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9 **IN THE UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

11 JOHN DOES A through J,

12 Plaintiffs,

13 v.

CIVIL ACTION NO.

14 CHANDLER UNIFIED SCHOOL
15 DISTRICT; HAMILTON HIGH
16 SCHOOL; KENNETH JAMES, A
17 SINGLE MAN INDIVIDUALLY
18 AND IN HIS REPRESENTATIVE
19 CAPACITIES AS FORMER
20 PRINCIPAL FOR HAMILTON
21 HIGH SCHOOL AND AS AN
22 EMPLOYEE OF CHANDLER
23 UNIFIED SCHOOL DISTRICT;
24 SHAWN R. RUSTAD AND
25 BETH J. RUSTAD, HUSBAND AND
26 WIFE, INDIVIDUALLY AND IN
27 HIS REPRESENTATIVE
CAPACITIES AND AS FORMER
ATHLETIC DIRECTOR OF
HAMILTON HIGH SCHOOL AND
AS AN EMPLOYEE OF
CHANDLER UNIFIED SCHOOL
DISTRICT; STEVEN P. BELLES
AND KIRSTEN BELLES,
HUSBAND AND WIFE,
INDIVIDUALLY AND IN HIS
REPRESENTATIVE CAPACITIES
AND AS FORMER HEAD
HEAD FOOTBALL COACH
AND TEACHER AT HAMILTON
HIGH

JURY TRIAL DEMANDED

1 SCHOOL AND AS AN EMPLOYEE
2 OF CHANDLER UNIFIED SCHOOL
3 DISTRICT; MANUEL A.
4 PALOMAREZ AND STEPHANIE
5 PALOMAREZ, HUSBAND AND
6 WIFE, INDIVIDUALLY AND IN
7 HIS REPRESENTATIVE
8 CAPACITIES AS A FORMER
9 FOOTBALL COACH AND
10 CURRENT TEACHER AT
11 HAMILTON HIGH SCHOOL AND
12 AN EMPLOYEE OF CHANDLER
13 UNIFIED SCHOOL DISTRICT;
14 JOHN DOES K THROUGH DD

Electronically Filed.

Defendants.

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12 **COMPLAINT IN A CIVIL ACTION**

13 COME NOW, the Plaintiffs, DOEs A through J, by and through their attorney,
14 DANIEL R. RAYNAK and DANIEL R. RAYNAK, P.C., and hereby files this
15 Complaint in a Civil Action as follows:
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17 **JURISDICTION AND VENUE**

- 18
19 1. This is an action for the redress of grievances and in vindication of rights
20 guaranteed to the Plaintiffs under the Constitution of the United States and the
21 laws enacted in furtherance thereof, including 42 U.S.C. § 1983.
22
23 2. This action is brought against the Defendants for violating Plaintiffs’
24 rights under the Fourteenth Amendment of the United States Constitution, 42
25 U.S.C. § 1983, Title IX of the Education Amendments of 1972, 20 U.S.C. §
26 1681(a) (Title IX).
27

1 3. Jurisdiction is founded on 28 U.S.C.A §1331. Supplemental jurisdiction
2 over Plaintiffs’ state law claims is also proper pursuant to 28 U.S.C.A. § 1367.
3

4 4. Venue is proper under 28 U.S.C.A. § 1391(b). All claims set forth herein
5 arose in the District of Arizona and the Plaintiffs reside in the District of
6 Arizona.
7

8 **PARTIES**

9 5. Plaintiff, John Doe A, is a minor individual who resides in Maricopa
10 County, Arizona. At all times relevant to these claims, Plaintiff was a minor
11 child under the age of eighteen (18).
12

13 Plaintiff, John Doe B, is the parent(s) or legal guardian(s) of Plaintiff,
14 John Doe A. At all times relevant to these claims, Plaintiff John Doe B has been
15 a resident of Maricopa County, Arizona.¹
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17 6. Plaintiff, John Doe C, is a minor individual who resides in Maricopa
18 County, Arizona. At all times relevant to these claims, Plaintiff was a minor
19 child under the age of eighteen (18).
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23 ¹ Pursuant to Arizona Rule of Civil Procedure 17, the identities of the minor Plaintiffs and their
24 parents and/or legal guardians are identified only as “John Doe” for the purpose of maintaining the
25 anonymity of the minor parties to this Complaint. These designations are made number and gender
26 neutral, and also apply to the minor Defendants and their parents and/or legal guardians. Plaintiffs
27 maintain a list of the actual identities of each party designated as a John Doe party. Plaintiffs will
make that information available to the Court and to opposing counsel at such time as contemplated by
Arizona Rules of Civil Procedure, pursuant to an Order of this Court, or at such time and in such
manner as the parties mutually agree is appropriate.

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Plaintiff, John Doe D, is the parent(s) or legal guardian(s) of Plaintiff, John Doe C. At all times relevant to these claims, Plaintiff John Doe D has been a resident of Maricopa County, Arizona.

7. Plaintiff, John Doe E, is a minor individual who resides in Maricopa County, Arizona. At all times relevant to these claims, Plaintiff was a minor child under the age of eighteen (18).a

Plaintiff, John Doe F, is the parent(s) or legal guardian(s) of Plaintiff, John Doe E. At all times relevant to these claims, Plaintiff John Doe F has been a resident of Maricopa County, Arizona.

8. Plaintiff, John Doe G, is a minor individual who resides in Maricopa County, Arizona. At all times relevant to these claims, Plaintiff was a minor child under the age of eighteen (18).

9. Plaintiff, John Doe H, is the parent(s) or legal guardian(s) of Plaintiff, John Doe G. At all times relevant to these claims, Plaintiff John Doe H has been a resident of Maricopa County, Arizona.

