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Attorneys for Plaintiffs
JUAN SARABIA, as successor in interest and
heir to Gerardo Sarabia, deceased;
VERNICE AGUILAR, as heir to Gerardo Sarabia,
deceased; and ALEXA SARABIA AGUILAR,
in her individual capacity

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CRUZ

JUAN SARABIA, as successor in interest and)	Case No. 22CV01443
heir to Gerardo Sarabia, deceased; VERNICE)	
AGUILAR, as heir to Gerardo Sarabia,)	COMPLAINT
deceased; and ALEXA SARABIA AGUILAR,)	
in her individual capacity,)	1. Negligence – Survival Action
)	
Plaintiffs,)	2. Breach of Mandatory Reporting Duties –
)	Survival Action
v.)	
)	3) Wrongful Death
PAJARO VALLEY UNIFIED SCHOOL)	
DISTRICT, a public entity; MICHELLE)	4) Negligent Infliction of Emotional Distress
RODRIGUEZ; PEGGY PUGHE; KATIE)	– Bystander Theory
KRISCUNAS; JONATHAN FLORES;)	
FONSELLA GUZMAN; GEORGE)	Judge:
VASQUEZ; and DOES 1–10 inclusive,)	Dept.:
)	
Defendants.)	
)	

Plaintiffs, Juan Sarabia, as successor in interest and heir to Gerardo Sarabia, deceased;
Vernice Aguilar, as heir to Gerardo Sarabia, deceased; and Alexa Aguilar, individually, allege
upon information and belief as follows:

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INTRODUCTION

This action arises from the tragic and preventable death of 17-year-old Aptos High School (“AHS”) student, Gerardo Sarabia (“Gerardo”), while Gerardo was on campus waiting for a ride home from his sister. In July 2020, the Pajaro Valley Unified School District (“PVUSD”) Board of Trustees voted to defund its Student Resource Officer program, which had placed law enforcement officers on PVUSD campuses, including AHS. Ironically, the Board cited safety concerns of students without raising any particular incidents of officer misconduct in the District. Following COVID-19-related shutdowns, in-person instruction resumed at AHS in mid-August 2021. In the first few weeks of the school year, AHS saw a marked increase in student-on-student violence. One such incident involved a 14-year-old (referred to herein as “K.O.”) who attacked another student with a knife. Notably, K.O. was on probation at the time of the assault. However, PVUSD and its employees failed to notify law enforcement of the incident.

The PVUSD Superintendent and AHS staff members were aware of the increase in violence, including the mid-August incident involving K.O., during which K.O. assaulted another student with a knife. The Superintendent and staff members were also aware that the AHS video surveillance system did not adequately cover all areas of campus. Further, that students were not receiving adequate supervision on-campus. Regardless, nothing changed.

On August 31, 2021, K.O. and another student approached Gerardo while Gerardo was on campus waiting for a ride home from his sister. The two students violently attacked Gerardo, who was fatally stabbed with a knife by K.O. during the assault. Minutes later, Gerardo’s sister, Alexa, arrived and saw her brother staggering toward her and then collapse. As Alexa ran to her brother, there were no campus supervisors or other AHS staff members in sight. Alexa immediately dialed 911 and held her brother while she asked a nearby parent to go and get help. A minute later, the school nurse arrived. The nurse stood by and did nothing but look on in shock until Alexa pleaded with her to speak with 911 and to take over the care of her brother. Shortly after, police officers and emergency responders arrived at the scene. Gerardo was airlifted to Natividad Medical Center where he died later that night.

1 Despite the increase in violence at AHS and other District campuses, PVUSD and its
2 employees refused to take reasonable measures to protect students such as Gerardo from
3 foreseeable harm at the hands of other students. Had PVUSD and its employees provided for
4 adequate supervision of students on campus or simply followed mandatory duties to report K.O.
5 to law enforcement, K.O. would not have been on campus on August 31, 2021, and Gerardo
6 would still be alive.

