



matter, in that while a minor, T.W. was repeatedly sexually assaulted and raped at the Defendant's school during school hours. Although she is now an adult T.W. suffers with severe mental and physical disabilities which while she was a student within DISD qualified her as "special needs" student.

3. Defendant Dallas Independent School District (DISD) is a municipal agency responsible for oversight, rulemaking, compliance with state and federal law, and control of the public primary and secondary schools in Dallas, Dallas County, Texas and receives federal funding. DISD conducts its principal operations at 3700 Ross Avenue, Dallas, Texas 75204-5491. Defendant Dallas Independent School District has been duly served in this cause and has made an appearance by and through counsel by way of the filing of a Motion to Dismiss.

#### **JURISDICTION AND VENUE**

4. Subject-matter jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331 because this is a civil action that arises under the Constitution, laws, or treaties of the United States. This civil action arises under 20 U.S.C. § 1681, or "Title IX." At all relevant times the Defendant, including all its employees and agents, was acting under the color of state law. *Lauderdale v. Texas Department of Criminal Justice*, 512 F3d 157 (5<sup>th</sup> Cir. 2007)).

5. This Court has personal jurisdiction over Defendant Dallas Independent School District. Defendant Dallas Independent School District is a school district organized under the laws of the State of Texas, conducts its principal operations at 3700 Ross Avenue, Dallas, Texas 75204-5491 which is an address within the jurisdiction of the Northern District of Texas.

6. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial portion of the events at issue occurred in this district. Kimball High School where the Plaintiff, T.W. was repeatedly sexually assaulted, is located in Dallas County, Texas, which is one of the counties over which the Northern District of Texas exercises jurisdiction.

7. Plaintiff previously filed this case on November 25, 2015 in this District, (Cause Number 3:15-CV-03811-B) and the case was assigned to the Honorable Jane J. Boyle. The Defendant DISD filed 12(B)(1) and 12(B)(6) Motions to Dismiss Plaintiff's First Amended Complaint, and Judge Boyle entered an Order dismissing the case **without prejudice** on August 9, 2016 "so that Plaintiff may pursue her administrative remedies." (*See, Copy of Judge Boyle's Order of August 2, 2016, attached hereto as Exhibit A.*) Thereafter, Plaintiff filed a Due Process Complaint requesting a hearing before a special education hearing officer, SOAH docket number 345-SE-0816. By his Order Number 6, entered on September 27, 2016, Judge Berger, the hearing officer, granted the District's Plea to the Jurisdiction as to all non-IDEA claims including the Petitioner/Plaintiff's Title IX claims, indicating they were "outside the jurisdiction of a Hearing Officer in Texas to consider." Judge Berger went on to state that "IDEA claims are limited to the identification, evaluation, educational placement of a child with a disability, or the provision of FAPE." (*See, Exhibit B, Excerpt of Judger Berger's Order Number 6 and Page 272, Excerpt From Transcript of Prehearing Conference of December 2, 2016.*) On January 20, 2017 Judge Berger dismissed all Plaintiff's remaining claims in SOAH case docket number 345-SE-0816. (*See, Exhibit C, Excerpt of Judger Berger's Order No. 13 of January 20, 2017*) Plaintiff has now exhausted all of

*her administrative remedies* and is therefore refileing this case as contemplated by Judge Boyle in her Order of August 2, 2016. Plaintiff simultaneously with the filing of this Complaint has filed a Notice of Related Case as to cause number 3:15-CV-03811-B.

### **FACTS GIVING RISE TO THE ACTION**

8. Plaintiff T.W. started attending Kimball High School (“Kimball”) in her 9<sup>th</sup> grade year in the Fall Semester of 2013 when she was 14 years old.

9. Prior to attending Kimball, T.W. was diagnosed with severe physical, mental, and learning disabilities as a result of her suffering from Cerebral Palsy and Static Encephalopathy. The Defendant including but not limited to the administration at Kimball was aware of this prior to T.W. starting school at Kimball.

10. While T.W. was attending Kimball the Defendant prepared a Full and Individual Evaluation of her which reflects that the Defendant was aware that T.W.: “has a history of severe brain damage”, “continues to demonstrate a gross motor delay”, “has significant difficulty generalizing many concepts that relate to academic learning. Her overall Adaptive Behavior is in the low range. Her Cerebral Palsy and Static Encephalopathy negatively impacted her Nonverbal ability. This in turn negatively impacted her overall cognitive ability. Her health impairments appear to negatively impact both her academic and adaptive behavior abilities. Based on a review of previous evaluations and information from the ARD committee, [T.W.] continues to exhibit intellectual weakness.” Also “her vision is poor and cannot be corrected.”

