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II.

PARTIES

1. Plaintiff [REDACTED] was a student and athlete of Davenport High School during the school years 1990-1993. At all relevant times hereto, plaintiff [REDACTED] was a resident of Lincoln County, Washington, which is within the venue of the Eastern District of Washington.

2. Plaintiffs [REDACTED] are the natural parents of [REDACTED]. At all relevant times hereto, plaintiffs [REDACTED] were residents of Lincoln County, which is within the venue of the Eastern District of Washington.

3. Defendant Davenport School District No. 207 is a public school district (political subdivision) organized and existing within the state of Washington and subject to the provisions of Title 28A of the Revised Code of Washington. At all times material hereto, Davenport High School is and was a public high school operated by the defendant Davenport School District No. 207. As such, defendant Davenport School District No. 207, as a principal, is responsible for all wrongful conduct, acts, errors, and omissions of its board members, superintendents, administrators, principals, coaches, teachers, student counselors and other agents, complained of herein, with respect to or as a result of the enrollment and attendance of plaintiff Heather Giles at Davenport High School.

4. Defendant Harold Patterson, at all material times hereto, was principal of Davenport High School, an employee administrator of defendant Davenport School District No. 207 acting in his official and individual capacities, and was a resident of the state of Washington.

III.

VENUE AND ADMINISTRATIVE PREFILING CONDITIONS

5. Venue is properly in this Court pursuant to 28 U.S.C. §1391(b).

1 9. Charles Jungblom has since been convicted and sentenced to prison for crimes in
2 which [REDACTED] was one of his victims. Charles Jungblom is no longer an employee of
3 defendant Davenport School District No. 207 but on information and belief, continues to be
4 eligible to receive a pension from said defendant.

5 10. The aforementioned acts and conduct of Charles Jungblom constituted *quid pro quo*
6 sexual harassment in that they were tied to (1) the threat of imposed loss of economic and future
7 job benefits, (2) direct threat to prevent her graduation from high school, and (3) other threatened
8 punishment for failure to comply with his demands and to protect the secrecy of his harassment.

9 11. The aforesaid acts commenced at a time when plaintiff [REDACTED] as a young
10 female student, was vulnerable to much older male authority figures such as Charles Jungblom.
11 These predatory acts continued repeatedly and/or constantly until plaintiff [REDACTED]
12 graduation from Davenport High School on June 13, 1993.

13 12. The aforesaid intentional acts by Charles Jungblom involving [REDACTED]
14 commenced when he was her assistant girls' cross-country coach. [REDACTED] was a cross-country
15 team member her sophomore year. The intentional acts increased when Charles Jungblom
16 encouraged [REDACTED] to become President of High-5 (a school pep club) in the Fall of her
17 junior year of high school. In addition, Charles Jungblom was her basketball coach on the junior
18 varsity team and assistant coach when she played varsity. All of these regular school and
19 extracurricular activities fall within the scope of RCW 28A.58.125 and RCW 28A.600.200, which
20 require defendant Davenport School District No. 207, through its officials and administrators, to
21 ". . . exercise the authority to control, supervise, and regulate the conduct of inter-school athletic
22 activities and other inter-school extracurricular activities of an athletic, cultural, social, or
23 recreational nature for students of the district." Further, Charles Jungblom had designated himself
24 as [REDACTED] personal "counselor" when she was a sophomore. Plaintiffs allege that defendant
25 Davenport School District No. 207 and defendant Patterson failed to comply with
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1 RCW 28A.58.125, RCW 28A.600.200 and other statutory requirements as hereinafter alleged,
2 failed to protect plaintiff [REDACTED] from an employee whom they already knew, or should have
3 known by prior conduct, to be likely to commit the acts, or similar acts, that he committed upon
4 plaintiff [REDACTED]. Charles Jungblom's illicit actions were increased and/or made possible
5 by his assignment to the position of "school counselor" and were known to several, possibly many,
6 of the students, staff and administrators of the school district. Superintendent Dave Iverson,
7 Principal Harold Patterson, and certain board members are accountable pursuant to
8 RCW 28.150.230 (formerly 28A.58.758) and had received notice of a pattern of questionable
9 conduct and unconstitutional acts committed by Charles Jungblom and thereafter demonstrated
10 deliberate indifference or tacit authorization of his offensive and illegal acts. As a result, at all
11 times material hereto, Superintendent Iverson, Principal Patterson, Charles Jungblom and school
12 board members had personal involvement and/or committed affirmative acts of gender-based
13 discrimination and were acting in their respective capacities as agents and/or employees of
14 defendant Davenport School District No. 207.

