"Civility allows for zealous representation, reduces clients' costs, better advances clients' interests, reduces stress, increases professional satisfaction, and promotes effective conflict resolution. These guidelines foster the civility and professionalism that are hallmarks of the best traditions of the legal profession."
OCBA Civility Guidelines

"The American legal profession exists to help people resolve disputes cheaply, swiftly, fairly, and justly. Incivility between counsel is sand in the gears."
(*Karton v. Ari Design & Construction, Inc.* (2021) 61 Cal.App.5th 734, 747.)

TENTATIVE RULINGS
Judge Kimberly Knill, Dept. C31

- **The court encourages remote appearances to save time, reduce costs, and increase public safety.** Go to www.occourts.org/media-relations/civil.html and click on the blue box that says, "Click here to appear/check-in for Civil Small Claims/Limited/Unlimited/Complex remote proceedings." Navigate to Department C31 Judge Kimberly Knill.

- All hearings are open to the public.

- If you desire a transcript of the proceedings, you **must** provide your court reporter (unless you have a fee waiver and request a court reporter in advance).

- Call the other side. If **everyone** submits to the tentative ruling, call the clerk at 657-622-5231. Otherwise, the court may rule differently at the hearing. (See *Lewis v. Fletcher Jones Motor Cars, Inc.* (2012) 205 Cal.App.4th 436, 442, fn. 1.)

No filming, broadcasting, photography, or electronic recording is permitted of the video session pursuant to California Rules of Court, rule 1.150 and Orange County Superior Court rule 180.

HEARING DATE: Friday, 5/10/2024 10:00 AM

#	Case Name	Tentative
2	**Security National Guaranty, Inc. vs Makhijani 30-2023-01347034-CU-BC-CJC**	**Application to Appear Pro Hac Vice for Defendant Nano Banc** The application of attorney Michael Ryan Horne to appear as counsel pro hac vice for Defendant, Nano Banc, is DENIED. Counsel failed to comply with California Rules of Court, rule 9.40(d)(5). Defendant, Nano Banc to give notice.
3	**Sweeting vs. Schools First Federal Credit Union**	**Plaintiff's Motion for New Trial** Plaintiff's motion for new trial is DENIED. Plaintiff has not established a new trial is warranted under Code of Civil Procedure section 657.

	30-2022-01287634-CU-DF-CJC	Clerk to give notice.
4	**Freightsaver.com, LLC vs. Quality Logistics & Installation 30-2023-01329904-CU-BC-CJC**	**Plaintiff's Motion to Set Aside/Vacate Dismissal** Plaintiff Freightsaver.com, LLC's unopposed motion to set aside/vacate the dismissal entered against Plaintiff on 3-14-24, is GRANTED. Plaintiff has met the requirements for mandatory relief under Code of Civil Procedure section 473, subdivision (b). The motion is timely; it was filed within 6 months of the dismissal of the action on 3-14-24. Plaintiff is ORDERED to file a default prove-up package within 14 days of the hearing. OSC re dismissal set for 5/30/2024 at 1:30 PM. Plaintiff is ORDERED to file a status report 2 days prior. Failure to comply with the court's order may subject plaintiff and/or counsel to sanctions pursuant to Code of Civil Procedure section 177.5. Clerk to give notice.
5	**I.S. Investments LLC vs Zamucen & Associates 30-2022-01242035-CU-BC-CJC**	**Defendants' Motion for Attorney Fees** The Motion of defendants Sheila Zamucen and Eric Zamucen for an award of attorney fees against Plaintiff I.S. Investments, LLC is GRANTED in the reduced sum of $131,935.50 It is undisputed Judgment was entered in Defendants' favor on October 13, 2022 and Defendants are the prevailing parties. (Civ. Code, § 1717, subd. (a).) Defendants seek attorney fees pursuant to the terms of an Operating Agreement which provides: "If any party brings an action or proceeding to *enforce the terms hereof or declare rights hereunder*, the Prevailing Party in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees." (FAC, Ex. A, ¶ 9.) (Emphasis added.) The FAC alleges causes of action for: (1) Breach of Contract; (2) Fraud; (3) Intentional Interference with Economic Relationship; (4) Negligent Interference with Economic Relationship; (5) Conspiracy; (6) Unjust Enrichment; and (7) Conversion. Although Defendants are not parties to the Operating Agreement, "section 1717 allows a party who defeats a contract claim by showing the contract did not apply or was unenforceable to nonetheless recover attorney fees under that

