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12 SUPERIOR COURT OF CALIFORNIA
13 COUNTY OF SACRAMENTO

15 IO DOE, a minor by and through her
Guardian ad Litem ZULEYMA DOMINIGUEZ,
16 CT DOE, a minor by and through her
Guardian ad Litem AMY DOE,

18 Plaintiffs,

19 v.

20 ELK GROVE UNIFIED SCHOOL DISTRICT,
ERIC ERNEST ECHOLS, and DOES 3 through
21 30, inclusive,

22 Defendants.

Case No.: 34-2017-00216188

FIRST AMENDED COMPLAINT FOR DAMAGES

1. Negligence: Negligent Supervision, Investigation and or Retention of an Employee
2. Negligence: Negligent Supervision of Plaintiffs, minors
3. Childhood Sexual Abuse
4. Intentional Infliction of Emotional Distress

23
24 **GENERAL ALLEGATIONS**

25 1. Plaintiff IO DOE is using a fictitious name in this Complaint under rights to privacy
26 granted by the Constitution of the State of California due to the sensitive nature of this case.
27 If, for any reason, any Defendant cannot accurately determine the identity of the Plaintiff IO DOE
28 their attorney can contact Plaintiff's attorney at the number on the face sheet of the Complaint,

1 and the true name of the Plaintiff IO DOE will be provided. Plaintiff IO DOE's year of birth is 2007
2 and Plaintiff IO DOE is a minor residing in Sacramento County in the State of California.

3 2. At the time of the childhood sexual abuse (as defined by the Code of Civil Procedure
4 section 340.1) alleged herein, all of which occurred after January 1, 2009,
5 Plaintiff IO DOE was a minor. Plaintiff IO DOE's civil claim is an action for recovery of damages
6 suffered as a result of childhood sexual abuse and is timely pursuant to the provisions of Code of
7 Civil Procedure section 340.1, which provides an extended period of time (at least up to age 26,
8 and in some cases even longer) for victims of childhood sexual abuse to pursue their civil claims
9 for recovery of damages suffered as a result of childhood sexual abuse. At the time of the filing
10 her Complaint for Damages, Plaintiff IO DOE is under the age of twenty-six (26).

11 3. ZULEYMA DOMINGUEZ has been appointed Guardian ad Litem for
12 Plaintiff IO DOE.

13 4. Plaintiff CT DOE is using a fictitious name in this Complaint under rights to privacy
14 granted by the Constitution of the State of California due to the sensitive nature of this case.
15 If, for any reason, any Defendant cannot accurately determine the identity of the Plaintiff CT DOE
16 their attorney can contact Plaintiff's attorney at the number on the face sheet of the Complaint,
17 and the true name of the Plaintiff CT DOE will be provided. Plaintiff CT DOE's year of birth is 2007
18 and Plaintiff CT DOE is a minor residing in Sacramento County in the State of California.

19 5. At the time of the childhood sexual abuse (as defined by the Code of Civil Procedure
20 section 340.1) alleged herein, all of which occurred after January 1, 2009, Plaintiff CT DOE was a
21 minor. Plaintiff CT DOE's civil claim is an action for recovery of damages suffered as a result of
22 childhood sexual abuse and is timely pursuant to the provisions of Code of Civil Procedure section
23 340.1, which provides an extended period of time (at least up to age 26, and in some cases even
24 longer) for victims of childhood sexual abuse to pursue their civil claims for recovery of damages
25 suffered as a result of childhood sexual abuse. At the time of the filing her Complaint for
26 Damages, Plaintiff CT DOE is under the age of twenty-six (26).

27 6. AMY DOE has been appointed Guardian ad Litem for Plaintiff CT DOE.

28 7. Defendant ELK GROVE UNIFIED SCHOOL DISTRICT ("SCHOOL DISTRICT") is a

1 public entity of the State of California, created and existing under the laws of the State of
2 California and located in Sacramento County in the State of California.

3 8. Defendant SCHOOL DISTRICT operated an after school program for children
4 attending the Prairie Elementary School, called the Fast Track Program.

