

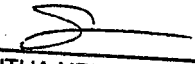
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

DEC 21 2017

BY 
SAMANTHA NEUBAUER, DEPUTY

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **FOR THE COUNTY OF SAN BERNARDINO**

BY FAX

14 CARTER ISON, a minor by and through his
15 Guardian ad Litem, Jodi Ison; JODI ISON;
16 DESHAUN BOATWRIGHT, a minor by and
17 through his Guardian ad Litem, Jennifer Boatwright;
18 JENNIFER BOATWRIGHT; BENJAMIN
19 ENRIQUEZ, JR., a minor by and through his
20 Guardian ad Litem, Benjamin Enriquez, Sr.;
21 BENJAMIN ENRIQUEZ, SR.; JOCELYN A.
22 GARCIA, a minor by and through her Guardian ad
23 Litem, Jaime Garcia; JAIME GARCIA; MARVIN
24 MANCIA, a minor by and through his Guardian ad
25 Litem, Maria Teresa Mancía; MARIA TERESA
26 MANCIA; MARISSA I. PEREZ, a minor by and
27 through her Guardian ad Litem, Elizabeth Barajaz;
28 ELIZABETH BARAJAZ; and MANNY A.
RIVERA, a minor by and through his Guardian ad
Litem, Daniel H. Rivera; and DANIEL H. RIVERA,

Plaintiffs,

vs.

SAN BERNARDINO CITY UNIFIED SCHOOL
DISTRICT; YADIRA DOWNING, Principal of
North Park Elementary School; ESTATE OF
KAREN SMITH; and DOES 1-50,

Defendants.

Case No.:

CIVDS1725293

COMPLAINT FOR DAMAGES

1. Negligence
2. Negligence Per Se
3. Breach of Fiduciary Duty
4. Dangerous Condition of Property
5. Pre-Majority Medical Expense Financial Responsibility

COMPLAINT

1 PLAINTIFFS CARTER ISON; JODI ISON; DESHAUN BOATWRIGHT; JENNIFER
2 BOATWRIGHT; BENJAMIN ENRIQUEZ, JR.; BENJAMIN ENRIQUEZ, SR.; JOCELYN A.
3 GARCIA; JAIME GARCIA; MARVIN MANCIA; MARIA TERESA MANCIA; MARISSA I.
4 PEREZ; ELIZABETH BARAJAZ; and MANNY A. RIVERA; and DANIEL H. RIVERA allege as
5 follows:

6 On April 10, 2017, at approximately 10:30 a.m., Cedric Anderson, the husband of Special
7 Education Teacher KAREN SMITH, entered her classroom while class was in session at the North
8 Park Elementary School in San Bernardino, California, carrying a loaded firearm. After entering the
9 classroom, he shot and killed his estranged wife, KAREN SMITH, and wounded 1 student, killed
10 another student and psychologically and emotionally injured other students that observed, these
11 students. This event was fully preventable. Fore weeks / months prior to the shooting, Cedric
12 Anderson was violent toward KAREN SMITH, and threatened to murder her, ultimately causing her
13 to flee her home and go into hiding. Correspondingly, personnel within the school, including the
14 principal, as well as parents of students within her class, were aware of Ms. SMITH's erratic
15 behavior inside the classroom. Four days before the incident, Cedric Anderson showed up
16 unannounced at the school, and was overserved by staff acting inappropriately. Despite these
17 warnings, and despite his efforts to break into the school through a side gate, Cedric Anderson was
18 not only freely permitted to enter the campus, but also into SMITH's classroom, where he killed
19 Jonathan.

20 Plaintiffs file lawsuit in response to the Defendants flagrant failure to protect the injured
21 students.

22 GENERAL ALLEGATIONS

23 1. This action arises out of the school shooting at North Park Elementary School carried
24 out by Cedric Anderson on April 20, 2017.

25 2. Plaintiff CARTER ISON ("Plaintiff") is, and at all times herein mentioned was, a
26 resident of the city of San Bernardino, San Bernardino County, California. Plaintiff is eleven (11)
27 years old and his action is brought by and through his appointed guardian ad litem, Jodi Ison.
28

COMPLAINT

1 Plaintiff CARTER ISON was a student at North Park Elementary during the events that give rise to
2 this action.

3 3. Plaintiff JODI ISON is the mother of Carter Ison and is, and at all times herein
4 mentioned was, a resident of the city of San Bernardino, San Bernardino County, California.

5 4. Plaintiff DESHAUN BOATWRIGHT ("Plaintiff") is, and at all times herein
6 mentioned was, a resident of the city of San Bernardino, San Bernardino County, California.
7 Plaintiff is eleven (11) years old and his action is brought by and through his appointed guardian ad
8 litem, Jennifer Boatwright. Plaintiff DESHAUN BOATWRIGHT was a student at North Park
9 Elementary during the events that give rise to this action.

10 5. Plaintiff JENNIFER BOATWRIGHT is the mother of DeShaun Boatwright and is,
11 and at all times herein mentioned was, a resident of the city of San Bernardino, San Bernardino
12 County, California.

13 6. Plaintiff BENJAMIN ENRIQUEZ, JR. ("Plaintiff") is, and at all times herein
14 mentioned was, a resident of the city of San Bernardino, San Bernardino County, California.
15 Plaintiff is nine (9) years old and his action is brought by and through his appointed guardian ad
16 litem, Benjamin Enriquez, Sr. Plaintiff BENJAMIN ENRIQUEZ, JR. was a student at North Park
17 Elementary during the events that give rise to this action.

18 7. Plaintiff BENJAMIN ENRIQUEZ, SR. is the father of Benjamin Enriquez, Jr. and is,
19 and at all times herein mentioned was, a resident of the city of San Bernardino, San Bernardino
20 County, California.

