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MEGAN DONOVAN and JOSEPH RAMELLI

SUPERIOR COURT OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN DIEGO

MEGAN DONOVAN and JOSEPH  
RAMELLI,

Plaintiffs,

v.

POWAY UNIFIED SCHOOL  
DISTRICT, by and through its Board of  
Education; DONALD A. PHILLIPS,  
Superintendent; SCOTT FISHER,  
Principal; ED GILES, Assistant  
Principal; and DOES 1-25, inclusive;

Defendants.

CASE NO.: GIC 823157

FIRST AMENDED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF AND FOR COMPENSATORY  
AND PUNITIVE DAMAGES

I. INTRODUCTION

1. This is a civil rights action demanding declaratory and injunctive relief and monetary damages from the Poway Unified School District (“PUSD”) and its agents and employees for depriving students at Poway High School who are gay or lesbian or who are perceived to be gay or lesbian of a safe and equal educational environment in violation of their established constitutional and statutory rights. By bringing this action, Plaintiffs Megan Donovan (“Megan”) and Joseph Ramelli (“Joey”) seek to eliminate the hostile and intolerant climate within the PUSD at Poway High through reforms to change the policies and practices within PUSD schools and to compel PUSD officials to respond appropriately to complaints of harassment by students who are gay

1 or lesbian or who are perceived to be gay or lesbian. Plaintiffs Megan and Joey also seek  
2 monetary damages for the harassment and discrimination they have suffered.

3 2. Students experience pervasive, severe, and unwelcome harassment and  
4 discrimination at PUSD schools, including but not limited to Poway High School  
5 (“Poway High”), based on their actual or perceived sexual orientation. Students who are  
6 gay or who are perceived to be gay are verbally harassed by their classmates, who refer  
7 to them in the classrooms and the hallways as “faggots,” “fags,” “queers,” and “homos.”  
8 Some students are physically assaulted or intimidated by other students based on their  
9 sexual orientation, and others are even taunted and harassed by school administrators  
10 and teachers.

11 3. What is worse, complaints by student victims to administrators and teachers  
12 are met with deliberate indifference and institutionalized ostracism. When students  
13 who have been harassed have sought assistance from administrators at PUSD, instead  
14 of taking steps to ensure a safe and equal educational environment for all students,  
15 PUSD and its agents and/or employees either ignore these complaints or encourage,  
16 convince, or allow these students to leave full-time classroom instruction and transfer  
17 into independent study programs or other alternative educational programs. Such  
18 programs are designed for students with severe problems such as extremely limiting  
19 physical or other disabilities, substance abuse problems, or for students who need to  
20 work full time to help support their families.

21 4. These alternative educational  
22 programs were not and are not designed as a depository for ordinary students who just  
23 happen to be gay or who are perceived as gay. Defendants’ use of these alternative  
24 educational programs to isolate these students irreparably harms them physically,  
25 mentally, and emotionally, and greatly limits their ability to pursue higher education.  
26 Moreover, segregating students perceived to be gay in this manner enables harassing  
27 students to continue tormenting other students and frees teachers and administrators  
28 from any responsibility to change these dreadful conditions within the PUSD.

5. Even more shockingly, teachers and administrators at Poway High have not

1 only ignored and been deliberately indifferent to the concerns of victims of anti-gay  
2 harassment, but in some cases have directly harassed students, giving religious-based  
3 lectures and mocking them, and have contributed to and exacerbated the hostile  
4 environment at Poway High.

5 6. The harassment suffered by Plaintiffs Megan Donovan and Joseph Ramelli  
6 while they attend Poway High School from 2000 and continuing is a deplorable, yet  
7 typical, illustration of this severe harassment and discrimination. Megan Donovan and  
8 Joseph Ramelli are not alone; in recent years many other students who are gay or  
9 lesbian or who are perceived as gay or lesbian have been harassed within PUSD schools.

10 7. GSA Network is an organization whose purpose is to remedy the very  
11 homophobic climate now present in many schools, including PUSD schools. Surveys  
12 conducted in California schools by GSA Network during the 1999-2000 school year show  
13 alarming data about anti-gay harassment at high schools. Fifty-three percent (53%) of  
14 students at public and private high schools surveyed indicated that each day they hear  
15 homophobic comments at school. Sixty-seven percent (67%) of students surveyed said  
16 that they frequently or occasionally make such comments themselves.

17 8. These same surveys show that eighty-four percent (84%) of students surveyed  
18 indicated that teachers or administrators never or rarely intervene when anti-gay  
19 comments are made. And forty-eight percent (48%) of students surveyed said that they  
20 do not think that their campus is safe for gay lesbian, bisexual, and transgender  
21 students. These problems are particularly acute at Poway High.

## 22 II. PARTIES

23 9. Plaintiff Megan Donovan was and is a student enrolled in schools within the  
24 PUSD, specifically Poway High School, beginning in or around August, 2000 and  
25 continuing to August, 2003, when she enrolled in the Independent Study program called  
26 "New Directions".

27 10. Plaintiff Joey Ramelli was and is a student enrolled in schools within the  
28 PUSD, specifically Poway High School, beginning in or around August, 2000 and

1 continuing to August, 2003, when he enrolled in the Independent Study program called  
2 “New Directions”.

3 11. Defendant Poway Unified School District (“PUSD”) is a public school district  
4 organized and operating under the laws of the State of California. PUSD controls and  
5 operates Poway High School and other public schools in the Poway area. A portion of  
6 the funding for each of these schools comes from the state and federal governments.

7 12. Defendants Donald A. Phillips, PUSD Superintendent of Schools; Scott  
8 Fisher, Principal at Poway High School; and Ed Giles, Assistant Principal at Poway  
9 High School are or were, at all relevant times, individuals working as employees,  
10 teachers, agents and/or administrators of the PUSD.

11 13. The PUSD, by and through its Board of Education, and the Defendants sued  
12 individually in this lawsuit, were and are responsible for creating and maintaining an  
13 educational environment that is free from discrimination and harassment. These  
14 Defendants were and are also responsible for making policy and/or for implementing  
15 disciplinary, anti-harassment, and anti-discrimination policies. Further, these  
16 Defendants were and are responsible for enforcing and ensuring that their subordinates,  
17 agents, and employees were and are enforcing such laws and policies by taking prompt  
18 remedial action in response to incidents of inappropriate behavior, harassment and/or  
19 discrimination against students.

20 14. Plaintiffs allege upon information and belief that each of the Defendants,  
21 including Defendants Does 1 through 25 inclusive, performed, participated in, aided  
22 and/or abetted, or were deliberately indifferent to the acts averred herein, proximately  
23 caused the damages averred below, and are liable to Plaintiffs for the damages and  
24 other relief sought herein. The true names and official capacities of Defendants  
25 designated as Does 1 through 25, inclusive are unknown to Plaintiffs, who therefore sue  
26 these Defendants by such fictitious names. Plaintiffs will seek leave of Court to amend  
27 their complaint to show the true names and capacities of these Defendants when they  
28 have been ascertained.