5 9. At all relevant times alleged herein, Defendant ERIC ERNEST ECHOLS
6 ("PARA-EDUCATOR") was employed by the Defendant SCHOOL DISTRICT as a "para-educator" at
7 the Prairie Elementary School. Plaintiffs are informed and believe, and on that basis allege that
8 Defendant PARA-EDUCATOR was, at all times alleged herein, acting as the employee, agent,
9 and/or servant of the SCHOOL DISTRICT and/or was under the jurisdiction and control of
10 Defendant SCHOOL DISTRICT. Defendant PARA-EDUCATOR worked as a part-time employee with
11 Defendant SCHOOL DISTRICT.

12 10. Plaintiffs are ignorant of the true names and capacities of Defendants sued herein as
13 Defendant DOES 3 through 30 or of the factors linking them to Causes of Action stated herein and
14 therefore sue such Defendants by such fictitious names. When the true names and capacities of
15 said Defendants have been ascertained, Plaintiffs will seek leave of Court to amend this Complaint
16 to allege such true names and capacities of DOES when ascertained. Plaintiffs are informed and
17 believe and thereon alleges that each of the Defendants designated as a DOE are responsible in
18 some manner for the events and happenings hereinafter referred to, thereby proximately causing
19 injury and damage to the Plaintiffs herein alleged.

20 11. Plaintiffs are informed and believe and thereon alleges that at all times herein
21 mentioned, Defendants and each of them were the agents, servants, employees and/or joint
22 venturers of their co-Defendants and were, as such, acting within the scope, course, and authority
23 of said agency and/or joint venture and that each and every Defendant, as aforesaid, has ratified
24 and approved of the acts of his or her agent.

25 12. At all relevant times alleged herein, Plaintiffs IO DOE and CT DOE were, enrolled as
26 public school students in the SCHOOL DISTRICT and attended the Prairie Elementary School.

27 13. As a result of Plaintiffs' status as minors, Defendant SCHOOL DISTRICT owed a duty
28 of care to IO DOE and CT DOE. In addition, Defendant SCHOOL DISTRICT had a special

1 relationship with Plaintiffs IO DOE and CT DOE, minors attending Prairie Elementary School. As a
2 result, Defendant SCHOOL DISTRICT had an affirmative duty to take all reasonable steps to
3 protect Plaintiffs IO DOE and CT DOE, minors attending Prairie Elementary School. Each of
4 Plaintiffs' parents and or legal guardians expected Defendant SCHOOL DISTRICT would provide a
5 safe and supervised environment for Plaintiffs IO DOE and CT DOE, minors attending Prairie
6 Elementary School.

7 14. Defendant SCHOOL DISTRICT provided to its employees, Child Abuse and Neglect
8 Reporting training. The SCHOOL DISTRICT's training was incomplete and ineffective.

9 A few examples of the SCHOOL DISTRICT's training deficiencies, include (but are not
10 limited to): 1. Failing to train (and failing to provide any instruction to) its employees on how to
11 recognize signs of child abuse and annoyance on members of its student body by fellow
12 employees of the defendant; 2. Failing to train (and failing to provide any instruction to) its
13 employees on the numerous ways child abusers establish, cultivate, and nurture trust
14 relationships with children and adults before violating and exploiting the child; and 3. Failing to
15 train (and failing to provide any instruction to) its employees on the known facts, circumstances
16 and frequency of the SCHOOL DISTRICT's history of its employees committing acts of child abuse
17 against SCHOOL DISTRICT students. The SCHOOL DISTRICT's incomplete and ineffective trainings
18 further enabled SCHOOL DISTRICT employees to continue to commit acts of child abuse of
19 SCHOOL DISTRICT students and endangered SCHOOL DISTRICT students including Plaintiff
20 IO DOE and Plaintiff CT DOE.

21 15. During the time PARA-EDUCATOR was a SCHOOL DISTRICT employee and during
22 the calendar years of 2015 and 2016 at the Prairie Elementary School property, Defendant
23 PARA-EDUCATOR committed acts of childhood sexual abuse against Plaintiffs.

