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9 LUIS ENRIQUE HERNANDEZ

FILED  
Superior Court of California  
County of Los Angeles

FILED  
Superior Court of California  
County of Los Angeles

OCT 20 2015

NOV 12 2015

Sherril R. Carter, Executive Officer/Clerk

By M. Vasquez  
M. Vasquez  
Deputy

Deputy  
Jacqueline González

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA, UNLIMITED JURISDICTION  
11 FOR THE COUNTY OF LOS ANGELES, EAST DISTRICT

12 LUIS ENRIQUE HERNANDEZ,  
13 Plaintiff,

14 vs.

15 BAHRAM ALAVI; FERNANDO  
16 SANCHEZ; HACIENDA LA PUENTE  
17 UNIFIED SCHOOL DISTRICT; and  
18 DOES 1 through 50 inclusive,  
19 Defendants.

LEAD CASE NO.: KC065813  
Consolidated Case No.: BC518421

Lead Complaint Filed: March 8, 2013  
Consolidated Case Filed: August 15, 2013  
Assigned for All Purposes To:  
JUDGE: Hon. Robert A. Dukes, Judge  
DEPT.: "O" [East District]

[PROPOSED] PLAINTIFF LUIS  
ENRIQUE HERNANDEZ' SECOND  
AMENDED COMPLAINT AND DEMAND  
FOR JURY TRIAL

Motion to Amend Complaint:  
DATE: November 12, 2015  
TIME: 8:30 a.m.  
DEP'T: "O" [East District]  
RESERVATION NO.: 151007074496

Motions for Summary Judgment:  
DATE: January 27, 2016  
TIME: 8:30 a.m.  
DEP'T: "O" [East District]

Trial Date:  
DATE: March 29, 2016  
TIME: 8:30 a.m.  
DEP'T: "O" [East District]

Final Status Conference:  
DATE: March 17, 2016  
TIME: 8:30 a.m.  
DEP'T: "O" [East District]

1 Plaintiff, LUIS ENRIQUE HERNANDEZ, (hereinafter "Plaintiff"), individually,  
2 demanding a trial by jury, amends his Complaint, and hereby complains individually and  
3 alleges, as follows:

4 **PARTIES**

5 1. LUIS ENRIQUE HERNANDEZ (hereinafter "Plaintiff") is an individual  
6 residing in the County of Los Angeles, State of California.

7 2. LA PUENTE HIGH SCHOOL (hereinafter "La Puente") is the high school that  
8 Plaintiff attended at all relevant times mentioned herein.

9 3. HACIENDA LA PUENTE UNIFIED SCHOOL DISTRICT (hereafter  
10 "HACIENDA") is at all times mentioned herein the administrative body responsible for the  
11 management and supervision of the daily operations of the schools within the district  
12 including but not limited to La Puente.

13 4. BAHRAM ALAVI (hereinafter "ALAVI") is an individual residing in the  
14 County of Los Angeles, State of California, and at all times relevant herein was an employee  
15 of and the soccer coach for La Puente.

16 5. FERNANDO SANCHEZ (hereinafter "SANCHEZ") is an individual residing  
17 in the County of Los Angeles, and at all times relevant herein was an employee of and the  
18 Assistant Principal of La Puente.

19 6. The true names and capacities of defendants sued herein as DOES 1 through  
20 50, inclusive, are unknown to plaintiff at this time; Plaintiff therefore sues said defendants  
21 by such fictitious names. Plaintiff will seek leave to amend this complaint to allege their true  
22 names and capacities when the same have been ascertained. Plaintiff is informed and  
23 believes, based thereon alleges that each of the defendants designated as Doe is responsible  
24 in some manner for the events alleged herein and the damages caused thereby.

25 7. Plaintiff is informed and believes, and based thereon alleges, that at all times  
26 mentioned herein, each of the defendants were agents, employees, representative and/or  
27 co-conspirator of one or more of the remaining defendants and in doing the acts alleged were  
28 acting in the course and scope of such agency, employment, and/or co-conspiracy. Each of

1 the defendants has ratified the conduct of his, her or its agents, employees, and  
2 co-conspirators.

3 8. Plaintiff is informed and believes, and based thereon alleges, that at all times  
4 mentioned herein, the victims of the events herein, including the Plaintiff, were told by the  
5 Defendants, and each of them, including without limitation ALAVI and HACIENDA, under  
6 threat, not to discuss the sexual assaults. Plaintiff is informed and believes, and based thereon  
7 alleges, that at all times mentioned herein, that relying upon these threats, the victims of the  
8 events herein did not tell anyone about the sexual assaults until on or about September 2012  
9 when the information was publicly released.

10 9. To the extent that a claim requirement even exists for a given cause of action,  
11 Plaintiff has satisfied the claim presentation requirement and/or the Defendants are estopped  
12 to assert that the Plaintiff did not comply.

13 10. On or about October 29, 2012, Plaintiff filed an application for late claim  
14 against HACIENDA. Plaintiff's application for late claim was rejected by HACIENDA on  
15 or about November 16, 2012.