15. Plaintiffs allege upon information and belief that at all relevant times, each and every Defendant was the agent and employee of each and every other Defendant, was acting within the scope of such agency or employment, and was acting with the consent, permission and authorization of the remaining Defendants. All actions of each Defendant were ratified and approved by every other Defendant. Plaintiffs further allege on information and belief that all of the actions alleged in this First Amended Complaint were taken pursuant to the customs, policies, and practices of the PUSD and that Defendants have been, are presently and will be acting under the color and authority of the laws of the United States and the state of California.

16. Plaintiffs complied with the requirements of the California Tort Claims Act by giving notice to PUSD in May, 2003. Plaintiffs' claims were rejected on or about June 25, 2003.

### III. VENUE

17. Venue is proper in this Court because the events which give rise to Plaintiffs' claims took place within the Central Judicial District of the Superior Court of the County of San Diego, State of California.

#### IV. FACTS COMMON TO ALL CLAIMS

1. STUDENTS AT PUSD SCHOOLS ARE PERSISTENTLY HARASSED ON THE BASIS OF THEIR ACTUAL OR PERCEIVED SEXUAL ORIENTATION.

A. Students Are Being Verbally Harassed And Physically Assaulted And Intimidated By Other Students At PUSD Schools.

18. Harassment and discrimination is a fact of life for students who are gay or lesbian or who are perceived as gay or lesbian attending schools within the PUSD, specifically at Poway High School. Students have been taunted and harassed by students, teachers, and administrators at PUSD for being gay or lesbian or for being perceived as gay or lesbian. These students have been repeatedly called “faggot,” “queer,” and other derogatory terms on campus and in the classrooms, sometimes in the presence of teachers. In some instances, this harassment is so severe that students are forced to quit attending their classes because of the constant abuse.

1           19. Plaintiffs are informed and believe that a number of teachers at Poway High  
2 have listened to students openly make derogatory comments about gays and lesbians  
3 without making any attempts to stop them. When one gay student confronted his  
4 teacher after class about students who made loud, derogatory, anti-gay comments in  
5 class, the teacher merely told the student that he did not even hear the  
6 comments—despite the fact that it was obvious that he did—and refused to do anything  
7 about them.

8           20. Plaintiff Joseph Ramelli (“Joey”) endured and continues to endure this  
9 pervasive harassment since arriving at Poway High in the Fall of 2000 and it continues  
10 to the present. Once students at Poway High learned that Joey was gay, they began to  
11 taunt and harass him. While, in his first two years at Poway High, he received a certain  
12 amount of harassment, the extent and severity of harassment and assaults which he  
13 experienced in the 2002-2003 school year became increasingly frequent and increasingly  
14 severe.

15           21. Joey is routinely called “fag”, “faggot” and “fudgepacker”. This harassment  
16 occurs an average of between five and ten times per day. Joey has had food thrown at  
17 him, including cookies, oranges and apples. Students think nothing of saying such  
18 outrageous things as, “Look, it’s that fag going to his fag meeting”. Students have put  
19 signs on his back, such as “I am a fag. Kick my ass!”.

20           22. Joey has been physically assaulted by being repeatedly shoved while in the  
21 school hallways. Sometimes Joey has been slammed into lockers. Sometimes he has  
22 been thrown onto the ground. A trash can was placed on his car in the parking lot. His  
23 car has been vandalized while parked in the school parking lot. Poway High students  
24 routinely feel free enough to spit on Joey, sometimes five or six times in one day.

25           23. The vast majority of these events have been brought to the administration’s  
26 attention through one method or another. Many have been witnessed by administrators,  
27 teachers and even school security guards. Joey has filed multiple complaints with the  
28 discipline office, but there have been no results. In fact, in April, 2003, while Joey was

1 speaking with Principal Scott Fisher, a fellow student called Joey a “faggot”. Defendant  
2 Fisher pretended to ignore the comment until Joey forced him to pay attention to it.  
3 Defendant Fisher’s response was simply to speak briefly with the student and then walk  
4 away.

5         24. Plaintiff Megan Donovan (“Megan”) endures and continues to endure this  
6 pervasive harassment while attending Poway High beginning in the Fall of 2001 and  
7 continuing to the present. Once students at Poway High began to suspect, and later  
8 learned, that Megan was gay, they began to taunt and harass her. Megan has been  
9 repeatedly called a “dyke” in a derogatory manner. Moreover, derogatory comments  
10 about “fags and dykes” have been made in her presence.

11         25. In addition, in Megan’s first and second years at Poway High, she played on  
12 the school’s junior varsity softball team. During these two years, she was a softball star  
13 and held several records related to her quality of play. After coming out, however, her  
14 teammates began to harass her, call her names and make derogatory comments about  
15 fags and dykes in her hearing or directly to her. At least one player said that she would  
16 no longer play if there was a lesbian on the team. Ultimately, the softball coach  
17 capitulated to the demands of the other players and did not offer Megan a spot on either  
18 the J.V. or Varsity team, allegedly because she was no longer a good enough player.  
19 Coach Bennett, in making this decision, not only ratified the discriminatory and  
20 harassing conduct of Megan’s teammates, but also engaged in discriminatory and  
21 harassing behavior himself.

22         26. One of the school’s assistant principals, Ed Giles, has also engaged in  
23 harassment of both Megan and Joey. Defendant Giles has given Megan multiple  
24 lectures about how God created Adam and Eve and disapproved of homosexuality.  
25 Assistant Principal Giles’ conduct violated Megan’s rights.

26         27. The harassment that students who are gay or lesbian or perceived as gay or  
27 lesbian suffer is not limited to verbal harassment, but is often escalated to physical  
28 assault and intimidation, both on and off campus. Students who are gay or lesbian or

1 who are perceived as gay or lesbian have been spit upon by other students on the  
2 campus of Poway High while the same students hurl anti-gay epithets at them.  
3 Plaintiffs are informed and believe that former students who were perceived to be gay  
4 have had food, pencils, erasers and textbooks and other objects thrown at them.

5         28. Similar types of behavior have been directed at Joey and Megan. For  
6 example, on or about April 18, 2003, a group of students held a "Straight Pride Day"  
7 event. Students wore t-shirts denouncing lesbians and gays and did things to  
8 antagonize them.

9         29. On this day, Megan, Joey and three other students were standing in a tight  
10 circle away from the Straight Pride Day rally. Nonetheless, a student named Brianna  
11 Rankin felt free enough to harass Megan, Joey and their friends. Brianna was wearing  
12 a hand-written "Straight Pride" placard on the front and back of her shirt (hand-written  
13 on school paper). It said, "Straight Pride, One Way", with a drawing on it. Brianna  
14 pushed through the center of the circle, although the area was not crowded and she had  
15 no need to do it. As she did so, she taunted the group with, "Hey, look fags, look at this",  
16 pointing to her placard and "Ha, ha, look at this, you fags".

