

SUMMONS

SC-85-1

IN THE SUPERIOR/STATE COURT OF Rockdale COUNTY
STATE OF GEORGIA

Schylee Harris (amino)
Tracy Davis as Best Friend
Tracy Davis, Individually
PLAINTIFF

CIVIL ACTION
NUMBER 2017-CV-12421

VS.
Rockdale County School
District et al

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

C. Victor Lundy
P.O. Box 310928
Atl. Ga. 30331

678-886-9142

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 28th day of Feb 2017

Clerk of Superior/State Court

BY Deborah S Adams
Deputy Clerk

**SUPERIOR COURT OF ROCKDALE COUNTY
STATE OF GEORGIA**

**SCHYLER HARRIS, by and through his Guardian
and next friend, TRACY DAVIS and TRACY DAVIS,
Individually**

Plaintiffs

vs.

Civil Action 2017-CV-10401

2017 FEB 28 PM 3:10
CLERK OF SUPERIOR COURT
ROCKDALE COUNTY, GA
KIMBERLY W. WILSON, CLERK

**ROCKDALE COUNTY SCHOOL DISTRICT;
RICHARD AUTRY, individually and in his official
capacity as superintendent of Rockdale County Schools;
TIWON TONY, individually and in his official capacity as
Principal of Shoal Creek Elementary School;
PATRICE GRAHAM, individually and in her official capacity as
Assistance Principal at Shoal Creek Elementary School;
TIFFANY THOMAS, individually and in her official capacity
as a Special Education teacher and employee of RCPS;
JACQUELINE BARMWELL, individually and in her official
capacity as an employee of RCPS;
ANTONIO CAMMON, individually and in his official
capacity as a paraprofessional, and as an employee of
RCPS and
JOHN DOE. (s) and JANE DOE(S)**

Defendants

COMPLAINT FOR DAMAGES

Plaintiffs Tracey Davis individually and Schyler Harris, through and by
Tracy Davis, his legal guardian and next friend, by and through their attorneys of
record, file this their Complaint for Damages and allege causes of action as
follows;

JURISDICTION AND VENUE

1

This Honorable Court has jurisdiction over the subject matter and the named parties herein, and Plaintiffs' Complaint set out below alleges violations of basic rights guaranteed them via the United State Constitution, including but not limited to the First, Eight, and the Fourteenth Amendments thereto, similar and basic rights guaranteed them by State of the Georgia Constitution, violations of established laws of the United States including but not limited to 20 U.S.C.A 1400 et seq., as amended (hereinafter called "IDEA") 42 U.S.C.A. & 12101 et as amended (hereinafter called "ADA"); as the acts of Defendants were in violation of Plaintiffs' basic Constitutional rights arising out of *ultra vires* acts; this action is brought under 42 U.S.C.A & 1983, et seq.

2

Defendants also violated various Georgia constitutional guarantees including but not limited to Articles I & II; Article I & II IX as well as statutory laws attendant to their [malicious] wrongful treatment of Plaintiffs for which they must be held liable. These laws are codified in O.C.G.A. and include damages for battery, false imprisonment, illegal restraint, cruelty to and physical/emotional abuse of Plaintiff Schyler Harris, a special-needs public school student, intentional infliction of severe emotional distress toward both Plaintiffs, gross negligence,

negligent hiring, negligent retention, failure to warn, failure to act as it relates to school teachers, faculty, staff and administrators, failure to train as it relates to school teachers, faculty, staff and administrators and breach of ministerial duties as it relates to school faculty, staff and administrators. Defendants also violated Georgia laws pertaining to the care and treatment of children with special-needs entrusted to their care, particularly children with disabilities as here and as codified in Title 20 of the Official Code of Georgia Annotated.

3

Jurisdiction is also granted to this Honorable Court pursuant of 42 U.S.C.A & 1983, because all acts and omissions of Defendants complained of by Plaintiffs were committed by each Defendant while acting in their capacity as employees of a political subdivision of the State of Georgia (i.e. Defendant Rockdale County, Georgia School District) and therefore were under color of Georgia state law. The acts of Defendants were beyond and in fact, in violation of their duty of protect Schyler Harris, by standing ***in loco parentis*** to his parents and guardians, and others' similarly situated; as well as their duties to abide by all state and federal laws governing performance of their duties as public school administrators and educators, including but not limited to those laws cited herein.

Parties

4

Rockdale County, Georgia School District (hereinafter: "RCPS") is a political subdivision of the Georgia State Government, which governs Rockdale County, Georgia Public School District under authority granted it by the Georgia Constitution, Articles VIII, & 5 et seq. and O.C.G.A., section 20-2-50 et seq. It has the duty to comply with all constitutional and statutory laws (state and federal) laws applicable to public education of children, including but not limited to the ADA; IDEA; Georgia Constitution Article I, O.C.G.A. titles 20 and 51; and all regulations promulgated under federal and state laws. It also is either the present or former employer of all individually named Defendants. Defendant may be served with a summons and a copy of this Complaint by effecting legal service upon RCPS Superintendent, Richard Autry.

