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16 **UNITED STATES DISTRICT COURT**
17 **DISTRICT OF NEVADA**

18 KARESSA BATTENFELD and A.D., a minor
19 by and through her guardian ad litem KARESSA
20 BATTENFELD; BRENDA DONAHUE and
A.Q., a minor by and through her guardian ad
21 litem BRENDA DONAHUE,

22 Plaintiffs,

23 v.

24 WASHOE COUNTY SCHOOL DISTRICT,
DEBBIE STEBBINS, MATTHEW BURAK, and
25 DOES 1-30,

26 Defendants.
27
28

Case No.

COMPLAINT FOR DAMAGES

[JURY DEMAND]

1 **INTRODUCTION**

2 1. Plaintiffs bring this action on behalf of themselves and as guardians ad litem for their minor
3 children, A.D. and A.Q. The minors were 8 years old when they were placed in the classroom of
4 DEBBIE STEBBINS (“STEBBINS”) at Marvin Picollo Elementary School in the Washoe County
5 School District. There, they were subjected to physical, verbal, and emotional abuse by
6 STEBBINS.

7 **JURISDICTION AND VENUE**

8 2. The Court has jurisdiction of this action pursuant to 28 U.S.C. § 1331 for violations of
9 42 U.S.C. § 1983, the Americans with Disabilities Act of 1990, (42 U.S.C. § 12101, *et seq.*) and §
10 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794.)

11 3. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b)(2) and is founded on the
12 fact that Plaintiffs’ causes of action arose in this district.

13 **PARTIES**

14 4. Plaintiff KARESSA BATTENFELD is a resident of Sparks, County of Washoe,
15 Nevada. She brings this action on her own behalf and as guardian ad litem on behalf of her
16 daughter, A.D.

17 5. Plaintiff A.D. is a minor and a resident of Sparks, County of Washoe, Nevada. At the
18 time of the events underlying these causes of action, A.D. was a special education student
19 entrusted to the care of Defendant Washoe County School District (“WCSD” or “the District”)
20 and other named Defendants at Marvin Picollo Elementary School.

21 6. Plaintiff BRENDA DONAHUE is a resident of Reno, County of Washoe, Nevada. She
22 brings this action on her own behalf and as guardian ad litem on behalf of her daughter, A.Q.

23 7. Plaintiff A.Q. is a minor and a resident of the Reno, County of Washoe, Nevada. At the
24 time of the events underlying these causes of action, A.Q. was a special education student entrusted
25 to the care of Defendant WCSD and other named Defendants at Marvin Picollo Elementary
26 School.
27
28

1 8. Defendant WCSD is a public entity duly incorporated and operating under Nevada law
2 as a school district.

3 9. Defendant DEBBIE STEBBINS (“STEBBINS”) was a special education teacher at
4 Marvin Picollo Elementary School during the 2013-2014 school year. All actions by STEBBINS
5 were taken under color of state law and in the course and scope of her employment with WCSD.10.

6 10. Defendant MATTHEW BURAK (“BURAK”) was and is, at all times pertinent hereto,
7 the Principal at Marvin Picollo Elementary School. All actions by BURAK were taken under color
8 of state law and in the course and scope of his employment with WCSD.

9 11. The true names and capacities of defendants sued as DOES 1-30 are unknown to
10 Plaintiffs and Plaintiffs pray leave to amend to allege the true names and capacities when they are
11 ascertained.

12 **FACTS**

13 **A. Common Allegations**

14 12. Minor Plaintiffs A.D. and A.Q. were special education students at Marvin Picollo
15 Elementary School assigned to STEBBINS’ special education classroom beginning September 1,
16 2013. There were six children in the classroom, along with two classroom aides. Four of the
17 children, including Plaintiff A.D., are wheelchair users.

18 13. Both A.D. and A.Q. are non-verbal and have received early intervention in all areas of
19 development. They are completely dependent on others for their care.

20 14. During their time in her class, STEBBINS subjected both A.D. and A.Q. to severe
21 physical, emotional, and psychological abuse.

22 15. On information and belief, Plaintiffs allege that the two minor Plaintiffs also observed
23 other students in the class being abused by STEBBINS.

