

1 JOSHUA D. NAGGAR, Esq. (SBN # 274925)
Attorney at Law
2 445 S. D Street
Perris, California 92570
3 Phone: (951) 444-8971
Phone: (310) 433-8971
4 Fax: (866) 887-2764
Email: Joshua@jdnAttorney.com

5 Attorney for Plaintiffs
6 JANE DOE and SANTA LUCAS

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 07 2017

E. OLIVAS

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF RIVERSIDE, RIVERSIDE HISTORIC COURTHOUSE**

10
11 JANE DOE, a minor, by
Santa Lucas as her Guardian Ad Litem;
12 and SANTA LUCAS, an individual,

13 Plaintiffs,

14 vs.

15 RIVERSIDE UNIFIED SCHOOL
DISTRICT, a governmental entity;
16 STUDENT TRANSPORTATION
OF AMERICA; ALVIN THOMAS
17 CLAVON; JOHN DOE, a minor;
and DOES 1 through 500, inclusive,

18 Defendants.
19

CASE NO: **RIC 1716691**

Unlimited Civil Case
Demand Over \$25,000.00

COMPLAINT FOR DAMAGES

1. Negligence & Negligence Per Se;
2. Negligent Contracting/Hiring/Retention/
Training/Supervision;
3. Sexual Assault and Battery;
4. Intentional Infliction of Mental Distress; and
5. Negligent Infliction of Mental Distress.

DEMAND FOR JURY TRIAL

20
21 Plaintiffs JANE DOE, a minor, by Santa Lucas as her Guardian Ad Litem, and SANTA
22 LUCAS, an individual, allege as follows:

23 **PRELIMINARY ALLEGATIONS**

24 1. Plaintiff JANE DOE is, and at all times herein mentioned was, a minor individual
25 disabled by Down Syndrome who was born December 20, 2001, residing in the County of
26 Riverside, State of California. The name used by Plaintiff JANE DOE in this Complaint is not
27 the actual name of JANE DOE, but is a fictitious name utilized to protect the privacy of JANE
28 DOE, a victim of sexual assault and violence.

1 2. Plaintiff SANTA LUCAS is, and at all times herein mentioned was, an adult
2 individual, residing in the County of Riverside, State of California.

3 3. Plaintiff JANE DOE is the daughter of Plaintiff SANTA LUCAS.

4 4. Defendant RIVERSIDE UNIFIED SCHOOL DISTRICT is a governmental entity,
5 located in the County of Riverside, State of California.

6 5. Defendant STUDENT TRANSPORTATION OF AMERICA is a business entity,
7 exact form unknown, doing business in the County of Riverside, State of California.

8 6. Plaintiffs are informed and believe, and thereon allege that Defendant STUDENT
9 TRANSPORTATION OF AMERICA is, and at all times herein mentioned was, under contract
10 with Defendant RIVERSIDE UNIFIED SCHOOL DISTRICT as a provider of school bus
11 transportation services.

12 7. Defendant ALVIN THOMAS CLAVON is, and at all times herein mentioned was,
13 an adult individual, residing in the County of Riverside, State of California, and employed by
14 Defendant STUDENT TRANSPORTATION OF AMERICA as a school bus driver.

15 8. Defendant JOHN DOE is, and at all times herein mentioned was, a minor
16 individual, born August 27, 2003, residing in the County of Riverside, State of California. The
17 name used for Defendant JOHN DOE in this Complaint is not the actual name of JOHN DOE,
18 but is a fictitious name utilized to protect the privacy of JOHN DOE, an alleged perpetrator of
19 sexual assault and violence. Defendants DOE 1 and DOE 2 are the parents of JOHN DOE, sued
20 herein pursuant to California Civil Code section 1741.1.

21 9. All or some of the acts, happenings, events, and injuries herein complained of,
22 occurred within the State of California, in Riverside County, within the above-named judicial
23 district.

24 10. Defendants, DOE 1 through DOE 500, inclusive, are sued herein under fictitious
25 names; their true names and capacities are unknown to Plaintiffs; when their true names and
26 capacities are ascertained, Plaintiffs will amend this Complaint by inserting their true names and
27 capacities herein.

28 ////

Statement of Facts

1
2 14. On or about the morning of Tuesday, February 23, 2016, 14-year-old special
3 education student JANE DOE was placed onto her special school bus by her mother (Santa
4 Lucas).

5 15. JANE DOE has Down Syndrome, however, despite her physical and cognitive
6 disabilities as well as her struggles with articulating herself, she was a confident, jubilant, and
7 loving young lady prior to her setting foot on the school bus on that Tuesday the 23rd of February
8 2016.

9 16. JANE DOE's mother represents that she observed JANE DOE get on the SCHOOL
10 BUS and situate herself in her usual seat, approximately 2 rows behind the bus driver.

11 17. It is alleged that the bus provided by STUDENT TRANSPORTATION OF
12 AMERICA was transportation specific to special education students and that it was equipped
13 with seatbelts and video cameras. There were however no human monitors on the school bus
14 to assist the bus driver.

15 18. It is alleged there were three people on the bus at approximately between 7am and
16 8am on Tuesday February 23rd; and those three people allegedly were, JANE DOE, the School
17 Bus Driver, and a young man now identified as Defendant JOHN DOE.

18 19. It is alleged that on the School Bus Driver's route to school JANE DOE was
19 sexually assaulted, specifically, raped, molested and violently sodomized, as well as physical
20 assaulted and battered by Defendant JOHN DOE on the SCHOOL BUS.

21 20. It is alleged that at some point the SCHOOL BUS DRIVER observed JOHN DOE
22 seated where JANE DOE had been. Yelling at JOHN DOE he noticed that JOHN DOE was
23 holding his pants up. The SCHOOL BUS DRIVER stopped the bus and walked toward JANE
24 DOE's seat. There he witnessed JANE DOE with her underwear on but her pants were down
25 around her knees. It is alleged the School Bus Driver motioned for her to pull her pants up, and
26 turned to JOHN DOE and told him he was in trouble for what he had just done. Further, it is
27 alleged the School Bus Driver witnessed sexual inappropriate behavior occurring, specifically,
28 the violent rape, and sodomy of Plaintiff JANE DOE.

1 21. It is alleged that upon confrontation by the School Bus Driver, JOHN DOE was
2 restrained by the School Bus Driver.

3 22. It is alleged that no police or emergency personnel were summoned upon the
4 School Bus Driver's awareness that JANE DOE was forcibly raped, sodomized and attacked.

5 23. It is alleged the School Bus Driver drove the students to school after the incident.

6 24. It is alleged the School Bus Driver simply reported the incident to someone at the
7 school.

8 25. It is alleged that approximately 2 hours after the violent rape, sexual assault and
9 sodomization that JANE DOE's mother was called by the school on the phone and told there was
10 an incident involving JANE DOE and that she (Santa Lucas) needed to come to the school.