10. Plaintiff, John Doe I, is a minor individual who resides in Maricopa County, Arizona. At all times relevant to these claims, Plaintiff was a minor child under the age of eighteen (18).

1 Plaintiff, John Doe J, is the parent(s) or legal guardian(s) of Plaintiff, John
2 Doe I. At all times relevant to these claims, Plaintiff John Doe I has been a
3 resident of Maricopa County, Arizona.
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5 11. The five minor Plaintiffs, Plaintiffs John Doe A, C, E, G and I, will
6 hereinafter be collectively referred to as “the minor Plaintiffs.”
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8 12. Defendant, CHANDLER UNIFIED School District (“School District”), is
9 a taxing district within the State of Arizona, which administers and funds public
10 schools. Defendant School District is located in Maricopa County, Arizona. At
11 all times relevant hereto, the Defendant School District was acting by and
12 through its agents, subsidiaries, officers, employees and assigns, acting within
13 the full scope of their agency, office, employment and/or assignment.
14

15 13. Defendant School District is, and at all times relevant hereto was, an
16 employer in an industry effecting commerce within the meaning of § 701(b) of
17 the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000(e)(b), and receives
18 federal funding pursuant to 20 U.S.C.S. § 1681 (a) and is thus covered by the
19 provisions of Title VII and Title IX of the Civil Rights Act of 1964.
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21 14. Defendant Hamilton High School (“High School”) is a subdivision of the
22 School District, and is a public entity formed pursuant to the laws of the State of
23 Arizona and provides public education to its student.
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15. The School District and the High School are sued collectively and individually.

16. Defendant, Kenneth James (“James”), at all times relevant hereto was and is a resident of Maricopa County, Arizona, and was, during the events related to this action, the principal of the High School, and an employee of the School District. Defendant James is sued as an individual and in his representative capacities.

17. Defendant, Shawn R. Rustad (“S. Rustad”), at all times relevant hereto was and is a resident of Maricopa County, Arizona, and was during the events related to this action, the athletic director at the High School, and an employee of the School District. Defendant Rustad is sued as an individual and in his representative capacities. At all times relevant hereto, Defendant Rustad was a married man acting on behalf of his marital community, comprised of himself and Defendant Beth J. Rustad.

18. Defendant, Steven Belles (“S. Belles”), at all times relevant hereto was and is a resident of Maricopa County, Arizona, and was during the events related to this action, is a teacher and the head football coach at the High School and an employee of the School District. Defendant S. Belles is sued as an individual and in his representative capacities. At all times relevant hereto, Defendant

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Rustad was a married man acting on behalf of his marital community, comprised of himself and Defendant Kirsten Belles.

19. Defendant, Manuel Palomarez (“M. Palomarez”) at all times relevant hereto was and is a resident of Maricopa County, Arizona, and was during the events related to this action, a teacher and a football coach at the High School, and an employee of the School District. Defendant Palomarez is sued as an individual and in his representative capacities. At all times relevant hereto, Defendant Rustad was a married man acting on behalf of his marital community, comprised of himself and Defendant Stephanie Palomarez.

20. Hereinafter, Defendants School District, James, S. Belles, K. Belles, S. Rustad, B. Rastaad, M. Palomarez and S. Pamooarz will be referred to collectively as the “School District Defendants.”

21. Defendant, John Doe L (“Doe L”), is the natural guardian of John Doe K (“Doe K”), a minor. At all times relevant to this Complaint, Doe K was a member of the High School football team.

22. Defendant, John Doe N (“Doe N”) is the parent(s) and/or legal guardian(s) of John Doe M (“Doe M”), a minor. At all times relevant to this Complaint, Doe M was a member of the High School football team.

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23. Defendant, John Doe P (“Doe P”) is the parent(s) and/or legal guardian(s) of John Doe O (“Doe O”), a minor. At all times relevant to this Complaint, Doe O was a member of the High School football team.

24. Defendant, John Doe R (“Doe R”) is the parent(s) and/or legal guardian(s) of John Doe Q (“Doe Q”), a minor. At all times relevant to this Complaint, Doe Q was a member of the High School football team.

25. Defendant, John Doe T (“Doe T”) is the parent(s) and/or legal guardian(s) of John Doe S (“Doe S”), a minor. At all times relevant to this Complaint, Doe S was a member of the High School football team.

26. Defendant, John Doe V (“Doe V”) is the parent(s) and/or legal guardian(s) of John Doe U (“Doe U”), a minor. At all times relevant to this Complaint, Doe U was a student at the Defendant High School, and a member of the High School football team.

27. Defendant, John Doe X (“Doe X”) is the parent(s) and/or legal guardian(s) of John Doe W (“Doe W”), a minor. At all times relevant to this Complaint, Doe W was a student at the Defendant High School, and a member of the High School football team.

28. Defendant, John Doe Z (“Doe Z”) is the parent(s) and/or legal guardian(s) of John Doe Y (“Doe Y”), a minor. At all times relevant to this Complaint, Doe

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Y was a student at the Defendant High School, and a member of the High School football team.

29. Defendant, John Doe BB (“Doe BB”) is the parent(s) and/or legal guardian(s) of John Doe AA (“Doe AA”), a minor. At all times relevant to this Complaint, Doe AA was a student at the Defendant High School, and a member of the High School football team.

30. Defendant, John Doe DD (“Doe DD”) is the parent(s) and/or legal guardian(s) of John Doe CC (“Doe CC”), a minor. At all times relevant to this Complaint, Doe CC was a student at the Defendant High School, and a member of the High School football team.