5

Defendant, Richard Autry is Superintendent, Rockdale County School District's, Executive Officer, with power to enter into binding contracts on behalf of Rockdale County Schools (Ga. Const. Art 8 & 5 and O.C.G.A. & 20-2-100 et seq), and can be sued in his official capacities. Pursuant to law he may be served in his capacity as Executive Officer of Defendant Rockdale County Board of

Education, and may be served at Rockdale County Public Schools Superintendent's Office.

6

Defendant Tiwon Tony, at all times and places pertinent hereto, was Principal of Shoal Creek Elementary School. When he is served he becomes subject to the jurisdiction of this court.

7

Defendant, Tiffany Thomas, at all times pertinent hereto, was a Special Education teacher at Shoal Creek Elementary School. When she is served, she becomes subject to the jurisdiction of this Court.

8

Defendant, Jacqueline Barmwell, at all times pertinent hereto, was an employee of RCPS. When she is served, she becomes subject to the jurisdiction of this Court.

9

Defendant, Antonio Cammon at all times pertinent hereto, was a paraprofessional at Shoal Creek Elementary. When he is served, he becomes subject to the jurisdiction this Court.

10

Defendant, Patrice Graham, at all times pertinent hereto, was the assistant Principal at Shoal Creek Elementary, when she is served, she becomes subject to this Court's jurisdiction.

Defendants John and Jane Does are not at this time identified, however as soon as the Plaintiffs learn their identity, the Plaintiff will amend their complaint and add he/she or them as Defendant/Defendants. The Plaintiff reserves the right to amend said complaint relating to individual defendants and noted causes of action both foreseen and as they are revealed through discovery.

PROCEDURAL REQUIREMENTS

11

Pursuant to O.C.G.A. & 36-11-1, Plaintiffs through counsel, timely served an *Ante Litem* Notice upon Rockdale County School District and to RCPS Superintendent, Richard Autry. (Exhibit "A" hereto); sent by certified mail, return receipt requested.

NATURE OF ACTION

12

Plaintiffs file this Complaint to recover damages suffered when Defendants, employees and agents of Rockdale County School District, battered, unlawfully restrained, committed negligent acts, omissions /or negligently hired, failed to

train, failed to supervise employees staff and teachers, and [said] employees, staff and faculty breached their ministerial duties.

13

Plaintiffs also file this Complaint to recover economic losses sustained by Plaintiffs as a direct and proximate result of physical and mental injuries sustained and medical and other expenses incurred.

14

Finally, plaintiffs file this Complaint for compensatory and for punitive damages from individual Defendants for their egregious and illegal behavior; and whereas Plaintiffs can prove by clear and convincing evidence that Defendants' actions and omissions and failure(s) to act, showed willful misconduct, malice, fraud, wantonness, oppression, or with complete disregard of care under the referenced circumstances, and raise the presumption of conscious indifference to consequences.

15

All individual Defendants are served in their personal capacity and as co-agents and/or employees of Rockdale County Public Schools; acts and/or omissions of individual Defendants in their official capacity are encompassed in claims made against Defendant Rockdale County School District.(RCPS)

[7]

LEGAL BACKGROUND

16

Under IDEA and relevant implementing authority, state and local educational agencies, such as here, are required to identify, locate and evaluate all minor children with disabilities, as defined - “Disabilities” include not only enumerated specific learning disabilities, but also include various mental, emotional and physical impairments. Identified disabilities recognized by IDEA are Specific Learning Disabilities, Emotional Behavior Disabilities, Other Health Impairments such as Attention Deficit Hyperactive Disorder, various levels of Cognitive Disabilities and Autism; all of which are subject to annually reviewed Individual Education Programs that may include Behavior Intervention Plans which are used to aid and support students with Behavior [issues] within the Least Restrictive Environment.

17

IDEA, further requires state and local educational agencies, such as the District here, to assure that such children with disabilities, are provided a Free Appropriate Public Education, (hereinafter “FAPE”), which includes special education and related services to the unique needs of each individual student.

18

State school boards and their districts, are obligated to identify and provide appropriate services to children with disabilities pursuant to and in connection with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794 (“Section 504”), and regulations promulgated there under the Individuals with Disabilities Education Act.

19.

Also, the ADA provides that “no qualified individual with a disability, by reason of such disability, shall be excluded from participation in or denied benefits of the services, programs, or activities of a public of an entity, or be subjected to discrimination by any such entity.” As set forth in 42 U.S.C. Section 2132.

20

The Fourteenth Amendment to the United State Constitution likewise forbids states from depriving any person of life, liberty of property without due process of law; protected interests improperly are normally not covered by the United State Constitution, but rather are created and defined by independent sources (i.e. federal or state laws).

**STATEMENTS OF FACTS ABOUT SCHYLER BEFORE HE WAS
ABUSED**

21

SCHYLER HARRIS is a student with a disability as defined under the parameters of IDEA. Rockdale County Public Schools, developed an Individual Educational Plan (IEP) for Schyler. Defendants assigned Schyler to a special-needs classes at Shoal Creek Elementary, demonstrating an awareness of his disability, the corresponding behaviors associated with his disability and the most likely location that would constitute success in the academic environment; that special needs school being noted as the Least Restrictive Environment (LRE).

