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**Will comply with LR IA 11-2 within 14 days

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

CANDRA EVANS, individually and as parent to R.E., TERRELL EVANS, individually and as parent to R.E., Plaintiffs, vs. KELLY HAWES, JOSHUA HAGER, SCOTT WALKER, JESUS JARA, and CLARK COUNTY SCHOOL DISTRICT, Defendants.	CASE NO.: 2:22-cv-02171-JAD-VCF **FIRST AMENDED COMPLAINT** **DEMAND FOR JURY TRIAL**

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Plaintiffs, Candra Evans, Terrell Evans, individually and as parents to R.E., hereby complain against Defendant(s), KELLY HAWES, JOSHUA HAGER, SCOTT WALKER, JESUS JARA, and CLARK COUNTY SCHOOL DISTRICT (CCSD) for conducting and supporting CCSD teacher Kelly Hawes's actions compelling a minor student to study, memorize and perform sexually explicit and obscene content as a class assignment for a grade. When Plaintiffs attempted to address Hawes's unlawful conduct and seek relief in the appropriate forum, CCSD's Board prevented Plaintiff Candra Evans from doing so – silencing her and interfering with her reading of the assignment at a School Board meeting. After CCSD officials and staff expressly agreed Hawes's activity was unlawful and inappropriate, and misled Plaintiffs to believe that they would address the matter and protect R.E. from further harm and ridicule, Hager and Walker both proceeded to meet privately with R.E., in a manner specifically prohibited by R.E.'s parents. Defendants Hager and Walker also conspired with Hawes to force R.E. to meet with Hawes against Plaintiffs' express wishes and consent so that Hawes could shame R.E.

Given the foregoing injustices, Plaintiffs complain and seek relief as follows:

PARTIES

1. Plaintiffs, Candra Evans, Terrell Evans, and their minor daughter, R.E., are individuals who currently, and at all relevant times, are residents of Clark County, Nevada.

2. Defendant, Clark County School District ("CCSD"), is a political subdivision of the State of Nevada created by the Nevada Revised Statutes ("NRS") 386.010, that at all relevant times operated in Clark County, Nevada.

3. Defendant, Jesus Jara, is the Superintendent of the Clark County School District, an individual who currently, and at all relevant times, is a resident of Clark County, Nevada.

4. Defendant, Kelly Hawes, is a teacher at Las Vegas Academy of the Arts ("LVA"), a CCSD school, an individual who currently, and at all relevant times, is a resident of Clark County, Nevada.

5. Defendant, Joshua Hager, is the assistant principal at LVA, a CCSD school, an individual who currently, and at all relevant times, is a resident of Clark County, Nevada.

6. Defendant, Scott Walker, principal at LVA, a CCSD school, an individual who currently, and at all relevant times, is a resident of Clark County, Nevada.

7. All of the acts and/or failures to act alleged herein were performed by and/or are attributable to defendants, individually or acting by and through their agents and employees. Said acts and/or failures to act were within the scope of any agency or employment or were ratified by Defendants.

FACTUAL ALLEGATIONS

A. Ms. Hawes Assigns the Sexually Explicit and Obscene Monologue and Requires Minor Student, R.E., to Read and Perform It for a Grade.

8. Candra Evans and Terrell Evans are parents to R.E., a minor who is a student at LVA.

9. Clark County School District Policy P-4150 governing the instructional duties and responsibilities of all employees provides as follows,

> The Clark County School District's mission statement includes a provision to "ensure full intellectual and character development of each individual as a responsible citizen." The district's strategic policy states that "we will not tolerate any activity, action or circumstances that diminishes a person's dignity." Consistent with these statements, any physical, sexual, psychological, or verbal abuse of a student by an employee while discharging professional duties is unprofessional conduct and shall result in discipline.
>
> Verbal abuse includes, but is not limited to, the use of any form of profanity in the classroom, on the playing field, or at any time when an employee is in contact with discharging professional duties.

10. Clark County's Student Code of Conduct explains that content that is profane and/or of an obscene nature "disrupt[s] the educational setting" and prohibits students from displaying any such content while at school.

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11. The State of Nevada recognizes the right of parents to participate in, direct, and exercise control over certain content and educational materials presented to their children, including material relating to the "human reproductive system and . . . sexual responsibility." NRS 389.036.

12. The State of Nevada further directs that students shall not be exposed to such instruction or content in any district until such content has been (1) reviewed and approved by a committee consisting of five parents, a medical professional, a counselor, a religious advisor, and/or a teacher and/or a pupil attending the school district; (2) approved by the board of trustees for the school district as appropriate for the ages of the students for which the course is offered; (3) written notice is provided to the parent or guardian; and, (4) written consent is obtained from the parent or guardian.

13. The State of Nevada further instructs that only a teacher or nurse that has demonstrated proper qualifications and has obtained prior approval by the board of trustees within its district can present this instructional material.