17         30. Megan told Brianna not to touch her, but instead, Brianna decided to  
18 deliberately ram her shoulder into Megan's body and said, "Bring it on, you dyke".  
19 Brianna then stepped toward Megan, challenging her to a fight. Joey grabbed Megan  
20 and moved her away to ensure that there was no altercation.

21         31. Although Megan had done nothing to antagonize Brianna Rankin or anybody  
22 else, because of Megan's reaction to Brianna's aggressive and taunting conduct, Megan  
23 was suspended for three days.

24         32. This harassment and discrimination was compounded by Defendant Fisher  
25 when he blamed Joey for the problems that he and Megan were having on campus  
26 during a conversation between Defendant Fisher and Joey's mother, Patti Ramelli.

27         33. In addition to the constant emotional, physical and psychological harassment  
28 and discrimination being perpetrated on Megan and Joey by students, staff and



1 administrators at Poway High and in PUSD, Joey has received three death threats  
2 during the 2002-2003 school year. He has informed the school of these death threats,  
3 but PUSD and Poway High have taken no action.

4 34. Both Megan and Joey are frightened of being at school and avoid being alone,  
5 especially when walking through the quad. Both Megan and Joey avoid walking  
6 through the quad when possible. Joey rarely uses the bathrooms on campus, except for  
7 the one in the Health Office at Poway High, which is for a single person and has a lock  
8 on the door.

9 35. Because of the hostile climate within the PUSD, students are afraid to even  
10 associate themselves with any openly gay students on campus for fear of being verbally  
11 and physically assaulted. Students, including Joey and Megan, who are gay or lesbian  
12 experience chronic psychological injury from the conditions they must endure at school  
13 each day. They suffer from extremely low self-esteem as a result of their feelings of  
14 alienation, isolation, and fear. Their friends stop speaking to them and begin to taunt  
15 and harass them. Joey has stated that he suffers from insomnia while he lies awake at  
16 night reviewing the harassment he suffered during the day and worrying about what  
17 might happen tomorrow. Students skip classes in order to avoid the harassment. Often,  
18 their grades suffer, they fail classes, and they contemplate dropping out of school  
19 altogether.

20 B. Students Are Being Harassed By Their Own Teachers And Administrators.

21 36. This hostile climate for students who are gay or lesbian or who are perceived  
22 as gay or lesbian is perpetuated by the teachers and administrators at schools within  
23 the PUSD, specifically at Poway High.

24 37. Plaintiffs are informed and believe that teachers and administrators have  
25 participated in the taunting and harassment of gay or lesbian students. At least one  
26 teacher has made anti-gay comments in class. Administrators have mocked or ignored  
27 students who have come to them pleading for relief from the anti-gay harassment.

28 38. Plaintiffs are informed and believe that administrators, staff and teachers

1 and classes of students openly discuss their perceptions that Joey and Megan are gay  
2 in a derogatory and/or disapproving manner outside of their presence. Plaintiffs have  
3 also personally experienced and/or witnessed this type of behavior.

4 39. Plaintiffs are informed and believe that other incidents may have occurred  
5 where teachers and administrators within the PUSD have harassed gay students.

6 C . Defendants Have Failed To Provide Adequate Support Mechanisms For  
7 Gays And Lesbians And Have Failed To Enact Policies To Ensure That Its  
8 Schools Are Safe From Anti-Gay Harassment.

9 40. Little support exists on PUSD campuses, and, in particular, at Poway High,  
10 for students who are gay or lesbian or who are supportive of gay or lesbians. While  
11 Plaintiffs are informed and believe that some PUSD campuses have organizations,  
12 support groups, or programs within the district to provide support to students who are  
13 the victims of anti-gay harassment at Poway High and other schools, they are not  
14 supported by the administration. PUSD and Poway High School's failure to support the  
15 organizations or programs promotes and perpetuates anti-gay harassment at Poway  
16 High School and exacerbates the damage such harassment causes to Poway High  
17 students.

18 41. In fact, Plaintiffs are informed and believe that PUSD may have explicit or  
19 unwritten policies designed to deter gay or lesbian students from being open about their  
20 sexual orientation and freely associating with one another. These policies promote and  
21 perpetuate anti-gay harassment at PUSD schools, including Poway High.

22 42. Further, Plaintiffs are informed and believe that the PUSD has no effective  
23 formal or informal policy to ensure that its schools are safe for students who are gay or  
24 lesbian or who are perceived as gay or lesbian. The PUSD has no adequate policy in  
25 place to prevent or deter students from taunting, harassing, and assaulting other  
26 students who are gay or lesbian or who are perceived as gay or lesbian. The absence of  
27 such a policy promotes and perpetuates anti-gay harassment at PUSD schools and  
28 Poway High in particular.

1           43. Teachers, counselors, and administrators at PUSD schools, including Poway  
2 High, are not adequately trained how to assist students who are victims of anti-gay  
3 harassment at PUSD schools. Guidance counselors provide no meaningful assistance  
4 to students dealing with issues relating to sexual orientation and/or harassment relating  
5 to perceived sexual orientation. Instead, it has been Poway High and PUSD's practice  
6 to ignore harassment based on actual or perceived sexual orientation and to refuse to  
7 make any attempts to stop students and teachers from perpetrating any further acts of  
8 harassment.

9           44. In fact, the vast majority of teachers, counselors, and administrators are  
10 completely insensitive and/or oblivious to the needs, confidences, and dignity of gay or  
11 lesbian students. For example, Defendant Fisher's response to a Poway High School  
12 student calling Joey a "faggot" right in front of him shows his bias, insensitivity and lack  
13 of concern for Joey. Defendant Giles' lectures to Megan about Adam and Eve are  
14 another example. Defendants' lack of response or concern regarding the many instances  
15 of harassment, assaults and vandalism by school authorities are yet more examples.  
16 Suspending Megan when she was attacked by a "Straight Pride Day" participant is yet  
17 another example.  
18

19           45. Administrators and teachers at PUSD schools have further fueled the anti-  
20 gay hostile environment by promoting discussion designed to refute or explain away  
21 complaints of anti-gay harassment and reveal other extremely private facts about  
22 student victims of harassment.

23           II.     DEFENDANTS IGNORE AND EXACERBATE THIS HARASSMENT  
24                 WHEN STUDENTS SEEK HELP FROM TEACHERS AND  
                  ADMINISTRATORS.

25           A.     Teachers And Administrators Routinely Ignore Student Complaints About  
26                 Harassment.

