

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

Michael D. Van Deelen,	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
James Cain,	)	
Curt Drouillard,	)	
L.S. Spencer,	)	
Patricia Crittendon,	)	Case No. 4:14-cv-00923
Susan Murphy,	)	
Jeremy Lewis,	)	Jury
Jan Marek,	)	
Michelle Nance,	)	
Ronnie Anderson,	)	
Steven Smith,	)	
Rick Mann,	)	
Paul Lanham,	)	
William Pilkington,	)	
Georgan Reitmeier,	)	
Stephen Szymczak,	)	
Klein Independent School District,	)	
Ellen Spalding and	)	
10 John/Jane Does	)	
Defendants.	)	

**PLAINTIFF’S FIRST AMENDED PETITION**

COMES NOW the Plaintiff, Michael D. Van Deelen, and sues the above-named Defendants and as grounds therefore alleges:

1. This action arises under the First and Fourteenth Amendments to the United States Constitution and under the laws of the United States,

particularly under the Civil Rights Act, Title 42, United States Code, Section 1983.

2. The jurisdiction of this Court is invoked under the provisions of Title 28, United States Code, Sections 1331 and 1343.

3. Plaintiff, Michael D. Van Deelen, is a citizen of the United States of America who presently resides at

4. At all times material herein, Defendant Cain was the Superintendent of Defendant Klein Independent School District (hereinafter, 'Klein ISD'); Defendant Drouillard was an Associate Superintendent of Human Resource Services at Klein ISD; Defendant Spencer was an Executive Director of Human Resource Services at Klein ISD; Defendant Crittendon was the Principal of Klein Forest High School; Defendant Murphy was an Associate Principal at Klein Forest High School; Defendant Lewis was an Assistant Principal (House 6 Principal) at Klein Forest High School; Defendant Marek was an Associate Superintendent of Klein ISD; Defendant Nance was an Associate Principal at Klein Forest High School; Defendants Anderson, Smith, Mann, Lanham, Pilkington, Reitmeier and Szymczak were members of the Klein ISD Board of Directors (hereinafter collectively referred to as 'Defendant School Board' or the 'School Board Defendants'); and Defendant Spalding was the attorney for Klein ISD.

5. At all times material herein, the individual Defendants worked under the supervision and guidance of Defendant School Board.

6. At all times material herein, the individual Defendants, except the School Board Defendants, worked under the supervision and guidance of Defendant Cain.

7. At all times material herein, Defendant Spencer worked under the supervision and guidance of Defendant Drouillard.

8. At all times material herein, Defendants Murphy, Nance and Lewis worked under the supervision and guidance of Defendant Crittendon.

The identities of the John/Jane Doe Defendants will be determined through the course of discovery in the instant action.

9. Plaintiff sues all individual Defendants in both their individual and official capacities.

### **BACKGROUND**

10. On information and belief:

11. Klein Forest High School (hereinafter, 'KF') has pervasive discipline problems. Many of the students can be characterized as violent, out-of-control and/or disruptive. The inappropriate behavior includes verbal abuse of teachers and other students, constant profanity, sexual innuendo, improper dress (including the wearing of 'hoodies' and drooping pants and shorts), skipping class, constant tardies, leaving class without permission, assault and battery.

12. Many of the infractions of the misbehaving students rise to the level of misdemeanors and felonies, but the inappropriate behavior is not reported to the appropriate authorities by the KF administration. Teachers who attempt to report the inappropriate behavior are ignored, chastised for 'causing' it to occur or reprimanded and retaliated against for reporting it by the Defendants.

13. The Defendants repeatedly fail to follow state law in the discipline of students at KF. KF teachers are essentially forced to keep unruly, disrespectful, disruptive and violent students in their classrooms even though they do not want them there. KF students know, or soon learn,

that they can engage in improper behavior, do little or no work and still receive a passing grade of 70. (The fly in the ointment is the fact that these students cannot pass the end-of-course tests because they have done no classroom work.)

14. Mr. Mario Cruz was a first-year teacher at Klein Forest High School during the first semester of the current school year. Mr. Cruz taught Geometry to five periods of students. NAME REMOVED was a student in Mr. Cruz's fifth period Geometry class.

15. Student behavior in Mr. Cruz's first, fifth and seventh period classes was incomprehensibly bad. Even though Mr. Cruz consistently and regularly sought help from the KF administration, including Defendant, in handling the discipline problems, he was largely ignored and told to handle the discipline problems internally (i.e. – by himself and in his classroom).

16. NAME REMOVED was a particular problem for Mr. Cruz. NAME REMOVED was absent from Geometry class 27 days during the first semester of the current year. However, he was only reported being absent from his other classes on five or six days. This means that NAME REMOVED was often intentionally skipping his Geometry class but attending his other classes during the course of a school day. Even though this information was readily available to KF administrators, nothing was done about it. In violation of district policy, NAME REMOVED was allowed to roam the halls during Geometry class with impunity.

17. When NAME REMOVED did attend Mr. Cruz's Geometry class, his behavior constantly disrupted the class. NAME REMOVED would often spend his time causing a ruckus in class and then ask to use the restroom. He would gain permission to use the restroom, leave class to do so, and not return. Accordingly, many of the days that NAME REMOVED

was actually counted as present in class were not days in which NAME REMOVED actually remained in class for the entire period.

18. Mr. Cruz attempted to send misbehaving students, including NAME REMOVED, to the office of Defendant Lewis, but Defendant Lewis, under the direction of Defendant Crittendon, instructed Mr. Cruz not to send students to him. Against district policy and state law, Defendant Lewis, under the direction of Defendant Crittendon, forced Mr. Cruz to deal with inappropriate behavior himself in his own classroom and not seek help from the KF administration. Because Mr. Cruz could not get any help with student discipline from Defendant Lewis or other KF administrators, Mr. Cruz let NAME REMOVED go to the restroom every time he showed up for class, knowing (and probably hoping) that NAME REMOVED would not return to class.

19. For the first semester of the current school year, NAME REMOVED earned a 28% (out of 100%) in fifth period Geometry and he received a conduct rating of 'U' (Unsatisfactory). In the six weeks grading period that was coterminous with the end of the first semester, NAME REMOVED earned a 1% (out of 100%) in Geometry. He was also given a conduct rating of 'U' in his sixth period English class.

20. Because of the severe strain caused by inappropriate student behavior in his classrooms, and the lack of assistance from the KF administration in dealing with it, Mr. Cruz, trying to maintain his physical and emotional health, attempted to resign his teaching position a few weeks after the school year started. The KF administration convinced Mr. Cruz to stay on through the end of the semester.

21. After Mr. Cruz first tried to resign, the KF administration knew that they had to hire another Geometry teacher to take over for Mr. Cruz

during the second semester. That is when Plaintiff received a call to interview for a teaching position at KF. The interview went well and Plaintiff was offered a teaching position, but Plaintiff was told that he was being hired to be a PreCalculus teacher, not a Geometry teacher. The intent of the KF administration was to get Plaintiff on board when they had the chance, then put him into Mr. Cruz's out-of-control Geometry classrooms when Mr. Cruz left at the semester break. This plan was not conveyed to Plaintiff when he was interviewed, when he was hired or any time before the end of the first semester. At no time was Plaintiff told that he was going to be teaching disruptive, out-of-control, violent students. Plaintiff was led to believe that he would be teaching well-behaved juniors and seniors taking PreCalculus.

22. Plaintiff started work on October 16, 2013, and was assigned as a roving PreCalculus teacher who would go into various PreCalculus classrooms during the day and tutor students who needed help. This went very well and Plaintiff received a near-excellent PDAS (Professional Development and Appraisal System) review from Defendant Lewis. But on the last day of school before the Christmas break, Plaintiff was called into Defendant Nance's office where she informed him that he would no longer be a PreCalculus teacher when the students came back from their holiday break. Instead, Defendant Nance informed Plaintiff that he would be taking over Mr. Cruz's Geometry classes.

23. Defendant Nance still did not tell Plaintiff that the student behavior in three of Mr. Cruz's classes was out-of-control. Had she done so, Plaintiff may well have refused the assignment. Defendant Nance actually went out of the way to hide the bad behavior from Plaintiff. She instructed Plaintiff not to visit any of Mr. Cruz's classrooms before Mr. Cruz left.

24. On or about the first day that school was in session after the Christmas break, Plaintiff came across two students who were carving a hole in a concrete block wall in one of the hallways. Plaintiff told them to stop and they left. Plaintiff reported the incident to the KF administration. Nothing was ever done to identify, apprehend or discipline the two students who were walking around school with a knife carving up the walls.

