

(TO PLAINTIFF'S ATTORNEY: Please Circle Type of Action Involved: - TORT - MOTOR VEHICLE TORT - CONTRACT - EQUITABLE RELIEF - OTHER.)



COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT
CIVIL ACTION
No. 1577CV01141

RACHEL DOUCETTE and MICHAEL DOUCETTE, for themselves
....., Plaintiff(s)
and their minor son, B.D.

v.

CAROL C. JACOBS, MARGARET MAHER, CATHLEEN ESTEP, Ph.D. Defendant(s)
DONNA F. STRAIGHT, TOWN OF GEORGETOWN, GEORGETOWN SCHOOL
COMMITTEE and GEORGETOWN PUBLIC SCHOOLS

SUMMONS

To the above named Defendant: Town Of Georgetown

You are hereby summoned and required to serve upon Kelly Kalandyk Smith, Esq.
plaintiff's attorney, whose address is 300 Trade Center - Suite 2700, Woburn, MA 01801, an answer to the
complaint which is herewith served upon you, within 20 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. You are also required to file your answer to the complaint in the office of the Clerk of this court at
Lawrence either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13 (a), your answer must state as a counterclaim any claim which you may
have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's
claim or you will thereafter be barred from making such claim in any other action.

WITNESS, Judith Fabricant, Esquire, at Salem, the 30th
day of July, in the year of our Lord two thousand fifteen.

A TRUE COPY, ATTEST:

DEPUTY SHERIFF
8-13-15

Clerk

NOTICE TO DEFENDANT - You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

ESSEX, SS.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION No. 1577CV01141

RACHEL DOUCETTE AND MICHAEL)
DOUCETTE, for themselves and their)
minor son, B.D.,)
Plaintiffs)

VS.)

CAROL C. JACOBS, MARGARET)
MAHER, CATHLEEN ESTEP, PH.D.,)
DONNA F. STRAIGHT, TOWN OF)
GEORGETOWN, GEORGETOWN)
SCHOOL COMMITTEE, GEORGETOWN)
PUBLIC SCHOOLS,)
Defendants)

AMENDED COMPLAINT
AND JURY CLAIM

FILED

IN THE SUPERIOR COURT
FOR THE COUNTY OF ESSEX

JUL 22 2015


CLERK

Parties

1. The plaintiffs, Rachel Doucette and Michael Doucette (also referred to hereafter as the Parents), are the parents of B.D. and reside in Georgetown, Essex County, Massachusetts.

2. B.D. is a child with special needs who receives special education and related services under an Individualized Education Plan ("IEP"), pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §1400 *et seq.* ("IDEA") and the Massachusetts Special Education Statute M.G.L. c.71B.

3. The defendant, Carol C. Jacobs (referred to hereafter as the Superintendent), is a Massachusetts resident and the Superintendent of the Georgetown Public Schools, in Georgetown, Essex County, Massachusetts. By this action, the plaintiffs bring claims against the Superintendent in both her official capacity as the Superintendent of the Georgetown Public Schools, and in her individual capacity.

4. At all times relevant to this action, the Superintendent was responsible for the educational program provided to B.D. under an IEP.

5. The defendant, Margaret Maher (referred to hereafter as the Principal), is a Massachusetts resident and the principal of the Perley Elementary School and Penn Brook Elementary School, elementary schools located in the Town of Georgetown, Essex County, Massachusetts which are part of the Georgetown Public Schools. By this action, the plaintiffs bring claims against the Principal in both her official capacity as the principal of the Perley Elementary School and Penn Brook Elementary School, and in her individual capacity.

6. At times relevant to this action, the Principal was responsible for the educational program provided to B.D. under an IEP.

7. The defendant, Cathleen Estep, Ph.D. (referred to hereafter as Estep), is a Massachusetts resident and at times relevant to this action was the Interim Special Education Director for the Georgetown Public Schools, in Georgetown, Essex County, Massachusetts. By this action, the plaintiffs bring claims against Estep in both her official capacity as the Interim Special Education Director for the Georgetown Public Schools, and in her individual capacity.

8. At times relevant to this action, Estep was responsible for the educational program provided to B.D. under an IEP.

9. The defendant, Donna F. Straight (referred to hereafter as Straight), is a New Hampshire resident and at times relevant to this action was the Special Education Director for the Georgetown Public Schools, in Georgetown, Essex County, Massachusetts. By this action, the plaintiffs bring claims against Straight in both her official capacity as the Special Education Director for the Georgetown Public Schools, and in her individual capacity.

10. At times relevant to this action, Straight was responsible for the educational program provided to B.D. under an IEP.

11. The defendant, Town of Georgetown, is a political subdivision of the Commonwealth of Massachusetts with offices at 1 Library Street, Georgetown, Essex County, Massachusetts (referred to hereafter as the Town).

12. The defendant, Georgetown Public Schools (referred to hereafter as GPS), is the public educational system of Georgetown, Massachusetts, and is a department of the Town of Georgetown, Massachusetts, and a public entity which operates under the laws of Massachusetts and under the regulations of the Massachusetts Board of Education, with offices at 51 North Street, Georgetown, Essex County, Massachusetts.

13. GPS is a recipient of federal funds from the United States Department of Education pursuant to the IDEA, and is required to provide a free and appropriate public education ("FAPE") in the least restrictive environment to all children with disabilities residing within its educational boundaries.

14. The defendant, Georgetown School Committee (referred to hereafter as the School Committee), is the governing board of the Town of Georgetown Public Schools system with offices located at 51 North Street, Georgetown, Massachusetts. The School Committee operates under the laws of Commonwealth of Massachusetts, and sets policies to be executed by the Superintendent of the Georgetown Public Schools.

Factual Allegations

15. B.D. has Isodicentric Chromosome 15q Duplication Syndrome, a rare de novo genetic disorder. As a consequence of this syndrome, B.D. has a number of substantial educational limitations, including global developmental delay, with a diagnosis of Pervasive

Developmental Disability, Not Otherwise Specified (PDD, NOS), autistic spectrum disorder, seizure disorder, anxiety disorder, sleep disorder and gastrointestinal issues. B.D. also has been diagnosed with attention-deficit hyperactivity disorder (ADHD), a history of choking, low muscle tone and balance deficits, together with a high threshold for pain, limited ability to report injury or discomfort, sensory process disorder, visual problems, decreased personal safety awareness, maladaptive behaviors such as bolting and aggression, cognitive impairment, and communication deficits.

16. Children with Chromosome 15q Duplication Syndrome have an increased risk of sudden unexpected death (SUD). This increased risk of SUD is reported to be caused by respiratory or cardiac arrest that is typically correlated with seizure activity. Because of the increased risk of SUD in children with Chromosome 15q Duplication Syndrome, the prevention of seizures in such children is of critical importance.

17. Between July 5, 2012 and September 5, 2012, B.D. suffered five (5) stress-induced, life-threatening, tonic-clonic seizures, four (4) of which occurred while he was attending an Extended School Year (ESY) program and one following ESY on the first day of the regular school program, both programs having been provided by GPS and required under his IEP.

18. Epilepsy and prolonged seizures, particularly when they occur at important stages of development as in B.D.'s case, can interfere with brain functions by over-activation, interruption and inhibition of important functional pathways. As a result, information processing can be slowed and disruptive, particularly when a child is actively working to learn, retain and use information.

