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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **COUNTY OF ORANGE**

Judge Ronald L. Bauer

9 MICAELA SANCHEZ CORONA and THE
ESTATE OF EMMANUEL PEREZ, by and
10 through its Successor in Interest MICAELA
SANCHEZ CORONA,

11 Plaintiffs,

12 v.

13 ORANGE UNIFIED SCHOOL DISTRICT, a
14 public entity and DOES 1 through 50,
15 inclusive,

16 Defendant.

Case No. 30-2019-01109866-CU-PO-CJC

**PLAINTIFFS' COMPLAINT FOR
WRONGFUL DEATH DAMAGES:**

1. NEGLIGENCE

**2. NEGLIGENT HIRING/RETENTION/
SUPERVISION/TRAINING**

DEMAND FOR JURY TRIAL

17 and Nominal Party:

18 JAIME PEREZ,

19 Nominal Party.
20
21

22 **COMES NOW** Plaintiffs MICAELA SANCHEZ CORONA and THE ESTATE OF
23 EMMANUEL PEREZ by and through its Successor in Interest MICAELA SANCHEZ CORONA,
24 for causes of action against Defendant ORANGE UNIFIED SCHOOL DISTRICT ("OUSD") and
25 DOES 1 through 50, inclusive, complain and allege as follows:

26 **GENERAL ALLEGATIONS**

27 1. This wrongful death and survival action is being brought on behalf of Emmanuel
28 Perez's ("Decedent") heirs and successor-in-interest against those entities and individuals responsible

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1 for causing Decedent's death to compensate them for their injuries and tragic loss.

2 2. Decedent, affectionately referred to as "Manny" and aged 15-years-old at the time of
3 his death on September 9, 2019, was the oldest son of Micaela Sanchez Corona ("Plaintiff"). At all
4 times mentioned herein, Plaintiff and Decedent resided in Orange County.

5 3. At the time of his death, Decedent was a student of the Orange Unified School District
6 where he attended El Modena High School, which provides instruction and guidance to a wide range
7 of students, including students such as Decedent with Autism—a form of pervasive developmental
8 disorder.

9 4. Prior to and at the time of his death, Decedent was on the severe part of the spectrum of
10 Autism with the mental capacity of a child. Defendant OUSD and DOES 1 through 50, inclusive, and
11 each of them (collectively referred to as "DEFENDANTS"), knew Decedent's limitations and special
12 needs.

13 5. On September 9, 2019, 15-year-old special
14 education student Manny Perez sat down in an unsecured and
15 unsupervised district owned and controlled golf cart on the
16 campus of El Modena High School and, unfortunately,
17 crashed it into a railing a short distance away. He suffered
18 significant chest and abdominal trauma and later that day died
19 from his injuries. This senseless tragedy resulted from the
20 district's negligence in not only failing to properly supervise
21 and control Manny but also failing to secure and disable the golf



22 cart before Manny—who suffers from severe autism and behavior issues—was able to get inside and
23 endanger himself and others.

24 6. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
25 herein, DEFENDANTS maintained policies and procedures to prevent students like Manny from
26 gaining access to the motorized golf carts and other vehicles on the campus that could cause harm to
27 themselves and others. Plaintiff is informed and believes, and thereon alleges, that this tragedy which
28 needlessly took her beloved son away from her should have never happened.

PARTIES

1
2 7. At all times mentioned herein, Plaintiff Micaela Sanchez Corona was the mother and
3 surviving heir of Decedent. As the parent and surviving heir of Decedent, Plaintiff brings these causes
4 of action against DEFENDANTS and DOES 1-50, inclusive. Moreover, Plaintiff is Decedent's
5 successor in interest for all purposes in this litigation pursuant to Code of Code Civil Procedure §
6 377.32.

7 8. Defendant ORANGE UNIFIED SCHOOL DISTRICT (“OUSD”), at all times relevant
8 herein, was a public entity duly organized and existing under and by virtue of the laws of the State of
9 California and authorized to do, and is doing, business in the State of California.

