

David M. Ring, State Bar No. 151124
Brendan P. Gilbert, State Bar No. 274631
TAYLOR & RING
1230 Rosecrans Avenue, Suite 360
Manhattan Beach, California 90266

Telephone: (310) 209-4100
Facsimile: (310) 208-5052

Attorneys for Plaintiffs

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

MAY 05 2021

M. FLANAGAN

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

JANE DOE 1, an individual; JANE DOE 2, an individual,

Plaintiffs,

vs.

COACHELLA VALLEY UNIFIED SCHOOL DISTRICT, a public entity; PALM SPRINGS UNIFIED SCHOOL DISTRICT, a public entity; JOSE LUIS MONCADA, an individual; and DOES 1 through 60,

Defendants.

CASE NO. **CPS 2102242**

**COMPLAINT FOR PERSONAL INJURIES
AND DAMAGES ARISING FROM
CHILDHOOD SEXUAL ABUSE**

DEMAND FOR JURY TRIAL

Plaintiffs JANE DOE 1 and JANE DOE 2 complain and allege against Defendants, COACHELLA VALLEY UNIFIED SCHOOL DISTRICT, a public entity; PALM SPRINGS UNIFIED SCHOOL DISTRICT, a public entity; JOSE LUIS MONCADA, an individual; and DOES 1 through 60. Inclusive, as follows:

GENERAL ALLEGATIONS

1. Plaintiff JANE DOE 1 is currently 19 years old. At the time of the conduct alleged herein, she was a resident of Riverside County, California. Plaintiff was the victim of unlawful sexual abuse by her bus driver, Defendant JOSE LUIS MONCADA. Plaintiff was a minor at the time that the

1 conduct alleged herein occurred. As such, Plaintiff's full identity has been concealed from public court
2 filings in order to prevent those not directly involved in this action from learning her identity and
3 making her identity public.

4 2. Plaintiff JANE DOE 2 is currently 19 years old. At the time of the conduct alleged
5 herein, she was a resident of Riverside County, California. Plaintiff was the victim of unlawful sexual
6 abuse by her bus driver, Defendant JOSE LUIS MONCADA. Plaintiff was a minor at the time that the
7 conduct alleged herein occurred. As such, Plaintiff's full identity has been concealed from public court
8 filings in order to prevent those not directly involved in this action from learning her identity and
9 making her identity public.

10 3. Defendant JOSE LUIS MONCADA ("MONCADA") was employed by Defendant
11 COACHELLA VALLEY UNIFIED SCHOOL DISTRICT as a bus driver at the time that he
12 perpetrated the sexual abuse against Plaintiffs JANE DOE 1 and JANE DOE 2, as alleged herein. Prior
13 to that, MONCADA was employed as a bus driver for PALM SPRINGS UNIFIED SCHOOL
14 DISTRICT where he sexually abused another student identified herein as Jane Doe 3.

15 4. Defendant COACHELLA VALLEY UNIFIED SCHOOL DISTRICT ("CVUSD") is,
16 and at all times mentioned in this Complaint was, a public educational agency organized, existing, and
17 conducting business under the laws of the County of Riverside and the State of California. CVUSD
18 operates numerous schools within its school district, including Oasis Elementary School located at
19 73175 El Paseo Dr, Twentynine Palms, CA 92277.

20 5. Defendant PALM SPRINGS UNIFIED SCHOOL DISTRICT ("PSUSD") is, and at all
21 times mentioned in this Complaint was, a public educational agency organized, existing, and
22 conducting business under the laws of the County of Riverside and the State of California. PSUSD
23 operates numerous schools within its school district.

24 6. Defendants DOES 1 through 60, inclusive, and each of them, are persons, businesses,
25 corporations, or entities who owed a legal duty of care to Plaintiffs or had a duty to control and/or
26 supervise MONCADA.

