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17 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

18 JANE DOE 1, JANE DOE 2, and
19 JANE DOE 3

20 Plaintiff,

21 vs.

22 CASTILLEJA SCHOOL FOUNDATION, a
23 California corporation, MARK HODES, and
24 ROES 1 through 50, inclusive,

25 Defendants.

Case No.

COMPLAINT FOR DAMAGES

- 26 **(1) Sexual Abuse of a Minor**
- 27 **(2) Negligence**
- 28 **(3) Negligent Misrepresentation**

[AMOUNT IN EXCESS OF \$25,000]

JURY TRIAL DEMANDED

29 Plaintiffs JANE DOE 1, JANE DOE 2, and JANE DOE 3 herein allege against
30 Defendants CASTILLEJA SCHOOL FOUNDATION, a California corporation, MARK
31 HODES, and ROES 1 through 50, as follows:

COMMON ALLEGATIONS

32 1. Plaintiffs JANE DOE 1, JANE DOE 2, and JANE DOE 3 were groomed and
33 sexually abused as minor students by MARK HODES [“HODES”], who served as a tutor on
34 CASTILLEJA SCHOOL FOUNDATION [“CASTILLEJA”]’s campus while Plaintiffs were

1 students at CASTILLEJA. CASTILLEJA did not properly train its employees to detect and
2 deter red flag grooming behaviors between adults and students, did not properly supervise
3 HODES or the students in their care, and chose not to investigate or report prior complaints
4 about HODES' inappropriate interactions with prior students. HODES was allowed
5 unsupervised access to CASTILLEJA's campus despite not being an employee of the school.
6 He also utilized CASTILLEJA's classrooms and/or office spaces wherein he conducted his
7 tutoring sessions and assaulted Plaintiffs.

8 2. Defendant CASTILLEJA is, and at all times mentioned herein was, a California
9 Corporation with its principal place of business at 1310 Bryant St, Palo Alto, CA 94301, County
10 of Santa Clara, State of California. At all relevant times, CASTILLEJA was charged with the
11 duty to so own, operate, manage, and/or oversee operations with due care, including the duty to
12 supervise adults and minor students on campus and/or to implement and enforce various
13 policies and procedures [such as education and training] for the safe education of students
14 entrusted to its care.

15 3. Defendant MARK HODES ["HODES"], a California resident, was at all relevant
16 times, a tutor who utilized CASTILLEJA's campus to conduct his tutoring sessions and who was
17 recommended to CASTILLEJA students and parents, by one or more CASTILLEJA employees.
18 At all times mentioned herein HODES was acting as an agent or apparent agent of
19 CASTILLEJA.

20 4. Plaintiff JANE DOE 1 was, at all relevant times, a California resident and minor
21 student at CASTILLEJA. In or about the 2012-2013 school year, while JANE DOE 1 was a
22 middle school student at CASTILLEJA, HODES, who was recommended to JANE DOE 1
23 and/or her parents by one or more CASTILLEJA employees, used his position of trust and
24 authority as a school-recommended tutor to gain access to JANE DOE 1 to sexually assault her
25 during tutoring sessions once a week in her home.

26 5. Plaintiff JANE DOE 2 was, at all relevant times, a California resident and minor
27 student at CASTILLEJA. From 2012-2016, while JANE DOE 2 was a high school student at
28 CASTILLEJA, HODES used his position of trust and authority as an on-campus tutor to gain

1 access to JANE DOE 2 to sexually assault her during tutoring sessions on campus and at his
2 home on a weekly basis.

3 6. Plaintiff JANE DOE 3 was, at all relevant times, a California resident and minor
4 student at CASTILLEJA. From 2007-2011, while JANE DOE 3 was a high school student at
5 CASTILLEJA, HODES used his position of trust and authority as an on-campus tutor to gain
6 access to JANE DOE 3 to sexually assault her on school grounds in a classroom during tutoring
7 sessions multiple times a week.

8 7. Plaintiffs are herein represented by pseudonyms due to their ages during the
9 subject period and the sensitive nature of the allegations of this complaint.

10 8. During the 2012-2013 school year, while JANE DOE 1 was a minor and a
11 middle school student at CASTILLEJA, HODES would touch Plaintiff inappropriately during
12 her once-a-week tutoring sessions. Beginning in or about November of 2012, HODES would
13 pull JANE DOE 1's chair towards him, separate his legs, and position himself such that her bare
14 knees touched his erect penis through his pants. HODES would also position himself directly
15 beside Plaintiff and rest his hands on her bare thigh, maneuvering it underneath her skirt just
16 shy of her underwear line, inches from her genitals. During these sessions, HODES would call
17 JANE DOE 1 pet names, such as "sweetie" and "love." This behavior continued until JANE
18 DOE 1 discontinued her sessions with HODES in or about January of 2013.

