

1 Tracy L. Henderson, Esq SBN 25288  
2 Law Offices of Tracy L. Henderson, Esq  
3 P. O. Box 221562  
4 Carmel CA 93922  
5 T: 831.917.1583  
6 tlhlaw@protonmail.com

7 Attorneys for Plaintiffs

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF ORANGE  
10 UNLIMITED CIVIL

11 JESSICA REYNOLDS, an individual,  
12 SHAY ESMAILI, an individual, L.R., a  
13 minor by his guardian Steven Reynolds,  
14 and D.E., a minor by her guardian  
15 Siamack Esmaili and L.E. a minor by her  
16 guardian Siamack Esmaili,

17 Plaintiff,

18 v.

19 SADDLEBACK VALLEY UNIFIED  
20 SCHOOL DISTRICT, a California school  
21 district, CRYSTAL TURNER, in her  
22 official capacity as superintendent and as  
23 an individual, DEBORAH SHAVER, in  
24 her official capacity as principal of  
25 Foothill Ranch Elementary and in her  
26 capacity as an individual, and DOES 1-50,  
27 inclusive,

28 Defendants.

CASE NO.

**COMPLAINT FOR DAMAGES:**

- 1) **False Imprisonment;**
- 2) **Negligence;**
- 3) **Intentional Infliction of Emotional Distress;**
- 4) **Civil Rights Violation of Tom Bane Act Civil Code §52.1;**
- 5) **Civil Rights Violations of Cal. Const., art. I, § 2(a); Educ. Code § 48907(a)**
- 6) **Unlawful Coercion into Independent Study in violation of Education Code §§ 51749.5, 51749.6, 51746 and 51747**
- 7) **Unlawful Human Experimentation in Violation of Health and Safety Codes §§24170 et seq**

PLAINTIFFS JESSICA REYNOLDS, SHAY ESMAILI, L.R. a minor by his guardian,  
D.E., a minor, by her guardian, L.E., a minor by her guardian allege as follows:

**THE PARTIES**

1. JESSICA REYNOLDS ("Reynolds") is, and at all times mentioned in this  
complaint an individual with her principal place of residence located in Orange County California.

1           2.       SHAY ESMAILI (“Esmaili”) is, and at all times mentioned in this complaint an  
2 individual with her principal place of residence located in Orange County California.

3           3.       L.R. (“L.R.”) is, and at all times mentioned in this complaint a minor, an individual  
4 with his principal place of residence located in Orange County California. Steven Reynolds is his  
5 biological father and his guardian ad litem for all purposes herein.

6           4.       D.E. (“D.E.”) is, and at all times mentioned in this complaint a minor, an individual  
7 with her principal place of residence located in Orange County California. Siamack Esmaili is her  
8 biological father and her guardian ad litem for all purposes herein.

9           5.       L.E. (“L.E.”) is, and at all times mentioned in this complaint a minor, an individual  
10 with her principal place of residence located in Orange County California. Siamack Esmaili is her  
11 biological father and her guardian ad litem for all purposes herein.

12           6.       SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT (“SVUSD”) is, and at  
13 all times herein mentioned was, a school district located in Orange County and local educational  
14 agency (LEA) responsible for the implementation and punitive enforcement of illegal school  
15 policies, purportedly based on the non-binding, merely recommended, California Department of  
16 Public Health’s K-12 Guidance. SVUSD is governed by elected officials that serve as Members of  
17 its Board of Trustees.

18           7.       CRYSTAL TURNER (“TURNER”) is, and at all times mentioned herein,  
19 employed by SVUSD as the superintendent of SVUSD, served at the pleasure of the SVUSD  
20 Board of Trustees and followed their directives, and was acting within the course and scope of that  
21 employment.

22           8.       DEBORAH SHAVER (“SHAVER”) was, and at all times mentioned herein,  
23 employed by SVUSD as the principal of Foothill Ranch Elementary, an elementary school in  
24 SVUSD, and acting within the course and scope of that employment.

25           9.       Plaintiff is informed and believes and thereon alleges that, at all times herein  
26 mentioned, TURNER, SHAVER, SVUSD and its agents and other members of the staff that are  
27 unknown at this time, are employees of SVUSD and in doing the things hereinafter alleged, were  
28 acting within the course and scope of such employment and agency and with the permission and

1 consent of Defendant SVUSD and its Board of Trustees. In doing the things hereinafter  
2 mentioned, these Defendants acted under color of their authority and under the color of the  
3 customs and usages of Defendant SVUSD and pursuant to the official policies of Defendant  
4 SVUSD as enacted and adopted by the Governing Board acting under color of its authority as  
5 such.

6 10. Plaintiffs are informed and believe, and thereon alleges, that each of the fictitiously  
7 named defendants proximately caused damages to Plaintiffs as alleged herein and/or is responsible  
8 for the acts complained of herein. Plaintiffs will seek leave of Court to amend this Complaint  
9 when the true identities of such DOE defendants have been ascertained. Plaintiffs are informed  
10 and believe, and thereon allege that defendants named as DOES 1 through 50 were the agents,  
11 servants and/or employees of their defendants, and in doing or failing to do the acts alleged herein  
12 were acting in the course and scope of their authority and with the permission and consent of their  
13 defendants, and each of them.

#### 14 **JURISDICTION AND VENUE**

15 11. This Court has personal jurisdiction over Defendants each of them. They are  
16 governmental actors that conduct business in and maintain operations in Orange County on behalf  
17 of Defendant SVUSD. SVUSD is located at 25631 Peter A. Hartman Way in Mission Viejo, CA  
18 92691. Foothill Ranch Elementary is located at 1 Torino Drive in Foothill Ranch, CA 92610 and

19 12. Venue is proper in the county in which “the cause, or some part of the cause,  
20 arose,” for a suit against a public officer’s act. (Cal. Code of Civ. Proc. § 393(b).) This Court is the  
21 proper venue for this action because the Defendants either reside in or maintain executive offices  
22 in Orange County, a substantial portion of the transactions and wrongs complained of herein took  
23 place in Orange County, including Defendants’ primary participation in the acts detailed herein,  
24 and Plaintiff’s injuries occurred in Orange County.

#### 25 **GENERAL ALLEGATIONS**

26 13. The California Constitution provides that in person instruction in public schools is a  
27 fundamental right. California Constitution Article IX: §5

1           14. All students are entitled to “equal rights and opportunities” in education (Ed. Code  
2 § 200) and to participate fully in the educational process “free from discrimination and  
3 harassment.” Ed. Code § 201, subd. (a); Government Code §11135. To effectuate this policy,  
4 which is guaranteed by the federal and state Constitutions, the Legislature requires California's  
5 public schools to take affirmative steps to “combat ... forms of bias.” (Ed Code § 201, subd. (b).)  
6 They also must “prevent and respond to acts of bias-related incidents” in an “urgent” manner (§  
7 201, subd. (d)) *Donovan v. Poway Unified School Dist.*, 167 Cal. App. 4th 567, 606.

8           15. It is a fundamental right of a parent to make decisions concerning the care, custody,  
9 and control of his child. (*Doe v. Albany Unified School Dist.* (2010) 190 Cal.App.4th 668, 685,  
10 citing *In re Samuel G* (2009) 174 Cal.App.4th 502, 509 (“Among the constitutional privileges  
11 enjoyed by parents is the right to determine how their children should be educated”); *Troxel v.*  
12 *Granville* (2000) 530 U.S. 57, 66, citing cases recognizing “the fundamental right of parents to  
13 make decisions concerning the care, custody, and control of their children”).

14           16. Per Ed Code §51101(7)(a) Except as provided in subdivision (d), the parents and  
15 guardians of pupils enrolled in public schools have the right and should have the opportunity, as  
16 mutually supportive and respectful partners in the education of their children within the public  
17 schools, to be informed by the school, and to participate in the education of their children,  
18 including but not limited to, have a school environment for their child that is safe and supportive  
19 of learning.

20           17. Masks recommended for COVID were and still are only emergency use authorized  
21 which requires informed consent<sup>1</sup>. Masking children in schools was a medical experiment per H.S.  
22 §24176 and require informed consent.

23           18. During the time of the alleged incidents herein outlined, L.R. was a ten year old  
24 minor who attended Foothill Ranch Elementary, which is a public school that is part of SVUSD.

25  
26  
27 <sup>1</sup> [https://www.fda.gov/medical-devices/emergency-situations-medical-devices/faqs-emergency-use-authorization-](https://www.fda.gov/medical-devices/emergency-situations-medical-devices/faqs-emergency-use-authorization-face-masks-non-surgical)  
28 [face-masks-non-surgical](https://www.fda.gov/medical-devices/emergency-situations-medical-devices/faqs-emergency-use-authorization-face-masks-non-surgical)

1           19.     During the time of the alleged incidents hereinafter outlined, D.E. was an eleven  
2 year old minor who attended Foothill Ranch Elementary, which is a public school that is part of  
3 SVUSD.

4           20.     During the time of the alleged incidents hereinafter outlined, L.E. was a nine year  
5 old minor who attended Foothill Ranch Elementary, which is a public school that is part of  
6 SVUSD.

7           21.     At all times mentioned herein, neither child was ill or showed signs of illness.

8           22.     Most of 2022, teachers at Foothill Ranch made the children wear experimental  
9 masks to school. L.R. hated the masks as they irritated him and caused him to struggle to breathe  
10 while wearing them. His teacher, Ms. Petko, constantly harassed and nagged him to pull his mask  
11 above his nose. D.E. loathed the masking as they made her feel physically sick, tired, and to lose  
12 concentration. They had to be pulled down because she could not breathe and they got wet and  
13 dirty. The muffled conversations hampered her ability to learn. Even D.E., at her young age, could  
14 see the masks were not stopping the COVID transmission.

15          23.     In December and January 2022, Ms. Petko finally stopped asking L.R. to put his  
16 mask on. About six to eight of L.R.'s classmates joined him in the cessation of mask wearing.

17          24.     Other kids in L.R.'s class became frustrated and took out their frustration on L.R. by  
18 telling him "he was going to make them sick if he didn't wear his mask."

19          25.     L.R. could not figure out how he could get others sick if he was not sick. He  
20 concluded the statements by the other children did not make sense.

21          26.     On February 8, 2022, Ms. Petko pulled the unmasked group of kids and told them  
22 they had to wear the masks now because "the other kids were upset." L.R.'s parents supported his  
23 choice of not wearing a mask and directly informed SHAVER and SVUSD employees on a phone  
24 call. SHAVER told L.R.'s mother that if he continued to choose not to wear a mask, he would not  
25 be allowed in class. Instead, she informed he would be sitting at tables in front of Ms. Petko's  
26 class to do all of his school work. See Exhibit "1" attached hereto and incorporated herein by  
27 reference.

28

1           27.     Also on February 8, 2022, an indoor assembly was held where an adult presenter.  
2 MR. MARK, who did not wear a mask and no school official said anything about it nor asked him  
3 to put on a mask. The adult male presenter was up close with the kids without the mask. SHAVER  
4 put up posts on social media advertising this, they were met with disdain by the entire SVUSD  
5 community, and thereafter taken down.