10 9. Defendant OUSD is a public entity, upon which Plaintiff has, pursuant to *Government*
11 *Code* §§ 905 & 910 et seq., timely served with a written government claim on September 12, 2019.
12 Pursuant to *Government Code* § 945.4, Defendant OUSD did not even bother to respond to and/or
13 acknowledge it and therefore, under the laws of California, has rejected the claim. Accordingly,
14 Plaintiff has standing to bring suit for monetary damages against this public entity.

15 10. Nominal Party JAIME PEREZ is biologically related to the Decedent but has never met
16 or communicated with him. JAIME PEREZ is being named as a nominal party only as may be
17 required by California law.

18 11. The true names and capacities, whether individual, plural, corporate, partnership,
19 associate, or otherwise, of DOES 1 through 50, inclusive, are unknown to Plaintiff who therefore sue
20 said defendants by such fictitious names. The full extent of the facts linking such fictitiously sued
21 defendants is unknown to Plaintiff. Plaintiff is informed and believes, and thereupon allege, that each
22 of the defendants designated herein as a DOE was, and is, negligent, or in some other actionable
23 manner, responsible for the events and happenings hereinafter referred to, and thereby negligently, or
24 in some other actionable manner, legally and proximately caused the hereinafter described injuries and
25 damages to Plaintiff. Plaintiff will hereafter seek leave of the Court to amend this Complaint to show
26 the defendants' true names and capacities after the same have been ascertained.

27 12. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
28 herein, OUSD and DOES 1 through 50, inclusive, were agents, servants, employees, successors in

1 interest, and/or joint venturers of their co-defendants, and were, as such, acting within the course,
2 scope, and authority of said agency, employment, and/or venture, and that each and every Defendant,
3 as aforesaid, when acting as a principal, was negligent in the selection and hiring of each and every
4 other Defendant as an agent, servant, employee, successor in interest, and/or joint venturer

5
6 **FIRST CAUSE OF ACTION**

7 **(Negligence & Negligence Per Se Against All Defendant OUSD and DOES 1 through 50,**
8 **Inclusive)**

9 13. Plaintiff re-alleges and incorporates herein by reference each and every allegation and
10 statement contained in the prior paragraphs.

11 14. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
12 herein, DEFENDANTS owed a duty of care to all reasonably foreseeable people, including Decedent,
13 to own, lease, manage, maintain, control, entrust, and operate the El Modena High School campus,
14 including the golf carts thereon, in a reasonable manner, and to act reasonably to best ensure the safety
15 of all students including, but not limited to, Decedent.

16 15. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
17 herein, each of the DEFENDANTS breached their duty of care when they carelessly and negligently
18 owned, leased, managed, maintained, entrusted, controlled, and operated the El Modena High School
19 campus, including the golf carts thereon. Further, the DEFENDANTS neglected to pay attention to
20 Decedent for an extended period and failed to recognize, respond to, or assist Decedent in any manner,
21 resulting in Decedent's untimely death for which the DEFENDANTS are legally responsible.

22 16. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
23 herein, each of the DEFENDANTS were the lessees of, owners of, had an ownership interest in, or
24 otherwise had control over the El Modena High School campus and the subject golf cart.

25 17. Plaintiff is informed and believes, and thereon alleges, that the violation of certain state
26 and/or federal statutes, including, but not limited to California *Government Code* Sections 815.2,
27 815.4 and 820(a) as well as Article I, Section 28(c) of the California Constitution, which provides that
28 all public school students "*have the inalienable right to attend campuses which are safe, secure, and*

1 *peaceful*” by DEFENDANTS and DOES 1 through 50, inclusive, and each of them, was a substantial
2 factor in causing the death of Manny Perez and damages as alleged herein.

3 18. Plaintiff accordingly alleges that DEFENDANTS and DOES 1 through 50, inclusive,
4 and each of them, were *per se* negligent for violating the aforementioned statutes causing the death of
5 Decedent. Plaintiff also alleges that at all times herein Decedent was a person belonging to the class
6 of persons sought to be protected by the aforementioned statutes, and that the violation of said statutes
7 was a direct, legal, and proximate cause of the death of Manny Perez and damages complained of
8 herein.

