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7 **UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF CALIFORNIA**

9 In the Matter of:

10 _____	)	<b>Case No.: 2:20-cv-00635-</b>
	)	<b>TLN-KJN</b>
11 <b>Stacia LANGLEY, et al,</b>	)	
	)	<b>PLAINTIFF'S SECOND</b>
12 <b>Plaintiffs</b>	)	<b>AMENDED COMPLAINT FOR</b>
13 <b>vs</b>	)	<b>DAMAGES</b>
	)	
14 <b>GUIDING HANDS SCHOOL, et al</b>	)	<b>JURY TRIAL DEMANDED</b>
	)	
15 <b>Defendants.</b>	)	
	)	
16 _____	)	

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19 **INTRODUCTION**

20  
21 1. Plaintiffs submit this claim for damages based on violations of federal and state anti-  
22 discrimination and civil rights statutes, as well as common law tort claims, including  
23 wrongful death involving minor Max Benson, and for assault, battery, false imprisonment,  
24 intentional infliction of emotional distress, negligence, negligent supervision and tortious  
25 breach of the duty of good faith and fair dealing, strict product liability, negligent product,  
26 and fraud as to other minor plaintiffs and/or their parents.  
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1 2. Decedent Benson (hereinafter “MAX”) was, and Austin Peterson (hereinafter  
2 “AUSTIN”), LUIS Marques (hereinafter “LUIS” and minor plaintiffs D.Z., S.D., J.P., M.S.,  
3 E.D., H.K., (sometimes referred to collectively as “THE PLAINTIFF STUDENTS”, or  
4 where only some of them are named in a cause of action, sometimes referred to as “THE  
5 NAMED PLAINTIFF STUDENTS”) are disabled students who were placed at defendant  
6 Guiding Hands School, Inc., (hereinafter “GHS”) by the defendants who are named herein  
7 as various county educational offices (hereinafter collectively referred to as “THE ARMS  
8 OF THE EDUCATIONAL SYSTEM”) and their employees.  
9

10 3. MAX and THE PLAINTIFF STUDENTS were injured by a system of restraint  
11 developed and patented by defendant Bruce Chapman (hereinafter “CHAPMAN”), and sold  
12 by him and his company Handle With Care Behavioral Management Systems, Inc.  
13 (hereinafter “HWC”) to schools in California, including GHS.  
14

15 4. MAX and THE PLAINTIFF STUDENTS who, due to the severity of their disabilities,  
16 were often unable to or did not report to their parents the repeated physical and emotional  
17 abuse they were forced to endure by various staff at GHS, which staff also are named as  
18 defendants herein.  
19

20 5. Defendants GHS, THE ARMS OF THE EDUCATIONAL SYSTEM, and their various  
21 employees, preyed on THE PLAINTIFF STUDENTS because of their disabilities; tasked  
22 unqualified and inadequately trained staff to supervise THE PLAINTIFF STUDENTS;  
23 failed to document and report incidents of abuse; and failed to take reasonable steps to  
24 prevent further abuse.  
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1 6. The abuse at GHS had occurred since at least 2008, and no effort was made by GHS,  
2 THE ARMS OF THE EDUCATIONAL SYSTEM, or their respective administrators or  
3 staff, to adequately protect THE PLAINTIFF STUDENTS from the continued abuse.  
4 Defendants carried out a series of abuse acts upon THE PLAINTIFF STUDENTS. Some  
5 of these acts are set forth herein. Unfortunately, due to the nature of their disabilities, and  
6 the death of MAX, sometimes THE PLAINTIFF STUDENTS are unable to answer  
7 questions regarding what happened to them or describe events which occurred in their  
8 classroom.  
9

10  
11 7. The harmful effects of the abuse suffered by THE PLAINTIFF STUDENTS at the  
12 hands of the staff directly abusing them, have been compounded by defendant GHS' and  
13 THE ARMS OF THE EDUCATIONAL SYSTEM's willful failure to adequately report,  
14 documents, respond to, investigate and prevent the abuse. These wilful failures prevented  
15 THE PLAINTIFF STUDENTS' parents from obtaining information regarding the cause of  
16 their children's injuries.  
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19 8. THE ARMS OF THE EDUCATIONAL SYSTEM and various of their employees  
20 who were tasked with overseeing activities within the Special Education departments,  
21 ignored warning signs that abuse was occurring at GHS.  
22

23 9. Even after THE PLAINTIFF STUDENTS' parents approached defendants GHS and  
24 THE ARMS OF THE EDUCATIONAL SYSTEM requesting information about their  
25 suspicions of abuse, said defendants failed to provide any meaningful information regarding  
26 what had transpired in their children's classroom. THE PLAINTIFF STUDENTS' parents  
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1 were only made aware of the depth of the abuse when these system-wide failures culminated  
2 in the death of MAX at the hands of staff at GHS.

3  
4 10. After the death of MAX, GHS' credential was revoked by the State of California.  
5 MAX's death has been ruled a homicide by the coroner. Two administrators and one staff  
6 member at GSH have been charged with manslaughter in connection with MAX's death.

7  
8 11. Due to both the nature of THE PLAINTIFF STUDENTS' disabilities, which often  
9 precluded them from reporting the abusive acts, and the purposeful concealment of the acts  
10 by defendants GHS and THE ARMS OF THE EDUCATIONAL SYSTEM, some of THE  
11 STUDENT PLAINTIFFS are at this point unable to describe all of the abusive acts directed  
12 at THE STUDENT PLAINTIFFS and the exact length of time the abuse was endured. THE  
13 STUDENT PLAINTIFFS expressly reserve their right to amend this Complaint to include  
14 additional facts and/or claims as discovery in this case proceeds.  
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17 12. THE STUDENT PLAINTIFFS' damages are such that proceeding through due process  
18 before the Office of Administrative Hearings would be both futile and inadequate.  
19 Plaintiffs' injuries cannot be redressed under the IDEA's due process procedures because  
20 GHS has been closed; there are no educational issues to be resolved through an IEP process  
21 related GHS; the claims against GHS and THE ARMS OF THE EDUCATIONAL  
22 SYSTEM center around physical abuse and injuries for which an administrative hearing  
23 officer or administrative law judge cannot render an award of monetary damages; and THE  
24 PLAINTIFF STUDENTS seek only retrospective damages for that physical and  
25 psychological abuse, along with prospective general and special damages which flow as a  
26 natural consequence of that past abuse.  
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1 13. THE STUDENT PLAINTIFFS' parents also seek relief from this Honorable Court for  
2 the damages they have suffered as a result of wrongdoing by GHS, its administrators and  
3 staff, by THE ARMS OF THE EDUCATIONAL SYSTEM and its employees.

4  
5 14. Various plaintiffs are able to make allegations regarding compliance with California's  
6 Government Tort Claims Act, as will be set forth specifically herein by the plaintiffs. When  
7 compliance with the Tort Claims Act is mandated, but has not been accomplished, an  
8 otherwise existing cause of action against the subject public entity will not be pled. Nothing  
9 in this complaint should be read as assertion of a claim against a public entity or its  
10 employees in their official capacity for which a Tort Claim filing is mandated, i.e., all claims  
11 other than the 42 USC 1983 causes of action, and for which no Tort Claim has yet been  
12 allowed.  
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15 **JURISDICTION**

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17 15. This court has subject matter jurisdiction over this action pursuant to 28 USC section  
18 1331 and 1367 for the claims arising under the American with Disability Act of 1990; 42  
19 USC section 1342 for claims arising under 42 USC 1983 for claims arising under the United  
20 States Constitution; and pursuant to 29 USC sections 794, et seq. for claims arising under  
21 section 504 of the Rehabilitation Action of 1973.  
22

23 16. Under the doctrine of pendant and supplemental jurisdiction, 28 USC section 1367, this  
24 Honorable Court has jurisdiction over plaintiffs' claims arising under California state and  
25 common law.  
26

27 **VENUE**

1 17. Pursuant to 28 USC section 1391(b), venue is proper in the district in which this  
2 Complaint is filed, which is the judicial district in which the claims have arisen. Further,  
3 a substantial amount of activity giving rise to the claims herein alleged occurred within this  
4 district.  
5

6 **PARTIES**

7 **THE PLAINTIFF STUDENTS:**

8  
9 18. MAX, whose rights are presented herein through the duly appointed personal  
10 representative to his estate Michael Turelli, was a 13 year old boy who had a host of  
11 physical and emotional disabilities, including: speech impediments; low overall muscle tone;  
12 low facial muscle tone; a tendency to drool; poor proprioception; poor postural control;  
13 difficulty with coordinated muscle activity; bilateral intention tremors; difficulty with skilled  
14 hand movements; an eye tick; a congenital defect in his neck, for which he underwent a  
15 fusion of the C1-C2 vertebrae with resulting placement of screws and rods or a plate in his  
16 neck; daily neck pain; Ehler-Danlos syndrome; autism; extreme sensitivity to loud noises;  
17 difficulty sleeping; obesity; a pericallosal brain tumor; and neurological deficits. MAX was  
18 a child with a disability as defined in 20 USC 1401(3), and was a person with a disability  
19 at all times referenced herein within the meaning of all applicable state and federal disability  
20 laws.  
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24 19. MAX has complied with the Tort Claims filing requirements for claims against the  
25 State of California, Yolo County SELPA and DJUSD.  
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1 20. D.Z. is a minor with autism. D.Z is a child with a disability as defined in 20 USC  
2 1401(3), and was a person with a disability at all times referenced herein within the meaning  
3 of all applicable state and federal disability laws.  
4

5 21. D.Z. has complied with the Tort Claims filing requirements as to Sacramento County  
6 Office of Education SELPA for any claims occurring within 6 months of April 17, 2019,  
7 and as to Folsom Cordova Unified School District and Folsom Cordova Unified School  
8 District SELPA for any claims occurring within one year of May 17, 2019, and limits his  
9 claims against said defendants as stated herein accordingly.  
10

11 22. S.D. is a minor diagnosed with depressive disorder, oppositional defiant disorder,  
12 developmental coordination disorder, who was required to take sertraline and  
13 methylphenidate for his conditions. S.D. is a child with a disability as defined in 20 USC  
14 1401(3), and was a person with a disability at all times referenced herein within the  
15 meaning of all applicable state and federal disability laws.  
16  
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18 23. S.D. has complied with the Tort Claims filing requirements for El Dorado County  
19 Office of Education and El Dorado County SELPA for any occurrences on or after  
20 November 23, 2018, and claims herein stated against said public entities by S.D. are subject  
21 to that limitation. and limits his claims against defendants accordingly.  
22

23 24. J.P. is a minor child with autism and Asperger's. J.P. is a child with a disability as  
24 defined in 20 USC 1401(3), and is a person with a disability at all times referenced herein  
25 within the meaning of all applicable state and federal disability laws.  
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1 25. H.K. is a minor child with autism. H.K is a child with a disability as defined in 20  
2 USC 1401(3), and is a person with a disability within the meaning of all applicable state and  
3 federal disability laws.  
4

5 26. H.K. has complied with the Tort Claims filing against Placerville Union School  
6 District for injuries incurred on or after November 23, 2018, and claims herein stated against  
7 said public entities by H.K. are subject to that limitation.  
8

9 27. M.S. is a minor child with autism, Tourette Syndrome, and ADHS. M.S. is a child  
10 with a disability as defined in 20 USC 1401(3), and is a person with a disability within the  
11 meaning of all applicable state and federal disability laws.  
12

13 28. M.S. has complied with the Tort Claims filing against Elk Grove Unified School  
14 District, Elk Grove Unified School District SELPA, Sacramento Office of Education, and  
15 the State of California.  
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17 29. At all relevant times, AUSTIN PETERSEN was a minor child with autism. AUSTIN  
18 was a child with a disability as defined in 20 USC 1401(3), and is a person with a disability  
19 within the meaning of all applicable state and federal disability laws.  
20

21 30. AUSTIN has complied with the Tort Claims filing against Rocklin Unified School  
22 District for injuries incurred on or after November 23, 2018, and claims herein stated against  
23 said public entities by AUSTIN. are subject to that limitation.  
24

25 31. E.D. is a minor child with autism, anxiety disorder, and other serious mental health and  
26 behavioral health problems. E.D. is a child with a disability as defined in 20 USC 1401(3),  
27 and who is a person with a disability within the meaning of all applicable state and federal  
28 disability laws.

1 32. At all relevant times, LUIS Marques (legal name LUIS Andreas Marques, hereinafter  
2 “LUIS”). was a minor child with autism, who had a pre-existing fused spine. LUIS was a  
3 child with a disability as defined in 20 USD 1401(3), and is a person with a disability within  
4 the meaning of all applicable state and federal disability laws.  
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6 **THE PLAINTIFF STUDENTS’ PARENTS:**

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8 33. The plaintiff students’ parents are oftentimes referred to herein collectively as “THE  
9 PLAINTIFF STUDENTS’ PARENTS.

10 34. Stacia Langley (hereinafter “LANGLEY”) and David Benson (hereinafter  
11 “BENSON”) are the parents of MAX.  
12

13 35. LANGLEY and BENSON have complied with the Tort Claims filing requirements  
14 against CDE, YOLO and DJUSD.

15 36. Laura Kinser (hereinafter “KINSER”) is the parent and guardian ad litem of D.Z.

16 37. Christian Davis (hereinafter “DAVIS”) is the parent and guardian ad litem of S.D.

17 38. Cherilyn Caler (hereinafter “CALER”) is the parent and guardian ad litem of J.P.

18 39. Susan Muller (hereinafter “MULLER”) is the parent and guardian ad litem of H.K.

19 40. Melanie Stark (hereinafter “STARK”) is the parent and guardian ad litem of M.S.

20 41. STARK has complied with the Tort Claims filing against Elk Grove Unified School  
21 District, Elk Grove Unified School District SELPA, Sacramento Office of Education, and  
22 the State of California.  
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24 42. Suzanne Brent-Petersen and Timothy Petersen (hereinafter “THE PETERSENS”) are  
25 the parents of AUSTIN.  
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1 43. Robert Darrough (hereinafter “DARROUGH”) and Kristen Coughlin (hereinafter  
2 “COUGHLIN”) are the parents and guardians ad litem of E.D.

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4 44. LUIS Marques and Deborah Marques (hereafter “THE MARQUES”) are the parents  
5 of LUIS.

6 **THE DEFENDANTS:**

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8 45. At all times herein mentioned, GHS was a non-public school, organized as a private  
9 corporation under the laws of the State of California, which contracted with various school  
10 districts and County Offices of Educations and SELPAs [Special Education Local Plan  
11 Area] (previously referred to as “THE ARMS OF THE EDUCATIONAL SYSTEM”),  
12 including Yolo County SELPA (hereinafter “YOLO”), Davis Joint Unified School District  
13 (hereinafter “DJUSD”), Sacramento County Office of Education (hereinafter “SCOE”),  
14 Sacramento County Office of Education SELPA (hereinafter “SCOSELPA”), Folsom  
15 Cordova Unified School District (hereinafter “FCUSD”), Folsom Cordova SELPA  
16 (hereinafter “FCSELPA”), Elk Grove Unified School District (hereinafter “EGUSD”), Elk  
17 Grove Unified SELPA (hereinafter “EGSELPA”), Amador County Unified School District  
18 (hereinafter “ACUSD”), Amador County Office of Education SELPA (hereinafter  
19 “ACOESELPA”), Rocklin Unified School District (hereinafter “RUSD”), Sacramento  
20 County SELPA (hereinafter “SCSELPA”), Placerville Union School District (hereinafter  
21 “PUSD”), El Dorado County Office of Education (hereinafter “EDCOE”), El Dorado  
22 County Office of Education SELPA, (hereinafter “EDCOESELPA”), El Dorado County  
23 Unified Schools (hereinafter “EDCUS”), Pollock Pines Elementary School District  
24 (hereinafter “PPESD”) and the CALIFORNIA DEPARTMENT OF EDUCATION

1 (hereinafter “CDE”) to act as their independent contractor in providing educational services  
2 to disabled children within the State of California. At all times herein mentioned, in doing  
3 the things herein alleged, GHS was performing services on behalf of those entities that  
4 traditionally were performed by those entities.  
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6 46. At all times herein mentioned DJUSD, YOLO, FCUSD, FCSELPA, EGUSD,  
7 EGSELPA, ACUSD, ACSELPA, RUSD, SCSELPA, PUSD, EDCOE, EDCOESELPA,  
8 EDCUS, and PPESD are local government entities within the meaning of Title II of the  
9 ADA, recipients of federal financial assistance within the meaning of Section 504 of the  
10 Rehabilitation Act, and have at least 50 employees. DJUSD, YOLO, FCUSD, FCSELPA,  
11 EGUSD, EGSELPA, ACUSD, ACSELPA, RUSD, SCSELPA, PUSD, EDCOE,  
12 EDCOESELPA, EDCUS, and PPESD are also recipients of financial assistance from the  
13 State of California.  
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15  
16 47. Presently, and at all times relevant to this Complaint, GHS, THE ARMS OF THE  
17 EDUCATIONAL SYSTEM were and are business establishments within the meaning of  
18 the Unruh Civil Rights Act. THE ARMS OF THE EDUCATIONAL SYSTEM are sued in  
19 their own right, on the basis of employing GHS as its independent contractor pursuant to a  
20 written contract to perform educational services for MAX and THE PLAINTIFF  
21 STUDENTS, and on the basis of the acts and omissions of their officials, agents, and  
22 employees.  
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25 **GHS Employees:**  
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27 48. At all times herein mentioned, defendants Staranne Meyers (hereinafter “MEYERS”)  
28 was the principal and member of the board of GHS, Cindy Keller (hereinafter “KELLER”)

1 was the executive director of GHS, Jennifer CHRISTENSEN (hereinafter  
2 “CHRISTENSEN”) was an administrator at GHS, Nima Naran in place of DOE 4  
3 (hereinafter “NARAN”) was an administrator at GHS, and DOE defendants were officers,  
4 directors, and administrators of defendant GHS, all of whom have authority and control over  
5 GHS’s programs, and facilities, including policies, practices, procedures, programs,  
6 activities, services, training, staff; and all of whom have direct responsibility for ensuring  
7 the safety and well being of their students, and for ensuring compliance with state and  
8 federal laws. MEYERS, KELLER, CHRISTENSEN and NARAN allowed and encouraged  
9 staff at GHS to intentionally and unlawfully assault students at GHS for no pedagogical  
10 purpose. They are sued in their individual and official capacities as administrators at GHS.  
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14 49. At all times herein mentioned, defendants Kimberly Wohlwend (hereinafter  
15 “WOHLWEND”), Betty Morgan (hereinafter “MORGAN”), Jill Watson (hereinafter  
16 “WATSON”), Le’Mon Thomas (hereinafter “THOMAS”), David Chambers (hereinafter  
17 “CHAMBERS”) and DOE defendants were employed as teachers, and aides at GHS, who  
18 intentionally and unlawfully assaulted MAX and unlawfully inflicted corporal punishment  
19 upon him, for no pedagogical purpose. They had authority and control of the classroom,  
20 including policies, practices, procedures, facilities, and activities within the classroom. They  
21 are sued in their individual capacity and in their capacity as employees of GHS.  
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24 50. At all times herein mentioned, defendants CHAMBERS, Zach Matlock (erroneously  
25 sued herein as Zack Mallory) (hereinafter “MATLOCK”), Kyle McKoy in place of DOE  
26 1 (hereinafter “McKOY”), Danielle Oehring in place of DOE 2 (hereinafter “OEHRING”),  
27 MeriLee Godbout in place of DOE 3 (hereinafter “GODBOUT”) and DOE defendants were  
28

1 employed as teachers, and aides at GHS, who intentionally and unlawfully assaulted D.Z.  
2 and unlawfully inflicted corporal punishment upon him, for no pedagogical purpose. They  
3 had authority and control of the classroom, including policies, practices, procedures,  
4 facilities, and activities within the classroom. They are sued in their individual capacity and  
5 in their capacity as employees of GHS.  
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8 51. At all times herein mentioned, defendants WOHLWEND, KELLER, and Andre  
9 Gatewood in place of DOE 13 (hereinafter "GATEWOOD"), were employed as teachers,  
10 and aides at GHS, who intentionally and unlawfully assaulted S.D. and unlawfully inflicted  
11 corporal punishment upon him, for no pedagogical purpose. They had authority and control  
12 of the classroom, including policies, practices, procedures, facilities, and activities within  
13 the classroom. They are sued in their individual capacity and in their capacity as employees  
14 of GHS.  
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17 52. At all times herein mentioned, defendants Michael Smith (hereinafter "SMITH"),  
18 MATLOCK, Melanie Allen (hereinafter "ALLEN") and DOE defendants were employed  
19 as teachers and aides at GHS, who intentionally and unlawfully assaulted J.P. and  
20 unlawfully inflicted corporal punishment upon him, for no pedagogical purpose. They had  
21 authority and control of the classroom, including policies, practices, procedures, facilities,  
22 and activities within the classroom. They are sued in their individual capacity and in their  
23 capacity as employees of GHS.  
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26 53. At all times herein mentioned, DOE defendants were employed as teachers and aides  
27 at GHS, who intentionally and unlawfully assaulted H.K. and unlawfully inflicted corporal  
28 punishment upon him, for no pedagogical purpose. They had authority and control of the

1 classroom, including policies, practices, procedures, facilities, and activities within the  
2 classroom. They are sued in their individual capacity and in their capacity as employees of  
3 GHS.  
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5 54. At all times herein mentioned, Linda Stearn (hereinafter "STEARN"),  
6 CHRISTENSEN, Kim Dillon in place of DOE 25 (hereinafter "DILLON"), Kris Laymon  
7 in place of DOE 26 (hereinafter "LAYMON"), Amanda Hinds in place of DOE 27  
8 (hereinafter "HINDS"), Jennifer Jones in place of DOE 28 (hereinafter "JONES"), Sandra  
9 Romano in place of DOE 29 (hereinafter "ROMANO"), Robin Schumann (hereinafter  
10 "SCHUMANN") and DOE defendants were employed as administrators, teachers and aides  
11 at GHS, who intentionally and unlawfully assaulted M.S. and unlawfully inflicted corporal  
12 punishment upon him, for no pedagogical purpose. They had authority and control of the  
13 classroom, including policies, practices, procedures, facilities, and activities within the  
14 classroom. They are sued in their individual capacity and in their capacity as employees of  
15 GHS.  
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19 55. At all times herein mentioned, DOE defendants were employed as teachers and aides  
20 at GHS, who intentionally and unlawfully assaulted AUSTIN and unlawfully inflicted  
21 corporal punishment upon him, for no pedagogical purpose. They had authority and control  
22 of the classroom, including policies, practices, procedures, facilities, and activities within  
23 the classroom. They are sued in their individual capacity and in their capacity as employees  
24 of GHS.  
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27 56. At all times herein mentioned, DOE defendants were employed as teachers and aides  
28 at GHS, who intentionally and unlawfully assaulted E.D. and unlawfully inflicted corporal

1 punishment upon him, for no pedagogical purpose. They had authority and control of the  
2 classroom, including policies, practices, procedures, facilities, and activities within the  
3 classroom. They are sued in their individual capacity and in their capacity as employees of  
4 GHS.  
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6 57. At all times herein mentioned, DOE defendants were employed as teachers and aides  
7 at GHS, who intentionally and unlawfully assaulted LUIS and unlawfully inflicted corporal  
8 punishment upon him, for no pedagogical purpose. They had authority and control of the  
9 classroom, including policies, practices, procedures, facilities, and activities within the  
10 classroom. They are sued in their individual capacity and in their capacity as employees of  
11 GHS.  
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14 58. Unless otherwise indicated in this complaint, the term “GHS” refers to the schools, its  
15 administrators, board of directors, agents and employees.  
16

17 **EMPLOYEES OF THE ARMS OF THE EDUCATIONAL SYSTEM**

18 59. At all times herein mentioned, Patrick McGrew in place of DOE 9 (hereinafter  
19 “McGREW”) was the Director of Special Education for DJUSD, Riley Chessman in place  
20 of DOE 10 (hereinafter “CHESSMAN”) and Jennifer Galas (hereinafter “GALAS”) were  
21 Program Specialists at DJUSD, who unlawfully allowed MAX to be subject to assault and  
22 unlawful corporal punishment while attending GHS. With respect to any acts or omissions  
23 in connection herewith, McGREW, CHESSMAN, and GALAS were acting within the  
24 course and scope of their employment, and are sued in their individual and official  
25 capacities, as set forth with more specificity hereinafter. The Director of Special Education  
26 has authority and control of the special education classrooms, including the policies,  
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1 practices, procedures, facilities, maintenance, programs, activities, services, training and  
2 employees of those classrooms. The Director is responsible for ensuring compliance with  
3 special education laws at GHS. The Program Specialists are responsible for ensuring that  
4 appropriate special education practices are followed, including practices in the use of  
5 behavioral interventions; to provide leadership to school administrators in the supervision  
6 of special education team members, and to support parental involvement in the education  
7 of disabled children.  
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9  
10 60. At all times herein mentioned, Sharon Holstege in place of DOE 11 (hereinafter  
11 “HOLSTEGE”) was the Director of Special Education for YOLO and Carolynne Beno in  
12 place of DOE 12 (hereinafter “BENO”) was the Assistant Superintendent of the YOLO,  
13 involved with overseeing the special education programs within Yolo County, including the  
14 special education programs of DJUSD, who unlawfully allowed MAX to be subject to  
15 assault and unlawful corporal punishment while attending GHS. With respect to any acts  
16 or omissions in connection herewith, HOLSTEGE and BENO were acting within the course  
17 and scope of their employment, and are sued in their individual and official capacities, as  
18 set forth with more specificity hereinafter. The Director of Special Education and the  
19 Assistant Superintendent have authority and control of the special education classrooms,  
20 including the policies, practices, procedures, facilities, maintenance, programs, activities,  
21 services, training and employees of those classrooms. The Director and the Assistant  
22 Superintendent are responsible for ensuring compliance with special education laws and  
23 anti-discrimination laws at GHS.  
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1 61. At all times herein mentioned, Kim Triguero in place of DOE 5 (hereinafter  
2 “TRIGUERO”) was a Program Specialist for FCUSD and FCSELPA, Meghan Magee in  
3 place of Doe 6 (hereinafter “MAGEE”) was a Coordinator for FCUSD and FCSELPA, and  
4 Betty Jo Wessinger in place of DOE 7 (hereinafter “WESSINGER”), was the Assistant  
5 Superintendent of Public Education for FCUSD and FCSELPA, who unlawfully allowed  
6 D.Z. to be subject to assault and unlawful corporal punishment while attending GHS. With  
7 respect to any acts or omissions in connection herewith, TRIGUERO and MAGEE were  
8 acting within the course and scope of their employment, and are sued in their individual and  
9 official capacities as set forth with specificity hereinafter. The Assistant Superintendent has  
10 authority and control of the special education classrooms, including the policies, practices,  
11 procedures, facilities, maintenance, programs, activities, services, training and employees of  
12 those classrooms. The Assistant Superintendent is responsible for ensuring compliance with  
13 special education laws and anti-discrimination laws at GHS. The Program Specialist and  
14 the Coordinator are responsible for ensuring that appropriate special education practices are  
15 followed, including practices in the use of behavioral interventions; to provide leadership  
16 to school administrators in the supervision of special education team members; and to  
17 support parental involvement in the education of disabled children.

18 62. At all times herein mentioned, Lisa McDonald in place of DOE 14 (hereinafter  
19 “McDONALD”) was a school psychologist for PPES. Diana Browning Wright in place of  
20 DOE 15 (hereinafter “WRIGHT”) was in charge of Discipline/Trainings for  
21 EDCOESELPA, Tamara Clay in place of DOE 16 (hereinafter “CLAY”) was the Director  
22 of the EDCOESELPA, David Toston in place of DOE 17 (hereinafter “TOSTON”) was the

1 Associate Superintendent, EDCOESELPA, and Pat Atkins (hereinafter “ATKINS”) in place  
2 of DOE 18 was the Superintendent of PPESD, who unlawfully allowed S.D. to be subject  
3 to assault and unlawful corporal punishment while attending GHS. With respect to any acts  
4 or omissions in connection herewith, McDONALD, WRIGHT, CLAY, TOSTON and  
5 ATKINS were acting within the course and scope of their employment, and are sued in their  
6 individual and official capacities, as alleged with specificity hereinafter. The Director, the  
7 Associate Superintendent, and the Superintendent have authority and control of the special  
8 education classrooms, including the policies, practices, procedures, facilities, maintenance,  
9 programs, activities, services, training and employees of those classrooms. The Assistant  
10 Superintendent is responsible for ensuring compliance with special education laws and anti-  
11 discrimination laws at GHS. The Program Specialist and the Coordinator are responsible  
12 for ensuring that appropriate special education practices are followed, including practices  
13 in the use of behavioral interventions; to provide leadership to school administrators in the  
14 supervision of special education team members; and to support parental involvement in the  
15 education of disabled children at GHS. The school psychologist is a mandated reporter of  
16 suspected child abuse at GHS. The person in charge of discipline/training is responsible for  
17 ensuring that appropriate special education practices are followed, including practices in the  
18 use of behavioral interventions, and for prevention of child abuse and corporal punishment  
19 in the use of behavioral intentions at GHS.

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25 63. At all times herein mentioned, Amy Slavensky in place of DOE 19 (hereinafter  
26 “SLAVENSKY”) was the Superintendent, and Mitzi Faulkner in place of DOE 20  
27 (hereinafter “FAULKNER”) was the Assistant Superintendent/Special Education SELPA,  
28

1 for ACOESELPA and ACUSD, who unlawfully allowed J.P. to be subject to assault and  
2 unlawful corporal punishment while attending GHS. With respect to any acts or omissions  
3 in connection herewith, SLAVENSKY and FAULKNER were acting within the course and  
4 scope of their employment, and are sued in their individual and official capacities as set  
5 forth with specificity hereinafter. The Superintendent and the Assistant Superintendent  
6 Special Education/SELPA have authority and control of the special education classrooms,  
7 including the policies, practices, procedures, facilities, maintenance, programs, activities,  
8 services, training and employees of those classrooms. The Superintendent and the Assistant  
9 Superintendent are responsible for ensuring compliance with special education laws and  
10 anti-discrimination laws at GHS.  
11  
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14 64. At all times herein mentioned, Eric Bonniksen in place of DOE 21 (hereinafter  
15 “BONNIKSEN”) was the Superintendent of PUSD, who unlawfully allowed H.K. to be  
16 subject to assault and unlawful corporal punishment while attending GHS. WRIGHT,  
17 CLAY and TOSTON were individuals within the EDCOESELPA who were in charge of  
18 policy and oversight within the special education program of PUSD and GHS, who  
19 unlawfully allowed H.K. to be subject to assault and unlawful corporal punishment while  
20 attending GHS. With respect to any acts or omissions in connection herewith,  
21 BONNIKSEN, WRIGHT, CLAY and TOSTON were acting within the course and scope  
22 of their employment, and are sued in their individual and official capacities. The  
23 Superintendent has the authority and control of the special education classrooms, including  
24 the policies, practices, procedures, facilities, maintenance, programs, activities, services,  
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1 training and employees of those classrooms. The Superintendent is responsible for ensuring  
2 compliance with special education laws and anti-discrimination laws at GHS.

3  
4 65. At all times herein mentioned, Douglas Phillips in place of DOE 22 (hereinafter  
5 “PHILLIPS”) was the Director of Special Education for the EGUSD, and Marilyn Delgado  
6 in place of DOE 23 (hereinafter “DELGADO”) was the District Program Specialist who  
7 unlawfully allowed M.S. to be subject to assault and unlawful corporal punishment while  
8 attending GHS. With respect to any acts or omissions in connection herewith, PHILLIPS  
9 and DELGADO were acting within the course and scope of their employment, and are sued  
10 in their individual and official capacities as will be alleged with specificity hereinafter. The  
11 Director of Special Education has authority and control of the special education classrooms,  
12 including the policies, practices, procedures, facilities, maintenance, programs, activities,  
13 services, training and employees of those classrooms. The Director is responsible for  
14 ensuring compliance with special education laws and anti-discrimination laws at GHS. The  
15 Program Specialist is responsible for ensuring that appropriate special education practices  
16 are followed, including practices in the use of behavioral interventions; to provide  
17 leadership to school administrators in the supervision of special education team members;  
18 and to support parental involvement in the education of disabled children at GHS.

19  
20 66. At all times herein mentioned, Tammy Forrest in place of DOE 24 (hereinafter  
21 “FORREST”), was the Director of Special Education at RUSD, who unlawfully allowed  
22 AUSTIN to be subject to assault and unlawful corporal punishment while attending GHS.  
23 With respect to any acts or omissions in connection herewith, FORREST was acting within  
24 the course and scope of their employment, and are sued in her individual and official  
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1 capacities as specifically alleged hereinafter. The Director of Special Education has  
2 authority and control of the special education classrooms, including the policies, practices,  
3 procedures, facilities, maintenance, programs, activities, services, training and employees of  
4 those classrooms. The Director is responsible for ensuring compliance with special  
5 education laws and anti-discrimination laws at GHS.  
6

7  
8 67. At all times herein mentioned, DOE defendants were in charge of the special education  
9 program that oversaw activities at GHS, and who unlawfully allowed E.D. to be subject to  
10 assault and unlawful corporal punishment while attending GHS. With respect to any acts  
11 or omissions in connection herewith, said DOE defendants were acting within the course  
12 and scope of their employment, and are sued in their individual and official capacities as  
13 alleged with specificity hereinafter. The DOE defendants are responsible for ensuring  
14 compliance with state and federal laws and anti-discrimination laws within the classroom  
15 at GHS.  
16  
17

18 68. At all times herein mentioned, DOE defendants were in charge of the special education  
19 program that oversaw activities at GHS, and who unlawfully allowed LUIS to be subject to  
20 assault and unlawful corporal punishment while attending GHS. With respect to any acts  
21 or omissions in connection herewith, said DOE defendants were acting within the course  
22 and scope of their employment, and are sued in their individual and official capacities as  
23 alleged with specificity hereinafter. The DOE defendants are responsible for ensuring  
24 compliance with state and federal laws and anti-discrimination laws within the classroom  
25 at GHS.  
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69. At all times herein mentioned, Tony Thurmond in place of DOE 8 (hereinafter “THURMOND”) was the Superintendent of Schools for the California Department of Education, who oversees all of the schools within the state, licenses all teachers within the state, who is responsible for ensuring statewide compliance with all state and federal laws within the State of California’s educational system, who unlawfully allowed MAX and THE PLAINTIFF STUDENTS to be subject to assault and unlawful corporal punishment while attending GHS.

**CHAPMAN AND HWC**

70. At all times herein mentioned, defendant, HWC was a corporation organized under the laws of the State of New York, and doing business in California, marketing a system of restraint and training California teachers to restrain special needs children in prone and other types of restraints.

71. At all times herein mentioned, defendant, Bruce Chapman (hereinafter “CHAPMAN”), was the agent and employee, owner, alter-ego, president and founder of HWC, who developed a patented restraint system marketed through HWC to schools in California for use on “behaviorally challenged” children in California schools, including GHS, which lead to the injuries to THE PLAINTIFF STUDENTS and/or death of MAX as herein alleged.

**VICARIOUS LIABILITY OF THE ARMS OF THE EDUCATIONAL SYSTEM FOR  
THE ACTS AND OMISSIONS OF THEIR EMPLOYEES AND THE ACTS AND  
OMISSIONS OF THEIR INDEPENDENT CONTRACTOR**

1 72. At all times mentioned herein, CDE and THE ARMS OF THE EDUCATIONAL  
2 SYSTEM were the employers of the above-identified Superintendents, Assistant  
3 Superintendents, Directors, Program Specialists, and school psychologists.  
4

5 73. The above-identified Superintendents, Assistant Superintendents, Directors, Program  
6 Specialists, and school psychologists, committed the acts described in this complaint while  
7 acting within the scope of their employment with the State of California, and THE ARMS  
8 OF THE EDUCATIONAL SYSTEM of educating, discipling, and supervising MAX and  
9 THE PLAINTIFF STUDENTS.  
10

11 74. The public employees named herein are liable for their acts and omissions to the same  
12 extent as a private person under California Gov. Code, § 820, subd. (a), and the public  
13 entities are vicariously liable for employees' negligent acts within the scope of their  
14 employment to the same extent as private employers under California Gov. Code, § 815.2,  
15 subd. (a). Unless otherwise specifically pled herein, legal theories of public entity liability  
16 turn on ordinary and general principles of California tort law.  
17

18 75. At all times herein mentioned, defendant CDE, hired, contracted with and used the  
19 services of THE ARMS OF THE EDUCATIONAL SYSTEM, GHS and DOE defendants  
20 to fulfill the aforementioned mandatory duties under the United States Code for educating  
21 special needs and disabled students, and defendant CDE had mandatory oversight under said  
22 U.S. Code sections of THE ARMS OF THE EDUCATIONAL SYSTEM, GHS, MEYERS,  
23 KELLER, CHRISTENSEN, NARAN, and DOE defendants in conducting each of said  
24 activities.  
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1 76. At all times herein mentioned, defendants GHS, MEYERS, KELLER,  
2 CHRISTENSEN, and DOE defendants were acting as the agent of defendants CDE, THE  
3 ARMS OF THE EDUCATIONAL SYSTEM and DOE defendants in conducting all of the  
4 actions and inactions as complained of herein.  
5

6 77. At all times herein mentioned, defendants GHS, MEYER, KELLER, CHRISTENSEN,  
7 and DOE defendants were certified by defendant CDE to provide special education services  
8 to disabled students, including MAX and THE PLAINTIFF STUDENTS.  
9

10 78. GHS was an independent contractor of THE ARMS OF THE EDUCATIONAL  
11 SYSTEM". GHS was contracted by THE ARMS OF THE EDUCATIONAL SYSTEM to  
12 fulfill their obligation to provide education to disabled children within the State of  
13 California, including MAX, and THE PLAINTIFF STUDENTS.  
14

15 79. In doing the things herein alleged, GHS and its employees were performing non-  
16 delegable duties on behalf of THE ARMS OF THE EDUCATIONAL SYSTEM, and as  
17 such, each named public entity is liable for injury proximately caused by the tortious acts  
18 or omissions of GHS to the same extent that the public entity would be subject to such  
19 liability if it were a private person (California G.C. section 815.4).  
20

21  
22 **SPECIAL DUTIES AND LIABILITIES OF GHS AND THE ARMS OF THE**  
23 **EDUCATIONAL SYSTEM DEFENDANTS:**

24 80. GHS and its employees had a special relationship with THE STUDENT PLAINTIFFS.  
25 As such, GHS and its employees are held to a high standard of care in relation to their  
26 conduct toward THE PLAINTIFF STUDENTS. The duty requires GHS its employees to  
27 take reasonable steps to minimise the risk of reasonably foreseeable harm, including, but not  
28

1 limited to: ensuring the school complies with safety standards and laws relating to child  
2 abuse, to protect students under their charge from reasonably foreseeable risks of injury, and  
3 ensuring that medical assistance is provided to injured students.  
4

5 81. Under California law, THE ARMS OF THE EDUCATIONAL SYSTEM have a  
6 special relationship with students arising from the mandatory character of school attendance  
7 and the comprehensive control over students exercised by school personnel, analogous in  
8 many ways to the relationship between parents and their children.  
9

10 82. At all times herein mentioned, defendants CDE, THE ARMS OF THE  
11 EDUCATIONAL SYSTEM and their employees, GHS and its employees, and DOE  
12 defendants knew, or should have known, that there have been reports of numerous abuses  
13 of defendant CHAPMAN and HWC's method by schools and educational professionals who  
14 have employed defendant CHAPMAN and HWC's restraints on "behaviorally challenged",  
15 disabled students.  
16  
17

18 83. At all times here mentioned, defendants CDE, THE ARMS OF THE EDUCATIONAL  
19 SYSTEM and their employees, GHS and its employees, and DOE defendants knew or  
20 should have known that use of prone and other types of restraints was very dangerous and  
21 has resulted in serious injury to, and in the deaths of, numerous "behaviorally challenged  
22 students."  
23

24 84. At all times herein mentioned, defendants, CDE, THE ARMS OF THE  
25 EDUCATIONAL SYSTEM and their employees, and DOE defendants, knew, or should  
26 have known that disabled students under their respective jurisdictions at GHS, including  
27 MAX and THE PLAINTIFF STUDENTS, were frequently and routinely "taken down" by  
28

1 multiple staff members and placed into prolonged prone and other types of restraints, the  
2 average time of those holds exceeding one hour in duration.

