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FRESNO COUNTY SUPERIOR COURT

By: T. Moua, Deputy

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6 Attorneys for Plaintiff:
 7 H.K., by and through his
 8 Guardian Ad Litem, A.K.

9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 10 IN AND FOR THE COUNTY OF FRESNO
 11 UNLIMITED JURISDICTION

11 H.K., by and through his Guardian Ad Litem,
 12 A. K.,

Case No.: 17CECG02062

13 Plaintiff,

COMPLAINT FOR DAMAGES FOR:

14 vs.

15 CENTRAL VALLEY TRAINING CENTER,
 16 COUNTY OF FRESNO, FRESNO SCHOOL
 17 DISTRICT, STATE OF CALIFORNIA
 18 DEPARTMENT OF GENERAL SERVICES
 AND DEVELOPMENTAL SERVICES,
 19 CLIFTON ELLIS FULLER and DOES 1 to 50,
 inclusive,

1. ASSAULT;
2. BATTERY;
3. SEXUAL BATTERY;
4. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;
5. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS;
6. NEGLIGENT SUPERVISION

20 Defendants.

DEMAND FOR JURY TRIAL

21 The following is a complaint for personal injury for damages brought by H. K., by and
 22 through his Guardian Ad Litem, A.K. ("Plaintiff"), through their attorneys, The Dolan Law Firm,
 23 who allege on information and belief as follows:

24 **PARTIES**

25
 26 1) Plaintiff H.K. is a male, born on December 29, 1997, and he resides in Fresno County and
 27 attended CENTRAL VALLEY TRAINING CENTER, during the time the alleged actions occurred.

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1 H.K., at the time of the loss, was 18 years of age, but due to his disability, functions at a 12 year old
2 mental capacity.

3 2) A.K. AN is H.K.'s father. H.K. has been appointed H.K.'s Guardian Ad Litem to bring this
4 action. Abbreviated last names have been used to protect the minor child's anonymity.

5 3) CENTRAL VALLEY TRAINING CENTER is located at 4018 N. Ann Avenue. Fresno,
6 California, 93727.

7 4) Defendant CENTRAL VALLEY TRAINING CENTER is, and was at all times relevant to
8 this action, an adult daycare that assists those with disabilities and challenging behaviors. CENTRAL
9 VALLEY TRAINING CENTER controls, maintains, and governs the facility where the rape took
10 place. Plaintiffs are informed and believe that CENTRAL VALLEY TRAINING CENTER, at all
11 times relevant, may have been receiving funding from DEFENDANT COUNTY OF FRESNO,
12 FRESNO SCHOOL DISTRICT, and/or the STATE OF CALIFORNIA DEPARTMENT OF
13 DEVELOPMENTAL SERVICES and DEPARTMENT OF GENERAL SERVICES. DEFENDANT
14 COUNTY OF FRESNO, FRESNO SCHOOL DISTRICT, and/or the STATE OF CALIFORNIA
15 DEPARTMENT OF DEVELOPMENTAL SERVICES and DEPARTMENT OF GENERAL
16 SERVICE, at all times relevant, exercised control over Defendant CENTRAL VALLEY TRAINING
17 CENTER.

18 5) Defendant CLIFTON ELLIS FULLER ("FULLER") is a male, that was born on November
19 03, 1980. At the time of the rape, he was 36 years of age, but functioned at the capacity of a 21 year
20 old male. FULLER is attracted to other males, and has sexual relations with them.

21 6) Plaintiffs were required to comply with the claims statute and have complied as described
22 below.

23 7) On or about April 10, 2016 Plaintiffs provided defendants COUNTY OF FRESNO,
24 CENTRAL VALLEY TRAINING CENTER, and THE SATE OF CALIFORNIA DEPARTMENT
25 OF DEVELOPMENTAL SERVICE and GENEREAL Services completed government claim forms
26 with a lengthy attachment that described the injuries, losses, and damages suffered the Plaintiffs in
27 full compliance with Government Code Sections 905 and 910. On April 6, 2016 Plaintiffs also
28 provided a Government Claim Form to the FRESNO SCHOOL DISTRICT.

