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JOHN DOE

SUPERIOR COURT FOR THE COUNTY OF SACRAMENTO
UNLIMITED JURISDICTION

BY FAX

JANE DOE #1, an individual, JANE
DOE #2, an individual, and JOHN DOE,
an individual,

Plaintiffs,

v.

KEVIN PATRICK HOLEMAN, an
individual; MANTECA UNIFIED
SCHOOL DISTRICT, a governmental
entity; and ROES 1-20,

Defendants.

Case No.

COMPLAINT FOR DAMAGES

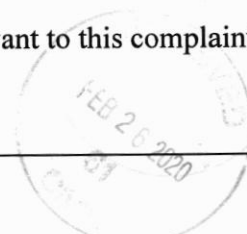
- 1- Child Sexual Abuse / Seduction
- 2- Child Sexual Battery
- 3- Negligence
- 4- Intentional Infliction of Emotional Distress
- 5- Negligent Infliction of Emotional Distress
- 6- Sexual Harassment

JURY TRIAL DEMANDED

Plaintiffs bring this action against the Manteca Unified School District, Kevin Patrick Holeman, and Roes 1-20 for damages arising from Kevin Patrick Holman's rape and sexual battery of Jane Doe #1 ("Plaintiff"). Plaintiffs allege and aver the following based upon personal knowledge as to facts known to them, and upon information and belief as to all other matters.

FACTS

1. Plaintiff JANE DOE #1 attended East Union High School from 2012 to 2016. She was a student in the school's Junior Reserve Officers' Training Corps program ("ROTC") and was under the care of the school and her teachers at all times relevant to this complaint.



1 Kevin Patrick Holeman, a retired Lieutenant Colonel with the United States Army, was her
2 ROTC instructor. In 2015, Lt. Col. Holeman raped Plaintiff. She was 16 years old. Her teacher
3 was 51.

4 2. Lt. Col. Holeman's predatory behavior began in 2014. In or about October 2014,
5 Lt. Col. Holeman began to "groom and condition" Plaintiff DOE #1 for a sexual relationship.
6 With the pretext of needing to communicate with her about ROTC matters, Lt. Col. Holeman
7 would ask Plaintiff to stay after school. Lt. Col. Holeman would share "personal matters" (such
8 as complaints about his marriage) and discuss adult topics (such as sex) in order to bond with
9 Plaintiff DOE #1 and establish trust. Lt. Col. Holeman would frequently contact Plaintiff DOE
10 #1 through a mobile game that had a chat feature. Lt. Col. Holeman would arrange meetings
11 with Plaintiff through the mobile game chat.

12 3. Plaintiffs are informed and believe that Lt. Col. Holeman fostered and maintained
13 inappropriate relationships with several female ROTC students, all of whom were young teens.
14 Upon information and belief, many students and staff, including ROES 1-20, witnessed Lt. Col.
15 Holeman interacting inappropriately with female ROTC students, especially Plaintiff DOE #1.
16 For example, Lt. Col. Holeman would give Plaintiff DOE #1 rides to/from school, let her drive
17 his car, and drive her around the town. Lt. Col. Holeman would also spend a lot of time with
18 other young female ROTC students both on and off campus.

19 4. In 2015, Lt. Col. Holeman's flirting with Plaintiff DOE #1 become more overt.
20 Lt. Col. Holeman spent excessive time with Plaintiff, both on and off campus. Lt. Col.
21 Holeman's actions were so blatant and obvious that any reasonable person would have suspected
22 that he was engaged in inappropriate and unlawful interactions with Plaintiff. However,
23 Plaintiffs, all of them, are informed and believe that none of the East Union High School staff
24 reported any such actions as required by Penal Code section 11166, despite observing Lt. Col.
25 Holeman acting inappropriately with his female cadets, especially Plaintiff DOE #1. Instead East
26 Union High School staff, including ROES 1-20, turned a blind eye to Lt. Col. Holeman's
27 inappropriate conduct.
28

5. In spring 2015, before an ROTC event at school, Lt. Col. Holeman took Plaintiff DOE #1 to an isolated location where he raped and sexually battered her. This was Plaintiff's first time having sexual intercourse. Lt. Col. Holeman continued to spend excess time with Plaintiff and sexually assaulted her over the course of the next several months. Plaintiffs, all of them, are informed and believe that none of the East Union High School staff reported any such actions.

6. In August 2015, police discovered that Lt. Col. Holeman was engaged in inappropriate relationships with his female students, including Plaintiff DOE #1. The Manteca Police Department launched an investigation. Lt. Col. Holeman was charged with three felony counts of having unlawful intercourse with a minor (statutory rape of Plaintiff), sending lewd materials to a minor, and contacting a minor with sexual intent. Lt. Col. Holeman pled guilty to one or more charges and was sentenced to jail.