27           46. This climate of homophobia and harassment has severely harmed gay or  
28 lesbian students who have attended PUSD schools, including Plaintiffs. Some gay

1 students are afraid to even approach the administration and ask for help for fear that  
2 they may face retaliation. Other students who are gay or lesbian have complained  
3 repeatedly to Poway High teachers and administrators about the hostile climate for  
4 them on campus. Teachers and administrators have taken no action to remedy the  
5 harassment and hostile climate and have not attempted to enact formal or informal  
6 policies on how to prevent such harassment.

7 47. Even when parents have attempted to intervene with teachers and  
8 administrators, the PUSD does nothing to stop the harassment. Indeed, some Poway  
9 parents are outraged that the administration at Poway High has done nothing in the  
10 face of these problems.

11 48. Plaintiffs tried to get the administrators at Poway High to stop the students  
12 and teachers from harassing them. On multiple occasions, Joey and Megan, together  
13 and separately, went to the principal of Poway High, Defendant Scott Fisher, and told  
14 him exactly what harassment or assaults they had experienced. They asked Defendant  
15 Fisher to take some action to reprimand the actors for this behavior or to intervene to  
16 protect them from this kind of abuse. Defendant Fisher not only refused to take any  
17 action, but instead told Plaintiffs and their parents that they were the problem and that  
18 Plaintiffs should, in effect, go back into "the closet".

19 49. Plaintiffs contacted PUSD Superintendent Donald Phillips to discuss the  
20 constant harassment and discrimination that they had been suffering. Defendants'  
21 only response was a letter saying that the situation was being handled at the Poway  
22 High level and it was under control, a clearly inaccurate statement.

23  
24 B. Defendants Encourage Gay And Lesbian Students To Discontinue Their  
25 Education In Favor Of "Alternative Education" Programs That Are Neither  
Designed For, Nor Appropriate, For These Students.

26 50. Despite the failure and refusal of PUSD to take any steps to remedy anti-gay  
27 hostility at Poway High, Defendants provide no educationally-appropriate alternative  
28 to the current environment on campus. Instead, Plaintiffs are informed and believe that

1 administrators and counselors at PUSD schools, including Poway High, force victims of  
2 anti-gay harassment into independent study programs, adult schools, or some other  
3 alternative educational program in order to isolate these students from the rest of their  
4 peers. Other times, these administrators and counselors deliberately encourage,  
5 convince, or allow gay or lesbian students or those perceived as gay or lesbian to leave  
6 school altogether or to enroll themselves into independent study or similar programs on  
7 the pretext that they are “assisting” these students.

8         51. Under independent study programs (“ISP”), students review their educational  
9 materials and study independently, and only meet with a teacher for a one-hour class  
10 once a week. The ISP is a non-college preparatory academic track that was designed for  
11 students who have extremely difficult home lives that affect their in-class performance,  
12 who are seriously disabled, who have substance abuse problems, or who need to work  
13 full-time because of dire financial need. While in ISP, students are ineligible for  
14 participation in extracurricular activities. The ISP is not educationally equivalent to  
15 classroom education at Poway High and it was not designed to, and does not, address  
16 any of the needs of otherwise ordinary victims of anti-gay harassment who meet none  
17 of the traditional criteria for admission to the program.

18         52. Some gay and lesbian students, including Plaintiffs, have actually sought  
19 entrance to the ISP as a survival mechanism to avoid the constant taunting and  
20 harassment by their peers and teachers at Poway High, and these students have been  
21 deliberately encouraged to do so by school officials. The students are sometimes  
22 promised by their guidance counselors that the independent study program will help end  
23 their harassment, although such promises are not kept.

24         53. In fact, teachers and administrators intentionally steer youth toward the  
25 decision to end their formal high school education. They recommend the ISP to students  
26 despite knowing that ISP was not designed for ordinary students facing anti-gay  
27 harassment. This happened to Plaintiffs. In Spring, 2003, in conversations with Poway  
28

1 High counselors and administrators, it was repeatedly suggested that things might be  
2 better for them if they removed themselves from full-time attendance at Poway High  
3 and attend the ISP.

4 54. The decision to send Plaintiffs to ISP was presented to them as if it would be  
5 best for their own futures. Officials at Poway High never mentioned that switching to  
6 ISP would have a harmful adverse impact on their extracurricular activities, the  
7 decision to attend college, and their futures overall. They simply described it as a way  
8 for Joey to escape from the constant harassment by studying independently and only  
9 coming to school for a one-hour class once a week. According to the school personnel, by  
10 attending ISP they could avoid the taunts from administrators, teachers, staff and the  
11 other students.

12 55. Plaintiffs' mothers, Patti Ramelli and Teresa Shelley, have to approve  
13 Plaintiffs' entry into the Independent Study Program. They were very concerned about  
14 the impact switching to the IS Program would have on Joey and Megan's futures. They  
15 were, and are, concerned about how the program might look to university admissions  
16 officers and also their ability to participate in high school extracurricular activities and  
17 the overall campus experience.

18 56. Despite these concerns, Patti Ramelli and Teresa Shelley are even more  
19 concerned about the extreme physical, emotional and psychological damage being  
20 perpetrated upon their children on a daily basis. After extensive conversations with  
21 Joey and Megan and serious consideration, Ms. Ramelli and Ms. Shelley finally agreed  
22 to allow Joey and Megan to switch into the ISP. They did so only because of their grave  
23 concern for the children's safety.

24 57. Ms. Ramelli was extremely concerned because Joey was heavily involved in  
25 extracurricular activities at Poway High and he intends to pursue higher education.  
26 While at Poway High, he has taken Advanced Placement courses, been a member of the  
27 AVID program ("AVID" stands for Advancement Via Individual Determination), aspired  
28

1 to attend San Francisco State University and to study education. Joey was also very  
2 involved in student activities at Poway High, including being a member of the student  
3 government.

4 58. Despite the fact that Poway High teachers, counselors and administrators  
5 knew of Joey's plan, as well as the effect his transfer to the ISP would have on these  
6 plans, these officials minimized with Joey any possible negative effects that the ISP  
7 might have on his aspirations to attend a university. Moreover, given how scared Joey  
8 was to go to campus and attend classes each and every day, Joey acceded to the  
9 suggestions made by the adults and switched to the IS Program.

10 59. Megan's mother, Teresa Shelley, was also very concerned because she knew  
11 how important participating in interscholastic athletics was to Megan. Since, however,  
12 the school had already ratified the discrimination and harassment being perpetrated by  
13 Megan's former teammates and the coach, she did not feel that Megan's continued  
14 attendance at Poway High was worth the risk to Megan's health and safety. She was  
15 also concerned about removing Megan from the high school experience, something that  
16 is important to the emotional and psychological development of all people. Again,  
17 though, Megan's physical and psychological safety was of a greater concern than  
18 Megan's being able to be a part of the high school experience.