1 8) As of the time of filing this Complaint, there has been no action taken by the above-
2 mentioned Defendants, and to the extent the CENTRAL VALLEY TRAINING CENTER is either
3 owned, and/or controlled by a government entity, Plaintiff believes the claims have been denied or
4 otherwise not acted on.

5 9) The true names and capacities of Defendants sued in the Complaint under the fictitious
6 names of Does 1 through 50, inclusive, are unknown to Plaintiffs who therefore sues such
7 Defendants by such fictitious names. Plaintiffs will amend this complaint to allege their true names
8 and capacities when ascertained.

9 10) At all times mentioned, each of the defendants was acting as the principal or agent and/or
10 employer or employee of each of the remaining defendants and was, at all times herein alleged,
11 acting within the purpose, course, and scope of such agency and/or employment for purposes of
12 respondent superior and/or vicarious liability as to all other defendants.

13 JURISDICTION AND VENUE

14 11) Venue in this action is proper in the County of Fresno based upon the fact that Defendant
15 CENTRAL VALLEY TRAINING CENTER is located and operates in said County and the subject
16 injury suffered by the Plaintiff occurred within the County of Fresno.

17 12) This court has subject matter jurisdiction of this matter, as the action incorporates an amount
18 in controversy which exceeds the jurisdictional minimum.

19 FACTUAL ALLEGATIONS

20 21 13) On or about November 1, 2015, Defendant CLIFTON ELLIS FULLER asked H.K. to go into
22 the bathroom with him. CLIFTON ELLIS FULLER is known to have sexual tendencies by the
23 school and had previous inappropriate sexual actions towards others.

24 14) Defendant CLIFTON ELLIS FULLER, took H.K. into the same stall, and began to touch his
25 hips and penis. CLIFTON ELLIS FULLER then forcibly anally raped H.K. H.K. was found sweaty
26 and shaking in the stall hiding. CLIFTON ELLIS FULLER was defensive when found in the stall
27 and questioned by staff. H.K. had a rape kit taken, and was interviewed by the police. H.K.
28 contracted anal herpes as a result of the anal rape.

1 15) At all times relevant to this action H.K. was a student at CENTRAL VALLEY TRAINING
2 CENTER.

3 16) Plaintiff is informed and believes and thereon allege CENTRAL VALLEY TRAINING
4 CENTER had a policy to monitor and supervise the disabled students, and not to allow them to use
5 the bathroom facilities in groups.

6 17) Plaintiff entrusted CENTRAL VALLEY TRAINING CENTER to teach, instruct, care for,
7 and keep safe H. K. in a manner that would not cause him harm. This includes, but is not limited to,
8 keeping H.K. safe from sexual assault, emotional distress, and neglect.

9 18) CENTRAL VALLEY TRAINING CENTER knew or should have known of CLIFTON
10 ELLIS FULLER's sexual predatory nature.

11 19) CENTRAL VALLEY TRAINING CENTER knew or should have known CLIFTON ELLIS
12 FULLER should not have been allowed to go to the bathroom with H.K., given his sexual predatory
13 nature and previous attacks.

14 20) Plaintiffs thereby believe and allege that CENTRAL VALLEY TRAINING CENTER had
15 improper and/or a lacked a system in place to protect students on the campus.

16 21) Plaintiffs are informed and believe and thereon allege that CENTRAL VALLEY TRAINING
17 CENTER failed to enforce its own policy, which directly lead to the rape of H.K.

18
19 **FIRST CAUSE OF ACTION**

20 **ASSAULT**

21 (Against Defendant CLIFTON ELLIS FULLER)

22 22) Plaintiff re-alleges and incorporates by reference paragraphs 1 through 21 inclusively as if
23 fully set forth herein.

24 23) CLIFTON ELLIS FULLER intentionally acted in manner that made Plaintiff H.K. reasonably
25 anticipate he would imminently be touched in a harmful or offensive manner.

26 24) H.K. reasonably believed he was about to be touched in an offensive manner.

27 25) H.K did not consent, and could not consent, to any touching by CLIFTON ELLIS FULLER
28 and was therein assaulted.

1 26) As a result of CLIFTON ELLIS FULLER's actions, Plaintiff H.K. was harmed both
2 physically and emotionally.

3 27) Defendant CLIFTON ELLIS FULLER's conduct was a substantial factor in causing Plaintiff
4 H.K.'s injuries.

