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Attorney for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ORANGE**

JANE ROE 1,  
JANE ROE 2,  
JANE ROE 3,  
JANE ROE 4,  
JANE ROE 5,  
JANE ROE 6,  
JANE ROE 7, and  
JANE ROE 8, individually,

Plaintiffs,

vs.

DOE 1 and DOES 2-100, INCLUSIVE,  
whose identities are unknown to Plaintiffs,

Defendants.

Case No.: 30-2020-01148065-CU-PO-CJC

Judge:

Dept.: C23

**AMENDED  
COMPLAINT FOR DAMAGES:**

**1. CLAIM FOR CHILDHOOD SEXUAL  
ASSAULT PURSUANT TO CAL.  
CODE OF CIVIL PROCEDURE 340.1**

**2. NEGLIGENCE**

**3. NEGLIGENT HIRING, TRAINING,  
SUPERVISION, and RETENTION**

**4. NEGLIGENT FAILURE TO WARN,  
TRAIN, OR EDUCATE**

**5. NEGLIGENT INFLECTION OF  
EMOTIONAL DISTRESS**

**6. INTENTIONAL INFLECTION OF  
EMOTIONAL DISTRESS**

**7. SEXUAL HARASSMENT**

**[JURY TRIAL DEMANDED]**

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From approximately 1975 through 1977, when Plaintiff JANE ROE 5 was a minor child, she was sexually molested by Elgas, a teacher of Fremont Junior High School, within domain of DOE 1. While the abuse occurred, Defendants were generally negligent and allowed Elgas access to children, including Plaintiff.

In approximately 1986, when Plaintiff JANE ROE 3 was a minor child, she was sexually harassed and molested by Elgas, a teacher of Sycamore Junior High School, within the domain of DOE 1. While the abuse occurred, Defendants were generally negligent and allowed Elgas access to children, including Plaintiff.

From approximately 1989 through 1991, when Plaintiff JANE ROE 7 was a minor child, she was sexually molested by Elgas, a teacher of Sycamore Junior High School, within the domain of DOE 1. While the abuse occurred, Defendants were generally negligent and allowed Elgas access to children, including Plaintiff.

From approximately 1989 through 1991, when Plaintiff JANE ROE 8 was a minor child, she was sexually molested by Elgas, a teacher of Sycamore Junior High School, within the

1 domain of DOE 1. While the abuse occurred, Defendants were generally negligent and allowed  
2 Elgas access to children, including Plaintiff.

3 In approximately 1998, when Plaintiff JANE ROE 4 was a minor child, she was sexually  
4 harassed and molested by Elgas, a teacher of Sycamore Junior High School, within the domain  
5 of DOE 1. While the abuse occurred, Defendants were generally negligent and allowed Elgas  
6 access to children, including Plaintiff.

7 Despite the fact that Defendants knew or should have known that Elgas was likely to use  
8 his position with them to groom and to sexually abuse children, they failed to take reasonable  
9 steps to protect Plaintiffs and other children from that danger.

10 Upon information and belief, Plaintiffs, by and through Plaintiffs' attorneys, state and  
11 allege against the Defendants and each of them as follows:

12 **JURISDICTION AND VENUE**

13 1. The Court has personal jurisdiction over Defendants pursuant to California Code  
14 of Civil Procedure §410.10 because they are located in California, are doing business in  
15 California, have committed acts or omissions in California with respect to one or more causes of  
16 action arising from these acts or omissions, and/or have caused effects in California with respect  
17 to one or more causes of action arising from these effects.

18 2. Venue is proper in Orange County in accordance with California Code of Civil  
19 Procedure §§ 395 and 395.5 because DOE 1 has their principal place of business in Orange  
20 County and the injuries to Plaintiffs were sustained in Orange County.

21 **PARTIES**

22 3. Plaintiff JANE ROE 1 is an adult female currently residing in the County of San  
23 Bernardino, State of California. Plaintiff was individually a victim of sexual misconduct and  
24 harassment. As such, she is entitled to protect her identity in this public court filing by not  
25 disclosing her name

26 4. Plaintiff JANE ROE 2 is an adult female currently residing in the County of  
27 Orange, State of California. Plaintiff was individually a victim of sexual misconduct and  
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1 harassment. As such, she is entitled to protect her identity in this public court filing by not  
2 disclosing her name.

3 5. Plaintiff JANE ROE 3 is an adult female currently residing in the County of  
4 Pinal, State of Arizona. Plaintiff was individually a victim of sexual misconduct and  
5 harassment. As such, she is entitled to protect her identity in this public court filing by not  
6 disclosing her name

7 6. Plaintiff JANE ROE 4 is an adult female currently residing in the County of  
8 Orange, State of California. Plaintiff was individually a victim of sexual misconduct and  
9 harassment. As such, she is entitled to protect her identity in this public court filing by not  
10 disclosing her name.

11 7. Plaintiff JANE ROE 5 is an adult female currently residing in the County of  
12 Riverside, State of California. Plaintiff was individually a victim of sexual misconduct and  
13 harassment. As such, she is entitled to protect her identity in this public court filing by not  
14 disclosing her name.

15 8. Plaintiff JANE ROE 6 is an adult female currently residing in the County of  
16 Orange, State of California. Plaintiff was individually a victim of sexual misconduct and  
17 harassment. As such, she is entitled to protect her identity in this public court filing by not  
18 disclosing her name.

19 9. Plaintiff JANE ROE 7 is an adult female currently residing in the County of  
20 Orange, State of California. Plaintiff was individually a victim of sexual misconduct and  
21 harassment. As such, she is entitled to protect her identity in this public court filing by not  
22 disclosing her name.

23 10. Plaintiff JANE ROE 8 is an adult female currently residing in the State of  
24 Washington. Plaintiff was individually a victim of sexual misconduct and harassment. As such,  
25 she is entitled to protect her identity in this public court filing by not disclosing her name.

26 11. Whenever reference is made to any Defendant entity, such reference includes  
27 that entity, its parent companies, subsidiaries, affiliates, predecessors, and successors. In  
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1 addition, whenever reference is made to any act, deed, or transaction of any entity, the  
2 allegation means that the entity engaged in the act, deed, or transaction by or through its  
3 officers, directors, agents, employees, or representatives while they were actively engaged in the  
4 management, direction, control, or transaction of the entity's business or affairs.