31. Defendants John Does I-XI, Jane Does I-XI, ABC Corporations I-X and XYZ Partnerships I-X are, upon information and belief, individuals or business entities that are residents of Maricopa County, Arizona. Said Defendants include owners, partners, members, officers, directors, shareholders, employees, agents, assurities, assigns, representatives and/or successors-in-interest, of Defendant School District and/or Defendant High School, and their spouses and/or persons or entities otherwise liable to Plaintiffs for their damages. They also include other football players who were involved in the assaultive behavior described herein below who have not yet been identified but may become known

1 through the discovery process. The true names and identities of said Defendants
2 will be submitted at such time as they become known.
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4 32. At all times relevant hereto, the above-named Defendants were working
5 for the School District, and were acting of color of law and within the scope of
6 their employment with the High School.
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8 33. At all times relevant to this action, the School District had in effect, and
9 was responsible for, the policies and procedures that govern the conduct of the
10 School District Defendants as it relates to their actions and inactions related to
11 the minor Plaintiffs as described more fully hereinafter below. The Defendant
12 School District was further responsible for the hiring, training, supervising,
13 monitoring and disciplining of the Defendant employees of School District.
14

15 34. At all times relevant to this action, the Defendant employees of School
16 District had a duty to report the below described abuses to the proper authorities
17 in a timely manner pursuant to C.R.S. §13-3620, C.R.S. § 15-514 and A.R.S. §
18 13-3623. At all times relevant to this action, the School District and the
19 Defendant employees of the School District failed to take the actions required of
20 them under the aforementioned statutory provisions.
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22 35. The minor Defendants in this case were members of the Hamilton High
23 School football team. Hamilton High School is a school within the jurisdiction
24 of School District. All of the minor Defendants were under the supervision of
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1 the Defendant employees of School District at the time that the various acts were
2 committed against the minor Plaintiffs, including but not limited to those
3 teachers, coaches and students at the High School.
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5 36. The School District had administrative and supervisory authority over the
6 activities of the individual employee Defendants at all times relevant hereto.
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8 37. At all times relevant hereto, the School District had the authority to
9 promulgate rules and regulations regarding the hiring, supervision and
10 professional conduct of teachers, coaches and administrators toward students.
11

12 38. At all times relevant hereto, the School District had a duty to aid in the
13 enforcement of laws regulating schools in Arizona.
14

15 39. The Defendant employees of the School District have and had a special
16 relationship with minor Plaintiffs and owed them a duty of care to keep them
17 safe from physical and emotional harm while they are and were in the care of the
18 School District and the High School.
19

20 **FACTUAL ALLEGATIONS**

21 40. During the period 2015 through 2017, including but not limited to the
22 2015-2016 school year and the 2016-2017 school year, as well as at various
23 other times during that same period when school was not in session, all of the
24 minor Plaintiffs herein were victims of sexual, physical and emotional abuse by
25 the minor Defendants in this matter.
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1 41. Each of the minor Plaintiffs suffered the aforementioned abuse at various
2 times, both during school hours, and outside of school hours, on the premises of
3 the high school.
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5 42. The following is a partial description of the abuse suffered by each of the
6 minor Plaintiffs in the following particulars:
7

8 A. In or about September 2015, Plaintiff A¹ was attacked by an
9 unknown number of the Defendants, including but not
10 limited to Defendants K, M, N, S, U and AA. During this
11 attack one or more of the above-named Defendants attempted
12 to penetrate Plaintiff A's buttocks with a highlighter.
13 Plaintiff A believes and therefore avers that Defendant K had
14 engaged in similar conduct in the past, victimizing an
15 unknown student or students.

16 In addition to the above, Plaintiff A:

- 17 1. was tackled at least two times;
- 18 2. had his pants and underwear pulled down;
- 19 3. was restrained by an unknown number of the
20 above Defendants;
- 21 4. had a broom handle inserted between his
22 buttocks in an attempt to penetrate his anus.
23 This action was perpetrated by an unknown
24 number of the above-named Defendants;
- 25 5. was spat upon in his facial area by Defendant N;
- 26 6. was restrained while Defendant N placed his
27 testicles on Plaintiff A's face;
7. was restrained while one of the aforementioned
Defendants imitated a sex act while laying on
top of him.

28 All of the above actions were perpetrated on Plaintiff in the
29 locker room on the premises of Hamilton High School.

30 B. In or about October 2016, Plaintiff E was restrained by
31 Defendant M, as well as others of the Defendants, the
32 identities of whom may become known during the discovery

33 ¹ Hereinafter all Doe Plaintiffs and Defendants will be identified by letter only.

1 process. While being restrained by Defendant N, and others,
2 Plaintiff E was assaulted by Defendant K, who lay on top of
3 Plaintiff E and imitated a sex act while wearing only
4 underwear.

5 C. In or about January 2017, Plaintiff C was attacked by
6 Defendants K, M, S, U, W and Y. During this attack,
7 Plaintiff C was pulled to the ground. Multiple of the above-
8 named Defendants slapped Plaintiff C's buttocks and twisted
9 his nipples. Plaintiff C's pants and underwear were pulled
10 down and an unknown number of the above-named
11 Defendants inserted their hands between Plaintiff C's
12 buttocks in an attempt to penetrate his anus. A portion of this
13 attack was video recorded and posted to various social media
14 sites.

15 D. In or about January 2017, Plaintiff G was attacked in the
16 locker room of Defendant Hamilton High School by
17 Defendants K, M, Q, S and U. During this attack, Plaintiff
18 was restrained while one or more of the above-named
19 Defendants attempted to put their hands between Plaintiff's
20 buttocks in an attempt to penetrate his anus. The above-
21 named Defendants were assisted in this attack by two other of
22 the Defendants whose are identities are now unknown but
23 may become known during the discovery process. A portion
24 of this attack was video recorded and posted to various social
25 media sites. During this attacks, Defendant M. Palomarez
26 walked into the room and witnessed a portion of the attack,
27 walked out and took no action of any kind. Plaintiff G
informed Defendant S. Rustad about the attack. No action
was taken by Defendant S. Rustad or any other Defendant on
Plaintiff G's behalf.