24 16. On information and belief, Plaintiffs allege that Child Protective Services (“CPS”)
25 received multiple complaints regarding STEBBINS’ mistreatment and abuse of her students during
26 the 2013-2014 school year.

27 17. In or around late March 2014, shortly after the allegations of abuse involving A.D. and
28 A.Q. came to light, STEBBINS quietly retired from her teaching position at Marvin Picollo

1 Elementary.

2 **B. Abuse Inflicted on Plaintiff A.D.**

3 18. Plaintiff A.D. was born on March 20, 2005 and was eight years old when she was
4 assigned to STEBBINS' classroom in the fall of 2013. She has been diagnosed with cerebral palsy,
5 quadreparesis, and other health conditions which have significantly impacted her development.

6 19. Plaintiff KARESSA BATTENFELD is A.D.'s mother.

7 20. A.D. began attending Marvin Picollo Elementary in fall 2011. Prior to attending
8 STEBBINS' class, A.D. had enjoyed going to school there. However, in the fall 2013 semester,
9 A.D.'s mother began to sense that something was wrong. A.D. began suffering from seizures and
10 had screaming episodes while at school. As a result, Ms. BATTENFELD had to leave work
11 several times a week to pick her daughter up at the school's request. On one of these occasions,
12 STEBBINS told BATTENFELD that her daughter was a "momma's girl" and was "acting like a
13 princess."

14 21. During her time in STEBBINS' classroom, A.D.'s behavior underwent other
15 significant adverse changes. A.D. began exhibiting self-harming behavior, including biting herself.
16 This behavior was not present prior to the 2013-2014 school year. Plaintiff BATTENFELD became
17 very concerned about A.D.'s changed behavior. However, due to her disabilities, A.D. was unable
18 to articulate the cause of her distress to her mother.

19 22. In or around early February 2014, A.D. had a regular checkup appointment with her
20 pediatrician. The pediatrician asked BATTENFELD "what is happening with this child? I can see
21 that she is suffering from some sort of severe stress and anxiety." Concerned for her daughter's
22 wellbeing, BATTENFELD scheduled a meeting for March 8, 2014 with STEBBINS and Marvin
23 Picollo Elementary Principal BURAK to discuss the possible reasons for A.D.'s behavioral
24 difficulties.

25 23. On information and belief, Plaintiffs allege that A.D. was subjected to physical and
26 verbal abuse that caused behavioral changes and psychological symptoms consistent with exposure
27 to abusive conditions.

1 24. On March 6, 2014, STEBBINS' class participated in "Equine Therapy", an on-campus
2 horseback riding program. Not all of the students who participate in the program can ride a horse
3 on their own because of their disabilities. This includes A.D., who is a wheelchair user, has no
4 movement in her arms or legs and is unable to sit up or spread her legs apart. A.D. has never
5 ridden a horse on her own. In order for A.D. to participate, the horse riding instructor or another
6 trained volunteer must first mount the horse. Then, another volunteer helps A.D. onto the horse.

7 25. According to an anonymous report later given to Child Protective Services ("CPS"),
8 STEBBINS was seen yelling and swearing at A.D. while she was still in her wheelchair.
9 STEBBINS was then observed picking A.D. up out of her wheelchair and shoving her on top of a
10 horse by herself. In March 2014, A.D. weighed approximately 32 pounds. Due to her physical
11 disabilities, A.D. could not get her legs around the horse and began to fall over. STEBBINS then
12 attempted to pry A.D.'s legs apart, which caused A.D. to cry out in pain. STEBBINS then pulled
13 A.D. off of the horse and threw her back into her wheelchair. According to CPS, other witnesses,
14 including the horseback riding instructor, heard A.D.'s screams and intervened, yelling at
15 STEBBINS to stop. STEBBINS told the horse riding instructor and other volunteers to "mind their
16 own business."

17 26. On information and belief, at least five individuals observed the incident on March 6,
18 2014. At no time did anyone from Marvin Picollo Elementary or the District contact
19 BATTENFELD to tell her what had happened to her daughter. Additionally, although school
20 officials are mandated reporters under Nevada's child abuse reporting law (NRS 432B.220), on
21 information and belief, no one from Marvin Picollo or the District contacted CPS or law
22 enforcement regarding STEBBINS' actions on March 6, 2014.

