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FILED
Superior Court of California
County of Riverside
8/27/2021
J. Barajas
Electronically Filed

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF RIVERSIDE**

11 BRADY BLAIR, an individual, and JUSTIN
MACGREGOR, an individual,

12 Plaintiffs,

13 v.

14 MORENO VALLEY UNIFIED SCHOOL
15 DISTRICT; and DOES 1 through 5, inclusive,

16 Defendants.

Case No. CVRI2102718

**FIRST AMENDED COMPLAINT FOR
DAMAGES**

1. NEGLIGENCE

**2. NEGLIGENT HIRING, TRAINING,
SUPERVISION, AND RETENTION**

DEMAND FOR JURY TRIAL

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20 Plaintiffs BRADY BLAIR, an individual, and JUSTIN MACGREGOR, an individual, for
21 Causes of Action against Defendants MORENO VALLEY UNIFIED SCHOOL DISTRICT and
22 DOES 1 through 5, inclusive, complains and alleges as follows:

23 **GENERAL ALLEGATIONS**

24 1. This lawsuit arises from Defendants' negligent and reckless conduct which resulted
25 in Plaintiffs BRADY BLAIR and JUSTIN MACGREGOR being groomed and repeatedly sexually
26 abused by Thomas Lee West.

27 2. From approximately 1996 through 1999, when Plaintiffs BRADY BLAIR and
28 JUSTIN MACGREGOR were sixth through eighth grade students in MORENO VALLEY

1 UNIFIED SCHOOL DISTRICT, they were groomed by and subsequently abused by MORENO
2 VALLEY UNIFIED SCHOOL DISTRICT's employee Thomas Lee West.

3 **PARTIES**

4 3. Plaintiff BRADY BLAIR is an adult male under the age of 40 who currently
5 resides in Spokane County, Washington State. At all times relevant he was a minor child and
6 student in MORENO VALLEY UNIFIED SCHOOL DISTRICT.

7 4. Plaintiff JUSTIN MACGREGOR is an adult male under the age of 40 who
8 currently resides in Washoe County, State of Nevada. At all times relevant he was a minor child
9 and student in MORENO VALLEY UNIFIED SCHOOL DISTRICT.

10 5. MORENO VALLEY UNIFIED SCHOOL DISTRICT was a public entity located
11 in the County of Riverside, California, which managed, controlled, and/or operated Vista Heights
12 Middle School in Moreno Valley, California.

13 6. The true names and capacities, whether individual, plural, corporate, partnership,
14 associate, or otherwise, of DOES 1 through 5, inclusive, are unknown to Plaintiffs who therefore
15 sue said defendants by such fictitious names. The full extent of the facts linking such fictitiously
16 sued defendants is unknown to Plaintiffs. Plaintiffs are informed and believe, and thereupon
17 allege, that each of the defendants designated herein as a DOE was, and is, negligent, or in some
18 other actionable manner, responsible for the events and happenings hereinafter referred to, and
19 thereby negligently, or in some other actionable manner, legally and proximately caused the
20 hereinafter described injuries and damages to Plaintiffs. Plaintiffs will hereafter seek leave of the
21 Court to amend this Complaint to show the defendants' true names and capacities after the same
22 have been ascertained.

23 7. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
24 herein, DOES 1 through 5, inclusive, were agents, servants, employees, successors in interest,
25 and/or joint ventures of their co-defendants, and were, as such, acting within the course, scope,
26 and authority of said agency, employment, and/or venture, and that each and every Defendant, as
27 foresaid, when acting as a principal, was negligent in the selection and hiring of each and every
28 other Defendant as an agent, servant, employee, successor in interest, and/or joint venture.

DUTIES OF DEFENDANTS

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2 8. At all times herein relevant, Plaintiffs were attending Vista Heights Middle School,
3 which was managed, controlled, and/or operated by MORENO VALLEY SCHOOL DISTRICT
4 and were therefore in the care of Defendant MORENO VALLEY SCHOOL DISTRICTS.

