

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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A.S., an infant over the age of 14 years by her
mother and natural guardian, [REDACTED]
and [REDACTED], individually,

Plaintiffs,

-against-

SMITHTOWN CENTRAL UNION FREE
SCHOOL DISTRICT,
SMITHTOWN WEST HIGH SCHOOL,
SMITHTOWN CENTRAL BOARD OF EDUCATION
and DR. MARK SECAUR SUPERINTENDENT OF
SMITHTOWN CENTRAL SCHOOLS,

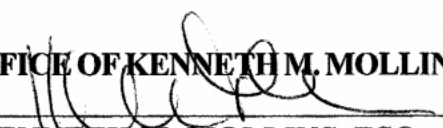
Defendants.
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TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance, on the Plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the date of service (or within thirty (30) days after service is complete if the Summons is not personally delivered to you in the State of New York); in the case of your failure to appear or answer, Judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: Hauppauge, New York
September 26, 2023

LAW OFFICE OF KENNETH M. MOLLINS, P.C.

By: 

KENNETH M. MOLLINS, ESQ.

Attorneys for Plaintiffs
1393 Veterans Memorial Highway
Suite 101S
Hauppauge, New York 11788
(631) 608-4100

Index No.:
Date Purchased:
Plaintiff designates
SUFFOLK COUNTY
as Place of Trial
Basis of Venue:
as Place of Trial
Basis of Venue: Plaintiff's
Residence located
Smithtown, N.Y. 11787

Defendants address

SMITHTOWN CENTRAL UNION FREE SCHOOL DISTRICT
26 New York Avenue
Smithtown, New York 11787

SMITHTOWN WEST HIGH SCHOOL
100 Central Road
Smithtown, New York 11787

SMITHTOWN CENTRAL BOARD OF EDUCATION
26 New York Avenue
Smithtown, New York 11787

DR. MARK SECAUR
SUPERINTENDENT OF SMITHTOWN CENTRAL SCHOOLS
26 New York Avenue
Smithtown, New York 11787

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-----X
A.S., an infant over the age of 14 years by her
mother and natural guardian, [REDACTED]
and [REDACTED] individually,

Index No. _____

VERIFIED COMPLAINT

Plaintiff,

-against-

SMITHOWN CENTRAL UNION FREE SCHOOL DISTRICT,
SMITHTOWN WEST HIGH SCHOOL,
SMITHTOWN CENTRAL BOARD OF EDUCATION
and DR. MARK SECAUR SUPERINTENDENT OF
SMITHTOWN CENTRAL SCHOOLS,

Defendants.

-----X

Plaintiffs, A.S., an infant over the age of 14 years by her mother and natural guardian,
[REDACTED] and [REDACTED] individually, by their attorneys (collectively
"Plaintiffs"), LAW OFFICE OF KENNETH M. MOLLINS, P.C., complaining of the Defendants
herein, respectfully sets forth and alleges as and for their Complaint as follows:

PARTIES

1. That at all times mentioned herein, Plaintiff Infant A.S. ("Infant"), was and still is a resident of the County of Suffolk, State of New York.
2. That at all times mentioned herein, Plaintiff [REDACTED] ("Infant's Mother"), was and still is a resident of the County of Suffolk, State of New York.
3. That at all times mentioned herein, Plaintiff [REDACTED], was and still is, the mother and legal guardian of Infant.

4. That at all times mentioned herein, Defendant, SMITHTOWN CENTRAL UNION FREE SCHOOL DISTRICT ("School District"), is a municipality, duly organized and existing under and by virtue of the laws of the State of New York, with principal offices located at 26 New York Avenue, Smithtown, New York 11787.
5. That at all times mentioned herein, Defendant, SMITHTOWN WEST HIGH SCHOOL ("Reed"), is a High School in the School District, with principal offices located at 100 Central Road, Smithtown, New York 11787.
6. That at all times mentioned herein, Defendant, SMITHTOWN CENTRAL BOARD OF EDUCATION ("Board"), is the duly elected governing Board of the School District, with principal offices located at 26 New York Avenue, Smithtown, New York 11787.
7. That at all times mentioned herein, Defendant, DR. MARK SECAUR SUPERINTENDENT OF SMITHTOWN CENTRAL SCHOOLS ("Dr. Secaur"), is the duly elected Superintendent of the School District, with a principal office located at 26 New York Avenue, Smithtown, New York 11787.

