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SUPERIOR COURT OF THE STATE OF CALIFORNIA

12

FOR THE COUNTY OF LOS ANGELES

13

JOHN DOE 19, an Individual,

CASE NUMBER: BC457720

14

Plaintiff,

15

v.

FIRST AMENDED COMPLAINT FOR
DAMAGES FOR:

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17 LOS ANGELES UNIFIED SCHOOL
DISTRICT; VANCE MILLER; HAMILTON
18 ACADEMY and DEFENDANT DOES 4
through 1000, inclusive,

1. Negligence;
2. Sexual Battery

19

DEMAND FOR JURY TRIAL

20

Defendants.

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22 Based upon information and belief available to Plaintiff at the time of the filing of this
23 Complaint, Plaintiff makes the following allegations:

24

BACKGROUND FACTS

25

26 1. Vance Miller, a music teacher with the Los Angeles Unified School District
and teaching at Hamilton Academy, sexually molested plaintiff while he was a freshman in
27 High School starting in approximately 1995. Vance Miller has been teaching with the Los
28 Angeles Unified School District at Hamilton Academy since 1993. Starting in 1993 Vance

1 Miller began a regular practice of kissing students on the lips during class, rubbing up
2 against students in class; taking students one on one to a local gym and showering naked
3 with them; and counseling students one on one behind closed doors at Hamilton Academy,
4 regarding the students' sexual identity and sexual activities. All of these activities were
5 known and/or observed by fellow students, faculty and staff of the Los Angeles Unified
6 School District and Hamilton Academy. Despite having awareness of this conduct faculty
7 and staff with the Los Angeles Unified School District and Hamilton Academy failed to make
8 Mandatory Reports required under California Penal Code Section 11164 et. Seq, and failed
9 to enforce rules of the defendants designed to protect children from being sexually
10 molested by teachers.

11 2. Instead of taking actions to protect students from Vance Miller's
12 predatory actions toward minor students, the Los Angeles Unified School District and
13 Hamilton Academy gave commendations to Vance Miller, further encouraging and
14 emboldening Miller's sexual abuse of students.

15 3. To this day, despite Plaintiff's complaint of sexual abuse by Vance Miller,
16 the Los Angeles Unified School District and Hamilton Academy have continued to give
17 Vance Miller a full teaching schedule. Defendants have failed to perform any investigation
18 of Vance Miller's activities with students, or to inquire of faculty and staff regarding Vance
19 Miller's improper actions with minor students.

20 4. In September of 1995, Plaintiff, who was born in 1981, began attending
21 Hamilton Music Academy as a freshman. Plaintiff attended Hamilton Academy because of
22 his interest in music and piano. Within the first few months of attending Hamilton Academy
23 one of Plaintiff's teachers Vance Miller began giving Plaintiff messages, playful touches,
24 and long hugs. Vance Miller counseled Plaintiff about his home life, and his sexual identity.
25 Plaintiff who like many adolescents felt confusion over his sexuality coveted Vance Miller's
26 attention. As time went on and Vance Miller's contact with Plaintiff increased, Plaintiff fell in
27 love with Vance Miller. Vance Miller's hugs transformed into kissing. Vance Miller's
28 messages to fondling. Vance Miller's counseling became encouraging Plaintiff to express

1 his attraction sexually.

2 5. Starting in 1995 and ending in 1998, Vance Miller regularly engaged in
3 sexual conduct with Plaintiff, including but not limited to kissing, fondling of genitals,
4 masturbation, oral copulation and anal sex. Throughout this time, Plaintiff believed he was
5 in a relationship with Vance Miller and thought he was in love with Vance Miller. Vance
6 Miller utilizing his position of trust and authority, performed sexual acts upon Plaintiff at
7 school, at Vance Miller's home, and in Vance Miller's car as he took Plaintiff to and from
8 school events.

