

1 James J. Arendt, Esq. Bar No. 142937  
Matthew P. Bunting, Esq. Bar No. 306034

2 **WEAKLEY & ARENDT**  
3 A Professional Corporation  
4 5200 N. Palm Avenue, Suite 211  
5 Fresno, California 93704  
6 Telephone: (559) 221-5256  
Facsimile: (559) 221-5262  
James@walaw-fresno.com  
Matthew@walaw-fresno.com

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Tulare  
**09/13/2023**  
By: Leticia Hernandez-Sandoval,  
Deputy Clerk

7 Attorneys for Defendants, SPRINGVILLE UNION ELEMENTARY  
8 SCHOOL DISTRICT, CONNIE OWENS, PRISCILLA BENAS and  
9 JACKIE BORGES

10 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF TULARE**

11 **UNLIMITED JURISDICTION – VISALIA DIVISION**

12 JENNIFER TROUTT, Individually and as  
Guardian ad Litem for J [REDACTED] "B [REDACTED]"  
13 TROUTT, a MINOR, and COREY  
14 TROUTT,

15 Plaintiffs,

16 vs.

17 SPRINGVILLE UNION ELEMENTARY  
18 SCHOOL DISTRICT, CONNIE OWENS,  
19 PRISCILLA BENAS, JACKIE BORGES  
20 AND DOES 1-20,

21 Defendants.

22 SPRINGVILLE UNION ELEMENTARY  
23 SCHOOL DISTRICT, CONNIE OWENS,  
24 PRISCILLA BENAS, and JACKIE  
25 BORGES,

26 Cross-Complainants,

27 vs.

28 M.S., a minor, by and through his Guardian  
ad Litem, DUSTIN SKILES; ROES 1  
through 10, inclusive,

Cross-Defendants.

CASE NO. VCU298760

**DEFENDANTS' CROSS-COMPLAINT  
FOR**

1. **EQUITABLE INDEMNITY**
2. **NEGLIGENCE**
3. **CONTRIBUTION**

Complaint Filed: May 30, 2023  
Trial Date: TBD

**Public Entity Exempt from Filing Fees  
Pursuant to Government Code Section  
6103**

///

1 Defendants/Cross-Complainants SPRINGVILLE UNION ELEMENTARY SCHOOL  
2 DISTRICT, CONNIE OWENS, PRISCILLA BENAS and JACKIE BORGES, file this cross-  
3 complaint against Cross-Defendant M.S., a minor, by and through his Guardian ad Litem,  
4 DUSTIN SKILES and ROES 1 through 10, inclusive, and each of them, as follows:

5 **THE PARTIES**

6 1. Cross-Complainant SPRINGVILLE UNION ELEMENTARY SCHOOL  
7 DISTRICT is and was at all relevant times mentioned herein, a public entity, existing under the  
8 laws of the State of California. Cross-complainants CONNIE OWENS, PRISCILLA BENAS and  
9 JACKIE BORGES are all employees of Springville Union Elementary School District. Cross-  
10 Complainant is a public entity with the capacity to sue pursuant to Govt. Code § 945.

11 2. Cross-Complainants are informed and believe, and thereon allege that Cross-  
12 Defendant is, and was at all relevant times mentioned herein, a resident in Tulare County, State  
13 of California.

14 3. At all times mentioned herein, Cross-Defendant was responsible in some manner  
15 or capacity for the occurrences herein alleged. Cross-Complainants' damages, as herein alleged,  
16 was proximately caused by all the acts and omissions of said Cross-Defendant. Cross Defendant  
17 and ROES 1 through 10 are sometimes collectively referred to herein as "Cross-Defendants" or  
18 as "All Cross-Defendants" and such collective reference refers to all specifically named Cross-  
19 Defendants.

20 4. Cross-Complainants are presently unaware of the true names and capacities of  
21 Cross-Defendants designated herein as Roes 1 through 10, and Cross-Complainants are also  
22 unaware at this time as to the specifics regarding the causes of action existing against each of  
23 those Cross-Defendants. Cross-Complainants therefore sue Cross-Defendants by such fictitious  
24 names and will seek leave of the Court to amend this Cross-Complaint to set forth the true names  
25 and capacities of the fictitiously designated Cross-Defendants when the same have been  
26 ascertained.

1 5. Cross-Complainants are informed and believes and thereon alleges that at all times  
2 herein, each Cross-Defendant designated herein as a Roe Cross-Defendant is responsible in some  
3 manner for the acts, omissions, occurrences, and liabilities herein alleged and referred to.

4 6. Cross-Complainants are now Defendants in the main action, where Plaintiffs claim  
5 certain general and special damages as may be proven at the time of trial. All such damages  
6 purportedly arose out of circumstances which are more particularly described in the Complaint.

7 7. Plaintiffs have commenced an action against Cross-Complainants alleging that  
8 Cross-Complainants are responsible in some manner for damages alleged by Plaintiffs. Plaintiffs'  
9 Complaint is incorporated herein by reference as though fully set forth. Cross-Complainants have  
10 filed an Answer to this Complaint, denying any liability on the part of Cross-Complainants. Said  
11 Answer is incorporated herein by reference as though fully set forth.

