

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

EVELYN RODRIGUEZ individually and, as
administrator of the Goods, Chattels and
Credits of KAYLA CUEVAS, Deceased

Plaintiff(s),

vs.

BRENTWOOD UNION FREE SCHOOL DISTRICT

Defendant(s)

) COMPLAINT WITH JURY DEMAND

) Docket Number:

Plaintiff by and through her attorneys Law Office of Javier A. Solano, PLLC as and for a
Complaint against the Defendants BRENTWOOD UNION FREE SCHOOL DISTRICT upon
information and belief, alleges as follows:

NATURE OF THE PROCEEDING

1. This action seeks compensatory and punitive damages owing to the plaintiff as a result of the acts and/or omissions of the defendant.

JURY DEMAND

2. Plaintiff demands a jury trial of all Issues herein pursuant to the Seventh Amendment of the United States Constitution and Rule 38 of the Federal Rules of Civil Procedure.

PARTIES

3. That at all times hereinafter mentioned the Plaintiff, EVELYN RODRIGUEZ was and still is a resident of the County of Suffolk, State of New York.
4. That by order of the Honorable John M. Czygier, Jr. Judge of the Suffolk County Surrogate's Court, Letters of Administration were issued to EVELYN RODRIGUEZ on March 29, 2017, with respect to the Estate of KAYLA CUEVAS, deceased, and that said

Letters of Administration remain in full force and effect and that the Administrator is acting thereunder.

5. That Plaintiff EVELYN RODRIGUEZ is the mother of KAYLA CUEVAS.
6. Defendant, BRENTWOOD UNION FREE SCHOOL DISTRICT was and still is, a municipal corporation, duly organized and existing under and by virtue of the laws of the State of New York.
7. At all times hereinafter mentioned the Freshman Center is located at 33 Leahy Avenue in the Town of Brentwood, County of Suffolk, State of New York.
8. At all times hereinafter mentioned, Ross High School is located at South Fifth Avenue in the Town of Brentwood, County of Suffolk, State of New York.
9. At all times hereinafter mentioned Defendant BRENTWOOD UNION FREE SCHOOL DISTRICT staffed, maintained, administered, operated and controlled the Freshman Center is located at 33 Leahy Avenue in the Town of Brentwood, County of Suffolk, State of New York.
10. At all times hereinafter mentioned, Defendant BRENTWOOD UNION FREE SCHOOL DISTRICT staffed, maintained, administered, operated and controlled Ross High School located at South Fifth Avenue in the Town of Brentwood, County of Suffolk, State of New York

VENUE AND JURISDICTION

11. The venue of this action is proper pursuant to U.S.C. §1391.
12. This action arises under the constitution, treaties or laws of the United States and the Plaintiff invokes the jurisdiction of this Court pursuant to Tile 28 of the United States

Code, Section 1331, the Court's pendent jurisdiction and federal and state common law.

13. Plaintiff seeks compensatory and punitive damages for the deprivation under color of state law of certain rights of a citizen of the United States secured by the United States Constitution and federal law pursuant to 42 U.S.C. § 1983.
14. That the defendant(s) violated the plaintiff(s) Civil Rights pursuant to, including but not limited to, 20 U.S.C. Section 1681 et al, also known as *Title IX of the Education Amendments of 1972*.
15. This Court has supplemental jurisdiction over claims brought under New York Law pursuant to 28 U.S.C. § 1367.
16. That Plaintiff has complied with all the conditions precedent to the bringing of this action, and within ninety (90) days after the date of the occurrence hereinafter set forth, Plaintiffs duly served a written notice of claim upon Defendant BRENTWOOD UNION FREE SCHOOL DISTRICT, pursuant to law, said notice being verified by oath of Plaintiffs.
17. That the Plaintiff gave testimony at a 50h hearing held on November 13, 2017 by the Defendant BRENTWOOD UNION FREE SCHOOL DISTRICT.
18. That this action is brought within one year and ninety days of the date of the occurrence herein;
19. That more than thirty days (30) have elapsed since service of such notice of claim and said claim remains unadjusted and Defendants refuse to make any adjustment.

FACTUAL ALLEGATIONS

20. That KAYLA CUEVAS was a student at Freshman Center located at 33 Leahy Avenue in the Town of Brentwood, County of Suffolk, State of New York from September 2014-June 2015.
21. That from September 2014-June 2015 while KAYLA CUEVAS attended the Freshman Center she was subjected to continuous and ongoing bullying.
22. That KAYLA CUEVAS was a student at Ross High School located at South Fifth Avenue in the Town of Brentwood, County of Suffolk, State of New York from September 2015-September 2016.
23. That from September 2015-September 2016, while KAYLA CUEVAS attended Ross High School she was subjected to continuous and ongoing bullying.
24. That in the summer of 2015, KAYLA CUEVAS was a student attending a summer school program within the BRENTWOOD UNION FREE SCHOOL DISTRICT.
25. While KAYLA CUEVAS was a student at the Freshman Center, she was targeted by other students at the school who were known to be members of the Mara Salvatrucha (hereinafter referred to as MS-13) gang.
26. That the aforementioned instances of targeting, while KAYLA CUEVAS was a student at the Freshman Center, occurred within school grounds.
27. While KAYLA CUEVAS was a student at the Freshman Center, she began to be bullied by other students at the school who were known to be members of the MS-13 gang.
28. That the aforementioned instances of bullying, while KAYLA CUEVAS was a student at the Freshman Center, occurred within school grounds.