7 By way of this lawsuit, Plaintiffs seek to hold accountable PVUSD and its employees for
8 flagrantly disregarding the duties of care owed to Gerardo and to other students, ultimately
9 costing Gerardo his life. The lawsuit also aims to curb a troubling increase in violence—and
10 administrators’ and staff members’ failures and refusals to prevent such violence—both at AHS
11 and other schools within the Pajaro Valley Unified School District. Accordingly, this case is in
12 the public interest.

13 **PROCEDURAL REQUIREMENTS**

14 1. On December 28, 2021, the claims of Juan Sarabia and Vernice Aguilar were
15 presented to the PVUSD Superintendent and the PVUSD Board President, pursuant to Board
16 Policy (“BP”) 3320, Administrative Regulation (“AR”) 3320 and California Government Code
17 §§ 900–935.9. The District’s Board of Trustees rejected the claim on January 19, 2022. Notice
18 of the rejection was emailed and mailed to the undersigned counsel for the claimants on January
19 20, 2022.

20 2. On January 18, 2022, the claim of Alexa Sarabia Aguilar was presented to the
21 PVUSD Superintendent and the PVUSD Board President, pursuant to BP 3320, AR 3320 and
22 California Government Code §§ 900–935.9. The District’s Board of Trustees rejected the claim
23 on February 9, 2022. Notice was emailed and mailed to the undersigned counsel for the claimant
24 on February 10, 2022.

25 **JURISDICTION AND VENUE**

26 3. This Court has jurisdiction over this matter because the action involves a civil
27 dispute, and the amount in controversy exceeds \$25,000.

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4. The acts and occurrences giving rise to this lawsuit occurred in the City of Aptos, County of Santa Cruz, in the State of California, making venue proper in Santa Cruz County.

PARTIES

5. Plaintiff, Juan Sarabia, is the father of Gerardo and brings this survival action as Gerardo's successor in interest. *See* Cal. Civ. Proc. Code § 377.30. At the time of his death, Gerardo was a 17-year-old student at Aptos High School and a citizen of California, residing in Santa Cruz County, California.

6. Plaintiff, Juan Sarabia, also brings this action in his individual capacity as an intestate heir, for the wrongful death of Gerardo. *See* Cal. Civ. Proc. Code § 377.60. Juan is, and at all relevant times was, a citizen of California residing in Santa Cruz County, California.

7. Plaintiff, Vernice Aguilar, is the mother of Gerardo. She brings this action in her individual capacity as an intestate heir, for the wrongful death of Gerardo. *See* Cal. Civ. Proc. Code § 377.60. Vernice is, and at all relevant times was, a citizen of California residing in Santa Cruz County, California.

8. Plaintiff, Alexa Sarabia Aguilar, brings this action in her individual capacity as the sister of Gerardo. Alexa is, and at all relevant times was, a citizen of California residing in Santa Cruz County, California.

9. Defendant, Pajaro Valley Unified School District, at all relevant times, was a public entity organized, existing and operating under the laws of the State of California and County of Santa Cruz. At all relevant times, PVUSD was responsible for the administration, control and operation of Aptos High School.

10. Defendant, Michelle Rodriguez, is, and at all relevant times was, a natural person and citizen of California. At all relevant times, Rodriguez was acting within the scope of her employment as Superintendent of PVUSD.

11. Defendant, Peggy Pughe, is, and at all relevant times was, a natural person and citizen of California. At all relevant times, Pughe was acting within the scope of her employment as Principal of AHS and an employee and agent of PVUSD.

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12. Defendant, Katie Kriscunas, is, and at all relevant times was, a natural person and citizen of California. At all relevant times, Kriscunas was acting within the scope of her employment as Vice-Principal of AHS and an employee and agent of PVUSD.

