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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN BERNARDINO**

11 J.M., an individual, by and through his
Guardian ad Litem MONICA LEIVA,
12
Plaintiff,
13
v.
14
ONTARIO-MONTCLAIR SCHOOL
15 DISTRICT, a public entity and DOES 1-10,
inclusive,
16
Defendants.

Case No.

COMPLAINT FOR DAMAGES:

- 1. NEGLIGENCE**
- 2. PREMISES LIABILITY**

DEMAND FOR JURY TRIAL

19
20 J.M., an individual, by and through his Guardian ad Litem MONICA LEIVA (“Plaintiff”),
21 brings causes of action against Defendant ONTARIO-MONTCLAIR SCHOOL DISTRICT, a
22 public entity and DOES 1-10, inclusive (“Defendants”), who complains and alleges as follows:

23 **GENERAL ALLEGATIONS**

24 1. On December 12, 2025, four-year-old ESN (“Extensive Support Needs”) student
25 J.M. nearly drowned to death at Lincoln Elementary because Ontario-Montclair School District
26 staff abandoned him next to two recreational pools for approximately ten minutes—a blatant
27 violation of J.M.’s IEP (“Individualized Education Plan”).

28 2. J.M. is non-verbal, autistic, and suffers from spina bifida and hydrocephalus. As an

1 ESN student, his IEP mandated
2 continuous one-on-one supervision
3 while at school. In fact, Defendants
4 neglected to provide any flotation or
5 pool safety devices for J.M. on the
6 date of the incident because he was
7 never to be left alone. But in violation
8 of J.M’s IEP, the Defendants
9 abandoned J.M. next to the pools,
10 causing J.M. to suffer a near-fatal
11 drowning incident. J.M. was
12 eventually discovered face-down and
13 unresponsive in a pool, and was airlifted to San Antonio Regional Hospital where he underwent
14 emergency care.



Figure 1: After he was discovered face-down and non-responsive in the pool, J.M. was airlifted to San Antonio Regional Hospital.

15 3. The below narrative from the Ontario Police Department’s investigation confirms
16 that J.M. (referred to as JUVI 1 in the report) was left unattended in violation of his IEP and
17 allowed to drown:

251200415 Supplement No 0001

Ontario Police Department

Narrative

DOB: 5/2/93.

The subject in this incident was identified as a juvenile. For purposes of this report he will be referred to as JUVI 1.

Roselyn statement (Teachers aid)

At the time she left, there were two other aides in the immediate area of the pool. She reported that she had been away from JUVI 1 for approximately 10 minutes when she began to hear people yelling frantically and calling out to him. Roselyn noted that JUVI 1 did not have any water safety devices, as she is specifically assigned to assist him during swim time.

Jasmin Statement (Teacher)

Jasmin explained that, due to a physical condition, JUVI 1 is unable to use his legs from the knees down. His only means of mobility is by dragging himself or pulling himself up. Jasmin also acknowledged that she was supposed to remain with JUVI 1 but was in her classroom during the incident.

Both Roselyn and Jasmin confirmed that JUVI 1 is unable to maneuver independently. They further noted that JUVI 1 is autistic and requires significant support from aides.

This concluded my involvement.

ATTACH TO ORIGINAL REPORT

1 4. Before the incident, Ms. Leiva had signed and submitted paperwork with Lincoln
2 Elementary and the Ontario-Montclair School District expressly providing that J.M. was **not**
3 permitted to participate in pool activities. But despite her initial refusal of permission, Defendants
4 exposed J.M. to the very dangers that his
5 mother feared, then abandoned him in the
6 pool area without the one-on-one
7 supervision mandated by his IEP.

8 5. And following the incident,
9 Defendants transferred J.M. to a different
10 school without Ms. Leiva’s knowledge or
11 consent—an effort to quietly address the
12 dangerous condition of the campus
13 without publicly acknowledging the
14 failures that led to J.M.’s near drowning.
15 Rather than openly confront the safety
16 breakdowns that placed J.M. in harm’s
17 way, Defendants removed him from the
18 campus altogether, attempting to manage the consequences of their misconduct behind the scenes
19 instead of taking responsibility for what transpired.

20 6. The near-fatal drowning incident caused J.M. enormous terror, pain, and suffering,
21 and diminished his cognitive function. Before the incident, J.M. enjoyed bath time with his
22 mother, which provided both comfort and an important opportunity to stretch his muscles as part
23 of managing the physical effects of his disabilities. He now suffers from post-traumatic stress
24 disorder, is terrified of water, and bath time—what should have remained a source of physical
25 care, comfort, trust, and connection with his mother now causes fear, distress, and emotional harm
26 that will follow J.M. for years to come.