19. In July 2009, when B.D. was almost three (3) years old, he began attending the Perley Elementary School ("Perley"), part of GPS, located in the Town of Georgetown. At

Perley, B.D. received special education and related services provided by GPS under an IEP developed pursuant to the IDEA and the Massachusetts Special Education Statute M.G.L. c.71B. Pursuant to his IEP, B.D. received individual instruction, occupational therapy, physical therapy, speech-language services both within and outside the classroom, home training by an aide, and was assigned a 1:1 aide trained in CPR and Heimlich maneuvers because of a risk of choking and a risk of bolting. He attended an ESY program at Perley during the summer. B.D. attended Perley until November 2012.

20. As early as October 2009, the Parents expressed concerns to GPS, its administrators, educators and staff, including the Superintendent, that B.D. was not receiving the educational programming and services required under his IEP and these failures were placing his safety and well-being at risk. For example, although B.D. was to be accompanied by a 1:1 aide because of his risk of choking and bolting from class, he was observed by his mother on multiple occasions between October and December 2009 to be without a 1:1 aide while on the school playground. B.D. also was observed by his mother without a 1:1 aide at a Christmas party held at the school in December 2009. These failures were among multiple failures by the Defendants in meeting B.D.'s needs as required under his IEP.

21. In November 2009, B.D. was referred by his geneticist at Boston Children's Hospital to Ann B. Fulton, M.D., a pediatric ophthalmologist at Boston Children's Hospital, for vision assessment. He was found to have uneven retinal pigmentation.

22. In December 2009, Ronald L. Thibert, D.O., B.D.'s treating pediatric neurologist and a pediatric epileptologist with a special interest in children with autistic spectrum disorders and Chromosome 15q Duplication syndrome, at Massachusetts General Hospital ("MGH"), diagnosed B.D. with a seizure disorder, based on non-epileptic staring events experienced by

B.D., which events were consistent with absence seizures. B.D. also was observed to have hand tremors, and was diagnosed with anxiety.

23. Because of B.D.'s seizure disorder and concerns for his health and safety, the Parents requested that his IEP be amended to include a Seizure Plan. The Seizure Plan required GPS staff involved in his educational and related services to record his seizure activity, and established a protocol to be followed by staff when B.D. had a seizure.

24. In early 2010, the Parents arranged for various medical specialists to examine and evaluate B.D. On January 26, 2010, B.D. was examined by Amy Morgan, Ph.D., a neuropsychologist at MGH, who performed neuropsychological testing to obtain a better understanding of his educational and developmental needs. On February 22, 2010, B.D. was evaluated by Karmen Schmidt, M.Ed., a clinical research coordinator at The LADDERS program at MGH. On February 25, 2010, B.D. was evaluated by Ann M. Neumeyer, M.D., a pediatric neurologist at the Lurie Center for Autism at MGH. On March 9, 2010, B.D. was evaluated by Gretchen Timmel, M.Ed., a licensed educational psychologist at MGH and a certified elementary school teacher, who observed B.D. in his program and environment at Perley.

25. Based on their respective evaluations and assessments, Dr. Morgan, Dr. Neumeyer and Ms. Timmel recommended that B.D. receive, in addition to individual instruction, 1:1 tutorials, occupational therapy, speech therapy and physical therapy, an educational program that utilized, to a substantial degree, applied behavior analysis (ABA) methodology integrated in his IEP that would include discrete trials and structured sensory breaks.

26. These recommendations were relayed at an IEP Team meeting on March 29, 2010, attended by the Superintendent and the Principal, among others at GPS, in which Dr. Morgan and Ms. Timmel participated via conference call for a portion of the meeting. At that

time, the Parents conveyed their concerns that B.D.'s placement in GPS was inappropriate because he was not making educational progress and his developmental delays were increasing, based on a comparison of results from Early Intervention (EI) testing performed in February 2009 and results of Dr. Morgan's neuropsychology testing in January 2010, and that he should immediately be placed in either an in-district or out-of-district placement that would incorporate the ABA methodologies B.D. needed. Members of the IEP Team disagreed that B.D. was not making educational progress, that he needed structured sensory breaks, or that GPS was an inappropriate placement.

27. The Parents continued to voice their concerns verbally and in e-mails to GPS, its administrators, educators and staff, including the Superintendent and the Principal, that B.D.'s safety and well-being were at risk because the school was not implementing the kinds of interventions he needed to learn, that his aides were not appropriately trained, that he was not receiving sufficient sensory therapies, that he was not being monitored closely and was bolting from class, that he was becoming more aggressive toward other students, and that, after falling and hitting his head, his medical condition and disability were not taken into consideration and he was not provided proper care. Ultimately, because of concerns for his safety, the Parents removed B.D. from Perley on May 10, 2010 and he remained out of school until September 2, 2010.

28. On July 12, 2010, while B.D. was out of school, the Parents filed a Request for Hearing with the Massachusetts Bureau of Special Education Appeals (BSEA), seeking an out-of-district placement for B.D. for the 2010-2011 school year because GPS' proposed IEP for the period March 29, 2010 to March 29, 2011 was inappropriate. The Parents also sought compensatory services for the time B.D. missed from school.

29. After hearings conducted on August 24, 25, 26 and 30, 2010, the hearing officer issued an Order dated September 9, 2010, finding that the proposed IEP was not appropriate and not reasonably calculated to provide B.D. with a free and appropriate public education ("FAPE") in the least restrictive environment, and that the Parents were justified in rejecting the IEP at the time it was prepared. The hearing officer further found that GPS could amend the IEP to make it appropriate through additions and modifications, including the addition of two (2) hours per week of consultation services from an ABA specialist, complete assessments and re-drafting the IEP to reflect the assessment results and ABA principles, particularly regarding daily living skills, such as toileting. The hearing officer determined that an out-of-district placement was not warranted based upon a finding that GPS had the capacity to develop an appropriate ABA-based, substantially-separate classroom placement for B.D. beginning at the start of the 2010-2011 school year.

30. Based on the BSEA decision that GPS was an appropriate placement and explicit assurances from GPS, based on testimony from Ali Pedego, Ph.D., BCBA consultant from Melmark New England, that it would develop an ABA-based, substantially separate Transition classroom that would be ready for the September 2010 start of school, and that an Individual Student Safety Plan and Seizure Plan would be integrated in his IEP, the Parents allowed B.D. to return to Perley in September 2010.

31. In the fall of 2010, B.D. began having more staring spells with eye rolling, indicative of increased seizure activity. In November 2010, B.D.'s mother was contacted by his teacher asking what the teacher should do when B.D. had a seizure, indicating that B.D.'s teacher was unaware of his accepted seizure plan.

32. During his ESY program in the summer of 2011, B.D. experienced increased seizure activity. On multiple occasions during the summer program, B.D.'s mother was contacted by the Perley school nurse to remove B.D. from school after he had experienced atypical absence seizures, despite an explicit Seizure Plan in place and assurances to the Parents by GPS that it was able to manage his seizure disorder.

33. Each time B.D. was removed from school, he lost educational and developmental opportunities and suffered a disruption in his schedules and routine. B.D.'s mother notified the Superintendent and Principal, among others, that B.D.'s educational staff continued to be unaware of his accepted Seizure Plan, raising a level of concern for his safety.

