

VENTURA
SUPERIOR COURT
FILED

NOV 15 2022

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF VENTURA**

12 **JENNIFER CHRISTIANSEN VURNO, an**
13 **individual,**

14 **PLAINTIFF,**

15 **vs.**

16 **THE THACHER SCHOOL, a California**
17 **nonprofit corporation; and DOES 2 through 40,**

18 **DEFENDANTS.**

Case No.: 56-2022-00569736-cu-mc-VTA

19 **FIRST AMENDED COMPLAINT FOR**
20 **DAMAGES**

- 21 **1. SEXUAL ASSAULT;**
22 **2. INTENTIONAL INFLICTION OF**
23 **EMOTIONAL DISTRESS;**
24 **3. SEXUAL HARASSMENT;**
25 **4. NEGLIGENCE: NEGLIGENT HIRING,**
26 **SUPERVISION, AND/OR RETENTION;**
27 **5. VIOLATION OF MANDATORY DUTY**
28 **TO REPORT SUSPECTED CHILD**
ABUSE;
6. NEGLIGENCE: NEGLIGENT
SUPERVISION OF A MINOR; AND
7. NEGLIGENCE

DEMAND FOR JURY TRIAL

Ry FAX

PLAINTIFF, JENNIFER CHRISTIANSEN VURNO, hereby alleges and complains as follows:

PARTIES

1. PLAINTIFF JENNIFER CHRISTIANSEN VURNO is an adult female.
PLAINTIFF was born on April 4, 1978, and is a resident of the State of Washington.
2. PLAINTIFF was a victim of childhood sexual abuse and assault, among other causes of action, as set forth herein.
3. DEFENDANT THE THACHER SCHOOL (hereinafter "THACHER") is a California nonprofit corporation. Upon information and belief, DEFENDANT THACHER operates a college preparatory, coed boarding school existing under the laws of the State of California. DEFENDANT THACHER is located at 5025 Thacher Road in Ojai, California.
4. John Friberg (hereinafter "Friberg") is a former counselor, coach, administrator, employee, agent, and teacher at DEFENDANT THACHER.
5. DEFENDANTS DOES 2 through 20, inclusive, and each of them, are employees and agents of DEFENDANT THACHER, who had the responsibility of supervising students, including, but not limited to, PLAINTIFF and/or who had a duty to supervise and/or control the conduct of the perpetrator of the abuse, including, but not limited to, Friberg.
6. DOES 21 through 40, inclusive, and each of them, are persons, businesses, corporations, or entities who owed a legal duty of care to PLAINTIFF or had a duty to control and/or supervise Friberg.
7. The true names and capacities of each DEFENDANT designated herein as DOES 2 through 40, whether an individual, business, public entity, or some other entity, are presently unknown to PLAINTIFF, who therefore sues said DEFENDANTS by such fictitious names, pursuant to Code of Civil Procedure section 474. PLAINTIFF is informed and believes, and thereon alleges, that at all times herein mentioned, each of the DEFENDANTS sued herein as DOES 2 through 40, inclusive, was the agent and employee of each of the remaining DEFENDANTS and was at all times acting within the course and scope of such agency and employment with the full

1 knowledge, consent, authority, ratification, and/or permission of each of the
2 remaining defendants.

3 8. Wherever appearing in this complaint, each and every reference to DEFENDANTS,
4 or any of them, is intended to include, and shall be deemed to include, all fictitiously
5 named DEFENDANTS. Wherever reference is made in this complaint to any act by
6 a DEFENDANT or DEFENDANTS, such allegation and reference shall also be
7 deemed to mean the acts and failures to act of each DEFENDANT, including DOES,
8 acting individually, jointly, and severally. Wherever reference is made in this
9 complaint to individuals who are not named as a DEFENDANT in this complaint,
10 but were the agents, servants, employees, and/or supervisors of DEFENDANTS,
11 such individuals at all relevant times acted on behalf of DEFENDANTS within the
12 course and scope of employment.

13 9. PLAINTIFF is informed and believes, and thereon alleges, that at all times relevant
14 herein, each DEFENDANT was completely dominated and controlled by his/her/its
15 co-DEFENDANT, and each was the alter ego of the other as to the events set forth
16 herein.

17 **BACKGROUND FACTS APPLICABLE TO ALL CAUSES OF ACTION**

18 10. Upon information and belief, DEFENDANT THACHER was founded in 1889 in
19 Ojai, California and is one of the oldest co-educational boarding schools in the state
20 of California.

21 11. According to DEFENDANT THACHER'S website, it's mission is as follows:
22 "[DEFENDANT THACHER] trains young people in the art of living for their own
23 greatest good and for the greatest good of their fellow citizens in a diverse and
24 changing world. To that end, the School augments its highly challenging academic
25 program with profound lessons learned from the care of a horse, regular chores
26 around the School, teamwork on playing fields, outstanding instruction in the arts,
27 the give and take of everyday life with schoolmates and teachers, and adventures
28 shared in the wilderness. The aim is to inspire and encourage hard work, integrity,

self-reliance, a lifelong love of learning and truth, self-knowledge, and a deep concern for the world in which we live.”

12. PLAINTIFF entered DEFENDANT THACHER in ninth grade for the 1992-1993 school year.

13. PLAINTIFF continued as a student at DEFENDANT THACHER through the spring of 1996 when she graduated from the school.

14. Upon information and belief, John Friborg was employed as a counselor, coach, and administrator at DEFENDANT THACHER during the years PLAINTIFF was a student from the fall of 1992 through the spring of 1996.

