

1 PAMELA Y. PRICE, ESQ. (STATE BAR NO. 107713)  
JESHAWNA R. HARRELL, ESQ. (STATE BAR NO. 257773)  
2 GEORGE S. KHOURY (STATE BAR NO. 269738)  
PRICE AND ASSOCIATES  
3 A Professional Law Corporation  
The Latham Square Building  
4 1611 Telegraph Avenue, Ste. 1450  
Oakland, CA 94612  
5 Telephone: (510) 452-0292  
Facsimile: (510) 452-5625  
6 E-mail: pypesq@aol.com

7 JOHN L. BURRIS (STATE BAR NO. 69888)  
LAW OFFICES OF JOHN L. BURRIS  
8 Airport Corporate Center  
7677 Oakport Street, Ste. 1120  
9 Oakland, CA 94621  
Telephone: (510) 839-5200  
10 Facsimile: (510) 839-3882  
E-mail: john.burris@johnburrislaw.com  
11

12 Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA  
14

15 ALVETT FOBBS, AS GUARDIAN AD LITEM )  
FOR STEVE S., A MINOR, TEOLA COLEMAN, )  
16 AS GUARDIAN AD LITEM FOR JESS L., A )  
MINOR, AUZALEA GODFREY, AS GUARDIAN )  
17 AD LITEM FOR ASSATA G. AND ELISA G., )  
MINORS, TERESE SANDERS AS GUARDIAN )  
18 AD LITEM FOR JONATHAN J., A MINOR, )  
TOYNICA LEDBETTER-FRANKLIN AS )  
19 GUARDIAN AD LITEM FOR KHALIF L., A )  
MINOR, TIWANA SMITH, AS GUARDIAN AD )  
20 LITEM FOR TONSA W. AND TRACY W., )  
MINORS, DAVID G., ROBBIE J, D'ANGELO )  
21 COLE AND DANNY GODFREY, )  
INDIVIDUALLY AND ON BEHALF OF ALL )  
22 PERSONS SIMILARLY SITUATED, )

23 Plaintiffs,

24 v.

25 NEW HAVEN UNIFIED SCHOOL DISTRICT, )  
PAT JAUREQUI, INDIVIDUALLY, DON )  
26 MONTOYA, INDIVIDUALLY, MARCUS LAM, )  
INDIVIDUALLY, GRACE KIM, INDIVIDUALLY, )  
27 AND DOES 1 THROUGH 20, INCLUSIVE, )

28 Defendants.

NO. C10-01065 PJH  
[Related to Case No. C09-0687 PJH]  
[Related to Case No. C09-2723 PJH]

**CLASS ACTION**

**FIRST AMENDED COMPLAINT  
FOR VIOLATION OF CIVIL  
RIGHTS AND RACE  
DISCRIMINATION**

**(JURY TRIAL DEMANDED)**

1 Plaintiff STEVE S., a Minor, by and through Plaintiff ALVETT FOBBS, his Mother  
2 and Guardian Ad Litem, Plaintiff JESS L., a Minor, by and through Plaintiff TEOLA COLEMAN,  
3 his Mother and Guardian Ad Litem, Plaintiffs ASSATA G. and ELISA G., Minors, by and through  
4 Plaintiff AUZALEA GODFREY, their Mother and Guardian Ad Litem, Plaintiff JONATHAN J., a  
5 Minor, by and through Plaintiff TERESE SANDERS, his Sister and Guardian Ad Litem, Plaintiff  
6 KHALIF L., a Minor, by and through Plaintiff TOYNICA LEDBETTER-FRANKLIN, his Mother  
7 and Guardian Ad Litem, Plaintiffs TONSA W. and TRACY W., Minors, by and through Plaintiff  
8 TIWANA SMITH, their Mother and Proposed Guardian Ad Litem, DAVID G., ROBBIE J.,  
9 D'ANGELO COLE AND DANNY GODFREY, and their attorneys, respectfully allege as follows:

10 **PARTIES**

11 1. Plaintiff STEVE S. is the minor child of ALVETT FOBBS. STEVE S. and  
12 ALVETT FOBBS are both African-American citizens of the United States. STEVE S. brings this  
13 action under a fictitious name because he is a minor and to protect his identity due to the nature of his  
14 causes of action which involve racial harassment and physical attacks. Plaintiffs were, and no longer  
15 are, residents of Union City, County of Alameda.

16 2. Plaintiff JESS L. is the minor child of TEOLA COLEMAN. JESS L.  
17 and TEOLA COLEMAN are both African-American citizens of the United States. JESS L. brings this  
18 action under a fictitious name because he is a minor and to protect his identity due to the nature of his  
19 causes of action which involve racial harassment and physical attacks. Plaintiffs were, and no longer  
20 are, residents of Union City, County of Alameda.

21 3. Plaintiff ASSATA G. is the minor child of AUZALEA GODFREY. ASSATA  
22 G. and AUZALEA GODFREY are both African-American citizens of the United States. ASSATA G.  
23 brings this action under a fictitious name because she is a minor and to protect her identity due to the  
24 nature of her causes of action which involve racial harassment and physical attacks. Plaintiffs at all  
25 times mentioned herein, were residents of Union City, County of Alameda.