5 9. Article I, Section 28(c) of the California Constitution provides that all public-
6 school students "have the inalienable right to attend campuses which are safe, secure, and
7 peaceful."

8 10. California law has long imposed on schools an affirmative duty to supervise at all
9 times the conduct of children on school grounds and to enforce the rules and regulations necessary
10 to protect students.

11 11. "The standard of care imposed upon school personnel in carrying out this duty to
12 supervise is identical to that required in the performance of their other duties. This uniform
13 standard to which they are held is that degree of care 'which a person of ordinary prudence,
14 charged with [comparable] duties, would exercise under the same circumstances.' Either a total
15 lack of supervision or ineffective supervision may constitute a lack of ordinary care on the part of
16 those responsible for student supervision. Under section 815.2, subdivision (a) of the Government
17 Code, a school district is vicariously liable for injuries proximately caused by such negligence."
18 *C.A. v. William S. Hart Union High School Dist.* (2012) 53 Cal.4th 861, 869 9 (*citations omitted*).

19 12. Public employees have a duty of care and are statutorily liable for injury caused by
20 their act or omission to the same extent as a private person would be, as provided by Government
21 Code Section 820(a).

22 13. A special relationship existed at all relevant times between Defendants MORENO
23 VALLEY SCHOOL DISTRICT and DOES 1 through 5, inclusive, and its students, including
24 Plaintiffs BRADY BLAIR and JUSTIN MACGREGOR.

25 14. In the school setting, the special relationship arises from the comprehensive control
26 over students exercised by school personnel and is "analogous in many ways to the relationship
27 between parents and their children." *Hoff v. Vacaville Unified School Dist.* (1998) 19 Cal.4th 925,
28 935. Because of this special relationship, the duty owed by school personnel includes the duty to

1 use reasonable measures to protect students from foreseeable injury at the hands of third parties.
2 See, e.g., *J.H. v. Los Angeles Unified School Dist.* (2010) 183 Cal.App.4th 123, 141–148 [injury
3 of one student by another].

4 15. Because of this special relationship, imposing obligations beyond what each person
5 generally owes others under Civil Code section 1714, the duty of care owed by school personnel
6 includes the duty to use reasonable measures to protect students from foreseeable injury at the
7 hands of third parties acting negligently or intentionally. *C.A. v. William S. Hart Union High*
8 *School Dist.* (2012) 53 Cal.4th 861, 870.

9 16. Responsibility for the safety of public school students is not borne solely by
10 instructional personnel. School principals and other supervisory employees, to the extent their
11 duties include overseeing the educational environment and the performance of teachers and
12 counselors, also have the responsibility of taking reasonable measures to guard pupils against
13 harassment and abuse from foreseeable sources. *C.A. v. William S. Hart Union High School Dist.*
14 (2012) 53 Cal.4th 861, 871.

15 17. “Every teacher in the public schools shall hold pupils to a strict account for their
16 conduct on the way to and from school, on the playgrounds, or during recess.” Education Code §
17 44807.

18 18. The principal is responsible for the supervision and administration of their school.
19 Cal.Code Regs., tit. 5, § 5551. The principal has the necessary power which is inherent in their
20 office to properly administer and supervise their school. *McGrath v. Burkhard* (1955) 131
21 Cal.App.2d 367.

22 19. When a district has undertaken a school-sponsored activity off the premises of the
23 school they must exercise reasonable care under the circumstances and are liable and responsible
24 for the conduct and safety of any pupil while they are, or should be, under the immediate and
25 direct supervision of an employee of the district. Education Code § 44808.

26 20. California Government Code Section 815.6 states that “Where a public entity is
27 under a mandatory duty imposed by an enactment that is designed to protect against the risk of a
28 particular kind of injury, the public entity is liable for an injury of that kind proximately caused by

1 its failure to discharge the duty unless the public entity establishes that it exercised reasonable
2 diligence to discharge the duty.”