16 11. Thereafter, Plaintiff filed a petition for order permitting late claim against  
17 HACIENDA on or about January 25, 2013, as an unlimited civil matter seeking monetary  
18 and punitive damages, BS141381. The petition was granted on or about May 14, 2013. The  
19 Order stated in full that "After having reviewed the stipulation and good cause appearing  
20 therefrom, it is so ordered that Plaintiff's Petition for Order Permitting Filing of Late Claim  
21 shall be granted."

22 12. Additionally, on or about May 14, 2013, the Defendants stipulated to the filing  
23 of this Complaint. In the Stipulation, the Defendant HACIENDA, in relevant part,  
24 HACIENDA "hereby Stipulated that Plaintiff's Petition for Order Permitting Filing of Late  
25 Claim be granted and Defendant hereby stipulates and agrees that Plaintiff shall file his  
26 complaint and a Summons be issued against defendant Hacienda La Puente Unified School  
27 District." Therefore, the Defendants, particularly HACIENDA, are estopped to argue that this  
28 Complaint is not permitted.

1           13.     On or about August 2, 2013, Plaintiff filed a Complaint in this matter, in Case  
2 no. BS141381, and received not only a conformed file stamped Complaint, but also an issued  
3 Summon. The Complaint was captioned “COMPLAINT FOR: (1) SEXUAL BATTERY; (2)  
4 SEXUAL HARASSMENT [Civ. Code § 51.9]; (3) FALSE IMPRISONMENT; (4)  
5 INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; (5) TORT LIABILITY  
6 AGAINST PRINCIPAL; (6) LOCAL GOVERNMENT LIABILITY [42 U.S.C. § 1983]; (7)  
7 VIOLATION OF THE BANE ACT [Civ. Code § 52.1]; (8) NEGLIGENCE; DEMAND  
8 FOR JURY TRIAL.” However, Plaintiff is informed and believes and based thereon alleges  
9 that the Complaint was filed into the incorrect case number, in that there is a Minute Order  
10 or Orders, dated August 9, 2013, which states that “The Court orders the complaint and  
11 summons filed on August 2, 2013, to be removed from scanned documents. They were filed  
12 under the incorrect case number.”

13           14.     Therefore, on or about August 15, 2013, Plaintiff filed a duplicate Complaint  
14 in this matter, other than a couple typographical corrections, as Case no. BC518421. The  
15 Complaint was captioned “COMPLAINT FOR: (1) SEXUAL BATTERY; (2) SEXUAL  
16 HARASSMENT [Civ. Code § 51.9]; (3) FALSE IMPRISONMENT; (4) INTENTIONAL  
17 INFLICTION OF EMOTIONAL DISTRESS; (5) TORT LIABILITY AGAINST  
18 PRINCIPAL; (6) LOCAL GOVERNMENT LIABILITY [42 U.S.C. § 1983]; (7)  
19 VIOLATION OF THE BANE ACT [Civ. Code § 52.1]; (8) NEGLIGENCE; DEMAND  
20 FOR JURY TRIAL.”

21           15.     On or about August 13, 2014, the Plaintiff filed a Complaint in the United  
22 States District Court, as Case 2:14-cv-06374-JAK-MAN, (“Federal Case”), Document 1,  
23 against the same Defendants as herein, which was captioned “COMPLAINT FOR  
24 DAMAGES; DEMAND FOR JURY TRIAL,” which had causes of action for 1) Violation  
25 of *Title IX* Against HACIENDA; 2) Denial of Equal Protection Under the Law [42 *U.S.C.*  
26 § 1983]; and, 3) Denial of Substantive Due Process [42 *U.S.C.* § 1983].

27           16.     On or about December 2, 2014, the Plaintiff filed a First Amended Complaint  
28 herein, in this Case no. BC518421. The First Amended Complaint was captioned “FIRST

1 AMENDED COMPLAINT FOR: (1) VIOLATION OF THE BANE ACT; (2) VIOLATION  
2 OF THE RALPH ACT; DEMAND FOR JURY TRIAL.”

3 17. On or about December 29, 2014, in the Federal Case, Case  
4 2:14-cv-06374-JAK-MAN, as Document 17, Plaintiff filed a First Amended Complaint,  
5 against the same Defendants as herein, captioned “FIRST AMENDED COMPLAINT FOR  
6 DAMAGES; DEMAND FOR JURY TRIAL,” which had causes of action for 1) Violation  
7 of *Title IX* Against HACIENDA; 2) Denial of Equal Protection Under the Law [42 *U.S.C.*  
8 § 1983]; and, 3) Denial of Substantive Due Process [42 *U.S.C.* § 1983].

9 18. On or about June 22, 2015, the United States District Court in the Federal Case,  
10 issued an Order suggesting or directing that the case be merged together again here in State  
11 Court. In this regard, the United States District Court in the Federal Case, in a June 22, 2015  
12 Minute Order, stated, among other things, that “all of [plaintiff’s] claims should be resolved  
13 in a single proceeding, and [thus plaintiff should] seek leave to amend his complaint in the  
14 Superior Court so that it includes the federal claims.”

