

1 **B. ROBERT ALLARD (#175592)**
2 **LAUREN A. CERRI (#282524)**
3 **MARK J. BOSKOVICH (#298688)**
4 **CORSIGLIA MCMAHON & ALLARD LLP**
5 96 NORTH THIRD STREET, SUITE 620
6 SAN JOSE, CALIFORNIA 95112
7 (408) 289-1417
8 Fax: (408) 289-8127

9 Attorneys for Plaintiffs

10 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

11 LOXIE GANT, EMILY MANDEL, MAURA
12 KANTER, and JANE DOE,

13 Plaintiffs,

14 vs.

15 SAN DIEGO UNIFIED SCHOOL
16 DISTRICT, MARTIN TEACHWORTH, and
17 DOES 1 through 45, inclusive,

18 Defendants.

Case No.

COMPLAINT FOR DAMAGES

- (1) Sexual Assault of a Minor
- (2) Negligence of District Employees
[Government Code §815.2]
- (3) Tom Bane Civil Rights Act Violation
[Civil Code §52.1]

[AMOUNT IN EXCESS OF \$25,000]

19 Plaintiffs LOXIE GANT, EMILY MANDEL, MAURA KANTER, and JANE DOE
20 herein allege against Defendants SAN DIEGO UNIFIED SCHOOL DISTRICT, MARTIN
21 TEACHWORTH, and DOES 1 through 45, as follows:

COMMON ALLEGATIONS

22 1. Defendant SAN DIEGO UNIFIED SCHOOL DISTRICT [“DISTRICT”] is a
23 public entity in the County of San Diego, charged with the duty to supervise minor students in
24 its schools, including La Jolla High School, and to implement various programs and procedures,
25 including appropriate training, for the safe education of students entrusted to its care.

26 2. Defendant MARTIN TEACHWORTH [“TEACHWORTH”], a California
27 resident, was at all relevant times an AP Physics and Advanced Physics teacher at La Jolla
28 High School and an employee of DISTRICT.

1 3. Plaintiff LOXIE GANT [“GANT”], a California resident, was born on May 16,
2 1985. GANT attended La Jolla High School in La Jolla, California from 1999 - 2003.

3 4. Plaintiff EMILY MANDEL [“MANDEL”], a California resident, was born on
4 April 30, 1994. MANDEL attended La Jolla High School from 2008-2012.

5 5. Plaintiff MAURA KANTER [“KANTER”], a New York resident, was born on
6 October 11, 1995. KANTER attended La Jolla High School from 2009-2013.

7 6. Plaintiff JANE DOE, a California resident, was born on August 25, 1998. JANE
8 DOE attended La Jolla High School from 2012-2016. JANE DOE is herein represented by the
9 pseudonym “JANE DOE” in light of the unusually sensitive nature of the allegations in the
10 complaint. [Plaintiffs LOXIE GANT, EMILY MANDEL, MAURA KANTER, and JANE
11 DOE together shall be referred to as “PLAINTIFFS”].

12 7. This action is one for damages as a result of childhood sexual assault.
13 Government Code §§905(m) and 935(f) exempt a claim for childhood sexual assault from the
14 government tort claim presentation requirements of the Government Claims Act. As such
15 PLAINTIFFS are relieved of any obligation to present a government claim to DISTRICT. This
16 lawsuit is timely pursuant to Code of Civil Procedure §340.1.

17 8. In early 2003, two students reported that TEACHWORTH put his hands down
18 the back of a female student’s pants while she was leaning over a desk. In response, DISTRICT
19 conducted a human resources investigation into TEACHWORTH’s behavior. The DISTRICT
20 police involved in the investigation noted that the incident rose “to level of criminal
21 prosecution,” and even noted the specific section of the Penal Code the behavior violated, Penal
22 Code §647.6(a) - annoying or molesting a child under 18. The DISTRICT substantiated the
23 complaint.