		contract if the opposing party would have been entitled to attorney fees had it prevailed." (*Brown Bark III, L.P. v. Haver* (2013) 219 Cal.App.4th 809, 819; see also *Santisas v. Goodin* (1998) 17 Cal.4th 599, 611.) Accordingly, Defendants may seek attorney fees for the breach of contract claim. Plaintiff's tort claims (fraud, intentional interference with economic relationship, negligent interference with economic relationship, and conspiracy) arose by reason of the Operative Agreement and seek to enforce the terms of the Operative Agreement. (FAC, ¶¶ 24, 27, 33, 39, 44.) Therefore, the attorney fee provision in the Operating Agreement applies to Plaintiff's first through fifth causes of action. Defendants are not entitled to attorney fees for the sixth cause of action for unjust enrichment and the seventh cause of action for conversion, because neither seeks to enforce the terms or declare rights under the Operating Agreement. (See *Reynolds Metals Co. v. Alperson* (1979) 25 Cal.3d 124, 129.) "[T]he fee setting inquiry in California ordinarily begins with the "lodestar," i.e., the number of hours reasonably expended multiplied by the reasonable hourly rate." (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095.) "The reasonable hourly rate is that prevailing in the community for similar work. The lodestar figure may then be adjusted, based on consideration of factors specific to the case, in order to fix the fee at the fair market value for the legal services provided." (*Ibid.* (cleaned up).) A trial court has broad discretion to determine the amount of reasonable attorney's fees, as an experienced trial judge is in the best position to decide the value of professional services rendered in court. (*Ibid.*) Defendants seek an award of $188,988 in fees for 314.89 hours of attorney work at the hourly rate of $600. Defendants' counsel billed Defendants at the hourly rate of $450, but requests attorney fees based on an hourly rate of $600. (Ditty Supp. Decl., ¶ 24.) As to the hours expended, even though there is block billing, it does not prevent the court from discerning which tasks are compensable. (*Heritage Pacific Financial, LLC v. Monroy* (2013) 215 Cal.App.4th 972, 1010 ["Trial courts retain discretion to penalize block billing when the practice prevents them from discerning which tasks are compensable and which are not."].) The 314.89 hours requested is reduced as follows: • 4.2 hours expended in defending the conversion and unjust enrichment causes of action. • 5 hours expended in clerical tasks such as filing and/or serving documents which were billed at attorney rates

		(3/28/22, 4/19/22, 4/26/22, 6/15/22, 6/30, 9/15, 9/29, 12/14/22, 8/1/23, 8/7/23, 9/4/23, 9/12/23, 9/13/23, 10/3/23, 10/19/23). Because there was block billing the court reduces the hours by an additional 5 hours. • 1 hour expended in the clerical task of organizing pleadings and forwarding to service for printing, organizing and delivering to court on 9/13/23. • 6.5 hours for supplemental briefing, because the matter should have been briefed correctly at the outset, without court prompting. The court will allow 293.19 hours at $450 for a total of $131,935.50. The request for a $600 hourly rate when the client was charged only $450 is unreasonable. Defendants to give notice.
6	**Betko, Inc. vs. Kaatmann 30-2022-01288445-CU-FR-CJC**	**Plaintiff's Motion for Terminating Attorney Fees and Monetary Sanctions Against Defendant, Randy Ellison** Plaintiff's motion for terminating attorney fees and monetary sanctions against defendant, Randy Ellison, is GRANTED in part. The request for terminating sanctions is GRANTED. In all other respects, the motion is DENIED. Defendant, Randy Ellison's answer filed 1/12/2023 is ordered STRICKEN. The court orders immediate entry of default of Defendant, Randy Ellison. Terminating sanctions are appropriate when the "violation is willful, preceded by a history of abuse, and the evidence shows that less severe sanctions would not produce compliance with the discovery rules." (*Mileikowsky v. Tenet Healthsystem* (2005) 128 Cal.App.4th 262, 279.) Randy Ellison is self-represented and has ceased communicating with Plaintiff. Randy Ellison has ignored this Court's order to meet and confer regarding the deposition and pay sanctions within 30 days of the 3/8/2024 order and to contact Plaintiff's counsel within 24 hours of the 3/18/2024 order. It is apparent lesser sanctions will not compel compliance and terminating sanctions are appropriate. Jury Trial set for 6/7/2024 is vacated. OSC re dismissal (default packet) is scheduled for 7/11/2024 at 1:30 PM. Plaintiff is ORDERED to file a default packet at least 5 court days prior to the hearing.