9 **DELAYED DISCOVERY OF HARM**

10 6. Because of Vance Miller's age, authority and his manipulation of
11 Plaintiff's thoughts and emotions, Plaintiff did not perceive that Vance Miller's conduct with
12 him was harmful or wrong. Plaintiff believed, as Vance Miller had taught him, that their
13 shared sexual expression of love was good.

14 7. On or after March 17, 2010, Plaintiff's mother told Plaintiff of a former student
15 at Hamilton Academy who had spoken highly of his teacher Vance Miller, and of Vance
16 Miller's accomplishments. Upon hearing this Plaintiff became conflicted. Plaintiff had not
17 thought of Vance Miller or his conduct since Plaintiff was a child. Plaintiff for the first time,
18 after March 17, 2010, told his mother of Vance Miller's actions with him. Plaintiff's mother
19 became upset and encouraged Plaintiff to seek psychological counseling. Within days,
20 Plaintiff began receiving psychological counseling to address Vance Miller's conduct, and
21 the effects it has had on his life. For the first time as a result of those counseling sessions
22 Plaintiff began to perceive that he has suffered injuries as an adult that have been caused
23 by the sexual abuse committed upon him as a child by Vance Miller.

24 8. From the ages of 13 through 17, Plaintiff was sexually abused by Vance Miller
25 engaged in kissing, hugging, fondling of genitals, masturbation, oral sex and anal sex with
26 Plaintiff. As Plaintiff's relationship with Vance Miller continued, Plaintiff's grades spiraled.
27 At a time when Plaintiff needed mentoring, Vance Miller manipulated Plaintiff into
28 performing sexual acts with him, twisting Plaintiff's sense of not only healthy sexuality, but

1 also trust, vulnerability, love and friendship. The sexual abuse committed by Vance Miller
2 has had profound impacts upon nearly all facets of Plaintiff's life. He is only now, through
3 therapy beginning to recognize the effects. Plaintiff has suffered through long periods of
4 depression requiring medication. Plaintiff's academic career and possibility of going on to a
5 good college were doomed by his poor grades at Hamilton Academy. Plaintiff's
6 performance at jobs had been impacted by his academic history as well as trust and
7 authority issues.

8 9. Plaintiff does not have access to Defendants' staff for questioning. Plaintiff
9 does not have student rosters, or information from which plaintiff can locate and speak with
10 other students and parents of Hamilton Academy and the other schools at which Vance
11 Miller worked while in the employ of defendants. All such information is in the possession
12 and control of defendants. Defendants have had a practice of not disclosing complaints of
13 physical and sexual abuse committed by their teachers on their students. On information
14 and belief Plaintiff alleges Defendants were made aware that Vance Miller had previously
15 been accused, observed and/or admitted to physically and/or sexually assaulting students
16 including Plaintiff, before the last instance of abuse perpetrated by Vance Miller against
17 Plaintiff. The conduct and complaints put Defendants on notice that Vance Miller was an
18 unfit agent, and that he had already and/or was a danger to engage in further assaults
19 and/or sexual assaults of students.

20 10. On information and belief, Plaintiff alleges Defendants failed to provide proper
21 supervision of Vance Miller's contacts with Plaintiff and other children to and from school
22 and at school, including by allowing Vance Miller to have one on one contact with Plaintiff
23 outside the presence of any other adults or students in violation of
24 Defendants' policies which are expressly designed to protect students from physical and
25 sexual assaults by teachers and supervisors. Had Defendants followed their policies
26 designed to protect children from being sexually abused, Plaintiff would not have been
27 sexually or physically assaulted by Vance Miller.

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1 PARTIES

2 11. Plaintiff JOHN DOE 19 was a minor at the time of the sexual abuse by a
3 teacher, Vance Miller at Defendant Hamilton Academy. Plaintiff is currently 31 years old.
4 Plaintiff has previously in his Government Tort Claim form provided his true name to the Los
5 Angeles Unified School District.

