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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

EUGENE DIVISION

JANE DOE, a pseudonym,

Plaintiff,

v.

SPRINGFIELD PUBLIC SCHOOLS, an
Oregon Public School District, authorized and
chartered by the laws of the State of Oregon,

NANCY GOLDEN, and ROGER JORDAN,

Defendants.

) Case No.

)

) **COMPLAINT AND DEMAND FOR JURY**
) **TRIAL**

)

) (42 U.S.C. § 1983 Violation of Fourteenth
) Amendment, Negligence, Negligence *Per Se*)

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) Prayer: \$5,000,000

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PRELIMINARY STATEMENT

1. This action arises from the grooming and sexual abuse of Plaintiff while she was a high-school student at the Academy of Arts & Academics (referred to herein as “A3”), an alternative/magnet school in the Springfield Public Schools school district. The abuse was perpetrated by A3 Principal and teacher, Michael Fisher, who was thirty years her senior.

2. Plaintiff kept the sexual abuse a secret until early 2018, when she received a phone call from a Detective with the Springfield Police Department and disclosed the abuse to him. Plaintiff later learned, through reading a newspaper article about the Fisher investigation, that the school she had tried so hard to protect had not protected her from the sexual abuse by Fisher.

3. Fisher was placed on administrative leave on January 31, 2018 in connection with the criminal investigation and committed suicide one day later.

4. This action is brought pursuant to 42 U.S.C. § 1983 and Oregon law, demanding declaratory and injunctive relief and monetary damages from the Springfield Public Schools and two school officials for depriving Plaintiff of her right to bodily integrity under the Fourteenth Amendment of the United States Constitution.

JURISDICTION AND VENUE

5. This Court has jurisdiction of Plaintiff's federal claims pursuant to 28 U.S.C. § 1331 and supplemental jurisdiction pursuant to 28 U.S.C. § 1367. In addition, this Court has jurisdiction over the state claims pursuant to 28 U.S.C. § 1332(a) because the parties' citizenship is diverse and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because Defendant Springfield resides in this district and the events giving rise to the claims occurred in this district.

PARTIES

7. Plaintiff is an adult female, born in 1992, who was at all relevant times a minor and student attending A3, which is located in the City of Springfield, County of Lane, in the State of Oregon. At all relevant times, A3 was a part of Springfield Public Schools. Plaintiff is

currently a resident of Georgia. She is proceeding via the use of pseudonym to avoid personal embarrassment and harassment.

8. Defendant Springfield Public Schools (referred to herein as “Defendant Springfield School District”) is a public school district authorized and chartered by the laws in the State of Oregon. At all relevant times, A3 was an alternative/magnet school in the Springfield Public Schools District.

9. Defendant Nancy Golden was at all relevant times the Superintendent of Springfield School District, acting under color of law and within the scope of her employment at Springfield School District. Plaintiff sues Golden in her individual capacity.

10. Defendant Roger Jordan was the Human Resources Director for Defendant Springfield School District until 2008, and had management and supervisory responsibilities at Springfield School District. Plaintiff sues Jordan in his individual capacity.

COMMON ALLEGATIONS

11. While performing the duties as a principal and teacher at A3, Fisher befriended, groomed, and sexually abused Plaintiff on numerous occasions from 2006 to 2010, when Plaintiff was ages 14 to 18. The abuse included kissing, genital stimulation, oral sex, and sexual intercourse. The abuse occurred both on and off the A3 premises.

12. In the fall of 2007, prior to the last act of sexual abuse suffered by Plaintiff, a teacher at Walterville Elementary School reported to Defendant Springfield School District and the Springfield Police Department that Fisher had been giving rides home to Plaintiff, that he had been seen in public holding Plaintiff’s hand, and that Plaintiff had placed her hand on Fisher’s leg during class at A3. On information and belief, Defendant Golden responded to this report by directing Defendant Jordan not to investigate the matter further even though Springfield School

District employees knew that there was information pertinent to the investigation that was not already known by law enforcement.

13. In response to the 2007 complaint and limited investigation described in paragraph 10, Fisher was given a “Letter of Instruction/Directive” that he follow Springfield School District’s transportation policy and stay in public areas with students. Plaintiff’s parents were never notified about the Letter to Fisher or about the 2007 complaint, Plaintiff was never interviewed, and no further steps were taken to enforce the Letter.