6           28.     On February 9, 2022, L.R. and for four consecutive weeks thereafter was the victim  
7 of illegal dehumanization, exclusion, belittlement, harassment, discrimination, intimidation,  
8 humiliation, alienation and bullying by Defendants, each of them, for deciding not to wear a mask  
9 to school while healthy.

10          29.     On February 9, 2022, SHAVER called D.E.'s mother ESMAILI to tell her that her  
11 daughters were choosing not to wear masks anymore. SHAVER had spoken to ESMAILI's 9 year  
12 old L.E. who was in the third grade and told her that her only choice was to put on a mask or go  
13 home. SHAVER then proceeded to intimidate this young third grader by telling her she would be  
14 missing out on a bunch of fun stuff including the upcoming field trip so the young girl caved under  
15 the pressure.

16          30.     SHAVER then hugged ESMAILI's 9 year old L.E., without permission, and made  
17 her extremely uncomfortable and complain to her mother how "creepy" and "yucky" the  
18 experience was for her. It caused young her great confusion because it also violated the social  
19 distancing rules.

20          31.     SHAVER, on the same phone call to ESMAILI, let her know that her fifth grade  
21 daughter, D.E.'s decision to no longer mask would be supported and she would personally ensure  
22 that she and the other students not masking would still receive instruction by being seated right  
23 outside.

24          32.     Mask wearing was optional for some teachers, students, and staff, but not D.E. or  
25 L.R., so D.E. and L.R. were not treated equally across the board.

26          33.     On February 10, 2022, SHAVER called L.R.'s mother REYNOLDS around 1:22  
27 p.m. and told her she was marking L.R. unexcused for the day. L.R. was not absent and had been  
28 at school since 8:15 a.m.. Ms. Shaver said L.R. was "being excused for health and safety reasons"

1 and **was moved from the outside tables to an enclosed courtyard surrounded by metal bars in**  
2 **a cage that looked like a jail!** SHAVER stated to L.R.'s mom that so long as he refused to wear a  
3 mask, he would not receive any teacher led instruction. She said L.R.'s teacher will be choosing  
4 what work to provide L.R. or not to provide L.R. She said SVUSD was "taking a different"  
5 approach to the situation when asked by L.R.'s mom. See Exhibit "2" attached hereto and  
6 incorporated herein by reference.

7 34. **SHAVER failed to mention on the February 10, 2022, phone call to L.R.'s**  
8 **mother that he had been placed in the cage first thing in the morning! L.R. told his mother**  
9 **later this information and that he was not allowed to leave the cage except to use the**  
10 **bathroom! L.R. was not given access to recess or lunch. Children who masked were given**  
11 **access to recess and lunch. Children walking by the cage with children in it were told not to**  
12 **look at the kids in the cage because they were in "trouble" by supervisors. SHAVER also**  
13 **told the supervisors on the campus to make sure the children in the cage did not have any**  
14 **fun!** See Exhibit "2".

15 35. On February 10, 2022, Principal SHAVER called ESMAILI around 1:30 p.m. to  
16 inform her, in a harsh and curt tone, that she was "adopting a different approach today" and D.E.  
17 was being excluded for "health reasons" because she "posed a danger" to others without providing  
18 any evidence. She then informed ESMAILI she was marking her "unexcused absence." She failed  
19 to inform her that my child was imprisoned and segregated in a cage outdoors.

20 36. D.E. told her "Mom, now I know what zoo animals feel like. Its like I'm stuck in a  
21 cage and people are staring at me." This caused D.E. great confusion, emotional trauma, and very  
22 hurt feelings.

23 37. PRINCIPAL SHAVER told the caged children that they were a "danger" to the rest  
24 of the students, that they "chose this" and that there were "consequences for their actions." She  
25 told them they could not get up from their seats except to use the restroom. No recess, lunch or PE  
26 was allowed.

1           38.     The SVUSD policy regarding quarantining healthy people in a cage violates  
2 California law because you cannot quarantine healthy people. *In re: Arata* (1921) 52 Cal. App.  
3 380.

4           39.     On February 10, 2022, Orange County was under an excessive heat and wind  
5 advisory<sup>2</sup> yet SHAVER left L.R., D.E, and their classmates outside for six hours in the cage while  
6 the temperature exceeded 90 degrees and wind gusts reached upwards of forty miles per hour. All  
7 the children were forced to sit at metal tables which made the children’s hands and clothes hot,  
8 without any shade of any kind, breaks were not provided, and water was not provided causing  
9 dehydration. D.E. was beet red from the sun and wind burned, dehydrated, and disheveled as a  
10 result.

11           40.     SHAVER told the caged protesting students that “they chose this” and “this was the  
12 punishment for not wearing a mask and that their decisions had consequences.” SHAVER would  
13 not let them leave, get up from their seats, did not allow them recess, lunch, or P.E.

14           41.     Plaintiffs are informed and believe SHAVER is not a health expert, has no medical  
15 experience, and is not employed by Orange County or the State of California as a health officer.

16           42.     REYNOLDS was physically ill and suffered from extreme anxiety upon learning  
17 her ten year old son was being abused by SHAVER and other SVUSD staff at Foothill Ranch  
18 Elementary. She emailed SHAVER and Robert Craven about these clear actions of child abuse  
19 and civil rights violations including but not limited to mental and physical abuse and neglect,  
20 segregation, and illegal exclusion from learning.

21           43.     ESMAILI was shocked, confused, and very distraught over learning what happened  
22 to her daughter. She had to cool down D.E. and hydrate her when she picked her up. She called the  
23 school but got an answering machine so she emailed SHAVER. SHAVER never responded.

24           44.     ESMAILI received a random voice mail stating D.E. was excluded for “health  
25 reasons” and she would be marked unexcused unless she “masked up.”

26  
27  
28           <sup>2</sup> <https://patch.com/california/orange-county/45-mph-winds-orange-county-heat-advisory-extended>



1           45.     D.E. decided she wanted to protest and stand up for the little kids that did not want  
2 to wear the masks but were afraid to say anything. She chose to continue the protest for nearly four  
3 weeks during which she was humiliated, dehumanized, segregated, put in a cage, forced to skip  
4 recess and be isolated while she watched her other friends play and laugh together without their  
5 masks on. She missed outdoor assemblies, PE, class parties and all the treats that go with them.

6           46.     D.E. missed music classes and was kicked out of her Peer Assistance Leadership  
7 (PAL) club for protesting.

8           47.     On February 11, 2022, L.R. was excluded again and marked “unexcused”, made to  
9 sit in the courtyard segregated from all other students while he was perfectly healthy. Three other  
10 unmasked students were forced to miss an outdoor assembly where other children were permitted  
11 to attend *unmasked*. L.R. and other protesting students were forced to eat their snack and lunch in  
12 the courtyard. L.R. heard supervisor Ms. Rebecca telling other kids nearby to not talk to the  
13 unmasked kids because “they were in trouble.”

14           48.     On February 15, 2022, L.R. was excluded again and marked “unexcused” for  
15 refusing to wear a mask. He was made to sit in the courtyard, segregated, in the rain and cold all  
16 day. He saw another student taking pictures of him and filming him so he made silly faces at her  
17 and danced around. SHAVER then falsely accused ten year old L.R. of being “disrespectful,” then  
18 further belittled and alienated him by abruptly moving him away from the other kids.

19           49.     A few hours later SHAVER continued the belittling conduct by asking L.R. if a  
20 pencil on the ground was his. When he responded in the affirmative she scolded and belittled him  
21 for saying “yeah” instead of “thank you.” When he looked confused, she falsely accused him of  
22 having a disrespectful face. This whole exchange was shocking, confusing, and humiliating for  
23 this little ten year old.

24           50.     SHAVER did not stop her humiliation tactics there. Another child did not have any  
25 work to do according to a substitute teacher. SHAVER asked that child if he had a book, and he  
26 said yeah. She belittled him by stating he should have said “yes” and then loudly said “these kids  
27 are so rude!”

28

1           51.     SHAVER’s condescending, humiliating and belittling conduct towards the caged  
2 children was clearly designed to dehumanize, humiliate, coerce, pressure, and bully the ten year  
3 old into compliance. Ten year old L.R. felt all those feelings sting him due to her conduct.

4           52.     On the same day L.R. was eating goldfish which caused the other kids to laugh.  
5 This irritated the substitute who pointed at him and said “stop making them laugh” and threatened  
6 the other kids. This made L.R. laugh which angered the substitute who called the office on a  
7 walkie talkie to ask for “someone to deal with the kid outside.”

8           53.     Office manager Lynda Flynn took L.R. for a walk on this day, let him eat goldfish,  
9 and talked to him about how hard it was for the substitute when he laughed. Ten year old L.R. felt  
10 even more confused and frustrated.

11           54.     L.R. has ADHD which was diagnosed in first grade of which all his teachers are  
12 aware of including SHAVER. However, with actual knowledge of L.R.’s condition, SHAVER still  
13 forced L.R. to sit at a desk all day, in isolation, without access to breaks or recess to expend some  
14 energy. This resulted in complete and utter psychological torture for ten year old L.R. by  
15 SHAVER and all of the supervisors who worked for SVUSD because of his A.D.H.D.<sup>3</sup>.

16           55.     On February 16, 2022, L.R. was again “excluded,” marked with an unexcused  
17 absence, and made to sit in the cage all day because he refused to wear a mask. It was “Kindness  
18 Week” at the school, and another student filled out a “kindness note” and dropped it off to both  
19 kids in the courtyard. The note said, “have fun in jail!” Because SHAVER was not around this  
20 day, the children were at least allowed to play with a ball inside the courtyard. They were told that  
21 if the ball went out of the courtyard, they could ask a supervisor to retrieve it because they were  
22 not allowed to leave the “jail.” The supervisor then told the other children not to even look at them  
23 with the clear intention to make them feel shame.

24           56.     On February 17, L.R. refused to mask and was therefore “excluded,” marked with  
25 an unexcused absence, made to sit in the courtyard and segregated from all other students.  
26 Initially, L.R. and his fellow inmates were allowed to play with a ball inside the courtyard.

27 \_\_\_\_\_  
28 <sup>3</sup> <https://www.todayparent.com/kids/kids-health/what-does-adhd-feel-like/>

1 However, when the ball went out of the “cage” the supervisor, Melissa Targos, grabbed it and said,  
2 “it’s mine now”—taking the ball away from the kids. This caused ten year old L.R. great  
3 confusion.

4 57. For weeks, L.R. was excluded from even outdoor activities, like recess, lunch, and  
5 Physical Education—all of which were activities where masks were not even required for  
6 participation! SHAVER repeatedly explained, “this is their punishment, and their actions have  
7 consequences.”.