13. Defendant, Jonathan Flores, is, and at all relevant times was, a natural person and citizen of California. At all relevant times, Flores was acting within the scope of his employment as a campus supervisor at AHS and an employee and agent of PVUSD.

14. Defendant, Fonsella Guzman, is, and at all relevant times was, a natural person and citizen of California. At all relevant times, Guzman was acting within the scope of her employment as a campus supervisor at AHS and an employee and agent of PVUSD.

15. Defendant, George Vasquez, is, and at all relevant times was, a natural person and citizen of California. At all relevant times, Vasquez was acting within the scope of his employment as a campus supervisor at AHS and an employee and agent of PVUSD.

16. Plaintiffs are ignorant of the true names and capacities of the Doe defendants, who are therefore sued by such fictitious names. Plaintiffs are informed and believe that each fictitiously named defendant, at all relevant times, was an agent and employee of PVUSD and acting within the scope of said agency and employment. Further, that each Doe defendant is responsible in some manner for the conduct and occurrences alleged herein and the resulting injuries and damages. The reasons that these names are not yet known or the pertinent facts ascertainable are that Plaintiffs have not yet had an opportunity to engage in formal discovery. Upon ascertaining the true identifies of the Doe defendants and/or additional pertinent facts, Plaintiffs will amend the operative pleading or seek leave to do so as required by law.

STATEMENT OF FACTS

17. In July 2020, the PVUSD Board of Trustees voted to permanently end its School Resource Officer (“SRO”) program, which had placed law enforcement officers on PVUSD campuses, including AHS.

18. Following pandemic-related shutdowns, in-person instruction for the 2021-2022 school year resumed at AHS on, or about, August 12, 2021.

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1 19. In the first few weeks of the 2021-2022 school year, AHS saw a significant
2 increase in physical violence and fighting between and among students. No fewer than four
3 violent fights occurred on campus in less than a three-week period. These incidents became
4 known to staff, including Defendants, and were captured on videos taken by students and/or the
5 school's surveillance system. AHS staff, including campus supervisors, failed to intervene to
6 stop the fights on numerous occasions.

7 20. One such fight that occurred in mid-August involved a 14-year-old student, K.O.,
8 who, at the time, was a known gang-affiliate and was on probation for his involvement in the
9 commission of a violent crime. During the fight, K.O. punched another student, brandished a
10 knife and cut the student.

11 21. The fight involving K.O. was captured on video and reported or made known to
12 school staff, including Defendants. School staff, including Defendants, decided not to
13 adequately investigate whether K.O. had brandished or used a knife in the attack. Nor did any
14 staff member, including Defendants, report the attack to law enforcement.

15 22. On August 31, 2021, Gerardo's sister, Alexa, was scheduled to pick up Gerardo
16 from AHS shortly after his last class of the day, which ended at 2:15 p.m. Gerardo sent a text to
17 Alexa in between approximately 2:15 p.m. and 2:20 p.m., seeking confirmation that Alexa was
18 on her way. Gerardo informed Alexa that he would be waiting near the parking area by the pool.
19 Alexa responded that she was almost there.

20 23. At approximately 2:20 p.m., K.O. confronted Gerardo on the AHS campus behind
21 the old gymnasium. Accompanying K.O. was a 17-year-old AHS student (referred to herein as
22 "I.R."), who also had a history of violence and was a known gang-affiliate. The two students
23 violently attacked Gerardo, and K.O. stabbed Gerardo with a knife.

24 24. No campus supervisors or other AHS staff were present at the time and in the
25 place where Gerardo was attacked. This is despite that area being regularly frequented by
26 students who did not have classes during that time. Defendants were aware of this because
27 teachers had complained about the lack of supervision over students and disruption of classes

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caused by students who remained on campus and did not have classes at that time. Further, the school's surveillance cameras did not provide coverage of the area.

25. At approximately 2:28 p.m., Alexa arrived at AHS and parked in the lot near the pool. She could see Gerardo staggering toward her. Alexa got out of the car and ran to her brother, who collapsed in front of her.

