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HECTOR O. VILLAGRA (BAR NO. 177586)
BELINDA ESCOBOSA HELZER (BAR NO. 214178)
ACLU Foundation of Southern California
2140 W. Chapman Ave., Suite 209
Orange, California 92868
Telephone: (714) 450-3962
Facsimile: (714) 450-3965
hvillagra@aclu-sc.org

MARK D. ROSENBAUM (BAR NO. 59940)
LORI RIFKIN (BAR NO. 244081)
ACLU Foundation of Southern California
1313 W. 8th St.
Los Angeles, California 90017
Telephone: (213) 977-9500
Facsimile: (213) 977-5297
lrifkin@aclu-sc.org

(Additional Counsel on Next Page)
Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

MARY DOE, a minor, by and through her
guardians ad litem JAMES and JANE
DOE; JAMES and JANE DOE; ORANGE
COUNTY EQUALITY COALITION,

Plaintiffs,

vs.

NEWPORT-MESA UNIFIED SCHOOL
DISTRICT; JEFFREY HUBBARD,
Superintendent of Newport-Mesa Unified
School District; FALL ASRANI, Principal
of Corona del Mar High School;
DUNCAN MCCULLOCH, Asst. Principal
of Corona del Mar High School,

Defendants.

Case No.:

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF AND
DAMAGES**

1. Equal Protection, U.S. Const.,
amend. XIV
2. Title IX, 20 U.S.C. §§ 1681-1688
3. Equal Protection, Cal. Const.,
art. I, §§ 7(a), (b); art. IV, §16(a)
4. Safe Schools Clause, Cal. Const.
art. I, § 28
5. Cal. Educ. Code § 220 et seq.
6. Cal. Civil Code §§ 51, 51.7 52(a),
52.1(b) & Penal Code § 422.6

1 M. KATHERINE DARMER (BAR NO. 236688)

2 Professor of Law

3 Chapman University School of Law

4 One University Drive

5 Orange, CA 92866

6 Telephone: (714) 628-2583

7 kdarmer@chapman.edu

8 Attorney for Plaintiffs

INTRODUCTION

1. Plaintiffs – a student at Corona del Mar High School, by and through her parents, and the Orange County Equality Coalition, a local community group dedicated to combating harassment and discrimination on the basis of sexual orientation – bring this civil rights suit to uphold federal and state law, which mandate that school and district administrators prevent, prohibit, and remedy discrimination and harassment.

2. School and district officials have permitted and even fostered the dangerous development of an environment plainly hostile to female students, and lesbian, gay, bisexual, and transgender students, and students who fall outside of traditional sex stereotypes. That hostile environment has come to a boiling point in recent weeks, with one student in particular–Plaintiff Doe–in serious, daily danger for her safety but without support or recourse from the school and district that are constitutionally and statutorily charged with keeping her and all her classmates safe at school. Other students seriously suffer danger to their safety and also receive the clear message from the school administration that complaints will neither be supported nor tolerated. The pervasive hostility toward students based on sex, sex stereotypes, and actual or perceived sexual orientation profoundly affects their educational experience, preventing them from feeling safe, secure, and respected at school, severely impeding their participation in classes and school activities, and dictating changes in their behavior at school to account for concerns about physical safety. School and district officials, through their action and inaction, have not only failed to take steps to address this hostile environment, but they have contributed to it and given sanction to it.

3. In January of 2009, three male students at the high school posted a video, on a internet social networking site directed to other students at the school, in which they use a string of homophobic slurs, “out” another student as homosexual, and directly address a female student, Plaintiff “Doe” in this case,

1 with sexually harassing, graphically explicit comments and threats of violence.
2 On the posted video, one of the three male students says that a fourth male student
3 wants to kill Plaintiff Doe: "[He] told me that he wants to kill you. That he wants
4 to legitimately kill you." The student makes the statement with evident glee and
5 certainly not as a safety warning or an offer of help. Another male student in the
6 video says, "I hope [Plaintiff] watches this. And then you take a sniper to her
7 forehead." The third student in the video discusses the fourth male student raping
8 her in the back of a truck, and later asks if she "catches cum in her mouth." The
9 students in the video gleefully boast that everyone will see the video and in fact
10 the contents of the video have been the subject of frequent on-campus
11 conversation and discussion, further subjecting Plaintiff Doe to harassment and
12 cementing the hostile campus environment.

13 4. Plaintiff Doe's parents alerted school officials to the video within three day
14 of its posting and requested that they investigate and take action on the threats to
15 their daughter and address the sexism and homophobia evidenced in the video.
16 Subsequent to this incident, Plaintiff Doe was threatened at school by the male
17 student on whose internet social networking page the video was posted and who
18 was described in the video as wanting to kill Plaintiff. He told her that reporting
19 the video to the school administration "was the biggest mistake of her life."

20 5. School and district officials have a clear legal obligation to establish and
21 maintain a safe, secure, and peaceful school environment at the high school.
22 Despite the harassment, and the direct retaliation for complaining about it (about
23 which Plaintiff Doe's parents also alerted the school administration), school and
24 district officials have failed, first and foremost, to take appropriate action to
25 protect Plaintiff Doe from a hostile environment. Insofar as school officials have
26 responded to the threats against Plaintiff Doe, they have put the entire burden on
27 her rather than the harassing students. The school administration's response to the
28 safety threat to Plaintiff Doe has been to require her to drastically alter her class

1 schedule such that she now takes only two classes at the school campus and must
2 complete the rest of her course work by independent study off the campus. In
3 stark contrast, the school administration has not adjusted the course schedules of
4 the four harassing male students or otherwise altered their access to their
5 education.

6 6. Plaintiff Doe remains, however, vulnerable to verbal, psychological, and
7 even physical harassment when she is on campus. Plaintiff Doe's parents have
8 asked school and district officials to advise the harassing students to avoid all
9 contact with Plaintiff Doe, and they have asked for a monitor to be assigned to the
10 student who threatened her on campus and who has continued to seek to intimidate
11 her, but school and district officials have refused. As a result of the sexual
12 harassment and threats to which Plaintiff Doe has been subjected, and school and
13 district officials' failure to take prompt and appropriate corrective action, Plaintiff
14 has been severely burdened and deprived of educational opportunities.

15 7. School and district officials have failed, moreover, to address the hostile
16 environment that exists at the high school, choosing to ignore obvious signs of a
17 school culture gone awry. This silence not only sends the message that
18 harassment is tolerated, but it leaves students vulnerable to further harassment.
19 One clear illustration that effective corrective action has not been taken is
20 provided by the harassing students: approximately one month after they posted
21 the sexist and homophobic video on the internet, they also produced a video for a
22 school-sponsored event that contained a host of sexist and homophobic discussion.

23 8. Specific instances of harassment and discrimination on school grounds, in
24 addition to those directed against Plaintiff Doe, include but are not limited to:

- 25 • Homophobic slurs are routinely used by school coaches in
26 athletic practices.
- 27 • Homophobic slurs are routinely used with impunity by students
28 within earshot of teachers in hallways and classrooms. Indeed, the

1 school's drama teacher reportedly chose "Rent" as the spring musical
2 precisely because he had noticed an increase this school year in
3 homophobic language on campus.

