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7 **IN THE COURTS**  
8 **OF THE NORTHERN MARIANA ISLANDS**

9 **CHRIS MATAGOLAI** ) Civil Case No. 06-1234

10 **Plaintiff** )

11 **v.** )

12 **TERRY NUN and the CNMI SCHOOL** ) **PLAINTIFF'S COMPLAINT**

13 **DISTRICT,**

14 **Defendants.**

15 Comes now the Plaintiff through its attorneys, and submits the following Complaint as follows:

16 **PARTIES**

- 17 1. Plaintiff is an 18 year old who has recently graduated from high school operated by  
18 the district. Student had theretofore been enrolled in its schools and had attended for a  
19 period of twelve years.
- 20 2. At all time mentioned herein and upon information and belief, Defendant School  
21 District is a government entity established pursuant to the Covenant to the Establish a  
22 Commonwealth of the Northern Mariana Islands in Political Union with the United  
23 States of America.
- 24 3. Terry Nun is resident of the CNMI, a citizen of the United States of America and the  
25 superintendent of the CNMI School District.

1 **FACTS**

- 2 1. At all times mentioned herein, Plaintiff attended Capitol Hill High School.
- 3 2. Defendant School District is a unified school district existing under the laws of the
- 4 Commonwealth and functioning under the direction of its governing board and
- 5 superintendent of schools.
- 6 3. At all times, herein mentioned, the Defendant operated and controlled the school system
- 7 and was responsible for providing education to the plaintiff student and others.
- 8 4. Plaintiff graduated from high school with a diploma in June of 2006.
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10 **FIRST CAUSE OF ACTION**

11 **NEGLIGENCE BY DEFENDANTS TOWARD PLAINTIFF**

- 12 5. Allegations requisite to a cause of action for negligence are: fact showing duty of care in
- 13 defendants; negligence constituting breach of duty; and in jury to Plaintiff as a proximate
- 14 cause.
- 15 6. School District authorities have a duty to educate students under their supervision.
- 16 7. Defendant School District, its agents and employees, negligently and carelessly failed to
- 17 provide Plaintiff with adequate instruction guidance counseling and/or supervision in
- 18 basic academic skills such as reading and writing although said School District had the
- 19 authority, responsibility and ability to do so. Defendant School District, its agents and
- 20 employees, negligently failed to use reasonable care in the discharge of its duties to
- 21 provide Plaintiff with adequate instruction in basic academic skills and failed to exercise
- 22 that degree of professional skill required of an ordinary prudent educator under the same
- 23 circumstances as exemplified in the following acts.
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- a. Failed to apprehend student's reading abilities;
- b. Assigned student to classes where student could not read the books and other materials;
- c. Allowed student to pass and advance from course or grade level with knowledge that student had not achieved either its completion or the skills necessary for student to succeed or benefit from subsequent courses;
- d. Assigned student to classes in which the instructors were unqualified or which were not geared to student's reading level;
- e. Permitted student to graduate from high school although student was unable to read adequately thereby depriving student of additional instruction in reading and other academic skills.

**8.** As a direct and proximate cause of the negligent acts and omissions by the defendant School District, its agents and employees, plaintiff graduated high school with a minimal reading ability. As a further proximate result, plaintiff has suffered a loss of earning capacity by plaintiff's limited ability to read and write and is unqualified for any employment other than labor, which requires little of no ability to read or write.

**9.** School District and its employees had falsely represented to mother that student was performing at or near grade level in basic academic skills. That student was in fact not performing at grade level, and that upon graduation student had only a minimal level of academic achievement.

**10.** The high school diploma awarded to student intentionally misrepresented student had requisite skills of a 12<sup>th</sup> grade student. As a proximate result of the Defendant's negligence, Plaintiff is unable to read and write.

1 **11.** As a proximate result of the Defendant's negligence, Plaintiff is injured.

2 **12.** As a further and direct and proximate result of the negligence of the Defendant, Plaintiff  
3 has been damaged.

4 **PRAYER FOR RELIEF**

5 Wherefore, the Plaintiff requests the following relief:

- 6 (a) Damages based upon plaintiff's disability and inability to gain meaningful  
7 employment, special damages incurred as the cost of compensatory tutoring  
8 required by reason of the negligence of defendant.  
9 (b) Injunctive relief for the School District to develop programs and policies that  
10 meet the individual needs of students.  
11 (c) Damages from lost wages since the time of graduation.  
12 (d) For costs of suit, attorney fees, and pre-judgment interest.  
13 (e) For such other and further relief as the Court deems just and equitable.