24 16. Before SCHOOL DISTRICT employee PARA-EDUCATOR began his childhood sexual
25 abuse of Plaintiffs, it was known by other SCHOOL DISTRICT employees, that PARA-EDUCATOR
26 "frequently" placed elementary school female students on his lap and was "frequently" alone with
27 elementary school female students. Such repeated and frequent misconduct is an obvious "red
28 flag" of child abuse in a public elementary school environment. Defendant SCHOOL DISTRICT was

1 obligated to respond to the known red flag misconduct, failed to respond, and the red flag
2 misconduct continued and escalated.

3 17. In addition, before SCHOOL DISTRICT employee PARA-EDUCATOR was arrested for
4 sexually abusing numerous Prairie Elementary School students, multiple Prairie Elementary School
5 students disclosed to mandated reporter SCHOOL DISTRICT employee Maria Stepter (who was
6 working at the Prairie Elementary School) that PARA-EDUCATOR had committed acts of childhood
7 sexual abuse against her.

8 18. In her capacity as a SCHOOL DISTRICT employee, Maria Stepter was a mandated
9 reporter and was required by California law to immediately verbally report the childhood sexual
10 abuse (to law enforcement and or child protective services) and thereafter and within 36 hours
11 was required to make a written report of the disclosed actual childhood sexual abuse.

12 19. For the next 40+ calendar days, SCHOOL DISTRICT employee, Maria Stepter failed
13 to report the disclosed actual childhood sexual abuse and as a direct result, PARA-EDUCATOR was
14 permitted to continue to sexually abuse Prairie Elementary School students, including Plaintiffs.

15 20. It was not until the next school year when mandated reporter SCHOOL DISTRICT
16 employee, Maria Stepter "called HR" and "made a report." Kathleen Stone, a SCHOOL DISTRICT
17 Human Resources Personnel Analyst, transmitted an electronic mail (dated July 22, 2016) to five
18 other SCHOOL DISTRICT employees stating (in part):

19 I received a disturbing call this afternoon from a Prairie Employee
20 (who asked to stay anonymous) that 5 female students approached her
21 with a report that their Paraeducator, Eric Ekels, touched them
22 all in separate occurrences', inappropriately last school year...

23 21. Four days later, on July 26, 2016, SCHOOL DISTRICT Human Resources Personnel
24 Analyst Kathleen Stone, authored five separate "SUSPECTED CHILD ABUSE REPORT" stating (in
25 part):

26 A Yard Supervisor called our Human Resources Department to notify
27 the District that 5 of her students she supervises on the playground
28 approached her in confidence with information regarding one of their

1 Paraeducator's inappropriately touching the children on their behinds
2 (bottoms and fronts) in and outside their underwear. One of the students
3 reported she was reaching up over Mr. Echols and her reached up into
4 her shorts and inserted his finger in her privates and felt up her vaginal area...

5 22. Defendant PARA-EDUCATOR was arrested and was criminally charged with the
6 childhood sexual abuse of seven victims (students whom attended the Prairie Elementary School).
7 Defendant PARA-EDUCATOR pleaded no contest to six felony counts of committing lewd acts upon
8 a child, pleaded guilty to a misdemeanor count of child molestation. Defendant PARA-EDUCATOR
9 was sentenced to 11 years in the California Department of Corrections.

10 23. At least some of the wrongful acts mentioned herein occurred in Sacramento
11 County; therefore, venue is properly placed in Sacramento County.

12 **Plaintiffs' Civil Complaint is An Action for Recovery of Damages Suffered**
13 **as a Result of Childhood Sexual Abuse and Is Timely Filed**

14 24. Plaintiff IO DOE and Plaintiff CT DOE's civil complaint is an action for recovery of
15 damages suffered as a result of childhood sexual abuse.

16 25. Plaintiff IO DOE and Plaintiff CT DOE's amended civil complaint is timely filed
17 pursuant to the provisions of Code of Civil Procedure section 340.1, which provides an extended
18 period of time (up to age 26, and in some cases even longer) for victims of childhood sexual
19 abuse to pursue their civil claims for damages suffered against the perpetrator of the childhood
20 sexual abuse, as well as the perpetrator's employer.