E. In or about early 2017, Plaintiff I was attacked by Defendants
L, N, R, V and DD. During this attack, an unknown number
of these Defendants pulled Plaintiff I's pants down and
slapped his bare buttocks and testicles. Some number of
these Defendants, which may become known during the
discovery process, made eight to ten attempts to manually
penetrate Plaintiff I's anus. During the attack Plaintiff I was
slammed into a wall multiple times by one or more of the
above-named Defendants.

43. All of the minor Plaintiffs were attacked as described above while they
were freshman football players for the High School after each minor Plaintiff
was promoted to the varsity football team.

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44. At the time of each of the acts described above, the following Defendants held the following positions of responsibility with the High School.

- A. Steven Belles – head football coach and teacher;
- B. Manuel Palomarez – assistant football coach and teacher;
- C. Shawn R. Rustad – athletic director and teacher; and
- D. Kenneth James – principal.

45. Plaintiffs believe, and therefore aver, that the individual Defendants identified in the preceding paragraph were, at all times relevant hereto, in regular, in most cases, daily, communication with each other regarding matters related to the football program.

46. Plaintiffs further believe, and therefore aver, that the individual Defendant described above knew of, and shared some or all of the information about the physical and sexual assaults described hereinafter below, and furthermore, that said Defendants, and each of them, conspired to make no report of such conduct to the proper authorities, or to take any action to prevent further attacks, or to punish the perpetrators or to otherwise protect the minor Plaintiffs.

47. All of the aforementioned attacks occurred on the grounds of the High School during times set aside for football practice.

48. All of the minor Defendants were upper classmen who were members of the Defendant Hamilton High School football team at the time of the attacks.

1 49. At all times relevant hereto, Defendants James, S. Belles, M. Palomarez
2 and S. Rustad were charged with the duty to protect the minor Plaintiffs from the
3 types of attacks described hereinbefore above, and to take action to investigate
4 these attacks and to properly punish those responsible.
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6 50. At all times relevant hereto, the Defendant School District, the Defendant
7 High School, Defendants James, S. Rustad, S. Belles and M. Palomarez were
8 responsible to aid in the enforcement of laws regulating schools, and to ensure
9 that all of the rules and regulations pertaining to the High School and the minor
10 Plaintiffs of that high school were followed.
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12 51. The School District is responsible for the overall administration and
13 supervision of the professional conduct of administrators and school employees
14 toward the school staff, parents, students and the community at large, including
15 but not limited to those administrators, coaches and teachers of the High School,
16 including Defendants James, S. Belles, M. Palomarez, and S. Rustad. At all
17 times relevant hereto, Defendant School District had the authority to promulgate
18 rules and regulations the hiring and supervision of the professional conduct of
19 school staff, including but not limited to Defendants James, S. Rustad S. Belles
20 and M. Palomarez.
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22 52. Upon information and belief, Defendants James, S. Belles, M. Palomarez
23 and S. Rustad and, therefore, the High School and the School District, were
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1 aware of the complaints of other students and parents regarding the
2 aforementioned attacks.
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4 53. Despite numerous complaints from various sources identifying the
5 existence and the nature of these attacks, these Defendants failed to take any
6 action to either protect the minor Plaintiffs from additional attacks and/or to
7 investigate the perpetrators of the acts described above. As a consequence, the
8 sexual assaults described hereinbefore above continued unrestrained at the High
9 School through the time periods described above, with additional individuals
10 beyond those named in this Complaint being victimized.
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13 54. Defendant M. Palomarez admitted to law enforcement that he was aware
14 of allegations of sexual attacks of the type described above by members of his
15 football team as early as May 2016.
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17 55. In or about September 2016, Defendant S. Belles told his players not to
18 “do sexual things to each other.” The above-described attacks occurred at a time
19 when Defendants S. Belles, M. Palomarez and S. Rustad were responsible for
20 the supervision of the football team and its conduct during practice. As a direct
21 consequence, the Plaintiffs were victims of sexual hazing as described above
22 because of the failure on the part of these Defendants to properly perform their
23 duties of supervision and protection.
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1 56. The individual Defendants had a duty under state law to report the
2 allegations of sexual assault described and to request an investigation from state
3 authorities regarding these allegations. Instead, the individual Defendants
4 dismissed the claims of parents and students regarding these attacks and failed to
5 timely report the attacks to the proper authorities.
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8 57. In or about January 2017, Defendant S. Rustad received an anonymous
9 voice mail message that made allegations of sexual attacks against football
10 players. Defendant S. Rustad took no action in response to this message,
11 including a failure to report this claim to the proper authorities.
12

13 58. At all times relevant hereto, all of the individual Defendants were acting
14 within the course and scope of their employment with the School District and the
15 High School, and their acts, omissions and knowledge are imputed to the School
16 District and the High School as a result.
17

18 59. As a direct and proximate result of the actions and inaction of the
19 individual Defendants as described hereinbefore above, and each of them,
20 including acts of negligence and acts of deliberate and intentional indifference,
21 Plaintiffs have suffered physical harm, as well as severe emotional distress and
22 will continue to suffer such injuries for an indefinite period in the future.
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24 60. As a further direct and proximate result of the negligent and intentional
25 conduct of the Defendants as described above, the Plaintiffs have incurred
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1 medical, therapeutic and other expenses, and will continue to do so for an
2 indefinite period into the future.
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4 **COUNT I:**

5 **ALL PLAINTIFFS v. ALL DEFENDANTS**

6 **VIOLATION OF PLAINTIFFS' CONSTITUTIONAL RIGHTS,**
7 **SPECIFICALLY, 42 U.S.C. §1983 AND THE**
8 **FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION**

9 **DUE PROCESS**

10 61. Plaintiffs incorporate by reference Paragraphs 1 through 60 as though
11 fully set forth at length herein.