26 4. Plaintiff ELISA G. is the minor child of AUZALEA GODFREY. ELISA G. and  
27 AUZALEA GODFREY are both African-American citizens of the United States. ELISA G. brings this  
28 action under a fictitious name because she is a minor and to protect her identity due to the nature of her

1 causes of action which involve racial harassment and physical attacks. Plaintiffs are, and at all times  
2 mentioned herein were, residents of Union City, County of Alameda.

3           5. Plaintiff ROBBIE J. is the brother of TERESE SANDERS. He is an African-  
4 American. ROBBIE J. brings this action under a fictitious name to protect his identity due to the nature  
5 of his causes of action which involve racial harassment and physical attacks. Plaintiff was, but no  
6 longer is a resident of Union City, County of Alameda.

7           6. Plaintiff JONATHAN J. is the minor brother of TERESE SANDERS.  
8 JONATHAN J. and TERESE SANDERS are both African-American citizens of the United States.  
9 JONATHAN J. brings this action under a fictitious name because he is a minor and to protect his  
10 identity due to the nature of his causes of action which involve racial harassment and physical attacks.  
11 Plaintiffs were, and no longer are, residents of Union City, County of Alameda.

12           7. Plaintiff KHALIF L. is the minor child of TOYNICA LEDBETTER-  
13 FRANKLIN. KHALIF L. and TOYNICA LEDBETTER-FRANKLIN are both African-American  
14 citizens of the United States. KHALIF L. brings this action under a fictitious name because he is a  
15 minor and to protect his identity due to the nature of his causes of action which involve racial  
16 harassment and physical attacks. Plaintiffs are, and at all times mentioned herein were, residents of  
17 Union City, County of Alameda.

18           8. Plaintiff DAVID G. is an African-American citizen of the United States, and a  
19 resident of Union City, County of Alameda. DAVID G. brings this action under a fictitious name to  
20 protect his identity due to the nature of his causes of action which involve racial harassment and  
21 physical attacks.

22           9. Plaintiff D'ANGELO COLE is an African-American citizen of the United States,  
23 and a resident of Union City, County of Alameda.

24           10. Plaintiff DANNY GODFREY is an African-American citizen of the United  
25 States, and a resident of Union City, County of Alameda.

26           11. Plaintiff TONSA W. is the minor child of TIWANA SMITH. TONSA W. and  
27 TIWANA SMITH are both African-American citizens of the United States. TONSA W. brings this  
28 action under a fictitious name because she is a minor and to protect her identity due to the nature of her

1 causes of action which involve racial harassment and physical attacks. Plaintiffs were, and no longer  
2 are, residents of Union City, County of Alameda.

3           12. Plaintiff TRACY W. is the minor child of TIWANA SMITH. TRACY W. and  
4 TIWANA SMITH are both African-American citizens of the United States. TRACY W. brings this  
5 action under a fictitious name because she is a minor and to protect her identity due to the nature of her  
6 causes of action which involve racial harassment and physical attacks. Plaintiffs were, and no longer  
7 are, residents of Union City, County of Alameda.

8           13. Defendant NEW HAVEN UNIFIED SCHOOL DISTRICT (hereinafter referred  
9 to as "NHUSD") is, and at all times mentioned herein was, the School District where Plaintiffs resided  
10 when the incidents complained of occurred, and is located at 725 Whipple Road, Union City,  
11 California. Plaintiffs are informed and believe and thereon allege that Defendant NHUSD is duly  
12 organized and existing under the Constitution and the laws of the State of California.

13           14. Defendant PAT JAUREQUI was during most of the times mentioned herein the  
14 Superintendent of Schools for Defendant NHUSD. Defendant JAUREQUI is being sued in her official  
15 capacity as the Superintendent of Schools for Defendant NHUSD and in her individual capacity  
16 pursuant to 42 U.S.C. Section 1983.

17           15. Defendant MARCUS LAM was during most of the times mentioned herein the  
18 Principal of Logan High School. Defendant LAM is being sued in his individual capacity pursuant to  
19 42 U.S.C. Section 1983.

20           16. Defendant DON MONTOYA was during most of the times mentioned herein the  
21 Assistant Principal of Logan High School. Defendant MONTOYA is being sued in his individual  
22 capacity pursuant to 42 U.S.C. Section 1983.

23           17. Defendant GRACE KIM is, and was during most of the times mentioned herein,  
24 an Assistant Principal of Logan High School. Defendant KIM is being sued in her individual capacity  
25 pursuant to 42 U.S.C. Section 1983.

26           18. Plaintiffs are ignorant of the true names and capacities of the Defendants sued  
27 herein as Does 1 through 20, inclusive, and therefore sue these Defendants by such fictitious names.  
28 Plaintiffs are informed and believe and thereon allege that each of the fictitiously named Defendants is

1 responsible in some manner for the occurrences alleged herein, and that Plaintiffs' injuries were  
2 proximately caused by their conduct. Plaintiffs will amend this complaint to allege their true names and  
3 capacities when ascertained.

4 **CLASS ACTION ALLEGATIONS**

5 19. Plaintiffs bring this complaint pursuant to Code of Civil Procedure Section 382  
6 on behalf of themselves and all similarly situated African-American students. This class is composed  
7 of all present, past and future African-American students of the New Haven Unified School District  
8 between the ages of thirteen to twenty-four, who have been, or could be subjected to racial harassment  
9 or racially motivated violence or threats of violence in and/or around any educational institution with  
10 Defendant NHUSD since January 2004. The action satisfies the numerosity, typicality, adequacy,  
11 commonality, predominance and superiority requirements of Code of Civil Procedure Section 382.