34. In September 2011, B.D. began attending Kindergarten at Perley, with an Amended IEP in place that included a Seizure Observation Record which required staff to track the frequency of his potential seizure activity. In addition, B.D. had an Individual Student Safety Plan. However, GPS staff had not completed seizure training before the school year began.

35. In or about November 2011, B.D. received a specially trained and certified service dog through 4 Paws For Ability. The service dog provided autism assistance service, facilitated guide, search and rescue, and assistance with behavior disruption, anxiety, balance and seizure alerting, all of which were of benefit to B.D.

36. The service dog permitted B.D. to develop some independence and confidence and helped him bridge social barriers. B.D.'s behavior in social situations improved when his service dog was present.

37. The School Committee did not assent to the Parents' request that B.D. be allowed to bring the service dog to school.

38. In December 2011, B.D.'s inclusion time, i.e., the amount of time spent with the general school population at Perley, was increased.

39. In or about the spring of 2012, B.D. began exhibiting increased anxiety, staring, and inattention. The Principal and B.D.'s mother discussed whether the use of his service dog in school would help with his anxiety. In order for B.D. to have access to his service dog with GPS as the handler, the Parents were requested to sign and agree to a School Committee approved policy that was in violation of the Americans with Disability Act (ADA). The Parents declined and requested the School Committee to comply with ADA law. The School Committee and the Superintendent blocked B.D.'s access to his service dog. The Superintendent directed the performance of a Functional Behavior Assessment (FBA) to determine whether B.D. required the use of a service dog as an accommodation and to determine whether the IEP would be amended to include a service dog as an accommodation. The FBA data was to be collected in a trial period to take place only during the academic school year, not during ESY and with B.D.'s mother present as the handler.

40. On March 22, 2012, Dr. Thibert recommended that B.D. be placed in an academic program with less inclusion time, as the increased time had worsened his anxiety and this, in turn, increased his aggressive behavior. Dr. Thibert also recommended that B.D. be admitted to the Epilepsy Monitoring Unit (EMU) at MGH for 24-hour monitoring to determine whether his staring or decreased focus were due to subclinical seizure activity. B.D. was prescribed Neurontin and Tenex.

41. On March 23, 2012, the Parents took B.D. to Ann Fulton, M.D., his pediatric ophthalmologist, because he had failed a school vision screening, and was found to have depth perception issues. Dr. Fulton recommended that B.D. be evaluated by a Developmental

Optometrist who would help with his proper visual development. The Parents presented Dr. Fulton's recommendations to GPS but their request was denied. The Parents continued to request that B.D. be evaluated by a Developmental Optometrist but the request was declined by GPS. On July 6, 2012, after B.D. experienced a tonic-clonic seizure at school, GPS informed the Parents that they wanted B.D. evaluated by Dr. Robin S. Blair, an optometrist, at GPS's expense.

42. On April 12, 2012, B.D. saw Ann Neumeyer, M.D., his treating pediatric neurologist, and was noted to have increased aggressive behaviors, anxiety and nail biting over the past month. B.D.'s inclusion time at Perley was subsequently decreased.

43. On or about April 25, 2012 at a School Committee meeting, the Parents learned that B.D.'s ESY program for summer 2012 was not going to be held at Perley, where he had attended his ESY program in the past, but at Penn Brook Elementary School ("Penn Brook"), another elementary school in Georgetown, Massachusetts.

44. Decisions regarding the physical location, staffing model, hiring and supervision of the ESY program for the summer of 2012 were made by the Principal, Straight, the Superintendent and Estep.

45. The Parents expressed concerns to GPS with respect to the implementation of B.D.'s ESY program under his IEP in light of these changes. In an e-mail dated May 1, 2012 from the Superintendent, the Parents were assured that the ESY program would "continue to provide a high quality program at Penn Brook for the next summer in the same way it does every year...."

46. On June 22, 2012, B.D.'s mother took him to Penn Brook to show B.D. where he would be attending his ESY program, and to familiarize him with the location, given his visual impairment, sensory function disorder and autistic-spectrum disorder. GPS had made no attempt

to work on a transition plan for B.D. B.D.'s mother observed that there was no fence in part of the playground, no playground climbing equipment, and that the sub-separate classroom B.D. was to attend was empty but for a teacher's desk, and without a work space or any supplies for B.D. In an e-mail dated June 22, 2012 to the Superintendent, the Principal and Straight, B.D.'s mother reiterated that GPS had assured her that the placement would be ready and appropriate for B.D., "convincing us to agree to the placement."

47. Despite assurances from GPS to the Parents that the ESY program at Penn Brook would be appropriate and ready for B.D., such was not the case. Pursuant to his IEP in effect at that time, B.D. was to have limited environmental stimuli, special consideration for his sensory processing needs in any larger group environment, a "quiet area" such as a "tent and/or pillow area" for "quiet time," picture schedule, picture supports such as a choice board, first/then board, mini schedules, "consistent routine," transition cues, preferential seating for sensory needs, a slant board, supported seating that provided 90/90/90 degree angles (Rifton chair), discrete trials, preparation "for planned changes in staffing/schedule," structured sensory breaks, however, many of these accommodations were not provided.

48. The slant board B.D. used and was accustomed to using at Perley was not brought over to Penn Brook; instead, he was required to use a slant board that GPS constructed out of a cardboard box. His desk and work area were set up in a tiny corner in a cluttered classroom, classroom #3, and did not have a "quiet area" for "quiet time" such as a tent. The Rifton chair that B.D. used at Perley was not brought over to Penn Brook until after July 5, 2012, when his mother noted it was missing. The climbing structure and familiar toys that he played with on the playground at Perley, and which the Parents were assured by GPS would be brought over to Penn Brook, were not brought over. The hallway leading to B.D.'s classroom at Penn Brook had

shadows making it extremely difficult for him to maneuver given his depth perception impairment, he was also frightened by the gushing sounds from exposed pipes that lined the hallway and classroom. At times, B.D. would be startled by the barking of the Guidance Counselor's pet dog that she brought to Penn Brook that summer, despite the fact that barking dogs were not permitted at school. Moreover, B.D. was not prepared by GPS for changes in staffing or schedule. During the summer program, he had substitute teachers, at times no teacher as well as a new aide to provide his ABA-based programming, who were not properly trained and familiar with his IEP. These teachers either did not apply his programming, or applied it in differing ways.

49. In addition to transitioning to a new school, new classroom, new equipment, new playground, B.D. was placed in a classroom with students he was completely unfamiliar with, and many were three (3) year old students participating as incoming students via their Early Intervention programming and much younger than B.D. The classmates familiar to B.D. from the past school year were placed in a different classroom. Because B.D. required a Special Education Teacher, he was placed with the younger students.

50. These drastic changes were overwhelming for B.D., then six (6) years old and suffering from an anxiety disorder, visual impairment, sensory process disorder and autistic spectrum disorder. B.D. was not permitted to be accompanied by his service dog, with whom he had been working since 2011, and who could have helped him visually comprehend this new environment and minimize the stress from his new environment. B.D. was required to navigate this new environment without the assistance of his service dog.