3  
4 85. At all times herein mentioned, defendants CDE, THE ARMS OF THE  
5 EDUCATIONAL SYSTEM and their employees, GHS and its employees, and DOE  
6 defendants knew or should have known that the use of a prolonged use of prone or other  
7 types of physical restraints on a student increases the risk of injury and/or death to a child.  
8

9 86. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
10 SYSTEM and their employees, GHS and its employees, and DOE defendants knew, or  
11 should have known, when developing the restraint system, that documented injuries from  
12 use of prone restraints include: asphyxiation, choking, strangulation, cerebral and cerebellar  
13 oxygen deprivation (hypoxia and anoxia), broken bones, lacerations, abrasions, injury to  
14 joints and muscles, contusions or bruising, overheating, dehydration, exhaustion, blunt  
15 trauma to the head, broken neck, wrist and leg compression, dislocation of the shoulder and  
16 other joints, hyperextension or hyperflexion of the arms, exacerbation of existing respiratory  
17 problems, decreased respiratory efficiency, decrease in circulation to extremities, deep vein  
18 thrombosis, pulmonary embolism, cardiac arrest, respiratory arrest, and death.  
19

20  
21 87. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
22 SYSTEM and their employees, GHS and its employees, and DOE defendants knew, or  
23 should have known, that the risk of injury or death is increased where the person restrained  
24 has neurological, cardiac, respiratory conditions, or is obese.  
25

26  
27 88. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
28 SYSTEM and their employees, GHS and its employees, and DOE defendants knew or should

1 have known that children, upon whom the restraint system was intended to be used, have  
2 physical limitations and/or other medical conditions that would contraindicate the use of the  
3 restraint system upon them.  
4

5 89. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
6 SYSTEM and their employees, GHS and its employees, knew, or should have known, that  
7 a disproportionate number of children are injured and/or have died from restraints because  
8 children struggle against physical restraints, particularly when the situation or method of  
9 restraint is extremely unpleasant or aversive.  
10

11 90. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
12 SYSTEM and their employees, GHS and its employees, and DOE defendants knew, or  
13 should have known, that struggling against a hold is a natural and foreseeable response, and  
14 that the user of the restraint system may exert pressure, in a variety of forms, on the thoracic  
15 cavity of the child upon whom the restraint system is used, and on the child's neck, head,  
16 shoulders, ankles, or limbs, which may cause injury.  
17

18 91. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
19 SYSTEM and their employees, GHS and its employees,, and DOE defendants knew or  
20 should have known that struggling against a restraint is a natural response and cannot be  
21 assumed to be oppositional.  
22

23 92. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
24 SYSTEM and their employees, GHS and its employees,and DOE defendants knew, or  
25 should have known, that severe injuries and death can occur when adults physically  
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1 overpower a child or when a child struggles well beyond the point of physical exhaustion.

2  
3  
4 93. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
5 SYSTEM and their employees, GHS and its employees, defendants that in a crisis situation,  
6 a child cannot be expected to fully understand directions and to effectively communicate  
7 their personal needs.  
8

9 94. At all times herein mentioned, defendants CDE, THE ARMS OF THE  
10 EDUCATIONAL SYSTEM and their employees, GHS and its employees, and DOE  
11 defendants knew or should have known that children may be physically and emotionally  
12 injured when someone forces the child from a standing position to the ground and into a  
13 prone or other types of restraint.  
14

15 95. At all times herein mentioned, defendants CDE, THE ARMS OF THE  
16 EDUCATIONAL SYSTEM and their employees, GHS and its employees, and DOE  
17 defendants knew or should have known that failure to continuously monitor the vital signs  
18 of a child being held in a prone restraint or other type of restraint increases the risk of injury  
19 and/or death to that child.  
20

21  
22 96. At all times herein mentioned, defendants CDE, THE ARMS OF THE  
23 EDUCATIONAL SYSTEM and their employees, GHS and its employees, and DOE  
24 defendants knew or should have known the signs that a child held in a prone restraint or  
25 other type of restraint is in physical distress.  
26

27 97. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
28 SYSTEM and their employee knew, or should have known, that there were previously

1 sustained findings of unlawful use of prone restraints on an exceptional needs child at GHS  
2 that had resulted in physical injury.

3  
4 98. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
5 SYSTEM and their employees were provided with behavioral emergency reports from GHS,  
6 and on that basis, THE ARMS OF THE EDUCATIONAL SYSTEM and their employees  
7 knew or should have known that the restraints being imposed upon disabled children,  
8 including MAX and THE PLAINTIFF STUDENTS at GHS were frequent in nature and  
9 excessive in scope.  
10

11 99. At all times mentioned herein, CDE, THE ARMS OF THE EDUCATIONAL  
12 SYSTEM and their employees and DOE defendants had actual knowledge that prone  
13 restraints were being unlawfully used on special needs/disabled students, under their  
14 jurisdiction, at GHS for predictable behavior.  
15

16 100. At all times mentioned herein, CDE, THE ARMS OF THE EDUCATIONAL  
17 SYSTEM and their employees and DOE defendants had actual knowledge that prone  
18 restraints were being unlawfully used as substitutes for behavioral intervention plans on  
19 special needs/disabled students, under their jurisdiction, at defendant GHS.  
20

21 101. At all times mentioned herein, CDE, THE ARMS OF THE EDUCATIONAL  
22 SYSTEM and their employees and DOE defendants had actual knowledge that prone  
23 restraints were being unlawfully used against special needs/disabled students, under their  
24 jurisdiction. at defendant GHS in lieu of planned, systematic behavioral interventions.  
25

26 102. At all times mentioned herein, CDE, THE ARMS OF THE EDUCATIONAL  
27 SYSTEM and their employees and DOE defendants had actual knowledge that prone  
28

1 restraints were being used for longer than necessary on special needs/disabled students,  
2 under their jurisdiction, at defendant GHS.

3  
4 103. At all times mentioned herein, CDE, THE ARMS OF THE EDUCATIONAL  
5 SYSTEM and their employees and DOE defendants had actual knowledge that prone  
6 restraints were used with an amount of force not reasonable or necessary under the  
7 circumstances on special needs/disabled students, under their jurisdiction, at defendant  
8 GHS.

9  
10 104. Despite having actual knowledge that special needs students were being injured at  
11 defendant GHS, defendants CDE, THE ARMS OF THE EDUCATIONAL SYSTEM and  
12 their employees and DOE defendants failed to undertake or cause to be undertaken any  
13 investigation of, or any action against, GHS or its employees to prevent abuse of disabled  
14 children at GHS until after the death of MAX and MAX, along with THE PLAINTIFF  
15 STUDENTS were repeatedly injured.

16  
17  
18 105. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
19 SYSTEM and their employees knew or should have known that there were deficiencies in  
20 the documentation of restraints at GHS.

21  
22 106. At all times herein mentioned, despite documentation provided as well as the  
23 deficiencies of the documentation process, CDE, THE ARMS OF THE EDUCATIONAL  
24 SYSTEM made no attempt to review data on a district or SELPA wide level to determine  
25 that the disabled students at GHS were being disproportionately injured or restrained. This  
26 is necessary to identify trends, excessive interventions, to ensure staff are properly trained  
27 and are following documentation protocol.  
28

1 107. Reasonable modifications to rules, policies and practices by CDE, THE ARMS OF  
2 THE EDUCATIONAL SYSTEM and its employees were required to implement the  
3 oversight mandated by law.  
4

5 108. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
6 SYSTEM and its employees, and GHS and its employees, and DOE defendants knew or  
7 should have known that prone restraints should not be used on behaviorally challenged  
8 students who have physical and emotional disabilities such as those suffered by MAX and  
9 THE PLAINTIFF STUDENTS.  
10

11 109. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
12 SYSTEM and its employees, and GHS and its employees, and DOE defendants knew or  
13 should have known that prone restraints should not be used on behaviorally challenged  
14 students who take medications such as those taken by MAX and THE PLAINTIFF  
15 STUDENTS because such medications increase the risk of injury and death.  
16  
17

18 110. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
19 SYSTEM and its employees, and GHS and its employees, and DOE defendants knew that  
20 restraints should not be used on autistic children, including MAX, who was, and THE  
21 PLAINTIFF STUDENTS, who are, often unable to communicate their needs and for whom  
22 it is a natural tendency to struggle against restraint.  
23

24 111. At all times herein mentioned, CDE, THE ARMS OF THE EDUCATIONAL  
25 SYSTEM and its employees, and GHS and its employees, and DOE defendants, knew that,  
26 under then-existing California law, restraints could not be imposed on children for behaviors  
27 that do not pose a risk of harm to themselves or others.  
28

1 112. At all times herein mentioned, defendants, CDE, THE ARMS OF THE  
2 EDUCATIONAL SYSTEM and its employees, and GHS and its employees, and DOE  
3 defendants, knew that under then-existing California law, restraints cannot be used to  
4 address known predictable behaviors addressed by a student's behavioral intervention plan.  
5

6 113. As a result of the failure of CDE, THE ARMS OF THE EDUCATIONAL SYSTEM  
7 and its employees, and GHS and its employees, and DOE defendants, to prevent abuse of  
8 disabled children, MAX was killed, and THE PLAINTIFF STUDENTS suffered serious  
9 physical and emotional injuries, as alleged in various causes of action herein.  
10

11 **STATUTORY DUTIES APPLICABLE TO THE ARMS OF THE EDUCATIONAL**  
12 **SYSTEM, ITS EMPLOYEES, GHS AND ITS EMPLOYEES.**  
13

14 114. At all times herein mentioned, GHS, its administrators and staff, as well as THE  
15 ARMS OF THE EDUCATIONAL SYSTEM and its employees, had a mandatory duty  
16 under California law to ensure that special needs/disabled students in California are placed  
17 in a safe environment while the students' educational needs are being met.  
18

19 115. Under then-existing California law, prone restraints or other types of restraints may  
20 not be imposed for predictable or well-known behaviors that do not present a clear and  
21 present danger to self or others.  
22

23 116. Under California law, prone restraint or other types of restraints may not be used as  
24 a substitute for a behavioral intervention plan on special needs/disabled children.  
25

26 117. At all times herein mentioned, defendants CDE, THE ARMS OF THE  
27 EDUCATIONAL SYSTEM and their employees, their independent contractor GHS, GHS  
28 employees, and DOE defendants were bound by the provisions of the California Education

1 Code that provided that special needs/disabled children have the right to be free from the  
2 use of behavioral restraints of any form imposed as a means of coercion, discipline,  
3 convenience, or retaliation by staff; that confirmed that a behavioral restraint may be used  
4 “only to control behavior that poses a clear and present danger of serious physical harm to  
5 the pupil or others that cannot be immediately prevented by a response that is less  
6 restrictive; and that prohibited use a physical restraint technique that obstructs a pupil’s  
7 respiratory airway or impairs the pupil’s breathing or respiratory capacity, including  
8 techniques in which a staff member places pressure on a pupil’s back or places his or her  
9 body weight against the pupil’s torso or back; placing a pupil in a facedown position with  
10 the pupil’s hands held or restrained behind the pupil’s back; using a behavioral restraint for  
11 longer than is necessary to contain the behavior that poses a clear and present danger of  
12 serious physical harm to the pupil or others.  
13

14  
15  
16 118. At all times herein mentioned, defendants CDE, THE ARMS OF THE  
17 EDUCATIONAL SYSTEM and its employees, GHS and its administrators and DOE  
18 defendants had a mandatory duty to conduct an investigation whenever a complaint was  
19 received that alleged facts that indicate that a child or group of children may be in  
20 immediate physical danger or that the health, safety or welfare of a child or group of  
21 children is threatened.  
22

23  
24 119. In doing the things hereinafter alleged, CDE, THE ARMS OF THE EDUCATIONAL  
25 SYSTEM their employees, their independent contractor GHS, GHS’ employees, and DOE  
26 defendants failed in their mandatory duties under law by, *inter alia*, failing to prevent  
27 discrimination against disabled children; failing to adequately document the acts complained  
28

1 of here, failed to adequately and accurately report these acts to the parents of THE  
2 PLAINTIFF STUDENTS; failing to provide and adequate supervisory structure that ensures  
3 that students are not injured by improper actions of GHS administrators and staff; failing  
4 to provide a supervisory structure that ensures that injuries to students are quickly  
5 identified, investigated and prevented; failed to provide proper training, oversight and  
6 compliance to ensure GHS staff are properly trained and are able to supervise disabled  
7 children.  
8  
9

10 120. Under California law, CDE, THE ARMS OF THE EDUCATIONAL SYSTEM, their  
11 employees, their independent contractor GHS and GHS' employees, had a statutory duty to  
12 ensure that staff who came into contact with MAX and THE PLAINTIFF STUDENTS  
13 would provide an environment free of abuse and neglect.  
14

15 121. California law has long imposed on school authorities a duty to supervise at all times  
16 the conduct of children on school grounds and to enforce those rules and regulations  
17 necessary for their protection. CDE, THE ARMS OF THE EDUCATIONAL SYSTEM,  
18 their employees and their independent contractor GHS and GHS' employees, had a duty to  
19 use reasonable measures to protect students from foreseeable injury at the hands of persons  
20 acting intentionally or negligently. CDE and THE ARMS OF THE EDUCATIONAL  
21 SYSTEM are liable for injuries which result from a failure of its officers, employees and  
22 independent contractor and its employees to use ordinary care in these respects.  
23  
24

25 122. THE ARMS OF THE EDUCATIONAL SYSTEM, its employees, its independent  
26 contractor GHS and GHS' employees and DOE defendants have violated their statutory  
27  
28

1 duties to MAX and THE PLAINTIFF STUDENTS, Including their supervisory duties  
2 created under California Education Code sections 44807 and 44808.

3  
4 123. THE ARMS OF THE EDUCATIONAL SYSTEM, its employees, and its independent  
5 contractor GHS and its employee, and DOE defendants have violated their statutory duties  
6 to MAX and THE PLAINTIFF STUDENTS, including their supervisory duties under  
7 Welfare and Institutions Code section 15630, et. seq. and Penal Code Section 11166, et. seq.  
8 which required them to report any incident that reasonably appears to be physical abuse to  
9 the child protective service agency or local law enforcement agency immediately or as soon  
10 as practicably possible and file a written report within two days. Said defendants also  
11 violated their duties under California Penal Code section 11166 which required them to  
12 report any knowledge of a child whom the mandated reporter knows or reasonably suspects  
13 has been the victim of child abuse or neglect to the agency immediately or as soon as is  
14 practically possible by telephone and the mandated reporter shall prepare and send, fax, or  
15 electronically transmit a written follow up report thereof within 36 hours of receiving the  
16 information concerning the incidents. The Behavioral Emergency Reports provided to THE  
17 ARMS OF THE EDUCATIONAL SYSTEM and its employees by its independent  
18 contractor GHS, as well as inquiries by parents of MAX and THE PLAINTIFF STUDENTS  
19 put THE ARMS OF THE EDUCATIONAL SYSTEM and its employees on notice of the  
20 nature and extent of the abuse being inflicted on MAX and THE PLAINTIFF STUDENTS,  
21 and gave rise to these mandatory duties to act.

22  
23 124. THE ARMS OF THE EDUCATIONAL SYSTEM, their employees, and their  
24 independent contractor GHS and its employees have violated their statutory duties to MAX  
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27  
28

1 and THE PLAINTIFF STUDENTS, including numerous violations of the then-controlling  
2 California Education Code sections 56521.1 and 56521.2 which, in pertinent part, prohibits  
3 the use of any interventions that 1) cause physical pain; 2) simultaneously immobile all four  
4 extremities, 3) apply an amount of force that exceeds that which is reasonable and necessary  
5 under the circumstances, or 4) subjects the individual to verbal abuse, ridicule, or  
6 humiliation, or that can be expected to cause excessive emotional trauma.  
7

8  
9 125. THE ARMS OF THE EDUCATION SYSTEM, its employees, and its independent  
10 contractor GHS and GHS employees, have violated their statutory duty under California  
11 Penal Code section 11165.4 which prohibits use of “unlawful corporal punishment or injury”  
12 against a child, defined as “any cruel or inhuman corporal punishment or injury resulting in  
13 a traumatic condition.”  
14

15 126. Defendants McGREW, HOLSTEGE, BENO, WESSINGER, CLAY, TOSTON,  
16 ATKINS, SLAVENSKY, FAULKNER, BONNIKEN, PHILLIPS, and FORREST violated  
17 their statutory duties under California Education Code section 260 by failing to enact an  
18 adequate policy to ensure that the districts and/or SELPA’s by whom they were employed,  
19 as hereinabove alleged, provided a learning environment free from discrimination based  
20 on the characteristics provided in California Education Code section 220, specifically  
21 disability.  
22

23  
24 **SUMMARY OF THE CAUSES OF ACTION:**

25 127. As hereinafter alleged, estate of MAX brings causes of action for battery, assault,  
26 intentional infliction of emotional distress, false imprisonment, negligence, negligent  
27 supervision, and negligence per se against GHS, MEYERS, KELLER, CHRISTENSEN,  
28

1 NARAN, WOHLWEND, MORGAN, WATSON, CHAMBERS, GALAS in her official  
2 capacity, CDE, YOLO, DJUSD, McGREW in his official capacity, CHESSMAN in her  
3 official capacity, HOSTEGE in her official capacity, BENO in her official, THURMON in  
4 his official capacity, and DOE defendants.

6 128. As hereinafter alleged, estate of MAX brings a cause of action for breach of the  
7 tortious duty of good faith and fair dealing against GHS, MEYERS, KELLER,  
8 CHRISTENSEN, NARAN, and DOE defendants.

10 129. As hereinafter alleged, estate of MAX brings causes of action for violations of the  
11 American with Disabilities Act, Section 504 of the Rehabilitation Act, Violation of  
12 California Education Code §§ 200, 201, 220, and 260 et seq, California Civil Code Section  
13 51(b) and 51.7, and California Civil Code section 52.1 against CDE, YOLO, DJUSD, GHS,  
14 and DOE defendants.

16 130. As hereinafter alleged, estate of MAX brings causes of action for strict liability and  
17 negligence against CHAPMAN, HWC, and DOE defendants.

19 131. As hereinafter alleged, estate of MAX brings various causes of action for violation of  
20 42 US 1983 against McGREW, CHESSMAN, GALAS, McGREW, HOLSTEGE, BENO,  
21 THURMOND, and DOE defendants in their individual capacities.

23 132. As hereinafter alleged, D.Z, a minor, by and through his guardian ad litem KINSER,  
24 brings causes of action for violations of the American with Disabilities Act, Section 504 of  
25 the Rehabilitation Act, battery, assault, intentional infliction of emotional distress, false  
26 imprisonment, negligence, negligent supervision, negligence per se against GHS, MEYERS,  
27 KELLER, CHRISTENSEN, NARAN. CHAMBERS, MATLOCK, McKOY, OEHRING,  
28

1 GODBOUT, TRIGUERO in her official capacity, MAGEE in her official capacity,  
2 WESSINGER in her official capacity, FCUSD, FCSELPA, and DOE defendants.

3  
4 133. As hereinafter alleged, D.Z. brings a cause of action for breach of the tortious duty of  
5 good faith and fair dealing against GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
6 and DOE defendants.

7  
8 134. As hereinafter alleged, D.Z., by and through his guardian ad litem Laura Kinser  
9 (hereinafter "KINSER") brings causes of action for violations of the American with  
10 Disabilities Act, Section 504 of the Rehabilitation Act, Violation of California Education  
11 Code §§ 200, 201, 220, and 260 et seq, against FCUSD, FCSELPA, GHS, and DOE  
12 defendants.

13  
14 135. As hereinafter alleged, D.Z., by and through his guardian ad litem KINSER, brings  
15 causes of action for strict liability and negligence against CHAPMAN, HWC, and DOE  
16 defendants.

17  
18 136. As hereinafter alleged, D.Z., by and through is guardian ad litem KINSER, brings  
19 various causes of action for violation of 42 US 1983 against GHS, MEYERS, KELLER,  
20 CHRISTENSEN, NARAN, CHAMBERS, MATLOCK, McKOY, OEHRING, GODBOUT,  
21 NARAN, TRIGUERO acting in her individual capacity, MAGEE acting in her individual  
22 capacity, WESSINGER acting in her individual capacity, TONY THURMOND, acting in  
23 his individual capacity, and DOE defendants.

24  
25 137. As hereinafter alleged, S.D., a minor, by and through his guardian ad litem DAVIS  
26 brings causes of action for battery, assault, intentional infliction of emotional distress, false  
27 imprisonment, negligence, negligent supervision, and negligence per se against GHS,  
28

1 MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND, GATEWOOD, EDCOE,  
2 EDCSELPA, McDONALD in her official capacity, WRIGHT in her official capacity,  
3 CLAY in her official capacity, TOSTON in his official capacity, ATKINS in his or her  
4 official capacity, THURMOND in his official capacity, and DOE defendants.  
5

6 138. As hereinafter alleged, S.D. brings a cause of action for breach of the tortious duty of  
7 good faith and fair dealing against GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
8 and DOE defendants.  
9

10 139. As hereinafter alleged, S.D., a minor, by and through his guardian ad litem DAVIS  
11 brings causes of action for violations of the American with Disabilities Act, Section 504 of  
12 the Rehabilitation Act, Violation of California Education Code §§ 200, 201, 220, and 260  
13 et seq, California Civil Code Section 51(b) and 51.7, and California Civil Code section 52.1  
14 against EDCOE, EDCSELPA, GHS, and DOE defendants.  
15

16 140. As hereinafter alleged, S.D., by and through his guardian ad litem DAVIS, brings  
17 causes of action for strict liability and negligence against CHAPMAN, HWC, and DOE  
18 defendants.  
19

20 141. As hereinafter alleged, S.D., by and through is guardian ad litem DAVIS, brings  
21 various causes of action for violation of 42 US 1983 against GHS, MEYERS, KELLER,  
22 CHRISTENSEN, NARAN, WOHLWEND, GATEWOOD, McDONALD in her individual  
23 capacity, WRIGHT in her individual capacity, CLAY in her individual capacity, TOSTON  
24 in his individual capacity, ATKINS in his or her individual capacity, THURMOND in his  
25 individual capacity, and DOE defendants.  
26  
27  
28

1 142. As hereinafter alleged, J.P., a minor, by and through his guardian ad litem CALER  
2 brings causes of action for battery, assault, intentional infliction of emotional distress, false  
3 imprisonment, negligence, negligent supervision, and negligence per se against GHS,  
4 MEYERS, KELLER, CHRISTENSEN, NARAN, SMITH, ALLEN, MATLOCK, and DOE  
5 defendants.  
6

7 143. As hereinafter alleged, J.P. brings a cause of action for breach of the tortious duty of  
8 good faith and fair dealing against GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
9 and DOE defendants.  
10

11 144. As hereinafter alleged, J.P., by and through his guardian ad litem CALER, brings  
12 causes of action for strict liability and negligence against CHAPMAN, HWC, and DOE  
13 defendants.  
14

15 145. As hereinafter alleged, J.P., by and through is guardian ad litem CALER, brings  
16 various causes of action for violation of 42 US 1983 against GHS, MEYERS, KELLER,  
17 CHRISTENSEN, NARAN, SLAVENSKY in her individual capacity, FAULKNER in her  
18 individual capacity, THURMOND, acting in his individual capacity, and DOE defendants.  
19

20 146. As hereinafter alleged, H.K., a minor, by and through his guardian ad litem MULLER  
21 brings causes of action for battery, assault, intentional infliction of emotional distress, false  
22 imprisonment, negligence, negligent supervision, and negligence per se against GHS,  
23 MEYERS, KELLER, CHRISTENSEN, NARAN, BONNIKSEN in his official capacity,  
24 WRIGHT in her official capacity, CLAY in her official capacity, and DOE defendants.  
25  
26  
27  
28

1 147. As hereinafter alleged, H.K. brings a cause of action for breach of the tortious duty of  
2 good faith and fair dealing against GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
3 and DOE defendants.  
4

5 148. As hereinafter alleged, H.K., a minor, by and through his guardian ad litem  
6 MULLER, brings causes of action for violations of the American with Disabilities Act,  
7 Section 504 of the Rehabilitation Act, Violation of California Education Code §§ 200, 201,  
8 220, and 260 et seq against GHS, PUSD and EDCOESELPA.  
9

10 149. As hereinafter alleged, H.K., by and through is guardian ad litem MULLER, brings  
11 various causes of action for violation of 42 US 1983 against GHS, MEYERS, KELLER,  
12 CHRISTENSEN, NARAN, BONNIKSEN, in his individual capacity, WRIGHT in her  
13 individual capacity, CLAY in her individual capacity, TOSTON in his individual capacity,  
14 THURMOND, acting in his individual capacity, and DOE defendants.  
15

16 150. As hereinafter alleged, H.K., by and through his guardian ad litem MULLER, brings  
17 causes of action for strict liability and negligence against CHAPMAN, HWC, and DOE  
18 defendants.  
19

20 151. As hereinafter alleged, M.S., by and through his guardian ad litem STARK, brings  
21 causes of action battery, assault, intentional infliction of emotional distress, false  
22 imprisonment, negligence, negligent supervision, and negligence per se against GHS,  
23 MEYERS, KELLER, CHRISTENSEN, NARAN, CDE, EGUSD, EGUSDSELPA, SCOE,  
24 PHILLIPS in his official capacity, DELGADO in her official capacity, THURMOND in  
25 his official capacity, and DOE defendants.  
26  
27  
28

1 152. As hereinafter alleged, M.S. brings a cause of action for breach of the tortious duty of  
2 good faith and fair dealing against GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
3 and DOE defendants.  
4

5 153. As hereinafter alleged, M.S., a minor, by and through his guardian ad litem STARK,  
6 brings causes of action for violations of the American with Disabilities Act, Section 504 of  
7 the Rehabilitation Act, Violation of California Education Code §§ 200, 201, 220, and 260  
8 et seq, California Civil Code Section 51(b) and 51.7, and California Civil Code section 52.1  
9 against GHS, EGUSD, EGUSDSELPA, SCOE, CDE and DOE defendants.  
10

11 154. As hereinafter alleged, M.S., by and through his guardian ad litem STARK, brings  
12 causes of action for strict liability and negligence against CHAPMAN, HWC, and DOE  
13 defendants.  
14

15 155. As hereinafter alleged, M.S., by and through is guardian ad litem STARK, brings  
16 various causes of action for violation of 42 US 1983 against GHS, MEYERS, KELLER,  
17 CHRISTENSEN, NARAN, PHILLIPS, in her individual capacity, DELGADO in her  
18 individual capacity, THURMOND, in his individual capacity, and DOE defendants.  
19

20 156. As hereinafter alleged, AUSTIN brings causes of action for battery, assault,  
21 intentional infliction of emotional distress, false imprisonment, negligence, negligent  
22 supervision, and negligence per se against GHS, MEYERS, KELLER, NARAN, RUSD,  
23 FORREST in her official capacity, CLAY in her official capacity, THURMOND in official  
24 capacity, and DOE defendants.  
25

26  
27 157. As hereinafter alleged, AUSTIN brings causes of action for violations of the  
28 American with Disabilities Act, Section 504 of the Rehabilitation Act, Violation of

1 California Education Code §§ 200, 201, 220, and 260 et seq, California Civil Code Section  
2 51(b) and 51.7, and California Civil Code section 52.1 against GHS, RUSD and DOE  
3 defendants.  
4

5 158. As hereinafter alleged, AUSTIN brings a cause of action for tortious breach of the  
6 covenant of good faith and fair dealing against GHS, MEYERS, KELLER,  
7 CHRISTENSEN, NARAN, and DOE defendants.  
8

9 159. As hereinafter alleged, AUSTIN brings various causes of action for violation of 42  
10 US 1983 against GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, FORREST in her  
11 individual capacity, THURMOND, acting in his individual capacity, and DOE defendants.  
12

13 160. As hereinafter alleged, AUSTIN brings causes of action for strict liability and  
14 negligence against CHAPMAN, HWC, and DOE defendants.

15 161. As hereinafter alleged, E.D., by and through his guardians ad litem DARROUGH and  
16 CAUGHLIN brings causes of action battery, assault, intentional infliction of emotional  
17 distress, false imprisonment, negligence, negligent supervision, and negligence per se  
18 against GHS, MEYERS, KELLER, NARAN, and DOE defendants.  
19

20 162. As hereinafter alleged, E.D. brings a cause of action for tortious breach of the  
21 covenant of good faith and fair dealing against GHS, MEYERS, KELLER,  
22 CHRISTENSEN, NARAN, and DOE defendants.  
23

24 163. As hereinafter alleged, E.D., by and through is guardians ad litem DARROUGH and  
25 CAUGHLIN, brings various causes of action for violation of 42 US 1983 against GHS,  
26 MEYERS, KELLER, CHRISTENSEN, NARAN, THURMOND, acting in his individual  
27 and official capacity, and DOE defendants.  
28

1 164. As hereinafter alleged, E.D., by and through his guardians ad litem DARROUGH and  
2 CAUGHLIN, brings causes of action for strict liability and negligence against CHAPMAN,  
3 HWC, and DOE defendants.  
4

5 165. As hereinafter alleged, LUIS brings causes of action for battery, assault, intentional  
6 infliction of emotional distress, false imprisonment, negligence, negligent supervision, and  
7 negligence per se against GHS, MEYERS, KELLER, NARAN, and DOE defendants.  
8

9 166. As hereinafter alleged, LUIS brings a cause of action for tortious breach of the  
10 covenant of good faith and fair dealing against GHS, MEYERS, KELLER,  
11 CHRISTENSEN, NARAN and DOE defendants.  
12

13 167. As hereinafter alleged, LUIS brings various causes of action for violation of 42 US  
14 1983 against GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, THURMOND, acting  
15 in his individual and official capacity, and DOE defendants.  
16

17 168. As hereinafter alleged, LUIS brings causes of action for strict liability and  
18 negligence against CHAPMAN, HWC, and DOE defendants.

19 169. As hereinafter alleged, LANGLEY and BENSON bring various causes of action for  
20 42 USC 1983 (wrongful death), against GHS, MEYERS, KELLER, CHRISTENSEN,  
21 NARAN, WOHLWEND, MORGAN, WATSON, CHAMBERS, GALAS in her individual  
22 capacity, THURMOND in his individual capacity, McGREW in his individual capacity,  
23 CHESSMAN in her individual capacity, HOLSTEGE in her individual capacity, BENO in  
24 her individual capacity, and DOE defendants.  
25

26  
27 170. As hereinafter alleged, LANGLEY and BENSON also bring a cause of action for  
28 wrongful death (negligence) against GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,

1 CDE, THURMOND in his official capacity, YOLO, HOSTEGE in her official capacity,  
2 BENO in her official capacity, DJUSD, McGREW in his official capacity, CHESSMAN in  
3 her official capacity, GALAS in her official capacity. LANGLEY and BENSON have  
4 complied with the Tort Claims filing requirement against CDE, YOLO, and DJUSD.  
5

6 171. As hereinafter alleged, LANGLEY and BENSON bring a cause for tortious breach  
7 of the covenant of good faith and fair dealing and fraud against GHS, MEYERS, KELLER,  
8 CHRISTENSEN, NARAN, and DOE defendants.  
9

10 172. As hereinafter alleged, KINSER brings causes of action in her individual capacity  
11 for tortious breach of the covenant of good faith and fair dealing and fraud, against GHS,  
12 MEYERS, KELLER, CHRISTENSEN, CHAMBERS, NARAN, and against DOE  
13 defendants.  
14

15 173. As hereinafter alleged, DAVIS brings causes of action in his individual capacity for  
16 tortious breach of the covenant of good faith and fair dealing and fraud against GHS,  
17 MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE defendants.  
18

19 174. As hereinafter alleged, CALER brings causes of action in her individual capacity for  
20 tortious breach of the covenant of good faith and fair dealing, fraud against GHS, MEYERS,  
21 KELLER, CHRISTENSEN, NARAN, and DOE defendants.  
22

23 175. As hereinafter alleged, MULLER brings causes of action in her individual capacity  
24 for tortious breach of the covenant of good faith and fair dealing, fraud against GHS,  
25 MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE defendants.  
26  
27  
28

1 176. As hereinafter alleged, STARK brings causes of action in her individual capacity for  
2 tortious breach of the covenant of good faith and fair dealing, fraud against GHS, MEYERS,  
3 KELLER, CHRISTENSEN, NARAN, and DOE defendants.  
4

5 177. THE PETERSENS bring causes of action in their individual capacities for tortious  
6 breach of the covenant of good faith and fair dealing, fraud against GHS, MEYERS,  
7 KELLER, CHRISTENSEN, NARAN, and DOE defendants.  
8

9 178. DARROUGH and COUGHLIN bring causes of action in their individual capacities  
10 for tortious breach of the covenant of good faith and fair dealing, fraud against GHS,  
11 MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE defendants.  
12

13 **FACTUAL ALLEGATIONS REGARDING MAX**

14 179. MAX was placed at GHS in 2018 by YOLO, HOLSTEGE, BENO, DJUSD, GALAS,  
15 McGREW, CHESSMAN, THURMOND, and DOE defendants.  
16

17 180. At all times herein mentioned, defendants CDE, YOLO, HOLSTEGE, BENO,  
18 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, YOLO, GHS, MEYERS,  
19 KELLER, CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
20 CHAMBERS, and DOE defendants knew from their own records, that MAX had the afore-  
21 said physical/psychological disabilities.  
22

23 181. At all times herein mentioned, defendants CDE, YOLO, HOLSTEGE, BENO,  
24 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
25 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
26 CHAMBERS, and DOE defendants knew that MAX was taking daily pain medication and  
27 Clonidine.  
28

1 182. At all times herein mentioned, defendants CDE, YOLO, HOLSTEGE, BENO,  
2 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
3 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
4 CHAMBERS, and DOE defendants knew that MAX had a history of behavioral challenges  
5 that doctors had linked to his autism.  
6

7 183. At all times herein mentioned, MAX was a special needs/disabled student, who was  
8 found by defendants CDE, YOLO, HOLSTEGE, BENO, DJUSD, McGREW, CHESSMAN,  
9 THURMOND, and GALAS to have special needs based on both his autism and his  
10 emotional disturbance.  
11

12 184. At all times herein mentioned, defendants CDE, YOLO, HOLSTEGE, BENO,  
13 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
14 CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants were aware that MAX,  
15 before attending GHS, had been supported successfully in his individual disability and  
16 special needs, both educationally and behaviorally, including prevention of any acts of  
17 spitting, by being provided with one on one paraeducator support.  
18

19 185. At all times herein mentioned, MAX's parent, plaintiff Stacia LANGLEY, repeatedly  
20 requested of defendants CDE, YOLO, HOLSTEGE, BENO, DJUSD, GALAS, McGREW,  
21 CHESSMAN, THURMOND, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, and  
22 WOHLWEND that one on one paraeducator support for MAX to be continued to help him  
23 with his behavior and to increase his learning potential.  
24

25 186. At all times herein mentioned, defendants CDE, YOLO, HOLSTEGE, BENO,  
26 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
27  
28

1 CHRISTENSEN, NARAN, WOLHWEND, and DOE defendants repeatedly refused to  
2 provide MAX with paraeducator support without regard to his individualized need, but only  
3 for the sake of said defendants' own convenience and financial concerns.  
4

5 187. At all times herein mentioned, defendants CDE, YOLO, HOLSTEGE, BENO,  
6 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
7 CHRISTENSEN, NARAN, WOHLWEND and DOE defendants were put on notice by  
8 MAX's mother that MAX became anxious and overwhelmed, unable to perform well,  
9 behavioral or educationally, without one to one support, and that Max didn't know how to  
10 ask for help when he needed it.  
11

12 188. At all times herein mentioned, defendants CDE, YOLO, HOLSTEGE, BENO,  
13 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
14 CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants placed MAX at GHS  
15 where they knew or should have known that MAX's needs would not be met.  
16

17 189. At all times herein mentioned, even after they were informed that MAX was having  
18 behavioral difficulty that was directly associated with his physical disabilities, and that  
19 MAX was being subjected to prone restraints at GHS, defendants CDE, YOLO,  
20 HOLSTEGE, BENO, DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS,  
21 MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants did  
22 nothing to alleviate the conditions they, in effect, created when they placed him in a school  
23 where they specifically knew his needs would not be met.  
24

25 190. At all times herein mentioned, defendants CDE, YOLO, HOLSTEGE, BENO,  
26 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, WOHLWEND,  
27  
28

1 MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants,  
2 provided MAX with a Behavioral Support Plan, including positive behavioral interventions,  
3 strategies, and supports, which were to be used as a proactive action plan to address MAX's  
4 behaviors that might impede learning.  
5

6 191. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
7 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
8 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS and DOE  
9 defendants knew or should have known both from the medical records in their possession,  
10 and from statements provided by MAX's mother about what MAX's medical doctors had  
11 relayed to her, that MAX's medical doctors opined that MAX's medical conditions were the  
12 root cause of his behavioral challenges.  
13  
14

15 192. At all times herein mentioned, the contract between LANGLEY and defendants  
16 CDE, YOLO, HOLSTEGE, BENO, DJUSD, GHS, and DOE defendants for MAX's  
17 enrollment at GHS specifically disclosed that MAX had a number of medical issues,  
18 including autism, a fused neck, and a brain tumor.  
19