21 8. Plaintiff JOCELYN A. GARCIA ("Plaintiff") is, and at all times herein mentioned
22 was, a resident of the city of San Bernardino, San Bernardino County, California. Plaintiff is seven
23 (7) years old and her action is brought by and through her appointed guardian ad litem, Jaime
24 Garcia. Plaintiff JOCELYN A. GARCIA was a student at North Park Elementary during the events
25 that give rise to this action.

26 9. Plaintiff JAIME GARCIA is the father of Jocelyn A. Garcia and is, and at all times
27 herein mentioned was, a resident of the city of San Bernardino, San Bernardino County, California.

28 ///

1 10. Plaintiff MARVIN MANCIA ("Plaintiff") is, and at all times herein mentioned was, a
2 resident of the city of San Bernardino, San Bernardino County, California. Plaintiff is nine (9) years
3 old and his action is brought by and through his appointed guardian ad litem, Maria Teresa Mancía.
4 Plaintiff MARVIN MANCIA was a student at North Park Elementary during the events that give
5 rise to this action.

6 11. Plaintiff MARIA TERESA MANCIA is the mother of Marvin Mancía and is, and at
7 all times herein mentioned was, a resident of the city of San Bernardino, San Bernardino County,
8 California.

9 12. Plaintiff MARISSA I. PEREZ ("Plaintiff") is, and at all times herein mentioned was,
10 a resident of the city of San Bernardino, San Bernardino County, California. Plaintiff is nine (9)
11 years old and her action is brought by and through her appointed guardian ad litem, Elizabeth
12 Barajaz. Plaintiff MARISSA I. PEREZ was a student at North Park Elementary during the events
13 that give rise to this action.

14 13. Plaintiff ELIZABETH BARAJAZ is the mother of Marissa I. Perez and is, and at all
15 times herein mentioned was, a resident of the city of San Bernardino, San Bernardino County,
16 California.

17 14. Plaintiff MANNY A. RIVERA ("Plaintiff") is, and at all times herein mentioned was,
18 a resident of the city of Muscoy, San Bernardino County, California. Plaintiff is eight (8) years old
19 and his action is brought by and through his appointed guardian ad litem, Daniel H. Rivera. Plaintiff
20 MANNY A. RIVERA was a student at North Park Elementary during the events that give rise to this
21 action.

22 15. Plaintiff DANIEL H. RIVERA is the father of Manny A. Rivera and is, and at all
23 times herein mentioned was, a resident of the city of Muscoy, San Bernardino County, California.

24 16. Defendant SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT
25 ("SBCUSD") is, and at all times herein mentioned was, a school district located in the city of San
26 Bernardino, San Bernardino County, and was organized and exists as a public entity under the laws
27 of the State of California. SBCUSD operates, manages, and controls North Park Elementary School,
28 located at 5378 North H Street.

1 17. Defendant YADIRA DOWNING ("DOWNING") is, and at all times herein
2 mentioned was, a resident of San Bernardino County, California. DOWNING was Principal of North
3 Park Elementary at the time of the events giving rise to this action. The threat posed by Cedric
4 Anderson was reported to DOWNING in her capacity as Principal of North Park Elementary.
5 Plaintiffs allege that, in doing the acts described herein, DOWNING was acting within the course
6 and scope of her employment with SBCUSD.

7 18. Decedent KAREN SMITH ("SMITH")/Defendant ESTATE OF KAREN SMITH at
8 all times herein mentioned was a resident of San Bernardino County, California. SMITH was a
9 special education teacher at North Park Elementary at the time of the events giving rise to this
10 action. The threat posed by Cedric Anderson was known to SMITH in her capacity as a teacher at
11 North Park Elementary. Plaintiffs allege that, in doing the acts hereinafter described, SMITH was
12 acting within the course and scope of her employment with SBCUSD.

13 19. The true names and capacities of defendant DOES 1 through 50, inclusive, whether
14 superintendents, principals, assistant principals, administrators, teachers, staff, associations, or
15 otherwise, are presently unknown to Plaintiffs, who therefore sue said defendants by such fictitious
16 names. Plaintiffs are informed and believe, and thereon allege, that each Doe defendant is
17 responsible in some manner for the events alleged herein, and Plaintiffs will further amend this
18 complaint to state the true names and capacities of said defendants when they have been ascertained.

19 20. Plaintiffs are informed and believe and thereon allege that at all times herein
20 mentioned, each of the defendants sued herein as DOES 1 through 50, inclusive, was the agent and
21 employee of SBCUSD or other defendants and was at all times acting within the course and scope of
22 such agency and employment with the full knowledge, consent, authority, ratification, and
23 permission of the remaining defendants. Each and every reference to any defendant is intended to
24 include, and shall be deemed to include, all fictitiously named defendants.

25 21. Plaintiffs are informed and believe, and thereon allege, that SBCUSD senior officials
26 are responsible for hiring practices, promulgation and implementation of school policies and
27 regulations, enforcement of school policies and regulations, training of school employees in policies
28

1 and safety regulation, and district compliance with applicable laws. These school policies,
2 regulations, and applicable laws included those enacted to protect students from on-campus violence.

3 22. Plaintiffs are informed and believe, and thereon allege, that at the time of the events
4 giving rise to this action, SBCUSD had in place an Employee Code of Conduct. The Employee Code
5 of Ethics required each SBCUSD employee to abide by the law and follow the school district's rules,
6 regulations, bulletins, policies, and procedures.

7 23. Plaintiffs are informed and believe, and thereon allege, that at the time of the events
8 giving rise to this action, SBCUSD had in place School Safety Protocols. The School Safety
9 Protocols required each SBCUSD employee to follow the District's safety, security and emergency
10 preparedness rules, regulations, policies, procedures, plans and guidelines.