29. While KAYLA CUEVAS was a student at Ross High School, she was targeted by other students at the school who were known to be members of the MS-13 gang.
30. That the aforementioned instances of targeting, while KAYLA CUEVAS was a student at the Ross High School, occurred within school grounds.
31. While KAYLA CUEVAS was a student at Ross High School, she began to be bullied by other students at the school who were known to be members of the MS-13 gang.
32. That the aforementioned instances of bullying, while KAYLA CUEVAS was a student at Ross High School, occurred within school grounds.
33. That in the summer of 2015, while KAYLA CUEVAS was a student attending a summer school program within the BRENTWOOD UNION FREE SCHOOL DISTRICT, she was targeted by other students at the school who were known to be members of the MS-13 gang.
34. That in the summer of 2015, while KAYLA CUEVAS was a student attending a summer school program within the BRENTWOOD UNION FREE SCHOOL DISTRICT, she was bullied by other students at the school who were known to be members of the MS-13 gang.
35. That the instances of harassment, bullying and intimidation that took place from September 2014-September 2016 included, but were not limited to, instances where KAYLA CUEVAS' pants were pulled down in the middle of a school hallway.
36. That the instances of harassment, bullying and intimidation that took place from September 2014-September 2016 included, but were not limited to, instances of verbal bullying including teasing, name-calling, taunting and threats of harm.

37. That the instances of harassment, bullying and intimidation that took place from September 2014-September 2016 included, but were not limited to, instances of physical bullying including spitting, taking or breaking of her things and making mean or rude hand gestures.
38. That the instances of harassment, bullying and intimidation that took place from September 2014-September 2016 included, but were not limited to, instances where KAYLA CUEVAS was addressed in derogatory language because of her gender, sexual orientation, race, color and/or national origin.
39. That in the summer of 2015, while KAYLA CUEVAS was a student attending a summer school program within the BRENTWOOD UNION FREE SCHOOL DISTRICT, she was assaulted by another student at the school who was known to be a member of the MS-13 gang.
40. That in the summer of 2015, while KAYLA CUEVAS was a student attending a summer school program within the BRENTWOOD UNION FREE SCHOOL DISTRICT, she was threatened with a knife by another student (hereinafter "Student A") at the school who was known to be member of the MS-13 gang.
41. That at the beginning of the September 2016 school year, agents, servants, teachers, counselors, deans and/or other school personnel of the BRENTWOOD UNION FREE SCHOOL DISTRICT assured KAYLA CUEVAS that "Student A" would not be on the grounds of Ross High School.
42. That on the first day of the 2016-2017 school year, September 7, 2016, KAYLA CUEVAS encountered "Student A" on school grounds at Ross High School.

43. That agents, servants, employees, teachers, counselors, deans and other school personnel of the BRENTWOOD UNION FREE SCHOOL DISTRICT knew of and/or were made aware of the presence of "Student A" on school grounds.
44. That on September 7, 2016, KAYLA CUEVAS and/or EVELYN RODRIGUEZ informed agents, servants, employees, teachers, deans and/or other school personnel that "Student A" was on school grounds.
45. That agents, servants, employees, teachers, deans and/or other school personnel of the BRENTWOOD UNION FREE SCHOOL DISTRICT advised KAYLA CUEVAS and/or EVELYN RODRIGUEZ that "Student A" was not and could not have been on school grounds.
46. That on September 8, 2016, KAYLA CUEVAS was targeted, while on school grounds, by "Student A" and other students known to be members of the MS-13 gang.
47. That on September 8, 2016, KAYLA CUEVAS was bullied, while on school grounds, by "Student A" and other students known to be members of the MS-13 gang.
48. That on September 8, 2016, "Student A" and other students known to be members of the MS-13 gang were on school grounds when they threatened to kill KAYLA CUEVAS.
49. That on September 8, 2016, KAYLA CUEVAS was marked for death by "Student A" and other students known to be members of the MS-13 gang who made a throat slicing gesture towards KAYLA CUEVAS.
50. That agents, servants, employees, teachers, counselors, deans and other school personnel of the BRENTWOOD UNION FREE SCHOOL DISTRICT knew of and/or were made aware of the threat against the life of KAYLA CUEVAS.