15 19. Plaintiff is informed and believes and based thereon alleges that the Federal  
16 Case is current active, albeit, “STAYED.” The Federal Case’s Docket item 49,” dated August  
17 26, 2015, states: “(IN CHAMBERS) ORDER CONTINUING STAY AND SETTING DATE  
18 FOR FURTHER REPORT by Judge John A Kronstadt: The Court has reviewed the parties’  
19 Status Report (Dkt. 48 ) and orders that a further status report be filed no later than October  
20 26, 2015, regarding the status of the case pending in state court, including any dates set and  
21 the status of any settlement. The stay will remain up through and including October 26, 2015,  
22 or until further order from this Court.”

23 **RATIFICATION OF ACTS.**

24 20. By engaging in the acts set forth in this complaint, Defendants and each of  
25 them, whether named or unnamed, were acting in concert with, or at the direction of, or at  
26 the express or implied ratification of their supervisors and employers. The acts of the  
27 Defendants agents were known to Defendants and such conduct was intentionally ratified by  
28 said Defendants.



1 soccer team and this tradition had existed for over a decade.

2 28. Plaintiff is informed and believes and based thereon alleges that Plaintiff and  
3 other team members were consistently terrorized by the possibility of an imminent sexual  
4 attack.

5 29. Plaintiff is informed and believes and based thereon alleges that Plaintiff and  
6 other team members were consistently terrorized by a few students known by other team  
7 members, coach ALAVI and other administrators as the individuals responsible for the  
8 sexual attacks (“the Predators”).

9 30. Plaintiff is informed and believes and based thereon alleges that the Predators  
10 were seen by plaintiff and other team members as favored by coach ALAVI.

11 31. Plaintiff was harassed and taunted consistently by the Predators.

12 32. Plaintiff was subjected to the horrors of hearing sexual assault upon other team  
13 members.

14 33. Plaintiff is informed and believes and based thereon alleges that the “Pole  
15 Tradition” was performed with the full knowledge and consent of the varsity soccer coach,  
16 defendant ALAVI.

17 34. Plaintiff is informed and believes and based thereon alleges that the “Pole  
18 Tradition” was performed in the team’s locker room with ALAVI hearing the screams of  
19 Plaintiff, as well as other students, in his office which is adjacent to the locker room.

20 35. Plaintiff is informed and believes and based thereon alleges that Plaintiff was  
21 victimized by the “Pole Tradition” in the team’s locker room with ALAVI hearing Plaintiff’s  
22 screams and intentionally failed to respond. Plaintiff and other varsity soccer players were  
23 victimized after being lured to the backroom located in ALAVI’S classroom where athletic  
24 equipment was stored. The varsity soccer players were lured to the backroom by ALAVI  
25 and/or other players and sexually assaulted by a group of students ranging from five to  
26 twenty. Before the assault, the victim is asked whether he wants it “the easy way” or the  
27 “hard way.” The easy way meant that the victim would bend down and accept the sexual  
28 assault without resistance—while the hard way mean, upon resistance by the victim, he will

1 be physically attacked by those present and forcefully have a foreign object inserted into the  
2 anus. The physical attack included being punched and kicked by the assailants.

3 36. The abuse consisted of prodding a sharp pole into the anus and all over the butt  
4 cheeks of the victim. Plaintiff and other minor victims felt extreme pain when the pole  
5 penetrated their anus and in some instances, the pole's sharp end pierced through jeans and  
6 undergarments, inducing pain and outpouring of blood.

7 37. The abuse also consisted of being taunted by asking Plaintiff if he like getting  
8 the pole in him and once the assailants were satisfied that Plaintiff was sufficiently abused  
9 and demeaned, Plaintiff was allowed to leave.

10 38. Upon exit from the locker room after the sexual assault, Plaintiff saw ALAVI  
11 sitting at his desk, a short distance from the backroom and within a hearing distance of  
12 Plaintiff's cries of pain, with a smile on his face.

13 39. Plaintiff is informed and believes and based thereon alleges that the "Pole  
14 Tradition" and other sexually abusive actions by varsity soccer players upon other  
15 unsuspecting soccer players was known or should have been known by La Puente High  
16 School administrators including but not limited to the Principal and Vice Principal of La  
17 Puente High School.

18 40. Plaintiff is informed and believes and based thereon alleges that the "Pole  
19 Tradition" would not have existed but for the grossly negligent supervision and the  
20 acquiescence of La Puente administrators including but not limited to the vice-principal  
21 SANCHEZ.

22 41. Plaintiff is informed and believes and based thereon alleges that the "Pole  
23 tradition" and other sexually abusive actions by varsity soccer players upon other  
24 unsuspecting soccer players was pervasive and lasted over a decade. Accordingly, the  
25 sexually abusive actions were known or should have been known by La Puente High School  
26 and/or Hacienda La Puente School District Officials including but not limited to Jay F. Chen.

27 42. Plaintiff is informed and believes and based on such information and his belief  
28 allege that under the supervision and directions of the soccer coach, who encouraged,



1 supported, conspired, aided and abetted students, including members of the varsity soccer  
2 team to sexually assault, beat, and commit sexual abuse including but not limited to sodomy  
3 upon new members of the soccer team.