STATEMENT OF FACTS

8. At all relevant times hereinafter mentioned, Infant was a student in the School District.
9. For more than a year, Infant has been the subject of intense and severe bullying while at school, which bullying the Defendants were aware of.
10. In 2018 to 2019 while infant was in the 6th Grade she was constantly bullied by student [REDACTED] while in recess and during lunch.
11. The Assistant Principal, Mr. Lehmuth was notified in writing and numerous telephone calls were made.

12. The principal Mr. McNeil notified the parents and requested them to fill out a DASA and the form was returned to parents as “unfounded” in 2020.
13. In 2021 to 2022 while Infant was in High School she made the varsity cheer team along with [REDACTED].
14. The cheer season from August to February was uneventful for Infant.
15. Ashley McQuilton became friends with a student named [REDACTED] and her group of friends.
16. [REDACTED] and her group of friends make fun of Claimant calling her “weird”.
17. In the Summer of 2022, numerous varsity cheer team members go to a party in Kings Park.
18. One of the girls on the cheer team of Smithtown West goes in front of Infant and starts to scream in her face, and states to her that “I kissed a boy that you like”, taunting Infant
19. A cheer team member named, [REDACTED] came from behind Infant and pulled her down to the ground by her hair.
20. [REDACTED] punched, kicked and pulled out Infant’s hair.
21. A camera phone was filming the incident the entire time, it was premeditated.
22. The Video was shared across social media, which led to bullying upon Infant on Snapchat.
23. The Parents notified the varsity cheer coach, director of athletics, superintendent, principal and several administration officials and forwarded them the videos as proof.
24. Infant quit the varsity cheer team because of student [REDACTED]

25. The school district kept [REDACTED] on the cheer team, which violates their policies.
26. The parents requested Infant-Claimant be home tutored because of the bullying, assaults and Infant's fear of returning to school.
27. The school had not done anything about [REDACTED] bullying against Infant.
28. Infant received a doctor's note from pediatrician stating that is she is afraid to go to school and Infant was granted home tutoring.
29. The parents tried to sell their house, for fear of Infant-Claimant's wellbeing, however there was no interest at the time, so the house was taken off the market.
30. In 2022 while infant was in the (10th Grade) her Parents spent weeks trying to figure out how to get Infant-Claimant safely back in school as the education she was receiving at home was unacceptable to the SMITHTOWN CENTRAL UNION FREE SCHOOL DISTRICT. This led to several meetings with school officials and the parents still remained uneasy.
31. No written plan was provided to parent, despite numerous promised by Secaur and Coady
32. Parents were advised that more could be done if a police report was filed. Thereafter on 9/12/22 a police report was filed, and nothing resulted from the police report.
33. On or about 9/20/2022 Parents agreed to have Infant-Claimant return to school with the understanding that she would be safe, monitored by security, and walked to and from class with a friend.

34. Infant-Claimant and her escort were followed in the hallway, the staircase and the bathroom, by a student [REDACTED] who screamed at Infant that "if she fucks with the opps, she becomes the opp."
35. Parents immediately sent emails describing the incident to school administration, demanding they do something and parents advised school administration that Infant would be removed from school again because of their failure to keep her safe.
36. The parents agreed to send Infant back to the school days later after more promises were made to keep Infant safe.
37. On 10/08/2022 Smithtown West High School had their homecoming.
38. A group of girls headed by [REDACTED] threw food and screamed at Infant to leave.
39. The group of girls continued to scream relentlessly until Infant moved her seat away from them.
40. Assistant principal Freund was at the game and was made aware of what was going on. The Security told the group of girls to stop.
41. Micro aggressions continued at school such as laughing, pointing, telling Infant's friends not to be friends with her, right in front of her.
42. In 11/2022 Parents bought a horse to serve as [REDACTED] emotional support animal and on February 14, 2023, Infant's horse was tragically killed in front of her by the veterinarian.