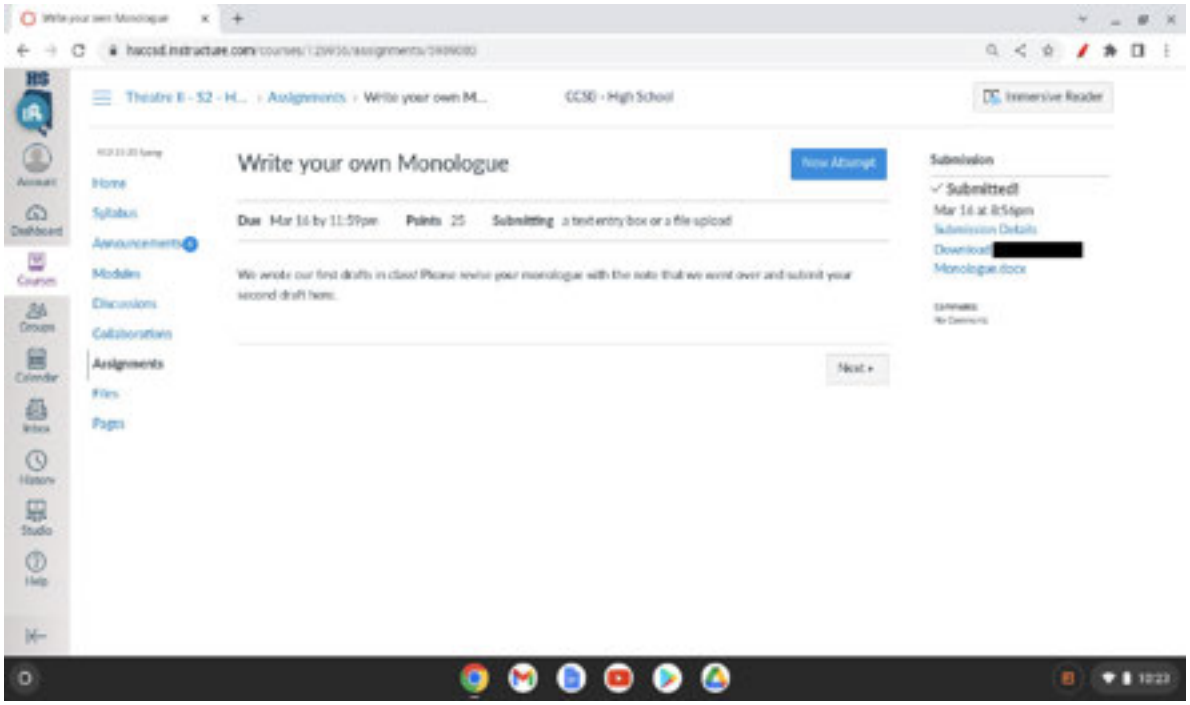
14. In March 2022, R.E.'s drama teacher at LVA, Defendant Hawes, required all students in her class to prepare a monologue which would then be performed by another classmate.

15. Upon the students' completion of their respective monologues, which involved an editing process by which Defendant Hawes instructed, reviewed, edited and approved each student's monologue, students were instructed by Defendant Hawes to submit their revised monologues through the classroom's online portal "Canvas."

16. These monologues were then printed and Defendant Hawes instructed every student to randomly pick up another student's folded monologue from a pile which they would then be required to study, memorize and perform in front of the entire class for a grade.

17. Students were not allowed to select their own monologues and were instructed by Defendant Hawes that they could only exchange a selected monologue one time.

18. When it was R.E.'s turn, she selected her first monologue but did not wish to perform it, so she used her one and only turn to select another monologue.

19. 

20. The second monologue R.E. randomly pulled from the pile consisted of a sexually explicit and obscene conversation about a girl coming out as a lesbian to her boyfriend. The monologue R.E. was asked to study, memorize and perform in front of her classmates read as follows:

> **"I don't love you. It's not you, it's just (looks down) your dick. I don't like your dick or any dick in that case. I cheated Joe. We were long distance and I'm in college and me and this girl, my roommate, started having some drinks and you know, I thought it was a one time thing but then we started going out for coffee, and started sleeping in the same bed. I never thought it would get this far but God, it was like fireworks, and made me realize that with you it was always like a pencil sharpener that keeps getting jammed. I've tried to look at it from all different perspectives, but the truth is, I'm a f[***]ing lesbian. I'll never love you or any man, or any f[***]ing dick. I hope you find a nice straight girl because that's not me, and I'm tired of pretending that it is."**

21. Because R.E. had already used her one and only turn to exchange the first monologue she selected, R.E. believed she had no option but to study, memorize and perform the second monologue.

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22. R.E. looked up to her teacher and did not want to disappoint her or do anything that might cast her in an unfavorable light with Defendant Hawes.

23. R.E. also knew that Defendant Hawes had reviewed, edited and approved the monologue and thus fully trusted that Defendant Hawes would not require her to read, much less memorize and perform, content that was inappropriate and did not accord with school rules or policy.

24. R.E. also knew that her grade was conditioned upon her performing the monologue in front of the class and she did not want a reduction in her grade.

25. At the time of memorizing and performing the monologue, R.E. did not understand some of the sexually explicit content in the monologue, including the reference to the pencil sharpener.

26. Defendant Hawes has confirmed that she helped the other student edit their sexually explicit and obscene monologue knowing that it would then be provided to another student to read, memorize and perform in front of the class.

27. Defendant Hawes also stated that the monologue was much worse prior to the editing, and that she fully understood and was aware of the sexual and obscene references contained within even the edited version of the monologue.

28. At no time did Defendant Hawes seek written consent or any other manner of informed consent from R.E.'s parents prior to exposing R.E. to the sexually explicit and obscene material and requiring her to perform the monologue in front of her classmates.

29. As a minor, R.E. lacked the capacity to consent to the exposure and/or performance of the sexually explicit and obscene material.

B. Plaintiff Candra Evans's Discovery of the Sexually Explicit and Obscene Monologue and Plaintiffs' First Futile Meeting with CCSD.

30. On April 22, 2022, Plaintiff Candra found the monologue which R.E. was required to perform in her drama class.

31. Alarmed by the sexually explicit and obscene content, Plaintiff Candra immediately spoke with R.E. to determine where the document had come from and what it was.

32. When she realized it was a school assignment which R.E. had performed at the direction of Defendant Hawes, Plaintiff Candra then drove down to LVA that same morning and spoke with Defendant Hager, LVA's Assistant Principal.

33. Plaintiff Candra and her husband, Plaintiff Terrell, (who joined via video as he was deployed overseas with the U.S. Military at the time) expressed their surprise and horror regarding what their daughter, R.E., had been exposed to and required to perform in class.

34. Defendant Hager responded by agreeing that the monologue assignment given to R.E. was inappropriate for any classroom in high school.

35. During this same meeting, Defendant Hager also shared that he would be equally upset if his daughter had been given the same assignment and he assured Plaintiffs that he would address the matter with Defendant Hawes and the school principal, Defendant Walker. Defendant Hager also assured Plaintiffs that they would have meetings at the school to ensure that this would not happen again.

36. Also, during the meeting, Plaintiffs informed Defendant Hager that Defendant Hawes was one of R.E.'s favorite teachers and that R.E. wanted her approval.

37. Defendant Hager was very insistent during this meeting that Plaintiff Candra should try and resolve the issue without going to the school police.