3 21. Defendant MORENO VALLEY UNIFIED SCHOOL DISTRICT is liable for any
4 breach of said duties by its employees, agents, servants and/or joint ventures, including Thomas
5 Lee West and DOES 1 through 5, inclusive, under the legal theory of *respondet superior*, as
6 provided under California Government Code Sections 815.2 and 820.

7 **FACTUAL ALLEGATIONS**

8 22. In approximately 1996, Thomas Lee West became a sixth-grade teacher at Vista
9 Heights Middle School in Moreno Valley, California.

10 23. From 1996 to 1999, Thomas Lee West began grooming and sexually abusing
11 students at the school including Plaintiffs BRADY BLAIR and JUSTIN MACGREGOR.

12 24. Prior to his contact with Plaintiffs BRADY BLAIR and JUSTIN MACGREGOR,
13 in approximately 1992, Thomas Lee West faced 10 counts of felony child molestation on his
14 foster son. West ultimately plead the charges down to one misdemeanor count. He served 120
15 days in jail.

16 25. The grooming behaviors included hosting wrestling parties with young students at
17 the school and other events at Thomas Lee West’s home. This was accompanied with escalating
18 touching, fondling and sexual abuse, including photographs of child sex abuse.

19 26. At all times relevant Thomas Lee West was over the age of 21, and more than ten
20 years older than Plaintiffs BRADY BLAIR and JUSTIN MACGREGOR.

21 27. Defendant MORENO VALLEY UNIFIED SCHOOL DISTRICT, and DOES 1
22 through 5, failed to appropriately care for, supervise, and monitor Plaintiffs BRADY BLAIR and
23 JUSTIN MACGREGOR.

24 28. MORENO VALLEY UNIFIED SCHOOL DISTRICT employed Thomas Lee West
25 as a teacher even though it knew or should have known that Thomas Lee West posed a threat and
26 danger to children, including Plaintiffs, of endangerment, including sexual harassment, assault,
27 and abuse.

28 29. In 2003, the Riverside County District Attorney filed charges against Thomas Lee

1 West. In 2006, Thomas Lee West was found guilty of 10 felony counts of child molestation.

2 30. Plaintiff is informed and believes, and thereon alleges, MORENO VALLEY
3 UNIFIED SCHOOL DISTRICT and its employees fostered, maintained, and allowed an
4 environment for its students to fall victim to sexual abuse/molestation/harassment at the hands of
5 Thomas Lee West. MORENO VALLEY UNIFIED SCHOOL DISTRICT including teachers,
6 administration, assistants and agents had warnings and information that caused each of them to
7 know, or reasonably suspect, Plaintiffs were victims of child abuse/molestation/harassment.

8 31. At all times relevant Defendants MORENO VALLEY UNIFIED SCHOOL
9 DISTRICT and DOES 1 through 5, inclusive, knew or should have known that Thomas Lee West
10 was unfit and incompetent to serve as a teacher and/or school staff and work with children, and
11 this unfitness and incompetence created a risk of harm to the children enrolled at Vista Heights
12 Middle School, including a risk of sexual assault.

13 32. MORENO VALLEY UNIFIED SCHOOL DISTRICT further fostered and
14 maintained an environment for its students to fall victim to sexual abuse, molestation and
15 harassment by its failure to supervise and monitor its workers at Vista Heights Middle School,
16 including Thomas Lee West. This allowed an environment of no oversight or supervision that
17 made it conducive to molest, abuse, and harass the Vista Heights Middle School students,
18 including Plaintiffs BRADY BLAIR and JUSTIN MACGREGOR.

19 33. The implied and actual approval and supervision of Thomas Lee West by
20 MORENO VALLEY UNIFIED SCHOOL DISTRICT was reasonably relied upon by Plaintiffs,
21 their families, including their parents, in trusting Thomas Lee West as a person who was safe and
22 could be trusted with the supervision, care, custody, and control of children, including Plaintiffs.

23 34. Based upon information and belief, MORENO VALLEY UNIFIED SCHOOL
24 DISTRICT neither had in place, nor implemented, a system/procedure for investigation and/or
25 supervising personnel to prevent pre-sexual grooming and/or sexual harassment, molestation, and
26 abuse of the students at its schools, which included Plaintiffs BRADY BLAIR and JUSTIN
27 MACGREGOR.