27 7. The true names and capacities of any defendant designated herein as DOES 1 through
28 60, inclusive, whether an individual, a business, a public entity, or otherwise, are presently unknown to

1 Plaintiffs, who therefore sues said defendants by such fictitious names, pursuant to Code of Civil
2 Procedure section 474. Plaintiffs are informed and believe, and on such information and belief alleges,
3 that each DOE defendant is responsible in some manner for the events alleged herein, and Plaintiffs
4 will amend the complaint to state the true names and capacities of said defendants when the same have
5 been ascertained. Plaintiffs are informed and believe, and thereon allege, that at all times herein
6 mentioned, each of the defendants sued herein as DOES 1 through 60, inclusive, was the agent and
7 employee of each of the remaining defendants and was at all times acting within the course and scope
8 of such agency and employment with the full knowledge, consent, authority, ratification, and/or
9 permission of each of the remaining defendants.

10 8. Wherever appearing in this Complaint, each and every reference to Defendants, or any
11 of them, is intended to include, and shall be deemed to include, all fictitiously named defendants.
12 Wherever reference is made in this complaint to any act by a Defendant or Defendants, such allegation
13 and reference shall also be deemed to mean the acts and failures to act of each defendant acting
14 individually, jointly, and severally. Wherever reference is made in this Complaint to individuals who
15 are not named as a defendant in this complaint, but were the agents, servants, employees, and/or
16 supervisors of defendants, such individuals at all relevant times acted on behalf of defendants within
17 the scope of employment.

18 9. Plaintiffs are informed and believe, and thereon alleges, that at all times relevant herein,
19 each Defendant was completely dominated and controlled by his/her/its co-Defendant and each was the
20 alter ego of the other as to the events set forth herein.

21 10. Since Plaintiffs are victims of childhood sexual assault as defined under Code of Civil
22 Procedure section 340.1, they are exempt from filing a government tort claim pursuant to California
23 Government Code section 905(m).

24 **FACTS COMMON TO ALL CAUSES OF ACTION**

25 11. In 2004, MONCADA was a bus driver for PSUSD and transported a 7 year old student
26 ("Jane Doe 3") to and from her school. Jane Doe 3 was in first grade at the time. During one of these
27 trips, MONCADA touched Jane Doe 3's vagina over her clothes. Upon information and belief, Jane
28 Doe 3 immediately reported this inappropriate touching to her parents who then informed PSUSD.

1 12. In 2005, despite having inappropriately touched Jane Doe 3, MONCADA was able to
2 secure employment with CVUSD as a bus driver. Upon information and belief, that leaves one of two
3 possibilities: 1) PSUSD failed to disclose to CVUSD MONCADA's misconduct and instead provided
4 him a favorable recommendation to help him get hired so that it could rid itself of a problematic
5 employee (known as "passing the trash") or 2) CVUSD did not conduct a proper background and
6 reference check on MONCADA and failed to contact PSUSD when it hired him.

7 13. In 2010, as an employee of CVUSD, MONCADA transported students to and from
8 Oasis Elementary School. Plaintiffs JANE DOE 1 and JANE DOE 2, who were both in second grade
9 and 8-9 years old at the time, would ride on MONCADA's bus.

10 14. After picking up students from Oasis Elementary School, MONCADA would park his
11 bus at one of the last stops on his route. MONCADA asked Plaintiffs JANE DOE 1 and JANE DOE 2
12 to stay on the bus with him. MONCADA offered Plaintiffs JANE DOE 1 and JANE DOE 2 candy,
13 money and toys if they helped him clean the bus before going home.

14 15. During these cleaning sessions, MONCADA would place Plaintiff JANE DOE 1 on his
15 lap and rub her breasts, inner thighs, and vaginal area. This occurred on numerous occasions.
16 MONCADA also touched Plaintiff JANE DOE 2's thighs, vagina, breasts, and buttocks during these
17 cleaning sessions. This occurred almost daily for two to three weeks.

18 16. Following his sexual abuse of her, Plaintiff JANE DOE 2 informed her parents about
19 MONCADA's inappropriate touching. The parents went to Oasis Elementary School principal and
20 CVUSD's district office to report the misconduct. CVUSD promised the parents that it would suspend
21 MONCADA and conduct an investigation. However, upon information and belief, CVUSD never
22 informed law enforcement of MONCADA's criminal behavior and instead, simply changed his route to
23 protect itself from any bad publicity.