11 26. At this time, it is alleged that no police, emergency personnel, or authorities had
12 yet been called or summoned in order to care for JANE DOE.

13 27. It is alleged that JANE DOE's mother (Santa Lucas) arrived at the school around
14 9:15 a.m. and represents that there were approximately 8 adults (believed to be school personnel)
15 in a room surrounding JANE DOE.

16 28. It is alleged that JANE DOE began to cower behind her mother and JANE DOE
17 started to tell her mother that she was in pain and her shoulder, arm, and thighs hurt.

18 29. At this time JANE DOE's mother (Santa Lucas) had yet not been told about the
19 violent rape, sexual assault and sodomization of her special needs child, and still did not fully
20 understand what had occurred and was going on.

21 30. At some point between 9:30 and 10:30 a.m. the people in the room (allegedly after
22 great delay) finally informed JANE DOE's mother (Santa Lucas) that JANE DOE was injured
23 and needed to be taken to the hospital.

24 31. At or around 10:30 a.m. on February 23, 2016, JANE DOE and her mother were
25 driven to the emergency room of Riverside County Regional Medical Center ("RRMC"); and
26 again, allegedly, JANE DOE's mother (Santa Lucas) still had not been informed of the origin of
27 her daughter's injuries at this time; which were injuries relating to a violent rape, sexual assault
28 and sodomization.

1 39. The physical exam notes from JANE DOE's initial hospital visit indicate JANE
2 DOE was complaining of, and displaying trauma related to, her upper arm specifically her mid
3 humerus had signs of edema, erythema, and ecchymosis, which included presentation of redness,
4 swelling, and bruising. It is alleged that JANE DOE's attacker held her down by the arm while
5 he violently raped, assaulted and sodomized her.

6 40. JANE DOE was tested for gonorrhea.

7 41. JANE DOE was tested for chlamydia.

8 42. JANE DOE was tested for syphilis.

9 43. JANE DOE was given hiv counseling.

10 44. JANE DOE was medicated and given medicine for pain.

11 45. JANE DOE was given a pregnancy test.

12 46. The Emergency Room Doctor ("ER Doctor") recommended that JANE DOE
13 receive rape counseling.

14 47. At some point the ER Doctor, or some other (unidentified) medical professional,
15 informed JANE DOE's mother (Santa Lucas) that the detective had received a confession by the
16 alleged perpetrator and that the perpetrator admitted to violently raping and sodomizing her
17 daughter JANE DOE.

18 48. JANE DOE and her family have accrued medical costs related to this treatment in
19 an amount to be determined when the appropriate documentation can be provided.

20 49. JANE DOE's mother (Santa Lucas) finally got home with JANE DOE at
21 approximately 7 p.m. that night in the evening; almost 12 hours after JANE DOE had been
22 violently raped and sodomized on the SCHOOL BUS with the School Bus Driver present.

23 50. JANE DOE's mother (Santa Lucas) reports JANE DOE did not want to be touched,
24 she did not want to shower, she did not want to undress.

25 51. JANE DOE's mother (Santa Lucas) reports JANE DOE crawled onto the corner
26 of the family sofa with a blanket and pillow and just began screaming for help.

27 52. JANE DOE refused to sleep anywhere but with Mom in her bed at this point.

28 53. JANE DOE would not take food for the first few days after the assault.

1 54. JANE DOE had a fever for the first few days after the assault.
2 55. JANE DOE had diarrhea for the first few days after the assault.
3 56. JANE DOE vomited a lot for the first few days after the assault.
4 57. A few days to a week after the incident JANE DOE's mother (Santa Lucas) told
5 JANE DOE it was time for school and JANE DOE allegedly yelled "no bus, no school."
6 58. JANE DOE continues to display fear of the school bus and reluctance to attend
7 school.
8 59. For weeks JANE DOE stayed on the small part of the couch and refused to
9 undertake her favorite activities, such as: playing with the family puppy, playing with her
10 brothers, watching television, and listening to music. It is reported that JANE DOE just cowered
11 on the corner of the couch.
12 60. A few days post the assault, JANE DOE's babysitter immediately reported to
13 JANE DOE's mother (Santa Lucas) that something was wrong with JANE DOE and that JANE
14 DOE was going to the bathroom in her pants (which was highly unusual), that JANE DOE ate
15 very little, and that JANE DOE was unengaged. The babysitter allegedly told JANE DOE's
16 mother (Santa Lucas) that JANE DOE was not the girl she knew and that something was wrong.
17 Allegedly these representations occurred prior to the babysitter being informed of the sexual
18 assault.
19 61. Allegedly within a few days of the violent rape sexual assault and sodomy of
20 JANE DOE while on a school bus with the bus driver present, a group of people came to JANE
21 DOE's home and allegedly among them was counsel for the alleged perpetrator as well as
22 interpreters. JANE DOE's mother did not know who they were and allegedly they represented
23 themselves as officials there to help JANE DOE. The group of people entered the family home
24 and attempted to interview and interrogate JANE DOE about the event only days after the
25 sexual assault and sodomy. JANE DOE's mother represents persons from the group directly
26 examined JANE DOE and asked JANE DOE if she ever kissed the boy before and whether her
27 and the boy were boyfriend and girlfriend. Upon hearing the questions JANE DOE's mother
28 understood they were not there to help JANE DOE and asked them to leave.

1 62. Since the alleged violent rape, sexual assault and sodomy of JANE DOE, while
2 on the SCHOOL BUS with the School Bus Driver present, she has received behavior
3 assessments and physiological analysis.

4 63. The counseling allegedly provided by the school district was performed by Olive
5 Branch Counseling Center, specifically, Nadine Rubio MFT and Ken Olson, MA; and in their
6 post-trauma report they noted:

7 a. JANE DOE began treating with them on or about March 29, 2016, and as of June
8 1, 2016, JANE DOE and her mother have received approximately 9 sessions of
9 counseling.

10 b. The report indicates that as a result of the rape, sexual assault and sodomy JANE
11 DOE endured that she is now suffering from acute stress disorder.

12 c. The report indicates that JANE DOE is exhibiting levels of fear, sadness, mistrust,
13 insecurity, and confusion; and these emotions were additionally observed through
14 JANE DOE's body language and play therapy.

15 d. The report notes that JANE DOE consistently refuses to get on a school bus.

16 64. JANE DOE has also been assessed by Victor Velasquez MA BCBA; and Mr.
17 Velasquez also worked with JANE DOE pre-assault.

18 65. Mr. Velasquez notes: JANE DOE is displaying unusual noncompliant behavior.