19 9. From 2012-2016, while JANE DOE 2 was a minor and a student at
20 CASTILLEJA, HODES served as a tutor for Plaintiff both at his home and on CASTILLEJA's
21 campus. During these sessions, HODES would grab Plaintiff's chair, pull her closer to him,
22 placing his hand on her bare upper thigh and gripping it, and engage in other inappropriate
23 behaviors. HODES would continue to maneuver his hand higher up her thigh until he reached
24 the area in which her underwear lining began. Throughout each session, HODES would move
25 beside Plaintiff and reach his arm across the desk so his upper arm would constantly be
26 touching her breasts. He would often keep his arm situated in that position for the duration of
27 the session. When Plaintiff would try to move away from him, HODES would pull her chair
28 back towards him and reposition himself in the same way as before.

1 10. From 2007-2011, while JANE DOE 3 was a minor and a student at
2 CASTILLEJA, she would meet HODES in a classroom in the basement of CASTILLEJA's
3 campus for tutoring sessions. During the session, HODES would rest his hand on Plaintiff's
4 leg, then slowly begin to move his hand to touch and rub her bare knee and upper inner thigh.
5 Feeling uncomfortable, Plaintiff would change positions or cross her legs so HODES would
6 move his hand. However, he was undeterred and continued to place his hand back on her leg
7 soon after she moved as well as engage in other inappropriate behaviors. HODES' behavior
8 occurred consistently throughout the four years Plaintiff was tutored by him.

9 11. Plaintiffs are informed and believe and thereon allege that, as of the 1992-1993
10 school year, CASTILLEJA knew, had reason to know, or was otherwise on notice that HODES
11 engaged in highly inappropriate grooming behavior with his minor female students, which
12 created a risk he would sexually assault one of them including but not limited to: inappropriate
13 touching, false imprisonment, and invasion of personal space. HODES' inappropriate behavior
14 was well known throughout campus, with students giving him nicknames like "Horny Hodes"
15 and "Molesting Mark." An employee of CASTILLEJA fielded these complaints about HODES,
16 which she reported to the head of the school. CASTILLEJA chose not to take any action in
17 response to these complaints by minor students other than moving his tutoring sessions from a
18 small private room into a more public space on campus and mandating that HODES sit across
19 the table from students as opposed to right next to them. However, CASTILLEJA employees
20 noticed soon after that HODES had moved from tutoring in the more public lounge space back
21 into a private room as soon as the head of the school left. Furthermore, in 1997, HODES was
22 kicked off of Palo Alto High School's campus, where he also tutored students, due to his sexual
23 abuse of a student. Upon information and belief, one or more CASTILLEJA employees
24 continued to recommend HODES as a tutor, allow him to freely access campus, and chose not
25 to take any further actions to deter his abuse of its students.

26 12. In June of 2020, the Palo Alto Police Department ["PAPD"] began investigating
27 HODES' misconduct after several victims came forward disclosing sexual abuse by HODES.
28 In August of 2020, HODES was arrested on a warrant for nine felony counts of lewd acts with a

1 minor aged 14 or 15.

2 13. The true names and/or capacities, whether individual, corporate, associate, or
3 otherwise, of defendants named herein as ROES 1 through 50, inclusive are unknown to
4 Plaintiffs at this time, and Plaintiffs therefore sue said defendants by such fictitious names.
5 Plaintiffs will seek leave to amend this Complaint to allege their true names and capacities
6 when the same have been ascertained. Plaintiffs are informed and believe and thereon allege
7 that each of the defendants designated herein as a ROE is responsible in some manner or is
8 otherwise legally liable to Plaintiffs for the injuries complained of herein.

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

15
16 **FIRST CAUSE OF ACTION**
Sexual Abuse of a Minor

17 As and for a First Cause of Action, Plaintiffs JANE DOE 1, JANE DOE 2, and JANE
18 DOE 3 herein allege against defendants CASTILLEJA SCHOOL FOUNDATION, a California
19 corporation, MARK HODES, and ROES 1 through 5 as follows:

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

22 16. As a tutor utilizing CASTILLEJA's campus and/or recommended to
23 CASTILLEJA students and/or their parents by one or more employees of CASTILLEJA,
24 HODES was under a duty to refrain from engaging in any harmful activity towards the minor
25 students entrusted to CASTILLEJA's care, including Plaintiffs.

26 17. HODES usurped his position of trust and authority as a tutor with full access to
27 CASTILLEJA's campus to groom and sexually abuse Plaintiffs when they were minors.

28

1 learn, free from inappropriate sexual displays, grooming behaviors, inappropriate touching,
2 and/or sexual abuse from tutors and others working in a position of trust and authority on school
3 grounds and/or recommended to Plaintiffs and/or their parents.