11. T.W.’s school records also reflect that she “has insufficient mobility skills for safe travel on regular school bus” at the time she endured the sexual assaults by her

classmate at Kimball.

12. Due to T.W.'s learning disabilities she was considered by DISD to be special needs, qualifying her for special classes including Functional Life Skills ("FLS") and requiring the Defendant to have an educational plan in place for her at all times.

13. Jane Doe had been informed by T.W.'s school and medical professionals that T.W.'s mental and cognitive development was lagging at least 5 years behind her biological age and Jane Doe had discussed this with administrators at Kimball prior to January 2014. Thus, while T.W. was chronologically 14 years of age at the time of the sexual assaults at Kimball, she mentally and cognitively functioned at the level of a 9-year-old child.

14. From approximately August 2013 until T.W.'s departure from Kimball in March, 2014, Monica Gray ("Gray") served as her case manager and was charged with administering T.W.'s special needs educational plan.

15. Starting in the Fall Semester of 2013, T.W. and V. A. (whose identity has been made known to the Defendant confidentially under separate cover due to the sensitive nature of this matter) were both special needs students in Ms. Jones' FLS classroom at Kimball. V.A. was 20 years of age at the time, a fully grown adult male, physically much larger and stronger than T.W.

In the early Fall Semester of 2013 V. A. started physically grabbing T.W.'s buttocks and genital area in the school hallways and lunchroom at Kimball. T.W. reported this offensive touching to Ms. Jones, T.W.'s FLS teacher, shortly after it started. Nothing was done about V.A.'s behavior and the sexual assaults on T.W. continued.

16. During the very early part of the Fall Semester of 2013, M.E. a young

female student at Kimball, (whose identity is being known to the Defendant under separate cover due to the sensitive nature of this matter and the belief that she is still a minor), reported being touched sexually inappropriately by V.A. to Ms. Gilbert the assistant to Mr. Waters who was vice-principal of Kimball at all times relevant to the issues in this Complaint. M.E. did not speak English, and Ms. Gilbert who is fluent in Spanish reported in an ARD meeting in September 2013 in which Vice Principal Waters and Ms. Gray (T.W.'s case manager) were in attendance, that she had been notified of this inappropriate sexual contact by V.A. with M.E. After M.E.'s report of V.A.'s sexual assaults on her to Vice Principal Waters through Ms. Gilbert and Ms. Gray, she was placed in a separate classroom from V.A. Despite the fact that T.W. had reported to her teacher Ms. Jones that V. A. had touched her in a sexually inappropriate manner on several occasions, T.W. was still required to be in the same classroom as V. A.

17. Later in the Fall semester of 2013 another student at Kimball, P. A. (whose identity has been made known to the Defendant confidentially under separate cover due to the sensitive nature of this matter and the belief that she is still a minor) and M. E. both reported to Gray that while they were off campus at a school function at CiCi's Pizza that V.A. touched them inappropriately on their buttocks. The two girls told Gray that they had previously reported this inappropriate sexual touching at the time it was occurring to Ms. Jones, T.W.'s teacher. Gray wrote up these incidents and turned her reports into Vice Principal Waters and Principal Jones.

18. Also during the Fall of 2013, another student at Kimball reported to Ms. Gray (T.W.'s case manager) that V.A. was making violent threats against him during lunch and that V.A. raised his fist and threatened to "hit him hard". This student told Ms.

Gray that he had already informed Ms. Jones, T.W.'s teacher of this and that as a result of V.A.'s physical threat, this student was then separated from V.A. Upon learning of Gray immediately wrote up a report regarding what she had been told about V. A's violent threat against the student and gave it to Vice Principal Waters and Principal Jones.

19. Additionally during the Fall of 2013 Kimball administration was made aware that due to V.A.'s prior misbehavior he had not been allowed to attend classes at the DISD Magnet school since he needed to be closely monitored at all times.

20. Finally, during the fall of 2013, Kimball administrators were made aware that V.A. also had previous sexual misbehavior issues at the private school he attended prior to being enrolled at Kimball. Vice Principal Waters and Principal Jones were informed that during his time in private school, V.A. had to be physically pulled off of young girls.