- 4 • In connection with the political campaign concerning Proposition 8,
5 an initiative on the November 4, 2008 ballot that changed the
6 California Constitution to eliminate the right of same-sex couples to
7 marry, students who expressed political views opposing Proposition 8
8 were called "dykes" and other homophobic slurs in the hallways and
9 classrooms of the school.
- 10 • A student at the school posted in an online forum that the school
11 principal, during an English class, "openly admitted her negative
12 views on gay marriage and how she is yes on prop 8."
- 13 • In February 2009, the school principal canceled the school's
14 production of "Rent." The principal reportedly stated that she was
15 cancelling the musical because of its homosexual content.
- 16 • The school principal reversed that decision only after intense national
17 media spotlight. Even then, however, school officials have permitted
18 the confiscation of the button worn by at least one student in support
19 of the musical and refused to allow announcements to be made at
20 school about it.

21 9. Given the hostile environment that school and district officials have
22 permitted to take hold at the high school, students who face harassment,
23 discrimination, or other hostility cannot rely on their teachers or administration to
24 protect them, address the problems, or even acknowledge the environment that
25 exists. Indeed, because of the views expressed by some of the administrators and
26 teachers at the high school, some students who are lesbian, bisexual, or gay fear
27 that if their teachers were aware of their sexual orientation, they would receive
28 lower grades in their classes.

10. Accordingly, Plaintiffs seek declaratory, injunctive, or monetary relief from the district and school and district officials for depriving them or their members of established constitutional and statutory rights based on their actual or perceived sexual orientation, sex, and sex stereotyping.

PARTIES

11. Plaintiff MARY DOE ("Plaintiff DOE" or "MARY")¹ is and at all relevant times was a female student attending Corona del Mar High School. Plaintiff appears in this action by and through her next friends, her father and mother, James and Jane Doe.

12. Plaintiffs JAMES and JANE DOE are taxpayers residing within Orange County and the boundaries of the Newport Mesa Unified School District. They bring this lawsuit in their individual capacities and as guardian ad litem for their child, MARY. They have filed, concurrent with this complaint, petition with the Court to act as Plaintiff DOE's duly-appointed guardian ad litem.

13. Plaintiff ORANGE COUNTY EQUALITY COALITION ("Plaintiff COALITION") is an unincorporated association whose members are part of the lesbian, gay, bisexual, transgender, and heterosexual communities in Orange County. Plaintiff COALITION is dedicated to ensuring equality for all Orange County residents through education, dialogue, and advocacy, and seeks to eradicate homophobia and to eliminate prejudice based on sexual orientation. Some Plaintiff COALITION members are students at Corona del Mar High School who have experienced harassment, discrimination, and the hostile environment

¹ Plaintiff DOE and her parents use pseudonyms in this complaint due to the highly sensitive nature of the allegations it makes. As this complaint details, Plaintiff DOE has been subjected to severe and pervasive harassment on the basis of sex, and she seeks to avoid further harassment, retaliation, or violence. The use of pseudonyms is appropriate here because Plaintiff DOE is a minor, she is challenging governmental activity, and using her real identity would compel her to reveal highly intimate information.

1 based on sex and perceived and actual sexual orientation at the school. Some
2 Plaintiff COALITION members are parents of children, enrolled in the
3 Newport-Mesa Unified School District, who have attended, will attend, or are
4 attending Corona del Mar High School.

5 14. Defendant NEWPORT-MESA UNIFIED SCHOOL DISTRICT
6 ("NEWPORT-MESA" or "DISTRICT") is a public school district organized and
7 operating under the laws of the State of California. The DISTRICT is responsible
8 for the administration of educational services for all students enrolled in its school,
9 including Corona del Mar High School (the "School" or "Corona del Mar"). On
10 information and belief, the District is a recipient of federal financial assistance.

11 15. Defendant JEFFREY HUBBARD is the Superintendent of the DISTRICT.
12 As such, he supervises and manages the DISTRICT and is and at all relevant times
13 was acting under color of law and within the scope of employment. He is sued in
14 both his official and individual capacities.

15 16. Defendant FAL ASRANI is the principal at Corona del Mar and is and at all
16 relevant times was acting under color of law and within the scope of employment.
17 She is sued in both her official and individual capacities.

18 17. Defendant DUNCAN MCCULLOCH is the assistant principal at Corona del
19 Mar and is and at all relevant times was acting under color of law and within the
20 scope of employment. He is sued in both his official and individual capacities.

21 18. Defendants are entrusted with the responsibility for creating and
22 maintaining an educational environment that is physically and psychologically
23 safe for students. In addition, Defendants are entrusted with the responsibility for
24 making and/or implementing policy with respect to student harassment and
25 discipline. Last, Defendants are entrusted with the responsibility for ensuring that
26 their subordinates, agents, and employees comply with anti-discrimination laws
27 and policies by taking prompt remedial action following acts of inappropriate
28 behavior, harassment, or discrimination against students, as well as affirmative

1 action to combat bias based on sex, sexual orientation, and other suspect bases.

2 19. Upon information and belief, and at all relevant times, each Defendant was
3 the agent or employee of each other Defendant, was acting within the course and
4 scope of such agency or employment, and was acting with the consent, permission,
5 or authorization of each other Defendant.

6 VENUE

7 20. Venue is proper in this Court because Defendants are located, and Plaintiffs
8 reside, in the County of Orange.

9 STATEMENT OF FACTS

10 Facebook Posting

11 21. Facebook (<http://www.facebook.com>) is an online networking site that is
12 free of charge and open for anyone to join. Each member who signs up for
13 Facebook has his or her own "profile" page, where the member can describe
14 himself or herself, provide "status" updates, and post pictures, videos, weblinks,
15 and other online content. Each member can control how visible his or her profile
16 is to other members. Usually a member's online "friends" and "networks" can
17 view the member's full profile, and the member can further choose whether all
18 members of Facebook can view the profile as well.

19 22. One of the standard features of Facebook is each member's "home page,"
20 which is the landing page on which the member arrives when logging in each time.
21 This page has "news," "status update," "photo," and "video" feeds that show recent
22 posts by people in the member's "friends" and "networks" groups. For example, if
23 person A and person B are friends and person A posted a new picture, video or
24 status update, when person B logged into Facebook, person B would see an entry
25 on the page that person A made a new post, along with a link to the content
26 posted.

27 23. On January 23, 2009, three male students who are seniors at Corona del Mar
28 posted an online video to another male senior's "Facebook" page, who will be

1 called Jeff in this complaint.² All four students are leading athletes at Corona del
2 Mar, and each of them is a member of the Facebook network "Corona del Mar
3 High School," which has more than one thousand members. Each of them also has
4 hundreds (464, 501, 695, and 734, respectively) of Facebook "friends" who
5 automatically receive updates about any new post. The students knew and boasted
6 that "everyone" would see the video.

7 24. The video consists of the three male students talking to the fourth male
8 student, Jeff, and to the larger community of Corona del Mar. They refer to Jeff as
9 "gay," "faggot," and "homo"; they proceed to "out" another male student; and then
10 address MARY directly in the only extended commentary directed to a person
11 other than Jeff. One says that Jeff wants to kill her: "MARY, Jeff told me that he
12 wants to kill you. That he wants to legitimately kill you." Another says, "I hope
13 MARY watches this. And then you take a sniper to her forehead." The third
14 discusses Jeff raping her in the back of a truck and later asks if she "catches cum
15 in her mouth."