22

Upon Schyler's 2015-2016 enrollment in Shoal Creek Elementary, 1300 McWilliams Rd., Conyers, GA, Plaintiff Tracy Davis was assured by Defendants that Shoal Creek Elementary would and could meet his needs; that the environment would be healthy and safe and that his learning objectives would be met.

23

During enrollment, Plaintiff Tracy Davis provided the Defendants all of her contact information, in case they needed to contact her about Schyler. At the beginning of the term she met with Schyler's teacher Ms. Thomas, and advised her that Schyler was prone to disability-related outbursts and that she should be called

if such occurred. Defendant Thomas assured her that she would contact Ms. Davis if there were issues with his behaviors.

24

During January 2016, Plaintiff noticed her grandson's outbursts were becoming more frequent and more violent. On one occasion, he punctured the wall of his bedroom with a stick; her attempts to elicit from him the cause failed, nor did she immediately connect his behavior with what was happening to him at school. It was not until the incident giving rise to this action that she learned that for much of the school year, Defendant Cammon had been punishing Schyler for failing to comply with his verbal commands by hanging him from the chalk board in his classroom, while his teacher and other students made fun of him; a direct violation of O.C.G.A. § 20-2-1184 by his teachers, who are required to maintain a safe environment for children and report elements of abuse in lieu of abuse.

25

According to Plaintiff Davis, none of the school personnel, teachers, faculty or administrators called to notify her of her grandson's behavior issues; nor of the disciplinary methods Defendants Cammon and Thomas were using to punish Schyler. Plaintiff Tracy Davis had no notice that the Defendants had any disciplinary issues with Schyler before April 28, 2016.

26

Defendant Tony called Plaintiff Davis on the morning of April 28, 2016 for the first time since Schyler's enrollment at Shoal Creek to inform her that they had had "a little problem" with her grandson, but that he had calmed down and he thought the child would be ok." In direct violation of O.C.G.A. § 20-2-1184

- a. Defendant Tony did not mention anything about him witnessing Schyler hanging in distress unsupported from the chalkboard;
- b. Nor did he mentioned that he knew that Schyler had been hung from the chalkboard by Defendant Cammon;
- c. Mr. Tony added at the end of his conversation "I just wanted to let you know that he had one of his outbursts"; and
- d. Defendant Tony did not inform Ms. Davis of any calls for emergency medical professional or first responders, the refusal to report the abuse to the parent/guardian being a breach of his ministerial duties as a school official.

27

Unaware of Schyler being hanged from the chalkboard, Plaintiff Ms. Davis remained at work for the rest of the day.

28

When Plaintiff arrived home from work, she spoke with her grandson about the telephone call that she had received from Mr. Tony. She asked Schyler, "Why

were you acting up in class today?” He replied, “I was crying because Mr. Cammon “hung” me from the board.” Plaintiff Davis yelled! “Hung you from the board, what do you mean hung you from the board?”

29

Schyler told her, "I was acting bad, I was kicking my book bag across the floor". Mr. Cammon picked me up and hung me from the chalkboard. When Mr. Cammon picked me up, my head stuck the desk and almost “cracked open.”

30

Plaintiff Ms. Davis checked Schyler's head, but didn't see any bruises. Plaintiff Davis could not sleep for thinking about what her grandson had told her and was angry at herself for not keeping him safe and felt angry because Mr. Tony concealed the incident from her.

31

On the morning of April 29, 2016, Ms. Davis confronted Defendant Tony about what her grandson had told her about Mr. Common hanging him from the chalkboard and

- a. Mr. Tony admitted that he had witnessed Schyler hanging from the chalkboard.
- b. Ms. Davis asked, “Why didn't you tell me when you called that my child had been hung from the chalkboard?”; and

- c. Mr. Tony admitted to his refusal to inform Ms. Davis of the harm to her son stating, “This is a good school, I just couldn’t bring myself to tell you that I saw your grandson hanging from the chalkboard,”.
- d. Ms. Davis left emotionally distraught and in tears.

DEFENDANT THOMAS' FIRST WRITTEN STATEMENT

32

Defendant Thomas leaves a lot of facts out of her written statement:

- a. The report does not mention that Cammon hung Schyler from the chalkboard;
- b. The report does not state that progressive intervention steps were used in accordance with a behavior intervention plan prior to the hanging;
- c. The report does not say that Schyler required, or was administered, any form of non-violent restraint [typically applied by educators trained in non-violent crisis intervention training] in order to protect either himself or his classmates from harm. (see exhibit 1)

33

After the incident, Defendant Thomas was interviewed by Shirley Chesser, Garesett Brigade and Defendant Principle Tony. After her interview, Defendant Thomas wrote a second statement wherein she revised her earlier report, specifically noting,

- a. When Mr. Cammon had Schyler at one time I did see Schyler pants belt loop caught on the hook of the chalkboard.
- b. I advised Mr. Cammon to unhook him, although I did not believe it intentional.
- c. I did not see the others children laughing at the student.
- d. Mr. Cammon at that time did unhook the student.
- e. I haven't seen Mr. Cammon do this before. (see exhibit 2)

It should be noted that Ms. Thomas as an educator is a mandatory reporter and required under Georgia Law [OCGA 19-7-5(c)(1)] to report instances of physical abuse. In Georgia law, it designates certain professionals as mandated reporters of child abuse or neglect who must make a report, immediately but no later than 24 hours, to local DFCS office or law enforcement and are subject to criminal penalty for failing to do so. Defendant Thomas did not report the abuse of Schyler, it was discovered by Defendant Toney. Her failure to report constituted negligence per se and a breach of her ministerial duties.

