

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

JANE AND JOHN DOE, INDIVIDUALLY §  
AND AS NEXT FRIENDS OF JANIE §  
DOE 1 AND JANIE DOE 2, MINOR §  
CHILDREN, §  
*Plaintiffs* §

Civil Action No. 4:22-cv-00814

vs. §

Jury Trial Demanded

PROSPER INDEPENDENT SCHOOL §  
DISTRICT, HOLLY FERGUSON, §  
ANNAMARIE HAMRICK, AND §  
ANNETTE PANIAGUA EX REL. THE §  
ESTATE OF FRANK PANIAGUA, §  
*Defendants* §

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**PLAINTIFFS’ SECOND AMENDED COMPLAINT**

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TO THE HONORABLE DISTRICT COURT JUDGE:

COME NOW, Plaintiffs Jane and John Doe, individually and as next friends of their minor children, Janie Doe 1 and Janie Doe 2 (collectively, “Plaintiffs”), and file this, their Second Amended Complaint, against Defendants Prosper Independent School District (“Prosper ISD” or the “District”), Holly Ferguson (“Dr. Ferguson”), Annamarie Hamrick (“Hamrick”), and Annette Paniagua, *ex rel.* the Estate of Frank Paniagua (“Paniagua” or “Decedent”) (collectively, “Defendants”), and in support thereof would respectfully show the Court the following:

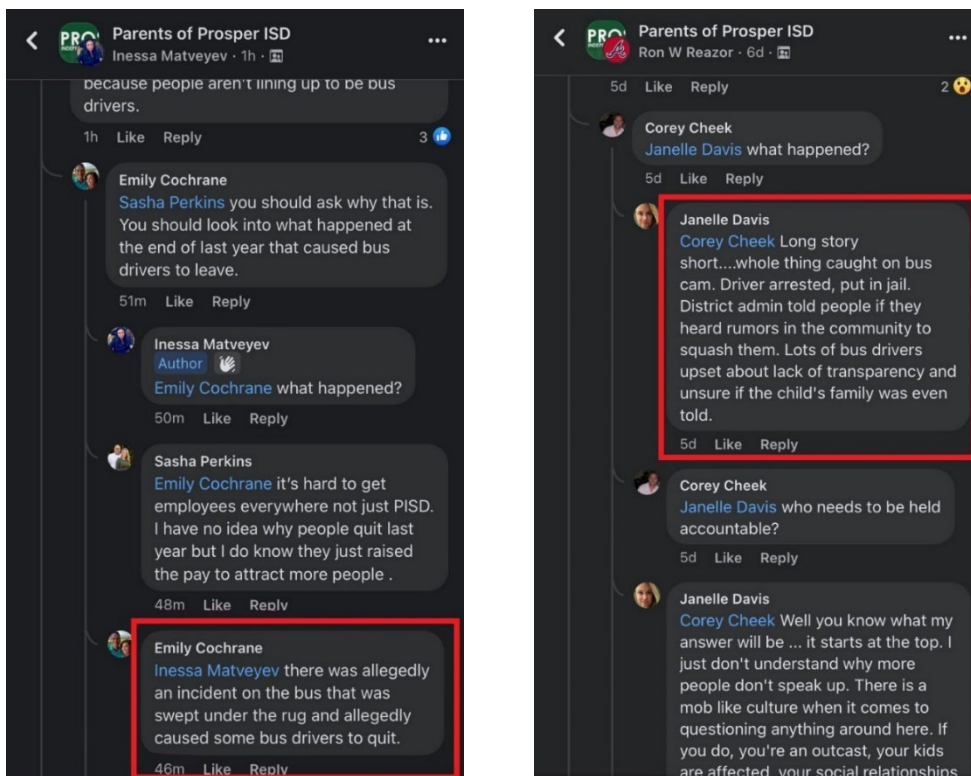
**I.**  
**INTRODUCTION**

1. This case is about two elementary school students who were continuously and systematically sexually abused by Paniagua, a Prosper ISD employee, while under the District’s care and supervision for an entire school year.

2. Paniagua, a Prosper ISD school bus driver, sexually abused very minor children entrusted into his care, including eight-year-old Janie Doe 1 and six-year-old Janie Doe 2. Between September 2021 and May 2022, Paniagua sexually assaulted Janie Doe 1 and Janie Doe 2 on a Prosper ISD school bus, often times on Prosper ISD property. This horrific abuse occurred *every day* that the girls rode the bus to school and was shockingly captured on school bus surveillance video that Prosper ISD, Dr. Ferguson, and Hamrick, its Transportation Director, had in their actual possession for months without taking any action against Paniagua.

3. This case is also about the appalling conduct of Prosper ISD and its administrators. In addition to having actual notice of the abuse in the form of the video evidence in their possession, Dr. Ferguson, Hamrick, and Prosper ISD also had GPS data that showed Paniagua was taking the bus off of its regular route, making unscheduled stops, and turning off the on-board GPS tracker in order to conceal his location—actions that Paniagua engaged in to provide himself with opportunities to molest of Janie Doe 1 and Janie Doe 2 while they were alone on the bus. Like the surveillance videos, this GPS information was in the continuous possession, custody, and control of Hamrick, Dr. Ferguson, and Prosper ISD while Paniagua was abusing Janie Doe 1 and 2, but they did nothing to investigate Paniagua’s actions or to protect Plaintiffs. For months, Prosper ISD administrators at the bus and car drop-off lines also observed Paniagua keeping Janie Doe 1 on the bus—alone—for an additional three to five minutes every morning she rode the bus, but did nothing to investigate or rectify this obvious “red flag” behavior or to protect Janie Doe 1 and Janie Doe 2. In short, Prosper ISD did nothing at all to protect Janie Doe 1, Janie Doe 2, or the other children under Paniagua’s supervision. Not until Janie Doe 1 and Janie Doe 2 outcried to their grandparents and mother did Prosper ISD finally investigate the Prosper ISD employee whose abuse of two defenseless little girls it had unpardonably enabled. Even then, Prosper ISD’s

superintendent gave Jane Doe only a scant courtesy call and insinuated that Jane Doe stay silent so as to not attract media attention to her family or to Prosper ISD staff. Prosper ISD’s attempts to sweep these horrific events under the rug are evident from the following comments in the “Parents of Prosper ISD” Facebook group, both of which were captured on or around August 15, 2022:



4. With over 100 instances of abuse as detailed herein—and despite ample actual notice in the form of the onboard surveillance videos, anomalous GPS information, and teacher observations—Prosper ISD was deliberate indifferent to the gross deprivation of Janie Doe 1 and Janie Doe 2’s constitutional rights occurring under their noses.

5. Defendants’ conduct *after* Plaintiffs’ reported Janie Doe 1 and Janie Doe 2’s abuse is just as bad. After the District investigated Janie Doe 1 and Janie Doe 2’s allegations, Dr.

