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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ALEX YOUCKTON,

Plaintiff,

v.

MARY M. KNIGHT SCHOOL DISTRICT;
ELLEN PERCONTI, in her capacity as
superintendent of Mary M. Knight School
District; PATTI McLEAN, in her capacity as a
member of the Mary M. Knight School Board;
CYNTHIA BREHMEYER, in her capacity as
Legislative Representative of the Mary M.
Knight School Board; LEROY VALLEY, in his
capacity as WIAA Representative of the Mary
M. Knight School Board; PAT CALAHAN, in
his capacity as Vice President of the Mary M.
Knight School Board; SHAWN DONNELLY in
his capacity as Board President of the Mary M.
Knight School Board; and JOHN AND JANE
DOE 1-10

Defendants.

NO. _____

COMPLAINT

Plaintiff, Alex Youckton, by and through his attorneys of record, alleges and claims as follows upon personal knowledge as to himself and his own actions, and upon information and belief upon all other matters:

I. PARTIES

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3 1. Plaintiff ALEX YOUCKTON is a Native American. He was severely beaten by
4 B.D.O., a minor student of Defendant Mary M. Knight School District, on the evening of
5 January 20, 2017, at Mary M. Knight High School. The beating was racially motivated and well
6 anticipated by numerous Mary M. Knight School District employees, who, consistent with the
7 policies and established practices of the Mary M. Knight School District, failed to prevent the
8 attack. Plaintiff brings all claims available to himself under federal and state law.

9 2. Defendant MARY M. KNIGHT SCHOOL DISTRICT (“School District”) is a
10 political subdivision of the State of Washington. Defendant School District is a recipient of
11 Federal funds and assistance. Defendant School District is responsible for establishing and
12 enforcing the policies and procedures for individual schools within its district boundaries.
13 Defendant School District, in conjunction with the Mary M. Knight School Board, is responsible
14 for: adopting policies to protect all students on its premises from dangers on campus, including
15 assaults by known violent students; enforcing violent students’ expulsions and ensuring they are
16 not on school property during their expulsion; and preventing racially motivated attacks. The
17 known acts of racial harassment at the Mary M. Knight High School were so severe, pervasive,
18 and offensive that the harassment deprived Mr. Youckton of access to educational opportunities
19 and benefits. That Defendant School District’s failure to undertake a single measure to protect
20 students such as Mr. Youckton from the known dangers that B.D.O. presented provides just one
21 example of this pervasive harassment. And here, as a direct result of these failures, without
22 provocation, B.D.O. viciously attacked Mr. Youckton outside the Mary M. Knight Gymnasium
23 following a basketball game.

1 3. Defendants PATTI McLEAN, CYNTHIA BREHMEYER, LEROY VALLEY,
2 PAT CALAHAN, and SHAWN DONNELLY, are members of the Mary M. Knight School
3 District School Board (“School Board Defendants”). School Board Defendants have an
4 obligation to manage Defendant School District in a manner consistent with board policy and
5 state and federal law, including ensuring compliance with the provision of Title VI of the Civil
6 Rights Act. School Board Defendants also possess the ability, authority, and duty to take
7 corrective action on behalf of the Defendant School District to stop harassment and to ensure that
8 all students on school property are safe. But they failed to do so. In fact, School Board
9 Defendants maintained policies and established practices that allowed and encouraged racial
10 harassment throughout the Mary M. Knight School District and the Mary M. Knight High
11 School, putting students such as Mr. Youckton at an increased risk of harm or death at the hands
12 of other students. What is more, School Board Defendants maintained policies and established
13 practices that allowed and encouraged known dangerous students, such as B.D.O., to engage in
14 violence on campus. These policies and established practices created danger—a fact that was
15 known and obvious to School Board Defendants.

16 4. ELLEN PERCONTI is the Mary M. Knight School District Superintendent. Ms.
17 Perconti has an obligation to manage Defendant School District in a manner consistent with
18 board policy and state and federal law, including ensuring compliance with the provision of Title
19 VI of the Civil Rights Act. Ms. Perconti also possesses the ability, authority, and duty to take
20 corrective action on behalf of the Defendant School District to stop harassment and to ensure that
21 all students on school property are safe. But she failed to do so. In fact, Ms. Perconti maintained
22 policies and established practices that allowed and encouraged racial harassment throughout the
23 Mary M. Knight School District and the Mary M. Knight High School, putting students such as
24 Mr. Youckton at an increased risk of harm or death at the hands of other students. What is more,

1 Ms. Perconti maintained policies and established practices that allowed and encouraged known
2 dangerous students such as B.D.O. to engage in violence on campus. These policies and
3 established practices created danger—a fact that was known and obvious to Ms. Perconti.