9 19. Plaintiff is further informed and believes, and thereupon alleges, that Defendant
10 OUSD's employees, agents, servants and/or joint venturers, acting within the course and scope of their
11 employment with OUSD, and whose duties include supervising, assisting, teaching and assisting in
12 the supervision and control and safety of special needs students, such as Manny Perez and others
13 similarly situated, thereby establishing a special relationship with students, such as Manny Perez and
14 others similarly situated, had a heightened duty of care to take reasonable steps to protect special
15 needs students at El Modena High School, such as Manny Perez.

16 20. Plaintiff is further informed and believes, and thereupon alleges, that at all times
17 mentioned herein, OUSD and its employees, agents, servants and/or joint venturers had a special
18 relationship existing with PEREZ, as an invitee, to take reasonable protective measures, especially
19 with a special needs student with known developmental disabilities, to ensure his safety and otherwise
20 protect him from reasonably foreseeable dangerous conduct and to warn him as to such reasonably
21 foreseeable dangerous conduct during school activities.

22 21. As a direct and proximate result of the negligence, carelessness, recklessness, and
23 violations of the law of DEFENDANTS and DOES 1 through 50, inclusive, and each of them,
24 Decedent was injured in his health, strength and activity, sustaining injury to his body, and shock and
25 injury to his person, all of which caused Decedent great physical, mental, and emotional pain and
26 suffering prior to his untimely death, all to Plaintiffs' damages in an amount which will be stated
27 according to proof, pursuant to Section 425.10 of the California *Code of Civil Procedure*.

28 22. As a direct and proximate result of the negligence, carelessness, recklessness, and

1 violations of the law of DEFENDANTS and DOES 1 through 50, inclusive, and each of them,
2 Plaintiffs were compelled to and did employ the services of physicians, surgeons, and other medical
3 personnel, and Plaintiffs were compelled to and did incur other incidental expenses, including, but not
4 limited to, medical, funeral, and/or burial expenses related to the necessary care and treatment of
5 Decedent.

6 23. Plaintiff Micaela Sanchez Corona has also sustained damages resulting from the loss of
7 love, affection, society, service, comfort, support, right of support, expectations of future support and
8 counseling, companionship, solace and mental support, as well as other benefits and assistance of her
9 son, Decedent, Emmanuel Perez, all to her general damages in a sum in excess of the jurisdictional
10 limits of this Court, which will be stated according to proof, pursuant to Section 425.10 of the
11 California Code of Civil Procedure. Micaela Sanchez Corona has also incurred property, medical,
12 funeral and burial expenses in an amount to be stated according to proof, pursuant to Section 425.10
13 of the California Code of Civil Procedure. Micaela Sanchez Corona's damages are in excess of the
14 jurisdictional minimum of the Superior Court of the State of California. The exact amount of said
15 losses will be stated according to proof, pursuant to Section 425.10 of the California Code of Civil
16 Procedure.

17 **SECOND CAUSE OF ACTION**

18 **(Negligent Hiring/Retention/Supervision/Training by Plaintiff as Against Defendant OUSD**
19 **and DOES 1 through 50, Inclusive)**

20 31. Plaintiff re-alleges and incorporates herein by reference each and every allegation and
21 statement contained in the prior paragraphs.

22 32. At all relevant times, a special relationship existed between DEFENDANTS'
23 administrative and supervisory personnel and the students under their control and supervision,
24 including, but not limited to, Decedent.

25 33. By virtue of said special relationship, DEFENDANTS and DOES 1 through 50,
26 inclusive, and each of them, including DEFENDANTS' administrative and supervisory personnel,
27 owed a duty to take reasonable measures to protect all students under their control and supervision,
28 including Decedent, from foreseeable injury, by not engaging in the negligent hiring, retention,

1 training, and supervision of agents, employees, and/or independent contractors of DEFENDANTS
2 with direct contact and/or interaction with students under their control and supervision, including, but
3 not limited to, Decedent.