38. Defendant Hager also stated that he wanted to meet with R.E. to let her know that she could tell a teacher "no" if she felt something was inappropriate – something Plaintiffs agreed to on the following condition: that Defendant Hager not meet with R.E. alone, and that a female administrator be present at the meeting.

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39. Defendant Hager assured Plaintiffs that he would follow their instructions, and that he would call Plaintiff Candra and put her on speaker phone so that she could be present during his meeting with R.E.

40. Following his meeting with Plaintiffs, Defendant Hager defied Plaintiffs' instruction and proceeded to meet with R.E. alone and without a female administrator present.

41. Defendant Hager did not call Plaintiff Candra so that she could be a part of the meeting, and, in fact, never called Plaintiffs to let them know that he met privately with their daughter.

42. Plaintiffs learned of Defendant Hager's private meeting with R.E from R.E. after school who was scared and upset by Defendant Hager calling her into his office alone.

43. R.E.'s parents were very upset to learn from R.E. that their prohibition on Defendant Hager meeting alone with R.E. was ignored.

C. Plaintiffs' Second Futile Meeting with CCSD regarding Hawes's Sexually Explicit and Obscene Class Assignment

44. After a few days of not hearing from Defendant Hager and knowing that Defendant Hager had met with R.E. alone and against the terms agreed upon by Plaintiffs, Plaintiff Candra requested a meeting with Defendants Hager, Salima Virani (a school counselor), Walker (Principal of LVA), and Hawes.

45. On April 29, 2022, Plaintiff Candra met with Defendants Hager, Hawes and Virani.

46. During this meeting, Defendant Hawes defended the assignment given to R.E. and confirmed that she knew of and approved the content of the monologue ahead of time and still required R.E. to read, memorize and perform it in front of the class.

47. Defendant Hawes admitted that she actually helped the student edit the first draft of the monologue and re-write the second draft.

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48. Defendant Hawes knowingly and intentionally exposed R.E. and all of her classmates to sexually explicit content and obscene material and her instruction was a gross violation of her professional responsibilities.

49. Defendant Hawes had no legitimate pedagogical interest in subjecting R.E. to and/or requiring her to perform the sexually explicit and obscene material.

50. During this same meeting, Defendants Hager and Hawes attempted to defend the obscene monologue and then blamed R.E. for reading it, stating that she could have said "no," but she did not.

51. After Plaintiff Candra pushed back on their comments, Defendant Hager and Virani backtracked and admitted that the assignment was not appropriate for the classroom.

52. Defendant Hawes, however, never apologized for the assignment, and instead continued to defend exposing students, including R.E. to the obscene material – even appearing proud of it, conveying the impression it was her right and duty to sexually indoctrinate the students in her class.

53. Plaintiff Candra then ended the meeting by communicating that she was not pleased with the outcome of that meeting. The Defendant Hager stated that he was sorry that she was unhappy but made no effort to determine what would help resolve Plaintiff Candra's concerns.

D. Plaintiffs' Third Futile Meeting with CCSD Regarding Hawes's Sexually Explicit and Obscene Class Assignment

54. On May 1, 2022, while Defendants Walker, Hager and Hawes were sweeping this under the rug at LVA, Plaintiffs reached out to Melissa Gutierrez, the Region Superintendent over LVA (Region 2) in hopes that she would remedy the gross violation of R.E.'s rights and school policy.

55. Region Superintendent Gutierrez did not respond to Plaintiffs.

56. On May 4, 2022, Plaintiffs then reached out to Joseph Petrie, a School Associate Superintendent in Region 2.

57. On May 10, 2022, Plaintiff Candra met with Mr. Petrie and, upon hearing of Defendant Hawes's conduct complained of herein, Mr. Petrie informed Plaintiff Candra that her complaint should have been handled differently by the school.

58. Mr. Petrie indicated that as soon as Plaintiff Candra had the first meeting with the school, there should have been a police officer present to meet with her to talk about potential criminality.

59. No police officer was present, nor was she informed of any legal rights.

60. Mr. Petrie also indicated that at no time in the meetings that occurred should *any* statement have ever been made that made R.E. feel like she had any responsibility for having done the assignment.

61. Mr. Petrie also told Plaintiff Candra he had not seen "anything this bad in my twenty-five-year career – from a teacher."

62. Mr. Petrie further stated that pursuant the school policy, the school must obtain parental consent for sex education and that the monologue went far "beyond" sex education.

63. Mr. Petrie also admitted there appeared to be misconduct by two employees.

64. Mr. Petrie also stated that it was undisputed that the monologue was inappropriate and not something that the school would or should condone in any sense in a school setting.

65. Mr. Petrie further stated that if a school administrator promises to take certain action, he or she should follow through with those actions, hence, Defendant Hager should not have met alone with R.E. against Plaintiffs' wishes and should have called the Plaintiffs during or following the meeting.

66. Mr. Petrie promised to speak with Defendant Walker and investigate the matter further to determine what actions should be taken to ensure that it did not happen again.

67. Mr. Petrie assured Plaintiff Candra that he would talk with the school's police department and have them follow up with Plaintiff Candra regarding the complaint she had tried to file with the school police.

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68. On May 10, 2022, Plaintiff Candra again requested that no school administrators or teachers at LVA meet or speak with R.E. about the matter unless Plaintiff Candra was present. Associate Superintendent Petrie confirmed his understanding of this request and promised he would honor the request.

E. Plaintiffs' Efforts to File Police Report Blocked by CCSD and Officer Robles

69. On May 9, 2022, Plaintiffs met with the Las Vegas Metropolitan Police Department ("LV Metro PD") and were told that they needed to file a police report with the CCSD school police.

70. That same day, Plaintiff Candra met with Officer Robles at LVA, who was dismissive of her concerns. Officer Robles reluctantly took her statement but did so *without* her body camera on in violation of NRS 289.830(1)(a).

71. It was later discovered that Officer Robles inaccurately reported that the school administration had completed their investigation regarding the incident warranting no further action when it in fact it was ongoing, and Plaintiffs were scheduled to meet with CCSD administrators.

