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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
SEP 19 1995  
JAMES R. LARSEN, CLERK  
aes DEPUTY

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF WASHINGTON

**05-95-03824PVS**

[REDACTED], a single woman;  
and [REDACTED] and [REDACTED],  
husband and wife and parents of  
[REDACTED],

No.

Plaintiffs,

vs.

**COMPLAINT FOR DAMAGES  
AND DEMAND FOR  
JURY TRIAL**

DAVENPORT SCHOOL DISTRICT  
NO. 207, a political subdivision; and  
HAROLD PATTERSON, individually and  
in his capacity as Principal of Davenport  
High School,

Defendants.

COME NOW the plaintiffs, and each of them, by and through their undersigned attorney,  
Richard C. Eymann, and for their cause of action against the defendants allege as follows:

I.

**JURISDICTION**

This Court has jurisdiction over the subject matter of this suit pursuant to 28 U.S.C.  
§1334(2), (3) and (4), and 20 U.S.C. §1681, *et seq.* This Court has pendent jurisdiction over the  
state law claims.

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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 materials 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).

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6. Administrative conditions precedent to filing this suit have been met. The tortious and other claims set forth herein were presented to defendant Davenport School District No. 207 as required by RCW 4.96, et seq. No acceptable relief has been offered.

IV.

## OPERATIVE FACTS

7. Defendant Davenport School District No. 207 at all material times hereto, received federal assistance and state funding. Its acts, as herein alleged, were under color of statute, regulation, custom, or usage of state.

8. Beginning in the spring of 1992, and while plaintiff [REDACTED] was a 15 year old minor and in her sophomore year as a student at Davenport High School, Charles Jungblom, having been a "supervisor" since original employment with defendant Davenport School District No. 207 and having achieved the status of an official or quasi-official administrator, and acting as well in the capacity of teacher, coach and counselor, committed acts against [REDACTED] and her parents which were willful and intentional in nature. This conduct was preceded by years of suggestive and inappropriate behavior and/or illegal conduct with female students of defendant Davenport School District No. 207 which said defendant responded with deliberate indifference or tacit authorization. [REDACTED] was one such student in a series of student victims. In addition, as it specifically relates to plaintiff [REDACTED], Charles Jungblom, while having *direct authority* and/or *supervision* over her in two or more capacities, encouraged and extorted videos, one or more of which were the exploitation of [REDACTED] in child pornography, and all the while engaged in the destruction of plaintiff [REDACTED] familial relationship. These acts were accomplished through various mental and physical influences, including grooming, coercion, extortion, threats, persuasion, deception, bribery, misrepresentation, domination, power, intimidation, authority and control.

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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

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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*"<sup>1</sup> 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

25      <sup>1</sup>As that term is defined in *Estelle v. Gamble*, 429 U.S. 97 (1976).

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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*<sup>2</sup> 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 \_\_\_\_\_  
26 <sup>2</sup>"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).

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

VI.

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

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

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

VII.

**THIRD CAUSE OF ACTION:  
NEGIGENT POLICY ADMINISTRATION, INVESTIGATION,  
SUPERVISION/RETENTION OF EMPLOYEE AND  
OTHER PENDANT STATUTORY AND COMMON LAW CLAIMS**

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

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

<sup>3</sup>*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 educators<sup>4</sup>, and its general  
2 public school system administration<sup>5</sup> 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 ██████████ 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 ██████████. 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.

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

25 <sup>5</sup>As that term is defined by RCW 28A.150.070.

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26. The parent/child relationship between plaintiffs [REDACTED] and [REDACTED] and [REDACTED] is biological. The Washington state legislature has found and declared, "The bond between child and . . . her parent(s) is of paramount importance and any intervention in the life of the child is also intervention into the life of the parent(s). . . ." RCW 26.44.010. Prior to the tortious conduct of the defendants, the plaintiffs enjoyed a reasonably normal familial relationship which was secured by the First and Fourteenth Amendments to the United States Constitution and remedial through 42 U.S.C. §1983, "Civil Action for Deprivation of Rights," §1985(3), "Conspiracy to Interfere with Civil Rights--Depriving Persons of Rights or Privileges," and §1986, "Action for Neglect to Prevent." The home in which plaintiff [REDACTED] lived, prior to the tortious conduct of the defendant, was safe and free from physical, sexual, and emotional abuse, and such safety is secured by the Fourteenth Amendment to the United States Constitution and remedial through 42 U.S.C. §1983, §1985, and §1986. The malicious interference and *sexual exploitation*<sup>6</sup> and *abuse*<sup>7</sup> by Charles Jungblom, and the allowing of that interference by defendants damaged the familial relationship and other protected rights of the plaintiffs. As a proximate result of the conduct of defendants, the plaintiffs' familial relationship was disrupted, and despite the discontinuance of such interference, the damage continues and can be expected to continue for an indeterminate period of time and to some extent will be life-long.

IX.

## CAUSATION AND DAMAGES

27. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through 26.

<sup>6</sup>As defined by RCW 26.44.020(15).

<sup>7</sup>As defined by RCW 26.44.020(12).

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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.<sup>8</sup>

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,<sup>9</sup> destruction  
13 of her trust in her community and society in general, the destruction of plaintiff [REDACTED]

14  
15  
16          <sup>8</sup>As 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          <sup>9</sup>As 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 traits<sup>10</sup> 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 \_\_\_\_\_  
20 <sup>10</sup>As defined by RCW 28A.150.211 which states in part:  
21

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

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

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

DATED this 18<sup>th</sup> day of September, 1995.

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