12 62. The Defendants, and each of them, owed a duty to the minor Plaintiffs to
13 protect them from harm, including harm from other students during school
14 hours, including but not limited to during after school extracurricular activities,
15 and on school property.
16

17 63. The Defendants, and each of them, failed in that duty. Plaintiffs believe,
18 and therefore aver, that school officials, including the Defendant coaches,
19 teachers and administrators, had actual notice, through first hand observation, or
20 because they were made aware by students, other school personnel and/or
21 parents, that the Plaintiff students were being physically and sexually assaulted
22 as described above, and were in danger of experiencing these assaults in the
23 future.
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64. Plaintiffs further believe, and therefore avers, that the Defendants, and each of them, knew of the strong likelihood that attacks of the type described hereinbefore above would occur in the future against the Plaintiffs.

65. Notwithstanding the foregoing, the Defendants, and each of them:

- A. failed to properly investigate the information that they had in their possession regarding the aforementioned attacks;
- B. failed to take any corrective action against the student Defendants; and
- C. otherwise failed to take any steps to insure that the minor Plaintiffs would not be subject to attacks of the type described above in the future.

66. In failing to act as described above, the Defendants, and each of them, exposed the minor Plaintiffs to the type of attacks described above, and therefore to the propensity for harm from the student Defendants, and thereby willfully disregarded the safety of the minor Plaintiffs. This failure to act exposed the minor Plaintiffs to individuals who were known to have engaged in these assaults in the past.

67. The failure of the Defendants, and each of them, to investigate the incidents described above, or to take any corrective action whatsoever, constitutes a willful disregard and a deliberate indifference to the safety and welfare of the minor Plaintiffs.

1 68. The failure of the Defendants as aforementioned created the opportunity
2 for injury and harm to the minor Plaintiffs that would not have existed but for
3 the failures of the Defendants, and each of them, as aforementioned.
4

5 69. The failure of the Defendants, and each of them, to take the actions
6 described above in Paragraph 64 created a foreseeable danger to the minor
7 Plaintiffs, and the failure to act by the Defendants, and each of them, constitutes
8 a willful disregard and a deliberate indifference to the rights of all of the
9 Plaintiffs. In so doing, the Defendants, and each of them, failed in their
10 affirmative duty to protect the minor Plaintiffs from dangerous situations.
11

12 70. As a direct and proximate result of the conduct of the Defendants as
13 described hereinbefore above, Plaintiffs, and each of them, have suffered the
14 following injuries and damages, which may be permanent in nature:
15

- 16 A. violation of their constitutional rights under 42. U.S.C.
17 §1983 and the Fourteenth Amendment;
- 18 B. severe emotional, distress, shock, horror, fright and
19 psychological trauma;
- 20 C. physical manifestations of the emotional distress that
21 they have suffered, including but not limited to,
22 nausea, sleep problems, headache;
- 23 D. economic damages related to any and all medical,
24 legal and/or other consequential costs; and
- 25 E. such other damages as may become apparent through
26 the discovery process.

27 71. The actions of the Defendants, and each of them, were willful, deliberate
and were done with a reckless disregard for the rights of the Plaintiffs with the

1 attendant purpose to injure or damage the wellbeing of the Plaintiffs, thereby
2 subjecting the Defendants, and each of them, to punitive damages.
3

4 WHEREFORE, the Plaintiffs, and each of them, demands compensatory general
5 damages against the Defendants, and each of them, jointly and severally, in an
6 amount to be proven at trial; compensatory special damages including, but not
7 limited to, medical expenses; costs of suit; reasonable attorney's fees as
8 permitted by law; pre- and post-judgment interest as permitted by law; punitive
9 damages against the Defendants; and such other relief, including injunctive
10 and/or declaratory relief, as this Court may deem proper.
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13 JURY TRIAL DEMANDED
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15 **COUNT II:**

16 **ALL PLAINTIFFS v. DEFENDANT SCHOOL DISTRICT**

17 **VIOLATION OF PLAINTIFFS' CONSTITUTIONAL RIGHTS,**
18 **SPECIFICALLY, 42 U.S.C. §1983 AND THE**
FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

19 **MUNICIPAL LIABILITY**
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21 72. Plaintiff incorporates by reference Paragraphs 1 through 71 as though
22 fully set forth at length herein.
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24 73. Plaintiffs claim damages for injuries set forth herein under § 1983 against
25 Defendant School District for violation of Plaintiffs' constitutional rights under
26 color of law.
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74. As aforementioned, the conduct of the individual Defendants in this matter has caused the Plaintiffs injuries and damages as set forth more fully hereinbefore above.

75. The individual Defendants failure to take the actions described above demonstrates a failure to properly train, supervise, control and discipline the individual Defendants by the School District by the proper methods and procedures by which to protect the minor Plaintiffs from the dangerous conditions that resulted in the injuries and damages.

76. Plaintiffs aver that this failure to train, supervise, control or discipline the individual Defendants has led to the Plaintiffs suffering injuries and damages as described above.

77. Plaintiffs aver that this failure to train, supervise, control and/or discipline the individual Defendants has led to numerous violation of constitutional rights against the minor Plaintiffs.

78. Defendant School District has failed to correct these deficiencies in training, supervision, control and/or discipline.

79. The pattern of constitutional violations caused by the failure of Defendant School District to train, supervise, control and/or discipline the individual Defendants evidences a deliberate indifference to the rights of the Plaintiffs and other students of the Defendant School District.