26. Alexa immediately dialed 911 and began looking around for help. Alexa saw no staff presence, but did see a parent, whom she asked to go seek help.

27. While on the phone with 911, Alexa inspected her brother to try to determine what had happened to him. She lifted up his shirt and saw a stab wound to his abdomen. She also saw that he had been cut on the head. The cuts were deep enough that Alexa could see tissue protruding from Gerardo's open wounds.

28. Approximately five minutes after Alexa sent the parent for help, two AHS staff members arrived. One quickly left the scene, while the other remained and handled crowd control.

29. After another one to two minutes, a school nurse arrived. The nurse initially appeared to Alexa to be a parent and did not offer any assistance at first. At this point, Alexa was still on the phone with 911, taking instructions and applying pressure to her brother's wounds.

30. Alexa asked the nurse to take over the provision of medical care for her brother and to speak with 911. The nurse took the phone and instructed Alexa to lay her brother flat. That was the extent of the medical care offered or provided by the nurse.

31. Police officers then began to arrive and administer emergency medical care while waiting for an ambulance. Emergency responders arrived and cut open her brother's shirt, allowing Alexa to observe the injuries to her brother. Emergency responders also placed an oxygen mask on Gerardo who attempted to remove the mask and struggled to breathe. Alexa then observed her brother foam at the mouth and become non-responsive.

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1 32. Approximately 15–20 minutes after Alexa first saw her brother at AHS that
2 afternoon, an ambulance transported Gerardo to an area near the baseball field. From there,
3 Gerardo was airlifted to Natividad Medical Center in Salinas, where he died later that night.

4 33. I.R. was charged with two assault-related crimes and gang enhancements. K.O.
5 was charged with murder and gang enhancements.

6 34. Less than three weeks later, the PVUSD Board of Trustees voted to return SROs
7 to high school campuses, including AHS. In contradiction to the vote of the PVUSD Board to
8 permanently defund the SRO program, PVUSD later claimed that the decision to defund was
9 only intended to be temporary and was based on budgetary concerns for the 2020-2021 school
10 year. However, PVUSD did not explain why the program had not been restarted prior to
11 Gerardo's death, to begin the 2021-2022 school year.

12 35. Following the defunding of the PVUSD SRO program, Defendants were aware of
13 a marked increase of on-campus violence. They were also aware of the incomplete coverage of
14 video surveillance and the inadequacies in student supervision and protection, as evidenced by
15 the increase in violence and failure of staff to intervene. Defendants' acts and omissions, as
16 described herein, were despicable and were carried out with a willful and conscious disregard for
17 the rights of Gerardo. Defendants' conduct also subjected Gerardo to cruel and unjust hardship
18 in conscious disregard of those rights.

19 **FIRST CAUSE OF ACTION**
20 **NEGLIGENCE – SURVIVAL ACTION**
21 **(Cal. Gov't. Code §§ 815.2(a) and 820(a))**
22 **(By Juan Sarabia, as Successor in Interest to Gerardo Sarabia, Against All Defendants)**

23 36. Plaintiff incorporates by reference the allegations contained in paragraphs 1
24 through 35 as though fully set forth herein.

25 37. Pursuant to California case law, California Education Code § 44807 and
26 California Code of Regulations Title. 5, §§ 5551 and 5552, Defendants Rodriguez, Pughe,
27 Kriscunas, Flores, Guzman, Vasquez and Does 1 through 10 owed Gerardo a duty to supervise
28 him and other students on school grounds, to enforce rules and regulations for the students' protection and to use reasonable measures to protect students from third-party violence.

1 38. Pursuant to California Penal Code §§ 11165.7 and 11165.9, Defendants
2 Rodriguez, Pughe, Kriscunas, Flores, Guzman, Vasquez and Does 1 through 10 were mandated
3 reporters with a duty to report child abuse to a police department or sheriff's department.