20 193. On or about June 13, 2018, an IEP team meeting was held, which was attended by  
21 MAX's mother LANGLEY; defendant GHS, by and through defendants CHRISTENSON  
22 and WOHLWEND; GALAS, acting on behalf of DJUSD, McGREW, CHESSMAN,  
23 THURMOND, YOLO, HOLSTEGE, BENO, CDE and THURMOND.  
24

25 194. During the IEP team meeting of June 13, 2018, LANGLEY discussed MAX's  
26 medical conditions, including his recently diagnosed brain tumor, for which he was seeing  
27 a neurosurgeon at UC Davis Medical Center.  
28

1 195. During the IEP team meeting of June 13, 2018, LANGLEY discussed that MAX  
2 recently had become very erratic and violent without warning, and that the only thing that  
3 kept him calm was to have someone next to him.  
4

5 196. During the IEP team meeting of June 13, 2018, defendants, CDE, YOLO,  
6 HOLSTEGE, BENO, DJUSD, McGREW, and CHESSMAN, THURMOND, by and  
7 through GALAS, GHS, CHRISTENSEN, and DOE defendants, specifically questioned  
8 LANGLEY as to whether MAX's brain tumor was causing his erratic behavior, to which  
9 LANGLEY indicated that she did not know.  
10

11 197. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
12 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
13 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
14 CHAMBERS, and DOE defendants, caused to be conducted and/or relied on a functional  
15 analysis assessment, which they knew, or should have known, did not take into  
16 consideration how the medical conditions suffered by MAX were the root cause of MAX's  
17 behavioral challenges.  
18

19 198. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
20 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
21 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
22 CHAMBERS, and DOE defendants, knew that spitting was a predictable behavior in which  
23 MAX frequently engaged while in the classroom, and which would otherwise have been  
24 prevented if he had been given a paraeducator.  
25  
26  
27  
28

1 199. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
2 DJUSD, GALAS, GHS, McGREW, CHESSMAN, THURMOND, MEYERS, KELLER,  
3 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
4 CHAMBERS, and DOE defendants, knew or should have known that MAX did best, and  
5 did not spit, when he was given a lot of praise and positive interventions.  
6

7 200. During the IEP team meeting of June 13, 2018, LANGLEY specifically requested  
8 of defendants, CDE, YOLO, HOLSTEGE, BENO, DJUSD, GHS, GALAS, McGREW,  
9 CHESSMAN, THURMOND, MEYERS, KELLER, CHRISTENSEN, NARAN,  
10 WOHLWEND, and DOE defendants, that MAX be given a one on one paraeducator as he  
11 had been given in the past.  
12

13 201. During the IEP team meeting of June 13, 2018, defendants, CDE, YOLO,  
14 HOLSTEGE, BENO, DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS,  
15 MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND and DOE defendants,  
16 represented to LANGLEY that a one on one paraeducator was not necessary at GHS  
17 because GHS had an “intensive level of service” onsite and because of the philosophy and  
18 system of behavioral support implemented at their site that provides support in “other ways”.  
19

20 202. During the IEP team meeting of June 13, 2018, defendants CDE, YOLO,  
21 HOLSTEGE, BENO, DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS,  
22 MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants  
23 represented to LANGLEY that MAX could be seated next to another child who needed  
24 additional assistance.  
25  
26  
27  
28

1 203. During the IEP team meeting of June 13, 2018, defendants, CDE, YOLO,  
2 HOLSTEGE, BENO, DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS,  
3 MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants,  
4 represented to LANGLEY that two paraeducators would be “in the class” and that it was  
5 likely that MAX would be next to the regular teacher or one of the paraeducators.  
6

7 204. During the IEP team meeting of June 13, 2018, defendants, CDE, YOLO,  
8 HOLSTEGE, BENO, DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS,  
9 MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants,  
10 made representations to LANGLEY that led LANGLEY to believe that WOHLWEND and  
11 the two paraeducators that would work with MAX on his behavioral issues by talking to  
12 him, by reviewing coping skills, and with visual supports.  
13

14 205. During the IEP team meeting of June 13, 2018, LANGLEY explained to defendants  
15 CDE, YOLO, HOLSTEGE, BENO, DJUSD, GALAS, GHS, McGREW, CHESSMAN,  
16 THURMOND, MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND and DOE  
17 defendants that Max’s medical conditions rendered him incapable of asking for help, and  
18 that he had difficulty expressing his feelings.  
19

20 206. During the IEP team meeting of June 13, 2018, LANGLEY repeated requests to  
21 defendants CDE, YOLO, HOLSTEGE, BENO, DJUSD, GALAS, McGREW,  
22 CHESSMAN, THURMOND, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
23 WOHLWEND and DOE DEFENDANTS - for a one on one paraeducator to alleviate  
24 MAX’s behavioral problems, including spitting, were denied.  
25  
26  
27  
28

1 207. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
2 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
3 CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants, caused to be conducted  
4 and/or relied upon a Functional Analysis Assessment knowing that it did not take into  
5 consideration of how the known medical conditions suffered by minor decedent MAX were  
6 the root cause of his behaviors, including spitting.  
7

8  
9 208. Within the first ten calendar days of minor decedent MAX's enrollment at defendant  
10 GHS, defendants GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND,  
11 and other GHS staff, whose names are unknown to plaintiffs at the present time, placed  
12 MAX in restraints three times, with the implied consent and ratification of defendants, CDE,  
13 YOLO, HOLSTEGE, BENO, DJUSD, McGREW, CHESSMAN, THURMOND, GALAS,  
14 and DOE defendants.  
15

16  
17 209. Defendants. GHS, MEYERS, KELLER, CHRISTENSEN, NARAN WOHLWEND,  
18 and DOE defendants, sent Behavioral Emergency Reports to defendants, CDE, YOLO,  
19 HOLSTEGE, BENO, DJUSD and McGREW, CHESSMAN, THURMOND, GALAS, for  
20 each of said three holds. Despite knowing that MAX was a disabled, physically  
21 compromised child, who frequently was being physically restrained, defendants, CDE,  
22 YOLO, HOLSTEGE, BENO, DJUSD, McGREW, CHESSMAN, THURMOND and  
23 GALAS, placed the Behavioral Emergency Reports in MAX's file without further inquiry  
24 or action.  
25

26  
27 210. Between on or about August, 2018 to October 5, 2018, defendants, CDE, YOLO,  
28 HOLSTEGE, BENO, DJUSD, GALAS, CHESSMAN, THURMOND, McGREW, GHS,

1 MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants,  
2 documented that MAX spit 34 times, making MAX's behavior with spitting both known and  
3 predictable.  
4

5 211. On or about October 11, 2018, MAX was placed in a prone restraint by defendant,  
6 WOHLWEND, with the implied consent and ratification of defendants, CDE, YOLO,  
7 HOLSTEGE, BENO, DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS,  
8 MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE defendants.  
9

10 212. On or about October 12, 2018 defendants, CDE, YOLO, HOLSTEGE, BENO,  
11 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
12 CHRISTENSEN, NARAN, WOHLWEND and DOE defendants, conducted an  
13 Interim/Annual IEP meeting, wherein supporting reports submitted at that meeting  
14 demonstrate that when MAX worked one on one with staff he did very well, but when he  
15 was not being watched or provided with one on one support, MAX became non-compliant,  
16 and engaged in negative "attention seeking" behaviors, even to the point of sometimes  
17 becoming physically aggressive.  
18  
19

20 213. On or about October 12, 2018, the said Interim/Annual IEP included a note which  
21 indicates that MAX was in pain.  
22

23 214. On or about October 12, 2018, defendants, CDE, YOLO, HOLSTEGE, BENO,  
24 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
25 CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants, prepared a Behavioral  
26 Intervention Plan that acknowledged that MAX needed to remain close to staff to control  
27 his spitting.  
28

1 215. Contrary to what MAX's mother initially had been told in June at the IEP about  
2 MAX being given "intensive" staff support, and without the knowledge or consent of  
3  
4 LANGLEY and BENSON, on or before October 12, 2018, defendants, GHS, MEYERS,  
5 KELLER, CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
6 CHAMBERS, and DOE defendants, with the implied consent and ratification of defendants  
7  
8 CDE, YOLO, HOLSTEGE, BENO, DJUSD, McGREW, CHESSMAN, THURMOND, and  
9 GALAS, had isolated MAX, leaving him alone for long periods of time, facing the wall  
10 because of his behaviors.

11 216. By isolating MAX, defendants, CDE, YOLO, HOLSTEGE, BENO, DJUSD, GALAS,  
12  
13 McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER, CHRISTENSEN,  
14 NARAN, WOHLWEND and DOE defendants, contributed to MAX's acting out by failing  
15 to give MAX the high level of support that his special needs/disability required, as that need  
16 for a high level of support was previously documented by defendants, CDE, YOLO,  
17  
18 HOLSTEGE, BENO, DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS,  
19 MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND and DOE defendants.

20 217. On or about October 12, 2018, defendants, CDE, YOLO, HOLSTEGE, BENO,  
21  
22 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
23 CHRISTENSEN, NARAN, WOHLWEND and DOE defendants, prepared a Behavioral  
24 Intervention Plan (BIP) that indicated that MAX should ask for help from the staff when  
25 attempting to implement appropriate behaviors, even though said defendants knew that  
26  
27 MAX's autism prevented MAX from expressing himself.  
28

1 218. On or about October 12, 2018, defendants, CDE,YOLO, HOLSTEGE, BENO,  
2 DJUSD, GALAS, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND,  
3 and DOE defendants, prepared a Behavioral Intervention Plan (BIP) that set forth a strategy  
4 for responding to MAX flinging spit, but nowhere in the BIP did said defendants indicate  
5 that any type of physical restraint, other than “hand holding”, would be used on MAX to  
6 control his spitting.  
7

8  
9 219. On or about October 12, 2018, defendants, CDE, YOLO, HOLSTEGE, BENO,  
10 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
11 CHRISTENSEN, NARAN, WOHLWEND and DOE defendants, introduced a Behavior  
12 Emergency Plan (BEP) for MAX that states that “Emergency Interventions may only be  
13 used to prevent unpredictable, spontaneous behavior which presents a clear and present  
14 danger of serious physical harm....”  
15

16 220. On or about October 12, 2018, GHS, defendants, CDE, YOLO, HOLSTEGE, BENO,  
17 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
18 CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants, had LANGLEY sign a  
19 “consent” to use behavioral interventions on MAX, without obtaining informed consent to  
20 use a prone restraint on MAX by failing to inform LANGLEY and BENSON, of the use of  
21 that type of restraint, nor how long it may be used, and there is nothing that gave  
22 LANGLEY knowledge of the known dangers of the restraint, or that with MAX’s risk  
23 factors, use of a prone restraint would pose a very serious risk of death to MAX.  
24  
25

26  
27 221. The aforementioned BEP that was prepared on or about October 12, 2018, in  
28 referencing restraints taught to defendants, CDE,YOLO, HOLSTEGE, BENO, DJUSD,

1 GALAS,McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
2 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
3 CHAMBERS, and DOE defendants, called restraints “therapeutic” physical intervention  
4 techniques, without providing a description of the techniques.  
5

6 222. Between the time of MAX’s enrollment at GHS in June, 2018 and his death in  
7 November, 2018, MAX’s behavior of spitting was known to defendants, CDE,YOLO,  
8 HOLSTEGE, BENO, DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS,  
9 MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON,  
10 THOMAS, CHAMBERS, and DOE defendants.  
11

12 223. Between MAX’s enrollment at GHS in June, 2018 and his death in November, 2018,  
13 MAX’s behavior of spitting did not pose a clear and present danger of serious physical harm  
14 to MAX or to others.  
15

16 224. Between MAX’s enrollment at GHS in June, 2018 and his death in November, 2018,  
17 MAX’s behavior of spitting could have been controlled by a less restrictive response,  
18 including closer staff supervision, and one-to-one staff support.  
19

20 225. On or before October 23, 2018, defendants, CDE, YOLO, HOLSTEGE, BENO,  
21 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
22 CHRISTENSEN,NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
23 CHAMBERS, and DOE defendants, knew that MAX had screws or rods and a plate in his  
24 neck, had low muscle tone, could not express his feelings, and was “easily fatigued with use  
25 of gross motor skills”, which includes the use of his (MAX’s) arms.  
26  
27  
28

1 226. On or about October 23, 2018, with the implied consent and ratification of  
2 defendants, CDE, YOLO, HOLSTEGE, BENO, DJUSD, McGREW, CHESSMAN,  
3 THURMOND, and GALAS, MAX was placed in a standing restraint by defendants, GHS,  
4 MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON,  
5 THOMAS, CHAMBERS, and DOE defendants, for pushing into defendant, WOHLWEND,  
6 after MAX stopped cleaning his yoga mat.  
7  
8

9 227. On or about October 31, 2018, defendants, CDE, YOLO, HOLSTEGE, BENO,  
10 DJUSD, McGREW, GALAS, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
11 CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants, gave MAX a “D” in  
12 physical education for refusing to participate in yoga.  
13

14 228. On or about October 31, 2018, defendants, GHS, MEYERS, KELLER,  
15 CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants, with the implied consent  
16 and ratification of defendants defendants CDE, YOLO, HOLSTEGE, BENO, DJUSD,  
17 McGREW, CHESSMAN, THURMOND, and GALAS, placed MAX in a prone restraint,  
18 as taught to each of said defendants by defendants HWC and CHAPMAN, for spitting. Said  
19 restraint lasted at least 20 minutes, and as a result of said prone restraint, MAX was seen by  
20 the school “nurse” for injuries that are unknown to LANGLEY and BENSON at the present  
21 time.  
22  
23

24 229. On or about November 2, 2018, defendants, GHS, MEYERS, KELLER,  
25 CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants, with the implied consent  
26 and ratification of defendants, CDE, YOLO, HOLSTEGE, BENO, DJUSD, McGREW,  
27  
28

1 CHESSMAN, THURMOND, and GALAS, placed MAX in a prone restraint for spitting.  
2 Said restraint lasted at least 20 minutes.

3  
4 230. On or about November 8, 2018, defendants, GHS, MEYERS, KELLER,  
5 CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants, with the implied consent  
6 and ratification of defendants CDE, YOLO, HOLSTEGE, BENO, DJUSD, McGREW,  
7 CHESSMAN, THURMOND, and GALAS, placed MAX in a prone restraint, as taught to  
8 said defendants by defendants CHAPMAN and HWC, for spitting. Plaintiffs, LANGLEY  
9 and BENSON are informed and believe that said restraint lasted for over an hour.

10  
11 231. On November 15, 2018, defendants, GHS, MEYERS, KELLER, CHRISTENSEN,  
12 NARAN, WOHLWEND, and DOE defendants, with the implied consent and ratification  
13 of defendants, CDE, YOLO, HOLSTEGE, BENO, DJUSD, McGREW, CHESSMAN,  
14 THURMOND, and GALAS, imposed a prone restraint on MAX for spitting.

15  
16 232. Defendants, CDE, YOLO, HOLSTEGE, BENO, DJUSD, McGREW, CHESSMAN,  
17 THURMOND, GALAS, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
18 WOHLWEND, and DOE defendants, failed to conduct a debriefing following any restraints  
19 imposed on MAX, failed to determine whether the use of any restraints were proper and/or  
20 implemented in a manner consistent with staff training and legal requirements, and failed  
21 to require the IEP teams to convene following any of the times MAX was subjected to  
22 physical restraint to review the circumstances prompting the emergency interventions and  
23 to discuss indications for conducting a Functional Analysis Assessment or revising the  
24 Behavioral Intervention Plan, as required by California law.

1 233. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
2 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS,  
3 CHRISTENSEN, NARAN, WOHLWEND, and DOE defendants, allowed the use of prone  
4 restraint without providing effective training to teachers and staff at defendant GHS in  
5 coping with annoying behaviors without resorting to restraints.  
6

7 234. CDE, YOLO, HOLSTEGE, BENO, DJUSD, McGREW, CHESSMAN,  
8 THURMOND, GALAS, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
9 WOHLWEND, MORGAN, WATSON, THOMAS, CHAMBERS, and DOE defendants,  
10 impliedly consented to, ratified the actions of the other said defendants, and/or placed MAX  
11 in other prone restraints for spitting and/on other behaviors typically engaged in by  
12 behaviorally challenged/disabled students, the average duration of which was one hour.  
13

14 235. At all times herein mentioned, CDE, YOLO, HOLSTEGE, BENO, DJUSD,  
15 McGREW, CHESSMAN, THURMOND, GALAS, GHS, MEYERS, CHRISTENSEN,  
16 KELLER, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS, CHAMBERS, and  
17 DOE defendants, impliedly consented to, ratified the actions of the other defendants, and/or  
18 routinely imposed prone restraints for periods in excess of one hour on behaviorally  
19 challenged and disabled students at GHS, including MAX.  
20

21 236. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
22 DJUSD, McGREW, GALAS, GHS, MEYERS, CHRISTENSEN, KELLER, NARAN,  
23 WOHLWEND, MORGAN, WATSON, THOMAS, CHAMBERS, and DOE defendants,  
24 knew or should have known that prone restraints were being used on behaviorally  
25  
26  
27  
28

1 challenged/disabled students at defendant GHS, including MAX, “a lot” and “for pretty long  
2 periods of time.”

3  
4 237. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
5 DJUSD, McGREW, CHESSMAN, THURMOND, GALAS, GHS, MEYERS,  
6 CHRISTENSEN, KELLER, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
7 CHAMBERS, and DOE defendants, failed and refused to prevent prolonged prone restraints  
8 from being used on disabled students at GHS, including MAX.  
9

10 238. On or about November 28, 2018, at approximately 12:15 pm, MAX allegedly spit at  
11 another student, which was one of his typical behaviors when he was not receiving adult  
12 support.  
13

14 239. At said place and time, and in response to MAX’s well-known, frequent, and  
15 documented behavior, defendants, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
16 and DOE defendants, by and through defendants WOHLWEND and MORGAN, and with  
17 the implied consent and ratification of defendants, CDE, YOLO, DJUSD, McGREW,  
18 CHESSMAN, THURMOND, and GALAS, performed a “takedown” maneuver on MAX,  
19 by holding MAX’s hands behind his back, then dropping MAX to his knees, and rolling  
20 MAX over into a prone position.  
21  
22

23 240. At said time and place, and as a result of said “takedown maneuver,” MAX suffered  
24 a multitude of injuries, including abrasions to his chin, as well as bruising to his left cheek,  
25 right ankle, bilateral knees, and left leg.  
26

27 241. It was foreseeable by said defendants that executing a takedown maneuver on a  
28 disabled, physically vulnerable child, such as MAX, would result in a multitude of injuries.

1 242. At said place and time, defendants, GHS, MEYERS, KELLER, CHRISTENSEN,  
2 NARAN, and DOE defendants, by and through defendants WOHLWEND and MORGAN,  
3 with the implied consent and ratification of defendants, CDE, YOLO, HOLSTEGE, BENO,  
4 DJUSD, McGREW, CHESSMAN, THURMOND, and GALAS, held MAX in a face down  
5 restraint on the floor, with WOHLWEND holding MAX's upper body, while MORGAN  
6 held MAX's legs.  
7

8  
9 243. Due to the number and nature of behavioral emergency reports provided to the public  
10 entities by GHS, its administrators and staff, it was foreseeable by CDE, YOLO,  
11 HOLSTEGE, BENO, DJUSD, McGREW, CHESSMAN, THURMOND, and GALAS that  
12 teachers and staff of "behaviorally challenged", disabled, physically vulnerable children,  
13 such as MAX, would be placed in a prone restraint by defendants, GHS, MEYERS,  
14 KELLER, CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS  
15 and DOE defendants.  
16

17  
18 244. The actions of defendants, WOHLWEND, MORGAN, WATSON, THOMAS, and  
19 CHAMBERS, who participated in the prone restraint that occurred on or about November  
20 28, 2018, was done with the implied consent and ratification of defendants, CDE, YOLO,  
21 HOLSTEGE, BENO, DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS,  
22 MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE defendants.  
23

24 245. At said place, and after 10 minutes into the hold, MAX calmed down, but defendants,  
25 WOHLWEND and MORGAN, continued the prone restraint because MAX allegedly was  
26 pinching and yelling profanities.  
27  
28

1 246. At said place and time, and prior to defendant, WATSON's, lunch hour, defendant,  
2 WATSON, saw MAX in the prone restraint, and neither said or did anything to assess the  
3 situation.  
4

5 247. At said place and time, and at some point during the restraint, defendant, MORGAN,  
6 left the room to go to the bathroom and defendant, THOMAS, came into the room to hold  
7 MAX's legs.  
8

9 248. At said time and place, Defendant THOMAS, neither said or did anything to assess  
10 the situation before joining in the prone restraint.

11 249. At said place and time, while THOMAS was holding MAX's legs, MAX was  
12 speaking in a low, mumbled voice, rather than his normal high-pitched voice.  
13

14 250. Plaintiffs, LANGLEY, BENSON, and estate of MAX, are informed and believe that  
15 at the time defendant THOMAS noticed MAX mumbling, MAX was already having  
16 difficulty breathing.  
17

18 251. At said time and place, neither WOHLWEND, nor THOMAS, did anything to assess  
19 MAX's medical condition.

20 252. At said place and time, before THOMAS left the room, MAX showed "signs of  
21 safety", and "calmed down".  
22

23 253. At said place and time, MORGAN returned to the room, and resumed her hold on  
24 MAX's legs, relieving THOMAS.

25 254. At said time and place, and despite the fact that MAX had calmed down, THOMAS  
26 took no steps to ensure that MAX was released from the hold by defendants, WOHLWEND  
27 and MORGAN.  
28

1 255. At said time and place, and despite the fact that MAX calmed down, defendants,  
2 WOHLWEND and MORGAN, continued the restraint for at least another half an hour.

3  
4 256. At said place and time, WATSON returned from lunch and saw that MAX was still  
5 in restraint.

6 257. At said place and time, WATSON told MORGAN, that she, MORGAN, was not  
7 properly restraining MAX's legs, and to hold MAX by the ankles.

8  
9 258. At said place and time, and despite knowing the prolonged nature of the prone  
10 restraint, WATSON did nothing to assess the situation or MAX's medical condition.

11 259. At said place and time, after over an hour and a half of being restrained, WATSON  
12 joined in the restraint with defendants, WOHLWEND and MORGAN, by holding MAX's  
13 hands, while MORGAN held MAX's ankles, and WOHLWEND immobilized MAX's torso.

14  
15 260. On November 28, 2018, at approximately 1:50 pm, MAX began exhibiting additional  
16 signs of physical distress, including becoming volatile and kicking footprints into the wall.

17  
18 261. Prior to November 28, 2018, defendants, CDE, YOLO, HOLSTEGE, BENO,  
19 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
20 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
21 CHAMBERS, and DOE defendants, knew that MAX's physical disabilities made him quick  
22 to fatigue and lacking in endurance.

23  
24 262. At said place and time, as MAX was exhibiting additional signs of physical distress,  
25 defendants, WOHLWEND, MORGAN, and WATSON, did nothing to assess the situation  
26 or MAX's medical condition.

27  
28 263. At said place and time, MAX exhibited even further signs of physical distress,

1 including urinating on himself, after MAX's request to use the restroom was ignored.

2 264. At said place and time, while in almost two hour long restraint, defendants, GHS,  
3 MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON  
4 THOMAS, and DOE defendants, as taught to them by defendants CHAPMAN and HWC,  
5 did not offer MAX fluids, range of motion exercises, periodic release of his limbs for  
6 circulation, or even toilet breaks, in violation of California Education Code section 56521.2  
7  
8 (a)(3).  
9

10 265. At said place and time, as MAX was exhibiting said further signs of physical distress  
11 by needing to urinate, defendants, WOHLWEND, MORGAN, and WATSON, did nothing  
12  
13 to assess the situation or MAX's medical condition.

14 266. At said time and place, MAX exhibited still further signs of physical distress,  
15 including biting his lip.

16 267. At said place and time, as MAX was exhibiting said still further signs of physical  
17 distress by biting his lip, defendants, WOHLWEND, MORGAN, and WATSON, did  
18  
19 nothing to assess the situation or MAX's medical condition.

20 268. At said time and place, MAX exhibited even still further signs of physical distress,  
21  
22 by indicating that he was going to vomit, and then, in fact, vomited.

23 269. At said place and time, as MAX was exhibiting said even still further signs of  
24 physical distress by becoming nauseated and vomiting, defendants, WOHLWEND,  
25 MORGAN, and WATSON, did nothing to assess the situation or MAX's medical condition.  
26

27 270. At said place and time, at approximately 1:50 pm, after exhibiting the afore-  
28 mentioned signs of physical distress, which were ignored by defendants, WOHLWEND,

1 MORGAN, and WATSON, MAX was rendered unconscious.

2 271. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
3  
4 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
5 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
6 CHAMBERS, HWC, CHAPMAN and DOE defendants, knew, or should have known that  
7  
8 prompt medical attention should be given to a person in restraint who is showing signs of  
9  
distress.

10 272. At said place and time, MAX aspirated and went into cardiac arrest.

11 273. At said place and time, WATSON left the room to get someone to help her get MAX  
12  
13 into the school's van, because "it was the end of the school day".

14 274. At said place and time, and prior to leaving the room, WATSON did nothing to  
15  
16 assess the situation or MAX's medical condition.

17 275. At said time and place, defendant WOHLWEND, did not release the hold for several  
18  
minutes after MAX was rendered unconscious.

19 276. At said time and place, upon releasing the hold on the unconscious child, defendant,  
20  
21 WOHLWEND, was unconcerned that MAX was not moving.

22 277. At said time and place, and only after MAX was rendered unconscious, defendant,  
23  
24 WOHLWEND, caused staff at defendant, GHS, to call defendant, CHAMBERS, the school  
25  
26 "nurse", because defendant, WOHLWEND, needed defendant, CHAMBERS, to document  
the blood on MAX's lip.

27 278. Plaintiffs LANGLEY and BENSON are informed and believe that CHAMBERS did  
28  
not hold a credential to be a school nurse and did not meet the qualifications to be a school

1 nurse because he was not an RN.

2 279. At that place and time, defendant CHAMBERS, became “sidetracked”, and did not  
3  
4 respond to the call to document blood on MAX’s lip.

5 280. At said place and time, and after WOHLWEND caused staff at GHS to call  
6 CHAMBERS, WOHLWEND returned to MAX and checked for a pulse because MAX  
7  
8 wasn’t responding and “[i]t was time to go home.”

9 281. At that place and time, WOHLWEND finally realized that a medical emergency  
10  
11 existed.

12 282. At said place and time, after knowing that MAX was rendered unconscious, neither  
13  
14 defendants, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND,  
15 MORGAN, WATSON, or DOE defendants called 911.

16 283. At said place, and on or around 1:55 pm, WOHLWEND caused CHAMBERS to be  
17  
18 called again to examine MAX, this time because MAX was unconscious.

19 284. At said place and time, WOHLWEND, was required by law, as a credential teacher  
20  
21 within the state of California, to have training in CPR.

22 285. At no time during this incident did WOHLWEND attempt to perform CPR on MAX  
23  
24 after he lost consciousness.

25 286. At said place and time, and after MAX was rendered unconscious, CHAMBERS did  
26  
27 not respond to the classroom for approximately ten minutes.

28 287. At all times herein mentioned, defendants, GHS, MEYERS, KELLER,  
CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
CHAMBERS and DOE defendants, knew or should have known that a failure to respond

1 promptly to a call for assistance from the school nurse regarding the welfare of a disabled  
2 child, such as MAX, may result in further injury or death to the child.

3  
4 288. At said place and time, when CHAMBERS in the classroom, CHAMBERS found  
5 that MAX had no carotid or radial pulses.

6 289. At that place and time, CHAMBERS conducted CPR on MAX for 7-10 minutes.

7  
8 290. At said place and time, and prior to conducting CPR on MAX, defendant  
9 CHAMBERS failed to clear MAX's airway of vomitus that MAX had aspirated.

10 291. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
11 DJUSD, McGREW, GALAS, CHESSMAN, THURMOND, GHS, MEYERS, KELLERS,  
12 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, THOMAS, CHAMBERS,  
13 CHAPMAN, HWC, and DOE defendants knew, or should have known that 911 should be  
14 used immediately to respond to medical emergencies.  
15

16 292. At all times herein mentioned, CDE, YOLO, HOLSTEGE, BENO, DJUSD,  
17 McGREW, GALAS, CHESSMAN, THURMOND, GHS, MEYERS, KELLERS,  
18 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, THOMAS, CHAMBERS, HWC,  
19 CHAPMAN and DOE defendants, had no policy or plan in place to ensure that 911 was  
20 called immediately upon a child being rendered unconscious at defendant GHS.  
21

22  
23 293. CDE, YOLO, HOLSTEGE, BENO, DJUSD, McGREW, GALAS, CHESSMAN,  
24 THURMOND, GHS, MEYERS, KELLERS, CHRISTENSEN, NARAN, WOHLWEND,  
25 MORGAN, THOMAS, CHAMBERS, CHAPMAN, HWC, and DOE defendants, had no  
26 policy or plan in place to ensure that a credentialed teacher perform CPR immediately when  
27 a student in their presence has been rendered unconscious.  
28

1 294. On November 28, 2018, at 2:03 pm, almost 25 minutes after MAX was rendered  
2 unconscious, CHAMBERS, asked defendant, GHS, by and through defendants, MEYERS,  
3 KELLER, CHRISTENSEN, NARAN, and DOE defendants, to call the paramedics.  
4

5 295. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
6 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
7 CHRISTENSEN, NARAN, WOHLWEND, WOHLWEND, MORGAN, WATSON,  
8 THOMAS, CHAMBERS, and DOE defendants, knew or should have known that use of a  
9 prone restraint on a physically compromised, disabled child, such as MAX, could result in  
10 serious injury or death.  
11

12 296. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
13 DJUSD, McGREW, CHESSMAN, THURMOND, GALAS, GHS, MEYERS, KELLER,  
14 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
15 CHAMBERS, and DOE defendants, had no policy or plan in place to prevent the use of a  
16 prone restraint on a physically compromised child, disabled child at defendant GHS, such  
17 as MAX.  
18

19 297. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
20 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
21 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
22 CHAMBERS, and DOE defendants allowed, consented to, ratified, failed to prevent, used  
23 and/or taught the use of a prone restraint on physically compromised children at GHS, such  
24 as MAX.  
25

26 298. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
27  
28

1 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
2 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
3 CHAMBERS, and DOE defendants, knew or should have known that the use of emergency  
4 interventions with an amount of force not reasonable or necessary under the circumstances  
5 could result in serious injury or death.  
6

7 299. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
8 DJUSD, McGREW, CHESSMAN, THURMOND, GALAS, GHS, MEYERS, KELLER,  
9 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
10 CHAMBERS, and DOE defendants, had no policy or plan in place to prevent the use of  
11 emergency interventions with an amount of force not reasonable or necessary under the  
12 circumstances could result in serious injury or death at GHS.  
13

14 300. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
15 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
16 CHRISTENSEN, NARAN, WOHLWEND, WOHLWEND, MORGAN, WATSON,  
17 THOMAS, CHAMBERS, and DOE defendants, allowed, consented to, ratified, failed to  
18 prevent, used, and/or taught the use of emergency interventions with an amount of force not  
19 reasonable or necessary under the circumstances, which could, and in fact did, result in  
20 serious injury or death.  
21

22 301. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
23 DJUSD. GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
24 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
25 CHAMBERS, and DOE defendants, knew, or should have known, that a prone restraint was  
26  
27  
28

1 contra-indicated for use on a disabled child with MAX's physical conditions.

2 302. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
3  
4 DJUSD. GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
5 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
6 CHAMBERS, and DOE defendants, had no policy or plan in effect to prevent use of a prone  
7  
8 restraint on a disabled child with MAX's physical conditions at GHS.

9 303. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
10 DJUSD. GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
11 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
12 CHAMBERS, and DOE defendants allowed, consented to, ratified, failed to prevent, used,  
13  
14 and/or taught that the use of a prone restraint was contra-indicated for use on a disabled  
15  
16 child with MAX's physical conditions.

17 304. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
18 DJUSD. GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
19 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
20 CHAMBERS, and DOE defendants, allowed, consented to, ratified, failed to prevent, used,  
21  
22 and/or taught that the use of a prone restraint was contra-indicated for use on a disabled  
23  
24 child, such as MAX, who was taking pain and/or psychiatric medications.

25 305. At all times here mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
26 DJUSD. GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
27 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
28 CHAMBERS, and DOE defendants knew, or should have known, that a prone restraint may

1 not be imposed for longer than necessary.

2 306. At all times here mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
3 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
4 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
5 CHAMBERS, and DOE defendants, had no policy or plan in place to prevent a prone  
6 restraint from being imposed on students at GHS, including MAX, for longer than  
7 necessary.  
8

9 307. At all times here mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
10 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
11 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
12 CHAMBERS, and DOE defendants, allowed, consented to, ratified, failed to prevent, used,  
13 and/or taught the use of a prone restraint that was imposed on MAX for longer than  
14 necessary.  
15

16 308. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
17 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
18 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
19 CHAMBERS, and DOE defendants, knew, or should have known, that a prone restraint  
20 should not be imposed for more than 15 minutes on a child.  
21

22 309. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
23 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
24 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
25 CHAMBERS, and DOE defendants, had no policy or plan in place to ensure that a prone  
26

1 restraint was not be imposed on students at GHS, including MAX, for more than 15 minutes.

2 310. At all times herein mentioned, defendants CDE, YOLO, HOLSTEGE, BENO,  
3 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
4 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
5 CHAMBERS, and DOE defendants allowed, consented to, ratified, failed to prevent, used,  
6 and/or failed to teach that the use of a prone restraint should not be imposed for more than  
7 15 minutes on a child.  
8

9 311. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
10 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
11 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
12 CHAMBERS, and DOE defendants, knew, or should have known that administration and/or  
13 law enforcement personnel must be called whenever a prolonged restraint is imposed on a  
14 child.  
15

16 312. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
17 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
18 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
19 CHAMBERS, and DOE defendants, had no policy or plan in place to ensure that  
20 administration and/or law enforcement personnel is called whenever a prolonged restraint  
21 is imposed on a child a GHS.  
22

23 313. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
24 DJUSD, GALAS, McGREW, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
25 WOHLWEND, MORGAN, WATSON, THOMAS, CHAMBERS, and DOE defendants,  
26  
27  
28

1 failed to and/or failed to do anything to instruct staff at defendant GHS that administration  
2 and/or law enforcement personnel must be called whenever a prolonged prone restraint is  
3 imposed on a child, including the prolonged prone restraint imposed on MAX or or about  
4 November 28, 2018.  
5

6 314. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
7 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
8 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
9 CHAMBERS, and DOE defendants, knew, or should have known the signs of physical  
10 distress in a child who is held in a prone restraint.  
11

12 315. On or about November 28, 2018, defendants, CDE, YOLO, HOLSTEGE, BENO,  
13 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
14 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
15 CHAMBERS, and DOE defendants, failed to act on, failed to warn, or failed to give prior  
16 warning to each and every other defendant of the signs of physical distress in a child at  
17 defendant GHS, including MAX, who was held in a prone restraint.  
18

19 316. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
20 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
21 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
22 CHAMBERS, and DOE defendants, knew, or should have known, that use of a prone hold  
23 requires constant monitoring of the physical condition of the child in the hold.  
24

25 317. On or about November 28, 2018, defendants, CDE, YOLO, HOLSTEGE, BENO,  
26 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
27  
28

1 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
2 CHAMBERS, and DOE defendants, failed to have policies that required the monitoring of  
3 the physical condition of disabled students, including MAX, who were subjected to a prone  
4 restraint.  
5

6 318. On or about November 28, 2018, defendants, CDE, YOLO, HOLSTEGE, BENO,  
7 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
8 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
9 CHAMBERS, and DOE defendants, consented or ratified the failure to monitor and/or  
10 failed to monitor the physical condition of MAX, when he was being held in a prone  
11 restraint.  
12  
13

14 319. At all times herein mentioned, defendants, CDE, YOLO, HOLSTEGE, BENO,  
15 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
16 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
17 CHAMBERS, and DOE defendants, knew, or should have known that a hold should be  
18 released immediately when a child in a prone restraint shows signs of physical distress.  
19

20 320. On or about November 28, 2018, defendants, CDE, YOLO, HOLSTEGE, BENO,  
21 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, GHS, MEYERS, KELLER,  
22 CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
23 CHAMBERS, and DOE defendants, had no plan or policy to require that a prone restraint  
24 be released immediately when a child being held in a prone restraint shows signs of physical  
25 distress.  
26  
27

28 321. On or about November 28, 2018, defendants, CDE, YOLO, HOLSTEGE, BENO,

1 DJUSD, GALAS, McGREW, CHESSMAN, THURMOND, THURMOND, GHS,  
2 MEYERS, KELLER, CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON,  
3 THOMAS, CHAMBERS, and DOE defendants, consented to, ratified, and did continue to  
4 hold MAX in a prone restraint after he showed signs, and continued signs, of physical  
5 distress.  
6

7  
8 322. On or about November 28, 2018, when the paramedics arrived at GHS, they found  
9 that MAX was asystole (indicating a “flatline” cardiac arrest), that MAX had no pulse, and  
10 that MAX was not breathing.

11  
12 323. On or about November 28, 2018, paramedics transported MAX to a local hospital,  
13 but MAX was transferred later that evening to UC Davis for a higher level of care.

14 324. On or about November 30, 2018, MAX was pronounced dead from multiple organ  
15 system failure and profound irreversible neurologic injury [“brain death”] secondary to  
16 aspiration and prolonged cardiac arrest that MAX suffered while being held in a prolonged  
17 prone restrained at GHS.  
18

19 325. With respect to the use of the restraints imposed on MAX, as herein alleged, CDE  
20 has found GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE defendants to  
21 be out of compliance with state law for failing to ensure emergency interventions were used  
22 only for unpredictable, spontaneous behaviors, with clear and present dangers, and failed  
23 to use less restrictive interventions that could have resolved the child’s behavior.  
24

25 **FACTUAL ALLEGATIONS REGARDING D.Z.**  
26

27 326. D.Z. was enrolled in GHS by FCUSD, FCSELPA, WESSINGER, TRIGUER,  
28 MAGEE, and DOE defendants in 2018.