4 43. Plaintiff is informed and believes and based on such information and his belief  
5 alleges that *"THE POLE TRADITION"* was well known by the La Puente Unified School  
6 District and the High School Administrators, and members of the teaching/athletic staff who  
7 permitted the herein described illegal activity to take place in a public school. The school  
8 officers had actual or constructive knowledge of the herein described tradition because this  
9 practice had been taking place for many years. On or about November 2011, the Plaintiff was  
10 subjected to the Pole Tradition.

11 44. Plaintiff is informed and believes and based thereon alleges that defendants and  
12 each of them only targeted the male soccer players. The male soccer players were targeted  
13 and the specific sexual act chosen, to humiliate the soccer players as men.

14 45. Plaintiff is informed and believes and based thereon alleges that defendant  
15 ALAVI targeted male soccer players to violate them sexually as a result of ALAVI'S animus  
16 towards men.

17 46. Plaintiff is informed and believes and based thereon alleges that defendant  
18 ALAVI targeted male soccer players with sexual acts as a result of his desire to disgrace,  
19 discredit and abuse the players as men.

20 47. Plaintiff is informed and believes and based thereon alleges that defendant  
21 ALAVI and each of them threatened the male soccer players not to disclose the sexual acts  
22 and maintained a culture of silence through threats of violence including but not limited to  
23 sexual abuse.

24 48. Plaintiff is informed and believes that the attacks left the minors physically and  
25 emotionally injured. Plaintiff is informed and believes that at least one minor was  
26 permanently injured as a result of the physical attack against him.

27 49. Plaintiff is informed and believes that the attacks were recorded using cell  
28 phone cameras and shared with others.

1           50. Plaintiff is informed and believes that immediately after the hazing incident  
2 became public, the principal and vice-principal called in members of the varsity soccer team  
3 and attempted to have them sign a declaration that the sexual assault did not happen.

4           51. Plaintiff is informed and believes and based thereon alleges that the principal  
5 and vice-principal interrogated the varsity soccer team and accused them of lying about the  
6 sexual assault.

7           52. Plaintiff is informed and believes and based thereon alleges that after speaking  
8 with the principal and vice-principal, one varsity member was actually expelled and  
9 threatened with expulsion if he spoke with anyone regarding the sexual assault he experience.

10          53. Plaintiff is informed and believes and based thereon alleges that SANCHEZ  
11 attempted to threaten and intimidate parents of the victims from speaking with the media or  
12 attorneys. SANCHEZ went as far as threatening arrest of parents if they spoke with media  
13 or anyone else.

14          54. Plaintiff is informed and believes that HACIENDA had a policy against hazing  
15 incidents such as the one that occurred to him.

16          55. Plaintiff is informed and believes and thereon alleges that Defendants,  
17 including HACIENDA, failed to protect him on account of his sex, whereas students of  
18 different sex received different treatment, including enforcement of the policy against hazing.  
19 Plaintiff is informed and believes and thereon alleges that members of the female teams,  
20 including the female varsity teams, were not sexually violated or harassed as the males on  
21 the male varsity soccer team were, at least in part as a result of the Defendants protecting  
22 females from such sexual violations and harassment, but not the males.

23          56. As a result of Defendants' wrongful actions against Plaintiff, Plaintiff has  
24 suffered and continues to suffer damages, including but not limited to, in the form of medical  
25 and psychological expenses, physical injuries, and severe emotional and physical distress,  
26 embarrassment, anxiety, humiliation, and emotional distress, the exact amount of which will  
27 be proven at trial.

28          57. Defendants and each of them acted for the purpose of causing Plaintiff to suffer

1 medical and psychological expenses, physical injuries, and severe emotional distress and  
2 physical distress, embarrassment, anxiety, humiliation, and emotional distress, and are guilty  
3 of oppression, fraud and malice, as defined in *Civil Code* §3294, justifying an award of  
4 exemplary and punitive damages against Defendants ALAVI and SANCHEZ.

5 FIRST CAUSE OF ACTION  
6 FOR SEXUAL BATTERY  
7 AGAINST ALL DEFENDANTS

8 58. Plaintiff by this reference incorporates in this cause of action each and every  
9 allegation of paragraphs 1 through 57, above, of this complaint as though fully set forth  
10 herein at this point.

11 59. Plaintiff believes and based on his belief allege that Defendants Hacienda La  
12 Puente Unified School District, La Puente High School through its agent, teacher and soccer  
13 coach in concert with one another had a hazing culture of encouraging, supporting and aiding  
14 students including members of the varsity soccer team to sexually assault, beat, and commit  
15 acts of sexual abuse upon new members of the varsity soccer team in what is called “**the pole**  
16 **tradition.**”

17 60. On or about November 2011, the varsity soccer team intentionally and  
18 maliciously caused harmful and/or offensive contact with Plaintiff’s anus by forcibly  
19 restraining Plaintiff and then shoving a stick into Plaintiff’s anal canal.

20 61. Plaintiff is informed and believes and based on that information and belief  
21 alleges that the acts of the varsity soccer players were known by defendants and each of them  
22 but chose to ignore it.

23 62. Plaintiff is informed and believes and based on that information and belief  
24 alleges Plaintiff did not consent to the sexual assault described herein.

25 63. Plaintiff is informed and believes based on that information and belief alleges  
26 that despite Plaintiffs insistence against the aforementioned forceful sexual acts, the soccer  
27 players forced the insertion of a pole into Plaintiffs anus.