15. Upon information and belief, according to a June 2021 investigative report voluntarily commissioned by DEFENDANT THACHER’S Board of Trustees and undertaken by Munger, Tolles & Olson LLP (hereinafter “June 2021 Report”), Friborg first began working at DEFENDANT THACHER in the fall of 1987 and his employment continued through July 1997 when he resigned from his counseling, coaching, and teaching positions.

16. PLAINTIFF first met Friborg in his capacity as a soccer coach and counselor at DEFENDANT THACHER during her sophomore year in or around 1993.

17. Sometime after PLAINTIFF first met Friborg in or around 1993, Friborg began a pattern of grooming PLAINTIFF for the purpose of sexually abusing her.

18. Friborg’s grooming of PLAINTIFF included, but was not limited to, giving PLAINTIFF special attention, “compliments,” and spending one-on-one time alone with PLAINTIFF.

19. Friborg’s sexual abuse of PLAINTIFF began in or around February or March of 1996 and continued through approximately April of 1996.

20. PLAINTIFF estimates the sexual abuse occurred on numerous occasions between in or around February and April of 1996.

21. Friborg’s sexual abuse of PLAINTIFF included, but was not limited to:

a. Friborg fondling PLAINTIFF’S naked stomach and breasts;

1 b. Friborg kissing PLAINTIFF’S neck and ears;

2 c. Friborg fondling PLAINTIFF’S thighs and genitals over her clothes;

3 d. Friborg fondling PLAINTIFF’S genitals underneath her clothes; and

4 e. Friborg digitally penetrating PLAINTIFF’S vagina.

5 22. The sexual abuse occurred on DEFENDANT THACHER’S campus, in Friborg’s
6 home and in Friborg’s vehicle.

7 23. Friborg exploited the trust that PLAINTIFF placed in him and DEFENDANT
8 THACHER.

9 24. Plaintiff is informed and believes, and thereon alleges, that DEFENDANTS
10 THACHER and DOES 2 through 40 were aware, or should have been aware, of
11 conduct constituting grooming and sexual misconduct or abuse towards
12 PLAINTIFF by Friborg through including, but not limited to, Friborg spending
13 unauthorized and unsupervised time alone with PLAINTIFF; Friborg establishing
14 inappropriate boundaries with PLAINTIFF, and Friborg inappropriately touching
15 PLAINTIFF.

16 25. According to the June 2021 Report, Friborg began working at DEFENDANT
17 THACHER in the fall of 1987 and was hired as Associate Director of Development
18 and coach of the girls’ varsity soccer team.

19 26. According to the June 2021 Report, “In 1988, Friborg switched from development
20 to college counseling and started coaching boys’ varsity soccer as well. Friborg was
21 the Director of College Counseling and coach of both soccer teams for the
22 remainder of his tenure. Friborg was Dean of Students from 1992-1993, Dorm Head
23 for the sophomore boys’ dorm in 1994-1995, and an occasional history teacher”
24 until his resignation in July 1997.

25 27. According to the June 2021 Report, prior to working at DEFENDANT THACHER,
26 “Friborg was a teacher and soccer coach at The Governor’s Academy, a boarding
27 school in Massachusetts, where he worked with future [DEFENDANT THACHER]
28 Head of School Michael Mulligan, who was also a teacher and coach.”

- 1 28. According to the June 2021 Report, Michael Mulligan (hereinafter “Mulligan”)
2 reported that while at The Governor’s Academy, “Friborg had an inappropriate
3 relationship with a senior on the girls’ soccer team.” The June 2021 Report further
4 stated, “Mulligan told us that he discovered the relationship when he noticed
5 Friborg and the senior girl spending too much time together. Mulligan told us he
6 then reported it to the school.”
- 7 29. According to the June 2021 Report, after Mulligan reported Friborg’s inappropriate
8 relationship with a female student to the headmaster at The Governor’s Academy,
9 “Friborg was asked to leave at the end of the school year as a result of the
10 relationship.”
- 11 30. According to the June 2021 Report, “A few years later, in 1987, Friborg was hired
12 at [DEFENDANT THACHER] as Associate Director of Development and the *girls’*
13 *varsity soccer coach*. Both Mulligan, who at the time was Assistant Headmaster for
14 Student Affairs (often referred to as the Dean of Students), and another faculty
15 member told us that Headmaster Willard “Bill” Wyman II knew about Friborg’s
16 inappropriate relationship at The Governor’s Academy when he hired Friborg.”
17 (emphasis added)
- 18 31. According to the June 2021 Report, in reference to the “inappropriate relationship”
19 at The Governor’s Academy, Friborg stated that DEFENDANT THACHER’S then-
20 Headmaster Wyman “*fully explored the incident*” in his interview for a position at
21 DEFENDANT THACHER. Further, during that interview, Friborg admitted to
22 “dating” the minor student at his prior school and acknowledged that his conduct
23 was inappropriate.
- 24 32. According to the June 2021 Report, during an interview conducted for the 2021
25 Report, Mulligan told investigators that “he supported Friborg’s hiring at the time
26 because he knew that Friborg was a great soccer coach and it was ‘inconceivable’ to
27 him that Friborg would make the same mistake at [DEFENDANT THACHER] that
28 he had made before.”

