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**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**IN AND FOR VENTURA COUNTY**  
**UNLIMITED JURISDICTION**

N.A., a minor, by and through her guardians ad  
litem, MARK ABBOTT and CHRISTINA  
ABBOTT,

Plaintiff,

v.

CONEJO VALLEY UNIFIED SCHOOL  
DISTRICT; JEFF RICKERT, an individual; and  
LISA LAMONTAGNE, an individual; DOES 1-  
30, inclusive,

Defendant.

**Case No.:**  
56-2017-00498771-CU-CR-VTA

**FIRST AMENDED COMPLAINT FOR  
DAMAGES AND INJUNCTIVE RELIEF  
FOR:**

- 1. UNRUH CIVIL RIGHTS ACT**
- 2. NEGLIGENT TRAINING AND  
SUPERVISION**
- 3. VIOLATION OF 42 U.S.C. § 1983**

**JURY TRIAL DEMANDED**

1 Plaintiff N.A., a minor, by and through her guardians ad litem, MARK ABBOTT ("Mr.  
2 Abbott") and CHRISTINA ABBOTT ("Mrs. Abbott") (collectively, "Parents"), allege the  
3 following:

4 **THE PARTIES**

5 1. At all relevant times to this Complaint, Plaintiff N.A. ("Plaintiff") was a minor and a  
6 resident of Ventura, California within the jurisdictional boundaries of Defendant CONEJO  
7 VALLEY UNIFIED SCHOOL DISTRICT.

8  
9 2. Defendant CONEJO VALLEY UNIFIED SCHOOL DISTRICT ("District" or  
10 "CVUSD") is a public agency providing education to school-aged children pursuant to the  
11 laws and regulations of the State of California.

12 3. Defendant JEFF RICKERT ("Principal Rickert") was the Principal at the EARTH  
13 Academy ("EARTH"), a magnet school within the District, during all relevant times to this  
14 First Amended Complaint ("FAC"). Based on information and belief, he resides and/or does  
15 business in within this County.

16  
17 4. Defendant LISA LAMONTAGNE ("Ms. LaMontagne") was N.A.'s fourth-grade teacher  
18 at EARTH within the District during all relevant times to this FAC.

19 5. Plaintiff is informed, believes and, based upon such information and belief, alleges that  
20 DOES 1 through 30 are, and at all times herein mentioned were, individuals, corporations,  
21 partnerships, or other business entities that were and are legally responsible and liable for the  
22 acts and events referred to in this FAC. Plaintiff is ignorant of the true names and capacities of  
23 Defendants sued herein as DOES 1 through 30, inclusive, and therefore sues said Defendants  
24 under such fictitious names. Plaintiff will seek leave to amend this FAC to allege their true  
25 names and capacities when the same have been ascertained.  
26

## **JURISDICTION AND VENUE**

6. This Court has jurisdiction over the subject matter of this dispute pursuant to Cal. Code Civ. Proc. §§ 88 & 410.10. Jurisdiction lies with this Court as the amount in controversy, exclusive of attorneys' fees and costs, exceeds the minimum jurisdictional requirements for an unlimited action.

7. Venue is appropriate in this Court, as Defendant resides within the jurisdictional boundaries of Ventura County, and is also subject to personal jurisdiction within this County.

## **ALLEGATIONS PERTAINING TO ALL CAUSES OF ACTION**

8. At all relevant times, N.A. and her Parents have practiced Christianity.

9. During the 2015-16 school year, N.A. was a fourth grader at EARTHS within the District.

10. Early in the school year, Mr. Abbott became concerned about the religious and spiritual influences of meditation that N.A. was learning in her class. Mr. Abbott addressed the issue with N.A.'s teacher, Ms. LaMontagne, who denied any such spiritual influences. Mr. Abbott took her at her word.