11 24. Plaintiffs are informed and believe, and thereon allege, that at the time of the events
12 giving rise to this action, North Park Elementary School had in place a School Safety Plan. The
13 School Safety Plan was intended to maintain a safe school environment and addressed the following
14 key areas, among others: preparedness for, prevention of, and mitigation of violence against
15 students.

16 25. Plaintiffs are informed and believe, and thereon allege, that in 2014 SBCUSD
17 undertook the formation of a Safe Schools Task Force. The Task Force was formed in the aftermath
18 of a mass shooting and was intended to implement the District's goal of keeping schools and
19 students safe and free from crime.

20 26. Plaintiffs are informed and believe, and thereon allege, that in 2014 SBCUSD
21 implemented a policy of having on-campus security officers on duty at *all middle schools and high*
22 *schools*. SBCUSD chose not to place security personnel at North Park Elementary School.

23 27. Plaintiffs are informed and believe, and thereon allege, that in 2014 SBCUSD
24 implemented a policy of having police officers on duty at all high school campuses. SBCUSD chose
25 not to place any police officers at North Park Elementary School.

26 28. It is a matter of common knowledge among California school safety officials that acts
27 of violence against students are likely to be carried out by persons not authorized to be on school
28 grounds. In 1982, the California Legislature found that "Many serious crimes of violence are

1 committed on school grounds by persons who are neither students nor school employees and who
2 are not otherwise authorized to be present on school grounds” and “a disproportionate share of
3 crimes committed on school campuses are committed by persons who are neither students, school
4 officials, or staff and who have no lawful business on school grounds.” *California Penal Code*
5 §627(a)(2), (3)(c).

6 29. Plaintiffs are informed and believe, and thereon allege, that North Park Elementary
7 has an intercom system that communicates between the front office and all classrooms. The intercom
8 system is intended to be utilized by front office personnel to communicate with teachers when
9 persons not otherwise authorized to be on campus request access into the campus or a classroom. For
10 example, when parents known to front office staff arrived for scheduled appointments, they were not
11 allowed access to the campus until a call was first placed to the teacher confirming the appointment
12 and advising the teacher of the visitor’s arrival.

13 30. North Park Elementary required that exterior campus doors be locked to prevent
14 unauthorized visitors from accessing students and staff. Plaintiffs are informed and believe, and
15 thereon allege, that the standard practice of schools barring all access to the school other than
16 through the main entrance is to force visitors to enter the front office in order for staff to determine
17 unauthorized persons’ purpose on campus in order to ascertain whether they pose a threat to
18 students.

19 31. On April 10, 2017, KAREN SMITH’s husband, Cedric Anderson (hereinafter
20 “Anderson”), was allowed entry onto the North Park Elementary campus while classes were in
21 session. Anderson then walked into SMITH’s classroom, which was in session, and began shooting.
22 He shot and killed SMITH and shot two students before committing suicide in front of the remaining
23 children.

24 32. On multiple occasions in the weeks prior to the school shooting, SMITH received
25 numerous specific threats of violence, including threats of murder, from Anderson. These threats
26 included Anderson telling SMITH that he would kill her by throwing her off of a second story roof
27 and threats to chop her up into so many pieces that no one would be able to find her body. SMITH
28 viewed these statements as legitimate threats to her life, which caused her to move out of the house

1 where she and Anderson lived and change her sleeping location on a frequent basis so as to prevent
2 Anderson from locating her. Despite moving locations frequently, SMITH knew there was one
3 location Anderson would be able to find her: Classroom B-1 in North Park Elementary School.
4 SMITH was also aware that Classroom B-1 was without a solid door capable of locking or
5 preventing entry and instead had hanging beaded curtain in a doorway. She therefore knew (and
6 certainly should have known) that Anderson posed a threat both to herself, students and staff at
7 North Park Elementary. Nonetheless, Smith took no affirmative steps to alert North Park Elementary
8 to keep Anderson out of the school / to not allow him admittance, to take special precautions of any
9 kind to keep those t the School safe, or otherwise to ensure that North Park Elementary was aware of
10 and took steps to address the risk Anderson posed.

11 33. Although SMITH took no such affirmative steps, the fact that SMITH was under
12 serious threat of harm was known and observable by North Park Elementary administration and
13 staff. SMITH had a personal relationship with North Park Elementary principal, YADIRA
14 DOWNING, and had informed DOWNING about the breakdown of her relationship with Anderson,
15 and had likely informed DOWNING of the threats made by Anderson. Additionally, in the weeks
16 before the shooting, DOWNING received multiple complaints about SMITH and her ability to
17 perform her classroom duties and, as a result, DOWNING was closely monitoring SMITH's
18 performance.

19 34. In the weeks prior to the shooting, SMITH repeatedly exhibited signs of physical
20 abuse, injury, distress, and fear. In the weeks before the shooting, SMITH came to school with facial
21 trauma that was so apparent that SMITH attempted to hide them by wearing dark sunglasses for
22 several days while indoors in her classroom. The existence of these injuries was obvious to North
23 Park Elementary staff, administration, parents, and students.

24 35. In March 2017, parents of SMITH's students, who had previously known SMITH to
25 be enthusiastic and cheerful, observed significant changes in her behavior. Parents repeatedly
26 observed her to be distraught, trembling, sad, troubled, preoccupied, tearful, fatigued, and acting
27 strangely. SMITH repeatedly cancelled and rescheduled meetings with parents. Plaintiffs are
28 informed and believe, and thereon allege, that when asked by one parent why she was again

1 cancelling a meeting, SMITH stated, "I have stuff going on. I have things happening with my
2 family." Plaintiffs are informed and believe, and thereon allege, that parents also noticed that
3 SMITH seemed fearful about staying on school grounds past 3:30 p.m.