- 1 33. According to the June 2021 Report, during his time at DEFENDANT THACHER,
2 “several witnesses described instances of Friborg’s boundary-crossing behavior
3 with female soccer players.” This included Friborg developing “close relationships”
4 with some students, meeting with students alone in his house, driving students alone
5 in his vehicle, making physical contact with soccer players, including “patting girls
6 on the butt and brushing girls’ hair back from their faces,” and talking to girls about
7 personal topics, including his romantic relationships.
- 8 34. According to the June 2021 Report, investigators received “firsthand reports of
9 sexual misconduct by Friborg involving four then-current [DEFENDANT
10 THACHER] students and two [DEFENDANT THACHER] students who had
11 graduated less than a year before the misconduct. The misconduct spanned multiple
12 years and ranged from grooming to giving students massages to sexual touching.”
- 13 35. According to the June 2021 Report, during Friborg’s tenure at DEFENDANT
14 THACHER, a fellow teacher observed Friborg spending a significant amount of
15 time alone with a female student, “including at Friborg’s house and in his car.”
16 Consequently, the fellow teacher “shared her concerns with Head of School
17 Michael Mulligan, telling him that the relationship did not ‘look right.’” According
18 to the June 2021 Report, Mulligan responded by directing the teacher to talk to
19 Friborg herself, which she did. According to the June 2021 Report, following her
20 conversation with Friborg about her concerns regarding his close relationship with a
21 minor female student, the same teacher also spoke to the female student.
- 22 36. According to the June 2021 Report, during the above-referenced female student’s
23 senior year at DEFENDANT THACHER, following her conversation with the
24 above-referenced teacher, the student met with then Head of School Michael
25 Mulligan to report Friborg’s misconduct.
- 26 37. According to the June 2021 Report, the above-referenced female student, and her
27 father told investigators that they each spoke with Mulligan about their concerns
28 regarding Friborg’s inappropriate conduct during the female student’s senior year at

DEFENDANT THACHER; nonetheless, Friborg continued to be employed by
DEFENDANT THACHER.

38. According to the June 2021 Report, in or around mid-June 1997, three former
female students, including the above-referenced female student in paragraphs 33
through 35, reported sexual abuse by Friborg to Mulligan.

39. According to the June 2021 Report, after receiving these reports from the three
former students in or around 1997, Mulligan confronted Friborg, who admitted the
allegations against him from at least one of the students were true.

40. According to the June 2021 Report, after Friborg admitted the allegations were true,
Mulligan told Friborg that he had to resign and leave the campus immediately.

41. Remarkably, according to the June 2021 Report, there were several witnesses who
recalled seeing Friborg on DEFENDANT THACHER'S campus on more than one
occasion after his alleged resignation.

42. Upon information and belief, despite being mandated reporters, following Friborg's
admission of sexual abuse of at least one minor student, neither Mulligan, nor any
other employee, administrator or agent of DEFENDANT THACHER reported
Friborg to lawful authorities.

43. As a student of DEFENDANT THACHER, where Friborg was also employed and
worked, PLAINTIFF was under DEFENDANTS' direct supervision, care, custody,
and control, thus creating a special relationship with DEFENDANTS which
imposed on them an affirmative duty to take all reasonable steps to protect its
students, including PLAINTIFF.

44. Additionally, as a minor child under the custody and control of DEFENDANTS,
DEFENDANTS stood *in loco parentis* with respect to PLAINTIFF.

45. PLAINTIFF is informed and believes, and thereon alleges, that before and/or during
the time PLAINTIFF was assaulted and harassed by Friborg, DEFENDANTS
THACHER and DOES 2 through 40 knew, or should have known, that Friborg had
or was engaged in inappropriate conduct with students, including PLAINTIFF.

1 46. DEFENDANTS THACHER and DOES 2 through 40 failed to take reasonable steps
2 and implement reasonable safeguards to avoid inappropriate or unlawful conduct by
3 Friborg against students, including PLAINTIFF. Instead, DEFENDANTS
4 THACHER and DOES 2 through 40 implemented measures designed to, or which
5 effectively, made Friborg's misconduct possible including, but not limited to:
6 permitting Friborg to remain in a position of authority and trust after
7 DEFENDANTS knew or should have known that he was engaging in inappropriate
8 conduct with students, including PLAINTIFF; placing Friborg in an environment
9 which allowed him to physically interact with children, unsupervised, including
10 PLAINTIFF; allowing Friborg to be in contact with minors, including PLAINTIFF,
11 without adequate supervision; allowing Friborg to give students, including
12 PLAINTIFF, rides in his vehicle; and failing to put in place a procedure to
13 supervise or monitor employees, volunteers, staff, and agents to ensure that students
14 were appropriately supervised.

15 47. DEFENDANTS THACHER and DOES 2 through 40 breached their duty to properly
16 and adequately supervise, monitor, and protect PLAINTIFF by, in part, ignoring
17 clear and obvious signs that Friborg was engaged in an inappropriate and harassing
18 relationship with PLAINTIFF; allowing and facilitating PLAINTIFF to spend
19 unauthorized and unsupervised one-on-one time with Friborg; and by allowing
20 Friborg to repeatedly sexually harass and assault PLAINTIFF.

