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9 Attorneys for Defendant Beaumont Unified School District,  
10 a public entity

11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 Y.M. by and through her guardian ad  
14 litem NANCY P.,

15 Plaintiff,

16 vs.

17 BEAUMONT UNIFIED SCHOOL  
18 DISTRICT, a California public entity,  
19 and DOES 1 through 10, inclusive,

20 Defendants.

Case No.: 5:19-cv-1048-FMO-SP

**ANSWER TO COMPLAINT FOR  
DAMAGES; DEMAND FOR JURY  
TRIAL**

21 COMES NOW Defendant Beaumont Unified School District, a public  
22 entity, and in answering the plaintiff’s Complaint for Damages on file herein,  
23 admits, denies and alleges as follows:

24 **ADMISSIONS AND DENIALS**

25 1. In response to paragraph 1 of the Complaint for Damages, this  
26 answering defendant admits that jurisdiction is proper under 28 U.S.C. § 1331,  
27 given that plaintiff’s remaining claims are asserted under 42 U.S.C. § 12132 and  
28 29 U.S.C. § 794. Because all of plaintiff’s state law claims have been dismissed,  
this answering defendant denies that jurisdiction is proper under 28 U.S.C. § 1367.

1           2.     In response to paragraphs 2 and 4 of the Complaint for Damages, this  
2 answering defendant admits the allegations set forth therein.

3           3.     In response to paragraphs 3, 5, and 11 of the Complaint for Damages,  
4 this answering defendant is without sufficient knowledge or information to form a  
5 belief as to the truth of the allegations set forth therein, and on that basis, denies  
6 those allegations.

7           4.     In response to paragraphs 6, 12, 15, 16, 18, 19, 21, 22, 23, 24, 25, 26,  
8 28, 36, 37, 39, 40, 41, 42, 46, 47, 49, and 51 of the Complaint for Damages, this  
9 answering defendant denies each and every allegation set forth therein.

10          5.     In response to paragraph 8 of the Complaint for Damages, this  
11 answering defendant admits that Beaumont High School is within the Beaumont  
12 Unified School District, but denies that plaintiff currently attends Beaumont High  
13 School. As to the remaining allegations set forth therein, this answering defendant  
14 is without sufficient knowledge or information to form a belief as to the truth of  
15 those allegations and, on that basis, denies those allegations.

16          6.     This answering defendant is not responding to paragraphs 9 and 52-  
17 100 of the Complaint for Damages, given that those paragraphs solely relate to  
18 legal claims that have been dismissed by the Court; therefore, no response is  
19 required.

20          7.     In response to paragraphs 10 and 35 of the Complaint for Damages,  
21 this answering defendant admits that it is a duly organized public entity under the  
22 laws of the State of California, and that Beaumont Unified School District is  
23 located within the County of Riverside. This answering defendant further admits  
24 that it receives funds from the United States government and the State of  
25 California, and that it employs over 50 employees. As to the remaining allegations  
26 set forth therein, this answering defendant denies those allegations.

27          8.     In response to paragraphs 14, 29, and 43 of the Complaint for  
28 Damages, this answering defendant incorporates its admissions and denials to each

1 of the preceding paragraphs.

2 9. In response to paragraph 17 of the Complaint for Damages, this  
3 answering defendant admits that plaintiff’s mother first sought to have plaintiff  
4 placed on a cheerleading team at Beaumont High School in 2015. As to the  
5 remaining allegations set forth therein, this answering defendant denies those  
6 allegations.

7 10. In response to paragraph 20 of the Complaint for Damages, this  
8 answering defendant admits that plaintiff was placed on a cheerleading team at  
9 Beaumont High School in 2015, without having to try out. As to the remaining  
10 allegations set forth therein, this answering defendant denies those allegations.

11 11. In response to paragraphs 27, 30, 31, 32, 33, 34, 36, 38, 44, 45, 48,  
12 50, of the Complaint for Damages, this answering defendant asserts that the law  
13 speaks for itself.

14 **AFFIRMATIVE DEFENSES**

15 1. Plaintiff fails to state a claim arising under Title II of the Americans  
16 with Disabilities Act (“ADA”).

17 2. Plaintiff fails to state a claim arising under Section 504 of the  
18 Rehabilitation Act.

19 3. Plaintiff’s claims for violation of the ADA and Section 504 of the  
20 Rehabilitation Act are barred by the applicable statute of limitations.

21 4. Any recovery on the plaintiff’s Complaint for Damages, or any  
22 purported claim or cause of action alleged therein, is barred in whole or in part by  
23 the plaintiff’s failure to mitigate her damages.

24 5. Plaintiff’s action is barred in whole or in part by the doctrines of  
25 waiver, estoppel, laches, and/or unclean hands.

26 6. Plaintiff failed to exhaust all of her administrative remedies prior to  
27 filing this lawsuit.