4 22. As Plaintiffs were minor students at CASTILLEJA, CASTILLEJA through its
5 employees/agents owed Plaintiffs a duty of care to, *inter alia*, properly supervise school
6 personnel, including agents, servants, employees and/or pseudo-employees, to detect and deter
7 inappropriate conduct around minor students; to properly supervise Plaintiffs to protect them
8 from potential dangers while on school grounds [including sexual abuse by their tutor on school
9 grounds], to implement and enforce adequate policies and procedures to prevent grooming of
10 minor students (such as ensuring doors and window coverings were open during one-on-one
11 tutoring sessions), and to repudiate predatory behavior by employees/agents.

12 23. For Plaintiffs' benefit and protection, as well as for all other children attending
13 CASTILLEJA schools, CASTILLEJA was obligated to properly train its employees, teachers,
14 and administrators as mandated reporters within the statutory scheme of The Child Abuse and
15 Neglect Reporting Act, Penal Code §11164 et seq. ["The Reporting Act."] The purpose of The
16 Reporting Act "is to protect children from abuse and neglect." Penal Code §11164(b). Such
17 training would include detection of predatory behaviors, such as grooming, as well as training
18 on reporting a reasonable suspicion of child abuse or child endangerment [Penal Code
19 §11165.3, 11165.6].

20 24. CASTILLEJA, through its agents, servants and/or employees, breached said
21 duties owed to Plaintiffs by, *inter alia*, failing to so detect and deter HODES' grooming
22 behaviors and sexual abuse, failing to properly supervise HODES on school grounds especially
23 in light of prior complaints of HODES' inappropriate interactions with students, failing to
24 properly supervise Plaintiffs on school grounds, failing to properly train personnel on detecting
25 and deterring predatory behaviors, failing to properly train personnel on mandatory reporting
26 obligations, failing to warn, train and educate the students on detecting and deterring predatory
27 behaviors, allowing HODES to continue tutoring students on school grounds despite receiving
28 prior complaints of HODES' inappropriate interactions with students, continuing to recommend

1 HODES to tutor CASTILLEJA students off campus despite prior complaints of HODES’
2 inappropriate interactions with students, failing to educate students and/or their parents on
3 predatory behaviors, failing to implement and enforce adequate policies and procedures to
4 prevent grooming and abuse, and/or failing to repudiate HODES’ predatory behavior as
5 hereinbefore alleged.

6 25. As a legal result of the foregoing, Plaintiffs were repeatedly sexually assaulted,
7 abused, and/or molested, and thereby suffered physical, mental, and emotional injuries, all to
8 their general damages as hereinbefore alleged.

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10 **THIRD CAUSE OF ACTION**
Negligent Misrepresentation

11 As and for a Third Cause of Action, Plaintiffs herein allege against defendants
12 CASTILLEJA SCHOOL FOUNDATION, a California corporation, and DOES 36 through 50,
13 and each of them, as follows:

14 Plaintiffs hereby incorporate all paragraphs of the Common Allegations and First and
15 Second Causes of Action, as though set forth in full herein.

16 26. Defendant CASTILLEJA and each of them, negligently concealed a material
17 fact by choosing not to notify Plaintiffs and their parents that HODES had sexually molested
18 numerous CASTILLEJA students in the past. Under the aforementioned Mandatory
19 Reporting Laws, defendants were under a duty to notify the authorities and were otherwise
20 under a fiduciary duty as the caretaker of all their minor students, including Plaintiffs, to notify
21 their parents of said sexual molestations. Instead, CASTILLEJA employees intentionally
22 chose to conceal this fact and continued to recommend him to parents as a well-reputed tutor
23 for years after the first complaint of his sexual misconduct.

24 27. Defendants negligently and carelessly chose not to apprise Plaintiffs of the
25 sexual crimes committed by HODES while they were under its care.

26 28. As a legal result of the foregoing, JANE DOE 1, JANE DOE 2, and JANE
27 DOE 3 were sexually abused by HODES, and Plaintiffs thereby suffered, and continue to
28 suffer, physical, mental and emotional distress in an amount to be ascertained.

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PRAYER

WHEREFORE, as to each and all causes of action, Plaintiffs pray for judgment as follows:

1. For general damages and other non-economic relief, according to proof;
2. For punitive damages against defendant HODES;
3. For prejudgment interest, as allowed by law;
4. For costs of suit herein;
5. For attorney’s fees pursuant to Civil Code §52; and
6. For such other and further relief as the court may deem fit and proper.

Dated: January 28, 2024

CERRI, BOSKOVICH & ALLARD LLP

By: 

LAUREN A. CERRI
Attorneys for Plaintiffs