14 Respectfully submitted this 4th day of July by:

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16 Attorney for the Plaintiff  
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1 **Witness Statement**

2 **Chris Matagolai, Plaintiff**

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4 My name is Chris Matagolai. I am eighteen (18) years old and a graduate of Capitol Hill Senior High  
5 School. I live at 2300 14th Street in Capitol Hill, Saipan. I live with my mother and younger brother in a one-  
6 bedroom apartment. My mother has always worked fulltime for an office cleaning company in order to support us.  
7 When I was younger I would stay with a neighbor, Mrs. Rosario, after I came home from school until my mother  
8 returned from work. Mrs. Rosario has seven children of her own, so it was no big deal for her to have me over at  
9 her house. When I turned eleven my mother let me stay by myself. I didn't need anyone looking after me. Lots of  
10 nights my mother doesn't get home until late. She tries to put in a lot of overtime because we need the money.

11 I've always gone to public schools in Capitol Hill. I don't particularly mind going to school. My  
12 attendance at school was very good in elementary school. I did miss some school in junior high and high school,  
13 like all kids do, but it didn't have any impact on my grades. I still passed all my classes.

14 Most of my classes have been pretty boring. My teachers don't seem very competent. Usually they just  
15 lecture to us. They keep giving us a lot of information, but don't really get us involved or check to see if we  
16 understand. Sometimes they'll have a student read something from the book and then ask us questions about it.  
17 Even though I can't read, that never bothered me. If I got called on to read, I would just say, "I'd rather not." I could  
18 always answer the questions when someone else read the paragraph. Before an exam the teachers usually hold a  
19 review session. This would be really helpful because I could memorize exactly what they wanted me to know the  
20 night before the test and then forget it right away. I even memorized key words so I would know what answers to  
21 put where. I never understood the written material but the review sessions helped me pass the tests.

22 I heard there was a new reading program being offered at the high school a couple of years ago, but I  
23 figured there was no point in going. It was early in the morning and I don't like to get up too early. Also, I had  
24 trouble reading, so what was the point in going to school and sitting in a room with a lot of other students and trying  
25 to read a book. I spoke to a couple of friends about the program and it sounded dumb and boring.

In math class I learned how to add, subtract, multiply and divide, but I never had to use the skills in real  
situations. I didn't learn any practical skills like giving change or balancing a checkbook. In lots of math classes we  
were allowed to use calculators, so I didn't even have to memorize basic math facts.

1 I know I was not the brightest student in school, but I did try to do my work. I enjoyed my social studies  
2 class with Leslie Green last year, especially the mock trial. I learned a lot in Les' class. Sometimes the assignments  
3 don't make much sense to me. Once when I asked for help the teacher was too busy. I don't like to ask my mother  
4 for help. She's usually tired when she comes home from work and doesn't have the energy to look at my  
5 schoolwork.

6 Plus, the teachers should be qualified to teach. Most of my teachers my senior year were not Highly  
7 Qualified, even though they had that law. In middle school, my classes were all well over 30 students. I just kind of  
8 blended in. Now, I heard that classes are smaller which should be good for my brother.

9 My mother always looked at my report card and since I have always passed all my classes, she was pretty  
10 happy with the way I was performing in school. I wasn't planning to go on to college, but I thought I would get a  
11 job, save some money and then get a place of my own. It always feels crowded in our apartment and I would like  
12 some space to call my own.

13 I started looking for a part-time job last year. Before that I had to watch my younger brother and couldn't  
14 work after school. I went to some of the fast-food stores, the supermarkets, department stores, and other  
15 neighborhood stores to see about a job. I thought I could work in one of those places because I have friends with  
16 jobs there. The first place I went I had a lot of trouble filling out the job application. I couldn't read all the  
17 questions they asked and ended up answering the questions wrong. I felt like a real dummy. After that I tried to  
18 take the application home with me so I could have a friend help me fill it out and then send it back.

19 I did get hired by Hamburger King last year. I worked there for about a month. For some reason, while I  
20 was working there the new computer cash registers kept going out. We had to figure out the amount of change each  
21 person should get from their purchase. I couldn't figure out the right amount of change. People would get impatient  
22 while I was trying to figure it out. A couple of people took advantage of me and demanded more money than they  
23 were supposed to get. I ended up being short a number of nights. The manager caught me giving too much money  
24 back and got really angry and fired me. I can't blame him for firing me. I know the store can't afford to lose money  
25 all the time.

A couple of employers I talked to seemed to really like me. They said if I could improve my reading and  
writing skills they would hire me. I really wanted the job at Bowers and Jenkins and tried hard to do well on the  
application. It seems to me since I always tried in school and passed all my classes I should be able to get a job. I

1 went to school most of the time and did my homework sometimes. No one does their homework all the time. There  
2 are too many other things to do like parties, movies, and football games.

