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IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

J.S., a Minor Child, by and through her Guardian *Ad Litem*, Megan Johnson,

Plaintiff,

v.

LATINO NETWORK, an Oregon Nonprofit Corporation; PORTLAND PUBLIC SCHOOLS, an Oregon school district; and MULTNOMAH COUNTY, a political subdivision of the State of Oregon,

Defendants.

Case No. 24CV13418

**COMPLAINT**

Negligence, Special Relationship, Abuse of a Vulnerable Person

Claim Not Subject to Mandatory Arbitration

Jury Trial Demanded

Filing Fee: ORS 21.160(1)(d) - \$884.00

Amount Prayed For: \$9,000,000.00

FOR PLAINTIFF'S CLAIMS AND RELIEF HEREIN, Plaintiff alleges as follows:

**PARTIES**

1.

Plaintiff J.S., ("Plaintiff") appearing through pseudonym, is a female, presently 11 years old, born in 2012. At all material times, Plaintiff was enrolled at and attended third grade at Scott Elementary School and the afterschool program Schools Uniting Neighborhoods Community Schools (hereinafter referred to as "SUN afterschool program"), located on the Scott

1 Elementary School campus. Megan Johnson is Plaintiff's duly appointed Guardian *Ad Litem* in  
2 this proceeding.

3 2.

4 At all material times, Scott Elementary School, an elementary school serving  
5 Kindergarten through fifth grade students, was within the public school district of Portland  
6 Public Schools (hereinafter referred to as "PPS"). Scott Elementary School is located at 6700  
7 NE Prescott Street, Portland, Multnomah County, Oregon. PPS is an Oregon school district with  
8 its district office located in Portland, Multnomah County, Oregon.

9 3.

10 Defendant Multnomah County was, at all times relevant, operating a program called  
11 Multnomah County Schools Uniting Neighborhoods which, in partnership with Defendant  
12 Latino Network and Defendant PPS, operated the SUN afterschool program, offering afterschool  
13 programming to elementary school students at Scott Elementary School. The SUN afterschool  
14 program at Scott Elementary School was located on the Scott Elementary School campus in  
15 Portland, Multnomah County, Oregon.

16 4.

17 Defendant Latino Network was, at all times relevant, an Oregon nonprofit corporation  
18 with a principal place of business at 410 NE 18<sup>th</sup> Avenue, Portland, Oregon. Latino Network  
19 jointly operated the SUN afterschool program at Scott Elementary School in partnership with  
20 Defendant Multnomah County and Defendant PPS. Defendant Latino Network employees were,  
21 at all material times, responsible for the direct supervision of the children enrolled in the SUN  
22 afterschool program at Scott Elementary School.

**GENERAL ALLEGATIONS**

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5.

The incidents which are the subject of this action occurred in Multnomah County, Oregon.

6.

In 2022, Plaintiff, a then nine-year-old female attending third grade at Scott Elementary School, was enrolled in the SUN afterschool program located on the Scott Elementary School campus. The SUN afterschool program provided childcare for students after school hours, from 2:15pm until 6:00pm PST.

7.

Over the course of her third-grade year (2021-2022 school year), Plaintiff was subjected to several incidents of nonconsensual sexual touching by male students while attending school at Scott Elementary and/or attending the SUN afterschool program. All male students who perpetrated the nonconsensual touching were also minors who attended elementary school at Scott Elementary School and/or minors who attended the SUN afterschool program with Plaintiff.

8.

On an unknown date during the 2021-2022 school year, when Plaintiff was in third grade, a male student ("Student One") touched Plaintiff's vaginal area, over clothing, with his hand. This incident occurred in the Scott Elementary School third grade classroom during school hours when class was being taught by PPS employee John McGowan.

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2 In approximately March 2022, a male classmate (“Student Two”) subjected Plaintiff to  
3 unwanted touching of his mouth to Plaintiff’s mouth. Plaintiff attempted to protect herself by  
4 hitting Student Two in the face. This incident occurred at Scott Elementary School during  
5 school hours. Scott Elementary School staff was made aware of this incident. As a result of this  
6 incident, both Student Two and Plaintiff were suspended from school and Scott Elementary  
7 School staff communicated to Plaintiff’s father that they intended to issue a safety plan for  
8 Plaintiff.

10 10.

11 On or about April 7, 2022, Plaintiff, who was then nine years old, was attending SUN  
12 afterschool program located on the Scott Elementary School campus. During the SUN  
13 afterschool program recess time, Plaintiff was watching students play basketball. Two male  
14 students (“Student Three” and “Student Four”) told Plaintiff that if they made basketball shots,  
15 they would kiss her. Student Three and Student Four proceeded to subject Plaintiff to unwanted  
16 touching of their mouths to Plaintiff’s mouth. Student Three and Student Four were also  
17 students enrolled at Scott Elementary School and the SUN afterschool program.