8 58. After L.R.’s ball had been confiscated during a scheduled break from schoolwork,  
9 D.E. was fidgeting with a prize she had won from the events leading up to the annual FRE fun run  
10 (scheduled for March 1). Upon noticing, SHAVER meanly barked at her rhetorically, “is that  
11 another toy I need to take away?” Later, another student stepped in the courtyard to give a letter to  
12 one of the students and was told by Ms. Targos that she was not allowed to enter the “cage”  
13 because “these kids are in trouble.”

14 59. L.R. and D.E., by way of their conduct, were clearly exercising their free speech  
15 rights under the First Amendment and Education Code §48907 to protest the masks and testing.

16 60. On February 18 and 22, 2022, L.R. was excluded and forced to sit outside in the  
17 elements. Even though he was on campus all day, L.R. was marked with an unexcused absence,  
18 alienated, belittled, and bullied simply for wanting to breathe.

19 61. Most of the week of the 21<sup>st</sup> of February 2022 was in the forties outside. D.E. had  
20 to bring blankets and snow hats to keep warm while they were forced outside in a cage. ESMALI  
21 asked SHAVER to bring the kids in so they could get warm to which SHAVER responded to this  
22 mother’s pleas she will have to “mask up first.”

23 62. ESMALI emailed superintendent Crystal TURNER numerous times to address the  
24 concerns over the way the children were being treated. TURNER never responded despite now  
25 being put on clear notice of the atrocities occurring under her leadership as superintendent.  
26 Instead, TURNER emailed other SVUSD staff who simply stated the treatment of L.R. and D.E.  
27 was “protocol.”

28

1           63.     ESMAILI begged SHAVER to put the kids in an empty classroom with the chrome  
2 books, use plexiglass shields, attend class via zoom - anything. Mr. Dizon responded and stated  
3 SVUSD did not approve any "alternative masking protocols." She emailed TURNER on March 6,  
4 2022 begging for alternatives to a cage which Mr. Dizon responded to on TURNER's behalf and  
5 denied. TURNER had actual knowledge of the horrors her child was going through.

6           64.     L.R. and D.E. were given their class work but no instruction on how to do it.  
7 Instead, SVUSD hired substitutes to supervise the students sent to the cage as if they were animals  
8 instead of young children.

9           65.     L.R. told his mother that he missed his friends, recess and playing with other  
10 students. His mother told him that she did not believe they could stop him from going to play for  
11 recess. On February 22, 2022, he left the courtyard and went to play at recess. A supervisor saw  
12 him and his friends playing handball. She called the office to report "noncompliance." Another  
13 supervisor told L.R. they had to go back to the courtyard and the kids refused and stayed.  
14 SHAVER came over and told them to go back to the courtyard. L.R. asked politely to stay.  
15 SHAVER tried to bully and intimidate the children by saying "do you want to go back to the  
16 courtyard and make everything easier or stay out here and make a stand and make everything  
17 complicated?" They all decided to stay out and play.

18           66.     Mrs. Petko later laid a guilt trip on the group by telling them that she was  
19 "disappointed" that they had gone to play at recess. The guilt trip worked, the young children  
20 feeling bad and guilty, all decided to stay in the courtyard in the cage for lunch.

21           67.     On or about February 22, 2022, after weeks of isolation in the cage, D.E. decided  
22 she needed exercise so she tried to go to recess. She had not been permitted to play with her  
23 classmates since February 9, 2022. A supervisor watching reported the "jailbreak" to SHAVER  
24 who chastised the children when she found them in a very public and humiliating manner.  
25 SHAVER threatened the children but they stood up and played recess anyways.

26           68.     As a result, SHAVER called ESMALI and falsely accused her of being "defiant"  
27 for going to play at recess outside where masks were not required for anyone. These remarks were  
28 overheard by D.E. on a voicemail and hurt her on a very personal level because she had done

1 nothing wrong. The truth is D.E. was polite during her protest efforts and always used the phrase  
2 “no thank you.” This has resulted in deep confusion and emotional distress for young D.E..

3 69. On February 23, 2022, L.R. was again “excluded,” marked with an unexcused  
4 absence because he did not wish to mask, was made to sit outside, in the courtyard and alienated  
5 from his classmates. When L.R.’s mother dropped him off in the morning, he could see his breath  
6 as the weather was in the forties. He brought a blanket to school to stay warm. Regardless of the  
7 extreme cold, SHAVER kept the group outside all day. L.R. and two students left the courtyard to  
8 go to recess. L.R. felt he had to “hide” from the supervisors while he was out there.

9 70. Because of the actions of SHAVER and the supervisors requiring L.R. and D.E. to  
10 sit in the extreme cold, scorching heat, and the reprehensible treatment, a police report<sup>4</sup> was filed  
11 on February 23, 2022 for violations of Penal Code 273(a) and bullying of children. The police did  
12 nothing.

13 71. On February 24, 2022, because he did not wish to mask, L.R. was again “excluded”  
14 and marked with an unexcused absence for the day, made to sit in the “cage” and segregated from  
15 all other students. L.R.’s mother sent an email to SVUSD administrators SHAVER, Yvonne  
16 Estling, Robert Craven, Mikey Park, and Crystal Turner putting them on notice that Education  
17 Code § 48213, which they were using to “exclude” L.R., was not applicable to the situation  
18 because he wasn’t sick and they had no evidence otherwise.

19 72. On February 24, 2022, JESSICA REYNOLDS received a truancy letter from  
20 District Attorney Todd Spitzer’s office, which was sent following several falsely reported  
21 unexcused absences from SHAVER and her staff. The letter, signed by Deputy District Attorney  
22 Elisa S. Kim, demanded that REYNOLDS attend a meeting with the DA and discuss the reasons  
23 for non-attendance. It asserted that REYNOLDS ignored her duty as a parent to provide her child  
24 with an education. The letter equate dropping L.R. off at school with failing to provide him with  
25 shelter, clothing, and sustenance or neglecting him. The letter threatened that continued unexcused  
26

27  
28 <sup>4</sup> Case #22-006132

1 absences could result in the DA bringing criminal charges. See Exhibit “3” attached hereto and  
2 incorporated herein by reference.

3 73. The letter from the Orange County district attorney caused REYNOLDS severe  
4 emotional distress. She felt physically ill from the anxiety and stress it caused. She suffered from  
5 extreme nervousness and heart palpitations. She lost sleep and experienced pounding headaches.

6 74. Each day D.E. protested, she was falsely marked unexcused absent. In late  
7 February, ESMAILI received a truancy letter from Deputy District Attorney Elisa S. Kim which  
8 required a meeting be attended with the DA. The letter falsely accused ESMAILI of dropping  
9 children off at school with being “Failing to provide them with shelter, clothing and sustenance.”  
10 The letter warned criminal charges could be brought against her daughter, her, and her husband.  
11 This caused ESMAILI great distress, scared her, made her feel physically ill. She had dizzy spells,  
12 heart palpitations, could not sleep and experienced extreme anxiety. She was emotionally  
13 traumatized. ESMAILI notified TURNER of this false report to the district attorney in writing on  
14 April 25, 2022. TURNER had Mr. Dizon respond on her behalf giving TURNER actual  
15 knowledge of the false report of truancy to the legal authorities. Exhibit “3”.

16 75. D.E. begged for an education every day she was put in a cage.

17 76. On February 25, 2022, because he did not wish to mask, L.R. was again “excluded”  
18 and marked with an unexcused absence for the day, made to sit in the “cage” and segregated from  
19 all other students.

20 77. On February 28, 2022, because he did not wish to mask, L.R. was again “excluded”  
21 and marked with an unexcused absence for the day, made to sit in the “cage” and segregated from  
22 all other students.

23 78. There was a “fun run” scheduled during school on February 28, 2022. L.R. was told  
24 that he was not allowed to participate in and would have to remain in the courtyard. Ten year old  
25 L.R. has participated the fun run every single year and did not want to miss it, so he asked his  
26 mother if he could participate. She told him that he could. This event was held outdoors—where  
27 no one was required to mask. REYNOLDS went to the school to watch L.R. like she did every  
28 year. L.R. and the other two protesting students that decided to do the run were not given fun run

1 shirts like every other student or a tracker to see how many laps they would run. L.R. was anxious  
2 and worried SHAVER would stop him at any moment and belittle him.

3 79. On March 2, 2022, because he did not wish to mask, L.R. was again “excluded”  
4 and marked with an unexcused absence for the day, made to sit in the “cage” and segregated from  
5 all other students. That morning, the supervisor was kind enough to take the kids on a walk. The  
6 kids loved it. That afternoon, the supervisor tried to take the students on another walk.  
7 Unfortunately, SHAVER stopped her, preventing the kids from leaving. She explained, “they are  
8 not allowed out, they have to stay in here” referring to their cage.

9 80. On March 2, 2022, there was a fire near the school that polluted the air. The  
10 children were left outside in the very poor air quality. This terrified L.R. and D.E.. The children  
11 googled the fire to see if evacuation was on the horizon and they were reprimanded instead of  
12 made to feel reassured that they were safe. See Exhibit “4” attached hereto and incorporated herein  
13 by reference.

14 81. ESMAILI called the school around 1:50 p.m. to let them know that she was going  
15 to pick D.E. up. When she got on campus, she called the office at 2:09 p.m. to let staff know that  
16 she had arrived and asked for D.E. to be brought out with a sign out sheet because she did not have  
17 a mask and, therefore, would not be permitted into the office. A woman in the front office was  
18 very nice and said she would bring out the sheet. No one ever came outside to meet ESMAILI or  
19 inform her what was going on. She was kept waiting until after the bell rang at 2:15 p.m. At 2:19  
20 p.m., D.E. came around the corner, her face was red, and she was crying. She ran to ESMAILI and  
21 said “Mommy, a lady from the office came out to the cage and asked for me to tell me that you  
22 were here to pick me up. SHAVER wouldn’t let me leave!” D.E. also explained that “SHAVER  
23 said ‘Yes, she is here, but Mom will just need to wait.’” D.E. also explained that SHAVER  
24 “wouldn’t let me go to you, Mom, because she was too busy lecturing us on being disrespectful.”  
25 D.E. was very upset about the way she was treated by SHAVER on this day and the tears kept  
26 flowing. This incident still causes D.E. great trauma today.

1           82.     ESMAILI suffered from severe distress and hurt upon finding out SHAVER kept  
2 D.E. in the cage and lectured her after she had arrived. She emailed TURNER and SHAVER  
3 regarding the horror outlined in paragraph 80 and TURNER did nothing.

4           83.     D.E. attended PAL later that day with a mask but SHAVER pulled her out of PAL  
5 club anyways. While she waited in the office for ESMAILI to pick her up, she saw two unmasked  
6 teachers walk into the office. This made eleven year old D.E. just cry and cry.