1 327. Or about April 25, 2018, defendants GHS, MEYERS, KELLER, CHRISTENSEN,  
2 NARAN, and DOE defendants, with the consent of WESSINGER, TRIGUERO, MAGEE,  
3 THURMOND, and DOE defendants, assaulted D.Z. by tying D.Z.'s hands behind his back,  
4 causing severe and lasting injuries to D.Z. These injuries were not documented, as required  
5 by law.  
6

7 328. On or about September 10, 2018, GHS, MEYERS, KELLER, CHRISTENSEN,  
8 NARAN, McKOY, GODBOUT, and DOE defendants, with the consent of FCUSD,  
9 FCSELPA, WESSINGER, TRIGUERO, MAGEE, THURMOND, and DOE defendants,  
10 imposed an unknown type of restraint on D.Z.  
11

12 329. On or about September 17, 2018, GHS, MEYERS, KELLER, CHRISTENSEN,  
13 NARAN, McKOY, GODBOUT, and DOE defendants, with the consent of SACRAMENTO  
14 OFFICE OF EDUCATION, FCUSD, FCSELPA, WESSINGER, TRIGUERO, MAGEE,  
15 THURMOND, and DOE defendants, imposed a standing restraint and a prone restraint for  
16 over an hour on D.Z.  
17

18 330. On or about September 18, 2018, GHS, MEYERS, KELLER, CHRISTENSEN,  
19 NARAN, McKOY, MATLOCK, OEHRING, GODBOUT, CHAMBERS, and DOE  
20 defendants, with the consent of FCUSD, FCSELPA, WESSINGER, TRIGUERO, MAGEE,  
21 THURMOND, and DOE defendants, imposed a standing restraint and a prone restraint for  
22 two and a quarter hours on D.Z.  
23

24 331. On or about September 19, 2018, GHS, MEYERS, KELLER, CHRISTENSEN,  
25 NARAN, McKOY, GODBOUT and DOE defendants, with the consent of SACRAMENTO  
26 OFFICE OF EDUCATION, FCUSD, FCSELPA, WESSINGER, TRIGUERO, MAGEE,  
27  
28

1 THURMOND, and DOE defendants, imposed a standing restraint and a prone restraint for  
2 30 minutes on D.Z.

3  
4 332. On or September 21, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
5 and DOE defendants, with the consent of SACRAMENTO OFFICE OF EDUCATION,  
6 FCUSD, FCSELPA, WESSINGER, TRIGUER, MAGEE, THURMOND, and DOE  
7 defendants, imposed a prone restraint on D.Z. for an unknown length of time, which was  
8 not documented in a Behavioral Emergency Report as required by law.  
9

10 333. On September 28, 2018 D.Z. spilled a mug at his desk. At that place and time, GHS,  
11 MEYERS, KELLER, CHRISTENSEN, NARAN, CHAMBERS and DOE defendants, with  
12 the consent of FCUSD, FCSELPA, WESSINGER, TRIGUER, MAGEE, THURMOND,  
13 and DOE defendants, pushed D.Z. face down into a desk, with CHAMBER's hand on the  
14 back of D.Z.'s neck. CHAMBERS then pulled both of D.Z.'s arms behind him aggressively  
15 and told D.Z. to "shut the fuck up" and then told D.Z. to "clean this shit up." A Behavioral  
16 Emergency Report was not prepared for this incident as required by law. D.Z. suffered  
17 physical injuries during this incident, which were not documented, as required by law.  
18

19  
20 334. In or around this time, on a date unknown to D.Z. and KINSER at the present time,  
21 GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE defendants, with the  
22 consent of SACRAMENTO OFFICE OF EDUCATION, FCUSD, FCSELPA,  
23 WESSINGER, TRIGUER, MAGEE, THURMOND, and DOE defendants, imposed a prone  
24 restraint on D.Z. for an unknown length of time, which was not documented in a Behavioral  
25 Emergency Report as required by law. At that time, KINSER observed DOE defendants  
26 restraining D.Z. face down, with a knee in D.Z.'s back, and his arms pulled back. KINSER  
27  
28

1 observed that there was extreme pressure placed on D.Z.'s back, and his breathing was  
2 labored. KINSER intervened to get staff off of D.Z.

3  
4 335. In addition to the physical injuries as herein alleged, D.Z. experienced increasing  
5 spells of violence, which coincided with his being held in restraints.

6 336. At no time immediately prior to the imposition of any of the restraints on D.Z., as  
7 herein alleged, did the behavior of D.Z. pose a danger to himself or others.

8  
9 337. At all times herein mentioned, the behaviors of D.Z. immediately prior to the  
10 imposition of the afore-mentioned restraints, were known and predictable, and had already  
11 been addressed in his Behavioral Intervention Plan.

12  
13 338. The restraints imposed upon D.Z., as herein alleged, constituted corporal punishment,  
14 prohibited by California law.

15 **FACTUAL ALLEGATIONS REGARDING S.D.**

16 339. S.D. attended GHS from 2016 to 2018. He was placed at GHS by EDCOE,  
17 EDCSELPA, PPUSD, and DOE defendants.

18  
19 340. On or about October 31, 2016, S.D. was restrained by GHS, MEYERS, KELLER,  
20 CHRISTENSEN, NARAN, and DOE defendants twice in one day. Behavioral Emergency  
21 Reports were not provided for these restraints.

22  
23 341. On or about August 13, 2018, GHS, MEYERS, KELLER, CHRISTENSEN,  
24 NARAN, and GATEWOOD, with the consent of McDONALD, WRIGHT, CLAY,  
25 TOSTON, ATKINS and THURMOND, placed S.D. in a child restraint and/or standing  
26 restraint for using profanity and being non-compliant.

27  
28 342. On or about September 7, 2018, GHS, MEYERS, KELLER, CHRISTENSEN,

1 NARAN, WOHLWEND, and DOE defendants, with the consent of McDONALD,  
2 WRIGHT, CLAY, TOSTON, ATKINS, THURMOND, and DOE defendants, prepared an  
3 IEP in which it was indicated that 12 restraints were imposed on S.D., but Behavioral  
4 Emergency Reports were not prepared for each of those restraints as required by law.  
5

6 343. On or about October 5, 2018, GHS, MEYERS, KELLER, CHRISTENSEN,  
7 NARAN WOHLWEND, and DOE defendants, with the consent of McDONALD,  
8 WRIGHT, CLAY, TOSTON, ATKINS, THURMOND, and DOE defendants, imposed a  
9 restraint upon S.D., for which no Behavioral Emergency Report was prepared as required  
10 by law. S.D. sustained facial injuries as a result of this restraint.  
11

12 344. On or about November 23, 2018, S.D. was assaulted by GHS, MEYERS, KELLER,  
13 CHRISTENSEN, NARAN WOHLWEND, and DOE defendants, with the consent of  
14 McDONALD, WRIGHT, CLAY, TOSTON, ATKINS, THURMOND, and DOE  
15 defendants. During the course of the assault, GHS, MEYERS, KELLER, CHRISTENSEN,  
16 NARAN WOHLWEND, and DOE defendants placed S.D.'s hands behind his back, and  
17 immobilized his arms with wide zip ties.  
18

19 345. On or about November 23, 2018, S.D. was assaulted by GHS, MEYERS, KELLER,  
20 CHRISTENSEN, NARAN, and DOE defendants, with the consent of McDONALD,  
21 WRIGHT, CLAY, TOSTON, ATKINS, THURMOND, and DOE defendants,. During this  
22 incident, which was not documented in a Behavioral Emergency Report as required by law,  
23 the top of Sebastian's forehead was split open with an approximately 3" cut. No injury report  
24 was filed for this incident as required by law. GHS, MEYERS, KELLER, CHRISTENSEN,  
25 NARAN, WOHLWEND, CHAMBERS, and DOE defendants, with the consent of  
26  
27  
28

1 McDONALD, WRIGHT, CLAY, TOSTON, ATKINS, THURMOND, and DOE  
2 defendants, failed to render medical aid to S.D. as required by law. S.D. was transported  
3 home while bleeding profusely from this gaping wound. Sebastian was taken to urgent care  
4 by DAVIS. S.D. received approximately 12 large stitches to close the wound, and suffers  
5 permanent scarring and disfigurement as a result of this incident.  
6

7 346. At no time immediately prior to the imposition of the restraints on S.D., as herein  
8 alleged, did the behavior of S.D. pose a danger to himself or others.  
9

10 347. At all relevant times, S.D. 's behaviors were known and predictable and had already  
11 been addressed in his Behavioral Intervention Plan.  
12

13 348. The restraints imposed upon S.D., as herein alleged. constituted corporal punishment,  
14 prohibited by California law.  
15

16 **FACTUAL ALLEGATIONS REGARDING J.P.**  
17

18 349. J.P. was placed at GHS by ACOESELPA, ACUSD, SLAVENSKY, FAULKNER,  
19 and DOE defendants, where he attended school in 2017 and 2018.  
20

21 350. On January 11, 2017, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
22 MATLOCK, and DOE defendants, with the consent of SLAVENSKY, FAULKNER,  
23 THURMOND, and DOE defendants, imposed a restraint upon J.P.  
24

25 351. On February 1, 2017, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
26 MATLOCK, ALLEN, and DOE defendants, with the consent of SLAVENSKY,  
27 FAULKNER, THURMOND, and DOE defendants, imposed a restraint upon J.P.  
28

352. On February 8, 2017, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
SMITH, and DOE defendants, with the consent of SLAVENSKY, FAULKNER,

1 THURMOND, and DOE defendants, imposed a restraint upon J.P.

2 353. On January 10, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN  
3 SMITH, and DOE defendants, with the consent of SLAVENSKY, FAULKNER,  
4 THURMOND, and DOE defendants, imposed a restraint upon J.P.  
5

6 354. On or about November 28, 2018, J.P. was in the classroom the entire time, and  
7 witnessed the incident involving MAX, as herein-above alleged, which led to MAX's death.  
8

9  
10 355. On or about November 30, 2018, GHS, MEYERS, KELLER, CHRISTENSEN,  
11 NARAN SMITH, ALLEN, and DOE defendants, with the consent of SLAVENSKY,  
12 FAULKNER, THURMOND, and DOE defendants, imposed three different restraints upon  
13 J.P.  
14

15 356. Throughout 2017 and 2018, on a weekly or bi-weekly average, GHS, MEYERS,  
16 KELLER, CHRISTENSEN, NARAN, and DOE defendants would email J.P.'s mother,  
17 telling her that J.P. had been placed in restraint. No Behavioral Emergency Reports were  
18 prepared for those incidents, with the consent of SLAVENSKY, FAULKNER,  
19 THURMOND and DOE defendants as required by law.  
20

21 357. During one of the restraints, the date of which is unknown at the present time, GHS,  
22 MEYERS, KELLER, CHRISTENSEN, NARAN and DOE defendants, with the consent of  
23 SLAVENSKY, FAULKNER, THURMOND, and DOE defendants, rubbed J.P.'s face into  
24 the carpet as they held him face down, causing rug burns on J.P.'s face. No injury report  
25 was prepared for this injury, and no medical aid was rendered to J.P., as required by law.  
26  
27 J.P.'s mother took J.P. to Urgent Care to treat the injuries upon his returning home.  
28

1 358. At no time immediately prior to the imposition of the restraints on J.P., as herein  
2 alleged, did the behavior of J.P. pose a danger to himself or others.

3  
4 359. At all relevant times, J.P.'s behaviors were known and predictable and had previously  
5 been addressed in his Behavioral Intervention Plan.

6 360. The restraints imposed upon J.P., as herein alleged, constituted corporal punishment,  
7 prohibited by California law.

8  
9 **FACTUAL ALLEGATIONS REGARDING H.K.**

10 361. H.K. was referred to GHS by EDCOESELPA, PUSD, BONNIKEN, WRIGHT,  
11 CLAY, TOSTON, THURMOND, and DOE defendants. H.K. attended there between 2017  
12 up to and including November 27, 2108.

13  
14 362. Throughout 2017 and 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
15 and DOE defendants restrained H.K. numerous times with the consent of BONNIKEN,  
16 WRIGHT, CLAY, TOSTON, THURMOND, and DOE defendants. No Behavioral  
17 Emergency Reports were prepared for those incidents, with the consent of BONNIKEN,  
18 WRIGHT, CLAY, TOSTON, THURMOND and DOE defendants as required by law. The  
19 exact dates of these restraints are unknown at the present time. H.K. will seek leave of court  
20 to amend according to proof when the dates of the restraints are disclosed during discovery  
21 proceedings.

22  
23  
24 363. At no time immediately prior to the imposition of the restraints on H.K., as herein  
25 alleged, did the behavior of H.K. pose a danger to himself or others.

26  
27 364. At all relevant times, H.K.'s behaviors were known and predictable and had  
28 previously been addressed in his Behavioral Intervention Plan.

1 365. The restraints imposed upon H.K., as herein alleged, constituted corporal  
2 punishment, prohibited by California law.

3  
4 **FACTUAL ALLEGATIONS REGARDING M.S.**

5 366. M.S. began attending GHS on September 8, 2018. He was referred to GHS by  
6 EGUSD, PHILLIPS, and DELGADO.

7  
8 367. At the time M.S. began attending GHS, GHS, MEYERS, KELLER,  
9 CHRISTENSEN, NARAN, STEARN, DILLON, LAYMON, HINDS, JONES, ROMANO,  
10 SCHUMANN, EGUSD, PHILLIPS, DELGADO, THURMOND and DOE defendants were  
11 told by STARK, and said defendants acknowledged that M.S. is sensitive to physical touch  
12 and proximity; that staff was to refrain from using physical gestures or prompting when  
13 communicating with M.S.; that if M.S. got upset to give him space; and to allow M.S. access  
14 to his headphones to assist him in getting or staying calm.  
15

16  
17 368. On September 10, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
18 STEARN, and DOE defendants, with the consent of EGUSD, PHILLIPS, DELGADO,  
19 THURMOND and DOE defendants restrained M.S.

20  
21 369. On September 11, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
22 STEARN, and DOE defendants, with the consent of EGUSD, PHILLIPS, DELGADO,  
23 THURMOND and DOE defendants restrained M.S.

24  
25 370. On September 12, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
26 STEARN, and DOE defendants, with the consent of EGUSD, PHILLIPS, DELGADO,  
27 THURMOND and DOE defendants assaulted M.S. by slamming his head against the wall,  
28 causing injury to M.S.' temple. No injury report was filed and no medical aid was rendered

1 to M.S. as required by law.

2 371. On or about September 12, 2018, GHS, MEYERS, KELLER, CHRISTENSEN,  
3 NARAN, and DOE defendants, in response to a complaint made by STARK, told STARK  
4 that the incident in which M.S. was injured due to staff who were new, and that the staff  
5 would receive training.  
6

7 372. On or about September 21, 2019, GHS, MEYERS, KELLER, CHRISTENSEN,  
8 NARAN, STEARN, and DOE defendants, with the consent of EGUSD, PHILLIPS,  
9 DELGADO, THURMOND, and DOE defendants restrained M.S. twice.  
10

11 373. Between September 10 and September 26, 2108, GHS, MEYERS, KELLER,  
12 CHRISTENSEN, NARAN, STEARN, and DOE defendants, with the consent of EGUSD,  
13 PHILLIPS, DELGADO, THURMOND and DOE defendants, intervened physically with  
14 M.S. fourteen times.  
15

16 374. On or about September 26, 2108, GHS, MEYERS, KELLER, CHRISTENSEN,  
17 NARAN, STEARN, and DOE defendants, with the consent of EGUSD, PHILLIPS,  
18 DELGADO, THURMOND, and DOE defendants, violently and aggressively restrained  
19 M.S, causing abrasions to M.S.'s face.  
20

21 375. On or about September 26, 2018, STARK again conveyed to GHS, MEYERS,  
22 KELLER, CHRISTENSEN, NARAN, STEARN, EGUSD, PHILLIPS, DELGADO,  
23 THURMOND, and DOE defendants that M.S. did not like to be touched.  
24

25 376. On October 2, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
26 STEARN, and DOE defendants, with the consent of EGUSD, PHILLIPS, DELGADO,  
27 THURMOND, and DOE defendants, restrained M.S. twice.  
28

1 377. On October 9, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
2 STEARN, and DOE defendants, with the consent of EGUSD, PHILLIPS, DELGADO,  
3 THURMOND, and DOE defendants, placed M.S. in a prone restraint.  
4

5 378. On October 10, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
6 STEARN, HINS, SCHUMANN, and DOE defendants, with the consent of EGUSD,  
7 PHILLIPS, DELGADO, THURMOND, and DOE defendants, placed M.S. in at least three  
8 different restraints, including at least one prone restraint.  
9

10 379. On October 11, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
11 STEARN, and DOE defendants, with the consent of EGUSD, PHILLIPS, DELGADO,  
12 THURMOND, and DOE defendants, placed M.S. in a prone restraint.  
13

14 380. On October 15, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
15 STEARN, and DOE defendants, with the consent of EGUSD, PHILLIPS, DELGADO,  
16 THURMOND, and DOE defendants, placed M.S. in at least two different restraints,  
17 including at least one prone restraint.  
18

19 381. On October 18, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
20 STEARN, ROMANO, and DOE defendants, with the consent of EGUSD, PHILLIPS,  
21 DELGADO, THURMOND, and DOE defendants, took M.S.' headphones away from him  
22 for no valid reason. When M.S. became upset, GHS, MEYERS, KELLER,  
23 CHRISTENSEN, NARAN, STEARN, and DOE defendants, with the consent of EGUSD,  
24 PHILLIPS, DELGADO, THURMOND, and DOE defendants placed him in at least three  
25 separate restraints.  
26  
27

28 382. On October 22, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,

1 STEARN, and DOE defendants, with the consent of EGUSD, PHILLIPS, DELGADO,  
2 THURMOND, and DOE defendants rolled M.S. inside a yoga mat and squeezed him in the  
3 mat for 10 minutes.  
4

5 383. On October 23, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
6 STEARN, LAYMON, and DOE defendants, with the consent of EGUSD, PHILLIPS,  
7 DELGADO, THURMOND, and DOE defendants, restrained M.S. twice, including one  
8 prone restraint.  
9

10 384. On October 24, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
11 STEARN, HINDS, DILLON, and DOE defendants, with the consent of EGUSD,  
12 PHILLIPS, DELGADO, THURMOND, and DOE defendants, restrained M.S. twice,  
13 including one prone restraint for 35 minutes. In addition, GHS, MEYERS, KELLER,  
14 CHRISTENSEN, NARAN, STEARN, and DOE defendants, with the consent of EGUSD,  
15 PHILLIPS, DELGADO, THURMOND, and DOE defendants, wrapped M.S. up in a yoga  
16 mat and squeezed both ends of the mat.  
17  
18

19 385. On October 29, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
20 STEARN, and DOE defendants, with the consent of EGUSD, PHILLIPS, DELGADO,  
21 THURMOND and DOE defendants, restrained M.S., wrapped M.S. up in a yoga mat, and  
22 squeezed the mat.  
23

24 386. On November 6, 2018, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
25 STEARN, JONES, DILLON, LAYMON, and DOE defendants, with the consent of  
26 EGUSD, PHILLIPS, DELGADO, THURMOND and DOE defendants, restrained M.S. on  
27 four separate occasions.  
28

1 387. Between October 1 and November 6, 2018, GHS, MEYERS, KELLER,  
2 CHRISTENSEN, NARAN, STEARN, and DOE defendants, with the consent of EGUSD,  
3 PHILLIPS, DELGADO, THURMOND and DOE defendants imposed hands on  
4 interventions on M.S., including prone and other forms of restraints, a total of 47 times.  
5

6 388. On November 29, 2018, as MAX had just died, GHS, MEYERS, KELLER,  
7 CHRISTENSEN, NARAN, STEARN, and DOE defendants, with the consent of EGUSD,  
8 PHILLIPS, DELGADO, THURMOND and DOE defendants placed M.S. in two restraints,  
9 including a prone restraint, the later of which involved the twisting of M.S.' arms behind  
10 his back so that he could not move.  
11

12 389. With respect to the use of the restraints imposed on M.S., as herein alleged, CDE has  
13 found GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, STEARN, and DOE  
14 defendants to out of compliance with state law for failing to ensure emergency interventions  
15 were used only for unpredictable, spontaneous behaviors, with clear and present dangers,  
16 and failed to use less restrictive interventions that could have resolved the child's behavior,  
17 and for failure to convene a new IEP meeting after the incident of October 24, 2018, to see  
18 if there was a need to modify M.S.' behavioral intervention plan. CDE found these practices  
19 to be "punitive, humiliating, can cause serious injury, does not provide an opportunity for  
20 de-escalation, can cause physical and mental stress, may cause difficulty breathing, can  
21 trigger underlying medical issues, and may create long-term trauma".  
22

23 390. At no time immediately prior to the imposition of the restraints on M.S., as herein  
24 alleged, did the behavior of M.S. pose a danger to himself or others.  
25

26 391. At all relevant times, M.S.'s behaviors were known and predictable and had  
27  
28

1 previously been addressed in his Behavioral Intervention Plan.

2 392. The restraints imposed upon M.S., as herein alleged, constituted corporal  
3 punishment, prohibited by California law.  
4

5 **FACTUAL ALLEGATIONS REGARDING E.D.**

6 393. E.D. was a student at GHS in 2017 and 2018.

7  
8 394. On or about January 10, 2017, GHS, MEYERS, KELLER, CHRISTENSEN,  
9 NARAN, and DOE defendants, with the consent of THURMOND and DOE defendants,  
10 imposed a prolonged prone restraint on E.D.

11 395. As a result of the afore-mentioned restraint, E.D. suffered, and continues to suffer  
12 lacerations to his chin and face, nerve damage to both of his arms, PTSD and night terrors.

13 396. At no time immediately prior to the imposition of the restraints on E.D., as herein  
14 alleged, did the behavior of E.D. pose a danger to himself or others.  
15

16 397. At all relevant times, E.D.'s behaviors were known and predictable and had  
17 previously been addressed in his Behavioral Intervention Plan.  
18

19 398. The restraints imposed upon E.D, as herein alleged, constituted corporal punishment,  
20 prohibited by California law.  
21

22 **ACTUAL ALLEGATIONS REGARDING AUSTIN**

23  
24 399. AUSTIN was a student at GHS in 2017 and 2018. Austin was referred to  
25 GHS by defendants RUSD, FORREST, and DOE defendants.

26 400. On dates that are unknown to AUSTIN at the present time, GHS, MEYERS,  
27 KELLER, CHRISTENSEN, NARAN, and DOE defendants, with the consent of  
28

1 THURMOND and DOE defendants, imposed further abuse on AUSTIN, causing  
2 him to suffer physical and emotional injuries.

3  
4 401. AUSTIN, like many autistic children, had over stimulated sensitivities to light,  
5 sound, smell and touch.

6 402. AUSTIN has several discs in his spine fused together making sitting down  
7 very uncomfortable and requiring him to stand and walk around to reduce the stress  
8 of sitting.

9  
10 403. He would often get up and, rather than understanding what was troubling him,  
11 staff at GHS would insist that he remain sitting.

12  
13 404. When AUSTIN would complain and resist sitting, he would be subjected to  
14 a restraint.

15 405. These acts in response to his stress in his back were not unforeseeable and  
16 were made known to staff at GHS when he enrolled at GHS.

17  
18 406. On one occasion, AUSTIN had a toy car in his pocket.

19 407. GHS staff demanded that he give the toy car to the teacher and AUSTIN  
20 refused.

21  
22 408. GHS staff tackled him to the floor and sat on him in a prone restraint.

23 409. When AUSTIN told them that he couldn't breath, they refused to let up on the  
24 restraint.

25 410. AUSTIN suffered night-terrors following these incidents.

26  
27 411. AUSTIN suffered from depression and self-loathing.

28 412. AUSTIN would suffer panic attacks if one of his teachers approached him too

1 fast.

2 413. On many occasions, AUSTIN would cower in a corner of the classroom if a  
3 teacher to staff member reached for him too quickly  
4

5 414. AUSTIN has attempted to get documentation from GHS, MEYERS,  
6 KELLER, CHRISTENSEN, NARAN and DOE defendants as to the exact dates of  
7 the abuse, but has been unable to obtain any response. AUSTIN will seek leave to  
8 allege these dates when this information becomes available through the discovery  
9 process.  
10

11 415. At no time immediately prior to the imposition of the restraints on AUSTIN,  
12 as herein alleged, did the behavior of AUSTIN pose a danger to himself or others.  
13

14 416. At all relevant times, AUSTIN.'s behaviors were known and predictable and  
15 had previously been addressed in his Behavioral Intervention Plan.  
16

17 417. The restraints imposed upon AUSTIN, as herein alleged, constituted corporal  
18 punishment, prohibited by California law.  
19

20 **FACTUAL ALLEGATIONS REGARDING LUIS**

21  
22 418. LUIS was a student at GHS in 2008. He was referred to GHS by DOE  
23 defendants.  
24

25 419. Shortly after enrolling at GHS in January, 2008, LUIS began being restrained  
26 by GHS, MEYERS, KELLER. CHRISTENSEN, NARAN, and DOE defendants for  
27 perceived behavioral problems such as not sitting down or not following directives  
28 unrelated to the safety of himself or others.

1           420. On or about March 19, 2008, GHS, MEYERS, KELLER, CHRISTENSEN,  
2           NARAN, and DOE defendants restrained LUIS.

3  
4           421. Defendants GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE  
5           defendants failed to file Behavioral Emergency Reports or document injuries as  
6           required by law, so dates of assaults are unknown to LUIS at the present time.

7  
8           422. During the restraints, LUIS was pushed to the ground and placed in a prone  
9           position for an extended period of time, while his arms were pulled behind his back.  
10          GHS staff sat on his back while he was in this position, increasing his pain and  
11          making it difficult for him to breathe.

12  
13          423. LUIS was abused on additional occasions while attending GHS. LUIS has  
14          attempted to get documentation from GHS, MEYERS, KELLER, CHRISTENSEN,  
15          NARAN and DOE defendants as to the exact dates of the abuse, but has been unable  
16          to obtain any response. LUIS will seek leave to allege these dates according to proof  
17          when this information becomes available through the discovery process.

18  
19          424. LUIS suffered bruises to his chest, burns to his elbows, and severe soft tissue  
20          damage to his back and buttocks as a result of these restraints. LUIS suffered panic  
21          attacks, night-terrors, startles, depression and self-loathing as a result of these  
22          restraints.

23  
24          425. At no time immediately prior to the imposition of the restraints on LUIS, as  
25          herein alleged, did the behavior of LUIS pose a danger to himself or others.

26  
27          426. At all relevant times, LUIS.'s behaviors were known and predictable and had  
28          previously been addressed in his Behavioral Intervention Plan.

1           427. The restraints imposed upon LUIS, as herein alleged, constituted corporal  
2           punishment, prohibited by California law.

3  
4       **FIRST CAUSE OF ACTION**

5       **FOR VIOLATIONS OF TITLE II, AMERICANS WITH DISABILITIES ACT OF**  
6       **1990,**

7       **42 U.S.C., SECTION 12101, ET. SEQ.**

8  
9       **(ASSERTED BY ESTATE OF MAX against CDE, YOLO, and DJUSD; D.Z. against**  
10       **FCUSD and FCSELPA; S.D against EDCOE and EDCSELPA, H.K. against PUSD**  
11       **and EDCOSESELPA, M.S. against CDE, EGUSD, EGUSDSELPA, and SCOE;**  
12       **AUSTIN AGAINST RUSD; and ASSERTED BY ESTATE OF MAX and each of THE**  
13       **PLAINTIFF STUDENTS AGAINST GHS; and DOE DEFENDANTS)**

14  
15       428. Estate of MAX, D.Z. S.D., H.K., M.S. and AUSTIN (referred to in this cause of  
16       action as “THE NAMED PLAINTIFF STUDENTS” and THE PLAINTIFF STUDENTS  
17       incorporate herein by reference paragraphs 1-32, 45-46, 48-62, 64-66, 69, 72-126, 129, 134,  
18       139-148, 154, 160, 164, 167, 179-427, 429-446, 451-455, 458, 461, 463, 464, 466, 467, 470-  
19       472, 474, 478, 481 491, 492, 497, 501, 503, 505-508, 513-516, 518, 523, 524, 531-533, 536-  
20       540, 551-553, 555-559, 561, 564-566, 574-576, 578, 579, 581, 582, 595, 597, 599, 603, 608,  
21       616, 617, 618, 623, 635 of this Complaint, as if fully stated hereat.

22  
23  
24       429. The term “THE NAMED PLAINTIFF STUDENTS” refers only to those students  
25       who filed Tort Claims against the public entity who referred them to GHS or otherwise had  
26       involvement in the student’s education at GHS as heretofore alleged. THE NAMED  
27       PLAINTIFF STUDENTS’ plead this cause of action subject to the limitations of their  
28

1 respective tort claims filings, as heretofore alleged. No other public entities are named in  
2 this cause of action.

3  
4 430. The term “THE PLAINTIFF STUDENTS” refers to *all* THE PLAINTIFF  
5 STUDENTS, with the limitation that in this cause of action only, *all* THE PLAINTIFF  
6 STUDENTS plead claims solely against GHS and DOE defendants.

7  
8 431. Title II, the Americans With Disabilities Act of 1990, 42 U.S.C., Section 12101, et  
9 seq., as amended, provides for, among other things, that no public entity, including any state  
10 or local government or governmental agency, shall discriminate in any manner against an  
11 individual with a disability, such as THE NAMED PLAINTIFF STUDENTS for this cause  
12 of action as against the named public entities and DOE defendants, namely MAX, D.Z.,  
13 S.D., H.K., M.S., and AUSTIN, and such as *all* THE PLAINTIFF STUDENTS as against  
14 GHS and DOE defendants  
15

16  
17 432. As described above, CDE and THE ARMS OF THE EDUCATIONAL SYSTEM  
18 named in this cause of action and DOE defendants, by and through their agents, employees  
19 and independent contractors as well as GHS and DOE defendants did, in fact, discriminate  
20 against THE NAMED PLAINTIFF STUDENTS and *all* THE PLAINTIFF STUDENTS,  
21 respectively, in this cause of action because of the THE NAMED PLAINTIFF  
22 STUDENTS/*all* THE/PLAINTIFF STUDENTS’ known disabilities.

23  
24 433. The named defendants' conduct described herein violated the ADA in that MAX and  
25 THE NAMED STUDENTS/*all* THE PLAINTIFF STUDENTS, who are students with  
26 disabilities, are either not provided programs, services, and activities that are provided to  
27 non-disabled students, or are provided programs, services, and activities that are not equal  
28

1 to, and are inferior to, the services provided to students who are not physically and  
2 emotionally disabled. THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
3 STUDENTS in fact were abused because of their disabilities, which amounts to disability  
4 discrimination. Defendants named in this cause of action have demonstrated a deliberate  
5 indifference that harm to THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
6 STUDENTS' federally protected rights under the ADA was substantially likely, and failed  
7 to act upon that likelihood.  
8

9  
10 434. The defendants named in this cause of action illegally misused and/or abused  
11 power(s) actually and impliedly bestowed upon them by virtue of their office by the State  
12 of California or by one or more of the State's political subdivisions or departments, and such  
13 misuse and/or abuse of power proximately caused the to suffer harm and damage.  
14

15 435. All defendants named in this cause of action were acting under color of state law  
16 and/or their actions, whether or not perpetrated under color of state law, were condoned  
17 and/or actually or tacitly ratified by CDE.  
18

19 436. Such discrimination perpetrated by the THE ARMS OF THE EDUCATIONAL  
20 SYSTEM and DOE defendants proximately caused MAX injury and death, and GHS and  
21 DOE defendants proximately caused MAX and THE NAMED PLAINTIFF STUDENTS/*all*  
22 THE PLAINTIFF STUDENTS to suffer harm and damage.  
23

24 437. Such discrimination was perpetrated by each named defendant deliberately,  
25 recklessly and/or with conscious disregard for MAX and THE NAME STUDENTS/*all* THE  
26 PLAINTIFF STUDENTS' rights and feelings.  
27  
28

1 438. The defendants named in this cause of action intended, and knew or should have  
2 known, that the application of prone restraints upon MAX and THE NAMED PLAINTIFF  
3 STUDENTS/*all* THE PLAINTIFF STUDENTS would cause those students to suffer  
4 psychological and physical harm, and even death, and would deprive THE NAMED  
5 PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS of due process of law, would  
6 constitute prohibited disability discrimination, illegal assault and battery and other violations  
7 of law and equity.  
8

10 439. The defendants named in this cause of action perpetrated such harm upon THE  
11 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS by inflicting severe  
12 corporal punishment in the form of prone and other types of restraints upon severely  
13 physically disabled children and autistic children who could not communicate their needs.  
14 Said punishments were not used to prevent harm to self or others, rather their use was  
15 arbitrary, capricious and unrelated to achieving any legitimate educational purpose.  
16

18 440. The public entity defendants named in this cause of action wrongfully, negligently,  
19 willfully, wantonly and/or recklessly deferred to their independent contractor GHS with  
20 regard to inflicting corporal punishments upon MAX and THE NAMED PLAINTIFF  
21 STUDENTS including prone and other restraints, thereby placing and maintaining THE  
22 NAMED STUDENTS in a school known to conduct numerous, dangerous and unreported  
23 restraints which caused injuries to THE NAMED PLAINTIFFS, affirmatively placing THE  
24 NAMED PLAINTIFFS in danger with deliberate indifference to their peril.  
25

27 441. The application of force by GHS upon THE NAMED PLAINTIFF STUDENTS/*all*  
28 THE PLAINTIFF STUDENTS was so severe, disproportionate to need, inspired by malice

1 or sadism, or unwise excess of zeal - amounting to inhumane abuse of official power  
2 shocking to the conscience. The restraints authorized and/or applied by the defendants  
3 named in this cause of action were known to be of greater length and frequency, and were  
4 not reasonably related in scope, to circumstances which may have provided any justification  
5 in the first place.  
6

7  
8 442. Such discrimination perpetrated by each of the defendants named in this cause of  
9 action proximately caused each THE NAMED PLAINTIFFS/*all* THE STUDENT  
10 PLAINTIFFS to suffer harm and damage, to include, in MAX's case, injury and death.

11  
12 443. The unlawful conduct of the defendants named in this cause of action was a  
13 substantial factor in THE NAMED PLAINTIFF STUDENTS'/*all* THE PLAINTIFF  
14 STUDENTS' suffering economic harm, future economic harm, and other consequential  
15 damages, all in an amount according to proof at trial. The estate of MAX seeks no future  
16 compensatory damages.  
17

18 444. The unlawful conduct of the defendants named in this cause of action was a  
19 substantial factor in causing THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
20 STUDENTS to suffer severe emotional distress, and other consequential damages, all in an  
21 amount according to proof at trial. The estate of MAX seeks no general damages.  
22

23 445. The aforementioned conduct by defendant GHS and DOE defendants was willful,  
24 wanton, and malicious, and defendants acted with conscious disregard of MAX and THE  
25 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS' rights and feelings.  
26 GHS and DOE defendants acted with the knowledge of or with reckless disregard for the  
27 fact that their conduct was certain to cause injury and/or humiliation to MAX and THE  
28

1 NAMED PLAINTIFF STUDENTS/all THE PLAINTIFF STUDENTS, entitling the estate  
2 of MAX and THE PLAINTIFF STUDENTS to punitive damages against GHS. The estate  
3 of MAX and THE NAMED PLAINTIFF STUDENTS and *all* THE PLAINTIFF  
4 STUDENTS do not seek punitive damages against any public entity.  
5

6 446. Based on the actions of the named defendants, as herein alleged, estate of MAX,  
7 THE NAMED PLAINTIFF STUDENTS and THE PLAINTIFF STUDENTS are entitled  
8 to an award of attorneys fees against the respective defendants.  
9

10 **SECOND CAUSE OF ACTION**

11 **FOR VIOLATIONS OF SECTION 504 OF THE REHABILITATION ACT OF**  
12 **1973, AS AMENDED, 29 U.S.C., SECTION 795 [504]**  
13

14 **(ASSERTED BY ESTATE OF MAX against CDE, YOLO ,and DJUSD; D.Z. against**  
15 **FCUSD and FCSELPA; S.D against EDCOE and EDCSELPA, H.K.against PUSD**  
16 **and EDCOSESELPA, M.S. against CDE, EGUSD, EGUSDSELPA, and SCOE;**  
17 **AUSTIN AGAINST RUSD; and ASSERTED BY ESTATE OF MAX and each of THE**  
18 **PLAINTIFF STUDENTS AGAINST GHS; and DOE DEFENDANTS)**  
19

20 447. Estate of MAX, D.Z. S.D., H.K., M.S. and AUSTIN (referred to in this cause of  
21 action as “THE NAMED PLAINTIFF STUDENTS” and *all* THE PLAINTIFF STUDENTS  
22 incorporate herein by reference paragraphs 1-32, 45-46, 48-62, 64-66, 69, 72-126, 129, 134,  
23 139-148, 154, 160, 164, 167, 179-427, 429-446, 451-455, 458, 461, 463, 464, 466, 467, 470-  
24 472, 474, 478, 481 491, 492, 497, 501, 503, 505-508, 513-516, 518, 523, 524, 531-533, 536-  
25 540, 551-553, 555-559, 561, 564-566, 574-576, 578, 579, 581, 582, 595, 597, 599, 603, 608,  
26 616, 617, 618, 623, 635 of this Complaint, as if fully stated hereat.  
27  
28

1 448. The term “THE NAMED PLAINTIFF STUDENTS” refers only to those students  
2 who filed Tort Claims against the public entity who referred them to GHS or otherwise had  
3 involvement in the student’s education at GHS as heretofore alleged. THE NAMED  
4 STUDENTS’ plead this cause of action subject to the limitations of their respective tort  
5 claims filings, as heretofore alleged. No other public entities are named in this cause of  
6 action.  
7

8  
9 449. The term “THE PLAINTIFF STUDENTS” refers to *all* THE PLAINTIFF  
10 STUDENTS, with the limitation that in this cause of action only, *all* THE PLAINTIFF  
11 STUDENTS plead claims solely against GHS and DOE defendants.  
12

13 450. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C., Section 794  
14 (Section 504), provides that “[n]o otherwise qualified individual with a disability in the  
15 United States ... shall, solely by reason of her or his disability, be excluded from the  
16 participation in, be denied the benefits of, or be subjected to discrimination under any  
17 program or activity receiving Federal financial assistance ...” , which includes all of the  
18 above-named defendants, their agents, employees, independent contractors and DOE  
19 defendants.”  
20

21  
22 451. The named defendants’ acts and omissions described herein have resulted in unequal  
23 access to the facilities, programs, services, and activities provided by the named defendants  
24 alleged herein in violation of 29 U.S.C. section 794, et st seq., the Rehabilitation Act of  
25 1973, and the regulations promulgated thereunder, 34 C.F.R. Pt. 104, et se.  
26

27 452. As is described above, these defendants named in this cause of action, by and through  
28 their employees, agents, independent contractors and DOE defendants did, in fact,

1 discriminate against each and every one of THE NAMED PLAINTIFF STUDENTS/*all*  
2 THE PLAINTIFF STUDENTS solely because of THE NAMED PLAINTIFF  
3 STUDENTS’/*all* THE NAMED PLAINTIFF STUDENTS’ known disabilities.  
4

5 453. Defendants named in this cause of action have demonstrated a deliberate indifference  
6 that harm to THE NAMED PLAINTIFFS’/*all* THE PLAINTIFF STUDENTS’ federally  
7 protected rights under the Rehabilitation Act was substantially likely, and failed to act upon  
8 that likelihood.  
9

10 454. Solely by reason of their disabilities, THE NAMED PLAINTIFF STUDENTS/*all*  
11 THE PLAINTIFF STUDENTS have been excluded from participation in, denied the benefit  
12 of, and subject to discrimination in their attempts to receive full and equal access to the  
13 facilities, programs, services, and activities offered by the defendants names in this cause  
14 of action.  
15

16 455. Such discrimination perpetrated by each of the defendants named in this cause of  
17 action proximately caused MAX injuries and death, and THE NAMED PLAINTIFFS/*all*  
18 THE PLAINTIFF STUDENTS to suffer harm and damage.  
19

20 456. The unlawful conduct of the defendants named in this cause of action was a  
21 substantial factor in THE NAMED PLAINTIFF STUDENTS’/*all* THE PLAINTIFF  
22 STUDENTS’ suffering economic harm, future economic harm, and other consequential  
23 damages, all in an amount according to proof at trial. The estate of MAX seeks no future  
24 compensatory damages.  
25

26 457. The unlawful conduct of the defendants named in this cause of action was a  
27 substantial factor in causing THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
28

1 STUDENTS to suffer severe emotional distress, and other consequential damages, all in an  
2 amount according to proof at trial. The estate of MAX seeks no general damages.

