

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 09-cv-00858-CMA-MEH

EBONIE S., a child, by her mother and next friend, MARY S.

Plaintiff,

v.

PUEBLO SCHOOL DISTRICT 60,  
MARILYN GOLDEN, Teacher, in her official and individual capacities,  
GARY TRUJILLO, Principal, in his official and individual capacities,  
MARY JO BOLLINGER, Executive Director of Exceptions Student Services, in  
her official and individual capacities,  
LOUISE RIVAS, Paraprofessional, in her official and individual capacities,  
SHARRON WELLS, Paraprofessional, in her official and individual capacities,  
ISABEL SANCHEZ, Paraprofessional, in her official and individual capacities,  
AUDRA MARTINEZ, Paraprofessional, in her official and individual capacities,  
and  
KRISTEN POTTER, Paraprofessional, in her official and individual capacities

Defendants.

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**PLAINTIFF'S AMENDED DAMAGES CALCULATION**

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Pursuant to Magistrate Hegarty's order at the August 12, 2009  
Scheduling Conference, Plaintiff Ebonie S., through her undersigned counsel,  
submits the following Plaintiff's Amended Damages Calculation.

Plaintiff currently anticipates that she will seek the following damages:

- 1) Compensatory damages including, but not limited to, those for:

- a. Emotional distress, pain and suffering, humiliation, anxiety, loss of enjoyment of life in an amount of not less than \$150,000, which continue to accrue;
- b. Damages for future care in an amount of not less than \$150,000;<sup>1</sup> and
- c. Economic damages, in an amount of not less than \$161,872,<sup>2</sup> including but not limited to:
  - i. Individual therapy from a clinical psychologist for Ebonie in Boulder, at \$140/hour, once per month for four years = \$6,720
  - ii. Travel to and from Boulder for individual therapy, once per month for four years, approximately 250 miles round trip, at the federal rate for medical travel of \$0.24/mile = \$2,880
  - iii. Increased expense of childcare because of Ebonie's behavioral regression (higher rate and need for more

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<sup>1</sup> This number may be drastically understated and Plaintiff reserves the right to amend after her experts have fully considered this issue. It is expected that Ebonie will require supervisory and clinical services throughout her life. Upon completing her public school education, Ebonie will likely require placement in a group home or similar supportive community. Ebonie is expected to require a higher level of care because of the emotional and behavioral decline she suffered following her experiences at Bessemer Academy.

<sup>2</sup> These are the currently known and expected economic damages caused by Defendants' illegal and wrongful acts. Ebonie is a volatile, fragile child with communication challenges, and further damage caused by Defendants may continue to develop. Furthermore, Plaintiff's experts have not fully examined the extent of the damage Defendants' actions have caused. Therefore, this category of damages may need to be revised at a later date.

- coverage), 20 additional hours per week at \$14/hour for four years (50 weeks/year) = \$56,000
- iv. Hotel expenses in Denver due to need to see psychiatrist for medication management outside of Pueblo area because of behavioral regression, one night per month for four years at federal per diem rate of \$149.00 = \$7,152
  - v. Behavioral therapist for recreational activities for four years at \$50/hour, 2 hours/week (50 weeks per year) = \$20,000
  - vi. Family therapy from a clinical psychologist for four years at \$140/hour, once per month = \$6,720
  - vii. Therapeutic respite care for four years at ten hours per week, \$30/hour = \$62,400
- d. Additionally, Plaintiff has a pending due process action against Pueblo School District 60 under the Individuals with Disabilities Education Act (“IDEA”) styled Due Process Hearing 2009:112, which is slated for a 7-day administrative hearing beginning on September 21, 2009. After exhaustion of her administrative remedies, Plaintiff will seek to have that action joined with the current case. In the due process case, Plaintiff is seeking the following private school reimbursement/compensatory education award plus related costs, for a total of \$158,015.44:

- i. \$110,250<sup>3</sup> for tuition at the private school that Ebonie's mother had to place her at as a result of Defendants' actions, calculated at \$2100 per month for 50 months plus 5% allowance for anticipated tuition increases. Fifty months encompasses both two years compensatory education and ongoing placement through fifth grade.
  - ii. \$8,000.00 for summer school, \$2000 per summer session for four years.
  - iii. \$39,765.44 in total transportation costs, representing transportation to and from school, four days a week (28.6 miles each way, 2 round trips per day, four days per week at the current IRS reimbursement rate of 55 cents = \$251.68 per week for 158 weeks).
  - iv. If she prevails at due process, Plaintiff will also seek an award of attorney fees pursuant to 20 U.S.C. § 1415(i)(3)(B)(i)(I).
- 2) punitive damages against the individual Defendants, to be determined by the jury following trial in this case; and
  - 3) attorney fees, costs, and pre- and post-judgment interest, which continue to accrue.

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<sup>3</sup> This figure may be discounted at due process by amounts already paid to Soaring Eagles by the District during the compensatory education period.

Plaintiff will seek leave to amend the calculations herein following the Court's deadline for expert witness disclosures, which is November 13, 2009.

Dated this 11<sup>th</sup> day of September, 2009.

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 11, 2009, I electronically filed the foregoing Plaintiff's Amended Damages Calculation with the Clerk of the Court using the CM/ECF system, which will send electronic notification of such filing to:

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s/ Eloise Henderson Bouzari  
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