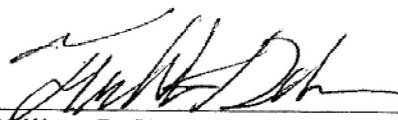


PRAYER FOR RELIEF

WHEREFORE, the Minor Plaintiff prays for judgment against the Defendants as follows:

- 1) That the Plaintiff have and recover damages from CCB, Patrick and Wilburn, in their individual capacities, jointly and severally, in an amount to be determined at trial, for their negligence, gross negligence, and violation of the ADA;
- 2) That Plaintiff have and recover damages from Defendant CCB in an amount to be determined at trial, for its negligent hiring and supervision;
- 3) That Plaintiff have and recover damages from the Defendants in an amount to be determined at trial pursuant to 42 U.S.C. § 1983 for its violation of the United States Constitution;
- 4) In the alternative, that Plaintiff have and recover damages in an amount to be determined at trial, from Defendant CCB for its violation of the North Carolina Constitution, as Plaintiff have no adequate remedy at law;
- 5) That the Plaintiff be awarded punitive and/or exemplary damages for the malicious, wanton, willful, reckless acts of Wilburn, CCB and Patrick, pursuant to N.C.G.S. §§ 1D-1, et seq.;
- 6) That the Plaintiff have and recover damages from the Patrick and Wilburn, in their individual capacities, in an amount to be determined at trial, for the false imprisonment of D.P.;
- 7) That the Defendants be taxed with the costs of this action, including reasonable attorney fees as allowed by law, expenses, prejudgment interest, etc.;
- 8) That all issues so triable, be tried to a jury; and for any other relief this Court deems just and proper under the circumstances.

Respectfully submitted this the 10th day of February, 2022.



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STATE OF NORTH CAROLINA

COUNTY OF CLEVELAND

FILED THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

22 CVS 271

2022 FEB 15 A 10:32

SUZAN MCKINNEY PARRIS, as Guardian
Ad Litem for D.P., a minor.

Plaintiff,

v.

CLEVELAND COUNTY BOARD OF
EDUCATION, MARK PATRICK, in his
individual capacity, LATOSA WILBURN, in
her individual capacity,

Defendants.

CLEVELAND CO., C.S.C.

BY

**COMPLAINT
(JURY TRIAL DEMANDED)**

NOW COMES THE PLAINTIFF complaining of the Defendants as follows:

PARTIES

1. Plaintiff Suzan McKinney Parris ("Parris") has been duly appointed as the Guardian Ad Litem for D.P. ("D.P." or the "minor Plaintiff"), a minor. Suzan Parris is the natural mother of D.P. and is an adult citizen and resident of Cleveland County, North Carolina, who brings this action in her representative capacity on behalf of D.P., a minor and student at North Shelby School (hereinafter "NSS") located at 1701 Charles Rd, Shelby, NC 28152.

2. Defendant Cleveland County Board of Education (hereinafter "CCB"), is a governmental agency/entity existing under the laws of the state of North Carolina and has facilities and schools located throughout Cleveland County, including NSS. At all times herein mentioned in this lawsuit, CCB acted and carried on its business by and through its agents, servants, and/or employees at its various locations, including NSS.

3. Defendant Latosa Wilburn, sued in her individual capacity, upon information and belief, is a citizen and resident of North Carolina and a public employee of CCB.

4. Defendant Mark Patrick, sued in his individual capacity, upon information and belief, is a citizen and resident of North Carolina and a public employee of CCB.

NATURE OF ACTION

5. This is an action against the aforementioned Defendants for compensatory and punitive damages for the deliberate actions and indifference, negligence, failure to protect, and other claims against Defendants CCB, Patrick and Wilburn due to each Defendant's direct personal

involvement and/or actual knowledge of the wrongs enumerated in this Complaint regarding a brutal physical injury, assault, and abuse of Plaintiff D.P. by Latosa Wilburn and CCB.

JURISDICTION

6. This action is brought pursuant to 28 U.S.C. § 1331 and § 1343(a)(3). Substantive claims also arise under the Americans with Disabilities Act (42.S.C. § 12101 *et seq.*).