15 13. After Charles Jungblom first coerced and enticed plaintiff [REDACTED] to make
16 a non-sexual "modeling" video, he set out on a course of conduct that intimidated and coerced
17 [REDACTED] into filming herself in a sexually explicit video. Defendant Davenport School
18 District No. 207 and its agents, school board members, and administrators, Superintendent
19 Dave Iverson and defendant Patterson, failed to properly investigate or take corrective measures
20 with regard to Charles Jungblom's contact with plaintiff [REDACTED] despite a stream of
21 indicators, including, but not limited to, earlier same or similar contacts with other female students
22 that included modeling. After Charles Jungblom had successfully coerced the first video with
23 sexual connotations from [REDACTED], he raped her during a meeting he arranged regarding her
24 Davenport High School extracurricular activity "High-5" of which he was the faculty advisor and
25 [REDACTED]. Thereafter, for a period of approximately one year, [REDACTED] was

1 raped by Charles Jungblom at least once a week. The *sex on demand* by Charles Jungblom was
2 never consensual, rather, was always occasioned by threats or acts of *quid pro quo* sexual
3 harassment. Contemporaneously and subsequently, he repeatedly kept her quiet concerning the
4 initial rape and his subsequent non-consensual sex on demand by threatening the anonymous
5 release of the sexual video to her parents and male school mates. Her entire high school life was
6 subjected by Charles Jungblom and defendant Davenport School District No. 207 to illegal *hostile*
7 *environment* discrimination.

8 14. At all times material hereto, Charles Jungblom was a duly certified teacher
9 employed by defendant Davenport School District No. 207 as a quasi-official administrator/
10 teacher/counselor/coach and was acting within the scope and course of his employment with said
11 school district. Such conduct, errors and omissions on the part of Charles Jungblom, as are
12 complained of herein, are the acts of defendant Davenport School District No. 207 under generally
13 recognized principals of agency law and pursuant to the provisions of RCW 4.24.470.

14 15. At all times material hereto, there existed a "*special relationship*"¹ between
15 defendant Davenport School District No. 207 and plaintiff [REDACTED] whereby said defendant
16 Davenport School District No. 207, its administrators and officials owed affirmative duties,
17 including the taking of sufficient remedial action to protect plaintiff [REDACTED] from harm and
18 to take reasonable steps to provide her a safe educational setting.

19 16. The conduct of defendant Davenport School District No. 207, whose administrators,
20 officials, and specifically defendant Patterson as well as school board members and teachers, with
21 actual knowledge knew, or should have known, of the overt, obvious and/or highly suspicious
22 nature of the conduct being committed by Charles Jungblom, were proximate causes of serious
23 injuries to plaintiffs and specifically plaintiff [REDACTED] including, without limitation, her
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25 ¹As that term is defined in *Estelle v. Gamble*, 429 U.S. 97 (1976).

1 self-esteem, her educational opportunities, her mental stability and the destruction of her familial
2 relationship. As a further proximate result thereof, plaintiff [REDACTED] suffered, and continues
3 to suffer, major clinical depression, post-traumatic stress disorder, mental anguish, anxiety,
4 humiliation, embarrassment, and physical and mental scarring. She was subjected by defendants
5 and their agent Charles Jungblom to unwelcome sexual misconduct so severe and pervasive that
6 it altered and continues to alter her educational and social environment. Plaintiff [REDACTED]
7 has been and continues to be the object of ridicule and humiliation by other persons. She and her
8 parents have, due to the acts of agents of defendant school district, been ostracized and perceived
9 in a bad light by many citizens of the Davenport community, Davenport School Board, City of
10 Davenport and Lincoln County government. On information and belief, it is alleged that plaintiff
11 [REDACTED] will continue to suffer substantial physical and psychological problems for an
12 indeterminate period of time.

13 V.

14 FIRST CAUSE OF ACTION:
15 DISCRIMINATION ON THE BASIS OF SEX
16 IN VIOLATION OF 20 U.S.C. §1681 (TITLE IX)

17 17. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through 16.