Ferguson gave Jane Doe only a scant courtesy call and insinuated that Jane Doe stay silent so as to not attract media attention to her family or to Prosper ISD staff. Following Paniagua's confession and arrest, no counseling services were offered to Janie Doe 1 or Janie Doe 2, or any of the other children on Paniagua's regular or substitute bus routes. Indeed, many Prosper ISD parents whose children were on Paniagua's regular or substitute bus routes were left in the dark about the allegations described herein and only learned of the allegations and Paniagua's arrest upon the filing of this lawsuit. One parent has since stated she only learned of "Mr. Frank's" arrest when her child informed her that "Mr. Frank" was in jail. Further, following Paniagua's arrest, the District and Dr. Ferguson instructed Hamrick (the District's former Director of Transportation) and other district bus drivers to keep quiet and not speak on the allegations, leading to Hamrick's resignation or termination for failing to abide by this demand. This also prompted many other bus drivers to "walk out," leading to the District's recent bus driver shortage. Further, upon information and belief, the District and Dr. Ferguson have directed all district computer storage offsite at an undisclosed location in further attempts to obstruct access to information related to this lawsuit. Finally, while the District congratulated itself in the press for engaging an "outside" firm to investigate this matter, that supposedly "independent" investigation is being handled by FANNING HARPER MARTINSON BRANDT & KUTCHIN, P.C., *the District's defense counsel in this matter*. Prosper ISD board members have already expressed concerns over this obviously conflicted assignment, specifically stating that they "do not feel that the same firm handling the lawsuit can objectively handle an investigation for the Board of Trustees."<sup>1</sup>

6. Jane and John Doe now bring this suit for compensatory and punitive damages, not only to seek redress for themselves and their girls, but to ensure that Prosper ISD stands as an

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<sup>1</sup> Garrett Linker, Prosper ISD School Board Trustee Place 6, FACEBOOK (Sept. 7, 2022), <https://www.facebook.com/garrettforprosper/posts/178021391462325/>.

example and a warning to all institutions entrusted with the care and protection of vulnerable children like Janie Doe 1 and Janie Doe 2.

## **II.** **PARTIES**

7. Plaintiffs Jane and John Doe, individually and as next friend of their minor daughters Janie Doe 1 and Janie Doe 2, are individuals residing in Collin County, Texas.

8. Prosper ISD is a public school district located and operating in Collin County, Texas. Prosper ISD has appeared and answered in this lawsuit and removed it to federal court (*see* Dkt. Nos. 1, 3–4).

9. Dr. Ferguson is the Superintendent of Prosper ISD. Upon information and belief, Dr. Ferguson, as Superintendent, had the authority to re-assign, terminate, and/or recommend the termination of Paniagua. As Superintendent, Dr. Ferguson also had actual possession, custody, and control over the onboard bus surveillance and GPS tracking information for the bus Paniagua drove and on which he abused Janie Doe 1 and Janie Doe 2. Dr. Ferguson has been served with the summons and Amended Complaint in this action (*see* Dkt. No. 22).

10. Hamrick is an individual residing in Collin County, Texas and was the Prosper ISD Director of Transportation at all times relevant to the incidents made the basis of this lawsuit. Upon information and belief, Hamrick, as Transportation Director, had the authority to re-assign, terminate, and/or recommend the termination of Paniagua. As Transportation Director, Hamrick also had actual possession, custody, and control over the onboard bus surveillance and GPS tracking information for the bus Paniagua drove and on which he abused Janie Doe 1 and Janie Doe 2. She may be served with process at 104 Covey Lane, McKinney, Texas 75071 or wherever else she may be found.

11. At the time of the events made the basis of this lawsuit, Paniagua was an individual residing in Collin County, Texas. Paniagua died on or around June 10, 2022, prior to the commencement of this lawsuit. Upon information and belief, Annette Paniagua was married to Decedent at the time of his death. After a diligent search, no probate records were found for Decedent. Accordingly, under Chapter 201 of the Texas Estates Code, Annette Paniagua, as Decedent's surviving spouse, is Decedent's legal heir. Annette Paniagua has been served with the summons and Amended Complaint in this action (*see* Dkt. No. 23).

### **III. JURISDICTION & VENUE**

12. This Court has original federal question jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343(3) for constitutionally based claims for which redress is provided by 42 U.S.C. § 1983 and Plaintiffs' Title IX claims, 20 U.S.C. § 1681 *set seq.*

13. This Court also has supplemental jurisdiction over the state law claims asserted in this civil action pursuant to 28 U.S.C. § 1367(a) because the claims are so related to the Section 1983 and Title IX claims that they form part of the same case or controversy.

14. Jurisdiction is proper in this Court because the amount of controversy is within the jurisdictional limits of this Court, and the claims are within the Court's subject matter jurisdiction.

15. Venue is proper in Collin County because all or a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in Collin County and because Defendants reside in Collin County. 28 U.S.C. § 1391(b)(1)–(2).

16. The incidents made the basis of this lawsuit involve personal injury arising from the operation or use of a motor-driven vehicle (*i.e.*, a Prosper ISD school bus and instrumentalities appurtenant to the bus, including its seatbelts and GPS tracking device) while on and off District

property. Accordingly, Prosper ISD has waived sovereign immunity pursuant to TEX. CIV. PRAC. & REM. CODE § 101.021(1).

**IV.**  
**FACTUAL BACKGROUND**

**A. Janie Doe 1 and Janie Doe 2 Were Deprived of Their Constitutional Rights When They Were Sexually Abused by a Prosper ISD Employee on a Prosper ISD School Bus, Which Often Occurred on and off Prosper ISD Property**

17. Janie Doe 1 and Janie Doe 2 started kindergarten in the 2019-2020 and 2021-2022 school years with Prosper ISD, respectively. For the 2021-2022 school year, Janie Doe 1 and Janie Doe 2 were assigned to the bus route driven by Paniagua, a then 61-year-old man. Janie Doe 1 and Janie Doe 2 rode on Paniagua's bus in the mornings three to four times a week, where they were dropped off in front of the elementary school cafeteria at approximately 7:15a.m. Each morning, after picking up Janie Doe 1 and 2, and before picking up other students, Paniagua would take the bus off-route and make an unscheduled stop, where he would pretend to adjust Janie Doe 1 and 2's seatbelts as a pretext for reaching under their shirts and shorts to fondle their bare chests, vaginas, and anuses. These actions were captured on the bus's on-board video surveillance, which was in the Defendants' continuous possession, custody, and control. Paniagua's actions in taking the bus off-route and making unscheduled stops were also reflected in GPS tracking data that was in the Defendants' continuous possession, custody, and control. On information and belief, Paniagua, on at least some occasions, also disabled the bus's GPS tracking functionality in order to conceal the location of the bus while he was molesting Janie Doe 1 and 2 – information that was also continuously in the Defendants' possession, custody, and control.