3 After graduation, my lawyer helped me out. Now I am taking remedial math and reading with a private  
4 tutor. I attend every day. I hope that in a year or two I can get a job like at Bowers and Jenkins. It's just hard that I  
5 thought I would be earning money but instead I am spending money trying to learn what school should have taught  
6 me. Isn't that what a diploma is for?

7 My mother is really upset. She had no idea I couldn't read. My grades in school were always okay (mostly  
8 Cs) so she figured I must have been doing fine. The school should have made sure I could read and write before  
9 they passed me on from grade to grade and graduated me. Now I don't even have the skills needed to get a lousy  
10 job. How am I going to be able to support myself later on? I can't count on my mother to support me forever.

11 COMMONWEALTH OF THE  
12 NORTHERN MARIANA ISLANDS

13 SUBSCRIBED AND SWORN to before me by above deponent, this \_\_\_day of August 2006.

14 My commission Expires: April 4, 2008

15 \_\_\_\_\_/s/ \_\_\_\_\_

16 Mark Alan

17 NOTARY PUBLIC

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1 **Witness Statement**

2 **Dr. Gerry Aquino, Education Specialist, for the Plaintiff**

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4 My name is Dr. Gerry Aquino. I have a B.A. degree in elementary education, a master's degree in  
5 supervision in education, and a doctorate in education, specializing in curriculum development. I was a teacher for  
6 10 years, a principal for four years and superintendent for curriculum development for two years in Guam. I have  
7 implemented curriculum programs in reading for at least eight schools in Guam. I have written eight articles on the  
8 "failure to teach" that have been published on several academic websites.

9 I moved to Capitol Hill, Saipan two years ago and applied for a similar job, but Dr. Nun didn't hire me for  
10 the position, so I have been doing private consultation with individuals and other school districts since that time.  
11 The plaintiff is paying me \$3,000 for my testimony.

12 I spent about four hours interviewing and testing Chris' basic skills. Although the test scores indicate Chris  
13 is below grade level at this time, Chris is intelligent and could have learned if Chris was taught properly in school.  
14 A curriculum must meet the needs of all the students and help them reach their potential.

15 I also spent a great deal of time reviewing written policies and procedures of the school district and have  
16 found them lacking. The district is not meeting the needs of individual students and their families and is not  
17 following all of its policies. The district has a policy in regard to attendance. If a student is out, the parent is  
18 supposed to be called in the morning to find out why the student is not in school. The student is supposed to return  
19 to school with a note from the parent or a doctor. When Chris' attendance started to decline in junior high school,  
20 the school should have checked the situation out. No one from the school contacted Chris' mother to find out why  
21 Chris was missing school. There is no record of anyone calling Chris' mother to find out the reasons for Chris'  
22 nonattendance. In addition, when Chris missed the eighth grade-standardized tests, the school should have  
23 arranged for Chris to make them up. If the school district believes in giving standardized tests as one means of  
24 evaluating students, then the schools should be sure all students take the tests. Perhaps if the school had given Chris  
25 the test in eighth grade they might have noticed Chris' reading ability had dropped.

Although Chris passed all classes, it should have been clear that the basic academic skills needed to be  
successful were beyond Chris' ability. Evaluation techniques should be supportive of the goals the school district is  
trying to accomplish. Since all students should graduate from high school with a proficiency in the English

1 language, any evaluation program that does not pick up a student lacking these skills is not meeting its purpose.

2 Several teachers informed me they had been instructed by the principal of the school to pass students who had  
3 questionable grades. They were told the students needed to be moved on so they could get an education. Students  
4 don't get much of an education if they don't have a foundation to build on.

5 There is also no record of a notice being sent out to Chris' mother regarding the teacher's not being Highly  
6 Qualified.

7 CNMI School District needs to change its curriculum and policies. It should develop a curriculum that has  
8 input from teachers, parents and students. If everyone participates in the planning of the curriculum, it is more  
9 likely to meet their needs and they will have a larger stake in making sure it will work. Individual evaluations  
10 should be done for each student, based on the evaluation, an individual learning plan should be developed that meets  
11 the needs and learning styles of the individual students. Evaluation should then be based on the plan and the results  
12 of the evaluation should be provided to the parents and students. All students should be regularly assessed and  
13 evaluated to determine their (1) levels of mastery in the required academic subjects, (2) needs for remedial help and  
14 assistance in each of the required academic subjects, and (3) eligibility for participation in required remedial  
15 programs.

16 The current evaluation system in the CNMI schools consists of standardized tests in fifth and eighth grades  
17 and report cards issued four times a year. As far as I can tell, there is no mechanism in place to make sure all  
18 students are given the standardized tests. Also, there is no guarantee students or parents pay attention to the report  
19 cards. Follow-up should be done with parents whose children are in trouble in school.