4 36. Plaintiffs are informed and believe, and thereon allege, that SMITH's appearance and
5 demeanor was such that parents suspected that she was a victim of spousal abuse. Her clear distress
6 and abnormal behavior caused parents to relay their concerns to the school's administrators,
7 including Principal DOWNING. Plaintiffs are informed and believe, and thereon allege, that one
8 parent sent an email to a school administrator saying that something was wrong with SMITH and
9 that the school administration needed to address it.

10 37. Plaintiffs are informed and believe, and thereon allege, that in response to these
11 multiple parent complaints and reports, North Park Elementary officials informed parents that they
12 were aware of the situation and that SMITH was "having marital problems."

13 38. On Friday, April 7, 2017, the last school day before the April 10th shooting, Anderson
14 appeared at North Park Elementary and attached a bicycle to the rear of SMITH's car so as to
15 immobilize it. Anderson's actions were observed by school personnel, who reported it to SMITH on
16 Friday afternoon, April 7, 2017. This event, in conjunction with the other events described above,
17 put North Park Elementary and its personnel on notice that precautionary actions were necessary to
18 increase School security and prevent Anderson from entering the School's premise, yet no such
19 actions were taken.

20 39. On Monday, April 10, 2017, Anderson came to North Park Elementary and attempted
21 to enter the campus through several locked side doors, presumably because he did not think he
22 would be admitted onto the campus by front office staff. Anderson's attempts were captured by the
23 school surveillance cameras, which were not monitored. When his attempt to enter through the side
24 doors failed, Anderson entered the front office, where three school employees were stationed.
25 Anderson, who just three days before had been seen acting irrationally and immobilizing SMITH's
26 car in the school parking lot, told the three employees he was bringing SMITH her lunch. Notably,
27 he was not carrying any lunch. The employees, without calling SMITH on the available intercom
28 system, allowed Anderson immediate entry into the campus. Anderson then went to SMITH's

1 special education classroom, which was in session. Anderson freely walked into the classroom,
2 which did not have a locking door because SBCUSD officials had removed it and replaced it with a
3 curtain.

4 40. North Park elementary did not have either a buzzer / Camera / intercom / access control
5 system or a campus security / monitor / supervisor at the front entrance to prevent access to the
6 school campus prior to the assessment of Anderson. On information and belief, implementation of
7 these measures would have prevented Anderson from accessing the school campus, or, if he had
8 forcibly entered the campus, school personnel could have initiated emergency procedures by locking
9 down the campus and contacting law enforcement.

10 41. After entering the classroom, Anderson proceeded to shoot and kill SMITH. He also
11 shot two of her students, one of whom later died. Anderson then committed suicide by shooting
12 himself in front of the remaining students.

13 42. Plaintiffs are informed and believe, and thereon allege, that following the shooting, a
14 North Park Elementary teacher told one of the parents, "Everyone in the school knew that she was
15 having severe problems with her husband." On information and belief, a large number of School
16 personnel were aware that SMITH was having such problems, and knew or should have known that
17 the problems included acts of violence by Anderson against SMITH.

18 43. School personnel, including SMITH, the named Defendants, North Park Elementary
19 and SAN BERNARDINO UNIFIED SCHOOL DISTRICT all had a special relationship with the
20 children attending the School, and accordingly had a special duty to protect them from third party
21 criminal acts. All knew or should have known that the school students, including Jonathan Alfredo
22 Martinez, was subject to a risk of harm from Anderson, and failed to act on that risk.

23 44. School supervisory personnel, including the supervisory Defendants named herein,
24 had a duty to train and supervise all School personnel in their duties and responsibilities to protect
25 students from outside harm and to be alert for dangers and risks to students potentially posed by
26 individuals not related to the School who enter School grounds and failed to carry out that duty.

27 45. All Defendants and School personnel, including SMITH, were acting within the
28 course and scope of their unemployment, and accordingly SAN BERNARDINO CITY UNIFIED

1 SCHOOL DISTRICT is liable in *respondent superior* for their acts and failures to act as alleged
2 herein.

3 46. Defendants SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT is liable for
4 their negligent or otherwise tortious conduct as described herein whether they are named as
5 Defendants or not.

6 47. As a result of witnessing the shooting, Plaintiffs CARTER ISON; DESHAUN
7 BOATWRIGHT; BENJAMIN ENRIQUEZ, JR.; JOCELYN A. GARCIA; MARVIN MANCIA;
8 MARISSA I. PEREZ; and MANNY A. RIVERA sustained injuries to their psychological health.

9 48. On or about September 14, 2017, Plaintiffs served and filed a governmental claim
10 directed to Defendants herein. Plaintiffs' claims were rejected on September 29, 2017. As such,
11 Plaintiffs have complied with the Tort Claims Act and are now entitled to pursue this complaint
12 against Defendants.

13 **FIRST CAUSE OF ACTION**
14 **NEGLIGENCE**

15 **(Against SBCUSD, DOWNING, ESTATE OF SMITH and DOES 1-50)**

16 49. Plaintiffs reallege and incorporate the allegations contained in paragraphs 1 through
17 48 as though fully set forth herein.

18 50. Pursuant to *Government Code* §815.2, Defendant SBCUSD is liable for any injury
19 caused by an act or omission of its employee. Plaintiffs allege the acts of DOWNING, SMITH, and
20 DOES 1-50, were committed in the course and scope of their employment at SBCUSD.