34

On April 28, 2016 Defendant Cammon gave a written report, which stated:

- a. The incident with Schyler was **nothing different than other times**; his statement being an indicator of the ongoing abuse and a violation of O.C.G.A. § 20-2-1184.

- b. I deal with him differently because he like to get physical when we are on the same plane; his statement being an indicator of the ongoing abuse and his intentional, [malicious] behavior and a violation of O.C.G.A. § 20-2-1184;
- c. I have always lifted Schyler above me; his statement being an indicator of the ongoing abuse and his intentional, [malicious] behavior and a violation of O.C.G.A. § 20-2-1184.
- d. He is always high strung when I'm called to speak to him.
- e. I used to lift him up and hold him but that got exhausting.
- f. I didn't think I was being aggressive by doing what I was doing. (see exhibit 3)

35

Cammon failed to mention that he had hung Schyler from the chalkboard.

He did not explain, "**nothing different than other times**". Additionally:

- a. The report does not state that progressive intervention steps were used in accordance with a behavior intervention plan;
- b. Or that Schyler required, or was administered, any form of non-violent restraint [typically applied by educators trained in non-violent crisis intervention training] in order to protect either himself or his classmates from harm. (see exhibit 4)

On April 29, 2016, Defendant, Cammon prepared a second written statement for Rockdale County Sheriff Department which said:

- a. I was watching my kids as usual, then Ms. Thomas approached me and said "**be on the alert to speak to Schyler.**"
- b. I was headed to the Coral Reef Lake when I got a call to head that way to Ms. Thomas' room.
- c. When I entered the classroom he was on the floor screaming and defiant with Ms. Barmwell.
- d. When I asked him what was wrong, he said "**Nothing**".
- e. I picked him up from the floor and went to the board and elevated him.
- f. This is **our normal procedure to calm** him down. (see exhibit 5)

The report does not state that progressive intervention steps were used in accordance with a behavior intervention plan or that Schyler required, or was administered, any form of non-violent restraint [typically applied by educators trained in non-violent crisis intervention training] in order to protect either himself or his classmates from harm.

On April 28, 2016, Defendant Principal Toney prepared a typed statement which stated:

- a. At about 8:20 am this morning I heard screaming coming from Tiffany Thomas classroom.
- b. I peered through the observation window and saw a student hanging from the bulletin board by his pant belt loop.
- c. I entered the classroom and asked Antonio Cammon to take the student down.
- d. Ms. Thomas, Ms. Barmwell and the other students were looking and laughing at the student hanging from the bulletin board. (see exhibit 6).

It should be noted that as an educator Principal Toney is a mandatory reporter and required under Georgia Law [OCGA 19-7-5(c)(1)] to report instances of physical abuse. In Georgia law, it designates certain professionals as mandated reporters of child abuse or neglect who must make a report, immediately but no later than 24 hours, to local DFCS office or law enforcement and are subject to criminal penalty for failing to do so. Any failure to report constituted negligence per se and a breach of her ministerial duties.

39

On May 11, 2016, Mr. Tony drew a diagram showing how the child had been hung from the chalkboard. (see Exhibit 7).

40

On April 28, 2016 at about 9:15 am, Defendant Barmwell prepared a written statement which included;

- a. One of the students Schyler was having a really hard time following instruction and calming down.
- b. Mr. Cammon was called in to help calm the student down;
- c. Mr. Cammon transferred the student to another location, because of the noise and the profanity being used;
- d. Mr. Toney came into the room;
- e. Mr. Cammon held the student against the wall. (see as exhibit 8).

41

The report does not state that progressive intervention steps were used in accordance with a behavior intervention plan or that Schyler required, or was administered, any form of non-violent restraint [typically applied by educators trained in non-violent crisis intervention training] in order to protect either himself or his classmates from harm.

42

Defendant Bramwell prepared a second written statement for the Rockdale sheriff Investigator on April 29, 2016 which states:

- a. Schyler was upset and was throwing his chair across the room;
- b. The teacher then decided to call a male educator to try to calm the student down;
- c. The student was lifted up;
- d. My back was turned to where Mr. Cammon had the student. (see exhibit 9)

43

Neither of Defendant Bramwell's written statements, state that Cammon hung Sup the hanging and conceal it from the investigators.

44.

More than 24 hours after the incident, Defendant Bramwell still refuses to say that Defendant Cammon hung Schyler from the hook on the chalkboard.

On April 28, 2016, Ms. Stephanie Griffin, the social working at Shoal Creek interviewed students that witnessed the abused suffered by Schyler

45

STUDENT M.R.