19 66. Mr. Velasquez notes: JANE DOE is displaying high levels of age inappropriate
20 behavior, such as, JANE DOE's reversion to requests to be breast fed by her mother. Also, JANE
21 DOE will only sleep with her mother and sister now. Mr. Velasquez notes that during his
22 meeting with JANE DOE she requested breast milk from her mother at least twice and physically
23 attempted to grab and hold her mother's breast.

24 67. Mr. Velasquez notes: JANE DOE's communication has regressed and she is now
25 using fewer words and not communicating as she did pre-assault.

26 68. Mr. Velasquez notes: JANE DOE's refusal to ride a school bus.

27 ////

28 ////

1 69. Mr. Velasquez notes JANE DOE's mother's desperation as she allegedly does not
2 know what to do nor how to care for JANE DOE and that JANE DOE has regressed to the point
3 she was at when she was a toddler. JANE DOE's mother (Santa Lucas) represents JANE DOE's
4 condition has been a significant burden to JANE DOE's family as a result of the mother having
5 to work less and care for JANE DOE more.

6 70. Mr. Velasquez recommended JANE DOE receive in home behavior management
7 for 24 months at 24 hours per month at a cost of \$200 dollars per hour; approximately \$115, 200
8 dollars.

9 71. Mr. Velasquez has presented a bill for his counseling and assessment in the amount
10 of \$7,600 dollars, plus will have an additional billing for current evaluation.

11 72. JANE DOE has also been assessed by Dr. Freedman-Harvey, Ph.D., a licensed
12 Psychologist.

13 73. Dr. Freeman reports:

14 a. JANE DOE is experiencing specific changes associated with trauma; namely,
15 psychosomatic, psychological, and behavioral changes.

16 b. Dr. Freeman reports that during his interview with JANE DOE and her mother
17 (Santa Lucas), that JANE DOE exhibited regressive behavior and continually
18 attempted to breast feed from her mother and exhibit other babyish behaviors
19 (JANE DOE is 14).

20 c. Dr. Freedman reports that JANE DOE is no longer able to care for herself as she
21 did pre-assault and now has to be showered, dressed, and fed like a baby.

22 d. Dr. Freedman reports JANE DOE is still having issues with using the toilet rather
23 than just going in her pants, issues she allegedly never had before.

24 e. Dr. Freedman reports JANE DOE's mood and disposition has altered and JANE
25 DOE is fearful and withdrawn and no longer a joyful healthy participant in her
26 own life as well as her family unit.

27 ////

28 ////

- 1 f. Dr. Freedman reports that JANE DOE's mother (Santa Lucas) has to get JANE
2 DOE ready for school and insure the same as JANE DOE is reluctant to prepare
3 and go to the same.
- 4 g. Dr. Freedman reports JANE DOE has shut down and no longer wishes to attend
5 school.
- 6 h. Dr. Freedman notes that JANE DOE's communication has changed from full
7 sentences to one or two word phrases or no words at all.
- 8 i. Dr. Freedman notes that prior to the incident JANE DOE was social and enjoyed
9 attending church and socializing there, where she was said to be “the light” of the
10 church. Now JANE DOE is reluctant to take part in social activities and sits
11 through church withdrawn and scared.
- 12 j. Dr. Freeman notes that due to JANE DOE's mother (Santa Lucas) having to
13 increase care for JANE DOE and provide her security that JANE DOE's mother
14 and family have endured economic stress and hardship.
- 15 k. Dr. Freeman notes that JANE DOE's mother (Santa Lucas) and JANE DOE's
16 siblings are secondary victims of the sexual assault and sodomy and are
17 overwhelmed with the task of caring for JANE DOE through this period.
- 18 l. Dr. Freedman has diagnosed JANE DOE with:
19 i. PTSD, chronic anxiety, and regression.
- 20 m. Dr. Freedman opines that JANE DOE needs a specialized therapist in mind body
21 therapies that is familiar with Spanish as well as therapies and modalities which
22 do not require higher levels of intellectual functioning.
- 23 n. Dr. Freedman recommends Imagery Rehearsal Therapy.
- 24 o. Dr. Freedman recommends income replacement for JANE DOE's mother (Santa
25 Lucas) as a way of helping JANE DOE's family manage the household without
26 choosing between much needed income, and the hours that requires, with JANE
27 DOE's need for more attention, healing, and security.

28 ////

1 p. Dr. Freedman opines treatment will at a minimum cost around \$15,000 dollars per
2 year.

3 q. Dr. Freedman has submitted a bill for his treatment and analysis for \$3500 dollars.

4 74. An IEP Program Plan was prepared for JANE DOE on or about August 11, 2015
5 (before the assault) and it indicates in relevant part:

6 a. JANE DOE continues to improve her communication. She uses more words.

7 b. JANE DOE's councilor and/or Sandra Villanueva IRC CSC noted in her IPP:

8 i. JANE DOE is a caring young girl. She currently does not have any
9 challenging behaviors that interfere with her social participation.

10 ii. JANE DOE reportedly loved going to the park, church, and out for
11 walks. She reportedly enjoyed sports and outdoor play, had three
12 friends, and was very social.

13 iii. JANE DOE reportedly could serve and warm up her own food.

14 iv. JANE DOE could toilet independently. She did not have any
15 accidents.

16 75. An Individualized Education Program report dated June 18, 2013, notes JANE
17 DOE to be very independent and in control of her own toileting and feeding needs.

18 76. An Individualized Education Program report dated August 22, 2008 (pre-assault),
19 approximately 8 years ago, noted JANE DOE as able to take care of her toileting needs.

20 77. JANE DOE's trauma has returned her to a state of being that neither her nor her
21 family has experienced for almost a decade.

22 78. JANE DOE, a 14 year old down syndrome special needs student, was violently
23 raped, sexually assaulted and sodomized on a Riverside Unified School District bus with the
24 School Bus Driver present; and as a result JANE DOE and her family have suffered greatly.

25 79. It is alleged that the incidents have caused permanent and life long injury, pain and
26 suffering to JANE DOE, her mother (Santa Lucas) and other family members.

27 ////

28 ////

1 84. The DISTRICT has a duty to establish school safety and violence prevention
2 programs, under California Education Code sections 32280, 32281, 32282-32283.5. Students
3 entrusted to the care of the DISTRICT have the right to be safe and secure under California
4 Constitution, Article, Section 28, subdivision (a)(7). The DISTRICT has breached that duty and
5 such breach is a proximate cause of Plaintiff JANE DOE's damages. In addition, Education Code
6 sections 234-234.5 supports the legal principle that DEFENDANTS have a duty to protect and
7 properly supervise students. DEFENDANTS owed a duty of care to the minor JANE DOE
8 because said DEFENDANTS knew that by providing education to minors, they were charged
9 with the safety and well-being of the minor JANE DOE. The DISTRICT has a duty to comply
10 with standards established by the American Disabilities Act (Public Law 101-336, Title II).