21 48. As is set forth herein, DEFENDANTS have failed to uphold duties imposed on them
22 by law and through written policies and procedures applicable to DEFENDANTS
23 including, but not limited to, the following:

- 24 a. Duty to use reasonable care to supervise students and student athletes;
- 25 b. Duty to properly train teachers, coaches, administrators, and staff of their
- 26 responsibility for creating and maintaining a safe environment for students and
- 27 student athletes;
- 28

- 1 c. Duty to supervise faculty and staff, including coaches, and enforce rules and
2 regulations proscribed for schools and school athletics;
3 d. Duty to provide enough supervision for students and student athletes;
4 e. Duty to act promptly and diligently to protect students and student athletes;
5 f. Duty to refrain from violating students' rights to protection from bodily harm
6 and from personal insult;
7 g. Duty to abstain from injuring the person or property of students, or infringing
8 upon any of their rights;
9 h. Duty to report under *Penal Code* section 11166, et seq.; and
10 i. Duty to adequately and properly investigate, hire, train, and supervise their
11 agents and employees who would be working with minors to protect the minors from
12 harm caused by unfit individual employees.

13 49. Upon information and belief, at all relevant times herein, Friborg was an employee
14 of, and acting as an agent of, DEFENDANTS THACHER and DOES 2 through 40.

15 **PLAINTIFF'S LAWSUIT IS TIMELY PURSUANT TO CODE OF CIVIL**

16 **PROCEDURE §340.1**

17 50. PLAINTIFF brings this lawsuit pursuant to the provisions of *Code of Civil*
18 *Procedure* § 340.1, which provides an extended period of time for victims of
19 childhood sexual assault to pursue their civil claims for actions: (1) against any
20 person for committing an act of childhood sexual assault; and/or (2) for liability
21 against any person or entity who owed a duty of care to the plaintiff, if a wrongful
22 act or negligent act by that person or entity was a legal cause of the childhood
23 sexual assault that resulted in injury to the plaintiff; and/or (3) for liability against
24 any person or entity of an intentional act by that person or entity was a legal cause
25 of the childhood sexual assault that resulted in the injury to the plaintiff. (*Code of*
26 *Civil Procedure* § 340.1(a)(1-3.))
27
28

1 51. Effective January 1, 2020, victims of childhood sexual assault were provided
2 additional time to file a civil lawsuit, including through a three-year revival window
3 which began on January 1, 2020, for potentially “expired” claims.

4 **FIRST CAUSE OF ACTION**

5 **SEXUAL ASSAULT**

6 **(Against DEFENDANTS THACHER and DOES 2 through 40)**

7 52. PLAINTIFF hereby incorporates by reference all previous paragraphs as if fully set
8 forth herein.

9 53. Friborg, in doing the things herein alleged, including intending to subject
10 PLAINTIFF to numerous instances of sexual abuse and molestation, intended to
11 cause harmful or offensive contact with PLAINTIFF’S person, or intended to put
12 PLAINTIFF in imminent apprehension of such contact.

13 54. In doing the things herein alleged, PLAINTIFF was put in imminent apprehension of
14 a harmful or offensive contact by Friborg, and actually believed Friborg had the
15 ability to make harmful or offensive contact with PLAINTIFF’S person.

16 55. PLAINTIFF did not consent to Friborg’s intended harmful or offensive contact with
17 PLAINTIFF’S person, or intent to put PLAINTIFF in imminent apprehension of
18 such contact. Additionally, because PLAINTIFF was a minor during the time herein
19 alleged, she lacked the ability to consent to sexual contact with any person.

20 56. In doing the things herein alleged, Friborg violated PLAINTIFF’S right, pursuant to
21 *Civil Code* §43, of protection from bodily restraint or harm, and from personal insult.
22 In doing the things herein alleged, Friborg violated his duty, pursuant to *Civil Code*
23 §1708, to abstain from injuring the person of PLAINTIFF or infringing upon
24 PLAINTIFF’S rights.

25 57. DEFENDANTS THACHER and DOES 2 through 40, having full knowledge of the
26 dangerous and sexually exploitive propensities of Friborg, ratified Friborg’s conduct
27 and are liable. *See, e.g., C.R. v. Tenet Healthcare Corp.* (2009) 169 Cal.App.4th
28 1094, 1110 (“...an employer may be liable for an employee’s act where the

1 employer either authorized the tortious act or subsequently ratified an originally
2 unauthorized tort. [Citations.] The failure to discharge an employee who has
3 committed misconduct may be evidence of ratification. [Citations.] The theory of
4 ratification is generally applied where an employer fails to investigate or respond to
5 charges that an employee committed an intentional tort, such as assault or battery.”);
6 *Ratcliff, et al. v. The Roman Catholic Archbishop of Los Angeles, et al.* (Case No.
7 B302558) (Cal. App. 2 Dist. Apr. 29, 2021). Prior to the PLAINTIFF’S exploitation
8 by Friborg, DEFENDANT THACHER knew, or should have known, that Friborg
9 was unfit to be around minor children and posed a danger to those children Friborg
10 was assigned to care for, or otherwise supervise.