25. After the Christmas break, Plaintiff took over Mr. Cruz's Geometry classes. The behavior of the first, fifth and seventh period classes remained abysmal. Plaintiff was shocked to witness the inappropriate conduct of many of the students. They verbally abused Plaintiff, continually refused to do any class work, came late to class, left class during the period without permission, used constant profanity and even assaulted and battered each other in Plaintiff's presence. Plaintiff immediately sought help from Defendant Lewis, Plaintiff's Assistant Principal. Defendant Lewis' operating instruction to Plaintiff was 'Whip them into shape!' Other than providing this instruction, Defendant Lewis refused to help Plaintiff discipline the students in any way. Whenever Plaintiff would send a misbehaving student to his office, Defendant Lewis, under the direction of Defendant Crittendon, would send the student right back into Plaintiff's classroom. On many different occasions, Plaintiff told Defendant Lewis that Plaintiff did not want the violent, misbehaving and disruptive students back in Plaintiff's classroom because they made it impossible for the other students to learn and because they were violent and posed a threat to the safety of Plaintiff's students and himself. Nevertheless, Defendant Lewis, in violation of state law (including Texas Education Code, Chapter 37, Sections 37.002 and 37.003), and under the direction of Defendant Crittendon, always immediately sent said students back to Plaintiff's classroom.

26. The behavior of the students in Plaintiff's first, fifth and seventh period Geometry classes started out bad and got worse as the students sensed that there was nothing Plaintiff could do to stop them from misbehaving and as they felt a sense of empowerment resulting from Defendant Lewis constantly sending them back into Plaintiff's classroom without disciplining them in any way.

27. It wasn't long before some of the male students began to act in a physically intimidating and violent fashion towards. On February 4, 2014, two of Plaintiff's first period students, NAME REMOVED and NAME REMOVED, became disruptive, intimidating, loud, threatening and aggressive during class. Trying to end the disruption, and out of fear for the safety of Plaintiff's students and himself, Plaintiff sent them out of the classroom and then made a report to the campus police. Said police report included Plaintiff's complaint that Defendant Lewis repeatedly sent misbehaving and disruptive students back to class even though Plaintiff had requested that they not be allowed to return out of fear for the safety of Plaintiff's students and himself. Later the same day, Defendant Lewis, under the direction of Defendant Crittendon, chastised Plaintiff for making the police report and told Plaintiff not to make any more police reports. Defendant Lewis was extremely upset that Plaintiff had made a police report of the incident.

28. Plaintiff was subsequently called into the office of the KF Principal, Defendant Crittendon. Defendant Crittendon was very upset that Plaintiff had called the campus police to report the incident in his classroom on February 4. During the meeting, Defendant Crittendon told Plaintiff not to call the campus police again. Also during the meeting, in an attempt to intimidate Plaintiff into stop making police and other reports of student



misbehavior, Defendants Crittendon and Lewis made it clear to Plaintiff that no school district would hire Plaintiff in the future if Plaintiff made waves at Klein Forest High School.

29. Having realized that they could act in a threatening, abusive, and disruptive manner in Plaintiff's classroom with impunity, NAME REMOVED's and NAME REMOVED's disruptive, abusive, threatening and antagonistic behavior during first period escalated. Plaintiff subsequently sent Defendant Lewis an email informing him about their continuing inappropriate conduct. The email told Defendant Lewis that Plaintiff did not want those students back in his classroom out of fear for the safety of Plaintiff's students and himself. Plaintiff's email informed Defendant Lewis that, if NAME REMOVED or NAME REMOVED came back into Plaintiff's classroom over Plaintiff's objection, Plaintiff would make another police report the next time they acted in a threatening, abusive, manner. Defendant Lewis, under the direction of defendant Crittendon, did not ever respond to the email and the next day, in violation of state law, NAME REMOVED and NAME REMOVED were still in class.

30. After Plaintiff sent the email to Defendant Lewis informing him that Plaintiff would make a police report against NAME REMOVED and/or NAME REMOVED, Plaintiff was summoned into another meeting in Defendant Crittendon's office. Defendant Crittendon had called Defendant Spencer, Defendant Klein ISD's Human Resources officer, to the meeting. During the meeting, Defendants Crittendon and Spencer, in violation of district policy, told Plaintiff that Plaintiff was not a 'good fit' for Klein Forest High School. Defendant Crittendon threatened to 'remove' Plaintiff from his classroom if Plaintiff did not stop making police and other reports concerning disruptive students. The message Plaintiff received was that he

would be terminated if he continued to make reports, including police reports, concerning the disruptive and/or violent behavior of students in his and other teachers' classrooms.

31. After the meeting with Defendants Crittendon and Spencer, Defendant Lewis, at the direction of Defendant Crittendon, completely shunned the Plaintiff. Defendant Lewis would not talk to Plaintiff or meet with Plaintiff. Defendant Lewis would not come to Plaintiff's classroom even when Plaintiff asked him to come and deal with disruptive students. Plaintiff informed Defendant Crittendon about this in an email. The email also informed Defendant Crittendon that Plaintiff was thinking about talking to Superintendent Cain about the disciplinary problem that Plaintiff was having in his classroom. Defendant Crittendon did not ever respond to the email.

32. On February 7, 2014, the door to Plaintiff's classroom happened to be open. A large male student had found himself locked out of Mrs. Boen's English classroom which was across from Plaintiff's classroom. All of a sudden, the student yelled at the top of his voice, 'OPEN THE F----- DOOR, B-----!' Plaintiff reported this abusive and threatening conduct to Defendants Crittendon and Lewis. No action was taken against the offending student.

33. On February 11, 2014, NAME REMOVED told Plaintiff during first period that he was going to fight Plaintiff and that he was going to 'whoop' Plaintiff's 'ass'. Plaintiff emailed Defendant Lewis about this. Defendant Lewis, under the direction of Defendant Crittendon, did not respond to the email and Plaintiff then made a police report to the campus police. Said police report included Plaintiff's complaint that Defendant Lewis repeatedly sent misbehaving and disruptive students back to class

even though Plaintiff had requested that they not be allowed to return. Plaintiff subsequently encountered Defendant Lewis in the hallway, informed Defendant Lewis about NAME REMOVED's threats and about the fact that Plaintiff had made a police report about the incident. Plaintiff told Defendant Lewis that Plaintiff did not want NAME REMOVED back in Plaintiff's classroom due to his disruptive behavior and out of fear for the safety of Plaintiff's students and himself. In spite of Plaintiff's demand to the contrary, and in violation of state law, Defendant Lewis allowed NAME REMOVED to come back to Plaintiff's classroom the very next day.

34. One of the worst-behaving students in Plaintiff's fifth period class was NAME REMOVED. The bad behavior that NAME REMOVED exhibited when Mr. Cruz was his teacher continued in Plaintiff's class. He was absent much of the time. When he did come to class, NAME REMOVED spent the majority of his time distracting the class with constant talking that included disrespectful comments to Plaintiff. NAME REMOVED had informed Plaintiff that he had started school in CITY REMOVED, California, at the beginning of the current school year. However, he explained that he was expelled from his high school on the second day of school for fighting. NAME REMOVED also had a tattoo of the state of California on his neck. Plaintiff considered the tattoo to be a gang tattoo. Plaintiff was afraid of NAME REMOVED because of his demeanor, his vulgar and disrespectful comments to Plaintiff during class, the fact that he had been kicked out of school for fighting and because he had an apparent gang tattoo on his neck.

35. On February 11, 2014, NAME REMOVED was late to class so Plaintiff instructed him to go get a tardy slip from Defendant Lewis. (Getting tardy slips for students late to class was a common, well-known,

procedure instituted by the Klein Forest administration as a method of tracking tardy students.) Because NAME REMOVED did not want to get a tardy slip, he spent several minutes verbally abusing Plaintiff through the locked classroom door. (The door has a window through which persons can see and hear in and out of the classroom.) NAME REMOVED eventually left.