11. Nonetheless, based on information and belief, Ms. LaMontagne had her students meditate every afternoon to music, often without English lyrics. She taught them how to meditate towards the beginning of the year, but later in the school year, students would take turns guiding the other students through breathing exercises which lasted roughly 12 minutes. Gradually, yoga poses were introduced purportedly for exercise. Ms. LaMontagne never asked N.A. whether she was comfortable with meditation.

12. Mrs. Abbott would later observe Ms. LaMontagne greet her students with "Namaste," a customary Indian greeting to which all the students reciprocated in kind.

1 13. On May 4, 2016, N.A. came home from school and told her Parents about an assigned  
2 science experiment and someone named Masaru Emoto ("Mr. Emoto"). Mr. Abbott became  
3 concerned when N.A. spoke reverently of Mr. Emoto, using the words "prayer" and "great man"  
4 to describe him. When asked about the reference to prayer, N.A. explained: "It is not really  
5 praying, it's just like praying."

6 14. N.A. further described a classroom experiment to her Parents involving two containers of  
7 rice or water in which Ms. LaMontagne instructed her students to think negative thoughts (e.g.,  
8 "I hate you" and "You are a fool") or positive thoughts (e.g., "Have a nice day" and "I love  
9 you") towards the containers, then record the effects in their journals with emphasis on sending  
10 positive energy.  
11

12 15. Mrs. Abbott immediately e-mailed Ms. LaMontagne, only to receive a reply on May 9,  
13 2016. Parents researched Mr. Emoto on the Internet and learned that he was not actually a peer-  
14 recognized scientist, but a spiritual leader with connections to Buddhism whose experiments  
15 were based on elements of "Hado," i.e., a spiritual belief with connections in the intrinsic  
16 vibration in all matter. Based on information and belief, Hado adherents believe, for example,  
17 that positive or negative thoughts alone can alter the physical properties of matter (e.g., water).  
18

19 16. At the EARTH'S Open House on May 12, 2016, Ms. LaMontagne displayed the rice and  
20 water experiment. Mrs. Abbott, a scientist by profession, approached her and said that the  
21 experiment was not scientifically or factually based, questioning the scientific method and  
22 whether any controls were used. Mrs. Abbott also stated that she had researched Mr. Emoto and  
23 discovered he was a spiritual leader, not a scientist. Ms. LaMontagne actively encouraged her to  
24 try the experiment at home. Thereafter, Mrs. Abbott approached Principal Rickert, who  
25 expressed his own concern with the experiment and stated that he only learned about it an hour  
26

1 ago. Mrs. Abbott observed that Ms. LaMontagne played instrumental music during the Open  
2 House that appeared to be potentially spiritual.

3 17. Based on information and belief, no other fourth-grade class at EARTHS performed this  
4 rice and water experiment based on Mr. Emoto's teachings.

5 18. On May 13, 2016, Mrs. Abbott met with Principal Rickert and articulated Parents'  
6 concern that religious curriculum was being disguised as science—praying to rice, praising  
7 existence, teaching as fact—and had become ingrained. Principal Rickert claimed that he would  
8 stop the experiment.  
9

10 19. On May 17, 2016, Ms. LaMontagne again conducted the experiment with her students,  
11 adding a third container for “neglect” separate from the containers for “positive” and “negative”  
12 thinking. Principal Rickert informed Mrs. Abbott that he wanted to restructure the experiment  
13 because he felt that he could correct the students' learning by controlling variables and applying  
14 scientific principles.  
15

16 20. On May 23, 2016, Ms. LaMontagne showed N.A. and her classmates the first half of a  
17 documentary, *Secret of Water*, reinforcing the spiritual teachings of Mr. Emoto that: (1) water is  
18 living; (2) it can be manipulated by prayer, positivity, or negativity; (3) it can take the form of  
19 things it touches; (4) a person will die at an early age from drinking “dead” water; and (5) a  
20 person can purify water with positive thoughts. Parents wanted to keep N.A. home the next day  
21 until Principal Rickert assured them that he would speak to Ms. LaMontagne.  
22