12 20. The members of this class are so numerous as to make joinder impracticable.  
13 Plaintiffs are informed and believe, and thereon allege that the number of class members exceeds one  
14 hundred and one (101). The claims of the representative parties are typical of the claims of the class,  
15 and the representative parties will fairly and adequately represent the interests of the class.

16 21. Common questions of fact and law exist as to all members of the class and sub-  
17 class. The questions predominate over any questions affecting individual members of the class. These  
18 common legal and factual questions do not vary from class member to class member and may be  
19 determined without reference to the individual circumstances of any class member.

20 22. Plaintiffs' claims are typical of the claims of the members of the class and the  
21 representative Plaintiffs' interests are coincident with and not antagonistic to those of the other class  
22 members they seek to represent. Plaintiffs will fairly and adequately protect the interests of the  
23 members of the class. Plaintiffs have retained counsel experienced in the prosecution of civil rights  
24 violations and class actions. Plaintiffs intend to prosecute this action vigorously.

25 23. There are numerous African-American students who have been discriminated  
26 against by Defendant NHUSD on account of their race, but who have not filed discrimination  
27 complaints or joined in this suit because of fear of recrimination on the part of Defendant NHUSD.

28 24. There is a well-defined community of interest in the questions of law and fact

1 involved affecting the parties to be represented in that these students were subjected to severe and  
 2 pervasive racial harassment in, on and about school premises with the knowledge, consent and  
 3 acquiescence of NHUSD's administrators and senior officials. This racial harassment existed and  
 4 persisted for an extended period of time, such that a racially hostile environment for African-American  
 5 students was created throughout the NHUSD during the relevant time period. NHUSD's policies,  
 6 practices and procedures denied Plaintiffs and members of the class any remedy or right to even seek  
 7 relief from the hostile environment. Proof of a common state of facts will establish the right of each  
 8 class member to recover damages.

9           25.     A class action is superior to other available methods for the fair and efficient  
 10 adjudication of this controversy. The prosecution of separate actions by individual members of the  
 11 class would create a risk of inconsistent or varying adjudications with respect to said individual  
 12 members, thereby establishing incompatible standards of conduct for Defendant NHUSD. Individual  
 13 class members do not have a cognizable interest in pursuing individual actions against Defendants.  
 14 Individualized litigation would be unduly burdensome to the courts in which they would proceed.  
 15 Additionally, individual actions could result in contradictory and inconsistent judgments that would  
 16 magnify the delay and expenses to all parties and to the court system resulting from multiple trials of  
 17 the same factual and legal issues.

18           26.     Due to the predominance of common issues among the class members along with  
 19 the availability of adequate records regarding the class membership, the conduct of this litigation as a  
 20 class action will encounter no significant manageability obstacles.

21           27.     In allowing other students and non-students to engage in racial harassment so as  
 22 to create a hostile educational environment for African-American students, and refusing to take prompt  
 23 preventive and remedial steps, NHUSD acted on grounds generally applicable to the class, thereby  
 24 making injunctive or corresponding declaratory relief appropriate to the class as a whole.

#### **STATEMENT OF FACTS**

25  
 26           28.     During most of the relevant times mentioned herein when the incidents  
 27 complained of occurred, Plaintiffs STEVE S., JESS L., ASSATA G., ELISA G., ROBBIE J.,  
 28 JONATHAN J., KHALIF L., DAVID G., TONSA W., TRACY W., D'ANGELO COLE and DANNY

1 GODFREY were students within the NHUSD. The events at issue herein took place both in, at or  
2 around James Logan High School, New Haven Adult School, Caesar Chavez Middle School and  
3 Bernard White Middle School in Union City, California, and Conley Carbello High School in Hayward,  
4 California, which are, and were, part of the NHUSD.

5           29. Throughout all of the time encompassed by the allegations herein, up to and  
6 including the present, Defendants have discriminated against STEVE S., JESS L., ASSATA G., ELISA  
7 G., ROBBIE J., JONATHAN J., KHALIF L., DAVID G., TONSA W., TRACY W., D'ANGELO  
8 COLE, DANNY GODFREY and other similarly-situated African-American students on the basis of  
9 race, in violation of their civil rights under the United States Constitution.

10           30. On December 21, 2007, Vernon Eddins, while lawfully on the premises of  
11 Bernard White Middle School, was shot and killed. STEVE S., JESS L., ROBBIE J., JONATHAN J.,  
12 KHALIF L., DAVID G., TONSA W., TRACY W., and D'ANGELO COLE were close personal friends  
13 of Mr. Eddins. STEVE S., JESS L. and ROBBIE J. were present at the time of Mr. Eddins' murder,  
14 and were also targets who barely escaped death and/or serious injury during the incident.

15           31. Prior to this incident, NHUSD was aware of on-going, racially motivated  
16 violence and threats of violence, including shootings, directed against STEVE S., JESS L., ROBBIE J.,  
17 JONATHAN J., KHALIF L., DAVID G., TONSA W., TRACY W., D'ANGELO COLE, DANNY  
18 GODFREY and other similarly-situated African-American students, and had specifically been informed  
19 that acts of violence against African-American students would take place on or near school grounds on  
20 December 21, 2007. NHUSD had a duty to protect persons at said location, including but not limited  
21 to, STEVE S., JESS L., ROBBIE J., JONATHAN J., KHALIF L. and Mr. Eddins, from such acts of  
22 violence.