20 The reading program should be redesigned to include these elements: (1) developmental reading -  
21 systematic, sequential instruction that begins in the preschool years and continues through high school; (2)  
22 functional reading - practice using reading to solve problems in widely diverse school and other life areas; (3)  
23 independent/recreational reading - time and materials to foster lifetime reading habits; and (4) corrective/remedial  
24 reading - help for children who need it for either poor skills, habits or attitudes.

25 Chris also had large class sizes throughout Chris' academic life. Studies have shown that small class sizes  
support learning. Teachers cannot be expected to properly teach with large classes. In Guam, the school district  
never would have allowed classes with 35 students like Chris had in junior high.

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There is no good reason Chris could not learn. Chris is an intelligent, personable and verbal student and has the capability to learn. In my opinion, CNMI School District was negligent in not diagnosing Chris' reading and math issues and creating a specific program for Chris. School authorities should owe children a duty of reasonable care in testing them and placing them appropriately. Who in good faith can deny that a student upon graduation from high school cannot comprehend simple English a deficiency allegedly attributable to the negligence of the educators has not in some fashion been injured. The school system just failed to educate Chris and should be held accountable.

COMMONWEALTH OF THE  
NORTHERN MARIANA ISLANDS

SUBSCRIBED AND SWORN to before me by above deponent, this \_\_\_day of August 2006.

My commission Expires: April 4, 2008

\_\_\_\_\_/s/\_\_\_\_

Mark Alan  
NOTARY PUBLIC

1 **Witness Statement for the Plaintiff**

2 **Sydney Seman, Office Manager, Bowers & Jenkins**

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4 My name is Sydney Seman and I live at 4433 Foxhall Drive, Capitol Hill. I've lived in Capitol Hill since I  
5 got married 20 years ago. I have two children: Bobby who is 15 years old and Janie who is 11 years old. When we  
6 bought our house we looked for a house in a neighborhood with a lot of kids and schools in the area. The  
7 elementary school is one block away and the junior and senior high schools are less than ten blocks away. I think  
8 education is really important, but I didn't realize at that time that public schools just aren't that good. That's why I've  
9 sent both of my kids to private school. I went to public school and when I compare the education I received with the  
10 type of education my friends got who went to private school, I know I missed out. I make good money in my job  
11 and decided to have my children go to private school. I want them to get the best education possible.

12 I believe that the only way public schools will improve is insisting on a total quality movement on school  
13 system operations. Where I went to school, we had competency testing and end of course examinations. The end of  
14 grade examinations measured student educational progress. The state here spends so much money on education; the  
15 school district should be accountable to measure the output. Like a business the school should look at the financial  
16 investment in public education and analyze the relation between dollars spent and results expressed in student  
17 performance outcomes- a business would never be run like the school district. The tax dollars earmarked for public  
18 education should be spent wisely. The school district should demonstrate a positive return as expressed in terms of  
19 student academic progress on the growing financial investment made on this islands citizens. The school district  
20 should show that quality control measures are in place in every school holding school officials, administrators, and  
21 teachers directly accountable for student achievement or lack thereof.

22 I am the office manager for Bowers & Jenkins law firm in Capitol Hill, Saipan. In that role I am  
23 responsible for interviewing, hiring and training all new personnel. I am a 1994 graduate of San Jose State  
24 University with a Bachelor's in Business; I then received masters in Human Resources Management from the  
25 University of Hawaii in 1998. I have been a member of the Society for Human Resource Management since 1998  
and I am have been secretary of the organization since 2000. I am certified by the Society of Human Resource  
Management in interview techniques, drug and alcohol testing, and career advancement counseling.

1 Right now we are getting ready to expand our operation from twenty to thirty people. We are now taking  
2 on a great number of part-time people, and in about six months we will be having many of them on full time. Chris  
3 Matagolai came and applied for a mailroom position when news got out about our expansion. I really like Chris a  
4 lot. Chris has a great personality and is the type of individual who would get along great with the other employees.  
5 I was disappointed when I looked at Chris' job application. It was clear Chris had difficulty filling it out. Chris'  
6 writing and reading skills are not that good, and Chris could not adequately deal with our important mail functions.  
7 I also found out Chris was fired from Hamburger King because Chris kept messing up the change being given to  
8 customers. I need someone who has at least basic academic skills. Applicants don't need to be college material, but  
9 they do need some basic smarts. Lots of our employees move up the ranks to supervisory positions. Chris wouldn't  
10 be able to do that. I doubt Chris would even be able to do the basic operations required for the mailroom job.