23 27. On or around March 8, 2014, BATTENFELD had the meeting she had requested with
24 STEBBINS and BURAK regarding A.D.'s recent behavioral difficulties. Notably, neither
25 STEBBINS nor BURAK informed BATTENFELD about the horrific instance of abuse involving
26 her daughter that had occurred just two days prior.

1 28. On or around March 26, 2014, while at work, BATTENFELD received a phone call
2 from CPS describing the anonymous complaint they had received regarding STEBBINS treatment
3 of A.D. on March 6, 2014. BATTENFELD then immediately contacted BURAK and demanded to
4 know why no one from the school had told her about the incident. BURAK admitted that he had
5 been aware of the horseback riding incident the day it had occurred and was aware that “concerns”
6 had been raised regarding STEBBINS. However, BURAK said that he didn’t believe that the
7 incident merited reporting to either BATTENFELD or to law enforcement. When BATTENFELD
8 asked whether STEBBINS had been removed from the classroom, BURAK said that STEBBINS
9 was still teaching and that a decision regarding her removal was not “within my jurisdiction.”

10 29. The next morning, BATTENFELD accompanied her daughter to school to make sure
11 that she would not be placed in a classroom with STEBBINS. Plaintiff BATTENFELD was
12 informed that STEBBINS had been placed on administrative leave and that a substitute teacher had
13 been assigned to her classroom. Thereafter, BATTENFELD contacted the Washoe County School
14 District Police Department (“School District Police”), who undertook an investigation into the
15 allegations against STEBBINS. After their investigation, School District Police referred the case to
16 the Washoe County District Attorney.

17 30. In early April 2014, Plaintiff BATTENFELD contacted the local news media regarding
18 A.D.’s story. News 4 (KRNV Reno) ran a segment concerning the abuse A.D. had suffered at the
19 hands of STEBBINS. After the news segment ran, Plaintiff BATTENFELD was contacted by
20 various school staff members at Marvin Picollo (including other teachers) who expressed their
21 gratitude for BATTENFELD’s having brought the issue to light. They described STEBBINS as
22 “evil” and explained that they too had attempted to get STEBBINS removed from her teaching
23 position. At least one staff member told BATTENFELD that Principal BURAK protected
24 STEBBINS and had tried to stonewall the recent investigation into the allegations of abuse.
25 BATTENFELD was also told by a Marvin Picollo staff member that employees who in the past
26 had spoken out against STEBBINS had been threatened with reprisal, including loss of their
27 employment with the school.

28 31. On information and belief, Plaintiffs allege that BURAK was aware of prior incidents

1 of abuse by STEBBINS. BURAK took no action to discipline STEBBINS or otherwise prevent
2 further abuse. Furthermore, BURAK acted to prevent other employees from exposing the abuse,
3 thereby creating a climate where employees were intimidated from reporting observed acts of
4 abuse. In so acting and failing to act, BURAK was aware that his acts and failures to act in this
5 regard made it substantially likely that other students would be subjected to abuse such as that
6 suffered by A.D.

7 32. Plaintiff BATTENFELD is devastated about what happened to her daughter. Moreover,
8 she feels that she has been mistreated by the WCSD for the District's total failure to communicate
9 to her what was going on with respect to her daughter and STEBBINS.

10 33. Since leaving STEBBINS' classroom, A.D.'s behavioral problems have greatly
11 improved. Nevertheless, A.D. continues to experience anxiety, stress and fear that were caused by
12 the defendants' conduct and/or failure to act. On information and belief, A.D. will need
13 psychological treatment to address the trauma she has experienced.

14 **C. Abuse Inflicted on A.Q.**

15 34. Plaintiff A.Q. was born on March 19, 2005 and was eight years old when she was
16 assigned to STEBBINS' classroom. She has been diagnosed with 15q deletion, a rare genetic
17 disorder affecting her mental, motor and language development.

18 35. Plaintiff BRENDA DONAHUE is A.Q.'s mother.

19 36. A.Q. began attending Marvin Picollo Elementary in fall 2011. Prior to attending
20 STEBBINS' class, A.Q. had enjoyed going to school there. However, in the fall 2013 semester,
21 A.Q.'s mother began to sense that something was wrong.