5 28) As a direct and proximate result of the unlawful conduct of CLIFTON ELLIS FULLER
6 Plaintiff H.K. suffered injuries and attendant damages including, but not limited to, past and future
7 economic and non-economic damages.

8 29) As a further proximate result of the Defendant CLIFTON ELLIS FULLER's intentional
9 actions, Plaintiff H.K. missed critical education and schooling. He has nightmares and a heightened
10 level of fear and anxiety. Plaintiff believes the above behaviors will continue and that Plaintiff will
11 continue to need additional care in the future.

12 30) The acts of CLIFTON ELLIS FULLER's alleged above were willful, wanton, malicious,
13 outrageous, despicable and oppressive, and justify the awarding of exemplary and punitive damages
14 as to CLIFTON ELLIS FULLER only.

15 **SECOND CAUSE OF ACTION**

16 **BATTERY**

17 (Against Defendant CLIFTON ELLIS FULLER)

18 31) Plaintiff re-alleges and incorporates by reference paragraphs 1 through 30 inclusively, as if
19 fully set forth herein.

20 32) CLIFTON ELLIS FULLER intentionally and repeatedly touched Plaintiff H.K in an offensive
21 manner with the intent to cause harm or offend him

22 33) CLIFTON ELLIS FULLER forcefully grabbed H.K, sexually molested him, and locked him
23 in a bathroom stall.

24 34) Plaintiff CLIFTON ELLIS FULLER did not consent to this touching.

25 35) Plaintiff H.K. was harmed physically and emotionally. CLIFTON ELLIS FULLER forcibly
26 anally raped H.K.

27 36) A reasonable person, and certainly a reasonable child, in Plaintiff H.K.'s situation would
28 have been offended by said touching.

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1 37) As a direct and proximate result of the unlawful conduct of CLIFTON ELLIS FULLER,
2 Plaintiff suffered injuries and attendant damages including, but not limited to, past and future
3 economic and non-economic damages.

4 38) As a further proximate result of the Defendant CLIFTON ELLIS FULLER's intentional
5 actions, Plaintiff H.K. missed critical education and schooling, and has and continues to have
6 emotional trauma. Plaintiff believes the above behaviors will continue and that Plaintiff will
7 continue to need additional care in the future.

8 39) The acts of CLIFTON ELLIS FULLER, alleged above, were willful, wanton, malicious,
9 outrageous, despicable and oppressive, and justify the awarding of exemplary and punitive damages
10 as to CLIFTON ELLIS FULLER only.

11 **THIRD CAUSE OF ACTION**

12 **SEXUAL BATTERY**

13 (Against Defendant CLIFTON ELLIS FULLER)

14 40) Plaintiff re-alleges and incorporates by reference paragraphs 1 through 39 inclusively as if
15 fully set forth herein.

16 41) CLIFTON ELLIS FULLER caused Plaintiff H.K. to be in imminent fear of harmful and
17 sexually offensive contact with his penis and buttocks.

18 42) Defendant CLIFTON ELLIS FULLER intentionally engaged in harmful and sexually
19 offensive contact with H.K.'s private areas of his body.

20 43) H.K. did not consent to said touching, and could not.

21 44) H.K. was harmed by the sexually offensive touching.

22 45) A reasonable person, H.K.'s situation would have been offended by said touching.

23 46) As a direct and proximate result of the unlawful conduct of CLIFTON ELLIS FULLER,
24 Plaintiff suffered injuries and attendant damages including, but not limited to, past and future
25 economic and non-economic damages.

26 47) As a further proximate result of the Defendant CLIFTON ELLIS FULLER's intentional
27 actions, Plaintiff H.K. missed critical education and schooling. He has nightmares and a heightened
28 level of fear and anxiety. Plaintiff believes the above behaviors will continue and that H.K. will
continue to need additional care in the future.

1 48) The acts of CLIFTON ELLIS FULLER's alleged above were willful, wanton, malicious,
2 outrageous, despicable and oppressive, and justify the awarding of exemplary and punitive damages
3 as to CLIFTON ELLIS FULLER only.