19 11.

20 On or about April 7, 2022, while attending the SUN afterschool program, shortly after the  
21 male students subjected Plaintiff to unwanted kissing, Student Three and Student Four threatened  
22 Plaintiff by forcing her to tell the SUN afterschool program childcare staff that she needed to use  
23 the bathroom, or else they would find out where she lived. Student Three and Student Four  
24 subsequently met Plaintiff in the bathroom. Student Three and Student Four told Plaintiff they

26 Page - 4 COMPLAINT

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1 wanted to kiss her and touch her private areas. Plaintiff did not consent. Student Three and  
2 Student Four removed their pants and removed Plaintiff's pants. Student Three and Student Four  
3 touched Plaintiff's mouth with their mouths and touched her buttocks and vaginal area with their  
4 hands and genitals. Student Three sat on the toilet and pushed Plaintiff down on his lap. He  
5 inserted his penis into her vagina, as Student Four watched. Student Four then sat on the toilet  
6 and engaged in the same conduct as Student Three, inserting his penis into the Plaintiff's vagina,  
7 while Student Three watched. Student Three and Student Four took turns, both engaging in the  
8 penile into vagina penetration at least twice each. Plaintiff told them "no" and to "stop"  
9 repeatedly. Plaintiff attempted to escape but was unsuccessful because the door to the  
10 bathroom stall had been locked and Student Three and Student Four alternated blocking the door,  
11 preventing her from leaving. Plaintiff heard Student Three and Student Four moaning and saw  
12 them smiling as they engaged in the sexual conduct. After the incident, Plaintiff rinsed her  
13 mouth with water to wash the germs from the unwanted kissing out of her mouth. Plaintiff did  
14 not consent to any of the aforementioned contact, and it was harmful and offensive to her.  
15

16 12.

17  
18 The incident described in paragraph 11 became known to Scott Elementary School  
19 personnel when a parent of one of the male student perpetrators, having learned of the incident  
20 from their child, reported the incident to PPS staff at Scott Elementary School. Employees,  
21 agents, and/or volunteers at Scott Elementary School and SUN afterschool program failed to  
22 immediately notify law enforcement about the incident described in paragraph 11. Instead, PPS  
23 undertook their own internal investigation. PPS personnel interviewed Plaintiff without first  
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1 notifying law enforcement or Plaintiff's parents/legal guardians of the sexual assault or of  
2 Plaintiff's interview.

3 13.

4 In the days after the incidents described in paragraphs 10 and 11, Plaintiff's father/legal  
5 guardian spoke to Scott Elementary School staff and PPS staff. He was told that Student Three  
6 and Student Four would remain at school with a safety plan in place that would give separate  
7 lunch periods to the male student perpetrators and the Plaintiff. Feeling that PPS's safety  
8 proposal and response was inadequate, Plaintiff's father/legal guardian did not believe Plaintiff  
9 could safely return to Scott Elementary School and ultimately disenrolled Plaintiff and her  
10 younger brother from Scott Elementary School and enrolled them in another Portland Public  
11 School. Plaintiff and her younger brother spent almost one month out of school as a result of the  
12 sexual assaults against Plaintiff. Student Three and Student Four were allowed to remain at Scott  
13 Elementary School and continue with their education with only a one-day suspension.  
14

15 14.

16 On April 13, 2022, Plaintiff's father/legal guardian took Plaintiff to Legacy Randall  
17 Children's Emergency Department for a medical evaluation. Medical providers referred Plaintiff  
18 to the child advocacy center, CARES Northwest, that serves and provides medical care to  
19 Multnomah County children suspected of having experienced physical abuse, sexual abuse, and  
20 neglect. Plaintiff's father/legal guardian scheduled an appointment for Plaintiff at CARES  
21 Northwest for April 21, 2022. During her forensic interview at CARES Northwest, Plaintiff  
22 provided detailed and consistent disclosures of the nonconsensual sexual conduct, leading  
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1 CARES Northwest practitioners to conclude that the history provided was highly concerning for  
2 sexual abuse.

3 15.

4 As a result of the ongoing sexual harassment, multiple sexual assaults, restraint on her  
5 freedom of movement, and the disruption to her education, Plaintiff suffered and continues to  
6 suffer psychological injuries including but not limited to emotional trauma, pain, suffering,  
7 emotional distress, shame, embarrassment, social anxiety, difficulty with concentration,  
8 academic setbacks, diminished self-esteem and sense of security, mistrust in the intentions of  
9 others, and post-traumatic stress disorder. Those injuries caused, and will continue to cause,  
10 Plaintiff noneconomic damages in the approximate sum of \$3,000,000.00, the exact amount to be  
11 determined by a jury at trial.  
12

13 16.