		Failure to comply with the court's order may subject plaintiff and/or counsel to sanctions pursuant to Code of Civil Procedure section 177.5. Plaintiff to give notice. **Plaintiff's Motion for Terminating Attorney Fees and Monetary Sanctions Against Defendant, Kristy Kaatmann** Plaintiff's motion for terminating attorney fees and monetary sanctions against defendant, Kristy Kaatmann, is GRANTED in part. The request for terminating sanctions is GRANTED. In all other respects, the motion is DENIED. Defendant, Kristy Kaatmann's answer filed 1/12/2023 is ordered STRICKEN. The court orders immediate entry of default of Defendant, Kristy Kaatmann. Terminating sanctions are appropriate when the "violation is willful, preceded by a history of abuse, and the evidence shows that less severe sanctions would not produce compliance with the discovery rules." (*Mileikowsky v. Tenet Healthsystem* (2005) 128 Cal.App.4th 262, 279.) Kristy Kaatmann is self-represented and has ceased communicating with Plaintiff. Kristy Kaatmann has ignored this Court's order to meet and confer regarding the deposition and pay sanctions within 30 days of the 3/8/2024 order and to contact Plaintiff's counsel within 24 hours of the 3/18/2024 order. It is apparent lesser sanctions will not compel compliance and terminating sanctions are appropriate. Jury Trial set for 6/7/2024 is vacated. OSC re dismissal (default packet) is scheduled for 7/11/2024 at 1:30 PM. Plaintiff is ORDERED to file a default packet at least 5 court days prior to the hearing. Failure to comply with the court's order may subject plaintiff and/or counsel to sanctions pursuant to Code of Civil Procedure section 177.5. Plaintiff to give notice.
7	**Nguyen Nghiem vs. Providence St. Joseph Hospital Orange 30-2023-01348374-CU-PO-CJC**	**Defendant's Motion to Compel Further Responses to Form Interrogatories, Set One** **Defendant's Motion to Compel Further Responses to Special Interrogatories, Set One** **Defendant's Motion to Compel Further Responses to Request for Production of Documents, Set One**

		The motions are CONTINUED to 6/7/2024 at 10:00 a.m. in this Department. ***All parties and/or counsel are ORDERED to appear in person; no Zoom appearances will be allowed***. The parties/counsel have not engaged in sufficient attempts to meet and confer. (See Code Civ. Proc., § 2016.040; *Clement v. Alegre* (2009) 177 Cal.App.4th 1277, 1293 [Discovery Act requires moving party to declare he or she has made a serious attempt to obtain an informal resolution of each issue; rule designed to encourage parties to work out their differences informally to avoid necessity for formal order, which lessens burden on court and reduces unnecessary expenditure of resources by litigants]; *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 402 [central precept of Discovery Act that discovery be self-executing].) The parties/counsel are ORDERED to engage in additional attempts to meet and confer ***in person, telephonically, or over remote videoconferences (not email)*** no later than 5/17/24. If Plaintiff agrees to serve further responses, Plaintiff shall serve verified further responses no later than 5/24/24. The parties/counsel are ORDERED to file a JOINT STATUS REPORT indicating whether court intervention remains the only option to resolve this discovery dispute, and if so, why, no later than 5/31/24. Failure to comply with this order may result in sanctions against the non-compliant party and/or their counsel pursuant to Code of Civil Procedure section 177.5. The parties and counsel are strongly encouraged to familiarize themselves with Department C31's General Policies and Procedures listed on the court's website. Defendant to give notice.
8	**Augustini vs Werksman 30-2023-01339593-CU-BC-CJC**	**Plaintiff's Motion to Deem Discovery Motions Timely Filed** Plaintiff Rick Augustini's Motion to Deem Discovery Motions Timely is GRANTED. Plaintiff served and attempted to file the discovery motions on 1/16/24, prior to the motion to compel deadline of 1/19/24 agreed upon by the parties. However, the filings were rejected by the Court clerk due to a clerical error involving counsel's address. Plaintiff's counsel resolved the issue and the motions were filed on 1/25/24. Defendants had timely notice of the motions and they do not oppose the request for relief.