14. In addition to the notice described in paragraph 10 above, Defendant Springfield School District had notice on several additional occasions between 2007 and 2010 that there was reasonable cause to believe that Plaintiff was being sexually abused by Fisher. Despite this notice, no reports other than the report described in paragraph 10 were made to state licensing authorities, Department of Human Services, or law enforcement, as required by ORS 419B.010, *et seq.*

15. The employees of Defendant Springfield School District who had reasonable cause to believe that Plaintiff was being sexually abused by Fisher had a continuing, mandatory duty to make a report as required by ORS 419B.010, *et seq.* Their failure to do so constituted a continuing tort until Plaintiff reached the age of majority in May of 2010.

16. Defendant Springfield School District created a special relationship with Plaintiff by requiring her attendance at school, as well as through the relationship between school employees and the students entrusted to their care. This special relationship created a non-delegable duty of care on the part of Defendant Springfield School District to protect students within its District, including Plaintiff, from harm while in Defendant’s care. In conjunction with that special relationship, Defendant created a dangerous condition by failing to adequately

investigate the allegations that Fisher had engaged in an inappropriate relationship with Plaintiff, by failing to report suspected child abuse, and by retaining Fisher as the Principal and a teacher at A3 after learning of credible allegations against him.

17. Plaintiff's claims are timely because Plaintiff did not discover, and could not reasonably have discovered, the tortious activities of Defendants or the causal link between the tortious activities and the sexual abuse by Fisher until March of 2018 when she read a newspaper article about how Defendants knew about the inappropriate relationship in 2007 but failed to make adequate mandatory reports, investigate, or take corrective action.

18. Plaintiff is entitled to an award of noneconomic damages in the amount of \$3,000,000, the exact amount to be determined by a jury at trial.

19. Plaintiff is also entitled to punitive damages in the amount of \$2,000,000, the exact amount to be determined by a jury at trial.

20. Plaintiff is further entitled to her attorney's fees and costs pursuant to 42 U.S.C. 1988.

FIRST CLAIM FOR RELIEF

42 U.S.C. § 1983—*Monell* Claim—Fourteen Amendment Due Process Violation (against Defendant Springfield School District)

21. Plaintiff realleges and incorporates by reference paragraphs 1 through 20, above.

22. Plaintiff had a liberty interest under the due process clause of the Fourteenth Amendment in being free from sexual abuse by a school employee.

23. Defendant Springfield School District had *de facto* policies, practices, and customs, which included the failure to properly train employees to properly recognize the signs of sexual abuse, to make mandatory reports, conduct a proper investigation, and to notify parents when sexual abuse is reasonably suspected.

24. Defendant Springfield School District also failed to properly report, investigate, or discipline Fisher in connection with his suspected sexual abuse of Plaintiff, such that there was a policy or custom that amounts to deliberate government indifference to the rights of the students to whom they come into contact, including Plaintiff.

25. As Superintendent of Springfield School District, Golden had the authority to set policies at Springfield School District, including policies regarding employee investigation and discipline. Golden was acting as a policy maker when she decided to thwart attempts to conduct a more in-depth investigation of Fisher and failed to implement procedures to ensure the safety of Plaintiff. Her failure to stop the abuse constitutes ratification of Fisher's continued sexual abuse of Plaintiff.

26. Such policies, practices, and customs, both individually and together, were maintained and implemented with deliberate indifference and were the proximate cause of the continued abuse of Plaintiff by Fisher.

SECOND CLAIM FOR RELIEF

State law claim—Negligence (against Defendant Springfield School District)

27. Plaintiff realleges and incorporates by reference paragraphs 1 through 26, above.

28. Defendant Springfield School District acted negligently, and created a foreseeable risk of Fisher sexually abusing students, including Plaintiff, by failing to undertake reasonable child abuse prevention measures in one or more of the following ways:

- a. In failing to investigate credible information regarding Fisher's inappropriate relationship with Plaintiff;

- b. In failing to report Fisher to state licensing authorities, the Department of Human Services, or law enforcement upon being notified of credible information that Fisher was in an inappropriate relationship with Plaintiff;
- c. In failing to notify Plaintiff's parents about credible information received regarding Fisher's inappropriate relationship with Plaintiff;
- d. In failing to interview Plaintiff about her possibly inappropriate relationship with Fisher;
- e. In failing to subject Fisher's interactions with Plaintiff to increased scrutiny after receiving the 2007 report about his inappropriate behavior with Plaintiff;
- f. In failing to properly discipline Fisher for violating school policy in his interactions with Plaintiff;
- g. In retaining Fisher as a school employee after being provided credible information that he was having an inappropriate relationship with Plaintiff;
- h. In failing to adequately train school administrators, teachers, and other employees, including Fisher, in how to recognize, report, and prevent child sexual abuse; and
- i. In failing to properly implement and enforce common sense child abuse prevention policies.

