

through an alternative service pursuant to T.R.C.P. 106, which Order will be sought in the due development of this case.

III. JURISDICTION AND VENUE

5. Venue is proper in Harris County, Texas, pursuant to TEX. CIV. PRAC. & REM. CODE §15.002(a)(1), because all or a substantial part of the events or omissions giving rise to the claims occurred in Harris County, Texas.
6. This Court has subject matter jurisdiction because the amount in controversy exceeds the minimum jurisdictional amount of this Court.

IV. NOTICE OF FACTS

7. The case involves despicable lesbian sexual assault at McDonald's. It also involves the pedophilic requests by a McDonald's restaurant manager to have sex with a 17 year old child who worked at the restaurant. The defendant who requested the lesbian sex acts from both the child and her mother was a vice principal of the McDonald's restaurant. As such, the owner(s) of the restaurant where these repeated acts occurred are directly liable for the acts of their vice principal.
8. The McDonald's store manager was so reckless in her lesbian quest to have sex with Plaintiffs she started calling Plaintiffs her "bitches" and telling others that she was going to make Plaintiffs her "bitches" and "sex slaves." These statements were made in front of and to third parties, including customers, which caused tremendous embarrassment to Plaintiffs. This manager was so out of control that she insisted on having sex with a mother and minor daughter who worked at the McDonald's restaurant. This behavior was unconscionable and constitutes assault and battery, defamation, and an invasion of the Plaintiffs' privacy in the presence of strangers.

9. As referenced above, Vice Principal #1's sexual interest was not limited to the adult Jane Doe, but also to the child plaintiff. Vice Principal #1's ultimate goal was for a ménage a trios with the child and her mother. Vice Principal #1's requests for sex with the child plaintiff started within weeks of the child's employment.
10. The assaults, hostile and sexually charged pressure at the restaurant of Owner did not go unreported. Both plaintiffs reported the unwelcome sexual advances, assaults, and defamatory conduct to upper management and human resources for the Owner. Yet, the Owner did nothing to address the problems and Vice Principal #1 continued to be put on the same schedule as plaintiffs thus escalating the advances being made. Furthermore, management of the Owner had knowledge of Vice Principal #1's sexual predation upon other female victims before plaintiffs were victimized yet did nothing to remedy the abuses.
11. This case is brought to recover actual and punitive damages arising from the sexual assaults and battery of the plaintiffs. Also plaintiffs sue for damages permitted at law for sexual harassment, sex discrimination, and hostile work environment. Also, because the manager published false statements about plaintiffs, defendants are liable for defamation.

V. CAUSES OF ACTION

A. NEGLIGENCE HIRING, RETENTION AND SUPERVISION

12. Plaintiffs incorporate all factual allegations made above as if fully set forth herein.
13. Defendant #2 was negligent and grossly negligent by virtue of certain acts and/or omissions, including, but not limited to:
- a. failing to provide a reasonably safe workplace;
 - b. failing to provide reasonable and competent supervision;

- c. hiring an incompetent or unfit employee whom Defendant #2 knew, or, by exercise of reasonable care, should have known was incompetent or unfit;
- d. retaining an incompetent or unfit employee whom Defendant #2 knew, or, by exercise of reasonable care, should have known was incompetent or unfit; and
- e. other acts and omissions to be proven at trial.

14. Defendant #2 owed a legal duty to protect plaintiffs from Defendant #1's actions. Defendant #2's actions in hiring, retaining and failing to supervise Defendant #1 was a producing and proximate cause of plaintiffs' severe emotional trauma and damages claimed by plaintiffs.

15. Each of the above listed acts and/or omissions, taken singularly or in any combination, rise to the level of gross negligence. Defendant #2's acts and omissions, when viewed objectively from the standpoint of the actor at the time of its occurrence involved an extreme degree of risk, considering the probability and magnitude of harm to others. Defendant #2 had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others.

B. ASSAULT & BATTERY

16. Plaintiffs incorporate all factual allegations made above as if fully set forth herein.

17. Defendant #1 is liable for assault and battery. Defendant #1 committed an assault and battery on the plaintiffs. Defendant #1 acted intentionally or knowingly by touching plaintiffs in an unwelcome offensive manner without plaintiffs' permission. Defendant #1's conduct was a proximate cause of damages. Defendant #1's conduct involved malice and/or otherwise justify the imposition of punitive damages in an amount to be determined by the trier of fact to deter Defendant #1 from similar conduct in the future.

18. Defendant #1 was a “vice-principal” of Defendant #2. Actions taken by a vice-principal are deemed to be the actions of their employer, therefore an employer is liable for the intentional acts of its vice-principal. Defendant #2 is thus liable to plaintiffs for the intentional acts committed by its vice-principal, Defendant #1.

C. DEFAMATION PER SE

19. Plaintiffs incorporate all factual allegations made above as if fully set forth herein.

20. Defendant #1’s publication constitutes defamation *per se*. Under Texas law, a statement that imputes sexual misconduct is considered defamatory *per se*. Defendant #1 published statements concerning the sexuality of both plaintiffs in writing and verbally to third persons, such statements referred to the plaintiffs and were false, and Defendant #1 was negligent and/or acted with actual malice in making such statements. As a proximate cause of such statements being published by Defendant #1, plaintiffs suffered damages.