36. When NAME REMOVED returned to class, he began to pound on the locked door loudly and repeatedly in order to gain entrance. NAME REMOVED also directed verbally abusive language at Plaintiff through the door. Plaintiff instructed him to report to Defendant Lewis because his demeanor, past history of violent behavior and abusive language caused Plaintiff to fear for the safety of Plaintiff's students and himself. Plaintiff did not let NAME REMOVED enter his classroom. Later that day, Plaintiff informed Defendant Lewis that Plaintiff did not want NAME REMOVED to return to Plaintiff's classroom because Plaintiff thought his presence placed Plaintiff's students and himself in danger because of NAME REMOVED violent and abusive behavior and because NAME REMOVED's behavior was disruptive to the learning process. Nevertheless, in violation of state law, Defendant Lewis allowed NAME REMOVED to return to Plaintiff's classroom the very next day.

37. The following day, February 12, 2014, (the day after Plaintiff had made the police report about NAME REMOVED's threats to Plaintiff) the same sequence of events occurred. NAME REMOVED was late to class so Plaintiff instructed him to go get a tardy slip from Defendant Lewis. Because he did not want to get a tardy slip, he spent several minutes verbally abusing Plaintiff through the locked classroom door. When NAME REMOVED eventually came back with a tardy slip, he began banging

loudly and repeatedly on the door as he had done the previous day. He again directed verbally abusive language at Plaintiff through the locked classroom door. As Plaintiff did the previous day, Plaintiff instructed NAME REMOVED to go to Defendant Lewis' office because his demeanor, his past history of violent and disruptive behavior and his abusive language caused Plaintiff to fear for the safety of Plaintiff's students and himself. Plaintiff told NAME REMOVED through the locked classroom door that he could not enter Plaintiff's classroom.

38. While this was happening, another student who had gotten a tardy slip came to the door and requested to enter Plaintiff's room. Plaintiff told the student that he could enter as soon as Plaintiff opened the door. Before Plaintiff opened the door, Plaintiff instructed NAME REMOVED, who had not left as instructed, not to enter the classroom when Plaintiff opened the door for the other student. Plaintiff then opened the door for the other student to enter, which he did. There were other students standing there with tardy slips that Plaintiff wanted to admit, but NAME REMOVED was standing between Plaintiff and them. Plaintiff again told NAME REMOVED that he could not enter Plaintiff's classroom and again instructed him to report to Defendant Lewis' office.

39. At that point, NAME REMOVED became even more enraged. He told Plaintiff that he was going to 'stick' Plaintiff. Plaintiff interpreted this to mean that NAME REMOVED was going to attack Plaintiff with a knife. Any student can walk into any Klein Forest classroom with a weapon at any time and Plaintiff had seen students with a knife at school (as mentioned above), so Plaintiff was extremely fearful for his safety and the safety of his students.

40. After NAME REMOVED told Plaintiff that he was going to ‘stick’ Plaintiff, he attempted to gain entrance to Plaintiff’s classroom by pushing Plaintiff out of the way. After NAME REMOVED assaulted the Plaintiff, Plaintiff, thinking that NAME REMOVED had a knife in his possession and fearing for the safety of Plaintiff’s students and himself, pushed NAME REMOVED across the hallway and pinned him up against the wall (lockers) and held him there until Defendant Lewis arrived.

41. While reflecting on the incident, Plaintiff thought it was quite a coincidence that Defendant Lewis was the administrator who showed up after the incident. (KF is a very large school with more than a dozen administrators.) Plaintiff found out later from Defendant Klein ISD personnel that Defendant Lewis had gone to the video room before class and began to monitor the door of Plaintiff’s classroom. Defendant Lewis had consistently refused to help Plaintiff with classroom discipline and Defendant Lewis knew that the discipline problems Plaintiff was facing were escalating and becoming more dangerous by the day. Defendant Lewis had repeatedly refused to expel violent, abusive and disruptive students from Plaintiff’s classroom even though Plaintiff had asked him to do so. Defendant Lewis also knew that Plaintiff had had a problem with NAME REMOVED and other students being tardy the day before. Defendant Lewis also knew that Mr. Cruz had similar problems with NAME REMOVED and other misbehaving students. Defendant Lewis also knew that Plaintiff had been assaulted in his classroom the day before by NAME REMOVED. Knowing these facts, Defendant Lewis should have come to Plaintiff’s classroom to help manage the discipline problem Plaintiff was sure to have when the students returned with their tardy slips. Instead, Defendant Lewis went to the video monitors and watched and waited for the fireworks to

start! Defendant Lewis did this so that he could gather ‘evidence’ of improper behavior against Plaintiff that he, Defendant Crittendon and Defendant Spencer could subsequently use to remove Plaintiff from Plaintiff’s position at Klein Forest High School in retaliation for Plaintiff’s making police and other reports of inappropriate student conduct. The Defendants wanted to get rid of Plaintiff because Plaintiff was making police and other reports about the disruptive, violent, out-of-control behavior of certain Klein Forest High School students, one of whom was a Klein Forest football player (NAME REMOVED).

42. After Defendant Lewis got the video of the incident with NAME REMOVED, he and Defendant Susan Murphy edited it by removing the beginning and the end of the incident. The beginning of the incident showed NAME REMOVED pounding on Plaintiff’s classroom door, yelling at Plaintiff through the classroom door, telling Plaintiff that he was going to ‘stick’ the Plaintiff and pushing the Plaintiff. The end of the video showed Plaintiff simply restraining NAME REMOVED until help arrived. The Defendants also edited the video by zooming it out so that the detail of the incident could not be seen. All that remained was a video of Plaintiff shoving NAME REMOVED across the hallway for no apparent reason.

43. Defendants Lewis and Crittendon then called Defendant Spencer who came to Klein Forest High School and met with Plaintiff and Defendants Crittendon, Murphy, Nance and Lewis. The Defendants tape-recorded their meeting with the Plaintiff. The Defendants and Plaintiff viewed the edited video. Plaintiff subsequently told the Defendants who were present that, during the incident, NAME REMOVED told Plaintiff that he was going to ‘stick’ the Plaintiff and then pushed the Plaintiff and that Plaintiff only then, in defense of his students and himself, pushed NAME

REMOVED up against some lockers and held him there until help arrived. After Plaintiff told the Defendants this, and after Defendant Spencer had interviewed the alleged student witnesses privately, Defendant Spencer admitted while being tape-recorded that the students' account of the incident matched Plaintiff's account. Defendant Spencer also admitted while being tape-recorded that Defendant Lewis had been at the video monitors filming the incident.

44. Defendant Crittendon seemed very upset that Defendant Spencer had admitted that the students' and Plaintiff's accounts matched. After Defendant Spencer made this admission, Defendant Crittendon asked Defendant Spencer to go outside the room where the meeting was being held. When they came back, Defendant Spencer's attitude was completely changed. Defendant Spencer said that the video showed that Plaintiff had committed child abuse against NAME REMOVED and that he was going to file a report with Child Protective Services about the incident. Defendant Spencer told Plaintiff that Plaintiff was being removed from his teaching assignment. Defendant Spencer then asked Plaintiff if Plaintiff would like to resign. Plaintiff refused to resign. Defendant Klein ISD police officer Marlon Runnels and another police officer were called in. Officer Runnels told Plaintiff that he would call Plaintiff for an interview at a later date if there was going to be a criminal investigation into the incident.

45. After Defendant Spencer had changed his interpretation of what had happened during the incident, Plaintiff asked Defendant Spencer while the meeting was being tape-recorded if any of the alleged student witnesses had told Defendant Spencer that NAME REMOVED had pushed the Plaintiff after first telling Plaintiff that he was going to 'stick' the Plaintiff.



Defendant Spencer, while being tape-recorded, repeatedly refused to answer Plaintiff's question.

46. After the meeting with Plaintiff on February 12, 2014, the Defendants intentionally destroyed the tape-recording that they had made of the meeting because it contained exculpatory evidence which showed that Plaintiff had done nothing wrong during the incident with NAME REMOVED.

47. Later on February 12, 2014, the same edited video was shown to Defendant Drouillard, Associate Superintendent of Defendant Klein ISD, and perhaps to Defendant Cain, the Superintendent of Defendant Klein ISD. The next day, February 13, 2014, Plaintiff was summoned to Defendant Drouillard's office. Defendants Crittendon and Spencer were also there. Defendant Drouillard gave Plaintiff a letter dated February 12, 2014, signed by Defendant Cain, placing Plaintiff on administrative leave. In the letter, Defendant Cain, acting on a recommendation from Defendant Spalding, prohibited Plaintiff from communicating with any Defendant Klein ISD students, parents and employees regarding issues related to Plaintiff's employment and/or the allegations. Defendant Drouillard further told Plaintiff that Defendant Cain was going to recommend Plaintiff's termination to the Defendant School Board during its March, 2014, meeting. Defendant Drouillard told Plaintiff this even though Defendant Drouillard had said that the 'investigation' into the incident was ongoing. Defendant Spencer again asked Plaintiff if Plaintiff would like to resign. Plaintiff refused to resign.