21. Prior to and on December 3, 2013 V.A. was on a Behavior Plan developed by the Defendant DISD.

22. Prior to December 3, 2013, D. L. another student at Kimball (whose identity has been made known to the Defendant confidentially under separate cover due to the sensitive nature of this matter and the belief that he is still a minor) reported to Ms. Gray that V. A. told him that V.A. wanted to "hump" (*have sexual intercourse with*) T.W. Gray immediately wrote this in a report and gave it to Vice Principal Waters, thereby putting Kimball administration on notice that V.A. (an adult) had expressed a desire to have sexual intercourse with T. W. (a minor).

23. On December 3, 2013 T.W. reported to Ms. Gray, her case manager, that

she was being groped by V.A. and that she did not like it when V.A. was grabbing her buttocks and touching her genital area. Ms. Gray reported that T.W. was clearly very “visibly upset” when she recalled this unwelcome touching by V.A.

24. T.W. reported to Ms. Gray on December 3, 2013 that V.A. had touched her multiple times, with the most recent assault occurring that day in the cafeteria when V.A. hugged and kissed her. T.W. told Gray that she had told V.A. to stop touching her but that he would not stop.

25. T.W. also reported to Ms. Gray, her case manager, on December 3, 2013 that V.A. had tried *numerous times* to pull her into the bathroom in the rear of Ms. Jones’ FLS classroom with him and she told him “no”. T.W. told Gray that she had reported this to Ms. Jones, her FLS teacher, shortly after each of these incidents happened.

26. Ms. Gray immediately reported T.W.’s complaints about V.A. to Vice Principal Waters and Principal Jones on December 3, 2013, and Gray tried to call Jane Doe, T.W.’s mother, at that time to inform her of what T.W. reported. Ms. Gray was unsuccessful in reaching Jane Doe by telephone at that time. A meeting regarding T.W.’s complaints was held on December 3, 2013 at Kimball. In attendance were Mr. Waters (assistant principal), Mr. Lee (art teacher), Ms. Jones (FLS teacher), and Ms. Gray (T.W.’s case manager). Since the school could not reach Jane Doe by telephone that day, Jane Doe was not able to attend. Gray sent a letter home with T.W. on December 3, 2013 to Jane Doe, regarding T.W.’s complaints about V.A. sexually touching her. Ms. Gray also gave a copy of this letter to Vice Principal Waters and Ms. Jones on December 3, 2013.

27. A subsequent meeting was held on December 5, 2013 regarding V.A.’s



assaultive, sexually inappropriate and harassing conduct towards T.W. In attendance at that meeting were Jane Doe and T.W., V.A. and his parents, Vice Principal Waters, and Principal Jones. During this meeting T.W. reported the various sexual assaults and harassment by V.A. at school during school hours, including the fact that V.A. had tried on multiple occasions to drag T.W. into the bathroom located in the rear of Ms. Jones FLS classroom. T.W. told the school teachers and administrators during this meeting that she told V.A. “no” when he would grab her buttocks and genital area and when he would try to pull her into the bathroom with him. T.W. also stated at that meeting that she had reported these incidents to Ms. Jones, her FLS teacher, as they were happening.

28. During the December 5, 2013 meeting it was discussed among the parents, teachers and school administrators that V.A. had been pulled out of Kimball previously because of his behavior problems and had been placed in a private school. V.A.’s mother commented during the meeting that someone at the private school had said that V.A.’s parents needed to “get him a lady” referring to a prostitute, due to his sexually inappropriate behavior there.

29. During the December 5, 2013 meeting Vice Principal Waters read aloud from reports by Ms. Gray where she had reported to Waters that a Kimball student had told Ms. Gray that V.A. wanted to “hump” (*have sex with*) T.W. V.A. did not deny this when he was confronted with this statement in the meeting.

30. Immediately after the December 5, 2013 meeting Ms. Gray, T.W.’s case manager, who was not permitted by school administrators to be in the meeting, asked Jane Doe if the administrators had told to her in the meeting about all the other

complaints that they had received about V.A.'s inappropriate behavior towards other children. Jane Doe replied that she had not been told about these other incidents. Gray told Jane Doe that she had written up several complaints from students about V.A. being sexually assaultive and physically threatening towards them and that Gray had provided these written reports to Vice Principal Waters and Principal Jones.

