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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

PLAINTIFFS' TRIAL BRIEF

I/C/J: Hon. Charles R. Hayes

Trial Date: 2/25/05

Time: 8:30 a.m.

Dept.: 66

I. STATEMENT OF THE CASE

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 Megan Donovan and Joseph Ramelli (hereinafter "Megan" and "Joey"), students at Poway High School, a safe and equal educational environment because they are gay and lesbian or perceived to be gay and lesbian. By bringing this action, Megan and Joey seek to eliminate the hostile and intolerant climate within the PUSD, and specifically 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 or lesbian or who are perceived to

1 be gay or lesbian. Megan and Joey also seek monetary damages for the harassment and
2 discrimination they suffered.

3 While students at Poway High School, Joseph Ramelli and Megan Donovan were
4 repeatedly subjected to harassment, discrimination and intimidation on the basis of
5 their actual or perceived sexual orientation. This harassment, discrimination and
6 intimidation came from students, staff and faculty. Although they repeatedly
7 complained to teachers and administrators, few, if any, steps were taken to ensure their
8 safety. As a result, the Plaintiffs were finally forced to bring the instant action to obtain
9 some measure of redress for the grievous wrongs perpetrated against them.

10 Both Megan and Joey have been physically and verbally harassed and
11 discriminated against while they were students at Poway High School. The problems
12 they had began when they were freshmen and sophomores and continued through their
13 junior year. The environment was so bad that they both finally were forced into
14 engaging in a home study program for their senior year of high school. They did the
15 home study program, known as New Directions, because they felt as if they were in
16 danger, physically and emotionally, if they continued to attend school at Poway High.

17 A. Harassment, Threats and Intimidation:

18 Megan and Joey endured pervasive harassment while attending Poway High
19 School. Megan has been repeatedly called a “dyke”, “fag”, “faggot”, “queer”, “homo” and
20 other pejorative names. These derogatory comments were aimed at them, but were also
21 so pervasive that there was a constant torment of hate speech surrounding them every
22 day and every hour, in class and out of class, on campus and at school events off campus.

23 The comments were frequently made within earshot of a teacher, administrator
24 or staff member. However, they ignored and failed to take any action to curb the
25 conduct, even when Plaintiffs asked them to do so.

26 The hate speech about “fags” and “dykes” followed Megan to her one place of
27 solace, the softball team on which she played. At least one player said she would no
28 longer play if there was a lesbian on the team. Ultimately, the softball coach

1 capitulated to the demands of the other players and did not offer Megan a spot on either
2 the JV or varsity team, allegedly because she was no longer a good enough player. In
3 a subsequent “investigation” of complaints by Megan and her mother, the school chose
4 only to focus on the allegations they believed they could question.

5 Joey also was subjected to pervasive harassment. Once students at Poway High
6 learned that Joey was gay, they began to taunt and harass him.

7 Joey was routinely called “fag”, “faggot” and “fudgepacker” by other students on
8 campus. Joey has had food thrown at him, including cookies, apples and oranges.
9 Students have put signs on his back such as “I Am A Fag - Kick My Ass”.

10 Joey was physically assaulted by being repeatedly shoved while in the school
11 hallways. His car has been vandalized while parked in the school parking lot. He
12 received death threats.

13 B. The Administration Failed to Respond:

14 In both Megan and Joey’s cases, many of these events have been brought to the
15 administrators’ attention. Many were witnessed by administrators, teachers and even
16 school security guards. Joey has filed multiple complaints with the Discipline Office.
17 Both reported harassment to numerous faculty and staff members.

18 Throughout Joey and Megan’s high school years, the administration of Poway
19 High was unresponsive to the situation. In fact, Joey and Megan were blamed for the
20 problems that they experienced on campus. Numerous staff and faculty members at
21 Poway High School chose to discredit Joey Ramelli’s repeated, easily verifiable
22 complaints of threats, harassment, violence and stereotyping. He was repeatedly
23 accused of “overreacting”. Joey has been described by any number of individuals as
24 “expressive”. Based on a stereotype, school officials discredited Joey’s complaints.
25 Rather than investigate Joey’s complaints, all of which would be confirmed by witnesses,
26 they chose to dismiss him as being histrionic.