23           32. Subsequent to the murder of Mr. Eddins, Plaintiffs and other similarly-situated  
24 African-American students continued to be subjected to racial violence and intimidation at and around  
25 school, before, during and after school.

26           33. On April 9, 2009, KHALIF L. was physically attacked by a Latino gang member  
27 because of his race inside Logan High School in front of the Principal's office.

28           34. On or about December 17, 2008, Plaintiff STEVE S. presented to NHUSD by

1 certified mail an Application for Late Claim which detailed the injuries, losses and damages suffered  
2 and incurred by reason of the above-described occurrences, all in compliance with the requirements of  
3 Sections 900 through 915.4 of the California Government Code.

4 35. On or about December 19, 2008, NHUSD rejected STEVE S.'s claim. (A copy  
5 of the Notice of Rejection is attached hereto as Exhibit A and made a part hereof.)

6 36. STEVE S. has complied with all applicable administrative claim requirements  
7 under California law.

8 37. On or about February 23, 2010, Plaintiff KHALIF L. presented to NHUSD an  
9 Application for Late Claim and a claim which detailed the injuries, losses and damages suffered and  
10 incurred by reason of the above-described occurrences, all in compliance with the requirements of  
11 Sections 900 through 915.4 of the California Government Code.

12 38. On or about February 25, 2010, NHUSD improperly rejected KHALIF L.'s  
13 application to file a late claim. On June 14, 2010, the Alameda County Superior Court issued an Order  
14 authorizing KHALIF L. to bring suit on his tort claims.

15 39. KHALIF L. has complied with all applicable administrative claim requirements  
16 under California law. (A copy of the Notice of Rejection is attached hereto as Exhibit B and made a  
17 part hereof; a copy of the Alameda County Superior Court Order filed on June 14, 2010 is attached  
18 hereto as Exhibit C and made a part hereof.)

19 40. At all times herein mentioned, Defendant NHUSD intentionally failed to take  
20 reasonable, adequate, necessary, and proper measures to secure and safeguard its premises and to  
21 protect the safety of its students, including but not limited to, STEVE S., JESS L., KHALIF L.,  
22 ROBBIE J., JONATHAN J., DAVID G., TONSA W., TRACY W. and Mr. Eddins. Defendant  
23 NHUSD's customs, practices and policies were the proximate and legal cause of Mr. Eddins' death and  
24 the damages to the Plaintiffs, as herein alleged.

25 41. Plaintiffs are informed and believe and thereon allege that NHUSD  
26 never took any action in response to their complaints or the complaints of other African-American  
27 parents.

28 42. As a direct consequence of NHUSD's failure to take prompt effective remedial



1 action, STEVE S., JESS L., ASSATA G., ELISA G., ROBBIE J., JONATHAN J., KHALIF L., DAVID  
2 G., TONSA W., TRACY W., D'ANGELO COLE, DANNY GODFREY and all similarly-situated  
3 African-American students were deprived of an educational environment free of racial bias, racial  
4 harassment and violence, and discriminatory animus.

5 43. Commencing in or about October 2007, TIWANA SMITH enrolled TONSA W.  
6 and TRACY W. at schools outside Union City, in order to remove them from contact with any person  
7 who might threaten or assault them on the basis of their race. At the same time, TIWANA SMITH was  
8 forced to move from Union City because of concerns for her daughters' safety and well being.

9 44. Commencing in or about January 2008, ALVETT FOBBS enrolled STEVE S. at  
10 Arroyo High School in the City of San Lorenzo, County of Alameda, California, which is outside  
11 Plaintiffs' residential area, in order to remove him from any contact with any persons who might  
12 threaten or assault him on the basis of his race. STEVE S. was forced to attend Arroyo High School,  
13 rather than a school within the NHUSD, which he normally would have attended, because of concerns  
14 for his safety and well-being.

15 45. Commencing in or about August 2008, TEOLA COLEMAN enrolled JESS L. at  
16 San Leandro High School in the City of San Leandro, County of Alameda, California, which is outside  
17 Plaintiff's residential area, in order to remove him from any contact with any persons who might  
18 threaten or assault him on the basis of his race. JESS L. was forced to attend San Leandro High School,  
19 rather than a school within the NHUSD, which he normally would have attended, because of concerns  
20 for his safety and well-being.

21 46. Commencing in or about September 2009, TOYNICA LEDBETTER-  
22 FRANKLIN enrolled KHALIF L. in another school outside of Plaintiffs' residential area, in order to  
23 remove him from any contact with any persons who might threaten or assault him on the basis of his  
24 race. KHALIF L. was forced to relocate to another city to attend school, rather than a school within the  
25 NHUSD, which he normally would have attended, because of concerns for his safety and well-being.

#### 26 DAMAGES

27 47. As a result of the acts and omissions alleged herein, STEVE S., JESS L.,  
28 ASSATA G., ELISA G., ROBBIE J., JONATHAN J., KHALIF L., DAVID G., TONSA W., TRACY

1 W., D'ANGELO COLE, DANNY GODFREY and all similarly-situated African-American students  
2 were denied the benefits of Defendant NHUSD's educational services, including equal educational  
3 opportunities on the basis of their race.