21 **Compliance With Government Tort Claims Act:**

22 26. California Government Code Sections 905(m) and 935(f) exempt a claim for
23 childhood sexual abuse from the Government Tort Claim presentation requirements of the
24 Government Tort Claims Act for any acts of childhood sexual abuse that occurred after
25 January 1, 2009. All of the childhood sexual abuse in this action occurred after January 1, 2009.
26 As such, Plaintiff IO DOE and Plaintiff CT DOE were not required to present a Government Tort
27 Claim to Defendant SCHOOL DISTRICT. Notwithstanding the above, prior to the filing of this First
28 Amended Complaint, on or about February 23, 2017, Plaintiff IO DOE served on Defendant

1 SCHOOL DISTRICT a formal administrative complaint and on April 13, 2017 Defendant SCHOOL
2 DISTRICT rejected the complaint.

3 **FIRST CAUSE OF ACTION**

4 **Negligence: Negligent Supervision, Investigation and or Retention of an Employee**
5 **(Against Defendants SCHOOL DISTRICT and DOES 3 through 9)**

6 27. Plaintiffs reallege and incorporate by reference as fully set forth herein each and
7 every General Allegation as if said allegations were fully set forth herein and with the same forces
8 and effect.

9 28. Defendant SCHOOL DISTRICT is liable for the acts and omissions of their
10 employees, acting within the course and scope of their employment. Gov. Code § 815.2. At all
11 times herein, Defendant SCHOOL DISTRICT and its employees, including Defendant
12 PARA-EDUCATOR and Mandated Reporter Maria Stepter were acting within the course and scope
13 of their employment.

14 29. Defendant SCHOOL DISTRICT, by and through its employees including but not
15 limited to Defendant PARA-EDUCATOR and Mandated Reporter Maria Stepter, had a special
16 relationship with Plaintiffs, who were entrusted and placed in the custody, care and control of
17 Defendant SCHOOL DISTRICT arising from Plaintiffs' educational public elementary school
18 placement and/or after public elementary school care at Prairie Elementary School.

19 30. Defendant SCHOOL DISTRICT, by and through its employees including but not
20 limited to Defendant PARA-EDUCATOR and Mandated Reporter Maria Stepter, had the
21 responsibility and mandatory duty to protect Plaintiffs, who were entrusted and placed in the
22 custody, care and control of Defendant SCHOOL DISTRICT, from harm caused by unfit and
23 dangerous individuals, including Defendant PARA-EDUCATOR and other employees of Defendant
24 SCHOOL DISTRICT.

25 31. Defendant SCHOOL DISTRICT, by and through its employees, had a mandatory duty
26 to employ, train, supervise, investigate, discipline and or terminate incompetent and unfit
27 Defendant SCHOOL DISTRICT employees, including Defendant PARA-EDUCATOR, who were to
28 care for minor children placed in the custody and care of Defendant SCHOOL DISTRICT including
Plaintiffs.

1 32. Defendant SCHOOL DISTRICT had a duty to provide reasonable supervision of
2 Defendant PARA-EDUCATOR and to use reasonable care in investigating Defendant
3 PARA-EDUCATOR.

4 33. Defendant SCHOOL DISTRICT, by and through its employees, breached its duty to
5 properly train, supervise, investigate, discipline, and terminate the employment of Defendant
6 PARA-EDUCATOR, whom Defendant SCHOOL DISTRICT assigned to care for Plaintiffs, who were
7 entrusted and placed in the custody, care and control of Defendant SCHOOL DISTRICT.