27 Both Megan and Joey were frightened of being at school.

28 During this entire time period, no reasonable remedy was attempted or offered

1 by the administration.

2 The administrations's failure forced Joey and Megan to enter New Directions.
3 Their failure to take action leads to liability for Defendants.

4 II. DEFENDANTS ARE LIABLE TO MEGAN DONOVAN
5 AND JOEY RAMELLI

6 Plaintiffs Joseph Ramelli and Megan Donovan assert causes of action against the
7 Defendants for violations of Equal Protection and Due Process under the 14th
8 Amendment of the U.S. Constitution; pursuant to 42 U.S.C. § 1983; California
9 Education Code §§ 200, 220, 233.5 and 262.4; and the Unruh Civil Rights Act, §§ 51 and
10 52. In addition, the Plaintiffs seek declaratory and injunctive relief.

11 A. California Law Vigorously Protects Students:

12 California has led the way in seeking to protect students, including those who
13 happen to be lesbian and gay from violence, discrimination, intimidation and
14 harassment. Several statutes protect these students, including Cal. Ed. Code § 200.
15 It states:

16 "It is the policy of the State of California to afford all persons in public
17 schools, regardless of their sex, ethnic identification, race, national
18 origin, religion, mental or physical disability, or regardless of any
19 basis that is contained in the prohibition of hate crimes set forth in
20 (a) of Section 422.6 of the Penal Code equal rights and opportunities
in the educational institutions of this state. The purpose of this chapter
is to prohibit acts which are contrary to that policy and provide
remedies thereto".

21 The California Student Safety and Violence Prevention Act of 2000, enacted by
22 the California Legislature, in its history, confirms that "violence is the number one
23 cause of death for young people in California and has become a public health problem
24 of epidemic proportion." "The fastest growing crime in California is hate crime". (Cal.
25 AB 537 Stats. 1999, Ch. 587, §2) In its history, the Legislature again emphasized that,
26 "It is incumbent upon us to ensure that all students attending public school in California
27 are protected from potentially violent discrimination". Hate crimes based on sexual
28 orientation are criminal under California Penal Code § 422.6, which bars injury

1 “because of the other person’s race, color, religion, ancestry, national origin, disability,
2 gender or sexual orientation”, cited in Colin v. Orange Unified School District (2000 C.D.
3 CA) 83 F 2d 1135. That definition of hate crime contained in the Penal Code has been
4 incorporated into the Education Code. Cal Ed Code § 220 (2005).

5 Multiple provisions of the Education Code establish the importance of providing
6 equal rights and opportunities in public schools. California Education Code § 201
7 imposes an affirmative obligation to combat racism, sexism and other forms of bias and
8 to provide equal educational opportunity. Cal. Ed. Code § 201 (b). It is California public
9 policy that harassment on school grounds directed at an individual on the basis of
10 personal characteristic or status creates a hostile environment and jeopardizes equal
11 educational opportunity as guaranteed by the California Constitution and the United
12 States Constitution. Cal. Ed. Code § 201(c).

13 Teacher should create an environment in which students can realize their full
14 potential and that is free from discriminatory attitudes, practices, events, or activities,
15 in order to prevent acts of hate violence. Cal. Ed. Code § 233.5 These are affirmative
16 duties. Those duties can be enforced by civil action. Cal. Ed. Code § 262.4.

17 The California Legislature has established its intent for the interpretation of the
18 California Student Safety and Violence Protection Act.

19 “It is the intent of the Legislature that this chapter be interpreted as
20 consistent with Article 9.5 (commencing with Section 11135) of
21 Chapter I of Chapter 1 of Part 1 of Division 3 of Title 2 of the
22 Government Code, Title VI of the federal Civil Rights Act of 1964, 42
23 U.S.C. § 1981, et seq., Title IX of the Education Amendments of 1972,
24 20 U.S.C. § 1681, et seq), Section 504 of the federal Rehabilitation Act of
25 1973 (29 U.S.C. § 794(a)) the federal Individuals With Disabilities
26 Education Act (20 U.S.C. § 1400, et seq.), the federal Equal
27 Educational Opportunities Act (20 U.S.C. § 1701, et seq.), the Unruh
28 Civil Rights Act (§§ 51253 incl. Civ. C.) and the Fair Employment
Housing Act (Pt. 2.8, commencing with § 12900, Div. 3, Gov. C.), except
where this chapter may grant more protections or impose
additional obligations and that the remedies provided herein shall not
be the exclusive remedies, but may be combined with remedies that
may be provided by the above statutes.” California Education Code
201(g)