22 37. In November 2013, A.Q. began losing interest in toileting and began urinating on
23 herself. In addition, Plaintiff DONAHUE began receiving notes from school that A.Q. was pulling
24 her hair and biting herself. These symptoms and behavior were not present in the same degree of
25 severity, if at all, prior to the 2013-2014 school year.

26 38. Plaintiff DONAHUE began observing that A.Q. would get extremely upset when she
27 witnessed another child crying. Further, A.Q. started coming home from school with various
28 injuries, including bruises on her thighs and arms and carpet burn marks on her legs. Seeking

1 answers for her daughter's injuries, Plaintiff DONAHUE contacted A.Q.'s physical therapists to
2 ask whether her daughter had participated in an especially rough or intensive physical therapy
3 session. The physical therapist said no.

4 39. Plaintiff DONAHUE became increasingly concerned about her daughter's wellbeing.
5 However, due to her disabilities, A.Q. was unable to articulate the cause of her stress and her
6 injuries to her mother.

7 40. On information and belief, Plaintiffs allege that A.Q. was subjected to excessive and
8 unreasonable physical force while in STEBBINS' classroom that caused these injuries.

9 41. On information and belief, A.D. was subjected to physical and verbal abuse that caused
10 behavioral changes and psychological symptoms consistent with exposure to abusive conditions.

11 42. On or around March 27, 2014, Plaintiff DONAHUE received a phone call from
12 Principal BURAK. BURAK indicated that he had been alerted to allegations of abuse involving her
13 daughter and STEBBINS, but he refused to provide any specifics regarding the allegations.
14 Understandably, DONAHUE became very upset. BURAK cautioned DONAHUE not to worry
15 and said that he would get back to her with more information the following Monday, on March 31,
16 2014.

17 43. After her phone conversation with BURAK ended, Plaintiff DONAHUE immediately
18 contacted several friends and acquaintances that either worked or volunteered at the school to see if
19 she could obtain further information about what STEBBINS had done to her daughter.

20 44. Through these efforts, DONAHUE was able to piece together the following
21 information: on a recent morning on her way to school, A.Q. had been greeted by STEBBINS as
22 she attempted to exit the school bus. Due to her disabilities, A.Q. is unable to stand or walk on her
23 own and must use a crocodile walker for ambulation. She also requires help to enter or exit a
24 school bus. At the time, A.Q. weighed approximately 42 pounds. STEBBINS apparently became
25 frustrated that A.Q. wasn't moving fast enough and was heard yelling "you're going to make me
26 late." STEBBINS was observed roughly grabbing A.Q. and pulling her off the bus, which resulted
27 in A.Q. falling onto the street. STEBBINS then walked away, leaving A.Q. on the cement, crying
28 in pain. At this point, a bus driver who had witnessed the incident intervened to help A.Q. off of

1 the ground.

2 45. The next day, Plaintiff DONAHUE drove to Marvin Picollo Elementary to speak with
3 BURAK. Upon entering the school, DONAHUE was unexpectedly contacted by School District
4 Police, who were there investigating the reports of abuse involving STEBBINS. DONAHUE spoke
5 with the officers and with Principal BURAK, who confirmed that STEBBINS had allegedly pulled
6 A.Q. from the bus and dumped her on the street several days earlier. After their investigation,
7 School District Police referred the case to the Washoe County District Attorney.

8 46. Plaintiff DONAHUE is deeply upset that WCSD delayed in telling her what happened
9 to A.Q. and did not disclose what had happened to the other children in A.Q.'s classroom.

10 47. Since leaving STEBBINS' classroom, A.Q.'s behavioral problems have greatly
11 improved. Nevertheless, A.Q. continues to experience anxiety, stress and fear that were caused by
12 the defendants' conduct and/or failure to act. On information and belief, A.Q. will need
13 psychological treatment to address the trauma she has experienced.

14 **I. FIRST CLAIM FOR RELIEF**

15 **(Excessive Use of Force Pursuant to 42 U.S.C. § 1983 Plaintiffs A.D. and**
16 **A.Q. vs. STEBBINS and BURAK)**

17 48. Plaintiffs refer to, and incorporate by reference, all of the preceding paragraphs as
18 though fully set forth herein.