7           84.     SVUSD policy is normally a buddy system for safety when it comes to children  
8 using the restroom. However, **the “caged” kids were required to use the restroom alone. This**  
9 **caused D.E.’s younger sister to sit in the cage and hold her urine for five hours** until she got  
10 home because she was afraid to go to the bathroom alone. D.E.’s younger sister, L.E., has only one  
11 kidney and SVUSD has actual knowledge of this fact. Urine retention keeps toxins in a body and  
12 can cause a kidney to swell putting her at a heightened risk for urinary tract infection, kidney  
13 infection or permanent damage to her kidney.

14           85.     Upon learning this information, ESMAILI suffered severe sadness, anxiety, and  
15 emotional distress. She notified TURNER on March 12, 2022 in writing but nothing was done.  
16 Who could do that to a child!

17           86.     On March 3, 4, 7, and 8, 2022, L.R. refused to mask and was therefore “excluded,”  
18 marked with unexcused absences, and forced to sit in the “cage”—alienated from his classmates.

19           87.     On March 9, 2022, because he did not wish to mask, L.R. was again “excluded”  
20 and marked with an unexcused absence for the day, made to sit in the “cage” and segregated from  
21 all other students. Mr. Thew, a teacher, walked by the cage and saw Ms. Toretto sitting in the cage  
22 watching the students. He stated loudly for everyone to hear “poor Ms. Toretto, this isn’t fair she  
23 has to be sitting out there.” This cause L.R. to feel extremely upset and hurt because no one  
24 seemed to care that he had been forced to sit outside for weeks!

25           88.     On March 10, 2022, because he did not wish to mask, L.R. was again “excluded”  
26 and marked with an unexcused absence for the day, made to sit in the “cage” and segregated from  
27 all other students per SVUSD policy.

28



1           89.     After school, L.R. and REYNOLDS learned that another student hadn't brought or  
2 worn a mask for the past two weeks, had not been asked to put it on, and she was not the only one  
3 in her class treated this way. This made L.R. feel terrible as he couldn't understand why these  
4 students were not told to mask but he was made to sit in a cage for the same choice. To L.R. this  
5 was extremely unfair and upsetting.

6           90.     On March 11, 2022, because he did not wish to mask, L.R. was again "excluded"  
7 and marked with an unexcused absence for the day, made to sit in the "cage" and segregated from  
8 all other students per SVUSD policy. SHAVER let L.R. go to lunch this day but after five minutes  
9 ordered him back to the cage. In the five minutes, L.R. tried to play with his friend and SHAVER  
10 discriminated against and yelled at him for play fighting with a student - but said nothing to the  
11 other student. Many children saw the discriminatory punishing treatment and went to see L.R. in  
12 the cage. SHAVER yelled at the children to leave and threatened L.R. with detention for even  
13 speaking.

14           91.     A substitute Ms. Clark played with L.R. and his pencil as the kids were starting to  
15 pack up to leave. Ms. Clark acted like she was handing it to him and pulled it back toward her a  
16 few times, playing around, while he would try and get it from her. Then, she started spinning his  
17 pencil in her fingers, again, playing around with him. At some point, L.R. grasped the pencil.  
18 Principal SHAVER and Assistant Principal Ms. Stevenson both started immediately yelling at  
19 L.R., claiming that he is never to touch a substitute or snatch something from a substitute's hand.  
20 Having sufficiently berated a child, they then had the audacity to ask the substitute if she was  
21 "okay." The substitute was the one that initiated the play! L.R. didn't understand why this was  
22 happening and why the substitute didn't even stick up for him or tell them what happened. L.R. felt  
23 completely attacked.

24           92.     Mask choice was allowed around March 11, 2022. Just prior to the change, an  
25 empathy video was circulated to support those children who would *choose to continue to mask*.  
26 This video was a clear slap in plaintiff's faces. ESMAILI registered her horror at the empathy  
27 shown to those who choose to mask but not her child who chose not to mask to TURNER in  
28 writing on March 12, 2022. No response from TURNER was received.

1           93.     D.E. and L.E. began reporting to ESMAILI and REYNOLDS that every time they  
2 see SHAVER or Ms. Stevenson on campus, or hear their voices, they are afraid and feel great fear  
3 that they will yell at them or tell them they are in trouble for no reason.

4           94.     On March 28, 2022, L.E. had a nightmare that her teacher sent her outside and put  
5 her in a cage where she had to sit all day for simply asking a question. She was sobbing when she  
6 told the story. D.E. feels sick to her stomach when she walks by the cage and angry at  
7 remembering the abuse she suffered.

8           95.     Plaintiffs have exhausted all administrative remedies. As required per the California  
9 Tort Claims Act, L.R., D.E., L.E., ESMAILI and REYNOLDS served tort claim/claim for  
10 damages required by Government Code sections 810-996.6 to which SVUSD, and its agents,  
11 either rejected or never responded to. L.R. and D.E. are minors who have not yet reached 18 years  
12 of age. Petitions for appointment of Steven Reynolds and Siamack Esmaili as Guardian Ad Litem  
13 of the three minors are filed concurrently with this action.

14           96.     ESMAILI filed police reports, a Williams Act Complaint, and formal complaints  
15 with SVUSD based on the abuse suffered by D.E. and L.R..

16           97.     Yvonne Estling, an agent of SVUSD, investigated D.E.'s complaints but the  
17 investigation, by an employee of Defendant SVUSD, was clearly biased. SVUSD refused to have  
18 an unbiased investigation conducted. Then, Ms. Esting found the abuse claims "unsubstantiated"  
19 despite clear evidence to the contrary as alleged herein.

20           98.     The California Department of Public Health K-12 Guidance was never a "mandate"  
21 nor did it have the "force and effect of law" because it did not go through the Administrative  
22 Procedures Act rulemaking process required by statute.<sup>5</sup>

23           99.     Additionally, only health officers have police power delegated to them by the  
24 legislature to enforce health orders, if any exist. Health & Saf Code §§120140; 120175; 120195.  
25 Schools do not. Ed code §49451.

26  
27  
28 \_\_\_\_\_  
<sup>5</sup> Gov. Code, § 11340.5, subd. (a), Gov. Code § 11342.545; Gov. Code, § 11346.1

1           100. A school district is an agency of limited authority, which may exercise only those  
2 powers granted by statute. (*San Juan Teachers Assn. v. San Juan Unified Sch. Dist.*, 44  
3 Cal.App.3d 232, 250)

4           101. "Administrative regulations that alter or amend the statute or enlarge or impair its  
5 scope are void and courts not only may, but it is their obligation to strike down such regulations.  
6 (*Morris v. Williams*, 67 Cal.2d 733, 748 as cited in *Burton v. Board of Education*, 71 Cal. App. 3d  
7 52, 57-58. Neither school boards nor any other administrative agency may set additional terms or  
8 conditions which frustrate rights created by statute. (See *Syrek v. California Unemployment*  
9 *Insurance Appeals Board*, 54 Cal.2d 519, 532; *Ellis v. Board of Education*, 27 Cal.2d 322, 324-  
10 325; *Cabrillo Community College Dist. v. California Junior College Assn.*, 44 Cal.App.3d 367,  
11 371-372. Educators employed by SVUSD certainly had no legal authority to harass, bully,  
12 humiliate, pressure, and mentally traumatize plaintiffs as they did at all times alleged in this  
13 complaint.

14           102. The masks are, at all times alleged herein, only emergency use authorized by the  
15 Federal Drug Administration.<sup>6</sup>

16           103. Masks do not stop virus transmission and are harmful to children's growing brains.<sup>7</sup>

17           104. Since the beginning of the pandemic in early 2020, studies have emerged that prove  
18 the damage to children in particular resulting from illegally forced mask wearing included from  
19 prolonged forced mask wearing in schools that included oxygen deprivation, carbon dioxide  
20 poisoning, increased anxiety, social development impairments, skin rashes and other skin  
21 conditions, speech development delays, mouth, and tooth deformation due to mouth breathing, and  
22 concerning heart issues like tachycardia.

23           105. In January of 2022, after twenty-two months of forcing or coercing much of  
24 society, including schoolchildren, to mask without obtaining the requisite informed consent, the  
25 CDC, along with various other "public health" experts admitted that the cloth masks they had  
26

27 \_\_\_\_\_  
28 <sup>6</sup> <https://www.fda.gov/medical-devices/emergency-situations-medical-devices/faqs-emergency-use-authorization-face-masks-non-surgical>

<sup>7</sup> <https://www.aier.org/article/medical-journal-warns-about-maskss-potentially-devastating-consequences/>

1 forced onto society and on schoolchildren in order to be able to attend school in person were, in  
2 fact, no better than “facial decorations,” and certainly did not work against “new” variants.<sup>8</sup>

3 106. "A public entity is liable for injury proximately caused by an act or omission of an  
4 employee of the public entity within the scope of his employment if the act or omission would,  
5 apart from this section, have given rise to a cause of action against that employee or his personal  
6 representative." Gov. Code, § 815.2(a)

7 **FIRST CAUSE OF ACTION**

8 **(False Imprisonment)**

9 L.R., D.E., and L.R. against

10 Defendants SVUSD, TURNER, SHAVER, DOES 1-50

11 107. Plaintiffs realleges and incorporate herein by reference all preceding paragraphs of  
12 this Complaint as though fully set forth herein.

13 108. Public employees are not entitled to immunity in suits for false arrest or false  
14 imprisonment. Gov't Code §820.4. “A public entity is liable for injury proximately caused by an  
15 act or omission of an employee of the public entity within the scope of his employment if the act  
16 or omission would, apart from this section, have given rise to a cause of action against that  
17 employee or his personal representative." Gov. Code, §815.2(a).

18 109. On or about February 9, 2022-March 11, 2022, defendants SVUSD, and SHAVER,  
19 each acting in the scope of employment for SVUSD, with the knowledge, permission, and  
20 ratification of Superintendent TURNER and SVUSD who exhibited deliberate indifference to the  
21 harms being cause to L.R. and D.E. ***abused their position of authority over L.R. and D.E. when***  
22 ***they isolated, segregated, and imprisoned L.R. and D.E. in a cage*** which created a circumstance  
23 psychologically akin to jail. L.R. and D.E. are ten and eleven year old children, minors, who were  
24 not allowed to play at recess with their friends, and forced to eat in the cage - all against their will,  
25 all without their or their parent’s consent, constituting a deprivation of freedom of movement,

26 <sup>8</sup> Chandra Ambarish (University of Toronto) and Tracy Beth Høeg, MD, PhD (University of California, Davis),  
27 Revisiting Pediatric COVID-19 Cases in Counties With and Without School Mask Requirements—United States,  
28 July 1—October 20 2021, The Lancet (May 25, 2022),  
[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4118566](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4118566);  
K. Kisielinski, P. Giboni, A. Prescher, B. Klosterhalfen, D. Graessel, S. Funken, O. Kempfski, O. Hirsch, Is a Mask  
That Covers the Mouth and Nose Free from Undesirable Side Effects in Everyday Use and Free of Potential  
Hazards?, Int. J. Environ. Res. Public Health 18, no. 8: 4344 (April 20, 2021), <https://www.mdpi.com/1660-4601/18/8/4344>.