23 21. Nonetheless, Ms. LaMontagne showed the second half of the video the next day. Parents  
24 became alarmed by N.A.'s infatuation with the learned concepts, including speaking about living  
25 to 120 years of age, etc.  
26

1 22. On May 25, 2016, Mr. Abbott learned that N.A. memorized a song in a different  
2 language. Upon inquiry with Principal Rickert, Mrs. Abbott learned that the song titles included  
3 the word “prayer.” He assured her that it would stop. On information and belief, Principal  
4 Rickert met with Ms. LaMontagne and her union representative that day, and instructed Ms.  
5 LaMontagne to remove any mention of Mr. Emoto and his experiments. Additionally, he told  
6 Ms. LaMontagne that the “energy” she was teaching in the rice and water experiment was not  
7 connected in any way to scientifically recognized energy (heat, kinetic, etc.) found in the  
8 EARTHS fourth-grade curriculum.  
9

10 23. Principal Rickert’s actions were cosmetic only: as of May 26, 2016, Mrs. Abbott  
11 observed that information about the rice and water experiment remained on a poster board in Ms.  
12 LaMontagne’s classroom.  
13

14 24. Parents learned that one of the songs N.A. learned to sing in class was “Gayatri Mantra,”  
15 a Sankrit chant containing the translated verse: “May the almighty God illuminate our intellect to  
16 lead us along the righteous path.”  
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18 25. Over time, Parents became particularly concerned by Ms. LaMontagne, whom they  
19 would discover was strongly involved in Ayurveda, i.e., based on information and belief, a New  
20 Age-oriented quasi-alternative medicine that is connected to Buddhism and focused on soul-  
21 healing, yoga, and the mind-body matters. Ms. LaMontagne imposed and indoctrinated her  
22 students into her spiritual beliefs through the above-mentioned classroom activities (e.g.,  
23 meditation music, yoga poses, and “Namaste” greeting), as well as her encouragement that her  
24 students that they meditate at home every night before bed.  
25

26 26. As a scientist, Mrs. Abbott actively attempted to reeducate her child about the real  
scientific properties of water, including debunking the untruths learned in Ms. LaMontagne’s

1 classroom. Moreover, Parents had to reeducate their child on the principles of their family's  
2 Christian faith, e.g., the proscription against worshipping false religions and gods. N.A. became  
3 confused and frustrated by the conflicting information. Ms. LaMontagne's pattern of  
4 indoctrinating students to her spiritual and/or religious beliefs caused harm to the emotional,  
5 educational, and religious development of N.A., who began to develop a negative attitude  
6 towards her education, stating: "Why should I learn if everything is not true?" Parents were  
7 concerned by the amount of class time devoted to Mr. Emoto, as well as the song with repeating  
8 verses N.A. memorized because prayer and chanting are contrary to Parents' religious beliefs.

10 27. When Parents asked to review N.A.'s journal, Ms. LaMontagne claimed that she was  
11 unable to locate the "Energy Journal."

12 28. On May 27, 2016, Plaintiff, by and through her parents, submitted a Uniform Complaint  
13 stating that N.A. "has been inculcated with several New Age and Eastern religious beliefs and  
14 practices, including those of a spiritual author and philosopher named Mr. Emoto."

16 29. On June 27, 2016, Deputy Superintendent Robert Iezza ("Deputy Superintendent Iezza")  
17 and Elementary Education Director Jeanne Valentine ("Director Valentine") presented findings  
18 from their resulting investigation and rejected the Parents' claims that, *inter alia*, Ms.  
19 LaMontagne had violated the First Amendment by attempting to indoctrinate her students into a  
20 religion during the 2015-16 school year. However, the District confirmed in writing that neither  
21 yoga, meditation, nor Mr. Emoto's teachings were District-approved curriculum.

23 30. On November 28, 2016, Plaintiff, by and through her undersigned counsel, served a  
24 Notice of Government Tort Claim pursuant to Cal. Gov. Code § 910, *et seq.* Based on  
25 information and belief, the District never responded. (See Cal. Gov. Code §§ 912.6(a) &  
26 912.4(c).)