51. On July 5, 2012, while at ESY at Penn Brook, B.D. experienced a tonic-clonic seizure, a type of seizure he had never experienced before, which lasted over twenty (20)

minutes and required the administration of Diastat gel. A 911 call was responded to by Georgetown Police Department, Georgetown Fire Department and EMS, and B.D. was transported by ambulance to Lawrence General Hospital. As a result of his seizure, Dr. Thibert prescribed Keppra to B.D., to be added to his other medications.

52. On July 6, 2012, the Parents demanded that B.D.'s IEP be amended and that his service dog be added as an accommodation effective immediately. GPS and the School Committee denied the Parents' request and refused to amend B.D.'s IEP to include a service dog as an accommodation. The service dog was, however, permitted to accompany B.D. to school with his mother as its handler, but only on a trial basis, beginning on or about July 10, 2012.

53. On July 11, 2012, five (5) days after his first tonic-clonic seizure, B.D.'s mother advised Straight, the Principal, and the Superintendent that B.D.'s summer 1:1 aide/special education teacher lacked a working knowledge of ABA principles and B.D.'s IEP, and that there was a correlation between these changes and the increase in aggressive behavior and anxiety that B.D. was experiencing.

54. On July 13, 2012, B.D.'s mother expressed her concerns to Straight, the Principal, and the Superintendent and requested a meeting to discuss B.D.'s new 1:1 aide, the constant program changes and inconsistencies in how his IEP was being implemented, to no avail.

55. On July 18, 2012, less than two (2) weeks after his first tonic-clonic seizure, and while in his ESY program at Penn Brook accompanied by a substitute 1:1 aide/ special education teacher, B.D. suffered a second, extended tonic-clonic seizure, reported as two (2) separate seizures, one lasting forty-five (45) seconds and a second lasting twenty-five (25) minutes, and required the administration of Diastat gel. A 911 call was responded to by Georgetown Police

Department, Georgetown Fire Department and EMS, and he was transported to MGH. Dr. Thibert prescribed a titrating dose of Keppra, an antiepileptic drug and increased B.D.'s Lamictal dose.

56. On or about July 19, 2012, B.D. was evaluated by Dr. Robin S. Blair who found his vision performance "unskilled," his focusing ability "passable," and his eye teaming ability "unskilled," and recommended further testing and referred B.D. to Catherine A. Kennedy, O.D., who specialized in behavioral and developmental optometric vision care. However, Straight denied the recommended further evaluation and advised B.D.'s mother that GPS had "only agreed to the initial eye exam."

57. On July 26, 2012, B.D. was seen by Dr. Thibert, who noted that B.D. had regressed a bit in his development over the summer with less academic support and was now having difficulty with his letters. He also noted that B.D.'s gastrointestinal issues were worse and that he had increased diarrhea. B.D. was to remain on Neurontin, Tenex, Melatonin, in addition to Keppra and Lamictal.

58. On July 30, 2012, a meeting, attended by Straight, the Principal and the Superintendent, was held in the Superintendent's office. At that meeting, the Parents adamantly expressed their view that B.D.'s continued placement at GPS was inappropriate, that B.D. was at risk attending his current placement, and that GPS had failed to take actions to effectively mitigate those risks. GPS continued to refuse to consider the continuum of educational placements for B.D. as required under his IEP.

59. On July 31, 2012, while in his ESY program at Penn Brook, B.D. suffered a third tonic-clonic seizure which lasted approximately eight (8) minutes and required the

administration of Diastat gel. A 911 call was responded to by Georgetown Police Department, Georgetown Fire Department and EMS, and he was transported to Lawrence General Hospital.

60. On August 6, 2012, while in his ESY program at Penn Brook, B.D. suffered a fourth tonic-clonic seizure which lasted approximately eleven (11) minutes and required the administration of Diastat gel. A 911 call was responded to by Georgetown Police Department, Georgetown Fire Department and EMS, and B.D. was transported to MGH.

61. On August 6, 2012, B.D.'s mother reiterated to the Superintendent, the Principal, and Straight that B.D. had had four (4) emergent seizures in his lifetime, all of which happened in school, and that GPS' implementation of B.D.'s IEP was extremely poor and ineffective and GPS' lack of planning, training and execution was unacceptable and the most probable cause for B.D.'s extraordinary increase in seizure activity over the past month. B.D.'s mother stated that B.D.'s ESY placement was not only inappropriate but unsafe. The Parents refused to continue to subject their son to unsafe, unhealthy and life threatening situations at GPS, and wanted answers as to GPS' proposed plan to implement the agreed upon services and education in a safe and appropriate learning environment.

62. The Parents removed B.D. from GPS after his fourth life-threatening tonic-clonic seizure. GPS offered the Parents compensatory services for time B.D. missed from his educational programming as a result of his tonic-clonic seizures.

63. On August 13, 2012, the Superintendent advised B.D.'s mother that her questions needed to be answered by "the team" and "input from medical personnel should also be considered," that she would work with the Principal and Straight to determine if compensatory services were going to be offered, and that she continued "to believe that [GPS could] provide the program detailed in his IEP beginning in September without an out-of-school placement."

64. On August 24, 2012, Dr. Thibert relayed in a letter provided to GPS that B.D.'s "current school program has been inadequate in terms of managing his seizures appropriately," and expressed concern regarding the "school's ability to handle his health and safety needs as evidenced by multiple events ... over the past few months." Dr. Thibert further noted that B.D. "has been having significantly increased anxiety at his school program and anxiety appears to be a significant seizure trigger for him." "Given the severity of his anxiety in his current classroom setting, and the subsequent effect on his epilepsy and overall health," Dr. Thibert recommended that B.D. be held out of school until an appropriate placement was established.

65. On August 30, 2012, Straight advised the Parents that B.D.'s placement would remain at GPS and that GPS was expecting B.D. to attend the start of school on September 5, 2012, and that any "extended absences will be considered truancy."

66. On September 5, 2012, with no alternative, the Parents returned B.D. to Perley on the first day of school. Shortly after arriving at school that day, B.D. suffered a fifth tonic-clonic seizure, which lasted approximately four (4) minutes before the administration of Diastat gel. A 911 call was responded to by Georgetown Police Department, Georgetown Fire Department and EMS, and B.D. was transported unresponsive to MGH.

67. After B.D. sustained a fifth tonic-clonic seizure, the Parents rescinded B.D.'s educational placement at GPS.

68. On September 7, 2012, MGH filed a 51A report pursuant to M.G.L. c.119, §51A. On October 5, 2012, the Department of Children and Families (DCF) supported the claim for a 51A, but later changed its finding after speaking with GPS personnel.

69. After a meeting attended by the Parents, GPS administrators, evaluators and counsel, and recommendations relayed by Drs. Thibert and Morgan in a conference call, GPS

and the School Committee agreed to a forty-five (45) day extended evaluation in an out-of-district placement.

70. In November 2012, B.D. was placed in the Greater Lawrence Educational Collaborative (GLEC), f/k/a Lifeways School, in Methuen, Massachusetts, under an amended and re-drafted IEP for a 45-day assessment. After the completion of the assessment, B.D. remained at GLEC under his IEP until July 2014. GPS and the School Committee subsequently agreed to the out-of-district placement.

71. Because of visual issues observed by his occupational therapist at GLEC, B.D. was referred to Kelly Phillips, M.Ed., a vision specialist and a Teacher of Students With Visual Impairments (TVI). On December 20, 2012, B.D. saw Ms. Phillips, who performed a Functional Vision Screening and questioned whether he had Cerebral Visual Impairment (CVI) and referred him to the New England Eye Clinic at Perkins.

