

Clackamas County  
FILED / ENTERED  
JUL 27 2017  
Trial Court Administrator  
By: \_\_\_\_\_

**COPY**

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR CLACKAMAS COUNTY **17CV32280**

F.T. as Guardian Ad Litem for F.G., a  
minor proceeding under a pseudonym; and  
S.D., an individual proceeding under a  
pseudonym,

Plaintiffs.

V.

WEST LINN - WILSONVILLE SCHOOL  
DISTRICT, an Oregon Public School  
District, authorized and chartered by the  
laws of the State of Oregon,

Defendant.

) Case No. \_\_\_\_\_

) **COMPLAINT**  
) (Sexual Abuse of a Child/ *Respondeat*  
) *Superior*; Intentional Infliction of Emotional  
) Distress/ *Respondeat Superior*; Negligence)

) **JURY TRIAL DEMANDED**

) Not Subject to Mandatory Arbitration

) Prayer: \$6,000,000

Plaintiffs allege:

(Common Allegations)

1.

Plaintiff F.G. is a minor and a California resident born in 2001. He is proceeding through his guardian ad litem. At all times relevant to this Complaint Plaintiff F.G. was an unemancipated minor living in Clackamas County, Oregon and enrolled in West Linn High School.

2.

Plaintiff S.D. is an Oregon resident born in 1997. At all times relevant to this Complaint Plaintiff S.D. was an unemancipated minor living in Clackamas County, Oregon and enrolled in West Linn High School.

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1 3.

2 At all times relevant to this Complaint, West Linn High School was located in the City of  
3 West Linn, County of Clackamas, in the State of Oregon. At all times relevant to this Complaint,  
4 West Linn High School was part of West Linn - Wilsonville School District ("Defendant West  
5 Linn"), authorized and chartered by the laws of the State of Oregon.

6 4.

7 At all times relevant to this Complaint, Jonathan Peachey was a teacher, coach and  
8 volunteer at West Linn High School.

9 5.

10 At some time prior to 2014, Defendant West Linn selected, accepted, or hired Peachey as  
11 an employee, coach, and/or volunteer with the West Linn School District. Peachey served in one  
12 or more of these capacities in or around 2014 through the Fall of 2015. As a school employee,  
13 coach, or volunteer, Peachey's role was to educate, mentor, befriend, counsel, and train minor  
14 students enrolled in the West Linn - Wilsonville School District in various athletic, educational,  
15 and life skills.

16 6.

17 Defendant West Linn authorized and empowered Peachey to perform all of the duties of a  
18 school employee, coach, and/or volunteer with students, including providing educational and  
19 athletic instruction and training; counseling; friendship; physical supervision and discipline; and  
20 the power to enforce the rules associated with teaching, coaching, or volunteering at a public  
21 school in Oregon. Defendant West Linn knew that as part of his duties as a school employee,  
22 coach, and/or volunteer, Peachey would be in a position of trust, confidence, and authority over  
23 the high school students at West Linn High School, including Plaintiffs. Defendant West Linn  
24 retained the right to control the means and methods used by school employees, coaches, and/or  
25 volunteers within the District.

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7.

While performing his duties as a school employee, coach, and/or volunteer, and at least in part for the purpose of furthering his duties required in those roles, Peachey befriended Plaintiffs and gained the trust and confidence of Plaintiffs as an authority figure, mentor, and counselor. As a result, Plaintiffs were conditioned to trust Peachey, to comply with his directions, and to respect Peachey as a person of authority. This course of conduct is referred to in this Complaint as "Grooming."

8.