PARTIES

7. Plaintiff Jane Doe #1 is an individual residing in the State of California. She brings this lawsuit anonymously. In 2014-2015, Jane Doe #1 was a minor and a student at East Union High School. East Union High School is in the Manteca Unified School District.

8. Plaintiff Jane Doe #2 is an individual residing in the State of California. She brings this lawsuit anonymously. Plaintiff Jane Doe #2 is the mother of Jane Doe #1. Plaintiff Jane Doe #2 has been injured due to the actions and inactions of Defendants.

9. Plaintiff John Doe is an individual residing in the State of California. He brings this lawsuit anonymously. Plaintiff John Doe is the father of Jane Doe #1. Plaintiff John Doe has been injured due to the actions and inactions of Defendants.

10. Defendant Kevin Patrick Holeman was, at all times material to this complaint, a teacher employed by Manteca Unified School District. While acting in his capacity as a Manteca Unified schoolteacher, Defendant Holeman statutorily raped and sexually abused Plaintiff DOE #1, his student. Defendant Holeman resides in the County of Sacramento.

11. Defendant Manteca Unified School District is a governmental agency, a school

1 district organized and existing under the laws of the State of California with its principal offices
2 in the City of Manteca, located in the County of San Joaquin. At all times relevant to this
3 complaint, Manteca Unified School District employed defendants Kevin Patrick Lt. Col.
4 Holeman and ROES 1-20. Manteca Unified School District is both directly liable and
5 vicariously liable for its negligence and the negligence of its agents and employees.

6 12. Plaintiffs are ignorant of the true names or identities of the fictitiously named
7 ROE Defendants. Plaintiffs are informed and believe that ROE Defendants, and each of them,
8 are employees and/or agents of Manteca Unified School District, who, while acting as agents
9 and/or employees of Manteca Unified School District, acted unlawfully and/or negligently,
10 causing Plaintiffs to suffer the injuries alleged herein. Plaintiffs are informed and believe that the
11 ROE Defendants, and each of them, were responsible for overseeing, vetting, hiring and/or
12 supervising Defendant Lt. Col. Holeman, and acted unlawfully and/or negligently, causing
13 Plaintiffs to suffer the injuries alleged herein. Plaintiffs will amend this Complaint once the true
14 names or identities of the ROE Defendants are discovered.

15 **JURISDICTION AND VENUE**

16 13. Jurisdiction is proper pursuant to Code of Civil Procedure Section 410.10 because
17 the acts complained of took place in the State of California. Venue is proper pursuant to Code of
18 Civil Procedure section 395(a) because the one or more Defendants reside in Sacramento County.

19 **FIRST CAUSE OF ACTION**

20 **(Child Sexual Abuse / Seduction as to Defendant Lt. Col. Holeman)**

21 14. The allegations set forth in preceding paragraphs are realleged and incorporated
22 herein by reference.

23 15. In 2014-2015, Plaintiff DOE #1 was Lt. Col. Holeman's student and under his
24 supervision, care and command in the junior ROTC program at East Union High School. Lt.
25 Col. Holeman abused his position of power and trust by engaging in sexual relations with
26 Plaintiff, a minor.

27 16. As a result of Lt. Col. Holeman's unlawful conduct, Plaintiff suffered physical
28 pain and psychological injuries and continues to suffer such psychological injuries and trauma,

1 including depression, anxiety, mental anguish, humiliation, loss of enjoyment of life, and severe
2 emotional distress. Plaintiff has incurred and will continue to incur medical expenses for
3 treatment, and for incidental medical expenses. Plaintiff demands all available damages
4 according to proof.

5 17. Lt. Col. Holeman's conduct as described herein was willful, despicable, knowing,
6 and extreme, constituting malice and oppression. Accordingly, Plaintiff seeks an award of
7 punitive and exemplary damages in an amount according to proof.

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9 **SECOND CAUSE OF ACTION**
(Child Sexual Battery as to Defendant Holeman)

10 18. The allegations set forth in preceding paragraphs are realleged and incorporated
11 herein by reference.

12 19. Lt. Col. Holeman abused his position of power and trust by sexually assaulting
13 and battering Plaintiff DOE #1, a minor. Lt. Col. intended to cause offensive and/or harmful
14 contact and Plaintiff suffered sexually offensive contact. As a result of Lt. Col. Holeman's
15 unlawful conduct, Plaintiff suffered physical pain and psychological injuries and continues to
16 suffer such psychological injuries and trauma, including depression, anxiety, mental anguish,
17 humiliation, loss of enjoyment of life, and severe emotional distress. Plaintiff has incurred and
18 will continue to incur medical expenses for treatment, and for incidental medical expenses.
19 Plaintiff demands all available damages according to proof.