4 34. Plaintiff does not know, nor does she have reason to know, the names and/or identities
5 of DEFENDANTS' administrative and supervisory personnel who Plaintiff contends are responsible
6 for the negligent and reckless acts and omissions as described herein, which Plaintiff contends are the
7 legal and proximate cause of Plaintiffs' damages. Plaintiff will amend this Complaint to set forth the
8 same as soon as the identities of the culpable individuals are identified.

9 35. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
10 herein, DEFENDANTS' administrative and supervisory personnel were negligent and reckless in their
11 hiring, training, supervision, and/or retention of certain agents, employees, and/or independent
12 contractors in that they knew or should have known that said agents, employees, and/or independent
13 contractors, were unfit for the specific and mandatory tasks to be carried out and performed during the
14 course and scope of employment, such as maintaining, inspecting, supervising, managing, regulating,
15 warning, patrolling, protecting, guarding, training, and controlling the subject golf cart, which was the
16 legal and proximate cause of the Decedent suffering pre-death physical injuries, mental anguish,
17 terror, anxiety, unconsciousness, and ultimately death.

18 36. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
19 herein, DEFENDANTS' administrative and supervisory personnel were negligent and reckless in their
20 hiring and/or retention of certain agents, employees, and/or independent contractors, that they knew or
21 should have known that said agents, employees, and/or independent contractors, were unfit for the
22 specific and mandatory tasks to be carried out and performed during the course and scope of
23 employment, such as maintaining, inspecting, supervising, managing, regulating, warning, patrolling,
24 protecting, guarding, training, and controlling the subject golf cart, which was the legal and proximate
25 cause of Plaintiff's claimed general damages resulting from the loss of love, affection, society, service,
26 comfort, support, right of support, expectations of future support and counseling, companionship,
27 solace, and mental support, as well as other benefits and assistance of the Decedent, and claim for
28 medical, funeral, and/or burial expenses in a sum in excess of the jurisdictional limits of this Court,

1 which will be stated according to proof at the time of trial, pursuant to Section 425.10 of the
2 California *Code of Civil Procedure*.

3 37. As such, Plaintiff is informed and believes, and thereon alleges, that DEFENDANTS
4 may be held vicariously liable for the negligent and reckless acts and omissions of DEFENDANTS'
5 administrative and supervisory personnel as alleged herein, including, but not limited to, the negligent
6 hiring, supervision, training, and/or retention of certain agents, employees, and/or independent
7 contractors pursuant to Gov. Code §§ 815.2, 815.4 and 820(a).

8 **PRAYER FOR RELIEF**

9 **WHEREFORE**, Plaintiffs pray judgment against all DEFENDANTS and DOES 1
10 through 50, inclusive, and each of them, as follows:

- 11 1. For general damages (also known as non-economic damages), including but not
12 limited to, past and future loss of love, companionship, comfort, care, assistance, protection,
13 affection, society, moral support and guidance, in an amount in excess of the jurisdictional
14 minimum, according to proof against all DEFENDANTS;
- 15 2. For special damages (also known as economic damages), including but not limited
16 to, past and future financial support, loss of gifts and benefits, funeral and burial expenses, and
17 reasonable value of household services, in excess of the jurisdictional minimum, according to
18 proof against all DEFENDANTS;
- 19 3. For prejudgment interest, according to proof against all DEFENDANTS and
- 20 4. For attorney's fees and costs of suit incurred herein, according to proof against all
21 DEFENDANTS;
- 22 5. For such other and further relief as this Court may deem just and proper against all
23 DEFENDANTS.

24 DATED: November 5, 2019 PANISH SHEA & BOYLE LLP

25
26 By: 
27 Robert S. Glassman
28 Attorneys for Plaintiffs

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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury as to all causes of action.

DATED: November 5, 2019

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By: 
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