3  
4 458. The aforementioned conduct by defendant GHS was willful, wanton, and malicious,  
5 and defendants acted with conscious disregard of THE NAMED PLAINTIFF  
6 STUDENTS/all THE PLAINTIFF STUDENTS' rights and feelings. Defendants also acted  
7 with the knowledge of or with reckless disregard for the fact that their conduct was certain  
8 to cause injury and/or humiliation to MAX and THE NAMED PLAINTIFF STUDENTS/all  
9 THE PLAINTIFF STUDENTS, entitling the estate of MAX and THE NAMED PLAINTIFF  
10 STUDENTS/all THE PLAINTIFF STUDENTS to punitive damages against GHS. The  
11 estate of MAX and THE NAMED PLAINTIFF STUDENTS/all PLAINTIFF STUDENTS  
12 do not seek punitive damages against any public entity.

13  
14  
15 459. Based on the actions of the named defendants, as herein alleged, estate of MAX, THE  
16 NAMED PLAINTIFF STUDENTS, and all THE PLAINTIFF STUDENTS are entitled to  
17 attorneys fees against the respective defendants named in this cause of action..  
18

19 **THIRD CAUSE OF ACTION**

20 **Violation of 42 U.S.C. Section 1983 -**

21 **Fourth Amendment to the United States Constitution**

22  
23 **(ASSERTED BY ESTATE OF MAX AND THE PLAINTIFF STUDENTS AGAINST**  
24 **THE EMPLOYEES OF THE ARMS OF THE EDUCATIONAL SYSTEM, in their**  
25 **individual capacities; GHS AND THEIR EMPLOYEES; and DOE DEFENDANTS)**  
26

27 460. Estate of Max, and THE PLAINTIFF STUDENTS incorporate, by reference herein,  
28 the allegations in paragraphs 1-32, 45-, 48-69, 72-126, 131, 136, 141, 145, 149, 155, 159,

1 163, 168, 179-427, 429-446, 451-455, 458, 461, 463, 464, 466, 467, 470-472, 474, 478, 481  
2 491, 492, 497, 501, 503, 505-508, 513-516, 518, 523, 524, 531-533, 536-540, 551-553, 555-  
3 559, 561, 564-566, 574-576, 578, 579, 581, 582, 595, 597, 599, 603, 608, 616, 617, 618,  
4 623, 635 as though fully set forth herein.  
5

6 461. The EMPLOYEES OF THE ARMS OF THE EDUCATIONAL SYSTEM, GHS and  
7 its employees, and DOE defendants' actions involving restraints described herein  
8 constituted a seizure that was objectively unreasonable under the circumstances and  
9 objectively unreasonable in light of the educational objectives that said defendants were  
10 trying to achieve, in violation of the Fourth Amendment to the United States Constitution.  
11

12 462. THE ARMS OF THE EDUCATION SYSTEM, are state actors for purposes of  
13 section 1983, and as such, defendants EMPLOYEES OF THE ARMS OF THE  
14 EDUCATION SYSTEM, and GHS and its employees in performing services traditionally  
15 performed by the state, acted under the color of state law.  
16

17 463. Defendants EMPLOYEES OF THE ARMS OF THE EDUCATION SYSTEM are  
18 liable in their individual capacity because the actions described herein acting for their own  
19 utility in a self-serving fashion rather than addressing the needs of disabled children  
20 constituted culpable action or inaction in the training, supervision, and control of  
21 subordinates, acquiescence in the constitutional deprivation after a complaint was made, and  
22 showed a reckless, callous and deliberate indifference to the rights of MAX and THE  
23 PLAINTIFF STUDENTS.  
24

25 464. Such discrimination perpetrated by each of the defendants named in this cause of  
26 action proximately caused MAX injuries and death, and THE PLAINTIFF STUDENTS to  
27  
28

1 suffer harm and damage.

2 465. The unlawful conduct of the defendants named in this cause of action was a  
3 substantial factor in THE PLAINTIFF STUDENTS' suffering economic harm, future  
4 economic harm, and other consequential damages, all in an amount according to proof at  
5 trial. The estate of MAX seeks no future compensatory damages.  
6

7 466. The unlawful conduct of the defendants named in this cause of action was a  
8 substantial factor in causing THE PLAINTIFF STUDENTS to suffer severe emotional  
9 distress, and other consequential damages, all in an amount according to proof at trial. The  
10 estate of MAX seeks no general damages.  
11

12 467. The aforementioned conduct by the defendants named in this cause of action was  
13 willful, wanton, and malicious, and defendants acted with conscious disregard of MAX and  
14 THE plaintiff STUDENTS' rights and feelings. Defendants also acted with the knowledge  
15 of or with reckless disregard for the fact that their conduct was certain to cause injury and/or  
16 humiliation to MAX and THE PLAINTIFF STUDENTS, entitling the estate of MAX and  
17 THE PLAINTIFF STUDENTS to punitive damages against each defendant named in this  
18 cause of action.  
19

20 468. Based on the actions of the named defendants, as herein alleged, estate of MAX and  
21 THE PLAINTIFF STUDENTS are entitled to attorneys fees against the defendants named  
22 in this cause of action.  
23

24 **FOURTH CAUSE OF ACTION**

25 **Violation of 42 U.S.C. Section 1983- Due Process Clause of the Fourteenth**

26 **Amendment to the United States Constitution**  
27  
28

1           **(ASSERTED BY THE ESTATE OF MAX AND THE STUDENT**  
2           **PLAINTIFFS, AGAINST THE EMPLOYEES OF THE ARMS OF THE**  
3           **EDUCATION SYSTEM in their individual capacities; GHS AND THEIR**  
4           **EMPLOYEES, and DOE DEFENDANTS)**

6           469. Estate of MAX and THE PLAINTIFF STUDENTS incorporate, by reference herein,  
7           the allegations in paragraphs 1-32, 45-, 48-69, 72-126, 131, 136, 141, 145, 149, 155, 159,  
8           163, 168, 179-427, 429-446, 451-455, 458, 461, 463, 464, 466, 467, 470-472, 474, 478, 481  
9           491, 492, 497, 501, 503, 505-508, 513-516, 518, 523, 524, 531-533, 536-540, 551-553, 555-  
10          559, 561, 564-566, 574-576, 578, 579, 581, 582, 595, 597, 599, 603, 608, 616, 617, 618,  
11          623, 635 as though fully set forth herein.

14          470. Defendants EMPLOYEES OF THE ARMS OF THE EDUCATION SYSTEM in  
15          their individual capacities, GHS and its employees, and DOE defendants, actions described  
16          herein constituted egregious conduct in the form of excessive or brutal use of physical force  
17          in violation of MAX's and THE PLAINTIFF STUDENTS' Substantive Due Process rights  
18          under the Due Process Clause of the Fourteenth Amendment to the United States  
19          Constitution.

21          471. Defendants EMPLOYEES OF THE ARMS OF THE EDUCATION SYSTEM in  
22          their individual capacities, GHS and its employees and DOE defendants, actions described  
23          herein acting for their own utility in a self-serving fashion rather than addressing the needs  
24          of disabled children constituted force that was excessive, unjustified, and malicious, in  
25          violation of MAX and THE PLAINTIFF STUDENTS' Substantive Due Process rights  
26          under the Due Process Clause of the Fourteenth Amendment to the United States

1 Constitution.

2 472. THE ARMS OF THE EDUCATION SYSTEM, as state actors for purposes of  
3 section 1983, and, as such, defendant EMPLOYEES OF THE ARMS OF THE  
4 EDUCATION SYSTEM, acted under the color of state law. GHS, in doing the things  
5 herein alleged, was performing a function traditionally reserved to the state and, as such, its  
6 employees were acting under color of law.  
7

8  
9 473. Defendants EMPLOYEES OF THE ARMS OF THE EDUCATION SYSTEM are  
10 liable in their individual capacity because the actions described herein acting for their own  
11 utility in a self-serving fashion rather than addressing the needs of disabled children  
12 constituted culpable action or inaction in the training, supervision, and control of  
13 subordinates, acquiescence in the constitutional deprivation after a complaint was made, and  
14 showed a reckless, callous, and deliberate indifference to the rights of MAX and THE  
15 PLAINTIFF STUDENTS.  
16

17  
18 474. THE EMPLOYEES OF THE ARMS OF THE EDUCATION SYSTEM are liable  
19 as teachers, because the actions described herein constituted culpable action or inaction in  
20 the training, supervision, and control of subordinates, and were deliberately indifferent to  
21 the rights of MAX and THE PLAINTIFF STUDENTS in their acquiescence in the  
22 constitutional deprivation after complaints were made, and showed a reckless or callous  
23 indifference to the rights of MAX and THE PLAINTIFF STUDENTS.  
24

25 475. Such deprivations of due process perpetrated by each of the defendants named in this  
26 cause of action proximately caused MAX injuries and death, and THE PLAINTIFF  
27 STUDENTS to suffer harm and damage.  
28

1 476. The unlawful conduct of the defendants named in this cause of action was a  
2 substantial factor in THE PLAINTIFF STUDENTS' suffering economic harm, future  
3 economic harm, and other consequential damages, all in an amount according to proof at  
4 trial. The estate of MAX seeks no future compensatory damages.

5  
6 477. The unlawful conduct of the defendants named in this cause of action was a  
7 substantial factor in causing THE PLAINTIFF STUDENTS to suffer severe emotional  
8 distress, and other consequential damages, all in an amount according to proof at trial. The  
9 estate of MAX seeks no general damages.

10  
11 478. The aforementioned conduct by the defendants named in this cause of action was  
12 willful, wanton, and malicious, and defendants acted with conscious disregard of MAX and  
13 THE plaintiff STUDENTS' rights and feelings. Defendants also acted with the knowledge  
14 of or with reckless disregard for the fact that their conduct was certain to cause injury and/or  
15 humiliation to MAX and THE PLAINTIFF STUDENTS, entitling the estate of MAX and  
16 THE PLAINTIFF STUDENTS to punitive damages against each defendant named in this  
17 cause of action.

18  
19  
20 479. Based on the actions of the named defendants, as herein alleged, estate of MAX and  
21 THE PLAINTIFF STUDENTS are entitled to attorneys fees against the defendants named  
22 in this cause of action.

23  
24 **FIFTH CAUSE OF ACTION**

25 **for Violation of 42 U.S.C. Section 1983 - Violation of the Equal Protection**

26 **Clause of the Fourteenth Amendment to the United States Constitution –**

27 **(ASSERTED BY ESTATE OF MAX AND STUDENT PLAINTIFFS AGAINST**  
28

1 **EMPLOYEES OF THE ARMS OF THE EDUCATION SYSTEM, in their individual**  
2 **capacities; GHS AND ITS EMPLOYEES, and DOE DEFENDANTS.**

3  
4 480. Plaintiffs ESTATE OF MAX and STUDENT PLAINTIFFS incorporate, by  
5 reference herein, the allegations in paragraphs 1-32, 45-, 48-69, 72-126, 131, 136, 141, 145,  
6 149, 155, 159, 163, 168, 179-427, 429-446, 451-455, 458, 461, 463, 464, 466, 467, 470-472,  
7 474, 478, 481 491, 492, 497, 501, 503, 505-508, 513-516, 518, 523, 524, 531-533, 536-540,  
8 551-553, 555-559, 561, 564-566, 574-576, 578, 579, 581, 582, 595, 597, 599, 603, 608, 616,  
9 617, 618, 623, 635, as though fully set forth herein.

10  
11 481. Defendant EMPLOYEES OF THE ARMS OF THE EDUCATIONAL SYSTEM,  
12 GHS and its employees actions, and the actions of DOE defendants described herein acting  
13 for their own utility in a self-serving fashion rather than addressing the needs of disabled  
14 children have violated the Equal Protection Clause of the Fourteenth Amendment to the  
15 United States Constitution, in that MAX and THE PLAINTIFF STUDENTS, who are  
16 students with disabilities, are either not provided programs, services, and activities that are  
17 provided to non-disabled students, or are provided programs, services, activities disciplinary  
18 procedures that are not equal to, and are inferior to, the services provided to students who  
19 are not physically disabled.

20  
21  
22  
23 482. Defendants EMPLOYEES OF THE ARMS OF THE EDUCATION SYSTEM are  
24 liable in their individual capacity because the actions described herein acting for their own  
25 utility in a self-serving fashion rather than addressing the needs of disabled children  
26 constituted culpable action or inaction in the training, supervision, and control of  
27 subordinates, acquiescence in the constitutional deprivation after a complaint was made, and  
28

1 showed a reckless or callous indifference to the rights of MAX and THE PLAINTIFF  
2 STUDENTS.

3  
4 483. ARMS OF THE EDUCATION SYSTEM, as state actors for purposes of section  
5 1983, and, as such, defendant EMPLOYEES OF THE ARMS OF THE EDUCATION  
6 SYSTEM. In doing the things herein alleged, GHS was performing a function traditionally  
7 reserved to the state, and, as such, its employees acted under the color of state law.  
8

9 484. Defendant EMPLOYEES OF THE ARMS OF THE EDUCATION SYSTEM, GHS  
10 and its employees are liable as supervisors, teachers, administrators because the actions  
11 described herein constituted culpable action or inaction in the training, supervision, and  
12 control of subordinates, and were deliberately indifferent to the rights of MAX and THE  
13 STUDENT PLAINTIFFS, in their acquiescence in the constitutional deprivation after  
14 complaints were made, and showed a reckless, callous, deliberate indifference to the rights  
15 of MAX and THE PLAINTIFF STUDENTS.  
16

17  
18 485. Such deprivations of due process perpetrated by each of the defendants named in this  
19 cause of action proximately caused MAX injuries and death, and THE PLAINTIFF  
20 STUDENTS to suffer harm and damage.  
21

22 486. The unlawful conduct of the defendants named in this cause of action was a  
23 substantial factor in THE PLAINTIFF STUDENTS' suffering economic harm, future  
24 economic harm, and other consequential damages, all in an amount according to proof at  
25 trial. The estate of MAX seeks no future compensatory damages.  
26

27 487. The unlawful conduct of the defendants named in this cause of action was a  
28 substantial factor in causing THE PLAINTIFF STUDENTS to suffer severe emotional

1 distress, and other consequential damages, all in an amount according to proof at trial. The  
2 estate of MAX seeks no general damages.

3  
4 488. The aforementioned conduct by the defendants named in this cause of action was  
5 willful, wanton, and malicious, and defendants acted with conscious disregard of MAX and  
6 THE plaintiff STUDENTS' rights and feelings. Defendants also acted with the knowledge  
7 of or with reckless disregard for the fact that their conduct was certain to cause injury and/or  
8 humiliation to MAX and THE PLAINTIFF STUDENTS, entitling the estate of MAX and  
9 THE PLAINTIFF STUDENTS to punitive damages against each defendant named in this  
10 cause of action.

11  
12  
13 489. Based on the actions of the named defendants, as herein alleged, estate of MAX and  
14 THE PLAINTIFF STUDENTS are entitled to attorneys fees against the defendants named  
15 in this cause of action.

16  
17 **SIXTH CAUSE OF ACTION**

18 **FOR INTERFERENCE WITH FAMILIAL RELATIONSHIP,**

19 **VIOLATION FIRST AND FOURTEENTH AMENDMENTS**

20 **IN VIOLATION OF 42 USC 1983**

21 **(ASSERTED PLAINTIFFS, LANGLEY, AND BENSON, AGAINST**  
22 **EMPLOYEES OF THE ARMS OF THE EDUCATIONAL SYSTEM in their**  
23 **individual capacity; GHS AND ITS EMPLOYEES; AND DOE**  
24 **DEFENDANTS)**

25  
26  
27 490. Plaintiffs, LANGLEY and BENSON incorporate by reference the preceding  
28 paragraphs 1-19, 34-35, 45,46, 48-49, 58-60, 72-126, 169, 179-325, 429-446, 451-

1 455, 458, 461, 463, 464, 466, 467, 470-472, 474, 478, 481 491, 492, 497, 501, 503,  
2 505-508, 513-516, 518, 523, 524, 531-533, 536-540, 551-553, 555-559, 561, 564-  
3 566, 574-576, 578, 579, 581, 582, 595, 597, 599, 603, 608, 616, 617, 618, 623, 635  
4 regarding the parties and their duties as well as all other causes of action.  
5

6 491. Defendants, EMPLOYEES OF THE ARMS OF THE EDUCATIONAL  
7 SYSTEM, GHSAND THEIR EMPLOYEES and DOE defendants, acting under  
8 color of state law, and without due process of law, deprived plaintiffs, LANGLEY  
9 and BENSON of their First Amendment right to a familial relationship by restraining  
10 MAX by use of unreasonable, unjustified and deadly force and violence, causing  
11 injuries which resulted in MAX's death, all without provocation, and did attempt to  
12 conceal their extraordinary use of force and hide the true cause of MAX's death to  
13 deprive plaintiffs, LANGLEY and BENSON, of their right to seek redress in  
14 violation of their rights, privileges, and immunities secured by the Fourteenth  
15 Amendment to the United States Constitution by misrepresenting the facts of MAX's  
16 death, describing him to the Sheriff's investigators as being larger, heavier, and  
17 misbehaving in such a way as to exaggerate his conduct, in stating that their conduct  
18 was not known to be the cause of MAX's death, and in encouraging GHS staff to  
19 "stick together" on the investigation by authorities into the death of MAX.  
20

21 492. Defendants EMPLOYEES OF THE ARMS OF THE EDUCATION  
22 SYSTEM are liable in their individual capacity because the actions described herein  
23 acting for their own utility in a self-serving fashion rather than addressing the needs  
24 of MAX, as a disabled child, constituted culpable action or inaction in the training,  
25  
26  
27  
28

1 supervision, and control of subordinates, acquiescence in the constitutional  
2 deprivation after a complaint was made, and showed a reckless or callous  
3 indifference to the rights of the interest of MAX's parents in maintaining their  
4 familial relationship.  
5

6 493. ARMS OF THE EDUCATION SYSTEM, as state actors for purposes of  
7 section 1983, and, as such, defendant EMPLOYEES OF THE ARMS OF THE  
8 EDUCATION SYSTEM. In doing the things herein alleged, GHS was performing  
9 a function traditionally reserved to the state, and, as such, its employees acted under  
10 the color of state law.  
11

12 494. Defendant EMPLOYEES OF THE ARMS OF THE EDUCATION SYSTEM,  
13 GHS and its employees are liable as supervisors, teachers, administrators because the  
14 actions described herein constituted culpable action or inaction in the training,  
15 supervision, and control of subordinates, and were deliberately indifferent to the  
16 rights of MAX's parents in maintaining their familial relationship with MAX, and  
17 showed a reckless or callous indifference to the rights of MAX's parents.  
18

19 495. The unlawful conduct of defendants EMPLOYEES OF THE  
20 EDUCATIONAL SYSTEM, GHS, AND THEIR EMPLOYEES and DOE  
21 defendants, was a substantial factor in causing plaintiffs, LANGLEY and BENSON,  
22 to suffer the loss of care, comfort and society of MAX, and severe emotional distress  
23 upon seeing their son brain dead and die of multiple organ failure in the aftermath  
24 of his injuries, all in an amount within the jurisdiction of the court according to proof  
25 at trial.  
26  
27  
28

1           496. At all relevant times, defendants EMPLOYEES OF THE ARMS OF THE  
2           EDUCATIONAL SYSTEM, GHS, AND THEIR EMPLOYEES and DOE  
3           defendants, acted with conscious disregard of the plaintiffs LANGLEY's,  
4           BENSON's, and minor decedent MAX's, rights and feelings. Defendants,  
5           EMPLOYEES OF THE ARMS OF THE EDUCATIONAL SYSTEM, GHS and its  
6           employees, and DOE defendants also acted with the knowledge of or with reckless  
7           disregard for the fact that their conduct was certain to cause injuries and/or death to  
8           MAX and severe emotional distress to plaintiffs LANGLEY and BENSON.  
9

10           497. Plaintiffs, LANGLEY and BENSON, are further informed and believe that  
11           defendant EMPLOYEES OF THE ARMS OF THE EDUCATIONAL SYSTEM,  
12           GHS, and its employees, and DOE defendants intended to cause fear, physical injury  
13           and/or pain and suffering to MAX and emotional suffering to his parents. The  
14           aforementioned conduct by the defendants named in this cause of action was willful,  
15           wanton, and malicious, and defendants acted with conscious disregard of LANGLEY  
16           and BENSON's rights and feelings. Defendants also acted with the knowledge of  
17           or with reckless disregard for the fact that their conduct was certain to cause injury  
18           and/or humiliation to MAX and his parents, entitling LANGLEY and BENSON to  
19           punitive damages against each defendant named in this cause of action. LANGLEY  
20           and BENSON do not seek punitive damages against any public entity.  
21

22           498. In addition to and/or in lieu of Plaintiffs' elections, plaintiffs, LANGLEY and  
23           BENSON, are entitled to receive and hereby seek statutory damages.  
24

25           499. Based on the actions of the named defendants, as herein alleged, plaintiffs  
26  
27  
28

1           LANGLEY and BENSON, are entitled to attorneys fees against the defendants  
2           named in this cause of action.

3  
4           **SEVENTH CAUSE OF ACTION**

5           **for Violation of California Education Code §§ 200, 201, 220, and 260 et seq.**  
6           **(ASSERTED BY ESTATE OF MAX against THURMOND in his official**  
7           **capacity, named EMPLOYEES OF YOLO, DJUSD, FCUSD, FCSELPA,**  
8           **EDCOE, EDCSELPA, PUSD, EDCOSESELPA, EGUSD, EGUSDSELPA,**  
9           **SCOE andRUSD, in their official capacities; and ASSERTED BY ESTATE OF**  
10           **MAX and each of THE PLAINTIFF STUDENTS AGAINST GHS and its**  
11           **employees; and DOE DEFENDANTS)**  
12

13  
14           500. Plaintiffs estate of MAX, the NAMED PLAINTIFF STUDENTS, and THE  
15           PLAINTIFF STUDENT, incorporate herein by reference paragraphs 1-32, 45-46, 59-  
16           69, 72-126, 129, 134, 139-148, 153, 157, 179-427, 429-446, 451-455, 458, 461, 463,  
17           464, 466, 467, 470-472, 474, 478, 481 491, 492, 497, 501, 503, 505-508, 513-516,  
18           518, 523, 524, 531-533, 536-540, 551-553, 555-559, 561, 564-566, 574-576, 578,  
19           579, 581, 582, 595, 597, 599, 603, 608, 616, 617, 618, 623, 635 of this Complaint  
20           as if set forth in full hereat.  
21

22  
23           501. MAX, the NAMED PLAINTIFF STUDENTS and THE PLAINTIFF  
24           STUDENTS are individuals with disabilities within the meaning of Section 220 of  
25           the California Education Code.

26  
27           502. THE ARMS OF THE EDUCATION SYSTEM herein receive financial  
28           assistance from the State of California sufficient to invoke the coverage of sections

1 220 and 260, et seq., of the California Education Code.

2 503. By the actions or inactions of THE named EMPLOYEES OF THE ARMS OF  
3 THE EDUCATION SYSTEM in failing to enact an adequate formal or informal  
4 policy to ensure that their respective employers, as arms of the educational system,  
5 are providing a learning environment free from discrimination on the basis of  
6 disability as provided in California Education Code section 220, defendants the  
7 named EMPLOYEES OF THE ARMS OF THE EDUCATION SYSTEM denied  
8 MAX and THE NAMED PLAINTIFF STUDENTS' rights under Sections 200, 201,  
9 220, and 260, et seq., of the California Education Code and the regulations  
10 promulgated thereunder.  
11  
12

13  
14 504. At all times herein mentioned, THE ARMS OF THE EDUCATIONAL  
15 SYSTEM and DOE defendants, received or benefitted from, and defendants, GHS  
16 and its employees and DOE defendants, indirectly received or benefitted from, state  
17 financial assistance for providing education to special needs/disabled students in  
18 California.  
19

20 505. At all times herein mentioned, defendants, the names EMPLOYEES OF THE  
21 ARMS OF THE EDUCATIONAL SYSTEM, GHS AND ITS EMPLOYEES and  
22 DOE defendants, were prohibited, by California Education Code Section 220 from  
23 discriminating against students on the basis of their disability in any activity  
24 conducted by those educational institutions.  
25

26  
27 506. At all times herein mentioned, defendants, the named EMPLOYEES OF THE  
28 ARMS OF THE EDUCATIONAL SYSTEM, GHS AND ITS EMPLOYEES and

1 DOE defendants, discriminated against MAX and THE NAMED PLAINTIFFS/*all*  
2 THE PLAINTIFF STUDENTS by failing to provide THE NAMED PLAINTIFF  
3 STUDENTS/*all* THE PLAINTIFF STUDENTS, and MAX, academic instruction and  
4 support; failing to follow individualized education plans; using prone restraints as  
5 substitutes for behavioral intervention plans; and/or using prone restraints in lieu of  
6 planned, systematic behavioral interventions, teaching and/or encouraging corporal  
7 punishment to be used on special needs/disabled students in violation of California  
8 law.

11 507. At all times herein mentioned, defendants the named EMPLOYEES OF THE  
12 ARMS OF THE EDUCATIONAL SYSTEM, GHS AND ITS EMPLOYEES, and  
13 DOE defendants, willfully, knowingly, intentionally, maliciously, and routinely used  
14 and/or encouraged the use of, prone and other types of restraints on disabled  
15 children, including MAX, THE NAMED PLAINTIFF STUDENTS/*all* THE  
16 PLAINTIFF STUDENTS as a form of corporal punishment in violation of California  
17 law.

20 508. At all times herein mentioned, defendants, the named EMPLOYEES OF THE  
21 ARMS OF THE EDUCATIONAL SYSTEM, GHS AND ITS EMPLOYEES, and  
22 DOE defendants willfully, knowingly, intentionally, maliciously, and routinely used  
23 and/or encouraged the use of prone and other types of restraints, known by said  
24 defendants to be dangerous, on disabled children, including minor decedent MAX,  
25 THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS with  
26 reckless disregard of the safety of said students, and with reckless disregard for the  
27  
28

1 emotional injuries inflicted on MAX, THE NAMED PLAINTIFF STUDENTS/*all*  
2 THE PLAINTIFF STUDENTS.

3  
4 509. At all times herein mentioned, defendants, the named EMPLOYEES OF THE  
5 ARMS OF THE EDUCATIONAL SYSTEM, GHS AND ITS EMPLOYEES, GHS  
6 AND ITS EMPLOYEES, and DOE defendants, in doing each of the afore-mentioned  
7 acts, willfully, knowingly, intentionally, maliciously, and routinely used and/or  
8 encouraged the use of prone and other types of restraints, to injure disabled children,  
9 including minor decedent MAX, THE NAMED PLAINTIFF STUDENTS/*all* THE  
10 PLAINTIFF STUDENTS, and to create a reign of terror within the educational  
11 environment, in place and instead of providing educational services for special  
12 needs/disabled children, for which they were hired.

13  
14  
15 510. The conduct of defendants the named EMPLOYEES OF THE ARMS OF  
16 THE EDUCATIONAL SYSTEM, GHS AND ITS EMPLOYEES, and DOE  
17 defendants, in doing the things herein alleged, was a substantial factor in causing  
18 MAX to suffer death and THE NAMED PLAINTIFF STUDENTS/*all* THE  
19 PLAINTIFF STUDENTS to suffer general and special damages according to proof  
20 at the time of trial.

21  
22  
23 511. By virtue of the willful, knowing, intentional, malicious and routine acts of  
24 the named EMPLOYEES OF THE ARMS OF THE EDUCATIONAL SYSTEM,  
25 GHS AND ITS EMPLOYEES, and DOE defendants, which were done with a  
26 reckless disregard for the safety MAX, THE NAMED PLAINTIFF STUDENTS/*all*  
27 THE PLAINTIFF STUDENTS. Accordingly, estate of MAX, THE NAMED  
28

1 PLAINTIFF STUDENTS and *all* THE PLAINTIFF STUDENTS are entitled to  
2 punitive damages against non-public entities according to an award at the time of  
3 trial.  
4

5  
6 **EIGHTH CAUSE OF ACTION**

7 **FOR INTERFERENCE WITH THE EXERCISE OF CIVIL RIGHTS UNDER**  
8 **CALIFORNIA CIVIL CODE SECTIONS 51(b) and 51.7**

9 **(ASSERTED BY ESTATE OF MAX against CDE, YOLO , and DJUSD and**  
10 **their named employees; D.Z. against FCUSD and FCSELPA and their named**  
11 **employees in their official capacities; S.D against EDCOE, EDCSELPA and**  
12 **their named employees in their official capacities; H.K.against PUSD,**  
13 **EDCOSESELPA and their named employees in their official capacities; M.S.**  
14 **against CDE, EGUSD, EGUSDSELPA, SCOE and their named employees in**  
15 **their official capacities; AUSTIN against RUSD and its named employeesin**  
16 **their official capacities; and ASSERTED BY ESTATE OF MAX and each of**  
17 **THE PLAINTIFF STUDENTS AGAINST GHS and its employees; and DOE**  
18 **DEFENDANTS)**  
19  
20  
21  
22

23 512. Estate of MAX, THE NAMED PLAINTIFF STUDENTS/*all* THE  
24 PLAINTIFF STUDENTS incorporate by reference each and every general allegation  
25 regarding the parties and the allegations of the First through Seventh Causes of  
26 Action, inclusive. 1-32, 45-46, 59-69, 72-126, 129, 134, 139-148, 153, 157, 179-427,  
27 429-446, 451-455, 458, 461, 463, 464, 466, 467, 470-472, 474, 478, 481 491, 492,  
28

1 497, 501,503, 505-508, 513-516, 518, 523, 524, 531-533, 536-540, 551-553, 555-  
2 559, 561, 564-566, 574-576, 578, 579, 581, 582, 595, 597, 599, 603, 608, 616, 617,  
3 618, 623, 635.  
4

5 513. Defendants CDE, THE ARMS OF THE EDUCATIONAL SYSTEM,  
6 EMPLOYEES OF THE ARMS OF THE EDUCATIONAL SYSTEM, GHS AND  
7 ITS EMPLOYEES, and DOE defendants, committed, and/or caused to be committed,  
8 multiple violent acts against MAX, THE NAMED PLAINTIFF STUDENTS/*all*  
9 THE PLAINTIFF STUDENTS because of their disability.  
10

11 514. Defendant, CDE aided, incited or conspired with defendants THE ARMS OF  
12 THE EDUCATIONS SYSTEM, in performing acts of violence against MAX, THE  
13 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS because of  
14 their disability.  
15

16 515. A substantial motivating reason for the conduct of defendants, THE ARMS  
17 OF THE EDUCATIONAL SYSTEM AND THEIR, EMPLOYEES, GHS AND ITS  
18 EMPLOYEES, GHS AND ITS EMPLOYEES, and DOE defendants in committing  
19 said acts was their perception of MAX, THE NAMED PLAINTIFF STUDENTS/*all*  
20 THE PLAINTIFF STUDENTS disability.  
21

22 516. As a result of said acts of defendants, CDE, THE ARMS OF THE  
23 EDUCATIONAL SYSTEM AND THEIR EMPLOYEES, GHS AND ITS  
24 EMPLOYEES, and DOE defendants, MAX suffered physical injury and death, and  
25 THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS suffered  
26 physical and emotional injuries.  
27  
28

1           517. The conduct of defendants, CDE, THE ARMS OF THE EDUCATIONAL  
2           SYSTEM AND THEIR EMPLOYEES, GHS AND ITS EMPLOYEES, and DOE  
3           defendants, was a substantial factor in causing MAX's injuries and death, and THE  
4           NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS injuries  
5           physical and emotional injuries as herein pled.  
6

7           518. By the acts alleged herein above, each defendant, CDE, THE ARMS OF THE  
8           EDUCATIONAL SYSTEM AND THEIR, EMPLOYEES, GHS AND ITS  
9           EMPLOYEES, and DOE defendants, subjected MAX, THE NAMED PLAINTIFF  
10          STUDENTS/*all* THE PLAINTIFF STUDENTS to violence, and/or threats of  
11          violence, against their person on account of their disability, and/or acted to aid, abet,  
12          and conspire with the other said defendants to deny MAX, THE NAMED  
13          PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS their right to be free  
14          from any violence or intimidation by threat of violence, committed against MAX,  
15          THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS person,  
16          on the account of their disability free from any violence or intimidation by threat of  
17          violence committed against their disabled children.  
18

19          519. In doing the things herein alleged, defendants, CDE, THE ARMS OF THE  
20          EDUCATIONAL SYSTEM AND THEIR EMPLOYEES,, GHS AND ITS  
21          EMPLOYEES, and DOE defendants, violated the civil rights of MAX, THE  
22          NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS as set forth  
23          in California Civil Code section 51.7.  
24

25          520. Defendants CDE, YOLO, DJUSD, THE ARMS OF THE EDUCATIONAL  
26  
27  
28

1 SYSTEM ASND THEIR EMPLOYEES, GHS AND ITS EMPLOYEES, and DOE  
2 defendants unlawful conduct as alleged herein, was a substantial factor in causing  
3 MAX to suffer medical and funeral expenses from his injuries and resulting death  
4 in an amount exceeding the jurisdictional minimum of the court, according to proof.  
5

6 521. Defendants CDE, THE ARMS OF THE EDUCATIONAL SYSTEM AND  
7 THEIR, EMPLOYEES, GHS AND ITS EMPLOYEES, and DOE defendants,  
8 unlawful conduct as alleged herein, were a substantial factor in THE NAMED  
9 PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS suffering physical  
10 injury, severe emotional distress, humiliation, embarrassment, mental and emotional  
11 distress, and anxiety, all in an amount exceeding the jurisdictional minimum of the  
12 court, according to proof.  
13  
14

15 522. The unlawful conduct of defendants CDE, THE ARMS OF THE  
16 EDUCATIONAL SYSTEM AND THEIR EMPLOYEES, GHS AND ITS  
17 EMPLOYEES, and DOE defendants, as alleged herein, was a substantial factor in  
18 THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS  
19 suffering economic harm future economic harm and other consequential damages,  
20 all in an amount according to proof at trial.  
21  
22

23 523. The aforementioned conduct by defendants CDE, THE ARMS OF THE  
24 EDUCATIONAL SYSTEM AND THEIR EMPLOYEES, GHS AND ITS  
25 EMPLOYEES, and DOE defendants was willful, wanton, and malicious, and  
26 defendants acted with conscious disregard of the Plaintiff's rights and feelings.  
27 Defendants also acted with the knowledge of or with reckless disregard for the fact  
28

1 that their conduct was certain to cause injury and/or humiliation to MAX, THE  
2 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS.

3  
4 524. Plaintiffs are further informed and believe that defendants THE ARMS OF  
5 THE EDUCATIONAL SYSTEM, THE EMPLOYEES OF THE ARMS OF THE  
6 EDUCATIONAL SYSTEM, GHS AND ITS EMPLOYEES, and DOE defendants,  
7 intended to cause fear, physical injury and/or pain and suffering to MAX, THE  
8 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS. By virtue  
9 of the foregoing, estate of MAX, THE NAMED PLAINTIFF STUDENTS/*all* THE  
10 PLAINTIFF STUDENTS, are entitled to recover punitive and exemplary damages  
11 from the non-public entity defendants according to proof at trial.  
12

13  
14 525. In addition to and/or in lieu of plaintiff's election, estate of MAX, THE  
15 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS are entitled  
16 to receive statutory damages pursuant to Cal Civ Code 52(b), including actual and  
17 exemplary damages.  
18

19 526. Pursuant to California Civil Code section 52(b)(3), estate of MAX, THE  
20 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS, have  
21 incurred, and will continue to incur, attorneys fees in the prosecution of this action  
22 and therefore are entitled to reasonable attorneys fees and costs as set by the Court.  
23

24 **NINTH CAUSE OF ACTION**

25 **FOR INTERFERENCE WITH EXERCISE OF CIVIL RIGHTS IN**

26 **VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1**  
27  
28

(ASSERTED BY ESTATE OF MAX against CDE, YOLO ,and DJUSD and their named employees; D.Z. against FCUSD and FCSELPA and their named employees in their official capacities; S.D against EDCOE, EDCSELPA and their named employee in their official capacities, H.K.against PUSD, EDCOSESELPA and their named employees in their official capacities, M.S. against CDE, EGUSD, EGUSDSELPA, SCOE and their named employees in their official capacities; AUSTIN against RUSD and its named employees in their official capacities; and ASSERTED BY ESTATE OF MAX and each of THE PLAINTIFF STUDENTS AGAINST GHS and its employees; and DOE defendants)

527. Estate of MAX, THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS incorporate by reference paragraphs 1-32, 45-46, 59-69, 72-126, 129, 134, 139-148, 153, 157, 179-427, 429-446, 451-455, 458, 461, 463, 464,466, 467, 470-472, 474, 478, 481 491, 492, 497, 501,503, 505-508, 513-516, 518, 523, 524, 531-533, 536-540, 551-553, 555-559, 561, 564-566, 574-576, 578, 579, 581, 582, 595, 597, 599, 603, 608, 616, 617, 618, 623, 635 of this complaint as if set forth in full herein.

528. California Civil Code 52.1 provides that it is unlawful to interfere with the exercise or enjoyment of any rights under the Constitution and the laws of this state and the United States by attempted use of threats, intimidation or coercion.

529. 20 USC 1400 et seq guarantees the rights of disabled children in California to fair access to public education in the least restrictive environment.

1           530. California Civil Code section 43 guarantees the right of every person to be  
2 free from bodily restraint or harm and personal insult.