18. Later, after picking up other students, Paniagua would drop the students off at school. Car drop-off immediately followed bus drop-off. At least one Prosper ISD teacher or administrator was assigned to help with morning bus drop-off, and up to five Prosper ISD teachers

or administrators were assigned to help with morning car drop-off. These Prosper ISD teachers or administrators assisted the students off the buses or out of their cars and ushered them into the school. For months, these teachers or administrators observed that Paniagua would keep Janie Doe 1 and 2 on the bus for several minutes, alone, after all the other children had departed. Paniagua would use this opportunity to again molest Janie Doe 1 and 2. Paniagua's obvious "red flag" behavior in singling Janie Doe 1 and 2 out to remain on the bus with him alone was observed each morning by Prosper ISD administrators and noted by several parents present at drop off.

1) ***Paniagua used Prosper ISD school buses and their instrumentalities of Prosper ISD school buses as pretext to sexually abuse Janie Doe 1 and Janie Doe 2.***

19. Paniagua's abuse of Janie Doe 1 and Janie Doe 2 started as early as September 2021 and occurred each and every morning that the girls took the bus to school—***upwards of 100 separate instances of abuse***. Each instance of abuse that occurred on the Prosper ISD school bus, on and off Prosper ISD property, and was recorded and captured on bus surveillance that the Defendants had in their continuous possession, placing them on actual notice of the abuse.

20. Under the guise of helping Janie Doe 1 (a then seven-year-old) and Janie Doe 2 (a then five-year-old) buckle and unbuckle their seatbelts, Paniagua continuously and repeatedly assaulted Janie Doe 1 and Janie Doe 2 every morning they rode the school bus. Paniagua would engage in this behavior after picking Janie Doe 1 and Janie Doe 2 up each morning, taking the bus off-route and making an unscheduled stop before picking up other student passengers in order to molest Janie Doe 1 and Janie Doe 2 on the pretext of adjusting their seatbelts. Specifically, Paniagua used the bus to "adjust" the girls' seatbelts as a pretext to reach under their shirts and shorts to sexually abuse them, placing his hands on their bare chests and private parts. Later, upon arrival at the elementary school, Paniagua ensured that Janie Doe 1 and Janie Doe 2 were the last



students off the bus, keeping them behind in order to molest them further after the other students filed off.

21. Paniagua's abuse of Janie Doe 1 was even more extensive and brazen. After Janie Doe 2 deboarded the bus at school, Paniagua would turn his attention to Janie Doe 1, where he systematically ensured Janie Doe 1 was the last student off the bus so he could assault her at the back of the bus for three to five minutes *every morning* that she was on his bus. The Prosper ISD administrators who attended the morning drop offs observed this troubling behavior and asked Paniagua about it. Paniagua attempted to explain Janie Doe 1's constant delays with deboarding to Prosper ISD teachers or administrators as her helping Paniagua to clean the bus by "picking up trash." Plaintiffs believe that the teachers or administrators who observed this behavior further reported it to their superiors, but this evidence is under the exclusive possession, custody, and control of Prosper ISD, and Plaintiffs have not yet had an opportunity to conduct any discovery.

**2) *School bus surveillance videos put Prosper ISD on actual notice of the abuse.***

20) Prosper ISD's own written policies require video surveillance on its school buses "at all times." As shown below, Prosper ISD's Bus Rider Handbook explicitly warns its riders (or, at the very least, attempts to assure its riders' parents) that "cameras are recording at all times:"<sup>2</sup>

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<sup>2</sup> *Transportation: Bus Rider Handbook*, Prosper ISD, available at <https://www.prosper-isd.net/Page/24705> (last accessed Oct. 24, 2022).



Prosper ISD  
Grounded by Tradition, Soaring to New Beginnings

[Home](#) > [Departments](#) > [Transportation](#) > [Bus Rider Handbook](#)

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## Transportation +

### Bus Rider Handbook

- 1. Bus rider rules apply to all school sponsored events.
- 2. Discipline on the bus will be the responsibility of the school principal and the trip sponsor.

#### Video

- 1. Please be aware, cameras are recording at all times.

#### DISCIPLINE

21) In fact, the camera(s) on-board Paniagua's school bus *did* capture Paniagua in the act of physically sexually assaulting Janie Doe 1 and Janie Doe 2 on an almost daily basis. These video recordings were in the actual possession of Prosper ISD for months before it took any action to protect Janie Doe 1 and Janie Doe 2. In particular, these videos were in the actual possession, custody, and control of Prosper ISD administrators including, but not limited to, Transportation Director Hamrick and Superintendent Dr. Ferguson, and actually showed Paniagua molesting Janie Doe 1 and Janie Doe 2. Based upon the District's surveillance policy, the Defendants' actual possession of the videos, and the fact that the videos showed the assaults, Plaintiffs believe and contend that Defendants were actually, subjectively aware of Paniagua's abuse of Janie Doe 1 and 2 but failed to act in response. But regardless of whether the Defendants bothered to look at the videos, the videos were in Defendants continuous possession throughout the months of Paniagua's abuse and placed the Defendants on *actual* notice of the abuse of Janie Doe 1 and Janie Doe 2. In response, Defendants did nothing until Jane and John Doe reported their daughters' abuse. At that

point, Prosper ISD finally relied upon the video evidence that had been in their possession for months as a basis to fire Paniagua.

- 3) ***Prosper ISD had notice that Paniagua was taking school buses off route, making unscheduled stops, and turning GPS functionality off, and Paniagua used this school bus function to facilitate his abuse of Janie Doe 1 and 2***

22. Sometime prior to the 2021-2022 school year, Prosper ISD adopted and implemented the use of an “innovative” mobile device app and website entitled *Here Comes the Bus*®.<sup>3</sup> The tracking app touts itself as providing “real-time location” of a student bus rider’s location within a 2-mile radius along with confirmation that the bus has arrived at the bus stop, at school, or both. Additionally, the tracking app sends information when (1) the bus enters the 2-mile radius around the home stop; (2) the bus has been substituted; and (3) the child scans on and off the bus with bus number, time, and location.

23. Upon information and belief, Paniagua manipulated the GPS tracking information on his assigned bus(es) and/or through the *Here Comes the Bus*® application to turn GPS data on and off when driving his bus off route to abuse children, including Janie Doe 1 and Janie Doe 2, while concealing his location.

24. Since the commencement of this lawsuit, multiple Prosper ISD parents have come forward with fears that their elementary school aged children may have also been victims of Paniagua. Specifically, many parents have recounted instances where their child’s bus route tracking information would appear to go off route and/or be turned off for large periods of time before arriving late. As with his excuses for Janie Doe 1’s late departure from the bus each morning, these late drop-offs were met with canned excuses from Paniagua, often blaming traffic, train crossing holdups, or new and longer routes where he simply “got lost.”