1 unprivileged confinement, and false imprisonment. The unprivileged confinement was a method of  
2 coercion, dehumanization, humiliation, and intimidation employed on ten and eleven year old  
3 *children* by Defendants, each of them, acting in the scope of employment for SVUSD, with the  
4 knowledge, permission, and ratification of TURNER who, with actual knowledge that SVUSD  
5 employees were putting *children in a cage*, exhibited deliberate indifference to the harms being  
6 caused to L.R. and D.E. for approximately four weeks.

7 110. This conduct by Defendants SVUSD and SHAVER ratified by TURNER, each  
8 acting in the course and scope of their employment for SVUSD, constituted extreme abuse of their  
9 position of authority over ten year old L.R. and eleven year old D.E. and which constitutes  
10 extreme and outrageous conduct.

11 111. L.R. and D.E. did not, at any time relevant to the claims herein, knowingly, or  
12 voluntarily consent to this imprisonment *in a cage*, isolation nor segregation psychologically akin  
13 to jail or deprivation of basic freedom at school.

14 112. Immediately prior to the acts of defendants herein alleged, L.R. and D.E. had been  
15 peacefully trying to attend school while perfectly healthy, which is compulsory under California  
16 law per Ed. Code §48200 as healthy young ten and eleven year old children, and simply protested  
17 wearing a mask pursuant their First Amendment right under the California and Federal  
18 Constitutions, Cal. Const., art. I, § 1, Ed Code 48907 in violation of Ed Code §201.

19 113. L.R. and D.E. did not, at any time mentioned herein, disrupt the learning  
20 environment, or disrupt any other student or teacher in any way nor were they ever ill.

21 114. In segregating, isolating and imprisoning L.R. and D.E. *in a cage*, and abusing the  
22 power and authority of an educator and an adult in charge of a ten and eleven year old children  
23 entrusted to them by ESMALI AND REYNOLDS, each of them, Defendants, each of them,  
24 intended to dehumanize, humiliate, bully, intimidate, coerce and pressure ten and eleven year old  
25 L.R. and D.E. into wearing a mask against their will, and without any informed consent from the  
26 children or ESMALI or REYNOLDS, by imprisoning them *in a cage*, isolating and segregating  
27 them in a manner psychologically akin to jail.

28

1           115. Defendants SVUSD and its agents and employees, TURNER, and SHAVER each  
2 of them, acting in the course and scope of their employment for SVUSD, acted with deliberate  
3 malice and for the purpose of dehumanizing, intimidating, humiliating, and bullying ten and  
4 eleven year old L.R. and D.E. when they had a statutory right to in person instruction free from  
5 harassment and discrimination and a constitutional right to free speech to protest the experimental  
6 masks. Cal. Const., art. I, § 1; Ed Code 48907.

7           116. As a direct and proximate cause as a result of the Defendant's actions, each of  
8 them, which was a substantial factor in causing the harm to L.R. and D.E., they have been  
9 traumatized, emotionally and mentally damaged at an amount to be determined at trial.

10           117. As a direct and proximate cause as a result of the Defendant's actions, and each of  
11 them, L.R. and D.E. were injured in their health, strength, and activity, sustaining injury to their  
12 mental health, shock and injury to their nervous system and person, and among other injuries, all  
13 of which injuries have caused L.R. and D.E. to suffer post-traumatic stress disorder, extreme and  
14 severe mental anguish. These injuries will result in long term damage to L.R. and D.E. namely  
15 mental trauma and general damage an amount which will be determined at trial.

16           118. As a proximate result of the acts of defendants, and each of them, as herein alleged,  
17 plaintiff has incurred, and will incur, further medical and incidental expenses for the care and  
18 treatment of these injuries, the exact amount of which will be proven at trial.

19           119. The above-recited actions of dehumanization, humiliation, punishment, pressure,  
20 coercion, segregation, isolation, and imprisonment of healthy ten to eleven year old children by  
21 defendants were done with malice, fraud, or oppression, and in reckless disregard of the plaintiff's  
22 rights. Specifically, the defendants intentionally targeted L.R. and D.E., intimidated, dehumanized,  
23 pressured, humiliated, bullied and harassed them because they chose to withhold their informed  
24 consent to experimental medical products and exercise their first amendment right to free speech  
25 and protest. The acts of defendants, SVUSD's agents and employees TURNER and SHAVER, as  
26 herein alleged were willful, wanton, malicious, and oppressive, and justify the awarding of  
27 punitive damages against TURNER and SHAVER.

28

**SECOND CAUSE OF ACTION  
(Negligence)**

All Plaintiffs Against All Defendants

1  
2  
3       120. Plaintiff realleges and incorporates herein by reference all preceding paragraphs of  
4 this Complaint as though fully set forth herein.

5       121. "A public entity is liable for injury proximately caused by an act or omission of an  
6 employee of the public entity within the scope of his employment if the act or omission would,  
7 apart from this section, have given rise to a cause of action against that employee or his personal  
8 representative." Gov. Code, § 815.2(a).

9       122. SVUSD and its employees and agents TURNER, SHAVER, Stevenson, Targos,  
10 Petko, Thew, Estling, Craven, Park, each acting in the course and scope of their employment with  
11 SVUSD, had a duty of ordinary care, statutory and constitutional duties to L.R. and D.E. to  
12 provide an education free from discrimination, harassment, bullying, and physical and mental  
13 injury, refrain from forced independents study, and false imprisonment. These SVUSD agents,  
14 each of them, had a duty to supervise at all times the conduct of staff, and other children on the  
15 school grounds, and to enforce those rules and regulations necessary to ensure the children's  
16 protection and the protection of L.R. and D.E..

17       123. On the dates herein mention in the preceding paragraphs, the SVUSD employees  
18 and agents SHAVER, Stevenson, Targos, Petko, Thew, Estling, Craven, Park, acting with the  
19 permission of SVUSD and TURNER who acted with deliberate indifference, breached their duty<sup>9</sup>  
20 to L.R. and D.E. and ESMALI and REYNOLDS by intentionally and negligently failing to  
21 exercise "that degree of care 'which a person of ordinary prudence, charged with comparable  
22 duties, would exercise under the same circumstance" when they committed negligent and  
23 intentional conduct of intentional intimidation, bullying, harassment, discrimination, humiliation,  
24 isolation, dehumanization, segregation akin to jailing a healthy child, putting L.E.'s physical  
25 health at risk for kidney failure, forced L.E., L.R. and D.E. into independent study in violation of

26  
27 \_\_\_\_\_  
28 <sup>9</sup> A school district is liable for injuries caused by inadequate supervision of students on school grounds. *Dailey v. Los Angeles Unified Sch. Dist.* (1970) 2 Cal. 3d 741, 747-751; *Biggers v. Sacramento City Unified Sch. Dist.* (1972) 25 Cal. App. 3d 269, 273-275.

1 the Education Codes, and filed a false claim of unexcused absences amounting to claims of  
2 truancy knowing that the claim or report is false, or with reckless disregard for the truth or falsity  
3 of the claim or report.

4 124. As a proximate result of the actions of Defendants' breaches of duty, each of them  
5 acting in the capacity as employees for SVUSD as outlined in preceding paragraphs, caused  
6 ESMAILI, REYNOLDS, L.R., D.E. and L.E. to be frightened, upset, nervous and humiliated, and  
7 suffered extreme and severe mental suffering and duress, emotional distress and mental damage, to  
8 lose sleep, suffer mental trauma, suffer from post-traumatic stress, physical damage, damage to  
9 their nervous system, learning loss and other damages to be presented at trial. On the occasions  
10 outlined herein, when L.R., D.E, and L.E. attempted to exercise their fundamental right to in  
11 person instruction and to protest under the California Constitution and Education Codes, while  
12 healthy, without a mask as is their statutory and constitutional right, they were dehumanized,  
13 denied learning, harassed, humiliated, isolated, segregated, and discriminated against for not  
14 wearing an experimental mask by SVUSD agents and employees SHAVER, Targos, Petko, Thew,  
15 Estling, Craven, Park, and Stevenson with permission and such conduct being ratified by SVUSD  
16 and TURNER. This negligent and intentional conduct by the Defendant SVUSD employees, each  
17 of them, inflicted severe physical and emotional trauma, embarrassment, humiliation, and  
18 emotional distress on Plaintiffs.

19 125. SVUSD's employee's conduct, and each of its agents, at all times in this regard was  
20 extreme and outrageous as Defendants TURNER, SHAVER and other SVUSD employees  
21 mentioned herein abused their position of power over L.R., D.E. and L.E.

22 126. As a direct and proximate cause as a result of the Defendants SVUSD and its agents  
23 and employees TURNER, and SHAVER, each of them acting in the course and scope of their  
24 employment, malicious, intentional, and negligent actions described herein, Plaintiffs have  
25 suffered great stress, annoyance, emotional trauma, incurred attorney's fees in an amount to be  
26 proven at trial.

27 **THIRD CAUSE OF ACTION**  
**(Intentional Infliction of Emotional Distress)**  
28 All Plaintiffs Against all Defendants



1           127. Plaintiff incorporates, by reference, all the foregoing paragraphs of this complaint  
2 as though fully set forth herein.

3           128. "A public entity is liable for injury proximately caused by an act or omission of an  
4 employee of the public entity within the scope of his employment if the act or omission would,  
5 apart from this section, have given rise to a cause of action against that employee or his personal  
6 representative." Gov. Code, § 815.2(a)

7           129. Defendant's conduct, SVUSD and its agents and employees, TURNER, and  
8 SHAVER, each of them acting in the course and scope of their employment with SVUSD, was a  
9 clear abuse of their position of power over ten and eleven year old L.R., D.E. and L.E. by putting  
10 them in a cage and falsely imprisoning them, intentionally and knowingly exacerbating conditions  
11 of ADHD and kidney disease in plaintiffs, failing to hydrate or nourish them or failing to allow  
12 them to go to the bathroom with a buddy. As outlined herein in the preceding paragraphs  
13 incorporated herein by this reference, the conduct was so outrageous in character and so extreme  
14 in degree as to go beyond all possible bounds of decency and to be regarded as atrocious and  
15 utterly intolerable in a civilized community. Defendant SVUSD's agents Principal SHAVER,  
16 Stevenson, Targos, Petko, Thew, Estling, Craven, Park, and TURNER, who were in positions of  
17 power as school authorities over L.R., D.E. and L.E. isolated, segregated, and imprisoned L.R. a  
18 ten year old, D.E. an eleven year old and L.E. a nine year old in a manner akin to tortious jail. This  
19 conduct was against their parent's wishes, they was not allowed to leave, and they were tortured –  
20 L.R. due to his ADHD condition and L.E. due to her kidney condition. SHAVER and Stevenson  
21 kept them from their friends, made them eat alone or did not feed them, confined them to a cage  
22 while suffering from ADHD and kidney problems all against their will and without consent for  
23 weeks. SHAVER, Stevenson, Targos, Petko, Thew, Estling, Craven, Park, and TURNER  
24 humiliated L.R. and D.E. in front of their peers repeatedly as alleged in the general allegations  
25 incorporated herein by this reference. SVUSD and its agents falsely reported L.R. and D.E.  
26 unexcused from school, which resulted in truancy allegations from the Orange County district  
27 attorney, knowing that the claim or report was patently false, and with reckless disregard for the  
28 truth or falsity of the claim or report in violation of civil code section 51.7.