16 25. Far from disavowing the video or his alleged desire to kill MARY, Jeff
17 posted a response that repeated the remark about MARY catching "kummmm" in
18 her mouth.

19 20 **Mary Sees Video; Her Parents Report It to Proper Authorities**

21 26. On January 23, MARY first saw the video posted on Facebook, with a
22 group of other students at one student's home. She was horrified, frightened, and
23 offended by what she saw and heard. She had often heard these students use
24 vulgar and offensive language about female students at school, but she had never
25 heard them talk about shooting or raping anyone.

26
27 ² Out of an abundance of caution, Plaintiffs will not refer by name to
28 the students who posted the video and will refer to the student on whose Facebook
page the video was posted by the fictitious name "Jeff."

1 27. That night, MARY went home and tried to put the video out of her mind,
2 but found she could not. She felt anxious and her thoughts kept returning to what
3 the boys said and how enthusiastically and casually they described committing
4 violence against her. She felt threatened and afraid.

5 28. Her parents noticed that night that she seemed despondent and withdrawn,
6 and noticed the next night that she was not communicating with friends, which
7 was unusual for MARY.

8 29. On January 25, MARY gave her parents a brief description of the video and
9 told them how upset and anxious she was feeling as a result of the video.

10 30. Later that night, MARY's mother, JANE, viewed the video. JANE was
11 alarmed by the threats against her daughter and horrified by the rampant sexism
12 and homophobia exhibited. JANE immediately downloaded the video and made a
13 copy to provide to the authorities.

14 31. Although MARY tried to avoid the four male students, at school the next
15 day, on January 26, Jeff (the student on whose Facebook page the video was
16 posted) confronted her. MARY asked him why he had not removed it and was
17 keeping it posted. He told her she was over-reacting and refused to remove it.

18 32. Later that day, MARY's father, JAMES, reported the video to the Newport
19 Police Department. JAMES was told that the matter would be referred to a
20 detective in a few days. JAMES demanded an immediate assignment and was told
21 that the matter would be handled by the school resource officer, Tom Monarch.

22 33. MARY's parents learned only later that Monarch is listed on the school's
23 website as an assistant football coach at Corona del Mar; the male students
24 depicted in the video are all members of the school football team.

25 34. On January 26, MARY's parents also met with Assistant Principal
26 MCCULLOCH, showed him the video, and expressed their concerns about
27 MARY's safety and about the homophobia and misogyny in the video.

28 MCCULLOCH told them he would take this matter to the District and he assured

1 them that he would do everything he could to make sure the male students were
2 punished. He agreed to change MARY's class schedule so she would not share
3 any classes with the harassers. MCCULLOCH asked MARY's parents whom they
4 talked to at the Newport Beach Police Department. MARY's parents also
5 requested that the school take affirmative steps to educate the student body about
6 equality and different forms of discrimination, and MARY's mother, JANE,
7 commented that the school's production of the musical "Rent" that spring would be
8 beneficial for helping to counteract the homophobic environment. MCCULLOCH
9 made no response to these comments.

11 **Mary Threatened At School**

12 35. On January 27, after MARY entered her English classroom, Jeff, who was
13 also in the class, screamed at her: "This is the biggest mistake of your life." Jeff,
14 who sat adjacent to MARY, then proceeded to loudly describe what had happened
15 to the students around them.

16 36. After this threat occurred, MARY immediately contacted her mother, who
17 called assistant principal MCCULLOCH. MCCULLOCH told MARY's mother,
18 JANE, that there was nothing he could do because he had no evidence of the
19 threat, and could not take action on something "made up." Later, MCCULLOCH
20 met with MARY for approximately fifteen minutes and made similar statements to
21 her. She left the meeting with the impression that he did not take the threat
22 seriously.

23 37. On information and belief, MCCULLOCH has never investigated the threat
24 Jeff made against MARY on school grounds.

25 38. After this threat from Jeff, MARY became particularly fearful. She suspects
26 Jeff is taking steroids, and she has seen him fly into uncontrollable rages in the
27 past, which he and his friends refer to as "roid rage." She became increasingly
28 afraid for her safety and changed her behavior at school.

**Mary's Parents Attempt to Secure Her Safety and Have School Address
Hostile Environment**

39. Later on January 27, MARY's father, JAMES, called MCCULLOCH to discuss how to avoid contact between MARY and the harassing students. It was final exam week at Corona del Mar, and MCCULLOCH suggested that MARY take her remaining final exams in his office. Subsequently, however, MCCULLOCH called and left a voice-mail message stating that MARY was to report to her assigned classrooms to take her exams.

40. On January 28, MARY began parking her car in a different lot than normal to avoid contact with the harassing students. She continues to do this through the present time. Mary's parents informed the school that she had begun to take this safety measure and the school administration offered her neither support nor an alternate safety option. Similarly, Mary has changed other ways that she behaves on campus because of safety concerns that have not been addressed by the school, including changing the routes she takes to class, and trying to avoid bathrooms and other places where she might be by herself and particularly vulnerable.

41. That same day, when MARY reported to her assigned classroom for the final exam, as MCCULLOCH's message instructed, Jeff was also present and sat adjacent to MARY.

42. Afraid and confused to find Jeff in the classroom, MARY contacted her parents, who then called MCCULLOCH to find out what is going on and to repeat their request again that MARY not be in the same classroom with any of the boys. No further clarity was provided by the school.

43. On January 29, MARY stayed home from school because she was uncomfortable and anxious about being in the same classroom with Jeff. On January 30, a Friday, MARY did not have class, so she was able to avoid school.

44. The next week, MARY returned to school. She heard from classmates that a rumor had circulated that she was transferring to another school because of what

1 had occurred, and that Jeff told other students that he and the other male students
2 had "scared her away" and she was not coming back. MARY was told that when
3 students informed Jeff that she had not transferred, he expressed disappointment.

4 45. When MARY returned to school, she was ostracized by her peers and felt
5 like "a pariah" because students avoided her or did not talk to her, which was
6 unusual. A fellow student also delivered what was characterized to MARY as a
7 "message from Jeff" that he wanted MARY to know that she should not attend any
8 extracurricular or social events. MARY's parents have informed the school
9 administration of these facts and the school administration did not provide any
10 support or remedy.

11 12 **District's Policies and District's Response to Harassment Against Mary**

13 46. The DISTRICT's written policy recognizes its legal obligation under
14 California law that "[a]ll students have the inalienable right to attend classes on
15 campuses which are safe, secure, and peaceful" and that it has "an obligation to
16 promote mutual respect and safe and harmonious relations that support human
17 dignity and equality." Accordingly, the DISTRICT's policy states that it "shall
18 make reasonable efforts to see that students are provided an environment that is
19 secure and protected from fear, intimidation, and physical harm"

20 47. The DISTRICT's written policy also states that it "will not tolerate any
21 gestures, comments, threats or actions, either written, verbal, or physical, which
22 cause, or threaten to cause or are likely to cause, bodily harm or personal
23 degradation." Specifically, the policy provides that the following constitute cause
24 for suspension:

- 25 • causing, attempting to cause, or threatening to cause physical injury
26 to another person;
- 27 • committing sexual harassment;
- 28 • intentionally engaging in harassment, threats, or intimidation,

1 directed at a pupil;

2 • harassing, threatening, or intimidating a pupil who is a complaining
3 witness.