11 58. At the time Friborg and DEFENDANTS THACHER and DOES 2 through 40,
12 performed the acts alleged herein, it was or should have been reasonably foreseeable
13 to DEFENDANTS that by continuously exposing and making PLAINTIFF available
14 to Friborg, DEFENDANTS were placing PLAINTIFF in grave risk of being sexually
15 assaulted by Friborg. By knowingly subjecting PLAINTIFF to such foreseeable
16 danger, DEFENDANTS THACHER and DOES 2 through 40, were duty-bound to
17 take reasonable steps and implement reasonable safeguards to protect PLAINTIFF
18 from Friborg. Furthermore, as alleged herein, DEFENDANTS THACHER and
19 DOES 2 through 40, at all times exercised a sufficient degree of control over the
20 Friborg’s personal and business affairs so as to be able to prevent the acts of assault
21 by keeping Friborg away from PLAINTIFF. However, DEFENDANTS THACHER
22 and DOES 2 through 40, failed to take any reasonable steps or implement any
23 reasonable safeguards for PLAINTIFF’S protection whatsoever, and continued to
24 make PLAINTIFF accessible to Friborg for the purposes of sexual assault.

25 59. In doing the acts herein described, DEFENDANTS THACHER and DOES 2
26 through 40 acted with willfulness, malice, and oppression, justifying an award of
27 punitive damages against them.
28

1 60. As a direct and proximate result of the acts and omissions of DEFENDANTS, and
2 each of them, as alleged herein, PLAINTIFF suffered injuries and damages
3 including, but not limited to, physical and mental pain and suffering, emotional
4 distress, past and future costs of medical and/or psychological care and treatment,
5 and other economic and non-economic damages, in an amount not yet ascertained
6 but which exceed the minimum jurisdictional limits of this Court.

7 **SECOND CAUSE OF ACTION**

8 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

9 **(Against DEFENDANTS THACHER and DOES 2 through 40)**

10 61. PLAINTIFF hereby incorporates by reference all previous paragraphs as if fully set
11 forth herein.

12 62. DEFENDANTS' conduct towards the PLAINTIFF, as described herein, was
13 outrageous and extreme.

14 63. A reasonable person would not expect or tolerate DEFENDANTS THACHER and
15 DOES 2 through 40 putting Friborg in a position of authority at DEFENDANT
16 THACHER, which enabled the Friborg to have access to minor children, including
17 PLAINTIFF, so that Friborg could commit wrongful sexual acts with her, including
18 the conduct described herein above. PLAINTIFF held great trust, faith, and
19 confidence in DEFENDANT THACHER, which, by virtue of DEFENDANT
20 THACHER'S wrongful conduct, turned to fear.

21 64. A reasonable person would not expect or tolerate DEFENDANT THACHER to be
22 incapable of supervising and preventing employees, including Friborg, from
23 committing wrongful sexual acts with minor children in their charge, including
24 PLAINTIFF, or to be incapable of properly supervising the Friborg to prevent such
25 assault from occurring.

26 65. DEFENDANTS THACHER and DOES 2 through 40's conduct described herein
27 was intentional and malicious and done for the purpose of causing, or with reckless
28 disregard to the rights of PLAINTIFF, with the substantial certainty that it would

1 cause PLAINTIFF and the other minor students in their care to suffer humiliation,
2 mental anguish, and emotional and physical distress.

3 66. In doing the acts herein described, DEFENDANTS THACHER and DOES 2
4 through 40 acted with willfulness, malice, and oppression, justifying an award of
5 punitive damages against them.

6 67. As a direct and proximate result of the acts and omissions of DEFENDANTS, and
7 each of them, as alleged herein, PLAINTIFF suffered injuries and damages
8 including, but not limited to, physical and mental pain and suffering, emotional
9 distress, past and future costs of medical and/or psychological care and treatment,
10 and other economic and non-economic damages, in an amount not yet ascertained
11 but which exceed the minimum jurisdictional limits of this Court.

12 **THIRD CAUSE OF ACTION**

13 **SEXUAL HARASSMENT (CIVIL CODE §§51.9 & 52)**

14 **(Against DEFENDANTS THACHER and DOES 2 through 40)**

15 68. PLAINTIFF hereby incorporates by reference all previous paragraphs as if fully set
16 forth herein.

17 69. At all relevant times herein, PLAINTIFF had a business, service, or professional
18 relationship with DEFENDANT THACHER and its employees/agents, and Friborg
19 made sexual advances, solicitations, sexual requests, and/or demands for sexual
20 compliance by PLAINTIFF, and engaged in other verbal, visual, and physical
21 conduct of a sexual nature that were unwelcome and pervasive. These incidents of
22 abuse, harassment, and assault, as discussed in this Complaint, took place while the
23 minor PLAINTIFF was under the care of DEFENDANTS THACHER, Friborg, and
24 DOES 2 through 40.

25 70. There was an inability by PLAINTIFF to easily terminate the relationship since
26 Friborg was an adult counselor, coach, and mentor, and PLAINTIFF was a minor
27 student under DEFENDANTS' and Friborg's care and control.
28