72. On April 2, 2013, B.D. saw Luisa Mayer, Ph.D., M.Ed. at the New England Eye Clinic at Perkins, who diagnosed B.D. with CVI and referred him back to Kelly Phillips for an orientation and mobility assessment, which was performed on May 29, 2013.

73. On March 19, 2014, B.D. was admitted overnight to the Acute Psychiatric Services at MGH for increased aggression, paranoia and hallucinations.

74. From May 9, 2014 until July 31, 2014, B.D. was hospitalized at Hampstead Hospital for severe aggression, hallucinations and diagnosed with Disruptive Behavior Disorder NOS and Psychotic Disorder NOS.

75. Since July 2014, B.D. has been attending Berkshire Meadows, in Great Barrington, Massachusetts, through his IEP and making developmental and educational progress.

76. B.D. has not suffered a seizure since being removed from GPS and remains off Keppra.

Count I-Intentional Infliction Of Emotional Distress
(vs. the Superintendent, the Principal, Estep, and Straight)

77. The plaintiffs incorporate and reallege herein the allegations made in Paragraph Nos. 1 through 76 above.

78. The defendants were aware that B.D. had special needs, including sensory process disorder, anxiety, visual impairment, seizure disorder, and autistic spectrum disorder and received special education and related services at GPS under his IEP.

79. The defendants were responsible for implementing B.D.'s ESY summer 2012 program at Penn Brook.

80. The defendants knew or should have known that their actions and omissions would result in emotional and physical injury to B.D.

81. The conduct of the defendants was extreme and outrageous.

82. As a result of the intentional conduct of the defendants, as more fully alleged above, B.D. suffered five (5) life-threatening, stress-induced, tonic-clonic seizures, required placement on Keppra and an increased Lamictal dose, suffered increased fatigue, aggression, anxiety and GI issues, suffered visual impairment, severe emotional distress, was diagnosed with Psychotic Disorder NOS, sustained educational and development losses, requires general anesthesia for dental procedures and required hospitalization and institutionalization.

Count II - Negligence - M.G.L. c. 258 §2
**(vs. the Superintendent, the Principal, Estep, Straight, GPS,
the School Committee and the Town)**

83. The plaintiffs incorporate and reallege herein the allegations made in paragraphs 1 through 82 above.

84. On June 24, 2014, the Parents, on behalf of themselves and as Parents and next friends of B.D., sent a presentment letter to Barbara Linares, Chairman, Georgetown School Committee; Stephen Smith, Chairman, Board of Selectman, Town of Georgetown; Carol Jacobs, Superintendent, Georgetown Public Schools and Michael Farrel, Town Administrator, Town of Georgetown, pursuant to Massachusetts General Laws Chapter 258, §4 by certified mail, return receipt requested, giving GPS, the School Committee and the Town of Georgetown notice of the allegations herein, pursuant to Massachusetts General Laws Chapter 258, §4.

85. GPS, the School Committee and the Town neither accepted nor denied the claim and six (6) months has lapsed since the presentment letter was sent; therefore, an action pursuant to Massachusetts General Laws Chapter 258, §4 may proceed.

86. At all times relevant to this action, GPS, the School Committee and/or the Town were the public employers of the Superintendent, the Principal, Estep and Straight. The Superintendent was hired by the School Committee and required to execute School Committee policy.

87. The School Committee is the governing board which sets policies and is the executive officer of GPS and operates under the laws of Massachusetts.

88. The defendants owed B.D. a special duty of care to provide safe and proper educational services pursuant to Massachusetts General Laws and his written IEP.

89. The incidents complained of in the presentment letter occurred while B.D. was a student with GPS and receiving educational services through his IEP, which included a Seizure Action Plan and Individualized Health and Safety Plan.

90. While acting within the scope of their employment, the Superintendent, the Principal, Estep, and Straight each breached the duty of care that they owed to B.D., and caused

harm to B.D. by their affirmative decisions to refrain from implementing the services and interventions as required under B.D.'s IEP. As a result, the conduct of each defendant caused B.D.'s stress and anxiety.

91. GPS, its administrators, educators and staff, including the Superintendent, the Principal, and Straight, gave explicit and specific assurances to the Parents that GPS was an appropriate placement for B.D., that they would appropriately implement the interventions required under B.D.'s IEP, that they were capable of managing his seizure disorder and that they would provide B.D. with a safe and appropriate learning environment.

92. The defendants caused B.D.'s stress and anxiety by their affirmative acts in refusing B.D. access at GPS to his service dog, who would have helped him visually comprehend his new environment, and helped with his anxiety and sensory processing disorder.

93. The School Committee, the Town and/or GPS as the employer of the Superintendent, the Principal, Estep and Straight, are vicariously liable for the actions and inactions of these individual defendants.

94. As a result of the defendants' negligence, as more fully alleged above, B.D. suffered five (5) life-threatening, stress-induced, tonic-clonic seizures, required placement on Keppra and an increased Lamictal dose, suffered increased fatigue, aggression, anxiety and GI issues, suffered visual impairment, emotional distress, was diagnosed with Psychotic Disorder NOS, sustained educational and development losses, requires anesthesia for dental procedures and required hospitalization and institutionalization.

Count III- Loss of Consortium - M.G.L. c. 231, §85X
**(vs. the Superintendent, the Principal, Estep, Straight, GPS,
the School Committee, and the Town)**

95. The plaintiffs incorporate and reallege herein the allegations made in paragraph 1 through 94 above.

96. As a result of the defendants' actions and inactions, and the severe physical and emotional injury and substantial educational and developmental loss such conduct caused B.D., the Parents lost the enjoyment of B.D.'s society and companionship and have incurred substantial legal and medical fees and costs, which damages continue to this date.

97. As a result of the defendant's actions and inactions, and the physical and emotional injury such conduct caused B.D., the Parents lost the enjoyment of B.D.'s society and companionship.

Count IV – Violation of Section 504 of the Rehabilitation Act of 1973
(vs. GPS, the School Committee, and the Town)

98. The plaintiffs incorporate and reallege herein the allegations made in paragraph 1 through 97 above.

99. Section 504 of the Rehabilitation Act of 1973 ("Section 504") and its implementing regulations provide, in pertinent part, that "no otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 29 U.S.C. §794 (a); *see also* 34 C.F.R. §104.4(a).

100. Entities subject to Section 504 must provide equal opportunity to qualified persons with disabilities to participate or benefit from any aid, benefit, or service they make available. 34 C.F.R. §104.4(b)(1)(ii).

101. B.D. is an individual with disabilities as defined by Section 504.

102. B.D. attended GPS through an IEP subject to Section 504.

103. GPS and the Town are recipients of federal financial assistance as they receive federal funds.

104. The defendants' refusal to permit B.D. access to his service dog in his educational setting was illegal disability-based discrimination that violated Section 504.

105. The defendants' discrimination was intentional and they knowingly refused to recognize B.D.'s service dog as such, a reasonable accommodation, despite having knowledge that B.D. qualified as an individual with disabilities and relied upon the service dog to obtain equal access to the defendants' programs and services as compared to his non-disabled, non-service animal user peers. Only after he suffered a life-threatening tonic-clonic seizure did the defendants agree that B.D. could bring the service dog to school, but not as an accommodation under his IEP.

