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**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA**

**KRISTA GARCIA, by and through her  
guardian ad litem Lorraine Marin,**  
  
**Plaintiff,**  
  
**v.**  
  
**CLOVIS UNIFIED SCHOOL  
DISTRICT, DOUGLAS BURNS, BARRY  
JAGER, GREG BASS, ANN-MAURA  
CERVANTES, MAI YIA MOUA, and  
DOES 1 through 20, inclusive,**  
  
**Defendants.**

**1:08-cv-1924 AWI DLB**  
  
**ORDER FOR ADDITIONAL  
BRIEFING REGARDING  
POSSIBLE APPLICATION OF  
28 U.S.C. § 1367(c)**

Currently pending before the Court for decision is a motion to dismiss by all Defendants, except Defendant Douglas Burns. There are currently thirteen causes of action in this case, only two of which are federal claims.<sup>1</sup> The state claims include four intentional torts, two violations of the California Education Code, three negligence causes of action, one negligence *per se* claim, and one claim under California Civil Code § 51.9.<sup>2</sup> The two federal claims are a Title XI sexual

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<sup>1</sup>The Complaint actually alleges fourteen causes of action. However, Plaintiff concedes that the last cause of action, a 42 U.S.C. § 1983 claim against the School District, is not cognizable. See Plaintiff’s Opposition at p. 20.

<sup>2</sup>Plaintiff cites Hughes v. Pair, 154 Cal.App.4th 1469 (2007), for the proposition that sexual harassment under California Civil Code § 51.9 is to be interpreted consistently with FEHA and Title VII. Plaintiff’s Opposition at p. 12. However, the California Supreme Court granted review of Hughes on November 28, 2007. See Hughes v. Pair, 171 P.3d 545 (Cal. 2007). It appears that the California Supreme Court is reviewing whether FEHA and Title VII jurisprudence regarding sexual harassment should be utilized under Civil Code § 51.9. See Hughes v. Pair, 2008 CA S. Ct. Briefs LEXIS 848, \*2 (Feb. 8, 2008); [http://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=0&doc\\_id=495529&doc\\_no=S157197](http://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=0&doc_id=495529&doc_no=S157197).