21 51. Defendant SBCUSD has a special relationship with students which gives rise to a
22 duty of care. The duty of care owed by the District and school personnel includes the duty to use
23 reasonable measures to protect students from known threats of harm and foreseeable acts of
24 violence.

25 52. Furthermore, public school teachers and principals have a statutory duty to supervise
26 students on school grounds. *Education Code* § 44807. This duty to supervise includes enforcing the
27 rules and regulations necessary for the protection of students. *Dailey v. Los Angeles Unified School*
28 *Dist.*, 2 Cal. 3d 741 (1970).

1 53. Additionally, elementary school students, who are statutorily mandated to attend
2 school, have a right to a safe campus as a matter of law. *California Constitution* Article 1, Section
3 28, subd. (f)(1) (“All students... of public... elementary... schools have the inalienable right to attend
4 campuses which are safe, secure and peaceful.”). Under this principle, school districts have an
5 affirmative duty to devise and implement plans to address the threat of school crime. To help schools
6 achieve this vital goal of providing school children a campus free from psychological or physical
7 harm, the State of California has mandated that all K-12 schools develop and implement a School
8 Safety Plan. *Education Code* §§ 32280-32289. The School Safety Plan must address the following
9 key areas, among others: preparedness, prevention, and mitigation of threats of harm.

10 54. Defendants SBCUSD, DOWNING, ESTATE OF KAREN SMITH, DOES 1-50, and
11 other School personnel not named as Defendants herein, knew that Cedric Anderson posed a threat
12 to KAREN SMITH and had been committing acts of violence against her. Defendants observed
13 SMITH’s injuries and knew she was “having severe marital problems”. Three days before the
14 shooting, Defendants observed Anderson attempt to immobilize SMITH’s car in the school parking
15 lot. Plaintiffs are also informed and believe that SMITH told DOWNING that Anderson had
16 threatened to kill her. The threat of harm posed by Anderson was reasonably foreseeable in the
17 absence of any measures to prevent his access onto campus. Despite knowing that Anderson posed a
18 threat of violence, Defendants SBCUSD, DOWNING, ESTATE OF KAREN SMITH and DOES 1-
19 50 failed to notify school police, utilize their available security measures, or take any other
20 protective measures to prevent Anderson from accessing the school campus. School authorities who
21 know of well-founded threats of violence may not refrain from taking preventive measures to protect
22 students.

23 55. Teacher KAREN SMITH knew that Anderson was violent and knew he had
24 repeatedly threatened to kill her. The threat of harm posed by Anderson was reasonably foreseeable
25 in the absence of any measures to prevent his access into SMITH’s classroom. Despite knowing that
26 Anderson posed a threat of violence and that North Park Elementary School was the one place he
27 could predictably find her, SMITH repeatedly failed to notify school personnel at the entrance of the
28

1 campus and/or school police or take any protective measures to prevent Anderson from accessing
2 her classroom.

3 56. Defendants SBCUSD, DOWNING, ESTATE OF KAREN SMITH, DOES 1-50, and
4 other School personnel not named as Defendants herein, including administrators, teachers and front
5 office staff who were in a position to identify an unscheduled visitor such as Anderson, who wanted
6 to access a classroom while it was in session, had a duty to prevent his access to the interior campus.
7 Furthermore, Defendants had an obligation to call SMITH's classroom to inform her of Anderson's
8 presence. Instead, school personnel allowed him unfettered access onto the campus without alerting
9 SMITH. Defendants had assumed the security obligation of screening visitors at the front office so
10 as to ensure a secure campus, and had at their disposal a working intercom system specifically
11 designed and installed to provide a means of communication between the front office and
12 classrooms. The utilization of the intercom system to advise SMITH that Anderson sought entry into
13 her classroom was simple and posed no burden, yet Defendants did not do so.

14 57. Defendants SBCUSD, DOWNING, ESTATE OF KAREN SMITH and DOES 1-50,
15 assumed the security obligation of surveilling the perimeter of the school so as to ensure a secure
16 campus, and had at their disposal a working video surveillance system designed and installed to
17 disclose the presence of unauthorized persons attempting entry into the campus. The assignment of
18 a front office employee to monitor the video feed was relatively simple and minimally burdensome,
19 yet Defendants did not do so.

20 58. Defendant SBCUSD, DOES 1-5, and those in its employ as Defendants herein,
21 assumed the security obligation of placing security officers or police officers at every middle and
22 high school in the District. Each high school had at least six on-site security officers and one on-site
23 police officer. Each middle school had two on-site security officers. The assignment of a security
24 officer to North Park Elementary was relatively simple, and minimally burdensome, yet Defendant
25 did not do so.

26 59. Defendants SBCUSD, DOWNING, ESTATE OF KAREN SMITH and DOES 1-50,
27 who knew or should have known that most acts of violence against schoolchildren are carried out by
28 unauthorized visitors, had a duty to adopt and implement a School Safety Plan that included

1 adequate threat assessment procedures, including training staff to recognize potential threats posed
2 by unauthorized visitors, requiring staff to report instances of harassment or threats, and requiring
3 staff to recognize and report instances of suspected domestic violence against teachers.

4 60. Defendants SBCUSD, DOWNING ESTATE OF KAREN SMITH, DOES 1-50, and
5 other School personnel not named as Defendants herein, who knew or should have known that
6 schools are frequent targets for mass shootings, had a duty to adopt and implement security policies
7 intended to prevent the entry of firearms into the campus. The Board of Education for SBCUSD has
8 found that "metal detector searches offer a reasonable means to keep weapons out of the schools and
9 to mitigate the fears of students, staff and parents." Policy 5144 (July 1994). Despite knowing that
10 metal detectors were a means to keep guns out of North Park Elementary, Defendants did not utilize
11 one.