72. On May 11, 2022, Plaintiff Candra attempted to speak with Sergeant Brooks (Officer Robles' supervisor) but Sergeant Brooks interrupted Plaintiff Candra almost every time she tried to speak.

73. An investigator from CCSDPD internal affairs admitted to Plaintiff Candra that Officer Robles' failure to use the bodycam was a violation.

74. Upon information and belief, Officer Robles and Sergeant Brooks appear to have conspired to prevent the report from being filed accurately, or in any way that would have resulted in a proper or accurate investigation.

F. Plaintiffs' Fourth Futile Meeting with CCSD Regarding Hawes's Sexually Explicit and Obscene Class Assignment - Raised as a Complaint to the School Board

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75. On May 12, 2022, and having received no response from Defendants or any other CCSD officials and there being no corrective action taken by CCSD, Plaintiff Candra decided to attend the CCSD School Board Meeting and address the matter directly with the CCSD Board of Trustees (hereinafter "Board").

76. During public comments, Plaintiff Candra greeted the Board and began by stating for the Board that she was going to read an assignment given to her 15-year-old daughter at a local high school. She further warned the Board that "this will be horrifying for me to read to you" But "it will give you perspective on how she (R.E.) must have felt when her teacher required her to memorize this, and to act it out in front of her entire class."

77. Plaintiff Candra then proceeded to read the monologue to the Board.

78. Before Plaintiff Candra could finish the monologue, she was interrupted by a member of the Board who informed her that her comments (the monologue) were profane and improper for a public school board meeting.

79. A discussion occurred at which time Plaintiff Candra tried to explain that she was reading from content assigned and read aloud in a classroom at a CCSD school and asked the Board "If you don't want me to read it to you, what was it like for my 15-year-old daughter to have to memorize pornographic material…?"

80. Before she could finish her comment, Defendant Dr. Jara (CCSD School Board Member) cut off Plaintiff Candra's microphone to silence her and then Defendant Dr. Jara spoke over her preventing her from speaking or using her remaining allotted time to make a public comment.

81. Someone unknown to Plaintiff Candra using the handle @LibsOfTikTock posted a video of Plaintiff Candra's futile effort to educate the Board on Defendants' illegal conduct and obtain relief for her minor child.

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82. The video went viral, generating over 2.2 million views.

83. On May 17, 2022, in an attempt to curb the significant outcry by the public relating to CCSD officials' illegal conduct, CCSD, via their official twitter page, dismissed Plaintiffs' concerns stating that the monologue was a "student-generated writing exercise" – a comment intended to suggest that R.E. had written the monologue herself.

84. On another occasion, CCSD official and Board Member Danielle Ford called Plaintiff Candra's attempt to get help from the CCSD Board a "publicity stunt" reinforcing how futile it is to bring anything of concern to the Board.

85. Board Member Danielle Ford also falsely claimed that Power2Parent "coached [Candra Evans] through" her public comment in an effort to support her previous statement that Plaintiff Candra's public comment was a mere "publicity stunt."

86. Plaintiffs are not affiliated with Power2Parent, and Plaintiffs received no assistance whatsoever in preparing her speech for the Board.

G. Defendants' Inappropriate Conduct Following School Board Meeting

87. The next day following the Board meeting, on or about May 13, 2023, when Plaintiff Candra picked R.E. up from school, R.E. was visibly upset and told her mom something had happened at school.

88. R.E. was visibly upset and started to shake and cry at which point R.E. informed Plaintiff Candra that Defendant Walker pulled R.E. out of a class and met with her alone in an alley behind one of the school buildings.

89. This meeting between R.E. and Defendant Walker violated Plaintiffs' request, and Defendants' promise, that no school administrators or teachers meet alone with R.E. or talk to her about the incident at all.

90. During this meeting, Defendant Walker stated that there was a "shortage of teachers" at LVA and that he was hoping to provide teachers with "proper training soon."

91. Defendant Walker informed R.E. that he was going to take R.E. to meet with Defendant Hawes, and then instructed R.E. not to talk to anyone about their meeting.

92. Defendant Walker then brought R.E. to Defendant Hawes's classroom and left her there alone with Defendant Hawes.

93. R.E. was totally unprepared for the meeting and had only been willing to go back to school because she was assured by her parents that she would not have to meet with any school officials or teachers or talk to with them about what was going on without her mother present.

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94. Defendant Hawes, on the other hand, was lying in wait for R.E. and had set up a chair next to her desk for R.E. and requested that she sit in that chair.

95. Defendant Hawes then apologized to R.E. that she was sorry R.E. *felt* that the assignment was inappropriate.

96. Defendant Hawes never apologized for the assignment *being* inappropriate, or for making R.E. read, memorize and perform the sexually explicit and obscene monologue in front of her class.

97. R.E., feeling trapped and believing that she did not have the freedom to leave Defendant Hawes's classroom since her Principal, Defendant Walker, had arranged and initiated the meeting, began to cry.

98. As a minor who is deferential to her parents and teachers, R.E. was very alarmed and confused by Defendant Walker and Defendant Hawes's conduct.

99. R.E. felt completely betrayed by school officials.

100. Despite R.E.'s obvious mental and physical distress at this point in the meeting with Defendant Hawes, Defendant Hawes initiated contact with R.E. without permission, re-victimizing R.E. all over again.

H. Plaintiffs' Final Futile Attempts to Address CCSD Officials' Misconduct and CCSD's Subsequent Abuse

101. On May 13, 2022, and immediately after learning of Defendant Walker and Defendant Hawes's inappropriate meeting with R.E., Plaintiff Candra contacted Mr. Petrie and Regional Superintendent Gutierrez via email to inform them of Defendant Walkers' actions. In response, Superintendent Gutierrez contacted Plaintiff Candra by telephone to apologize and Defendant Walker contacted Plaintiff Candra by email to arrange a meeting.

102. On May 16, 2022, Defendant Walker contacted Candra Evans via email to set up a meeting between himself, Candra Evans and Mr. Petrie.

103. Ahead of their meeting, Plaintiff Candra again instructed Defendant Walker in writing and via email not to allow anyone to meet in private with R.E. about the matter and requested that a counselor or administrator sit in on Defendant Hawes's class when R.E. was present to ensure that R.E. was safe.