21. Defendant #1 was a “vice-principal” of Defendant #2. Actions taken by a vice-principal are deemed to be the actions of their employer, therefore an employer is liable for the intentional acts of its vice-principal. Defendant #2 is thus liable to plaintiffs for the intentional acts committed by its vice-principal, Defendant #1.

D. TEXAS COMMISSION ON HUMAN RIGHTS ACT – SEXUAL HARASSMENT

22. Plaintiffs incorporate all factual allegations made above as if fully set forth herein.

23. The conduct of Defendant #2 as set out herein constitutes violations of the TCHRA in that plaintiffs were subjected to sexual harassment/discrimination, including a hostile work environment. Plaintiffs were constructively discharged. A reasonable person in the same or

similar circumstances would have felt compelled not to return to employment at Defendant #2's place of employment.

24. Plaintiffs belong to a protected class, plaintiffs were subjected to sexual harassment/discrimination, the harassment/discrimination was based on plaintiffs' sex, the harassment/discrimination affected a term, condition, or privilege of employment, and Defendant #2 knew or should have known of the harassment/discrimination but did not take remedial action.

25. The sexual harassment/discrimination was committed by Defendant #2's supervisor; Defendant #1 was empowered by Defendant #2 to take tangible employment action(s) against plaintiffs. Furthermore, Defendant #2 was negligent and failed to adequately issue its policies and procedures to employees and managers, Defendant #2 was negligent and failed to adequately train its employees and managers regarding its policies and procedures, Defendant #2 failed to conduct an adequate investigation, Defendant #2 failed to take prompt remedial action, and Defendant #2 was negligent in failing to prevent the harassment from taking place.

26. Defendant #2 has caused plaintiffs damages by way of lost wages and benefits in the past and future, mental anguish, emotional distress, inconvenience, humiliation, loss of enjoyment of life, and other pecuniary and non-pecuniary compensatory damages in the past and in the future, all in an amount in excess of the minimum jurisdictional requirements of this court.

27. The conduct of Defendant #2 was committed with malice or reckless indifference to plaintiffs' state-protected rights and as such justifies an award of punitive damages.

E. GROSS NEGLIGENCE & UNCONSCIONABLE CONDUCT – PUNITIVE DAMAGES

28. Plaintiffs incorporate all factual allegations made above as if fully set forth herein.

29. The conduct complained of in this Petition by defendants and as set forth above in great detail amounts to gross negligence. Specifically, defendants have acted in such a willful manner and with disregard for plaintiffs' rights so as to allow for the imposition of punitive damages. Defendants have specifically intended conduct that has caused substantial injury to plaintiffs, and defendants have acted in flagrant disregard for the rights, welfare, and safety of others, and with actual awareness. Furthermore, defendants' actions and inactions constitute intentional, knowing, and willful misconduct. Therefore, plaintiffs are entitled to recover from defendants exemplary damages in an amount determined by the jury to be appropriate and fitting under the circumstances.

VI. DAMAGES

30. Pursuant to Rule 47(c) of the Texas Rules of Civil Procedure, plaintiffs seek damages of not less than \$1,000,000 nor more than \$10,000,000 in actual damages. Punitive damages in the discretion of the court or jury are also sought.

VII. ALTERNATIVE PLEADINGS

31. To the extent facts and/or causes of action pled in this Original Petition are in conflict, they are pled in the alternative.

VIII. JURY DEMAND

32. Plaintiffs demand a trial by jury on all of his claims, the jury fee having been deposited with the Clerk of the Court.

IX. ADMINISTRATIVE PREREQUISITES

33. Plaintiff Jane Doe has performed all conditions precedent to bringing this cause of action under the TCHRA. On or about January 6, 2017, plaintiff Jane Doe timely filed a charge of

discrimination with the Equal Employment Opportunity Commission and the Texas Commission on Human Rights. Plaintiff Jane Doe received a *Notice of Right to Sue* from the Equal Employment Opportunity Commission on or about March 16, 2017. Plaintiff Jane Doe has satisfied her administrative requirements under the TCHRA and has therefore timely filed this lawsuit.

34. Plaintiff D.S. has performed all conditions precedent to bringing this cause of action under the TCHRA. On or about January 6, 2017, plaintiff D.S. timely filed a charge of discrimination with the Equal Employment Opportunity Commission and the Texas Commission on Human Rights. Plaintiff D.S. received a *Notice of Right to Sue* from the Equal Employment Opportunity Commission on or about March 29, 2017. Plaintiff D.S. has satisfied her administrative requirements under the TCHRA and has therefore timely filed this lawsuit.

X. PRAYER

Plaintiffs pray that judgment be entered against Defendants for:

- a. actual compensatory damages;
- b. all costs of court expended herein;
- c. pre-judgment and post-judgment interest at the maximum rate allowed by law;
- d. attorney's fees;
- e. exemplary damages; and
- f. all other relief to which plaintiffs are justly entitled.

Dated: April 19, 2017
Houston, Texas

Respectfully submitted,

THE HALL LAW FIRM

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