20 20. Lt. Col. Holeman's conduct as described herein was willful, despicable, knowing,
21 and extreme, constituting malice and oppression. Accordingly, Plaintiff seeks an award of
22 punitive and exemplary damages in an amount according to proof.

23
24 **THIRD CAUSE OF ACTION**
(Negligence as to Defendants Manteca Unified School District and ROES 1-20)

25 21. The allegations set forth in preceding paragraphs are realleged and incorporated
26 herein by reference.

27 22. At all times relevant to this complaint, Defendants Manteca Unified School
28 District and ROES 1-20 owed a duty to safeguard the safety of their students, such as Plaintiff. In

1 effect, Defendants Manteca Unified School District and ROES 1-20 stood in the shoes of their
2 students' parents, acting in *loco parentis*, at all times when such students were under Defendants'
3 care. Additionally, Defendants ROES 1-10 had a statutory duty to mandatorily report any and all
4 suspected child abuse, including sexual abuse of a student by a teacher. ROES 1-10 breached
5 their duty by failing to report Lt. Col. Holeman, even though it was well known that Lt. Col.
6 Holeman maintained inappropriate relationships with the female students under his care,
7 especially Plaintiff DOE #1. A reasonable person would have suspected that Lt. Col. Holeman
8 was engaged in sexual activity with his students, including Plaintiff. Defendants ROES 1-10's
9 failure to report Lt. Col. Holeman was substantial factor in causing Plaintiffs' damages.
10 Defendants ROES 1-10's failure to report constitutes negligence per se as their actions were in
11 violation of California Penal Code section 11166 *et seq.* Defendant Manteca Unified School
12 District is vicariously liable for the negligence of ROES 1-10 and their violations of California
13 Penal Code section 11166 *et seq.*

14 23. Defendants Manteca Unified School District and ROES 11-20 also breached their
15 duty of care to Plaintiff by, among other things, failing to properly train their agents and
16 employees on how to recognize and report suspected sexual activity between a student and a
17 teacher. Defendants ROES 11-20's failure to recognize and report Lt. Col. Holeman
18 inappropriate relationships with female students, especially Plaintiff DOE #1, was substantial
19 factor in causing Plaintiffs' damages. Defendants Manteca Unified School District and ROES
20 11-20's improper training constitutes negligence per se. Defendant Manteca Unified School
21 District is vicariously liable for the negligence of ROES 11-20.

22 24. Defendants Manteca Unified School District and ROES 11-20 had a duty to
23 properly vet, train, supervise and retain East Union High School agents and employees. Among
24 other acts and/or failures to act, Defendants Manteca Unified School District and ROES 11-20
25 were negligent in their hiring, training, supervision and retention Lt. Col. Holeman. Defendants
26 Manteca Unified and ROES 11-20 were further negligent by failing to maintain policies and
27 procedures to prevent the harms suffered by Plaintiff. With deliberate indifference, Defendants
28

1 Manteca Unified School District and ROES 11-20 failed to take reasonable, necessary, proper
2 and adequate measures in order to protect Plaintiff from a sexual predator. Defendants Manteca
3 Unified School District and ROES 11-20's negligence was substantial factor in causing
4 Plaintiffs' damages. Defendants Manteca Unified School District and ROES 11-20's negligent
5 hiring, training, supervision and retention Lt. Col. Holeman constitutes negligence per se.
6 Manteca Unified District is vicariously liable for its negligence and negligence of ROES 11-20.

7 25. As a result of Defendants Manteca Unified and ROES 1-20's negligent conduct,
8 Plaintiff suffered physical pain and psychological injuries and continues to suffer such
9 psychological injuries and trauma, including depression, anxiety, mental anguish, humiliation,
10 loss of enjoyment of life, and severe emotional distress. Plaintiff has incurred and will continue
11 to incur medical expenses for treatment, and for incidental medical expenses. Plaintiff demands
12 all available damages according to proof.

13 26. Defendants ROES 1-20's conduct as described above was despicable and
14 performed with a willful and knowing disregard for the rights of students, including Plaintiff.
15 Accordingly, Plaintiffs seek an award of punitive and exemplary damages in an amount
16 according to proof.

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18 **FOURTH CAUSE OF ACTION**
19 **(Intentional Infliction of Emotional Distress as to Defendant Holeman)**

20 27. The allegations set forth in preceding paragraphs are realleged and incorporated
21 herein by reference.