4 5. Defendants John and Jane Doe 1-10 are employees of the Mary M. Knight School
5 District who affirmatively insured that B.D.O. was present at the Mary M. Knight High School
6 basketball game on the evening of January 20, 2017, and acted with deliberate indifference to the
7 danger that they created by taking this affirmative act.

8 **II. JURISDICTION AND VENUE**

9 6. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1367.

10 7. Venue is proper in the Western District of Washington pursuant to 28 U.S.C. §
11 1391 because Defendant School District resides in this judicial district and because a substantial
12 portion of the events and omissions giving rise to this claim occurred in Grays Harbor County,
13 Washington, within the Western District of Washington.

14 **III. STATUTORY COMPLIANCE JURISDICTION AND VENUE**

15 8. On July 13, 2017, Plaintiff provided Defendants School District and Perconti with
16 notice of this tort claim pursuant to R.C.W. 4.96.020.

17 9. More than sixty (60) days have lapsed since Plaintiff properly presented his claim
18 for damages to Defendant School District.

19 10. Any prerequisite to the maintenance of this action imposed by RCW 4.96 has
20 therefore been satisfied.

21 **IV. STATEMENT OF FACTS**

22 11. Alex Youckton is a member of the Nisqually Indian Tribe, a federally recognized
23 Indian tribe. Mr. Youckton loves playing basketball.

1 12. During the 2016-2017 school year, Mr. Youckton was a senior at Oakville High
2 School (“Oakville”), located at 103 School Street, Oakville, WA 98568. Oakville High School’s
3 student population is over 21% Native American students. That school year, Mr. Youckton was a
4 starting player on Oakville’s varsity basketball and baseball teams.

5 13. Mary M. Knight School (“Mary M. Knight”) is a kindergarten through twelfth
6 grade school located at 2987 West Matlock-Brady Road, Elma, WA 98541. Mary M. Knight’s
7 student population is only 2.5% Native American. Mary M. Knight is a school located within
8 Defendant School District.

9 14. By 2013, Mary M. Knight knew that Native American student-athletes from
10 schools throughout Western Washington were subject to racial slurs, stereotyping, prejudice, and
11 hostility during athletic events hosted there. Specifically, Mary M. Knight was placed on notice
12 that visiting Native American student-athletes were called “dirty Indians,” “wagon burners” and
13 “sand niggers” at games hosted by Mary M. Knight. Despite that knowledge, Mary M. Knight
14 demonstrated unbridled tolerance for racial discrimination and hostility towards visiting Native
15 American student-athletes.

16 15. On January 20, 2017, the Mary M. Knight and Oakville varsity basketball teams
17 played a game against each other at the Mary M. Knight gymnasium (“basketball game”).

18 16. On the afternoon of January 20, 2017, Mr. Youckton went with the rest of his
19 Oakville basketball team to Mary M. Knight for the game.

20 17. B.D.O. was a Mary M. Knight student that had been expelled prior to the
21 basketball game on January 20, 2017.

22 18. Despite being expelled from Mary M. Knight, B.D.O. attended the basketball
23 game and watched from the sideline. During the game, B.D.O. noticeably caused a scene by, for
24

1 instance, doing cartwheels up and down the sidelines, and making hostile comments that
2 contributed to the racially charged atmosphere.

3 19. Defendants John and Jane Doe 1-10, employees of Mary M. Knight School
4 District, affirmatively ensured that B.D.O. was present at the basketball game, despite being
5 expelled. At the least, these Defendants knew or should have known that B.D.O. was present.

6 20. During the basketball game, Mary M. Knight players repeatedly assaulted Mr.
7 Youckton in a sexual and hostile manner by grabbing at his basketball shorts. Defendants John
8 and Jane Doe 1-10, Mary M. Knight staff and administrators, did nothing to stop or deescalate
9 the hostility.

10 21. The atmosphere during the basketball game was racially charged and hostile
11 towards the Oakville basketball players and Oakville fans. Mary M. Knight staff and
12 administrators did nothing to stop or deescalate the racial hostility.