51. That on September 8, 2016, KAYLA CUEVAS and/or EVELYN RODRIGUEZ informed agents, servants, employees, teachers, deans and/or other school personnel that “Student A” and other students known to be members of the MS-13 gang made a threat against the life of KAYLA CUEVAS
52. That on September 8, 2016, KAYLA CUEVAS and/or EVELYN RODRIGUEZ informed agents, servants, employees, teachers, deans and/or other school personnel that “Student A” and other students known to be members of the MS-13 gang, made a throat slicing gesture towards KAYLA CUEVAS.
53. That EVELYN RODRIGUEZ and/or KAYLA CUEVAS had advised agents, servants, employees, teachers, deans and/or other school personnel that the aforementioned threat had been captured on the school’s video surveillance.
54. That agents, servants, employees, teachers, deans and/or other school personnel of the BRENTWOOD UNION FREE SCHOOL DISTRICT advised KAYLA CUEVAS and/or EVELYN RODRIGUEZ that “Student A” was not and could not have been on school grounds on September 8, 2016.
55. That agents, servants, employees, teachers, deans and/or other school personnel of the BRENTWOOD UNION FREE SCHOOL DISTRICT advised KAYLA CUEVAS and/or EVELYN RODRIGUEZ that there had been no threat made on the life of KAYLA CUEVAS.
56. That agents, servants, employees, teachers, deans and/or other school personnel of the BRENTWOOD UNION FREE SCHOOL DISTRICT advised KAYLA CUEVAS and/or EVELYN RODRIGUEZ that there had been no throat slicing gesture made towards KAYLA CUEVAS.

57. That Defendant had actual and constructive notice of the claims set forth herein as they were taking place within the school.

58. That Defendant, its agents, servants, and employees, had actual and constructive notice of the repeated long-term reckless and unwarranted harassment and bullying against KAYLA CUEVAS.

59. That agents, servants, employees, teachers, counselors, deans and other school personnel of the BRENTWOOD UNION FREE SCHOOL DISTRICT knew of and/or were made aware of the aforementioned instances of targeting.

60. That agents, servants, employees, teachers, counselors, deans and other school personnel of the BRENTWOOD UNION FREE SCHOOL DISTRICT knew of and/or were made aware of the aforementioned instances of bullying.

61. That agents, servants, employees, teachers, counselors, deans and other school personnel of the BRENTWOOD UNION FREE SCHOOL DISTRICT knew of and/or were made aware of the aforementioned assault.

62. Despite numerous complaints lodged by EVELYN RODRIGUEZ and KAYLA CUEVAS, Defendants refused to take action to rectify the problem of bullying.

63. Despite numerous complaints lodged by EVELYN RODRIGUEZ and KAYLA CUEVAS, Defendants refused to take action to rectify the problem of harassment.

64. That injuries and damages were sustained by KAYLA CUEVAS because of Defendant's and its agents', servants' and employees' failure to timely implement and enforce anti-bullying policy as required by New York State law.

65. That as result of the ongoing bullying and harassment, KAYLA CUEVAS sustained serious psychological trauma, emotional distress and a need for psychological counseling.

66. That Defendant, its agents, servants, employees, teachers, deans and/or other school personnel knew or should have known that in 2012 MS-13 was designated a transnational criminal organization by the Treasury Department, which said the gang is involved in "serious transnational criminal activities, including drug trafficking, kidnapping, human smuggling, sex trafficking, murder, assassinations, racketeering, blackmail, extortion, and immigration offenses."

67. That Defendant, its agents, servants, employees, teachers, deans and/or other school personnel knew or should have known that MS-13 predominantly targeted, harassed, bullied and intimidated Latino students within the school.

68. That agents, servants, employees, teachers, deans and/or other school personnel of the BRENTWOOD UNION FREE SCHOOL DISTRICT were aware of the growing numbers of students belonging to the MS-13 gang within the school district and particularly, Ross High School.

69. That agents, servants, employees, teachers, deans and/or other school personnel of the BRENTWOOD UNION FREE SCHOOL DISTRICT were aware of the violent propensities of members of the MS-13 gang.

70. That as a result of the growing numbers and violence committed by members of the MS-13 gangs, the BRENTWOOD UNION FREE SCHOOL DISTRICT "red-flagged" students having possible gang affiliations.

71. That BRENTWOOD UNION FREE SCHOOL DISTRICT had actual and constructive notice that there were other instances of bullying and harassment committed against other students by students known to be members of the MS-13 gang.
72. That BRENTWOOD UNION FREE SCHOOL DISTRICT had actual and constructive notice that Ross High School was plagued with students belonging to the MS-13 gang.
73. That BRENTWOOD UNION FREE SCHOOL DISTRICT had actual and constructive notice that students belonging to the MS-13 gang repeatedly threatened and bullied other students while on school grounds.
74. That BRENTWOOD UNION FREE SCHOOL DISTRICT had actual and constructive notice that students belonging to the MS-13 gang created an environment filled with fear within the school.
75. That BRENTWOOD UNION FREE SCHOOL DISTRICT had actual and constructive notice that students belonging to the MS-13 targeted and bullied Latino students.
76. That BRENTWOOD UNION FREE SCHOOL DISTRICT had actual and constructive notice that students belonging to the MS-13 assaulted Latino students.
77. That the bullying, harassment, intimidation suffered by KAYLA CUEVAS was severe, pervasive and objectively offensive.
78. That the racial bullying, harassment, intimidation suffered by KAYLA CUEVAS was severe, pervasive and objectively offensive.
79. That KAYLA CUEVAS was discriminatorily deprived educational benefits as a result of the harassment, bullying and intimidation by other students.