4 48. On February 3, MCCULLOCH told MARY's father, JAMES, that
5 disciplinary action had been taken, but he refused to provide any more
6 information. On information and belief, two students involved in the video were
7 suspended for five days each; no disciplinary action was taken against Jeff, the
8 student on Facebook page the video was posted, and who threatened MARY for
9 reporting the video, in violation of DISTRICT policy against threatening,
10 intimidating, or harassing a student who is a complaining witness; and no
11 disciplinary action was taken against the student who stated that Jeff should take a
12 sniper to MARY's head, in violation of DISTRICT policy against threatening to
13 cause physical injury to another person and intentionally engaging in harassment,
14 threats, or intimidation directed at a pupil.

15 49. To put the discipline in context, the student who wanted a sniper taken to
16 Plaintiff's head had been suspended earlier in the year (on information and belief)
17 for two months when he streaked naked through the campus quad. Upon
18 information and belief, that action did not involve the making of threats to any
19 student nor was it directed at any student in particular.

20 50. Also, in March 2009, seventh graders who reportedly posted on Facebook
21 that at least one had slept with a teacher were actively disciplined by the school,
22 including the expulsion of the student who claimed to have slept with the teacher.
23 Upon information and belief, it is generally understood by students and staff at the
24 school that allegations of drug or alcohol use can prompt a suspension of 45 to 90
25 days.

26 ///

27 ///

28 ///

Cancellation of "Rent"; Mary's Parents Continued Efforts to Secure Her Safety and Have School Address Hostile Environment

51. On February 13, it was widely reported in the media that Principal ASRANI canceled the school's production of "Rent" due to its inclusion of homosexual content. MARY was involved in the musical production.

52. That same day, after learning that the play had been canceled, Plaintiff's mother, JANE, sent an email to ASRANI objecting to the cancellation and raising the inadequacy of the school's response regarding the Facebook video and threats to MARY.

53. On February 14, ASRANI sent JANE a form response regarding "Rent" which neither mentioned the Facebook video nor acknowledged JANE's concern for her daughter's safety.

54. Upon receiving ASRANI's response,, JANE sent another email to ASRANI objecting to the lack of concern expressed by ASRANI for MARY's safety. In response, JANE received another generic response from ASRANI that did not address JANE's concern for MARY. .

55. On February 16, ASRANI emailed JANE, apologizing for the oversight. ASRANI stated she had been briefed on the matter by MCCULLOCH, and she understood JANE's concerns, and suggested that MARY's parents meet with her if the resolution achieved was not satisfactory.

56. JANE responded to ASRANI and requested a meeting for the following day, February 17. ASRANI responded that the school was on break that week, but ASRANI'S secretary would contact JANE the next week.

57. On February 20, JANE emailed Superintendent HUBBARD, the Assistant Superintendent, and DISTRICT Board members regarding the Facebook video and the cancellation of "Rent."

58. On February 22, Plaintiff's father, JAMES, sent ASRANI a detailed email regarding what had happened to date, stating his and JANE's's concerns, and

1 requesting accommodations in MARY's schedule. JAMES expressed concerns
2 based on statements MARY had heard at school and on MARY's parents'
3 monitoring of comments on internet sites discussing the Facebook video and the
4 cancellation of "Rent" that the male students had been emboldened rather than
5 chastened by the school's actions and inactions since the Facebook video incident.
6 JAMES also advised ASRANI of the serious detrimental effects of the video,
7 threat, and subsequent events on MARY. By this time, MARY had missed several
8 days of school because her schedule change had not been finalized and she was
9 fearful of being at school.

10 59. On February 23, Superintendent HUBBARD emailed MARY's mother a
11 one-line response to her February 20 email, which stated that he had referred the
12 matter to the Assistant Superintendent, who would follow up.

13 60. Also on February 23, MARY's parents met with Principal ASRANI for the
14 first time. They repeated their concerns about the threats made against their
15 daughter, the homophobia and sexism expressed in the video, and the cancellation
16 of the school production of "Rent." During the meeting, Principal ASRANI told
17 MARY's parents, "I'm sorry they're calling your daughter a lesbian," in reference
18 to a website covering the "Rent" cancellation. Principal ASRANI did not say, nor
19 has she ever said, that she was sorry to hear about the threatening and sexually
20 harassing statements made to MARY.

21 61. On February 24, MARY's mother, JANE, initiated an email exchange with
22 Principal ASRANI. JANE expressed concern that MARY's schedule still had not
23 been finalized and that she had fallen behind in her classes. Principal ASRANI
24 promised to address the scheduling issues, and also committed to further
25 investigation of the Facebook video and threats, including an investigation by a
26 police officer other than Officer Monarch. In her last email, JANE reaffirmed that
27 they desired that all of these measures take place. JANE also repeated her concern
28 about the homophobia that was present in the video and in further comments on

1 internet sites covering the "Rent" cancellation, and asked how the school planned
2 to address this issue. ASRANI did not respond to these issues.

3 62. By February 25, MARY's schedule still was not finalized. MARY's mother,
4 JANE, had received a message from the school counselor instructing MARY to
5 report to her third period class, despite the fact that arrangements were supposed
6 to have been made for an independent study. Accordingly, MARY attended her
7 third period class. Near the beginning of the class, Principal ASRANI came into
8 the room, saw Plaintiff, and in front of the class, told MARY that she could not be
9 in that class. She further loudly instructed MARY to "cover her chest," referring
10 to the sweater MARY was wearing over her dress and asked MARY if "we are
11 having an attitude problem." Principal ASRANI then pulled MARY out of the
12 classroom and told MARY that she was being disrespectful of the school and the
13 arrangements it had made for her. Principal ASRANI further stated that MARY
14 was in violation of the dress code and had "no self-respect." MARY has never
15 been cited for any dress code violations during her attendance at Corona del Mar.

16 63. On March 1, Principal ASRANI emailed MARY's mother, JANE, regarding
17 MARY's schedule, which still had not been finalized. In the email Principal
18 ASRANI stated that MARY was "disrespectful." JANE grew anxious that the
19 Principal and school administration were singling MARY out because of her
20 parents' continued efforts to secure safe arrangements for their daughter.

21 64. During the week of March 2, 2009, MARY's current schedule was finally
22 put in place. She attends only two classes at school, and is on school grounds for
23 class only eight hours during the entire week. She takes the rest of her classes on
24 an independent study basis. Upon information and belief, the male students who
25 harassed and threatened her are able to attend their regularly scheduled classes and
26 have not had to restrict any of their classes or activities since they posted the
27 Facebook video.

28 65. Even with this severely restricted schedule, MARY still has basis for fearing

1 and worrying about harassment by Jeff and the other male students. On March 4,
2 as MARY was leaving class, she saw Jeff and another male student in the school
3 quad approaching her. As Jeff walked toward her, he deliberately maintained a
4 threatening stare at her. MARY felt intimidated and frightened.

5 66. On March 6, MARY was walking across the quad between the only two
6 classes for which she is on campus and Jeff walked towards her. Two of Jeff's
7 friends were standing behind MARY gesturing to him to alert him of her presence.
8 At that point, Jeff flexed his muscles and growled at MARY. MARY felt
9 threatened and anxious.