48. As of February 12, 2014, the day Plaintiff was removed from his teaching duties, NAME REMOVED had been absent from Geometry on seven days of the second semester and his grade is estimated to have been

under 5% (out of 100%). NAME REMOVED had failed to take the two tests that had been given to Plaintiff's Geometry class during the second semester and he had failed to turn in five out of the six homework assignments the class had been assigned during that time.

49. The Defendants engaged in repeated and ongoing harassment of Plaintiff when they knowingly allowed violent, out-of-control and disruptive students to remain in his classroom even though Plaintiff had demanded, pursuant to state law, that they be removed. By doing so, the Defendants used the misbehaving students as a weapon to cause the Plaintiff severe and continuing emotional distress from having to be in a classroom where said students verbally abused, harassed, threatened and assaulted the Plaintiff on a daily basis.

50. The Defendants intentionally violated Texas state law (including Texas Education Code, Chapter 37, Sections 37.002 and 37.003) by not removing violent, out-of-control and disruptive students from Plaintiff's classroom even though Plaintiff had demanded that said students be removed.

51. On Monday morning, February 17, 2014, Plaintiff filed a grievance with Defendant Druillard. The grievance was hand-delivered to the district office for Defendant Druillard. At the same time, Plaintiff hand-delivered a Notice of Claim to the district office for Defendant Cain. The grievance and the Notice of Claim concerned Plaintiff's unfair, improper suspension from his teaching duties as the result of the incident on February 12 with NAME REMOVED. The grievance and the Notice of Claim included notification to Defendants Klein ISD, Dr. Cain and Druillard that Defendant Lewis had sent misbehaving and disruptive students back to

Plaintiff's classroom even though Plaintiff had demanded that the students not be allowed to return.

52. On Monday, February 17, 2014, after she had received a copy of Plaintiff's grievance and Notice of Claim, Defendant Spalding, attorney for Defendant Klein ISD, attempted to get Plaintiff to withdraw the grievance and to promise not to sue the Defendants. Plaintiff refused. The grievance was over Plaintiff's suspension on February 13, 2014, so Plaintiff had to file it by February 23, 2014, for it to be in compliance with district policy. After Plaintiff refused to withdraw the grievance on Monday, February 17, 2014, Defendants Spalding and Druillard waited until Friday, February 21, 2014, to send Plaintiff a letter stating that the grievance had been denied because it did not have a district-approved cover sheet attached to it. Defendants Druillard and Spalding hoped that, by waiting an entire working week to send Plaintiff the letter, Plaintiff would not receive it in time to be able to resubmit his grievance within the ten-day window allowed for filing it. Luckily, Plaintiff received the letter denying the grievance on Saturday afternoon, February 22, 2014. Plaintiff subsequently added a cover sheet to the grievance (grievance 1) and, in an abundance of caution, served it on Defendant Druillard at his residence on Sunday, February 23, 2014, the tenth day after February 13, 2014.

53. During the week of February 17, 2014, Defendant Spalding informed Plaintiff's attorney on two occasions that there was not going to be a criminal investigation into the incident with NAME REMOVED. Neither was Plaintiff ever contacted during that time by officer Runnels or any other Defendant Klein ISD police officer to come in and give a statement about the incident as Plaintiff had been told would be necessary by officer Runnels if an investigation were commenced. Nevertheless, on Monday, February

24, 2014, in retaliation for Plaintiff's having served the grievance on Defendant Drouillard the previous day, Defendants Spalding, Druillard and Cain instructed Officer Runnels to issue a criminal citation to Plaintiff even though they knew that Plaintiff had committed no crime.

54. Plaintiff received the criminal citation from officer Runnels on Tuesday, February 25, 2014. The next day, February 26, 2014, Plaintiff filed a second grievance (grievance 2), as well as a complaint (complaint 1) under Defendant Klein ISD policy DIA with the Defendant School Board President and its members individually, that Plaintiff had been retaliated against by the Defendants for filing the February 23, 2014, grievance (grievance 1) when they knowingly caused Plaintiff to be charged with a crime (assault) that the Defendants knew he had not committed. In violation of district policy, the School Board Defendants, on the recommendation of Defendant Spalding, refused to hear the complaint (complaint 1). Defendant Klein ISD subsequently abandoned the criminal complaint that had been issued to Plaintiff.

55. Over the next few days, Plaintiff personally delivered to each Defendant School Board member a background document which described the disruptive, violent, out-of-control classroom conditions at Klein Forest High School. The document included notification to the individual Defendant School Board members that Defendant Lewis had sent misbehaving students back to Plaintiff's classroom even though Plaintiff had demanded that the students not be allowed to return.

56. On Monday, March 3, 2014, Defendant Klein ISD held a regular school board meeting. On the agenda for the meeting was the proposed termination of Plaintiff's contract effective at the end of the current school year. Prior to the meeting, Plaintiff made a written request to

Defendant Cain via email that Plaintiff be allowed to speak to the Defendant School Board members in closed session during the meeting. Defendant Cain did not respond to the email and defendant Spalding prohibited Plaintiff from speaking to the Defendant School Board in closed session concerning the proposed termination of Plaintiff's contract. During the March 3 meeting, the Defendant School Board, acting on the recommendation of Defendants Cain and Spalding, terminated Plaintiff's contract effective at the end of the current school year 'in the best interests of the District'. Plaintiff received a letter from Defendant Cain a few days later stating the same. The short letter, only four sentences long, did not provide any reasons why Plaintiff had been terminated. The letter stated that Plaintiff had been terminated pursuant to Klein policy DFAB, from which there is no appeal. By the Defendant School Board's actions, Plaintiff was not allowed to make any presentation before them before they terminated Plaintiff's contract with no appeal possible.

57. On Wednesday, March 5, 2014, Defendants Cain and Spalding authored and sent a letter to the Texas Education Agency falsely accusing Plaintiff of improper contact with a student (NAME REMOVED). Defendants Cain and Spalding did this even though their investigation had revealed that Plaintiff had not improperly contacted NAME REMOVED, that Plaintiff only physically contacted NAME REMOVED after he been threatened and attacked by NAME REMOVED and that Plaintiff had only acted in defense of his students and himself in accordance with state law. Defendants Cain and Spalding knowingly made the false report to the Texas Education Agency in retaliation for Plaintiff's making police and other reports of the violent, out-of-control and disruptive student behavior at Klein Forest High School and in retaliation for Plaintiff's filing grievances.

58. On March 6, 2014, Plaintiff's grievances 1 and 2 were heard before Defendant Marek, Associate Superintendent of School Administration for Defendant Klein ISD. Also participating on behalf of Defendant Klein ISD was Defendant Spalding. Defendant Spalding improperly attempted to expand the scope of the hearing by asking Plaintiff questions that attempted to discern Plaintiff's legal basis for possibly instituting a lawsuit against the Defendants. During the hearing, Plaintiff's testimony included the fact that that Defendant Lewis had sent misbehaving students back to Plaintiff's classroom even though Plaintiff had demanded that the students not be allowed to return.

59. On March 17, 2014, Plaintiff filed a third grievance (grievance 3) by hand-delivering it to the district offices. Grievance 3 concerned the unfair, improper termination of Plaintiff's teaching contract effective at the end of the current school year that the Defendant School Board had approved on March 3. Grievance 3 included notification to Defendants Klein ISD and Cain that Defendant Lewis had sent misbehaving students back to Plaintiff's classroom even though Plaintiff had demanded that the students not be allowed to return.

60. On March 18, 2014, Plaintiff filed a second complaint pursuant to Klein policy DIA (complaint 2) with the President of the Defendant School Board and the individual Defendant School Board members. The complaint alleged that the district had terminated Plaintiff's teaching contract in retaliation for Plaintiff's filing police reports and grievances concerning the disruptive, violent, out-of-control behavior that exists at Klein Forest High School. In violation of district policy, and on the recommendation of Defendant Spalding, the Defendant School Board refused to hear the complaint (complaint 2).