4 48. As a proximate result of Defendant NHUSD's actions as alleged herein, STEVE  
5 S., JESS L., ASSATA G., ELISA G., ROBBIE J., JONATHAN J., KHALIF L., DAVID G., TONSA  
6 W., TRACY W., D'ANGELO COLE and DANNY GODFREY were humiliated, hurt and injured in  
7 their health, strength and activity, sustaining injuries to their nervous systems and persons, and have  
8 suffered and will continue to suffer in the future, severe mental anguish and emotional distress, anxiety,  
9 worry, incidental damages and out-of-pocket expenses, all to their damage in an amount in excess of  
10 \$5,000,000.00 to be shown according to proof. Said Plaintiffs have suffered, in addition to the above,  
11 injury, illness and sickness as a result of Defendants' conduct.

12 49. KHALIF L. incurred medical and psychotherapy expenses as a result of his  
13 injuries, and has suffered special damages for medical services and treatment in an amount to be shown  
14 according to proof. Plaintiff Khalif L. has suffered, in addition to the above, injury, illness and sickness  
15 as a result of Defendants' conduct.

16 50. As a further proximate result of the acts of the Defendants and each of them as  
17 alleged herein, STEVE S., JESS L., ROBBIE J., JONATHAN J., KHALIF L., DAVID G., D'ANGELO  
18 COLE and DANNY GODFREY's academic interests suffered considerably. At various times during  
19 their attendance at schools operated by Defendant NHUSD, STEVE S., JESS L., ROBBIE J.,  
20 JONATHAN J., KHALIF L. and DAVID G. expressed lethargy and reluctance to attend school because  
21 of their reasonable fears of assault and injury, whereas they previously expressed enthusiasm. The  
22 injuries inflicted by NHUSD have fundamentally altered and impaired STEVE S., JESS L., ASSATA  
23 G., ELISA G., ROBBIE J., JONATHAN J., KHALIF L., DAVID G., TONSA W., TRACY W.,  
24 D'ANGELO COLE and DANNY GODFREY's entire educational experience and undermined their  
25 academic progress.

26 51. Defendant NHUSD has exacerbated Plaintiffs' emotional and physical suffering  
27 by (1) refusing to acknowledge that racially-motivated attacks against African-American students have  
28 occurred in and around its premises with frequency and/or the serious nature of the incidents; (2) failing

1 to promptly and effectively remedy the underlying discriminatory and harassing actions; and (3)  
2 ratification of the discriminatory harassment.

3 **FIRST CAUSE OF ACTION**  
4 **VIOLATION OF 42 U.S.C. SECTION 2000d**  
5 **TITLE VI**

6 52. Plaintiffs refer to and incorporate by reference Paragraphs 1 through 51, as  
7 though fully set forth at length herein.

8 53. Defendant NHUSD, by its conduct alleged herein, intentionally, wilfully and  
9 without justification did deprive Plaintiffs and all similarly-situated African-American students, on the  
10 basis of their race, of their rights and privileges secured to them by the laws of the United States,  
11 particularly their right to be free from discrimination in education on the basis of their race as provided  
12 by Title VI of the 1964 Civil Rights Act (42 U.S.C. Section 2000d).

13 54. Defendant NHUSD, despite knowledge and adequate opportunity to learn of the  
14 hostile educational environment, acted with deliberate indifference toward the constitutional rights and  
15 safety and security of the Plaintiffs and other similarly-situated African-American students.

16 **WHEREFORE**, Plaintiffs pray for relief as hereinafter set forth.

17 **SECOND CAUSE OF ACTION:**  
18 **VIOLATION OF 42 U.S.C. § 1983**  
19 **(EQUAL PROTECTION AGAINST INDIVIDUALS)**

20 55. Plaintiffs refer to and incorporate by reference Paragraphs 1 through 54, as  
21 though fully set forth at length herein.

22 56. This cause of action is brought by Plaintiffs against Defendants PAT  
23 JAUREQUI, MARCUS LAM, DON MONTOYA, GRACE KIM and DOES 1 THROUGH 15, in their  
24 individual capacities only.

25 57. In doing each and all of the acts alleged herein, Defendants were acting under  
26 color of state law.

27 58. Defendants knowingly and wilfully ignored complaints by Plaintiffs and other  
28 similarly situated African-American students and parents about rampant racial harassment, and refused  
to enforce the law against the perpetrators despite their obligation to do so. In so refusing, Defendants  
were deliberately indifferent to Plaintiffs and all similarly situated African-American students who were

1 placed in extremely offensive and dangerous situations. Defendants were aware that the perpetrators  
2 targeted Plaintiffs and similarly-situated African-American students because of their race. Plaintiffs'  
3 race was a motivating factor for Defendants' refusal to prevent or remedy the racial harassment.

4           59. Defendants, by their conduct herein alleged, intentionally, wilfully and without  
5 justification, did deprive Plaintiffs and all similarly situated African-American students of their rights,  
6 privileges and immunities secured to them by the Constitution and the laws of the United States,  
7 including but not limited to their rights to equal protection as provided by the Fourteenth Amendment  
8 in violation of 42 U.S.C. § 1983.

9           60. Defendant PAT JAUREQUI knew that African-American students attending  
10 schools with the New Haven Unified School District were being racially harassed, intimidated,  
11 assaulted and attacked, creating a racially hostile educational environment. During her tenure as  
12 Superintendent of Schools, Defendant JAUREQUI allowed the perpetrators to subject African-  
13 American students to racial harassment without any consequences for their actions.