3  
4           531. In doing the things herein alleged, defendants CDE, THE ARMS OF THE  
5 EDUCATIONAL SYSTEM AND ITS EMPLOYEES, GHS AND ITS  
6 EMPLOYEES, and DOE defendants, intentionally interfered with and attempted to  
7 interfere with the civil rights of MAX, THE NAMED PLAINTIFF STUDENTS/*all*  
8 THE PLAINTIFF STUDENTS by threats, intimidation, or coercion.  
9

10          532. Defendants CDE, THE ARMS OF THE EDUCATIONAL SYSTEM AND  
11 ITS EMPLOYEES, GHS AND ITS EMPLOYEE, and DOE defendants, made  
12 threats of violence against MAX, THE NAMED PLAINTIFF STUDENTS/*all* THE  
13 PLAINTIFF STUDENTS, as herein above alleged, causing MAX, THE NAMED  
14 PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS, to reasonably believe  
15 that if they exercised their right to education in the least restrictive environment  
16 which took into account his special needs and disability, and causing, MAX, THE  
17 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS to believe  
18 defendants CDE, THE ARMS OF THE EDUCATIONAL SYSTEM AND THEIR  
19 EMPLOYEES, GHS AND ITS EMPLOYEES, and DOE defendants, would commit  
20 violence against MAX, THE NAMED PLAINTIFF STUDENTS/*all* THE  
21 PLAINTIFF STUDENTS, by placing them in prolonged prone and other restraints  
22 and that defendants, CDE, THE ARMS OF THE EDUCATIONAL SYSTEM AND  
23 ITS EMPLOYEES, GHS AND ITS EMPLOYEES, and DOE defendants, had the  
24 apparent ability to carry out the threats.  
25  
26  
27  
28

1           533. That defendants CDE, THE ARMS OF THE EDUCATIONAL SYSTEM  
2           AND THEIR EMPLOYEES, GHS AND ITS EMPLOYEES, and DOE defendants,  
3           acted violently against MAX, THE NAMED PLAINTIFF STUDENTS/*all* THE  
4           PLAINTIFF STUDENTS, to prevent MAX, THE NAMED PLAINTIFF  
5           STUDENTS/*all* THE PLAINTIFF STUDENTS from exercising their rights and to  
6           retaliate against MAX, THE NAMED PLAINTIFF STUDENTS/*all* THE  
7           PLAINTIFF STUDENTS for having exercised their rights, inclusive of their special  
8           needs and disability.  
9

10  
11           534. That as a result of the conduct of defendant CDE, THE ARMS OF THE  
12           EDUCATIONAL SYSTEM AND THEIR EMPLOYEES, GHS, AND ITS  
13           EMPLOYEES, and DOE defendants, as herein alleged, THE NAMED PLAINTIFF  
14           STUDENTS/*all* THE PLAINTIFF STUDENTS suffered physical and emotional  
15           harm, and MAX suffered injuries and death.  
16

17  
18           535. The conduct of defendants CDE, THE ARMS OF THE EDUCATIONAL  
19           SYSTEM AND THEIR EMPLOYEES, GHS AND ITS EMPLOYEES, and DOE  
20           defendants, as herein alleged, was a substantial factor in causing said harm to MAX,  
21           THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS.  
22

23           536. At all times herein mentioned, the conduct of defendants, CDE, THE ARMS  
24           OF THE EDUCATIONAL SYSTEM THEIR EMPLOYEES, GHS AND ITS  
25           EMPLOYEES, and DOE defendants as herein alleged, further interfered with the  
26           exercise of MAX's, THE NAMED PLAINTIFF STUDENTS'/*all* THE PLAINTIFF  
27           STUDENTS' civil rights to fair access to public education by actual use of, and  
28

1 threatened use of, behavioral restraints which were imposed on MAX and THE  
2 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS, as a means  
3 of coercion, discipline, convenience, or retaliation by staff; that were used to control  
4 behavior that did not pose a clear and present danger of serious physical harm to the  
5 pupil or others that could not be immediately prevented by a response that is less  
6 restrictive; using a physical restraint technique that obstructed MAX's, THE  
7 NAMED PLAINTIFF STUDENTS'/*all* THE PLAINTIFF STUDENTS' respiratory  
8 airway or impaired their ability to breathe; placing MAX, THE NAMED  
9 PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS in a facedown position  
10 with the pupil's hands held or restrained behind the pupil's back; and by using a  
11 behavioral restraint for longer than was necessary to contain the behavior that  
12 allegedly posed a clear and present danger of serious physical harm to the pupil or  
13 others.  
14  
15  
16  
17

18 537. As alleged herein above, defendants intentionally interfered with or attempted  
19 to interfere with MAX', THE NAMED PLAINTIFF STUDENTS'/*all* THE  
20 PLAINTIFF STUDENTS' clearly established rights guaranteed under the laws of the  
21 United States and the State of California, including, but not limited to MAX's, THE  
22 NAMED PLAINTIFF STUDENTS'/*all* THE PLAINTIFF STUDENTS' right of  
23 protection from battery, assault, false imprisonment, intimidation, and coercion.  
24

25 538. Defendants CDE, THE ARMS OF THE EDUCATIONAL SYSTEM AND  
26 THEIR EMPLOYEES, GHS AND ITS EMPLOYEES and DOE defendants,  
27 conspired, aided, abetted, or incited each other to threaten, intimidate, coerce and  
28

1 punish MAX, THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
2 STUDENTS who were exceptional needs/disabled students, by placing them in  
3 prolonged prone restraints from predictable and known behaviors, and without regard  
4 for the physical and emotional needs of such children.  
5

6 539. The unlawful conduct of defendants CDE, THE ARMS OF THE  
7 EDUCATIONAL SYSTEM AND THEIR EMPLOYEES, GHS AND ITS  
8 EMPLOYEES, and DOE defendants, caused MAX, THE NAMED PLAINTIFF  
9 STUDENTS/*all* THE PLAINTIFF STUDENTS to suffered physical injury, severe  
10 emotional distress, humiliation, embarrassment, mental and emotional distress and  
11 anxiety, and economic harm, and severe emotional distress, all in an amount within  
12 the jurisdiction of the court according to proof at trial.  
13  
14

15 540. The unlawful conduct of the defendants CDE, THE ARMS OF THE  
16 EDUCATIONAL SYSTEM AND THEIR EMPLOYEES, GHS AND ITS  
17 EMPLOYEES, and DOE defendants, acted with conscious disregard of MAX', THE  
18 NAMED PLAINTIFF STUDENTS'/*all* THE PLAINTIFF STUDENTS' rights and  
19 feelings. Defendants CDE, THE ARMS OF THE EDUCATIONAL SYSTEM AND  
20 THEIR EMPLOYEES, GHS, AND ITS EMPLOYEES, and DOE defendants, also  
21 acted with the knowledge of or with reckless disregard for the fact that their conduct  
22 was certain to cause injury and/or humiliation to MAX, THE NAMED PLAINTIFF  
23 STUDENTS/*all* THE PLAINTIFF STUDENTS. MAX, THE NAMED PLAINTIFF  
24 STUDENTS/*all* THE PLAINTIFF STUDENTS are further informed and believe that  
25 defendants, THE EMPLOYEES OF THE ARMS OF THE EDUCATIONAL  
26  
27  
28

1 SYSTEM, GHS AND ITS EMPLOYEES and DOE defendants, intended to cause  
2 fear, physical injury and/or pain and suffering to MAX and THE NAMED  
3 STUDENTS/*all* THE PLAINTIFF STUDENTS. By virtue of the foregoing, estate  
4 of MAX and THE PLAINTIFF STUDENTS are entitled to recover punitive and  
5 exemplary damages from the non-public entity defendants according to proof at trial.  
6  
7 541. In addition to and/or in lieu of plaintiffs' elections, estate of MAX, THE  
8 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS are entitled  
9 to receive and hereby seek statutory damages pursuant to California Civil Code  
10 section 52(b), including actual and exemplary damages.  
11

12  
13 542. Pursuant to California Civil Code section 52(b), estate of MAX, THE  
14 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS, have  
15 incurred, and will continue to incur attorneys fees in the prosecution of this action  
16 and therefore request such reasonable attorneys fees and costs as set by the Court.  
17

18 **TENTH CAUSE OF ACTION**

19 **WRONGFUL DEATH OF MINOR MAX BENSON**

20 **(ASSERTED BY PLAINTIFFS, LANGLEY AND BENSON**

21 **AGAINST DEFENDANTS CDE, YOLO, HOLSTEGE in her official capacity,**  
22 **BENO in her official capacity, DJUSD, MCGREW in his official capacity,**  
23 **CHESSMAN in her official capacity, GALAS in her official capacity, GHS,**  
24 **MEYERS, KELLER, CHRISTENSEN, WOHLWEND, NARAN, MORGAN,**  
25 **WATSON, THOMAS, CHAMBERS, THURMOND, in his official capacity, and**  
26 **DOE DEFENDANTS)**  
27  
28

1 543. Plaintiffs, LANGLEY and BENSON incorporate by reference paragraphs 1-  
2 19, 34, 35, 45-46, 48-49, 58-60, 69, 72-126, 170, 179-325, 429-446, 451-455, 458,  
3 461, 463, 464, 466, 467, 470-472, 474, 478, 481 491, 492, 497, 501, 503, 505-508,  
4 513-516, 518, 523, 524, 531-533, 536-540, 551-553, 555-559, 561, 564-566, 574-  
5 576, 578, 579, 581, 582, 595, 597, 599, 603, 608, 616, 617, 618, 623, 635 of this  
6 complaint as if set forth in full herein.  
7

8  
9 544. At all times herein mentioned, defendants, YOLO, HOLSTEGE, BENO,  
10 DJUSD, McGREW, CHESSMAN, GALAS, GHS, MEYERS, KELLER,  
11 CHRISTENSEN, NARAN, and DOE defendants, breached mandatory duties of care,  
12 as herein above alleged.  
13

14 545. At all times herein mentioned, defendants YOLO and DJUSD had a  
15 mandatory duty under California Education Code section 56366 to enter into a  
16 written agreement (master contract) to specify the general administrative agreements  
17 in providing education and related services to special education students in  
18 accordance with the pupil's IEP. This mandatory agreement is required to include  
19 procedures for record keeping and documentation and the maintenance of school  
20 records by the contracting Local Education Agency.  
21

22  
23 546. Plaintiffs are informed and believe that neither YOLO nor DJUSD had a  
24 Master Contract with GHS, MEYERS, KELLER, CHRISTENSEN, NARAN and  
25 DOE defendants at the time MAX was enrolled and/or continued being enrolled in  
26 GHS.  
27

28 547. Defendants YOLO, HOLSTEGE, BENO, DJUSD, McGREW, CHESSMAN,

1 GALAS, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE  
2 defendants failed to inform LANGLEY and BENSON on enrollment or continued  
3 enrollment that there was no Master Contract with either YOLO or DJUSD and  
4 GHS.  
5

6 548. Plaintiffs LANGLEY and BENSON did not learn that there was no Master  
7 Contract between defendants YOLO and DJUSD and GHS until after the death of  
8 Max.  
9

10 549. Had plaintiffs LANGLEY and BENSON been informed that GHS, MEYERS,  
11 KELLER, CHRISTENSEN, NARAN and DOE defendants were not contracted with  
12 YOLO or DJUSD, LANGLEY and BENSON would not have enrolled MAX in  
13 GHS.  
14

15 550. In or around early June 2018 defendants YOLO and DJUSD, by and through  
16 HOLSTEGE, BENO, McGREW, CHESSMAN, GALAS and DOE defendants,  
17 urged, recommended, and advised LANGLEY to enroll and/or continue MAX's  
18 enrollment in GHS as a special needs students.  
19

20 551. At or around the time defendant YOLO and DJUSD, by and through its  
21 employees HOLSTEGE, BENO, McGREW, CHESSMAN, GALAS and DOE  
22 defendants recommended to Max's parents that they enroll or continue enrollment of  
23 MAX at GHS, defendant YOLO informed DJUSD, by and through defendants  
24 McGREW, CHESSMAN, GALAS, and DOE defendants, that defendant GHS had  
25 been removed from the list of approved nonpublic schools to which special-  
26 needs/disabled students should be referred.  
27  
28

1           552. At or around the time YOLO told defendant DJUSD that defendant GHS was  
2 no longer on said approved list, YOLO failed to disclose to DJUSD the reasons why  
3 GHS had been removed as a recommended nonpublic school provider of educational  
4 services for special-needs/disabled children.  
5

6           553. At or around the time YOLO told DJUSD that defendant GHS was no longer  
7 on the approved list, DJUSD, McGREW, CHESSMAN, GALAS, and DOE  
8 defendants failed to ascertain the reasons why GHS had been removed as a  
9 recommended provider of educational services for special-needs disabled children.  
10

11           554. At no time prior to MAX's death did defendants YOLO, HOLSTEGE,  
12 BENO, DJUSD, McGREW, CHESSMAN, GALAS, GHS, MEYERS, KELLER,  
13 CHRISTENSEN, NARAN, WOHLWEND or DOE defendants disclose to  
14 LANGLEY and BENSON that defendant GHS had been removed as a  
15 recommended nonpublic school provider of educational services for special needs  
16 children.  
17

18           555. Had LANGLEY and BENSON been informed that defendant GHS had been  
19 removed from the list of recommended non-public school providers of educational  
20 services for special needs children, they would not have enrolled MAX at defendant  
21 GHS.  
22

23           556. Prior to urging, recommending, and advising LANGLEY to enroll/continue  
24 enrollment of MAX at GHS, defendants YOLO, HOLSTEGE, BENO, DJUSD,  
25 McGREW, CHESSMAN, GALAS, and DOE defendants did not conduct an  
26 investigation into practices at GHS involving the use of restraints on students.  
27  
28

1           557. Had plaintiffs LANGLEY and BENSON known that defendants YOLO,  
2           HOLSTEGE, BENO, DJUSD, McGREW, CHESSMAN, GALAS, and DOE  
3           defendants did not conduct an investigation into the practices at GHS that involved  
4           the use of restraints on students, they would not have enrolled MAX at defendant  
5           GHS.  
6

7           558. At all times herein mentioned, defendants YOLO, HOLSTEGE, BENO,  
8           DJUSD, McGREW, CHESSMAN, GALAS, and DOE defendants knew or should  
9           have known that there were previously sustained findings of unlawful use of prone  
10          restraints on an exceptional needs child at GHS that had resulted in physical injury.  
11

12          559. YOLO, HOLSTEGE, BENO, DJUSD, McGREW, CHESSMAN, GALAS,  
13          and DOE defendants failed to disclose to LANGLEY and BENSON at any time prior  
14          to MAX's death, that there were previously sustained findings of unlawful use of  
15          prior restraints on a special-needs/disabled child at GHS that resulted in physical  
16          injury.  
17

18          560. HAD plaintiffs LANGLEY and BENSON been informed that there were  
19          previously sustained findings of unlawful use of prior restraints on a special-  
20          needs/disabled child at GHS that had resulted in physical injury, they would not have  
21          enrolled or continued MAX's enrollment at GHS.  
22

23          561. At all times herein mentioned, defendants, YOLO, HOLSTEGE, BENO,  
24          DJUSD, McGREW, CHESSMAN, GALAS, GHS, MEYERS, KELLER,  
25          CHRISTENSEN, WOHLWEND, MORGAN, WATSON, THOMAS, CHAMBERS  
26          and DOE defendants, breached their duty of due care to MAX, as hereinabove  
27  
28

1           alleged, and by, but not limited to:

2           ● Failure to develop and maintain effective procedures governing emergency  
3 interventions;  
4

5  
6           ● Failure to obtain proper training for use of behavioral emergency  
7 interventions  
8

9  
10          ● Failure to provide oversight on the use of prone restraints  
11

12  
13          ● Failure to develop protocols for use of restraints  
14

15          ● Failure to prohibit prone restraints on physically disabled children  
16

17  
18          ● Failure to prohibit prolonged restraints (anything over 15 minutes)  
19

20          ● Failure to require that the child be released from a restraint at the earliest  
21 possible moment.  
22

23  
24          ● Failure to prohibit the use of any restraint when contraindicated by the  
25 child's medical or psychological condition, including obesity, neurological and  
26 muscular-skeletal compromise, and use of psychiatric medications, any and all of  
27 which are known to increase risk of death.  
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● Failure to prohibit restraints that constrict the child’s ability to breathe.

● Failure to prohibit restraints when the child’s airway is obstructed or the child is not breathing.

● Failure to prohibit the use of multiple staff members in a restraint, which exponentially increases the risk of death.

● Failure to provide for the comfort of the child, including, but not limited to: offering a restrained child fluids, bathroom use, exercise, range of motion and periodic release of limbs.

● Failure to require monitoring by staff of the vital signs of the child regularly throughout the restraint.

● Failure to require staff to identify signs or complaints of distress that must be immediately addressed, including but not limited to: urination, vomiting, and agitation.

● Failure to require continuous, close supervision of a restraint by the Handle with Care trainer or another staff member who is not involved in the restraint.

1 ● Failure to require immediate and accurate reporting on each restraint

2  
3  
4 ● Failure to conduct a prompt and thorough review of any restraint imposed  
5 as a means to ensure compliance with laws and policies; to ensure continuing safety  
6 of students; and to prevent other incidents of restraint.

7  
8  
9 ● Failure to provide for:

10 -primary preventative measures rather than restraint;

11 -interventions that are less intrusive than restraints;

12 -effective ways to de-escalate situations to avoid restraints; and

13 -crisis intervention techniques that utilize alternatives to restraint.  
14

15  
16 ● Failure to provide staff with resources and tools to properly respond to the  
17 needs of those whom they serve and to be able to identify and address the triggers  
18 that may cause emotionally disturbed children to react in ineffectual ways to the  
19 environment.  
20

21  
22 ● Failure to increase resources to ensure the provision of adequate  
23 alternative treatment options, including the use of a one to one paraeducator to  
24 address MAX's specific needs  
25  
26

27  
28 ● Failure to teach students adaptive behaviors, especially involving autistic

1 children, such as MAX, who do not have effective ways of communicating and  
2 interacting with others.

- 3
- 4
- 5 ● Allowing use of physical restraints on children which:
- 6 - create an aversive environment counterproductive to facilitating
- 7 learning;
- 8
- 9 - cause significant physical harm, serious, foreseeable long term
- 10 psychological impairment.

- 11
- 12 ● Failure to provide oversight on the use of restraints to determine
- 13
- 14 - whether the intervention was necessary
- 15
- 16 - whether each restraint was implemented in a manner consistent with
- 17 staff training, as well as school and District (SELPA) policy.

- 18
- 19 ● Allowing the use of deadly force on children without meaningful
- 20 oversight and systemic reform.

- 21
- 22
- 23 ● Allowed use of deadly force on children without requiring staff to know
- 24 basic safety techniques, such as CPR
- 25

- 26
- 27 ● Allowed use of deadly force on children without requiring staff to call 911
- 28 in the event of a medical emergency

1           562. Breach of said mandatory duties by defendants, YOLO, HOLSTEGE, BENO,  
2           DJUSD, McGREW, CHESSMAN, GALAS, GHS, MEYERS, KELLER,  
3           CHRISTENSEN, NARAN, and DOE defendants, school staff at defendant GHS,  
4           including defendants, WOHLWEND, MORGAN, WATSON, THOMAS, and  
5           CHAMBERS, in imposing a prolonged prone restraint on MAX, and failure to  
6           render competent medical aid to MAX, was a substantial factor in causing the death  
7           of MAX.  
8

9  
10          563. At all times herein mentioned, defendants, YOLO, HOLSTEGE, BENO,  
11          DJUSD, McGREW, CHESSMAN, GALAS, GHS, MEYERS, KELLER,  
12          CHRISTENSEN, NARAN, WOHLWEND, MORGAN, WATSON, THOMAS,  
13          CHAMBERS and DOE defendants, in doing the acts afore-alleged, breached the  
14          general duties of due care of educational professionals toward MAX, who was a  
15          disabled student under their guidance and care.  
16

17  
18          564. At all times herein mentioned, defendants, YOLO, HOLSTEGE, BENO,  
19          DJUSD, McGREW, CHESSMAN, GALAS, GHS, MEYERS, KELLER,  
20          CHRISTENSEN, WOHLWEND, MORGAN, WATSON, THOMAS, CHAMBERS,  
21          and DOE defendants, willfully, knowingly, intentionally, maliciously, and routinely  
22          used and/or allowed to be used, prone restraints on disabled children as a form of  
23          corporal punishment in violation of California law.  
24

25          565. At all times herein mentioned, defendants, YOLO, HOLSTEGE, BENO,  
26          DJUSD, McGREW, CHESSMAN, GALAS, GHS, MEYERS, KELLER,  
27          CHRISTENSEN, WOHLWEND, MORGAN, WATSON, THOMAS, CHAMBERS,  
28

1 and DOE defendants, willfully, knowingly, intentionally, maliciously, and routinely  
2 used prone restraints, known by said defendants to be dangerous, on disabled  
3 children with reckless in disregard of the safety of said students.  
4

5 566. At all times herein mentioned, defendants, YOLO, HOLSTEGE, BENO,  
6 DJUSD, McGREW, CHESSMAN, GALAS, GHS, MEYERS, KELLER,  
7 CHRISTENSEN, WOHLWEND, MORGAN, WATSON, THOMAS, CHAMBERS,  
8 and DOE defendants, in doing each of the afore-mentioned acts, willfully,  
9 knowingly, intentionally, maliciously, and routinely used prone restraints, to injure  
10 children and to create a reign of terror within the educational environment, in place  
11 and instead of providing educational services for special needs children, for which  
12 they were hired.  
13  
14

15 567. The action and inaction of defendants, YOLO, HOLSTEGE, BENO, DJUSD,  
16 McGREW, CHESSMAN, GALAS, GHS, MEYERS, KELLER, CHRISTENSEN,  
17 WOHLWEND, MORGAN, WATSON, THOMAS, CHAMBERS, and DOE  
18 defendants, were substantial factors in causing the death of minor decedent MAX.  
19

20 568. As a result of the afore-mentioned acts, plaintiffs, LANGLEY and BENSON,  
21 have lost the care, comfort and society of their son, MAX, in an amount according  
22 to proof at the time of trial.  
23

24 569. As a result of the afore-mentioned acts, plaintiffs, LANGLEY, BENSON and  
25 estate of MAX, have incurred medical expenses, including ambulance, hospital, and  
26 doctors services for their son for the period of time between the incident referenced  
27 herein and his death, approximately 24 hours later, and for funeral expenses, in an  
28

1 amount to be ascertained at the time of trial.

2 570. In violating the mandatory statutory duties, as set forth above,  
3 defendants, YOLO, HOLSTEGE, BENO, DJUSD, MCGREW, CHESSMAN,  
4 GALAS, GHS, MEYERS, KELLER, CHRISTENSEN, WOHLWEND, MORGAN,  
5 WATSON, THOMAS, CHAMBERS, and DOE defendants, said defendants were  
6 negligent per se.  
7

8  
9 571. The violations of the mandatory statutory duties, as set forth above, were a  
10 substantial factor in causing the death of MAX and the loss of care, comfort and  
11 society to plaintiffs LANGLEY and BENSON and in the medical expenses and  
12 funeral expenses incurred for MAX.  
13

14 572. By virtue of the willful and wanton, knowing, intentional, and malicious acts  
15 of defendants, HOLSTEGE, BENO, MCGREW, CHESSMAN, GALAS, GHS,  
16 MEYERS, KELLER, CHRISTENSEN, WOHLWEND, MORGAN, WATSON,  
17 THOMAS, CHAMBERS, and DOE defendants, and acts by said defendants that  
18 were done in reckless disregard for the safety and life of MAX, plaintiffs,  
19 LANGLEY, BENSON, and TURELLI, are entitled to punitive damages against said  
20 non-public entity defendants according to an award at the time of trial.  
21

22  
23 **ELEVENTH CAUSE OF ACTION**

24 **FOR BATTERY ELEVENTH CAUSE OF ACTION**

25 **BATTERY**

26  
27 **(ASSERTED BY ESTATE OF MAX against CDE, YLO, and DJUSD and their**  
28 **named employees in their official capacities; D.Z. against FCUSD and**

1           FCSELPA and their named employees in their official capacities; S.D against  
2           EDCOE, EDCSELPA and their named employees in their official capacities,  
3           H.K.against PUSD, EDCOSESELPA and their named employees in their  
4           official capacities, M.S. against CDE, EGUSD, EGUSDSELPA, SCOE and their  
5           named employees in their official capacities; AUSTIN against RUSD and its  
6           named employees in their official capacities; and ASSERTED BY ESTATE OF  
7           MAX and each of THE PLAINTIFF STUDENTS AGAINST GHS and its  
8           employees;  
9

10           AND DOE DEFENDANTS)

11  
12           573. Plaintiffs, estate of MAX and THE NAMED PLAINTIFF STUDENTS, AND  
13           all THE PLAINTIFF STUDENTS incorporate by reference paragraphs 1-32, 45-46,  
14           48-69, 72-127, 132, 137, 142, 146, 151, 156 161, 165, 179-427, 436, 438, 439, 440-  
15           442, 461 467, 470, 471, 491, 506, 507, 514, 521, 536, 562-567 as if set forth in full.  
16

17           574. The behaviors of MAX, THE NAMED PLAINTIFF STUDENTS/all THE  
18           PLAINTIFF STUDENTS that precipitated each of the events to which each of THE  
19           FACTUAL ALLEGATIONS refer, did not pose a clear and present danger of serious  
20           physical harm to themselves or to others.  
21

22           575. The behaviors of MAX, THE NAMED PLAINTIFF STUDENTS/all THE  
23           PLAINTIFF STUDENTS that precipitated each of the events to which each THE  
24           FACTUAL ALLEGATIONS refer, could have been controlled by a less restrictive  
25           response than the imposition of prone and other types of restraint.  
26  
27  
28

1           576. From the date of their respective enrollment at GHS, to the date of MAX's  
2 death and the date of disenrollment for THE NAMED PLAINTIFF STUDENTS/*all*  
3 THE PLAINTIFF STUDENTS, in or around December, 2018, MAX and THE  
4 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS were placed  
5 in numerous prone and other types of restraint, the dates of which are unknown to  
6 estate of MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
7 STUDENTS at the present time.  
8

9  
10           577. The prone and other restraints inflicted on MAX and THE NAMED  
11 PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS, were a substantial  
12 factor in causing MAX to suffer physical injuries and death, and in causing THE  
13 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS lasting  
14 physical and psychological harm.  
15

16           578. The actions of defendants, CDE, THE ARMS OF THE EDUCATIONAL  
17 SYSTEM AND THEIR EMPLOYEES, GHS AND ITS EMPLOYEES, and DOE  
18 defendants, in doing the things alleged, was a continuous course of conduct which  
19 occurred beginning on or about the date of MAX and THE NAMED PLAINTIFF  
20 STUDENTS'/*all* THE PLAINTIFF STUDENTS' respective enrollment at defendant  
21 GHS and MAX's death and THE NAMED PLAINTIFF STUDENTS'/*all* THE  
22 PLAINTIFF STUDENTS' respective dis-enrollment from the school.  
23

24           579. In performing the acts described herein, said defendants acted with the intent  
25 to cause harmful and offensive contact with MAX and THE NAMED PLAINTIFF  
26 STUDENTS/*all* THE PLAINTIFF STUDENTS.  
27  
28

1           580. In doing the things herein alleged, said defendants intended to cause and did  
2           cause a harmful contact with MAX and THE NAMED PLAINTIFF STUDENTS/*all*  
3           THE PLAINTIFF STUDENTS.  
4

5           581. At all relevant times, THE NAMED PLAINTIFF STUDENTS/*all* THE  
6           PLAINTIFF STUDENTS found the contact by said defendants to be harmful and  
7           offensive to their person and dignity. At no time did MAX or THE NAMED  
8           PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS consent to any of the  
9           acts by said defendants as alleged herein.  
10

11           582. A reasonable child in MAX or THE NAMED PLAINTIFF STUDENTS/*all*  
12           THE PLAINTIFF STUDENTS position would have been offended and/or harmed  
13           by the contact of said defendants.  
14

15           583. The conduct of said defendants, as herein above alleged, was a substantial  
16           factor in causing MAX to be physically injured and to die, and in causing THE  
17           NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS to be  
18           physically harmed, emotionally harmed, all of which caused MAX and THE  
19           NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS to experience  
20           offensive contact with his respective person.  
21

22           584. The conduct of said defendants, as herein alleged, was a substantial factor in  
23           causing injury and death to MAX and in causing THE NAMED PLAINTIFF  
24           STUDENTS/*all* THE PLAINTIFF STUDENTS to suffer physical injury, severe  
25           emotional distress, mental anguish, humiliation, embarrassment, mental and  
26           emotional distress, and anxiety, all in an amount exceeding the jurisdictional  
27  
28

1 minimum of the court, according to proof. The estate of MAX makes no claim for  
2 pain and suffering.

3  
4 585. As a direct and proximate result of the conduct of said defendants, as  
5 hereinabove alleged, the estate of MAX, THE NAMED PLAINTIFF  
6 STUDENTS/*all* THE PLAINTIFF STUDENTS have suffered economic harm, future  
7 economic harm and other consequential damages, all in an amount according to  
8 proof at trial.

9  
10 586. The conduct of said defendants, as hereinabove alleged, was a substantial  
11 factor in causing THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
12 STUDENTS to suffer general damages in an amount to be determined by proof at  
13 trial. The estate of MAX makes no claim for general damages.

14  
15 587. The conduct of said defendants, as hereinabove alleged was a substantial  
16 factor in causing MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE  
17 PLAINTIFF STUDENTS to obtain medical services and treatment in an amount to  
18 be determined by proof at trial.

19  
20 588. As a further direct and proximate result of the conduct of said defendants, as  
21 hereinabove alleged, THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
22 STUDENTS will, in the future, be compelled to incur additional obligations for  
23 medical treatment in an amount to be determined by proof at trial. The estate of  
24 MAX makes no claim for future medical treatment.

25  
26 589. The aforementioned conduct by said defendants, was willful, wanton, and  
27 malicious, and was done with the knowledge that autistic children, physically  
28

1 vulnerable children, and children who take psychiatric medications are more likely  
2 to be physically and emotionally harmed by the use of physical restraints.

3  
4 590. At all relevant times, said defendants, acted with conscious disregard of MAX  
5 and THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS  
6 rights, safety, physical well-being, and feelings. Said defendants also acted with the  
7 knowledge of or with reckless disregard for the fact that their conduct was certain to  
8 cause injury and/or humiliation to MAX and THE NAMED PLAINTIFF  
9 STUDENTS/*all* THE PLAINTIFF STUDENTS.  
10

11 591. Estate of MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE  
12 PLAINTIFF STUDENTS are further informed and believe that said defendants  
13 intended to cause fear, physical injury, and/or pain and suffering to MAX and THE  
14 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS. By virtue  
15 of the foregoing, MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE  
16 PLAINTIFF STUDENTS are entitled to recover punitive and exemplary damages  
17 from non-public entity defendants and DOE defendants, according to proof at trial.  
18 No claim for punitive damages is being made against defendants CDE or THE  
19 ARMS OF THE EDUCATIONAL SYSTEM.  
20  
21

22  
23 **TWELFTH CAUSE OF ACTION**

24 **FOR ASSAULT**

25 **(ASSERTED BY ESTATE OF MAX against CDE, YOLO, and DJUSD and**  
26 **their named employees in their official capacities; D.Z. against FCUSD and**  
27 **FCSELPA and their named employees, in their official capacities; S.D against**  
28

1           EDCOE, EDCSELPA and their named employees, in their official capacities;  
2           H.K.against PUSD, EDCOSESELPA and their named employees, in their  
3           official capacities, M.S. against CDE, EGUSD, EGUSDSELPA, SCOE and their  
4           named employees, in their official capacities; AUSTIN against RUSD and its  
5           named employees in their official capacities; and ASSERTED BY ESTATE OF  
6           MAX and each of THE PLAINTIFF STUDENTS AGAINST GHS and its  
7           employees; AND DOE DEFENDANTS)  
8  
9

10       592. Estate of MAX, D.Z. S.D., H.K., M.S. and AUSTIN (referred to in this cause  
11       of action as “THE NAMED PLAINTIFF STUDENTS” and THE PLAINTIFF  
12       STUDENTS incorporate herein by reference paragraphs 1-32, 45-57, 59-69, 72-127,  
13       132, 137, 142, 146, 151, 156 161, 165, 179-427, 436, 438, 439, 440-442, 461 467,  
14       470, 471, 491, 506, 507, 514, 521, 531, 536, 562-567 thereto all other allegations of  
15       this Complaint, as if fully stated.  
16  
17

18       593. The term “THE NAMED PLAINTIFF STUDENTS” refers only to those  
19       students who filed Tort Claims against the public entity and its employees who  
20       referred them to GHS or otherwise had involvement in the student’s education at  
21       GHS as heretofore alleged. The employees of the public entities named in this  
22       particular cause of action by THE NAMED PLAINTIFF STUDENTS are sued in  
23       this cause of action in their official capacity. THE NAMED PLAINTIFF  
24       STUDENTS’ plead this cause of action against the respective public entities and  
25       their employees subject to the limitations of their respective tort claims filings, as  
26       heretofore alleged. No other public entities or their employees are named in this  
27  
28

1           cause of action.

2           594. The term “THE PLAINTIFF STUDENTS” refers to *all* THE PLAINTIFF  
3 STUDENTS, with the limitation that in this cause of action only, *all* THE  
4 PLAINTIFF STUDENTS plead claims solely against GHS and DOE defendants.  
5

6           595. In performing the acts described herein, said defendants acted with the intent  
7 to cause apprehension of an immediate harmful and offensive contact with MAX and  
8 THE NAMED STUDENTS/*all* THE STUDENT PLAINTIFFS’ respective person.  
9

10          596. In doing the things herein alleged, said defendants intended to cause, and did  
11 cause, MAX and THE NAMED PLAINTIFF STUDENTS/*all* PLAINTIFF  
12 STUDENTS to suffer harmful or offensive contact.  
13

14          597. As a result of said conduct of said defendants, MAX and THE PLAINTIFF  
15 STUDENTS/*all* PLAINTIFF STUDENTS, reasonably believed that he was about to  
16 be touched in a harmful or offensive manner, and in a manner that offended a  
17 reasonable sense of personal dignity.  
18

19          598. In doing the things herein alleged, said defendants threatened to touch MAX  
20 and THE NAMED PLAINTIFFS/*all* THE PLAINTIFF STUDENTS in a harmful or  
21 in an offensive manner.  
22

23          599. At all times herein mentioned, it reasonably appeared to MAX and THE  
24 NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS that said  
25 defendants were about to carry out the threat.  
26  
27  
28

1           600. At all times herein mentioned, MAX and THE NAMED PLAINTIFF  
2           STUDENTS/*all* THE PLAINTIFF STUDENTS did not consent to the conduct of  
3           said defendants.  
4

5           601. MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
6           STUDENTS suffered harm, as herein alleged.  
7

8           602. The afore-mentioned conduct of said defendants was a substantial factor in  
9           causing MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
10          STUDENTS' harm.  
11

12          603. The conduct of said defendants, caused MAX and THE NAMED PLAINTIFF  
13          STUDENTS/*all* THE PLAINTIFF STUDENTS to be apprehensive that said  
14          defendants would subject MAX and THE NAMED PLAINTIFF STUDENTS/*all*  
15          THE PLAINTIFF STUDENTS to further intentional invasions of their right to be  
16          free from harmful and offensive contact, and demonstrated that at all times material  
17          herein, said defendants had a present ability to subject MAX and THE NAMED  
18          PLAINTIFF/*all* THE PLAINTIFF STUDENTS to an intentional offensive and  
19          harmful touching.  
20

21          604. Said defendants' unlawful conduct, as herein alleged, was a substantial factor  
22          in causing MAX physical injuries and death and THE NAMED STUDENTS/*all*  
23          THE PLAINTIFF STUDENTS to suffer physical and emotional injury, and future  
24          physical and emotional injury, all in an amount within the jurisdiction of the court  
25          according to proof at trial.  
26  
27  
28

605. At all relevant times, said defendants acted with conscious disregard of MAX and THE NAMED STUDENTS/*all* THE PLAINTIFF STUDENTS' rights, safety, physical well-being and feelings. Said defendants also acted with the knowledge of, or with reckless disregard for, the fact that their conduct was certain to cause injury and/or humiliation to MAX and THE NAMED STUDENTS/*all* THE PLAINTIFF STUDENTS. Said defendants intended to cause fear, physical injury and/or pain and suffering to MAX and THE NAMED PLAINTIFFS/*all* THE PLAINTIFF STUDENTS. By virtue of the foregoing, the estate of MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS are entitled to recover punitive and exemplary damages from individual and non-public entity defendants according to proof at trial. Estate of MAX and THE NAMED PLAINTIFFS/*all* THE PLAINTIFF STUDENTS make no claim for punitive damages against CDE or THE ARMS OF THE EDUCATIONAL SYSTEM.