6 12. The Los Angeles Unified School District operates schools in Los Angeles
7 County. Plaintiff was a student of the Los Angeles Unified School District at the time of the
8 abuse. The Los Angeles Unified School District exercised control and supervision of Vance
9 Miller and Hamilton Academy at the time of the abuse. The Los Angeles Unified School
10 District is a public entity. Plaintiff's causes of action accrued after March 17, 2010. On
11 September 17, 2010, Plaintiff filed his government tort claim form with the Los Angeles
12 Unified School District. On September 23, 2010 the Los Angeles Unified School District
13 rejected Plaintiff's government tort claim form.

14 13. Vance Miller was employed by the Los Angeles Unified School District
15 and Hamilton Academy as a school teacher at Hamilton Academy. Vance Miller sexually
16 molested Plaintiff while Plaintiff was a minor.

17 14. Hamilton Academy is a High School and Music Academy operated by
18 the Los Angeles Unified School District located in West Los Angeles.

19 15. Defendant Does 4 through 1000, inclusive, are individuals and/or business or
20 corporate private or public entities incorporated in and/or doing business in California whose
21 true names and capacities are unknown to Plaintiff who therefore sues such defendants by
22 such fictitious names, and who will amend the Complaint to show the true names and
23 capacities of each such Doe defendants when ascertained. Each such Defendant Doe is
24 legally responsible in some manner for the events, happenings and/or tortious and unlawful
25 conduct that caused the injuries and damages alleged in this Complaint.

26 16. The Los Angeles Unified School District, Vance Miller, Hamilton Academy and
27 Does 4 through 1000 are hereinafter referred to as the "Defendants."

28 17. Each Defendant is the agent, servant and/or employee of other Defendants,

1 and each Defendant was acting within the course and scope of his, her or its authority as an
2 agent, servant and/or employee of the other Defendants. Defendants, and each of them,
3 are individuals, corporations, partnerships and other entities which engaged in, joined in
4 and conspired with the other wrongdoers in carrying out the tortious and unlawful activities
5 described in this Complaint, and Defendants, each of them, ratified the acts of the other
6 Defendants as described in this Complaint.

7 **FIRST CAUSE OF ACTION**

8 **NEGLIGENCE**

9 **(Plaintiff Against All Defendants)**

10 18. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth
11 herein.

12 19. Defendants had a duty to protect the minor Plaintiff when he was entrusted to
13 their care by Plaintiff's parents pursuant to California Government Code Section 815.6,
14 California Education Code Section 44807, *California Code of Regulations Code Title 5*
15 *Section 5552* and Defendants' own policies. Plaintiff's care, welfare, and/or physical
16 custody was temporarily entrusted to Defendants, and Defendants accepted the entrusted
17 care of Plaintiff. As such, Defendants owed Plaintiff, a minor child, a special duty of care, in
18 addition to a duty of ordinary care, and owed Plaintiff the higher duty of care that adults
19 dealing with children owe to protect them from harm. Defendants and their agents further
20 had a duty to make mandatory reports pursuant to California Penal Code Section 11199 et.
21 seq.

22 20. Vance Miller was able, by virtue of his unique authority and position as a
23 teacher of children, to identify vulnerable victims and their families upon which Vance Miller
24 could perform such sexual abuse; to manipulate his authority to procure compliance with his
25 sexual demands from his victims; to induce the victim to continue to allow the abuse; and to
26 coerce him not to report it to any other persons or authorities. As a teacher, Vance Miller
27 had unique access to the physical facilities and schools to which he was assigned, and
28 used said facilities to provide resources which allowed him to commit sexual abuse upon

1 children.

2 21. Defendants, by and through their agents, servants and employees, knew or
3 reasonably should have known of Vance Miller's dangerous and exploitive propensities
4 and/or that Vance Miller was an unfit agent. It was foreseeable that if Defendants did not
5 adequately exercise or provide the duty of care owed to children in their care, including but
6 not limited to the Plaintiff, the children entrusted to Defendants' care would be vulnerable to
7 sexual abuse by Vance Miller.