11 When I told Chris that Chris was not hired for the job, Chris said, "Why didn't I pay more attention in  
12 school and listen to my teachers!" Chris was really upset and had a look of despair. Chris said the high school years  
13 were spent having fun, but that Chris still passed and graduated on time. Chris and I had a long chat about the future  
14 where Chris said, "I want nothing more than to be able to read and go to the library and pick out any novel. I want  
15 to learn and I want to be able to read and understand the law."

16 I feel really bad for Chris. Chris is just another example of the poor quality of the Capitol Hill school  
17 district. I am glad this lawsuit is going forward to wake up the school district. We don't have any employees working  
18 at Bowers & Jenkins who have gone to Capitol Hill public schools. When I first started working for Bowers &  
19 Jenkins I hired three people who lived in Capitol Hill and had graduated from Capitol Hill Senior High School. One  
20 person quit working after two months on the job. He got tired of the long hours required for the job. They were also  
21 weak in reading and writing skills. It's no fun having to train someone who leaves the job so soon. I had to fire one  
22 of the other workers because she couldn't handle the job responsibilities. The other person moved to another law  
23 firm where he is paid more money. He's been working out fine.

24 COMMONWEALTH OF THE  
25 NORTHERN MARIANA ISLANDS

SUBSCRIBED AND SWORN to before me by above deponent, this \_\_\_day of August 2006.

My commission Expires: April 4, 2008

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Mark Alan

NOTARY PUBLIC

1 **Witness Statement**

2 **Dr. Terry Nun, Defendant**

3 **School Superintendent, Capitol Hill School District**

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5 My name is Dr. Terry Nun and I am the Superintendent of Schools for the CNMI School District. I have a  
6 Ph.D. in Education and Supervision and have been superintendent for the district for the past 12 years. Prior to that  
7 time I was assistant superintendent for 7 years, a curriculum specialist for 3 years, a principal of the senior high  
8 school for 4 years and an English teacher for 5 years. All my work experience has been with the CNMI School  
9 District.

10 I'm very proud of our school district. We have a good, traditional educational system. Most of our teachers  
11 have been with the school district for over 15 years and they know their job very well. From kindergarten through  
12 twelfth grade, the students are exposed to a well-rounded curriculum. The basics, such as reading, writing and  
13 arithmetic, are taught. I cannot think of any way we could have improved the system while Chris was attending.  
14 We also have strong social studies, science and vocational training programs. Three years ago we implemented a  
15 program in which all students in the district read for the first hour of every school day because we feel it is so  
16 important. In elementary school the students read from the basal reader series. In junior and senior high school they  
17 do independent reading, since by that time they have the basic skills for reading and we are concentrating on  
18 comprehension and increasing their joy of reading. In junior and senior high school the students don't get a grade  
19 for the reading class and several of the schools offer the class the hour before school officially begins. However,  
20 there are enough teachers available for all the students who want to participate in the program. Maybe if Chris had  
21 not been so lazy and had participated in the reading program, Chris' skills would be better. Alex Taitano is also a  
22 student in the twelfth grade and has been attending Capitol Hill schools since kindergarten. Alex did participate in  
23 the program and doesn't have any difficulty with reading skills. The program has been successful, as demonstrated  
24 by the fact that the reading test scores have gone up for those students who have participated in the program. The  
25 average increase for students was a whole grade level.

26 We have a set curriculum in all subject areas is used district wide. Each school has some flexibility in  
27 adding to the curriculum, but it does act as a guideline and must be followed at a minimum. I'm proud to say that

1 when I was the curriculum specialist for the district, I designed the English (which included reading) curriculum we  
2 are still using.

3 Our math curriculum includes the basic skills students need. They learn how to add, subtract, multiply and  
4 divide. In the more advanced classes they also learn algebra, geometry and trigonometry. We may not teach things  
5 like how to make change, but that's something the students should be learning at home from their parents.

6 We do offer a one-semester course in the high school called Life Skills. In this class students learn how to  
7 fill out a job application, go on job interviews, balance a checkbook and maintain a family budget. I reviewed  
8 Chris' academic and attendance records which are kept in the district office. Chris took this class, but received a D.  
9 Chris was absent from the class quite a bit. Maybe if Chris had attended the class every day there wouldn't have  
10 been this problem with filling out job applications.

11 Evaluations of students are done in several ways. Report cards are distributed four times a year and  
12 deficiency notices are sent to all parents mid-quarter if their child is failing a class. Report cards in elementary and  
13 junior high school must be returned to school signed by the parent(s). In the senior high we mail the report cards to  
14 the home. Parent/teacher conferences are held twice a year. We close the schools for a day and parents can sign up  
15 for a conference with the teacher during the school day. We also have an open house at all the schools within six  
16 weeks of the opening of school. This is held in the afternoon and parents get to see what their children's classes are  
17 actually like.