104. At her next meeting with Defendant Walker and Associate Superintendent Petrie on or about May 19, 2022, Defendant Walker admitted that he told R.E. not to tell anyone about her meetings with him and Defendant Hawes.

105. Defendant Walker also admitted that Defendant Hawes had been hired through a business plan, rather than via normal school policy and procedures, and that she had not received proper training required by the school district by going to teaching school or having a class on school law.

106. Defendant Walker went so far as to state that he had "been through fourteen teachers" since he had been at the school "because they crossed that line."

107. Following the events alleged above, R.E. has been seeing both a psychiatrist and a therapist.

108. Following the events alleged above, R.E. – despite enjoying theatre and related activities – has intentionally avoided taking any theatrical courses and/or extracurricular activities involving Defendant Hawes.

109. Prior to initiating the instant litigation, Plaintiffs made more than six attempts to address the unconstitutional and tortious conduct by Defendant Hawes and all other Defendants in an attempt to resolve the matter – all of which were futile.

110. Defendants, despite having been made aware that a teacher knowingly and willingly exposed a minor child to sexually explicit and obscene material and then required her to perform it in front of her classmates, have refused to take any action whatsoever.

111. Upon information and belief, Defendants have failed to provide proper training to Defendant Hawes.

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112. Upon information and belief, Defendants have willfully conspired to cover up the unconstitutional and tortious conduct and intentionally and willfully chose a course of action that harmed R.E. and protected Defendants.

CAUSES OF ACTION

COUNT I:

VIOLATION OF CANDRA EVANS'S FIRST AMENDMENT RIGHTS
U.S. CONST. AMENDS I – 42 U.S.C. § 1983

(CCSD and Jara)

113. Plaintiffs repeat, reallege, and incorporate by reference herein all preceding paragraphs as though fully set forth herein.

114. Pursuant to 42 U.S.C. § 1983, Plaintiff bring this claim against Defendants for acting under color of law to deprive her of rights secured by the U.S. Constitution.

115. The First Amendment to the United States Constitution protects freedom of speech against state action, including the right to speak and the right to refrain from speaking. *Board of Education v. Barnette*, 319 U.S. 624, 645 (Murphy, J., concurring) (1943).

116. The First Amendment is a "constitutional safeguard" and "was fashioned to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people." *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 269 (1964) (quoting *Roth* v. *United States*, 354 U.S. 476, 484 (1957); *see e.g.*, Nevada Open Meeting Law Manual, at p. 69 (reiterating this principal and noting that "[t]he public's freedom of speech during public meetings is vigorously protected by both the U.S. Constitution and the Nevada Constitution").

117. The First Amendment unequivocally protects speech made at public school board meetings. *Madison Joint School Dist. v. Wisconsin Employment Relations Comm'n*, 429 U.S. 167, 174-75 (1976).

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118. "[A] public forum may be created by government designation of a place or channel of communication for use by the public at large for assembly and speech, for use by certain speakers, or for the discussion of certain subjects." *Cornelius v. NAACP Legal Def. & Educ. Fund*, 473 U.S. 788, 802 (1985) (citation omitted). A limited public forum exists where the government has reserved a forum "for certain groups or for the discussion of certain topics." *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995)).

119. Nevada and CCSD have opened a forum for direct citizen involvement in school board meetings and "may not exclude speech where its distinction is not reasonable in light of the purpose served by the forum." *Rosenberger*, 515 U.S. at 829 (quoting *Cornelius v. NAACP Legal Def. & Educ. Fund,* 473 U.S. 788, 804-806 (1985)).

120. The purpose of allowing for public comment at school board meetings is to allow Clark County residents to comment "on matters of public interest in connection with the operation of the public schools," *Pickering v. Bd. of Education*, 391 U.S. 563, 568 (1968), including but not limited to the governance of the school district, school policies, procedures, occurrences and events.

121. Nevada's Open Meeting Law provides that "[p]ublic bodies may adopt reasonable restrictions, including time limits on individual comment, but [NRS 241.020(3)(d)(7)] requires all restrictions on public comment to be expressed clearly on each agenda." *See* Nevada Open Meeting Law Manual, at p. 70.

122. Defendants CCSD and Jara placed no restriction on its May 12, 2022 agenda to allow it to censor Candra Evans's reasonable speech and public comment.

123. Defendants CCSD and Jara prevented Candra Evans from speaking out in a limited public forum regarding LVA's school governance, policies and procedures and Defendants' knowing and intentional exposure of students, including R.E., to sexually explicit and obscene material.

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124. Defendants CCSD and Jara prevented Candra Evans from speaking by silencing her microphone and preventing her from addressing her concerns of egregious conduct by CCSD officials before the Board.

125. By preventing Candra Evans from being able to speak, Defendants CCSD and Dr. Jara violated Candra Evans's First Amendment right to free speech.

COUNT II

VIOLATION OF R.E.'s FIRST AMENDMENT RIGHTS
U.S. CONST. AMENDS I – 42 U.S.C. § 1983

(CCSD and Hawes)

126. Plaintiffs repeat, reallege, and incorporate by reference herein all preceding paragraphs as though fully set forth herein.

127. The First Amendment prohibits the government from compelling speech. See *Rumsfeld v. Forum for Acad. & Institutional Rights, Inc.*, 547 U.S. 47, 61 (2006) (noting that "leading First Amendment precedents have established the principle that freedom of speech prohibits the government from telling people what they must say.").

128. Public school students "do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate," and such rights must be "applied in light of the special characteristics of the school environment." *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 266, (1988).

129. In order to compel the exercise of speech, the governmental measure must punish, or threaten to punish, protected speech by governmental action that is "regulatory, proscriptive, or compulsory in nature." *Laird v. Tatum*, 408 U.S. 1, 11 (1972). The consequence may be an "indirect discouragement," rather than a direct punishment, such as "imprisonment, fines, injunctions or taxes." *Am. Communications Ass'n. v. Douds*, 339 U.S. 382, 402 (1950).