By using and manipulating his position of trust and authority gained as a school employee, coach, and/or volunteer at West Linn High School, and through the corresponding Grooming process, Peachey induced and directed Plaintiffs to engage in various sexual acts with him, described in paragraph 9. Peachey's Grooming and authorized actions as a school employee, coach, and/or volunteer led to and resulted in the sexual abuse of the Plaintiffs, described below. Peachey's Grooming and authorized actions and the subsequent abuse of Plaintiffs were: (1) committed in direct connection with and for the purposes of fulfilling his employment or agency duties with Defendant West Linn; (2) committed within the time and space limits of his employment or agency duties as a school employee, coach, and/or volunteer; (3) done initially and at least in part from a desire to serve the interests of Defendant West Linn; (4) done directly in the performance of his duties as a school employee, coach, and/or volunteer; (5) consisted generally of actions of a kind and nature which Peachey was required to perform as a school employee, coach, and/or volunteer; and (6) done at the direction of, and pursuant to, the power vested in his by Defendant West Linn. Defendant West Linn had a right and the ability to control Peachey's Grooming and authorized activities as a school employee, coach, and/or volunteer.

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1 9.

2 Peachey's actions resulted in one or more of the following effects: mental injury, sexual  
3 abuse, and/or sexual exploitation of Plaintiff as those terms are used in ORS 12.117. Specifically,  
4 Peachey engaged in multiple incidences of the following: fondling, improper touching, and  
5 groping Plaintiffs' genitals while Plaintiffs were minors, in or around 2015.

6 10.

7 On information and belief, prior to the last act of child abuse suffered by Plaintiffs,  
8 Defendant received notice of allegations that its employee, coach and/or volunteer Peachey was  
9 engaged in inappropriate relationship with Plaintiffs, and/or other students known to be attending  
10 West Linn High School. No employees of Defendant commenced an adequate further  
11 investigation, nor did they report the suspected abuse to state licensing authorities, the Department  
12 of Human Services, and/or law enforcement.

13 11.

14 Plaintiffs provided sufficient notice of their claims to Defendant West Linn pursuant to the  
15 requirements of ORS 30.275 under the Oregon Tort Claims Act.

16 12.

17 As to Plaintiffs' *respondeat superior* claims against Defendant West Linn for the sexual  
18 abuse by Peachey, as described in paragraph 9, Plaintiffs did not discover, nor could they  
19 reasonably have discovered: that Peachey's conduct was tortious; the causation between his  
20 tortious conduct and Plaintiffs' injuries until in or around the Fall of 2015. At the time of the  
21 abuse, Plaintiffs did not comprehend the abusive nature of Peachey's actions due to the admiration,  
22 respect, and esteem which Plaintiffs had for Peachey.

23 13.

24 As to Plaintiffs' negligence claims, Plaintiffs did not discover, and could not reasonably  
25 have discovered, Defendant West Linn's negligent actions until the Fall of 2015.

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14.

As a result and consequence of Peachey's psychological, physical, and sexual abuse, Plaintiffs incurred and/or will incur in the future, costs for counseling, psychiatric and psychological medical treatment all to their economic damages in the approximate amount of \$500,000 for each Plaintiff, the exact amount of which will be proven at the time of trial. Additionally, Peachey's sexual abuse of each Plaintiff constituted sexual abuse of a minor and the intentional infliction of emotional distress, and resulted from Defendant's negligence. As a result and consequence of Peachey's multiple incidents of sexual abuse and breaches of authority and trust, and Defendant West Linn's direct negligence, Plaintiffs have suffered and continue to suffer severe and debilitating physical, mental, and emotional injury, including pain and suffering; physical and emotional trauma; and permanent psychological damage, all to their non-economic damages in the total amount of \$2,500,000 for each Plaintiff, the exact amount of which will be proven at the time of trial.

#### FIRST CLAIM FOR RELIEF

##### COUNT I (Negligence)

15.

Plaintiffs reallege and incorporates by reference paragraphs 1 through 14, above.

16.

Defendant West Linn created a special relationship with Plaintiffs by requiring their attendance at school, as well as through the relationship between school employees, coaches, or volunteers and students entrusted to those people's care. This special relationship created a non-delegable duty of care on the part of Defendant West Linn to protect students within its District, including Plaintiffs, from harm while in Defendant West Linn's care. Alternatively or in conjunction with that special relationship, and on information and belief, Defendant West Linn affirmatively created a dangerous condition: (1) by failing to adequately investigate the rumors that

1 Peachey had engaged in inappropriate relationships with students including Plaintiffs at West Linn  
2 High School; (2) by failing to report suspected child sexual abuse by Peachey to state licensing  
3 authorities, the Department of Human Services, and/or law enforcement; and, (3) by retaining  
4 Peachey as a school employee, coach, and/or volunteer after learning of the credible allegations  
5 against Peachey.