28 64. Plaintiff is informed and believes and based on that information and belief

1 alleges that because of the sexual battery committed upon the person of Plaintiff, Plaintiff  
2 has been severely harmed physically and mentally in an amount that can be proven at the time  
3 of the trial of this case.

4 65. As a direct and proximate result of the sexual battery, Plaintiff has been  
5 physically and emotionally scarred in an amount to be proven at the time of trial.

6 **SECOND CAUSE OF ACTION**

7 **SEXUAL HARASSMENT**

8 **[Violation of Civil Code § 51.9]**

9 **AGAINST ALL DEFENDANTS**

10 66. Plaintiff by this reference incorporates in this cause of action each and every  
11 allegation of paragraphs 1 through 65, above, of this complaint as though fully set forth  
12 herein at this point.

13 67. Plaintiff is informed and believes and based on that information and belief  
14 alleges that Plaintiff and Defendants were in a relationship that is one of educator and  
15 student.

16 68. Plaintiff is informed and believes and based on that information and belief  
17 alleges that as a result of Defendants conduct of encouraging and aiding hazing and/or sexual  
18 battery of new varsity students, Plaintiff was sexually assaulted by the senior varsity soccer  
19 players.

20 69. Plaintiff is informed and believes and based thereon alleges that defendants and  
21 each of them demanded for sexual compliance from Plaintiff: submission to the Pole  
22 Tradition.

23 70. Plaintiff is informed and believes and based on that information and belief  
24 alleges that Defendants' conduct as alleged herein was not consented to and unwelcomed.  
25 The sexual assault on Plaintiff's person was severe.

26 71. Plaintiff is informed and believes and based on that information and belief  
27 alleges that as a direct and proximate result of Defendants actions as described herein,  
28 Plaintiff suffered physical and emotional trauma.

1 THIRD CAUSE OF ACTION

2 FALSE IMPRISONMENT

3 AGAINST ALL DEFENDANTS

4 72. Plaintiff by this reference incorporates in this cause of action each and every  
5 allegation of paragraphs 1 through 71, above, of this complaint as though fully set forth  
6 herein at this point.

7 73. Plaintiff is informed and believes and based on that information and belief  
8 alleges that Defendants and each of them through their conduct of encouraging and aiding  
9 hazing and/or sexual battery of new varsity students, Plaintiff was intentionally deprived of  
10 his freedom of movement by use of physical force by the senior students of La Puente High  
11 School varsity soccer team.

12 74. Plaintiff believes and based on his belief allege that the restraint and/or  
13 confinement compelled Plaintiff to stay at the back room where Plaintiff was sexually  
14 battered.

15 75. Plaintiff did not consent to the restraint. As a matter of fact, Plaintiff resisted  
16 the forceful restraint of his movement and the commencement of the sexual battery. Plaintiff  
17 verbally and physically resisted the forced penetration of his anus by a pole but to no avail.

18 76. Plaintiff is informed and believes and based thereon alleges that defendants and  
19 each of them encouraged and/or showed deliberate indifference to the sexual attacks upon  
20 the Plaintiff and other new varsity soccer players.

21 77. As a direct and proximate result of Defendants conduct as alleged herein,  
22 Plaintiff suffered and continue to suffer trauma including but not limited to sever emotional  
23 distress damages in an amount that can be proven at the time of the trial of this case.

24 FOURTH CAUSE OF ACTION

25 FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

26 AGAINST ALL DEFENDANTS

27 78. Plaintiff, hereby restates, re-alleges, and incorporates by reference herein,  
28 paragraphs 1 through 77 of this complaint, as though fully set forth herein.



1 the victims involved.

2 87. Plaintiff is informed and believes and based on that information and belief  
3 alleges Plaintiff did not consent to the sexual assault described herein.

4 88. Plaintiff is informed and believes and based thereon alleges that as a direct and  
5 proximate result of defendants actions, Plaintiff was denied equal access to educational  
6 opportunities including but not limited to experience as a member of the varsity soccer team.

7 89. Plaintiff is informed and believes and based thereon alleges that as a direct and  
8 proximate result of defendants' actions, Plaintiff was denied equal access to education  
9 opportunities because the harassment caused severe emotional trauma that impacted  
10 Plaintiff's education at the high school and thereafter.

11 90. As a direct and proximate result of Defendants conduct as alleged herein,  
12 Plaintiff suffered and continue to suffer trauma including but not limited to sever emotional  
13 distress damages in an amount that can be proven at the time of the trial of this case.

14 **SIXTH CAUSE OF ACTION**

15 **FOR DENIAL OF EQUAL PROTECTION UNDER THE LAW**

16 **[42 U.S.C. § 1983]**

17 **AGAINST ALL DEFENDANTS**

18 91. Plaintiff by this reference incorporates in this cause of action each and every  
19 allegation of paragraphs 1 through 90, above, of this complaint as though fully set forth  
20 herein at this point.

21 92. The defendants created a risk of harm or exacerbated an existing one by  
22 creating or enabling an environment where sexual assault such as one that plaintiff was  
23 subjected to was prevalent.