27 7. Because of the Defendants’ negligence, J.M.’s future now carries emotional
28 burdens, aggravated cognitive limitations, and new sources of fear and pain that no child should



Figure 3: J.M. receives emergency care following the incident.

1 ever be forced to bear.

2 **PARTIES**

3 8. Plaintiff J.M. is and was, at all times relevant, a resident of San Bernardino County
4 and an Ontario-Montclair School District Extensive Support Needs student.

5 9. Guardian Ad Litem MONICA LEIVA is and was, at all times relevant, a resident
6 of San Bernardino County and the mother of J.M.

7 10. Defendant ONTARIO-MONTCLAIR SCHOOL DISTRICT is and was, at all times
8 herein relevant, a public entity public entity duly organized and existing under and by virtue of the
9 laws of the State of California and authorized to do, and is doing, business in the State of
10 California.

11 11. The true names and capacities, whether individual, plural, corporate, partnership,
12 associate, or otherwise, of DOES 1 through 10, inclusive, are unknown to Plaintiff who therefore
13 sues said defendants by such fictitious names. The full extent of the facts linking such fictitiously
14 sued defendants is unknown to Plaintiff. Plaintiff is informed and believes, and thereupon alleges,
15 that each of the defendants designated herein as a DOE was, and is, negligent, or in some other
16 actionable manner, responsible for the events and happenings hereinafter referred to, and thereby
17 negligently, or in some other actionable manner, legally and proximately caused the hereinafter
18 described injuries and damages to Plaintiff. Plaintiff will hereafter seek leave of the Court to
19 amend this Complaint to show the defendants’ true names and capacities after the same have been
20 ascertained.

21 **FIRST CAUSE OF ACTION**

22 **(Negligence Brought by Plaintiff Against All Defendants)**

23 12. Plaintiff re-alleges and incorporates herein by reference each and every allegation
24 and statement contained in the prior paragraphs.

25 13. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
26 herein, a special relationship existed between Defendants ONTARIO-MONTCLAIR SCHOOL
27 DISTRICT and DOES 1 through 10, inclusive, and its students, including ESN student J.M.,
28 resulting in an affirmative duty on the school district to exercise reasonable supervisory care for

1 the safety of students entrusted to them and to take all reasonable steps to protect its students.

2 14. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
 3 herein, Defendant ONTARIO-MONTCLAIR SCHOOL DISTRICT and DOES 1 through 10,
 4 inclusive, owed a duty of care to all reasonably foreseeable people, including ESN student J.M., to
 5 supervise, protect, assist, and assist in the supervision and control and safety of minor students,
 6 such as ESN student J.M., and to protect minor students, including ESN student J.M. This overall
 7 duty of care encompassed a duty to supervise all students on the school grounds, to enforce rules
 8 and regulations necessary for the protection of the students, and to take appropriate measures to
 9 protect students.

10 15. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
 11 herein, while on Defendant ONTARIO-MONTCLAIR SCHOOL DISTRICT' campus, ESN
 12 student J.M. was under the supervision of employees, who were obligated to provide the
 13 appropriate and mandatory level of oversight and protection for his safety.

14 16. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
 15 herein, Defendant ONTARIO-MONTCLAIR SCHOOL DISTRICT and DOES 1 through 10,
 16 inclusive, breached their duty of care when they carelessly and negligently supervised, protected,
 17 assisted and assisted in the supervision and control and safety of ESN student J.M., a minor
 18 enrolled in their school, which resulted in injuries for which Defendant ONTARIO-MONTCLAIR
 19 SCHOOL DISTRICT and DOES 1 through 10, inclusive, are legally responsible.

20 17. Specifically, Plaintiff is informed and believes, and thereon alleges, that Defendant
 21 ONTARIO-MONTCLAIR SCHOOL DISTRICT and DOES 1 through 10, inclusive, breached
 22 their duty of care when they, among other negligent acts and omissions, left ESN student J.M.
 23 unattended in violation of his IEP in close proximity to two recreational pools, causing J.M. to
 24 suffer a near-drowning incident. These failures caused ESN student J.M.'s injuries, for which
 25 Defendant ONTARIO-MONTCLAIR SCHOOL DISTRICT and DOES 1 through 10, inclusive,
 26 are legally responsible.