8 34. Defendant SCHOOL DISTRICT, by and through its employees, knew or had reason
9 to know, of Defendant PARA-EDUCATOR dangerous and exploitive propensities and that Defendant
10 PARA-EDUCATOR was a dangerous and unfit agent. Defendant SCHOOL DISTRICT knew, or had
11 reason to know, that Defendant PARA-EDUCATOR was grooming and acting inappropriately with
12 students at Prairie Elementary School. Despite such knowledge, Defendant SCHOOL DISTRICT
13 negligently failed to supervise Defendant PARA-EDUCATOR and failed to use reasonable care in
14 investigating Defendant PARA-EDUCATOR. Defendant SCHOOL DISTRICT allowed Defendant
15 PARA-EDUCATOR to remain in positions of trust as a paraeducator. Defendant PARA-EDUCATOR
16 was thereby able to abuse his positions of trust and authority so as to commit the childhood
17 sexual abuse of numerous elementary school children including Plaintiffs. Defendant SCHOOL
18 DISTRICT also failed to take reasonable measures to prevent further childhood sexual abuse of
19 Plaintiffs, which could have been avoided, had Defendant SCHOOL DISTRICT properly investigated
20 and supervised Defendant PARA-EDUCATOR.

21 35. As a direct and proximate result of the above-described conduct, Plaintiff IO DOE
22 was harmed and suffered physical, psychological, emotional and economic damages as more fully
23 set forth below.

24 36. As a direct and proximate result of the above-described conduct, Plaintiff CT DOE
25 was harmed and suffered physical, psychological, emotional and economic damages as more fully
26 set forth below.

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1 45. Defendant PARA-EDUCATOR engaged in illegal, harmful and offensive childhood
2 sexual abuse (as defined by California Code of Civil Procedure section 340.1).

3 46. Plaintiffs, all of whom were minors, did not and could not consent to Defendant
4 PARA-EDUCATOR's harmful or offensive sexual contact and childhood sexual abuse.

5 47. Defendant PARA-EDUCATOR intended to cause harmful or offensive sexual contact
6 with Plaintiffs and sexually offensive contact with Plaintiffs resulted.

7 48. The childhood sexual abuse was committed when Defendant PARA-EDUCATOR was
8 an employee of Defendant SCHOOL DISTRICT and while PARA-EDUCATOR was in the course and
9 scope of employment with Defendant SCHOOL DISTRICT.

10 49. As a direct and proximate result of the above-described childhood sexual abuse,
11 Plaintiff IO DOE was harmed and suffered physical, psychological, emotional and economic
12 damages as more fully set forth below.

13 50. As a direct and proximate result of the above-described childhood sexual abuse,
14 Plaintiff CT DOE was harmed and suffered physical, psychological, emotional and economic
15 damages as more fully set forth below.

16 **FOURTH CAUSE OF ACTION**
17 **Intentional Infliction of Emotional Distress**
18 **(Against Defendant PARA-EDUCATOR)**

19 51. Plaintiffs realleges and incorporates by reference the Third Cause of Action as if said
20 allegations were fully set forth herein and with the same force and effect.

21 52. The actions of Defendant PARA-EDUCATOR, as referenced above, were intentional,
22 extreme, and outrageous. The actions of Defendant PARA-EDUCATOR were done with the intent to
23 cause serious emotional distress or with reckless disregard of the probability of causing Plaintiffs
24 serious emotional distress.

25 53. As a direct and proximate result of the above-described conduct, Plaintiff IO DOE
26 was harmed and suffered severe emotional distress and further suffered physical, psychological,
27 emotional and economic damages as more fully set forth below.

28 54. As a direct and proximate result of the above-described conduct, Plaintiff CT DOE
was harmed and suffered severe emotional distress and further suffered physical, psychological,

1 emotional and economic damages as more fully set forth below.

2 **DAMAGES**

3 55. As a direct, legal, and proximate result of the above Causes of Action herein above
4 alleged, Plaintiffs have been damaged as set forth below.

5 56. Plaintiff IO DOE has suffered psychological and emotional injury and harm, all to
6 Plaintiffs' general damages in a sum to be proven. Plaintiff IO DOE has further suffered an
7 exacerbation of any emotional difficulties which were pre-existing Defendant SCHOOL DISTRICT
8 failure to protect Plaintiff IO DOE.