- a. Schyler got hung up by Mr. Cammon
- b. Ms. Thomas told Mr. Cammon to hang Schyler up;
- c. The students started laughing (see exhibit 10)

46

STUDENT M.L.

- a. Ms. Bramwell called Mr. Cammon
- b. Mr. Cammon came in and hung Schyler up by his back pants loop;
- c. Mr. Cammon was not holding him when he was up there;
- d. Schyler was crying and yelling;
- e. Mr. Toney came in and told Mr. Cammon to take Schyler down. (see as exhibit 11)

47

STUDENT Z.H.

- a. Mr. Cammon hung Schyler up behind her;
- b. Mr. Cammon hung Schyler up before;

c. Everybody was laughing at Schyler when he was hung up, "It was pretty funny";

d. Student drew a picture of Schyler being hung from the chalkboard. (see exhibit 10)

48

STUDENT S.H.

a. He was being bad

b. Ms. Thomas called Mr. Cammon

c. Mr. Cammon picked him up he hit his head and it "almost cracked open"

His head hit the table;

d. It made him made and a little afraid when he hung me up there;

e. Mr. Cammon said, "Are you going to be good?" When he hung him up.(see exhibit 12)

49

There were no other students questioned about the incident

50.

The investigator identified the students by their initials instead of calling them by their names

DEFENDANTS WHO CAUSED SCHYLAR'S ABUSE INVESTIGATED

On April 28, 2016, the Administration / Defendants launched an investigation of Schyler hanging from the chalkboard and from their investigation they determined:

51

That Defendant Cammon did not use proper de-escalation techniques as outlined by Mindset Protocol. He attached Schyler to a bulletin board. He violated RCPS' policy and code of ethic for educators, and

52

That Defendant Thomas witnessed a student in her care in distressed and failed to act. She was negligent in her duties to provide a safe environment for a student. That she violated RCPS' Policy and Code of ethics for educators.

GEORGIA DEPARTMENT OF HUMAN SERVICES
DEPARTMENT OF FAMILY AND CHRILDREN SERVICES
INVESTIGATED SCHYLER'S ABUSE

53

The social services case manager, Keosha Pettigrew investigated Schylar's hanging and issued a report finding that Defendants Thomas, Cammon and Bramwell has emotionally abused Schylar. (see exhibit 12).

INJURIES TO PLAINTIFFS

54

The acts and or omissions of the Defendants caused the Plaintiff Schylar both physical and mental pain during his first year at Shoal Creek Elementary, by battering him, by illegally restraining him, false imprisoning, inflicting intentional emotional distress upon him while he was hanged repeatedly from the chalkboard without being able to free himself from the board.

55

The Defendants intentionally discriminated against Schylar in his disabled condition by punishing by hanging him from the chalkboard; they had not hung any non-disabled child on the chalkboard as punishment for their non-compliance to their verbal requests.

56

The Defendants, based solely upon Schylar's disabilities denied him a safe learning environment, freedom from physical abuse, freedom from emotional abuse, freedom from inhuman treatment and freedom from ongoing abuse. (the

investigation discovered that Defendant Cammon hanged Schylar from the board prior to April 28, 2016). These Defendants did not deny these rights to non-disabled children or disabled children who were not significantly developmentally delayed and with severe language impairment.

57

As a result of the emotional abuse caused by these named Defendants, Schyler has suffered emotional distress, is suffering and will continue to suffer emotional distress in the future.

58

As a result of the emotional abuse caused by these named Defendants, Plaintiff Davis has suffered emotional distress, is suffering and will suffer emotional distress in the future for the abuse the Defendants caused her disabled grandson.

DEFENDANT TONY HAD NOTICE PRIOR TO APRIL 28, 2016
THAT DEFENDANT CAMMON WAS ABUSING DISABLED
CHILDREN & HIS FAILURE TO REPORT AND ACT WAS A DIRECT
VIOLATION OF GEORGIA STATUTE: THEREBY QUALIFYING HIS
FAILURE TO ACT AS NEGLIGENCE PER SE AND A BREACH OF
MINISTERIAL DUTY UNDER O.C.G.A. § 20-2-1184 .

59

Prior to April 28, 2016, Defendant Tony had received emails from parents that Defendant Cammon had abused or mistreated disabled children. To which Defendant Tony responded that he would investigate

ALL THE DEFENDANTS OWED A DUTY TO THE PLAINTIFFS

60

All the Defendants owed a duty of care to Schyler and acted in loco parentis to Schyler. Additionally, Defendants were bound by Georgia Statutes for maintain a safe environment within the school setting mandated as reporters to report abuse of any kind to administrators, the police and/ or DFACS. By refusing to report the abuse, DEFENDANTS breached their **ministerial duties** and are liable of negligence per se as there are statutes in place to protect students such as Schyler, he falls within the category of persons to be protected by the statute and DEFENDANTS breached their duty.

61

Defendants were required by **IDEA** to act in accordance with Plaintiff's **Individual Education Plan**, coordinate a **Behavior Intervention Plan** with Plaintiff Davis if [one did not exist] and follow an existing behavior intervention plan if such a plan was in place. The hanging of Plaintiff Schyler a disabled child,

from a chalkboard does not run commensurate with a behavior intervention plan or applicable strategies for managing behaviors for **Students with Disabilities**.