18 Parents are encouraged to visit the school and talk to the teachers at any time. Of course, we can't pull  
19 teachers from the classroom to talk to parents, but we do take messages and teachers will call parents back. We feel  
20 it's important for the family to take some of the responsibility of their child's education, so we encourage parents to  
21 be actively involved in the schools. We use parent volunteers and they do fundraising for the schools. We don't  
22 have much patience for these parents who just send their kids to school without checking what's going on. They are  
23 just so irresponsible.

24 Parents are kept regularly informed of their child's academic progress, treated as active and  
25 responsible partners with administrators and classroom teachers in their child's educational program, invited to  
actively participate at school and encouraged to request immediate help and early assistance for their children if and  
when problems are evident.

1 We also evaluate the students with standardized tests that we administer in the fifth and eighth grades.  
2 Chris' scores in fifth grade were barely at grade level. In eighth grade Chris missed the exams due to declining  
3 attendance and the tests were never made up. Chris and Chris' mother, through a written notice, knew it was Chris'  
4 responsibility to make up the test after school within 30 days, but they did nothing. Mary Kapileo who is the  
5 district's record keeper keeps track of all the students who need to be tested. She is fastidious about ensuring all the  
6 children who miss the standardized tests in fifth and eighth grades are tested. I worked with Mary for eighteen years.  
7 I cannot recall the efforts that were made the exact year that Chris was in eighth grade for the make up tests, but the  
8 habit and practice at CNMI School District is to not let a child pass into the next grade without the standardized test  
9 scores. In Chris' case, he should not have been allowed to progress into ninth grade. Mary had a good system in  
10 place. In the years before computers, Mary had to collect the data by hand comparing the names of students at each  
11 junior high to the list of test takers. Computers really made the system more efficient. Every year the programs for  
12 keeping track of the student data improves. Currently, we use the same system that was in place when Chris was in  
13 eighth grade. Mary kept a "tickle" system on her computer with the names of students who needed to make up the  
14 standardized tests. The tickler is a daily reminder on the computer screen of what needs to get done. Mary kept the  
15 names of the students who needed to make up the test in her everyday reminders until every last student was tested. I  
16 wish Mary could testify as to her system, but she retired after the 2005-2006 school year and has moved away from  
17 the Mariana Islands. I don't know how Chris slipped through to high school without the test. Mary would be furious  
18 if she heard.

17 Chris Matagolai has a fairly decent record in school. Chris received satisfactory grades in elementary  
18 school and Chris' attendance was good. In junior and senior high school Chris started to miss quite a bit of school  
19 and Chris' grades seemed to reflect this fact. Although Chris passed all classes, it was with low grades. A  
20 concerned parent should have been at the school questioning what was happening. Chris' mother never came to the  
21 school.

22 Alex's attendance has been good all through school. Alex has barely missed any classes. If Alex was  
23 absent there was always a note from home upon return to school. This way it was an excused absence. In  
24 elementary school Alex received satisfactory grades and passed all classes in junior and senior high school. Alex  
25 has been present for all standardized tests and has continuously performed at grade level.

1 As for Dr. Gerry Aquino, s/he should know why the district could not hire him/her. I don't want to say  
2 anything bad to ruin Dr. Aquino's reputation but take a look at the police clearance.

3 We clearly cannot do the job of educating our youth on our own. It has to be a team effort. Students need  
4 to work hard in school and parents need to participate in their child's education or the system won't work. It is not  
5 the school's job to get Chris a job. The best we can do is provide the opportunity to learn. You can't say the schools  
6 have failed Chris, but rather that Chris and Chris' mother must take responsibility for low grades and lack of  
7 academic ability. As far as this lawsuit goes, control and management of educational affairs is vested with our board  
8 and in the superintendent and the courts should not interfere with such affairs.

8 COMMONWEALTH OF THE  
9 NORTHERN MARIANA ISLANDS

10 SUBSCRIBED AND SWORN to before me by above deponent, this \_\_\_\_day of August 2006.

11 My commission Expires: April 4, 2008

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13 \_\_\_\_\_/s/\_\_\_\_\_

14 Mark Alan

15 NOTARY PUBLIC  
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1 **Witness Statement for Defendants**

2 **Leslie Green,**

3 **Teacher, Capitol Hill Senior High School**

4  
5 My name is Leslie Green. I have a B.A. degree in secondary education and I am certified to teach English  
6 and almost certified to teach Social Studies in the CNMI. I have been a teacher in the CNMI School District for the  
7 past four years. I teach social studies at Capitol Hill High School. Chris Matagolai was in my social studies classes  
8 for junior and senior years.