12 61. Defendants SBCUSD, DOWNING, ESTATE OF KAREN SMITH, and DOES 1-
13 50, who knew or should have known that acts of violence against schoolchildren are often carried
14 out by unauthorized visitors, had a duty to adopt and implement a School Safety Plan that included
15 adequate threat assessment procedures, including training staff to recognize potential threats posed
16 by unauthorized visitors, requiring staff to report instances of harassment or threats, and requiring
17 staff to recognize and report instances of suspected domestic violence against teachers.

18 62. Plaintiffs allege that Defendants, and each of them, also had, among others, the
19 following duties of care:

- 20 a. A duty to train staff to recognize and report potential threats to student safety;
- 21 b. A duty to report complaints of violence against teachers to school police;
- 22 c. A duty to investigate complaints of violence against teachers;
- 23 d. A duty to investigate the threat posed by Anderson after being notified by SMITH
24 that he had threatened to kill her;
- 25 e. A duty to investigate SMITH's situation after being notified by parents that
26 something was wrong with her;
- 27 f. A duty to provide an adequate physical barrier preventing access to classrooms by
28 persons other than students and staff;

- 1 g. A duty to maintain the physical condition of the campus in a manner that allowed
2 the locking of classroom doors so as to bar entry by persons posing a threat;
- 3 h. A duty to prohibit unauthorized persons from entering classrooms while class was
4 in session;
- 5 i. A duty to require visitors to deposit deliveries at the front office when they are
6 delivered to teachers actively engaged in classroom activities;
- 7 j. A duty to inform a teacher of the presence of unauthorized or unscheduled visitors
8 seeking access to the teacher's classroom;
- 9 k. A duty to protect students from gun violence by screening for weapons;
- 10 l. A duty to train personnel to screen for potential threats to students posed by
11 unauthorized persons seeking entry onto the campus;
- 12 m. A duty to train and require school personnel to disclose domestic violence;
- 13 n. A duty to enact a policy requiring school employees to notify the school of
14 separation or divorce so that school personnel could restrict the ex-spouse's
15 access to the campus;
- 16 o. A duty to train and require school personnel to disclose the receipt of threats of
17 violence;
- 18 p. A duty to protect students from persons with a known history of violence;

19 63. As a result of Defendants' failure to discharge their duties, failure to enforce school
20 regulations, failure to implement a training program teaching employees how to identify potential
21 threats or deal with active threats, and the failure to investigate complaints made by parents, and
22 reckless indifference to the danger Anderson posed, Anderson was able to gain unsupervised direct
23 access to SMITH's classroom, where he then carried out a deadly shooting.

24 64. As a direct result of Defendants' actions, Plaintiffs CARTER ISON; DESHAUN
25 BOATWRIGHT; BENJAMIN ENRIQUEZ, JR.; JOCELYN A. GARCIA; MARVIN MANCIA;
26 MARISSA I. PEREZ; and MANNY A. RIVERA sustained serious and permanent injuries to their
27 person and psychological health, and have incurred and will continue to incur medical expenses, and
28

1 will experience impaired earning capacity in the future, all to their damage in a sum to be shown
2 according to proof and within the jurisdiction of this Court.

3
4 **SECOND CAUSE OF ACTION**

5 **Negligence Per Se for Violation of Education Code § 44807**

6 **(Against SBCUSD, DOWNING, ESTATE OF KAREN SMITH, and DOES 1-50)**

7 65. Plaintiffs reallege and incorporate the allegations contained in paragraphs 1 through
8 64 as though fully set forth herein.

9 66. Pursuant to *Government Code* §815.2, Defendant SBCUSD is liable for injuries
10 proximately caused by the negligent failure of school officials or employees to properly supervise its
11 students.

12 67. Pursuant to *Government Code* §815.6, Defendants are liable for injuries caused by
13 their failure to discharge mandatory duties designed to protect children. Plaintiffs allege the acts of
14 DOWNING, SMITH, and DOES 1-50, were committed in the course and scope of their employment
15 at SBCUSD.

16 68. Defendants SBCUSD, DOWNING, ESTATE OF KAREN SMITH, and DOES 1-50
17 are subject to the mandatory requirements of *Education Code* § 44807 requiring Defendants to
18 supervise students on school grounds. Defendants had a duty to protect students and to enforce the
19 rules and regulations necessary to protect students from harm. Defendants SBCUSD, DOWNING,
20 ESTATE OF KAREN SMITH, and DOES 1-50 knew SMITH was the victim of violence, witnessed
21 Anderson's threatening actions on Friday April 7, 2017, and knew SMITH had been threatened with
22 murder. Accordingly, Defendants had a heightened duty to closely supervise SMITH's students.

23 69. In the days before the shooting, SBCUSD rules concerning the investigation of
24 potential threats, the provision of warnings to staff, and the enforcement of rules preventing
25 unauthorized persons from entering campus were not enforced. By failing to properly supervise
26 SMITH's students and enforce those rules and regulations necessary to protect them from harm
27 Defendants violated *Education Code* § 44807.

1 70. As a result of Defendants' failure to discharge their supervisory duties, Anderson was
2 able to gain unsupervised direct access to SMITH's classroom, where he then carried out a deadly
3 shooting.

4 71. As a direct and proximate result of Defendants' negligence, Plaintiffs CARTER
5 ISON; DESHAUN BOATWRIGHT; BENJAMIN ENRIQUEZ, JR.; JOCELYN A. GARCIA;
6 MARVIN MANCIA; MARISSA I. PÉREZ; and MANNY A. RIVERA have been damaged in their
7 psychological and physical health, and have incurred and will continue to incur medical expenses,
8 and will experience impaired earning capacity in the future, all to their damage in a sum to be shown
9 according to proof and within the jurisdiction of this Court.