11 85. The California Constitution, Article, Section 28, subdivision (a) provides in
12 pertinent part: "The People of the State of California find and declare all of the following: . . .
13 that the right to public safety extends to public and private primary, elementary, junior high, and
14 senior high school, and community college, California State University, University of California,
15 and private college and university campuses, where students and staff have the right to be safe
16 and secure in their persons.

17 86. California Education Code section 5600(a) provides: The Legislature finds and
18 declares that all individuals with exceptional needs have a right to participate in free appropriate
19 public education and special educational instruction and services for these persons are needed
20 in order to ensure the right to an appropriate educational opportunity to meet their unique needs.

21 87. California Education Code section 5600(b) provides: The Legislature further finds
22 and declares that special education is an integral part of the total public education system and
23 provides education in a manner that promotes maximum interaction between children or youth
24 with disabilities and children or youth who are not disabled, in a manner that is appropriate to
25 the needs of both.

26 ////

27 ////

28 ////

1 88. California Education Code section 5600(c) provides: The Legislature further finds
2 and declares that special education provides a full continuum of program options, including
3 instruction conducted in the classroom, in the home, in hospitals and institutions, and in other
4 settings, and instruction in physical education, to meet the educational and service needs in the
5 least restrictive environment.

6 89. California Education Code section 5600(d) provides: It is the intent of the
7 Legislature to unify and improve special education programs in California under the flexible
8 program design of the Master Plan for Special Education. It is the further intent of the
9 Legislature to ensure that all individuals with exceptional needs are provided their rights to
10 appropriate programs and services which are designed to meet their unique needs under the
11 federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

12 90. California Education Code section 5600(e) provides: It is the further intent of the
13 Legislature that this part does not abrogate any rights provided to individuals with exceptional
14 needs and their parents or guardians under the federal Individuals with Disabilities Education
15 Act (20 U.S.C. Sec. 1400 et seq.). It is also the intent of the Legislature that this part does not
16 set a higher standard of educating individuals with exceptional needs than that established by
17 Congress under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

18 91. California Education Code section 5600(f) provides: It is the further intent of the
19 Legislature that the Master Plan for Special Education provide an educational opportunity for
20 individuals with exceptional needs that is equal to or better than that provided prior to the
21 implementation of programs under this part, including, but not limited to, those provided to
22 individuals previously served in a development center for handicapped pupils.

23 92. California Education Code section 5600(g) provides: It is the intent of the
24 Legislature that the restructuring of special education programs as set forth in the Master Plan
25 for Special Education be implemented in accordance with this part by all districts and county
26 offices.

27 ////

28 ////

1 93. California Education Code section 56345(a)(4) provides: The individualized
2 education program is a written statement for each individual with exceptional needs that is
3 developed, reviewed, and revised in accordance with this section, as required by Section 1414(d)
4 of Title 20 of the United States Code, and that includes the following: . . . (4) A statement of the
5 special education and **related services** and supplementary aids and services, based on
6 peer-reviewed research to the extent practicable, to be provided to the pupil, or on behalf of the
7 pupil, and a statement of the program modifications or supports for school personnel that will
8 be provided to enable the pupil to do the following: (A) To advance appropriately toward
9 attaining the annual goals. (B) To be involved in and make progress in the general education
10 curriculum in accordance with paragraph (1) and to participate in extracurricular and other
11 nonacademic activities. (C) To be educated and participate with other individuals with
12 exceptional needs and nondisabled pupils in the activities described in this subdivision.
13 [emphasis added] Under California Education Code section 56363 "related services" include
14 transportation.

15 94. The notes for JANE DOE specifically reference "**curb-to-curb**" transportation
16 and that JANE DOE for each and every one of her enumerated goals she was to be **monitored**.
17 California Education Code section 808 provides in pertinent part: Notwithstanding any other
18 provision of this code, no school district, city or county board of education, county
19 superintendent of schools, or any officer or employee of such district or board shall be
20 responsible or in any way liable for the conduct or safety of any pupil of the public schools at
21 any time when such pupil is not on school property, unless such district, board, or person has
22 undertaken to provide transportation for such pupil to and from the school premises, has
23 undertaken a school-sponsored activity off the premises of such school, has otherwise
24 specifically assumed such responsibility or liability or has failed to exercise reasonable care
25 under the circumstances. . . . [emphasis added]

26 ////

27 ////

28 ////

1 95. Having undertaken the duty to provide transportation for JANE DOE, the
2 DISTRICT also had a duty to provide reasonable care and safety in the transportation. 5
3 California Code of Regulations section 3051 provides in pertinent part: (2) Related services,
4 when needed are determined by the IEP. (3) All entities and individuals providing related
5 services shall meet the qualifications found in 34 C.F.R. sections 300.156(b) and 3001(r) and the
6 applicable portions of section 3051 et seq. and shall be either: (A) Employees of the school
7 district or county office, or (B) Employed under contract pursuant to Education Code sections
8 56365-56366. [emphasis added]

9 96. 5 California Code of Regulations section 3051 provides in pertinent part: (a) To
10 be eligible for certification to provide related services to individuals with exceptional needs,
11 nonpublic schools and nonpublic agencies shall meet the requirements of sections 3051 et seq.

12 97. California Education Code section 56195.8 provides in pertinent part: (a) Each
13 entity providing special education under this part shall adopt policies for the programs and
14 services it operates, consistent with agreements adopted pursuant to subdivision (b) or (c) of
15 Section 56195.1 or Section 56195.7. The policies need not be submitted to the superintendent.
16 (b) The policies shall include, but not be limited to, all of the following: (5) Transportation,
17 where appropriate, which describes how special education transportation is coordinated with
18 regular home-to-school transportation. The policy shall set forth criteria for meeting the
19 transportation needs of special education pupils. The policy shall include procedures to ensure
20 compatibility between mobile seating devices, when used, and the securement systems required
21 by Federal Motor Vehicle Safety Standard No. 222 (49 C.F.R. 571.222) and to ensure that
22 schoolbus drivers are trained in the proper installation of mobile seating devices in the
23 securement systems.

24 98. 5 California Code of Regulations section 14103 provides in pertinent part: (a)
25 Pupils transported in a school bus or in a school pupil activity bus shall be under the authority
26 of, and responsible directly to, the driver of the bus, and the driver shall be held responsible for
27 the orderly conduct of the pupils while they are on the bus or being escorted across a street,
28 highway or road.

1 99. California Education Code section 44807 provides in pertinent part: Every teacher
2 in the public schools shall hold pupils to a strict account for their conduct on the way to and from
3 school, on the playgrounds, or during recess. A teacher, vice principal, principal, or any other
4 certificated employee of a school district, shall not be subject to criminal prosecution or criminal
5 penalties for the exercise, during the performance of his duties, of the same degree of physical
6 control over a pupil that a parent would be legally privileged to exercise but which in no event
7 shall exceed the amount of physical control reasonably necessary to maintain order, protect
8 property, or protect the health and safety of pupils, or to maintain proper and appropriate
9 conditions conducive to learning.