24 93. Plaintiff is informed and believes and thereon alleges that the defendants  
25 acquiesced and encouraged the conduct. This they did by their inaction, amongst others.

26 94. Plaintiff is informed and believes and based on that information and belief  
27 alleges that as a result of Defendants conduct of encouraging and aiding hazing and/or sexual  
28 battery of new varsity students, Plaintiff was sexually assaulted by the senior varsity soccer

1 players.

2 95. Plaintiff is informed and believes and based thereon alleges that defendants and  
3 each of them demanded for sexual compliance from Plaintiff: submission to the Pole  
4 Tradition.

5 96. Plaintiff is informed and believes and based on that information and belief  
6 alleges that Defendants' conduct as alleged herein was not consented to and unwelcomed.  
7 The sexual assault on Plaintiff's person was severe.

8 97. Further, Plaintiff is informed and believes and based thereon alleges that  
9 defendants and each of them deprived Plaintiff his federally protected constitutional rights  
10 to unreasonable seizures, privacy, and liberty, as secured to him by the Fourth and Fourteenth  
11 Amendments to the United States Constitution respectively.

12 98. Plaintiff is informed and believes and based thereon alleges that the actions  
13 perpetuated against Plaintiff, including but not limited to sodomy, was carried out with the  
14 full knowledge of the school district, the high school and the La Puente High School soccer  
15 coach, defendant ALAVI.

16 99. Plaintiff is informed and believes and based on that information and belief  
17 alleges that Plaintiff had a special relationship with the school soccer coach, defendant  
18 ALAVI, in that, as a member of the soccer coach, Plaintiff entrusted his trust and depended  
19 on the coach as a "substitute father."

20 100. Plaintiff is informed and believes and based on that information and belief  
21 alleges that defendants and each of them showed deliberate indifference to the foreseeable  
22 risk of sexual battery against Plaintiff.

23 101. Plaintiff is informed and believes and based on that information and belief  
24 alleges that defendants and each of them affirmatively acted to create a dangerous condition  
25 that resulted in Plaintiff being sexually battered and/or render Plaintiff more vulnerable to  
26 the possibility of sexual battery.

27 102. Plaintiff is informed and believes and based thereon alleges that defendants  
28 affirmatively created Plaintiffs peril by allowing a sadistic tradition of hazing that was



1 predicated on the sexual battery of soccer players.

2 103. Plaintiff is informed and believes and based on that information and belief  
3 alleges that defendants and each of them intentionally ignored a sadistic hazing tradition that  
4 rendered Plaintiff more vulnerable to sexual battery.

5 104. Plaintiff is informed and believes and based thereon alleges that the hazing  
6 tradition had existed for approximately 10 years and the tradition was known or should have  
7 been known by the high school and/or school district.

8 105. Plaintiff is informed and believes and base thereon alleges that as a result of  
9 their indifference or reckless disregard to the health of the high school students, Plaintiff was  
10 exposed to the dangers of sexual assault.

11 106. Plaintiff is informed and believes and based thereon alleges that the sexual  
12 battery of Plaintiff was foreseeable result of defendants' inaction to a tradition of hazing that  
13 included sexual battery.

14 107. The Hacienda La Puente Unified School District and La Puente High School  
15 had an official policy and/or custom of encouraging, authorizing and permitting school  
16 hazing by permitting senior varsity soccer players to sexually assault, and batter younger  
17 students as an initiation to be allowed to be a member of the La Puente High School soccer  
18 team.

19 108. As a direct and proximate cause of Defendants' actions as alleged, Plaintiff has  
20 suffered and continues to suffer damages to be proven at the trial of this action, including  
21 physical and emotional trauma.

22 **SEVENTH CAUSE OF ACTION**

23 **FOR DENIAL OF SUBSTANTIVE DUE PROCESS**

24 **[42 U.S.C. § 1983]**

25 **AGAINST ALL DEFENDANTS**

26 109. Plaintiff by this reference incorporates in this cause of action each and every  
27 allegation of paragraphs 1 through 108, above, of this complaint as though fully set forth  
28 herein at this point.

1 110. Plaintiff is informed and believes and based on that information and belief  
2 alleges that Defendants and each of them through their conduct of encouraging and aiding  
3 hazing and/or sexual battery of new varsity students, Plaintiff was intentionally deprived of  
4 his freedom of movement by use of physical force by the senior students of La Puente High  
5 School varsity soccer team.

6 111. Plaintiff believes and based on his belief allege that the sexual assault was at  
7 the prompting of the defendants.

8 112. As a direct and proximate result of Defendants conduct as alleged herein,  
9 Plaintiff suffered and continue to suffer trauma including but not limited to sever emotional  
10 distress damages in an amount that can be proven at the time of the trial of this case.

11 **EIGHTH CAUSE OF ACTION**  
12 **FOR VIOLATION OF BANE ACT**  
13 **[Civil Code § 52.1]**  
14 **AGAINST ALL DEFENDANTS**

15 113. Plaintiff by this reference incorporates in this cause of action each and every  
16 allegation of paragraphs 1 through 112, above, of this complaint as though fully set forth  
17 herein at this point.