10 72. Plaintiffs' injuries resulted from an occurrence of the nature which *Education Code* §
11 44807 was designed to prevent. Additionally, Plaintiffs were one of the class of persons for whose
12 protection *Education Code* § 44807 was adopted. Accordingly, the failure of Defendants to
13 discharge their duties under *Education Code* § 44807 is negligence per se.

14 **THIRD CAUSE OF ACTION**

15 **Breach of Fiduciary Duty**

16 **(Against ALL DEFENDANTS)**

17 73. Plaintiffs reallege and incorporate the allegations contained in paragraphs 1 through
18 72 as though fully set forth herein.

19 74. Pursuant to *Government Code* § 815.2, Defendant SBCUSD is liable for any injury
20 caused by an act or omission of its employee. Plaintiffs allege the acts of DOWNING, SMITH, and
21 DOES 1-50, were committed in the course and scope of their employment at SBCUSD.

22 75. A special relationship exists between a school district and its students. Both the
23 students and their parents surrender their authority to school, place their trust and confidence in the
24 school, and expect the school to take the necessary measures to protect the child's interests. This
25 special relationship imposes a fiduciary duty on SBCUSD and its staff to take all reasonable steps
26 and implement all reasonable safeguards for the protection of its students. SBCUSD, school
27 administrators, principals, vice principals, teachers, and other school personnel had a duty to prevent
28 the negligent placement of students in a position of peril and a duty to protect them from specific and

1 known threats of harm, including reporting suspicious activity and potential threats that could pose a
2 risk to a student's safety and well-being.

3 76. In the context of this special relationship, Defendants SBCUSD, DOWNING,
4 ESTATE OF KAREN SMITH, and DOES 1-50 observed that SMITH was the victim of domestic
5 violence, knew she was having "severe marital problems", were informed that Anderson had
6 threatened her with violence and, on at least one occasion (the school day before the shooting),
7 witnessed Anderson's threatening behavior toward SMITH. Additionally, SMITH knew that
8 Anderson posed a risk of harm, had threatened to kill her, and was looking for her.

9 77. Defendants SBCUSD, DOWNING, ESTATE OF KAREN SMITH, DOES 1-50, and
10 decedent SMITH knew or should have known that Anderson posed a foreseeable risk of harm. Yet
11 despite the obvious signs and warnings, Defendants failed to take any reasonable steps to protect
12 SMITH's students from his entry into their classroom. Defendants acts, rather than protecting
13 Plaintiffs or providing them with proper supervision, placed them in peril by being recklessly
14 indifferent to the danger Anderson posed.

15 78. As a result of Defendants SBCUSD, DOWNING, ESTATE OF KAREN SMITH,
16 DOES 1-50, and decedent SMITH's failure to discharge their duties, Anderson was able to gain
17 unsupervised direct access to SMITH's classroom, where he then carried out a deadly shooting.

18 79. As a direct and proximate result of Defendants SBCUSD, DOWNING, ESTATE OF
19 KAREN SMITH, DOES 1-50, and decedent SMITH's breaches of their fiduciary duties, Plaintiffs
20 CARTER ISON; DESHAUN BOATWRIGHT; BENJAMIN ENRIQUEZ, JR.; JOCELYN A.
21 GARCIA; MARVIN MANCIA; MARISSA I. PEREZ; and MANNY A. RIVERA have been
22 damaged in their psychological and physical health, and have incurred and will continue to incur
23 medical expenses, and will experience impaired earning capacity in the future, all to their damage in
24 a sum to be shown according to proof and within the jurisdiction of this Court.

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1 **FOURTH CAUSE OF ACTION**

2 **Dangerous Condition of Property**

3 **(Against SBCUSD)**

4 80. Plaintiffs reallege and incorporate the allegations contained in paragraphs 1 through
5 79 as though fully set forth herein.

6 81. Pursuant to *Government Code* § 835, Defendant SBCUSD is liable for injury caused
7 by a dangerous condition of its property where the condition created a reasonably foreseeable risk of
8 the kind of injury which was incurred, and a negligent act or omission of a school employee created
9 the dangerous condition or the District had actual or constructive notice of the dangerous condition.

10 82. Defendant SBCUSD, as a governmental public entity owning, operating and
11 governing the school where Plaintiffs were injured, owed a duty of care to maintain the North Park
12 Elementary campus in a reasonable and safe condition to prevent injury or harm to the students.

13 83. Defendants SBCUSD, DOWNING, ESTATE OF KAREN SMITH, and DOES 1-50
14 observed that SMITH was the victim of domestic violence, knew she was having "severe marital
15 problems", were informed that Anderson had threatened her with murder and, on at least one
16 occasion (the school day before the shooting), witnessed Anderson's threatening behavior toward
17 SMITH when he arrived in the school parking and attempted to immobilize her car. Defendants
18 knew or should have known that Anderson was likely to come to the school to try and hurt SMITH.

19 84. Despite the existence of lockable doors that would secure the campus from entry by
20 intruders such as Anderson, Defendants maintained an unlocked door leading from the front office to
21 the classrooms, and removed the door from SMITH's classroom.

22 85. The failure of Defendant SBCUSD, and its agents or employees within the purpose,
23 scope, or course of their employment, to maintain locked doors in the front office that secured the
24 campus from entry by unauthorized persons, and the failure to provide a locking door on SMITH's
25 classroom created a dangerous condition.

26 86. The unsecured doors in the front office, and the lack of a door on SMITH's
27 classroom, created a reasonably foreseeable risk of the kind of injury which Plaintiffs suffered
28

1 because it allowed Anderson, a known threat, to enter a classroom that was in session and carry out a
2 shooting.