		Plaintiff to give notice. **Plaintiff's Motion to Compel Further Responses to Form Interrogatories, Set One, and Request for Monetary Sanctions** **Plaintiff's Motion to Compel Further Responses to Special Interrogatories, Set One, and Request for Monetary Sanctions** **Plaintiff's Motion to Compel Further Reponses to Requests for Admission, Set One, and Request for Monetary Sanctions** The above discovery motions are CONTINUED to 6/7/2024 at 10:00 a.m. in this Department. ***All parties and/or counsel are ORDERED to appear in person; no Zoom appearances will be allowed***. The parties/counsel have not engaged in sufficient attempts to meet and confer. (See Code Civ. Proc., § 2016.040; *Clement v. Alegre* (2009) 177 Cal.App.4th 1277, 1293 [Discovery Act requires moving party to declare he or she has made a serious attempt to obtain an informal resolution of each issue; rule designed to encourage parties to work out their differences informally to avoid necessity for formal order, which lessens burden on court and reduces unnecessary expenditure of resources by litigants]; *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 402 [central precept of Discovery Act that discovery be self-executing].) The parties/counsel are ORDERED to engage in additional attempts to meet and confer ***in person, telephonically, or over remote videoconferences (not email)*** no later than 5/17/24. If Defendant agrees to serve further responses, Defendant shall serve verified further responses no later than 5/24/24. The parties/counsel are ORDERED to file a JOINT STATUS REPORT indicating whether court intervention remains the only option to resolve this discovery dispute, and if so, why, no later than 5/31/24. Failure to comply with this order may result in sanctions against the non-compliant party and/or their counsel pursuant to Code of Civil Procedure section 177.5. The parties and counsel are strongly encouraged to familiarize themselves with Department C31's General Policies and Procedures listed on the court's website.

		Plaintiff to give notice.
9	**Faith Christian Reformed Church vs. Ahn 30-2022-01267669-CU-OR-CJC**	**Cross-Defendant APSEC Resolution, LLC's Demurrer to First Amended Cross-Complaint** The court declines to rule on Cross-Defendant APSEC Resolution, LLC's demurrer to first amended cross-complaint of Jong Do Ahn and orders the matter STAYED as between APSEC and Ahn only. All arguments raised in the motion were previously considered and rejected in the court's order granting a preliminary injunction, and that order is currently on appeal (Case No. G063690). The perfecting of an appeal stays proceedings in the trial court upon the order appealed from or matters embraced therein or affected thereby. (Code Civ. Proc., § 916.) Status Conference (Appeal) scheduled for 11/14/2024 at 1:30 PM. APSEC and Ahn are ORDERED to file a Joint Status Report no later than 5 court days prior. Ahn to give notice.
11	**A.P. vs. Orange Unified School District 30-2019-01120706-CU-PO-CJC**	**Defendant's Motion for Summary Judgment or in the Alternative Summary Adjudication** Defendant Orange Unified School District's Motion for Summary Judgment or in the Alternative, Summary Adjudication of Issues is DENIED. The District moves for summary judgment on the grounds there is no triable issue of material fact regarding Plaintiff, A.P.'s claims against it. In the alternative, moves for an order granting summary adjudication. Summary judgment was previously granted in favor of the District. The Court of Appeal reversed as to the first cause of action for negligence and remanded to the trial court to determine whether some or all of the *Rowland v. Christian* (1968) 69 Cal.2d 108 (*Rowland*) factors exist and whether they weigh in favor of limiting the District's duty to A.P. **Negligence** A.P. was a student at Villa Park High School and turned 19 years old her senior year. As a senior, she attended an EMT course at El Modena High School, which was taught by Eddie Tran who was also a teacher at Orange High School. A.P. and Tran's relationship became sexual while A.P. was still a student in the District. Jacob Maag, A.P.'s boyfriend, reported Tran's behavior to the District.