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1           7.     Plaintiff was not denied participation in, or the benefits of, the extra-  
2 curricular cheerleading program at Beaumont High School because of her asserted  
3 disability.

4           8.     The service, program, and/or activity of cheerleading at Beaumont  
5 High School was accessible to individuals with disabilities, as demonstrated by the  
6 fact that plaintiff participated in the cheerleading program at Beaumont High  
7 School.

8           9.     Plaintiff is not a “qualified individual” with a disability because, with  
9 or without reasonable modifications or accommodations, she could not meet  
10 essential eligibility requirements for participation in the cheerleading program at  
11 Beaumont High School.

12          10.    No reasonable modification to the eligibility requirements existed as  
13 to enable plaintiff to meet the essential requirements for participation in the  
14 cheerleading program at Beaumont High School.

15          11.    No reasonable accommodations existed as to enable plaintiff to meet  
16 the essential requirements for participation in the cheerleading program at  
17 Beaumont High School.

18          12.    Defendant made a good-faith effort to identify and implement  
19 reasonable modifications to the cheerleading program to provide plaintiff with  
20 equal access to the cheerleading program at Beaumont High School.

21          13.    Defendant made a good-faith effort to identify and provide reasonable  
22 accommodations to plaintiff to provide her with an equally effective opportunity to  
23 participate in the cheerleading program at Beaumont High School.

24          14.    Compliance with plaintiff’s requests would have required a  
25 fundamental alteration in the nature of the sport of cheerleading at Beaumont High  
26 School and/or impose an undue burden on defendant.

27          15.    Allowing plaintiff to participate in all levels of the cheerleading  
28 program would have posed a threat of injury or harm to plaintiff and other

1 cheerleaders.

2 16. The skill requirements for participation in the cheerleading program at  
3 Beaumont High School were not intended to discriminate against the disabled.

4 17. Defendant did not act with the purpose or intent of discriminating  
5 against plaintiff because of her disability.

6 18. Defendant took reasonable care to prevent and correct promptly any  
7 disability-based discriminatory behavior. Defendant has an effective policy  
8 against disability-based discrimination with a complaint procedure. To the extent  
9 that plaintiff, through her parents, reasonably utilized the complaint procedure,  
10 appropriate and corrective action was taken.

11 19. Plaintiff unreasonably failed to fully take advantage of any  
12 preventative or corrective opportunities provided by defendant in a timely manner.

13 20. Defendant contests the availability of monetary or compensatory  
14 damages under Title II of the ADA and Section 504 of the Rehabilitation Act.

15 21. Plaintiff is not entitled to injunctive relief because plaintiff failed to  
16 show a substantial likelihood that plaintiff will prevail on the merits, that plaintiff  
17 will suffer irreparable injury if the injunction is not issued, that the threatened  
18 injury to plaintiff outweighs the potential harm to defendant, and that the  
19 injunction, if issued, would not be adverse to the public interest.

20 22. Punitive damages are not recoverable under Title II of the ADA or  
21 Section 504 of the Rehabilitation Act.

22 23. Punitive damages are not available against public entities.

23 24. Plaintiff lacks the capacity to bring this action and has failed to take  
24 the appropriate steps to have a conservator appointed to act on her behalf in this  
25 litigation.

26 25. Plaintiff's Guardian ad Litem lacks the capacity to pursue the actions  
27 pled in the Complaint.

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1           26. This answering defendant reserves the right to amend this Answer to  
2 include additional affirmative defenses that may become known.

3           WHEREFORE, this answering defendant prays as follows:

4           1. That the plaintiff takes nothing by way of her Complaint for  
5 Damages.

6           2. That this answering defendant recovers the costs of suit incurred  
7 herein.

8           3. That this answering defendant recovers his reasonable attorney's fees  
9 incurred herein.

10          4. That the Court award such other and further relief as it deems just and  
11 proper.

12  
13 DATED: August 21, 2020

CARPENTER, ROTHANS & DUMONT

/s/ Danielle C. Foster

14  
15 By: \_\_\_\_\_

16 LOUIS R. DUMONT  
17 JOHN J. STUMREITER  
18 DANIELLE C. FOSTER  
19 Attorneys for Defendant  
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**DEMAND FOR JURY TRIAL**

Pursuant to United States District Court for the Central District of California  
Local Civil Rule 38-1, Defendant Beaumont Unified School District hereby  
demands a jury trial as provided in Rule 38(b) of the Federal Rules of Civil  
Procedure.

DATED: August 21, 2020

CARPENTER, ROTHANS & DUMONT

/s/ Danielle C. Foster

By: \_\_\_\_\_

LOUIS R. DUMONT  
JOHN J. STUMREITER  
DANIELLE C. FOSTER  
Attorneys for Defendant