- 1 71. A corporation is a “person” within meaning of *Civil Code* §51.9, which subjects
2 persons to liability for sexual harassment within a business, service or professional
3 relationship, and such an entity defendant may be held liable under this statute for
4 the acts of its employees. *C.R. v. Tenet Healthcare Corp.*, (2009) 169 Cal.App.4th
5 1094. Further, principles of ratification apply when the principal ratifies the agent’s
6 originally unauthorized harassment, as is alleged to have occurred herein.
- 7 72. Under *Civil Code* §52(b), “[w]hoever denies the right provided by...Section 51.9, or
8 aids, incites, or conspires in that denial, is liable for each and every offense for the
9 actual damages suffered by any person denied that right...”
- 10 73. DEFENDANTS aided in the denial of PLAINTIFF’S rights by allowing Friborg to
11 harass PLAINTIFF.
- 12 74. Friborg’s conduct as described herein was undertaken, authorized, and/or ratified by
13 DEFENDANTS THACHER, its employees/agents, and DOES 2 through 40, who
14 were aware of the harassment and, furthermore, ignored clear and obvious signs that
15 Friborg was engaged in an inappropriate and harassing relationship with
16 PLAINTIFF; allowing and facilitating PLAINTIFF to spend unsupervised one-on-
17 one time with Friborg; Friborg inappropriately touching PLAINTIFF on campus; by
18 allowing Friborg to establish inappropriate boundaries with PLAINTIFF; and by
19 allowing Friborg to repeatedly sexually harass and assault PLAINTIFF. Despite this
20 knowledge, DEFENDANTS THACHER and DOES 2 through 40 continued to
21 employ Friborg and continued to fail to supervise PLAINTIFF with the conscious
22 disregard of the safety of PLAINTIFF. This failure to discharge Friborg constitutes
23 DEFENDANTS THACHER and DOES 2 through 40’s ratification of Friborg’s
24 conduct.
- 25 75. PLAINTIFF seeks attorney’s fees pursuant to *Civil Code* §52, with respect to
26 PLAINTIFF’S claim being made under §51.9, as an available remedy.
- 27 76. As a direct and proximate result of the acts and omissions of DEFENDANTS, and
28 each of them, as alleged herein, PLAINTIFF suffered injuries and damages

1 including, but not limited to, physical and mental pain and suffering, emotional
2 distress, past and future costs of medical and/or psychological care and treatment,
3 and other economic and non-economic damages, in an amount not yet ascertained
4 but which exceed the minimum jurisdictional limits of this Court.

5 **FOURTH CAUSE OF ACTION**

6 **NEGLIGENCE: NEGLIGENT HIRING, SUPERVISION, AND/OR RETENTION**

7 **(Against DEFENDANTS THACHER and DOES 2 through 40)**

8 77. PLAINTIFF hereby incorporates by reference all previous paragraphs as if fully set
9 forth herein.

10 78. Upon information and belief, prior to being hired at DEFENDANT THACHER in
11 the fall of 1987, DEFENDANT THACHER knew that Friborg had an inappropriate
12 relationship with a minor female at his prior teaching and coaching position in
13 Massachusetts.

14 79. Upon information and belief, during his tenure at DEFENDANT THACHER,
15 Friborg's boundary-crossing behavior with female soccer players was observed by
16 several witnesses. This included Friborg developing "close relationships" with some
17 students, meeting with students alone in his house, driving students alone in his
18 vehicle, making physical contact with soccer players, including "patting girls on the
19 butt and brushing girls' hair back from their faces," and talking to girls about
20 personal topics, including his romantic relationships.

21 80. DEFENDANTS THACHER and DOES 2 through 40 had the responsibility and
22 mandatory duty to adequately and properly investigate, hire, train, and supervise its
23 agents and employees who would be working with minors to protect the minors from
24 harm caused by unfit individuals hired as employees.

25 81. DEFENDANTS THACHER and DOES 2 through 40 knew, or should have known,
26 that Friborg would come in contact with minors as a part of his counseling,
27 coaching, and administrative positions.
28

- 1 82. Plaintiff is informed and believes, and thereon alleges, that before April of 1996,
2 DEFENDANTS THACHER and DOES 2 through 40 knew, or should have known,
3 that Friborg engaged in repeated misconduct at DEFENDANT THACHER,
4 including, but not limited to, spending unauthorized and unsupervised one-on-one
5 time with minors in his care, including PLAINTIFF; driving PLAINTIFF in his
6 vehicle; establishing inappropriate boundaries with PLAINTIFF and other students;
7 and inappropriately touching PLAINTIFF and other students.
- 8 83. DEFENDANTS THACHER and DOES 2 through 40 breached their mandatory duty
9 to properly and adequately investigate, hire, train, and supervise Friborg as a
10 counselor, coach, and administrator.
- 11 84. Had DEFENDANTS THACHER and DOES 2 through 40 properly investigated,
12 supervised, and monitored Friborg's conduct and actions, it would have discovered
13 that Friborg was unfit to be employed as a counselor, coach, and administrator. By
14 failing to adequately supervise, monitor or investigate, DEFENDANTS allowed
15 Friborg to continue, unhindered, with his predatory conduct directed towards
16 underage students, including PLAINTIFF.
- 17 85. DEFENDANTS THACHER and DOES 2 through 40 negligently hired, supervised,
18 retained, monitored, and otherwise employed Friborg, and negligently failed to
19 ensure the safety of minor students, including PLAINTIFF, who DEFENDANTS
20 knew, or should have known, Friborg would come in contact with by virtue of his
21 counseling, coaching, and administrative positions.
- 22 86. DEFENDANTS THACHER and DOES 2 through 40 also negligently failed to
23 adequately implement or enforce any procedures or policies that were aimed at
24 preventing, detecting, or deterring the sexual harassment or abuse of minors and
25 students by teachers or others.
- 26 87. As an educational institution, where all the students are entrusted to teachers, aides,
27 counselors, advisors, mentors, coaches, faculty members, administrators, and other
28 staff, DEFENDANT THACHER, and DOES 2 through 40, expressly and implicitly

represented that these individuals, including Friborg, were being adequately supervised and not a threat, including sexually, to children and others.