10 67. On March 4, after MARY's run-in with Jeff, MARY's parents sent a letter
11 by mail and email to Superintendent HUBBARD. They informed HUBBARD that
12 the actions taken by the administration of the school in response to the harassment,
13 threats, and hostile environment experienced by MARY had been wholly
14 inadequate, and sent the message that at Corona del Mar, sexual harassment is not
15 taken seriously. MARY's parents also pointed out that to the extent that the school
16 has done anything, it has forced MARY into the position of having to change her
17 schedule, classes, and routines in order to avoid these young men – in effect,
18 penalizing her rather than the harassing students. MARY's parents requested that
19 the school and school district make all reasonable and necessary accommodations
20 to ensure that MARY is able to fully access equal educational opportunities. And,
21 in light of statements made by Principal ASRANI to and about MARY, MARY's
22 parents expressed concerns about retaliation against MARY for reporting the
23 unacceptable, threatening, and abusive conduct to which she has been subjected.

24 68. On March 11, MARY's parents received a letter from Assistant
25 Superintendent Hinman in response to their letter to Superintendent HUBBARD.
26 This letter stated that he is coordinating an investigation into the situation. The
27 letter did not respond to the immediate concerns MARY's parents expressed
28 regarding MARY's safety at school.

69. On March 11, MARY was called to an assistant principal's office at the high school and told she was going to be interviewed by a detective.³ MARY notified her parents and her mother called the assistant principal and requested that they wait to interview MARY until she arrived in approximately fifteen minutes. The assistant principal told MARY's mother that the detective could interview MARY without her there, and if necessary, could haul her down to the station. MARY's mother and MARY felt threatened by this statement, which also violated school policy because only a student under arrest may be taken in custody to the police station. After MARY's mother continued to insist that she be present, MARY was told to return to class and the interview did not take place.

70. The next day, MARY's mother contacted the detective and arranged to interview MARY off campus. MARY's mother and Plaintiffs' counsel met with two detectives from the Newport Beach Police Department. On information and belief, the Newport Beach Police Department has confirmed that on January 27, Jeff threatened MARY, stating: "This is the biggest mistake of your life."

71. On Friday, March 13, Plaintiffs' counsel sent a letter to Defendants reiterating that MARY continues to experience harassment and intimidation at school and requesting that immediate actions be taken to secure MARY's safety, including written direction to the four male harassers that they avoid any contact with MARY on school grounds, and an adult staff monitor to escort the male student who continues to most actively harass MARY during the hours when MARY is on campus. Defendants provided no response. On Monday, March 16, Plaintiffs' counsel again contacted Defendants to inform them that the harassment and intimidation MARY is experiencing is actively interfering with her ability to

³ On March 4, Plaintiffs' counsel sent a letter to the Orange County District Attorney notifying that office of the apparent conflict of interest in the police investigation that was undertaken by Officer Monarch and requesting that the investigation be re-opened and re-assigned.

1 participate in school, including in school performances in which she was
2 scheduled to participate as part of her classwork, and again requested that
3 Defendants take immediate action to secure MARY'S safety. Again, Defendants
4 provided no response. To date, Defendants have not responded to MARY's safety
5 concerns, despite repeated requests by her parents and counsel.

6 72. In fact, because of MARY's continuing safety concerns and Defendants'
7 failure to take appropriate action to secure MARY's safety, MARY and her
8 parents are considering initiating the process to request a civil restraining order
9 directly against the male students who have threatened and harassed her.

10 11 **Effect of Harassment on MARY**

12 73. As a direct, legal, and proximate result of the harassment, threats, and
13 hostile environment to which she has been subjected, and the failure of
14 Defendants to take reasonable remedial steps, MARY has suffered and continues
15 to suffer extreme emotional distress, including but not limited to fear, anxiety,
16 humiliation, frustration, and isolation. She has experienced difficulty sleeping,
17 she has experienced an inability to concentrate, and she has withdrawn socially.
18 She feels scared and anxious much of the time, even when she is at home because
19 she worries that some of the harassers may come to her home.

20 74. As a direct, legal, and proximate result of the harassment, threats, and
21 hostile environment, and the failure of Defendants to take reasonable remedial
22 steps, MARY has been and continues to severely burdened and deprived of
23 educational opportunities. She has been absent from school more than usual
24 because of concerns for her safety, and her schoolwork has suffered. She is
25 behind in her classes both because of her absences and because she is unable to
26 concentrate on learning because she fears for her safety. MARY has had to
27 change her class schedule to avoid being in the same classroom with the harassing
28 students, and switched to taking some classes on an independent study basis, so as

1 to allow her to minimize the amount of time she spends on campus—she now
2 attends school for a total of only eight hours per week. MARY is consciously
3 having to expend time and energy to avoid harm at school: for instance, she parks
4 in a different parking lot on the opposite side of the school from her classes in
5 order to avoid campus areas where the harassing students often congregate and in
6 the hope that the harassers will not be able to find her car, takes different routes
7 walking through the school, and does not go to the bathroom at school because she
8 feels vulnerable by herself and is scared of being ambushed by the boys or their
9 friends. This energy spent avoiding harm at school could otherwise be devoted to
10 learning. MARY has been negatively and substantially affected by the heavy
11 emotional toll arising both from the harassment she has experienced and from the
12 DISTRICT and school's failure to adequately address and remedy the harassment,
13 despite repeated efforts by Plaintiff and her parents to secure a remedy.

14 75. Accordingly, as a direct, legal, and proximate result of Defendants'
15 violations of Mary's statutory and constitutional rights, MARY has suffered
16 emotional and other distress and has been damaged in an amount to be determined
17 at trial. She will seek leave of court to amend the complaint when the amount of
18 damage is ascertained or will amend to conform to proof at time of trial.

19
20 **Hostile Environment Based on Sex and Sexual Orientation at Corona del Mar**
21 **High School**

22 76. The environment at Corona del Mar is plainly hostile to female students,
23 lesbian, gay, bisexual, and transgender students, and students who otherwise fall
24 outside of traditional sex stereotypes. As MARY's experience vividly illustrates,
25 the pervasive hostility towards students based on sex, sex stereotypes, and actual
26 or perceived sexual orientation profoundly affects their educational experience;
27 this hostility prevents students from feeling safe, secure, and respected at school,
28 severely impedes their participation in classes and school activities, and dictates

1 changes in their behavior at school to account for concerns about physical safety.
2 School and district officials, through their action and inaction, have not only failed
3 to take steps to address this hostile environment, but have also contributed to it
4 and given sanction to it.

5 77. Students at Corona del Mar are routinely subjected to harassment based on
6 sex, sex stereotyping, and/or perceived or actual sexual orientation. Students are
7 routinely referred to perjoratively with words such as "dyke," "butch," "fairy,"
8 "gay," "homo," and "queer" by other students at school in hallways and classrooms
9 within earshot of teachers, but without repercussion. Some athletic coaches at the
10 high school use these words to negatively critique athletes' performances, telling
11 them that if they do not perform well, they are "fairies," "sissies," or "gay." The
12 word "gay" when used generally by students or coaches at the high school is
13 understood to have a negative connotation, and mean "stupid" and "not
14 masculine." Female students are called "dykes" or "lesbians" if they are perceived
15 not to be sufficiently feminine. Some students who attended portions of middle
16 school or high school outside Corona del Mar report that the free-flowing use of
17 these slurs at Corona del Mar is overwhelming compared to their prior school
18 experiences.