5 12. Defendant DOE 1 is a public governmental entity providing educational services  
6 in Orange County, California. DOE 1 is the primary entity owning, operating, and controlling  
7 Fremont Junior High School, where the sexual abuse of JANE ROE 1, JANE ROE 2 and JANE  
8 ROE 5 occurred. DOE 1 is the primary entity owning, operating, and controlling Sycamore  
9 Junior High School, where the sexual abuse of JANE ROE 3, JANE ROE 4, JANE ROE 6,  
10 JANE ROE 7, and JANE ROE 8 occurred. DOE 1 and DOES 2-100 were responsible for  
11 monitoring and controlling their teachers' activities and behavior with minor students.

12 13. Defendant DOE 1 includes, but is not limited to, the organization and any other  
13 organization and/or entities operating under the same or similar name with the same or similar  
14 principal place of business.

15 14. To the extent DOE 1 was a different entity, corporation, or organization during  
16 the period of time during which Elgas used his position as a teacher to sexually abuse Plaintiffs,  
17 such entity, corporation, or organization is hereby on notice that it is intended to be a defendant  
18 in this lawsuit and is identified in the Complaint as DOE 1 or as a "Doe" defendant.

19 15. To the extent DOE 1 is a successor to a different entity, corporation, or  
20 organization which existed during the period of time during which Elgas used his position as a  
21 teacher to sexually abuse Plaintiffs, such predecessor entity, corporation, or organization is  
22 hereby on notice that it is intended to be a defendant in this lawsuit and is identified in the  
23 Complaint as DOE 1 or as a "Doe" defendant.

24 16. At all times material, DOE 1 had and continues to have continuous and  
25 systematic contacts throughout the State of California including, but not limited to, Orange  
26 County.

1           17.     The perpetrator of the sexual abuse at issue in this action, Elgas, was at all times  
2 material an employee of DOE 1. Elgas gained access to Plaintiffs through his employment-  
3 related activities with DOE 1 and was under the direct supervision, employ and control of DOE  
4 1 and DOES 2-100.

5           18.     At all times material, DOE 1, its agents, servants, and employees managed,  
6 maintained, operated, supervised, and controlled Fremont Junior High School and Sycamore  
7 Junior High School. At all times material, DOE 1 was responsible for the hiring and staffing,  
8 and did the hiring and staffing, at these schools.

9           19.     During the time Elgas was employed by DOE 1, he used his position as a teacher  
10 of DOE 1 to groom and to sexually abuse Plaintiffs and other minor children. At all times  
11 material, Elgas was acting in the course and scope of his employment with DOE 1.

12           20.     The true names and capacities, whether individual, corporate, associate or  
13 otherwise, of each of the Defendants designated herein as DOES 2-100 are unknown to  
14 Plaintiffs at this time and therefore said Defendants are sued by such fictitious names. Plaintiffs  
15 will amend this Complaint to show their true names and capacities when ascertained. Plaintiffs  
16 are informed and believe and thereon allege that each Defendant designated herein as a DOE  
17 defendant is legally responsible in some manner for the events and happenings herein alleged  
18 and in such manner proximately caused damages to Plaintiffs as hereinafter alleged.

19           21.     At all relevant times, Defendants, and each of them, were the employees, agents,  
20 ostensible agents and/or contractors of each of the remaining Defendants, and were, at all  
21 relevant times, acting within the purpose and scope of that employment, agency and/or contract.  
22 Each Defendant had also given prior approval and subsequent ratification for the conduct, acts,  
23 and/or omissions of the other Defendants, and each of them.

24                   **BACKGROUND FACTS APPLICABLE TO ALL COUNTS**

25           22.     Richard Elgas was a band teacher at Fremont Junior High School including but  
26 not limited to the approximate years of 1973 through 1979. Elgas then became a band teacher  
27 at Sycamore Junior High School from approximately 1980 through 2003. At all times material,  
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1 Fremont Junior High School and Sycamore Junior High School were under the supervision and  
2 control of DOE 1.

3 23. Upon information and belief, from approximately 1975 through 1980, Elgas  
4 engaged in a continuous sexual relationship with at least one minor student, not presently a  
5 party to this action, of Fremont Junior High School. Elgas met the student while working in the  
6 capacity of her band teacher for DOE 1.

7 24. From approximately 1973 through 1976, Elgas repeatedly sexually harassed and  
8 molested JANE ROE 1. JANE ROE 1 was approximately 13 to 15 years old during this time  
9 period. Elgas met her while working in the capacity of her band teacher for DOE 1 at Fremont  
10 Junior High School.

11 25. From approximately 1975 through 1977, Elgas engaged in a continuous sexual  
12 relationship with JANE ROE 5. JANE ROE 5 was approximately 13 to 15 years old during this  
13 time period. Elgas met her while working in the capacity of her band teacher for DOE 1 at  
14 Fremont Junior High School.

15 26. From approximately 1977 through 1983, Elgas engaged in a continuous sexual  
16 relationship with JANE ROE 2. JANE ROE 2 was approximately 13 to fewer than 18 years old  
17 during this time period. Elgas first met her while working in the capacity of her band teacher  
18 for DOE 1 at Fremont Junior High School.

19 27. During the time period that Elgas was at Fremont Junior High School, it was  
20 well known amongst students and staff of DOE 1 that he and at least one additional male  
21 teacher at the school had engaged in and were disposed to seeking sexual relationships with  
22 minor children.

23 28. Upon information and belief, in approximately 1978, a Fremont School  
24 Counselor walked into the band room at Fremont Junior High School and witnessed Elgas  
25 pulling his hand out from under JANE ROE 2's blouse and standing inappropriately close to  
26 her. The counselor was an employee of DOE 1. No action was taken by DOE 1 to stop Elgas  
27 from committing further abuse after this incident.

1           29. In approximately 1979, the same school counselor who had witnessed the  
2 molestation of JANE ROE 2 at Fremont Junior High School spoke to JANE ROE 2 at Anaheim  
3 High School. The counselor, an employee of DOE 1, admitted to JANE ROE 2 that she was  
4 aware of the inappropriate sexual conduct of the teachers of Fremont Junior High School.