18 18. Defendants are directly and *strictly*² liable to plaintiff [REDACTED] pursuant to 20
19 U.S.C. §1681, *et seq.* (Title IX), by subjecting [REDACTED] to gender-based discrimination
20 including *quid pro quo* sexual harassment and *hostile environment* sexual harassment. Defendants
21 are likewise directly and *strictly* liable for the intentional acts of Charles Jungblom and the
22 malfeasance, misfeasance and nonfeasance, and failure to act of any principal, superintendent,
23 administrator and/or school board member that contributed to such discrimination. Defendants are
24 also liable under alternative agency principals for the failure to act of any employee who had

25 ²"Strictly" refers to *strict liability* as that term is used and/or defined by *Henson v. Dundee*, 682 F.2d 897 (11th Cir. 1982) and its progeny *Lipsett v. Univ. of Puerto Rico*, 864 F.2d 881 (1st Cir. 1988).

1 knowledge and did not report it to administrators and/or board members. The acts or failure to
2 act of defendants was accomplished with reckless indifference or tacit authorization.

3 VI.

4 SECOND CAUSE OF ACTION:
5 DEPRIVATION OF LIBERTY INTEREST
6 TO BE FREE FROM SEXUAL MOLESTATION

7 19. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through 18.

8 20. A "*special relationship*" existed between defendants and plaintiff [REDACTED] thus
9 creating an exception to the *DeShaney* rule.³ Defendants are thus liable to plaintiff [REDACTED]
10 pursuant to 42 U.S.C. §1983, *et seq.*, for deprivation of [REDACTED]' civil and constitutional
11 rights and interests in being protected from the intentional sexual molestation and exploitation by
12 Charles Jungblom while under the mandatory protective custody of defendant Davenport School
13 District No. 207. Likewise, defendants are liable to the plaintiff parents for deprivation of their
14 constitutionally protected rights.

15 VII.

16 THIRD CAUSE OF ACTION:
17 NEGLIGENT POLICY ADMINISTRATION, INVESTIGATION,
18 SUPERVISION/RETENTION OF EMPLOYEE AND
19 OTHER PENDANT STATUTORY AND COMMON LAW CLAIMS

20 21. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through 20.

21 22. At the time of the commencement of the aforesaid acts by Charles Jungblom, and
22 on numerous occasions thereafter, plaintiff [REDACTED] was required by law to "submit to the
23 authority" of Charles Jungblom pursuant to RCW 28A.58.200 and RCW 28A.600.040 and was
24 thereby in the mandatory protective custody of Davenport High School. As a result, defendant
25 Davenport School District No. 207 and its supervisors, administrators, and specifically defendant

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³*DeShaney v. Winnebago County Department of Social Services*, 489 U.S. 189 (1989), which held that the Due Process Clause confers "no affirmative right to governmental aid, even where such aid may be necessary to secure life, liberty, or property interests."

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1 Patterson, in addition to teachers, and employees, as qualified certified educators⁴, and its general
2 public school system administration⁵ had an affirmative duty to make appropriate policies,
3 disseminate them, create a procedure for reporting violations thereof, to anticipate dangers which
4 may reasonably be anticipated, and to then take precautions to protect its students including
5 plaintiff [REDACTED] from such dangers. Its failure in this regard is negligence.

6 23. Likewise, defendants, and specifically defendant Patterson, are subject to liability
7 to the plaintiffs for negligence in the investigation of complaints and failure to take prompt and
8 corrective action, negligence in supervision and retention of Charles Jungblom, who, but for such
9 multiple acts of negligence, would have previously been properly investigated, suspended and/or
10 disciplined for conduct with other female students, preventing him from beginning his involvement
11 with [REDACTED]. The claim of the plaintiff parents is both independent and derivative.

12 24. Defendants, and their agent employees, and specifically defendant Patterson, were
13 also negligent and/or negligent per se in failure to comply with certain laws and regulations of the
14 State of Washington, including but not limited to, RCW 28A.58.255 (now RCW 28A.230.080),
15 28A.04.132, 28A.58.101, 28A.58.1011, 28A.58.255, 28A.230.080, 28A.85.010, 28A.640.010,
16 28A.640.020, 26.44.030(1)(a)(c), 26.44.040, as well as all rules and regulations promulgated
17 pursuant to RCW 28A.41.170 and 28A.150.290. This negligence was a proximate cause of
18 damage to plaintiffs.

19 VIII.

20 FOURTH CAUSE OF ACTION:
21 DESTRUCTION OF FAMILIAL RELATIONSHIP

22 25. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through 24.

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24 ⁴As that term is used and/or defined in RCW 28A.58.1011 and RCW 28A.150.060.