18 114. Plaintiff believes and based on her belief allege that Defendants through their  
19 conduct, threats, intimidation, and/or coercion as alleged herein intentionally interfered with  
20 Plaintiffs rights to privacy and liberty as secured to him by both the constitution of the United  
21 States and the constitution of the state of California by forcing him to submit to the Pole  
22 Tradition.

23 115. Plaintiff is informed and believes and based thereon alleges that as a direct and  
24 proximate result of defendants' actions, Plaintiff was physically and emotionally damaged  
25 in an amount to be proven at the trial of this action.

26 116. As a further direct and proximate result of the Defendants conduct as alleged  
27 herein, Plaintiff suffered damages in an amount to be determined at trial including statutory  
28 penalties and attorney fees pursuant to statute.



1 harm.

2 124. Plaintiff is informed and believes and based on that information and belief  
3 alleges that defendants and each of them have a duty to educate, train and protect minor  
4 students under their care.

5 125. Plaintiff is informed and believes and based on that information and belief  
6 alleges that defendants and each of them had a duty to show high degree of diligence in the  
7 supervision and protection of the overall well-being of the students including but not limited  
8 to protecting them from sexual abuse.

9 126. Plaintiff is informed and believes and based thereon alleges that defendants'  
10 and each of them had a duty to take reasonable steps to give assistance when the need arises.

11 127. Plaintiff is informed and believes and based thereon alleges that defendants'  
12 inaction was a substantial factor that created the peril which led to Plaintiff's sexual assault.

13 128. Plaintiff is informed and believes and based thereon alleges that defendants'  
14 and each of them knew or should have known that their inaction will inevitably result in the  
15 sexual battery of Plaintiff.

16 129. Plaintiff is informed and believes and based on that information and belief  
17 alleges that defendants and each of them recklessly breached their duty of care owed to  
18 defendants as a result of their failure to stop the hazing practice immediately after defendants  
19 became aware of the practice.

20 130. Plaintiff is informed and believes and based on that information and belief  
21 alleges that defendants and each of them breached their duty of care because they failed to  
22 investigate a hazing tradition commonly known as "the Pole tradition" despite being in  
23 existence for approximately 10 years.

24 131. Plaintiff is informed and believes based on that information and belief alleges  
25 that defendants and each of them breached their duty of care by failing to use reasonable care  
26 in the protection of students from the hazing tradition commonly known as "the Pole  
27 tradition."

28 132. The Defendants, particularly, including but not limited to, HACIENDA, were

1 negligent, including but not limited to, in the hiring and retention of their employees, teachers  
2 and coaches, including but not limited to ALAVI and SANCHEZ, were negligent in their  
3 supervision of their employees, teachers and coaches, including but not limited to ALAVI  
4 and SANCHEZ, and were negligent in their failing to warn, train or educate the Plaintiff and  
5 the other students about how to avoid such a risk.

6 133. As a direct and proximate result of the negligence of Defendants, and each of  
7 them, both individually and collectively, Plaintiff was severely injured in an amount to be  
8 determined at the time of the trial of this action.

9 **PRAYER FOR RELIEF:**

10 **WHEREFORE**, plaintiff prays for judgment for himself against all Defendants,  
11 jointly and severally, **ON ALL CAUSES OF ACTION**, as follows:

- 12 1. For general and compensatory damages, including interest, according to proof,  
13 against all Defendants;
- 14 2. For economic damages, according to proof, against all Defendants;
- 15 3. For general damages, for pain and suffering and for severe emotional distress,  
16 according to proof, against all Defendants;
- 17 4. For statutory penalties, including for statutory damages as set forth in the  
18 applicable *Civil Code* sections, against all Defendants;
- 19 5. For treble damages, pursuant to statute;
- 20 6. For an order finding and declaring that Defendants' acts and practices as  
21 challenged herein are unlawful, unfair and/or fraudulent, against all  
22 Defendants;
- 23 7. For punitive and/or exemplary damages, against ALAVI and SANCHEZ;
- 24 8. For injunctive relief where appropriate, against all Defendants;
- 25 9. For all appropriate declaratory and equitable relief, against all Defendants;
- 26 10. For statutory attorneys' fees, on those causes of action allowed under  
27 applicable statutes, including but not limited to under California *Code of Civil*  
28 *Procedure* § 1021.5, against all Defendants;


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- 11. For costs of suit incurred, against all Defendants; and,
- 12. For all such other relief as is just and necessary under the circumstances.

It is respectfully submitted.

DATED: October 20, 2015

MYER LAW FIRM

BY:   
 SCOTT D. MYER, ESQ.  
 Attorney for Plaintiff,  
 LUIS ENRIQUE HERNANDEZ

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demand a trial by jury.

It is respectfully submitted.

DATED: October 20, 2015

MYER LAW FIRM

BY:   
 SCOTT D. MYER, ESQ.  
 Attorney for Plaintiff,  
 LUIS ENRIQUE HERNANDEZ

1 **ATTORNEY'S CERTIFICATE OF SERVICE BY MAIL**

2 [Code Civ. Proc. § 1013a(2)]

3 I, SCOTT D. MYER, certify:

4 I am, and at all times mentioned herein was, an active member of the State Bar of California and not  
5 a party to the above-entitled cause. My business address is Myer Law Firm, 1800 Century Park East, Suite  
6 600, Los Angeles, CA 90067.

