was not a
28 danger to Jane Doe and others.

1 14. Defendants were also aware that the classroom in which Plaintiff was
2 assaulted was unsupervised, secluded and was used by students to engage in illicit
3 activities, including sexual behavior, yet Defendants failed to take steps to secure the
4 classroom or adequately supervise students in the vicinity of the classroom.

5 15. Defendants failed to take steps to adequately ensure the safety of Jane
6 Doe following the sexual assault, and the student that assaulted her was allowed to
7 further victimize and sexually harass her at school.

8 16. Jane Doe does not feel safe at school and her access to a public education
9 free from sexual harassment has been, and continues to be, denied. She has suffered, and
10 continues to suffer, from severe emotional distress as a result of the sexual assault. She
11 has crying spells, episodes of depression and anger, anxiety about attending school and
12 seeing her assailant, and trouble focusing in class.

13 **FIRST CAUSE OF ACTION**
14 **Negligence**
15 **(Plaintiff against all Defendants)**

16 17. Plaintiff incorporates by reference and realleges each and every allegation
17 set forth above, as though fully set forth herein.

18 18. At all times mentioned herein, Defendant BUSD operated, managed,
19 supervised, oversaw, and/or otherwise controlled Berkeley High School including the
20 hiring, training supervision, and retention of employees who were responsible for the
21 supervision and safety of students in their custody.

22 19. Pursuant to California Government Code section 815.2, Defendant BUSD
23 is liable for injuries proximately caused by the acts and omissions of its employees,
24 including, but not limited to, Defendant Malhi and Defendant Coleman, where the acts or
25 omissions are within the scope of employment and give rise to a cause of action against
26 the employees.

27 20. At all times mentioned herein, Defendants Malhi and Coleman acted
28 within the course and scope of their employment with Defendant BUSD.

21. Defendants Malhi and Coleman had a duty to provide for the safety and

1 supervision of students, including Jane Doe, while in their custody.

2 22. Defendants Malhi and Coleman failed to exercise reasonable diligence to
3 provide for the safety of Plaintiff while she was in their custody.

4 23. Defendant Malhi and Coleman knew or should have known that the student
5 that assaulted Plaintiff had sexually assaulted numerous other girls, yet they failed to take
6 steps to ensure the safety of female students, including Jane Doe.

7 24. Defendants negligently failed to guard, maintain, inspect and supervise and
8 manage the school premises by failing to supervise the building where Plaintiff was
9 sexually assaulted and failing to lock the classroom they knew or should have known was
10 used by students to engage in dangerous activities.

11 25. The negligence of Defendants Malhi and Coleman was a direct and
12 proximate cause of the damages suffered by Plaintiff due to being sexually assaulted and
13 harassed by another student. As a direct and proximate result of the negligence of
14 Defendants, Plaintiff has sustained and continues to sustain physical injuries, pain and
15 suffering, extreme and severe mental anguish, and emotional distress. Plaintiff has also
16 incurred and will continue to incur medical expenses for treatment and for incidental
17 medical expenses. Plaintiff is thereby entitled to general and compensatory damages in
18 amounts to be proven at trial.

19 26. The acts, omissions, and negligence of Defendants Malhi and Coleman
20 were substantial factors in causing Plaintiff's injuries and the resulting harm to Plaintiff,
21 and the direct and proximate cause of the injuries and damages sustained by Plaintiff.

22 27. At all times relevant hereto, defendants Does 1 through 50, inclusive, and
23 each of them, were somehow responsible for the injuries and damages sustained by
24 Plaintiff, as alleged herein. Plaintiff is informed and believes, and thereon alleges that each
25 of said defendants, is negligently or otherwise responsible in some manner for the events
26 and happenings herein referred to and those defendants negligently acted or failed to act.
27 Their negligence and/or failure to act legally caused the injuries and damages hereinafter set
28 forth.

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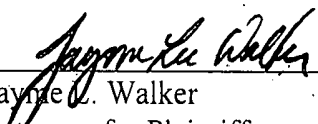
PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the defendants as follows:

- A. For injunctive relief and all orders necessary to ensure that the defendants establish and enforce policies and procedures protecting their students from sexual harassment and abuse;
- B. For compensatory damages, including medical bills, and other special and general damages according to proof but in excess of the jurisdictional threshold of this court;
- C. For mental and emotional distress damages;
- D. For an award of interest, including prejudgment interest, at the legal rate;
- E. For reasonable attorneys' fees pursuant to Code of Civil Procedure section 1021.5 and all other applicable statutes;
- G. For costs of suit incurred herein; and,
- H. For such other and further relief as the court deems just and proper.

DATE: January 31, 2020

GWILLIAM, IVARY, CHIOSSO, CAVALLI & BREWER



Jayme C. Walker
Attorney for Plaintiff
JANE DOE

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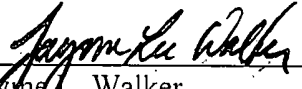
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DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury.

DATE: January 31, 2020

GWILLIAM, IVARY, CHIOSSO, CAVALLI & BREWER



Jayme L. Walker
Attorney for Plaintiff
JANE DOE