14 Tort claim notices were timely filed on J.S.'s behalf, within 270 days of when Plaintiff  
15 discovered her legally cognizable injuries and/or the identity of the tortfeasors. Further, Plaintiff,  
16 who is 11-years-old, did not discover, nor in the exercise of reasonable care should she have  
17 discovered, the causal connection between the tortious acts and omissions herein, the identity of  
18 the tortfeasors, and the resulting harms and losses until within two years of filing this complaint.  
19 In addition, J.S.'s cause of action is tolled pursuant to ORS 12.160.  
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21 17.

22 Plaintiff hereby demands a jury trial.

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**FIRST CLAIM FOR RELIEF – NEGLIGENCE**

**(Against Defendant PPS)**

18.

Plaintiff realleges and incorporates by reference paragraphs 1-17 above.

19.

Based on repeated incidents of sexual assault being perpetrated against Plaintiff while she attended Scott Elementary School, PPS knew or should have known that Plaintiff was vulnerable to and at risk of continued sexual assault by male students.

20.

PPS knew or should have known of the male students' predatory behavior toward Plaintiff, and that she was at a risk of continued sexual assault. PPS and its agents fell below the applicable standard of care, were negligent, and unreasonably created a foreseeable risk of harm to children, including Plaintiff, in one or more of the following ways:

- a. Failing to adequately train and teach children attending PPS schools about appropriate sexual boundaries, sexual abuse, consent, how to report abuse, and sexually appropriate behavior;
- b. Failing to enforce rules concerning sexual behavior of students at school;
- c. Causing Plaintiff to feel that if she protected herself from unwanted sexual contact, she would be punished by way of a reprimand and/or school suspension;
- d. Failing to recognize and communicate Plaintiff's particular vulnerabilities of being repeatedly victimized to SUN afterschool program staff;



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- e. Failing to communicate safety plans, of which Plaintiff was the subject, to SUN afterschool program staff and Plaintiff's parents/legal guardians;
- f. Failing to adequately train PPS employees to monitor, recognize, report, and prevent child sexual abuse;
- g. Failing to maintain awareness of students and their safety during the school day;
- h. Failing to monitor by sight and sound the behavior of students during the school day; and
- i. Failing to properly implement and enforce common sense child abuse prevention policies at PPS.

21.

PPS's failure to undertake reasonable sexual abuse prevention measures, as described in paragraph 20, was unreasonable. Any or all of PPS's failures as described in paragraph 20 were substantial and contributing causal factors to all or some of Plaintiff's abuse and damages. As a direct and foreseeable result and consequence of PPS's negligence, Plaintiff incurred the damages described in paragraph 15.

**SECOND CLAIM FOR RELIEF – NEGLIGENCE**

**(Against Defendants Latino Network and Multnomah County)**

22.

Plaintiff re-alleges paragraphs 1-17 above.

23.

Defendants Latino Network and Multnomah County were negligent and unreasonably created a foreseeable risk of harm to Plaintiff in one or more of the following ways:

- a. In failing to maintain awareness of students during the SUN afterschool program;

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- b. In failing to monitor by sight and sound the behavior of students attending the SUN afterschool program;
- c. In failing to enforce rules concerning sexual behavior of students at SUN afterschool program;
- d. In failing to adequately train SUN afterschool program employees to monitor, recognize, report, and prevent child sexual grooming and abuse;
- e. In failing to recognize the assault as it was in progress and failing to intervene in the assault described in paragraphs 10 and 11 above;
- f. In failing to adequately supervise STUDENT THREE and STUDENT FOUR during the SUN afterschool program when defendants knew or should have known of the risks they posed to students, including Plaintiff.

24.

Latino Network and Multnomah County’s failure to undertake reasonable sexual abuse prevention measures, as described in paragraph 23, was unreasonable. Any or all of the failures as described in paragraph 23 were substantial and contributing causal factors to all or some of Plaintiff’s abuse and damages. As a direct and foreseeable result and consequence of Latino Network and Multnomah County’s negligence, Plaintiff incurred the damages described in paragraph 15.

**THIRD CLAIM FOR RELIEF – SPECIAL RELATIONSHIP**

**(Against Defendants Latino Network and Multnomah County)**

25.

Plaintiff realleges and incorporates by reference paragraphs 1-17 above.

26.

1  
2 Plaintiff, acting through her father, authorized Defendants Multnomah County and Latino  
3 Network, acting collectively in their administration of the SUN afterschool program, through  
4 their employees and agents to exercise independent supervisory responsibility to safeguard  
5 Plaintiff's physical and mental well-being while Plaintiff was in their care participating in the  
6 SUN afterschool program.

27.

7  
8 Plaintiff was placed in a position of trust and reliance upon Defendants Multnomah  
9 County and Latino Network and their employees and agents, and entrusted responsibility and  
10 control over her well-being to them while participating in the SUN afterschool program.  
11 Plaintiff was expected to abide by the rules of SUN afterschool program while participating in  
12 the SUN afterschool program.  
13

28.

