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ELECTRONICALLY FILED
Merced Superior Court
7/21/2022 9:52 AM
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF MERCED

JANE DOE 1 and JANE DOE 2,
Plaintiffs,

vs.

LOS BANOS UNIFIED SCHOOL
DISTRICT, MERCED COUNTY OFFICE
OF EDUCATION, GARY BETTENCOURT,
DUSTY NORRIS, and ROES 1 through 60,
inclusive

Defendants.

Case No. 22CV-02223

COMPLAINT FOR DAMAGES
[Childhood Sexual Abuse]

[AMOUNT IN EXCESS OF \$25,000]

1. Defendant LOS BANOS UNIFIED SCHOOL DISTRICT [“DISTRICT”] is a public agency in the County of Merced, charged with the duty to implement various programs and procedures, including appropriate training, for the safe education of enrolled pupils in its schools, including Los Banos High School.

2. Defendant MERCED COUNTY OFFICE OF EDUCATION [“MCOE”] is a public agency in the County of Merced which houses the Board of Education for the County, employs the Superintendent of Schools for the County, and provides various programs under its Career and Technical Education (CTE) department, such as Regional Occupational Program (ROP) courses in industry sectors to high school students including students at Los Banos High School.

1 3. Pursuant to Government Code §905(m) and (p) and 935(f), plaintiffs are exempted
2 from complying with the Government Claims Act requirements.

3 4. Defendant GARY BETTENCOURT [“BETTENCOURT”] was employed by
4 defendant District as a teacher at Los Banos High School.

5 5. Defendant DUSTY NORRIS [“NORRIS”] was employed by defendant MCOE to
6 teach ROP classes at Los Banos High School. This employment involved classroom teaching as
7 well as transporting students to ROP job sites and working with them on site. At all relevant
8 times, Norris was serving as an agent/servant of defendant DISTRICT.

9 6. During her junior year in high school [2004-2005], JANE DOE 1 enrolled in
10 NORRIS’s class to begin learning a trade and was one of the few females enrolled in the class.
11 NORRIS engaged her with flirtatious comments which progressed into inappropriate touching
12 and groping in class, including smacking JANE DOE 1’s butt, touching her breasts, and touching
13 her vaginal area over her clothes. NORRIS convinced JANE DOE 1 that there was nothing wrong
14 with what he was doing by telling her she was not far from 18 years old and that what he was
15 doing was part of human nature. During the summer of 2005, while JANE DOE 1 was still a
16 minor, she enrolled in an ROP course taught by NORRIS which involved working at ROP job
17 sites off campus. While being transported to and from job sites and/or while at job sites during
18 the ROP program, NORRIS sexually molested JANE DOE 1, including kissing, touching her
19 breasts under her shirt, digitally penetrating her vagina, placing her hand on his exposed penis
20 and asking her to stroke it, and dry humping her. NORRIS told her that if she were to tell anyone
21 of these exploits, “Just remember, I have a lot of guns.”

22 7. During her junior year in high school [2005-2006], JANE DOE 2 was enduring
23 difficult times [such has her brother’s deployment to Iraq.] Her father allowed her to join drama
24 club because BETTENCOURT assured her father that she would get home safely.
25 BETTENCOURT knew JANE DOE 2 was suffering and engaged her with flirtatious comments
26 [grooming]. In her senior year while still a minor [2006-2007; DOB 11/9/89], BETTENCOURT
27 engaged in physical contact with JANE DOE 2, including kissing, touching, and oral copulation,
28 typically after rehearsals in the school theater or in the classroom.

1 8. JANE DOE 2 is informed, and believes, and thereon alleges, that
2 BETTENCOURT had engaged in inappropriate sexualized conduct with another minor student
3 at Los Banos High School in or around the 2004-2005 academic year which resulted in
4 communication from the school to parents.

5 9. During her senior year in high school [2006-2007], plaintiff JANE DOE 2 enrolled
6 in the ROP program taught by NORRIS. NORRIS texted JANE DOE 2 during class, asking her
7 to remain after class. NORRIS then put JANE DOE 2 against the wall, put his hand down her
8 pants, and digitally molested her in the "Ag room," which had no windows other than on the
9 doors. Subsequently, he would put on a movie during class, have all chairs facing the movie away
10 from his desk, have her kneel down, and digitally molested her. He would have JANE DOE 2
11 perform oral sex on him in the classroom between classes.

12 10. The true names and/or capacities, whether individual, corporate, associate, or
13 otherwise, of defendants named herein as ROES 1 through 60, inclusive are unknown to
14 plaintiffs at this time, and plaintiffs therefore sue said defendants by such fictitious names.
15 Plaintiffs will seek leave to amend this Complaint to allege their true names and capacities when
16 the same have been ascertained. Plaintiffs are informed and believe and thereon alleges that each
17 of the defendants designated herein as a DOE is responsible in some manner or is otherwise
18 legally liable to plaintiffs for the injuries complained of herein.