1 80. The failure of the Defendant School District to properly train, supervise,
2 control and discipline the individual Defendants created a substantial risk of the
3 constitutional violations identified herein.
4

5 81. By reason of the aforesaid conduct, the Plaintiffs' civil rights, as
6 guaranteed by U.S.C. §1983 and the Fourteenth Amendment to the Constitution
7 of the United States, were violated by the Defendant School District.
8

9 82. As alleged herein, the established customs, practices, patterns and official
10 policies of the Defendant School District constituted a substantial risk of
11 constitutional deprivation, and, as a direct and proximate result of which, the
12 Plaintiffs have sustained the following injuries and damages, which may be
13 permanent in nature:
14

- 15 A. their rights under the Fourteenth Amendment to the
16 Constitution of the United States to the due process
17 and equal protection of the law were violated;
- 18 B. severe emotional, distress, shock, horror, fright and
19 psychological trauma;
- 20 C. physical manifestations of the emotional distress that
21 they have suffered, including but not limited to,
22 nausea, sleep problems, headache;
- 23 D. economic damages related to any and all medical, legal
24 and/or other consequential costs;
- 25 E. such other damages as may become apparent through
26 the discovery process.

27 WHEREFORE, the Plaintiffs, and each of them, demands compensatory general
damages against the Defendant School District in an amount to be proven at trial;
compensatory special damages including, but not limited to, medical expenses; costs of

1 suit; reasonable attorney's fees as permitted by law; pre- and post-judgment interest as
2 permitted by law; punitive damages against the Defendant School District; and such
3 other relief, including injunctive and/or declaratory relief, as this Court may deem
4 proper.
5

6 JURY TRIAL DEMANDED
7

8 **COUNT III:**

9 **ALL PLAINTIFFS v. ALL DEFENDANTS**
10 **VIOLATION OF PLAINTIFFS' CONSTITUTIONAL RIGHTS**
11 **UNDER TITLE IX**

12 83. Plaintiff incorporates by reference Paragraphs 1 through 82 as though
13 fully set forth at length herein.

14 84. Plaintiffs believe, and therefore aver, that Defendant School District and
15 Defendant High School receive and accept federal funding sufficient to invoke
16 the jurisdiction of Title IX of the Education Amendments of 1972, 20 U.S.C.
17 §1681, et seq.
18

19 85. The failures of the individual Defendants, described hereinbefore above,
20 created a sexually hostile educational environment at the Defendant High School
21 and in those areas of Defendant School District, in which the minor Plaintiffs
22 were physical and sexually assaulted by the Minor Defendants hereinbefore
23 above.
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86. As a direct and proximate result of the aforementioned failures on the part of the individual Defendants, the Plaintiffs have suffered injuries and damages as more fully described hereinbefore above.

87. The actions of the Defendants, and each of them, were willful, deliberate and were done with a reckless disregard for the rights of the Plaintiffs with the attendant purpose to injure or damage the wellbeing of the Plaintiffs, thereby subjecting the Defendants, and each of them, to punitive damages.

WHEREFORE, the Plaintiffs, and each of them, demands compensatory general damages against the Defendants, and each of them, jointly and severally, in an amount to be proven at trial; compensatory special damages including, but not limited to, medical expenses; costs of suit; reasonable attorney's fees as permitted by law; pre- and post-judgment interest as permitted by law; punitive damages against the Defendants; and such other relief, including injunctive and/or declaratory relief, as this Court may deem proper.

JURY TRIAL DEMANDED

1 **COUNT IV:**

2 **ALL PLAINTIFFS v. INDIVIDUAL DEFENDANTS, K. JAMES, S. RUSTAD,**
3 **S. BELLES, AND M. PALOMAREZ**

4 **VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS,**
5 **SPECIFICALLY, 42 U.S.C. §1983 AND THE FOURTEENTH**
6 **AMENDMENT OF THE UNITED STATES CONSTITUTION**

7 **CONSPIRACY**

8 88. Plaintiff incorporates by reference Paragraphs 1 through 87 as though
9 fully set forth at length herein.

10 89. The above-named individual Defendants acted with a common purpose
11 and conspired to endanger the welfare of children, including the minor Plaintiffs,
12 in violation of the Fourteenth Amendment of the Constitution, as well as
13 Arizona law.

14 90. Plaintiffs, and each of them, have standing to bring this claim because
15 they were the minor Plaintiffs who were physically and sexually abused as a
16 result of this conspiracy to endanger the welfare of children and/or the parents
17 and guardians of those minor Plaintiffs.

18 91. The individual Defendants, as well as other individuals associated with the
19 Defendant School District and the Defendant High School, each had or should
20 have had information about the physical and sexual assaults of the minor
21 Plaintiffs as described above but maintained silence about these facts and
22 otherwise took no corrective or investigative action with respect to the conduct
23 of the minor Defendants as described hereinbefore above.
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92. Each individual Defendant had or should have had information that the facilities of the Defendant School District and the Defendant High School, as well as some programs within the Defendant High School, including but not limited to, the football program, were not safe environments for children and that no adequate measures were in place to protect children in those facilities and programs. Despite this fact, each of the individual Defendants maintained silence about the physical and sexual assaults of the minor Plaintiffs as described hereinbefore above.

93. The collective silence of the individual Defendants constituted acts in pursuance or furtherance of the common purpose of this conspiracy, which was to endanger the welfare of children.

94. The conduct of the individual Defendants directly injured the minor Plaintiffs, and each of them, by creating an unsafe environment in which to participate in school activities. Moreover, the individual Defendants took no adequate measures prior to and after the incidents of physical and sexual abuse described above to prevent such incidents.

95. Furthermore, the individual Defendants hid the facts regarding the assaults of the minor Plaintiffs from various individuals, including the parents and guardians of the minor Plaintiff's.