24 9. Despite this complaint, TEACHWORTH continued to teach at La Jolla High
25 School. PLAINTIFFS are informed and believe and thereon allege that DISTRICT did not
26 report this complaint to any outside police agency, the San Diego County’s District Attorney’s
27 Office or the California Commission on Teacher Credentialing. PLAINTIFFS are informed
28 and believe and thereon allege that the DISTRICT took no disciplinary action against

1 TEACHWORTH in response to this complaint.

2 10. In the 2002-2003 school year, GANT was a senior at La Jolla High School. In
3 the second semester GANT was enrolled in TEACHWORTH's Advanced Physics class.
4 During a physics class on or around February of 2003 [after the complaint raised in paragraph
5 8], TEACHWORTH squeezed GANT's buttocks two times while she was standing between a
6 desk and a bookcase. She felt violated by her trusted teacher.

7 11. At next period, GANT reported the sexual assault to her math teacher who told
8 her to speak with the school principal, Dana Shelburne. When GANT spoke to Principal
9 Shelburne, he asked her if she was reporting this because of a grade and whether this was worth
10 taking down a man's career. He also asked her whether she was so advising him "because of
11 the others," acknowledging that other students had also reported TEACHWORTH's
12 inappropriate behavior. A few days later, an investigator on behalf of DISTRICT pulled GANT
13 out of class to interview her concerning her report. At the conclusion of the interview the
14 investigator informed GANT that she would likely not need to testify because her assault was
15 minor compared to the other girls who reported TEACHWORTH's behavior. GANT
16 articulated that she no longer felt safe and insisted she be placed in another Advanced Physics
17 class. As TEACHWORTH was the only Advanced Physics teacher at La Jolla High School,
18 GANT had to transfer to a regular physics course midsemester. While on the other hand,
19 TEACHWORTH continued to teach his Advanced Physics class without interruption. A few
20 days after the investigation, Principal Shelburne spoke to a lawyer "to discuss the pattern of
21 allegations" against TEACHWORTH.

22 12. Despite multiple complaints, TEACHWORTH continued to teach at La Jolla
23 High School. PLAINTIFFS are informed and believe and thereon allege that DISTRICT did
24 not report this complaint to any outside police agency, the San Diego County's District
25 Attorney's Office or the California Commission on Teacher Credentialing. PLAINTIFFS are
26 informed and believe and thereon allege that the DISTRICT took no disciplinary action against
27 TEACHWORTH in response to this complaint.

28

1 13. During the 2010-2011 school year, MANDEL was a junior at La Jolla High
2 School enrolled in TEACHWORTH's Advanced Physics class. During school labs and class
3 time, TEACHWORTH would reach around MANDEL from behind and graze her body, tickle
4 her, squeeze her waist from behind, and grab her breasts and her buttocks. TEACHWORTH
5 would often sidle up against MANDEL's' body while assisting her in class.

6 14. During the 2011-2012 school year, KANTER was a junior at La Jolla High
7 School. In the Fall of 2011, KANTER was enrolled in TEACHWORTH's Advanced Physics
8 class. KANTER and her female friends sat in the front of the class. TEACHWORTH would
9 call KANTER and her female friends "a box of kittens". TEACHWORTH would often lean
10 into KANTER as he spoke to her rubbing his mustache against her ear. He would meow into
11 her ear and say, "I'm a cat, meow." As the year progressed TEACHWORTH began sexually
12 assaulting KANTER. His hand would occasionally brush her breasts, he would tickle her
13 stomach, and touch her hair. He would come up behind her and squeeze her waist. He would
14 often stare at her chest. KANTER noticed that TEACHWORTH would engage in similar
15 behavior with her fellow female students. TEACHWORTH would touch her and/or other girls
16 frequently. TEACHWORTH's sexual misconduct was so prevalent that the students referred
17 to him as "Mr. Touchworth."

18 15. On or around late December of 2011, KANTER reported TEACHWORTH's
19 sexual misconduct to Principal Shelburne. PLAINTIFFS are informed and believe that
20 Principal Shelburne did not take any disciplinary action against TEACHWORTH in response
21 to her complaint. TEACHWORTH continued to teach KANTER through the second
22 semester.

23 16. In July of 2012, Principal Shelburne met with two mothers who laid out
24 concerns about their daughters' experiences in TEACHWORTH's class, including unwanted
25 touching. They said girls were uncomfortable in his class, and that they feared retaliation in
26 the form of reduced grades if they questioned his behavior.