19 11. At all times herein mentioned, each of the defendants was an agent, servant,
20 employee, partner, joint venturer, franchisee, alter ego, aider and abettor, and/or co-conspirator,
21 and engaged in a common or common enterprises with each of the remaining defendants herein,
22 and was at all relevant times acting within the course and scope of said agency, service,
23 employment, partnership, joint venture, franchise, unlawful enterprise, conspiracy and/or other
24 lawful or unlawful conduct as herein alleged.

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FIRST CAUSE OF ACTION
Sexual Abuse of Minors

As and for a First Cause of Action, Plaintiffs JANE DOE 1 and JANE DOE 2 allege against defendant DUSTY NORRIS, and ROES 1 and 2 as follows:

12. Plaintiffs hereby incorporate all paragraphs of the Common Allegations, as though set forth in full herein.

13. As an employee/agent of DISTRICT and/or MCOE, NORRIS was under a duty to refrain from engaging in any harmful activity towards the students entrusted to DISTRICT's care, including plaintiffs JANE DOE 1 and JANE DOE 2 ("plaintiffs") herein.

14. NORRIS used his position of trust and authority to groom plaintiffs for his sexual advances and to sexually abuse plaintiffs.

15. As a legal result of the foregoing, plaintiffs were injured in health, strength and activity, sustaining bodily injuries and shock and injury to their nervous systems and persons, all of which caused and continue to cause plaintiffs great mental, physical and nervous pain and suffering. Plaintiffs have thereby sustained damages in an amount in excess of the minimum jurisdictional limits of this court.

16. The acts of defendant NORRIS perpetrated upon the minor plaintiffs were intentional, malicious, and/or oppressive, entitling plaintiffs to punitive damages against said defendant NORRIS pursuant to Civil Code §3294.

SECOND CAUSE OF ACTION
Sexual Abuse of a Minor

As and for a Second Cause of Action, Plaintiff JANE DOE 2 alleges against defendant GARY BETTENCOURT, and ROES 3 and 4 as follows:

17. Plaintiff JANE DOE 2 hereby incorporates all paragraphs of the Common Allegations, as though set forth in full herein.

18. As an employee/agent of DISTRICT, BETTENCOURT was under a duty to refrain from engaging in any harmful activity towards the students entrusted to DISTRICT's care, including JANE DOE 2.

1 damages as hereinbefore alleged, and for which plaintiffs seek attorney fees pursuant to Code of
2 Civil Procedure §102.5 as hereinbefore alleged.

3 **FIFTH CAUSE OF ACTION**
4 **Negligence by District Employees**
5 **[Government Code §815.2]**

6 As and for a Fifth Cause of Action, Plaintiffs JANE DOE 1 and JANE DOE 2 allege
7 against defendants LOS BANOS UNIFIED SCHOOL DISTRICT and ROES 26 through 40 as
8 follows:

9 32. Plaintiffs hereby incorporate all paragraphs of their Common Allegations and
10 First through Fourth Causes of Action, as though set forth in full herein.

11 33. For plaintiffs' benefit and protection, as well as for all other children attending
12 school within DISTRICT, DISTRICT employees were obligated to comply with The Child Abuse
13 and Neglect Reporting Act, Penal Code §11164 et seq. ["The Reporting Act."]. The purpose of
14 The Reporting Act "is to protect children from abuse and neglect." (Penal Code §11164(b).) For
15 the further protection of students entrusted to DISTRICT's care, Administrators for DISTRICT
16 should have developed and instituted procedures and protocols designed to prevent harm to
17 students, such as rules prohibiting isolation of a student alone with an educator and mechanisms
18 by which other educators would be required to report violation of such rules. All personnel owed
19 a duty to detect and report inappropriate conduct by fellow educators committed upon students,
20 they were obligated to supervise in furtherance of the protection of students on school grounds
21 during school hours and/or during school sanctioned activities.

22 34. DISTRICT employees breached their duty of care for the protection of students
23 by, *inter alia*, failing to implement protocols and procedures designed to detect and deter
24 predatory behaviors, failing to report a reasonable suspicion of child abuse or neglect by
25 BETTENCOURT and/or NORRIS to child protective service or law enforcement, failing to detect
26 and deter inappropriate behaviors by BETTENCOURT and/or NORRIS [such as their isolation
27 of plaintiffs and/or NORRIS transporting JANE DOE 1 alone in his vehicle], failing to make sure
28 NORRIS was adequately screened to ensure that he would not pose a threat to students before
allowing him to work with minors at Los Banos High School, allowing NORRIS unsupervised

1 access to minors, failing to properly supervise NORRIS so as to detect and report any
2 inappropriate behavior towards minor girls, failing to prohibit BETTENCOURT and/or
3 NORRIS's use of school offices, classrooms, and other school buildings during or after school
4 hours alone with a single minor student, and/or failing to report BETTENCOURT and/or
5 NORRIS's inappropriate activities to Administration.

6 35. As a legal result of the foregoing, plaintiffs were repeatedly sexually assaulted
7 and/or molested, and thereby suffered physical, mental and emotional injuries, all to their general
8 damages as hereinbefore alleged, and for which plaintiffs seek attorney fees as hereinbefore
9 alleged.