10 100. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
11 herein, DEFENDANTS owed a duty of care to all reasonably foreseeable people, including
12 JANE DOE, to provide reasonable first aid and to obtain or summon emergency medical
13 assistance after her injury.

14 101. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
15 herein, each of the DEFENDANTS breached their duty of care and their duties under the above
16 statutes when they carelessly and negligently owned, leased, managed, maintained, controlled,
17 entrusted, and operated the SCHOOL BUS and related tasks on February 23, 2016 by, including,
18 but not limited to, failing to assure that seat restraints were not released or undone in transit, and
19 otherwise failing to monitor activity on the SCHOOL BUS in close proximity to the SCHOOL
20 BUS DRIVER for an extended period during the bus ride, especially considering that there were
21 only two children on the SCHOOL BUS who were of special needs. Further each of the
22 DEFENDANTS failed to recognize, respond to, or assist the immediate medical needs of JANE
23 DOE, which further exacerbated and aggravated the injury.

24 102. Plaintiffs are also informed and believe, and thereon allege, that at all times
25 mentioned herein, each of the DEFENDANTS failed to act in accordance with their statutory
26 duties, and the above referenced mandatory obligations imposed by law.

27 ////

28 ////

1 106. At all times, DEFENDANTS, and each of them, knew, or reasonably should have
2 known, of the violent propensity of behavior by JOHN DOE, and the risk that he imposed on
3 other students, including JANE DOE, if not properly monitored, supervised and controlled.
4 Defendant JOHN DOE is allegedly categorized by the school as "Emotionally Disturbed". At
5 all times, JANE DOE had no reasonable means of protecting herself from the behavior of JOHN
6 DOE, and was completely dependent upon DEFENDANTS for her protection. DEFENDANTS,
7 and each of them, were negligent in monitoring, supervising and controlling JOHN DOE. At all
8 times, DEFENDANTS at all time failed to warn JANE DOE and her mother (Santa Lucas) of
9 the risk they were under, as well as JANE DOE's teachers, the School Bus Driver, and the IEP
10 team.

11 107. Under the provisions of California Education Code section 49079(a) a school
12 district shall inform the teacher of each pupil who has engaged in, or is reasonably suspected to
13 have engaged in, any of the acts described in any of the subdivisions, except subdivision (h), of
14 Section 48900 or in Section 48900.2, 48900.3, 48900.4, or 48900.7 that the pupil engaged in,
15 or is reasonably suspected to have engaged in, those acts. The district shall provide the
16 information to the teacher based upon any records that the district maintains in its ordinary
17 course of business, or receives from a law enforcement agency, regarding a pupil described in
18 this section.

19 108. California Education Code section 49079(c) further provides that an officer or
20 employee of a school district who knowingly fails to provide information about a pupil who has
21 engaged in, or who is reasonably suspected to have engaged in, the acts referred to in subdivision
22 (a) is guilty of a misdemeanor, which is punishable by confinement in the county jail for a period
23 not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or both.

24 109. JOHN DOE was allegedly emotionally disturbed as a result of anger issues, and
25 on information and belief, Plaintiffs allege that Plaintiff JANE DOE's teachers, staff, and school
26 bus drivers were not told of the violent propensity of JOHN DOE. On information and belief,
27 Plaintiffs allege that the activity California Education Code section 49079 was designed to
28 protect, ie. violence, included the violent behavior of JOHN DOE.

1 110. The failure of the DISTRICT to comply with this mandatory duty caused the exact
2 the harm that section 49079 sought to be prevented.

3 111. Government Code section 815.6 provides where a public entity is under a
4 mandatory duty imposed by an enactment that is designed to protect against the risk of a
5 particular kind of injury, the public entity is liable for an injury of that kind proximately caused
6 by its failure to discharge the duty unless the public entity establishes that it exercised reasonable
7 diligence to discharge the duty.

8 112. The negligence of DEFENDANTS, and each of them, as described above, was the
9 direct, actual and legal cause of the described injuries to Plaintiff JANE DOE.

10 113. That as a legal result of the acts of the DEFENDANTS, and each of them, Plaintiff
11 JANE DOE was hurt and injured in her health, strength and activity, sustaining shock and injury
12 to her body, her nervous system and person, all of which have caused and continue to cause
13 JANE DOE great mental and physical pain, suffering and nervousness. Plaintiffs are informed
14 and believe, and upon such information and belief allege, that her injuries will result in some
15 permanent disability to her, all to Plaintiff JANE DOE's General Damage, as will be shown
16 according to proof at time of trial.

17 114. That as a further legal result of the acts of the DEFENDANTS, and each of them,
18 Plaintiff JANE DOE was required to employ, and continues to employ, physicians, surgeons and
19 other health care providers to examine, treat and care for her, and did, and continues to, incur
20 medical and incidental expenses, which will be shown according to proof at time of trial.

21 115. That as a further legal result of the complained of acts of the Defendants, and each
22 of them, Plaintiff JANE DOE was prevented from attending to her usual occupations, education
23 and/or leisure activities for a period of time, sustaining a loss of earnings, education and leisure,
24 the exact amount of such damages are unknown to her at this time; but, which will be shown
25 according to proof at time of trial.

26 ////

27 ////

28 ////

1 **SECOND CAUSE OF ACTION**

2 **(Negligent Contracting, Hiring, Retention, Training and Supervision)**

3 **[Against Defendants DISTRICT and BUS COMPANY]**

4 116. Plaintiffs refer to and incorporate by reference hereat, each and every allegation
5 of Paragraphs 1 through 115, inclusive, of this Complaint, with the same force and effect, as if
6 each and every allegation were again set forth in full hereat.

7 117. At all relevant times, a special relationship existed between DEFENDANTS'
8 administrative and supervisory personnel and the students and bus riders under their control and
9 supervision, including, but not limited to, JANE DOE. The DISTRICT has a duty to enact
10 policies and procedures that are not in contravention of the Federal Civil Rights Act, section
11 1983, and the 14th Amendment of the United States Constitution.

12 118. DEFENDANTS were duty bound to comply with each and every code section and
13 regulation specifically enumerated herein above, and to exert proper skill, prudence, and care
14 in their contracting, hiring, retention, training and supervision.

15 119. By virtue of said special relationship, DEFENDANTS, and each of them, including
16 DEFENDANTS' administrative and supervisory personnel owed a duty to take reasonable
17 measures to protect students under their control and supervision, including JANE DOE, from
18 foreseeable injury at the hands of third parties acting negligently or intentionally, including, but
19 not limited to, JOHN DOE and the SCHOOL BUS DRIVER, by not engaging in the negligent
20 contracting, hiring, retention, training and supervision of agents, employees, and/or independent
21 contractors of DEFENDANTS with direct contact and/or interaction with students and bus riders
22 under their control and supervision, including, but not limited to, JANE DOE.