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<sup>3</sup> *Transportation: Here Comes the Bus is now operational*, Prosper ISD, available at <https://www.prosper-isd.net/Page/23986> (last accessed Dec. 1, 2022).

25. Janie Doe 1 and Janie Doe 2 were also often the first students that Paniagua would pick up in the morning. According to their interviews with forensic investigators for the Collin County Children’s Advocacy Center (“CAC”), Paniagua would stop the bus or take the bus off route in order to molest Janie Doe 1 and Janie Doe 2 after picking them and before picking up other students. During these unscheduled stops, Paniagua would pretend to adjust Janie Doe 1 and 2’s seatbelts as a pretext for touching them under their shirts and underwear. These unscheduled and off-route stops were, on at least some occasions, shown in the GPS tracking information for the bus that was in the continuous possession, custody, and control of Defendants. On information and belief, Paniagua also disabled the GPS device on at least some occasions in order to conceal his actions.

26. This GPS tracking information—showing that Paniagua was taking the bus off-route, making unscheduled stops, and/or turning off the GPS unit—was in the actual possession of Prosper ISD for months before it took any action to protect Janie Doe 1 and Janie Doe 2. In particular, this information was in the actual possession, custody, and control of Prosper ISD administrators including, but not limited to, Transportation Director Hamrick and Superintendent Dr. Ferguson.

**B. After Months of Abuse by Paniagua, Janie Doe 1 and Janie Doe 2 “Outcry” to Their Grandmother and to Jane Doe**

27. Janie Doe 1 and Janie Doe 2 endured nearly an *entire schoolyear’s worth of abuse*, until one night while staying with their grandparents, the girls mentioned how “Mr. Frank” wanted to give them gift cards. When Jane Doe picked the girls up the next morning on May 7, 2022—the day before Mother’s Day—Jane Doe’s mother mentioned this odd comment. Jane Doe then asked the girls about it before going home, to which they did not respond.

26) Upon arriving home on May 7, 2022, Jane Doe again asked the girls about the gift cards, eventually asking whether “Mr. Frank” had done anything to them. After exchanging glances (as if to seemingly check in on and assure one another), Janie Doe 1 and Janie Doe 2 told their mother what no parent ever wants to hear—that sometimes “Mr. Frank” touches them.

27) Upon learning this information, Jane Doe promptly called and left voicemails with Prosper ISD’s Transportation Department and the Prosper ISD Police Department and immediately followed up with emails. Her call was eventually returned.

28) On the morning of Monday, May 9, 2022, Prosper ISD police pulled the surveillance video from Paniagua’s bus and reviewed it before sending the footage to the Proposer Police Department. The following day, Jane Doe met with Child Protective Services (“CPS”) licensed master social worker Elena Perez and CAC investigator Parker Owens, who conducted Janie Doe 1 and Janie Doe 2’s forensic interviews.

29) On or around May 11, 2022, Paniagua was arrested and booked on charges of Aggravated Sexual Assault of a Child, Continuous Sexual Abuse of a Child Victim Under 14, and Indecency with a Child Sexual Contact. Following his arrest and booking into the Collin County Jail, Paniagua attempted suicide by jumping off the second floor of the Jail, paralyzing himself. He was released into the care of his family and died on June 10, 2022.

**C. The District’s Pattern, Practice, and Custom of Covering Up Sexual Abuse Allegations Began Long Before the Events Made the Basis of this Lawsuit**

1) *The Collin County Sherriff’s Office and a former Chief Felony Prosecutor gave child abuse and neglect reporting trainings to the District because of its low mandatory reporting numbers.*

30) Prior to the events made the basis of this lawsuit, the District contracted with the Collin County Sherriff’s Office’s child abuse investigation unit to assist the District’s police department with investigations into child abuse or neglect.

31) Once such investigation of child sex abuse within the District was dubbed “Team Snapback.” In 2012, the District received strong pushback from the Prosper community following child sexual abuse allegations involving five Prosper High students who referred to themselves as “Team Snapback.” This incident led to the uncovering of serious deficiencies in the District’s policies and procedures regarding abuse reporting, along with many other instances of disorganized and botched mandatory reporting requirements. Accordingly, the Sherriff’s Office and its child abuse investigation unit gave trainings to the District. Such topics that were discussed including reiteration of the mandatory reporting requirements and explaining why the District should not interview students but rather wait for law enforcement to get students in front of a forensic interviewer who is trained to conduct a non-biased, non-leading interview. Upon information and belief, the District has received this training on more than one occasion.

32) Furthermore, Crystal Levonius (a former Chief Felony Prosecutor of the Crimes Against Children Division of the Collin County District Attorney’s Office and current Denton County District Judge) offered to give sexual abuse reporting trainings to the District. Specifically, and upon information and belief, Judge Levonius offered such trainings because the District’s reporting numbers were suspiciously low, and Judge Levonius was concerned that this was because the District did not have appropriate policies in place for spotting warning signs and red flags for potential child sexual abuse and grooming. *Judge Levonius expressed concerns to the District regarding their policies and procedures (or lack thereof) regarding sexual abuse trainings and reporting.*

- 2) *The District, Dr. Ferguson, and Hamrick received at least one parent complaint regarding a bus driver's inappropriate behavior in February 2020 yet failed to take appropriate action.*

33) Prior to the events made the basis of this lawsuit, Dr. Ferguson and Hamrick, Prosper ISD's former Director of Transportation, received a parent complaint concerning a bus driver's inappropriate behavior toward his young daughter. When the driver's grooming tactics were brought to the parent's attention on or around February 13, 2020, the parent promptly informed Dr. Ferguson and Hamrick. The driver was simply reassigned to a new route, and no further action or investigation was undertaken. This action is evidence of a "pass the trash" policy evincing Defendants' conscious indifference to the constitutional rights of its students, including Janie Doe 1 and Janie Doe 2.

**D. The District's Post-Incident Reaction was to Cover Up the Allegations**

- 1) *The District and Dr. Ferguson failed to inform parents of other children who may have been in contact with Paniagua of the allegations against him and his subsequent arrest.*

34) Following Paniagua's confession and arrest, no counseling services were offered to Plaintiffs or any of the other children on Paniagua's regular or substitute bus routes. Indeed, many Prosper ISD parents were left in the dark about the allegations described herein and only learned of the allegations and Paniagua's arrest upon the filing of this lawsuit. Shockingly, after the filing of this lawsuit, one parent has stated she only learned of "Mr. Frank's" arrest when her child informed her that "Mr. Frank" was in jail.