10 **SIXTH CAUSE OF ACTION**
11 **Negligence by MCOE Employees**
12 **[Government Code §815.2]**

13 As and for a Sixth Cause of Action, Plaintiffs JANE DOE 1 and JANE DOE 2 allege
14 against defendant MERCED COUNTY OFFICE OF EDUCATION and ROES 41 through 60 as
15 follows:

16 36. Plaintiffs hereby incorporate all paragraphs of their Common Allegations and First
17 through Fifth Causes of Action, as though set forth in full herein.

18 37. MCOE is the employer of the County Superintendent of Schools.
19 <http://www.mcoe.org/deptprog/super/Pages/Superintendents-Office.aspx>. ROES 41 through 60
20 are or were employees, agents or independent contractors for MCOE. The Superintendent is
21 required by Education Code §1240 to, *inter alia*, superintend the schools of his or her county, to
22 visit and examine each school to observe its operation and to learn of its problems, and to
23 distribute all laws to school offices. The Superintendent or Superintendents at the time of
24 plaintiffs' molestations, owed a duty to ensure that proper procedures were in place at Los Banos
25 High School for the protection of children from criminal conduct on school premises and during
26 school related activities, such as child molestation within the meaning of Penal Code §11164 et
27 seq. In selecting, training and supplying teachers to be afforded direct access to minors in a public
28 school, defendant MCOE's employees owed a duty to the students to act with due care for their
welfare, safety and protection given the students' exposure to such employees. Said duty includes

1 the duty to conduct sufficient background screening to ascertain the individual's suitability to be
2 afforded such direct access to minors, the duty to provide adequate training on the boundaries of
3 proper behavior in the presence of minor students, the duty to supervise the conduct of the teacher
4 to whom MCOE afforded access to students via, *e.g.*, surprise visits to the classroom or ROP job
5 sites, the duty to acquire adverse information relating to MCOE employees providing services in
6 schools, the duty to ensure the DISTRICT properly monitored and supervised such MCOE
7 employees to prevent them from usurping their authoritative position with minors whereby they
8 may present an unreasonable risk of harm to the minor students, and/or to ensure that policies and
9 procedures designed to protect students from abuse were fully and consistently implemented and
10 followed. Said defendants, as mandated reporters under Penal Code §11165.7, further owed a
11 duty to minors in the custody and care of schools, such as plaintiffs, to institute and/or implement
12 policies and procedures to recognize, accumulate, retain, categorize, and appropriately act upon
13 all adverse information relating to any MCOE employees who were providing services to
14 DISTRICT involving direct access to minors. Said duty includes training personnel on
15 inappropriate behavior towards minors at schools, appropriately address such inappropriate
16 behaviors, and/or to promptly notify the authorities upon any reasonable suspicion of child abuse
17 being perpetrated on school premises.

18 38. Defendants breached their duty of care to plaintiffs by, *e.g.*, failing to adequately
19 screen NORRIS to ensure that he would not pose a threat to students before assigning him to Los
20 Banos High School to work with minors, allowing him unsupervised access to minors, failing to
21 properly supervise NORRIS (or failing to take steps to ensure that the DISTRICT was properly
22 supervising NORRIS) so as to detect and report any inappropriate behavior towards minor girls,
23 failing to prohibit the use of school offices, classrooms, and other school buildings during or after
24 school hours alone with a single minor student, failing to prohibit a teacher from being alone with
25 a student in a vehicle or building during a school related activity, including the summer ROP
26 program, failing to train employees on proper and improper behaviors with minors (or to ensure
27 the DISTRICT provided such training), failing to implement systems or procedures to supervise,
28 monitor, and/or investigate employees so as to protect against molestation or abuse of minors

1 while on school premises and/or during school related activities, and/or failing to implement (or
2 to ensure that the DISTRICT was implementing) appropriate policies, procedures, protocols
3 and/or instructions designed to prevent criminal conduct on school premises and/or during school
4 related activities, or to facilitate detection and communication of suspected child abuse or to act
5 appropriately upon notification of suspicious behavior with minors, thereby subjecting plaintiffs
6 to the injuries and damages claimed herein.

7 39. As a legal result of the foregoing, plaintiffs were repeatedly sexually assaulted
8 and/or molested, and thereby suffered physical, mental and emotional injuries, all to their general
9 damages as hereinbefore alleged, and for which plaintiffs seek attorney fees as hereinbefore
10 alleged.

11
12 **PRAYER**

13 WHEREFORE, as to each and all causes of action, plaintiffs pray judgment as follows:

- 14 1. For general damages and other non-economic relief, according to proof;
- 15 2. For prejudgment interest as permitted by law;
- 16 3. For attorney fees pursuant to Code of Civil Procedure §1021.4;
- 17 4. For attorney fees pursuant to Code of Civil Procedure §1021.5;
- 18 5. For punitive damages against defendants BETTENCOURT and NORRIS
- 19 6. For costs of suit herein; and,
- 20 7. For such other and further relief as the court may deem fit and proper.

21 DATED: July 20, 2022

CORSIGLIA, MCMAHON & ALLARD LLP

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23 By: 

24 ROBERT ALLARD
25 LAUREN A. CERRI
26 Attorneys for Plaintiffs
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