31. Shortly after the December 5, 2013 meeting regarding V.A.'s inappropriate sexual assaults and harassment of T.W., Kimball's administrators relocated V.A.'s seat within Ms. Jones' FLS classroom. School administrators moved V.A.'s seat to the very rear of the classroom behind a half-wall, *directly in front of the restroom*.

32. While V.A.'s new seat location moved V.A. a short distance away from T.W. during classes, his new seat location was *immediately in front of the restroom* located in the rear of Ms. Jones' classroom. This relocation of V.A. was made despite the fact that T.W. had previously reported to Mr. Waters, the Vice Principal during the December 5, 2013 meeting that V.A. had on multiple occasions tried to pull T.W. into *that* restroom and the fact that school administrators were on notice that V.A. had expressed a desire to "hump" (*have sex with*) T.W. a minor.

33. Jane Doe was not informed by the school, nor did she know from any other source at that time, that V.A.'s seat was relocated directly in front of the restroom that her daughter had reported to school administrators V.A. had previously tried to drag her daughter into.

34. All the students in Ms. Jones' FLS class, including T.W., were required to use the restroom located in the rear of Mrs. Jones' classroom, which V.A. was now positioned directly in front of.

35. Kimball's administrators' decision to relocate V.A.'s seat directly in front of the restroom in response to T.W.'s complaints about V.A.'s inappropriate sexual harassment and assaults, resulted in T.W. having to walk directly past and in very close proximity to V.A. every time that she needed to use the restroom.

36. After V.A.'s seat was relocated directly in front of the restroom of the FLS classroom, on numerous occasions V.A. continued to touch T.W.'s buttocks and genital area and pulled on her trying to force her into that restroom as she walked by him to use the restroom. T.W. continued to report the sexual harassment and assaults to Ms. Jones as they occurred. The teacher's view of T.W.'s sexual harassment by V.A. was now obscured by the half wall V.A. was seated behind in front of the restroom. T.W. repeatedly asked Ms. Jones if she could use *another* restroom instead of the one that V.A. was now sitting in front of, but her requests were always denied. Instead, T.W. was told by Ms. Jones that the "school rules" required that T.W. use the restroom at the back of the classroom.

37. The restroom at the back of Ms. Jones' classroom contained a cot where Ms. Gray had previously found V.A. asleep during regular class hours. Ms. Jones and other teachers were aware that V.A. had a habit of napping in the restroom on the cot during the school day as well.

38. Despite the fact that there were a lock and key to the FLS classroom restroom, according to Ms. Gray the restroom was almost always kept unlocked during school hours.

39. After the school holiday break in late December 2013, early January, 2014, T.W. continued to complain to Ms. Jones that V.A. was grabbing her buttocks and

genital area and trying to pull her into the FLS classroom restroom.

40. One day during the last week of January 2014, while T.W. was in Ms. Jones' FLS classroom, she needed to use the restroom. Ms. Jones was not supervising her classroom at the time because she was purportedly attending another student's ARD meeting in another part of the school. Two teacher's aides, Ms. Comacho and Ms. Cruse were in T.W.'s classroom. Ms. Comacho at that time was a "one on one" aide for a particular special needs student in that class, and therefore was not supervising V.A. or T.W. or any of the other students in the class. This left one teacher's aide in charge of the rest of the special needs students in the FLS classroom, despite the fact that DISD's policy at the time required 2 teachers to be present at all times in the FLS classroom.

41. On that day in January 2014, T.W. had to walk directly by V.A. to use the restroom in Ms. Jones classroom. As he had done the day before and T.W. had reported to her teacher Ms. Jones, V.A. grabbed at her buttocks and genital area. Immediately after T.W. entered the restroom, V.A followed directly behind T.W. pushing her into the restroom closing the door behind them, forced her to take his penis into her mouth and then violently raped T.W. on the cot located in the restroom.

42. During the sexual assault and rape T.W. repeatedly told V.A. "No" and "Stop". V. A. threatened to "hurt" T.W. if she cried out for help or tried to leave the restroom. Following the rape T.W. was fearful of reporting it because of the threats V.A. made to her while the assault was occurring. During the rape neither of the two teachers' aides in the classroom nor anyone else on the school staff came to T.W.'s aid.

43. T.W. outcried a couple weeks later on February 12, 2014 to her mother Jane Doe that V.A. had raped her in the FLS restroom during class. T.W. told the police

that V.A. got visibly angry with T.W. during the rape when she told him no and stop, and that she was very afraid of him. T.W. reported to the police in her outcry tape that the rape was “painful”, “hurtful” and “upset” her.