1 96. When reports about the physical and sexual assaults of the minor Plaintiffs
2 were made to the individual Defendants, or when the individual Defendants
3 learned through third parties of these physical and sexual assaults, those reports
4 were ignored by the individual Defendants who took no action to investigate the
5 incidents or to prevent the incidents from occurring or to punish those
6 responsible for those incidents.
7

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9 97. The aforementioned actions Defendants described above were committed
10 with malice and with the intent that the welfare of the student Plaintiffs, as well
11 as other children within the Defendant School District and Defendant High
12 School, would be endangered.
13

14 98. As a direct and proximate result of the actions of the individual
15 Defendants described above, the minor Plaintiffs, and each of them, have
16 suffered injuries and damages as set forth more fully hereinbefore above.
17

18 99. The actions of the individual Defendants, and each of them, were willful,
19 deliberate and were done with a reckless disregard for the rights of the Plaintiffs
20 with the attendant purpose to injure or damage the wellbeing of the Plaintiffs,
21 thereby subjecting the Defendants, and each of them, to punitive damages.
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24 WHEREFORE, the Plaintiffs, and each of them, demands compensatory general
25 damages against the Defendants, and each of them, jointly and severally, in an amount
26 to be proven at trial; compensatory special damages including, but not limited to,
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1 medical expenses; costs of suit; reasonable attorney's fees as permitted by law; pre-
2 and post-judgment interest as permitted by law; punitive damages against the
3 Defendants; and such other relief, including injunctive and/or declaratory relief, as this
4 Court may deem proper.
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7 JURY TRIAL DEMANDED

8 **COUNT V:**

9 **ALL PLAINTIFFS v. ALL DEFENDANTS**

10 **VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS,**
11 **SPECIFICALLY, 42 U.S.C. §1983 AND THE FOURTEENTH**
12 **AMENDMENT OF THE UNITED STATES CONSTITUTION**

13 **COMMON LAW FAILURE TO PROTECT**

14 100. Plaintiff incorporates by reference Paragraphs 1 through 99 as though
15 fully set forth at length herein.

16 101. The Defendants, and each of them, failed to protect the minor children
17 who were in their charge.

18 102. Based on the failure of the Defendants, and each of them, to protect the
19 minor Plaintiffs, those Plaintiffs were attacked and suffered both physical and
20 emotional injuries as more fully set forth hereinbefore above.
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22 103. The Defendant School District and the Defendant High School are
23 responsible for the actions and inactions of the individual Defendants herein
24 under the Doctrine of Respondeat Superior.
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104. The actions of the Defendants, and each of them, were willful, deliberate and were done with a reckless disregard for the rights of the Plaintiffs with the attendant purpose to injure or damage the wellbeing of the Plaintiffs, thereby subjecting the Defendants, and each of them, to punitive damages.

WHEREFORE, the Plaintiffs, and each of them, demands compensatory general damages against the Defendants, and each of them, jointly and severally, in an amount to be proven at trial; compensatory special damages including, but not limited to, medical expenses; costs of suit; reasonable attorney’s fees as permitted by law; pre- and post-judgment interest as permitted by law; punitive damages against the Defendants; and such other relief, including injunctive and/or declaratory relief, as this Court may deem proper.

JURY TRIAL DEMANDED

COUNT VI:

ALL MINOR PLAINTIFFS v. ALL MINOR DEFENDANTS
VIOLATION OF PLAINTIFF’S CONSTITUTIONAL RIGHTS,
SPECIFICALLY, 42 U.S.C. §1983 AND THE FOURTEENTH
AMENDMENT OF THE UNITED STATES CONSTITUTION

ASSAULT

105. Plaintiff incorporates by reference Paragraphs 1 through 104 as though fully set forth at length herein.

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106. The minor Defendants identified hereinbefore above intentionally, willfully and maliciously attacked, at separate times, the minor Plaintiffs as described hereinbefore above.

107. As a direct and proximate result of the aforementioned willful, malicious and intentional actions, the minor Plaintiffs were damages described more fully above by the actions of the minor Defendants.

108. The actions of the minor Defendants, and each of them, were willful, deliberate and were done with a reckless disregard for the rights of the Plaintiffs with the attendant purpose to injure or damage the wellbeing of the Plaintiffs, thereby subjecting the minor Defendants, and each of them, to punitive damages.

WHEREFORE, the Plaintiffs, and each of them, demands compensatory general damages against the minor Defendants, and each of them, jointly and severally, in an amount to be proven at trial; compensatory special damages including, but not limited to, medical expenses; costs of suit; reasonable attorney's fees as permitted by law; pre- and post-judgment interest as permitted by law; punitive damages against the minor Defendants; and such other relief, including injunctive and/or declaratory relief, as this Court may deem proper.

JURY TRIAL DEMANDED

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COUNT VII:

ALL MINOR PLAINTIFFS v. ALL DEFENDANTS

**VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS,
SPECIFICALLY, 42 U.S.C. §1983 AND THE FOURTEENTH
AMENDMENT OF THE UNITED STATES CONSTITUTION**

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

109. Plaintiff incorporates by reference Paragraphs 1 through 108 as though fully set forth at length herein.

110. The illegal and/or improper conduct by the Defendants, and each of them, against the minor Plaintiffs as described hereinbefore above, were all undertaken or instituted by the individual Defendants, and each of them.

111. The actions of the individual Defendants were intentional, extreme, outrageous, without privilege and without justification.

112. The individual Defendants intended to inflict emotional distress upon the Plaintiffs or the individual Defendants knew or should have known, through the use of ordinary caution, that their conduct would result in the emotional distress of the minor Plaintiffs.

113. The emotional distress of the minor Plaintiffs, which resulted from the conduct of the Defendants, as aforementioned, was foreseeable and certain.

114. As a direct and proximate result of the actions of the individual Defendants, Plaintiffs suffered injuries and damages as more fully described hereinbefore above.