27 17. In December of 2012, Principal Shelburne emailed a DISTRICT human
28 resource officer, asking to speak with her "regarding a personnel concern that may constitute

1 inappropriate teacher-to-student behavior.” The following month, Principal Shelburne met
2 with a female student who said TEACHWORTH had touched and grabbed her on numerous
3 occasions. She said that while TEACHWORTH filmed a class experiment, he diverted the
4 camera multiple times to a group of girls in the class. She provided Principal Shelburne with
5 the names of other students who might have more information. She worried that switching
6 classes would negatively impact her college applications, since TEACHWORTH was the only
7 AP physics teacher at the school. Principal Shelburne met with seven other girls who all
8 described being touched or were otherwise made to feel uncomfortable by TEACHWORTH.
9 Principal Shelburne called DISTRICT police and a DISTRICT administrator counseled
10 Principal Shelburne to call Child Welfare Services. PLAINTIFFS are informed and believe
11 and thereon allege that Principal Shelburne did not contact Child Welfare Services or law
12 enforcement in response to these complaints.

13 18. About five months later, just before the end of the school year, a female student
14 reported to Principal Shelburne that TEACHWORTH had grabbed her by the hips. Principal
15 Shelburne told the student that if she needed to work in TEACHWORTH’s classroom during
16 lunch or after school, he could arrange to have an adult “accidentally” wander by to ensure she
17 was safe. DISTRICT investigated this complaint but closed the case “because the allegation
18 was not sexual in nature.” TEACHWORTH continued to teach at La Jolla High School.

19 19. At the end of July of 2013, DISTRICT reassigned Principal Shelburne to a
20 central office role. In August of 2013, GANT notified the new administration at La Jolla
21 High School about multiple sexual assault allegations pertaining to TEACHWORTH,
22 including her own experience.

23 20. During the 2014-2015 school year, JANE DOE was a junior at La Jolla High
24 School enrolled in TEACHWORTH’s Advanced Physics class. TEACHWORTH would
25 frequently touch her breasts as he stamped her homework assignment notebook.
26 TEACHWORTH made sexual comments about what she wore and meowed at her like a cat.
27 TEACHWORTH would award female students who wore more revealing clothing. The
28 students in the class continued to call him Mr. Touchworth. JANE DOE felt very

1 uncomfortable and powerless in his class. She dropped it before the end of the year.

2 21. During said school year, JANE DOE complained to four DISTRICT employees
3 about TEACHWORTH's behavior. One teacher acknowledged that TEACHWORTH was a
4 problem, but indicated that the school would not remove him. Again, the DISTRICT took no
5 disciplinary action against TEACHWORTH and did not report his conduct to the authorities.

6 22. On or around 2015, Voice of San Diego, a member-based nonprofit
7 investigative news organization, began investigating TEACHWORTH. Voice of San Diego
8 sent a California Public Records Act request to DISTRICT seeking all complaints,
9 investigative reports and communications related to allegations of harassment, sexual
10 misbehavior or inappropriate touching by TEACHWORTH. DISTRICT officials responded,
11 stating that no such records existed, thereby covering up its employee's years of sexual
12 misconduct. Even when confronted with evidence in 2017 that it had withheld emails
13 detailing complaints against TEACHWORTH, the DISTRICT continued to insist it had no
14 records at all. The DISTRICT withheld the requested records until 2019 when the California
15 Commission on Teacher Credentialing subpoenaed said records. The records the DISTRICT
16 produced in response to the subpoena demonstrated that the requested records existed all
17 along. DISTRICT was legally required to ascertain the existence of those records within 10
18 days of receiving the initial request pursuant to the California Public Records Act,
19 Government Code §6253(c).

20 23. Despite racking up a record of complaints over more than a decade,
21 TEACHWORTH was removed from the classroom only once, in 2016. This was following an
22 anonymous complaint sent to the DISTRICT using an online form in which the student
23 claimed TEACHWORTH gave her (and other students) neck rubs, and that she felt
24 intimidated by TEACHWORTH because he got upset when she tried to avoid his advances.
25 In response, DISTRICT put TEACHWORTH on paid administrative leave for two weeks
26 while an investigation was purportedly being conducted. After TEACHWORTH's
27 administrative leave, the DISTRICT took no disciplinary action against him and did not report
28 his conduct to the authorities.