23 120. Plaintiffs do not know, nor do they have reason to know, the names and/or
24 identities of DEFENDANTS' administrative and supervisory personnel who Plaintiffs contend
25 are responsible for the negligent and reckless acts and omissions as described herein, which
26 Plaintiffs contend are the legal and proximate cause of Plaintiff JANE DOE's damages. Plaintiffs
27 will amend this Complaint to set forth the same as soon as the identities of the culpable
28 individuals are identified.

1 121. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
2 herein, DEFENDANT DISTRICT's administrative and supervisory personnel were negligent and
3 reckless in their contracting, hiring, retention, training and supervision of certain agents,
4 employees, and/or independent contractors, including, but not limited to, the SCHOOL BUS
5 COMPANY, in that they knew or should have known that said agents, employees, and/or
6 independent contractors, including, but not limited to, the SCHOOL BUS COMPANY, were
7 unfit for or did not have proper equipment and practices for the specific and mandatory tasks to
8 be carried out and performed during the course and scope of agency, such as maintaining,
9 inspecting, supervising, managing, regulating, warning, patrolling, protecting, guarding, training,
10 and controlling the transport of special needs students on the school bus, which was the legal and
11 proximate cause of the injuries to JANE DOE.

12 122. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
13 herein, DEFENDANT SCHOOL BUS COMPANY's administrative and supervisory personnel
14 were negligent and reckless in their hiring, retention, training and supervision of certain agents,
15 employees, and/or independent contractors, including, but not limited to, the SCHOOL BUS
16 DRIVER, in that they knew or should have known that said agents, employees, and/or
17 independent contractors, including, but not limited to, the SCHOOL BUS DRIVER, were unfit
18 for the specific and mandatory tasks to be carried out and performed during the course and scope
19 of said employment, such as maintaining, inspecting, supervising, managing, regulating,
20 warning, patrolling, protecting, guarding, training, and controlling the transport of special needs
21 students on the SCHOOL BUS, which was the legal and proximate cause of the injuries to JANE
22 DOE.

23 123. As such, Plaintiffs are informed and believe, and thereon allege, that
24 DEFENDANTS may be held vicarious liable for the negligent and reckless acts and omissions
25 of DEFENDANTS' administrative and supervisory personnel as alleged herein, including, but
26 not limited to the negligent contracting, hiring, retention, training and supervision of certain
27 agents, employees, and/or independent contractors, including, but not limited to, the SCHOOL
28 BUS COMPANY and SCHOOL BUS DRIVER.

1 133. The DISTRICT has a duty to establish school safety and violence prevention
2 programs, under California Education Code sections 32280, 32281, 32282-32283.5. Students
3 entrusted to the care of the DISTRICT have the right to be safe and secure under California
4 Constitution, Article, Section 28, subdivision (a)(7). The DISTRICT has breached that duty and
5 such breach is a proximate cause of Plaintiff JANE DOE's damages. In addition, Education Code
6 sections 234-234.5 supports the legal principle that DEFENDANTS have a duty to protect and
7 properly supervise students. DEFENDANTS owed a duty of care to the minor JANE DOE
8 because said DEFENDANTS knew that by providing education to minors, they were charged
9 with the safety and well-being of the minor JANE DOE, daughter of Plaintiff SANTA LUCAS.

10 134. The DISTRICT has a duty to enact policies and procedures that are not in
11 contravention of the Federal Civil Rights Act, section 1983, and the 14th Amendment of the
12 United States Constitution.

13 136. The DISTRICT has a duty to establish school safety and violence prevention
14 programs, under California Education Code sections 32280, 32281, 32282-32283.5. Students
15 entrusted to the care of the DISTRICT have the right to be safe and secure under California
16 Constitution, Article, Section 28, subdivision (a)(7). The DISTRICT has breached that duty and
17 such breach is a proximate cause of Plaintiff JANE DOE's damages. In addition, Education Code
18 sections 234-234.5 supports the legal principle that DEFENDANTS have a duty to protect and
19 properly supervise students. DEFENDANTS owed a duty of care to the minor JANE DOE
20 because said DEFENDANTS knew that by providing education to minors, they were charged
21 with the safety and well-being of the minor JANE DOE. The DISTRICT has a duty to comply
22 with standards established by the American Disabilities Act (Public Law 101-336, Title II).

23 137. The California Constitution, Article, Section 28, subdivision (a) provides in
24 pertinent part: "The People of the State of California find and declare all of the following: . . .
25 that the right to public safety extends to public and private primary, elementary, junior high, and
26 senior high school, and community college, California State University, University of California,
27 and private college and university campuses, where students and staff have the right to be safe
28 and secure in their persons.

1 138. California Education Code section 5600(a) provides: The Legislature finds and
2 declares that all individuals with exceptional needs have a right to participate in free appropriate
3 public education and special educational instruction and services for these persons are needed
4 in order to ensure the right to an appropriate educational opportunity to meet their unique needs.

5 139. California Education Code section 5600(b) provides: The Legislature further finds
6 and declares that special education is an integral part of the total public education system and
7 provides education in a manner that promotes maximum interaction between children or youth
8 with disabilities and children or youth who are not disabled, in a manner that is appropriate to
9 the needs of both.

10 140. California Education Code section 5600(c) provides: The Legislature further finds
11 and declares that special education provides a full continuum of program options, including
12 instruction conducted in the classroom, in the home, in hospitals and institutions, and in other
13 settings, and instruction in physical education, to meet the educational and service needs in the
14 least restrictive environment.

15 141. California Education Code section 5600(d) provides: It is the intent of the
16 Legislature to unify and improve special education programs in California under the flexible
17 program design of the Master Plan for Special Education. It is the further intent of the
18 Legislature to ensure that all individuals with exceptional needs are provided their rights to
19 appropriate programs and services which are designed to meet their unique needs under the
20 federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

21 142. California Education Code section 5600(e) provides: It is the further intent of the
22 Legislature that this part does not abrogate any rights provided to individuals with exceptional
23 needs and their parents or guardians under the federal Individuals with Disabilities Education
24 Act (20 U.S.C. Sec. 1400 et seq.). It is also the intent of the Legislature that this part does not
25 set a higher standard of educating individuals with exceptional needs than that established by
26 Congress under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

27 ////

28 ////

1 143. California Education Code section 5600(f) provides: It is the further intent of the
2 Legislature that the Master Plan for Special Education provide an educational opportunity for
3 individuals with exceptional needs that is equal to or better than that provided prior to the
4 implementation of programs under this part, including, but not limited to, those provided to
5 individuals previously served in a development center for handicapped pupils.