1. The California Constitution and Unruh Act Protect Students:

1 The Unruh Act, originally enacted in 1959, provides:

2 “All persons within the jurisdiction of this state are free and
3 equal and no matter what their sex, race, color, religion, ancestry,
4 national origin or disability are entitled to the full and equal
5 accommodations, advantages, facilities, privileges or services in all
6 business establishments of any kind whatsoever”. California Civil
7 Code § 51”.

8 There is no authority that exempts public entities from civil action under the
9 Unruh Civil Rights Act. The case often cited to support that position, Curran v. Mt.
10 Diablo Council of the Boys Scouts of America (1998) 17 Cal App 670, involves a non-
11 profit organization and said nothing about government entities. Thereafter, the United
12 States District Court for the Central District of California declined to dismiss Unruh
13 claims against a school district, even after the decision in Curran. Davison v. Santa
14 Barbara High School District (C.D., 998) 48 F. Supp 2d 1225. That, coupled with the
15 intent of the Legislature, makes it clear that the Unruh Act applies to public entities,
16 including school districts.

17 Constitutional provisions also protect the Plaintiffs in this circumstance. Article
18 I, § 28(b) of the California State Constitution recognizes that students in California
19 schools have an “inalienable right to attend campus which are safe, secure and peaceful”
20 and Article IX, § 1 recognizes that “a general diffusion of knowledge and intelligence is
21 essential to the preservation of rights and liberties of the people”.

22 B. The Federal Constitution Guarantees Equal Rights:

23 The Fourteenth Amendment to the U.S. Constitution, provides, in pertinent part,
24 that:

25 “No state shall make or enforce any law which shall abridge the
26 privileges or immunities of the United States; nor shall any state
27 deprive any person of life, liberty or property, without due process
28 of law; nor deny any person within its jurisdiction of the equal pro-
tection of the laws”.

Because the 14th Amendment of the U.S. Constitution sets standards of conduct
for state and local governments, but does not provide for redress, individuals whose
federal rights are violated by a state or local official may seek the protection of 42 U.S.C.

1 § 1983. § 1983 provides that:

2 “Every person, under color of any statute, ordinance, regulation,
3 custom, or usage, of any state or territory in this District of
4 Columbia, subjects or causes to be subjected to any citizen of the
5 United State or other person within the jurisdiction thereof to the
deprivation of any rights, privileges or immunities secured
by the Constitutional law shall be liable to the party injured in an
action at law, suit in equity, or other proper proceeding for redress”.

6 1. Plaintiffs Are Members of a Protected Class Based on Sex and Actual/Perceived
7 Sexual Orientation:

8 Plaintiffs have an indisputable liberty interest regarding the most intimate of
9 personal choices. In its decision invalidating a state sodomy statute, the U.S. Supreme
10 Court made clear the important liberty interest protected by the due process clause of
11 the 14th Amendment of the U.S. Constitution, “At the heart of liberty is the right to
12 define one’s own concept of existence, of meaning, of the universe, of the mystery of
13 human life”. Planned Parenthood v. Southeastern Pennsylvania v. Casey (1992) 505
14 U.S. 833, 851. Persons likewise may seek autonomy for purposes of personal and
15 intimate identity. Lawrence v. Texas (2003) 539 U.S. 558, 574.

16 Under federal law, as well as California state law, gay and lesbian persons are
17 entitled to equal protection under the law. Romer v. Evans (1996) 517 U.S. 620.¹
18 Clearly, both state and federal law establish fundamental rights of identity and the
19 liberty interests of the Plaintiffs under the due process and equal protections of the 14th
20 Amendment of the U.S. Constitution.

21 The harassment suffered by the Plaintiffs was also harassment based on sex.
22 Gender based harassment, harassment on the basis of sex, which depends on a
23 constellation of surrounding circumstances, expectations and relationships, includes
24 harassment perpetrated against individuals of the same sex. Oncale v. Sundowner
25 Offshore Services, Inc. (1998) 523 U.S. 75.