43. A group of girls led by [REDACTED] made fun of her horse while she was in the bathroom and as she walked through the halls. Calling her "horse girl" and using derogatory language.
44. The Parents called counselor Mr. Agostino and he was advised of the situation and how Infant kept asking to leave early and was doing poorly in class.
45. The Counselor suggested that parents get a note from her doctor.
46. A note was obtained from the pediatrician and Infant-Claimant's father met with the counselor Mr. Agostino and discussed the death of the horse and provided him with the doctors note.
47. Mr. Agostino promised he would talk to Infant-Claimant and offer support but never did.
48. As Infant's father pleaded for help, none was provided.
49. In March 2023 the Bullying continues to get worse.
50. The parents met with Coady, Simmons and Freund at High School West and promises were made to offer support and to address the bullying, however a plan was to be placed into writing, however none was ever drawn up.
51. Parents were told that there would be a limit of 2 girls in the bathroom, this procedure was never initiated.
52. Parents were told that there is not enough staff, only 1 woman security guard. The school failed to address these issues.
53. The group of girls continued to target anyone who talked to Infant.
54. On 3/10/2023 a bathroom incident involving [REDACTED] Infant's friend [REDACTED] hung out with [REDACTED] ex-boyfriend.

55. [REDACTED] did not go to school that day so they took it out on Infant in the bathroom, outside of the bathroom, screaming, cursing in her face.
56. They followed her out into the hallway causing Infant to run and hide in a different bathroom stall on the toilet and she text her mom.
57. Infant-Claimant's mother called and demanded Mrs. Freund find out where Infant-Claimant was.
58. Mrs. Freund found Infant-Claimant crying alone in a bathroom stall. Infant-Claimant explained what happened naming [REDACTED] as main aggressor.
59. Mrs. Freund escorted Infant-Claimant to her mother's car which was waiting outside of school. Mrs. Freund promised to call parents after she investigated the incident.
60. Thereafter parents received a call and is advised that [REDACTED] was not involved in the bathroom incident.
61. On March 13, 2023 Infant has class with [REDACTED] where she tells her that she is "a pussy and afraid to get jumped again".
62. Mr. Coady is notified during a call where he states that he determined that [REDACTED] was not involved.
63. On 03/14/2023 Parents started emailing attendance office every day advising that Infant will not be in school because she is afraid to go to school".
64. On 3/20/2023 parents sent doctors note and they demanded home tutoring which was approved and is paid for by the school district.

65. On 5/13/2023 a second video of physical assaulted by [REDACTED] on Infant.
66. A police report was filed, report number 23c1000s13
67. Copies of videos and police reports were sent to Superintendent.
68. 5/14/2023 Plaintiffs filled out dasa reports on [REDACTED]
69. 5/18/2023 Plaintiffs requested that final exams be waived, and to be provided an account of tutoring hours that Infant is owed and no one responded.
70. Parents sent several emails, phone calls, texts to school administration and all went unanswered for weeks.
71. On 5-31-2023 Parents finally received a response about Infant's finals and she will only take global history 2 .
72. On 6/1/2023 received notice that DASAs against 3 girls that physically assaulted Infant were "unfounded" and no punishment.

AS AND FOR A FIRST CAUSE OF ACTION
(Against All Defendants)

73. Plaintiffs repeat, reiterate and reallege each and every allegation set forth in paragraphs "1" through "72" above with the same force and effect as if more fully set forth at length herein.
74. On or about June 5, 2023, a Notice of Claim was duly served pursuant to General Municipal Law §50-e ("Notice"), upon the Defendants, prior to the commencement of this action.
75. The Notice was duly served upon the Defendants within ninety (90) days after the injuries and damages hereinafter described were sustained by the Plaintiff.