35) Since the filing of this lawsuit, multiple parents have come forward with concerns that their children may have also been victims of Paniagua. Specifically, many parents have recounted instances where their child's bus route tracking information would appear to go off route and/or be turned off for large periods of time before arriving late. These late drop-offs were met

with canned excuses from Paniagua, often blaming traffic, train crossing holdups, or new and longer routes where he simply “got lost.” Furthermore, at least one additional set of parents has raised concerns about their young daughter’s behavior following Paniagua’s substitution as a bus driver for her bus in the 2020-2021 school year. However, due to the district’s lack of transparency regarding the allegations made the basis of this lawsuit and delay in informing parents of any child who may have been in contact with Paniagua, this child’s forensic interview did not prove to be fruitful, as simply too much time had passed.

**2) *The District and Dr. Ferguson instructed District personnel to keep quiet and not speak on the allegations.***

36) Upon information and belief, following Paniagua’s arrest the District and Dr. Ferguson instructed Hamrick (the former director of transportation) and other district bus drivers to keep quiet and not speak on the allegations, leading to either Hamrick’s resignation or termination for failing to abide by this demand. Hamrick was recently replaced as Director of Transportation by Chaunte’ Saunders. Additionally, this prompted many other bus drivers to “walk out,” leading to the District’s recent bus driver shortage.<sup>4</sup>

**3) *The District and Dr. Ferguson changed leadership email addresses and directed computer storage offsite.***

37) Upon information and belief, since the commencement of this lawsuit, Dr. Ferguson and the District have taken drastic measures to further cover up the allegations and prevent information from being discovered. Specifically, upon information and belief, the District and Dr. Ferguson have changed Dr. Ferguson’s Prosper ISD email address information and instructed all district employees to use this new, unlisted email address. Furthermore, upon information and belief, the District and Dr. Ferguson have directed all district computer storage

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<sup>4</sup> Erin Anderson, *Prosper Parents Fume as No-show School Buses Strand Students*, Texas Scorecard (Aug. 18, 2022), <https://texasscorecard.com/local/prosper-parents-fume-as-no-show-school-buses-strand-students/>.



offsite at an undisclosed location in further attempts to obstruct access to information related to this lawsuit.

4) ***The District Hired its Defense Counsel in this Matter to Conduct an “Independent” Investigation for the District’s Board of Trustees***

38) Finally, the “independent” investigation is being handled by FANNING HARPER MARTINSON BRANDT & KUTCHIN, P.C., *the District’s defense counsel in this matter*. Prosper ISD board members have already expressed concerns over this assignment, specifically stating that they “do not feel that the same firm handling the lawsuit can objectively handle an investigation for the Board of Trustees.”<sup>5</sup>

V.  
**CAUSES OF ACTION**

***Claim One: Violation of 42 U.S.C. § 1983  
(against Defendant Paniagua in his individual capacity)***

39) Plaintiffs incorporate by reference each and every allegation contained in the paragraphs above as if the same were set forth in full herein.

40) The Civil Rights Act of 1871, now codified as 42 U.S.C. § 1983 as federal law, provides:

Every person who, under color of any statute, ordinance, regulation, custom or usage, of any state or territory or the district of Columbia, subjects, or causes to be subjected, any citizen of the United States or any other person within the jurisdiction thereof to the deprivation of any laws, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

41) A section 1983 suit may be brought against a government official in his individual capacity, and personal liability is established when the official (1) acting under color of state law, (2) caused the deprivation of a federal right. *Kentucky v. Graham*, 473 U.S. 159 (1985).

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<sup>5</sup> See *supra* n. 1.

42) As demonstrated above, Defendant Paniagua was acting under color of state law when he abused Janie Doe 1 and Janie Doe 2. The Fifth Circuit Court of Appeals has established that a school employee who takes advantage of his official position to molest school children acts under color of state law. *Doe v. Taylor Indep. Sch. Dist.*, 15 F.3d 443 (5th Cir. 1994).

43) Section 1983 also requires that the conduct complained of must have deprived the person of some privilege or immunity by the Constitution or law of the United States. The Fifth Circuit Court of Appeals has clearly established that “schoolchildren do have a liberty interest in their bodily integrity that is protected by the Due Process Clause of the Fourteenth Amendment and that ***physical sexual abuse by a school employee violates that right.***” *Doe*, 15 F.3d at 445 (emphasis added).

44) With respect to Defendant Paniagua, he engaged in sexually abusive conduct of Janie Doe 1 and Janie Doe 2, by and through his employment with Prosper ISD, which caused the minor Plaintiffs to suffer a deprivation of those rights guaranteed by the Constitution, as set forth above, including the substantive due process component and equal protection rights applied by the Fourteenth Amendment. Accordingly, Plaintiffs allege that Defendant Paniagua, acting in his individual capacity under color of state law, deprived Plaintiffs Janie Doe 1 and Janie Doe 2 of their rights, privileges, and immunities secured by the Fifth Amendment to the Constitution of the United States, incorporated and applied to the states through the Fourteenth Amendment. The above facts demonstrate Defendant violated these constitutional rights with respect to Janie Doe 1 and Janie Doe 2.

45) As a direct and proximate result of said acts and/or omissions, Plaintiffs have suffered the following injuries and damages:

- a) Violation of Janie Doe 1's constitutional rights under the Fifth and Fourteenth Amendments to the United States Constitution to be free from state-sponsored deprivation of liberty without due process of law, and enjoyment of equal protection under the law;
- b) Violation of Janie Doe 2's constitutional rights under the Fifth and Fourteenth Amendments to the United States Constitution to be free from state-sponsored deprivation of liberty without due process of law, and enjoyment of equal protection under the law; and
- c) Plaintiffs' pain and suffering and emotional trauma and suffering.

***Claim Two: Violation of 42 U.S.C. § 1983  
(against Defendants Prosper ISD, Paniagua in his official capacity, and  
Dr. Ferguson and Hamrick in their individual and official capacities)***

46) Plaintiffs incorporate by reference each and every allegation contained in the paragraphs above as if the same were set forth in full herein.

47) The Civil Rights Act of 1871, now codified as 42 U.S.C. § 1983 as federal law, provides:

Every person who, under color of any statute, ordinance, regulation, custom or usage, of any state or territory or the district of Columbia, subjects, or causes to be subjected, any citizen of the United States or any other person within the jurisdiction thereof to the deprivation of any laws, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

48) Section 1983 requires that the conduct complained of must have deprived the person of some privilege or immunity by the Constitution or law of the United States. The Fifth Circuit Court of Appeals has clearly established that "schoolchildren do have a liberty interest in their bodily integrity that is protected by the Due Process Clause of the Fourteenth Amendment and that ***physical sexual abuse by a school employee violates that right.***" *Doe*, 15 F.3d at 445

(5th Cir. 1994) (en banc) (emphasis added). Accordingly, Plaintiffs allege that Defendants jointly and severally deprived Plaintiffs Janie Doe 1 and Janie Doe 2 of their rights, privileges, and immunities secured by the Fifth Amendment to the Constitution of the United States, incorporated and applied to the states through the Fourteenth Amendment. The above facts demonstrate Defendants violated these constitutional rights with respect to Janie Doe 1 and Janie Doe 2.