6 144. California Education Code section 5600(g) provides: It is the intent of the
7 Legislature that the restructuring of special education programs as set forth in the Master Plan
8 for Special Education be implemented in accordance with this part by all districts and county
9 offices.

10 145. California Education Code section 56345(a)(4) provides: The individualized
11 education program is a written statement for each individual with exceptional needs that is
12 developed, reviewed, and revised in accordance with this section, as required by Section 1414(d)
13 of Title 20 of the United States Code, and that includes the following: . . . (4) A statement of the
14 special education and **related services** and supplementary aids and services, based on
15 peer-reviewed research to the extent practicable, to be provided to the pupil, or on behalf of the
16 pupil, and a statement of the program modifications or supports for school personnel that will
17 be provided to enable the pupil to do the following: (A) To advance appropriately toward
18 attaining the annual goals. (B) To be involved in and make progress in the general education
19 curriculum in accordance with paragraph (1) and to participate in extracurricular and other
20 nonacademic activities. (C) To be educated and participate with other individuals with
21 exceptional needs and nondisabled pupils in the activities described in this subdivision.
22 [emphasis added] Under California Education Code section 56363 "related services" include
23 transportation.

24 ////
25 ////
26 ////
27 ////
28 ////

1 146. The notes for JANE DOE specifically reference "curb-to-curb" transportation and
2 that JANE DOE for each and every one of her enumerated goals she was to be monitored.
3 California Education Code section 808 provides in pertinent part: Notwithstanding any other
4 provision of this code, no school district, city or county board of education, county
5 superintendent of schools, or any officer or employee of such district or board shall be
6 responsible or in any way liable for the conduct or safety of any pupil of the public schools at
7 any time when such pupil is not on school property, unless such district, board, or person has
8 undertaken to provide transportation for such pupil to and from the school premises, has
9 undertaken a school-sponsored activity off the premises of such school, has otherwise
10 specifically assumed such responsibility or liability or has failed to exercise reasonable care
11 under the circumstances. . . .

12 147. Having undertaken the duty to provide transportation for JANE DOE, the
13 DISTRICT also had a duty to provide reasonable care and safety in the transportation. 5
14 California Code of Regulations section 3051 provides in pertinent part: (2) Related services,
15 when needed are determined by the IEP. (3) All entities and individuals providing related
16 services shall meet the qualifications found in 34 C.F.R. sections 300.156(b) and 3001(r) and the
17 applicable portions of section 3051 et seq. and shall be either: (A) Employees of the school
18 district or county office, or (B) Employed under contract pursuant to Education Code sections
19 56365-56366. [emphasis added]

20 148. 5 California Code of Regulations section 3051 provides in pertinent part: (a) To
21 be eligible for certification to provide related services to individuals with exceptional needs,
22 nonpublic schools and nonpublic agencies shall meet the requirements of sections 3051 et seq.

23 ////

24 ////

25 ////

26 ////

27 ////

28 ////

1 149. California Education Code section 56195.8 provides in pertinent part: (a) Each
2 entity providing special education under this part shall adopt policies for the programs and
3 services it operates, consistent with agreements adopted pursuant to subdivision (b) or (c) of
4 Section 56195.1 or Section 56195.7. The policies need not be submitted to the superintendent.
5 (b) The policies shall include, but not be limited to, all of the following: (5) Transportation,
6 where appropriate, which describes how special education transportation is coordinated with
7 regular home-to-school transportation. The policy shall set forth criteria for meeting the
8 transportation needs of special education pupils. The policy shall include procedures to ensure
9 compatibility between mobile seating devices, when used, and the securement systems required
10 by Federal Motor Vehicle Safety Standard No. 222 (49 C.F.R. 571.222) and to ensure that
11 schoolbus drivers are trained in the proper installation of mobile seating devices in the
12 securement systems.

13 150. 5 California Code of Regulations section 14103 provides in pertinent part: (a)
14 Pupils transported in a school bus or in a school pupil activity bus shall be under the authority
15 of, and responsible directly to, the driver of the bus, and the driver shall be held responsible for
16 the orderly conduct of the pupils while they are on the bus or being escorted across a street,
17 highway or road.

18 151. California Education Code section 44807 provides in pertinent part: Every teacher
19 in the public schools shall hold pupils to a strict account for their conduct on the way to and from
20 school, on the playgrounds, or during recess. A teacher, vice principal, principal, or any other
21 certificated employee of a school district, shall not be subject to criminal prosecution or criminal
22 penalties for the exercise, during the performance of his duties, of the same degree of physical
23 control over a pupil that a parent would be legally privileged to exercise but which in no event
24 shall exceed the amount of physical control reasonably necessary to maintain order, protect
25 property, or protect the health and safety of pupils, or to maintain proper and appropriate
26 conditions conducive to learning.

27 ////

28 ////

1 152. Compulsory education laws create a special relationship between students and
2 DEFENDANTS, and students have a constitutional guarantee to a safe, secure and peaceful
3 school environment. These laws similarly create a special relationship between DEFENDANTS
4 and Plaintiff SANTA LUCAS, in that she has a constitutional right to control the upbringing and
5 education of her minor children and insure their safety both at home and at school.
6 DEFENDANTS, and each of them, failed to acknowledge unsafe conditions, and therefore failed
7 to guarantee safe surroundings in an environment in which Plaintiff SANTA LUCAS' children
8 were not free to leave.

9 153. At all times, DEFENDANTS, and each of them, knew, or reasonably should have
10 known, of the violent propensity of behavior by JOHN DOE, and the risk that he imposed on
11 other students, including JANE DOE, if not properly monitored, supervised and controlled. At
12 all times, JANE DOE had no reasonable means of protecting herself from the behavior of JOHN
13 DOE, and was completely dependent upon DEFENDANTS for her protection. DEFENDANTS,
14 and each of them, were negligent in monitoring, supervising and controlling JOHN DOE.
15 Plaintiff SANTA LUCAS fully entrusted DEFENDANTS with the care and safety of her
16 daughter.

17 154. DEFENDANTS owed Plaintiff SANTA LUCAS a duty to take reasonable
18 protective measures for JANE DOE from the propensity of behavior by JOHN DOE.

19 155. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
20 herein, DEFENDANTS owed a duty of care to all reasonably foreseeable people, including
21 JANE DOE, daughter of Plaintiff SANTA LUCAS, to provide reasonable humanitarian first aid
22 and to obtain or summon emergency medical assistance after her injury.

23 156. The negligence of DEFENDANTS, and each of them, as described above, was the
24 direct, actual and legal cause of injuries to JANE DOE, daughter of Plaintiff SANTA LUCAS.

25 157. It is alleged that the incidents have caused permanent and life long injury, pain and
26 suffering to JANE DOE, Plaintiff SANTA LUCAS and other family members.