28 35. MORENO VALLEY UNIFIED SCHOOL DISTRICT failed to properly and

1 adequately train its agents and employees to investigate reports/concerns; supervise Thomas Lee
2 West; supervise its students, including Plaintiffs; and comply with mandated reporting
3 requirements. These failures to properly and adequately respond and act by MORENO VALLEY
4 UNIFIED SCHOOL DISTRICT, despite the fact they knew, or should have known, of Thomas
5 Lee West's inappropriate behavior and conduct, fostered the situation and enabled the sexual
6 abuse and molestation of Plaintiffs BRADY BLAIR and JUSTIN MACGREGOR.

7 36. Plaintiff is informed and believes, and thereon alleges, MORENO VALLEY
8 UNIFIED SCHOOL DISTRICT knew, or should have known, and/or were put on notice of
9 Thomas Lee West's propensity and disposition to engage in sexual abuse, molestation, and
10 harassment of a minor. Consequently, MORENO VALLEY UNIFIED SCHOOL DISTRICT
11 knew, or should have known, or with reasonable diligence on behalf of MORENO VALLEY
12 UNIFIED SCHOOL DISTRICT, should have known, that Thomas Lee West would commit
13 wrongful acts with minors, including Plaintiffs BRADY BLAIR and JUSTIN MACGREGOR.
14 MORENO VALLEY UNIFIED SCHOOL DISTRICT's agents and employees failed to realize,
15 supervise, investigate, prevent, train, and discover the sexual abuse, physical abuse, molestation,
16 and/or harassment that was occurring during the school hours on the Vista Heights Middle School
17 campus, as well as off-campus during non-classroom time and off-campus during school-
18 sanctioned trips. Unfortunately, the staff and administration of MORENO VALLEY UNIFIED
19 SCHOOL DISTRICT chose to turn a blind eye to the ongoing sexual abuse, molestation, and/or
20 harassment of their student, at the hands of Thomas Lee West.

21 37. Defendants MORENO VALLEY UNIFIED SCHOOL DISTRICT, and DOES 1
22 through 5 acted with negligence, recklessness, contrary to law, and with a conscious disregard of
23 the rights and safety of the Plaintiffs by failing to supervise, monitor, protect, and control the
24 conduct of their employees, including Thomas Lee West. Plaintiffs BRADY BLAIR and JUSTIN
25 MACGREGOR's injuries are a direct and proximate result of their actions and failures to act.

26 38. Plaintiffs BRADY BLAIR and JUSTIN MACGREGOR are excused from
27 complying with the Tort Claims Act, because Plaintiffs' claims are made pursuant to Section
28 340.1 of California *Code of Civil Procedure*, for the recovery of damages suffered as a result of

1 childhood sexual abuse, and is therefore exempt from the requirements of the Torts Claims Act,
2 pursuant to Government Code section 905(m).

3 **FIRST CAUSE OF ACTION**

4 **(CLAIM FOR NEGLIGENCE as to MORENO VALLEY UNIFIED SCHOOL DISTRICT**
5 **and DOES 1 through 5, inclusive)**

6 39. Plaintiffs re-allege and incorporate herein by reference each allegation and
7 statement contained in the prior paragraphs.

8 40. Plaintiffs hereby allege that MORENO VALLEY UNIFIED SCHOOL DISTRICT
9 owed a duty of reasonable care to supervise and protect its students including, but not limited to,
10 Plaintiffs BRADY BLAIR and JUSTIN MACGREGOR. Furthermore, the MORENO VALLEY
11 UNIFIED SCHOOL DISTRICT's personnel, employees and/or agents also owe the same duty of
12 reasonable care in carrying out the performance of their duties. MORENO VALLEY UNIFIED
13 SCHOOL DISTRICT, through its employees and/or agents, owe a duty of care to use reasonable
14 measures to protect students from foreseeable injury at the hands of third parties acting negligently
15 or intentionally.