19 C . These Alternative Education Programs Provide Little Relief From The  
20 Pervasive Anti-Gay Harassment At PUSD Schools.

21  
22 60. Defendants' policy of segregating gay students into alternative educational  
23 programs does nothing to solve the problems of anti-gay harassment in the District. To  
24 the contrary, it validates the actions and mind-sets of students who verbally harass,  
25 physically assault, and/or intimidate students who are gay or lesbian or who are  
26 perceived as gay or lesbian. Segregating gay students also allows the teachers and  
27 administrators at PUSD schools, including Poway High, to continue to ignore  
28 harassment within the schools instead of requiring them to make the educational

1 environment safe for these students. Moreover, placing students who are gay or lesbian  
2 or who are perceived as gay or lesbian into a separate, one-hour-per-week program with  
3 no formal instruction constitutes inherently unequal treatment for these students.

4 61. Even after students who complain of harassment are placed into the ISP,  
5 however, they continue to be harassed. In order for Plaintiffs to get to their GSA  
6 meeting that meets once a week, they will have to travel across the entire Poway High  
7 Campus and will likely continue to experience the same harassment they currently do -  
8 it will just be less frequent.

9 62. In addition, Joey has been trying desperately to find a way around taking the  
10 physical education class course requirements. Administrators and teachers at Poway  
11 High have refused to cooperate in this. As is well known, and has been experienced by  
12 both Megan and Joey personally, the taunting and harassment aimed at gay and lesbian  
13 students is at its height during physical education classes. This is particularly true  
14 during the portion of each class where students must change clothes and/or take showers  
15 in the communal locker room. Joey has proposed several alternatives with the school,  
16 but PUSD and Poway High have refused to make any accommodations whatsoever.  
17 Joey and his parents are extremely concerned about the physical harm which could  
18 occur during the physical education course. The psychological harm which will occur if  
19 they are forced to participate in these courses without any accommodations is beyond  
20 imagination.

21 63. PUSD and Poway High's reactions to the complaints of harassment and  
22 discrimination, physical assaults and vandalism brought to their attention by Megan  
23 and/or Joey not only fails to engender any confidence that they will be safe while taking  
24 the physical education courses, but, to the contrary, heightens their fears and  
25 apprehensions. To date, Megan and Joey have received little support and no effective  
26 response to any of the complaints. This is true even when the incidents occur right in  
27 front of school administrators, staff or even security guards.  
28



1           64. In fact, Plaintiffs have been told that they cannot be assured that they will  
2 be safe from harassment by teachers, administrators or students.

3           65. Defendants' conduct has left Plaintiffs with virtually no alternative but to  
4 leave their regular high school program and become members of the ISP and become ISP  
5 students. This does not eliminate all of the opportunities presented for the  
6 administrators, students and teachers to harass Plaintiffs, but it does minimize their  
7 exposure.

8  
9           III. THE HOSTILE ENVIRONMENT AT PUSD SCHOOLS CREATED AND  
10 FOSTERED BY DEFENDANTS CAUSES SUBSTANTIAL INJURY TO  
11 PLAINTIFFS MEGAN DONOVAN AND JOEY RAMELLI AND  
12 STUDENTS AND PARENTS.

13           66. The hostile environment towards gays and lesbians at Poway High  
14 discourages students from questioning or confronting their own sexual orientation or  
15 forming or joining support groups such as Gay Straight Alliances ("GSA's") for fear that  
16 doing so could subject them to verbal and physical harassment.

17           67. Students such as Joseph Ramelli and Megan Donovan who are openly gay at  
18 PUSD schools are subjected to the types of severe verbal and physical harassment  
19 described herein and suffer physical and emotional damage from this hostile  
20 environment. Further, once these students have been effectively transferred from their  
21 classrooms into alternative education programs, they lose the ability to participate in  
22 extracurricular activities, they receive an inadequate education, and their future  
23 educational opportunities are severely limited.

24           68. As a result of this environment, these students and others within the PUSD  
25 are deprived of an open educational forum free from unlawful harassment and  
26 discrimination.

27           69. In addition, heterosexual students are deprived of an environment that is free  
28 from hostility directed toward students who are gay or lesbian or who are perceived to  
be gay or lesbian. In fact the hostile environment at Poway High and PUSD's failure

1 to correct that environment or take appropriate steps to respond to specific instances of  
2 harassment actually teaches all students that harassment of, and discrimination  
3 toward, individuals suspected to be gay or lesbian is acceptable, if not commendable,  
4 behavior. Parents in the Poway High community are concerned about the environment  
5 of hostility and discrimination in PUSD schools and do not want their own children,  
6 whether straight or gay, to be educated in such an intolerant climate.

7 70. Despite its responsibility for these wrongs, PUSD has done nothing about the  
8 injuries it has caused.

### 9 CLAIMS FOR RELIEF

#### 10 FIRST CLAIM FOR RELIEF

11 (42 U.S.C. §1983; Equal Protection Under U.S. Constitution Amend. XIV)

12 [By Plaintiffs Joseph Ramelli and Megan Donovan against Defendants PUSD by  
13 and through its Board of Education, Donald A. Phillips, Scott Fisher and Ed  
14 Giles]

15 71. Plaintiffs reallege and replead all the allegations of Paragraphs 1-70 of this  
16 Complaint and incorporate them herein by reference.

17 72. Plaintiffs were students at Poway High School from 2000 to the present.  
18 Beginning in 2000 and continuing, Joey and Megan were taunted, harassed, and  
19 discriminated against by students, teachers, and administrators at Poway High on the  
20 basis of their actual or perceived sexual orientation. They were called “faggot,” “queer,”  
21 “homo,” “dyke” and other derogatory terms on the Poway High campus by students and,  
22 if not by, in the presence of school district agents and employees.

23 73. PUSD has no adequate or effective formal or informal policy to ensure that  
24 Poway High was safe for students who, like Plaintiffs, are gay or lesbian or who are  
25 perceived as gay or lesbian. When Plaintiffs complained to Defendants Donald Phillips,  
26 Scott Fisher and Ed Giles, these Defendants were deliberately indifferent to Joey and  
27 Megan’s safety and none of them took any meaningful action to stop the harassment and  
28 discrimination they was suffering.

1           74. Instead of addressing these actions by students and teachers, Defendants  
2 encouraged, convinced, and/or allowed Plaintiffs to transfer into an alternative  
3 education program—a one-hour-per-week independent study program—which was not  
4 designed for ordinary students but instead was designed for students who have special  
5 physical, emotional or temporal needs, students engaging in treatment programs, and/or  
6 students who are behind in credits or are transferring mid-semester. The independent  
7 study program is not educationally equivalent to classroom education at Poway High  
8 and it was not designed to, and does not, address any of the specific needs of those, like  
9 Megan and Joey, who did not meet the traditional criteria for admission to the program.  
10 Further, the independent study program provides little relief from the pervasive anti-  
11 gay harassment and discrimination Plaintiffs suffered at Poway High at the hands of  
12 other students and Defendants.