7. Alternatively, in the event that the Court finds that CCB is entitled to governmental immunity, which Plaintiff denies, then Plaintiff has no adequate remedy at law, and Plaintiff asserts violations of Article I, §§ 15 and 19 and Article IX, § 1 of the North Carolina Constitution.

8. The Superior Court of Cleveland County, North Carolina has jurisdiction over the parties and the subject matter of this action.

9. The venue is proper.

10. Plaintiff has been damaged in an amount exceeding \$25,000.00.

GOVERNMENTAL IMMUNITY IS WAIVED

11. N.C. General Statute §115C-42 states: “Any local board of education, by securing liability insurance as hereinafter provided, is hereby authorized and empowered to waive its governmental immunity from liability for damage by reason of death or injury to person or property caused by the negligence or tort of any agent or employee of such board of education when acting within the scope of his authority or within the course of his employment. Such immunity shall be deemed to have been waived by the act of obtaining such insurance, but such immunity is waived only to the extent that said board of education is indemnified by insurance for such negligence or tort.”

12. Upon information and belief, CCB has waived governmental immunity that could otherwise apply to the claims in this case. Upon information and belief, CCB has purchased liability insurance, either by contract with an insurance company or other qualified insurer as determined by the Department of Insurance, which provides coverage—including coverage to its officers and employees—for the claims raised in this action. CCB has thereby waived its sovereign or governmental immunity on these claims by purchasing insurance pursuant to N.C. General Statute § 115C-42.

13. Alternatively, should the Court determine that CCB is entitled to governmental immunity, which Plaintiff denies, then Plaintiff will have no adequate remedy at law and assert violations of Article I, §§ 15 and 19 and Article IX, § 1 of the North Carolina Constitution.

14. Further, these claims are being made against Defendant Wilburn in her individual capacity as a public employee for acts that occurred within the scope of her employment.

FACTUAL ALLEGATIONS

15. At all times relevant, the minor Plaintiff was a student at North Shelby School.
16. At all times relevant, minor Plaintiff was a 13-year-old, non-verbal middle school student with severe Autism.
17. At all relevant times, minor Plaintiff was in an Individualized Education Program ("IEP") at North Shelby School. Said IEP was created by NSS.
18. Minor Plaintiff's IEP required a high level of close supervision, assistance, and prompting by trained school staff.
19. Minor Plaintiff's IEP also mandated a helmet be worn during times of aggression to protect his head.
20. At all relevant times, CCB through the actions of NSS, created and implemented a Behavioral Intervention Plan ("BIP") for minor Plaintiff.
21. In accordance with the BIP, the school must keep an accurate daily behavioral log for D.P.
22. At all relevant times, Defendants knew or should have known of minor Plaintiff's need for close supervision, assistance, and prompting by trained school staff.
23. Upon information and belief, at all relevant times, two of the NSS employees responsible for the close supervision, assistance, and prompting of D.P. were medically prohibited from hands on contact with students.
24. On or about May 23rd, 2019, while on the playground without close supervision or assistance, D.P. injured his head on an exposed drainpipe.
25. At the time of his injury, he was not wearing his required protective helmet.
26. On the day of his injury, D.P.'s behavioral log indicated he had a "Good Day."
27. Shortly thereafter, Parris received a call from North Shelby School principal Mark Patrick ("Patrick"). Parris was informed that her son, D.P., had injured his head on the playground. In the opinion of the school nurse, Linda Byrd, D.P.'s injury required stitches.