		A.P.'s first cause of action alleges the District was negligent for training, retaining, and/or supervising Tran, pursuant to Government Code section 815.2. Negligence requires proof the "defendant had a duty to use care, that he breached that duty, and that the breach was the proximate or legal cause of the resulting injury." (*Nally v. Grace Community Church* (1988) 47 Cal.3d 278, 292.) The existence of a duty is a legal question determined by the court. (*Bily v. Arthur Young & Co.* (1992) 3 Cal.4th 370, 397.) Once it is determined the defendant owed the duty to the plaintiff, "the remaining liability questions – breach as well as factual and legal causation – are usually questions for the jury." (*Doe v. Lawndale Elementary School Dist.* (2021) 72 Cal.App.5th 113, 126 (*Lawndale*).) As a general rule, a person is only liable for injury caused by "his or her want of ordinary care." (Civ. Code, § 1714.) A person is not liable in tort for failing to prevent an injury to another unless that person caused the peril. (*Brown v. USA Taekwon*do (2021) 11 Cal.5th 204, 214 (*Brown*).) A person may have an affirmative duty to protect another with whom he or she is in a special relationship, as determined by a two-part analysis. (Id. at p. 215.) "[A] school district and its employees have a special relationship with the district's pupils, a relationship arising from the mandatory character of school attendance and the comprehensive control over students exercised by school personnel . . . . Because of this special relationship, imposing obligations beyond what each person generally owes others under Civil Code section 1714, the duty of care owed by school personnel includes the duty to use reasonable measures to protect students from foreseeable injury at the hands of third parties acting negligently or intentionally." (*C.A. v. William S. Hart Union High School Dist.* (2012) 53 Cal.4th 861, 870.) "[A] school district cannot be held vicariously liable for a teacher's sexual misbehavior with a student. . . . The only way a school district may be held liable must be 'premised on its own direct negligence in hiring and supervising the teacher." (*Steven F. v. Anaheim Union High School Dist.* (2003) 112 Cal.App.4th 904, 908-909; see *John R. v. Oakland Unified School Dist.* (1989) 48 Cal.3d 438, 452.) After the court determines there is a special relationship between the parties, it must determine "whether relevant policy considerations counsel limiting that duty" by consulting the *Rowland* factors. (*Brown*, supra, 11 Cal.5th at p. 209.) These factors are "the foreseeability of harm to the plaintiff, the degree of certainty that the plaintiff suffered injury, the closeness of the connection between the defendant's conduct and the injury suffered, the moral blame attached to the

		defendant's conduct, the policy of preventing future harm, the extent of the burden to the defendant and consequences to the community of imposing a duty to exercise care with resulting liability for breach, and the availability, cost, and prevalence of insurance for the risk involved." (*Lawndale*, supra, 72 Cal.App.5th at 127 (cleaned up).) "The multifactor test set forth in *Rowland* was not designed as a freestanding means of establishing duty, but instead as a means for deciding whether to limit a duty derived from other sources." (*Brown*, supra 11 Cal.5th at p. 217.) "The cases recognize that even when two parties may be in a special relationship, the foreseeability of the kind of harm suffered by the plaintiff or other policy factors may counsel against establishing an affirmative duty for one party to protect the other." (*Id*. at 219.) **The *Rowland* Factors** **Foreseeability of Harm** The foreseeability-related factors are "the foreseeability of harm to the plaintiff, the degree of certainty that the plaintiff suffered injury, [and] the closeness of the connection between the defendant's conduct and the injury suffered." (*C.I. v. San Bernardino City Unified School District* (2022) 82 Cal.App.5th 974, 984 (*C.I.*).) The court in *C.I.* provided a framework for evaluating the first three foreseeability factors, and stated as follows: "Of these three factors, whether the injury was foreseeable is the most important in determining whether an exception should exist to the duty to protect. Our task is not to decide whether a particular plaintiff's injury was reasonably foreseeable in light of a particular defendant's conduct, but rather to evaluate more generally whether the category of negligent conduct at issue is sufficiently likely to result in the kind of harm experienced that liability may appropriately be imposed." (*Ibid*. (cleaned-up).) The court in *C.I.* stated the question is not whether the district could predict the perpetrator would cause harm. It is whether a reasonable school district could foresee that its negligent failure to prevent the conduct at issue could result in harm to a student. (*C.I*., *supra,* 82 Cal.App.5th at 985.) In this case, the District prohibits close personal relationships between student and teacher. The District's "Staff/Student Policy on Non-Fraternization" is evidence that student/staff relationships posed a foreseeable harm to students and were disallowed even if the student initiated and welcomed the relationship. (AF 23, 24) The District also had procedures for investigating potential violations of the Policy or any other acts