9 In my classes I try to meet the individual needs of students. I like to see students reach their potential. For  
10 that reason my classroom activities are designed to help students succeed. We do a lot of small group activities,  
11 role-plays, mock trials, discussions and debates. I have students in the class at various levels. Some have  
12 difficulties with reading, others with writing, and others lack verbal skills. I try to set up the activities so all students  
13 can participate regardless of what level they are on. For example, before we do a role-play, I'll have a good student  
14 read parts out loud. This way, if students aren't capable of reading the material, they can still know what is going  
15 on.

16 I do the same things with evaluations. There are several components to a student's grade. Attendance,  
17 class participation, homework, test scores and alternative grade activities all make up the grade. I give homework  
18 assignments on a regular basis. Students receive credit for just handing the homework in. A good job on the  
19 homework gets extra credit. I don't penalize those students who do not their homework correctly. I want to  
20 encourage them to at least try and do their homework.

21 Tests are made up of multiple choice, fill in the blank, true/false, short answer and essay questions. Before  
22 each test I have a review of the material that will be covered by the test. In addition, I read the questions from the  
23 test out loud so I can be sure all the students understand the questions. A student can pass the test if he or she gets  
24 all the multiple choice, true/false, fill in the blank and short answer questions right.

25 Sometimes I don't give a regular exam for student grades. I use alternative grading methods. For example,  
often the students get to participate in a mock trial. They have to prepare for it and I grade them on their preparation  
and their actual participation. I give the students a sheet that indicates how I will grade them on each aspect and

1 what skills I am looking for in their work. This gives students an opportunity to pull up their grades if they don't do  
2 well on tests.

3 The school's policy is to pass students whenever possible. The policy is not written down but it is  
4 understood. The principal gives a pep talk at the beginning of each school year. We are told all students should be  
5 helped to meet their potential. Our learning program and evaluation system should be designed to help students'  
6 progress to the best of their ability. If a student does not get a high school diploma, their chance of landing a job is  
7 significantly less.

8 Chris is a very personable and likeable student. Chris often participates in class and offers good ideas in  
9 class discussions. I would have liked to see Chris do more homework, but at least Chris was usually in class and  
10 participated. Chris has opinions about everything and never hesitates to voice them. It adds a lot to the class. I  
11 noticed Chris seemed not to have much support from home. From my years in teaching I know that parent  
12 participation is important. Usually only the parents of our "best and brightest" attend parent teacher night. I never  
13 saw Chris' mom attend. In fact I have never been introduced to Chris' mom, so I am not sure I would really  
14 recognize her. A parent not attending is not surprising. Teacher conferences are usually held from 8:30 –3:30 on  
15 non-instructional days. I expected more parents to attend after the Highly Qualified policy went into effect. Because  
16 I am not yet officially "HQT" in social studies the parents should have received notices that I was not qualified. I am  
17 sure I would hear an earful from parents blaming the school and teachers, but thankfully the letter did not go out.

18 Chris isn't a very good test taker; his written work was poor and the test grades reflected this. Most of the  
19 grades were Ds and there were a couple of Cs. However, Chris did do well on special projects. Last year Chris was  
20 a witness in our mock trial and in the state competition won an award for best witness. If the work is interesting and  
21 someone works with Chris, the level of work produced is very good.

22 A couple of years ago the CNMI School District instituted standardized testing for teachers called the  
23 Highly Qualified Teacher Test. There are two tests. Each teacher is supposed to pass at least two tests. All teachers  
24 from preschool through high school take the first test in basic academic teaching skills called the Highly Qualified  
25 Teacher Test I. The second test depends on the subject matter that the teacher teaches.

I have passed the Highly Qualified Test in English; I plan on taking the Highly Qualified Test in Social  
Studies again in the next few months. I know I was supposed to be highly qualified in my subject by this year, but  
my principal was really desperate for a social studies teacher in the last few years. I offered to switch from English

1 to social studies. I did not pass the Highly Qualified test in Social Studies the first time I took it, I guess I  
2 underestimated how detailed the questions could be. I am out of practice with test taking. However, just because I  
3 did not pass the HQT in Social Studies does not mean I am not a good teacher. The same goes with my students,  
4 just because they may not be able to pass a test does not mean they are not a good student and should fail.

5 I feel bad for Chris' plight but suing the district is not the answer. Education is an intensely collaborative  
6 process, requiring the interaction of student with teacher. A good student can learn from a poor teacher; a poor  
7 student can close his mind to good teacher. Without effort by a student, a student cannot be educated. Good  
8 teaching methods may vary with the needs of the individual student. In education the ultimate responsibility for  
9 success remains always with the students. Both the process and the result are subjective and proof or disproof  
10 extremely difficult. The students' attitude, motivation, temperament, past experience and home environment may all  
11 play as essential and immeasurable role in learning. Chris tried and I understood how hard that student worked.