19 78. MARY has previously experienced the hostile environment at Corona del
20 Mar. Between approximately February and May 2008, MARY had a series of
21 sexually suggestive and offensive fliers placed on her car while it is parked at
22 school. In that same time frame, as MARY was walking in the hall at school, a
23 male student grabbed her from behind, started mock-humping her, and ran off.
24 MARY was not able to identify the student. MARY and her parents reported this
25 harassment to the school.

26 79. During the political campaigns prior to the November 4, 2008 election in
27 which Proposition 8 was on the ballot, students at the school who expressed
28 opposition to Proposition 8 were subjected to additional harassment on the basis of

1 actual or perceived sexual orientation. Students who wore "No on 8" signs to
2 school as part of their Halloween costumes were called "dykes" and "queer" by
3 their classmates. Principal ASRANI stopped one student who was wearing a "No
4 on 8" sign and asked him if it was "a joke." One student at the school reported in
5 on online forum that Principal ASRANI, during an English class, "openly admitted
6 her negative views on gay marriage and how she is yes on prop 8."

7 79. This type of daily harassment profoundly affects the educational experience
8 of these students. For example, one male student who participated both on an
9 athletic team and in dance was called "gay" so much by his peers because of his
10 participation in dance that he dropped out of the dance program. Another student
11 who is perceived to be gay stopped participating in sports which he previously
12 enjoyed and competed in because of the constant homophobia to which he would
13 be subjected as a member of the school's teams. He worried for his physical
14 safety. A female student at the school who is perceived as lesbian or bisexual at
15 school stopped participating in discussions in one of her classes because every
16 time she spoke, a group of students in the class would make fun of her, without
17 any repercussion from the teacher. The student eventually transferred out of that
18 class because she did not feel comfortable participating. A male student who
19 identifies as gay has repeatedly been called a "fag" and is reluctant to volunteer in
20 some of his classes because he has been made fun of as effeminate when he
21 speaks, again without any intervention from a teacher or administrator. Because
22 of the views about sexual orientation, sex, and sex stereotyping expressed by some
23 of the administrators and teachers at Corona del Mar, students who are lesbian,
24 bisexual, or gay fear that if their teachers were aware of their sexual orientation,
25 they would receive lower grades in their classes. They do not feel safe and secure
26 at school because of their sexual orientation. As a result of the hostile
27 environment based on sex, sex stereotyping, and sexual orientation, these students
28 do not feel that they can express themselves honestly at school.

1 80. The culture at the school is one of harassment and intimidation. Female
2 students, lesbian, gay, bisexual, and transgender students, and students who fall
3 outside of traditional sex stereotyping worry that they will be retaliated against for
4 complaining about the environment at the school.

5 81. After it was reported that Principal ASRANI had decided to cancel "Rent"
6 because of its homosexual content, some students at Corona del Mar engaged in
7 advocacy in the community to call attention to the issue. The national media
8 picked up the story, and after intense media scrutiny, the District released a
9 statement on February 25, 2009 that it would allow "Rent" to be performed.

10 82. However, as a result of students' advocacy to reverse the cancelation of
11 "Rent" at Corona del Mar, some students have been pulled out of class for
12 interviews and interrogation by Defendants. Students have been reprimanded by
13 teachers and administrators for bringing the cancelation of "Rent" to the media's
14 attention and advised not to pursue any further complaints. Defendant Principal
15 ASRANI told some students involved with the "Rent" production that she would
16 "give" them the production if they keep the press "out of it." These students worry
17 that if they do not stay silent, the teachers and administrators may interfere with
18 their chances for college admission.

19 83. On February 27, 2009, some students wore buttons to school in support of
20 "Rent." The buttons had rainbow backgrounds and said "Our Rent Is Past Due."
21 Pursuant to direction from school administrators, security officers at the school
22 confiscated the button worn by at least one of the students.

23 84. During a previous production by the drama department at the school, the
24 students and teacher involved in the production elected to donate one dollar for
25 every ticket sold to the charity Broadway Cares/Equity Fights AIDS, which raises
26 funds to fight HIV and AIDS. The drama teacher had previously checked with the
27 DISTRICT to make sure this was an approved charity and had completed the
28 required administrative steps for the donation. However, the "Associated Student

1 Body" student government organization at the high school refused to write the
2 check. The reason the organization provided was that the audience was not given
3 an opportunity to opt out of supporting the cause. The teacher and students
4 understood this justification to be based on hostility towards people with
5 HIV/AIDS and lesbian, gay, bisexual, and transgender individuals.

6 85. One male student briefly considered bringing his boyfriend to a school
7 dance, but decided not to after talking with friends about fears for his safety. He
8 concluded that if he brought another male student to the dance, he or his date
9 might be physically assaulted.

10 86. Perhaps most telling, some students at the school who identify as or are
11 perceived to be lesbian, bisexual, or gay measure their safety by the criterion that
12 they have not been beaten up "yet."

13 87. In late February 2009, approximately one month after the students posted
14 this sexist and homophobic video on Facebook, and two weeks after Principal
15 ASRANI attempted to cancel production of "Rent" because of its homosexual
16 content, the same students who made the Facebook video produced a video for a
17 school-sponsored production that contained a host of homophobic and sexist
18 discussion. Although this language was ultimately edited out of the video by the
19 dance teacher, the students nonetheless performed a "dance" in which they
20 ridiculed women and the lesbian, gay, bisexual, and transgender community. The
21 actions of these students clearly reflect the failure of Defendants to take adequate
22 and appropriate corrective action to address harassment and bias in the school
23 environment.

24 88. Upon information and belief, teachers at the school do not receive any
25 training and/or education about sexual orientation or bias based on sexual
26 orientation.

27 ///

28 ///

1 **CAUSES OF ACTION**

2 **FIRST CLAIM FOR RELIEF**

3 **(42 U.S.C. § 1983; Equal Protection under Fourteenth Amendment)**

4 **[Against HUBBARD, ASRANI & MCCULLOCH]**

5 89. Plaintiffs incorporate the preceding paragraphs as if fully set forth here.

6 90. Defendants have discriminated against students including Plaintiffs in the
7 educational activities and programs of Corona del Mar on the basis of sex and
8 sexual orientation in violation of the Fourteenth Amendment.

9 91. Defendants had a duty to provide and ensure an educational environment for
10 Plaintiff and other students, free of sexual innuendo, intimidation and
11 discriminatory animus, and to enforce the rules, regulations, and laws necessary to
12 protect them from acts of sexual harassment.

13 92. Plaintiffs and other students have been subjected to severe, pervasive, and
14 objectively offensive sexual harassment and hostility based on sex, sexual
15 orientation, and/or sex stereotyping by students under the Defendants' direct
16 control and disciplinary authority.

17 93. Defendants, who had authority to rectify the situation, were given notice
18 that Plaintiffs and other students were being subjected to harassment or
19 discrimination on the basis of sex, sexual orientation, and sex stereotyping, but
20 failed to take immediate and appropriate corrective actions.

21 94. Defendants were deliberately indifferent to the harassment and hostility to
22 which Plaintiffs and other students have been subjected. Defendants' deliberate
23 indifference prevented Plaintiffs and other students from enjoying the educational
24 benefits and opportunities provided by the District.