106. As a result of these violations of Section 504, B.D. has suffered harm as set forth above.

Count V- Violation of 42 U.S.C. §1983
(vs. the Superintendent, the Principal, Estep, Straight,
the School Committee, GPS and the Town)

107. The plaintiffs incorporate and reallege herein the allegations made in paragraphs 1 through 106 above.

108. The defendants violated 42 U.S.C. §1983 by depriving B.D. of protected rights, including those protected by Procedural Due Process under the Fourteenth Amendment to the United States Constitution, the Equal Protection Clause under the Fourteenth Amendment to the United State Constitution, and rights secured by IDEA, its regulations and Section 504.

109. The defendants are recipients of federal financial assistance as they receive federal funds.

110. B.D. was a child with special needs receiving special education and related services under an IEP pursuant to the IDEA and the Massachusetts Special Education Statute M.G.L. c. 71B.

111. Under the Child Find mandate included in IDEA, the defendants are required to identify, locate and evaluate all children with disabilities, in order to ensure that all children with disabilities receive a free appropriate public education, including special education and related services designed to meet their unique needs. Prior to July 5, 2012, other than general vision screening, the defendants never evaluated the extent of B.D.'s visual impairment to determine the implication on his fine motor skills, education and related services.

112. Only after June 5, 2012, did the defendants agree to have B.D.'s vision evaluated by an optometrist, Robin S. Blair, O.D., at their expense.

113. Because of the defendants' failure to comply with the Child Find mandate, B.D. was denied an evaluation prior to July 5, 2012 and, as a result, the defendants caused harm to B.D. by forcing him into an environment that caused extreme stress and seizures and without the use of his service dog.

114. As a child with special needs who was required to attend school twelve (12) months a year under an IEP, pursuant to IDEA, a special relationship existed between B.D. and the defendants. The defendants owed B.D. an affirmative duty to protect his safety and well-being while a student at GPS.

115. The defendants, despite having actual notice that GPS was an inappropriate placement for B.D., refused to allow an in-district or out-of-district placement and threatened the

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

ESSEX, SS.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION No. 1577CV01141

RACHEL DOUCETTE AND MICHAEL)
DOUCETTE, for themselves and their)
minor son, B.D.,)
Plaintiffs)

VS.)

CAROL C. JACOBS, MARGARET)
MAHER, CATHLEEN ESTEP, PH.D.,)
DONNA F. STRAIGHT, TOWN OF)
GEORGETOWN, GEORGETOWN)
SCHOOL COMMITTEE, GEORGETOWN)
PUBLIC SCHOOLS,)
Defendants)

FILED
IN THE SUPERIOR COURT
FOR THE COUNTY OF ESSEX
JUL 08 2015
[Signature]
CLERK

**EX PARTE MOTION OF THE PLAINTIFFS, RACHEL DOUCETTE
AND MICHAEL DOUCETTE, FOR LEAVE TO USE A PSEUDONYM
TO IDENTIFY THE MINOR PLAINTIFF**

Now come the plaintiffs, Rachel Doucette and Michael Doucette (also referred to hereafter as the Parents), for themselves and their minor son, B.D., and respectfully move this Court for leave to use the pseudonym "B.D." in the Complaint filed with the Court this day, in lieu of identifying the minor plaintiff by his true name. The plaintiffs further request that this Court enter an order directing that all papers filed with the Court in this action identify the minor plaintiff by the pseudonym "B.D." As grounds for this motion, the plaintiffs state as follows:

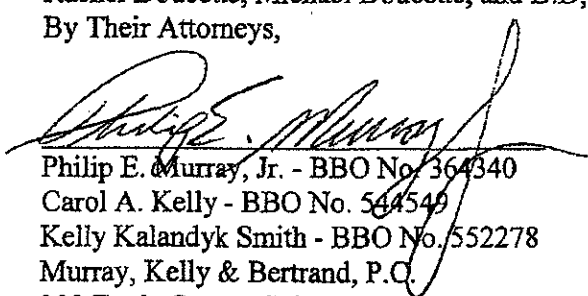
1. B.D. is presently eight (8) years old and is a child with special needs who receives special education and related services under an Individualized Education Plan ("IEP").
2. The matters set forth in the Complaint are of a highly sensitive nature to the Parents and their minor son. More specifically, the claims in this action concern the minor child's

needs for special education services under an IEP, the conduct of the defendants in relation to the provision of those services, and injuries and damages sustained by the plaintiffs as a consequence of the defendants' actions and inactions.

3. Disclosure of the identity of the minor plaintiff would have a serious and irreparable adverse impact on the minor plaintiff, and would serve no useful purpose.
4. The sensitivity of the information alleged in the Complaint, B.D.'s status as a minor, and the severity of the impact public disclosure could have on the minor plaintiff outweigh any public interest in the identity of the minor plaintiff.

WHEREFORE, the plaintiffs respectfully request that their motion be allowed, and that they be permitted to use the pseudonym "B.D." in the Complaint filed with the Court in this action in lieu of identifying their minor son by his full name. The plaintiffs further request entry of an order directing that all papers filed with the Court in this action identify the minor plaintiff by the pseudonym "B.D".

Respectfully submitted,
The Plaintiffs,
Rachel Doucette, Michael Doucette, and B.D.,
By Their Attorneys,



Philip E. Murray, Jr. - BBO No. 364340
Carol A. Kelly - BBO No. 544549
Kelly Kalandyk Smith - BBO No. 552278
Murray, Kelly & Bertrand, P.C.
300 Trade Center, Suite 2700
Woburn, MA 01801
Tel. (781) 569-0020
Fax. (781) 569-0022
E-mail: pmurray@mkblegal.com

Dated: July 3, 2015

CIVIL ACTION COVER SHEET	DOCKET NUMBER 1577CV01141	Trial Court of Massachusetts The Superior Court
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PLAINTIFF(S): Rachel Doucette and Michael Doucette, for themselves and their minor son, B.D. ADDRESS: 1 Waldingford Road, Georgetown, MA 01833	COUNTY: Essex
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ATTORNEY: Philip E. Murray, Jr. and Kelly Kalandyk Smith ADDRESS: Murray, Kelly & Bertrand, P.C., 300 Trade Center, Suite 2700 Woburn, Massachusetts 01801 BBO: Philip E. Murray, Jr. BBO 364340; Kelly Kalandyk Smith BBO 552278	DEFENDANT(S): Carol C. Jacobs, Margaret Maher, Cathleen Estep, Ph.D., Donna Straight, Town of Georgetown, Georgetown School Committee and Georgetown Public Schools ADDRESS: Georgetown Public Schools, 51 North Street, Georgetown, MA 01833, Town of Georgetown, 1 Liberty Street, Georgetown, MA 01833, Georgetown School Committee, 51 North Street, Georgetown, MA 01833
--	--

TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)

CODE NO. AB1	TYPE OF ACTION (specify) Tortious action against municipality	TRACK A	HAS A JURY CLAIM BEEN MADE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
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"If 'Other' please describe: _____

STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A

The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS
(attach additional sheets as necessary)

A. Documented medical expenses to date:	\$
1. Total hospital expenses	147,000.00
2. Total doctor expenses	22,000.00
3. Total chiropractic expenses	8450.00
4. Total physical therapy expenses	8450.00
5. Total other expenses (describe below)	8450.00
Subtotal (A):	\$
B. Documented lost wages and compensation to date	\$
C. Documented property damages to dated	\$
D. Reasonably anticipated future medical and hospital expenses	75,000.00
E. Reasonably anticipated lost wages	\$
F. Other documented items of damages (describe below)	\$
G. Briefly describe plaintiff's injury, including the nature and extent of injury: See attached Exhibit A.	TOTAL (A-F): \$ 252,450.00

CONTRACT CLAIMS
(attach additional sheets as necessary)

Provide a detailed description of claims(s): _____

TOTAL: \$ _____

Signature of Attorney/Pro Se Plaintiff: *Philip E. Murray, Jr.* Date: 7/3/15

RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.