27 18. As a legal, direct and proximate result of the conduct of Defendants, including
 28 DOES 1-10, inclusive, as aforesaid, Plaintiff has incurred medical expenses in an amount to be

1 stated according to proof, pursuant to Section 425.10 of the California *Code of Civil Procedure*.

2 19. As a legal, direct, and proximate result of the conduct of Defendants, including
 3 DOES 1-10, inclusive, as aforesaid, Plaintiff has endured and will continue to endure great
 4 physical, mental, and nervous pain and suffering. Plaintiff is further informed and believes, and
 5 thereon alleges that the general damages to said injuries will result in an amount which will be
 6 stated according to proof, pursuant to Section 425.10 of the *California Code of Civil Procedure*.

7 **SECOND CAUSE OF ACTION**

8 **(Premises Liability Brought by Plaintiff Against All Defendants)**

9 20. Plaintiff re-alleges and incorporates herein by reference each and every allegation
 10 and statement contained in the prior paragraphs.

11 21. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
 12 herein, Defendant ONTARIO-MONTCLAIR SCHOOL DISTRICT and DOES 1-10, inclusive,
 13 owned, leased, maintained, managed, occupied, and/or controlled the Lincoln Elementary School
 14 campus (“SUBJECT PREMISES”).

15 22. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
 16 herein, Defendant and DOES 1-10, inclusive, owed a duty of care to all reasonably foreseeable
 17 people, including J.M., to use, own, control and maintain the SUBJECT PREMISES in a
 18 reasonable manner.

19 23. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
 20 herein, Defendant ONTARIO-MONTCLAIR SCHOOL DISTRICT and DOES 1-10, inclusive,
 21 carelessly, negligently, grossly negligently, and recklessly used, controlled, owned and maintained
 22 the SUBJECT PREMISES when they, among other acts and omissions, failed to supervise and
 23 protect J.M. in and around the pool area, left him unattended next to two recreational pools despite
 24 knowing he required continuous one-on-one supervision, failed to implement reasonable pool area
 25 safety measures, failed to provide adequate safeguards or precautions to prevent J.M. from
 26 accessing and entering the water unattended, and otherwise permitted a dangerous condition to
 27 exist on the SUBJECT PREMISES. These failures caused J.M. to suffer a near-fatal drowning and
 28 severe injuries, for which Defendant ONTARIO-MONTCLAIR SCHOOL DISTRICT and DOES

1 1 through 10, inclusive, are legally responsible.

2 24. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
3 herein, the unsafe condition on the SUBJECT PREMISES, and that Defendants knew or, through
4 the exercise of reasonable care, should have known about the unsafe condition, and that Defendant
5 failed to remedy the unsafe condition, protect against harm from the condition, or give adequate
6 warning of the condition.

7 25. Plaintiff is informed and believes, and thereon alleges, that the negligent, grossly
8 negligent, reckless, and unlawful conduct of Defendant and DOES 1-10, inclusive, in regard to the
9 use, control, ownership and maintenance of the SUBJECT PREMISES, was the legal, direct, and
10 proximate cause of the injuries and damages of Plaintiff.

11 26. As a legal, direct and proximate result of the conduct of Defendants, including
12 DOES 1-10, inclusive, as aforesaid, Plaintiff has incurred medical expenses in an amount to be
13 stated according to proof, pursuant to Section 425.10 of the *California Code of Civil Procedure*.

14 27. As a legal, direct, and proximate result of the conduct of Defendants, including
15 DOES 1-10, inclusive, as aforesaid, Plaintiff great physical, mental, and nervous pain and
16 suffering. Plaintiff is further informed and believes, and thereon alleges that the general damages
17 to said injuries will result in an amount which will be stated according to proof, pursuant to
18 Section 425.10 of the *California Code of Civil Procedure*.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays judgment against all Defendants as follows:

21 1. For general damages, including but not limited to past and future pain and
22 suffering, disfigurement, and emotional distress in an amount in excess of the jurisdictional
23 minimum, according to proof, to Plaintiff J.M.;

24 2. For special damages, including but not limited to, past and future hospital, medical,
25 professional, and incidental expenses, in excess of the jurisdictional minimum, according to proof,
26 to Plaintiff J.M.;

27 3. For prejudgment interest, according to proof;


28 4. For fees and costs of suit incurred herein, according to proof;

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5. For such other and further relief as the Court may deem just and proper.

DATED: April 8, 2026

PANISH | SHEA | RAVIPUDI LLP


By: 
Robert S. Glassman
Joseph J. O'Hanlon
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury as to all causes of action.

DATED: April 8, 2026

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By: 
Robert S. Glassman
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Attorneys for Plaintiff