25 ⁵As that term is defined by RCW 28A.150.070.

1 28. Equitable relief such as back pay or prospective relief are inappropriate, rather,
2 plaintiffs are entitled to the broadest of monetary damage remedies.⁸

3 29. As a direct and proximate cause of the defendants' aforementioned tortious conduct,
4 violation of protected civil rights and violation of statutory and common law, each and every
5 plaintiff has suffered substantial special and general damages of a type that would be normally
6 foreseeable.

7 30. As a direct and proximate result of the above-described acts of the defendants,
8 plaintiff [REDACTED] has suffered severe physical and emotional distress, inconvenience, pain and
9 suffering, humiliation, anxiety, loss of enjoyment of life, and other non-pecuniary losses as
10 previously alleged herein and will continue to so suffer in the future.

11 31. As a direct and proximate result of the above-described acts of the defendants,
12 plaintiff [REDACTED] has suffered damage to her education and educational potential,⁹ destruction
13 of her trust in her community and society in general, the destruction of plaintiff [REDACTED]

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⁸As enumerated by the Civil Rights Remedies Equalization Amendment of 1986, 42 U.S.C. §2000d-7(a)(2) and
17 *Franklin v. Gwinnett County Public Schools*, 112 S.Ct. 1028, 1032-38 (1992).

18 ⁹As defined by the "Basic Education Act Goals" in RCW 28A.150.210, which states in part:

19 The goal of the Basic Education Act for the schools of the state of Washington set forth
20 in this chapter shall be to provide students with the opportunity to become responsible
21 citizens, to contribute to their own economic well-being and to that of their families and
22 communities, and to enjoy productive and satisfying lives. To these ends, the goals of
23 each school district, with the involvement of parents and community members, shall be
24 to provide opportunities for all students to develop the knowledge and skills essential to:

25 . . . communicate effectively and responsibly in a variety of ways and
26 settings; . . .

27 Think analytically, logically, and creatively, and to integrate
28 experience and knowledge to form reasoned judgments and solve
problems; and

Understand the importance of work and how performance, effort, and
decisions directly affect future career and educational opportunities.

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1 faith in the values and traits¹⁰ determined important by the legislation of the state of Washington,
2 as well as past and future economic and/or earning capacity loss.

3 32. As a direct and proximate result of the above-described acts of the defendants,
4 plaintiff [REDACTED] relationship with her parents has been damaged.

5 33. As a direct and proximate result of the above-described acts of the defendants,
6 plaintiffs [REDACTED] and [REDACTED] have suffered severe emotional distress and mental anguish,
7 inconvenience, the loss of love, services, society and companionship of their daughter, and damage
8 to all facets of the parent-child relationship, past, present and future.

9 X.

10 JURY DEMAND

11 34. A jury trial is requested.

12 XI.

13 PRAYER

14 WHEREFORE, plaintiffs seeks the following relief:

- 15 1. Compensation for past, present and future medical and related health care expenses;
16 2. Compensatory damages for past, present and future pain, suffering and other
17 general and non-pecuniary damages as herein before alleged;
18 3. Compensatory damages for past, present and future loss of enjoyment of life;

19 ¹⁰As defined by RCW 28A.150.211 which states in part:

20 The legislature also recognizes that certain basic values and character traits are essential
21 to individual liberty, fulfillment, and happiness. . . These values and traits [for students]
include the importance of:

- 22 1. Honesty, integrity and trust;
23 2. Respect for self and others;
24 3. Responsibility for personal actions and commitments;
25 4. Self-discipline and moderation;
26 5. Diligence and a positive work ethic;
27 6. Respect for law and authority;
28 7. Healthy and positive behavior; and
8. Family as the basis of society.

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- 1 4. Compensatory damages for pecuniary losses including lost earning capacity, past
2 and future, and delayed educational opportunity;
- 3 5. For prejudgment interest on liquidated damages;
- 4 6. Punitive damages, if allowable under federal law, for violation of 20 U.S.C. §1681,
5 et seq.;
- 6 7. Reasonable attorneys fees and costs of litigation, pursuant to 42 U.S.C. §1988 or
7 other applicable law; and
- 8 8. For such other and further relief as the Court may deem just and equitable.

9 DATED this 18th day of September, 1995.

10 FELTMAN, GEBHARDT, EYMANN & JONES, P.S.

11 BY 

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13 Attorneys for Plaintiffs