16 41. Plaintiffs further allege that MORENO VALLEY UNIFIED SCHOOL DISTRICT
17 DOES 1 through 5, inclusive, through its employees and/or agents, breached their duty of
18 reasonable care to Plaintiffs, in their hiring and failing to supervise, train, oversee, reprimand,
19 prevent, investigate, terminate, monitor, and continuing to employ Thomas Lee West when they
20 knew, or should have known, that Thomas Lee West was a danger to the safety and well-being of
21 the children/students of Vista Heights Middle School, including Plaintiffs.

22 42. MORENO VALLEY UNIFIED SCHOOL DISTRICT, and DOES 1 through 5,
23 inclusive, hired and failed to properly and adequately supervise, monitor, reprimand, protect,
24 report and furthermore, continued to employ and allow Thomas Lee West to remain at Vista
25 Heights Middle School, even after MORENO VALLEY UNIFIED SCHOOL DISTRICT and
26 DOES 1 through 5 knew, or should have known, of the inappropriate conduct, including, but not
27 limited to, the sexual abuse, molestation, and harassment by Thomas Lee West to MORENO
28 VALLEY UNIFIED SCHOOL DISTRICT's students, including Plaintiffs.

1 43. As a direct and proximate result of the conduct of MORENO VALLEY UNIFIED
2 SCHOOL DISTRICT, and DOES 1 through 10, inclusive, Plaintiffs were subjected to sexual
3 battery and sexual assault by Thomas Lee West, causing severe emotional distress to Plaintiffs.

4 44. As a legal, direct and proximate result of the aforementioned conduct of
5 Defendants MORENO VALLEY UNIFIED SCHOOL DISTRICT and DOES 1 through 5,
6 inclusive, and each of them, Plaintiffs have been injured and hurt in their health, strength and
7 activity, and shock and injury to their nervous systems and persons, all of which said injuries have
8 caused and continue to cause Plaintiffs great mental pain and suffering. Plaintiffs are further
9 informed and believe, and thereon allege, that said injuries will result in some or all permanent
10 disabilities to their general damages in an amount which will be stated according to proof,
11 pursuant to California Code of Civil Procedure Section 425.10.

12 45. As a legal, direct and proximate result of the aforementioned conduct of
13 Defendants MORENO VALLEY UNIFIED SCHOOL DISTRICT, and DOES 1 through 5,
14 inclusive, and each of them, Plaintiffs will also sustain a loss of earning capacity and loss of
15 opportunity, as well as additional economic damages, according to proof, pursuant to California
16 Code of Civil Procedure Section 425.10.

17 46. As a legal, direct and proximate result of the aforementioned conduct of the
18 Defendants MORENO VALLEY UNIFIED SCHOOL DISTRICT, and DOES 1 through 5,
19 inclusive, and each of them, Plaintiffs have been compelled to and did and will continue to employ
20 the services of hospitals, physicians, surgeons, nurses and the like, to care for and treat them, and
21 did incur hospital, medical, professional and incidental expenses, and Plaintiffs are informed and
22 believes, and thereon allege, that by reason of their injuries, will necessarily incur additional like
23 expenses for an indefinite period of time in the future, the exact amount of which expenses will be
24 stated according to proof, pursuant to California Code of Civil Procedure Section 425.10.

25 **SECOND CAUSE OF ACTION**

26 **(NEGLIGENT HIRING, TRAINING, SUPERVISION, AND RETENTION and DOES 1**
27 **through 5, inclusive)**

28 47. Plaintiffs re-allege and incorporate herein by reference each allegation and

1 statement contained in the prior paragraphs.

2 48. Thomas Lee West was hired, employed, trained, and/or supervised by MORENO
3 VALLEY UNIFIED SCHOOL DISTRICT and DOES 1 through 5, inclusive.

4 49. Thomas Lee West was unfit and/or incompetent to perform the work for which he
5 was hired to perform.