24 17. While Plaintiff JANE DOE 2 was attending Toro Canyon Middle School, she saw
25 MONCADA still transporting students for CVUSD. Seeing MONCADA still employed by CVUSD
26 was so disturbing to Plaintiff JANE DOE 2 that she decided to do home schooling for the remainder of
27 middle school.

18. In 2019, while Plaintiff JANE DOE 1 was a student at Desert Mirage High School, she saw MONCADA and realized that he was still employed by CVUSD. This immediately brought back the memories of MONCADA abusing her. Plaintiff JANE DOE 1 went straight to her school counselor and disclosed MONCADA's misconduct towards her. The counselor then reported Plaintiff JANE DOE 1's disclosure to law enforcement.

19. Following an investigation by the Riverside County Sheriff's Department, MONCADA was arrested on February 28, 2020 in the parking lot of CVUSD's Transportation Department. MONCADA was then subsequently charged with eight felonies related to his criminal acts towards Plaintiffs JANE DOE 1 and JANE DOE 2, as well as Jane Doe 3. MONCADA is currently awaiting trial.

FIRST CAUSE OF ACTION

SEXUAL ABUSE OF A MINOR

(Against Defendants MONCADA and DOES 1 through 10, Inclusive)

20. Plaintiffs reallege and incorporate as if fully stated herein each and every allegation contained in paragraphs 1 through 19 of the Complaint.

21. While Plaintiffs were minors and students at Oasis Elementary School, subject to the policies and procedures and under the direction, oversight and supervision of Defendant CVUSD and DOES 21-30, Defendant MONCADA took advantage of his position of authority and trust as a bus driver to engage in unlawful sexual abuse and other harmful misconduct with Plaintiffs.

22. The nature of this unlawful sexual abuse and other harmful misconduct are detailed in the preceding paragraphs.

23. Plaintiffs did not consent to the acts, nor could Plaintiffs have consented to the acts given their age.

24. As a direct and proximate result of the acts and omissions of Defendants, and each of them, as alleged herein, Plaintiffs suffered injuries and damages including, but not limited to, physical and mental pain and suffering, past and future costs of medical and psychological care and treatment, past and future loss of earnings and earning capacity, and other economic and non-economic damages, in an amount not yet ascertained but which exceeds the minimum jurisdictional limits of this Court.

25. In committing the acts described herein, the conduct of Defendant MONCADA and DOES 1 through 10 was despicable, and done with malice, oppression and fraud, justifying an award of punitive damages against each of those Defendants.

SECOND CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(Against Defendants MONCADA and DOES 1 through 10, Inclusive)

26. Plaintiffs reallege and incorporate as if fully stated herein each and every allegation contained in paragraphs 1 through 25 of the Complaint.

27. Acting with knowledge of his superior position and his relationship with Plaintiffs, and realizing Plaintiffs' special susceptibility to emotional distress due to the age, inexperience and vulnerability of Plaintiffs, Defendant MONCADA and DOES 1 through 10, commenced upon a course of sexually abusing Plaintiffs. Defendant MONCADA and he used this position to gain Plaintiffs' trust and friendship, knowing that he could then take try to take advantage of Plaintiffs sexually.

28. Defendant MONCADA's misconduct was outrageous, particularly because of Plaintiffs' ages, and because he was Plaintiffs' bus driver. Defendant MONCADA used this trust to his advantage by manipulating Plaintiffs' emotions and exploiting them sexually.

29. Defendant MONCADA's acts were intentional, willful, oppressive, and malicious and done for the purpose of causing Plaintiffs to suffer emotional harm, humiliation, mental anguish, and severe emotional distress or with reckless disregard for the likelihood that he would cause Plaintiffs such distress.