1 130. This conduct by Defendants, each of them in the course and scope of their  
2 employment for SVUSD, was done to intentionally dehumanize, humiliate, bully, intimidate,  
3 pressure, and coerce L.R., D.E. and L.E. into wearing a mask or to make them so miserable they  
4 would comply. All of this aforementioned illegal conduct of SHAVER, Targos, Petko, Thew,  
5 Estling, Craven, Stevenson, and Park was actually known to TURNER and SVUSD board of  
6 trustees, and with deliberate indifference thereafter, ratified by them.

7 131. The Defendants, each of them, acting in the course and scope of their employment  
8 with SVUSD, intended to cause, and/or recklessly disregarded the possibility of causing  
9 ESMAILI, REYNOLDS, L.R., D.E., L.E. severe emotional distress. The Defendants, each of  
10 them, acting in the course and scope of their employment with SVUSD acted knowingly,  
11 intentionally, or unreasonably with the recognition that the acts mentioned herein in preceding  
12 paragraphs were an extreme abuse of power and Defendants, each of them knew, their conduct  
13 was likely to result in illness through mental distress to young ten year old L.R., eleven year old  
14 D.E., and young nine year old L.E.

15 132. As a direct result and proximate cause due to Defendant's outrageous conduct  
16 outlined herein, L.R., D.E., L.E., ESMAILI and REYNOLDS suffered, have post-traumatic stress  
17 disorder, and severe and pervasive emotional distress and trauma.

18 133. These acts of abuse of power by Defendants SVUSD by its agents and employees  
19 acting in the course and scope of their employment with SVUSD, and each of them, as herein  
20 alleged were outrageous, intentional, willful, wanton, malicious, and oppressive, and justify the  
21 awarding of punitive damages against SHAVER and TURNER.

22 **FOURTH CAUSE OF ACTION**  
23 **(Civil Rights Violations California Civil Code 52.1)**

24 **Tom Bane Act**

25 All Plaintiffs Against All Defendants

26 134. Plaintiff incorporates, by reference, all the foregoing paragraphs of this complaint  
27 as though fully set forth herein.

28 135. "A public entity is liable for injury proximately caused by an act or omission of an  
employee of the public entity within the scope of his employment if the act or omission would,

1 apart from this section, have given rise to a cause of action against that employee or his personal  
2 representative." Gov. Code, § 815.2(a). California law permits respondeat superior liability for  
3 Bane Act violations. *I.V. v. Vacaville Unified Sch. Dist.*, 2020 U.S. Dist. LEXIS 28474, \*17 citing  
4 Gov. Code, § 815.2(a).

5 136. Students in public schools have a fundamental right to in person instruction.  
6 California Constitution AIX SEC. § 5. All students are entitled to "equal rights and opportunities"  
7 in education (Ed. Code § 200) and to participate fully in the educational process "free from  
8 discrimination and harassment." (Ed. Code § 201, subd. (a).)

9 137. All students possess the right of freedom of speech and expression guaranteed by  
10 Section 2(a) of Article I of the California Constitution, and §48907 of the Education Code.

11 138. Health and Safety Code §24170 et seq require that the use of experimental products  
12 be precipitated by obtaining informed consent.

13 139. It is a fundamental right of a parent to make decisions concerning the care, custody,  
14 and control of his child. (*Doe v. Albany Unified School Dist.* (2010) 190 Cal.App.4th 668, 685,  
15 citing *In re Samuel G* (2009) 174 Cal.App.4th 502, 509 ("Among the constitutional privileges  
16 enjoyed by parents is the right to determine how their children should be educated"); *Troxel v.*  
17 *Granville* (2000) 530 U.S. 57, 66, citing cases recognizing "the fundamental right of parents to  
18 make decisions concerning the care, custody, and control of their children").

19 140. Civil Code 52.1(c)<sup>10</sup> provides for a private right of action for any individual whose  
20 exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of  
21 **rights secured by the Constitution or laws of this state, has been interfered with, or**  
22 **attempted to be interfered with, as described in subdivision (b)** of this statute which states:

23 <sup>10</sup> SECTION 1. (a) The Legislature hereby finds and declares all of the following: (1) Section 52.1 of the Civil Code  
24 guarantees the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of  
25 the United States, or of the rights secured by the Constitution or laws of this state without regard to his or her  
26 membership in a protected class identified by its race, color, religion, or sex, among other things. (2) The decision in  
27 *Boccatto v. City of Hermosa Beach* (1994) 29 Cal.App.4th 1797 misconstrued Section 52.1 of the Civil Code to  
28 require that an individual who brings an action, or on whose behalf an action is brought, pursuant to that section, be a  
member of one of those specified protected classes. (b) It is the intent of the Legislature in enacting this act to clarify  
that an action brought pursuant to Section 52.1 of the Civil Code does not require the individual whose rights are  
secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of  
California to be a member of a protected class identified by its race, color, religion, or sex, among other things. Cal  
Civ Code § 52.1

1  
2 "If a person or persons, whether or not acting under color of law, interferes by threat,  
3 intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, with  
4 the exercise or enjoyment by any individual or individuals of rights secured by the  
5 Constitution or laws of the United States, or of the rights secured by the Constitution or  
6 laws of this state" they may bring a civil action for damages, including but not limited to,  
7 damages under Civil Code §52 which are civil penalties of \$25,000 plus damages and  
8 attorney's fees.

9  
10 141. Defendants, each of them, acting in the scope of their employment, and ratified by  
11 SVUSD and TURNER, with deliberate indifference to the harm it was causing Plaintiffs,  
12 intentionally tried to coerce and intimidate L.R., D.E. and L.E., and did in fact prevent them from  
13 doing something they had the right to do under the law – namely go to school free from abuse,  
14 harassment, discrimination. Defendants prevented ESMAILI and REYNOLDS from exercising  
15 their fundamental right to control the custody and care of their own children. Defendants, each of  
16 them with deliberate indifference to the harm it caused tried to force the L.R., D.E. and L.E. to do  
17 something they were not required to do– namely wear an experimental mask.

18  
19 142. Defendants, each of them, acting in the scope of their employment, and ratified by  
20 SVUSD and TURNER with deliberate indifference to the harm it was causing L.R., D.E., and L.E.,  
21 violated their state and constitutional rights articulated in paragraph 135-138 when they  
22 imprisoned, segregated and isolated L.R., D.E. and L.E. against their will, dehumanized them by  
23 putting them in a cage, bullied them, attempted to coerce them into wearing a mask by way of  
24 intimidation, pressure and humiliation by marking L.R. and D.E. unexcused when they were not  
25 absent, discriminated against them for exercising their right to free speech and to attend school,  
26 harassed, and otherwise emotionally harmed L.R., D.E., L.E, ESMAILI and REYNOLDS because  
27 their parents allowed them to protest wearing a mask. L.R., D.E. and L.E. were bullied,  
28 dehumanized, chastised, shunned, humiliated, imprisoned, segregated, isolated, refused their  
fundamental right to in person instruction, and repeatedly belittled by their educators who are  
always supposed act in the best interest of children and to ensure children thrive in their learning  
environment. These acts on the part of the defendants, interfered with, or were attempts to interfere  
with plaintiffs' exercise of their fundamental rights as outlined herein.

1 143. Defendant SVUSD and its agents and employees, acting in the scope of their  
2 employment, and ratified by SVUSD leadership including TURNER, with actual knowledge and  
3 deliberate indifference to the harm it was causing plaintiffs, interfered with, and attempted to  
4 interfere with their constitutional and statutory rights listed in paragraph 135-138. They also  
5 reported them to the Orange County District Attorney knowing that the claim or report is false, or  
6 with reckless disregard for the truth or falsity of the claim or report in violation of civil code  
7 section 51.7.

8 144. As a result, plaintiffs reasonably believed that if they continued to exercise their  
9 rights to free speech and to attend school free from discrimination and harassment, Defendants,  
10 each of them, would continue to dehumanize, bully, humiliate, intimidate, pressure, and coerce  
11 them all to interfere with their rights as outlined herein.

12 145. By reason of Defendants' conduct as herein alleged, defendant's actions constituted  
13 a violation of Civil code §52.1, California Constitution § 5, AIX: SEC. 5, Health and Safety code  
14 sections 24176 et seq, unlawful harassment and discrimination in violation of California Education  
15 Code §§201, 200, 220, and 234 et seq, and Ed. Code §48900.

16 146. As a direct and proximate cause of the Defendant's and its agents malicious,  
17 intentional, and negligent actions described herein, plaintiffs have suffered great stress, annoyance,  
18 emotional and mental trauma, and incurred attorney's fees in an amount to be proven at trial.

19 147. The actions of the defendant were done with malice, fraud, or oppression, and in  
20 reckless disregard of the plaintiff's rights which supports recovery of punitive damages against  
21 TURNER, and SHAVER.

22 **FIFTH CAUSE OF ACTION**  
23 **(Civil Rights Violations)**  
24 **Cal. Const., art. I, § 2(a); Educ. Code § 48907(a)**  
25 **L.R., D.E., and L.E. Against All Defendants**

26 148. Plaintiff incorporates, by reference, all the foregoing paragraphs of this complaint  
27 as though fully set forth herein.

28 149. "A public entity is liable for injury proximately caused by an act or omission of an  
employee of the public entity within the scope of his employment if the act or omission would,  
apart from this section, have given rise to a cause of action against that employee or his personal

1 representative." Gov. Code, § 815.2(a). California law permits respondeat superior liability for  
2 Bane Act violations. *I.V. v. Vacaville Unified Sch. Dist.*, 2020 U.S. Dist. LEXIS 28474, \*17 citing  
3 Gov. Code, § 815.2(a).

4 150. On or about February 9, 2022 to March 10, 2022, while healthy and lawfully on the  
5 premises of SVUSD for the purpose of attending classes therein, L.R., and D.E. refused to wear a  
6 face covering in protest<sup>11</sup> which is conduct protected by Cal. Const., art. I, § 2(a) and Education  
7 Code §48907. L.E. refused to wear a mask in protest for a few days.

8 151. The refusal to wear a mask in protest of the government's attempt to unlawfully  
9 silence and control its citizens falls under the umbrella of protected political speech. (*Texas v.*  
10 *Johnson* (1989) 491 U.S. 397, 404-405, citing *Tinker v. Des Moines Independent Community*  
11 *School District* (1969) 393 U.S. 503, 505 (the expressive nature of students wearing of black  
12 armbands to protest American military involvement in Vietnam is protected by the First  
13 Amendment).