61. On March 27, 2014, Defendant Marek sent a letter to Plaintiff that had been authored by Defendant Spalding. In her letter, Defendant Marek, acting under the direction and supervision of Defendant Spalding, demanded that Plaintiff turn in to the district certain of the exhibits that Plaintiff had submitted during the March 6 grievance hearing. Her reason was that the exhibits were student records that Plaintiff could not have in his possession and that Plaintiff could not use as exhibits in Plaintiff's grievance hearings. However, Defendant Marek did not tell Plaintiff which documents out of the many submitted she wanted returned. Her letter implied, at the direction of Defendant Spalding, that Plaintiff would be arrested if Plaintiff did not return the unnamed, unspecified, records. Plaintiff subsequently asked Defendant Marek to specifically identify the records that she thought Plaintiff could not legitimately have and, for each record so identified, to explain why Plaintiff could not have the record. Defendant Marek, acting under the supervision and direction of Defendant Spalding, refused to do this.

62. On March 27, 2014, Plaintiff contacted Defendant Spalding, attorney for Defendant Klein ISD, and informed her that Plaintiff was contemplating a civil suit against Klein ISD and certain of its employees. It was implied to Defendant Spalding that she would be named a defendant in the suit at least partly because of her involvement, which she did not deny, in directing certain of the Defendants to knowingly cause Plaintiff to be charged with a criminal offense she and they knew Plaintiff did not commit and because of her involvement, which she did not deny, in directing certain of the Defendants to prohibit Plaintiff from speaking to or associating with Klein ISD employees, students and parents. On April 3, 2014, in retaliation for Plaintiff's threatening suit against the Defendants, Defendants Spalding

and Cain directed the Klein ISD police department to re-institute the false criminal charge against Plaintiff, even though they knew that Plaintiff had not committed the crime for which he was charged (assault by contact).

63. Defendant Spalding is a state actor in her role as attorney for Defendant Klein ISD. In that role, Defendant Spalding develops, writes and promulgates official school district policy, chairs strategy meetings, investigates grievances, writes grievance decisions and makes the decision for the Klein ISD police department to bring criminal charges against individuals. These and other duties are often performed by Defendant Spalding on behalf of the school district with little or no input from other school district employees. Defendant Klein ISD treats Defendant Spalding as a senior-level employee who is a willful participant in joint action with the school district and who is given final decision-making authority over a vast array of school district policies and procedures. In treating Defendant Spalding this way, the school district has essentially ceded authority and functions normally held by school district employees to Defendant Spalding. Defendant Spalding was a state actor in her role as attorney for Defendant Klein ISD, as detailed herein, at all times material with respect to the instant action.

64. At all times material, Defendant Klein ISD had an official policy and custom in place under which disruptive, out-of-control, violent, abusive and profane students were not to be removed from classrooms, even upon a teacher's insistence that the students be removed pursuant to state law (including Texas Education Code, Chapter 37, Sections 37.002 and 37.003). Defendant Klein ISD also had an official policy and custom in place under which teachers and other employees who complained and/or made reports about student violence and misbehavior or about being forced



to unlawfully or improperly endure student violence and misbehavior were retaliated against by district employees and defendant Spalding. Said retaliation included, but was not limited to, intimidation (such as the intentional infliction of emotional distress) and/or dismissal, the filing of knowingly false police reports and/or knowingly false campus incident reports wrongly accusing the complaining teachers and employees of crimes and infractions they had not committed, and the denial of the complaining teachers' and employees' First and Fourteenth Amendment Constitutional rights.

65. At all times material, Defendant Klein ISD also had an official policy and custom in place of similar retaliation against teachers, other employees, students and their families who have filed grievances, lawsuits or other complaints. The similar retaliation includes the knowingly filing of false police citations against parents who have filed grievances or lawsuits or who have otherwise complained about problems their children are experiencing in Defendant Klein ISD schools. The false police citations are filed to intimidate the parents into dismissing their grievances, lawsuits or other complaints and to be quiet. The police citations are often filed and then held in abeyance (i.e. – not turned in to Justice of the Peace Court) as long as the parents refrain from pursuing their grievances, lawsuits or other complaints.

66. The official policies and customs discussed herein violate state law and the state and U.S. Constitutional rights of those persons the policies and customs are directed against. The principal architects of the unlawful official policies and customs discussed herein were Defendants Cain and Spalding. Defendant Spalding oversees and directs the implementation of the unlawful official policies and customs on a day-to-day basis with input

from the other Defendants. The official policies and customs discussed herein were the principle motivating force behind the Defendants' unlawful treatment of the Plaintiff as detailed herein.

67. Plaintiff respectfully requests this Court to accept jurisdiction over Plaintiff's state claims enumerated below.

### **COUNT 1**

#### **RETALIATION FOR THE EXERCISE OF FIRST AMENDMENT RIGHT OF FREEDOM OF SPEECH (Federal Claim)**

68. The foregoing is incorporated herein by reference.

69. While acting under color of state law, the Defendants retaliated against the Plaintiff for Plaintiff's exercising of his protected First Amendment right of freedom of speech. Said speech included plaintiff's reports to police, school officials and the Defendants of the violent, out-of-control, disruptive and often criminal behavior of students at Klein Forest High School, including students in Plaintiff's Geometry classes. Plaintiff's protected speech also included the grievances, complaints and notice of claim Plaintiff made to the Defendants which detailed the improper student behavior as detailed herein. Plaintiff's protected speech also included his telling Defendant Spalding on March 27, 2014, that he was considering filing suit against the Defendants.

70. Plaintiff suffered adverse treatment and employment decisions as a result of the Defendants' retaliation against him. In order to intimidate Plaintiff into quitting and/or to manufacture false 'evidence' of improper conduct against him, the Defendants, in violation of state law, continued to

send offending students back into Plaintiff's classroom even though Plaintiff had demanded that the disruptive students not be allowed to return. The Defendants shunned the Plaintiff and intentionally failed to assist the Plaintiff in the management of his violent classroom knowing and hoping that the Plaintiff would be assaulted. By their actions, the Defendants knowingly created a virtual powder keg in Plaintiff's classrooms until, on February 11, 2014, Plaintiff was assaulted by one of his students while in his classroom. On February 12, 2014, Plaintiff was again assaulted, this time by one of the students he had previously sent out of his classroom. In said assault, the student told Plaintiff that the student was going to 'stick' (knife) the Plaintiff and then pushed the Plaintiff.

71. The Defendants' retaliation against the Plaintiff continued when they fraudulently edited a video taken of the February 12, 2014, incident with NAME REMOVED to falsely make it appear that Plaintiff had assaulted NAME REMOVED. The Defendants' retaliation against the Plaintiff continued when they used the fraudulently edited video as an excuse to wrongfully terminate the Plaintiff. The Defendants' retaliation against the Plaintiff continued when they intentionally destroyed a tape recording they had made in a meeting with Plaintiff after the incident on February 12, 2014, because it contained exculpatory evidence which showed that the Plaintiff had done nothing wrong during the February 12, 2014, incident with NAME REMOVED.

72. The Defendants' retaliation against the Plaintiff continued when the Defendants suspended Plaintiff with pay and sent Plaintiff home on February 13, 2014. The Defendants' retaliation against the Plaintiff continued when the Defendants caused a criminal citation to be issued to the Plaintiff on February 25, 2014, even though the Defendants knew Plaintiff

had not committed a crime. The Defendants' retaliation against the Plaintiff continued when the Defendants terminated the Plaintiff's employment contract as of the end of the current school year on March 3, 2014. The Defendants' retaliation against the Plaintiff continued when the Defendants sent a letter to the Texas Education Agency on March 5, 2014, falsely accusing Plaintiff with improper contact with a student. The Defendants' retaliation against the Plaintiff continued when the Defendants caused a criminal charge to be re-instituted against the Plaintiff on March 27, 2014, even though they knew that Plaintiff had not committed the crime for which he was charged. The Defendants' retaliation against the Plaintiff continued when the Defendants knowingly demanded that the Plaintiff return to them, under the implied threat of arrest if he didn't, unknown, unspecified documents the description of which the Defendants refused to divulge to Plaintiff.

73. Plaintiff's protected speech as detailed herein involved matters of public concern.

74. Plaintiff's interest in commenting on matters of public concern (violence, assaults, batteries, threats, profanity, disruptive behavior, etc., at Klein Forest High School) outweighed any possible interest the Defendants could have had in promoting efficiency.