30. As a direct and proximate cause of the acts and omissions of Defendants, and each of them as alleged herein, Plaintiffs suffered injuries and damages including, but not limited to, physical and mental pain and suffering, past and future costs of medical and psychological care and treatment, past and future loss of earnings and earning capacity, and other economic and non-economic damages, in an amount not yet ascertained but which exceeds the minimum jurisdictional limits of this Court.

31. In committing the acts described herein, the conduct of Defendant MONCADA and DOES 1 through 10 was despicable, and done with malice, oppression and fraud, justifying an award of punitive damages against each of those Defendants.

(Against Defendants PSUSD and DOES 11-20)

37. Defendants' PSUSD and DOES 11-20 positive reviews of MONCADA constituted affirmative representations that strongly implied or stated that MONCADA was fit to interact appropriately and safely with students he transported on his bus. These representations were false and misleading in light of Defendants' knowledge that MONCADA had engaged in inappropriate sexual misconduct with at least one student. Defendants' knew that their representations were false, or Defendants made the representations recklessly and without regard for the truth. Defendants intended

1 that CVUSD rely on these representations and CVUSD did in fact reasonably rely on Defendants'
2 misrepresentations in hiring MONCADA.

3 38. As a direct result of CVUSD's reliance on Defendants' PSUSD and DOES 11-20
4 misrepresentations in hiring MONCADA, Plaintiffs were seriously harmed. Plaintiff's injury
5 foreseeably and legally resulted from CVUSD's decision to hire MONCADA in reliance upon
6 Defendants' untrue recommendations of him.

7 39. As a direct and proximate cause of the acts and omissions of Defendants, and each of
8 them as alleged herein, Plaintiffs suffered injuries and damages including, but not limited to, physical
9 and mental pain and suffering, past and future costs of medical and psychological care and treatment,
10 past and future loss of earnings and earning capacity, and other economic and non-economic damages,
11 in an amount not yet ascertained but which exceeds the minimum jurisdictional limits of this Court.

12 **FOURTH CAUSE OF ACTION**

13 **FRAUD - NEGLIGENT MISREPRESENTATION**

14 **(Against Defendants PSUSD and DOES 11-20)**

15 40. Plaintiff re-alleges and incorporates herein by reference each and every allegation
16 contained in paragraphs 1 through 39.

17 41. Defendants PSUSD and DOES 11-20 knew or strongly suspected that MONCADA had
18 engaged in illegal sexual misconduct with at least one female student who was 7 years old at the time
19 while he was employed as a bus driver in 2004.

20 42. Upon information and belief, when MONCADA applied for a position as a bus driver
21 for CVUSD, PSUSD failed to disclose to CVUSD that MONCADA had likely engaged in misconduct
22 involving touching the vaginal area of a 7 year old student and instead provided him a favorable
23 recommendation to help him get hired so that it could rid itself of a problematic employee (known as
24 "passing the trash"). It did this knowing or strongly suspecting that MONCADA was unfit to be a bus
25 driver given his past sexual misconduct towards a student.

26 43. CVUSD relied on PSUSD recommendation and hired MONCADA as a bus driver.
27 CVUSD reasonably relied on PSUSD because that was the last school district at which MONCADA
28 was employed and worked for the prior year.

44. Defendants PSUSD and DOES 11-20 owed a duty to not misrepresent the facts in describing the qualifications and character of MONCADA given that such misrepresentations would clearly present a substantial and foreseeable risk of injury to third persons, i.e. students who rode the bus for CVUSD.

45. Defendants' PSUSD and DOES 11-20 positive reviews of MONCADA constituted affirmative representations that strongly implied or stated that MONCADA was fit to interact appropriately and safely with students he transported on his bus. These representations were false and misleading in light of Defendants' knowledge or strong suspicions that MONCADA had engaged in inappropriate sexual misconduct with at least one student. Defendants' knew that their representations were false, or Defendants made the representations recklessly and without regard for the truth. Defendants intended that CVUSD rely on these representations and CVUSD did in fact reasonably rely on Defendants' misrepresentations in hiring MONCADA.