80. That KAYLA CUEVAS was discriminatorily deprived educational benefits as a result of the racial harassment, bullying and intimidation by other students.
81. That Defendant undertook no reasonable action in response to the complaints of KAYLA CUEVAS and her mother EVELYN RODRIGUEZ.
82. That Defendant had substantial control over the circumstances of harassment, bullying and intimidation that KAYLA CUEVAS endured.
83. That Defendant had substantial control over the circumstances of racial harassment, bullying and intimidation that KAYLA CUEVAS endured.
84. That BRENTWOOD UNION FREE SCHOOL DISTRICT never advised the parents of KAYLA CUEVAS of the threat made against the life of KAYLA CUEVAS on September 8, 2016.
85. That BRENTWOOD UNION FREE SCHOOL DISTRICT never advised any type of law enforcement about the threat made against the life of KAYLA CUEVAS on September 8, 2016.
86. That on or about September 13, 2016, KAYLA CUEVAS was walking on or about BRENTWOOD UNION FREE SCHOOL DISTRICT school grounds when she was accosted by "Student A" and several other members of the MS-13 gang some of which were students of the BRENTWOOD UNION FREE SCHOOL DISTRICT.
87. KAYLA CUEVAS was ultimately chased off school grounds and brutally mutilated and murdered.
88. That at all times hereinafter mentioned, the Defendant was acting *in loco parentis* to KAYLA CUEVAS.

AS AND FOR A FIRST CAUSE OF ACTION

89. Plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs set forth above, with the same force and effect as if more fully set forth herein.
90. That the aforesaid injuries were caused through and by reason of the negligent, reckless and careless acts and conduct of the Defendant, its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control in failing to promulgate proper and/or adequate rules and regulations to address bullying.
91. That the aforesaid injuries were caused through and by reason of the negligent acts and conduct of the Defendant, its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control in failing to establish a rules and regulations to prevent the occurrence and perpetration of acts of bullying, cyber bullying, and harassment.
92. That the aforesaid injuries were caused through and by reason of the negligent, reckless and careless acts and conduct of the Defendant, its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control in permitting a hostile environment within the school.
93. That the aforesaid injuries were caused through and by reason of the negligent, reckless and careless acts and conduct of the Defendant, its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control in permitting students to create a hostile environment within the school by the use of threats, intimidation and abuse.

94. That the aforesaid injuries were caused through and by reason of the negligent, reckless and careless acts and conduct of the Defendant, its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control in permitting students to create a hostile environment within the school by the use of threats, intimidation and abuse.

95. That the aforesaid injuries were caused through and by reason of the negligent, reckless and careless acts and conduct of the Defendant, its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control in permitting students to create a hostile environment within the school such that KAYLA CUEVAS and other students reasonably feared for their physical safety and their lives.

96. That the aforesaid injuries were caused through and by reason of the negligent, reckless and careless acts and conduct of the Defendant, its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control in permitting the ongoing bullying and harassment of KAYLA CUEVAS without taking any action to remedy the situation.

97. That the aforesaid injuries were caused through and by reason of the negligent acts and conduct of the Defendant, its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control in failing to establish supervision of students within the school.

98. That the aforesaid injuries to infant Plaintiff were caused through and by reason of the negligent acts and conduct of the Defendant, its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control in failing

to promulgate proper and/or adequate rules and/or regulations governing the proper care, guidance and/or supervision to be provided and rendered to students in school.

99. That the aforesaid injuries were caused through and by reason of the negligent acts and conduct of the Defendant, its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control in failing to properly and/or adequately monitor the care, guidance and/or supervision provided at school.

100. That the aforesaid injuries were caused through and by reason of the negligent acts and conduct of the Defendant, its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control in failing to properly and/or adequately provide guidance to KAYLA CUEVAS.

101. That the aforesaid injuries were caused through and by reason of the negligent acts and conduct of the Defendant, its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control in failing to ensure that the Freshman Center provided those in its charge with a safe environment.

102. That the aforesaid injuries were caused through and by reason of the negligent acts and conduct of the Defendant, its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control in failing to ensure that Ross High School provided those in its charge with a safe environment.

103. That as result of the foregoing, KAYLA CUEVAS sustained serious psychological trauma, emotional distress and a need for psychological counseling.

104. That as a result thereof, the plaintiff has been damaged in a sum not in excess of TEN MILLION (\$10,000,000) DOLLARS.

AS AND FOR A SECOND CAUSE OF ACTION

105. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs set forth above, with the same force and effect as if more fully set forth herein.

106. That on September 8, 2016, Defendant, its servants, assistants, staff, agents, and employees failed to properly supervise students within Ross High School, including but not limited to KAYLA CUEVAS.

107. That on September 8, 2016, Defendant, its agents, servants and/or employees were aware of the recurring bullying, harassment and intimidation that KAYLA CUEVAS was suffering at school by other students belonging to the MS-13 gang.