### THIRTEENTH CAUSE OF ACTION

#### INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(ASSERTED BY ESTATE OF MAX against CDE, YOLO, and DJUSD and their named employees, in their official capacities; D.Z. against FCUSD and FCSELPA and their named employees, in their official capacities; S.D against EDCOE, EDCSELPA and their named employees, in their official capacities; H.K.against PUSD, EDCOSESELPA and their named employees, in their official capacities; M.S. against CDE, EGUSD, EGUSDSELPA, SCOE and their named employees, in their official capacities; AUSTIN against RUSD and its

1           **named employees, in their official capacities; and ASSERTED BY ESTATE OF**  
2           **MAX and each of THE PLAINTIFF STUDENTS AGAINST GHS and its**  
3           **employees; and DOE defendants.)**  
4

5  
6       606. The estate of MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE  
7       PLAINTIFF STUDENTS incorporate by reference paragraphs 1-32, 45-46, 48-69, 72-127,  
8       132, 137, 142, 146, 151, 156 161, 165, 179-427, 429-446, 451-455, 458, 461, 463, 464, 466,  
9       467, 470-472, 474, 478, 481 491, 492, 497, 501, 503, 505-508, 513-516, 518, 523, 524, 531-  
10      533, 536-540, 551-553, 555-559, 561, 564-566, 574-576, 578, 579, 581, 582, 595, 597, 599,  
11      603, 608, 616, 617, 618, 623, 635 of this complaint, as if set forth in full hereat.  
12  
13

14      607. In doing the things herein alleged, the conduct of said defendants was outrageous in  
15      that it was so extreme as to exceed all bounds of that usually tolerated in a civilized  
16      community.  
17

18      608. Said defendants inflicted actual injury and/or acted with reckless disregard of the  
19      probability that MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
20      STUDENTS would suffer emotional distress, knowing that the child who was restrained,  
21      including MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
22      STUDENTS, was present when the conduct occurred.  
23

24      609. The conduct of said defendants, as herein alleged, was a substantial factor in causing  
25      MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS, to  
26      suffer severe emotional distress, severe mental anguish, humiliation, pain, and physical  
27      distress.  
28

1 610. Said defendants knew or should have known that MAX and THE NAMED  
2 PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS did not need to be, for their  
3 safety or the safety of others, and did not want to be, physically forced into prolonged prone  
4 restraints, standing, seated, settled and/or small child restraints.  
5

6 611. Said defendants' knowing disregard for the safety of MAX and THE NAMED  
7 PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS and said defendants'  
8 deliberate failure to monitor and control their behavior towards exceptional needs students,  
9 such as MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
10 STUDENTS caused MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE  
11 PLAINTIFF STUDENTS to be repeatedly battered and assaulted by teachers and aides at  
12 GHS.  
13  
14

15 612. Said defendants' conduct was extreme and outrageous.  
16

17 613. Said defendants acted willfully and wantonly, and with reckless disregard for  
18 plaintiffs' rights and feelings, and with deliberate indifference to the certainty that MAX and  
19 THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS would suffer  
20 emotional distress.  
21

22 614. The outrageous conduct of said defendants described herein was willful and  
23 malicious and was performed with conscious disregard for the rights, safety, physical well-  
24 being and feelings of the MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE  
25 PLAINTIFF STUDENTS. As a result, estate of MAX and THE NAMED PLAINTIFF  
26 STUDENTS/*all* THE PLAINTIFF STUDENTS are entitled to punitive or exemplary  
27 damages from individual and non-public entity defendants in a sum according to proof.  
28

1 Estate of MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
2 STUDENTS make no claim for punitive damages against CDE or THE ARMS OF THE  
3 EDUCATIONAL SYSTEM.  
4

5 **FOURTEENTH CAUSE OF ACTION**

6 **FALSE IMPRISONMENT**

7  
8 **(ASSERTED BY ESTATE OF MAX against CDE, YOLO, and DJUSD and**  
9 **their named employees, in their official capacities; D.Z. against FCUSD and**  
10 **FCSELPA and their named employees, in their official capacities; S.D against**  
11 **EDCOE, EDCSELPA and their named employees, in their official capacities;**  
12 **H.K.against PUSD, EDCOSESELPA and their named employees, in their**  
13 **official capacity; M.S. against CDE, EGUSD, EGUSDSELPA, SCOE and their**  
14 **named employees, in their official capacities; AUSTIN against RUSD and its**  
15 **named employees, in their official capacities; and ASSERTED BY ESTATE OF**  
16 **MAX and each of THE PLAINTIFF STUDENTS AGAINST GHS and its**  
17 **employees; and DOE DEFENDANTS)**  
18

19  
20 615. Plaintiffs estate of MAX, THE NAMED STUDENTS, and THE PLAINTIFF  
21 STUDENTS, repeat and incorporate by reference 1-32, 45-46, 48-69, 72-127, 132,  
22 137, 142, 146, 151, 156 161, 165, 179-427, 429-446, 451-455, 458, 461, 463,  
23 464,466, 467, 470-472, 474, 478, 481 491, 492, 497, 501,503, 505-508, 513-516,  
24 518, 523, 524, 531-533, 536-540, 551-553, 555-559, 561, 564-566, 574-576, 578,  
25 579, 581, 582, 595, 597, 599, 603, 608, 616, 617, 618, 623, 635 of this Complaint  
26 as if set forth in full hereat.  
27  
28

1           616. Said defendants intentionally and unlawfully exercised force, threat, implied  
2           threat of force, or duress, to restraint and confine MAX, THE NAMED  
3           STUDENTS, and *all* THE PLAINTIFF STUDENTS, and deprive them of their  
4           freedom of movement, when said defendants committed the acts described herein.  
5

6           617. The unlawful restraint of MAX, THE NAMED STUDENTS/*all* THE  
7           PLAINTIFF STUDENTS as hereinabove alleged, lasted for an appreciable amount  
8           of time.  
9

10          618. MAX, THE NAMED STUDENTS, and *all* THE PLAINTIFF STUDENTS  
11          did not knowingly or voluntarily consent to said restraints.  
12

13          619. As a proximate cause of the restraints, MAX suffered physical injuries and  
14          death, THE NAMED STUDENTS, and *all* THE PLAINTIFF STUDENTS suffered  
15          actual physical and emotional harm, as herein alleged.  
16

17          620. That the conduct of said defendants, as herein alleged, was a substantial factor  
18          in causing harm to MAX, THE NAMED STUDENTS, and *all* THE PLAINTIFF  
19          STUDENTS.  
20

21          621. The outrageous conduct of the said defendants was willful and wanton, and  
22          was performed with conscious disregard for the rights, safety, physical well-being  
23          and feelings of MAX, THE NAMED STUDENTS, and *all* THE PLAINTIFF  
24          STUDENTS. As a result, the estate of MAX, THE NAMED STUDENTS, and *all*  
25          THE PLAINTIFF STUDENTS are entitled to punitive or exemplary damages from  
26          individual and non-public entity defendants in a sum according to proof at time of  
27          trial. The estate of MAX, THE NAMED STUDENTS, and *all* THE PLAINTIFF  
28

1 STUDENTS make no claim for punitive damages against CDE or THE ARMS OF  
2 THE EDUCATIONAL SYSTEM.

3  
4 **FIFTEENTH CAUSE OF ACTION**

5 **NEGLIGENCE**

6 **(ASSERTED BY ESTATE OF MAX against CDE, YOLO, and DJUSD and**  
7 **their named employees, in their official capacities; D.Z. against FCUSD and**  
8 **FCSELPA and their named employees, in their official capacities; S.D against**  
9 **EDCOE, EDCSELPA and their named employees, in their official capacities;**  
10 **H.K.against PUSD, EDCOSESELPA and their named employees, in their**  
11 **official capitie; M.S. against CDE, EGUSD, EGUSDSELPA, SCOE and their**  
12 **named employees, in their official capacities; AUSTIN against RUSD and its**  
13 **named employees, in their official capacities; and ASSERTED BY ESTATE OF**  
14 **MAX and each of THE PLAINTIFF STUDENTS AGAINST GHS and its**  
15 **employees; snd DOE DEFENDANTS)**  
16  
17  
18  
19

20 622. Estate of MAX, THE NAMED PLAINTIFF STUDENTS, and THE PLAINTIFF  
21 STUDENTS incorporate by reference paragraphs 1-32, 45-46, 48-69, 72-127, 132, 137,  
22 142, 146, 151, 156 161, 165,179-427, 429-446, 451-455, 458, 461, 463, 464,466, 467, 470-  
23 472, 474, 478, 481 491, 492, 497, 501,503, 505-508, 513-516, 518, 523, 524, 531-533, 536-  
24 540, 551-553, 555-559, 561, 564-566, 574-576, 578, 579, 581, 582, 595, 597, 599, 603, 608,  
25 616, 617, 618, 623, 636, 672-708, 712-714 of this Complaint as if set forth in full hereat.  
26  
27

28 623. Said defendants breached their duty towards MAX and THE NAMED STUDENTS,

1 and THE PLAINTIFF STUDENTS by:

2 ● Failure to develop and maintain effective procedures governing emergency interventions;

3  
4  
5 ● Failure to obtain proper training for use of behavioral emergency interventions

6  
7 ● Failure to provide oversight on the use of restraints

8  
9  
10 ● Failure to develop protocols for use of restraints

11  
12 ● Failure to prohibit restraints on physically disabled children

13  
14  
15 ● Failure to prohibit prolonged restraints (anything over 15 minutes)

16  
17  
18 ● Failure to require that MAX, THE NAMED STUDENTS and *all* THE  
19 PLAINTIFF STUDENTS be released from a restraint at the earliest possible moment.

20  
21  
22 ● Failure to prohibit the use of any restraint when contraindicated by MAX, THE  
23 NAMED STUDENTS and *all* THE PLAINTIFF STUDENTS' medical or psychological  
24 conditions, which were known to increase the risk of physical injury.

25  
26  
27 ● Failure to prohibit restraints that constrict the child's ability to breathe.

1           ● Failure to prohibit the use of multiple staff members in a restraint, which  
2 exponentially increases the risk of injury.  
3

4  
5           ● Failure to provide for the comfort of MAX, THE NAMED STUDENTS and *all*  
6 THE PLAINTIFF STUDENTS while in prone restraint, including, but not limited to:  
7 offering MAX, THE NAMED STUDENTS and *all* THE PLAINTIFF STUDENTS fluids,  
8 bathroom use, exercise, range of motion and periodic release of limbs.  
9

10  
11           ● Failure to require monitoring by staff of the vital signs of the child regularly  
12 throughout the restraint.  
13

14  
15           ● Failure to require continuous, close supervision of a restraint by the HWC trainer  
16 or another staff member who is not involved in the restraint.  
17

18  
19           ● Failure to require immediate and accurate reporting on each restraint  
20

21  
22           ●. Failure to conduct a prompt and thorough review of any restraint imposed as a  
23 means to ensure compliance with laws and policies; to ensure continuing safety of students;  
24 and to prevent other incidents of restraint.  
25

26  
27           ● Failure to provide for:

28               -primary preventative measures rather than restraint;

- interventions that are less intrusive than restraints;
- effective ways to de-escalate situations to avoid restraints; and
- crisis intervention techniques that utilize alternatives to restraint.

- Failure to provide staff with resources and tools to properly respond to the needs of those whom they serve and to be able to identify and address the triggers that may cause emotionally disturbed children to react in ineffectual ways to the environment.

- Failure to teach students adaptive behaviors, especially involving autistic children who do not have effective ways of communicating and interacting with others.

- Allowing use of physical restraints on children which:
  - create an aversive environment counterproductive to facilitating learning;
  - cause significant physical harm, serious, foreseeable long term psychological impairment.

- Failure to provide oversight on the use of restraints to determine
  - whether the intervention was necessary
  - whether each restraint was implemented in a manner consistent with staff training, as well as school and District (SELPA) policy.

- Allowing the use of deadly force on children without meaningful oversight and

1 systemic reform.

2  
3  
4 ● Allowed use of deadly force on children without requiring staff to know basic  
5 safety techniques

6  
7  
8 ● Failed to document injuries caused by restraint and

9  
10 ● Failed to get medical attention for a child who was injured while in restraint..

11 624. As a foreseeable result of the breach of said mandatory duties by said defendants,  
12 said school staff at GHS imposed numerous and prolonged prone restraint on MAX, THE  
13 NAMED STUDENTS, and *all* THE PLAINTIFF STUDENTS, as hereinabove alleged,  
14 resulting in injuries and death to MAX, and injuries to THE NAMED STUDENTS, and *all*  
15 THE PLAINTIFF STUDENTS.  
16

17  
18 625. Breach of said mandatory duties by said defendants was a substantial factor in  
19 causing injuries and death to MAX and injuries to THE NAMED STUDENTS, and *all* THE  
20 PLAINTIFF STUDENTS.

21  
22 626. At all times herein mentioned said defendants breached the general duties of due care  
23 of educational professionals toward MAX and *all* THE PLAINTIFF STUDENTS who were  
24 disabled students under their guidance and care.

25 627. At all times herein mentioned, said defendants willfully, knowingly, intentionally,  
26 maliciously, and routinely used or encouraged the use of prone and other restraints on  
27  
28

1 special needs/disabled children, including MAX, THE NAMED STUDENTS, and *all* THE  
2 PLAINTIFF STUDENTS as a form of corporal punishment in violation of California law.

3  
4 628. At all times herein mentioned, said defendants willfully, knowingly, intentionally,  
5 maliciously, and routinely used or encouraged the use of prone and other restraints, known  
6 by said defendants to be dangerous, on disabled children, including on MAX, THE NAMED  
7 STUDENTS, and *all* THE PLAINTIFF STUDENTS with reckless disregard for the safety  
8 of said children.  
9

10 629. At all times herein mentioned, said defendants, in doing each of the afore-mentioned  
11 acts, willfully, knowingly, intentionally, maliciously, and routinely used, or encouraged the  
12 use of, prone and other restraints, to injure special needs/disabled children and to create a  
13 reign of terror within the educational environment, in place and instead of providing  
14 educational services for special needs/disabled children, for which they were hired.  
15

16 630. As a direct and foreseeable result of the negligence of said defendants MAX suffered  
17 physical injuries and death and, THE NAMED STUDENTS, and *all* THE PLAINTIFF  
18 STUDENTS suffered physical and emotional injuries.  
19

20 631. The negligence of said defendants was a substantial factor in causing injury and death  
21 to MAX and in causing , THE NAMED STUDENTS, and *all* THE PLAINTIFF  
22 STUDENTS to suffer physical and emotional injuries.  
23

24 632. By virtue of the willful and wanton, knowing, intentional, malicious acts of said  
25 defendants, and acts by said defendants that were done and acts done in reckless disregard  
26 for the safety and lives of MAX, THE NAMED STUDENTS, and *all* THE PLAINTIFF  
27 STUDENTS, the estate of MAX, THE NAMED STUDENTS, and *all* THE PLAINTIFF  
28

1 STUDENTS are entitled to punitive damages against individual non-public entity  
2 defendants according to an award at the time of trial. The estate of MAX, THE NAMED  
3 STUDENTS, and *all* THE PLAINTIFF STUDENTS make no claim for punitive damages  
4 against CDE or THE ARMS OF THE EDUCATIONAL SYSTEM.  
5

6 **SIXTEENTH CAUSE OF ACTION**

7 **NEGLIGENT SUPERVISION**  
8

9 **(ASSERTED BY ESTATE OF MAX against CDE, YOLO, and DJUSD and**  
10 **their named employees, in their official capacities; D.Z. against FCUSD and**  
11 **FCSELPA and their named employees, in their official capacities; S.D against**  
12 **EDCOE, EDCSELPA and their named employees, in their official capacities;**  
13 **H.K.against PUSD, EDCOSESELPA and their named employees, in their**  
14 **official capacities; M.S. against CDE, EGUSD, EGUSDSELPA, SCOE and**  
15 **their named employees, in their official capacities; AUSTIN against RUSD and**  
16 **its named employees, in their official capacities; and ASSERTED BY ESTATE**  
17 **OF MAX and each of THE PLAINTIFF STUDENTS AGAINST GHS and its**  
18 **employees; and DOE DEFENDANTS)**  
19  
20

21 633. The estate of MAX, THE NAMED STUDENTS, and THE PLAINTIFF  
22 STUDENTS incorporate by reference paragraphs 1-32, 45-46, 48-69, 72-127, 132,  
23 137, 142, 146, 151, 156 161, 165,179-427, 429-446, 451-455, 458, 461, 463,  
24 464,466, 467, 470-472, 474, 478, 481 491, 492, 497, 501,503, 505-508, 513-516,  
25 518, 523, 524, 531-533, 536-540, 551-553, 555-559, 561, 564-566, 574-576, 578,  
26  
27  
28

1 579, 581, 582, 595, 597, 599, 603, 608, 616, 617, 618, 623-632 of this Complaint as  
2 though fully set forth hereat.

3  
4 634. Said defendants had a legal duty to exercise reasonable care in supervising  
5 special needs students in its respective charge pursuant to California Education Code  
6 section 44807 and may be held liable for injuries proximately caused by the failure  
7 to exercise such care.

8  
9 635. Said defendants failed to exercise reasonable care in supervising MAX and  
10 THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS when  
11 they suffered the abuse as described herein.

12  
13 636. Said defendants breached their duties to MAX and THE NAMED  
14 PLAINTIFF STUDENTS/*all* THE PLAINTIFF STUDENTS when they failed to  
15 supervise MAX, THE NAMED PLAINTIFF STUDENTS/*all* THE PLAINTIFF  
16 STUDENTS, GHS, its administrators and staff during the abuse, and failed to ensure  
17 that GHS administrators and staff were adequately trained and provided proper  
18 supervision.

19  
20 637. As a direct and proximate result of the actions of said defendants as alleged  
21 herein, MAX suffered injury and death and THE NAMED PLAINTIFF  
22 STUDENTS/*all* THE PLAINTIFF STUDENTS suffered injury, and are entitled to  
23 damages according to proof.

24  
25 **SEVENTEENTH CAUSE OF ACTION**

26  
27 **NEGLIGENCE PER SE**

1 (ASSERTED BY ESTATE OF MAX against CDE, YOLO, and DJUSD and  
 2 their named employees, in their official capacities; D.Z. against FCUSD and  
 3 FCSELPA and their named employees, in their official capacities; S.D against  
 4 EDCOE, EDCSELPA and their named employees, in their official capacities;  
 5 H.K.against PUSD, EDCOSESELPA and their named employees, in their  
 6 official capitie; M.S. against CDE, EGUSD, EGUSDSELPA, SCOE and their  
 7 named employees, in their official capacities; AUSTIN against RUSD and its  
 8 named employees, in their official capacities; and ASSERTED BY ESTATE OF  
 9 MAX and each of THE PLAINTIFF STUDENTS AGAINST GHS and its  
 10 employees; snd DOE DEFENDANTS)  
 11  
 12  
 13

14 638. Plaintiffs, estate of MAX, THE NAMED PLAINTIFF STUDENTS and *all*  
 15 THE PLAINTIFF STUDENTS incorporate by reference paragraphs 1-32, 45-46, 48-  
 16 69, 72-127, 132, 137, 142, 146, 151, 156 161, 165, 179-446, 451-455, 458, 461, 463,  
 17 464, 466, 467, 470-472, 474, 478, 481 491, 492, 497, 501, 503, 505-508, 513-516,  
 18 518, 523, 524, 531-533, 536-540, 551-553, 555-559, 561, 564-566, 574-576, 578,  
 19 579, 581, 582, 595, 597, 599, 603, 608, 616, 617, 618, 623-632 of this Complaint as  
 20 if set forth in full hereat.  
 21  
 22

23 639. In doing the things herein alleged, said defendants violated the mandatory  
 24 duties toward MAX and THE NAMED PLAINTIFF STUDENTS/*all* THE  
 25 PLAINTIFF STUDENTS as prescribed by state and federal law as referenced in each  
 26 of the statutes as set forth hereinabove.  
 27  
 28

1           640. Said violations of law were a substantial factor in bringing about the harm  
2           alleged to the estate of MAX, THE NAMED STUDENTS, and *all* THE PLAINTIFF  
3           STUDENTS as set forth hereinabove.  
4

5           **EIGHTEENTH CAUSE OF ACTION**

6           **TORTIOUS BREACH OF THE COVENANT OF GOOD FAITH AND FAIR**  
7           **DEALING**

8           **(ASSERTED BY THE PLAINTIFF STUDENTS AND THE PLAINTIFF STUDENTS'**  
9

10          **PARENTS AGAINST DEFENDANTS**

11          **GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE DEFENDANTS)**  
12

13          641. THE PLAINTIFF STUDENTS and THE PLAINTIFF STUDENTS' PARENTS  
14          incorporate by reference paragraphs 1-43, 45, 48-58, 128, 133, 138, 143, 147, 152, 158. 163.  
15          166, 171-427 as if set forth in full hereat.

16          642. Upon the respective enrollment of MAX and THE PLAINTIFF STUDENTS at GHS,  
17          THE PLAINTIFF STUDENTS' PARENTS entered into a written contract with GHS,  
18          MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE defendants for the education  
19          of their child.  
20

21          643. At all times herein mentioned, MAX and THE NAMED STUDENTS and THE  
22          PLAINTIFF STUDENTS were intended third party beneficiaries to the afore-mentioned  
23          contracts entered into between their parents and defendants GHS, MEYERS, KELLER,  
24          CHRISTENSEN, NARAN, and DOE defendants.  
25

26          644. As a part of said contract, GHS, MEYERS, KELLER, CHRISTENSEN, NARAN,  
27          and DOE defendants provided each of said parents, with a copy of GHS' parent/teacher  
28

1 handbook in which GHS indicated that they had a system of positive behavior intervention  
2 and support. The handbook also indicated that defendant GHS would “customize” the  
3 system to support student outcomes and “interact with students in a way that promotes  
4 social proficiency.” The GHS handbook states that “social competence is a skill that  
5 requires direct teaching.” . The handbook assured parents that adult behavior when  
6 correcting a child would be “calm”, “brief”, and “respectful.”  
7  
8

9 645. As part of the contract between said parties and defendants GHS, MEYERS,  
10 KELLER, CHRISTENSEN, and DOE defendants, defendants GHS, MEYERS, KELLER,  
11 CHRISTENSEN, NARAN, and DOE defendants promised to plaintiffs, and each of them,  
12 not to discriminate in any activity against any student based on physical or mental disability  
13 and further promised to prohibit intimidation or harassment by any employee of defendant  
14 GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE defendants against any  
15 student based on physical or mental disability.  
16  
17

18 646. As part of said contract, defendants GHS, MEYERS, KELLER, CHRISTENSEN,  
19 NARAN, and DOE defendants promised to plaintiffs, and each of them, to use Positive  
20 Behavior Interventions and Supports to correct inappropriate behavior and to interact with  
21 students in a way which promotes social proficiency and academic success, using as  
22 examples “positive language and redirecting behavior using a lesson.”  
23

24 647. As part of said contract defendants GHS, MEYERS, KELLER, CHRISTENSEN,  
25 NARAN and DOE defendants promised to plaintiffs, and each of them, that adult behavior  
26 when correcting a child would be “calm, consistent, brief, immediate and respectful,” and  
27 that their behavior intervention approach involved a three step prompt “verbal, modeling,  
28

1 hand-over-hand.”

2 648. As part of said contract defendants GHS, MEYERS, KELLER, CHRISTENSEN,  
3 NARAN and DOE defendants promised to plaintiffs, and each of them, that restraints would  
4 be imposed only if the child was a danger to himself or others so as to de-escalate and re-  
5 integrate into classroom activities; the restraints and their possible consequences for injury  
6 and death were not truthfully or accurately described to plaintiffs, and each of them, by  
7 defendants GHS, MEYERS, KELLER, CHRISTENSEN, NARAN and DOE defendants;  
8 and the most dangerous type of restraint, a prone restraint, was described by defendants  
9 GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE defendants to each of  
10 THE PLAINTIFF STUDENTS’ parents in innocuous language as a “neutral” restraint.  
11

12  
13  
14 649. Plaintiffs, and each of them, did all of the significant things that the contract required  
15 them to do.

16 650. At all times herein mentioned, all of the conditions required for defendant GHS,  
17 MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE defendants had occurred.

18  
19 651. Defendants GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE  
20 defendants unfairly interfered with the rights of plaintiffs, and each of them, to receive the  
21 benefits of the contract by engaging in the conduct as herein alleged.

22  
23 652. Defendant GHS’, MEYERS’, KELLER’s, CHRISTENSEN’s, NARAN’s and DOE  
24 defendants’ interference with the afore-mentioned benefits of the contract was done in bad  
25 faith in that defendants routinely imposed corporal punishment, in addition to dangerous  
26 prone and other restraints, on special needs/disabled children under their care.

27  
28 653. By virtue of the bad faith interference with the contract benefits by defendants GHS,

1 MEYERS, KELLER, CHRISTENSEN, NARAN, and DOE defendants with said plaintiffs'  
2 contractual rights, plaintiffs LANGLEY and BENSON have lost the care, comfort, and  
3 society of their son MAX, in addition to suffering severe emotional distress.  
4

5 654. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER,  
6 CHRISTENSEN, and DOE defendants with said plaintiffs' contractual rights, medical and  
7 funeral expenses were incurred for MAX.  
8

9 655. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER,  
10 CHRISTENSEN, and DOE defendants with said plaintiffs' contractual rights, THE  
11 PLAINTIFF STUDENTS' PARENTSs have suffered severe emotional and physical distress  
12 at having their respective children injured by being placed in prone and other restraints  
13 because of their autism and other disabilities.  
14

15 656. By virtue of said bad faith interference with contractual benefits, THE PLAINTIFF  
16 STUDENTS suffered physical and emotional injuries, and future general and special  
17 damages as herein alleged.  
18

19 657. The bad faith interference by defendants GHS, MEYERS, KELLER,  
20 CHRISTENSEN, and DOE defendants was a substantial factor in causing each of the afore-  
21 mentioned injuries to plaintiffs, and each of them.  
22

23 658. In doing the things herein alleged, defendants GHS, MEYERS, KELLER,  
24 CHRISTENSEN, and DOE defendants acted recklessly and with conscious disregard for  
25 the rights of plaintiffs, and each of them, willfully and maliciously exceeding the bounds of  
26 all behavior in a civilized behavior, brutalizing special needs/disabled children who had  
27 been entrusted to their care by their parents so as to receive an education that would allow  
28

1 their children to grow into well adjusted, well-functioning adults. As a consequence,  
2 plaintiffs, and each of them, are entitled to punitive damages.

3  
4 **NINETEENTH CAUSE OF ACTION**

5 **FRAUD**

6 **(Asserted by THE PLAINTIFF STUDENTS' PARENTS AGAINST**  
7 **DEFENDANTS YOLO, DJUSD, McGREW, CHESSMAN, GALAS,**  
8 **HOSTEGE, BENO, EGUSD, EGUSELPA, SCOE, PHILLIPS, DELGADO,**  
9 **GHS,**  
10 **MEYER, KELLER, CHRISTENSEN, WOHLWEND, AND DOE**  
11 **DEFENDANTS**

12  
13  
14 659. THE PLAINTIFF STUDENTS' PARENTS incorporate by reference each and  
15 every general allegation and each and every allegation of 1-43, 45, 48-58. 166, 171-  
16 427, 429-446, 451-455, 458, 461, 463, 464, 466, 467, 470-472, 474, 478, 481 491,  
17 492, 497, 501, 503, 505-508, 513-516, 518, 523, 524, 531-533, 536-540, 551-553,  
18 555-559, 561, 564-566, 574-576, 578, 579, 581, 582, 595, 597, 599, 603, 608, 616,  
19 617, 618, 623, 635 as if set forth in full hereat.

20  
21 660. On or about the date of enrolling their respective children in defendant GHS,  
22 defendants, GHS, MEYERS, KELLER, CHRISTENSEN, and DOE defendants,  
23 represented to THE PLAINTIFF STUDENTS' PARENTS that said defendants  
24 would not to discriminate in any activity against any student at GHS based on  
25 physical or mental disability under Title IX, Education Code section 106.8(a)(d) and  
26 106.9.8(a); that they prohibited intimidation or harassment by any employee of  
27  
28

1 defendant GHS against any student based on physical or mental disability; that said  
2 defendants and their employees would use Positive Behavior Interventions and  
3 Supports to correct inappropriate behavior and to interact with students in a way  
4 which promotes social proficiency and academic success, including using “positive  
5 language and redirecting behavior using a lesson”; that behavior by GHS’ staff when  
6 correcting a child would be “calm, consistent, brief, immediate and respectful,”; that  
7 GHS behavior intervention approach involved a three step prompt “verbal, modeling,  
8 hand-over-hand”; and that restraints would be imposed only if the child was a  
9 danger to himself or others so as to de-escalate and re-integrate into classroom  
10 activities.  
11  
12  
13

14 661. Specifically with respect to MAX: On or about the date of enrolling MAX  
15 in defendant GHS, defendants YOLO, DJUSD, GALAS, GHS, MEYERS, KELLER,  
16 CHRISTENSEN, WOHLWEND, and DOE defendants represented to plaintiff  
17 LANGLEY that two aides would be in MAX’s classroom, and that MAX would be  
18 seated near one of the aides to keep him calm. This representation was false, as  
19 hereinabove alleged.  
20  
21

22 662. Specifically with respect to M.S.: On or about the date of enrolling M.S. in  
23 defendant GHS, defendants EGUSD, EGUSELPA, SCOE, PHILLIPS, DELGADO,  
24 GHS, MEYER, KELLER, CHRISTENSEN, WOHLWEND, AND DOE  
25 DEFENDANTS represented to plaintiff STARK that GHS staff would allow M.S.  
26 to use his headphone to keep him calm and that they would not upset him by closing  
27 proximity on him. This representation was false, as hereinabove alleged.  
28

1           663. On or about the dates of the respective enrollment of MAX and THE  
2           PLAINTIFF STUDENTS, at GHS, THE ARMS OF THE EDUCATIONAL  
3           SYSTEM and their employees represented to THE PLAINTIFF STUDENTS'  
4           PARENTS that they were required to sign a form allowing defendants GHS,  
5           MEYERS, KELLER, CHRISTENSEN, and DOE defendants, to impose restraints  
6           on said plaintiffs' respective children, with the implied threat that if they did not sign  
7           the form their respective children would not be enrolled at GHS, which was the only  
8           school available to educate said children, and therefore, the parents would be in  
9           violation of California's mandatory education law.  
10          

11           664. That the afore-mentioned representations of defendants, were false, and THE  
12           PLAINTIFF STUDENTS' PARENTS. learned that they were false on or after  
13           November 29, 2018, upon the death of MAX, when they discovered that they did not  
14           have to allow or consent to the use of restraints against their disabled children.  
15          

16           665. Said defendants knew that said representations were false when they made  
17           them, and/or said defendants made the representations recklessly and without regard  
18           for the truth of said representations.  
19          

20           666. Said defendants intended that THE PLAINTIFF STUDENTS' PARENTS rely  
21           on said representations.  
22          

23           667. THE PLAINTIFF STUDENTS' PARENTS reasonably relied on said  
24           representations, and enrolled their respective children at defendant GHS to receive  
25           an education.  
26          

27           668. THE PLAINTIFF STUDENTS' PARENTS were harmed by said intentional  
28

1 representations, in that each of said plaintiffs suffered severe emotional distress upon  
2 seeing their respective child injured at the hands of GHS and its staff after being  
3 placed in prone and other types of restraints for known behaviors related to the  
4 child's special needs and disability, and which behaviors did not present a clear and  
5 present danger to himself or others; and further plaintiffs, LANGLEY AND  
6 BENSON suffered severe emotional distress when MAX was injured and killed after  
7 he had a behavioral outburst as a result of being isolated from the rest of the class  
8 with no staff member near him to keep him calm.  
9

10  
11 669. THE PLAINTIFF STUDENTS' PARENTS reliance on said representations  
12 was a substantial factor in causing the severe emotional distress of said plaintiffs.  
13

14 670. At all relevant times, said defendants acted with conscious disregard of the  
15 rights and feelings of THE PLAINTIFF STUDENTS' PARENTS, and acted with the  
16 knowledge of, or with reckless disregard for, the fact that their conduct was certain  
17 to cause severe emotional distress to said plaintiffs. By virtue of the foregoing, said  
18 plaintiffs are entitled to recover punitive and exemplary damages from non-public  
19 entity defendants according to proof at the time of trial. THE PLAINTIFF  
20 STUDENTS' PARENTS make no claim for punitive damages against any public  
21 entity.  
22  
23

24 **TWENTIETH CAUSE OF ACTION**

25 **STRICT PRODUCT LIABILITY**

26  
27 **(ASSERTED BY ESTATE OF MAX AND, AND THE PLAINTIFF STUDENTS**  
28 **AGAINST CHAPMAN, HWC, AND DOE DEFENDANTS)**

1 671. Plaintiffs, and each of them, incorporated by reference paragraphs 1-32, 45-46, 48-  
2 58, 70-71, 130, 135, 140, 144, 150, 154, 160, 164, 167, 179-427 as set forth above.

3  
4 672. Defendant CHAPMAN developed and invented a restraint system, and holds multiple  
5 patents with respect to this product.

6 673. Defendant HWC is the assignee of at least some of the restraint system patents held  
7 by CHAPMAN, and is a closely held corporation run out of a single family residence, with  
8 CHAPMAN acting as its President and as only one of three of the corporation's employees.  
9 One of the other employees is the co-owner of the home out of which the business is run.  
10

11 674. At all times herein mentioned, CHAPMAN and HWC were in the business of  
12 designing, developing, marketing, selling, and distributing the restraint system for use on  
13 behaviorally challenged, disabled children students within the United States, specifically  
14 within the State of California, and to GHS.  
15

16 675. At all times herein mentioned, defendants CHAPMAN and HWC represented to  
17 CDE, THE ARMS OF THE EDUCATIONAL SYSTEM and its employees, GHS and its  
18 employees, and DOE defendants, that the restraint system went through 10 years of field  
19 study, development and overview under the supervision of some of the most accomplished  
20 and experienced medical minds at Pennsylvania Hospital before the program was offered  
21 to the public and that defendant HWC's restraint system has been extensively evaluated by  
22 leading forensic (forensic pathologists) experts, chief medical examiners, doctors, and  
23 nurses.  
24  
25

26  
27 676. In developing and marketing the product, CHAPMAN, HWC, and DOE defendants  
28 knew, or should have known, that the use of a prone restraint carries with it a very well-

1 known risk of injury and death, especially to children; and that other types of physical  
2 restraints cause serious injuries to children.

3  
4 677. In developing and marketing the product, CHAPMAN, HWC, and DOE defendants  
5 knew, or should have known, when developing the restraint system, that documented  
6 injuries from use of prone restraints include: asphyxiation, choking, strangulation, cerebral  
7 and cerebellar oxygen deprivation (hypoxia and anoxia), broken bones, lacerations,  
8 abrasions, injury to joints and muscles, contusions or bruising, overheating, dehydration,  
9 exhaustion, blunt trauma to the head, broken neck, wrist and leg compression, dislocation  
10 of the shoulder and other joints, hyperextension or hyperflexion of the arms, exacerbation  
11 of existing respiratory problems, decreased respiratory efficiency, decrease in circulation  
12 to extremities, deep vein thrombosis, pulmonary embolism, cardiac arrest, respiratory arrest,  
13 and death.

14  
15  
16 678. In developing and marketing the product, CHAPMAN, HWC, and DOE defendants  
17 knew, or should have known, that the risk of injury or death is increased where the person  
18 restrained has neurological, cardiac, respiratory conditions, or is obese.

19  
20 679. In developing and marketing the product, CHAPMAN, HWC and DOE defendants  
21 knew or should have known that children, upon whom the restraint system was intended to  
22 be used, have physical limitations and/or other medical conditions that would contraindicate  
23 the use of the restraint system upon them.

24  
25 680. CHAPMAN and HWC's patented restraint system is intended for use in physically  
26 restraining a child, including use of a prone (face down) restraint. The system includes a  
27  
28

1 method to “take down” the student to the ground, force the student into a face down  
2 position, and to immobilize the student while face down on the ground.

3  
4 681. In marketing the product, CHAPMAN, HWC and DOE defendants promoted the  
5 restraint system as a safe and effective way to gain control over a child who is in a  
6 behavioral crisis.

7  
8 682. In developing and marketing the product, CHAPMAN, HWC, and DOE defendants  
9 knew, or should have known, that a disproportionate number of children are injured and/or  
10 have died from restraints because children struggle against physical restraints, particularly  
11 when the situation or method of restraint is extremely unpleasant or aversive.

12  
13 683. In developing and marketing the product, CHAPMAN, HWC, and DOE defendants  
14 knew, or should have known, that struggling against a hold is a natural and foreseeable  
15 response, and that the user of the restraint system may exert pressure, in a variety of forms,  
16 on the thoracic cavity of the child upon whom the restraint system is used, and on the child’s  
17 neck, head, shoulders, ankles, or limbs, which may cause injury.

18  
19 684. In developing and marketing the product, CHAPMAN, HWC, and DOE defendants  
20 knew or should have known that children upon whom the restraint system was intended to  
21 be used may have medical or emotional conditions that make it difficult for the child to  
22 communicate his/her physical needs or concerns.

23  
24 685. At all times herein mentioned, defendants CHAPMAN, personally, and through  
25 HWC represented to CDE, THE ARMS OF THE EDUCATIONAL SYSTEM and its  
26 employees, GHS and its employees, and DOE defendants that use of defendant HWC’s  
27 restraint system on “behaviorally challenged” students eliminated injuries during takedown,  
28

1 as well as chest compression and the possibility of positional asphyxiation during a prone  
2 hold; and further represented that their restraint system allowed educational professionals  
3 to work in teams and to maintain a safe hold on children, including modifications for  
4 orthopedic and physical conditions; and that HWC would customize their deployment  
5 system to include a variety of tactical adjustments for an “unprecedented range” of  
6 ergonomic considerations.  
7  
8

9 686. At all times herein mentioned, CHAPMAN, HWC, and DOE defendants knew or  
10 should have known that struggling against a restraint is a natural response and cannot be  
11 assumed to be oppositional.  
12

13 687. At all times herein mentioned, CHAPMAN, HWC, and DOE defendants knew, or  
14 should have known, that severe injuries and death can occur when adults physically  
15 overpower a child or when a child struggles well beyond the point of physical exhaustion.  
16  
17

18 688. At all times herein mentioned, CHAPMAN, HWC, and DOE defendants that in a  
19 crisis situation, a child cannot be expected to fully understand directions and to effectively  
20 communicate their personal needs.  
21

22 689. At all times herein mentioned, defendants CDE, THE ARMS OF THE  
23 EDUCATIONAL SYSTEM and their employees, GHS and its employees, and DOE  
24 defendants knew or should have known that children may be physically and emotionally  
25 injured when someone forces the child from a standing position to the ground and into a  
26 prone or other types of restraint.  
27  
28

1 690. At all relevant times, CHAPMAN and HWC knew the product would be purchased  
2 and used without inspection for defects in that the schools and staff relied on CHAPMAN's  
3 representations about its safety.  
4

5 691. The product was defective when it was sold and placed into the stream of commerce  
6 by CHAPMAN and HWC.  
7

8 692. The product at the time of injury was being used in the manner intended by the  
9 defendants and further, was used in the manner that was reasonably foreseeable by  
10 defendants as involving a substantial danger to disabled children that was not readily  
11 apparent to the users of the product, and adequate warnings of the danger were not given  
12 to the users of the product.  
13

14 693. At all times herein mentioned, in market the restraint system, CHAPMAN and HWC  
15 made representations that the restraint system was endorsed by the medical profession,  
16 when, in fact, the medical profession has not placed their imprimatur on the use of the  
17 restraint system, and in particular, has not indicated any approval of the use of prone  
18 restraint on an obese child with a fused neck, such as MAX was on the date the restraint  
19 system caused his death, and the risks of asphyxiation and aspiration in prone restraints are  
20 well known to the medical community.  
21

22 694. At all times herein mentioned, CHAPMAN and HWC knew that the restraint system  
23 was defective and knew that the defect was due, in part, on the fact that prone holds should  
24 not be used on medically compromised children, on children who were obese, who were  
25 taking psychiatric medications, or on autistic children who cannot communicate their needs  
26 to an adult, and for whom struggling against a restraint is a natural reaction.  
27  
28

1 695. At all times herein mentioned, CHAPMAN and HWC did not include information  
2 to users of the restraint system that would allow the users to determine that the system  
3 should not be used on medically compromised or obese children, children who were on  
4 psychiatric medication, or autistic children but continued to promote the use of prone  
5 restraints as a necessary method of restraining children, especially by promoting fear of  
6 behaviorally challenged children among teachers, administrators, and the public at large.  
7

8  
9 696. At all times herein mentioned, CHAPMAN and HWC represented to consumers of  
10 the restraint system that it complied with California law.