62

All of the Defendants conspired or took actions to allow, promote, ensure, facilitate, and cover up the excessive, cruel and unduly severe punishment of Schyler a disabled child thereby demonstrating malice in their efforts to hide the criminal acts from Plaintiff Davis.

SCHYLER'S TREATMENT AFTER THE HANGING INCIDENT

63

After the hanging incident the Family and Children Services referred Schyler to Pathways Transition Programs, Inc. for evaluation.

64

Schyler's first visit with Pathway was on May 10, 2016 and his therapeutic treatment began on June 14, 2016. Schyler was diagnosis with F43.10 PTSD. Because of the severity of Schyler's therapeutic needs, it was recommend that Schyler receive weekly individual therapy.

65

Schyler was found to be struggling significantly with self-regulation and low distress tolerance. Due to the recent traumatic incident in the school setting, Schyler's ability to maintain emotional and physical norms for similar children

functioning with his disability is going to be difficult while in school because he is returning to the scene of his trauma on a daily basis.

COUNT ONE--ALL INDIVIDUAL DEFENDANTS
INTENTINAL INFLICTION OF EMOTIONAL DISTRESS,
MALICIOUS, WILLFUL PHYSICAL ASSUALT, PHYSICAL BATTERY
AND PHYSICAL ABUSE

66

Defendant Cammon's act of lifting Schyler above his head, hanging him on a chalk board by his pants and preventing him from moving constitute battery, intentional infliction of emotional distress, and child abuse. Additionally, Defendant Teachers and Administrators who hid the battery from Plaintiff Davis acted in corroboration with the crime and were aiding and abetting after the fact; essentially violating Georgia Statutes which require the protection of children and the mandatory reporting in the face of abuse, qualifying their failure(s) to act as an ongoing breach of their ministerial duties.

67

Because of the Defendants' actions Schyler has been caused severe damages that will last into the future; the Plaintiffs are entitled to recover for their damages, in an amount to exceed \$5,000.000.00 (five million dollars) or an amount determined by a jury.

**COUNT TWO--ALL INDIVIDUAL DEFENDANTS INTENTIONAL,
MALICIOUS, WILLFUL, UNLAWFUL CONFINED AND FALSE
IMPRISONED SCHYLER BY HANGING HIM FROM A CHALKBOARD**

68

Through the conspiracy and actions taken by all Defendants to allow, facilitate, cover up, not reporting and not disclosing Cammon's abuse of Schyler, a disabled child and unlawful false imprisonment of Schyler by unlawful restraining him by hanging him unsupported to the chalkboard. Schyler could not remove himself from the chalkboard, causing him to be imprisoned.

69

Because of the Defendants' actions has caused Schyler severe harm and damages, the Plaintiffs are entitled to recover for their damages and harms in an amount to exceed \$5,000 000.00 (five million dollars) or an amount to be determined by a jury.

**COUNT THREE--ALL INDIVIDUAL DEFENDANTS
INTENTIONAL, MALICIOUS, WILLFUL INFLECTION OF EMOTIONAL
DISTRESS BASED UPON A FAILURE TO ACT IN ACCORDANCE WITH
GEORGIA LAWS DESIGNED TO PROTECT CHILDREN**

70

Through the conspiracy and actions taken by all Defendants to allow, facilitate, cover up, not report, and failed to disclose Cammon's physical and emotional abuse of Schyler and Cammon's intentional, malicious and willful infliction of emotional distress on Schyler and Plaintiff Davis. Both Plaintiffs suffered severe harm and damages.

71

Schyler social state, emotional state and his cognitive learning have been directly affected by the individuals' child cruelty and abuse and even with medication and many other supports, Schyler has been severely and irreparably harmed due to the individual Defendants' child cruelty; his present condition being that of a victim who likely suffers from Post Traumatic Stress Disorder due to the ongoing attacks.

72

Because of Defendants' actions have caused severe harm and damages, Plaintiffs are entitled to recover for their damages in an amount to exceed \$5,000,000.00 (five million dollars) or an amount determined by a jury.

**COUNT FOUR- ALL DEFENDANTS VIOLATION OF 42 U.S.C. &
1983 DENIAL OF U. S. CONSTITUTIONAL FOURTH AMENDMENT**

RIGHTH

73

The Fourth Amendment of the United State Constitution applies in school environments where the concerted acts of all Defendants, as set forth herein, amounted to intentional, willful and unreasonable seizure of Plaintiff Harris and which caused him severe harm and damages, and for those damages, they are liable.

74

Because Defendants acted in concert and because RCPS administrators, including but not limited to Defendants Toney, Thomas, Cammon, Barmwell, and Superintendent Richard Autry, and John and Jane Does acted together to deny Plaintiff Harris' right to be free of unreasonable seizure, or intentionally failed to Act thereby causing , Plaintiff Harris severely and irreparably harmed and damaged; all Defendants are liable.