75. Plaintiff's protected speech motivated the Defendants' actions against him as detailed herein.

76. Plaintiff was damaged by the Defendants actions against him.

77. The actions of the Defendants against the Plaintiff as detailed herein caused the Plaintiff to suffer severe emotional distress. As a direct result of the Defendants' actions against him, Plaintiff suffers from nausea, headaches and stomach disorders. Plaintiff is stressed, anxious and

depressed. Plaintiff has difficulty sleeping and eating and is uncharacteristically irritable. Plaintiff lives in constant fear of continued harassment, including false arrest, by the Defendants. Plaintiff lives with a constant feeling of doom. Plaintiff has sought medical care for his symptoms and is currently on medication to help alleviate said symptoms.

78. Furthermore, Plaintiff has experienced and will continue to experience mental anguish, emotional pain and suffering, shame, humiliation, loss of standing in the community, reputation damage, emotional distress, loss of enjoyment of life, inconvenience, medical expenses, past and future lost wages and benefits and future lost earnings capacity.

## **COUNT 2**

### **VIOLATION OF PLAINTIFF'S 14<sup>TH</sup> AMENDMENT SUBSTANTIVE DUE PROCESS RIGHTS (Federal Claim)**

79. The foregoing is incorporated herein by reference.

80. While acting under color of state law, the Defendants violated Plaintiff's protected Fourteenth Amendment substantive due process rights by virtue of their abusive, irrational and malicious abuse of government power that shocks the conscience.

81. In order to intimidate Plaintiff into quitting and/or to manufacture false 'evidence' of improper conduct against him, the Defendants, in violation of state law, continued to send offending students back into Plaintiff's classroom even though Plaintiff had demanded that the disruptive students not be allowed to return. The Defendants shunned the Plaintiff and intentionally failed to assist the Plaintiff in the management of

his violent classroom knowing and hoping that the Plaintiff would be assaulted. By their actions, the Defendants knowingly created a virtual powder keg in Plaintiff's classrooms until, on February 11, 2014, Plaintiff was assaulted by one of his students while in his classroom. On February 12, 2014, Plaintiff was again assaulted, this time by one of the students he had previously sent out of his classroom. In said assault, the student told Plaintiff that the student was going to 'stick' (knife) the Plaintiff and then pushed the Plaintiff.

82. Prior to and during the assault of Plaintiff, Defendant Lewis had stationed himself in Klein Forest High School's video surveillance room and was filming the outside of Plaintiff's classroom waiting for something to happen that he and Defendants Crittendon and Spencer could use as a fraudulent excuse to remove the Plaintiff from his teaching duties at Klein Forest. After the assault of Plaintiff by student NAME REMOVED, Defendants Lewis and Murphy edited the video by removing the beginning of the video in which NAME REMOVED was seen violently pounding on the door of Plaintiff's classroom, using abusive language directed at Plaintiff in the attempt to gain entrance into Plaintiff's classroom, telling Plaintiff that he was going to 'stick' the Plaintiff and pushing the Plaintiff. Defendants Lewis and Murphy also edited the video by removing the end of the video which showed Plaintiff simply restraining NAME REMOVED until help arrived. Defendants Lewis and Murphy also edited the video by causing it to be zoomed out so that the details of the incursion by NAME REMOVED were obscured. Defendants Lewis and Murphy edited the video as described herein in order to make it falsely appear that Plaintiff had committed an unprovoked attack on NAME REMOVED. When Defendants Lewis and Murphy had finished editing the video, the only thing that remained was

video from a distance of Plaintiff pushing NAME REMOVED up against some lockers in a seemingly unprovoked attack. Defendants Lewis and Murphy immediately showed the edited video to Defendants Crittendon and Spencer, who suspended the Plaintiff from his teaching duties.

83. The Defendants' conscious-shocking actions against the Plaintiff continued when they intentionally destroyed a tape recording they had made in a meeting with Plaintiff after the incident on February 12, 2014, because it contained exculpatory evidence which proved that the Plaintiff had done nothing wrong during the February 12, 2014, incident with NAME REMOVED.

84. The Defendants' conscious-shocking actions against the Plaintiff continued when they knowingly falsely caused a criminal citation to be issued to the Plaintiff on February 25, 2014, even though the Defendants knew Plaintiff had not committed a crime. They did this after Plaintiff refused Defendant Spalding's attempt to get Plaintiff to drop the grievance Plaintiff had just filed against the school district and certain of its employees, including Defendant Lewis, and after Plaintiff refused to promise that he would not sue the Defendants. The Defendants subsequently abandoned the complaint. However, after Plaintiff informed Defendant Spalding on March 27, 2014, that he was contemplating suing the Defendants, including Defendant Spalding, the Defendants knowingly had the false charge re-issued even though they knew Plaintiff had not committed the crime for which he was charged.

85. The Defendants' conscious-shocking actions against the Plaintiff continued when the Defendants sent a letter to the Texas Education Agency falsely accusing Plaintiff with improper contact with a student.

86. The Defendants' conscious-shocking actions against the Plaintiff continued when the Defendants knowingly demanded that the Plaintiff return to them, under the implied threat of arrest if he didn't, unknown, unspecified, documents the description of which the Defendants refused to divulge to Plaintiff.

87. Plaintiff's constitutional rights, including his right to be free of the conscience-shocking behavior of the Defendants as described herein were clearly established when the Defendants' adverse actions against him occurred.

88. The Defendants caused the conscious-shocking behavior that adversely affected the Plaintiff as detailed herein.

89. The Defendants' conscious-shocking actions against the Plaintiff as detailed herein were not objectively reasonable by any standard that can be applied.

90. Plaintiff was damaged by the Defendants' actions against him.

91. The actions of the Defendants against the Plaintiff as detailed herein caused the Plaintiff to suffer severe emotional distress. As a direct result of the Defendants' actions against him, Plaintiff suffers from nausea, headaches and stomach disorders. Plaintiff is stressed, anxious and depressed. Plaintiff has difficulty sleeping and eating and is uncharacteristically irritable. Plaintiff lives in constant fear of continued harassment, including false arrest, by the Defendants. Plaintiff lives with a constant feeling of doom. Plaintiff has sought medical care for his symptoms and is currently on medication to help alleviate said symptoms.

92. Furthermore, Plaintiff has experienced and will continue to experience mental anguish, emotional pain and suffering, shame, humiliation, loss of standing in the community, reputation damage, emotional distress,



loss of enjoyment of life, inconvenience, medical expenses, past and future lost wages and benefits and future lost earnings capacity.

**COUNT 3**  
**CONSPIRACY**

**(Federal and State Claim. Does not include Defendant Klein ISD.)**

93. The foregoing is incorporated herein by reference.

94. The Defendants, acting in their individual capacities, entered into a conspiracy to harm the Plaintiff. Defendant Spalding, acting in her individual capacity and outside the scope of her representation of Defendant Klein ISD, was an active participant in the conspiracy. Certain of the other Defendants acted outside the scope of their employment in pursuit of the conspiracy. The conspiracy included two or more of the Defendants. The object of the conspiracy was to unlawfully deny the Plaintiff his protected First and Fourteenth Amendment Constitutional rights; to unlawfully retaliate against the Plaintiff for Plaintiff's making police reports, reports and grievances; to intentionally inflict emotional distress upon the Plaintiff and to otherwise unlawfully harm the Plaintiff as detailed herein. In carrying out their conspiracy, the Defendants had a meeting of the minds on the object or course of action of the conspiracy.

95. In furtherance of the conspiracy, the Defendants fraudulently induced the Plaintiff to accept a teaching assignment that involved being in classrooms with violent, disruptive and out-of-control students where the safety of the Plaintiff would be in danger. The Defendants, knowing that the assignment would place the Plaintiff in immediate danger, conspired to

prevent Plaintiff from finding out that his assignment would place him in immediate danger.

96. In furtherance of the conspiracy, the Defendants intentionally violated Texas state law by not removing violent, out-of-control and disruptive students from Plaintiff's classroom even though Plaintiff had demanded that said students be removed.

97. In furtherance of the conspiracy, the Defendants retaliated against the Plaintiff after Plaintiff began making police reports and other reports (including grievances) about the violent, out-of-control and disruptive student behavior in Plaintiff's classrooms. Said police reports and other reports included reports of assaults committed by students against other students and against Plaintiff. Said Police reports and other reports included Plaintiff's complaint that the Defendants refused to remove violent, out-of-control and disruptive students from Plaintiff's classrooms even though Plaintiff had demanded that the students be removed.

98. In furtherance of the conspiracy and in retaliation for Plaintiff making the reports, the Defendants shunned the Plaintiff and intentionally failed to assist Plaintiff in the management of his violent classroom knowing and hoping that Plaintiff would be assaulted.