1 29. As minors and students enrolled at La Jolla High School, a special relationship
2 existed with DISTRICT by which PLAINTIFFS were entitled to a reasonably safe environment
3 in which to learn, free from inappropriate sexual displays, grooming behaviors, inappropriate
4 touching, and sexual behaviors [including harassment under Civil Code §51.9 in the form of
5 unwelcome and pervasive verbal or physical conduct of a sexual nature which thereby constitute
6 annoying a minor in violation of Penal Code §647.6] from teachers and others employed in a
7 position of trust and authority at said school.

8 30. From 2003 through 2015, TEACHWORTH used his position of trust and
9 authority as a teacher to sexually assault PLAINTIFFS in his classroom during class hours.

10 31. DISTRICT ratified TEACHWORTH's conduct by failing to repudiate his
11 predatory behavior and/or sexual assaults by, *inter alia*, failing to report his sexual misconduct
12 with minors to the authorities, concealing his predatory behavior, withholding tell-tale
13 documents from lawful public record act requests, withholding the findings of DISTRICT's
14 various investigations of sexualized improprieties, failing to take appropriate action in response
15 to substantiated sexual misconduct complaints, failing to discipline or otherwise deter
16 TEACHWORTH's inappropriate behaviors, and retaining TEACHWORTH in DISTRICT's
17 employ as a teacher possessing direct physical access to underaged female students despite
18 multiple complaints by multiple students spanning over a decade.

19 32. As a legal result of the foregoing, PLAINTIFFS were injured in health, strength
20 and activity, sustaining bodily injuries and shock and injury to their nervous system and person,
21 all of which caused and continue to cause PLAINTIFFS great mental, physical and nervous pain
22 and suffering; PLAINTIFFS have thereby sustained damages in an amount in excess of the
23 minimum jurisdictional limits of this court.

24 33. The acts of defendant TEACHWORTH perpetrated upon PLAINTIFFS were
25 intentional, malicious, and/or oppressive, entitling PLAINTIFFS to punitive damages against
26 said TEACHWORTH pursuant to Civil Code §3294.

SECOND CAUSE OF ACTION
Negligence of District Employees [Government Code §815.2]

As and for a Second Cause of Action, PLAINTIFFS allege against defendants SAN DIEGO UNIFIED SCHOOL DISTRICT, MARTIN TEACHWORTH, and DOES 6 through 25, and each of them, as follows:

34. PLAINTIFFS hereby incorporate all paragraphs of their Common Allegations and First Cause of Action, as though set forth in full herein.

35. As PLAINTIFFS were students within DISTRICT, DISTRICT employees owed each plaintiff a duty of care to avoid harming them by, *inter alia*, properly supervising school personnel to detect and deter inappropriate conduct around minor students. DISTRICT employees also had a duty to properly supervise PLAINTIFFS to protect them from potential dangers while on school grounds during school hours. TEACHWORTH owed PLAINTIFFS a duty of reasonable care to avoid harming them through his own actions.

36. DISTRICT's employees breached said duties owed to plaintiffs by, *inter alia*, failing notify the authorities upon receiving evidence of TEACHWORTH's sexual misconduct with minors, failing to take appropriate action against TEACHWORTH for the multiple sexual misconduct complaints, failing to so detect and deter TEACHWORTH' sexual assaults and/or failing to properly supervise PLAINTIFFS and TEACHWORTH so as to protect PLAINTIFFS from being sexually assaulted and harassed.

37. As a legal result of the foregoing, PLAINTIFFS were repeatedly sexually assaulted, molested, and/or harassed, and thereby suffered physical, mental and emotional injuries, all to their general damages as hereinbefore alleged, and for which plaintiffs seek attorney fees.

THIRD CAUSE OF ACTION
Tom Bane Civil Rights Act Violation [Civil Code §52.1]

As and for a Third Cause of Action, PLAINTIFFS allege against defendant SAN DIEGO UNIFIED SCHOOL DISTRICT, MARTIN TEACHWORTH, and DOES 1 through 5 and DOES 26 through 45, as follows:

38. PLAINTIFFS hereby incorporate all paragraphs of their Common Allegations and First and Second Causes of Action, as though set forth in full herein.