46. As a direct result of CVUSD's reliance on Defendants' PSUSD and DOES 11-20 misrepresentations in hiring MONCADA, Plaintiffs were seriously harmed. Plaintiff's injury foreseeably and legally resulted from CVUSD's decision to hire MONCADA in reliance upon Defendants' untrue recommendations of him.

47. As a direct and proximate cause of the acts and omissions of Defendants, and each of them as alleged herein, Plaintiffs suffered injuries and damages including, but not limited to, physical and mental pain and suffering, past and future costs of medical and psychological care and treatment, past and future loss of earnings and earning capacity, and other economic and non-economic damages, in an amount not yet ascertained but which exceeds the minimum jurisdictional limits of this Court.

FIFTH CAUSE OF ACTION

NEGLIGENT HIRING, SUPERVISION & RETENTION OF AN UNFIT EMPLOYEE

(Government Code Sections 815.2(a) and 820)

(Against Defendants CVUSD and DOES 21 through 30, Inclusive)

48. Plaintiffs reallege and incorporate as if fully stated herein each and every allegation contained in paragraphs 1 through 47 of the Complaint.

1 49. Defendant CVUSD and DOES 21 through 30 had the responsibility and duty to
2 adequately and properly investigate, hire, train, and supervise their agents and employees who would
3 be working with minors to protect the minors from harm caused by unfit and dangerous individuals
4 hired as coaches and instructors.

5 50. Defendant CVUSD and DOES 21 through 30 breached their duty to properly and
6 adequately investigate, hire, train, and supervise Defendant MONCADA as a bus driver. Upon
7 information and belief, CVUSD failed to properly conduct a background and reference check on
8 MONCADA. If CVUSD had done an adequate background and reference check, it would have
9 discovered that MONCADA engaged in sexual misconduct towards a 7 year old student that he was the
10 bus driver for in 2004 when he was working for PSUSD.

11 51. Had Defendant CVUSD and DOES 21 through 30 properly investigated, supervised,
12 trained, and monitored Defendant MONCADA's conduct and actions, they would have discovered that
13 Defendant MONCADA was unfit to be employed as a bus driver. By failing to adequately supervise,
14 monitor, and/or investigate MONCADA, including reviewing surveillance tapes from his bus that
15 would have shown him engaging in misconduct and GPS tracking data that would have shown him
16 making suspicious stops for long periods of time, Defendants allowed Defendant MONCADA to
17 continue, unhindered with his predatory conduct directed towards underage, female students, including
18 Plaintiffs.

19 52. Defendant CVUSD and DOES 21 through 30 negligently hired, supervised, retained,
20 monitored, and otherwise employed Defendant MONCADA and negligently failed to ensure the safety
21 of minor students, including Plaintiffs, who were entrusted to Defendants' custody, care and control.
22 Defendant CVUSD and DOES 21 through 30 also negligently failed to adequately implement, train or
23 enforce any procedures or policies that were aimed at preventing, detecting, or deterring the sexual
24 harassment or abuse of minors and students by its employees.

25 53. Had Defendant CVUSD and DOES 21 through 30 performed their duties and
26 responsibilities to monitor, supervise, and/or investigate their employees, including Defendant
27 MONCADA, Plaintiffs would not have been subject to the sexual abuse and other harmful conduct
28 inflicted upon them.

1 54. As a direct and proximate cause of the acts and omissions of Defendants, and each of
2 them as alleged herein, Plaintiffs suffered injuries and damages including, but not limited to, physical
3 and mental pain and suffering, past and future costs of medical and psychological care and treatment,
4 past and future loss of earnings and earning capacity, and other economic and non-economic damages,
5 in an amount not yet ascertained but which exceeds the minimum jurisdictional limits of this Court.

6 **SIXTH CAUSE OF ACTION**

7 **BREACH OF MANDATORY DUTY: FAILURE TO REPORT SUSPECTED CHILD ABUSE**

8 **(Government Code Section 815.6)**

9 **(Against Defendants CVUSD, PSUSD and DOES 31 through 40, Inclusive)**

10 55. Plaintiffs re-allege and incorporate herein by reference each and every allegation
11 contained in paragraphs 1 through 54 of the Complaint.