13           75. As a result of Defendants' actions, failure to act, and/or deliberate  
14 indifference, Plaintiffs will not attend regular school for their senior year in high school,  
15 may not receive enough credits to graduate high school with their class, may not receive  
16 a diploma, and were deprived of undergraduate education opportunities. Megan and  
17 Joey have been damaged emotionally and physically by the harassment and  
18 discrimination described above. Megan and Joey have also been damaged to the extent  
19 that their expulsion from Poway High has negatively affected, and will continue to  
20 negatively affect, their future educational and career prospects.

21           76. Defendants' actions, failure to act, and/or deliberate indifference towards the  
22 harassment and discrimination Joey and Megan suffered was carried out because of  
23 their actual or perceived sexual orientation in violation of the Equal Protection Clause  
24 of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §1983.  
25 At all times, Defendants have been, are presently and will be acting under the color and  
26 authority of the laws of the United States and the State of California. As a result of this  
27 discrimination and harassment, Joey and Megan individually suffered economic and  
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1 non-economic damages in an amount to be more precisely determined at trial.

2 77. Plaintiffs seek a judgment declaring that the intentional acts and the acts of  
3 deliberate indifference described above perpetrated by the PUSD and the Defendants  
4 are prohibited by the Equal Protection Clause of the Fourteenth Amendment to the  
5 United States Constitution and 42 U.S.C. §1983 and seek the injunctive relief set forth  
6 in the prayer for relief.

7 78. By failing to follow PUSD procedures or the minimum procedures required  
8 by the Constitution and state law, Defendants deprived these students of their liberty  
9 interest in a safe, secure and peaceful education in violation of the Due Process Clause  
10 of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §1983.  
11 At all times, Defendants have been, are presently and will be acting under the color and  
12 authority of the laws of the United States and the State of California.

13 79. Plaintiffs therefore seek a judgment declaring that the intentional acts and  
14 the acts of deliberate indifference described above perpetrated by the PUSD and the  
15 Defendants are prohibited by the Due Process Clause of the Fourteenth Amendment to  
16 the United States Constitution and 42 U.S.C. §1983, and seek the injunctive relief set  
17 forth in the prayer for relief.

## 18 SECOND CLAIM FOR RELIEF

19 (42 U.S.C. §1983; Procedural Due Process Under U.S. Constitution Amend. XIV)

20 [By Plaintiffs Joseph Ramelli and Megan Donovan against Defendants PUSD by and  
21 through its Board of Education, Donald A. Phillips, Scott Fisher and Ed Giles]

22 80. Plaintiffs reallege and replead all the allegations of Paragraphs 1-79 of this  
23 Complaint and incorporate them herein by reference.

24 81. Plaintiffs Megan Donovan and Joseph Ramelli have a protected liberty  
25 interest in a high school education, conferred by the California State Constitution and  
26 Education Code. Article I, Section 28(c) recognizes that students in California schools  
27 have an “inalienable right to attend campuses which are safe, secure and peaceful,” and  
28 Article 9, Section 1 recognizes that “[a] general diffusion of knowledge and intelligence

1 [is] essential to the preservation of the rights and liberties of the people.” The California  
2 Education Code, Sections 48200 et seq., recognizes the importance of education to  
3 children through the age of eighteen. Further, Education Code Sections 200 et seq.  
4 specifically prohibit discrimination on the basis of actual or perceived sexual orientation  
5 or gender identity, and California regulations require the PUSD to implement policies  
6 to prevent and/or respond to acts of harassment and discrimination in schools.

7 82. PUSD and/or Defendants have a custom, policy, and/or they tolerate a custom  
8 or policy that results in intentional discrimination and/or deliberate indifference to  
9 Plaintiffs’ legal rights. Plaintiffs were deprived of their liberty interest in a safe, secure  
10 and peaceful education without due process of law. Plaintiffs were and are students at  
11 Poway High School from 2000 to the present. Plaintiffs have been taunted, harassed,  
12 and discriminated against by students, teachers, and administrators at Poway High on  
13 the basis of their actual or perceived sexual orientation. They were called “faggot,”  
14 “queer,” “homo,” “dyke” and other derogatory terms on the Poway High campus by  
15 students.

16 83. PUSD had no adequate or effective formal or informal policy to ensure that  
17 Poway High was safe for students who, like Plaintiffs, are gay or lesbian or who are  
18 perceived as gay or lesbian. When Plaintiffs complained to Defendants Donald Phillips,  
19 Scott Fisher and Ed Giles, these Defendants were deliberately indifferent to Plaintiffs’  
20 safety and none of them took any meaningful action to stop the harassment and  
21 discrimination Plaintiffs were suffering.

22 84. Instead of addressing these actions by students and teachers, Defendants  
23 encouraged, convinced, and/or allowed Plaintiffs to transfer into an alternative  
24 education program—a one-hour-per-week independent study program—which was not  
25 designed for ordinary students but instead was designed for students who have special  
26 physical, emotional or temporal needs, students engaging in treatment programs, and/or  
27 students who are behind in credits or are transferring mid-semester. The independent  
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1 study program is not educationally equivalent to classroom education at Poway High  
2 and it was not designed to, and does not, address any of the specific needs of those, like  
3 Megan and Joey, who did not meet the traditional criteria for admission to the program.  
4 Further, the independent study program provides little relief from the pervasive anti-  
5 gay harassment and discrimination Plaintiffs suffered at Poway High at the hands of  
6 other students and Defendants.

7 85. As a result of Defendants' actions, failure to act, and/or deliberate  
8 indifference, Plaintiffs were constructively expelled from Poway High. They did not  
9 attend regular school for the majority of their senior year in high school, may not receive  
10 enough credits to graduate high school with their class, may not receive diplomas, and  
11 are being deprived of undergraduate education opportunities. Plaintiffs have been  
12 damaged emotionally and physically by the harassment and discrimination described  
13 above. Plaintiffs have also been damaged to the extent that their exclusion from Poway  
14 High has negatively affected, and will continue to negatively affect, their future  
15 educational and career prospects.

16 86. Defendants' actions, failure to act, and/or deliberate indifference toward the  
17 harassment and discrimination Megan and Joey suffered was carried out because of  
18 their actual or perceived sexual orientation. Megan and Joey were constructively  
19 expelled because of the discrimination and harassment they suffered at the hands of  
20 administrators, counselors, and teachers and the pervasive discrimination they suffered  
21 at the hands of other students as a result of the actions and deliberate indifference of  
22 Defendants and other PUSD administrators, counselors, and teachers.