75

Plaintiff Schyler, a disabled child, was abused physically, psychologically and mentally by having been forcibly hung, unsupported, from a chalkboard from

which he was suspended six feet in the air. Because he did not understand and did not comply with Defendants included Cammon's verbal command.

76

Given Schyler's age; his disabilities; his lack maturity; the repeated, constant, abuse he suffered; and all Defendants' actions to willfully and intentionally abuse Schyler, under color of state law, custom, policy, and practice, the Defendants' actions deprived Schyler of his Fourth Amendment rights und the United State Constitution.

77

In abusing and harming Schyler a disabled student, all Defendants were acting under color of state law; RCPS is an local educational agency empowered by the Georgia Constitution and Georgia statutory law, and the administrators and educators were acting under color of those state laws and other statutory laws of the State of Georgia, including but not limited to O.C.G.A. 20-2-738, 20-2-731, 202-2-101, 20-2-214.

78

While acting under color of state laws, instead of creating a culture of learning and respect, all Defendants herein created and maintained a horrific, brutal, corrupt culture of concerted sadistic abuse (hanging a black child) and excessive and intolerable punishment of Schyler with severe, impairment.

79

Schyler, due to his disabilities and his severity and his vulnerability and defenselessness, was entitled to heightened protections, yet all Defendants acted in concert to intentionally, willfully abuse Schyler for a prolonged period of time repeatedly, and Schyler is therefore entitled und the Fourth Amendment Protections of the United State Constitution.

80

Schyler a happy, severely disabled child, who sought to please and who loved school, suffered severely and will suffer in the future from the horror he suffered at Shoal Creek, and RCPS and other Defendants named herein as set forth above, placed Schyler knowingly and maliciously in that setting so he could and would be abused by RCPS employees and denied his constitutional rights.

81

Acting under state law, as set forth in this complaint, all Defendants denied Schyler of his Fourth Amendment Untied State Constitutional Right, thereby causing Schyler sever and lifelong harm, and he is entitled to recover all damages, in an amount to be determined by a jury and excess of \$5,000.000.00

COUNT FIVE-ALL DEFENDANTS VIOLATION OF 42 U.S.C. & 1983

DENIAL OF

U.S. CONSTITUTIONAL RIGHTS & GEORGIA CONSTITUTIONAL

RIGHTS TO DUE PROCESS.

82

Defendants' attacks on Schyler were so excessive and unreasonable and Defendants' prolonged brutal abuse of Schyler was so malicious and sadistic, Defendants, acting in concert and under state law, violated Schyler's substantive due process rights under the Fourteenth Amendment of the United State Constitution and his due process rights under Article I, Section I Paragraph I of the Constitution of the State of Georgia.

83

Defendants' actions were a concerted custom, policy, and practice designed to abuse Schyler, because they knew that because of his disabilities and impairment, he could not explain to his parent how these Defendants were punishing him.

84

This is not a case where Schyler was abused one time, nor is it a case where Schyler was exposed to traditional applications of reasonable punishment. Instead, the facts alleged herein reveal a conscience shocking custom, policy, and practice

by Defendants acting under color of state law; where all Defendants took action to allow the sadistic, malicious, arbitrary, and conscience shocking, ongoing abuse of a disabled child with severe impairment.

85

This is also not a case where any force or abuse was even necessary, instead, a case where the Defendants allowed, promoted, sanctioned covered up, and ratified abuse of a significantly disabled child. The Defendants placed Schyler, knowingly and willfully in that abusive, brutal environment to be viciously and ruthlessly harmed by Defendants Cammon, Thomas, Bramwell and others, which causing him a deprivation of his due process rights.

86

All Defendants intentionally, willfully, and maliciously undertook actions and concerted actions under color of state law to deprive Schyler rights to equal protection of the law under the Fourteenth Amendment to the United State Constitution and Article I, Section I, Paragraph I of the Georgia Constitution.

87

All Defendants intentionally willfully, and maliciously undertook actions and concerted actions under color of state law that deprived Schyler, due to his severe impairment, resulting inability to report the child abuse he was forced to

suffer for an entire school year, a unsafe learning environment and to be afforded his constitutional rights of due process and to be free from unreasonable seizure.

88

All Defendants deprived Schyler of his rights to equal protection of the laws for no legitimate purpose, and there was absolutely no rational basis for depriving Schyler of a safe educational environment and his constitutional rights because he was a child with impairment who could not inform others of the severe abuse Defendants subjected Schyler to for the school year.

89

Because Defendants, acting in concert, intentionally and willfully denied Schyler his rights to equal protection of the laws pursuant to the United State and Georgia constitutions. The Plaintiff s are entitled to recover all of their damages, in an amount in excess of \$5,000,000.00.

**COUNTS SIX – ALL DEFENDANTS VIOLATIONS OF SCHYLER’S
ADA, IDEA & AND SECTION 504 RIGHTS.**

90

When Schyler was at Shoal Creek during the 2015-2016 school year, he was entitled to the protections of Title II of the Americans with Disabilities Act of 1990 (hereinafter referred to as the “ADA”) prohibiting any public entity, including any state or local government and those acting in concert therewith, from denying

Schyler the benefits of the services, programs, or activities of the public entity based upon his disabilities. Schyler was also entitled under the ADA not to be subjected to discrimination by reason of his disabilities. Lastly, Schyler, as a student with a disability and an IEP was required due process protections under the Individual with Disabilities Education Act; those due process rights having been denied.