9 57. Plaintiff CT DOE has suffered psychological and emotional injury and harm, all to
10 Plaintiffs' general damages in a sum to be proven. Plaintiff CT DOE has further suffered an
11 exacerbation of any emotional difficulties which were pre-existing Defendant SCHOOL DISTRICT
12 failure to protect Plaintiff CT DOE.

13 58. Plaintiff IO DOE has suffered physical, mental and emotional health problems as a
14 result of which she has had to employ, and will in the future continue to have to employ, medical
15 and mental health professionals for diagnosis and treatment and has incurred and will in the
16 future continue to incur expenses therefore, in a sum as yet unascertained. Plaintiff IO DOE will
17 ask leave of Court to amend this Complaint to state the exact amount of expenses when they are
18 ascertained.

19 59. Plaintiff CT DOE has suffered physical, mental and emotional health problems as a
20 result of which she has had to employ, and will in the future continue to have to employ, medical
21 and mental health professionals for diagnosis and treatment and has incurred and will in the
22 future continue to incur expenses therefore, in a sum as yet unascertained. Plaintiff IO DOE will
23 ask leave of Court to amend this Complaint to state the exact amount of expenses when they are
24 ascertained.

25 60. Plaintiff IO DOE has been significantly traumatized and has suffered and continue to
26 suffer extreme mental, emotional and physical injuries to her health and well-being. Plaintiff
27 IO DOE has suffered extreme mental anguish and has been permanently scarred in a sum as yet
28 unascertained. Plaintiffs will ask leave of Court to amend this Complaint to state the exact amount

1 of expenses when they are ascertained.

2 61. Plaintiff CT DOE has been significantly traumatized and has suffered and continue to
3 suffer extreme mental, emotional and physical injuries to her health and well-being. Plaintiff
4 CT DOE has suffered extreme mental anguish and has been permanently scarred in a sum as yet
5 unascertained. Plaintiffs will ask leave of Court to amend this Complaint to state the exact amount
6 of expenses when they are ascertained.

7 62. Plaintiff IO DOE will in the future suffer a loss of earnings and of earning capacity, in
8 a sum as yet unascertained. Plaintiff IO DOE will ask leave of Court to amend this Complaint to
9 state the exact amount of losses when they are ascertained.

10 63. Plaintiff CT DOE will in the future suffer a loss of earnings and of earning capacity,
11 in a sum as yet unascertained. Plaintiff CT DOE will ask leave of Court to amend this Complaint to
12 state the exact amount of losses when they are ascertained.

13 64. In engaging in the conduct alleged in the Third and Fourth Causes of Action herein,
14 Defendant PARA-EDUCATOR was guilty of willfulness, malice, and oppression toward Plaintiff
15 IO DOE and Plaintiff CT DOE, or of reckless disregard for their rights and safety, justifying an
16 award of punitive or exemplary damages. Plaintiff IO DOE and Plaintiff CT DOE are not presently
17 aware of the true net worth of Defendant PARA-EDUCATOR and therefore cannot ascertain an
18 amount which would properly punish by way of punitive damages and ask leave of the Court to
19 amend this Complaint to state the same when the true net worth of Defendant PARA-EDUCATOR
20 is ascertained.

21 **WHEREFORE**, Plaintiff IO DOE and Plaintiff CT DOE pray for judgment as follows:

22 1. For damages for past and future medical, psychotherapy, and related expenses
23 according to proof at the time of trial;

24 2. For general damages for physical and mental pain and suffering and emotional
25 distress in a sum to be proven at the time of trial;

26 3. For damages for future lost wages and loss of earning capacity according to proof at
27 the time of trial;

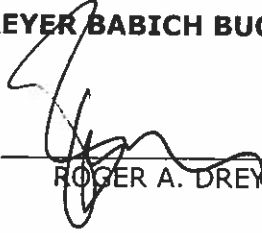
28 4. For prejudgment interest pursuant to statute;

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- 5. For punitive damages as to the Third and Fourth Causes of Action;
- 6. For costs of suit herein; and
- 7. For such other and further relief as the Court deems proper.

DATED: August 28, 2019

DREYER BABICH BUCCOLA WOOD CAMPORA, LLP

By: 

ROGER A. DREYER