13 22. After the basketball game as Mr. Youckton was leaving the gymnasium, B.D.O.
14 attacked Mr. Youckton without any provocation whatsoever. Using an inanimate object, B.D.O.
15 repeatedly struck Mr. Youckton in the head and face, too many times to count. Mr. Youckton did
16 not try to fight back; he only tried to cover his face and protect himself from B.D.O.'s violent
17 punches. B.D.O. fled the scene after other students and parents pulled him off of Mr. Youckton.
18 Defendants John and Jane Doe 1-10, Mary M. Knight staff and administrators who placed Mr.
19 Youckton in danger, did nothing to protect him from B.D.O.'s attack.

20 23. Mr. Youckton sustained a broken jaw as a result of the violent assault. Mr.
21 Youckton's jaw had to be wired shut in order for him to recover fully from his injuries. As a
22 result of the injuries inflicted by B.D.O., Mr. Youckton was forced to miss the rest of his senior
23 year of basketball. Mr. Youckton also had to be absent from school and missed educational
24 opportunities.

1 24. The trauma of this violent attack still haunts Mr. Youckton.

2 **V. FIRST CAUSE OF ACTION – 42 U.S.C. § 1983: EQUAL PROTECTION**

3 25. Mr. Youckton, a member of Nisqually Indian Tribe, a federally recognized Native
4 American tribe, is a member of a protected class.

5 26. The Equal Protection Clause of the Fourteenth Amendment to the United States
6 Constitution guarantees Mr. Youckton the substantive right to participate equally in all education
7 and education-related activities, and to be free from discriminatory practices.

8 27. Freedom from intentional racial discrimination is a well-recognized constitutional
9 right.

10 28. Defendants have violated Mr. Youckton’s constitutionally protected rights to
11 receive the same treatment as other races.

12 29. Defendants have demonstrated a deliberate indifference to the racial
13 discrimination they have perpetuated through their actions and omissions.

14 30. Defendants have acted to deny Mr. Youckton’s equal protection of the laws.

15 31. On top of medical coats, Mr. Youckton has suffered extreme pain, suffering, and
16 loss of enjoyment of life as a result of Defendants’ acts and omissions.

17 **VI. SECOND CAUSE OF ACTION – 42 U.S.C. § 1983: DELIBERATE
18 INDIFFERENCE**

19 32. The School Board Defendants, Defendant Perconti, and Defendants John and Jane
20 Does 1-10 are liable for their roles in creating and exposing Mr. Youckton to danger that—were
21 it not for their policies, established practices, and acts and omissions as described above—he
22 otherwise would not have faced.

23 33. The danger that Mr. Youckton faced here was affirmatively created due to the
24 policies and established practices maintained by the School Board Defendants and Defendant
25 Perconti. These Defendants implemented a policy and established practice of unbridled

1 tolerance for racial discrimination against students from visiting schools, especially schools with
2 large Native American student populations like Oakville. These Defendants also implemented a
3 policy and established practice of allowing known, violent, expelled students to attend school
4 functions, thereby subjecting other students to a known and obvious danger.

5 34. The danger that Mr. Youckton faced here, as described above, was also
6 affirmatively created due to Defendant John and Jane Doe 1-10's unbridled tolerance for racial
7 discrimination against students from visiting schools and affirmatively ensuring that a known,
8 violent, expelled student attended school functions, thereby subjecting other students, such as
9 Mr. Youckton, to a known and obvious danger.

10 **VII. THIRD CAUSE OF ACTION – VIOLATION OF TITLE VI OF THE CIVIL**
11 **RIGHTS ACT OF 1964**

12 35. Mr. Youckton, a member of Nisqually Indian Tribe, a federally recognized Native
13 American tribe, is a member of a protected class.

14 36. Defendant School District receives financial assistance from the United States
15 Department of Education and is therefore subject to suit under Title VI of the Civil Rights Act of
16 1964, 42 U.S.C. § 2000 et seq. ("Title VI").

17 37. Title VI of the Civil Rights Act provides, in pertinent part: "No person in the
18 United States shall, on the grounds of race, color, or national origin, be excluded from
19 participation in, be denied the benefits of, or be otherwise subjected to discrimination under any
20 program to which this part applies."

21 38. The non-discrimination requirements of Title VI ensure equal access to education
22 opportunities for all students. Athletics is considered an integral part of an institution's
23 education program and is therefore covered by Title VI.

24 39. Defendant School District violated Title VI by being deliberately indifferent to the
25 racially hostile environment that affected Mr. Youckton's educational opportunities.