12 56. Defendant CVUSD and PSUSD, acting through their employees and agents DOES 31
13 through 40, were at all times "mandated reporters" pursuant to the provisions of Penal Code section
14 11166, et seq., also known as the Child Abuse and Neglect Reporting Act. As mandated reporters of
15 suspected child abuse, Defendants were legally obligated to personally report reasonably suspected
16 incidents of child abuse to the police and/or child protective services within a very short period of time.

17 57. Defendants, acting through its employees, had or should have had a reasonable suspicion
18 that Defendant MONCADA was engaged in sexual misconduct, yet failed to report the suspected abuse
19 to the authorities.

20 58. Defendant's employees violated the Child Abuse and Neglect Reporting Act, Penal
21 Code Section 11166, et seq. They were acting within the course and scope of their employment when
22 they violated the reporting requirements and, therefore, Defendants CVUSD and PSUSD is vicariously
23 liable for that negligence.

24 59. By failing to report suspected child abuse, Defendants allowed Defendant MONCADA
25 to continue, unhindered, in his abuse of elementary school girls, including Plaintiffs.

26 60. As a direct and proximate cause of the acts and omissions of Defendants, and each of
27 them as alleged herein, Plaintiffs suffered injuries and damages including, but not limited to, physical
28 and mental pain and suffering, past and future costs of medical and psychological care and treatment,

1 past and future loss of earnings and earning capacity, and other economic and non-economic damages,
2 in an amount not yet ascertained but which exceeds the minimum jurisdictional limits of this Court.

3 **SEVENTH CAUSE OF ACTION**

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

5 **(Government Code Sections 815.2(a) & 820)**

6 **(Against Defendants CVUSD and DOES 21 through 30, Inclusive)**

7 61. Plaintiffs re-allege and incorporate herein by reference each and every allegation
8 contained in paragraphs 1 through 62 of the Complaint.

9 62. Defendant CVUSD and DOES 21 through 30 had a duty to warn, train, and educate the
10 minors in their custody, care and control, like Plaintiffs, of known and knowable dangers posed by its
11 staff. Defendant CVUSD and DOES 21 through 30 also had a duty to warn, train, and educate their
12 employees, coaches, administrators, and staff on its sexual harassment policy and inappropriate
13 boundary-crossing with minors entrusted into their care and under their supervision.

14 63. Defendant CVUSD and DOES 21 through 30 breached their duty to Plaintiffs by failing
15 to warn them (or their parents) of known and knowable dangers posed by their staff, including
16 Defendant MONCADA; by failing to inform and educate Plaintiffs (or their parents) on sexual
17 harassment policies and the methods to identify, report, and respond to inappropriate sexual harassment
18 by staff; and by failing to train its faculty, including Defendant MONCADA, on Defendant CVUSD's
19 sexual harassment policies.

20 64. As a direct and legal result of the negligence of Defendant CVUSD and DOES 21
21 through 30, Plaintiffs were groomed and ultimately sexually assaulted and abused by their bus driver.

22 65. Had Defendant CVUSD and DOES 21 through 30 fulfilled their duties and
23 responsibilities, Plaintiffs would not have been injured or damaged.

24 66. As a direct and proximate cause of the acts and omissions of Defendants, and each of
25 them as alleged herein, Plaintiffs suffered injuries and damages including, but not limited to, physical
26 and mental pain and suffering, past and future costs of medical and psychological care and treatment,
27 past and future loss of earnings and earning capacity, and other economic and non-economic damages,
28 in an amount not yet ascertained but which exceeds the minimum jurisdictional limits of this Court.

EIGHTH CAUSE OF ACTION
NEGLIGENT SUPERVISION OF A MINOR
(Government Code Sections 815.2(a) & 820)

(Against Defendants CVUSD and DOES 21 through 30, Inclusive)

67. Plaintiffs re-allege and incorporate herein by reference each and every allegation contained in paragraphs 1 through 66 of the Complaint.