26
27 ¹ Romer was decided after 9th Circuit precedent of Gays v. Indus. Sec. Clearance Office,
28 895 F2d 563 (9th Cir. 1990), which established gay persons as members of a suspect class in
federal law.

1 2. Defendants Failed to Meet Their Constitutional Obligations:

2 To prevail in the enforcement of their claim of violation of their Constitutional
3 rights under 42 U.S.C. § 1983, Plaintiffs must show that Defendants, acting under color
4 of law, discriminated against them as members of an identifiable class and that the
5 discrimination was intentional. Flores v. Morgan Hill Unified School District (9th Cir.,
6 2003) 324 F 3d 1130, 1134. Poway Unified School District, Poway High School, its
7 administrators, faculty and staff are persons mandated to not discriminate when they
8 are acting under color of law. It is in that capacity that they have discriminated against
9 Joey Ramelli and Megan Donovan.

10 The Plaintiffs are members of an identifiable class for equal protection purposes
11 as they allege discrimination on the basis of sex, sexual orientation or perceived sexual
12 orientation. California Education Code §§ 200 and 201, Romer v. Evans (1996) 517 U.S.
13 620.

14 Plaintiffs must show that they were discriminated against and that the
15 discrimination was intentional. If Defendants treat Joey Ramelli's and Megan
16 Donovan's complaints differently from other complaints, if the Defendants have failed
17 to enforce policies, it is reasonable to find that these Plaintiffs have been treated
18 differently so that it is sufficient to determine the conduct was intentional. Flores v.
19 Morgan Hill Unified School District at 1135, citing Nabozny v. Podlesny, 92 F 3d 446,
20 454 (7th Cir., 1996).

21 Generally, sufficient unconstitutional intent to satisfy the requirements of
22 §1983 can be established either by showing that the Defendants intentionally
23 discriminated or acted with deliberate indifference. Nabozny, 92 F 3d at 454.
24 Deliberate indifference is found if a school administrator "responds to peer harassment
25 in a manner that is clearly unreasonable". Davis v. Monroe County Board of Education
26 (1999) 526 U.S. 629, 649. There is no single factual pattern to measure deliberate
27 indifference. It may include the failure to act upon the known complaints of
28 harassment, threats and intimidation made by the Plaintiffs or yet taking no reasonable

1 action to curtail it. Ray v. Antioch Unified School District (2000) 107 F. Supp 2d 1165,
2 1169, 1170.

3 A failure to adequately train may be “unconstitutional policy” for purposes of
4 Section 1983 liability. City of Canton, Ohio v. Harris (1981) 49 U.S. 378, 387, as cited
5 by Plumeau v. School District No. 4 in the County of Yamhill (1997, 9th Cir.) 130 F3d
6 432. Liability attaches when the need for training is so obvious that the violation of
7 Constitutional rights is a highly predictable consequence. Id., 439. Because of their
8 failure to follow minimal procedures, Defendants deprived Plaintiffs of their liberty
9 interest in a safe, secure and peaceful education in violation of the equal protection and
10 due process requirements of the 14th Amendment of the U.S. Constitution and 42 U.S.C.
11 § 1983.

12 In addition to the Constitutional provisions and federal and state statutes, the
13 legal analysis also draws upon the interpretation of private suits for damages under
14 federal Title IX of the Educational Amendments of 1972 (20 U.S.C. § 1681, et seq.). Title
15 IX states, in pertinent part:

16 “No person in the United States shall, on the basis of sex, be
17 excluded from participation in or denied the benefits of, or be
18 subjected to discrimination under any education program or activity
receiving federal financial assistance”. 20 U.S.C. § 1681(a)

19 Although the Legislature has expressed a desire to include Title IX in its
20 interpretation, California law grants more protections and imposes additional
21 obligations upon the Defendants.

22 3. Plaintiffs’ Remedies:

23 Remedies under California law are not exclusive and may be combined with
24 remedies provided under Title IX and various other state statutes, including Title IX,
25 Title VII of the Federal Civil Rights Act and the California Fair Employment and
26 Housing Act, California Government Code § 12900, et seq. Similarly, although each
27 of these laws provides guidance, it is the clear and obvious intent of the California
28 Legislature to provide strong remedies to harassment against students based on sex or

1 sexual orientation.