**FIRST CAUSE OF ACTION**  
**Unruh Civil Rights Act**  
**Cal. Civ. Code § 51, *et seq.***  
**(Against CVUSD Only)**

31. Plaintiff re-alleges and incorporates herein by reference each and every allegation set forth above.

32. In relevant part, Cal. Civ. Code § 51 provides that Plaintiff is free and equal within the jurisdiction of the State of California, and no matter what her religion, is entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

33. The District is a “business establishment” for the purposes of Cal. Civ. Code § 51(b).

34. As described above, the District discriminated against N.A., and therefore denied her full and equal services to her education, by subjecting her to the above-described spiritual and/or religious indoctrination, including but not limited to religious chanting and teachings by Mr. Emoto related to scientifically unfounded spiritual beliefs about the properties of matter, over Parents’ objections.

35. The District acted intentionally and/or with deliberate indifference to the violation of Plaintiff’s right to be free of religious indoctrination, as protected by state and federal law. A motivating reason for Defendant’s conduct was Plaintiff’s religion.

36. The District’s conduct was a substantial factor in causing the harm that Plaintiff suffered, as exemplified above by Mrs. Abbott’s efforts to reeducate her child concerning proper scientific inquiry.

37. As a direct and proximate result of the District’s conduct, Plaintiff suffered general and special damages in an amount to be determined at trial.

1 WHEREFORE, Plaintiff has been damaged and prays for judgment as set forth below.

2 **SECOND CAUSE OF ACTION**  
3 **Negligent Training and Supervision**  
4 **(Against CVUSD and Does 1-30)**

5 38. Plaintiff re-alleges and incorporates herein by reference each and every allegation  
6 set forth above.

7 39. The District owed a duty of care to N.A. to provide her a public school education while  
8 safeguarding her civil rights, e.g., freedom from District-sponsored religious/spiritual  
9 indoctrination.

10 40. As reflected above, Ms. LaMontagne was unfit to perform as N.A.'s teacher, given her  
11 indoctrinate of her students with New Age and/or Eastern religious beliefs and practices,  
12 including but not limited to those of Mr. Emoto, all of which the District recognized as not part  
13 of its science curriculum—yet allowed to persist.

14 41. The District knew or should have known of Ms. LaMontagne's unfitness, and the  
15 particular risk of religious indoctrination it caused to students, given Mrs. Abbott's  
16 communications with Principal Rickert and Ms. LaMontagne.

17 42. As demonstrated above, Ms. LaMontagne's unfitness caused harm to Plaintiff's  
18 emotional, academic, and religious development by inculcating New Age and Eastern religious  
19 beliefs and practices, including but not limited to religious chanting and Mr. Emoto's  
20 scientifically unfounded spiritual beliefs about the properties of matter.

21 43. The District's negligence in hiring and/or supervising Ms. LaMontagne was a substantial  
22 factor in causing the harm that Plaintiff suffered, as exemplified above by Mrs. Abbott's efforts  
23 to reeducate her child concerning proper scientific inquiry.  
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1 44. As a direct and proximate result of the District's conduct, Plaintiff suffered general and  
2 special damages in an amount to be determined at trial.

3 WHEREFORE, Plaintiff has been damaged and prays for judgment as set forth below.

4 **THIRD CAUSE OF ACTION**  
5 **Violation of 42 U.S.C. § 1983**  
6 **(Against All Defendants)**

7 45. Plaintiff re-alleges and incorporates herein by reference each and every allegation  
8 set forth above.

9 46. In relevant part, 42 U.S.C. § 1983 provides the following:

10 Every person who, under color of any statute, ordinance, regulation, custom, or usage, of  
11 any State or Territory or the District of Columbia, subjects, or causes to be subjected, any  
12 citizen of the United States or other person within the jurisdiction thereof to the  
13 deprivation of any rights, privileges, or immunities secured by the Constitution and laws,  
14 shall be liable to the party injured in an action at law, suit in equity, or other proper  
proceeding for redress, except that in any action brought against a judicial officer for an  
act or omission taken in such officer's judicial capacity, injunctive relief shall not be  
granted unless a declaratory decree was violated or declaratory relief was unavailable.