49) With respect to Defendant Paniagua, he engaged in sexually abusive conduct of Janie Doe 1 and Janie Doe 2, by and through his employment with Prosper ISD, which caused the minor Plaintiffs to suffer a deprivation of those rights guaranteed by the Constitution, as set forth above, including the substantive due process component and equal protection rights applied by the Fourteenth Amendment.

50) Despite ample actual notice in the form of the onboard surveillance videos, prior parental report, anomalous GPS information, and teacher observations, Defendants were consciously indifferent to the gross deprivation of Janie Doe 1 and 2's constitutional rights occurring under their noses. At the time of the events made the basis of this lawsuit, Prosper ISD ostensibly had official policies in place regarding bus video surveillance and/or bus GPS tracking. Such policies were either followed (meaning the District was actually aware of the abuse shown on video) or, notwithstanding the official policies regarding surveillance and GPS, had a policy of ignoring information readily available to it via surveillance and GPS tracking information, review of which would have given the District meaningful notice and an opportunity to end Paniagua's behavior. Additionally, the District had a pattern, practice, policy, and/or custom of the following:

- a) Ignoring child sexual abuse captured on bus surveillance video in the District's possession and in the possession of administrators with authority to take corrective action (*e.g.*, Dr. Ferguson and Hamrick)

- b) Ignoring parent complaints of inappropriate behavior by Prosper ISD bus drivers, including suspected sexual grooming of minors, and reassigning such bus drivers to other routes;
- c) Alternatively, failing to review or simply “spot check” bus video surveillance; and
- d) Alternatively, ignoring GPS data showing Prosper ISD bus drivers taking children off route, making unscheduled stops, and/or turning off GPS trackers to conceal location.

51) With respect to the District (acting through its school board as policymaker), Dr. Ferguson, and Hamrick, said Defendants’ actions and/or omissions were “objectively unreasonable” in light of the facts and circumstances confronting them without regard to their underlying intent or motivation. Pursuant to 42 U.S.C. § 1983, Prosper ISD officials (including Dr. Ferguson and Hamrick), who were policy makers for Prosper ISD, while acting with deliberate conscious indifference under color of state law, deprived Janie Doe 1 and Janie Doe 2 of the rights, privileges, and immunities secured by the Constitution and laws of the United States set forth above. Such rights were violated when said officials, while acting with deliberate conscious indifference towards their incumbent duties, failed to fashion properly or to execute faithfully adequate policies to recognize, investigate, record, prevent and report sexually inappropriate behavior by educators, and instead allowed the development and adherence to customs and/or practices the lead to injuries suffered by Plaintiffs, including but not limited to the following:

- a) Overlooking or discounting complaints and information indicating inappropriate “grooming” or sexual behavior from bus drivers or other staff towards students;
- b) Not documenting and/or misclassifying complaints of sexually inappropriate conduct;
- c) Hiring, maintaining, and/or assigning educators, bus drivers, or other staff in disregard for information indicating prior inappropriate sexual behavior toward students;

- d) Not conducting sufficient investigations and following up on signs of inappropriate sexually based behavior between bus drivers or other staff and students; and/or
- e) Maintaining a tolerance for sexually inappropriate behavior between bus drivers or other staff and students.

52) Said officials, including the District (acting through its school board as policymaker), Dr. Ferguson, and Hamrick, failed to maintain enforcement of sufficient policies to govern the hiring, training, supervision, and discipline of educators relative to protecting students from the risk of sexual abuse. Said officials, as policymakers, proximately caused Plaintiffs' injuries and damages when they committed the particular acts and/or omissions:

- a) Failing to train and supervise its teachers and/or staff adequately concerning their interaction with students and signs of sexually inappropriate behavior by bus drivers or other staff;
- b) Failing to train school officials regarding the proper manner in which to investigate and report information concerning sexually inappropriate behavior by educators, bus drivers, or other staff;
- c) Failing to adequately supervise bus surveillance on a reasonable basis;
- d) Failing to adequately supervise the individual Defendant Paniagua;
- e) Failing to adequately investigate the individual Defendant Paniagua for prior complaints of his "grooming" or other sexually inappropriate behavior with students;
- f) Failing to adequately discipline the individual Defendant Paniagua for his prior acts of "grooming" or other sexually inappropriate behavior with students;
- g) Responding with deliberate conscious indifference to substantial, credible evidence of educator sexual misconduct arising to the level of crime;

- h) Responding with deliberate conscious indifference to substantial, credible evidence of employee misconduct arising to the level of crime and failing to follow the procedures prescribed by law to deal with such misconduct;
- i) Failing to establish adequate procedures for reviewing employees, in general, and complaints involving allegations of sexually inappropriate behavior by educators; and
- j) Failing to not callously disregard Janie Doe 1 and Janie Doe 2's constitutional rights.

53) As a direct and proximate result of said acts and/or omissions, Plaintiffs have suffered the following injuries and damages:

- a) Violation of Janie Doe 1's constitutional rights under the Fifth and Fourteenth Amendments to the United States Constitution to be free from state-sponsored deprivation of liberty without due process of law, and enjoyment of equal protection under the law;
- b) Violation of Janie Doe 2's constitutional rights under the Fifth and Fourteenth Amendments to the United States Constitution to be free from state-sponsored deprivation of liberty without due process of law, and enjoyment of equal protection under the law; and
- c) Plaintiffs' pain and suffering and emotional trauma and suffering.

***Claim Three: Violation of 20 U.S.C. § 1681 et seq. ("Title IX")  
(against Defendant Prosper ISD and Defendants Dr. Ferguson and Hamrick  
in their official capacities)***

54) Plaintiffs incorporate by reference each and every allegation contained in the paragraphs above as if the same were set forth in full herein.

55) The facts set out above give rise to an implied cause of action for damages and declaratory relief under Title IX.

56) Title IX prohibits discrimination on the basis of sex in all federally funded education programs. *See* 20 U.S.C. § 1681(a). Specifically, Title IX provides that, “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” *Id.* Title IX regulations apply to elementary and secondary schools, such as those within Prosper ISD. *See id.* § 1681(c).

57) Title IX is enforceable through an individual’s private right of action and allows for the recovery of damages. The above-described abuse of the minor Plaintiffs was a form of sex discrimination because the harassment was based on sex and was so severe, pervasive, and objectively offensive that it deprived the minor Plaintiffs of their educational opportunities or benefits provided by Prosper ISD.

58) A District employee who has been vested by the school board with supervisory power over the offending employee (namely, Dr. Ferguson and Hamrick) had actual knowledge of the abuse, had the power to end the abuse, and failed to do so. Despite ample actual notice in the form of the onboard surveillance videos, prior parental report, anomalous GPS information, and teacher observations, Defendants were consciously indifferent to the gross deprivation of Janie Doe 1 and 2’s constitutional rights occurring under their noses.