19 49. A.D. and A.Q. have a constitutional right under the Fourth Amendment to the United
20 States Constitution to be free from unreasonable seizures and to be secure in their persons and to
21 maintain their bodily integrity against unreasonable assaults of their persons.

22 50. A.D. and A.Q. have a constitutionally protected liberty interest under the Fourteenth
23 Amendment in personal security, bodily integrity and freedom from unjustified intrusions on their
24 personal security, including bodily restraint and punishment without due process of law.

25 51. Defendant STEBBINS violated A.D. and A.Q.'s rights under the Fourth Amendment
26 and Fourteenth Amendment by using unjustified and unreasonable force against them.

27 52. Defendant STEBBINS' conduct was objectively unreasonable under the circumstances
28 and in light of the educational objectives A.D. and A.Q. were trying to achieve.

1 53. Defendant STEBBINS' conduct in physically seizing A.D. and A.Q. unlawfully
2 subjected them to excessive, unreasonable, and unnecessary physical force.

3 54. Defendant BURAK violated Plaintiff A.D. and A.Q.'s rights under the Fourth
4 Amendment and Fourteenth Amendment to the U.S. Constitution by actions, including but not
5 limited to, acting with deliberate indifference to the risk of harm to A.D. and A.Q. from
6 STEBBINS. Defendant BURAK personally participated in the deprivation of constitutional rights
7 of the minor Plaintiffs by his failure to act in response to allegations of serious child abuse by
8 STEBBINS.

9 55. Defendant STEBBINS and BURAK's actions, as described above, were objectively
10 unreasonable, willful and wanton, in light of the facts and circumstances.

11 56. As a proximate result of the violations alleged hereinabove, Plaintiffs have suffered
12 damages as heretofore alleged.

13 **II. SECOND CLAIM FOR RELIEF**

14 **(Discrimination in Violation of the Americans With Disabilities Act; Plaintiffs A.D. and**
15 **A.Q. v. WCSD)**

16 57. Plaintiffs refer to, and incorporate by reference, all of the preceding paragraphs as
17 though fully set forth herein.

18 58. Effective January 26, 1992, minor Plaintiffs were entitled to the protections of the
19 "Public Services" provision of Title II of the Americans with Disabilities Act of 1990. Title II,
20 Subpart A prohibits discrimination by any "public entity," including any state or local government,
21 as defined by 42 USC § 12131, section 201 of the ADA.

22 59. Pursuant to 42 USC §12132, Section 202 of Title II, no qualified individual with a
23 disability shall, by reason of such disability, be excluded from participation in or be denied the
24 benefits of the services, programs or activities of a public entity, or be subjected to discrimination
25 by any such entity. Minor Plaintiffs A.D. and A.Q. were at all times relevant herein qualified
26 individuals with a disability as therein defined.

27 60. WCSD has failed in its responsibilities under Title II to provide its services, programs
28 and activities in a full and equal manner to disabled persons as described hereinabove, including

1 failing to ensure that educational services are provided on an equal basis to children with
2 disabilities and free of hostility toward their disability.

3 61. WCSD has further failed in its responsibilities under Title II to provide its services,
4 programs and activities in a full and equal manner to disabled persons as described hereinabove by
5 subjecting Plaintiffs A.D. and A.Q. to a hostile educational environment.

6 62. As direct and proximate result of WCSD's failure to comply with their duty under Title
7 II, Plaintiff A.D. and A.Q. have suffered damages, including special and general damages,
8 according to proof.

9 **III. THIRD CLAIM FOR RELIEF**

10 **(Violation of § 504 of the Rehabilitation Act of 1973; Plaintiffs A.D. and A.Q. vs.**
11 **WCSD)**

12 63. Plaintiffs incorporate and reallege by reference all the foregoing paragraphs as if they
13 were fully set forth herein.

14 64. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 ("Section
15 504"), and the regulations promulgated thereunder prohibit discrimination against persons with
16 disabilities. Section 504 prohibits the exclusion from the participation in, or being denied the
17 benefits of, or being subjected to discrimination under, any program or activity receiving Federal
18 financial assistance.

19 65. Plaintiffs are informed and believe and thereon allege that WCSD is and has been at
20 all relevant times the recipient of federal financial assistance, and that part of that financial
21 assistance has been used to fund the operations, construction and/or maintenance of the specific
22 public facilities described herein and the activities that take place therein.