4 39. Pursuant to California Education Code § 48902, Principal Pughe or her designee
5 was required to notify law enforcement of the acts of a student that may have violated California
6 Penal Code § 245.

7 40. Pursuant to PVUSD Board Policy, Rodriguez or her designee was responsible for
8 developing campus security procedures. BP 3515 required Rodriguez or her designee, in
9 consultation with relevant staff, to "identify appropriate locations for the placement of
10 surveillance cameras," for the purpose of providing campus security at AHS.

11 41. Pursuant to PVUSD Administrative Regulation 3515, Rodriguez or her designee
12 was required to ensure that the applicable campus security plan included strategies to detect and
13 intervene with school crime. These strategies may include "the creation of a school watch
14 program, an anonymous crime reporting system, analysis of school crime incidents, and
15 collaboration with local law enforcement agencies, including providing for law enforcement
16 presence."

17 42. Pursuant to BP 3515.2, Rodriguez or her designee was required to remove from
18 school grounds any individual whose presence threatened the safety of anyone else on PVUSD
19 property, including at AHS.

20 43. Pursuant to BP 5141.4, Rodriguez or her designee was required to "provide
21 training regarding the reporting duties of mandated reporters."

22 44. Pursuant to administrative responsibilities as stated on the AHS website, Principal
23 Pughe was responsible for the supervision of Assistant Principal Kriscunas, who was responsible
24 for the supervision of campus supervisors Flores, Guzman and Vasquez. The campus
25 supervisors were responsible for providing campus security and for the supervision of students
26 on campus. Pughe, Kriscunas and Does 1 through 10 were also responsible for the direct
27 supervision of students on campus.

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1 45. Defendants Rodriguez, Pughe, Kriscunas, Flores, Guzman, Vasquez and Does 1
2 through 10 were on notice of the recent increase in violence on campus and the incomplete
3 coverage of the video surveillance system. However, they violated the aforementioned duties,
4 statutes, board policies and/or regulations by: 1) failing to thoroughly investigate the earlier
5 assault of another student by K.O. involving the use of a knife; 2) failing to report to law
6 enforcement this earlier assault by K.O.; 3) failing to provide training regarding mandated
7 reporting duties; 4) failing to provide video surveillance of the area on campus when and where
8 Gerardo was fatally attacked; 5) failing to supervise or provide for the supervision of the area on
9 campus when and where Gerardo was fatally attacked; 6) failing to effectively supervise
10 Gerardo, K.O. and I.R. on the day of the attack; 7) failing to train AHS staff regarding student
11 supervision; and 8) failing to clearly identify supervision zones on campus.

12 46. The death of Gerardo resulted from a violent attack on Gerardo by other students.
13 This occurrence was of the nature the aforementioned statutes, board policies and/or regulations
14 were designed to prevent.

15 47. Gerardo was of the class of persons for whose protection the aforementioned
16 statutes, board policies and/or regulations were adopted.

17 48. The acts and omissions of Defendants Rodriguez, Pughe, Kriscunas, Flores,
18 Guzman, Vasquez and Does 1 through 10 were substantial factors in causing the death of
19 Gerardo.

20 49. As a direct and proximate result of the acts and omissions of Defendants
21 Rodriguez, Pughe, Kriscunas, Flores, Guzman, Vasquez and Does 1 through 10, Gerardo
22 endured pre-death pain and suffering, loss of life, loss of enjoyment of life, disfigurement,
23 physical impairment, grief, anxiety, humiliation and emotional distress.

24 50. Defendant PVUSD is vicariously liable for the acts and omissions of Defendants
25 Rodriguez, Pughe, Kriscunas, Flores, Guzman, Vasquez and Does 1 through 10.

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1 58. K.O. was on probation at the time of the mid-August assault for another violent
2 crime. Had Defendants fulfilled their duties to report K.O. to law enforcement, K.O. would not
3 have been present at AHS on August 31, 2021, and Gerardo would still be alive.