1 40. Mr. Youckton has suffered racial harassment that was severe, pervasive, and
2 objectively offensive, resulting in a racially hostile environment at Mary M. Knight. This
3 uncorrected racial harassment led to a severe physical assault by another student. As a result, Mr.
4 Youckton was injured and has been deprived of access to educational benefits and opportunities
5 provided to other students, in violation of Title VI.

6 41. Defendant School District exercised control of students in attendance at its schools
7 as well as the context in which the racially hostile environment was created.

8 42. Defendant School District has actual notice of its racially hostile environment and
9 had the authority to address it and take corrective actions.

10 43. Defendant School District was deliberately indifferent to the known racially hostile
11 environment. Defendant School District's clearly unreasonable response deprived Plaintiff of an
12 equal opportunity to access educational benefits.

13 44. Mr. Youckton has suffered damages as a result of the School District's violations of
14 Title VI as set forth above.

15 **VIII. FOURTH CAUSE OF ACTION – NEGLIGENCE**

16 45. Defendant School District possessed a special relationship with Mr. Youckton and
17 he was under Defendant School District's protective custody at all times relevant hereto.

18 46. Defendant School District owed Mr. Youckton a duty of reasonable care.
19 Defendant School District also possessed a duty to anticipate dangers that may reasonably be
20 anticipated and to take precautions to protect students from such dangers.

21 47. Defendant Perconti and the School Board Defendants possess a duty to manage the
22 Defendant School District in a manner consistent with board policy and state and federal law.

23 48. Defendants breached their duty to Plaintiff by failing, neglecting, and/or refusing to
24 properly and fully discharge its duty to Plaintiff. Indeed, Defendant School District was not only

1 negligent in its breach of duty, but acted with a reckless indifference to Plaintiff, failing to exercise
2 even slight care or slight diligence.

3 49. Defendant Perconti and the School Board Defendants also acted with a reckless
4 indifference by failing to design and implement effective policies to prevent previously expelled
5 students from attending a school sporting even on school grounds, to properly and adequately
6 discipline students who engage in harassment of other students, to properly train staff and
7 employees, and failure to properly supervise staff, employees and students.

8 50. As a proximate cause of Defendant School District's breach of its duty, Plaintiff
9 suffered injuries and suffered. The harm sustained by Plaintiff was reasonably perceived as being
10 within the general field of danger covered by the duty Defendant School District owed to Plaintiff.

11 51. As a proximate result of Defendants' negligent and grossly negligent conduct, Mr.
12 Youckton and his family suffered harm, including medical expenses, entitling Mr. Youckton to
13 damages in an amount to be proven at trial.

14 **IX. FIFTH CAUSE OF ACTION – OUTRAGE**

15 52. Defendants engaged in extreme and outrageous conduct toward Mr. Youckton.
16 Defendants intentionally and recklessly inflicted emotional distress upon Mr. Youckton. Such
17 conduct resulted in severe emotional distress to Mr. Youckton that has manifested physically and
18 mentally.

19 53. As a further direct and proximate result of the act or omissions of Defendants, Mr.
20 Youckton suffered grievous, severe, and painful physical and bodily injuries, some of which are
21 permanent in nature, along with emotional pain, agony, apprehension and fear, which required
22 and necessitated medical care and treatment. As a result thereof, Plaintiff incurred medical bills
23 and expenses, and may need and require medical treatment and medical expenses in the future.

1 Plaintiff will ask for leave of Court to amend this allegation once said amounts have been
2 ascertained.

3 **X. JURY DEMAND**

4 54. Plaintiff hereby demands a jury.

5 **XI. PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff prays as follows:

7 1. For judgment against the Defendants, jointly and severally;

8 2. For general and special damages to include, but not restricted to, damages for
9 emotional distress and mental anguish in amounts to be proven at trial;

10 3. An award of Plaintiff's expenses, costs, and reasonable attorneys' fees under 42
11 U.S.C. § 1988, R.C.W. § 49.60.030, and any other applicable provision of federal or state law;

12 4. Any and all applicable interest on the judgment; and

13 5. For such additional relief as the Court may deem just and proper.

14 DATED this 13th day of November, 2017.

15 GALANDA BROADMAN, PLLC

16 s/ Gabriel S. Galanda

17 s/ Ryan D. Dreveskracht

18 s/ Bree R. Black Horse

19 Gabriel S. Galanda, WSBA # 30331

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