		of alleged misconduct. Any incident of misconduct by a District teacher is expected to be brought to the attention of the Assistant Superintendent of HR or HR, including violations of the Policy. (AF 118) Even if the allegation was that a teacher was spending substantial time alone with a student in the teacher's classroom, the Assistant Superintendent would expect to receive this information. (AF 122) It is the responsibility of the Assistant Superintendent of HR to decide how to respond to issues of misconduct, including the investigation process and whether to involve the police. (AF 118) District principals were trained on this procedure which are recorded in HR Memos. (AF 129) In March 2019, the District became aware of a potential violation of the Policy when Maag reported to Mike Lee (Asst. Principal of Villa Park High School) that Maag and A.P. had broken up because of her inappropriate relationship with Tran. (AF28, 29) She was spending too much time with Tran alone in his classroom– grading papers and helping him at the high school, sometimes as late as 9:00 p.m. (AF 50) Lee reached out to Jill Katevas (Principal at El Modena High School) who said she would speak with Tran. (AF 31) Neither Lee nor Katevas, reported the complaint to HR as mandated. (AF 44, 47) Instead, Maag's complaint was handled internally by the respective principals. With respect to the investigation of Maag's complaint, A.P. alleges the District's investigation by the principals was not adequate. First, Lee and Dennis McCuistion (Principal at Orange High School) cannot even agree on what they understood Maag's concern to be. (AF 45) Lee testified he recalled Maag's concern was that a student was doing a teacher's job. (AF 45) McCuistion, on the other hand, testified Katevas told him the concern was Tran was keeping students in his class after the bell rang, making them late for their next class, and spending time alone with students in the classroom. (AF 46) Second, none of the involved principals every spoke with A.P. about Maag's complaint. Lee denied he spoke to A.P. about the matter, contradicting Katevas' testimony that Lee had told her he had spoken with the female student involved in the situation and the student denied anything improper with Tran. (AF 48) Third, Katevas was told by Lee there was a suspicion from another student that Tran and A.P. were in an "inappropriate relationship." (AF 33) Despite this knowledge, Katevas spoke with Tran and told him to stop allowing students to grade his papers. (AF 38) Katevas conveyed her conversation to

		McQuiston, who was not provided any other information which would lead him to believe Tran engaged in inappropriate conduct or conduct which violated the Policy. (AF 46, 47) McQuiston also did not report Tran's conduct to HR. (AF 47) Accordingly, Tran was never formally disciplined or otherwise investigated as a result of Maag's complaint. (AF 52) Tran's relationship with A.P. did not become physical until late March 2019. (AF 53) Therefore, the District could have prevented some harm to A.P. had they thoroughly investigated Maag's complaint. Additionally, A.P. and Tran often communicated via the Remind App. or text messages. (AF 18) In December 2018, Because the District was not an administrator for Remind, it could not see conversations between people, even if they were associated with the District. (UMF 24) The District, however, opted not to purchase the upgrade because the teachers already had access to other communication platforms that offered better supervision, and checks and balances than Remind. (AF 103) An email was not sent until 2020, reminding District personnel regarding the various District approved communication platforms. (AF 107, 108) A.P. argues the District was therefore negligent for allowing Tran to use the Remind App for communicating with A.P. without any means to monitor such communications. The Court finds the risk of potential harm to A.P. was foreseeable. The relationship between a student and a teacher is prohibited by the District due to concerns regarding the nature of such a relationship. Due to the serious nature of the misconduct, principals are charged with following specific procedures for contacting HR if they suspect a violation of the Non-Fraternization Policy. Here, several different school principals were involved, yet not one of them informed HR of Maag's allegations of an "inappropriate relationship" between A.P. and Tran. The District cannot shield itself from its responsibility to properly investigate the allegation simply because Maag did not explicitly state Tran and A.P. were dating or in a physical relationship. A reasonable person could easily conclude there is no reason for A.P. to be grading papers and alone with Tran at school until 9:00 p.m., and that such conduct warranted further investigation – at minimum a conversation with A.P. and a parent. The District does not dispute HR was to be contacted even if the allegation involves a student spending substantial time alone with a teacher. Therefore, Maag provided sufficient information to Lee that the complaint required HR intervention.