99. In furtherance of the conspiracy and in retaliation for Plaintiff making the reports, the Defendants fraudulently attempted to make it appear that Plaintiff had assaulted student NAME REMOVED when they edited a video of an incident in which NAME REMOVED assaulted the Plaintiff after first telling Plaintiff that he was going to 'stick' the Plaintiff. The Defendants conspired to fraudulently edit the video in part by removing those portions of it which showed NAME REMOVED acting in a hostile, out-of-control and threatening manner outside of Plaintiff's classroom just

before he assaulted the Plaintiff and by removing those portions of the video which showed NAME REMOVED assaulting the Plaintiff.

100. In furtherance of the conspiracy and in retaliation for Plaintiff making the reports, the Defendants used the fraudulently edited video as an excuse to wrongfully terminate the Plaintiff from his employment with Defendant Klein ISD.

101. In furtherance of the conspiracy and in retaliation for Plaintiff making the reports, the Defendants intentionally destroyed the tape-recording that they had made of their February 12, 2014, meeting with Plaintiff, as detailed herein, because it contained exculpatory evidence which proved that the Plaintiff had done nothing wrong during the February 12, 2014, incident with NAME REMOVED.

102. In furtherance of the conspiracy, the Defendants violated Plaintiff's protected First and Fourteenth Amendment Constitutional rights as detailed herein.

103. In furtherance of the conspiracy, to cover up their own unlawful treatment of the Plaintiff and to further retaliate against the Plaintiff for making the reports, the Defendants knowingly and fraudulently caused Plaintiff to be charged with a crime that the Defendants knew Plaintiff had not committed.

104. In furtherance of the conspiracy, the Defendants encouraged students to assault the Plaintiff while Plaintiff was in his classroom.

105. In furtherance of the conspiracy, the Defendants encouraged students to misbehave and disrupt Plaintiff's classroom while in Plaintiff's classroom.

106. In furtherance of the conspiracy, the Defendants intentionally inflicted emotional distress upon the Plaintiff by, among other things,

leaving the Plaintiff in a violent, out-of-control classroom where Plaintiff was certain to be mistreated and assaulted as detailed herein and by knowingly causing Plaintiff to be charged with a crime that the Defendants knew Plaintiff had not committed.

107. Plaintiff was damaged by the Defendants' conspiracy against him. Plaintiff was assaulted on more than one occasion by students while he was in his classroom. The conspiracy of the Defendants against the Plaintiff as detailed herein caused the Plaintiff to suffer severe emotional distress. As a direct result of the Defendants' conspiracy against him, Plaintiff suffers from nausea, headaches and stomach disorders. Plaintiff is stressed, anxious and depressed. Plaintiff has difficulty sleeping and eating and is uncharacteristically irritable. Plaintiff lives in constant fear of continued harassment, including false arrest, by the Defendants. Plaintiff lives with a constant feeling of doom. Plaintiff has sought medical care for his symptoms and is currently on medication to help alleviate said symptoms.

108. Furthermore, Plaintiff has experienced and will continue to experience mental anguish, emotional pain and suffering, shame, humiliation, loss of standing in the community, reputation damage, emotional distress, loss of enjoyment of life, inconvenience, medical expenses, past and future lost wages and benefits and future lost earnings capacity.

#### **COUNT 4**

#### **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

#### **(State Claim)**

109. The foregoing is incorporated herein by reference.

110. Plaintiff is a person. The Defendants acted intentionally or recklessly in inflicting severe emotional distress upon the Plaintiff and their conduct was extreme and outrageous. The Defendants' conduct proximately caused the Plaintiff's severe emotional distress. No alternative cause of action will provide a remedy for the severe emotional distress caused by the Defendants' conduct.

111. The Defendants' unlawful actions against the Plaintiff as detailed herein were so unusual that no alternative cause of action would provide a remedy for the severe emotional distress caused by the Defendants' conduct.

112. By their actions, the Defendants intended to cause severe emotional distress to the Plaintiff and severe emotional distress was the primary risk created by the defendant's reckless conduct against the Plaintiff.

113. The Defendants engaged in repeated and ongoing harassment of Plaintiff when they knowingly allowed violent, disruptive and out-of-control students to remain in his classroom even though Plaintiff had demanded, pursuant to state law, that they be removed. By doing so, the Defendants used the misbehaving students as a weapon to cause the Plaintiff severe and continuing emotional distress from having to be in a classroom where said students verbally abused, harassed, threatened and assaulted the Plaintiff on a daily basis.

114. In order to intimidate Plaintiff into quitting and/or to manufacture false 'evidence' of improper conduct against him, the Defendants, in violation of state law, continued to send offending students back into Plaintiff's classroom even though Plaintiff had demanded that the disruptive students not be allowed to return. The Defendants shunned the

Plaintiff and intentionally failed to assist the Plaintiff in the management of his violent classroom knowing and hoping that the Plaintiff would be assaulted. By their actions, the Defendants knowingly created a virtual powder keg in Plaintiff's classrooms until, on February 11, 2014, Plaintiff was assaulted by one of his students while in his classroom. On February 12, 2014, Plaintiff was again assaulted, this time by one of the students he had previously sent out of his classroom. In said assault, the student told Plaintiff that the student was going to 'stick' (knife) the Plaintiff and then pushed the Plaintiff.

115. The Defendants' intentional infliction of emotional distress against the Plaintiff continued when prior to and during the assault of Plaintiff, Defendant Lewis intentionally stationed himself in Klein Forest High School's video surveillance room and was filming the outside of Plaintiff's classroom waiting for something to happen that he and Defendant Crittendon could use to fraudulently remove the Plaintiff from his teaching duties at Klein Forest. After the assault of Plaintiff by student NAME REMOVED, Defendants Lewis and Murphy edited the video by removing the beginning of the video in which NAME REMOVED was seen violently pounding on the door of Plaintiff's classroom, using abusive language directed at Plaintiff in the attempt to gain entrance into Plaintiff's classroom, telling Plaintiff that he was going to 'stick' the Plaintiff and pushing the Plaintiff. Defendants Lewis and Murphy also edited the video by removing the end of the video which showed Plaintiff simply restraining NAME REMOVED until help arrived. Defendants Lewis and Murphy also edited the video by causing it to be zoomed out so that the details of the incursion by NAME REMOVED were obscured. Defendants Lewis and Murphy edited the video as described herein in order to make it falsely appear that

Plaintiff had committed an unprovoked attack on NAME REMOVED. When Defendants Lewis and Murphy had finished editing the video, the only thing that remained was video from a distance of Plaintiff pushing NAME REMOVED up against some lockers in a seemingly unprovoked attack. Defendants Lewis and Murphy immediately showed the edited video to Defendants Crittendon and Spencer, who suspended the Plaintiff from his teaching duties.

116. The Defendants' intentional infliction of emotional distress against the Plaintiff continued when they intentionally destroyed a tape recording they had made in a meeting with Plaintiff after the incident on February 12, 2014, because it contained exculpatory evidence which proved that the Plaintiff had done nothing wrong during the February 12, 2014, incident with NAME REMOVED.

117. The Defendants' intentional infliction of emotional distress against the Plaintiff continued when they intentionally caused a false criminal citation to be issued to the Plaintiff on February 25, 2014, even though the Defendants knew Plaintiff had not committed a crime. They did this after Plaintiff refused Defendant Spalding's attempt to get Plaintiff to drop the grievance Plaintiff had just filed against the school district and certain of its employees, including Defendant Lewis, and after Plaintiff refused to promise that he would not sue the Defendants. The Defendants subsequently abandoned the complaint. However, after Plaintiff informed Defendant Spalding on March 27, 2014, that he was contemplating suing the Defendants, including Defendant Spalding, the Defendants knowingly had the false charge re-issued even though they knew Plaintiff had not committed the crime for which he was charged (assault by contact).

118. The Defendants' intentional infliction of emotional distress against the Plaintiff continued when the Defendants sent a letter to the Texas Education Agency on March 5, 2014, falsely accusing Plaintiff with improper contact with a student.

119. The Defendants' intentional infliction of emotional distress against the Plaintiff continued when the Defendants knowingly demanded that the Plaintiff return to them, under the implied threat of arrest if he didn't, unknown, unspecified, documents the description of which the Defendants refused to divulge to Plaintiff.