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130. "Compelled speech is subject to the same analysis as prohibitions from speaking." *Marchall v. Amuso,* 571 F. Supp. 3d 412, 426 (E.D. Pa. 2021) (citing *Riley v. Nat'l Fed'n of Blind, Inc*., 487 U.S. 781, 796-97 (1988)).

131. "Obscene material is unprotected by the First Amendment." *Miller v. California*, 413 U.S. 15, 23 (1973).

132. The U.S. Supreme Court has recognized that there is a compelling interest in protecting the physical and psychological well-being of minors. This interest extends to shielding minors from the influence of literature even if it is not obscene by adult standards. *See Ginsberg v. New York*, 390 U.S. 629, 639–640 (1968); *New York v. Ferber*, 458 U.S. 747, 756–757 (1982). *See also Sable Communications of California, Inc. v. F.C.C.*, 109 S. Ct. 2829, 2836 (1989).

133. Public education serves as "the first opportunity most citizens have to experience the power of government . . . and the values they learn there, they take with them in life." *New Jersey v. T.L.O.*, 469 U.S. 325, 385-86 (1985) (Stevens, J., concurring in part and dissenting in part).

134. Defendant Hawes's requirement that R.E. read and perform the sexually explicit and obscene monologue is an unreasonable content-based speech regulation and lacked a compelling government interest. It is a "content regulation" because it requires R.E. to speak on a sexually explicit and obscene subject that she would not otherwise speak.

135. Defendant Hawes's requirement is unreasonable because it does not advance the purpose served by the forum – *i.e.,* academic education, and in fact flies in the face of that compelling government interest.

136. The sexually explicit and obscene content of the monologue violates CCSD's policy P-4150 prohibiting the use of profanity in the classroom, as well as CCSD's Student Code of Conduct which states that content that is profane and/or of an obscene nature "disrupt[s] the educational setting" and prohibits students from displaying any such content while at school.

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137. R.E.'s required performance of the monologue was contingent on receiving a grade in her class – a grade that would impact future school and work opportunities.

138. R.E. was subject to pressure by Defendant Hawes, and R.E. felt she had no choice but to complete the assignment, especially because R.E. knew Defendant Hawes had helped the other student edit the monologue and, thus, had already reviewed and approved of its content.

139. R.E. believed that Defendant Hawes would disapprove and disallow R.E. to refuse to perform the monologue and/or to request yet another monologue.

140. Defendant Jesus Jara and the CCSD Board agreed that the monologue was inappropriate and profane, a fact they informed Candra Evans of during their board meeting.

141. Defendants Hager and Walker also admitted that the monologue was inappropriate content for a high school classroom of *any* kind, *including* a high school theater class that "pushes boundaries."

142. R.E. is a minor and, given her age at the time of this incident, she was incapable of consenting to the exposure and/or performance of the sexually explicit and obscene material: "she could have said no" is not a defense.

COUNT III

NV CONSTITUTION – LIBERTY OF SPEECH

(CCSD, Hawes and Jara)

143. Plaintiffs repeat, reallege, and incorporate by reference herein all preceding paragraphs as though fully set forth herein.

144. "The First Amendment to the United States Constitution, as applied to state governments through the Fourteenth Amendment, prohibits a state from 'abridging the freedom of speech.' Similarly, Article 1, Section 9 of the Nevada Constitution protects the general right of the people to engage in expressive activities in this state." *Univ. & Cmty. Coll. Sys. of Nev. v. Nevadans for Sound Gov't*, 120 Nev. 712, 722, 100 P.3d 179, 187 (2004)

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145. The Nevada Supreme Court has "held that Article 1, Section 9 affords no greater protection to speech activity than does the First Amendment to the United States Constitution. . . Therefore, under the Nevada Constitution, the appropriate analysis of [Defendants' actions] is identical to that under the First Amendment." *Id*.

146. As discussed above in Cause of Action I, Defendants CCSD and Dr. Jara unconstitutionally censored Candra Evans due to her viewpoint. This is a violation of Article 1, Section 9 of the Nevada Constitution.

147. As discussed above in Cause of Action II, Defendants CCSD and Hawes unconstitutionally compelled R.E.'s speech and required R.E. to profess beliefs or views with which R.E. does not agree. This is a violation of Article 1, Section 9 of the Nevada Constitution.

148. As a result of the foregoing, Plaintiffs have been damaged in a sum which exceeds $50,000 and will be further determined at the trial of this matter.

COUNT IV

INTENTIONAL AND NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

(CCSD and Hawes)

149. Plaintiffs repeat, reallege, and incorporate by reference herein all preceding paragraphs as though fully set forth herein.

150. "Extreme and outrageous conduct is that which is outside all possible bounds of decency and is regarded as utterly intolerable in a civilized community." *Maduike v. Agency Rent-A-Car*, 114 Nev. 1, 953 P.2d 24, 26 (1998).

151. Defendant CCSD is liable for intentional torts committed by its employees during their employment, even if it is clear that those acts were not authorized by the School District. *Doe A. v. Green*, 298 F. Supp. 2d 1025, 1042 (D. Nev. 2004). In addition, Defendant CCSD is liable via *respondeat superior* for the acts of its employees.

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152. The Nevada Supreme Court noted that "[i]f a bystander can recover for the negligent infliction of emotional distress, it is only logical that the direct victim be permitted the same recovery." *Shoen v. Amerco*, 111 Nev. 735, 896 P.2d 469, 477 (1995). While not recognizing a "new cause of action for direct negligent infliction of emotional distress, the Court held that 'the direct victim should be able to assert a negligence claim that includes emotional distress as part of the damage suffered as well as an intentional tort cause of action.'" *Id*. (citing, *Prescott v. Slide Fire Sols., LP*, 410 F. Supp. 3d 1123, 1143 (D. Nev. 2019)).

153. Hawes informed her students that for the monologue assignment, she would only allow her students to exchange the monologue they received once. R.E. exchanged the first monologue she received, and so Hawes refused to let R.E. choose another monologue, after R.E. received the pornographic monologue.