CERTIFICATION PURSUANT TO SJC RULE 1:18

I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.


Signature of Attorney of Record: *Philip E. Murray, Jr.* Date: 7/3/15

Rachel Doucette and Michael Doucette

vs.

Carol C. Jacobs, et als

- G. Negligent and intentional acts and violations of 42 USC 1983 and Section 504 of the Rehabilitation Act by defendants caused minor plaintiff to suffer five (5) life-threatening, tonic-clonic seizures, emotional distress, permanent visual impairment, increased anxiety, diagnosis of Psychotic Disorder Nos., developmental losses, institutionalization, parental loss of consortium.

<p>CIVIL TRACKING ORDER (STANDING ORDER 1-88)</p>	<p>DOCKET NUMBER 1577CV01141</p>	<p>Trial Court of Massachusetts The Superior Court</p> 
<p>CASE NAME: Rachel Doucette et al vs. Carol C Jacobs</p>		<p>Thomas H. Driscoll, Jr., Clerk of Courts</p>
<p>TO: Kelly Kalandyk Smith, Esq. Murray, Kelly & Bertrand, P.C. 300 TradeCenter - Suite 2700 Woburn, MA 01801</p>		<p>COURT NAME & ADDRESS Essex County Superior Court - Lawrence 43 Appleton Way Lawrence, MA 01841</p>

TRACKING ORDER - A - Average

You are hereby notified that this case is on the track referenced above as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

STAGES OF LITIGATION

DEADLINE

	SERVED BY	FILED BY	HEARD BY
Service of process made and return filed with the Court		10/01/2015	
Response to the complaint filed (also see MRCP 12)		11/02/2015	
All motions under MRCP 12, 19, and 20	10/31/2015	11/30/2015	12/30/2015
All motions under MRCP 15	08/26/2016	09/26/2016	09/26/2016
All discovery requests and depositions served and non-expert depositions completed	06/22/2017		
All motions under MRCP 56	07/24/2017	08/21/2017	
Final pre-trial conference held and/or firm trial date set			12/19/2017
Case shall be resolved and judgment shall issue by			07/02/2018

The final pre-trial deadline is not the scheduled date of the conference. You will be notified of that date at a later time.
 Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.
 This case is assigned to

<p>DATE ISSUED 07/03/2015</p>	<p>ASSISTANT CLERK Philip Massa</p>	<p>PHONE (978)242-1900</p>
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CIVIL ACTION COVER SHEET	DOCKET NUMBER 1577CV01141	Trial Court of Massachusetts The Superior Court
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PLAINTIFF(S): Rachel Doucette and Michael Doucette, for themselves and their minor s ADDRESS: 1 Waldingford Road, Georgetown, MA 01833	COUNTY Essex
---	-----------------

ATTORNEY: Philip E. Murray, Jr. and Kelly Kalandyk Smith ADDRESS: Murray, Kelly & Bertrand, P.C., 300 Trade Center, Suite 2700 Woburn, Massachusetts 01801	DEFENDANT(S): Carol C. Jacobs, Margaret Maher, Cathleen Estep, Ph.D., Donna , Straight, Town of Georgetown, Georgetown School Committee and Georgetown Public Schools ADDRESS: Georgetown Public Schools, 51 North Street, Georgetown, MA 01833, 1 Liberty Street, Georgetown, MA 01833, Georgetown School Committee, 51 North Street, Georgetown, MA 01833 BBO: Philip E. Murray, Jr. BBO 364340; Kelly Kalandyk Smith BBO 552276
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TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)

CODE NO. AB1	TYPE OF ACTION (specify) Tortious action against municipality	TRACK A	HAS A JURY CLAIM BEEN MADE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
-----------------	--	------------	--

*If "Other" please describe:

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The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

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(attach additional sheets as necessary)

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1. Total hospital expenses	\$ 147,000.00
2. Total doctor expenses	\$ 22,000.00
3. Total chiropractic expenses	\$
4. Total physical therapy expenses	\$
5. Total other expenses (describe below)	\$ 8450.00
Subtotal (A):	\$
B. Documented lost wages and compensation to date	\$
C. Documented property damages to date	\$
D. Reasonably anticipated future medical and hospital expenses	\$ 75,000.00
E. Reasonably anticipated lost wages	\$
F. Other documented items of damages (describe below)	\$
G. Briefly describe plaintiff's injury, including the nature and extent of injury: See attached Exhibit A.	
TOTAL (A-F):	\$ 252,450.00

CONTRACT CLAIMS
(attach additional sheets as necessary)

Provide a detailed description of claims(s):

TOTAL: \$

Signature of Attorney/Pro Se Plaintiff: *Philip E. Murray* Date: 7/3/15

RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.

CERTIFICATION PURSUANT TO SJC RULE 1:18

I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.

Signature of Attorney of Record: *Philip E. Murray* Date: 7/3/15

CIVIL ACTION COVER SHEET INSTRUCTIONS
SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE

AC Actions Involving the State/Municipality*

- AA1 Contract Action involving Commonwealth, Municipality, MBTA, etc. (A)
- AB1 Tortious Action involving Commonwealth, Municipality, MBTA, etc. (A)
- AC1 Real Property Action involving Commonwealth, Municipality, MBTA etc. (A)
- AD1 Equity Action involving Commonwealth, Municipality, MBTA, etc. (A)
- AE1 Administrative Action involving Commonwealth, Municipality, MBTA, etc. (A)

CN Contract/Business Cases

- A01 Services, Labor, and Materials (F)
- A02 Goods Sold and Delivered (F)
- A03 Commercial Paper (F)
- A04 Employment Contract (F)
- A06 Insurance Contract (F)
- A08 Sale or Lease of Real Estate (F)
- A12 Construction Dispute (A)
- A14 Interpleader (F)
- BA1 Governance, Conduct, Internal Affairs of Entities (A)
- BA3 Liability of Shareholders, Directors, Officers, Partners, etc. (A)
- BB1 Shareholder Derivative (A)
- BB2 Securities Transactions (A)
- BC1 Mergers, Consolidations, Sales of Assets, Issuance of Debt, Equity, etc. (A)
- BD1 Intellectual Property (A)
- BD2 Proprietary Information or Trade Secrets (A)
- BG1 Financial Institutions/Funds (A)
- BH1 Violation of Antitrust or Trade Regulation Laws (A)
- A99 Other Contract/Business Action - Specify (F)

* Choose this case type if ANY party is the Commonwealth, a municipality, the MBTA, or any other governmental entity UNLESS your case is a case type listed under Administrative Civil Actions (AA).