6  
7 17.  
8 On information and belief, Defendant West Linn acted negligently, and created a  
9 foreseeable risk of Peachey continuing to sexually abuse minor high school males, including  
10 Plaintiffs, by failing to undertake reasonable child abuse prevention measures in one or more of the  
11 following ways:

12 (a) In failing to reasonably and adequately respond to frequent credible rumors  
13 concerning Peachey's risk to minor male students at West Linn High School, including failing to  
14 reasonably and adequately investigate rumors that Peachey was engaged in inappropriate  
15 relationships with Plaintiffs;

16 (b) In failing to report Peachey to state licensing authorities, the Department of Human  
17 Services, and/or law enforcement upon being notified of the credible rumors that Peachey was  
18 engaged in inappropriate relationships with Plaintiffs;

19 (c) In retaining Peachey as a school employee, coach, and/or volunteer after being  
20 notified of the credible rumors that Peachey was engaged in inappropriate relationships Plaintiffs;

21 (d) In failing to adequately supervise Peachey in his relationships with minor male  
22 students after being notified of the credible rumors that Peachey had engaged in inappropriate  
23 relationships with Plaintiffs;

24 (e) In failing to adequately train employees, coaches, and/or volunteers, including  
25 Peachey, in how to recognize, report, and prevent child sexual abuse; and

26 (f) In failing to properly implement common sense child abuse prevention  
27 policies.

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18.

Any or all of Defendant West Linn’s failures described in paragraph 17, were substantial contributing and causal factors of all or some of Plaintiff’s abuse and damages as alleged in paragraphs 9 and 14, above.

19.

In light of the knowledge Defendant West Linn acquired as to the risk of harm Peachey posed to minor males at West Linn High School, it was foreseeable to Defendant West Linn that Peachey would continue to engage in the sexual abuse of minor male students at West Linn High School, including Plaintiffs. Plaintiffs were within the class of persons to be protected by reasonable child abuse prevention measures, and such measures would have prevented some or all of Plaintiffs’ abuse by Peachey.

20.

Defendant West Linn’s failures described in paragraph 17, created a foreseeable risk that minor male students, including Plaintiffs, in Defendant West Linn’s care at West Linn High School would be sexually abused by Peachey. Plaintiffs’ interest in being protected and free from child sexual abuse was an interest of a kind that the law protects against negligent invasion.

21.

Defendant West Linn’s failures described in paragraph 17, were unreasonable in light of the knowledge Defendant West Linn acquired as to the risk of harm posed by Peachey. Defendant West Linn’s failures were direct and foreseeable causes of all or some of Plaintiffs’ abuse and damages, as alleged in paragraphs 9 and 14, above.

22.

As a result and consequence of Defendant’s negligence, Plaintiff incurred the damages set forth in paragraph 14.

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1 **COUNT II**  
2 (Negligence *Per Se*)

3 23.

4 Plaintiff realleges and incorporates by reference paragraphs 1 through 22, above.

5 24.

6 Employees and/or volunteers of Defendant West Linn had a statutory duty to Plaintiffs and  
7 other similarly-situated students pursuant to ORS 419B.010 and ORS 339.388 to report suspected  
8 child abuse, and to follow other regulations regarding student safety under Oregon statutes and  
9 administrative rules.

10 25.

11 On information and belief, before Peachey's last acts of child sexual abuse of Plaintiffs,  
12 Defendant West Linn had reasonable cause to believe that Peachey—a school employee, coach,  
13 and/or volunteer at West Linn High School—had engaged in sexual contact with and had sexually  
14 abused Plaintiffs and/or other minor male students.

15 26.