22 28. Lt. Col. Holeman engaged in the extreme and outrageous conduct herein as above
23 alleged with wanton and reckless disregard of the probability of causing Plaintiffs, and each of
24 them, to suffer severe emotional distress. Lt. Col. Holeman's conduct included subjecting
25 Plaintiff to repeated sexual assaults and repeated sexualized conversations at school. Lt. Col.
26 Holeman's conduct further violated the trust placed in him by Plaintiffs Jane Doe #2 and John
27 Doe, who entrusted their daughter to his custody and care.

28 29. As a proximate cause of Lt. Col. Holeman's conduct, Plaintiffs, and each of them,
suffered severe emotional distress, mental anguish, depression, anxiety, and humiliation.

1 Plaintiffs have sustained and continue to sustain aggravated medical problems resulting from,
2 among other things, depression, anxiety, humiliation, and emotional distress. Plaintiffs have
3 incurred and will continue to incur medical expenses for treatment, and for incidental medical
4 expenses; and Plaintiffs have suffered and continue to suffer emotional pain and suffering.
5 Plaintiffs are therefore entitled to damages according to proof.

6 30. Lt. Col. Holeman's conduct as described above was willful, despicable, knowing,
7 and intentional, constituting malice and oppression. Accordingly, Plaintiffs seek an award of
8 punitive and exemplary damages in an amount according to proof.

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10 **FIFTH CAUSE OF ACTION**
(Negligent Infliction of Emotional Distress as to all Defendants)

11 31. The allegations set forth in preceding paragraphs are realleged and incorporated
12 herein by reference.

13 32. Defendants owed Plaintiffs a duty of care not to engage in actions that would
14 cause them emotional distress. Defendants breached said duty by their own conduct as alleged
15 herein, including Defendants' failure to report and guard against Lt. Col. Holeman sex abuse of
16 Plaintiff. As a result of Defendants' negligence, Plaintiffs, and each of them, suffered serious
17 emotional distress, mental anguish, depression, embarrassment, anxiety and humiliation.
18 Plaintiffs have sustained and continue to sustain aggravated medical problems resulting from,
19 among other things, depression, anxiety, humiliation, and emotional distress. Plaintiffs have
20 incurred and will continue to incur medical expenses for treatment, and for incidental medical
21 expenses; and Plaintiffs have suffered and continue to suffer emotional pain and suffering.
22 Plaintiffs are thereby entitled to damages according to proof.

23 33. Defendants Lt. Col. Holeman and ROES 1-20's conduct as described above
24 constituted malice and oppression. Accordingly, Plaintiffs seek an award of punitive and
25 exemplary damages in an amount according to proof.

26 **SIXTH CAUSE OF ACTION**
27 **(Sexual Harassment as to all Defendants)**

28 34. The allegations set forth in preceding paragraphs are realleged and incorporated

1 herein by reference.

2 35. Education Code section 220 states “[n]o person shall be subjected to
3 discrimination on the basis of disability, gender, gender identity, gender expression, nationality,
4 race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the
5 definition of hate crimes set forth in Section 422.55 of the Penal Code in any program or activity
6 conducted by an educational institution that receives, or benefits from, state financial assistance
7 or enrolls pupils who receive state student financial aid.”

8 36. Education Code section 201 states “[a]ll pupils have the right to participate fully
9 in the educational process, free from discrimination and harassment [...] California's public
10 schools have an affirmative obligation to combat racism, sexism, and other forms of bias, and a
11 responsibility to provide equal educational opportunity [...] Harassment on school grounds
12 directed at an individual on the basis of personal characteristics or status creates a hostile
13 environment and jeopardizes equal educational opportunity as guaranteed by the California
14 Constitution and the United States Constitution [...] There is an urgent need to prevent and
15 respond to acts of hate violence and bias-related incidents that are occurring at an increasing rate
16 in California's public schools [...] It is the intent of the Legislature that this chapter shall be
17 interpreted as consistent with [...] Title IX of the Education Amendments of 1972 (20 U.S.C. Sec.
18 1681, et seq.) [...] the Unruh Civil Rights Act (Secs. 51 to 53, incl., Civ. C.), and the Fair
19 Employment and Housing Act (Pt. 2.8 (commencing with Sec. 12900), Div. 3, Gov. C.), except
20 where this chapter may grant more protections or impose additional obligations, and that the
21 remedies provided herein shall not be the exclusive remedies, but may be combined with
22 remedies that may be provided by the above statutes.”