76. More than thirty (30) days have elapsed since the service of the Notice was served, and the claim remains unpaid and the Defendants have failed and refused to make any offers to resolve same.
77. The Plaintiff has duly complied with all the conditions necessary to the commencement of this action as against Defendants and has complied with all the provisions of the Laws and Statutes of the City and State of New York in relation thereto.
78. This action was timely commenced as against Defendants within one (1) year and ninety (90) days from the date that said cause of action accrued.
79. That at all times mentioned herein, Defendant School District supervised students attending Reed middle school.
80. That at all times mentioned herein, Defendants were responsible for the oversight of students, for their safety upon School premises.
81. That at all times mentioned herein, Defendants were responsible for the security and control of their students upon school premises.
82. That at all times mentioned herein, Defendants had a responsibility to create a safe and supportive environment free from discrimination, intimidation, taunting, harassment and bullying on the School premises.
83. That at all times mentioned herein, Defendants, their agents, servants and/or employees were negligent and careless in allowing the students, who were known to Defendants to have been bullying Infant, to remain in school after repeated acts of discrimination, intimidation, taunting, harassment and bullying by those students against Infant on school premises.

84. That at all times mentioned, Defendants, their agents, servants and/or employees failed to protect Infant by allowing the bullying students to remain in school with Infant; and in failing to address and remedy the bullying by the bullying students of Infant.
85. That at all times mentioned, Defendants, their agents, servants and/or employees acted in an unreasonable, reckless, negligent, and morally reprehensible manner by allowing those students who were repeatedly and constantly bullying, intimidating, taunting and harassing Infant to remain in school despite knowing about these students' vicious and aggressive propensities which vicious and aggressive propensities was the proximate cause of Plaintiff's physical and emotional injuries.
86. The known violent, aggressive, and bullying propensities of the bullying students were never addressed and remedied by the Defendants who continued to allow the bullying students, to remain a danger to all of the other students in the school including Infant.
87. Defendants allowed its bullying students to create a culture of fear and intimidation and to assault others, by failing to address the culture or remove them from the school, and by permitting teachers and school personal to join in the acts of discrimination, intimidation, taunting, harassment and bullying, and as such, negligently encouraged same.
88. Infant's claim arose on or May 2023 inside Smithtown West High School, when Infant was bullied, assaulted, threatened, discriminated against by a group of three (3) bullying students and teachers with the express intent of beating, harassing, humiliating, denigrating and harming the Infant.
89. While bullying the Infant, the three students shouted racist and denigrating remarks at her while threatening her physically.

90. As detailed at length above, Defendants had prior notice of the bullying students committing acts of discrimination, intimidation, taunting, harassment and bullying against Infant.
91. Despite said notice of the bullying students' propensity for physical violence, bullying and aggressive behavior, the Defendants, their agents, servants, security staff and/or employees, failed to properly address the problem thereby exposing the Infant to the risk of physical and severe emotional harm.
92. The physical and emotional assault upon Infant by the bullying students at the Smithtown West High School, and the resulting physical and emotional injuries to Infant, were caused by the negligence, carelessness and recklessness of the Defendants, their agents, servants and/or employees, in their failure to provide a safe environment for Infant and protect her from being physically and emotionally assaulted, bullied and harassed.
93. The physical and emotional assaults and injuries sustained by Infant were caused without any fault on the part of the Infant.
94. This action falls within one or more of the exceptions set forth in CPLR §1602.
95. As a result of the foregoing, Infant sustained bodily injury, as well as severe emotional harm, mental anguish, shame, humiliation, indignity, and anxiety as well as other injuries, the extent of which are presently unknown.
96. As a result of the aforesaid, Infant has been damaged in an amount to be determined by a trier of fact at a trial of the issues set forth herein.
97. That as a result of the aforesaid, Infant is entitled to an award of punitive damages.

AS AND FOR A SECOND CAUSE OF ACTION
(Against All Defendants)

98. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs “1” through “97” inclusive, of this Complaint, as if the same were set forth at length herein.

99. The bodily injury, psychological and emotional injuries sustained by Infant were due to Defendants failure to provide adequate security to ensure the Infant’s safety and Defendants failure to adequately train its personnel, its agents, servants and/or employees on how to properly address, remedy and rectify the acts of physical violence, bullying, intimidation, discrimination and aggressive behavior of the bullying students and school teachers and personnel.

100. As a result of the negligence, carelessness and recklessness of the Defendants, their agents, servants and/or employees, the physical injuries and emotional distress inflicted on Infant were caused by the negligence, carelessness and recklessness of the Defendants.