5           30. Elgas' sexual abuse and exploitation of JANE ROE 2 continued to  
6 approximately 1983. During the time period that Elgas abused minor JANE ROE 2, she  
7 became pregnant on three separate occasions. On the first two of those occasions, Elgas  
8 demanded that JANE ROE 2 have an abortion. JANE ROE 2 was a minor child on each  
9 occasion and followed Elgas' demands. On the occasion of the third pregnancy, JANE ROE 2  
10 defied Elgas' demands and carried the child to term.

11           31. On October 20, 1983, JANE ROE 2's child was born. JANE ROE 2 named him  
12 after his father, Richard. Just seven days later, young Richard passed away on October 27,  
13 1983. Elgas did not attend the birth of his child. Elgas did not attend the funeral of his child on  
14 November 2, 1983, either. The child is buried at Resurrection Cemetery in Montebello,  
15 California. JANE ROE 2 could not afford to purchase a hedge stone for their son's grave.

16           32. Upon information and belief, from approximately 1984 to 1986, Elgas  
17 continuously sexually harassed at least one minor student, not presently a party to this action, of  
18 Sycamore Junior High School while working in the capacity of her band teacher for DOE 1.

19           33. In approximately 1986, when JANE ROE 3 was approximately 13 years old,  
20 Elgas sexually harassed and molested JANE ROE 3 at Sycamore Junior High School. Elgas  
21 was working in the capacity of her band teacher for DOE 1.

22           34. From approximately 1989 through 1991, Elgas repeatedly sexually harassed  
23 JANE ROE 6. JANE ROE 6 was approximately 13 to 14 years old during this time period.  
24 Elgas met her while working in the capacity of her band teacher for DOE 1 at Sycamore Junior  
25 High School. Elgas frequently and openly sexually harassed the minor female students in her  
26 class at Sycamore Junior High School.



1           35.     From approximately 1989 through 1991, Elgas repeatedly sexually harassed and  
2 molested JANE ROE 7. JANE ROE 7 was approximately 12 to 14 years old during this time  
3 period. Elgas met her while working in the capacity of her band teacher for DOE 1 at Sycamore  
4 Junior High School.

5           36.     From approximately 1989 through 1991, Elgas engaged in a continuous sexual  
6 relationship with JANE ROE 8. JANE ROE 8 was approximately 13 to 15 years old during this  
7 time period. Elgas met her while working in the capacity of her band teacher for DOE 1 at  
8 Sycamore Junior High School.

9           37.     In approximately 1998, when JANE ROE 4 was approximately 13 years old,  
10 Elgas made sexual advances towards and kissed JANE ROE 4 at Sycamore Junior High School.  
11 Elgas was working in the capacity of her band teacher for DOE 1.

12           38.     During the time period that Elgas was at Sycamore Junior High School, it was  
13 well known amongst students and staff of DOE 1 that he was engaged in and/or disposed to  
14 seeking sexual relationships with minor children.

15           39.     At no point did DOE 1 warn or advise the students of Fremont Junior High  
16 School or Sycamore Junior High School of the danger that Elgas posed to children or of his  
17 known history of sexually abusing and harassing minors. In doing so, Defendants actively  
18 concealed and covered up Elgas' past and on-going sexual abuse of children. Elgas was  
19 considered to be a respected and prominent figure in the "Band" community of Orange County.  
20 Employees of DOE 1 actively and negligently failed to protect the students in their care from  
21 Richard Elgas due to the prominence and attention that he brought to their band programs.

22           40.     Upon information and belief, in approximately 1983 Lexington Junior High  
23 School teacher Clifford Scofield, an employee of DOE 1, began molesting a 13 year old student  
24 of the school. Scofield was convicted of child molest and sentenced to prison. In 1999, DOE 1  
25 was found liable for negligently failing to prevent the molestation committed by Scofield.

26           41.     Upon information and belief, in 1984, Katella High School band director Alex  
27 Delao, an employee of DOE 1, was convicted of child molestation and was sentenced to prison.

42. Upon information and belief, in 1985, Western High School band director Jeffrey William Plum, an employee of DOE 1, was arrested and charged with ten felony and misdemeanor criminal charges of unlawful sexual relations with two of his band students. Plum was later convicted of four counts of unlawful sexual relations with minors.

43. Upon information and belief, beginning in 1996 Sycamore Junior High School teacher David Michael Bruce, an employee of DOE 1, molested five of his minor students. Bruce was arrested, charged, and taken to criminal court for trial, but committed suicide on the day scheduled for closing arguments in 2018.

44. During the time period that Elgas worked for DOE 1, it was well known and/or should have been known to DOE 1 that pedophiles and sexual predators had infiltrated and were commonly employed at the schools under their direct control and supervision.

45. At no point did DOE 1 warn or advise the students of the schools under their direct control and supervision of the danger that these predators, including Elgas, posed to them.

**GENERAL ALLEGATIONS APPLICABLE TO ALL COUNTS**

46. At all times material, Defendants employed teachers to provide educational services. At all times material, Elgas was a teacher, employed by and an agent of DOE 1 under their direct supervision, employment, and control.

47. Based on the representations of DOE 1 that Elgas was safe and trustworthy, Plaintiffs and their parents allowed them to be under the supervision of, and in the care, custody, and control of DOE 1.

48. Neither Plaintiffs nor their parents would have allowed them to be under the supervision of or in the care, custody, or control of DOE 1 or Elgas had DOE 1 disclosed that Elgas was not safe and was not trustworthy, and that he in fact posed a danger to Plaintiffs in that Elgas was likely to sexually abuse them.

49. Acts of sexual abuse of the Plaintiffs by Elgas took place on the premises of DOE 1 and were committed using the tasks and instrumentalities that DOE 1 assigned to Elgas.

1 Elgas' sexual abuse of Plaintiffs occurred during activities that were sponsored by, or were a  
2 direct result of activities sponsored by DOE 1 of which they granted control over to Elgas.

3 50. Elgas' sexual abuse of Plaintiffs was unlawful molestation under California law,  
4 including California Code of Civil Procedure Section 340.1.

5 51. At all times material, Defendants, their agents, servants, and employees, knew or  
6 should have known that Elgas was a known sexual abuser of children.