23 37. The California Supreme Court has determined: “Responsibility for the safety of
24 public school students is not borne solely by instructional personnel. School principals and other
25 supervisory employees, to the extent their duties include overseeing the educational environment
26 and the performance of teachers and counselors, also have the responsibility of taking reasonable
27 measures to guard pupils against harassment . . .” *C.A. v. William S. Hart Union High School*
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1 *Dist. et. al.*, (2012) 53 Cal. 4th 861, 871. "A principal is liable when it ratifies an originally
2 unauthorized tort. The failure to discharge an agent or employee may be evidence of ratification.
3 . . If the employer, after knowledge or opportunity to learn of the agent's misconduct, continues
4 the wrongdoer in service, the employer may become an abettor and may make himself liable in
5 punitive damages." *Murillo v. Rite Stuff Foods Inc.*, (1998) 65 Cal. App. 4th 833, 852 (internal
6 citations omitted).

7 38. During Plaintiff's time as a student at Manteca Unified School District, Defendant
8 Lt. Col. Holeman intentionally, recklessly and wantonly made sexual advances, solicitations,
9 requests, demands for sexual compliance based on Plaintiff's gender that were unwelcome,
10 pervasive and severe. The incidents of abuse outlined herein above took place while Plaintiff
11 was under the control of Defendant Lt. Col. Holeman, in his capacity and position as a teacher,
12 advisor and mentor and while acting specifically on behalf of Defendants.

13 39. During Plaintiff's time as a student at Manteca Unified School District, Defendant
14 Lt. Col. Holeman intentionally, recklessly and wantonly did acts which resulted in psychological
15 harm to the Plaintiff, including but not limited to, using his position as a teacher, instructor,
16 advisor, and mentor to sexually harass and abuse the Plaintiff, and to use his authority and
17 position of trust to exploit the Plaintiff emotionally.

18 40. Because of Plaintiff's relationship with Lt. Col. Holeman as a student at Manteca
19 Unified School District, and Plaintiff's young age as a minor student, Plaintiff was unable to
20 easily terminate the student-teacher, student-advisor, and student-mentor relationships she had
21 with Defendant Lt. Col. Holeman. Because of Lt. Col. Holeman's position of authority over
22 Plaintiff, and Plaintiff's mental and emotional state, and Plaintiff's young age under the age of
23 consent, Plaintiff was unable to, and did not give meaningful consent to such acts.

24 41. Even though the Defendants knew or should have known of these activities by
25 Defendant Lt. Col. Holeman, Defendants did nothing to investigate, supervise or monitor
26 Defendant Lt. Col. Holeman to ensure the safety of the minor female students, but instead ratified
27 such conduct by retaining Lt. Col. Holeman in employment and retaining the benefits of his
28

1 employment.

2 42. Defendants' conduct was a breach of their duties to Plaintiff. Defendant Manteca
3 Unified School District ratified Lt. Col. Holeman's illicit sexual harassment of Plaintiff by
4 retaining him in employment despite having knowledge and/or reasonable suspicion that the
5 sexual harassment was occurring.

6 43. As a result of the above-described conduct, Plaintiff has suffered and continues to
7 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
8 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of
9 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be
10 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain
11 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for
12 medical and psychological treatment, therapy, and counseling.

13 44. The aforesaid acts directed towards the Plaintiff were carried out with a conscious
14 disregard of Plaintiff's right to be free from such tortious behavior, such as to constitute
15 oppression, fraud or malice pursuant to California Civil Code section 3294, entitling Plaintiff to
16 punitive damages against Defendant Lt. Col. Holeman in an amount appropriate to punish and set
17 an example of him, and also pursuant to Civil Code section 52. Plaintiff is also entitled to
18 attorney's fees and costs from Defendants pursuant to Civil Code section 52, especially given
19 Manteca Unified School District's authorization or ratification of such acts by its managing
20 agents, officers or directors.

21 **V. PRAYER FOR RELIEF**

22 Wherefore, Plaintiffs prays for judgment as follows:

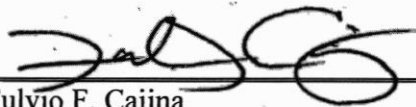
- 23 1. For compensatory damages, including all economic and noneconomic damages;
- 24 2. For exemplary and punitive damages as allowable by law;
- 25 4. For reasonable attorneys' fees pursuant to all applicable statutes;
- 26 5. For prejudgment and post-judgment interest;
- 27 5. For costs of suit incurred herein; and
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2 6. For such other and further relief as this court may deem just and proper.
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4 Respectfully Submitted,

5 Dated: February 25, 2020

6 LAW OFFICES OF ANDREW NEILSON AND
7 FULVIO F. CAJINA

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9 Fulvio F. Cajina
10 Attorneys for Plaintiffs
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