23 87. Defendants did not follow PUSD procedures or the minimum procedures  
24 required by the Constitution and state law in response to Plaintiff's complaints of  
25 harassment and discrimination. As a result of the foregoing actions, failure to act,  
26 and/or the deliberate indifference of Defendants, Plaintiffs stopped attending classes  
27 full time and transferred into the independent study program.  
28

88. By failing to follow PUSD procedures or the minimum procedures required by the Constitution and state law, Defendants deprived Plaintiffs of their liberty interest in a safe, secure and peaceful education in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §1983. At all times, Defendants have been, are presently, and will be acting under the color and authority of the laws of the United States and the State of California. As a result, Joey and Megan individually suffered economic and non-economic damages in an amount to be more precisely determined at trial.

89. Plaintiffs therefore seek a judgment declaring that the intentional acts and the acts of deliberate indifference described above perpetrated by the PUSD and the Defendants are prohibited by the Due Process Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §1983, and seek the injunctive relief set forth in the prayer for relief.

90. Plaintiffs therefore seek a judgment declaring that the intentional acts and the acts of deliberate indifference described above perpetrated by the PUSD and the Defendants are prohibited by the Due Process Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §1983, and seek the injunctive relief set forth in the prayer for relief.

### THIRD CLAIM FOR RELIEF

(42 U.S.C. §1983; Substantive Due Process Under U.S. Constitution Amend. XIV)

[By Plaintiffs Joseph Ramelli and Megan Donovan against Defendants PUSD by and through its Board of Education, Donald A. Phillips, Scott Fisher and Ed Giles]

91. Plaintiffs reallege and replead all the allegations of Paragraphs 1-90 of this Complaint and incorporate them herein by reference.

92. PUSD and/or Defendants have a custom, policy, and/or they tolerate a custom or policy that results in intentional discrimination and/or deliberate indifference to Plaintiffs' legal rights. Defendants interfered with Plaintiff Joseph Ramelli's and Plaintiff Megan Donovan's liberty interests in violation of the Constitution of the

1 United States. Plaintiffs were students at Poway High School from 2000 to the present.  
2 Beginning in 2000 and continuing until the present, Plaintiffs were taunted, harassed,  
3 and discriminated against by students, teachers, and administrators at Poway High on  
4 the basis of their actual or perceived sexual orientation. They were called “faggot,”  
5 “queer,” “homo,” “dyke” and other derogatory terms on the Poway High campus by  
6 students.

7 93. PUSD had no effective or adequate formal or informal policy to ensure that  
8 Poway High was safe for students who, like Plaintiffs, are gay or lesbian or who are  
9 perceived as gay or lesbian. When Joey and Megan complained to Defendants Donald  
10 Phillips, Scott Fisher and Ed Giles, these Defendants were deliberately indifferent to  
11 Megan and Joey’s safety and none of them took any meaningful action to stop the  
12 harassment and discrimination they were suffering.

13 94. Instead of addressing these actions by students and teachers, Defendants  
14 encouraged, convinced, and/or allowed Plaintiffs to transfer into an alternative  
15 education program—a one-hour-per-week independent study program—which was not  
16 designed for ordinary students but instead was designed for students who have special  
17 physical, emotional or temporal needs, students engaging in treatment programs, and/or  
18 students who are behind in credits or are transferring mid-semester. The independent  
19 study program is not educationally equivalent to classroom education at Poway High  
20 and it was not designed to, and does not, address any of the specific needs of those, like  
21 Megan and Joey, who did not meet the traditional criteria for admission to the program.  
22 Further, the independent study program provides little relief from the pervasive anti-  
23 gay harassment and discrimination Plaintiffs suffered at Poway High at the hands of  
24 other students and Defendants.

25 95. As a result of Defendants’ actions, failure to act, and/or deliberate  
26 indifference, Plaintiffs will not attend regular school for their senior year in high school,  
27 may not receive enough credits to graduate high school with their class, may not receive  
28



1 a diploma, and were deprived of undergraduate education opportunities. Megan and  
2 Joey have been damaged emotionally and physically by the harassment and  
3 discrimination described above. Megan and Joey have also been damaged to the extent  
4 that their constructive expulsion from Poway High has negatively affected, and will  
5 continue to negatively affect, their future educational and career prospects.

6 96. Defendants' actions, failures to act, and/or deliberate indifference towards the  
7 harassment and discrimination Joey and Megan suffered were carried out because of  
8 their actual or perceived sexual orientation. Through the foregoing actions, failure to  
9 act, and deliberate indifference, Defendants interfered with Plaintiffs' liberty interest  
10 in a safe, secure and peaceful education. Moreover, Defendants' actions, failure to act,  
11 and/or deliberate indifference created a risk of physical and emotional harm to Megan  
12 and Joey and further demonstrated their deliberate indifference to the harassment and  
13 threat of harassment by rendering them more vulnerable to that danger. As a result,  
14 Joey and Megan's substantive due process rights guaranteed by the Fourteenth  
15 Amendment to the United States Constitution and 42 U.S.C. §1983 were violated. At  
16 all times, Defendants have been, are presently and will be acting under the color and  
17 authority of the laws of the United States and the State of California. As a result,  
18 Megan and Joey individually suffered economic and non-economic damages in an  
19 amount to be more precisely determined at trial.

20 97. Plaintiffs therefore seek a judgment declaring that the intentional acts and  
21 the acts of deliberate indifference described above perpetrated by the PUSD and the  
22 Defendants are prohibited by the Due Process Clause of the Fourteenth Amendment to  
23 the United States Constitution and 42 U.S.C. §1983, and seek the injunctive relief set  
24 forth in the prayer for relief.

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1 discrimination Plaintiffs suffered at Poway High at the hands of other students and  
2 Defendants.

3 102. As a result of Defendants' actions, failure to act, and/or deliberate  
4 indifference, Megan and Joey did not attend regular school for the majority of their  
5 senior year in high school, may not receive enough credits to graduate high school with  
6 their class, may not receive a diploma, and were deprived of undergraduate education  
7 opportunities. Joey and Megan have been damaged emotionally and physically by the  
8 harassment and discrimination described above. They have also been damaged to the  
9 extent that their constructive expulsion from Poway High has negatively affected, and  
10 will negatively affect, their future educational and career prospects.

11 103. Defendants' actions, failures to act, and/or deliberate indifference towards  
12 the harassment and discrimination Megan and Joey suffered were carried out because  
13 of their actual or perceived sexual orientation. Through these intentional acts and the  
14 acts of deliberate indifference, Megan and Joey were deprived of the equal rights and  
15 opportunities in a public educational institution as guaranteed under the California  
16 Education Code Sections 200, 220, 233.5, and 262.4. As a result, they suffered economic  
17 and non-economic damages in an amount to be more precisely determined at trial.