7 52. At all times material, it was reasonably foreseeable to Defendants, their agents,  
8 servants, and employees that Elgas' sexual abuse of children would likely result in injury to  
9 others, including the sexual abuse of Plaintiffs and other children, by Elgas.

10 53. Defendants, their agents, servants, and employees knew or should have known  
11 that Elgas was sexually abusing children at locations within the control of DOE 1.

12 54. Defendants consciously and recklessly disregarded their knowledge that Elgas  
13 would use his position with Defendants to sexually abuse children, including Plaintiffs.

14 55. Defendants knew that their negligent, reckless, and outrageous conduct would  
15 inflict severe emotional and psychological distress, as well as personal physical injury, on  
16 others, including Plaintiffs, and Plaintiffs did in fact suffer severe emotional and psychological  
17 distress and personal injury as a result of the Defendant's wrongful conduct.

18 56. By reason of the wrongful acts of Defendants as described above, JANE ROE 1  
19 sustained physical and psychological injuries, including but not limited to: severe emotional  
20 and psychological distress, anger, depression, shame, and anxiety, inability to trust others,  
21 familial distress, and subdued desire to pursue educational and professional goals.

22 57. By reason of the wrongful acts of Defendants as described above, JANE ROE 2  
23 sustained physical and psychological injuries, including but not limited to: severe emotional  
24 and psychological distress, anger, depression, shame, and anxiety, inability to trust others,  
25 familial distress, suicidal ideation, and subdued desire to pursue educational and professional  
26 goals.

1           58. By reason of the wrongful acts of Defendants as described above, JANE ROE 3  
2 sustained physical and psychological injuries, including but not limited to: severe emotional  
3 and psychological distress, anger, depression, shame, and anxiety, inability to trust others,  
4 familial distress, and subdued desire to pursue educational and professional goals.

5           59. By reason of the wrongful acts of Defendants as described above, JANE ROE 4  
6 sustained physical and psychological injuries, including but not limited to: severe emotional  
7 and psychological distress, anger, depression, shame, and anxiety, inability to trust others, and  
8 subdued desire to pursue educational and professional goals.

9           60. By reason of the wrongful acts of Defendants as described above, JANE ROE 5  
10 sustained physical and psychological injuries, including but not limited to: severe emotional  
11 and psychological distress, anger, depression, shame, and anxiety, inability to trust others,  
12 promiscuity, and subdued desire to pursue educational and professional goals.

13           61. By reason of the wrongful acts of Defendants as described above, JANE ROE 6  
14 sustained physical and psychological injuries, including but not limited to: severe emotional  
15 and psychological distress, anger, depression, shame, and anxiety, inability to trust others, and  
16 subdued desire to pursue educational and professional goals.

17           62. By reason of the wrongful acts of Defendants as described above, JANE ROE 7  
18 sustained physical and psychological injuries, including but not limited to: severe emotional  
19 and psychological distress, anger, depression, shame, and anxiety, inability to trust others, lack  
20 of trust in authority figures, intimacy issues, and subdued desire to pursue educational and  
21 professional goals.

22           63. By reason of the wrongful acts of Defendants as described above, JANE ROE 8  
23 sustained physical and psychological injuries, including but not limited to: severe emotional  
24 and psychological distress, anger, depression, shame, and anxiety, inability to trust others, and  
25 subdued desire to pursue educational and professional goals.

26           64. In subjecting Plaintiffs to the wrongful treatment herein described, Defendants  
27 acted willfully and maliciously with conscious disregard for Plaintiffs' rights, so as to constitute  
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malice and/or oppression. Plaintiffs are informed and believe and, on that basis, allege that these willful, malicious and/or oppressive acts, as alleged herein, were ratified by the agents of Defendants. Plaintiffs are therefore entitled to recover punitive damages in an amount to be determined by the court against all Defendants. Plaintiffs are further entitled to recover treble damages against defendants pursuant to § 340.1 of the California Code of Civil Procedure, as amended by Chapter 423 of the Statutes of 2018, because Plaintiffs were further victimized by one or more of the Defendants' effort to cover up the sexual assault insofar as one or more of the Defendants engaged in a concerted effort to hide evidence relating to child sexual abuse.

**FIRST CAUSE OF ACTION**  
**CHILDHOOD SEXUAL ASSAULT PURSUANT TO CIVIL CODE 340.1**  
**Government Code Sections 815.2 and 820**  
**(Against all Defendants)**

65. Plaintiffs repeat and re-allege by reference each and every allegation set forth above as if fully set forth herein.

66. From approximately 1973 through 1976, when Plaintiff JANE ROE 1 was approximately 13 to 15 years old, Elgas engaged in unpermitted and illegal sexual contact with her. Plaintiff's lawsuit is timely pursuant to the amendment of Civil Code of Procedure § 340.1 signed by the Governor of the state of California on October 13, 2019.

67. From approximately 1977 through 1983, when Plaintiff JANE ROE 2 was approximately 13 to fewer than 18 years old, Elgas engaged in unpermitted and illegal sexual contact with her. Plaintiff's lawsuit is timely pursuant to the amendment of Civil Code of Procedure § 340.1 signed by the Governor of the state of California on October 13, 2019.

68. In approximately 1986, when Plaintiff JANE ROE 3 was approximately 13 years old, Elgas engaged in unpermitted and illegal sexual contact with her. Plaintiff's lawsuit is timely pursuant to the amendment of Civil Code of Procedure § 340.1 signed by the Governor of the state of California on October 13, 2019.

69. In approximately 1998, when Plaintiff JANE ROE 4 was approximately 13 years old, Elgas engaged in unpermitted and illegal sexual contact with her. Plaintiff's lawsuit is

1 timely pursuant to the amendment of Civil Code of Procedure § 340.1 signed by the Governor  
2 of the state of California on October 13, 2019.

3 70. From approximately 1975 through 1977, when Plaintiff JANE ROE 5 was  
4 approximately 13 to 15 years old, Elgas engaged in unpermitted and illegal sexual contact with  
5 her. Plaintiff's lawsuit is timely pursuant to the amendment of Civil Code of Procedure § 340.1  
6 signed by the Governor of the state of California on October 13, 2019.