28. Rather than call 911 and have Emergency Medical Services ("EMS") respond, Patrick told Parris that she needed to instead come to the school and inspect the wound.
29. Parris requested EMS be called as she was thirty minutes away.
30. Patrick disregarded Parris' request to call EMS.
31. Parris arrived at North Shelby School to discover that D.P. had been restrained both mechanically via his desk, and physically by Patrick, for thirty minutes, all while suffering from a large open wound on his head.
32. Due to D.P.'s injury and restrained state for an extended period of time, D.P. was extremely agitated. At all relevant times, CCB, Patrick and Latosa Wilburn knew or should have known that D.P. did not respond well to physical touch, as that information was contained in his IEP.
33. In the presence of Parris, Wilburn actively disregarded the needs and rights of D.P.
34. In the presence of Parris, Patrick needlessly and negligently physically restrained D.P., thus exacerbating his agitation.
35. D.P. was subsequently transported via EMS to the Emergency Department. Due to D.P.'s agitated state, he required sedation for transportation.
36. Upon arrival to the Emergency Department ("ED"), D.P. required further sedation due to his agitated state.
37. At the ED, D.P. required treatment including but not limited to staples to close the wound on his head, continued sedation and various other forms of medical treatment.
38. On or about May 24, 2019, Parris met with Patrick to discuss the incident. Patrick informed Parris that an internal investigation was underway and he could not share any information regarding the circumstances of D.P.'s injury.
39. Parris repeatedly asked Patrick for information regarding her son's incident.
40. Patrick continuously informed Parris the delay was due to an investigation by human resources.
41. It was not until Parris proceeded to contact Dr. Steven Fisher, Superintendent of Cleveland County Schools ("CCS"), Dr. Nellie Aspel, Exceptional Children's Director of CCS, Shearra Miller, Chairman of CCB, Philip Glover, CCB board member and Mark Patrick, that she was finally provided information.

42. Twenty-one days after D.P.'s injury, Dr. Fisher informed Parris that D.P. was trying to run out of the playground and a teacher's assistant, Latosa Wilburn, collided with D.P. causing him to fall backwards and strike his head.
43. Dr. Fisher informed Parris depending on what angle the incident was viewed from, it might look like Wilburn pushed D.P. and that is how he hit his head.
44. Dr. Aspel informed Parris that the incident had been reported to law enforcement.
45. On or about August 14th, 2019, D.P.'s teacher and two teacher assistants were terminated from their employment at NSS. Ms. Wilburn was reassigned to a different class.
46. D.P.'s class was subsequently understaffed.
47. On or about August 24th, 2019, Parris requested a closed-door meeting with the CCB to voice her concerns about how D.P.'s injury was handled. On or about September 23rd, 2019, Parris was granted her request.
48. After the meeting, Parris learned that the police officer that investigated the incident, Officer Wampler, was the husband of CCS' human resources supervisor.
49. After multiple requests for a copy of the police report, on or about September 13th, 2019, Parris' request was officially denied by Officer Wampler.
50. Parris spoke to Sergeant Porter via telephone and expressed her concerns regarding a potential conflict of interest.
51. Parris was informed the school had not reported the incident to law enforcement until May 29th, 2019, and that Officer Wampler had opened the case, conducted his investigation, and closed the case all in the same day, on or about May 30th, 2019.
52. When Parris informed Sergeant Porter the school had not provided her with any information for twenty-one days, Sergeant Porter directed Parris to the police department to request an investigation be initiated.
53. Only then was Parris informed that her son's injury occurred under a different set of facts.
54. Upon information and belief, the teacher who prevented D.P. from exiting the playground was prohibited from physically restraining him due to her surgery, so Latosa Wilburn moved to intervene physically.
55. At that time, based solely on CCB's account of the incident, D.P. allegedly attempted to bite Ms. Wilburn.

56. Ms. Wilburn stated: "If you bite me, I'll bite you back and clock out."
57. At this time, D.P. was on his knees, as a sign of submission, when Ms. Wilburn struck D.P.'s forehead with her hand, which pushed him backwards, causing him to hit his head on the protruding pipe.
58. Upon information and belief, prior to this incident, there was a separate incident whereby a NSS employee kicked D.P. while on the ground.
59. The tragic event that occurred on the playground of North Shelby School and the subsequent responses, or lack thereof, from NSS personnel violated the following codes in the *Cleveland County Board of Education Policy Handbook*:
- Policy Code: 1510 Supervision of Students
 - Policy Code: 1710 Discrimination and Harassment Prohibited by Federal Law
 - Policy Code: 4304-R Rules for Use of Seclusion and Restraint in Schools
 - Policy Code: 4329 Bullying and Harassing Behavior
 - Policy Code: 4700C Student Records
 - Policy Code: 4303 Fair and Consistent Discipline Administration
 - Policy Code: 7730 Conflict of Interest
 - Policy Code: 4304-R Notice of Unreasonable Restraint
60. Additionally, Latosa Wilburn, and other staff members present at the time of D.P.'s injury, failed to uphold their staff responsibilities as outlined in Board Policy Code: 1510, which requires that teachers: Take reasonable precautions to protect the safety of students on school grounds and on buses before, during, and after school.