4 59. PVUSD's failures to discharge its mandatory duties under the above laws directly
5 and proximately caused the death of Gerardo. As a result of PVUSD's failures, Gerardo endured
6 pre-death pain and suffering, loss of life, loss of enjoyment of life, disfigurement, physical
7 impairment, grief, anxiety, humiliation and emotional distress.

8 **THIRD CAUSE OF ACTION**
9 **WRONGFUL DEATH – CALIFORNIA STATE LAW**
 (Civ. Proc. Code § 377.60)

10 **(By Juan Sarabia and Vernice Aguilar, as Intestate Heirs to Gerardo Sarabia,**
 Against all Defendants)

11 60. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
12 through 59 as though fully set forth herein.

13 61. Juan and Vernice are the surviving parents of Gerardo. Under California law,
14 they are entitled to succeed to the estate of their son, who died intestate.

15 62. The death of Gerardo and harms suffered by Juan and Vernice resulted from a
16 violent attack on Gerardo by other students. This occurrence was of the nature the
17 aforementioned statutes, board policies and/or regulations were designed to prevent.

18 63. Juan and Vernice, as the parents of Gerardo, were of the class of persons for
19 whose protection the aforementioned statutes, board policies and/or regulations were adopted.

20 64. The death of Gerardo was caused by the aforementioned wrongful acts and
21 omissions of Defendants.

22 65. As a direct and proximate result of the acts and omissions of Defendants PVUSD,
23 Rodriguez, Pughe, Kriscunas, Flores, Guzman, Vasquez and Does 1 through 10, Juan and
24 Vernice have suffered and will continue to suffer the loss of Gerardo's love, companionship,
25 comfort, care, assistance, protection, affection, society and moral support; loss of financial
26 support; loss of gifts or benefits that Juan and Vernice could have expected to receive from
27 Gerardo; funeral and burial expenses; and the reasonable value of household services that
28 Gerardo would have provided.

FOURTH CAUSE OF ACTION
NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS - BYSTANDER
(Cal. Gov't. Code §§ 815.2(a) and 820(a))
(By Alexa Sarabia Aguilar Against all Defendants)

66. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 65 as though fully set forth herein.

67. As the biological sister of Gerardo, Alexa is an appropriate bystander plaintiff under California law.

68. As described above, Defendants negligently caused injuries to and the death of Gerardo.

69. Alexa was present at the scene of the injury when it occurred and was aware that her brother was being injured, as she held him while he bled to death. Alexa observed that no school staff were or had been present in the area to supervise students, including Gerardo, K.O. and I.R., for Gerardo's protection.

70. The acts and omissions of Defendants directly and proximately caused Alexa serious emotional distress, including her suffering, anguish, fright, horror, nervousness, grief, anxiety, worry and shock.

71. Defendant PVUSD is vicariously liable for the above-described negligent acts and omissions of Defendants Rodriguez, Pughe, Kriscunas, Flores, Guzman, Vasquez and Does 1 through 10.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment in their favor and against Defendants, and each of them, jointly and severally as allowed by law, as follows:

A. For compensatory damages in an amount according to proof at trial;

B. For punitive damages against the individual defendants in an amount sufficient to punish and deter according to proof at trial;

C. For injunctive relief against PVUSD and mandatory reporters to comply with the mandatory reporting duties under the Child Abuse and Neglect Reporting Act and Education Code § 48902;

1 D. For attorney fees as a private attorney general under California Civil Procedure
2 Code § 1021.5;

3 E. For pre-judgment interest;

4 F. For reasonable costs; and

5 G. For such other relief as the Court deems just and proper.

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7 Dated: __July 7, 2022__

PICCUTA LAW GROUP, LLP

8 /s/ C. T. Piccuta

9 Charles Tony Piccuta
10 Attorney for Plaintiffs
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