108. That on September 8, 2016, Defendant, its agents, servants and/or employees were aware of the threats made against the life of KAYLA CUEVAS by another student at the school belonging to the MS-13 gang.

109. That on September 8, 2016, Defendant, its agents, servants and/or employees failed to properly supervise its students including KAYLA CUEVAS who was bullied and harassed by another student while on school grounds.

110. That on September 8, 2016, Defendant, its agents, servants and/or employees failed to properly supervise its students including KAYLA CUEVAS whose life was threatened by another student while on school grounds.

111. That on September 8, 2016, Defendant, its agents, servants and/or employees failed to properly supervise its students including KAYLA CUEVAS by permitting a student

not permitted to be on school grounds to enter the school and intimidate, bully, harass and threaten KAYLA CUEVAS.

112. That on September 8, 2016, Defendant, its agents, servants and/or employees failed to properly supervise its students including KAYLA CUEVAS by lying to KAYLA CUEVAS and advising her that "Student A" was not on school grounds.

113. That on September 8, 2016, Defendant, its agents, servants and/or employees failed to properly supervise its students including KAYLA CUEVAS by lying to EVELYN RODRIGUEZ and advising her that "Student A" was not on school grounds.

114. That on September 8, 2016, Defendant, its agents, servants and/or employees failed to properly supervise its students including KAYLA CUEVAS by lying to EVELYN RODRIGUEZ and asserting that no threat to the life of her daughter was made.

115. That on September 8, 2016 and for a period exceeding 2 years prior to September 8, 2016 Defendant its agents, servants and/or employees failed to address the bullying and harassment of KAYLA CUEVAS by other students known to be members of the MS-13 gang.

116. That on September 8, 2016 and for a period exceeding 2 years prior to September 8, 2016 Defendant, its agents, servants and/or employees failed to address the intimidation of KAYLA CUEVAS by other students known to be members of the MS-13 gang.

117. That on September 8, 2016, Defendant, its agents, servants and/or employees failed to intervene when another student, "Student A" threatened the life of KAYLA CUEVAS.

118. That on September 8, 2016, Defendant, its agents, servants and/or employees failed to notify the proper authorities that a viable threat against the life of one of its students, KAYLA CUEVAS, was made by a student known to be a member of the MS-13 gang.

119. That on September 8, 2016, Defendant, its agents, servants and/or employees released KAYLA CUEVAS into a hazardous, dangerous and deadly situation.

120. That Defendant, its agents, servants and/or employees knew or should have known that its failure to address the aforementioned bullying, harassment and intimidation created an unreasonable risk of harm to KAYLA CUEVAS.

121. That Defendant, its agents, servants and/or employees knew or should have known that its failure to address the aforementioned threat to the life of KAYLA CUEVAS created an unreasonable risk of harm to KAYLA CUEVAS.

122. That Defendant its agents, servants and/or employees knew or should have known that its action of lying to EVELYN RODRIGUEZ in regards to the threat to her daughter's life created an unreasonable risk of harm to KAYLA CUEVAS.

123. As a result of the negligent supervision of students, KAYLA CUEVAS was caused to suffer severe serious personal injuries, emotional distress, psychological trauma, depression, anxiety, pain and suffering, loss of enjoyment of life and interference in her ability to obtain an education.

124. As a result of the negligent supervision of students, KAYLA CUEVAS was brutally murdered by "Student A" and other members of the MS-13 gang.

125. That as a result thereof, the plaintiff has been damaged in a sum not in excess of TEN MILLION (\$10,000,000) DOLLARS.

AS AND FOR A THIRD CAUSE OF ACTION

126. Plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs set forth above, with the same force and effect as if more fully set forth herein.

127. That Defendant failed to take all reasonable steps to reduce the risk of injury and harm to KAYLA CUEVAS, by failing to provide her with adequate supervision and failing to provide strategies to prevent bullying.

128. That Defendant owed a duty to exercise reasonable care in training and supervising their employees and agents.

129. That Defendant failed to take all reasonable steps to train and supervise its teachers and staff, in the proper techniques for identifying bullying, harassment and bullying of students at school.

130. That Defendant failed to take all reasonable steps to train and supervise its teachers and staff, in the proper techniques of addressing bullying, harassment and bullying of students at school.

131. That Defendant failed to take all reasonable steps to train and supervise its teachers and staff, in the proper techniques of rectifying bullying, harassment and bullying of students at school.

132. That Defendant failed to take all reasonable steps to train and supervise its teachers and staff, in the proper techniques of reporting bullying, harassment and bullying of students at school.
133. That Defendant failed to take all reasonable steps to train and supervise its teachers and staff, in the proper techniques of addressing death threats made upon one student to another student.
134. That Defendant failed to take all reasonable steps to train and supervise its teachers and staff, in the proper techniques of reporting death threats made upon one student to another student.
135. That Defendant was negligent in that it failed to exercise reasonable care in the hiring, training, employment, retention and/or supervision of its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control.
136. That Defendant was negligent in that it failed to exercise reasonable care in the hiring, training, employment, retention and/or supervision of its agents, servants and/or employees, departments, agencies and those acting under their directions behest and control, in failing to train same so as to enable them to provide proper supervision of students.
137. As a result of the negligence of the Defendant in the hiring, training, employment, retention and/or supervision of its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control, KAYLA CUEVAS was caused to suffer severe serious personal injuries, emotional distress,

psychological trauma, depression, anxiety, pain and suffering, loss of enjoyment of life and interference in her ability to obtain an education.