FIRST CAUSE OF ACTION
(Negligence/Gross Negligence – All Defendants)

61. Plaintiff repeats and reallege each and every allegation set forth above with the same force and effect as if set forth fully herein.
62. The Defendants owed a duty to the Plaintiff to provide protection from unlawful discrimination and harassment at school, to provide a safe school environment, and to accommodate disabilities.
63. The Defendants breached their duties in the following ways:
- (a) Defendants failed to properly accommodate minor Plaintiff's disability;
 - (b) Defendants were deliberately indifferent to the needs and special needs of minor Plaintiff;
 - (c) Defendants were deliberately indifferent to the safety of minor Plaintiff;

- (d) Defendants failed to take reasonable protective action in response to the violent actions executed;
 - (e) Defendants failed to protect minor Plaintiff by ignoring multiple acts of harassment, failing to properly supervise students and other staff, and failing to intervene to stop the violence or provide adequate medical aid to D.P.;
 - (f) Defendants failed to properly document and report Wilburn's assault on D.P.;
 - (g) Defendants failed to provide proper medical care to D.P. in a timely manner;
 - (h) Defendants violated policy codes 1510, 1710, 4304-R, 4329, 4700C, of the *Cleveland County Schools Policy Handbook*;
 - (i) Defendants falsified daily behavior data, including, but not limited to data on May 23rd, 2019;
 - (j) Defendants falsified information during the school's internal investigation;
 - (k) Defendants participated in a conflict of interest during the initial investigation by Officer Wampler, including but not limited to the fact his wife was the human resources director of the school system at the time of the incident.
 - (k) Defendants failed to properly implement D.P.'s IEP or BIP;
 - (l) And any other failures that may be discovered throughout the pendency of this matter.
64. Upon information and belief, Defendant CCB was negligent in the following additional ways:
- (a) Failed to train employees regarding acceptable practices;
 - (b) Failed to properly supervise the responsibilities of its employees on the premises;
 - (c) Failed to properly train employees on identifying and addressing harassment;
 - (d) Failed to properly train employees on reporting harassment and abuse;

- (e) Failed to have proper procedures to intervene in situations involving harassment;
 - (f) Failed to properly train employees on the *Cleveland County Schools Policy Handbook*;
 - (g) Failed to properly train employees on identifying assaults in progress;
 - (h) Failed to properly reprimand, suspend or terminate an employee that performed deliberately indifferent acts to the detriment of Plaintiff;
 - (i) Failed to maintain required teacher to student ratios in D.P.'s class;
 - (j) Failed to maintain required teacher to student ratios during outside play;
 - (k) Failed to fill out Notice of Use of Unreasonable Restraint, Seclusions, or Aversive Procedure Document required by the policy manual and have violated Regulation Code 4304-R
 - (l) Any other failures that may be discovered throughout the pendency of this matter.
65. The acts described above were willful and wanton, done with reckless indifference or in total disregard for the rights and safety of others, including the minor Plaintiff.
66. As a result of the gross negligence and negligence of the Defendants, the Plaintiff is entitled to a recovery of damages in an amount in excess of \$25,000.00.

SECOND CAUSE OF ACTION

[Negligent Hiring, Negligent Supervision, Negligent Retention – Defendant CCB]

67. The Plaintiff incorporates by reference the allegations contained in all of the prior paragraphs.
68. Wilburn was an employee of CCB at all times relevant to this Complaint.
69. CCB had a duty to exercise ordinary and reasonable care in the screening, hiring, training, retention, and supervision of its employees, including Wilburn.
70. CCB breached such duties as indicated above and below. In addition, and upon information and belief, there had been prior incidents involving Wilburn whereby she was not disciplined for improper action.
71. Specifically, as alleged herein, CCB failed to properly train and supervise Wilburn with respect to proper techniques to be used with students with disabilities, how to

implement students' IEP and BIP, how to protect and safeguard students with disabilities, and how to properly take other preventive measures.