44. When Jane Doe learned of T.W.’s rape by V.A. she immediately reported it to the administration at Kimball, the police and Texas Department of Family & Protective Services (CPS).

45. On February 13, 2014 there was a meeting at Kimball to discuss V.A.’s rape of Jane Doe. In attendance were Jane Doe and her husband, T.W., and Kimball Vice Principal Waters and Principal Jones. Jane Doe requested that Ms. Gray, T.W.’s case manager, who had previously reported V.A.’s inappropriate behavior and threats toward T.W. be allowed to attend the meeting, but that request was denied by Principal Jones. During the meeting T.W. described the details of the rape. Principal Jones and Vice Principal Waters took Jane Doe and her husband to show them the location where the rape occurred. While the school administrators and Jane Doe and her husband were in Ms. Jones classroom, they and Ms. Jones showed Jane Doe and her husband the seat directly in front of the restroom, behind the half wall, where V.A.’s seat had been moved after the December 5, 2013 meeting concerning T.W.’s complaints about V.A.’s sexually inappropriate behavior. Jane Doe and her husband asked the administrators and teachers that day, why with so few students in the class why T.W. and her assailant V.A. were not missed from the classroom during the rape and why no one had checked on them and determined that they were “both” in the restroom.

46. Principal Jones and Vice Principal Waters told Jane Doe and her husband that day that they would be investigating the rape and assured them of T.W.’s safety, but

Jane Doe was never given any information regarding whether they had in fact conducted any such investigation and if so what the outcome of the investigation had been.

47. After the rape, Jane Doe took T.W. to the ER at Children's Hospital, where she was directed to the REACH clinic where T.W. was invasively examined and extensively tested due to the rape. The medical examination and resulting records from that examination confirm that there was evidence of sexual penetration.

48. Over the next couple of weeks, Kimball school personnel, as well as officials from Texas Department of Family & Protective Services (CPS), extensively questioned T.W. at school about the rape by V.A. without her parents' permission or knowledge.

49. Subsequent to the rape, Ms. Camacho, one of the aides present in T.W.'s classroom when the rape occurred, pulled T.W. aside multiple times when T.W. was at school after her outcry and tried to convince T.W. that the rape "never happened" and T.W. "made it all up."

50. Contrary to what Jane Doe had been told by the school's administrators after the rape, and in clear contravention of DISD policy as set forth in the Student Handbook, Jane Doe learned that V.A. had not been suspended or expelled from school nor was any other action taken to ensure that V.A. had no further contact with T.W. Fearing for her daughter's safety, because T.W. was still coming into contact with V.A. at school, Jane Doe held T.W. out of school starting March 6, 2014, while she repeatedly called Defendant DISD headquarters requesting that T.W. be transferred to another school.

51. Jane Doe continued to hold T.W. out of Kimball because V.A. was still

being allowed to attend classes there in close proximity to her daughter. Jane Doe was getting no response from the Defendant to her requests to move her daughter to another school. In the meantime, to add insult to injury, as a result of her daughter being held out of school for her own safety, Jane Doe was notified that she was being charged with truancy.

52. Jane Doe had to appear in Court at a truancy hearing and explain to a Judge why she had withheld her daughter from attending school at Kimball.

53. Due to the Defendant's failure to take action to remove V.A. from Kimball, T.W. was forced to eventually transfer to a new school. T.W. *fell* behind in her studies due to time missed because of the Defendant's inaction. T.W. was also forced to leave her school, friends, and teachers, and relocate. As a special needs student this sudden change of environment under these circumstances was extremely difficult and disruptive.

54. T.W.'s school records in 2015, reflect that after the rape, she was struggling with her grades, receiving unsatisfactory marks in the subjects of writing, science, and social studies/history, and did not meet the statewide assessment performance standard for science and social studies/history. As a proximate result of T.W.'s severe, pervasive and objectively offensive harassment by V.A. at Kimball she was effectively barred from educational opportunity or benefit.

55. Additionally T.W. has suffered physical pain and suffering and bodily injury. T.W. has also suffered from emotional harm and mental anguish, and likely will continue to suffer from same in the future, as a direct and proximate result of Defendant's actions described herein.