7 71. From approximately 1989 through 1991, when Plaintiff JANE ROE 6 was  
8 approximately 13 to 14 years old, Elgas engaged in unpermitted and illegal sexual harassment  
9 of her. Plaintiff's lawsuit is timely pursuant to the amendment of Civil Code of Procedure §  
10 340.1 signed by the Governor of the state of California on October 13, 2019.

11 72. From approximately 1989 through 1991, when Plaintiff JANE ROE 7 was  
12 approximately 12 to 14 years old, Elgas engaged in unpermitted and illegal sexual contact with  
13 her. Plaintiff's lawsuit is timely pursuant to the amendment of Civil Code of Procedure § 340.1  
14 signed by the Governor of the state of California on October 13, 2019.

15 73. From approximately 1989 through 1991, when Plaintiff JANE ROE 8 was  
16 approximately 13 to 15 years old, Elgas engaged in unpermitted and illegal sexual contact with  
17 her. Plaintiff's lawsuit is timely pursuant to the amendment of Civil Code of Procedure § 340.1  
18 signed by the Governor of the state of California on October 13, 2019.

19 74. Said conduct was undertaken while Elgas was an agent, managing agent,  
20 employee, and/or servant of each Defendant, and Elgas was acting in the course and scope of  
21 his employment, agency, and/or service with each Defendant.

22 75. Said conduct of Elgas was known to and ratified by each Defendant.

23 76. Each Defendant had a duty to take reasonable steps to protect the minor  
24 Plaintiffs from foreseeable harm when they were in each Defendant's care, custody, and control.

25 77. During the time that Elgas was working for and/or volunteering and serving  
26 Defendants, Defendants had a duty to use reasonable care to prevent Elgas from using the tasks,  
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premises, and instrumentalities of his position with each Defendant to target, groom, and sexually abuse children, including Plaintiffs.

78. Each Defendant breached the foregoing duties by failing to use reasonable care to protect Plaintiffs from Elgas, which allowed him to groom and to sexually abuse them.

79. As a direct and proximate result of the above-described conduct, Plaintiffs suffered, and will continue to suffer, great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, depression, and loss of enjoyment of life, and Plaintiffs were prevented from performing daily activities and obtaining the full enjoyment of life.

**SECOND CAUSE OF ACTION**  
**NEGLIGENCE**  
**Government Code Sections 815.2 and 820**  
**(Against All Defendants)**

80. Plaintiffs repeat and re-allege by reference each and every allegation set forth above as if fully set forth herein.

81. Each Defendant owed each Plaintiff a duty of reasonable care to protect each Plaintiff from injury.

82. Each Defendant owed each Plaintiff a duty of care because each Defendant had a special relationship with each Plaintiff.

83. Defendants, acting through managing agents and school administrators had a duty to protect the minor Plaintiffs when they were entrusted to the Defendants' care by Plaintiffs' parents. Plaintiffs' care, welfare, and/or physical custody were temporarily entrusted to Defendants and Defendants voluntarily accepted the entrusted care of Plaintiffs. As such, Defendants owed Plaintiffs, minor children, a special duty of care, in addition to a duty of ordinary care, and owed Plaintiffs the higher duty of care that adults entrusted with children owe to those children to protect them from harm.

84. Defendants, by and through their agents, servants and employees knew or reasonably should have known of Elgas' dangerous and exploitive propensities. It was

foreseeable that if Defendants did not adequately exercise or provide the duty of care owed to children in their care, including but not limited to Plaintiffs, the children entrusted to Defendants' care would be vulnerable to sexual abuse by Elgas.

85. Defendants also had a duty arising from the special relationship that existed with Plaintiffs, Plaintiffs' parents, and other parents of young, innocent, vulnerable children enrolled in schools under the control of DOE 1 to properly train and supervise its agents. This special relationship arose because of the high degree of vulnerability of the children entrusted to their care. As a result of this high degree of vulnerability and risk of sexual abuse inherent in such a special relationship, Defendants had a duty to establish measures of protection not necessary for persons who are older and better able to safeguard themselves.

86. Defendants owed each Plaintiff a duty of reasonable care because they encouraged youth and parents to have the youth participate in their programs, including the band programs of which Elgas was granted complete control over. Defendants promoted their facilities and programs as being safe for children; held their agents, including Elgas, out as safe to work with children; encouraged children to spend time with their agents; and/or encouraged their agents, including Elgas, to spend time with, interact with, and recruit children.

87. By accepting custody of the minor Plaintiffs, each Defendant established an *in loco parentis* relationship with each Plaintiff and in so doing, owed each Plaintiff a duty to protect each Plaintiff from injury.

88. By accepting the minor Plaintiffs as participants in their programs, holding their facilities and programs out to be a safe environment for Plaintiffs, accepting custody of the minor Plaintiffs *in loco parentis*, and by establishing a fiduciary relationship with Plaintiffs, each Defendant entered into an express and/or implied duty to properly supervise each Plaintiff and provide a reasonably safe environment for children, including Plaintiffs herein, who participated in their programs. Each Defendant owed each Plaintiff a duty to properly supervise each Plaintiff to prevent harm from foreseeable dangers. Each Defendant had the duty to



1 exercise the same degree of care over minors under their control, including each Plaintiff herein,  
2 as a reasonably prudent person would have exercised under similar circumstances.

3 89. Defendants owed each Plaintiff a duty to protect them from harm because  
4 Defendants invited Plaintiffs onto their property and Elgas posed a dangerous condition on their  
5 property.

6 90. Defendants owed each Plaintiff a duty to inform law enforcement authorities of  
7 the improper conduct of Elgas because they and their employees were mandatory reporters  
8 under Penal Code § 11166.

9 91. Defendants breached their duties to each Plaintiff. Defendants failed to use  
10 ordinary care in determining whether their facilities were safe and/or determining whether they  
11 had sufficient information to represent their facilities as safe. Defendants' breach of their duties  
12 include, but are not limited to: failure to protect Plaintiffs from a known danger, failure to have  
13 sufficient policies and procedures in place to prevent child sex abuse, failure to properly  
14 implement policies and procedures to prevent child sex abuse, failure to take reasonable  
15 measures to ensure that policies and procedures to prevent child sex abuse were working, failure  
16 to adequately inform families and children of the risks of child sex abuse, failure to investigate  
17 risks of child molestation, failure to properly train the employees at institutions and programs  
18 within Defendants' geographical confines, failure to train the minors within Defendants'  
19 geographical confines about the dangers of sexual abuse by leaders and/or teachers, failure to  
20 have any outside agency test their safety procedures, failure to protect the children in their  
21 programs from child sex abuse, failure to adhere to the applicable standard of care for child  
22 safety, failure to investigate the amount and type of information necessary to represent the  
23 institutions, programs, leaders and people as safe, failure to train their employees properly to  
24 identify signs of child molestation by fellow employees, and/or failure by relying upon mental  
25 health professionals to identify signs of child abuse.