59) Based on the above facts, Plaintiffs allege a “heightened risk claim.” Specifically, that prior to the report of Paniagua’s sexual abuse of Janie Doe 1 and Janie Doe 2, Prosper ISD had actual notice of Paniagua’s abuse via the onboard surveillance video and anomalous GPS information, at least one report of a Prosper ISD bus driver’s history of “grooming” and sexually inappropriate behavior with students, teacher observations regarding minor Plaintiffs’ late deboarding of the bus at drop off, yet acted with deliberate conscious indifference to same. This



constituted actionable discrimination that substantially increased Janie Doe 1 and Janie Doe 2's risks of being sexually abused by Paniagua.

60) Institutions may be held liable in damages under Title IX “where they are deliberately indifferent to sexual harassment, of which they have actual knowledge that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school.” *Davis v. Monroe County Board of Education et al.*, 526 U.S. 629, 650 (1999). At all times relevant to this lawsuit, an appropriate person (namely, Dr. Ferguson and Hamrick) had actual knowledge of Paniagua's actions in the form of the onboard surveillance videos, prior parental report, anomalous GPS information, and teacher observations. The District's deliberate conscious indifferent response to the harassment and abuse—or lack thereof—was clearly unreasonable in light of the known circumstances.

61) Prosper ISD was deliberately and consciously indifferent to sexual harassment (of which it had actual knowledge as described herein) that was so severe, pervasive, and objectively offensive that it could be said to deprive the minor Plaintiffs of access to their educational opportunities or benefits provided by the school. Prosper ISD's failure to address and active concealment of sexually inappropriate conduct committed by Paniagua was a form of discrimination. Prosper ISD's knowledge of the need to supervise educators, and specifically Paniagua, constitutes deliberate conscious indifference. Finally, Prosper ISD's deliberate conscious indifference created an environment in which Defendant Paniagua could sexually abuse Janie Doe 1 and Janie Doe 2 over the course of an entire school year on a school bus equipped with video surveillance. That vulnerability—or heightened risk—constitutes harassment under Title IX.

***Claim Four: Assault – Offensive Physical Contact  
(against Defendant Paniagua)***

62) Plaintiffs incorporate by reference each and every allegation contained in the paragraphs above as if the same were set forth in full herein.

63) Defendant Paniagua committed an assault on both Janie Doe 1 and Janie Doe 2 by offensive physical contact for which he is directly liable. Specifically, as set forth herein, Defendant Paniagua acted intentionally or knowingly, Defendant Paniagua made contact with Janie Doe 1 and Janie Doe 2's persons, Defendant Paniagua knew or reasonably should have known that Janie Doe 1 and Janie Doe 2 would regard the contact as offensive or provocative, and Defendant Paniagua's contact caused injury to Janie Doe 1 and Janie Doe 2.

***Claim Five: False Imprisonment  
(against Defendant Paniagua)***

64) Plaintiffs incorporate by reference each and every allegation contained in the paragraphs above as if the same were set forth in full herein.

65) Pleading additionally and in the alternative, Defendant Paniagua committed a false imprisonment on both Janie Doe 1 and Janie Doe 2 by offensive physical contact for which he is directly liable. Specifically, as set forth herein, Defendant Paniagua willfully detained Janie Doe 1 and Janie Doe 2 on a Prosper ISD bus, the detention was without Janie Doe 1 and Janie Doe 2's consent, and the detention was without legal authority or justification.

***Claim Six: Invasion of Privacy – Intrusion Upon Seclusion  
(against Defendant Paniagua)***

66) Plaintiffs incorporate by reference each and every allegation contained in the paragraphs above as if the same were set forth in full herein.

67) Pleading additionally and in the alternative, Defendant Paniagua committed an invasion of privacy on both Janie Doe 1 and Janie Doe 2 for which he is directly liable.

Specifically, as set forth herein, Defendant Paniagua intentionally intruded on Janie Doe 1 and Janie Doe 2's solitude, seclusion, or private affairs when their horrific sexual abuse was captured on Prosper ISD bus surveillance. The intrusion is highly offensive to the reasonable person, and Plaintiffs suffered injuries as a result of this intrusion.

***Claim Seven: Intentional Infliction of Emotional Distress  
(against Defendant Paniagua)***

68) Plaintiffs incorporate by reference each and every allegation contained in the paragraphs above as if the same were set forth in full herein.

69) Pleading additionally and in the alternative, Defendant Paniagua committed an intentional infliction of emotional distress on the Plaintiffs for which he is directly liable. Specifically, as set forth herein, Plaintiffs are persons, Defendant Paniagua acted intentionally or recklessly and his conduct was extreme and outrageous, the emotional distress suffered by Plaintiffs was severe, and Defendant Paniagua's conduct proximately caused Plaintiffs' emotional distress. No alternative cause of action would provide a remedy for the severe emotional distress caused by Paniagua's conduct.

***Claim Eight: Breach of Fiduciary Duty  
(against Defendants Paniagua and Prosper ISD)***

70) Plaintiffs incorporate by reference each and every allegation contained in the paragraphs above as if the same were set forth in full herein.

71) Pleading additionally and in the alternative, Defendants Paniagua and Prosper ISD committed a breach of their fiduciary duties to Plaintiffs.

72) Specifically, as set forth herein, Plaintiffs had a fiduciary relationship with Defendants Paniagua and Prosper ISD, Defendants Paniagua and Prosper ISD breached their

fiduciary duties to Plaintiffs, and the breaches proximately caused injuries to Plaintiffs and resulted in benefit to Defendants Paniagua and Prosper ISD.

***Claim Nine: Fraud by Nondisclosure  
(against Defendant Prosper ISD)***

73) Plaintiffs incorporate by reference each and every allegation contained in the paragraphs above as if the same were set forth in full herein.

74) Pleading additionally and in the alternative, Prosper ISD committed fraud by nondisclosure on Plaintiffs for which it is directly liable.

75) Specifically, as alleged herein, Prosper ISD concealed from or failed to disclose certain facts to Plaintiffs, including but not limited to the fact that it failed to conduct background checks before hiring its employees and the fact that it received complaints about Paniagua's inappropriate behavior toward Janie Doe 1 and Janie Doe 2.

76) Prosper ISD had a duty to disclose these material facts to Plaintiffs. Prosper ISD knew Plaintiffs were ignorant of these facts and that they did not have an equal opportunity to discovery these facts. Prosper ISD was deliberately silent when it had a duty to speak, and by failing to disclose these facts, Prosper ISD intended to induce Plaintiffs to take some action or refrain from acting. Plaintiffs relied on Prosper ISD's nondisclosure, and they were injured as a result of acting without the knowledge of the undisclosed facts.