2 C. Defendants Are Liable Under Both California and Federal Law:

3 Based upon this authority, in an educational context, Defendants are liable for
4 damages when they are: 1) Deliberately indifferent to the harassment; 2) which is
5 unlawful harassment; 3) of which they have actual knowledge; 4) that is so severe,
6 pervasive and objective or offensive; 5) that it can be said to deprive victims of access to
7 educational opportunities and benefits provided by the school. Ray v. Antioch Unified
8 School District, et al. (1999) 107 F Supp 1165, 1168, citing Davis v. Monroe County
9 Board of Education (2000, N.D. California) 526 U.S. 629 at 650.

10 First, Plaintiffs need to show either that the Defendants intentionally
11 discriminated or that they acted with deliberate indifference. Deliberate indifference is
12 found that the school administrator “response to known peer harassment in a manner
13 that is clearly unreasonable”. Flores v. Morgan Hill Unified School District (2003) 324
14 F3d 1130 P. 3.² When teachers and school officials were informed of harassment,
15 threats and intimidation and took no reasonable action to curtail the harassing conduct
16 which was known to them, they acted with deliberate indifference.

17 Second, there must be harassment, intimidation and threats that are unlawful.
18 Harassment, intimidation and threats because of the actual or perceived sexual
19 orientation of the Plaintiff are unlawful.

20 Third, the school district and its officials must have actual knowledge of the
21 harassment, threats and intimidation of the Plaintiffs. In this case, however, the
22 Plaintiffs repeatedly reported harassing, threatening and intimidating behavior.

23 Fourth, the sexual harassment must be severe, pervasive and objectively
24 offensive. In the instant matter, these Plaintiff were subjected to pejoratives prohibited
25 as hate behavior under the District’s own policies on a daily basis. These Plaintiffs were
26 spit upon, had food thrown at them, were threatened with violence, taunted with

27 ² All page numbers are to the page numbers in the upper right-hand corner of the Lexis
28 copy attached hereto.

1 endlessly offensive language and subjected to routine, persistent intimidation. There
2 is no doubt that the behavior directed against them was severe, pervasive and
3 objectively offensive.

4 Having established deliberate indifference and that the harassment was severe,
5 pervasive and objectively offensive, the final prong of this analysis is that the Plaintiffs
6 were deprived of access to educational benefits or opportunities. It is not necessary to
7 show that the student has been physically excluded to demonstrate that deprivation,
8 although ultimately Megan and Joey were forced off campus to “alternative” school. See,
9 Loomis v. Visalia Unified School District (2002) 262 F. Supp. 2 1088; Ray at 1171, citing
10 Davis, 526 U.S. 651. The deprivation occurs when harassment of the student is so
11 severe or pervasive and objectively offensive that it “undermines the victims’ educational
12 experience that the victim students are effectively denied equal access to the
13 institution’s resources and opportunities”.

14 1. Plaintiffs’ Facts Applied Directly to Legal Precedent:

15 Here, Joey and Megan found themselves so beaten down and worn down, not only
16 by the harassment, but also the lack of response from the school administrators, that
17 they transferred to New Directions, a home schooling program, removing them from
18 high school classroom participation and virtually all extracurricular activities and
19 diminishing the value of their education significantly.

20 The most relevant case in this area is Flores v. Morgan Hill Unified School
21 District (2003) 324 F3d 1130. The Flores case has many similarities. There are some
22 minor factual differences, but the law in this area is well outlined by the case and is very
23 instructive. The Plaintiffs were former students in the Morgan Hill Unified School
24 District who claimed that Defendants’ response or lack of response to complaints of
25 student-to-student anti-homosexual harassment denied them equal protection.

26 In Flores, some of the incidents, as well as the administrations’s response, were
27 virtually identical to this case. For instance, the Assistant Principal failed to follow up
28 or conduct an independent investigation after two of the Plaintiffs reported to her that

1 they were assaulted by a group of students in the Live Oak High School parking lot.
2 Her sole response was to tell the students to report the incident to the campus police
3 officer. The Assistant Principal took no action to locate or discipline the harassing
4 students. In Flores, a jury may find deliberate indifference, despite the referral to the
5 campus police. Here, Joey Ramelli received death threats, was shoved into lockers and
6 had his car vandalized, all while on school property. In none of these cases did
7 Defendants perform any investigation. When his car was vandalized, they did finally,
8 after a lengthy discussion, call the police and allow him to make a report there. They
9 did not carry out an independent investigation. This is deliberate indifference. Flores
10 at 1135.