25 95. Defendants promoted and fostered this hostile environment. Defendants'
26 actions and policies are not adequate for ensuring that the school is physically and
27 emotionally safe for female students, lesbian, gay, bisexual, and transgender
28 students, and students who fall outside traditional sex stereotypes. Defendants'

1 actions and inactions promoted hostility and discrimination based on sex, sexual
2 orientation, and sex stereotyping. Defendants' actions and inactions prevented
3 Plaintiffs and other students from enjoying a safe and secure educational
4 environment and educational benefits and opportunities provided by the District.

5 96. Unless enjoined by this Court, Defendants will continue to violate the
6 Fourteenth Amendment.

7 97. Plaintiffs seek a judgment declaring that Defendants' intentional acts, failure
8 to act, and/or the acts of deliberate indifference described above regarding the
9 harassment, hostility, and discrimination Plaintiffs have suffered because of
10 Plaintiffs' sex, sexual orientation, and sex stereotypes are prohibited by the Equal
11 Protection of the Clause of the Fourteenth Amendment. Plaintiffs seek the
12 injunctive relief set forth in the prayer for relief, and because of the emotional and
13 other distress Plaintiff Doe has suffered as a result of Defendants' actions, she
14 seeks damages in an amount to be proved at trial.

15 **SECOND CLAIM FOR RELIEF**

16 **(42 U.S.C. § 1983; Title IX, 20 U.S.C. §§ 1681-1688)**

17 **[Against DISTRICT]**

18 98. Plaintiffs incorporate the preceding paragraphs as if fully set forth here.

19 99. Defendant has discriminated against Plaintiffs and other students in the
20 educational activities and programs of Corona del Mar on the basis of sex and sex
21 stereotyping in violation of Title IX.

22 100. Plaintiffs and other students have been subjected to severe, pervasive, and
23 objectively offensive harassment and hostility based on sex and sex stereotypes by
24 students under the District's direct control and disciplinary authority.

25 101. Defendant knew or should have known of the harassment.

26 102. Defendant failed to take prompt, appropriate corrective action.

27 103. Unless enjoined by this Court, Defendant will continue to violate Title IX.

28 104. Accordingly, Plaintiffs seek a judgment declaring that Defendant's failure to

1 take prompt, appropriate corrective action is prohibited by Title IX, and Plaintiffs
2 seek the injunctive relief set forth in the prayer for relief.

3 105. Plaintiff and other students have been subjected to severe, pervasive, and
4 objectively offensive harassment and hostility based on sex and sex stereotypes by
5 students under the District's direct control and disciplinary authority.

6 106. Defendant has actual knowledge of the sexual harassment and hostility to
7 which Plaintiffs and other students have been subjected, but failed to take
8 immediate and appropriate corrective actions.

9 107. Defendant has been deliberately indifferent to the harassment to which
10 Plaintiffs and other students have been subjected.

11 108. Defendant's deliberate indifference prevented Plaintiffs and other students
12 from enjoying the educational benefits and opportunities provided at Corona del
13 Mar.

14 109. Plaintiff Doe has suffered emotional and other distress as a result of
15 Defendants' actions and seeks money damages in an amount to be proved at trial.
16

17 **THIRD CLAIM FOR RELIEF**

18 **(Equal Protection, Cal. Const. art. I, §§ 7(a), (b); art. IV, §16(a))**

19 **[Against HUBBARD, ASRANI & MCCULLOCH]**

20 110. Plaintiffs incorporate the preceding paragraphs as if fully set forth here.

21 111. Defendants have discriminated against Plaintiff and other students in the
22 educational activities and programs of Corona del Mar on the basis of sex or
23 sexual orientation in violation of the equal protection provisions of the California
24 Constitution.

25 112. Defendants had a duty to provide and ensure an educational environment for
26 Plaintiff and other students, free of sexual innuendo, intimidation and
27 discriminatory animus, and to enforce the rules, regulations, and laws necessary to
28 protect them from acts of sexual harassment.

1 113. Plaintiff and other students have been subjected to severe, pervasive, and
2 objectively offensive sexual harassment and hostility based on sex and sexual
3 orientation by students under Defendants' direct control and disciplinary authority.

4 114. Defendants, who had authority to rectify the situation, were given notice
5 that Plaintiff and other students were being subjected to harassment or
6 discrimination on the basis of sex and sexual orientation, but failed to take
7 immediate and appropriate corrective actions.

8 115. Defendants were deliberately indifferent to the harassment to which
9 Plaintiff and other students have been subjected.

10 116. Defendants' deliberate indifference prevented Plaintiff and other students
11 from enjoying the educational benefits and opportunities provided by the District.

12 117. Defendants promoted and fostered this hostile environment. Defendants'
13 actions and policies are not adequate for ensuring that the school is physically and
14 emotionally safe for female students, lesbian, gay, bisexual, and transgender
15 studnets, and students who fall outside traditional sex stereotypes. Defendants'
16 actions and inactions promoted hostility and discrimination based on sex, sexual
17 orientation, and sex stereotyping. Defendants' actions and inactions prevented
18 Plaintiffs and other students from enjoying a safe and secure educational
19 enivornment and educational benefits and opportunities provided by the District.

20 118. Unless enjoined by this Court, Defendants will continue to violate the
21 Fourteenth Amendment.

22 119. Plaintiffs seek a judgment declaring that Defendants' intentional acts, failure
23 to act, and/or the acts of deliberate indifference described above regarding the
24 harassment, hostility, and discrimination Plaintiffs have suffered because of
25 Plaintiffs' sex, sexual orietnation, and sex stereotypes are prohibited by the equal
26 protection provisions of the California Constitution. Plaintiffs seek the injunctive
27 relief set forth in the prayer for relief, and because of the emotional and other
28 distress Plaintiff Doe has suffered as a result of Defendants' actions, she seeks

1 money damages in an amount to be proved at trial.

2 **FOURTH CLAIM FOR RELIEF**

3 **(Safe Schools Clause, Cal. Const. art. I, § 28)**

4 **[Against HUBBARD, ASRANI & MCCULLOCH]**

5 120. Plaintiffs incorporate the preceding paragraphs as if fully set forth here.

6 121. Defendants have failed to protect Plaintiff and other students from
7 harassment and threats in violation of the Safe Schools Clause of the California
8 Constitution.

9 122. The California Constitution provides that all students at public schools have
10 "the inalienable right to attend campuses which are safe, secure, and peaceful."

11 Cal. const. art. I, § 28.

12 123. Defendants have a duty to take all reasonable steps to protect Plaintiff and
13 other students and provide them with a learning environment that is safe, secure,
14 and peaceful.

15 124. Defendants have breached their duty through their negligence and deliberate
16 indifference in response to the harassment and hostile environment to which
17 Plaintiff and other students have been subjected.

18 125. As a result of Defendants' breach, Plaintiff and other students have been
19 subjected to learning environment that is not safe, secure, or peaceful.

20 126. Plaintiffs seek a judgment declaring that Defendants' acts of deliberate
21 indifference or negligence are prohibited by the Safe Schools Clause of the
22 California Constitution, and Plaintiffs seek the injunctive relief set forth in the
23 prayer for relief.

24 ///

25 ///

26 ///

27 ///

28 ///

FIFTH CLAIM FOR RELIEF

(California Education Code § 220 et seq.; Student Discrimination)

[Against DISTRICT, HUBBARD, ASRANI & MCCULLOCH]

Plaintiffs incorporate the preceding paragraphs as if fully set forth here.