72. CCB's actions and inactions were grossly negligent and/or committed in reckless disregard for D.P.'s rights and safety.
73. As a direct and proximate result of the CCB's negligent hiring, supervision, and retention, the Plaintiff has been damaged in excess of \$25,000.00.

THIRD CAUSE OF ACTION

[U.S. Constitutional Violations – 42 U.S.C. § 1983 – All Defendants]

74. The Plaintiff incorporates by reference the allegations contained in all of the prior paragraphs.
75. This cause of action is brought against the Defendants for deliberate actions and indifference to the specific threat of harm to Plaintiff, and the critical medical needs of minor Plaintiff, as an individual with a documented disability. Defendant CCB failed to provide documented necessities for the Plaintiff's disability. Additionally, Defendant CCB, by and through its employees, facilitated and ignored specific actions of harm to the minor Plaintiff, and placed D.P. in direct harm by disregarding his documented disability and directions given by his IEP/BIP to deescalate his behavior.
76. At all times relevant hereto, CCB was vicariously liable for the acts of Defendant Wilburn and Patrick, and Wilburn and Patrick were, at all relevant times, acting under the color of state law.
77. At all times relevant hereto, CCB and Patrick had actual and/or constructive knowledge that Wilburn and other teachers at North Shelby School were engaged in conduct, as alleged above, that posed a pervasive and unreasonable risk of constitutional injury to citizens like Plaintiff.
78. Wilburn's and CCB's conduct which posed a pervasive and unreasonable risk of injury included but are not limited to:
 - a. Threatening physical harm to minor Plaintiff;
 - b. Acting with aggression towards minor Plaintiff;
 - c. Inappropriately touching minor Plaintiff;
 - d. Acting with disregard to the wellbeing of minor Plaintiff;
 - e. Wilburn pushing minor Plaintiff;
 - f. Allowing another teacher's assistant to kick minor Plaintiff;
 - g. Unreasonably restraining minor Plaintiff to the point of necessitating sedation;
and
 - h. Other ways to be proven through discovery of this matter.

79. At all times relevant hereto, CCB and Patrick's responses to the knowledge of Wilburn's conduct was so inadequate as to show a deliberate indifference to or tacit authorization of the alleged offensive practices.
80. At all times relevant hereto, CCB and Patrick's actions and inactions caused D.P.'s injuries.
81. In addition, CCB knew, prior to the attack, that Plaintiff had multiple diagnosed and documented disabilities, yet continuously made no effort to provide adequate supervision, properly trained staff, or implement behavior corrections documented in his IEP/BIP.
82. Despite having knowledge of minor Plaintiff's disability, and therefore his inability to defend or speak for himself, CCB created a situation in which a student like minor Plaintiff was more likely to be harmed. In addition, CCB created a situation in which the teacher who assaulted a student, was protected instead of the special needs student in its care.
83. CCB additionally failed to create a safe environment for D.P. by allowing unfit teachers to supervise special needs children. D.P. was assaulted in front of classmates and school staff. Minor Plaintiff's mental disability made him a prime target for verbal and physical harassment due to his inability to communicate and defend himself, CCB took advantage of this situation and improperly documented the assault and falsified other documents regarding the assault.
84. Despite having knowledge of a verbal threat of violence issued against minor Plaintiff by a NSS teacher, the Defendants, CCB and Patrick, created an unsafe environment for other special needs students and greatly increased the risk of harm to Plaintiff.
85. The Defendants knew or should have known that placing minor Plaintiff in a class with limited staff was likely to result in a high stress environment for the teachers as well as students. By disregarding the need for proper staffing, CCB nurtured a dangerous/high risk environment for D.P.
86. CCB created the dangerous environment which subjected minor Plaintiff to the risk of inadequate supervision and negligent teachers and, at the very least, significantly increased the risk of that danger and did so through affirmative acts.
87. As a direct and proximate result of the CCB and/or its employees' deliberate indifference by placing minor Plaintiff in a position of danger, D.P. suffered severe and permanent physical and psychological injuries and was forced to endure extreme pain, suffering, and emotional distress and mental anguish together with a total deprivation of his rights guaranteed him by the Constitution of the United States of America, including but not limited to, his substantive due process rights under the Fourteenth Amendment to bodily integrity and to be free from state-created danger.