14           61. Defendant JAUREQUI had the authority and responsibility as the Superintendent  
15 of Schools to address the overwhelming problem of racial harassment. Defendant JAUREQUI  
16 deliberately refused to do so, turning a blind eye to the complaints and concerns of the Plaintiffs and  
17 their parents. Defendant JAUREQUI actively tried to minimize and conceal the impact of racial  
18 harassment on African-American students. Defendant JAUREQUI deliberately and intentionally tried  
19 to make it appear as if Plaintiffs were exaggerating and fabricating reports of racial harassment. The  
20 Plaintiffs' race was a motivating factor in Defendant JAUREQUI's refusal to take action to stop the  
21 racial harassment.

22           62. Defendant MARCUS LAM knew that African-American students attending  
23 schools with the New Haven Unified School District were being racially harassed, intimidated,  
24 assaulted and attacked, creating a racially hostile educational environment. During his tenure as  
25 Principal of Logan High School, Defendant LAM allowed the perpetrators to subject African-American  
26 students to racial harassment without any consequences for their actions.

27           63. Defendant LAM had the authority and responsibility as Principal to address the  
28 overwhelming problem of racial harassment. Defendant LAM deliberately refused to do so, turning a

1 blind eye to the complaints and concerns of the Plaintiffs and their parents. Defendant LAM actively  
2 tried to minimize and conceal the impact of racial harassment on African-American students.  
3 Defendant LAM deliberately and intentionally tried to make it appear as if Plaintiffs were exaggerating  
4 and fabricating reports of racial harassment. The Plaintiffs' race was a motivating factor in Defendant  
5 LAM's refusal to take action to stop the racial harassment.

6           64. Defendant DON MONTOYA knew that African-American students attending  
7 schools with the New Haven Unified School District were being racially harassed, intimidated,  
8 assaulted and attacked, creating a racially hostile educational environment. During his tenure as  
9 Assistant Principal of Logan High School, Defendant MONTOYA allowed the perpetrators to subject  
10 African-American students to racial harassment without any consequences for their actions.

11           65. Defendant MONTOYA had the authority and responsibility as Assistant  
12 Principal to address the overwhelming problem of racial harassment. Defendant MONTOYA  
13 deliberately refused to do so, turning a blind eye to the complaints and concerns of the Plaintiffs and  
14 their parents. Defendant MONTOYA actively tried to minimize and conceal the impact of racial  
15 harassment on African-American students. Defendant MONTOYA deliberately and intentionally tried  
16 to make it appear as if Plaintiffs were exaggerating and fabricating reports of racial harassment. The  
17 Plaintiffs' race was a motivating factor in Defendant MONTOYA's refusal to take action to stop the  
18 racial harassment.

19           66. Defendant GRACE KIM knew that African-American students attending schools  
20 with the New Haven Unified School District were being racially harassed, intimidated, assaulted and  
21 attacked, creating a racially hostile educational environment. During her tenure as an Assistant  
22 Principal of Logan High School, Defendant KIM allowed the perpetrators to subject African-American  
23 students to racial harassment without any consequences for their actions.

24           67. Defendant KIM had the authority and responsibility as an Assistant Principal to  
25 address the overwhelming problem of racial harassment. Defendant KIM deliberately refused to do so,  
26 turning a blind eye to the complaints and concerns of the Plaintiffs and their parents. Defendant KIM  
27 actively tried to minimize and conceal the impact of racial harassment on African-American students.  
28 Defendant KIM deliberately and intentionally tried to make it appear as if Plaintiffs were exaggerating

1 and fabricating reports of racial harassment. The Plaintiffs’ race was a motivating factor in Defendant  
2 KIM’s refusal to take action to stop the racial harassment.

3 **WHEREFORE**, Plaintiffs pray for relief as hereinafter set forth.

4 **THIRD CAUSE OF ACTION**  
5 **VIOLATION OF UNRUH ACT**  
6 **(PLAINTIFFS AGAINST NHUSD)**

7 68. Plaintiffs refer to and incorporate by reference Paragraphs 1 through 67, though  
8 fully set forth at length herein.

9 69. In doing each and all of the acts alleged herein, Defendant NHUSD intentionally  
10 denied STEVE S., JESS L., ASSATA G., ELISA G., ROBBIE J., JONATHAN J., KHALIF L.,  
11 DAVID G., TONSA W., TRACY W., D’ANGELO COLE and DANNY GODFREY and other  
12 African-American students equal access to a business establishment, to wit, a public school, on the  
13 basis of their race in violation of Civil Code Sections 51 and 52.

14 70. Defendant’s conduct, as alleged herein, deprived Plaintiffs and other African-  
15 American students of equal access to education by having the purpose and/or effect of negatively  
16 impacting their academic performance, and creating an intimidating, racially hostile, and offensive  
17 educational environment.

18 **WHEREFORE**, Plaintiffs pray for relief as hereinafter set forth.

19 **FOURTH CAUSE OF ACTION**  
20 **NEGLIGENCE - PREMISES LIABILITY**  
21 **(PLAINTIFFS AGAINST NHUSD)**

22 71. Plaintiffs refer to and incorporate by reference Paragraphs 1 through 70, though  
23 fully set forth at length herein.