127. Defendants have discriminated against Plaintiff and other students in the educational activities and programs of Corona del Mar on the basis of sex or sexual orientation in violation of California Education Code § 220 et seq.

Defendants have also retaliated against Plaintiffs for reporting discrimination and harassment based on sex or sexual orientation in violation of California Education Code § 220 et seq.

128. Plaintiffs have been subjected to severe, pervasive, and objectively offensive sexual harassment and hostility based on sex and actual or perceived sexual orientation by students under the Defendants' direct control and disciplinary authority.

129. Defendants have actual knowledge of the harassment and hostility to which Plaintiffs and other students have been subjected, but failed to take immediate and appropriate corrective actions.

130. Defendants have been deliberately indifferent to the harassment and hostility to which Plaintiffs and other students have been subjected.

131. Defendants' deliberate indifference prevented and continue to prevent Plaintiffs and other students from enjoying the educational benefits and opportunities provided at the high school.

132. Defendants promoted and fostered this hostile environment. Defendants' actions and policies are not adequate for ensuring that the school is physically and emotionally safe for female students, lesbian, gay, bisexual, and transgender students, and students who fall outside traditional sex stereotypes. Defendants' actions and inactions promoted hostility and discrimination based on sex, sexual orientation, and sex stereotyping. Defendants' actions and inactions prevented

1 Plaintiffs and other students from enjoying a safe and secure educational
2 environment and educational benefits and opportunities provided by the District.

3 133. Unless enjoined by this Court, Defendant will continue to violate California
4 Education Code § 220 et seq.

5 134. Plaintiffs seek a judgment declaring that Defendants' failure to take
6 immediate and appropriate corrective actions, as well as Defendants' intentional
7 acts, failure to act, and/or acts of deliberate indifference violate California
8 Education Code § 220 et seq. Plaintiffs seek the injunctive relief set forth in the
9 prayer for relief, and Plaintiffs seek punitive damages against Defendant ASRANI
10 because she has acted with fraud, malice, or oppression. Plaintiff Doe has suffered
11 emotional and other distress as a result of Defendants' actions and seeks money
12 damages in an amount to be proved at trial.

13 **SIXTH CLAIM FOR RELIEF**

14 **(California Civil Code §§ 51, 51.7 52(a), 52.1(b) & Penal Code § 422.6)**

15 **[Against HUBBARD, ASRANI & MCCULLOCH]**

16 135. Plaintiffs incorporate the preceding paragraphs as if fully set forth here.

17 136. Defendants are engaged in the business of operating schools that are a
18 business and public accommodation as defined by Civil Code Section 51.

19 137. Plaintiff and other students have been harassed by students on the basis of
20 sex or sexual orientation.

21 138. Defendants have been deliberately indifferent to the harassment Plaintiff
22 and other students have suffered. As a result, Plaintiff and other students have
23 been denied full and equal advantages, facilities, privileges, and services in a
24 business and accommodation under Civil Code sections 51, 51.7, and 52(a).

25 139. Unless enjoined by this Court, Defendant will continue to violate Civil
26 Code sections 51, 51.7, and 52(a).

27 140. Plaintiffs seek a judgment declaring that Defendants' failure to take
28 immediate and appropriate corrective actions, as well as Defendants' intentional

1 acts, failure to act, and/or acts of deliberate indifference violate Civil Code
2 sections 51, 51.7, and 52(a). Plaintiffs seek the injunctive relief set forth in the
3 prayer for relief, and because Plaintiff Doe has suffered emotional and other
4 distress as a result of Defendants' actions, she seeks money damages in an amount
5 to be proved at trial.

7 PRAYER FOR RELIEF

8 Accordingly, Plaintiffs pray for judgment as follows:

9 A. For a declaration that Defendants have violated the Equal Protection
10 Clause of the Fourteenth Amendment to the U.S. Constitution; Title IX of the
11 Education Amendments of 1972; the equal protection provisions and the Safe
12 Schools Clause of the California Constitution; California Education Code § 220 et
13 seq.; and further that said constitutional and statutory rights so violated are present
14 rights that must immediately be respected and protected.

15 B. For an injunction prohibiting Defendants from continuing to
16 discriminate by failing to respond reasonably to complaints of harassment and
17 hostility based on sex and sexual orientation; and ordering Defendants to take
18 measures to address the hostile environment to which Plaintiffs have been
19 subjected, including but not limited to the following:

20 i. Require Defendants to adopt a formal process for the filing and
21 investigation of a complaint when a student is subjected to harassment or
22 discrimination because of sex or actual or perceived sexual orientation, publish
23 this process, and notify all students and parents about this process.

24 ii. Require Defendants to designate and train specific school staff
25 to be point persons for students to talk to regarding harassment or discrimination
26 because of sex or actual or perceived sexual orientation. Identify an administrator
27 at the high school who will be available for questions if any employee seeks
28 guidance on how to create and maintain a safe learning environment for students

1 who are experiencing discrimination and/or harassment.

2 iii. Require Defendants to immediately provide training for all
3 students at Corona del Mar High School to educate students about issues of
4 diversity, harassment, and discrimination, wherein students are instructed about
5 laws prohibiting harassment and discrimination based on sex and actual or
6 perceived sexual orientation.

7 iv. Require Defendants to immediately provide training for all
8 staff and administrators at Corona del Mar High School to educate staff about
9 harassment and discrimination based on sex and actual or perceived sexual
10 orientation; to educate staff about the affirmative responsibility of schools to
11 maintain a safe and non-discriminatory learning environment; and to provide
12 school staff with specific intervention tools that can be used to help prevent and
13 stop harassment and discrimination against students on the basis of sex and actual
14 or perceived sexual orientation.

15 v. Require Defendants to survey students at Corona del Mar high
16 school during this school year to assess the level of bias based on sex and actual
17 or perceived sexual orientation in the school and take appropriate steps in light of
18 the results to address bias.

19 vi. Require Defendants to take no reprisal or retaliatory action
20 against any Plaintiff or any student, administrator, teacher, or staff member who
21 speaks out in support of Plaintiffs.

22 vii. Require Defendants to take no further discriminatory action to
23 interfere with the Corona del Mar production of "Rent."

24 C. For an award of damages in an amount to be proved at trial.

25 D. For an award of punitive damages against Defendant ASRANI.

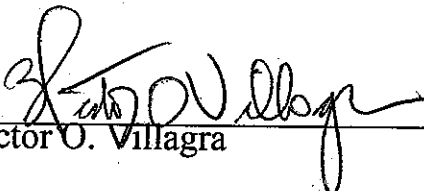
26 E. For an award of reasonable attorneys' fees and costs.

27 F. For such other relief as the Court may deem just and proper.

1 Dated: March 18, 2009

2 ACLU FOUNDATION OF SOUTHERN
3 CALIFORNIA
4 Hector O. Villagra
5 Belinda Escobosa Helzer

6 By:

7 
8 Hector O. Villagra

9 Dated: March 18, 2009

10 ACLU FOUNDATION OF SOUTHERN
11 CALIFORNIA
12 Mark D. Rosenbaum
13 Lori Rifkin

14 By:

15 
16 Lori Rifkin

17 Attorneys for Plaintiffs
18 MARY DOE, by and through her guardians ad
19 litem, JAMES and JANE DOE; ORANGE
20 COUNTY EQUALITY COALITION
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