26 92. Defendants also breached their duty to each Plaintiff by failing to warn Plaintiffs  
27 and Plaintiffs' family of the risk that Elgas posed and the risks of child sexual abuse in DOE 1.

1           93. Defendants additionally violated a legal duty by failing to report known and/or  
2 suspected abuse of children by Elgas and/or its other agents to the police and law enforcement.

3           94. Prior to the sexual abuse of Plaintiffs, Defendants knew or should have known  
4 that Elgas was not fit to work with children. Defendants, by and through their agents, servants  
5 and/or employees, became aware, or should have become aware of Elgas' propensity to commit  
6 sexual abuse and of the risk to Plaintiffs' safety. At the very least, Defendants knew or should  
7 have known that they did not have sufficient information about whether or not their employees,  
8 volunteers, and people working for DOE 1 were safe.

9           95. Defendants knew or should have known that there was a risk of sexual abuse for  
10 children participating in their classes, programs and activities.

11           96. Defendants knew or should have known that they did not have sufficient  
12 information about whether or not there was a risk of child sex abuse for children participating in  
13 their classes, programs and activities.

14           97. Defendants negligently deemed and represented that Elgas was fit to work with  
15 children; and/or that any previous suitability problems Elgas had were fixed and cured; and/or  
16 that Elgas would not sexually molest children; and/or that Elgas would not injure children.

17           98. Defendants' actions and/or inactions created a foreseeable risk of harm to  
18 Plaintiffs. As vulnerable children participating in classes, programs and activities Defendants  
19 offered to minors, Plaintiffs were foreseeable victims. Additionally, as vulnerable children who  
20 Elgas accessed through Defendants' facilities and programs, Plaintiffs were foreseeable victims.

21           99. As a direct result of the foregoing, Plaintiffs sustained physical, emotional, and  
22 psychological injuries, along with pain and suffering. The sexual abuse and resulting injuries to  
23 Plaintiffs were caused solely and wholly by reason of the negligent failures of Defendants.

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**THIRD CAUSE OF ACTION**  
**NEGLIGENT HIRING, SUPERVISION, TRAINING, and RETENTION**  
**Government Code Sections 815.2 and 820**  
**(Against All Defendants)**

100. Plaintiffs repeat and re-allege by reference each and every allegation set forth above as if fully set forth herein.

101. At all times material, Elgas was employed by Defendants and was under each Defendant's direct supervision, employ, and control when he committed the wrongful acts alleged herein.

102. Elgas engaged in the illegal conduct while acting in the course and scope of his employment with Defendants and accomplished the sexual abuse by virtue of the authority given to him by Defendants.

103. Defendants were negligent in the hiring of their employees. Defendants negligently hired and/or retained Elgas and/or negligently placed Elgas in a position to cause foreseeable harm which Plaintiffs would not have been subjected to had each Defendant taken reasonable care in its pre-hiring investigation of Elgas.

104. Defendants negligently hired Elgas with knowledge of Elgas' propensity for the type of behavior which resulted in Plaintiffs' injuries in this action. Defendants failed to investigate Elgas' past history of inappropriate conduct and, through the exercise of reasonable diligence, should have known of Elgas' propensity for child sexual abuse.

105. Defendants were required to make an appropriate investigation of Elgas and failed to do so. An appropriate investigation would have revealed the unsuitability of Elgas for employment and it was unreasonable for Defendants to hire Elgas in light of the information they knew or should have known.

106. Each Defendant had a duty, arising from their employment of Elgas, to ensure that he did not sexually molest children.

1           107. Further, each Defendant owed a duty to train and educate employees, volunteers,  
2 and administrators and establish adequate and effective policies and procedures calculated to  
3 detect, prevent, and address inappropriate behavior and conduct between adults and children.

4           108. Each Defendant was negligent in the training, supervision, and instruction of its  
5 employees. Defendants failed to timely and properly educate, train, supervise, and/or monitor  
6 their agents, volunteers, or employees with regard to policies and procedures that should be  
7 followed when sexual abuse of a child is suspected or observed. Defendants were additionally  
8 negligent in failing to supervise, monitor, chaperone, and/or investigate Elgas and/or in failing  
9 to create, institute, and/or enforce rules, policies, procedures, and/or regulations to prevent  
10 Elgas' sexual abuse of Plaintiffs. In failing to properly supervise Elgas, and in failing to  
11 establish such training procedures for employees and administrators, each Defendant failed to  
12 exercise the degree of care that a reasonably prudent person would have exercised under similar  
13 circumstances.

14           109. Defendants negligently retained Elgas with knowledge of Elgas' propensity for  
15 the type of behavior which resulted in Plaintiffs' injuries in this action. Defendants failed to  
16 investigate Elgas' past and/or current history of sexual abuse and, through the exercise of  
17 reasonable diligence, should have known of Elgas' propensity for child sexual abuse.  
18 Defendants should have made an appropriate investigation of Elgas and failed to do so. An  
19 appropriate investigation would have revealed the unsuitability of Elgas for continued  
20 employment and it was unreasonable for Defendants to retain Elgas in light of the information  
21 they knew or should have known.

22           110. Defendants negligently retained Elgas in a position where he had access to  
23 children and would cause foreseeable harm which Plaintiffs would not have been subjected to  
24 had Defendants taken reasonable care.

25           111. In failing to timely remove Elgas from working with children or terminate the  
26 employment of Elgas, Defendants failed to exercise the degree of care that a reasonably prudent  
27 person would have exercised under similar circumstances.

112. As a direct result of the foregoing, Plaintiffs sustained physical, emotional, and psychological injuries, along with pain and suffering. The sexual abuse and resulting injuries to Plaintiffs were caused solely and wholly by reason of the negligent failures of Defendants in the hiring, training, supervision, and retention of its employees.