56. The actions of Principal Jones, Vice Principal Waters, T.W.'s teacher Ms. Jones and teacher's aide Camacho demonstrate that each of them lacked adequate training and supervision by DISD in the area of how to properly respond to complaints of student on student sexual harassment and assault. Their failure to separate T.W. from V.A. when they had actual knowledge that V.A. was sexually harassing T.W. and likely to continue to do so made it more likely that the sexual harassment would continue and escalate. As a direct result of Defendant's deliberately indifferent actions in failing to adequately train or supervise its employees in this regard, Jane Doe sustained a variety of damages as described herein.

### **CAUSES OF ACTION**

#### **(Title IX)**

#### **As Codified in 20 U.S.C. § 1681— STATUTORY RIGHT TO EDUCATIONAL OPPORTUNITIES AND BENEFITS AGAINST DEFENDANT DALLAS ISD**

57. Plaintiff re-alleges and incorporates by reference herein all of the allegations contained within paragraphs 1 through 56 of this Complaint.

58. Defendant Dallas ISD is a recipient of federal funds.

59. T.W., a special needs minor student, was repeatedly sexually assaulted by her attacker V.A., an adult male student, *on the basis of her sex*, in a school classroom restroom during regular school hours. At all times during which T.W. suffered sexual harassment and assault by V.A., *V.A. was a student in Dallas ISD and under Dallas ISD's direct control and supervision. Sanches v. Carrollton-Farmers Branch Indep. Sch. Dist.*, 647 F. 3d 156, 165 (5<sup>th</sup> Cir. 2011)



60. The sexual assaults and harassment endured by Plaintiff T.W. were *so severe, pervasive, and objectively offensive that they effectively barred T.W. from access to the educational opportunities or benefits* provided by Kimball High School and DISD. *Sanches at 165.*

61. Principal Jones and Vice Principal Waters, officials of Dallas ISD, had the authority to take corrective action to end the sexual harassment and assaults committed by V.A. upon T.W. and to act upon the T.W.'s reports of the harassment and assaults.

62. Prior to the rape of T.W. by V.A., Principal Jones and Vice Principal Waters and therefore DISD *had actual knowledge* of multiple sexual assaults and instances of sexual harassment by V. A. on T.W. and other young female students at Kimball High School while the assaults were ongoing by virtue of complaints made to Ms. Jones , T.W.'s teacher, complaints that Ms. Gray, T.W.'s case manager, received from several students and documented in her written reports to Vice Principal Waters and Principal Jones, as well as complaints *made directly by T.W. to Principal Jones and Vice Principal Waters* in the December 5, 2013 meeting, described supra in Paragraphs 27, 28, 29, 30 and 31 of this complaint. *Sanches at 165.* The substance of the complaints and information made known to DISD and Kimball teachers, case managers, aids staff and Kimball administrators, including Principal Jones and Vice Principal Waters is detailed in Paragraphs 12-39 of this complaint.

63. Principal Jones and Vice Principal Water's actual knowledge of the assaults is functionally equivalent to Dallas ISD's actual knowledge.

64. DISD through Principal Jones and Vice Principal Waters *acted with deliberate indifference* to the known sexual assaults and harassment by V.A. directed

toward T.W. and their response to same was clearly unreasonable under the circumstances and in violation of Title IX when they:

(a) failed to take any action to end the sexual assaults and harassment of Plaintiff T.W. by V.A., who was under their control and authority, after receiving many complaints about his sexually inappropriate behavior towards T.W. and others;

(b) took affirmative action that clearly endangered T.W. by relocating V.A.'s seat behind a half-wall directly in front of the restroom in Ms. Jones classroom after T.W. and others had informed the administrators that V.A. had expressed a desire to have sexual intercourse with her, was sexually assaulting and harassing her and trying to drag her into *that* restroom, and then *not permitting* T.W. to use any *other* restroom. This action not only made T.W. more liable to undergo sexual harassment and assault, it caused her to be more vulnerable to sexual assault, harassment and rape.

(c) attempted to cover up the sexual assaults by V.A. of T.W. by acquiescing in the teacher's aide Camacho's attempted coercion of T.W. into stating that the rape in the restroom never occurred;

(d) failed to follow DISD's own policies and take any disciplinary action against V.A. after receiving reports of the sexual assaults on and harassment by V.A. of T.W. in December 2013, or after they were notified of the rape by V.A. of T.W. on February 13, 2014;

e) failed to insure T.W.'s education and access to educational benefits and opportunities was not impacted due to the sexual assaults and harassment of which they had actual knowledge;

f) failed to insure T.W.'s safety at school in light of complaints of sexually inappropriate behavior by V.A. to T.W. and others, and in light of known prior sexually inappropriate behavior by V.A.

g) failed subsequent to the rape to properly segregate T.W. from the rapist, V.A. and to properly investigate the circumstances of the rape or to provide T.W. with any academic support, counseling, health or psychological services or support of any type, all of which exacerbated T.W.'s emotional trauma.