6 50. MORENO VALLEY UNIFIED SCHOOL DISTRICT, and DOES 1 through 5,
7 inclusive, knew or should have known that Thomas Lee West was unfit and/or incompetent and
8 that his unfitness and/or incompetence created a particular risk to Plaintiffs BRADY BLAIR and
9 JUSTIN MACGREGOR.

10 51. Thomas Lee West's unfitness and/or incompetence harmed Plaintiffs BRADY
11 BLAIR and JUSTIN MACGREGOR.

12 52. MORENO VALLEY UNIFIED SCHOOL DISTRICT and DOES 1 through 5,
13 inclusive, negligence in hiring, training, supervision, and/or retention of Thomas Lee West was a
14 substantial factor in causing Plaintiffs BRADY BLAIR and JUSTIN MACGREGOR'S harm.

15 53. As a direct and proximate result of the conduct of MORENO VALLEY UNIFIED
16 SCHOOL DISTRICT, and DOES 1 through 10, inclusive, Plaintiffs were subjected to sexual
17 battery and sexual assault by Thomas Lee West, causing severe emotional distress to Plaintiffs.

18 54. As a legal, direct and proximate result of the aforementioned conduct of
19 Defendants MORENO VALLEY UNIFIED SCHOOL DISTRICT and DOES 1 through 5,
20 inclusive, and each of them, Plaintiffs have been injured and hurt in their health, strength and
21 activity, and shock and injury to their nervous systems and persons, all of which said injuries have
22 caused and continue to cause Plaintiffs great mental pain and suffering. Plaintiffs are further
23 informed and believe, and thereon allege, that said injuries will result in some or all permanent
24 disabilities to their general damages in an amount which will be stated according to proof,
25 pursuant to California Code of Civil Procedure Section 425.10.

26 55. As a legal, direct and proximate result of the aforementioned conduct of
27 Defendants MORENO VALLEY UNIFIED SCHOOL DISTRICT, and DOES 1 through 5,
28 inclusive, and each of them, Plaintiffs will also sustain a loss of earning capacity and loss of

1 opportunity, as well as additional economic damages, according to proof, pursuant to California
2 Code of Civil Procedure Section 425.10.

3 56. As a legal, direct and proximate result of the aforementioned conduct of the
4 Defendants MORENO VALLEY UNIFIED SCHOOL DISTRICT, and DOES 1 through 5,
5 inclusive, and each of them, Plaintiffs have been compelled to and did and will continue to employ
6 the services of hospitals, physicians, surgeons, nurses and the like, to care for and treat them, and
7 did incur hospital, medical, professional and incidental expenses, and Plaintiffs are informed and
8 believes, and thereon allege, that by reason of their injuries, will necessarily incur additional like
9 expenses for an indefinite period of time in the future, the exact amount of which expenses will be
10 stated according to proof, pursuant to California Code of Civil Procedure Section 425.10.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiffs BRADY BLAIR and JUSTIN MACGREGOR, pray for
13 judgment against Defendants MORENO VALLEY UNIFIED SCHOOL DISTRICT, and DOES 1
14 through 5, inclusive, and each of them, as follows:

15 1. For general damages (also known as non-economic damages), including but not
16 limited to, past and future pain and suffering, in an amount in excess of the jurisdictional minimum,
17 according to proof;

18 2. For special damages (also known as economic damages), including but not limited
19 to past and future hospital, medical, professional, and incidental expenses as well as past and future
20 loss of earnings, loss of opportunity, and loss of earning capacity, in excess of the jurisdictional
21 minimum, according to proof;

22 3. For prejudgment interest, according to proof;

23 4. For costs of suit incurred herein, according to proof; and

24 5. For such other and further relief as the Court may deem just and proper.
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DATED: August 27, 2021

PANISH SHEA & BOYLE LLP

By: 


Spencer R. Lucas
Attorneys for Plaintiffs

PLAINTIFFS' DEMAND FOR JURY TRIAL

PLAINTIFFS hereby demand a trial by jury as to all causes of action.

DATED: August 27, 2021

PANISH SHEA & BOYLE LLP

By: 

Spencer R. Lucas
Attorneys for Plaintiffs