#### 18 FIFTH CLAIM FOR RELIEF

19 (California Civil Code Sections 51 & 52(a), Unruh Civil Rights Act)

20  
21 [By Plaintiffs Joseph Ramelli and Megan Donovan against Defendants PUSD by and  
22 through its Board of Education, Donald A. Phillips, Scott Fisher and Ed Giles]

23 104. Plaintiffs reallege and replead all the allegations of Paragraphs 1-103 of this  
24 Complaint and incorporate them herein by reference.

25 105. Defendants are engaged in the business of operating schools which are  
26 business establishments pursuant to Civil Code Section 51. More specifically,  
27 Defendants provide educational services to Plaintiffs in exchange for payments made  
28 by Plaintiffs and Plaintiffs' parents. Defendants' activities are related to the economic

1 interests of Plaintiffs, Plaintiffs' parents and society as an educated society is in the  
2 economic interests of Plaintiffs as individuals and society as a whole.

3 106. Plaintiffs Megan Donovan and Joseph Ramelli were students at Poway High  
4 School from 2000 to the present. Beginning in 2000 and continuing until the present,  
5 Megan and Joey were taunted, harassed, and discriminated against by students,  
6 teachers, and administrators at Poway High on the basis of their actual or perceived  
7 sexual orientation. They were called "faggot," "queer," "homo," "dyke" and other  
8 derogatory terms on the Poway High campus by students.

9 107. PUSD had no adequate or effective formal or informal policy to ensure that  
10 Poway High was safe for students who, like Megan and Joey, are gay or lesbian or who  
11 are perceived as gay or lesbian. When Megan and Joey complained to Defendants  
12 Donald Phillips, Scott Fisher and Ed Giles, these Defendants were deliberately  
13 indifferent to Joey and Megan's safety, and none of them took any meaningful action to  
14 stop the harassment and discrimination they were suffering. 108. Instead of  
15 addressing these actions by students and teachers, Defendants encouraged, convinced,  
16 and/or allowed Plaintiffs to transfer into an alternative education program—a one-hour-  
17 per-week independent study program—which was not designed for ordinary students  
18 but instead was designed for students who have special physical, emotional or temporal  
19 needs, students engaging in treatment programs, and/or students who are behind in  
20 credits or are transferring mid-semester. The independent study program is not  
21 educationally equivalent to classroom education at Poway High and it was not designed  
22 to, and does not, address any of the specific needs of those, like Megan and Joey, who did  
23 not meet the traditional criteria for admission to the program. Further, the independent  
24 study program provides little relief from the pervasive anti-gay harassment and  
25 discrimination Plaintiffs suffered at Poway High at the hands of other students and  
26 Defendants.

27  
28 109. As a result of Defendants' actions, failure to act, and/or deliberate

1 indifference, Megan and Joey did not attend regular school for the majority of their  
2 senior year in high school, may not receive enough credits to graduate high school with  
3 their class, may not receive a diploma, and was deprived of undergraduate education  
4 opportunities. Megan and Joey have been damaged emotionally and physically by the  
5 harassment and discrimination described above. Megan and Joey have also been  
6 damaged to the extent that their constructive expulsion from Poway High has negatively  
7 affected, and will negatively affect, their future educational and career prospects.

8         110. Defendants' actions, failure to act, and/or deliberate indifference toward the  
9 harassment and discrimination Megan and Joey suffered was carried out because of  
10 their actual or perceived sexual orientation. These actions, failures to act, and/or  
11 deliberate indifference denied them the full and equal accommodations, advantages,  
12 facilities, privileges, and services in a business and public accommodation under Civil  
13 Code Section 51 and 52(a). As a result, Joey and Megan individually suffered economic  
14 and non-economic damages in an amount to be more precisely determined at trial.

#### 15                                   PRAYER FOR RELIEF

16         WHEREFORE, Plaintiffs pray for judgment as stated below:

17         1. Issue a judgment declaring that the acts of the Defendants described herein  
18 violate the Fourteenth Amendment to the Constitution of the United States, California  
19 Education Code Sections 200 et. seq, and Civil Code Sections 51 et seq; and further that  
20 said constitutional and statutory rights so violated are present rights of Plaintiffs which  
21 must immediately be respected and protected.

22         2. Issue an injunction ordering Defendants to stop engaging in such  
23 unconstitutional and unlawful acts, and to develop policies and procedures for ending  
24 any such unconstitutional and unlawful acts and the hostile and intolerant  
25 environment, including but not limited to the following:

26                 a. Stop Defendants from coercing or convincing ordinary students, who are  
27 being harassed on the basis of their sexual orientation, to withdraw from full-time  
28

1 classroom attendance and attend alternative educational programs such as independent  
2 study programs.

3       b.       Require Defendants to implement mandatory training programs for PUSD  
4 administrators, faculty and staff on issues relating to diversity, homophobia, and  
5 methods to intervene to stop students from harassing other students who are gay or  
6 lesbian or who are perceived to be gay or lesbian.

7       c.       Require Defendants to adopt policies with specific guidelines for instructing  
8 teachers and administrators about how to address complaints by students who have  
9 been taunted, harassed, or discriminated against because of their actual or perceived  
10 sexual orientation or gender.

11       d.       Require teachers and administrators in PUSD high schools to conduct  
12 assemblies for all students addressing issues of diversity, homophobia, and tolerance,  
13 wherein students are instructed about laws prohibiting harassment and discrimination  
14 based on actual or perceived sexual orientation or gender.

15       e.       Require Defendants to maintain statistical data concerning each complaint  
16 of anti-gay harassment made by a student, as well as the specific action PUSD teachers  
17 and administrators took to resolve that complaint.

18       f.       Require Defendants to facilitate formation of extracurricular clubs  
19 addressing homophobia and intolerance at PUSD high schools, such as school-based  
20 Gay-Straight Alliance organizations, when students approach them with a request for  
21 such a club.

22       3. For compensatory damages and consequential damages to be awarded to  
23 Joseph Ramelli according to proof at trial;

24       4 . For compensatory damages and consequential damages to be awarded to  
25 Megan Donovan according to proof at trial;

26       5. For exemplary and punitive damages to be awarded to Joseph Ramelli  
27 according to proof at trial;  
28

1           6. For exemplary and punitive damages to be awarded to Megan Donovan  
2 according to proof at trial;

3           7. For interest;

4           8. For costs of suit and attorneys' fees pursuant to state and federal statutes;  
5 and

6           9. For such other and further relief as the Court may deem just, proper, and  
7 appropriate.

8 Dated: \_\_\_\_\_, 2005.

Respectfully submitted,

9 ROSENSTEIN, WILSON & DEAN, P.L.C.  
10

11 By:

12 Paula S. Rosenstein, Esq.  
13 Attorneys for Plaintiffs Joseph Ramelli and  
14 Megan Donovan  
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