		The eventual physical relationship between A.P. and Tran is exactly the type of potential harm and injury that such investigations seek to prevent. Foreseeability of harm weighs strongly in A.P.'s favor. **Degree of Certainty of Injury** "The second factor, 'the degree of *certainty* that the plaintiff suffered injury' [citation], may come into play when the plaintiff's claim involves intangible harm, such as emotional distress. This factor does not warrant limiting claims, like Doe's, based on physical sexual abuse and assault." (*Regents of Univ. of Calif. v. Superior Court* (2018) 4 Cal.5th 607, 630 (*Regents*).) In this case, there is no evidence Tran sexually abused A.P. nor is there evidence of lack of consent, so this factor weighs slightly in the District's favor. **Closeness of Connection Between Conduct and Injury** "The third factor is 'the *closeness of the connection* between the defendant's conduct and the injury suffered.' [Citation.] 'Generally speaking, where the injury suffered is connected only distantly and indirectly to the defendant's negligent act, the risk of that type of injury from the category of negligent conduct at issue is likely to be deemed unforeseeable. Conversely, a closely connected type of injury is likely to be deemed foreseeable.'" (*Regents*, *supra* 4 Cal.5th at 630-31.) It was foreseeable a student could be harmed by the District's failure to investigate claims of an inappropriate relationship between a student and teacher. This is true whether the student is a minor or an adult. Neither the District nor A.P. present evidence regarding whether her relationship with Tran was non-consensual, coerced, or forced. There is no indication the investigation would have revealed anything but a consensual relationship between A.P. and Tran. This factor weighs slightly in favor of the District. **Moral Blame** "In light of the disparity between school administrators and minor students in knowledge and control over the school environment, and the trust parents place in schools to protect their children, school administrators who fail to prevent sexual abuse are not absolved of moral responsibility simply because they did not have 'actual knowledge' an employee previously engaged in sexual misconduct." (*Lawndale*, supra, 72 Cal.App.5th at 135.) "Administrators who fail to notice, identify, and respond to warning signs that suggest an

		employee is sexually abusing or will sexually abuse a student bear some moral responsibility for the abuse." (*Ibid*.) Even though A.P. was not a minor, the District has an obligation to prevent sexual abuse of any student, and failing to investigate Maag's complaint may have contributed to A.P.'s injuries. This factor weighs strongly in favor of A.P. **Policy of Preventing Future Harm** The District enacted policies and procedures for investigating complaints of fraternization to deal with the very situation that occurred in this case. The District should have investigated Maag's complaint in March 2019. Whether this would have prevented a relationship between A.P. and Maag is uncertain. But this uncertainty does not absolve the schools' principals' obligation to enforce the District's policy and contact HR. This factor lies in favor of A.P. **Extent of the Burden to the Defendant and Consequences to the Community of Imposing a Duty to the Exercise Care with Resulting Liability for Breach** The burden of imposing on the District the duty to investigate a potential breach of its Non-Fraternization Policy is not large. The District already has policy and procedures in place to investigate potential violations of the Policy or any other acts of alleged misconduct. "Imposing a duty to prevent sexual abuse of minor is less burdensome where an organization has already implemented policies to prevent such abuse." (*Doe v. Lawndale Elementary Sch. Dist.* (2021) 72 Cal.App.5th 113, 137.) This factor weighs in A.P.'s favor. **Availability, Cost and Prevalence of Insurance for the Risk Involved** The District does not discuss whether it has obtained, or whether school districts are able to obtain, insurance to cover claims arising from sexual misconduct by teachers. This factor does not weigh for or against the District's proposed limitation. **Conclusion** The Court finds the facts do not warrant limiting the District's duty. School districts have a duty to use reasonable care to protect their students from potential sexual abuse by teachers.

		The school principals should have contacted HR when Maag complained to Lee about an inappropriate relationship with Tran. Maag's report of A.P. spending time alone with Tran in his room grading papers at 9:00 p.m. at night should have caused the principals to escalate the complaint to HR. A.P. has met her shifted burden to show triable issues of one or more material facts exist. (Code Civ. Proc., § 437c, subd. (p)(2).) The District has not raised any arguments regarding causation or damages. Therefore, issues of fact remain as to these elements of A.P.'s claim for negligence, as well. Plaintiff to give notice.