14 152. Thereafter, SHAVER and other SVUSD agents acting pursuant to the SVUSD  
15 policy, conduct which ratified by TURNER who had actual knowledge, ordered L.R., D.E. and  
16 L.E. to wear a face covering, put them in a cage outside in the freezing cold and scorching heat,  
17 and dehumanized and humiliated them almost daily in front of their peers and adults to embarrass  
18 and coerce them into wearing a mask in violation of their free speech right to protest. When  
19 plaintiffs refused to wear an experimental face covering, Principal SHAVER, and other SVUSD  
20 agents, ratified by SVUSD and TURNER with actual knowledge of the abuses plaintiffs were  
21 suffering, isolated and segregated L.R., D.E. and L.E. in a cage, did not let them play at recess  
22 with friends, forced them to eat in the cage or didn't feed them, made them hold their urine all day  
23 risking kidney damage, made L.R. suffer from exacerbated ADHD symptoms while in the cage,  
24 kept them in the freezing cold and scorching heat all against their will and without consent

25  
26 \_\_\_\_\_  
27 <sup>11</sup> Conduct is protected by the First Amendment as free speech if, based on the context surrounding the conduct, a  
28 reasonable observer would understand the actor's intended meaning. *United States v. O'Brien*, 391 U.S. 367 (1968);  
*Spence v. Washington*, 418 U.S. 405 (1974); and *West Virginia State Board of Education v. Barnette*, 319 U.S. 624  
(1943).

1 constituting unprivileged confinement of plaintiffs by force or intimidation for weeks over their  
2 and their parent's objection and protest.

3 153. The above-described school district policies which SVUSD and its agents and  
4 employees punitively implemented in violation of California law and the constitution, denied L.R.,  
5 L.E. and D.E. their right of freedom of speech and expression as guaranteed by the First and  
6 Fourteenth Amendments of the United States Constitution, Section 2(a) of Article I of the  
7 California Constitution, and §48907 of the Education Code, both on its face and as applied to  
8 plaintiffs, and is unconstitutionally vague and overbroad in that it has no rational relationship to  
9 any government concern.

10 154. L.R.'s, D.E.'s, and L.E.'s protest of politely refusing to wear a mask when they  
11 were perfectly healthy neither disrupted learning or violated the rights of other students.

12 155. By reason of Defendants' acts, each of them, and conduct as herein alleged, the  
13 circumstances surrounding Plaintiffs' refusal to mask in protest of SVUSD's mask policy rendered  
14 their conduct sufficiently expressive to fall within the scope of the First Amendment. This is  
15 because a reasonable observer of Plaintiffs' actions would have understood them as being  
16 inherently expressive—one of clear protest.

17 156. Where a rule results in infringement of a fundamental right, such rule is subject to  
18 strict scrutiny. (*Washington v. Harper* (1990) 494 U.S. 210, 223, 229). Strict scrutiny demands  
19 that the government actor establish (1) it has a compelling interest that justifies the challenged  
20 rule; (2) the rule is necessary to further that interest; and (3) the rule is narrowly drawn to achieve  
21 that end.

22 157. By reason of Defendants' acts and conduct as herein alleged, and as a proximate  
23 result of the punitive enforcement of CDPH's non-binding recommendations as a mandated school  
24 policy, and the intentional abuse, intimidation, coercion and pressure tactics employed by  
25 Defendants SVUSD, its agents and employees including but not limited to SHAVER, ratified by  
26 TURNER with actual knowledge, each of them, denied L.R., D.E. and L.E. of their right of  
27 freedom of speech and expression as guaranteed by the First and Fourteenth Amendments of the  
28

1 United States Constitution, Article 2(a) of Article I of the California Constitution, and §48907 of  
2 the California Education Code.

3 158. By reason of defendants' acts and conduct as herein alleged, plaintiffs have  
4 suffered emotional damage in an amount to be proven at trial.

5 159. The actions of the defendant were done with malice, fraud, or oppression, and in  
6 reckless disregard of the plaintiffs' rights which supports recovery of punitive damages against  
7 SVUSD agents and employees including SHAVER, and TURNER, who ratified the bad acts of  
8 defendants.

9 **SIXTH CAUSE OF ACTION**  
10 **(Unlawful Coercion into Voluntary Independent Study in violation of Education Code § §**  
11 **51749.5, 51749.6, 51746 and 51747)**  
12 **Damages Per Cal. Gov't Code § § 815.6, 815.2, 820 and 945**  
13 **L.R., and D.E., against SVUSD, TURNER and SHAVER**

14 160. Plaintiff incorporates, by reference, all the foregoing paragraphs of this complaint  
15 as though fully set forth herein.

16 161. California Education Code §§51749.5(a)(12) and 51749.6 state that a student must  
17 not be required to enroll in independent study courses as they are voluntary and optional. Ed Code  
18 § 51747(g)(8). The independent study statutes, Education Code sections 51749.5, 51749.6, 51746,  
19 and 51747, prohibit school districts from forcing or coercing any student into independent study,  
20 while specifically prescribing requirements and "implementing guidelines, leaving zero discretion  
21 to deviating from said directives. §51749.5,(a)(12). As a condition of enrolling in independent  
22 study, a student "shall" be afforded a "pupil-parent-educator conference," a learning agreement,  
23 and a written statement to his or her parents. *See* Ed. Code §§ 51747(f)(9)(F), 51749.6(a), and  
24 51747(h)(2). While enrolled in independent study, the student shall be afforded full access to  
25 school facilities. *See* Ed. Code § 51746. The foregoing sections of law contain "implementing  
26 guidelines," and do not lend themselves to "normative or qualitative debate over whether [they  
27 were] adequately fulfilled."

28 162. The prohibition on compelled participation in independent study is also articulated  
in title 5, §11700 of the California Code of Regulations, which offers that "independent study is an



1 educational alternative in which no pupil may be required to participate,” and that “a pupil’s  
2 choice to commence or continue independent study, must not be coerced.”

3 163. Before an independent study plan may commence for a student under eighteen  
4 years of age, the student and a parent or legal guardian must review and approve any independent  
5 study plan, *see* Ed. Code §51749.6, which must be determined to be in the best interest of the child  
6 pursuant to a “pupil-parent-educator conference.” *See* Ed. Code § 51747(h)(2).

7 164. Pursuant to Education Code §51747(f)(9)(F), before a student can be enrolled in  
8 independent study, there must be a “signed written agreement from independent study from the  
9 pupil, or the pupil’s parent or legal guardian if the pupil is less than 18 years of age.”

10 165. Within five days of a request to return to in-person learning from independent  
11 study, a local education agency must develop a plan to effectuate the request. Education Code §  
12 51749.5(a)(9).

13 166. Education Code §51747 indicates that a local educational agency shall not receive  
14 funding for an independent study program unless such is an optional educational alternative in  
15 which “no pupil may be required to participate.” Ed. Code § 51747(g)(8).

16 167. A child enrolled in independent study cannot be excluded from school facilities.  
17 Ed. Code § 51746. Instead, the school “shall ensure the same access to all existing services and  
18 resources in the school in which the pupil is enrolled . . . as is available to other pupils in the  
19 school.” *Id.*

20 168. Schools with independent study programs are required to “transition pupils whose  
21 families wish to return to in-person instruction from independent study expeditiously, and, in no  
22 case, later than five instructional days.” Ed. Code § 51747(f).

23 169. By removing L.R. and D.E. from their Foothill Ranch Elementary School  
24 classrooms, and *placing them in a cage* for their peaceful protest against SVUSD’s mask  
25 “mandate,” Defendants *ipso facto* forcibly enrolled L.R. and D.E. in independent study and,  
26 thereby, violated these education code provisions. Neither L.R. nor D.E. voluntarily enrolled in an  
27 independent study program. In February and March of 2022, L.R. and D.E. simply were told by  
28 Defendants that they would not be permitted back to class unless they adorned a mask.

1           170. When L.R. and D.E. refused to comply while wanting to attend in-person  
2 education, Defendants attempted to coerce them into compliance by humiliating and punishing  
3 them by alienation to an outdoor “cage.” This relegation to the status of “zoo animals” instead of  
4 “pupils” persisted—for weeks. There was no “pupil-parent-educator conference” with either  
5 Plaintiffs L.R. or D.E. to determine whether enrolment in independent study was in the “best  
6 interest” of these children.

7           171. By relegating these students to an outdoor enclosure where they were told to sit at  
8 tables all day and not leave—but to use the restroom—by denying these students access to the  
9 classroom, to recess, to lunch, and to various school activities such as the School’s “fun run” and  
10 extracurricular activities, Defendants denied L.R. and D.E. “access to all existing services and  
11 resources in the school in which the pupil[s] are] enrolled . . . as is available to all other pupils in  
12 the school.” Ed. Code § 51746. Finally, Defendants never offered L.R. or D.E. return to in-person  
13 services at SVUSD, despite repeated demands from these students and their parents.

14           172. Due to the compulsory nature of government schools, districts have a “special  
15 relationship” with and owe a duty to schoolchildren. *Id.* at 1854, *see also Leger v. Stockton Unified*  
16 *Sch. Dist.*, 202 Cal.App.3d 1448, 1458-1460 (1988).

17           173. By reason of Defendants' acts and conduct as herein alleged, and as a proximate  
18 result, Defendants failed to comply with their *mandatory duty* under California law, per Gov’t  
19 Code §815.6, not to force children into independent study and, thereby, harmed L.R. and D.E.  
20 along with their mothers, ESMAILI and REYNOLDS. The Tort Claims Act, Gov’t Code section  
21 815.6, provides a private right of action for damages against a public entity for breach of a  
22 “mandatory duty.” *Henderson v. Newport-Mesa Unified Sch. Dist.*, 214 Cal. App. 4<sup>th</sup> 478, 494  
23 (2013). A mandatory duty exists where the subject enactment utilizes the word “shall,” which is  
24 instructive not determinative, where the enactment contains “implementing guidelines” and where  
25 the government duty is obligatory rather than discretionary. *Cty. of L.A. v. Superior Court*, 209  
26 Cal. App. 4<sup>th</sup> 543, 549 (2012).

27           174. By sticking L.R. and D.E. in their cage and denying them in-person instruction,  
28 Defendants breached their clear mandatory duties secured by the foregoing Education Code

1 sections. By denying L.R. and D.E. access to basic amenities afforded to other students—such as  
2 lunch and recess—Defendants excluded L.R. and D.E. from school facilities. It is beyond cavil  
3 that the mandatory duties imposed upon Defendants by the foregoing provisions of the California  
4 Education Code were not fulfilled when L.R. and D.E. were stuck outside for four weeks, without  
5 a meeting with their parents, against their will, and without any say in the matter.

6 175. By reason of Defendants' acts and conduct as herein alleged, and as a proximate  
7 result, by sticking L.R. and D.E. in the scorching heat and freezing cold against their wishes and  
8 the clear requirements of the Education Code, Defendants caused these children great harm and  
9 distress.