7 I served, will serve or will cause to be served, the attached [PROPOSED] PLAINTIFF  
8 LUIS ENRIQUE HERNANDEZ' SECOND AMENDED COMPLAINT, on October 20, 2015,  
9 ~~[-X-] BY PERSONAL HAND-DELIVERY AT DEFENDANTS' PLACE OF BUSINESS~~, [ ] by  
10 depositing a copy of the document in the United States mail at City of Los Angeles, County of Los  
11 Angeles, State of California, in a sealed envelope, with postage fully prepaid, [ ] EXPRESS MAIL;  
12 [ ] PRIORITY MAIL; [ ] Regular Mail; [ ] EMAIL\* (when an email address is listed  
13 below/COURTESY COPY); AND BY [ ] Fax (when a fax number is listed below/COURTESY  
14 COPY to those with an OK Fax Receipt attached), addressed to:

15 16 17 18 19 20 21 22 23 24	McCUNE & HARBER, LLP Dana John McCune, SBN 82525 515 South Figueroa Street, Suite 1150 Los Angeles, CA 90071  Phone (213) 689-2500 Fax (213) 689-2501 Email <a href="mailto:dmccune@mccuneharber.com">dmccune@mccuneharber.com</a>	(Attorneys for Defendants)
25 26 27 28	THE CLAYPOOL LAW FIRM Brian E. Claypool, SBN 134674 1055 East Colorado Boulevard, 5 <sup>th</sup> Floor Pasadena, CA 91106  Phone (626) 240-4616 Fax (626) 796-9951 Email <a href="mailto:becesq@aol.com">becesq@aol.com</a>	(Attorneys for Plaintiffs in the J.B. v. Hacienda La Puente Unified School District, et al., Case)
	GUSTAFSON & GOOSTREY, LLP James D. Gustafson, Esq. 216 North Glendora Avenue, Suite 200 Glendora, CA 91741  Phone (626) 610-4336 Fax (626) 610-4337	(Associated Attorneys for Plaintiffs in the J.B. v. Hacienda La Puente Unified School District, et al., Case)

1           who are the attorneys the other parties herein (or the parties themselves) in the above-entitled cause.  
2 At that time there was regular delivery of United States mail between the place of deposit and place of  
3 address, [ ] and in the usual course such method of service would usually be received by the addressees  
4 no later than the next Court day after filing this document with the Court (USE FOR MOTION  
5 OPPOSITIONS). [ ]\*If checked, based upon an agreement of the parties to accept service by e-mail  
6 or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses on  
7 the attached service list on the dates and time stated thereon. I did not receive, within a reasonable  
8 time after the transmission, any electronic message or other indication that the transmission was  
9 unsuccessful. The electronic notification address of the person making the services is  
10 sdm@myerlaw.com.

11 Dated: October 20, 2015

  
SCOTT D. MYER, ESQ.

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ORIGINAL

FILED  
Superior Court Of California  
County Of Los Angeles

MAR 14 2016

By *Candice S. Calagna*, Deputy  
Candice S. Calagna

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Facsimile: (626) 787-1042

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES - EAST DISTRICT

J.B., a minor through his guardian ad litem,  
EULOGIA RODRIGUEZ SANCHEZ;  
EULOGIA RODRIGUEZ SANCHEZ,  
individually; S.Z., a minor through his  
guardian ad litem, ADRIANA ZAVALA;  
ADRIANA ZAVALA, individually; LUCIO  
ZAVALA, individually; G.C., a minor through  
his guardian ad litem, MARTHA CHAVEZ;  
MARTHA CHAVEZ, individually; B.R., a  
minor through his guardian ad litem, SANDRA  
RIOS; SANDRA RIOS, individually; A.R., a  
minor through his guardian ad litem, IRMA  
SANTOS; IRMA SANTOS, individually;  
RAUL REYES, individually,

Plaintiffs,

v.

HACIENDA LA PUENTE UNIFIED  
SCHOOL DISTRICT, a public school  
system/entity form unknown; and DOES 1  
through 100, inclusive,

Defendants,

AND RELATED/CONSOLIDATED  
ACTION(S).

Case No: KC 065813-O – Lead Case  
(Complaint Filed On March 8, 2013)

[Related/Consolidated With Case No: BC 518421 –  
Hernandez v. Alavi]

[Related/Consolidated With Case No: BC552956 –  
L.L. v. Hacienda La Puente Unified School  
District]


**NOTICE OF SETTLEMENT**

1 **TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that all Plaintiffs respectfully submit this Notice of  
3 Settlement, and inform the court as follows:

- 4
- 5 1. Plaintiffs have reached a global settlement agreement with Defendant Hacienda  
6 La Puente Unified School District to resolve all claims against Defendant.
  - 7 2. The parties are in the process of preparing a settlement agreement and will be  
8 subsequently filing a dismissal.
  - 9 3. Plaintiffs request the Final Status Conference of March 17, 2016 and Trial Date of  
10 March 29, 2016 be vacated based on the reached settlement.  
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14 **CLAYPOOL LAW FIRM**

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18 Brian E. Claypool  
19 Attorney for Plaintiff  
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