27 ////

28 ////

1 158. By holding themselves out as a qualified institution of learning for children, and
2 by undertaking the academic, psychological and emotional instruction and guidance of Plaintiff
3 SANTA LUCAS' minor children, the DISTRICT entered into a fiduciary, special and
4 confidential relationship with Plaintiff.

5 159. DEFENDANTS breached their fiduciary, special and confidential relationship with
6 Plaintiff SANTA LUCAS by the wrongful and negligent conduct described herein above, and
7 by so doing gained an advantage over Plaintiff SANTA LUCAS and her children in matters
8 relating to their safety, security and health.

9 160. DEFENDANTS conduct toward Plaintiff SANTA LUCAS, as described herein,
10 was outrageous and extreme. At or around 10:30 a.m. on February 23, 2016, JANE DOE and
11 her mother were driven to the emergency room of Riverside County Regional Medical Center
12 ("RRMC"); and again, allegedly, Plaintiff SANTA LUCAS still had not been informed of the
13 origin of her daughter's injuries at this time; which were injuries relating to a violent rape, sexual
14 assault and sodomization.

15 161. On or around 11:30 am, or thereafter, and at Riverside County Regional Medical
16 Center, Plaintiff SANTA LUCAS overheard the school nurse tell a receptionist that there was
17 an order from a detective to have JANE DOE treated for sexual assault. And this was how
18 Plaintiff SANTA LUCAS was informed that her daughter had been raped and sodomized.
19 Plaintiff SANTA LUCAS only learned of the violent attack by getting to overhear the allegations
20 as represented by the school nurse to the hospital staff.

21 162. A reasonable person would not expect or tolerate the delay to provide reasonable
22 humanitarian first aid and to obtain or summon emergency medical assistance for JANE DOE
23 after the injury, and Plaintiff SANTA LUCAS was present when DEFENDANTS failed to do
24 so for her daughter. Plaintiff held great trust, faith and confidence in DEFENDANTS, which by
25 virtue of DEFENDANTS' conduct has been breached, and DEFENDANTS knew Plaintiff
26 SANTA LUCAS would be directly harmed by such failure.

27 ////

28 ////

1 163. A reasonable person would not expect or tolerate the total lack of safety and
2 supervision that occurred in DEFENDANTS dereliction of duties, violation of laws, state and/or
3 federal statutes, leading to the sexual assault, violently rape and sodomization, as well as
4 physical assault and battery of Plaintiff SANTA LUCAS' daughter.

5 164. DEFENDANTS conduct described herein was intentional and done for the purpose
6 of causing, or with substantial certainty that it would cause Plaintiff SANTA LUCAS to suffer
7 humiliation, mental anguish and emotional and physical distress.

8 165. The DISTRICT and the SCHOOL BUS COMPANY, acting through managing
9 agents and school administrators, failed to comply with duties to the minor child to which they
10 were obligated under the Education Code, and other laws of both the State of California, and the
11 United States.

12 166. The DISTRICT and the SCHOOL BUS COMPANY, acting through managing
13 agents and school administrators, failed to accommodate the special needs of the minor child to
14 which they were obligated under the Education Code, and the above referenced laws of both the
15 State of California, and the United States, both before, during, and after the violent rape, attack
16 and molestation.

17 167. The DISTRICT, acting through managing agents and school administrators, caused
18 Plaintiff SANTA LUCAS to be personally present during the period of neglect by the
19 DISTRICT after the violent rape, attack and molestation, such as to cause her to be a witness to
20 the neglect by DISTRICT personnel in her presence, and so as to cause serious permanent and
21 life long mental distress and injury to Plaintiff.

22 168. DEFENDANTS conduct described herein was intentional and done for the purpose
23 of causing, or with substantial certainty that it would cause Plaintiff SANTA LUCAS to suffer
24 humiliation, mental anguish and emotional and physical distress.

25 ////

26 ////

27 ////

28 ////

1 174. DEFENDANTS breached their fiduciary, special and confidential relationship with
2 Plaintiff SANTA LUCAS by the wrongful and negligent conduct described herein above, and
3 by so doing gained an advantage over Plaintiff SANTA LUCAS and her children in matters
4 relating to their safety, security and health.

5 175. DEFENDANTS' conduct toward Plaintiff SANTA LUCAS, as described herein,
6 was negligent and done without regard as to whether it would cause Plaintiff to suffer
7 humiliation, mental anguish and emotional and physical distress.

8 176. As a result of the above-described conduct, Plaintiff SANTA LUCAS suffered and
9 continues to suffer great pain of mind and body, shock, emotional distress, physical
10 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation,
11 and loss of enjoyment of life; have suffered and continue to suffer, and were prevented and will
12 continue to be prevented from performing daily activities, and obtaining full enjoyment of life;
13 will sustain loss of earnings and earning capacity, and have incurred and will continue to incur
14 expenses for medical and psychological treatment, therapy and counseling.

15
16 **AS TO ALL CAUSES OF ACTION, PLAINTIFFS ALLEGE:**

17 177. The allegations of this Complaint stated on information and belief are likely to
18 have evidentiary support after a reasonable opportunity for further investigation or discovery.

19 178. Plaintiffs have exhausted their administratively by filing timely claims pursuant
20 to the California Tort Claims Act.

21 179. On or about August 26, 2016, Plaintiff JANE DOE through their attorney of record
22 JOSHUA D. NAGGAR, filed and served their claim for the above-referenced injuries with the
23 Clerk, for Defendant DISTRICT, but said Defendant rejected the claim. At all times through the
24 filing of this action, Plaintiff JANE DOE has been a minor lacking mental capacity.

25 180. On or about August 26, 2016, Plaintiff SANTA LUCAS through her attorney of
26 record JOSHUA D. NAGGAR, filed and served her claim for the above-referenced injuries with
27 the Clerk, for Defendant DISTRICT, but said Defendant took no action on the claim within the
28 time limits prescribed by law for allowance or rejection of the claim.

1 **WHEREFORE, Plaintiffs pray judgment against Defendants, and each of them, as**
2 **follows:**

- 3 1. For General Damages, according to proof at time of trial;
4 2. For Special Damages, according to proof at time of trial;
5 3. For prejudgment interest, according to proof at time of trial;
6 4. As to School Bus Company, for punitive and exemplary damages, according to
7 proof at time of trial;
8 5. For costs of suit and attorney fees herein incurred, according to proof at time of
9 trial; and,
10 6. For such other and further relief as the Court may deem proper.

11 Dated: September 6, 2017



JOSHUA D. NAGGAR,
Attorney for Plaintiffs
JANE DOE and SANTA LUCAS

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial by jury.

Dated: September 6, 2017



JOSHUA D. NAGGAR,
Attorney for Plaintiffs
JANE DOE and SANTA LUCAS