10 176. By reason of defendants' acts and conduct as herein alleged, plaintiffs have  
11 suffered emotional damage and learning loss in an amount to be proven at trial.

12 177. The actions of the defendants were done with malice, fraud, or oppression, and in  
13 reckless disregard of the plaintiffs' rights which supports recovery of punitive damages against  
14 SVUSD agents and employees SHAVER, including TURNER, who ratified the bad acts of  
15 defendants.

16 **SEVENTH CAUSE OF ACTION**  
17 **Human Experimentation**  
18 **(Health and Safety Code Sections 24170 et seq)**  
19 L.R., D.E., and L.E., as to All Defendants

20 178. Plaintiffs reallege and incorporate by reference their allegations in each of the  
21 preceding paragraphs in this Complaint as if fully set forth herein.

22 179. The California Legislature codified in Health & Safety Code sections 24170-  
23 24179.5 (entitled "Human Experimentation") the right of citizens to not be forced into unwanted  
24 medical experiments or subjected to unwanted medical devices or products. Section 24176 of the  
25 California Health & Safety Code prescribes the civil and criminal penalties for "any person" who  
26 conduct a medical experiment on another human being without obtaining the subject's informed  
27 consent.

28 180. California Health & Safety Code §24172 provides that citizens "(j) Be given the  
opportunity to decide to consent or not to consent to a medical experiment without the intervention  
of any element of force, fraud, deceit, duress, coercion, or undue influence on the subject's

1 decision California Health & Safety Code §24173 provides that “informed consent” means “(c)(7)  
2 An instruction to the subject that he or she is free to withdraw his or her prior consent to the  
3 medical experiment and discontinue participation in the medical experiment at any time, without  
4 prejudice to the subject.”

5 181. California Health & Safety Code §24174 provides that a “medical experiment”  
6 means, among other things “(a) the use of a drug or device.” Masks meet the definition of “device”  
7 per Device” Health & Saf Code § 109920. The masks are only emergency use authorized by the  
8 Federal Drug Administration<sup>12</sup> (“FDA”) and as such legally defined as experimental.

9 182. Thereafter, SHAVER and other SVUSD agents acting pursuant to the SVUSD  
10 policy and acting in the scope of their employment, conduct which ratified by TURNER who had  
11 actual knowledge of its occurrence, ordered L.R., D.E. and L.E. to wear an experimental device  
12 daily, namely an EUA authorized face covering while healthy to participate in learning. When  
13 L.R., D.E. and L.E. stopped doing so by way of protest, Defendants put them in a cage outside in  
14 the freezing cold and scorching heat, and dehumanized and humiliated them almost daily in front  
15 of their peers and adults to embarrass and coerce them into wearing a mask in violation of the  
16 aforementioned health and safety codes.

17 183. By reason of Defendants’ conduct as herein alleged, defendant’s actions constituted  
18 a violation of Health and Safety Code §§24170-24179.5.

19 184. As a direct and proximate cause of the Defendant’s and its agents malicious,  
20 intentional, and negligent actions described herein, which violates Health and Safety Code §24170  
21 et seq, plaintiffs have suffered great stress, annoyance, emotional and mental trauma, and incurred  
22 attorney’s fees in an amount to be proven at trial.

23 185. The actions of the defendant were done with malice, fraud, or oppression, and in  
24 reckless disregard of the plaintiff’s rights which supports recovery of punitive damages against  
25 SVUSD agents and employees TURNER and SHAVER.

26  
27 \_\_\_\_\_  
28 <sup>12</sup> <https://www.fda.gov/medical-devices/emergency-situations-medical-devices/faqs-emergency-use-authorization-face-masks-non-surgical>


**PRAYER**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Wherefore Plaintiff pray for relief as follows:

1. For general, compensatory and reliance damages in an amount to be determined at trial;
2. For statutory damages in a sum to be determined at trial.
3. For interest on the principal amount of damages due at the legal rate;
4. For exemplary and punitive damages in an amount to be proven at trial per civil code section §3294;
5. For civil penalties pursuant to civil code §51-52 and other applicable law;
6. For civil penalties pursuant to applicable Health and Safety Code 24176;
7. For reasonable attorney's fees pursuant to all applicable provisions of law, including but not limited to, civil code §51-52;
8. For costs of suit incurred herein; and
9. For such other and further relief as the court may deem just and proper.

Date: July 12, 2023.

By:  \_\_\_\_\_  
Tracy L. Henderson, Esq  
Attorney for Plaintiffs

# **EXHIBIT 1**

---

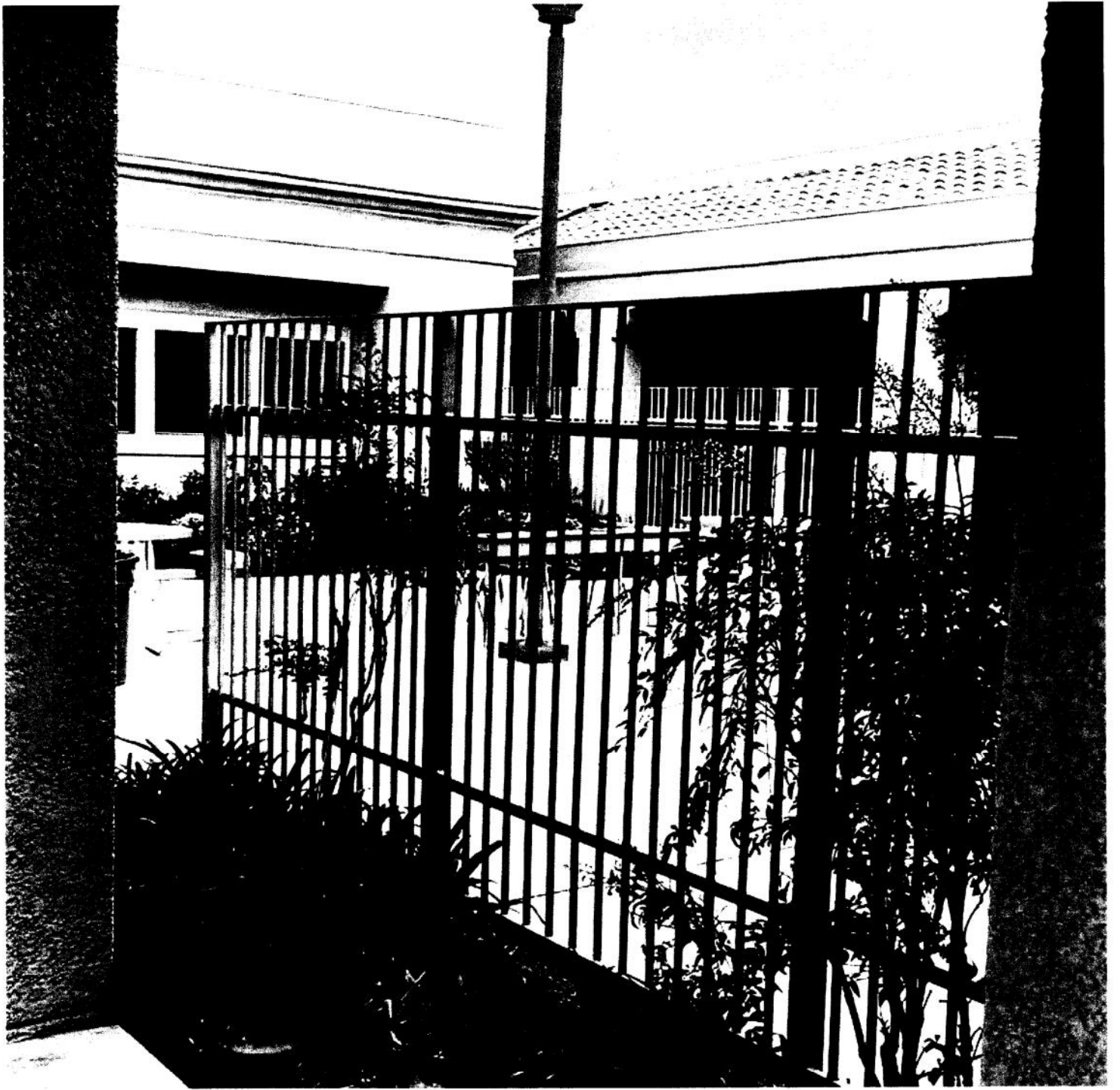


## **EXHIBIT 2**

---







# **EXHIBIT 3**

---



OFFICE OF THE  
**DISTRICT ATTORNEY**  
ORANGE COUNTY, CALIFORNIA  
TODD SPITZER

February 24, 2022

[REDACTED]

Regarding [REDACTED]

Dear [REDACTED]

The administrators of Foothill Ranch Elementary have informed the Office of the District Attorney that your child, [REDACTED] has poor attendance. It is the goal of this office in partnership with the schools of Orange County that all children attend school regularly. Regular school attendance is necessary for children to develop the skills needed to succeed in life. It is your responsibility as parents to make sure your child attends school regularly. This office is committed to facilitating the regular attendance of [REDACTED] and will take all necessary steps to achieve that goal.

You and your child are required to join us on Zoom, March 31, 2022 at 3:00 p.m. to discuss your child's attendance and the legal consequences for non-attendance.

[REDACTED]

California law requires children to go to school. When a child misses 3 or more days of school or is tardy 30 minutes or more, the child is truant and must be reported to the attendance supervisor or superintendent of the school district. If your child's attendance does not improve, both you and your child may be subject to prosecution which may include a fine, community service, or weekend school. If your child's attendance problem does not resolve immediately, the court process will begin, which starts with a referral to the School Attendance Review Board (SARB).

It is your duty as a parent to provide for your child's education in the same way you provide food, clothing, and shelter. If you continue to ignore this duty, the District Attorney's Office may have no choice but to file charges against you and/or your child. Your failure to attend this meeting may cause the prosecution to proceed. If you have any questions, please contact Deborah Shaver, Principal, phone 949-470-4885.

Please do not contact me directly, as I will not be able to answer specific questions regarding your child's attendance. We sincerely hope to see you at this meeting and to resolve any issues that might be preventing your child's regular attendance.

Respectfully,

*Elisa Kim*

Elisa S. Kim  
Deputy District Attorney

ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

WEB PAGE: <http://www.ocda.org>

ADMINISTRATIVE  
SERVICES  
SECTION

COMMUNITY  
RELATIONS  
SECTION

LEGAL  
COUNSEL  
SECTION

HARBOR OFFICE  
401 JUANITA RD.  
NEWPORT BEACH, CA 92660  
(949) 470-4885

AVENUE OFFICE  
341 CITY DRIVE SOUTH  
ORANGE, CA 92668  
(714) 856-7634

CENTRAL OFFICE  
300 N. PLOWEN ST.  
SANTA ANA, CA 92703  
PO BOX 808 (82702)  
(714) 834-2862

# **EXHIBIT 4**

---



March 2

1:03 PM

Edit