88. DEFENDANTS THACHER and DOES 2 through 40 negligently failed to supervise Friborg in his position of trust and authority as a counselor/coach or other authority figure, where he was able to commit the wrongful acts discussed herein against PLAINTIFF. DEFENDANTS THACHER and DOES 2 through 40 further failed to take reasonable measures to prevent sexual harassment, molestation, and assault of minors, including PLAINTIFF.

89. At no time before or during the periods of time alleged herein did DEFENDANTS THACHER and DOES 2 through 40 have in place a system or procedure to reasonably investigate, supervise, and monitor teachers/coaches, including Friborg, to prevent grooming, sexual harassment, or sexual assault of children, and did not implement a system or procedure to oversee or monitor conduct by teachers/coaches toward minors and students in their care.

90. DEFENDANTS THACHER and DOES 2 through 40 knew, or should have known, to be aware of and understand how vulnerable children were to grooming, sexual harassment, and sexual assault by teachers/coaches and other persons of authority.

91. By virtue of PLAINTIFF'S special relationship with DEFENDANTS, DEFENDANTS owed Plaintiff a duty to not hire and/or retain Friborg, given his unfitness, which DEFENDANTS THACHER and DOES 2 through 40 knew, or should have known of, had they engaged in a meaningful and adequate investigation of his background prior to hiring him and had they engaged in meaningful and adequate supervision of Friborg at DEFENDANT THACHER after he was hired.

92. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS THACHER and DOES 2 through 40 were put on notice, and/or should have known, that Friborg had engaged in inappropriate conduct, both before his employment with DEFENDANTS, and during that employment. Plaintiff is further informed and believes, and thereon alleges, that other third parties, minors, students, and/or parents

1 informed DEFENDANTS THACHER and DOES 2 through 40 of inappropriate
2 conduct committed by Friborg.

3 93. Even though DEFENDANTS THACHER and DOES 2 through 40 knew or should
4 have known of inappropriate conduct by Friborg, both before his employment with
5 DEFENDANTS, and during that employment, they failed to use reasonable care in
6 investigating Friborg and did nothing to reasonably investigate, supervise or monitor
7 Friborg to ensure the safety of the minor students, including PLAINTIFF.

8 94. As a direct and proximate result of the acts and omissions of DEFENDANTS, and
9 each of them, as alleged herein, PLAINTIFF suffered injuries and damages
10 including, but not limited to, physical and mental pain and suffering, emotional
11 distress, past and future costs of medical and/or psychological care and treatment,
12 and other economic and non-economic damages, in an amount not yet ascertained
13 but which exceed the minimum jurisdictional limits of this Court.

14 **FIFTH CAUSE OF ACTION**

15 **VIOLATION OF MANDATORY DUTY TO REPORT SUSPECTED**

16 **CHILD ABUSE**

17 **(Against DEFENDANTS THACHER and DOES 2 through 40)**

18 95. PLAINTIFF hereby incorporates by reference all previous paragraphs as if fully set
19 forth herein.

20 96. DEFENDANTS THACHER'S employees, staff, volunteers, coaches, and agents
21 were at all times "mandated reporters" pursuant to the provisions of *Penal Code*
22 section 11166, et seq., also known as the Child Abuse and Neglect Reporting Act
23 ("CANRA."). As mandated reporters of suspected child abuse and as set forth in
24 CANRA, these individuals were legally obligated to personally report reasonably
25 suspected incidents of child abuse to the police and/or child protective services.

26 97. As set forth in this Complaint, DEFENDANT THACHER'S employees, staff,
27 volunteers, coaches, and agents had, or should have had, a reasonable suspicion that
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Friborg was engaging in sexual misconduct or abuse of PLAINTIFF, as defined in CANRA, yet failed to report the suspected abuse to authorities.

98. DEFENDANT THACHER’S employees, staff, volunteers, coaches, and agents (identified in the Complaint as DOES 2 through 20) violated the Child Abuse and Neglect Reporting Act, *Penal Code* section 11166, et seq. Furthermore, pursuant to *Government Code* sections 815.2 and 820, since its employees, staff, volunteers, coaches, and agents (identified in this Complaint as DOES 2 through 20) were acting within the course and scope of their employment when they violated the reporting requirements, DEFENDANT THACHER is vicariously liable for its employees, staff, volunteers, coaches, and agents’ (identified in this Complaint as DOES 2 through 20) misconduct in failing to report.

99. By failing to report suspected child abuse, DEFENDANT THACHERS’S employees, staff, volunteers, coaches, and agents (identified in the Complaint as DOES 2 through 20) allowed Friborg to continue, unhindered, in his abuse of minors, including PLAINTIFF.

100. As a direct and proximate result of the acts and omissions of DEFENDANTS, and each of them, as alleged herein, PLAINTIFF suffered injuries and damages including, but not limited to, physical and mental pain and suffering, emotional distress, past and future costs of medical and/or psychological care and treatment, and other economic and non-economic damages, in an amount not yet ascertained but which exceed the minimum jurisdictional limits of this Court.