11 697. At all times herein mentioned, CHAPMAN and HWC knew that the restraint system  
12 was defective, and that the defect was due, in part, to the fact that it was prohibited to use  
13 the restraint system under California law for behaviors of the person being restrained that  
14 do not pose a risk of harm to that person or to others; and for known and predictable  
15 behaviors that are addressed in a behavioral intervention plan. Further, defendants knew or  
16 should have known that the restraint system that violated California Education Code  
17 sections 56521.1 and 56521.2 which, in pertinent part, prohibits the use of any interventions  
18 that 1) cause physical pain; 2) simultaneously immobile all four extremities, 3) apply an  
19 amount of force that exceeds that which is reasonable and necessary under the  
20 circumstances, or 4) subjects the individual to verbal abuse, ridicule, or humiliation, or that  
21 can be expected to cause excessive emotional trauma.  
22

23  
24 698. At all times herein mentioned, CHAPMAN and HWC also knew that the restraint  
25 system was defective, and that the defect was due, in part, to the fact that it failed to limit  
26 a child's exposure to the prone hold for a prolonged period of time, and failed to inform  
27  
28

1 users of the restraint system of the increased likelihood of injury and death to students if a  
2 restraint lasted more than 15 minutes.

3  
4 699. At all times herein mentioned, CHAPMAN and HWC knew the restraint system was  
5 defective and that the defect was due, in part, to the fact that the restraint system would be  
6 used by inexperienced school staff; that the restraint system failed to take into account the  
7 dynamics of a behavioral crisis, both for the user of the product and for the child upon  
8 whom it was intended to be used; and that only one person from the school was trained in  
9 the use of the product by Chapman and HWC, and, like the game of “telephone”, that person  
10 would then demonstrate how to use the product to others within the school, with no  
11 oversight as to whether use of the product to the next line of teachers was properly  
12 performed.  
13

14  
15 700. At all times herein mentioned, CHAPMAN and HWC knew or should have known  
16 that of the hazardous and dangerous propensities of the restraint system, in that numerous  
17 studies, including those of the U.S. government have established that prone restraints of the  
18 type used in CHAPMAN and HWC’s restraint system have resulted in large numbers of  
19 deaths and innumerable injuries involving children across the United States.  
20

21  
22 701. CHAPMAN and HWC knew the product would be purchased and used without  
23 inspection for defects. The product was defective when it left the control of each defendant.  
24 The product at the time of injury was being used in the manner intended by the defendants  
25 or used in the manner that was reasonably foreseeable by defendants as involving a  
26 substantial danger not readily apparent, and adequate warnings of the danger were not given  
27 to the users of the product.  
28

1 702. At all times herein mentioned, the restraint system was not reasonably fit, suitable,  
2 or safe for its intended purpose, and the foreseeable risks of injury and death exceed any  
3 benefits associated with its design and formulation.  
4

5 703. At all times herein mentioned, the restraint system was unreasonably dangerous in  
6 that it failed to perform safely when used by ordinary consumers of the restraint system,  
7 including staff at GHS, including when it was used as intended and in a reasonably  
8 foreseeable manner.  
9

10 704. At all times here mentioned, the restraint system was expected to reach users of the  
11 restraint system without substantial change in the defective and unreasonably dangerous  
12 condition in which it was sold, and any misuse of the restraint system was foreseeable in  
13 light of the rapidly shifting dynamic under which the restraint system is used, as  
14 demonstrated by the numerous documented incidents of injury and death to students by use  
15 of prone restraints such as those which are part of CHAPMAN and HWC's restraint system.  
16  
17

18 705. At all times herein mentioned, the restraint system was unreasonably dangerous and  
19 defective in design or formulation for its intended use in that, when it was placed into the  
20 stream of commerce by CHAPMAN and HWC, it posed a serious risk of death and injury  
21 that could have been avoided by use of safer alternatives to handling children in behavioral  
22 crisis, such as those positive behavioral supports currently promoted by the State of  
23 California.  
24

25 706. At all times herein mentioned, CHAPMAN and HWC's restraint system, was  
26 insufficiently studied and tested for use on medically compromised or obese children, or  
27 children who were taking psychiatric medications, or for use on autistic children in  
28

1 behavioral crisis who cannot convey their needs to an adult, and for whom struggling  
2 against a restraint is a natural reaction.

3  
4 707. MAX and other minor plaintiffs are within the class of persons that CHAPMAN and  
5 HWC should reasonably foresee as being subject to harm caused by the defective restraint  
6 system because MAX and the other minor plaintiffs were disabled children within the State  
7 of California upon whom the product was intended to be used.

8  
9 708. On or about the dates herein alleged, MAX suffered injuries and ultimately death,  
10 and other minor plaintiffs named in this cause of action were injured by said restraint  
11 system.

12  
13 709. Each of the restraint system defects, as described herein, was a substantial factor in  
14 causing MAX to suffer injuries and death, and in causing each of the other minor plaintiffs  
15 named herein suffered permanent and continuous physical injuries, pain and suffering, along  
16 with emotional trauma that will continue into the future. Further, the minor plaintiffs have  
17 incurred medical expenses, and will incur other future special damages according to proof.  
18 The estate of MAX makes no claim for damages for pain and suffering.

19  
20 **TWENTY-FIRST CAUSE OF ACTION**

21  
22 **NEGLIGENCE**

23 **(ASSERTED BY ESTATE OF MAX, and THE PLAINTIFF STUDENTS AGAINST**  
24 **CHAPMAN, HWC, AND DOE DEFENDANTS)**

25 710. Plaintiffs, and each of them, incorporated by reference paragraphs 1-32, 45-46, 48-  
26 58, 70-71, 130, 135, 140, 144, 150, 154, 160, 164, 167, 179-427, 671-709 of this Complaint  
27 as set forth in full hereat..  
28

1 711. At all times herein mentioned, defendants CHAPMAN and HWC were under a duty  
2 not to design, develop, market, and sell a restraint system that presented an unreasonable  
3 risk of death or harm to children.  
4

5 712. At the time of development and sale of the restraint system, CHAPMAN and HWC  
6 knew or reasonably should have known that the restraint system presented an unreasonable  
7 risk of injury or death and should not be used on medically compromised children, on obese  
8 children, on children who take psychiatric medications, on autistic children who cannot  
9 communicate their needs to adults and who have a natural inclination to struggle against  
10 restraint, or for prolonged periods of time.  
11

12 713. Defendants CHAPMAN and HWC breached their duty of reasonable care and were  
13 negligent in designing and marketing a restraint system that presented said unreasonable  
14 risks of injury and death. Defendants CHAPMAN and HWC further breached their duty  
15 of reasonable care and were negligent in designing and marketing a restraint system that  
16 violated California Education Code sections 56521.1 and 56521.2 which, in pertinent part,  
17 prohibits the use of any interventions that 1) cause physical pain; 2) simultaneously  
18 immobilize all four extremities, 3) apply an amount of force that exceeds that which is  
19 reasonable and necessary under the circumstances, or 4) subjects the individual to verbal  
20 abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.  
21

22 714. At all times herein mentioned, defendants CHAPMAN and HWC breached their duty  
23 of care to design and market a safe restraint system for use on “behaviorally challenged”  
24 students by, but not limited to: failing to instruct GHS school staff on the known dangers  
25 of the use of a prone restraint on children; failing to instruct GHS school staff on the types  
26  
27  
28

1 of medical conditions in which use of a prone restraint is contraindicated; failure to instruct  
2 GHS school staff that prone restraints should not be used on children who are obese, who  
3 have neurological and muscular-skeletal compromise, or who use pain and/or psychiatric  
4 medications; teaching GHS school staff to use a prone restraint that constricted the child's  
5 ability to breathe; failing to instruct GHS school staff on signs that would indicate when a  
6 child being held in restraint was in physical distress; failure to instruct GHS school staff to  
7 identify signs or complaints of distress that must be immediately addressed, including but  
8 not limited to: urination, vomiting, and agitation; failing to instruct GHS school staff that  
9 agitation by a child in a restraint is a natural response to being restrained, and is not  
10 necessarily a threat to authority; failing to protect children from foreseeable abuses of its  
11 restraint system; failing to instruct GHS school staff that prone restraints should not be used  
12 except as a last resort; failing to instruct school staff that restraints should not be used except  
13 to control dangerous, unpredictable behavior; failure to instruct GHS staff not to use prone  
14 restraints in excess of 15 minutes; failure to instruct GHS school staff that a child must be  
15 released from a restraint at the earliest possible moment; failed to instruct GHS school staff  
16 not to use multiple staff members during a prone restraint; failing to instruct GHS school  
17 staff that they must provide for the comfort of a child being held in a prone restraint,  
18 including offering a restrained child fluids, bathroom use, exercise, range of motion and  
19 periodic release of limbs; failure to instruct GHS school staff that vital signs of the  
20 restrained child must be monitored regularly throughout the restraint; failure to instruct GHS  
21 school staff that continuous, close supervision of a restraint must be performed by the HWC  
22 trainer or another staff member who is not involved in the restraint; failure to instruct GHS  
23  
24  
25  
26  
27  
28

1 school staff that an immediate and accurate report must be provided to all educational  
2 professionals after each restraint; failure to instruct GHS school staff that prompt and  
3 thorough review of any restraint imposed just be performed as a means to ensure compliance  
4 with laws and policies, to ensure continuing safety of students, and to prevent other  
5 incidents of restraint; failure to instruct GHS school staff of primary preventative measures  
6 available rather than restraints; failure to instruct GHS school staff of interventions that are  
7 less intrusive than restraints; failure to instruct GHS school staff of effective ways to de-  
8 escalate situations to avoid restraints; failure to instruct GHS school staff of crisis  
9 intervention techniques that utilize alternatives to restraint; teaching use of prone restraints  
10 to GHS school staff that create an aversive environment counterproductive to facilitating  
11 learning; teaching the use of prone restraints to GHS school staff that cause significant  
12 physical harm, serious, foreseeable long term psychological impairment; failure to provide  
13 oversight to GHS school staff on the use of restraints to determine whether the intervention  
14 was necessary; failure to provide oversight to GHS school staff on whether restraints were  
15 being implemented in a manner consistent with staff training; failing to teach GHS school  
16 staff basic life-saving safety techniques, such as CPR, which may become necessary as a  
17 result of the imposition of a restraint; failing to teach GHS school staff to call 911 in the  
18 event of a medical emergency involving someone involved in a prone restraint.

19 715. The negligence of defendants, CHAPMAN and HWC, was a substantial factor in  
20 causing school staff at defendant, GHS, to use a prone restraint in a deadly and dangerous  
21 manner on physically and medically compromised “behaviorally challenged”, disabled  
22 students, resulting in the death of MAX, and injuries to THE PLAINTIFF STUDENTS.  
23  
24  
25  
26  
27  
28

1 716. As a direct and proximate result of the negligence of the defendants, MAX suffered  
2 death and the other minor plaintiffs suffered permanent and continuous physical injuries,  
3 and pain and suffering, along with emotional trauma that will continue into the future.  
4 Further, the minor plaintiffs have incurred medical expenses, and will incur other future  
5 special damages according to proof.  
6

7  
8 WHEREFORE, Plaintiffs pray for judgment against Defendants, as follows:  
9

10 FIRST CAUSE OF ACTION

11  
12 VIOLATIONS OF TITLE II, AMERICANS WITH DISABILITIES ACT OF 1990,  
13 42 U.S.C., SECTION 12101, ET. SEQ.  
14

15 As to the Estate of MAX:  
16

- 17 1. Medical and funeral expenses according to proof at trial;  
18  
19 2. Punitive damages against non-public entity defendants;  
20  
21 3. Statutory damages;  
22  
23 4. Attorneys fees  
24  
25 5. Costs of suit;  
26  
27 6. Any other and further relief as the Court deems proper and just.  
28

As to the remaining plaintiffs in this Cause of action:

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
8. Punitive and exemplary damages against all non-public entity Defendants
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

## SECOND CAUSE OF ACTION

VIOLATIONS OF SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED, 29 U.S.C., SECTION 795 [504]

As to the Estate of MAX:

1. Medical and funeral expenses according to proof at trial;

1 2. Punitive damages against non-public entity defendants;

2

3 3. Statutory damages;

4

5 4. Attorneys fees

6

7 . Costs of suit;

7

8 5. Any other and further relief as the Court deems proper and just.

9

10 As to the remaining plaintiffs in this Cause of action:

11

12 1. General damages for in an amount to be determined according to proof at trial;

13

14 2. Medical and future medical and related expenses in an amount to be determined by  
proof at trial;

15

16 3. Past and future lost earnings in an amount to be determined by proof at trial;

17

18 4. Impairment of earning capacity for in an amount to be determined by proof at trial;

19

20 5. General damages for severe emotional and psychological distress

21

22 6. Pain and suffering;

22

23 7. Statutory damages;

24

25 8. Attorneys' fees;

26

27 8. Punitive and exemplary damages against all non-public entity Defendants

27

28 9. Costs of this action;

10. Such other and further relief as the Court deems just and proper.

THIRD CAUSE OF ACTION

VIOLATIONS OF 42 U.S.C. SECTION 1983 - FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION

As to the Estate of MAX:

1. Medical and funeral expenses according to proof at trial;
2. Punitive damages against non-public entity defendants;
3. Statutory damages;
4. Attorneys fees
- . Costs of suit;
5. Any other and further relief as the Court deems proper and just.

As to the remaining plaintiffs in this Cause of action:

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;

- 1 5. General damages for severe emotional and psychological distress
- 2
- 3 6. Pain and suffering;
- 4
- 5 7. Statutory damages;
- 6
- 7 8. Attorneys' fees;
- 8 8. Punitive and exemplary damages against all non-public entity Defendants
- 9
- 10 9. Costs of this action;
- 11
- 12 10. Such other and further relief as the Court deems just and proper.

13  
14 FOURTH CAUSE OF ACTION

15 VIOLATIONS OF 42 U.S.C. SECTION 1983 - DUE PROCESS CLAUSE OF THE  
16 FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION FIFTH  
17 CAUSE OF ACTION

18 VIOLATIONS OF 42 U.S.C. SECTION 1983 - EQUAL PROTECTION CLAUSE OF THE  
19 FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

20  
21 As to the Estate of MAX:

- 22 1. Medical and funeral expenses according to proof at trial;
- 23
- 24 2. Punitive damages against non-public entity defendants;
- 25
- 26 3. Statutory damages;
- 27
- 28 4. Attorneys fees

1 . Costs of suit;

2

3 5. Any other and further relief as the Court deems proper and just.

4

5 As to the remaining plaintiffs in this Cause of action:

6

7 1. General damages for in an amount to be determined according to proof at trial;

8

9 2. Medical and future medical and related expenses in an amount to be determined by proof at trial;

10

11 3. Past and future lost earnings in an amount to be determined by proof at trial;

12

13 4. Impairment of earning capacity for in an amount to be determined by proof at trial;

14

15 5. General damages for severe emotional and psychological distress

16

17 6. Pain and suffering;

18

19 7. Statutory damages;

20

21 8. Attorneys' fees;

22

23 8. Punitive and exemplary damages against all non-public entity Defendants

24

25 9. Costs of this action;

26

27 10. Such other and further relief as the Court deems just and proper.SIXTH CAUSE OF ACTION

28

INTERFERENCE WITH FAMILIAL RELATIONSHIP,

1 IN VIOLATION OF 42 USC 1983 - FIRST AND FOURTEENTH AMENDMENTS TO  
2 THE UNITED STATES CONSTITUTION<sup>1</sup>. Loss of care, comfort and society of  
3 Plaintiffs LANGLEY and BENSON;

4 2. Statutory damages;

5  
6 3. Attorney's fees;

7  
8 4. Punitive and exemplary damages against all non-public entity Defendants;  
9 EMPLOYEES OF

10 6. Costs of this action; and

11  
12 7. Such other and further relief as the Court deems just and proper.

13  
14  
15 SEVENTH CAUSE OF ACTION

16  
17 VIOLATIONS OF CALIFORNIA EDUCATION CODE §§ 200, 201, 220 and 260, et seq.

18  
19 (ASSERTED BY PLAINTIFFS THE ESTATE OF MAX AND THE PLAINTIFF  
20 STUDENTS

21 AGAINST DEFENDANTS EMPLOYEES OF THE ARMS OF THE EDUCATION  
22 SYSTEM; GHS AND ITS EMPLOYEES; AND DOE DEFENDANTS)

23  
24 As to the Estate of MAX:

25  
26 1. Medical and funeral expenses according to proof at trial;

27 2. Punitive damages against non-public entity defendants;

1 3. Statutory damages;

2

3 4. Attorneys fees

4

5 . Costs of suit;

6

7 5. Any other and further relief as the Court deems proper and just.

8

9 As to the remaining plaintiffs in this Cause of action:

10

11 1. General damages for in an amount to be determined according to proof at trial;

12

13 2. Medical and future medical and related expenses in an amount to be determined by  
proof at trial;

14

15 3. Past and future lost earnings in an amount to be determined by proof at trial;

16

17 4. Impairment of earning capacity for in an amount to be determined by proof at trial;

18

19 5. General damages for severe emotional and psychological distress

20

21 6. Pain and suffering;

22

23 7. Statutory damages;

24

25 8. Attorneys' fees;

26

27 8. Punitive and exemplary damages against all non-public entity Defendants

28

9. Costs of this action;

10

11 10. Such other and further relief as the Court deems just and proper.

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EIGHTH CAUSE OF ACTION

INTERFERENCE WITH THE EXERCISE OF CIVIL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTIONS 51(b) and 51.7

(ASSERTED BY PLAINTIFFS THE PLAINTIFF STUDENTS AND THE ESTATE OF MAX

AGAINST DEFENDANTS THE ARMS OF THE EDUCATIONAL SYSTEM; EMPLOYEES OF THE ARMS OF THE EDUCATIONAL SYSTEM; AND GHS AND ITS EMPLOYEES; MEYERS, KELLER, CHRISTENSEN, WOHLWEND, MORGAN, WATSON, THOMAS, CHAMBER, STEARN, SMITH, ALLEN AND CHAPMAN; AND DOE DEFENDANTS)

As to the Estate of MAX:

1. Medical and funeral expenses according to proof at trial;
2. Punitive damages against non-public entity defendants;
3. Statutory damages;
4. Attorneys fees
- . Costs of suit;
5. Any other and further relief as the Court deems proper and just.

As to the remaining plaintiffs in this Cause of action:

1. General damages for in an amount to be determined according to proof at trial;

2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
8. Punitive and exemplary damages against all non-public entity Defendants
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

NINTH CAUSE OF ACTION

INTERFERENCE WITH PLAINTIFFS' EXERCISE OF CIVIL RIGHTS IN

VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1

(ASSERTED BY PLAINTIFFS THE PLAINTIFF STUDENTS AND THE ESTATE OF MAX, AGAINST DEFENDANTS CDE, YOLO, DJUSD, SCOE, SCOESELPA, SCSELPA, RUSD; AND GHS AND ITS EMPLOYEES; MEYERS, KELLER,

1 CHRISTENSEN, WOHLWEND, MORGAN, WATSON, THOMAS, CHAMBERS,  
2 STEARN, SMITH, ALLEN AND MATLOCK; AND DOE DEFENDANTS)

3  
4 As to the Estate of MAX:

- 5 1. Medical and funeral expenses according to proof at trial;
- 6
- 7 2. Punitive damages against non-public entity defendants;
- 8
- 9 3. Statutory damages;
- 10
- 11 4. Attorneys fees
- 12 . Costs of suit;
- 13
- 14 5. Any other and further relief as the Court deems proper and just.
- 15

16 As to the remaining plaintiffs in this Cause of action:

- 17
- 18 1. General damages for in an amount to be determined according to proof at trial;
- 19
- 20 2. Medical and future medical and related expenses in an amount to be determined by  
proof at trial;
- 21
- 22 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 23
- 24 4. Impairment of earning capacity for in an amount to be determined by proof at trial;
- 25
- 26 5. General damages for severe emotional and psychological distress
- 27
- 28 6. Pain and suffering;

- 1 7. Statutory damages;
- 2
- 3 8. Attorneys' fees;
- 4
- 5 8. Punitive and exemplary damages against all non-public entity Defendants
- 6
- 7 9. Costs of this action;
- 8
- 9 10. Such other and further relief as the Court deems just and proper.
- 10
- 11

12 TENTH CAUSE OF ACTION

13 WRONGFUL DEATH OF MINOR MAX BENSON

14  
15 (ASSERTED BY PLAINTIFFS LANGLEY, BENSON AND TURELLI AGAINST  
16 DEFENDANTS YOLO, HOLSTEGE, BENO, DJUSD, McGREW, CHESSMAN, GALAS,  
17 GHS, MEYERS, KELLER, CHRISTENSEN, WOHLWEND, NARAN, MORGAN,  
18 WATSON, THOMAS, CHAMBERS AND THURMOND, IN THEIR INDIVIDUAL AND  
OFFICIAL CAPACITIES; AND DOE DEFENDANTS)

- 19
- 20 1. Loss of care, comfort and society of THE PLAINTIFFS LANGLEY, BENSON AND  
TURELLI, according to proof;
- 21
- 22 2. Punitive damages against all non-public entity Defendants;
- 23
- 24 3. Costs of this action;
- 25
- 26 4. Such other and further damages as the Court deems just and proper.
- 27
- 28

1 ELEVENTH CAUSE OF ACTION

2  
3 BATTERY

4  
5 (ASSERTED BY PLAINTIFFS THE ESTATE OF MAX AND THE PLAINTIFF  
6 STUDENTS AGAINST DEFENDANTS CDE, THE ARMS OF THE EDUCATION  
7 SYSTEM, THEIR EMPLOYEES, GHS, ITS ADMINISTRATORS AND TEACHERS;  
8 AND DOE DEFENDANTS)  
9

10 As to the Estate of MAX:

- 11
- 12 1. Medical and funeral expenses according to proof at trial;
  - 13
  - 14 2. Punitive damages against non-public entity defendants;
  - 15
  - 16 3. Statutory damages;
  - 17
  - 18 4. Attorneys fees
  - 19 . Costs of suit;
  - 20
  - 21 5. Any other and further relief as the Court deems proper and just.

22 As to the remaining plaintiffs in this Cause of action:

- 23
- 24 1. General damages for Pain and suffering in an amount to be determined according to  
25 proof at trial;
  - 26
  - 27 2. Medical and future medical and related expenses in an amount to be determined by  
28 proof at trial;

3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
8. Punitive and exemplary damages against all non-public entity Defendants
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

TWELFTH CAUSE OF ACTION

ASSAULT

(ASSERTED BY PLAINTIFFS THE ESTATE OF MAX, D.Z., S.D., H.K., M.S. AND AUSTIN AGAINST CDE, YOLO, DJUSD, SCOE, SCOESELPA, SCSELPA, RUSD AND SAID DEFENDANTS' EMPLOYEES IN THEIR OFFICIAL AND INDIVIDUAL CAPACITIES; AND DOE DEFENDANTS; AND ASSERTED BY EACH OF THE PLAINTIFF STUDENTS AGAINST GHS, ITS EMPLOYEES; AND DOE DEFENDANTS)

1 As to the Estate of MAX:

- 2
- 3 1. Medical and funeral expenses according to proof at trial;
  - 4
  - 5 2. Punitive damages against non-public entity defendants;
  - 6
  - 7 3. Statutory damages;
  - 8
  - 9 4. Attorneys fees
  - 10 . Costs of suit;
  - 11
  - 12 5. Any other and further relief as the Court deems proper and just.

13 As to the remaining plaintiffs in this Cause of action:

- 14
- 15 1. General damages for Pain and suffering in an amount to be determined according to
  - 16 proof at trial;
  - 17
  - 18 2. Medical and future medical and related expenses in an amount to be determined by
  - 19 proof at trial;
  - 20
  - 21 3. Past and future lost earnings in an amount to be determined by proof at trial;
  - 22
  - 23 4. Impairment of earning capacity for in an amount to be determined by proof at trial;
  - 24
  - 25 5. General damages for severe emotional and psychological distress
  - 26
  - 27 6. Pain and suffering;
  - 28 7. Statutory damages;

- 1 8. Attorneys' fees;
- 2
- 3 8. Punitive and exemplary damages against all non-public entity Defendants
- 4
- 5 9. Costs of this action;
- 6
- 7 10. Such other and further relief as the Court deems just and proper.
- 8
- 9

10 THIRTEENTH CAUSE OF ACTION

11  
12 INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

13  
14 (ASSERTED BY PLAINTIFFS THE ESTATE OF MAX AND ALL OF THE NAMED  
15 PLAINTIFFS AGAINST CDE, THE ARMS OF THE EDUCATIONAL SYSTEM AND  
16 ITS EMPLOYEES; AND THE PLAINTIFF STUDENTS AGAINST GHS AND ITS  
17 ADMINISTRATORS AND STAFF; AND DOE DEFENDANTS)

18  
19 As to the Estate of MAX:

- 20
- 21 1. Medical and funeral expenses according to proof at trial;
- 22
- 23 2. Punitive damages against non-public entity defendants;
- 24
- 25 3. Statutory damages;
- 26
- 27 4. Attorneys fees
- 28 . Costs of suit;

1 5. Any other and further relief as the Court deems proper and just.

2

3 As to the remaining plaintiffs in this Cause of action:

4

5 1. General damages for Pain and suffering in an amount to be determined according to  
proof at trial;

6

7 2. Medical and future medical and related expenses in an amount to be determined by  
8 proof at trial;

9

10 3. Past and future lost earnings in an amount to be determined by proof at trial;

11 4. Impairment of earning capacity for in an amount to be determined by proof at trial;

12

13 5. General damages for severe emotional and psychological distress

14

15 6. Pain and suffering;

16

17 7. Statutory damages;

18

19 8. Attorneys' fees;

20 8. Punitive and exemplary damages against all non-public entity Defendants

21

22 9. Costs of this action;

23

24 10. Such other and further relief as the Court deems just and proper.

25

26

27 FOURTEENTH CAUSE OF ACTION

28

1 FALSE IMPRISONMENT

2  
3 (ASSERTED BY PLAINTIFFS, THE ESTATE OF MAX, THE NAMED PLAINTIFF  
4 STUDENTS AGAINST CDE, THE ARMS OF THE EDUCATIONAL SYSTEM AND ITS  
5 EMPLOYEES, AND ASSERTED BY PLAINTIFFS, THE PLAINTIFF STUDENTS  
6 AGAINST GHS, AND ITS EMPLOYEES; AND DOE DEFENDANTS)  
7

8 As to the Estate of MAX:  
9

- 10 1. Medical and funeral expenses according to proof at trial;  
11
- 12 2. Punitive damages against non-public entity defendants;  
13
- 14 3. Statutory damages;  
15
- 16 4. Attorneys fees  
17
- 18 . Costs of suit;  
19
- 20 5. Any other and further relief as the Court deems proper and just.

21 As to the remaining plaintiffs in this Cause of action:  
22

- 23 1. General damages for Pain and suffering in an amount to be determined according to  
24 proof at trial;
- 25 2. Medical and future medical and related expenses in an amount to be determined by  
26 proof at trial;
- 27 3. Past and future lost earnings in an amount to be determined by proof at trial;  
28

4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
8. Punitive and exemplary damages against all non-public entity Defendants
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

FIFTEENTH CAUSE OF ACTION

NEGLIGENCE

(ASSERTED BY THE ESTATE OF MAX, THE NAMED PLAINTIFF STUDENTS, AGAINST CDE, THE ARMS OF THE EDUCATIONAL SYSTEM AND ITS EMPLOYEES, AND ASSERTED BY PLAINTIFFS, THE PLAINTIFF STUDENTS AGAINST GHS, AND ITS EMPLOYEES; AND DOE DEFENDANTS)

AS TO THE ESTATE OF MAX:

1. Medical and funeral expenses according to proof at trial;

2. Punitive damages against all non-public entity Defendants;
3. Costs of suit;
4. Any other and further relief as the Court deems proper and just.

AS TO THE remaining plaintiffs in the COA:

1. General damages Pain and suffering in an amount to be determined by proof at trial;
2. General and special damages for severe emotional and psychological distress;
3. Medical and future medical and related expenses in an amount to be determined by proof at trial;
4. Past and future lost earnings in an amount to be determined by proof at trial;
5. Impairment of earning capacity in an amount to be determined by proof at trial;
6. Punitive damages against all non-public entity Defendants;
7. Costs of this action;
8. Any other and further relief as the Court deems just and proper.

SIXTEENTH CAUSE OF ACTION

NEGLIGENT SUPERVISION

1 (ASSERTED BY PLAINTIFFS THE ESTATE OF MAX AND THE NAMED PLAINTIFF  
2 STUDENTS AGAINST THE ARMS OF THE EDUCATIONAL SYSTEM AND ITS  
3 EMPLOYEES (IN THEIR OFFICIAL CAPACITY ONLY) AND BY THE PLAINTIFF  
4 STUDENTS AGAINST GHS, ITS ADMINISTRATORS AND STAFF)

5 1. As to the Estate of MAX:

- 6 1. Medical and funeral expenses according to proof at trial;  
7  
8 2. Punitive damages against non-public entity defendants;  
9  
10 3. Costs of suit;  
11  
12 4. Any other and further relief as the Court deems proper and just.

13  
14 As to the remaining plaintiffs in this COA:

- 15 2. General damages for Plaintiffs THE PLAINTIFF STUDENTS for pain and suffering  
16 and emotional and psychological distress in an amount to be determined by proof at trial;  
17  
18 3. Medical and future medical and related expenses for plaintiffs, THE PLAINTIFF  
19 STUDENTS, in an amount to be determined by proof at trial;  
20  
21 4. Past and future lost earnings for Plaintiffs THE PLAINTIFF STUDENTS in an  
22 amount to be determined by proof at trial;  
23  
24 5. Impairment of earning capacity for Plaintiffs THE PLAINTIFF STUDENTS in an  
25 amount to be determined by proof at trial;  
26  
27 6. General and special damages for pain and suffering and emotional and psychological  
28 distress severe emotional distress suffered by Plaintiffs THE PLAINTIFF STUDENTS  
7. Medical and costs;

- 1 8. Statutory damages;
- 2
- 3 9. Costs of this action;
- 4
- 5 10. Such other and further relief as the Court deems proper and just.
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- 7
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10 SEVENTEENTH CAUSE OF ACTION

11  
12 NEGLIGENCE PER SE

13  
14 (ASSERTED BY PLAINTIFFS THE ESTATE OF MAX AND THE PLAINTIFF  
15 STUDENTS AGAINST THE ARMS OF THE EDUCATIONAL SYSTEM, THEIR  
16 EMPLOYEES IN THEIR OFFICIAL CAPACITIES; GHS; GHS' EMPLOYEES; AND  
DOE DEFENDANTS)

17 As to the Estate of MAX:

- 18
- 19 1. Medical and funeral expenses according to proof at trial;
- 20
- 21 2. Punitive damages against non-public entity defendants;
- 22
- 23 3. Costs of suit;
- 24
- 25 4. Any other and further relief as the Court deems proper and just.

26 As to the remaining plaintiffs in this COA:

27  
28

1. General damages for Plaintiffs THE PLAINTIFF STUDENTS for pain and suffering and emotional and psychological distress in an amount to be determined by proof at trial;

2.

Medical and future medical and related expenses for plaintiffs, THE PLAINTIFF STUDENTS, in an amount to be determined by proof at trial;

Past and future lost earnings for Plaintiffs THE PLAINTIFF STUDENTS in an amount to be determined by proof at trial;

12. Impairment of earning capacity for Plaintiffs THE PLAINTIFF STUDENTS in an amount to be determined by proof at trial;

13. General and special damages for pain and suffering and emotional and psychological distress severe emotional distress suffered by Plaintiffs THE PLAINTIFF STUDENTS

14. Medical and costs;

15. Statutory damages;

16. Attorneys' fees;

17. Costs of this action;

18. Such other and further relief as the Court deems proper and just.

EIGHTEENTH CAUSE OF ACTION

TORTIOUS BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING

(ASSERTED BY PLAINTIFFS THE PLAINTIFF STUDENTS' PARENTS

1 AGAINST DEFENDANTS GHS, MEYERS, KELLER, CHRISTENSEN, NARAN, and  
2 DOE DEFENDANTS)

3  
4 1. General and special damages for severe emotional distress as to PLAINTIFF  
STUDENTS' PARENTS;

5  
6 2. General damages for Plaintiff Students' Parents in an amount to be determined by  
7 proof at trial;

8  
9 3. Medical and future medical and related expenses as to Plaintiff Students' Parents in  
an amount to be determined by proof at trial;

10  
11 4. Past and future lost earnings as to Plaintiff Students' Parents in an amount to be  
12 determined by proof at trial;

13  
14 5. Impairment of earning capacity as to Plaintiff Students' Parents in an amount to be  
determined by proof at trial;

15  
16 6. Medical and funeral expenses incurred for Plaintiff M.B.;

17  
18 7. Punitive damages;

19  
20 8. Costs of this action;

21  
22 9. Such other and further relief as the Court deems proper and just.

23 NINETEENTH CAUSE OF ACTION

24 FRAUD

25  
26 (ASSERTED BY PLAINTIFFS THE PLAINTIFF STUDENTS' PARENTS AGAINST  
27 DEFENDANTS YOLO, DJUSD, McGREW, CHESSMAN, GALAS, HOSTEGE, BENO,  
28 EGUSD, EGUSELPA, SCOE, PHILLIPS, DELGADO, GHS, MEYER, KELLER,  
CHRISTENSEN, WOHLWEND AND DOE DEFENDANTS)

1 1. General and special damages for Pain and suffering AND severe emotional distress  
2 as to THE PLAINTIFF STUDENTS' PARENTS;

3  
4 2. Punitive and exemplary damages against DEFENDANTS YOLO, DJUSD,  
5 McGREW, CHESSMAN, GALAS, HOSTEGE, BENO, EGUSD, EGUSELPA, SCOE,  
6 PHILLIPS, DELGADO, GHS, MEYER, KELLER, CHRISTENSEN, WOHLWEND AND  
7 DOE DEFENDANTS;

8  
9 3. Costs of this action; and

10 4. Such other and further relief as the Court deems just and proper.  
11  
12

13 TWENTIETH CAUSE OF ACTION

14 STRICT PRODUCT LIABILITY  
15

16 (ASSERTED BY PLAINTIFFS THE ESTATE OF MAX; THE NAMED STUDENTS  
17 AND THE PLAINTIFF STUDENTS AGAINST CHAPMAN, HWC AND DOE  
18 DEFENDANTS)

19 1. General and special damages for Pain and suffering AND severe emotional distress  
20 as to PLAINTIFF STUDENTS';

21 2. General damages for Plaintiff Students' Parents in an amount to be determined by  
22 proof at trial;

23  
24 3. Medical and future medical and related expenses as to Plaintiff Students' Parents in  
25 an amount to be determined by proof at trial;

26 4. Past and future lost earnings as to Plaintiff Students' Parents in an amount to be  
27 determined by proof at trial;  
28

1 5. Impairment of earning capacity as to Plaintiff Students' Parents in an amount to be  
2 determined by proof at trial;

3  
4 6. As to Plaintiffs LANGLEY and BENSON, loss of care, comfort and society of M.B.;

5 7. Medical and funeral expenses incurred for Plaintiff M.B.;

6  
7 8. Punitive damages;

8  
9 9. Costs of this action;

10 10. Such other and further relief as the Court deems just and proper.

11  
12 TWENTY-FIRST CAUSE OF ACTION, NEGLIGENCE ASSERTED BY ESTATE OF  
13 MAX AND M.S, D.Z., J.P., AUSTIN, E.D., S.D., H.K. and LUIS AGAINST CHAPMAN,  
14 HWC, AND DOE DEFENDANTS

15 As to the Estate of MAX:

16  
17 1. Medical and funeral expenses according to proof at trial;

18  
19 2. Punitive damages against non-public entity defendants;

20  
21 3. Costs of suit;

22 4. Any other and further relief as the Court deems proper and just.

23  
24 As to the remaining plaintiffs in this COA:

25  
26 1. General damages for Plaintiffs THE PLAINTIFF STUDENTS for pain and suffering  
27 and emotional and psychological distress in an amount to be determined by proof at trial;

1 2. Medical and future medical and related expenses for plaintiffs, THE PLAINTIFF  
2 STUDENTS, in an amount to be determined by proof at trial;

3  
4 3. Past and future lost earnings for Plaintiffs THE PLAINTIFF STUDENTS in an  
5 amount to be determined by proof at trial;

6 4. Impairment of earning capacity for Plaintiffs THE PLAINTIFF STUDENTS in an  
7 amount to be determined by proof at trial;

8 5. General and special damages for pain and suffering and emotional and psychological  
9 distress severe emotional distress suffered by Plaintiffs THE PLAINTIFF STUDENTS

10  
11 6. Medical and costs;

12  
13 7. Statutory damages;

14 8. Costs of this action;

15  
16 9. Such other and further relief as the Court deems proper and just.

17  
18 Dated: May 1, 2020

19  
20 /s/ Seth L. Goldstein  
21 Seth L. Goldstein, Lead Counsel for Plaintiffs  
22  
23  
24  
25  
26  
27  
28

1 **Seth L. Goldstein, S.B.N. 176882**  
2 **2100 Garden Road, Suite H-8**  
3 **Monterey, California, 93940**  
4 **Telephone (831) 372 9511**  
5 **Fax (831) 372 9611**

6 **Lead-Counsel for Plaintiffs**

7 **UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF CALIFORNIA**

9 In the Matter of:

10 _____	)	<b>Case No.: 2:20-cv-00635-TLN-KJN</b>
	)	
11 <b>Stacia LANGLEY, et al,</b>	)	
	)	
12 <b>Plaintiffs</b>	)	
13 <b>vs</b>	)	<b>CERTIFICATE OF SERVICE</b>
	)	
14 <b>GUIDING HANDS SCHOOL, et al</b>	)	
	)	
15 <b>Defendants.</b>	)	
16 _____	)	

17 I am employed in the County of Monterey, State of California.

18 I am over the age of eighteen (18) years and not a party to the within  
19 action. My business address is 2100 Garden Road, Suite H-8, California 93940.

20 On the date below, I served the following:

21 2<sup>ND</sup> Amendment to Complaint

22 on the parties to this action by electronic service, addressed as follows:

23  
24 Dominic Spinelli, [DomenicS@sdnlaw.com](mailto:DomenicS@sdnlaw.com)  
25 Cynthia Lawrence, [cynthia@sims-law.net](mailto:cynthia@sims-law.net)  
26 Len Garfinkel, [Lgarfinkel@cde.ca.gov](mailto:Lgarfinkel@cde.ca.gov)  
27 Jason M. Sherman, [jason@jsl-law.com](mailto:jason@jsl-law.com)  
28 Daniela P. Stoutenburg, [daniela.stoutenburg@dbt.law](mailto:daniela.stoutenburg@dbt.law)  
Eric D. Rouen, [rouenlaw@att.net](mailto:rouenlaw@att.net)  
Jeffrey C. Long, [jeffery.long@llg-law.com](mailto:jeffery.long@llg-law.com)

1 [ X ] (BY E MAIL)

2 I declare under penalty of perjury under the laws of the State of California  
3 that the foregoing is true and correct and that this declaration was executed on  
4 May 1, 2020, at Monterey, California.

5  
6 /s/ Seth L. Goldstein  
7 Seth L. Goldstein, Attorney at  
8 Law  
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