100. Upon information and belief, that at all times hereinafter mentioned, the conduct of Defendants, their agents, servants and/or employees, was of such wanton, willful, egregious, reckless and intentional character as to manifest and evince a callous and reckless disregard for the safety and well-being of the Infant who was caused to sustain the damages as herein described.

101. That as a result of the aforesaid, Infant has been damaged in an amount to be determined by a trier of fact at a trial of the issues set forth herein.

102. That as a result of the aforesaid, Infant is entitled to an award of punitive damages.

AS AND FOR A THIRD CAUSE OF ACTION
(Against School District, School Board and Dr. Secaur)

103. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs "1" through "102" inclusive, of this Complaint, as if the same were set forth at length herein.
104. The Defendant School District, School Board and Dr. Secaur, were negligent, careless in failing to adequately hire, train, and supervise its teachers, principals, vice-principles and/or security personnel and other employees, thereby resulting in the actions of the Defendants' previously set forth.
105. As a direct and proximate the result of the foregoing, Infant was subjected to severe emotional harm, mental anguish, shame, humiliation, indignity, and anxiety as well as other injuries, the extent of which are presently unknown.
106. That as a result of the aforesaid, the Infant has been damaged in an amount to be determined by a trier of fact at a trial of the issues set forth herein.
107. That as a result of the aforesaid, Infant is entitled to an award of punitive damages.

WHEREFORE, Plaintiffs demand Judgment as follows:

- A. **ON THE FIRST CAUSE OF ACTION:** A money judgment in favor of Plaintiffs and against Defendants in the sum of TWO MILLION DOLLARS (\$2,000,000.00) and punitive damages in an amount to be determined at trial of the issues set forth herein, together with the interest, costs and disbursements of this action which amount prayed for herein exceeds the jurisdictional limits of all lower Courts that would otherwise have jurisdiction.

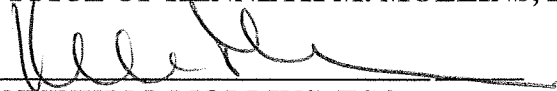
- B. **ON THE SECOND CAUSE OF ACTION:** A money judgment in favor of Plaintiffs and against Defendants in the sum of TWO MILLION DOLLARS (\$2,000,000.00) and punitive damages in an amount to be determined at trial of the issues set forth herein, together with the interest, costs and disbursements of this action which amount prayed for herein exceeds the jurisdictional limits of all lower Courts that would otherwise have jurisdiction.

- C. **ON THE THIRD CAUSE OF ACTION:** A money judgment in favor of Plaintiffs and against Defendants School District, School Board and Dr. Secaur in the sum of Two MILLION DOLLARS (\$2,000,000.00) and punitive damages in an amount to be determined at trial of the issues set forth herein, together with the interest, costs and disbursements of this action which amount prayed for herein exceeds the jurisdictional limits of all lower Courts that would otherwise have jurisdiction.

- D. **ON ALL CAUSES OF ACTION:** Costs, disbursements and all other relief as to this Court shall seem just and proper.

Dated: Hauppauge, New York
September 26, 2023

LAW OFFICE OF KENNETH M. MOLLINS, P.C.



By: KENNETH M. MOLLINS, ESQ.

Attorneys for Plaintiffs

1393 Veterans Memorial Highway

Suite 101S

Hauppauge, New York 11788

(631) 608-4100

VERIFICATION

STATE OF NEW YORK)
 :SS
 COUNTY OF SUFFOLK)

[REDACTED]

being duly sworn hereby deposes and says:

- 1. I am a Plaintiff in the within action.
- 2. I have read the foregoing Complaint and know the contents thereof; the same is true to my own knowledge, except as to those matters herein alleged to be on information and belief, and as to those matters, I believe them to be true. The grounds of my belief as to all matters not stated upon my own knowledge are as follows: My own books and records.

[REDACTED]

Sworn to before me this 26 day
 of September 2023



 NOTARY PUBLIC

KENNETH M. MOLLINS
 NOTARY PUBLIC, STATE OF NEW YORK
 Registration No. 02MO4758250
 Qualified in Suffolk County
 Commission Expires August 30, 2026