FOURTH (ALTERNATIVE) CAUSE OF ACTION
[North Carolina Constitutional Violations – Defendant CCB]

88. Plaintiff repeats and realleges each and every allegation set forth above with the same force and effect as if set forth fully herein.
89. Alternatively, should the Court determine that CCB is entitled to governmental immunity, which Plaintiff denies, then Plaintiff has no adequate remedy at law and assert the following Constitutional violations pursuant to the laws of the State of North Carolina.
90. This alternative cause of action is brought against CCB pursuant to Article I, §§ 15 and 19 and Article IX, § 1 of the North Carolina Constitution.
91. At all times relevant hereto, Defendant CCB was vicariously liable for the acts of the Defendant Wilburn.
92. The Defendants knew prior to the attack that Plaintiff, D.P., had a diagnosed and documented disability, yet did not provide appropriate supervision by teaching staff, leaving him vulnerable due to practiced negligence and disregard for minor Plaintiff and his well-being.
93. Having knowledge of D.P.'s disability, and therefore his lack of communication skills, the Defendants took advantage of D.P.'s special needs in reporting false claims regarding the incident on the playground involving minor Plaintiff and Defendant Wilburn due to his inability to recount and communicate his own recollection of the events that transpired.
94. D.P.'s mental disability made him a prime target for verbal and physical harassment, and D.P.'s injuries and deprivation of rights were a direct and proximate result of Defendant Wilburn and CCB's deliberate disregard for a safe educational environment.
95. Despite having knowledge of a verbal threat of violence issued against D.P. by a staff member, the Defendants were deliberately indifferent to D.P.'s needs in failing to protect him from specific, reasonably credible threats.
96. The events alleged herein, which upon information and belief were permitted to arise due to the negligence and deliberate indifference of the Defendants, deprived Plaintiff D.P. the privilege of an education as well as his right to be free from state-created danger and harm.
97. As a direct and proximate result of the CCB and/or its employees' delayed action, deliberate indifference, and/or failure to protect minor Plaintiff, he suffered severe and permanent physical and psychological injuries and was forced to endure extreme pain, suffering, emotional distress, and mental anguish together with a total

deprivation of his rights guaranteed to him by the North Carolina Constitution. CCB has violated:

- (a) Article I, § 15 of the North Carolina Constitution by depriving the minor Plaintiff of an education free from bodily harm and psychological abuse in violation of his right to the privilege of education.
 - (b) Article I, § 19 of the North Carolina Constitution by depriving the minor Plaintiff of an education free from bodily harm and psychological abuse and thereby depriving him of his liberty, interests and privileges.
 - (c) Article IX, § 1 of the North Carolina Constitution by depriving the minor Plaintiff of an education free from harm and psychological abuse in violation of the obligation that schools and means of education shall be encouraged.
98. As a result of CCB's violations of the North Carolina Constitution and deprivation of the minor Plaintiff's rights, Plaintiff has suffered significant damages in an amount to be determined at trial.

FIFTH CAUSE OF ACTION

[Discrimination on the Basis of a Disability in Violation of the American with Disabilities Act (42 U.S.C. § 12101, *et seq.*) - All Defendants]