24 72. Defendant NHUSD had actual constructive notice of the existence of a dangerous  
25 condition of its property in sufficient time prior to the injury to have corrected it. Defendant NHUSD  
26 failed to take reasonable, adequate, necessary, and proper measures to secure and safeguard its premises  
27 and to protect the safety of African-American students, including but not limited to the named student  
28 Plaintiffs, and Mr. Eddins, and its failure to do so was a proximate and legal cause of Mr. Eddins’  
death. STEVE S., JESS L. and ROBBIE J. were present when Mr. Eddins was killed, and suffered  
emotional distress beyond that which would be anticipated in a disinterested witness. As Mr. Eddins’

1 best friends and targets of the same racist violence directed at Mr. Eddins, STEVE S., JESS L. and  
2 ROBBIE J. were traumatized and devastated by the killing of Mr. Eddins.

3 73. The attack of Plaintiff KHALIF L. on April 10, 2009, outside of the 12<sup>th</sup> grade  
4 principal’s office at Logan High School by suspected Decoto gang members further evidences the  
5 dangerous conditions present at Defendant NHUSD’s educational institutions. The failure of Defendant  
6 NHUSD to take reasonable, adequate, necessary, prompt and proper measures to secure and safeguard  
7 its premises and to protect the safety of African-American students was the proximate and legal cause  
8 of Plaintiff KHALIF L.’s physical injuries.

9 **WHEREFORE**, Plaintiffs pray for relief as hereinafter set forth.

10 **FIFTH CAUSE OF ACTION**  
11 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
12 **(PLAINTIFF STEVE S. AGAINST NHUSD)**

13 74. Plaintiffs refer to and incorporate by reference Paragraphs 1 through 73, as  
14 though fully set forth at length herein.

15 75. In doing each and all of the acts alleged herein, NHUSD engaged in a course of  
16 conduct which was intentional, extreme and outrageous. NHUSD engaged in said course of conduct  
17 with wanton and reckless disregard of the harm or injury that might result to STEVE S.

18 **WHEREFORE**, Plaintiff STEVE S. prays for relief as hereinafter set forth.

19 **SIXTH CAUSE OF ACTION**  
20 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**  
21 **(PLAINTIFF STEVE S. AGAINST NHUSD)**

22 76. Plaintiffs refer to and incorporate by reference Paragraphs 1 through 75, as  
23 though fully set forth at length herein.

24 77. In doing each and all of the acts alleged herein, Defendant NHUSD engaged in a  
25 course of conduct which was grossly negligent, extreme and outrageous. Defendant engaged in said  
26 course of conduct with wanton and reckless disregard of the consequences or harm or injury  
27 that might result to STEVE S.

28 **WHEREFORE**, Plaintiff STEVE S. prays for relief as hereinafter set forth.

///

///

1 SEVENTH CAUSE OF ACTION  
2 INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS  
3 (PLAINTIFF KHALIF L. AGAINST NHUSD)

4 78. Plaintiffs refer to and incorporate by reference Paragraphs 1 through 77, as  
5 though fully set forth at length herein.

6 79. In doing each and all of the acts alleged herein, NHUSD engaged in a course of  
7 conduct which was intentional, extreme and outrageous. NHUSD engaged in said course of conduct  
8 with wanton and reckless disregard of the harm or injury that might result to KHALIF L.

9 WHEREFORE, Plaintiff KHALIF L. prays for relief as hereinafter set forth.

10 EIGHTH CAUSE OF ACTION  
11 NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS  
12 (PLAINTIFF KHALIF L. AGAINST NHUSD)

13 80. Plaintiffs refer to and incorporate by reference Paragraphs 1 through 79, as  
14 though fully set forth at length herein.

15 81. In doing each and all of the acts alleged herein, Defendant NHUSD engaged in a  
16 course of conduct which was grossly negligent, extreme and outrageous. Defendant engaged in said  
17 course of conduct with wanton and reckless disregard of the consequences or harm or injury  
18 that might result to KHALIF L.

19 WHEREFORE, Plaintiffs pray for judgment against all Defendants, and each of them  
20 as follows:

21 1. Compensatory and special damages, including damages for mental and emotional  
22 distress, and physical injuries, in an amount in excess of \$5,000,000.00 to be determined at the time of  
23 trial;

24 2. Costs of suit incurred herein, including reasonable attorneys' fees;

25 3. Injunctive relief against Defendant NHUSD and its agents and employees,  
26 enjoining them from denying, or aiding and/or inciting the denial of the civil rights of STEVE S., JESS  
27 L., ASSATA G., ELISA G., ROBBIE J., JONATHAN J., KHALIF L., DAVID G., TONSA W.,  
28 TRACY W., D'ANGELO COLE, DANNY GODFREY and all similarly-situated African-American  
students attending schools within the New Haven Unified School District on the basis of race, and  
compelling Defendant NHUSD to take prompt effective remedial action to ensure equal opportunity



1 and a safe educational environment for African-American students;

2           4.       Punitive and exemplary damages against the individual Defendants in an amount  
3 appropriate to punish and make an example of Defendants PAT JAUREQUI, DON MONTOYA,  
4 MARCUS LAM and GRACE KIM to be determined at the time of trial; and

5           5.       Such other and further relief as the Court deems just and proper.