120. Plaintiff was damaged by the Defendants' actions against him.

121. The actions of the Defendants against the Plaintiff as detailed herein caused the Plaintiff to suffer severe emotional distress. As a direct result of the Defendants' actions against him, Plaintiff suffers from nausea, headaches and stomach disorders. Plaintiff is stressed, anxious and depressed. Plaintiff has difficulty sleeping and eating and is uncharacteristically irritable. Plaintiff lives in constant fear of continued harassment, including false arrest, by the Defendants. Plaintiff lives with a constant feeling of doom. Plaintiff has sought medical care for his symptoms and is currently on medication to help alleviate said symptoms.

122. Furthermore, Plaintiff has experienced and will continue to experience mental anguish, emotional pain and suffering, shame, humiliation, loss of standing in the community, reputation damage, emotional distress, loss of enjoyment of life, inconvenience, medical expenses, past and future lost wages and benefits and future lost earnings capacity.

**COUNT 5**  
**NEGLIGENCE**



**(State Claim)**

123. The foregoing is incorporated herein by reference.

124. Defendant Klein ISD and the School Board Defendants owed a legal duty to the Plaintiff.

125. Defendant Klein ISD and the School Board Defendants owed a legal duty to the Plaintiff to use ordinary care in providing a reasonable safe workplace and working environment.

126. Defendant Klein ISD and the School Board Defendants owed a legal duty to the Plaintiff to use ordinary care in establishing rules and regulations for Plaintiff's and other employees' safety.

127. Defendant Klein ISD and the School Board Defendants owed a legal duty to the Plaintiff to follow state law, policy and guidelines concerning the discipline of students.

128. Defendant Klein ISD and the School Board Defendants owed a legal duty to the Plaintiff to warn the Plaintiff of the hazards of his employment with Defendant Klein ISD that were not commonly known or appreciated by Plaintiff and other employees.

129. Defendants Klein ISD, School Board and Cain owed a legal duty to the Plaintiff to use ordinary care in hiring and supervising Klein ISD employees.

130. Defendants Klein ISD, School Board, Cain, Crittendon and Lewis owed a legal duty to the Plaintiff to provide Plaintiff adequate help in the performance of his teaching duties at Klein Forest High School.

131. Defendant School Board owed Plaintiff a legal duty to investigate the two complaints Plaintiff made pursuant to Klein ISD Policy DIA.

132. The Defendants breached each and every legal duty they owed to Plaintiff enumerated herein.

133. The Defendants' breach of their legal duties to Plaintiff proximately caused the Plaintiff's injuries as detailed herein.

134. The Defendants' breach of their legal duties to Plaintiff caused the Plaintiff to suffer severe emotional distress. Plaintiff suffers from nausea, headaches and stomach disorders. Plaintiff is stressed, anxious and depressed. Plaintiff has difficulty sleeping and eating and is uncharacteristically irritable. Plaintiff lives in constant fear of continued harassment, including false arrest, by the Defendants. Plaintiff lives with a constant feeling of doom. Plaintiff has sought medical care for his symptoms and is currently on medication to help alleviate said symptoms.

135. In addition to the severe emotional distress visited upon the Plaintiff by the Defendants' breach of their legal duties to Plaintiff, Plaintiff has experienced and will continue to experience mental anguish, emotional pain and suffering, shame, humiliation, loss of standing in the community, reputation damage, emotional distress, loss of enjoyment of life, inconvenience, medical expenses, past and future lost wages and benefits and future lost earnings capacity. Plaintiff has been terminated from his employment as a teacher in the Klein ISD.

## **COUNT 6**

### **WHISTLEBLOWING**

**(State Claim under the Texas Whistleblower Act)**

136. The foregoing is incorporated herein by reference.

137. Plaintiff was a public employee of Defendant Klein ISD.

138. Plaintiff made multiple good-faith reports that Defendant Klein ISD and certain employees of Defendant Klein ISD, including, but not limited to, Defendant Lewis and Defendant Crittendon, violated state law and were continuously violating state law. Said law violation included, but was not limited to, the Defendants' practice, policy and procedure of refusing to remove and not immediately return violent, out-of-control, disruptive students from Plaintiff's classrooms even though Plaintiff had demanded that the students be removed and not allowed to immediately return.

139. The Defendants violated state law, including Texas Education Code, Chapter 37, Sections 37.002 and 37.003, when they immediately returned violent, out-of-control and disruptive students to Plaintiff's classrooms even though Plaintiff had demanded that the students not be allowed to immediately return.

140. Plaintiff made the reports to appropriate law-enforcement authorities, including the Klein ISD police department; Defendant Cain, the Superintendent of Defendant Klein ISD who exerts authority and control over the Klein ISD police department and who is the administrator who the Klein ISD police chief reports to; Defendant Lewis, Plaintiff's assistant principal at Klein Forest High School; Defendant Crittendon, the Klein Forest High School principal; Defendant Spalding, attorney for Defendant Klein ISD who exerts authority and control over the Klein ISD police department; Defendant Drouillard, Defendant Klein ISD Associate Superintendent of Human Resources who exerts authority and control over the Klein ISD police department; the School Board Defendants, who exert authority and control over Defendant Klein ISD, including its police

department and Defendant Marek, Associate Superintendent of Defendant Klein ISD.

141. Plaintiff was terminated as the result of the good-faith reports mentioned herein.

142. Plaintiff exhausted his administrative remedies (grievance procedure) on May 12, 2014.

143. In addition being terminated by the Defendants, the actions of the Defendants against the Plaintiff as detailed herein caused the Plaintiff to suffer severe emotional distress. As a direct result of the Defendants' actions against him, Plaintiff suffers from nausea, headaches and stomach disorders. Plaintiff is stressed, anxious and depressed. Plaintiff has difficulty sleeping and eating and is uncharacteristically irritable. Plaintiff lives in constant fear of continued harassment, including false arrest, by the Defendants. Plaintiff lives with a constant feeling of doom. Plaintiff has sought medical care for his symptoms and is currently on medication to help alleviate said symptoms.

144. Furthermore, Plaintiff has experienced and will continue to experience mental anguish, emotional pain and suffering, shame, humiliation, loss of standing in the community, reputation damage, emotional distress, loss of enjoyment of life, inconvenience, medical expenses, past and future lost wages and benefits and future lost earnings capacity.

### **DAMAGES**

145. Plaintiff was damaged by the Defendants' actions against him as detailed herein.

146. The conduct of the Defendants towards the plaintiff as described herein was wanton, willful and done with malice.

147. The Defendants' conduct as described herein was extreme, outrageous and grossly negligent and done with reckless disregard for the rights and welfare of the Plaintiff. At all material times, the Defendants acted with willfulness and malice against the Plaintiff with a specific intent to cause substantial injury. The Defendants' improper actions against the Plaintiff were done with conscious indifference to the rights, safety and welfare of the Plaintiff. Plaintiff is therefore entitled to recover exemplary damages and Plaintiff sues the Defendants for the maximum amount of punitive damages possible from the trier of fact in light of all relevant factors considered in determining such an award.

WHEREFORE, Plaintiff prays for judgment against the Defendants, and each of them, as follows:

1. Court costs.
2. Nominal damages.
3. Economic damages (past and future lost wages and benefits, past and future medical expenses, future lost earnings capacity, loss of society) in the amount of \$500,000.
4. Noneconomic damages (emotional pain and suffering, inconvenience, mental anguish and loss of enjoyment of life) in the amount of \$500,000.
5. Reinstatement (under Plaintiff's Texas Whistleblower Act claim).
6. Exemplary (punitive) damages as detailed herein.

7. A declaratory judgment that the Defendants unlawfully retaliated against the Plaintiff for Plaintiff's exercising and attempted exercising of his protected First Amendment right of freedom of speech.
8. A declaratory judgment that the Defendants unlawfully violated Plaintiff's protected Fourteenth Amendment Substantive Due Process rights.
9. Such other and further relief as the Court deems just and equitable.

Respectfully submitted:

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Michael D. Van Deelen

**DEMAND FOR JURY TRIAL**

COMES NOW the Plaintiff and requests a trial by jury on all matters in controversy in the above-captioned matter.

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Michael D. Van Deelen

Plaintiff designates Houston, Texas, for trial.

**CERTIFICATE OF SERVICE**

I hereby certify that on May 13, 2014, I filed the foregoing document with the Clerk of Court. I further certify that on the same date I emailed the forgoing document to Paul Lamp (PLamp@rmgllp.com), attorney for all Defendants except Defendants Marek and Nance, pursuant to my agreement with him to email filings.

Defendants Marek and Nance are new Defendants who will be served pursuant to the Fed. R. Civ. P.

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Michael D. Van Deelen