14  
15 The special relationship between Plaintiff and defendants Latino Network and  
16 Multnomah County, through their administration of the SUN afterschool program, gave rise to a  
17 heightened duty of care beyond the general duty to avoid foreseeable risk of harm, which  
18 defendants Latino Network and Multnomah County owed to Plaintiff.  
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29.

20  
21 Defendants Latino Network and Multnomah County breached their heightened duty of  
22 care in one or more of the ways alleged in Paragraph 23.

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30.

As a direct and foreseeable result and consequence of Defendant Latino Network's and Defendant Multnomah County's breach of their heightened duty of care owed to Plaintiff as alleged in paragraph 23, Plaintiff incurred the injuries and damages described in paragraph 15.

**FOURTH CLAIM FOR RELIEF – ABUSE OF A VULNERABLE PERSON**

**(Against All Defendants)**

31.

Plaintiff realleges and incorporates by reference paragraphs 1-17 above.

32.

Plaintiff was at all relevant times vulnerable and entitled to the protection of ORS 124.100 *et seq.*, because she was incapacitated for purposes of ORS 124.100(1)(e)(C) and ORS 125.005(5), since a condition existed in which her ability to receive and evaluate information effectively or to communicate decisions was impaired to such an extent that she did at the relevant times presently lack the capacity to meet the essential requirements for their physical health or safety, including those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which serious physical injury or illness was likely to, and did, occur. Specifically, a condition existed such that Plaintiff lacked a wide range of cognitive and functional abilities relating to receipt and evaluation of information and communication, including:

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- A. She was unable to understand and/or appreciate (i) that she had the need and the right not to be abused by others; (ii) that she had basic needs and the right to emotional security and bodily integrity; and (iii) the nature of the abuse that was being perpetrated upon her;
- B. She had limited understanding of basic concepts related to self-care, medical treatment, common dangers, and personal health and/or safety;
- C. She had limited ability to fully and effectively communicate her safety concerns with others, including those in a position to help her meet her basic needs and maintain her physical health and/or safety;
- D. She was unable to manage money or purchase necessities and had no money;
- E. She was unable to make or to communicate any decision that would meet the essential requirements for her mental health, and physical health and/or safety; and
- F. Her ability to receive and evaluate information effectively or to communicate decisions was impaired by her abusers' force, threats and/or coercion.

33.

The conduct alleged in paragraphs 1-17 above constituted physical abuse within the meaning of ORS 124.105.

34.

Pursuant to ORS 124.100(2) and (5), defendants are responsible for the physical abuse of Plaintiff as alleged in paragraphs 1-17 because defendants permitted Student One, Student Two, Student Three, and Student Four to engage in the abuse by knowingly acting and failing to act under circumstances in which a reasonable person should have known that the sort of abuse inflicted on Plaintiff would occur.

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35.

As a result of the defendant's acts and omissions as alleged in this Fourth Claim for Relief, Plaintiff suffered the damages alleged in paragraph 15 and is entitled to an amount equal to three times her economic and non-economic damages pursuant to ORS 124.100(2)(a) and (b).

36.

Plaintiff is entitled to reasonable attorney fees pursuant to ORS 124.100(2)(c) and reasonable fees for the services of her guardian *ad litem* pursuant to ORS 124.100(2)(d).

**PRAYER FOR RELIEF**

**WHEREFORE**, plaintiff prays for judgment against defendants as follows:

On the **First Claim of Negligence** against Defendant PPS:

- (a) Non-Economic damages in the amount not to exceed \$3,000,000.00; and
- (b) Costs and Disbursements incurred herein.

On the **Second Claim of Negligence** against Defendants Latino Network and Multnomah County:

- (a) Non-Economic damages in the amount not to exceed \$3,000,000.00; and
- (b) Costs and Disbursements incurred herein.

On the **Third Claim of Special Relationship** against Defendants Latino Network and Multnomah County:

- (a) Non-Economic damages in the amount not to exceed \$3,000,000.00; and
- (b) Costs and Disbursements incurred herein.

On the **Fourth Claim of Abuse of a Vulnerable Person** against Defendants PPS, Latino Network and Multnomah County:

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- (a) Treble Non-Economic damages, in the total amount not to exceed \$9,000,000.00;
- (b) Costs and Disbursements incurred; and
- (c) Reasonable Attorney Fees.

**RESPECTFULLY SUBMITTED** this 19<sup>th</sup> day of March, 2024

/s/Amber Kinney  
 Amber Kinney, OSB No. 077063  
 amber@amberkinneylaw.com  
 Attorney for Plaintiff

/s/Amity Girt  
 Amity Girt, OSB No. 042605  
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 Attorney for Plaintiff

Plaintiff requests trial by jury.