12 **FACTUAL ALLEGATIONS**

13 8. Throughout the relevant time period, Cross-Complainants are informed and  
14 believe that J [REDACTED] T [REDACTED] a minor, and M.S., a minor were enrolled at Springville Union  
15 Elementary School.

16 9. On or about October 13, 2022, Cross-Complainants are further informed and  
17 believe, and thereon allege, that M.S. and another classmate bumped into one another. M.S. then  
18 expressed anger toward the other classmate, when Plaintiff J [REDACTED] T [REDACTED] then told minor M.S. to  
19 "stop" what he was doing.

20 10. Cross-Complainants are further informed and believe, and thereon allege that  
21 J [REDACTED] T [REDACTED] then pushed M.S. and M.S. responded by tackling him to the cement. M.S. then  
22 began hitting J [REDACTED] T [REDACTED]'s head upon the ground.

23 11. Cross-Complainants deny generally and specifically each and every allegation set  
24 forth by Plaintiffs in their complaint. Plaintiffs' complaint is incorporated herein by reference  
25 solely for the purpose of setting forth the allegations stated herein, allegations which Cross-  
26 Complainants herein deny and continue to deny.

27 ///

28 ///

1 FIRST CAUSE OF ACTION

2 EQUITABLE INDEMNITY

3 (As to all Cross-Defendants, including ROES 1-10)

4 12. Cross-Complainants refer to and incorporate herein by reference all preceding  
5 paragraphs above, in their entirety, as though fully set forth herein.

6 13. In equity and good conscience, if Plaintiffs recover against Cross-Complainants,  
7 then Cross-Complainants are entitled to equitable indemnity, apportionment of liability,  
8 contribution among, and from, the Cross-Defendants, and each of them, according to their  
9 respective fault, for the injuries and damages allegedly sustained by Plaintiffs, if any, by way of  
10 sums paid in settlement, or in the alternative, any judgments rendered against Cross-Complainants  
11 in this action herein based upon Plaintiffs' complaint.

12 14. Cross-Complainants expressly deny the allegations of the Plaintiffs' complaint  
13 and any negligence or other wrongdoing on its part. Should Cross-Complainants nevertheless be  
14 found liable for negligence or any other alleged wrongdoings with respect to the allegations set  
15 forth in Plaintiffs' complaint, the acts or omissions of Cross-Complainants were passive and  
16 secondary; while those of Cross-Defendants, and each of them, were active, primary and  
17 superseding.

18 15. As a direct, proximate and foreseeable result of the wrongdoing of Cross-  
19 Defendants, Cross-Complainants are entitled to equitable indemnity from any and all liability  
20 adjudged against it by Plaintiffs.

21 16. As a direct, proximate and foreseeable result of the filing of complaints, Cross-  
22 Complainants have been compelled to incur attorney's fees, court costs and the expense of this  
23 cross-action and Cross-Complainants will seek leave of Court to amend this Cross-Complaint to  
24 set forth the amount of these damages when known.

25 17. Should Plaintiffs recover any amount of damages against Cross-Complainants by  
26 way of judgment, settlement or otherwise, then Cross-Complainants by reason of the foregoing  
27 and in equity and good conscience, are entitled to an equitable apportionment of the liability of  
28 Cross-Defendants, and each of them, on a comparative fault basis and a judgment against Cross-

1 Defendants, and each of them, under the doctrine of equitable indemnity and in an amount equal  
2 to their respective liabilities as so apportioned.

3 **SECOND CAUSE OF ACTION**

4 **CONTRIBUTION**

5 **(As to all Cross-Defendants, including ROES 1-10)**

6 18. Cross-Complainants refer to and incorporate herein by reference all preceding  
7 paragraphs above, in their entirety, as though fully set forth herein.

8 19. Cross-Complainants further allege on the basis of information and belief that the  
9 damages, if any, suffered by Plaintiffs, as alleged in the Complaint, were proximately caused in  
10 whole or in part by the negligence or fault of Cross-Defendants, and each of them.

11 20. Cross-Complainants are entitled to contribution from Cross-Defendants, and each  
12 of them, for the injuries and damages allegedly sustained by Plaintiffs, if any, as a result of any  
13 judgment or settlement awarded against Cross-Complainants.

14 **THIRD CAUSE OF ACTION**

15 **DECLARATORY RELIEF**

16 **(As to all Cross-Defendants, including ROES 1-10)**

17 21. Cross-Complainants refer to and incorporate herein by reference all preceding  
18 paragraphs above, in their entirety, as though fully set forth herein.

19 22. An actual controversy has arisen and now exists between Cross-Complainants and  
20 Cross-Defendants, and each of them, concerning the respective rights and duties of each, in that  
21 Cross-Complainants maintain that they are entitled to either indemnification for that portion of  
22 Plaintiffs' damages as was caused by the fault of Cross-Defendants, and each of them, or for total  
23 indemnity. Cross-Complainants are informed and believe, and thereon allege, that Cross-  
24 Defendants, and each of them deny that Cross-Complainants are entitled to such indemnity.

25 23. Declaratory relief is necessary and appropriate at this time in order to avoid  
26 multiplicity of suits and circuitry of actions and in order that Cross-Complainants may ascertain  
27 their rights and duties.