3 87. The conditions described above existed for a period of time and were of such a nature
4 that Defendant SBCUSD and its employees, agents, independent contractors, volunteers and aides in
5 the exercise of due care, knew or should have discovered the condition and its dangerous character
6 in adequate time before Anderson's entry into the campus to have taken measures to protect against
7 the dangerous condition. Defendants were also on constructive notice that entry onto campus by
8 unauthorized persons posed risk harm to students, thus it was foreseeable that the unsecured hallway
9 and classroom might result in such harm even in the absence of prior similar occurrences at North
10 Park Elementary.

11 88. As a proximate result of the lack of a locked door leading from the front office to the
12 classrooms, and the lack of any door on SMITH's classroom, Anderson was able to gain
13 unsupervised direct access to SMITH's classroom, where he carried out a deadly shooting, injuring
14 Plaintiffs.

15 89. As a direct and proximate result of Defendants' negligence, Plaintiffs CARTER
16 ISON; DESHAUN BOATWRIGHT; BENJAMIN ENRIQUEZ, JR.; JOCELYN A. GARCIA;
17 MARVIN MANCIA; MARISSA I. PEREZ; and MANNY A. RIVERA have been damaged in their
18 psychological and physical health, and have incurred and will continue to incur medical expenses,
19 and will experience impaired earning capacity in the future, all to their damage in a sum to be shown
20 according to proof and within the jurisdiction of this Court.

21 **FIFTH CAUSE OF ACTION**

22 **Pre-Majority Medical Expense Financial Responsibility**

23 **(By JODI ISON; JENNIFER BOATWRIGHT; BENJAMIN ENRIQUEZ, SR.; JAIME**
24 **GARCIA; MARIA TERESA MANCIA; ELIZABETH BARAJAZ; and DANIEL H. RIVERA**

25 **Against SBCUSD, DOWNING, ESTATE OF KAREN SMITH,**
26 **and DOES 1-50)**

27 90. Plaintiffs JODI ISON; JENNIFER BOATWRIGHT; BENJAMIN ENRIQUEZ, SR.;

28 JAIME GARCIA; MARIA TERESA MANCIA; ELIZABETH BARAJAZ; and DANIEL H.

1 RIVERA reallege and incorporate the allegations contained in paragraphs 1 through 89 as though
2 fully set forth herein.

3 91. Plaintiffs JODI ISON; JENNIFER BOATWRIGHT; BENJAMIN ENRIQUEZ, SR.;
4 JAIME GARCIA; MARIA TERESA MANCIA; ELIZABETH BARAJAZ; and DANIEL H.
5 RIVERA are the parents of CARTER ISON; DESHAUN BOATWRIGHT; BENJAMIN
6 ENRIQUEZ, JR.; JOCELYN A. GARCIA; MARVIN MANCIA; MARISSA I. PEREZ; and
7 MANNY A. RIVERA, minor children, and are financially responsible for the medically necessary
8 care and related expenses of curing, or attempting to cure, them from the results of their personal
9 injuries rendered to the minor children for injuries received by the minors as a result of the
10 negligence of the Defendants.

11 92. As a result of said financial responsibility Plaintiffs CARTER ISON; JODI ISON;
12 DESHAUN BOATWRIGHT; JENNIFER BOATWRIGHT; BENJAMIN ENRIQUEZ, JR.;
13 BENJAMIN ENRIQUEZ, SR.; JOCELYN A. GARCIA; JAIME GARCIA; MARVIN MANCIA;
14 MARIA TERESA MANCIA; MARISSA I. PEREZ; ELIZABETH BARAJAZ; and MANNY A.
15 RIVERA; and DANIEL H. RIVERA seek reimbursement of paid expenses, expenses incurred but
16 unpaid medical expenses and future medical expenses needed by the minors prior to reaching the age
17 of majority.

18 **JURY DEMAND**

19 Plaintiffs hereby demand a jury trial on all claims so triable.

20 **PRAYER FOR RELIEF**

21 WHEREFORE Plaintiffs CARTER ISON; DESHAUN BOATWRIGHT; BENJAMIN
22 ENRIQUEZ, JR.; JOCELYN A. GARCIA; MARVIN MANCIA; MARISSA I. PEREZ; and
23 MANNY A. RIVERA pray for judgment against SAN BERNARDINO CITY UNIFIED SCHOOL
24 DISTRICT, YADIRA DOWNING, ESTATE OF KAREN SMITH, and DOES 1-50 as follows:


- 25 1. For compensatory and general damages for past, present, and future
26 psychological, emotional, and physical pain, suffering, distress, and injury;
- 27 2. For medical and incidental expenses in an amount to be proven at trial, as to JODI
28 ISON; JENNIFER BOATWRIGHT; BENJAMIN ENRIQUEZ, SR.; JAIME

1 GARCIA; MARIA TERESA MANCIA; ELIZABETH BARAJAZ; and DANIEL
2 H. RIVERA for pre-majority expenses and CARTER ISON; DESHAUN
3 BOATWRIGHT; BENJAMIN ENRIQUEZ, JR.; JOCELYN A. GARCIA;
4 MARVIN MANCIA; MARISSA I. PEREZ; and MANNY A. RIVERA, for post-
5 majority expenses;

- 6 3. For impaired future earning capacity in an amount to be proven at trial;
- 7 4. For legal interest on the judgment;
- 8 5. For costs of suit incurred herein;
- 9 6. For such other and further relief as the court deems just and proper.

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11 Dated: December 20, 2017

LAW OFFICES OF GORDON G. PHILLIPS, JR., INC.

12
13 By: 
14 Gordon G. Phillips, Jr.
15 Attorney for Plaintiffs
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COMPLAINT