***Claim Ten: Negligence and Gross Negligence  
(against Defendant Prosper ISD)***

77) Plaintiffs incorporate by reference each and every allegation contained in the paragraphs above as if the same were set forth in full herein.

78) Prosper ISD may be held liable for the wrongful act *or* omission *or* negligence of its employee Paniagua if, as here, the personal injury arises from the operation or use of a motor-driven vehicle (*i.e.*, the Prosper ISD school bus). TEX. CIV. PRAC. & REM. CODE § 101.021(1).

79) Prosper ISD had a duty to protect and supervise the children in its care, including Janie Doe 1 and Janie Doe 2. Prosper ISD also had a duty to exercise reasonable care in its hiring, supervision, and training of its employees, including Paniagua.

80) On information and belief, Prosper ISD breached these duties by, among other things:

- a) Failing to exercise reasonable care in its hiring of Paniagua and other employees;
- b) Failing to exercise reasonable care in its supervision of Paniagua and other employees;
- c) Failing to exercise reasonable in its training of Paniagua and other employees;
- d) Failing take steps to protect Janie Doe 1 from Paniagua after receiving reports of his inappropriate behavior;
- e) Failing take steps to protect Janie Doe 2 from Paniagua after receiving reports of his inappropriate behavior;
- f) Failing to advise Jane Doe of Paniagua's inappropriate behavior for her to prevent further abuse of her children;
- g) Failing to advise John Doe of Paniagua's inappropriate behavior for him to prevent further abuse to his children;
- h) Failing to train and supervise its teachers and/or staff adequately concerning their interaction with students and signs of sexually inappropriate behavior by bus drivers or other staff;

- i) Failing to train school officials regarding the proper manner in which to investigate and report information concerning sexually inappropriate behavior by educators, bus drivers, or other staff;
- j) Failing to adequately supervise bus surveillance on a reasonable basis;
- k) Failing to adequately supervise the individual Defendant Paniagua;
- l) Failing to adequately investigate the individual Defendant Paniagua for prior complaints of his “grooming” or other sexually inappropriate behavior with students;
- m) Failing to adequately discipline the individual Defendant Paniagua for his prior acts of “grooming” or other sexually inappropriate behavior with students;
- n) Responding with deliberate conscious indifference to substantial, credible evidence of educator sexual misconduct arising to the level of crime;
- o) Responding with deliberate conscious indifference to substantial, credible evidence of employee misconduct arising to the level of crime and failing to follow the procedures prescribed by law to deal with such misconduct;
- p) Failing to establish adequate procedures for reviewing employees, in general, and complaints involving allegations of sexually inappropriate behavior by educators; and
- q) Negligently entrusting District school buses into Paniagua’s possession and control.

81) As a result of Prosper ISD’s breach of its duties as set forth herein, Plaintiffs were injured.

82) Moreover, these acts of negligence by Prosper ISD were of such character as to make Prosper ISD liable for gross negligence. Prosper ISD’s acts of negligence, when viewed objectively from the standpoint of the defendant, involved an extreme degree of risk considering the probability and magnitude of potential harm to others. Prosper ISD had actual, subjective

awareness of this risk, but nevertheless proceeded with conscious indifference to the rights, safety, and welfare of the Plaintiffs. The gross negligence of Prosper ISD was a proximate cause of the events detailed herein, Plaintiffs' injuries, and their damages. As a result of Prosper ISD's blatant gross negligence, Plaintiffs seek exemplary damages in an amount in excess of the jurisdictional limits of this Court.

**VI.**  
**DAMAGES**

83) Plaintiffs are seeking monetary relief over \$10,000,000. TEX. R. CIV. P. 47(c)(4).

*Actual Damages*

84) Plaintiffs have suffered actual damages as a direct and proximate result of the acts giving rise to this lawsuit. Plaintiffs have been deprived of their rights and privileges to attend public school with their classmates and participate in any school-related activities, such as riding a school bus. Further, Plaintiffs have suffered extreme and severe emotional distress and mental anguish as a result of Prosper ISD's negligent and extreme and outrageous conduct described herein.

*Attorneys' Fees*

85) Pursuant to 42 U.S.C. § 1988, a prevailing party in a § 1983 case is entitled to recover its attorneys' fees.

*Expert Fees*

86) Pursuant to 42 U.S.C. § 1988, a prevailing party in a § 1983 case is entitled to recover its expert fees.

*Exemplary Damages*

87) Prosper ISD's acts and omissions complained of herein were committed knowingly, willfully, intentionally, and with actual awareness or actual malice or with deliberate

conscious indifference. In order to punish Prosper ISD for such unconscionable actions and to deter such acts and/or omissions in the future, Plaintiffs seek recovery against Prosper ISD of exemplary damages as provided by Chapter 41 of the Texas Civil Practice & Remedies Code.

88) Punitive damages may be assessed under § 1983 when the Defendants' conduct is shown to be motivated by evil motive or intent, or when it involves reckless or callous indifference to the federally protected rights of others. As such, Plaintiffs are entitled to punitive damages from Defendants.

### ***Declaratory Judgment***

89) Plaintiffs seek a declaratory judgment that Plaintiffs Janie Doe 1 and Janie Doe 2 are substantially likely to suffer injury in the future. As discussed herein, Defendants failed to adhere to their official policies with respect to their failures related to the monitoring (or lack thereof) of bus GPS, bus surveillance, and negligent supervision of district bus drivers. Accordingly, elementary school age children who continue to ride on a Prosper ISD bus, including Janie Doe 1 and Janie Doe 2, are at risk for future injury.

### **VII. CONDITIONS PRECEDENT**

90) All conditions precedent to Plaintiffs' claims for relief have been performed or have occurred. *See* TEX. CIV. PRAC. & REM. CODE § 101.101(c).

### **VIII. DEMAND FOR JURY TRIAL**

91) Pursuant to FED. R. CIV. P. 38, Plaintiffs demand a trial by jury on all claims and matters at issue in this lawsuit.



**PRAYER FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants Paniagua and Prosper ISD be cited to appear and that upon a trial on the merits:

- a) Render judgment in favor of Plaintiffs against Defendants, jointly and severally, as to all claims;
- b) Render a declaratory judgment that Doe 1 and Janie Doe 2 are at risk of future injury;
- c) Award Plaintiffs all damages to which they may be entitled to at law or in equity, in an amount to be proven at trial, plus pre- and post-judgment interest at the maximum rates allowed by law;
- d) Award Plaintiffs their reasonable attorneys' fees and litigation expenses, including expert fees;
- e) Award exemplary damages; and
- f) All other relief, whether at law or in equity, to which Plaintiffs may be justly entitled.

Respectfully submitted,

**MCCATHERN, PLLC**

/s/ Levi G. McCathern, II

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**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that on December 6, 2022, a true and correct copy of the foregoing was served on all counsel of record.

/s/ Levi G. McCathern, II  
Levi G. McCathern, II