23 66. By its actions or inactions in denying equal access to educational services and by
24 subjecting Plaintiffs A.D. and A.Q. to a hostile educational environment, defendant has violated
25 Plaintiff's rights under § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the
26 regulations promulgated thereunder.

27 67. As a result of WCSD's failure to comply with their duty under § 504 of the
28 Rehabilitation Act of 1973, 29 U.S.C. § 794 and the regulations promulgated thereunder, Plaintiffs

1 A.D. and A.Q. have suffered damages, including special and general damages, according to proof.

2 **IV. FOURTH CLAIM FOR RELIEF**

3 **(Battery; Plaintiffs A.D. and A.Q. vs. STEBBINS)**

4 68. Plaintiffs incorporate and reallege by reference all the foregoing paragraphs, as if they
5 were fully set forth herein.

6 69. The use of force, as alleged herein, by Defendant STEBBINS against minor Plaintiffs
7 constituted a battery.

8 70. As a proximate result of Defendant STEBBINS' illegal battery, the minor Plaintiffs
9 suffered damages as alleged heretofore.

10 **V. FIFTH CLAIM FOR RELIEF**

11 **(Intentional Infliction of Emotional Distress; All Plaintiffs vs. All Defendants)**

12 71. Plaintiffs incorporate and reallege by reference all the foregoing paragraphs, as if they
13 were fully set forth herein.

14 72. The actions of Defendants as alleged herein were outrageous, malicious, and intended
15 to and did inflict emotional distress and humiliation upon Plaintiffs.

16 73. BURAK had a duty to promptly inform Plaintiffs BATTENFELD and DONAHUE
17 after learning about the abuse, and it was foreseeable that withholding the information from them
18 would cause more emotional distress than informing them in the first place.

19 74. Defendants' conduct was intentional and outrageous, in that after learning about the
20 abuse, Defendants continued to leave highly vulnerable children in STEBBINS' care. Previous
21 complaints concerning STEBBINS' treatment of her students were never disclosed to parents.

22 75. As a proximate result of Defendants' intentional acts, Plaintiffs have incurred damages
23 as alleged heretofore.

24 **VI. SIXTH CLAIM FOR RELIEF**

25 **(Negligence; All Plaintiffs vs. All Defendants)**

26 76. Plaintiffs incorporate and reallege by reference all the foregoing paragraphs, as if they
27 were fully set forth herein.

28 77. Defendants owed Plaintiffs a duty to exercise reasonable care in their interactions with

1 them. These Defendants failed to exercise reasonable care in their actions as alleged herein.

2 78. As a proximate result of Defendants' negligent acts, Plaintiffs have incurred damages
3 as alleged heretofore.

4 **VII. SEVENTH CLAIM FOR RELIEF**

5 **(Negligent Supervision; All Plaintiffs vs. All Defendants)**

6 79. Plaintiffs incorporate and reallege by reference all the foregoing paragraphs, as if they
7 were fully set forth herein.

8 80. Defendants owe students under their supervision a protective duty of ordinary care.

9 81. Defendant BURAK and other supervisory employees, to the extent their duties include
10 overseeing the educational environment and the performance of teachers and counselors, owe a
11 duty of care to take reasonable measures to guard students against harassment and abuse from
12 foreseeable sources, including any teachers or counselors they know or have reason to know are
13 prone to such abuse. BURAK was aware of STEBBINS' propensity to abuse students.

14 82. As a proximate result of Defendants' negligent supervision of Defendant STEBBINS,
15 Plaintiffs have incurred damages as alleged heretofore.

16 83. As a proximate result of Defendants' negligent acts, Plaintiffs have incurred actual
17 damages as alleged heretofore.

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19 **JURY DEMAND**

20 Plaintiffs hereby demand that this matter be tried by a jury.

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PRAYER

WHEREFORE, Plaintiffs pray for judgment as follows:

1. Compensatory damages to Plaintiffs for injury, emotional distress and for medical expenses, past and future;
2. Punitive damages against Defendants STEBBINS and BURAK;
3. Attorney's fees and costs; and
4. Such other and further relief as the court deems just and proper.

Respectfully submitted,

DATED: November 18, 2015

LAW OFFICE OF ROBERT KILBY

By: /s/

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