SIXTH CAUSE OF ACTION

NEGLIGENCE: NEGLIGENT SUPERVISION OF A MINOR

(Against DEFENDANTS THACHER and DOES 2 through 40)

101. PLAINTIFF hereby incorporates by reference all previous paragraphs as if fully set forth herein.

102. DEFENDANT THACHER (through its employees, staff, volunteers, coaches, and agents identified in the Complaint as DOES 2 through 20) were responsible for the

1 care, custody, control, supervision, and protection of the minor students entrusted to
2 them, including PLAINTIFF. Thus, said DEFENDANTS had a duty to adequately
3 and properly supervise, monitor, and protect PLAINTIFF. DEFENDANT
4 THACHER and DOES 2 through 40 are liable for the acts and omissions of their
5 employees and agents, acting within the course and scope of their employment in
6 failing to supervise, monitor or protect the minor PLAINTIFF.

7 103. DEFENDANT THACHER (through its employees, staff, volunteers, coaches, and
8 agents identified in the Complaint as DOES 2 through 20) breached their duty to
9 properly and adequately supervisor, monitor, and protect PLAINTIFF, by in part,
10 ignoring clear and obvious signs that Friborg was engaged in an inappropriate and
11 harassing relationship with PLAINTIFF; allowing, facilitating, and encouraging
12 PLAINTIFF to spend unauthorized and unsupervised one-on-one time with Friborg;
13 driving PLAINTIFF in his vehicle; establishing inappropriate boundaries with
14 PLAINTIFF; and by allowing Friborg to repeatedly sexually harass and assault
15 PLAINTIFF.

16 104. DEFENDANTS THACHER and DOES 2 through 40 also recklessly and negligently
17 failed to implement and/or enforce policies and procedures that were aimed at
18 supervising students and/or preventing or detecting sexual abuse of its students.

19 105. Had DEFENDANTS THACHER and DOES 2 through 40 adequately and properly
20 supervised, monitored, and protected its students, PLAINTIFF would not have been
21 harmed.

22 106. As a direct and proximate result of the acts and omissions of DEFENDANTS, and
23 each of them, as alleged herein, PLAINTIFF suffered injuries and damages
24 including, but not limited to, physical and mental pain and suffering, emotional
25 distress, past and future costs of medical and/or psychological care and treatment,
26 and other economic and non-economic damages, in an amount not yet ascertained
27 but which exceed the minimum jurisdictional limits of this Court.

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1 **SEVENTH CAUSE OF ACTION**

2 **NEGLIGENCE**

3 **(Against DEFENDANTS DOES 2 through 40)**

4 107. PLAINTIFF hereby incorporates by reference all previous paragraphs as if fully set
5 forth herein.

6 108. DEFENDANTS DOES 2 through 40 are persons or entities who owed a duty of care
7 to PLAINTIFF and/or PLAINTIFF'S parents or had a duty to control the conduct of
8 Friborg by way of the special relationship existing between those individuals.

9 109. DEFENDANTS DOES 2 through 40 knew, or should have known, of Friborg's
10 misconduct and inappropriate behavior directed by Friborg to minor students he
11 interacted with.

12 110. Despite having knowledge of Friborg's misconduct, DEFENDANTS DOES 2
13 through 40 failed to take any preventative action to control that conduct and failed to
14 warn PLAINTIFF or her parents or guardians of that wrongful conduct, despite
15 having a legal duty to do so.

16 111. As a result of the negligence of DEFENDANTS DOES 2 through 40, PLAINTIFF
17 was sexually abused by Friborg.

18 112. Had DEFENDANTS DOES 2 through 40 fulfilled their duties and responsibilities,
19 PLAINTIFF would not have been subject to the misconduct alleged herein.

20 113. As a direct and proximate result of the acts and omissions of DEFENDANTS, and
21 each of them, as alleged herein, PLAINTIFF suffered injuries and damages
22 including, but not limited to, physical and mental pain and suffering, emotional
23 distress, past and future costs of medical and/or psychological care and treatment,
24 and other economic and non-economic damages, in an amount not yet ascertained
25 but which exceed the minimum jurisdictional limits of this Court.

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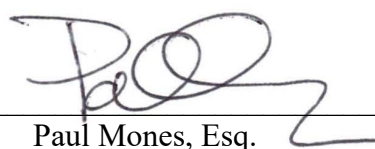
1 **PRAYER FOR RELIEF**

2 WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS THE
3 THACHER SCHOOL, and DOES 2 through 40, and each of them, as follows:

- 4 1. For an award of general and special damages according to proof at trial;
5 2. For reasonable attorneys' fees pursuant to California Civil Code §52 (as to the
6 Third Cause of Action only);
7 3. For costs of suit incurred herein;
8 4. For punitive damages according to proof at trial; and
9 5. For such other and further relief as the Court deems just and proper.

10
11
12 Dated: November 15, 2022

PAUL MONES, P.C.

13
14 By: 

15 Paul Mones, Esq.
16 Louanne Masry, Esq.
17 Courtney Kiehl, Esq.
18 Attorneys for Plaintiff
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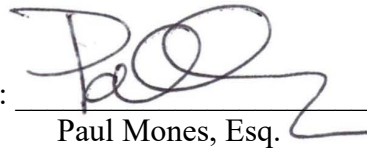
DEMAND FOR JURY TRIAL

PLAINTIFF requests that this action be determined by trial by jury.

Dated: November 15, 2022

PAUL MONES, P.C.

By: _____



Paul Mones, Esq.

Louanne Masry, Esq.

Courtney Kiehl, Esq.

Attorneys for Plaintiff