68. Defendant CVUSD and DOES 21 through 30 had a special relationship towards their students and were responsible for the care, custody, control, supervision, and protection of the minors entrusted to them, like Plaintiffs. Thus, said defendants had a duty to adequately and properly supervise, monitor, and protect Plaintiffs from known and knowable dangers.

69. Defendant CVUSD and DOES 21 through 30 breached their duty to properly and adequately supervise, monitor, and protect Plaintiffs by, in part, ignoring clear and obvious signs that Defendant MONCADA engaged in repeated inappropriate and harassing misconduct with previous students that he was a bus driver for and by allowing Defendant MONCADA to repeatedly sexually harass Plaintiffs on their school bus.

70. Had Defendant CVUSD and DOES 21 through 30 adequately and properly supervised, monitored, and protected the minors entrusted in their care, Plaintiffs would not have been harmed.

71. Defendant CVUSD and DOES 21 through 30 also recklessly and negligently failed to implement and/or enforce policies and procedures that were aimed at preventing or detecting the sexual abuse of the minors entrusted into their care, which fell below the standard of care.

72. Had Defendant CVUSD and DOES 21 through 30 adequately performed their duties and responsibilities, then Plaintiffs would not have been subject to the sexual assault and harassment as alleged herein.

73. As a direct and proximate cause of the acts and omissions of Defendants, and each of them as alleged herein, Plaintiffs suffered injuries and damages including, but not limited to, physical and mental pain and suffering, past and future costs of medical and psychological care and treatment, past and future loss of earnings and earning capacity, and other economic and non-economic damages, in an amount not yet ascertained but which exceeds the minimum jurisdictional limits of this Court.

1 **NINETH CAUSE OF ACTION**

2 **NEGLIGENCE**

3 **(Against Defendants DOES 41 through 60, Inclusive)**

4 74. Plaintiffs reallege and incorporate as if fully stated herein each and every allegation
5 contained in paragraphs 1 through 73 of the Complaint.

6 75. Defendants DOES 41 through 60 are persons or entities who owed a duty of care to
7 Plaintiffs and/or to the Plaintiffs' parents, or had a duty to control the conduct of the perpetrator by way
8 of the special relationship existing between those individuals.

9 76. Defendants DOES 41 through 60 knew or should have known of Defendant
10 MONCADA's misconduct and inappropriate sexual behavior directed by Defendant MONCADA to
11 minors he interacted with on his bus.

12 77. Despite having knowledge of Defendant MONCADA's misconduct, Defendants DOES
13 41 through 60 failed to take any preventive action to control that conduct, and failed to warn Plaintiffs
14 or their parents of that wrongful conduct, despite having a legal duty to do so.

15 78. As a result of the negligence of Defendant DOES 41 through 60, Plaintiffs were sexually
16 abused by Defendant MONCADA.

17 79. Had Defendants DOES 41 through 60 fulfilled their duties and responsibilities, Plaintiffs
18 would not have been subject to all or most of the misconduct aimed against them.

19 80. As a direct and proximate cause of the acts and omissions of Defendants, and each of
20 them as alleged herein, Plaintiffs suffered injuries and damages including, but not limited to, physical
21 and mental pain and suffering, past and future costs of medical and psychological care and treatment,
22 past and future loss of earnings and earning capacity, and other economic and non-economic damages,
23 in an amount not yet ascertained but which exceeds the minimum jurisdictional limits of this Court.

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1. For an award of general and special damages according to proof;
2. For an award of punitive damages as to the first and second causes of action against Plaintiff MONCADA and DOES 1 through 10, inclusive only;
3. For costs of suit incurred herein; and
4. For such other and further relief as the Court deems just and proper.

TAYLOR & RING

David M. Ring
Brendan P. Gilbert
Attorneys for Plaintiffs

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Dated: May 5, 2021

By: 
David M. Ring
Brendan P. Gilbert
Attorneys for Plaintiffs