138. That the aforesaid injuries were caused through and by reason of the negligent acts and conduct of the Defendant, its agents, servants and/or employees, departments, agencies and those acting under its directions behest and control in failing to hire efficient and/or sufficient personnel in connection with the operation, management, control, and/or supervision of said School.

139. That as a result thereof, the plaintiff has been damaged in a sum not in excess of TEN MILLION (\$10,000,000) DOLLARS.

AS AND FOR A FOURTH CAUSE OF ACTION

140. Plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs set forth above, with the same force and effect as if more fully set forth herein.

141. That KAYLA CUEVAS was subjected to repeated long-term, reckless and unwarranted harassment, bullying and intimidation by fellow students over a period exceeding two years.

142. That the majority of the repeated long-term, reckless and unwarranted harassment, bullying and intimidation by fellow students took place on school property and/or property under the Defendant's control.

143. Defendant's willful and deliberate indifference departed from the school district's established policy, custom or practice for addressing harassment showing discriminatory intent.

144. That KAYLA CUEVAS was subjected to the repeated long-term, reckless and unwarranted harassment, bullying and intimidation by fellow students based on her actual or perceived race, national origin, ethnic group, gender or sex.

145. As a result of the aforesaid actions, Defendant has violated New York Education Law §12(1).

146. That as a result thereof, the plaintiff has been damaged in a sum not in excess of TEN MILLION (\$10,000,000) DOLLARS.

AS AND FOR A FIFTH CAUSE OF ACTION

147. Plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs set forth above, with the same force and effect as if more fully set forth herein.

148. As a result of the aforesaid incidents, Defendant has violated Title VI of the Civil Rights Act of 1964.

149. That KAYLA CUEVAS was subjected to repeated and long-term, reckless and unwarranted harassment, bullying and intimidation by her fellow students.

150. That KAYLA CUEVAS was subjected to repeated and long-term, reckless and unwarranted harassment, bullying and intimidation by her fellow students on the basis of her sex, race, color and/or national origin.

151. The aforesaid repeated long-term, reckless and unwarranted harassment, bullying and intimidation was so severe, pervasive and objectively offensive that it caused KAYLA CUEVAS emotional distress, psychological trauma, depression, anxiety,

pain and suffering, loss of enjoyment of life and interference in her ability to obtain an education.

152. That Defendant had actual and constructive knowledge of the repeated and long-term, reckless and unwarranted harassment, bullying and intimidation of KAYLA CUEVAS by her fellow students.

153. That KAYLA CUEVAS and EVELYN RODRIGUEZ complained to Defendant.

154. Defendant made no attempt to furnish a reasonable or adequate response

155. Defendant was deliberately indifferent to the repeated long-term, reckless and unwarranted harassment, bullying and intimidation by fellow students towards KAYLA CUEVAS.

156. This deliberate indifference departed from the school district's established policy, custom or practice for addressing harassment and created a hostile educational environment.

157. That Defendant deprived KAYLA CUEVAS of access to the educational benefits and/or opportunities provided by the school.

158. That as a result thereof, the plaintiff has been damaged in a sum not in excess of TEN MILLION (\$10,000,000) DOLLARS.

AS AND FOR A SIXTH CAUSE OF ACTION

159. Plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs set forth above, with the same force and effect as if more fully set forth herein.

160. That Defendant has violated Title IX of the Education Amendments of 1972.

161. That KAYLA CUEVAS was subjected to repeated long-term, reckless and unwarranted harassment, bullying and intimidation by her fellow students.

162. That KAYLA CUEVAS was subjected to the aforesaid harassment, bullying and intimidation because of her sexual orientation.

163. That KAYLA CUEVAS was subjected to the aforesaid harassment, bullying and intimidation because of her gender orientation.

164. That KAYLA CUEVAS was subjected to the aforesaid harassment, bullying and intimidation because she failed to conform to stereotypical notions of femininity and how girls are expected to act and appear.

165. The aforesaid repeated long-term, reckless and unwarranted harassment, bullying and intimidation was so severe, pervasive and objectively offensive that it caused KAYLA CUEVAS emotional distress, psychological trauma, depression, anxiety, pain and suffering, loss of enjoyment of life and interference in her ability to obtain an education.

166. The aforesaid repeated long-term, reckless and unwarranted harassment, bullying and intimidation was so severe, pervasive and objectively offensive that it prevented KAYLA CUEVAS from access to an educational opportunity or benefit.

167. Defendant had actual and constructive knowledge of the aforesaid repeated long-term, reckless and unwarranted harassment, bullying and intimidation of KAYLA CUEVAS by her fellow students and were deliberately indifferent to the known acts of harassment, bullying and intimidation in its programs and/or activities.