8 22. Defendants breached their duty of care to the minor Plaintiff by allowing the
9 Perpetrator to come into contact with the minor Plaintiff without supervision; by failing to
10 adequately supervise, or negligently retaining Vance Miller who they permitted and enabled
11 to have access to Plaintiff; by failing to investigate or otherwise confirm or deny such facts
12 about Vance Miller; by failing to tell or concealing from Plaintiff, Plaintiff's parents,
13 guardians, or law enforcement officials that Vance Miller was or may have been sexually
14 abusing minors; by failing to tell or concealing from Plaintiff's parents, guardians, or law
15 enforcement officials that Plaintiff was or may have been sexually abused after Defendants
16 knew or had reason to know that Vance Miller may have sexually abused Plaintiff, thereby
17 enabling Plaintiff to continue to be endangered and sexually abused, and/or creating the
18 circumstance where Plaintiff was less likely to receive medical/mental health care and
19 treatment, thus exacerbating the harm done to Plaintiff; and/or by holding out the
20 Perpetrator to the Plaintiff and his parents or guardians as being in good standing and
21 trustworthy. Defendants cloaked within the facade of normalcy Defendants' and/or the
22 Perpetrator's contact and/or actions with the Plaintiff and/or with other minors who were
23 victims of the Perpetrator, and/or disguised the nature of the sexual abuse and contact.

24 23. As a direct result of the wrongful conduct alleged herein, Plaintiff has
25 suffered, and continues to suffer great pain of mind and body, shock, emotional distress,
26 physical manifestations of emotional distress, embarrassment, loss of self-esteem,
27 disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be
28 prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life;

1 and/or has incurred and will continue to incur expenses for medical and psychological
2 treatment, therapy, and counseling.

3 **SECOND CAUSE OF ACTION**

4 **SEXUAL BATTERY**

5 **(Plaintiff Against All Defendants)**

6 24. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth
7 herein.

8 25. Vance Miller at all times relevant was an employee, agent or
9 representative of the Los Angeles Unified School District and Hamilton Academy and Does
10 4 through 1000. Defendant Vance Miller did engaged in unlawful sexual conduct with
11 Plaintiff while plaintiff was a minor. Defendants Los Angeles Unified School District and
12 Hamilton Academy are vicariously liable for the abuse committed by the Vance Miller
13 through the theories of respondeat superior, ratification and authorization. The
14 perpetrator's sexual misconduct with plaintiff was within the course and scope of his duties
15 as a teacher with the Los Angeles Unified School District and Hamilton Academy.
16 Defendant's have acknowledged through their conduct that the Perpetrator's conduct was
17 within the course and scope of his duties as an employee of Defendants.

18 26. Defendants Los Angeles Unified School District and Hamilton Academy did
19 ratify and authorize Vance Miller's sexual abuse of Plaintiff. Defendants did this by failing to
20 discharge, dismiss, suspend, or investigate the complaint(s) made that Vance Miller did
21 sexually abuse Plaintiff and other children. By failing to discharge, dismiss, suspend or
22 investigate the complaints made that Vance Miller sexually abused Plaintiff and other
23 children, after having knowledge or reason to know of such sexual abuse of Plaintiff and
24 other children, defendants did ratify Vance Miller's conduct. Defendants ratification of
25 Perpetrators abuse of Plaintiff has caused and will cause Plaintiff sever emotional distress,
26 pain and suffering and economic damages.

27 WHEREFORE, Plaintiff prays for damages; injunctive relief; costs; interest;
28 attorneys' fees; statutory/civil penalties according to law; and such other relief as the court

1 deems appropriate and just.


2 **JURY DEMAND**

3 Plaintiff demands a jury trial on all issues so triable.

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5 DATE: April 5, 2011

KIESEL BOUCHER LARSON LLP

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7 By:



Raymond P. Boucher, Esq.
Anthony M. De Marco, Esq.
Attorneys for Plaintiff

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