16 Defendant West Linn failed to report the suspected child abuse to the appropriate  
17 supervisors, the Department of Human Services and/or law enforcement within Clackamas County,  
18 and failed to follow other regulations regarding student safety under Oregon statutes and  
19 administrative rules. In so doing, Defendant West Linn failed to take reasonable care or exercise  
20 the degree of care required of ordinary, prudent school employees, officials, coaches, and/or  
21 volunteers. The risk of additional child sexual abuse of male students by Peachey was a foreseeable  
22 risk arising from Defendant West Linn's failure to report the suspected sexual abuse to the proper  
23 authorities. Plaintiffs were in the foreseeable class of persons to be protected by reporting the  
24 suspected abuse.

25 27.

26 Defendant West Linn's failures were substantial contributing and causal factors of all or



1 some of Plaintiffs' abuse and damages as alleged in paragraphs 9 and 14, above. As a result and  
2 consequence of Defendant's negligence, Plaintiff incurred the damages set forth in paragraph 14.

3 **SECOND CLAIM FOR RELIEF**  
4 (Sexual Abuse of a Minor/Respondeat Superior)

5 28.

6 Plaintiff realleges and incorporates by reference paragraphs 1 through 27, above.

7 29.

8 While acting within the course and scope of his agency for Defendant West Linn, described  
9 in paragraphs 4 through 7, Peachey induced and directed Plaintiffs to engage in various sexual acts  
10 with him, as described in paragraph 9. These acts constituted harmful or offensive touching of  
11 Plaintiffs to which neither Plaintiff did or legally could consent to.

12 30.

13 Peachey's sexual abuse constituted a sexual and physical battery of Plaintiffs' persons. As a  
14 result and consequence of Peachey's sexual abuse and breach of authority and trust, Plaintiffs have  
15 incurred the damages set forth in paragraph 14.

16 **THIRD CLAIM FOR RELIEF**  
17 (Intentional Infliction of Emotional Distress/Respondeat Superior)

18 31.

19 Plaintiff realleges and incorporates by reference paragraphs 1 through 30, above.

20 32.

21 While acting in the course and scope of his agency for Defendant West Linn, as described in  
22 paragraphs 4 through 7, Peachey knowingly and intentionally caused severe emotional distress to  
23 Plaintiffs when he sexually abused Plaintiffs, as described in paragraph 9. Plaintiffs did in fact  
24 suffer severe emotional distress as a result of Peachey's abuse, and the sexual abuse of minors by a  
25 trusted adult who is a teacher and coach is beyond the bounds of all socially tolerable conduct.

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As a result and consequence of Peachey’s intentional infliction of emotional distress, Plaintiff incurred the damages set forth in paragraph 14.

**WHEREFORE,** Plaintiffs pray for judgment against Defendant as follows:

1. On Plaintiffs’ First, Second, and Third Claims for Relief (in the alternative) non-economic damages for each Plaintiff in the amount of \$2,500,000, the exact amount to be determined by the jury at the time of trial;

2. On Plaintiffs’ First, Second, and Third Claims for Relief (in the alternative) economic damages for each Plaintiff in the amount of \$500,000, the exact amount to be determined by the jury at the time of trial;

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1 3. For each Plaintiff's disbursements and incurred costs; and

2 4. For any other relief this Court deems just and equitable. .

3 DATED this 27<sup>th</sup> day of July, 2017.

4 **CREW JANCI LLP**

5  
6  
7 **Trial Attorney:**

  
**Stephen F. Crew, OSB # 781715**

Peter B. Janci, OSB #074249

CREW JANCI LLP

1650 NW Naito Parkway, Suite 125

Portland, OR 97209

Tel: 503-306-0224

steve@crewjanci.com

peter@crewjanci.com

*Attorneys for Plaintiffs*

13 AND

15 **HOLLIS K. McMILAN, P.C.**

Hollis K. McMilan

1650 NW Naito Parkway, Suite 125

Portland, OR 97209

Tel: 503-972-5092

hcmilan@hkmlaw.com

*Of Attorneys for Plaintiff*

26  
CREW JANCI LLP  
1650 NW Naito Parkway, Suite 125  
125 Portland, OR 97209  
T 503 306 0224  
F 503 467 4940  
www.crewjanci.com

HOLLIS K. McMILAN P.C.  
1650 NW Naito Parkway, Suite  
Portland, OR 97209  
T 503 972 5092  
F 503 572 5093