**FOURTH CAUSE OF ACTION**  
**NEGLIGENT FAILURE TO WARN, TRAIN, or EDUCATE PLAINTIFFS**  
**Government Code Sections 815.2 and 820**  
**(Against All Defendants)**

113. Plaintiffs repeat and re-allege by reference each and every allegation set forth above as if fully set forth herein.

114. Each Defendant knew or reasonably should have known of Elgas' propensity for the type of behavior which resulted in Plaintiffs' injuries in this action. Defendants failed to investigate Elgas' past and/or current history of sexual abuse and, through the exercise of reasonable diligence, should have known of Elgas' propensity for child sexual abuse.

115. Each Defendant failed to provide reasonable supervision of Elgas, failed to use reasonable care in investigating Elgas, and failed to provide adequate warning to Plaintiffs, other minor children, and their guardians or parents of Elgas' propensity for child sexual abuse.

116. Each Defendant owed Plaintiffs a duty to take reasonable protective measure to protect Plaintiffs and other minor children in their charge from the risk of sexual assault, harassment, and molestation by Elgas by properly warning, training, and educating the Plaintiff, other minor children, and their guardians or parents about how to avoid such risk.

117. Each Defendant breached their duty to take reasonable protective measures to protect Plaintiffs and other minor children in their charge from the risk of sexual assault, harassment, and molestation by Elgas by failing to properly warn, train, or educate Plaintiffs, other minor children, and their guardians or parents about how to avoid such risk, pursuant to *Juarez v. Boy Scouts of America, Inc.*, 97 Cal. Rptr. 2d 12, 81 Cal. App. 4<sup>th</sup> 377 (2000).

118. As a direct result of the foregoing, Plaintiffs sustained physical, emotional, and psychological injuries, along with pain and suffering. The sexual abuse and resulting injuries to

1 Plaintiffs were caused by reason of the negligent failures of Defendants in warning, training,  
2 and educating the Plaintiffs, other minor children, and their guardians or parents.

3 **FIFTH CAUSE OF ACTION**  
4 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**  
5 **Government Code Sections 815.2 and 820**  
6 **(Against All Defendants)**

7 119. Plaintiffs repeat and re-allege by reference each and every allegation set forth  
8 above as if fully set forth herein.

9 120. Each Defendant engaged in reckless, extreme, and outrageous conduct by  
10 providing Elgas with access to children, including Plaintiffs, despite knowing that he would  
11 likely use his position to groom and to sexually abuse them, including Plaintiffs. Defendants'  
12 misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as  
13 measured by what the average member of the community would tolerate and demonstrates an  
14 utter disregard by them of the consequences that would follow.

15 121. Each Defendant had a duty to take reasonable steps to protect the minor  
16 Plaintiffs, from foreseeable harm when they were in their care, custody, and control.

17 122. During the time that Elgas was working for, volunteering for, and/or serving  
18 Defendants, Defendants had a duty to use reasonable care to prevent Elgas from using the tasks,  
19 premises, and instrumentalities of his position with each Defendant to target, groom, and  
20 sexually abuse children, including Plaintiffs.

21 123. Each Defendant breached the foregoing duties by failing to use reasonable care  
22 to protect Plaintiffs from Elgas, which allowed him to groom and to sexually abuse them.

23 124. Defendants knew or should have known that this reckless, extreme, and  
24 outrageous conduct would inflict severe emotional and psychological distress, including  
25 personal physical injury, on others, and Plaintiffs did in fact suffer severe emotional and  
26 psychological distress and personal physical injury as a result, including severe mental anguish,  
27 humiliation and emotional and physical distress.

1           125. As a direct and proximate result of the above-described conduct, Plaintiffs  
2 suffered, and will continue to suffer, great pain of mind and body, shock, emotional distress,  
3 physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,  
4 humiliation, and loss of enjoyment of life, and Plaintiffs were prevented from performing daily  
5 activities and obtaining the full enjoyment of life.

6                                   **SIXTH CAUSE OF ACTION**  
7                                   **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
8                                   **Government Code Sections 815.2 and 820**  
                                     **(Against All Defendants)**

9           126. Plaintiffs repeat and re-allege by reference each and every allegation set forth  
10 above as if fully set forth herein.

11           127. Defendants engaged in reckless, extreme, and outrageous conduct by providing  
12 Elgas with access to children, including Plaintiffs, despite knowing he would likely use his  
13 position to groom and to sexually abuse them, including Plaintiffs. Their misconduct was so  
14 shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what  
15 the average member of the community would tolerate and demonstrates an utter disregard by  
16 them of the consequences that would follow.

17           128. Each Defendant had a duty to take reasonable steps to protect the minor  
18 Plaintiffs from foreseeable harm when he was in their care, custody, and control.

19           129. During the time that Elgas was working for, volunteering for, and/or serving  
20 Defendants, Defendants had a duty to use reasonable care to prevent Elgas from using the tasks,  
21 premises, and instrumentalities of his position with each Defendant to target, groom, and  
22 sexually abuse children, including Plaintiffs.

23           130. Each Defendant breached the foregoing duties by failing to use reasonable care  
24 to protect Plaintiffs from Elgas, which allowed him to groom and sexually abuse them.

25           131. As a result of this reckless, extreme, and outrageous conduct, Elgas gained  
26 access to Plaintiffs and sexually abused them.

132. Defendants knew or should have known that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and Plaintiffs did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation, and emotional and physical distress.

133. As a direct and proximate result of the above-described conduct, Plaintiffs suffered, and will continue to suffer, great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life, and Plaintiffs were prevented from performing daily activities and obtaining the full enjoyment of life.

134. As additional damages against Defendants, and each of them, Plaintiffs further allege that the Defendants, in undertaking the actions previously alleged, did engage in the alleged conduct and each of them were guilty of malice and oppression as defined in Civil Code §3294, and Plaintiffs should recover, in addition to actual damages, damages to make an example of and to punish the Defendants.

**SEVENTH CAUSE OF ACTION**  
**SEXUAL HARASSMENT**  
**Civil Code Section 51.9 and 52**  
**(Against All Defendants)**

135. Plaintiffs repeat and re-allege by reference each and every allegation set forth above as if fully set forth herein.