1 39. At all relevant times, PLAINTIFFS, who were subject to compulsory full-time
2 education under Education Code §48200, had a Constitutional right to attend a public school
3 which was safe, secure and peaceful pursuant to Article I, §28(f)(1) of the California
4 Constitution.

5 40. TEACHERWORTH's sexual assaults against PLAINTIFFS constituted, at a
6 minimum, an attempt to interfere with PLAINTIFFS' rights to attend school in a safe, secure
7 and peaceful environment through use of threat, intimidation and/or coercion, for which
8 DISTRICT is vicariously liable. DISTRICT's employees abused their respective positions of
9 authority by permitting TEACHWORTH, a person suspected of possessing child predatory
10 tendencies, to remain employed as a teacher having direct access to children without adequate
11 supervision. DISTRICT also took steps to cover up TEACHWORTH's sexual assaults.
12 DISTRICT thereby made TEACHWORTH an authoritative figure over PLAINTIFFS and
13 others such that his minor victims were under his unfettered control. They coerced
14 PLAINTIFFS and/or other minor girls to drop their allegations against TEACHWORTH and
15 kept those PLAINTIFFS in TEACHWORTH's class under his control. Accordingly,
16 PLAINTIFFS are entitled to damages against DISTRICT pursuant to Civil Code §52.1(c), as
17 well as appropriate equitable relief to eliminate a pattern and practice of such conduct.

18 41. As a further legal result of the foregoing, PLAINTIFFS requests injunctive,
19 equitable, or other appropriate relief. Among such directives, plaintiff seeks an Order
20 mandating DISTRICT to:

- 21 a. Adopt and meaningfully disseminate and implement a written policy for
22 adequately preserving records, including email correspondence, relating to
23 claims of sexual abuse/assault against students.
- 24 b. Implement a digital file management system to retain records relating to
25 claims of sexual abuse/assault against students.
- 26 c. Require DISTRICT administrators and any managerial-level school site
27 staff to participate in the Sexual Abuse & Misconduct training module
28 provided by McGrath Training Systems [<https://mcgrathinc.com/what-we->

1 [offer/programs/sexual-abuse-misconduct/](#)], which covers how a DISTRICT
2 employee should respond and complete a mandated report.

- 3 d. Adopt and meaningfully disseminate and implement a written policy
4 preventing the DISTRICT from interviewing any victim after he/she has
5 come forward with allegations constituting childhood sexual abuse without
6 first receiving consent from law enforcement and the victim's guardian(s).
7 e. Report every claim of childhood sexual/abuse or assault involving a
8 DISTRICT employee to the appropriate authorities, including the California
9 Commission on Teacher Credentialing, so it may complete an independent
10 investigation of the teacher's suitability to teach children.
11 f. Terminate Superintendent Cindy Marten's employment with the DISTRICT
12 due to her neglect and bullying of previous victims and for openly violating
13 the requirement to send childhood sexual abuse complaints records to the
14 California Commission on Teacher Credentialing.
15 g. Permit the Auditor of the State of California to conduct an independent
16 audit of the DISTRICT's policies and practices for the handling of
17 childhood sexual abuse/assault claims and discipline of teachers involved in
18 childhood sexual abuse/assault claims.

19 42. PLAINTIFFS claim attorney fees pursuant to Civil Code §52.4.

20 **PRAYER**

21 WHEREFORE, as to each and all causes of action, PLAINTIFFS pray judgment as
22 follows:

- 23 1. For general damages and other non-economic relief, according to proof;
24 2. For equitable, injunctive, or other appropriate relief;
25 3. For punitive damages against defendant TEACHWORTH;
26 4. For treble damages based on Code of Civil Procedure §340.1;
27 5. For prejudgment interest, as allowed by law;
28


1 6. For attorney fees, as allowed by law [Civil Code §§51.9, 52(b), and 52.4, Code
2 of Civil Procedure §§1021.4, 1021.5];

3 7. For costs of suit herein; and

4 8. For such other and further relief as the court may deem fit and proper.

5
6 Dated: February 25, 2020

CORSIGLIA, MCMAHON & ALLARD LLP

7
8 By: 
9 B. ROBERT ALLARD
10 LAUREN A. CERRI
11 MARK J. BOSKOVICH
12 Attorneys for Plaintiffs