6 Dated: August 12, 2010

PRICE AND ASSOCIATES

7

8

*/s/ Pamela Y. Price*

9

PAMELA Y. PRICE, Attorneys for Plaintiffs  
ALVETT FOBBS, TEOLA COLEMAN, AUZALEA  
10 GODFREY, TOYNICA LEDBETTER, TERESE  
11 SANDERS, TIWANA SMITH, STEVE S., JESS L.,  
ASSATA G., ELISA G., ROBBIE J., JONATHAN J.,  
12 KHALIF L., DAVID G., TONSA W., TRACY W.,  
D'ANGELO COLE and DANNY GODFREY

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

# New Haven Unified School District

**UNION CITY • SOUTH HAYWARD • (510) 471-1100**  
34200 ALVARADO-NILES ROAD • UNION CITY • CA 94587



**BOARD OF EDUCATION**  
Gertrude Gregorio, President  
Gwen Estes, Clerk

Jonas Dino, Member  
Kevin Harper, Member  
Michelle Matthews, Member

**SUPERINTENDENT**  
Kari McVeigh

## NOTICE OF ACTION TAKEN ON CLAIM Government Code Section 913

TO: Alvett Fobbs for Sterling S *Claimant*  
c/- Pamela Y. Price, Esq. *[Address]*  
Price And Associates  
1611 Telegraph Avenue, Suite 1450  
Oakland, CA 94612

RE: Claim Filed December 17, 2008 *[date]*

Dear Ms. Fobbs:

Notice is hereby given that the claim you presented to the New Haven Unified School District on December 19, 2008 was REJECTED on December 19, 2008, based on authorization provided by the Board of Education in Resolution No. 083-0708 adopted on March 18, 2008.

### WARNING

Subject to certain exceptions, you have only six (6) months from the date this letter was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Dated: December 19, 2008

  
Signature

Chief Business Officer  
Typed Title of Officer

H:\INSURANCE\Claims Against District\Claim Forms\Notice Of Action Taken On Claim.doc

NEW HAVEN UNIFIED SCHOOL DISTRICT

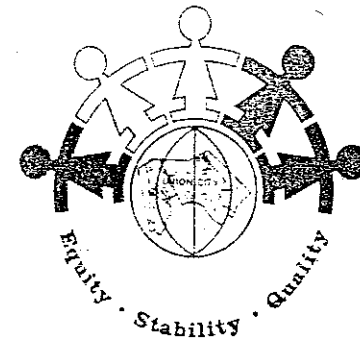
Administrative Regulation For  
Board Policy #B-3320  
Exhibit E3320

BUSINESS

# New Haven Unified School District

**UNION CITY • SOUTH HAYWARD • (510) 471-1100**

34200 ALVARADO-NILES ROAD • UNION CITY • CA 94587



**BOARD OF EDUCATION**

Gwen Estes, President  
Gertrude Gregorio, Clerk

Jonas Dino, Member  
Kevin Harper, Member  
Michelle Matthews, Member

**SUPERINTENDENT**

Kari McVeigh

February 25, 2010

Pamela Y. Price, Esq.  
Price & Associates  
A Professional Law Corporation  
1611 Telegraph Avenue, Suite 1450  
Oakland, CA 94612

**Re: L                    -In Re Application for Late Claim**

Dear Ms. Price:

Notice is hereby given that the Application for Late Claim your firm submitted on behalf of Mr. Khari L                    was hereby denied on February 25, 2009 pursuant to Board of Education Resolution No. 030-0910 adopted on August 18, 2009.

**WARNING**

If you wish to file a court action on this matter, you must first petition the appropriate court for an order relieving you from the provisions of Government Code Section 945.4 (claims presentation requirement). See Government Code Section 946.6. Such petition must be filed with the court within six (6) months from the date your application for leave to present a late claim was denied.

“You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.”

Sincerely

James O'Connor  
Interim Chief Business Officer

**EXHIBIT B**

Price & Associates PLC  
Attn: Price, Pamela Y.  
1611 Telegraph Avenue  
The Latham Square Bldg., #1450  
Oakland, CA 94612

Wright, Robinson, Ostheimer & Tatum  
Attn: Horn, Charles H.  
44 Montgomery Street, 18th Floor  
San Francisco, CA 94104-4705

**Superior Court of California, County of Alameda**  
**Rene C. Davidson Alameda County Courthouse**

<p>Ledbetter-Franklin  Plaintiff/Petitioner(s)</p> <p>VS.</p> <p>O'Connor  Defendant/Respondent(s) (Abbreviated Title)</p>	<p>No. <u>RG10507026</u></p> <p>Order</p> <p>Motion Granted</p>
--	---

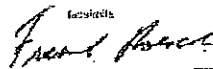
The Motion was set for hearing on 06/14/2010 at 09:00 AM in Department 31 before the Honorable Frank Roesch. The Tentative Ruling was published and has not been contested.

**IT IS HEREBY ORDERED THAT:**

The tentative ruling is affirmed as follows: The Motion of Plaintiff Toynica Ledbetter-Franklin as GAL for Khalif L., a minor, for Preliminary Injunction on the Petition for Writ of Mandate and Complaint is deemed a Petition for relief from Government Code §945.4 and is, on that basis, GRANTED. The application submitted to New Haven Unified School District was made within one year of the alleged April 10, 2009 assault on Khalif L., who was and is a minor.

Plaintiff shall file suit based upon the late claim within 30 days of issuance of this order.

Dated: 06/14/2010



Judge Frank Roesch

Order

**EXHIBIT C**