154. Defendant Hawes then allowed and required a child, R.E., to read, memorize, and perform and act out a sexually explicit and obscene monologue containing profanity and literal and metaphorical sexual rhetoric, including references to male and female genitalia, in front of her whole class, as part of her classroom activities, and as part of a *graded* classroom assignment. As such, R.E.'s grade in Hawes class, and, by virtue, overall academic performance as a student of LVA, was dependent on how well R.E. theatrically performed and delivered the monologue to her peers and Hawes.

155. This extreme and outrageous conduct was committed with the intentional or reckless disregard causing R.E. - a child - emotional distress.

156. Despite having reviewed and exercised editorial control over the monologue, Hawes allowed it to amongst the monologues available for random selection by R.E.

157. Performing pornography should never be a required high school classroom assignment.

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158. Defendant Hawes, reviewed and approved this sexually explicit monologue before requiring R.E. to read, memorize and perform it, knowing or recklessly indifferent to the reality that it was unlawful, inappropriate and that Plaintiffs would be outraged.

159. Moreover, R.E. is a minor, and intentional infliction or negligent infliction of emotional distress of a minor raises the allegations to an infliction of emotional distress *per se* status.

160. Due to Defendants' acts, R.E. suffered and continues to extreme emotional distress. As a result of Defendants acts, R.E. received psychiatric medical treatment, and has and continues to receive treatment from a therapist to address the harm she endured.

161. But for Defendant Hawes' actions and the other Defendants ratifying her actions, R.E. would not have suffered such emotional distress. As a result of the foregoing, Plaintiffs have been damaged in a sum which exceeds $50,000 and will be further determined at the trial of this matter.

COUNT V

NEGLIGENCE

(CCSD, Hager, Hawes, and Walker)

162. Plaintiffs repeat, reallege, and incorporate by reference herein all preceding paragraphs as though fully set forth herein.

163. To state a negligence claim, a plaintiff must show: (1) the defendant owed a duty of care to the plaintiff; (2) the defendant breached that duty; (3) the breach was the legal cause of the plaintiff's injury; and (4) the plaintiff suffered damages. *Scialabba v. Brandise Constr. Co., Inc.*, 112 Nev. 965, 921 P.2d 928, 930 (1996) (citation omitted).

164. The Nevada Supreme Court has expressly stated that a special or heightened duty exists between teachers and students in *Lee v. GNLV Corp.*, 117 Nev. 291, 22 P.3d 209 (2001). "This court… has stated that, where a special relationship exists between the parties, such as with [a]… teacher-student…, an affirmative duty to aid others in peril is imposed by law. *See Sims v. General*

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Telephone & Electronics, 107 Nev. 516, 526, 815 P.2d 151, 157-58 (1991) (citing W. Page Keeton et al., *Prosser and Keeton on the Law of Torts*, § 56, at 376).

165. The California Supreme Court explained the rationale behind the special teacher-student relationship, and the basis for the duty of schools, school districts and school personnel to protect students placed in their care. In addition, a school district and its employees have a special relationship with the district's pupils, a relationship arising from the mandatory character of school attendance and the comprehensive control over students exercised by school personnel, "analogous in many ways to the relationship between parents and their children." *Hoff v. Vacaville Unified School Dist.* (1998) 19 Cal.4th 925, 935, 80 Cal.Rptr.2d 811, 968 P.2d 522, *see M.W. v. Panama Buena Vista Union School Dist.* (2003) 110 Cal.App.4th 508, 517, 1 Cal.Rptr.3d 673; *Leger v. Stockton Unified School Dist.*, (1988) 202 Cal.App.3d at 1448,1458-1459, 249 Cal. Rptr. 688. Because of this special relationship, imposing obligations beyond what each person generally owes others under Civil Code section 1714, the duty of care owed by school personnel includes the duty to use reasonable measures to protect students from foreseeable injury at the hands of third parties acting negligently or intentionally.

166. In Nevada,[1] the Legislature has made a clear and unmistakable statement that school districts have an unequivocal responsibility to protect the students placed in their care, particularly when they have been made aware of a specific danger to specific students.

167. Upon information and belief, Defendants CCSD, Hager, and Walker breached their heightened duty of care to R.E. by failing to stay adequately informed of Hawes' curriculum and instruction of her class, failing to exercise appropriate oversight over Hawes to ensure she implemented her curriculum in accordance with school policy or in a manner that would deprive her students, including R.E., of a safe and respectful learning environment.

[1] See NRS 388.121-1459.

168. Defendant Walker also breached his duty of care to R.E. when he had R.E. meet with Hawes completely alone, without R.E.'s parent or other school administrator present, including himself.

169. Hawes breached her heightened duty of care to R.E. by allowing R.E. to receive the monologue and requiring R.E. to memorize, read and perform it as part of a graded assignment.

170. In addition, CCSD is liable via *respondeat superior* for the acts of its employees.

171. As a proximate result of Defendants' negligence acts and omissions, R.E. suffered immediate injury, including physical, psychological, and emotional injury.

172. As a result of the foregoing, Plaintiffs have been damaged in a sum which exceeds $50,000 which will be further determined at the trial of this matter.

COUNT VI

NEGLIGENT TRAINING AND SUPERVISION

(CCSD)

173. Plaintiffs repeat, reallege, and incorporate by reference herein all preceding paragraphs as though fully set forth herein.

174. In Nevada, in the case of hiring an employee, the employer has a duty to use reasonable care in the training, supervision, and retention of his or her employees to make sure that the employees are fit for their positions. *See* 27 Am. Jur.2d *Employment Relationship* §§ 475–76 (1996).

175. "To establish negligent supervision, a plaintiff must prove (1) defendant owed a duty of care to the plaintiff; (2) defendant breached that duty by improperly supervising an employee even though defendant knew, or should have known, of the employee's dangerous propensities; (3) the breach was the cause of plaintiff's injuries; and (4) damages. *Peterson v. Miranda*, No. 2:11-cv-01919-LRH-PAL, 57 F. Supp. 3d, 1271, 1280 (D. Nev. Sept. 29, 2014) (citing Hall v. SSF, Inc.112 Nev. 1384, 930 P.2d 94, 99 (Nev. 1996)). Negligent supervision claims "are based

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upon the premise that an employer should be liable when it places an employee, who it knows or should have known behaves wrongfully, in a position in which the employee can harm someone else." *Id*. (quotations omitted).