12 With thirty students per class, that is a whole lot to think about. I cannot imagine being held accountable for  
13 educational malpractice with all those factors to consider for every one of my students. Classroom methodology  
14 affords no readily acceptable standards of care, or cause or injury. The science of pedagogy itself is fraught with  
15 different and conflicting theories of how or what a child should be taught, and any layman might and commonly  
16 does have his or her own emphatic views on the subject, as I do.

17 COMMONWEALTH OF THE  
18 NORTHERN MARIANA ISLANDS

19 SUBSCRIBED AND SWORN to before me by above deponent, this \_\_\_day of August 2006.

20 My commission Expires: April 4, 2008

21 \_\_\_\_\_/s/\_\_\_\_\_

22 Mark Alan

23 NOTARY PUBLIC  
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1 Witness Statement for Defendants

2 Alex Taitano, Student, Capitol Hill Senior High School

3  
4 My name is Alex Taitano and I am 18 years old. I graduated from Capitol Hill High School and attended  
5 CNMI public schools since I was five. I live with my mother and stepfather in a two-bedroom apartment at 2300  
6 14th Street, Capitol Hill. My mother and stepfather both work. They do take time to check my schoolwork and  
7 usually at least one of them goes to the school for parent teacher conferences and open houses.

8 My attendance at school is very good. My mother doesn't let me stay home from school. Sometimes I  
9 don't feel like going, especially when its raining or really hot or something, but I know I would be in a lot of trouble  
10 if I didn't go to school.

11 My school average is about a C. I could probably do better but I only work hard in those classes I really  
12 like. I have been going to the reading program that was started three years ago. I was encouraged to do so by Ms.  
13 Gomez, the school counselor. She said my reading scores on my eighth grade-standardized tests were low. It seems  
14 to have helped my reading ability. My reading level increased and schoolwork became a little easier. I am really  
15 thankful for Ms. Gomez's help. She is my mom's first cousin, but that is not why she took an interest in helping me,  
16 she is just an overall good person. I don't know if she encouraged everyone but she encouraged me.

17 The reading program is held before school so it does not get in the way of after school activities. Different  
18 teacher and college students volunteer to help us out. Usually the reading program is about 1 instructor to 3-4  
19 students. Many students, like Chris, are not as dedicated as I am to showing up, so I get a lot of attention. Once  
20 when Chris saw me leaving the program in the morning Chris called me a "nerd" and a "kiss up". Chris said that I  
21 was attending the reading program in hopes of getting a recommendation for the San Francisco trip. I asked Chris to  
22 attend with me but Chris said reading was just too difficult. Chris also said reading is weak and not cool.

23 I started working on the weekends and after school last year. I wanted to get some work experience so it  
24 would be easier for me to get a job after I graduated from school. I've been working in a department store that  
25 offered me a full-time job when I graduate. I didn't have any problems getting a job. I took my time and carefully  
filled out the job application at several places. When I took the Life Skills course at school I learned how to handle  
myself in an interview. That made it easier when I went to apply for real jobs.

1 Chris and I used to be good friends. We've known each other for a long time but we hang out with different  
2 crowds. Chris likes to party a lot and doesn't always go to school. If I stayed out of school as much as Chris or  
3 didn't do my homework like Chris, my mother and stepfather would kill me. They would never let me get away  
4 with stuff like that. I could never tell if Chris's mom was never around or Chris just kept things from her. I  
5 remember this one time that Chris was supposed to get a permission slip signed for an off-island trip to Rota. We  
6 were heading to Rota for the All Schools Coed basketball finals but we had to get parental permission. Our coach  
7 handed us the forms: there was an overall informational form, an insurance form and a parent permission form with  
8 all sorts of legal language on it. At that point I realized that Chris didn't or couldn't read the form. The blank lines  
9 were only half filled out. As a result Chris could not attend and we were a player short forfeiting the championships.  
10 I was so mad; I asked Chris why it was not filled out. Chris just looked at me and looked confused as Chris tried to  
11 read the form and said, "I thought it was filled out".

12 It's important to go to school. You get a chance to do extra stuff when you're at school all the time. For  
13 example, there's a trip coming up this fall to San Francisco, California, and I was one of ten students selected in my  
14 senior year because of good attendance. Ms. Gomez wrote my letter of recommendation. We're going to visit  
15 historical landmarks, go to an amusement park, visit a college campus and get to go to a big party. It really sounds  
16 like fun.

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18 NORTHERN MARIANA ISLANDS

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21 \_\_\_\_\_/s/ \_\_\_\_\_

22 Mark Alan

23 NOTARY PUBLIC  
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