*Sanches at 165*

h) In addition to the foregoing, the circumstances known by Defendant DISD, Principal Jones and Vice Principal Waters which made the response of these school administrators to T.W.'s sexual harassment and sexual assaults by V.A. clearly unreasonable, deliberately indifferent and demonstrating recklessness and wantonness were:

1. the tender years and minority of T.W. (age 14) along with their knowledge of her lack of physical capacity vis vis that of the 20-year-old adult male harasser, V.A.;

2. their lack of enforcement of DISD's own "2 teachers" in the room policy in special needs FLS classrooms;

3. their knowledge of recent ongoing sexual harassment of T.W. and other female students by V.A.;

4. actual knowledge that V.A., a 20-year-old adult, had expressed a desire to “hump” or have sexual intercourse with 14-year-old T.W., a minor;

5. actual knowledge that T.W. sexual harasser had actually tried on more than one occasion to drag T.W. into the restroom that they *recklessly relocated his seat directly in front of*.

6. had actual knowledge of a policy or custom at Kimball that during FLS class periods students were required to use only the restroom located in the rear of the FLS or special needs classroom.

7. had substantial control over both the harasser and the context in which the known harassment was occurring. The Defendant exposed T.W. knowingly to continued sexual assaults and made her more vulnerable to rape, and caused her to suffer rape by virtue of the circumstances Defendant had intentionally placed T.W. in.

65. Principal Jones and Vice Principal Waters’ deliberate indifference to the assaults amounted to an official decision not to remedy the outrageous and continuous sexual assaults and harassment suffered by T.W. and other female students.

66. Principal Jones and Vice Principal Waters deliberate indifference to the sexual assaults and harassment of which they had actual knowledge is functionally equivalent to Dallas ISD’s deliberate indifference.

67. Principal Jones and Vice Principal Waters and, thus Dallas ISD's, deliberate indifference to the brutal sexual assaults that T.W. suffered deprived her of access to the educational opportunities or benefits provided by Dallas ISD to which T.W. was entitled in violation of 20 U.S.C. § 1681.

68. Plaintiff contends DISD's deliberate indifference toward T.W. and violations of Title IX were the *proximate cause* of actual damages T.W. sustained and will continue to sustain, including but not limited to past, present and future bodily injury and pain and suffering, impairment, mental anguish, emotional pain and suffering, medical and counseling expenses for past and future treatment, impaired educational capacity and interference with continuing education, along with impaired earning capacity.

69. Furthermore, Plaintiff contends that DISD failed to have effective policies, procedures, practices and customs in place to assure T.W. was not a victim of bullying, harassment, or assault based upon gender, or based upon stereotypes based upon gender, and due to such failures violated her rights pursuant to Title IX of the Education Amendments of 1972, 86 Stat. 373, as amended, 20 U.S.C. section 1681 *et seq.*, upon which she now seeks recovery.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests:

a) that Plaintiff be awarded economic and non-economic damages that will fully compensate T.W. for all injuries caused by Defendant's actions in violation of the United States Constitution and federal law, including but not limited to all actual damages for past, present and future bodily injury, pain and suffering, impairment,

mental anguish, emotional pain and suffering, medical and counseling expenses for past and future treatment, impaired educational capacity and interference with continuing education, and impaired earning capacity to the full extent allowed by law;

b) that Plaintiff be awarded attorneys' fees authorized under 20 U.S.C. §1681 and 42 U.S.C. § 1988(b) in addition to costs and interest on judgment;

c) for a jury to hear and render judgment on those causes of action so triable; and

d) all other relief to which Plaintiff T.W.is entitled and the Court deems fair and equitable.

Respectfully submitted,

/s/ *Lori Watson*

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**CERTIFICATE OF SERVICE**

On February 7, 2020, I electronically submitted the foregoing pleading to the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel of record with the foregoing pleading electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

*/s/ Lori A. Watson* \_\_\_\_\_