1 115. The actions of the individual Defendants, and each of them, were willful,
2 deliberate and were done with a reckless disregard for the rights of the Plaintiffs
3 with the attendant purpose to injure or damage the wellbeing of the Plaintiffs,
4 thereby subjecting the minor Defendants, and each of them, to punitive damages.
5

6 WHEREFORE, the Plaintiffs, and each of them, demands compensatory general
7 damages against the minor Defendants, and each of them, jointly and severally, in an
8 amount to be proven at trial; compensatory special damages including, but not limited
9 to, medical expenses; costs of suit; reasonable attorney's fees as permitted by law; pre-
10 and post-judgment interest as permitted by law; punitive damages against the minor
11 Defendants; and such other relief, including injunctive and/or declaratory relief, as this
12 Court may deem proper.
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16 JURY TRIAL DEMANDED

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18 **COUNT VIII:**

19 **ALL PLAINTIFFS v. ALL DEFENDANTS**

20 **VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS,**
21 **SPECIFICALLY, 42 U.S.C. §1983 AND THE FOURTEENTH**
22 **AMENDMENT OF THE UNITED STATES CONSTITUTION**

23 **LOSS OF CONSORTIUM**

24 116. Plaintiff incorporates by reference Paragraphs 1 through 115 as though
25 fully set forth at length herein.
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1 117. The minor Plaintiffs, together with their parents and/or guardians and/or
2 grandparents, have suffered a loss of consortium by and between each other as a
3 direct and proximate result of the actions of the Defendants, and each of them.

4
5 118. As a direct and proximate result of the aforementioned willful, malicious
6 and intentional actions, the Plaintiffs have suffered injuries and damages
7 described more fully hereinbefore above.
8

9 119. In addition to those injuries and damages described hereinbefore above, as
10 a direct and proximate result of the actions of the Defendants, and each of them,
11 described hereinbefore above, the minor Plaintiffs have become withdrawn,
12 sullen and have not engaged in the same types of activities in which they
13 regularly engaged with their parents, grandparents and/or legal guardians before
14 being attacked by the minor Defendants as described above.
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17 120. The actions of the Defendants, and each of them, were willful, deliberate
18 and were done with a reckless disregard for the rights of the Plaintiffs with the
19 attendant purpose to injure or damage the wellbeing of the Plaintiffs, thereby
20 subjecting the minor Defendants, and each of them, to punitive damages.
21

22 WHEREFORE, the Plaintiffs, and each of them, demands compensatory general
23 damages against the minor Defendants, and each of them, jointly and severally, in an
24 amount to be proven at trial; compensatory special damages including, but not limited
25 to, medical expenses; costs of suit; reasonable attorney's fees as permitted by law; pre-
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1 and post-judgment interest as permitted by law; punitive damages against the minor
2 Defendants; and such other relief, including injunctive and/or declaratory relief, as this
3 Court may deem proper.
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5 JURY TRIAL DEMANDED

6 **COUNT IX:**

7 **MINOR PLAINTIFFS v. INDIVIDUAL DEFENDANTS, K. JAMES, S.**
8 **RUSTAD,**
9 **S. BELLES, AND M. PALOMAREZ**

10 **ARIZONA REVISED STATUTE 13-3620**

11 **FAILURE TO REPORT; NEGLIGENCE PER SE**

12 121. Plaintiff incorporates by reference Paragraphs 1 through 120 as though
13 fully set forth at length herein.

14 122. Arizona Revised Statute 13-3620 requires that the individual Defendants
15 named in this count make a report to the proper authorities of the physical and
16 sexual assaults described hereinbefore above.

17 123. The reporting requirement described above is mandatory.

18 124. In addition to the reporting requirements described above, the
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aforementioned statute requires that the individuals named in this count provide
a written report to the appropriate report to the authorities within seventy-two
(72) hours of learning of the suspected abuse. Defendants School District and its
employees and/or representatives, including but not limited to the individual
Defendants named herein, were required to cause such oral and written reports to

1 be made once they had reason to know or reasonably believe that the
2
3 aforementioned assaults occurred.

4 125. The individual Defendants, and each of them, failed to comply with this
5 reporting requirement, leading to more attacks, including those by the minor
6 Defendants.

7
8 126. The failure of the individual Defendants names in this count to make the
9 proper mandatory report of the suspected abuse constitutes a breach of A.R. §
10 13-3620 and constitutes negligence per se.

11
12 127. Despite having reasonable basis to believe that the minor Plaintiffs were
13 being assaulted, the individual Defendants, and each of them, individually and as
14 the agents and employees of the Defendant School District, failed to report these
15 actions to either child protective services, to a peace officer or to other
16 appropriate authority.

17
18 128. As a direct and proximate result of the failure on the part of these
19 Defendants to report the assaults described hereinbefore above, the Plaintiffs
20 have suffered injuries and damages as more fully set forth hereinbefore above.

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22 129. The actions of the Defendants, and each of them, were willful, deliberate
23 and were done with a reckless disregard for the rights of the Plaintiffs with the
24 attendant purpose to injure or damage the wellbeing of the Plaintiffs, thereby
25 subjecting the minor Defendants, and each of them, to punitive damages.
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JURY TRIAL DEMANDED

WHEREFORE, the Plaintiffs, and each of them, demands compensatory general damages against the Defendants, and each of them, jointly and severally, in an amount to be proven at trial; compensatory special damages including, but not limited to, medical expenses; costs of suit; reasonable attorney’s fees as permitted by law; pre- and post-judgment interest as permitted by law; punitive damages against the Defendants; and such other relief, including injunctive and/or declaratory relief, as this Court may deem proper.

Respectfully Submitted this 16th day of May. 2018.

Daniel R. Raynak, P.C.

/s/ Daniel R. Raynak
Daniel R. Raynak
Attorney for Plaintiff