168. That as a result thereof, the plaintiff has been damaged in a sum not in excess of TEN MILLION (\$10,000,000) DOLLARS.

AS AND FOR A SEVENTH CAUSE OF ACTION

169. Plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs set forth above, with the same force and effect as if more fully set forth herein.

170. As a result of the aforesaid incidents, Plaintiff brings a claim under 42 U.S.C § 1983 for violation of the Equal Protection Clause of the 14th Amendment.

171. KAYLA CUEVAS was subjected to repeated long-term, reckless and unwarranted harassment, bullying and intimidation by fellow students.

172. Defendant had actual or constructive knowledge of the repeated long-term, reckless and unwarranted harassment, bullying and intimidation by fellow students toward KAYLA CUEVAS.

173. Defendant had actual or constructive knowledge of the repeated long-term, reckless and unwarranted harassment, bullying and intimidation by fellow students toward KAYLA CUEVAS because of her race, ethnicity, gender and/or sexual orientation.

174. Both KAYLA CUEVAS and KAYLA CUEVAS' parents and natural guardians complained to the Defendant.

175. Defendant made no attempt to furnish a reasonable or adequate response.

176. Defendant was deliberately indifferent to the repeated long-term, reckless and unwarranted harassment, bullying and intimidation by fellow students toward KAYLA CUEVAS.

177. This deliberate indifference departed from the school district's established policy, custom or practice for addressing harassment, bullying and/or intimidation.

178. The departure from the school district's established policy, custom, or practice for addressing harassment, bullying and intimidation evidences discriminatory intent towards KAYLA CUEVAS.

179. As a result of Defendant's deliberate indifference to the repeated long-term, reckless and unwarranted harassment, bullying and intimidation by fellow students toward KAYLA CUEVAS, Defendant increased the danger that KAYLA CUEVAS would be subjected to harassment and physical harm by her fellow students.

180. That Defendant's willful failure to act was an affirmative act that created and increased the danger of harassment, bullying, intimidation and physical violence by others.

181. That Defendant's willful failure to act was an affirmative act that created a dangerous environment within the school.

182. That as a result thereof, the plaintiff has been damaged in a sum not in excess of TEN MILLION (\$10,000,000) DOLLARS.

AS AND FOR AN EIGHTH CAUSE OF ACTION

183. Plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs set forth above, with the same force and effect as if more fully set forth herein.

184. As a result of the aforesaid incidents, Plaintiff brings a claim under 42 U.S.C § 1983 under the Fourteenth Amendment's Due Process Clause.

185. KAYLA CUEVAS was subjected to repeated long-term, reckless and unwarranted harassment, bullying and intimidation by fellow students.

186. Defendant had actual or constructive knowledge of the repeated long-term, reckless and unwarranted harassment, bullying and intimidation by fellow students toward KAYLA CUEVAS.

187. Both KAYLA CUEVAS and KAYLA CUEVAS' parents and natural guardians complained to the Defendant.

188. Defendant made no attempt to furnish a reasonable or adequate response.

189. Defendant was deliberately indifferent to the repeated long-term, reckless and unwarranted harassment, bullying and intimidation by fellow students toward KAYLA CUEVAS.

190. This deliberate indifference departed from the school district's established policy, custom or practice for addressing harassment, bullying and/or intimidation.

191. The departure from the school district's established policy, custom, or practice for addressing harassment, bullying and intimidation evidences discriminatory intent towards KAYLA CUEVAS.

192. As a result of Defendant's deliberate indifference to the repeated long-term, reckless and unwarranted harassment, bullying and intimidation by fellow students toward KAYLA CUEVAS, Defendant increased the danger that KAYLA CUEVAS would be subjected to harassment and physical harm by her fellow students.

193. That Defendant's willful failure to act was an affirmative act that created and increased the danger of harassment, bullying, intimidation and physical violence by others.

194. That Defendant's willful failure to act was an affirmative act that created a dangerous environment within the school.

195. That by reason of the aforesaid action, KAYLA CUEVAS was deprived of life, liberty, or property without due process of law.

196. That as a result thereof, the plaintiff has been damaged in a sum not in excess of TEN MILLION (\$10,000,000) DOLLARS.

AS AND FOR A NINTH CAUSE OF ACTION

197. Plaintiff repeats and re-alleges each and every allegation contained above with the same force and effect as though each were more fully set forth at length herein.

198. Upon information and belief, that prior to her death, the decedent, KAYLA CUEVAS, sustained pre-impact terror, mental anguish and serious personal injuries causing her acute pain and suffering.

199. That as a result of the foregoing, EVELYN RODRIGUEZ as Administrator of the Goods and Chattels and Credits of KAYLA CUEVAS, deceased, demands judgment against the Defendant.

200. That as a result thereof, the plaintiff has been damaged in a sum not in excess of TEN MILLION (\$10,000,000) DOLLARS.