4 **FOURTH CAUSE OF ACTION**
5 INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
6 (Against Defendant CLIFTON ELLIS FULLER)

7 49) Plaintiff re-alleges and incorporates by reference paragraphs 1 through 48 inclusively as if
8 fully set forth herein.

9 50) Plaintiff is informed and believes and thereon alleges that Defendant CLIFTON ELLIS
10 FULLER, engaged in conduct that caused Plaintiff to suffer severe emotional distress.

11 51) Defendant CLIFTON ELLIS FULLER engaged in outrageous conduct and intended to cause
12 Plaintiff emotional distress. CLIFTON ELLIS FULLER sexually battered and assaulted Plaintiff
13 H.K. The alleged conduct is extreme and outside the bounds of all decency. CLIFTON ELLIS
14 FULLER acted with reckless disregard of the probability that Plaintiff would suffer emotional
15 distress, knowing that Plaintiff was present when the conduct occurred.

16 52) Plaintiff suffered severe emotional distress as a direct result of Defendant CLIFTON ELLIS
17 FULLER's actions. This includes the sudden development of behaviors including, but not limited to,
18 anxiety surrounding school, general fear of unknown men, fear of sleeping alone, nightmares and a
19 constant desire to be with his family.

20 53) As a direct and proximate result of the intentional infliction of emotional distress caused by
21 CLIFTON ELLIS FULLER, Plaintiff suffered injuries and attendant damages including, but not
22 limited to, past and future economic and non-economic damages.

23 54) As a further proximate result of the intentional infliction of emotional distress H.K. missed
24 critical education and schooling. He has nightmares and a heightened level of fear and anxiety.
25 Plaintiff believes the above behaviors will continue and that H.K. will continue to need additional
26 care in the future.

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1 55) CLIFTON ELLIS FULLER's actions are outrageous and demonstrate oppression, fraud, or
2 malice as they are a willful and conscious disregard for Plaintiff's health and safety. As a result,
3 Plaintiff is entitled to punitive damages as to CLIFTON ELLIS FULLER only.

4
5 **FIFTH CAUSE OF ACTION**

6 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

7 (Against Defendants CLIFTON ELLIS FULLER, CENTRAL VALLEY TRAINING CENTER.
8 COUNTY OF FRESNO, FRESNO SCHOOL DISTRICT, STATE OF CALIFORNIA
9 DEPARTMENT OF DEVELOPMENTAL SERVICES AND DEPARTMENT OF GENERAL
10 SERVICES and DOES 1-50)

11 56) Plaintiff re-alleges and incorporates by reference paragraphs 1 through 55 inclusively as if
12 fully set forth herein.

13 57) Plaintiff H.K. attended and was enrolled at CENTRAL VALLEY TRAINING CENTER at
14 all times relevant to this action. While attending CENTRAL VALLEY TRAINING CENTER,
15 Plaintiff was under the care and supervision of CENTRAL VALLEY TRAINING CENTER.

16 58) Defendants, and each of them, owed Plaintiff H.K. a duty to exercise due care towards H.K.
17 Plaintiff is owed a safe school environment wherein appropriate measures are taken to protect
18 against foreseeable harms.

19 59) Defendants, and each of them, knew or should have known that in failing to exercise due care
20 in the supervision of H.K and all other students at CENTRAL VALLEY TRAINING CENTER
21 would suffer serious emotional distress.

22 60) Defendants, and each of them, engaged in negligent care and treatment of Plaintiff H.K. as
23 alleged in the above causes of action which constituted a breach of said duty of due care.

24 61) H.K has suffered and still suffers serious emotional distress such that he is in counseling and
25 therapy currently and will need said care well into the future. H.K suffered severe anguish, fright,
26 horror, fear, grief, anxiety, shock, humiliation, and shame when he was alone in the restroom and he
27 was forcibly anally raped, while he was unsupervised and wholly alone on the campus with another
28 adult student that had sexual tendencies.

62) Defendant CENTRAL VALLY TRAINING CENTER negligence in providing a safe
campus, and insuring safety measures were in place when using a restroom and in failing to properly

1 supervise the students, among other things, were all substantial factors in causing H.K.'s serious
2 emotional distress.