These actions were a substantial contributing and causal factor to the abuse of Plaintiff.

Specifically, Defendant Springfield School District's negligence, as described above, allowed Fisher to sexually abuse and continue to sexually abuse Plaintiff.

29. Plaintiff was within the class of persons to be protected by the reasonable child abuse prevention measures identified in paragraph 28, and such measures would have prevented some or all of Plaintiff's abuse by Fisher.

THIRD CLAIM FOR RELIEF

State law claim—Negligence *Per Se* (against Defendant Springfield School District)

30. Plaintiff realleges and incorporates by reference paragraphs 1 through 29, above.

31. Employees and other agents of Defendant Springfield School District, and each of them, had a statutory duty under ORS 419B.010 to Plaintiff and other similarly-situated students pursuant to report suspected child abuse.

32. Before Fisher's last act of child sexual abuse of Plaintiff, Defendant Springfield School District had reasonable cause to believe that Fisher had sexually abused Plaintiff throughout her years at A3 while she was a minor. This reasonable cause was made known to Defendant on several occasions and by information provided by several different sources.

33. Agents of Defendant Springfield School District failed to report the suspected child abuse on several occasions to the appropriate supervisors, the Department of Human Services, or law enforcement. In so doing, Defendant failed to take reasonable care or exercise the degree of care required of ordinary, prudent school employees, officials, and/or volunteers. The risk of additional child sexual abuse of students by Fisher was a foreseeable risk arising from Defendant Springfield School District's failure to adequately report the suspected sexual abuse to the proper authorities. Plaintiff was in the foreseeable class of persons to be protected by reporting the suspected abuse.

34. The mandatory duty to report continued up to and including Plaintiff reaching the age of majority in May of 2010.

35. Defendant Springfield School District's failures to report were substantial and contributing and causal factors to all or some of Plaintiff's abuse and damages.

FOURTH CLAIM FOR RELIEF

42 U.S.C. § 1983—Fourteenth Amendment Due Process Violation (against Defendants Golden and Jordan)

36. Plaintiff realleges and incorporates by reference paragraphs 1 through 35, above.

37. Defendants Golden and Jordan learned of facts regarding inappropriate sexual behavior by Fisher, pointing plainly towards the conclusion that Fisher was sexually abusing Plaintiff.

38. Defendants Golden and Jordan demonstrated deliberate indifference towards the constitutional rights of Plaintiff by failing to take action that was obviously necessary to prevent or stop the abuse, such as notifying Plaintiff's parents, interviewing Plaintiff about the allegations, or otherwise investigating the 2007 allegations further. Defendants failed to take these actions and demonstrated this deliberate indifference from 2007 until 2010 when Plaintiff reached the age of majority.

39. These failures caused Plaintiff to be subjected to further sexual abuse by Fisher.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a judgment in her favor as follows:

1. Issue a judgment declaring that the acts of the Defendants described herein violated the Plaintiff's right to bodily integrity under the Fourteenth Amendment to the United States Constitution;
2. Issue an injunction ordering Defendants to stop engaging in such unconstitutional acts and to develop policies and procedures for preventing the recurrence of any such acts, including training Springfield employees to properly recognize signs of sexual abuse,

make mandatory reports, conduct proper investigations of suspected sexual abuse of students, and to notify parents when sexual abuse of their children is reasonably suspected;

3. For compensatory damages in the amount of \$3,000,000, or such amount deemed appropriate by a jury at trial;
4. For punitive damages in the amount of \$2,000,000, or such amount deemed appropriate by a jury at trial;
5. For attorney's fees as to the First and Fourth Claims for Relief;
6. For Plaintiff's costs and disbursements incurred; and
7. For such other and further relief as the Court may deem just, proper, and appropriate.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and LR 38, Plaintiff demands trial by jury for all of the issues pleaded herein so triable.

DATED this 7th day of May, 2018.

VOGT & LONG PC

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