136. During JANE ROE 1's time as a student at Fremont Junior High School, Elgas intentionally, recklessly, and wantonly made sexual advances, sexual solicitations, sexual comments, and sexual requests and engaged in other verbal and physical conduct of a sexual nature based on Plaintiff's gender that were unwelcome, pervasive and severe, including but not limited to touching Plaintiff in a sexually motivated and illegal manner, all while Elgas was acting within the course and scope of his agency with DOE 1.



1           137. During JANE ROE 2's time as a student at Fremont Junior High School, Elgas  
2 intentionally, recklessly, and wantonly made sexual advances, sexual solicitations, sexual  
3 comments, and sexual requests and engaged in other verbal and physical conduct of a sexual  
4 nature based on Plaintiff's gender that were unwelcome, pervasive and severe, including but not  
5 limited to touching Plaintiff in a sexually motivated and illegal manner, all while Elgas was  
6 acting within the course and scope of his agency with DOE 1.

7           138. During JANE ROE 3's time as a student at Sycamore Junior High School, Elgas  
8 intentionally, recklessly, and wantonly made sexual advances, sexual solicitations, sexual  
9 comments, and sexual requests and engaged in other verbal and physical conduct of a sexual  
10 nature based on Plaintiff's gender that were unwelcome, pervasive and severe, including but not  
11 limited to touching Plaintiff in a sexually motivated and illegal manner, all while Elgas was  
12 acting within the course and scope of his agency with DOE 1.

13           139. During JANE ROE 4's time as a student at Sycamore Junior High School, Elgas  
14 intentionally, recklessly, and wantonly made sexual advances, sexual solicitations, sexual  
15 comments, and engaged in conduct of a sexual nature based on her gender that were  
16 unwelcome, including but not limited to touching her in a sexually motivated and illegal  
17 manner, all while Elgas was acting within the course and scope of his agency with DOE 1.

18           140. During JANE ROE 5's time as a student at Fremont Junior High School, Elgas  
19 intentionally, recklessly, and wantonly made sexual advances, sexual solicitations, sexual  
20 comments, and sexual requests and engaged in other verbal and physical conduct of a sexual  
21 nature based on Plaintiff's gender that were unwelcome, pervasive and severe, including but not  
22 limited to touching Plaintiff in a sexually motivated and illegal manner, all while Elgas was  
23 acting within the course and scope of his agency with DOE 1.

24           141. During JANE ROE 6's time as a student at Sycamore Junior High School, Elgas  
25 intentionally, recklessly, and wantonly made sexual advances, sexual solicitations, sexual  
26 comments, and sexual requests and engaged in other verbal and physical conduct of a sexual  
27 nature based on Plaintiff's gender that were unwelcome, pervasive and severe, including but not  
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1 limited to attempting to view Plaintiff's undergarments and genital areas in a sexually motivated  
2 and illegal manner, all while Elgas was acting within the course and scope of his agency with  
3 DOE 1.

4 142. During JANE ROE 7's time as a student at Sycamore Junior High School, Elgas  
5 intentionally, recklessly, and wantonly made sexual advances, sexual solicitations, sexual  
6 comments, and sexual requests and engaged in other verbal and physical conduct of a sexual  
7 nature based on Plaintiff's gender that were unwelcome, pervasive and severe, including but not  
8 limited to touching Plaintiff in a sexually motivated and illegal manner, all while Elgas was  
9 acting within the course and scope of his agency with DOE 1.

10 143. During JANE ROE 8's time as a student at Sycamore Junior High School, Elgas  
11 intentionally, recklessly, and wantonly made sexual advances, sexual solicitations, sexual  
12 comments, and sexual requests and engaged in other verbal and physical conduct of a sexual  
13 nature based on Plaintiff's gender that were unwelcome, pervasive and severe, including but not  
14 limited to touching Plaintiff in a sexually motivated and illegal manner, all while Elgas was  
15 acting within the course and scope of his agency with DOE 1.

16 144. Due to Plaintiffs' student-teacher relationships with Elgas, their young age and  
17 immaturity as minor Junior High School students, and Elgas' unsupervised extensive sexual  
18 grooming of them, Plaintiffs were unable to terminate the student-teacher, student-counselor,  
19 student-advisor, and student-mentor relationships Elgas had formed with them.

20 145. Due to Elgas' position of trust and authority over Plaintiffs, their vulnerability as  
21 minor students, their youthfulness, inexperience, and immaturity as minors under the age of  
22 legal consent, Plaintiffs were unable to and did not give meaningful consent to the sexual abuse  
23 by Elgas.

24 146. Though Defendants knew or should have known of the sexual abuse by Elgas,  
25 they did nothing to investigate, supervise, or monitor him to ensure the safety of the minor  
26 students they gave him access to and authority over. Defendants thereby aided the continued  
27 sexual abuse of students by Elgas.

1           147. Defendants breached their duties owed to Plaintiffs.

2           148. Defendants retained Elgas even after obtaining knowledge of his improper  
3 conduct and after having an adequate opportunity to learn of his conduct, thereby ratifying his  
4 sexual assault and sexual harassment of Plaintiffs and other minor students.

5           149. As a direct and proximate result of the above-described conduct, Plaintiffs  
6 suffered, and will continue to suffer, great pain of mind and body, shock, emotional distress,  
7 physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,  
8 humiliation, and loss of enjoyment of life, and Plaintiffs were prevented from performing daily  
9 activities and obtaining the full enjoyment of life.

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WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as follows:

1. For past, present, and future non-economic damages in an amount to be determined at trial;
2. For past, present, and future special damages, including but not limited to past, present, and future lost earnings, economic damages and others, in an amount to be determined at trial;
3. Any appropriate statutory damages; including, but not limited to treble damages pursuant to California *Code of Civil Procedure* § 340.1(b);
4. For costs of suit;
5. For attorney's fees pursuant to California *Code of Civil Procedure* sections 1021.5, *et seq.*, or as otherwise allowable by law;
6. For such other and further relief as the Court may deem proper.

Dated: September 28, 2020

SLATER SLATER SCHULMAN, LLP &  
OAKWOOD LEGAL GROUP, LLP

M.W.C.

MICHAEL W. CARNEY  
Attorney for Plaintiffs