3 63) Defendant CLIFTON ELLIS FULLER sexually battered and assaulted Plaintiff H.K., who
4 had the mental capacity of a minor. The alleged conduct is extreme and outside the bounds of all
5 decency. CLIFTON ELLIS FULLER acted with reckless disregard of the probability that Plaintiff
6 would suffer emotional distress, knowing that Plaintiff was present when the conduct occurred.

7 64) As a direct and proximate result of the negligent infliction of emotional distress caused by
8 Defendants, and each of them, Plaintiff suffered injuries and attendant damages including, but not
9 limited to, past and future economic and non-economic damages.

10 65) As a further proximate result of the negligent H.K. missed critical education and schooling.
11 He has been in extensive therapy since the abuse. He has nightmares and a heightened level of fear
12 and anxiety. Furthermore, H.K. no longer feels safe while at learning environments. Plaintiff believes
13 the above behaviors will continue and that H.K. will continue to need additional care in the future.

14 66) CLIFTON ELLIS FULLER actions are outrageous and demonstrate oppression, fraud, or
15 malice as they are a willful and conscious disregard for Plaintiff's health and safety. As a result,
16 Plaintiff is entitled to punitive damages as to CLIFTON ELLIS FULLER only.

17
18 **SIXTH CAUSE OF ACTION**

19 **NEGLIGENT SUPERVISION OF PLAINTIFF**

20 (Against CENTRAL VALLEY TRAINING CENTER, COUNTY OF FRESNO, FRESNO SCHOOL
21 DISTRICT, STATE OF CALIFORNIA DEPARTMENT OF DEVELOPMENTAL SERVICES
AND DEPARTMENT OF GENERAL SERVICES and DOES 1-50)

22 67) Plaintiff re-alleges and incorporates by reference paragraphs 1 through 66 inclusively as if
23 fully set forth herein.

24 68) CENTRAL VALLEY TRAINING CENTER and its employees have a duty to supervise, at
25 all times, the conduct of students while on campus grounds.

26 69) There is a duty to use reasonable measures to protect students from foreseeable injury.

27 70) CENTRAL VALLEY TRAINING CENTER knew or should of know that CLIFTON ELLIS
28 FULLER, who was 36 years of age, but had the mental capacity of a 21 year old, and should not have

1 been left alone with the Plaintiff, who had the mental capacity of a 12 year old. Further, CENTRAL
2 VALLEY TRAINING CENTER knew or should have known, that CLIFTON ELLIS FULLER had
3 impulse control problems, pervious sexual inappropriate actions and sexual tendencies.

4 71) CENTRAL VALLEY TRAINING CENTER did not detect or ~~even~~ notice when two of their
5 students had been gone from the classroom and that H.K had been forcibly anally raped, until after
6 this occurred.

7 72) CENTRAL VALLEY TRAINING CENTER had a duty to supervise the students at all times.
8 CENTRAL VALLEY TRAINING CENTER failed to supervise, at all times, Plaintiff H.K. which
9 left him vulnerable and susceptible to injury and abuse.

10 73) CENTRAL VALLEY TRAINING CENTER and its employees, administration, and
11 supervisory personnel owed a duty to take responsible measures to protect students from injury and
12 abuse from all foreseeable sources.

13 74) Defendants, and each of them, breached the standard of care owed to Plaintiff leaving him
14 vulnerable and susceptible to injury, molestation, and abuse.

15 75) As a direct and proximate result of Defendants, and each of them, negligent failure to
16 supervise the Plaintiff, H.K suffered injuries and attendant damages including, but not limited to,
17 past and future economic and non-economic damages. But for Defendants failure to supervise,
18 Plaintiff H.K would not have suffered the injuries she sustained.

19
20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
22 follows:

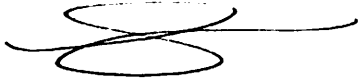
- 23 1. All General Damages shown according to proof;
- 24 2. All Educational and School related expenses according to proof;
- 25 3. All mental health and therapy past and future expenses according to proof;
- 26 4. Punitive and exemplary damages against Defendant CLIFTON ELLIS FULLER and all
27 appropriate defendants;
- 28 5. Attorney's fees as the prescribed rate as available under the law;

- 1 6. For costs of suit herein incurred; and
- 2 7. All other relief as the Court may deem proper.

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DATED: June 16, 2017

THE DOLAN LAW FIRM



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