176. As stated above, CCSD and its employees owed R.E. a heightened duty of care as R.E. is a student that attends a CCSD school.

177. Upon information and belief, CCSD knew or should have known that Defendant Walker had the propensity to improperly supervise and/or provide proper training to teachers under his supervision.

178. Upon information and belief, Defendant Walker knew or should have known that Defendant Hawes had the propensity to teach in a manner that deprived students of a safe and respectful learning environment.

179. Upon information and belief, Defendant Walker knew or should have known Defendant Hawes lacked the training necessary to teach in a manner consistent with school policies and that ensures a safe and respectful learning environment for students.

180. Upon information and belief, Defendant Walker failed to properly train Hawes.

181. From the time Defendant Hawes first informed students of the monologue assignment until the time that R.E. was required to perform it, Defendants Hager, Walker and CCSD did nothing to prevent it. During that time, they could have stopped Defendant Hawes from requiring the monologue assignment and prevented the damage to R.E. from occurring.

182. CCSD, Hager and Walker breached their duty to R.E. as Defendant Hawes reviewed, approved, edited, helped rewrite, and required R.E. to read, memorize, and perform the pornographic monologue in front of her whole class. At any point, Defendant Hawes could have prevented this pornographic material from getting into the hands of children, but she refused.

183. When confronted about the monologue assignment, Defendants Walker, Hager and CCSD did nothing. Defendant Hawes was not disciplined, no correctional actions were taken to prevent

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this from happening again, no apologies were made, and no protections were established for R.E. or the other students in her classroom.

184. Further, instead of protecting R.E. from Hawes' inappropriate actions, Walker and Hager had R.E. met with Hawes alone where she was assaulted and battered by Hawes.

185. Defendants' response to Plaintiffs was to defend Hawes' pornographic assignment and attack Plaintiffs. In fact, CCSD and one of CCSD's board members publicly attacked Candra Evans for bringing Defendants' actions to light. As a proximate result of these negligence acts and omissions, R.E. suffered immediate and irreparable injury, including physical, psychological, and emotional injury.

186. As a result of the foregoing, Plaintiffs have been damaged in a sum which exceeds $50,000 which will be further determined at the trial of this matter.

COUNT VII

ASSAULT/BATTERY

(Hawes and CCSD)

187. Plaintiffs repeat, reallege, and incorporate by reference herein all preceding paragraphs as though fully set forth herein.

188. To state a civil assault claim, a plaintiff must demonstrate that the defendant: (1) intended to cause harmful or offensive physical contact; and (2) the victim was put in apprehension of such contact. *See Sandoval v. Las Vegas Metro. Police Dep't*, 854 F.Supp.2d 860, 882 (D. Nev. 2012) (citing Restatement (Second) of Torts, § 21 (1965)), *reversed on other grounds by Sandoval v. Las Vegas Metro. Police Dep't*, 756 F.3d 1154 (9th Cir. 2014). To state a battery claim, a plaintiff must demonstrate that the defendant: (1) intended to cause harmful or offensive contact; and (2) such contact occurred. *See Burns v. Mayer*, 175 F.Supp.2d 1259, 1269 (D. Nev. 2001) (citing Restatement (Second) of Torts §§ 13, 18 (1965).

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189. Defendant CCSD is liable for intentional torts committed by its employees during their employment, even if it is clear that those acts were not authorized by the School District. *Doe A. v. Green*, 298 F. Supp. 2d 1025, 1042 (D. Nev. 2004). In addition, Defendant CCSD is liable via *respondeat superior* for the acts of its employees.

190. After Plaintiffs reported Hawes' actions to Defendant Walker, the principal forced R.E. into a room with Defendant Hawes alone. Once there, Defendant Hawes verbally attacked R.E. until she cried.

191. It was during that meeting, and after Hawes verbally upset R.E. to the point of tears, that Defendant Hawes made intentional and unpermitted contact with R.E. by grabbing R.E. and holding R.E. - thereby re-abusing her.

192. R.E. was put in apprehension of Defendant Hawes intention to grab her and Hawes actually did grab her.

193. Hawes and CCSD are liable for Defendant Hawes's assault and battery of R.E.

194. As a result of the foregoing, Plaintiffs have been damaged in a sum which exceeds $50,000 and will be further determined at the trial of this matter.

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PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS request judgment be entered in their favor and against Defendants as follows:

1. A declaration that the Defendants' policies, practices, and conduct as alleged herein violated Plaintiffs' rights under the First Amendment to the United States Constitution, the Nevada Constitution and Nevada law;

2. Compensatory damages in excess of $50,000 for an amount to be determined at trial;

3. To each plaintiff, nominal damages in the amount of $1.00;

4. Punitive damages;

5. Costs and attorneys' fees as provided by law, including 42 U.S.C. § 1988;

6. Any other relief this Court may grant in its discretion and/or deems just and proper.

DATED this 10th day of May, 2023.

LEX TECNICA LTD

/s/ Vincent J. Garrido
ADAM R. KNECHT, ESQ.
[redacted]
VINCENT J. GARRIDO, ESQ.
[redacted]
Attorneys for Plaintiffs

THE AMERICAN CENTER FOR LAW AND JUSTICE

/s/ Benjamin Sisney
BENJAMIN P. SISNEY, ESQ.
Will comply with LR IA 11-2 within 14 days
[redacted]
ABIGAIL SOUTHERLAND, ESQ.

Will comply with LR IA 11-2 within 14 days

[redacted]

Attorneys for Plaintiffs

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CERTIFICATE OF SERVICE VIA CM/ECF

I hereby certify that on this 10th day of May, 2023, I did serve, via Case Management/Electronic Case Filing, a copy of the above and foregoing Amended Complaint addressed to:

Kara B. Hendricks: hendricksk@gtlaw.com, escobargaddie@gtlaw.com, spauldingc@gtlaw.com, kara-hendricks-7977@ecf.pacerpro.com, neyc@gtlaw.com, Steph.Morrill@gtlaw.com, flintza@gtlaw.com, sheffieldm@gtlaw.com

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/s/ Vincent J Garrido

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