91

When Schyler was at Shoal Creek during the 2015-2016 school year, he was entitled to the protections of Section 504 of the Rehabilitation Act of 1973 (hereinafter referred to as “Section 504”) prohibiting any public entity, including any state or local government and those acting in concert therewith, from denying him the benefits of the services, programs, or activities of the public entity based his disabilities. Schyler was also entitled under Section 504 not to be subjected to discrimination by reason of his disabilities.

92

Schyler is a qualified individual within the meaning of the ADA and Section 504 with respect to the benefits, service, programs, and activities of the RCPS and his educational setting at School Creek. Schyler disabilities substantially limit Schyler major life activities, including but not limited to his daily living

skills, performance of manual tasks, speaking, learning, working, and mental processes.

93

By the intentional, malicious, and concerted acts and failures to act of all Defendants set forth herein, all Defendants, acting in concert, have denied Schyler access to the same benefits of the services, programs of the RCPS based solely upon his disabilities and have discriminated against him based solely upon his disability, by using hang to punish him when they did not use this method of punishment with non-disabled children. .

94

Solely based upon Schyler disabilities, all Defendants, acting in concert, maliciously, intentionally, and willfully denied Schyler a public education free from abuse, excessive and unduly severe punishment, and one free from a denial of his constitution and statutory rights.

95

Because of all Defendants' concerted and intentional, willful, and malicious acts to deny Schyler his rights under ADA and Section 504 and their intentional, willful and malicious discrimination of Schyler based solely upon his disabilities.

96

Students in the RCPS who did not have moderate, severe, or profound mental impairment, who could go home and report abuses by these Defendants in the RCPS, were not deprived of their rights to the same services, programs, and activities as their disabled peers, such as Schyler. Schyler was discriminated against intentionally and willfully by all Defendants because of his disability. Schyler has been severely damaged and harmed and he is entitled to recover for his damages and harm in an amount to exceed \$5,000,000.00.

COUNTS SEVEN – ALL DEFENDANTS VIOLATION OF 42 U.S.C. & 1983

VIOLATION OF U.S. AND GEORGIA CONSTITUTIONAL

97

Defendants, acting in concert, and as set forth herein, undertook malicious, intentional, and willful acts to cruelly and excessively punish Schyler in violation of his Eighth Amendment United State Constitutional right to be free from such cruel and excessive punishment, and to be free from cruel and unusual punishment under Article I, Section I Paragraph XVII of the Georgia Constitution.

98

Because of Defendants acts as set forth herein, Schyler was severely abused and harmed for life, and he is entitled to recover all damages allowed by law in amount in excess of \$5,000,000.00 (five million dollars).

COUNTS EIGHT–NEGLIGENT HIRING & RETENTION &
RESPONDEAT SUPERIOR LIABILITY

99

Defendants RCPS, Tony and Defendant Autry, and others acting in concert, and as set forth herein undertook malicious, intentional, and willful acts to hire and retain Defendants Cammon, Thomas and Bramwell who they knew or should have known that these Defendants were not qualified to work with disabled children and it was foreseeable that one or more of them would fail to act in accordance with Georgia Law as it relates to maintaining a safe environment for children or adequately deal with children under the auspices of IDEA.

100

All the Defendants named above were supervisors and they all participated intentionally and willfully and/or knew about the violations of their subordinates in following the law, and they failed to act to prevent them. They actually allowed and promoted them as a matter of policy, custom, and practice; thereby violating Georgia statute and public policy put in place to treat children with disabilities as a protected class.

101

All the Defendants named above were supervisors and they all participated intentionally and willfully and/or knew about the fact their subordinates were not

trained to do their jobs and follow the law, yet they did not train them to do so or discharge them. They actually allowed and promoted their subordinates violating the law and disabled children's rights and not doing their jobs as a matter of policy, custom, and practice.

102

For the reasons set forth herein, the Defendants named herein are liable to the Plaintiffs for the severe harm and irreparable damage they suffered in an amount in excess of \$5,000,000 to be determined by a jury.

PRYER FOR RELIEF

WHEREFORE, Plaintiffs request:

- a. That this Court exercise jurisdiction over plaintiffs' claims;
- b. That plaintiffs Schyler Harris and Tracy Davis be allowed a jury trial on all cause of action contained herein;
- c. That judgment be entered in favor of Plaintiffs and against all Defendants jointly and severally for all damages as to counts one through eight;
- d. That the Plaintiffs recover all attorneys' fees and litigation expenses and other costs associated with this action; and
- e. That this Court grant such other relief as many be just, equitable, and appropriate.

f. That Plaintiff's Counsel be allowed to amend [said] complaint as it relates to Georgia Statutes; matters at Law and introduce Parties to Litigation as parties emerge through discovery.

Respectfully Submitted This 27th, day of November 2016.


/ss/ C. Victor Long

C. VICTOR LONG

Bar # 456950

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