99. Plaintiff repeats and realleges each and every allegation and fact set forth above with the same force and effect as if set forth fully herein.
100. The purpose of the Americans with Disabilities Act ("ADA") is "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." 42 U.S.C. § 12101(b)(1). Title II of the ADA states that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132.
101. The claims under the ADA are brought against CCB pursuant to 42 U.S.C. § 12101 *et seq.*
102. Defendant CCB is a "public entity" within the meaning of 42 U.S.C. § 12131(1)(B).
103. The minor Plaintiff is an "individual with a disability" within the meaning of 42 U.S.C. § 12102(1).
104. The Defendant CCB has discriminated against the minor Plaintiff, by forms of discriminatory effects of communication barriers, failure to make modifications to existing facilities and practices, as well as relegation to lesser services, programs,

activities, benefits, jobs or other opportunities. These acts and omissions violate the rights of the minor Plaintiff under 42 U.S.C. § 12101, *et seq.*

105. At all times relevant to this action, the ADA was in full force and effect in the United States and the minor Plaintiff had a right not to be subjected to discrimination by Defendant CCB on the basis of his disability. 42 U.S.C. § 12132.
106. The ADA requires that “a public entity” furnish “appropriate auxiliary aids and services where necessary to afford individuals with disabilities ... an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.” 28 C.F.R. 160(b)(1).
107. Upon information and belief, Defendant CCB failed to provide comparable access to services, benefits, activities, programs, or privileges, policies, regular practices, and/or customs.
108. As a proximate result of Defendant CCB’s violation of Plaintiff’s rights under the ADA, the minor Plaintiff has suffered from discrimination, unequal treatment, exclusion (including exclusion from Defendant’s services, benefits, activities, programs, and privileges), violations of his rights under the laws of the United States, loss of dignity, frustration, humiliation, mental anguish, depression, emotional pain and suffering, anxiety, trauma, embarrassment, and medical expenses that have been incurred and will be incurred in the future.

SIXTH CAUSE OF ACTION - PUNITIVE DAMAGES AND GROSS NEGLIGENCE
[All Defendants]

109. Plaintiff repeats and realleges each and every allegation set forth above with the same force and effect as if set forth fully herein.
110. The deliberate indifference and actual conduct of Wilburn, CCB and Patrick, as described herein, constitutes malice or willful or wanton conduct.
111. The likelihood, at all relevant times, of serious harm due to the acts or omissions of Wilburn, CCB and Patrick was great.
112. Wilburn, CCB and Patrick’s actions were reprehensible, and capable of repetition. A punitive award is necessary to deter future similar conduct.
113. Wilburn, CCB and/or Patrick participated in or condoned the conduct constituting the aggravating factor giving rise to punitive damages.
114. As a result of the acts described herein, the Plaintiff is entitled to a recovery of punitive damages to be determined by a jury.
115. Plaintiff repeats and realleges each and every allegation set forth above with the

same force and effect as if set forth fully herein.

SEVENTH CAUSE OF ACTION - CIVIL CONSPIRACY

[All Defendants]

- 116. Based on the actions of the Defendants described above, it is evident that the Defendants are purposefully and intentionally attempting to avoid their duties to the Minor Plaintiff through willful acts and omissions.
- 117. Upon information and belief, Defendants did not act in good faith in their investigation of the above alleged events.
- 118. Based on the actions of the Defendants, it is evident that the Defendants purposefully withheld and intentionally misrepresented their conduct in order to avoid responsibility to Minor Plaintiff.
- 119. As a result of the civil conspiracy practices of the Defendants, the Plaintiff has been damaged in an amount in excess of \$25,000.

EIGHTH CAUSE OF ACTION – FALSE IMPRISONMENT

[MARK PATRICK AND LATOSA WILBURN]

- 120. Plaintiff repeats and realleges each and every allegation set forth above with the same force and effect as if set forth fully herein.
- 121. Plaintiff was falsely imprisoned as a result of the conduct of Defendant Patrick and Defendant Wilburn.
- 122. False imprisonment resulted when Patrick and Wilburn intentionally confined D.P. within a limited area for more than thirty minutes without lawful privilege, contrary to the instructions of Paris, and without consent of D.P. This confinement included but was not limited to, physically holding him down in a chair.
- 123. D.P. was prevented from leaving the school premises, even though Paris instructed Patrick to transport D.P. to the emergency room.
- 124. As a result of the false imprisonment by the Defendant Patrick and Defendant Wilburn, the Minor Plaintiff has been damaged in an amount in excess of \$25,000.00