15 47. The Establishment Clause of the First Amendment, as applied to state and local  
16 governmental entities through the Fourteenth Amendment, provides that "Congress shall make  
17 no law respecting an establishment of religion [...]" U.S. Const. amend. I.

18 48. Defendants, collectively and individually, acted under color of state law by providing  
19 education to N.A. and other school-aged children pursuant to the laws and regulations of the  
20 State of California.

21 49. Defendants, collectively and individually, intentionally and/or with deliberate  
22 indifference violated N.A.'s rights under the Establishment Clause by subjecting her to, or failing  
23 to prevent or remediate, the above-described spiritual and/or religious indoctrination, including  
24 but not limited to religious chanting and teachings by Mr. Emoto related to scientifically  
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1 unfounded spiritual beliefs about the properties of matter, over Parents' objections. Given  
2 Parents' written and oral complaints, Principal Rickert knew or should have known that the  
3 above-described conduct of his subordinate, Ms. LaMontagne, would deprive Plaintiff of her  
4 constitutional rights, but failed to respond adequately to prevent the violation. Moreover, given  
5 such notice, Principal Rickert and Ms. LaMontagne each acted intentionally and/or with  
6 deliberate indifference toward Plaintiff's known state and federal constitutional right to be free  
7 of religious indoctrination in her public school classroom.  
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9 50. The above-described acts of spiritual and/or religious indoctrination, including but not  
10 limited to religious chanting and teachings by Mr. Emoto, neither had a secular purpose nor a  
11 primary effect which neither advances nor inhibits religion, and fostered excessive state  
12 entanglement with religion in the classroom.  
13

14 51. As described above, the conduct of Principal Rickert and Ms. LaMontagne, as individual  
15 defendants, was the moving force closely related to the Establishment Clause violation causing  
16 the harm that Plaintiff suffered, exemplified above by Mrs. Abbott's efforts to reeducate her  
17 child concerning proper scientific inquiry.  
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19 52. Based on information and belief, the District adopted and acted according to a policy,  
20 practice, and/or custom of failing to respond adequately to prevent and remediate religious  
21 indoctrination in the public school classroom, which was the moving force closely related to the  
22 Establishment Clause violation causing the harm that Plaintiff suffered, exemplified above by  
23 Mrs. Abbott's efforts to reeducate her child concerning proper scientific inquiry.  
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25 53. As a direct and proximate result of the District's conduct, Plaintiff suffered general and  
26 special damages in an amount to be determined at trial.

WHEREFORE, Plaintiff has been damaged and prays for judgment as set forth below.

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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for the following:

1. Injunctive relief preventing the District from utilizing Hado, the teachings of Mr. Emoto, and/or religious chanting in its curriculum;
2. General damages determined in an amount to be proven at trial;
3. Special damages in an amount to be proven at trial;
4. Costs of this suit;
5. Statutory damages pursuant to Cal. Civ. Code § 52;
6. An award of attorney fees to the extent permitted by law; and
7. Other and further relief as the Court deems appropriate and just.

Dated: October 10, 2017

LEIGH LAW GROUP, P.C.

  
DAMIEN B. TROUTMAN  
Attorney for Plaintiff

**JURY TRIAL DEMANDED**

Plaintiffs demand a jury trial on all matters for which a jury trial is provided as a matter of right.

Dated: October 10, 2017


LEIGH LAW GROUP, P.C.

  
DAMIEN B. TROUTMAN  
Attorney for Plaintiff

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☒ (VIA U.S. MAIL) I caused such document to be placed in the U.S. Mail in San Francisco, California with postage thereon fully prepaid.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed in San Francisco, California, on this date, October 10, 2017.

  
Damien B. Troutman