AS AND FOR A TENTH CAUSE OF ACTION

201. Plaintiff repeats and re-alleges each and every allegation contained above with the same force and effect as though each were more fully set forth at length herein.
202. That the death of KAYLA CUEVAS was caused by the negligence, recklessness and deliberate indifference of the Defendant,
203. That KAYLA KUEVAS was born on or about July 27, 2000.
204. That KAYLA CUEVAS was survived by heirs-at-law and next of kin. That heirs-at-law and next of kin of the decedent sustained pecuniary loss as a result of the death of the decedent including, but not limited to, loss of society pursuant to EPTL 5-4.1.
205. Decedent's estate incurred funeral and administrative expenses and sustained pecuniary loss pursuant to EPTL 5-4.1.
206. That Defendant's conduct was wanton, reckless and/or exhibited gross indifference to and a callous disregard for human life, safety and the rights of decedent.
207. Due to Defendant's negligence and recklessness Plaintiff is entitled to damages and punitive damages in the amounts commensurate with the injuries and damages sustained herein, altogether with costs and disbursements.
208. That as a result thereof, the plaintiff has been damaged in a sum not in excess of TEN MILLION (\$10,000,000) DOLLARS.

AS AND FOR AN ELEVENTH CAUSE OF ACTION

209. Plaintiff repeats and re-alleges each and every allegation contained above with the same force and effect as though each were more fully set forth at length herein.
210. Plaintiff EVELYN RODRIGUEZ was the mother of KAYLA CUEVAS.

211. That prior to the incidents complained of, Plaintiff's daughter was healthy and sound and was able to, and did in fact, provide the Plaintiff with consortium, love, aid, and affection typical of the mother-daughter relationship.

212. That due to the actions of the Defendant and as a result of the aforesaid, Plaintiff's daughter sustained anxiety, emotional distress, physical injury and was killed and as a result thereof, EVELYN RODRIGUEZ, has been deprived of her daughter's care; she has been deprived of the love, aid, affection of her daughter she believes that the hereinabove described deprivation and impairment will continue in the future.

213. Due to Defendant's negligence and recklessness Plaintiff is entitled to damages and punitive damages in the amounts commensurate with the injuries and damages sustained herein, altogether with costs and disbursements.

214. That as a result thereof, the plaintiff has been damaged in a sum not in excess of TEN MILLION (\$10,000,000) DOLLARS.

PRAYER FOR RELIEF

For all of these reasons, plaintiff prays for judgment against defendants as follows:

- a. On the First Cause of Action in a sum not in excess of TEN MILLION (\$10,000,000) DOLLARS; together with punitive damages;
- b. On the Second Cause of Action in a sum not in excess of TEN MILLION (\$10,000,000) DOLLARS;
- c. On the Third Cause of Action in a sum not in excess of TEN MILLION (\$10,000,000) DOLLARS;

- d. On the Fourth Cause of Action in a sum not in excess of TEN MILLION (\$10,000,000 DOLLARS;
- e. On the Fifth Cause of Action in a sum not in excess of TEN MILLION (\$10,000,000 DOLLARS;
- f. On the Sixth Cause of Action in a sum not in excess of TEN MILLION (\$10,000,000 DOLLARS;
- g. On the Seventh Cause of Action in a sum not in excess of TEN MILLION (\$10,000,000 DOLLARS;
- h. On the Eighth Cause of Action in a sum not in excess of TEN MILLION (\$10,000,000 DOLLARS;
- i. On the Ninth Cause of Action in a sum not in excess of TEN MILLION (\$10,000,000 DOLLARS;
- j. On the Tenth Cause of Action in a sum not in excess of TEN MILLION (\$10,000,000 DOLLARS;
- k. On the Eleventh Cause of Action in a sum not in excess of TEN MILLION (\$10,000,000 DOLLARS;
- l. For compensatory damages in an amount to be determined by a jury; (2) for reasonable attorneys' fees and costs, as permitted under 42 U.S.C. § 1988;
- m. For punitive damages to the fullest extent permitted by law;
- n. For any other relief of which Plaintiff is entitled to; and
- o. For such other and further relief as this Court may deem just and proper.

Dated: NEW YORK, NEW YORK
November 30, 2017



LAW OFFICES OF JAVIER A. SOLANO
BY: JAVIER A. SOLANO
Attorneys for Plaintiff
EVELYN RODRIGUEZ individually and as
administrator of the Goods, Chattels and
Credits of KAYLA MARIE CUEVAS, Deceased
350 Fifth Avenue, Suite 5900
New York, New York 10118
Telephone: 212-714-6600

VERIFICATION

I, the undersigned, an attorney admitted to practice in the Courts of the State of New York, state that I am the attorney of record for the Plaintiff in the within action; that I have read the foregoing COMPLAINT and know its contents; that it is true to my own knowledge, except as to matters alleged to be on information and belief, and as to those matters I believe them to be true.

The reason that this verification is made by me and not by the Plaintiff is because the Plaintiff does not reside in the county in which your affirmant maintains his principal office.

The grounds of my belief as to all matters not stated upon my own knowledge are as follows:

Records contained in my file and conversations had with the Plaintiff.

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated: NEW YORK, NEW YORK
November 30, 2017



JAVIER A. SOLANO