† Choose this case type if ANY party is an incarcerated party, UNLESS your case is a case type listed under Administrative Civil Actions (AA) or is a Prisoner Habeas Corpus case (EB7).

ER Equitable Remedies

- D01 Specific Performance of a Contract (A)
- D02 Reach and Apply (F)
- D03 Injunction (F)
- D04 Reform/ Cancel Instrument (F)
- D05 Equitable Replevin (F)
- D06 Contribution or Indemnification (F)
- D07 Imposition of a Trust (A)
- D08 Minority Shareholder's Suit (A)
- D09 Interference in Contractual Relationship (F)
- D10 Accounting (A)
- D11 Enforcement of Restrictive Covenant (F)
- D12 Dissolution of a Partnership (F)
- D13 Declaratory Judgment, G.L. c.231A (A)
- D14 Dissolution of a Corporation (F)
- D99 Other Equity Action (F)

PA Civil Actions Involving Incarcerated Party †

- PA1 Contract Action involving an incarcerated Party (A)
- PB1 Tortious Action involving an incarcerated Party (A)
- PC1 Real Property Action involving an incarcerated Party (F)
- PD1 Equity Action involving an incarcerated Party (F)
- PE1 Administrative Action involving an incarcerated Party (F)

IR Torts

- B03 Motor Vehicle Negligence - Personal Injury/Property Damage (F)
- B04 Other Negligence - Personal Injury/Property Damage (F)
- B05 Products Liability (A)
- B06 Malpractice - Medical / Wrongful Death (A)
- B07 Malpractice - Other (A)
- B08 Wrongful Death, G.L. c.229 §2A (A)
- B15 Defamation (A)
- B19 Asbestos (A)
- B20 Personal Injury - Slip & Fall (F)
- B21 Environmental (F)
- B22 Employment Discrimination (F)
- BE1 Fraud, Business Torts, etc. (A)
- B99 Other Tortious Action (F)

RP Real Property

- C01 Land Taking (F)
- C02 Zoning Appeal, G.L. c. 40A (F)
- C03 Dispute Concerning Title (F)
- C04 Foreclosure of a Mortgage (X)
- C05 Condominium Lien & Charges (X)
- C99 Other Real Property Action (F)

MC Miscellaneous Civil Actions

- E18 Foreign Discovery Proceeding (X)
- E97 Prisoner Habeas Corpus (X)
- E22 Lottery Assignment, G.L. c. 10 §28 (X)

AB Abuse/Harassment Prevention

- E15 Abuse Prevention Petition, G.L. c. 209A (X)
- E21 Protection from Harassment, G.L. c. 258E(X)

AA Administrative Civil Actions

- E02 Appeal from Administrative Agency, G.L. c. 30A (X)
- E03 Certiorari Action, G.L. c.249 §4 (X)
- E05 Confirmation of Arbitration Awards (X)
- E06 Mass Antitrust Act, G. L. c. 93 §9 (A)
- E07 Mass Antitrust Act, G. L. c. 93 §8 (X)
- E08 Appointment of a Receiver (X)
- E09 Construction Surety Bond, G.L. c. 149 §§29, 29A (A)
- E10 Summary Process Appeal (X)
- E11 Worker's Compensation (X)
- E16 Auto Surcharge Appeal (X)
- E17 Civil Rights Act, G.L. c.12 §11H (A)
- E24 Appeal from District Court Commitment, G.L. c.123 §9(b) (X)
- E25 Pleural Registry (Asbestos cases) (X)
- E95 Forfeiture, G.L. c.94C §47 (F)
- E99 Other Administrative Action (X)
- Z01 Medical Malpractice - Tribunal only, G.L. c. 231 §60B (F)
- Z02 Appeal Bond Denial (X)

SO Sex Offender Review

- E12 SDP Commitment, G.L. c. 123A §12 (X)
- E14 SDP Petition, G.L. c. 123A §9(b) (X)

RC Restricted Civil Actions

- E19 Sex Offender Registry, G.L. c.8 §178M (X)
- E27 Minor Seeking Consent, G.L. c.112 §12S (X)
- E94 Forfeiture, G.L. c.265 §56 (X)

TRANSFER YOUR SELECTION TO THE FACE SHEET

EXAMPLE:

CODE NO.	TYPE OF ACTION (specify)	TRACK	HAS A JURY CLAIM BEEN MADE?
B03	Motor Vehicle Negligence-Personal Injury	<u>F</u>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A

DUTY OF THE PLAINTIFF - The plaintiff shall set forth, on the face of the civil action cover sheet (or attach additional sheets as necessary), a statement specifying the facts on which the plaintiff relies to determine money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served with the complaint. A clerk-magistrate shall not accept for filing a complaint, except as otherwise provided by law, unless it is accompanied by such a statement signed by the attorney or pro se party.

DUTY OF THE DEFENDANT - If the defendant believes that the statement of damages filed by the plaintiff is inadequate, the defendant may file with his/her answer a statement specifying the potential damages which may result if the plaintiff prevails.


A CIVIL COVER SHEET MUST BE FILED WITH EACH COMPLAINT.
FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY
MAY RESULT IN DISMISSAL OF THIS ACTION.

Rachel Doucette and Michael Doucette

vs.

Carol C. Jacobs, et als

- G. Negligent and intentional acts and violations of 42 USC 1983 and Section 504 of the Rehabilitation Act by defendants caused minor plaintiff to suffer five (5) life-threatening, tonic-clonic seizures, emotional distress, permanent visual impairment, increased anxiety, diagnosis of Psychotic Disorder Nos., developmental losses, institutionalization, parental loss of consortium.

CIVIL TRACKING ORDER (STANDING ORDER 1- 88)	DOCKET NUMBER 1577CV01141	Trial Court of Massachusetts The Superior Court	
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CASE NAME: Rachel Doucette et al vs. Carol C Jacobs	Thomas H. Driscoll, Jr., Clerk of Courts
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TO: Kelly Kalandyk Smith, Esq. Murray, Kelly & Bertrand, P.C. 300 TradeCenter - Suite 2700 Woburn, MA 01801	COURT NAME & ADDRESS Essex County Superior Court - Lawrence 43 Appleton Way Lawrence, MA 01841
--	---

TRACKING ORDER - A - Average

You are hereby notified that this case is on the track referenced above as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

STAGES OF LITIGATION

DEADLINE

	SERVED BY	FILED BY	HEARD BY
Service of process made and return filed with the Court		10/01/2015	
Response to the complaint filed (also see MRCP 12)		11/02/2015	
All motions under MRCP 12, 19, and 20	10/31/2015	11/30/2015	12/30/2015
All motions under MRCP 15	08/26/2016	09/26/2016	09/26/2016
All discovery requests and depositions served and non-expert depositions completed	06/22/2017		
All motions under MRCP 56	07/24/2017	08/21/2017	
Final pre-trial conference held and/or firm trial date set			12/19/2017
Case shall be resolved and judgment shall issue by			07/02/2018

The final pre-trial deadline is not the scheduled date of the conference. You will be notified of that date at a later time.
Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.
 This case is assigned to

DATE ISSUED 07/03/2015	ASSISTANT CLERK Philip Massa	PHONE (978)242-1900
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