11 In another situation in Flores, two students reported harassment by other
12 students to a different Assistant Principal. He acknowledged that the students had a
13 hard time on campus because they were gay, but he failed to take any steps to
14 investigate and stop the harassment. This failure would support a finding of deliberate
15 indifference. (See Flores at 1136.)

16 Here, Defendants have acknowledged both to Plaintiffs at the time they were in
17 school and in court papers that there was a hostile environment for gay and lesbian
18 students on the Poway High School campus. They also are unable to identify any
19 actions they took to stop the harassment and discrimination being experienced by these
20 students. Moreover, they had been unable to identify any specific training that served
21 any useful purpose for teachers, staff or administrators. The lack of such training, or
22 the lack of effectiveness of any training that was given, is evident by the failure to take
23 any action to provide Joey and Megan with a safe educational environment. In fact, the
24 teacher/counselor who did seek to provide instruction was repeatedly put off by
25 administrators in her attempts to address these issues.

26 III. MEGAN DONOVAN AND JOEY RAMELLI WERE DAMAGED
27 BY DEFENDANTS

28 Megan and Joey were damaged in a variety of ways. They were, without a doubt,

emotionally damaged by the harassment that they had to endure, which was aggravated by Defendants' failure and refusal to take responsibility for providing Megan and Joey a safe environment. They were further emotionally harmed by the ratification of the harassers' conduct and the deliberate indifference displayed by Defendants.

Additionally, they both lost their senior years of high school. Because of the school's inability, unwillingness and indifference to the hostile environment at Poway High, both, for their individual safety and emotional sanity, went into the New Directions program. While it is true that one voluntarily enters into this program, there is no doubt that Defendants' behavior left Megan and Joey with no other option if they wanted to survive high school alive and intact. Both did manage to graduate from high school on time, but it was despite, not because of, Defendants' actions, or lack thereof.

Defendants are liable to both Megan Donovan and Joey Ramelli for all of the damages suffered as a result of their failure to comply with the law as it relates to providing an education for these teenagers.

IV. REMEDIES REQUIRED

Plaintiff and Defendant are entitled to compensation for the damages caused by Defendants.

In addition to the monetary compensation, however, Megan and Joey want to create a healthier environment for the gay and lesbian teens following behind them. As a result, in the prayer for relief in their Complaint, Megan and Joey have requested the following:

a. Stop Defendants from coercing or convincing ordinary students, who are being harassed on the basis of their sexual orientation, to withdraw from full-time classroom attendance and attend alternative educational programs such as independent study programs.

b. Require Defendants to implement effective mandatory training programs for PUSD administrators, faculty and staff on issues relating to diversity, homophobia,

1 and methods to intervene to stop students from harassing other students who are gay
2 or lesbian or who are perceived to be gay or lesbian.

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

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

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

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

18 g. Provide effective training for security guards. The security present at Poway
19 High School during the harassment suffered by Megan and Joey seemed completely
20 incapable of dealing with problems arising between the students, either because of lack
21 of physical ability, training, desire or understanding of their obligations.

22 h. Provide to administrators better training on investigation techniques.
23 Administrators must know to do more than throw up their hands and say, "If you can't
24 identify the perpetrator, then we can't do anything".

25 i. There should be regular training for all the coaches and administrators
26 involved in the sports programs to identify and learn to deal with the persistent
27 homophobia which exists in sports.

28 V. CONCLUSION

1 There is no doubt that Defendants had an affirmative obligation to provide a safe,
2 equal and non-harassing educational environment for Megan and Joey to attend high
3 school. Defendants, however, failed to act to protect Joey and Megan and, in some
4 instances, acted in ways which encouraged harassment by students. Defendants utterly
5 failed in their obligation and, as such, are liable to Plaintiffs.

6 Dated: _____, 2005.

Respectfully submitted,

7 ROSENSTEIN, WILSON & DEAN, P.L.C.
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9 By:

Bridget J. Wilson, Esq.
Attorneys for Plaintiffs Joseph Ramelli and
Megan Donovan