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6 and JENNIFER CHADAM

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

11 **JAMES CHADAM and JENNIFER**
12 **CHADAM**, as individuals, and **JENNIFER**
13 **CHADAM**, guardian *ad litem* of **A. C.** and
C. C., her minor children,

14 Plaintiffs,

15 vs.

16
17 **PALO ALTO UNIFIED SCHOOL**
18 **DISTRICT**, a governmental entity created
and existing under the laws of the State of
California,

19
20 Defendant.

Case No. **4:13-CV-04129-CW**

**SECOND AMENDED COMPLAINT
FOR DAMAGES**

(1) **Violation of the Americans With
Disability Act** [42 USC §12101 *et seq.*];

(2) **Violation of the Rehabilitation Act of
1972** [29 USC §794 *et seq.*];

(3) **Violation of Federal Right to Privacy**
[First Amendment to the Constitution of
the United States];

(4) **Negligence**

JURY TRIAL DEMANDED

1 Plaintiffs allege:

2 **PARTIES**

3 1. The plaintiffs are a family of four. JAMES CHADAM and JENNIFER
4 CHADAM are permanent residents of the City of Palo Alto, County of Santa Clara, State of
5 California. AC and CC are the minor children of JAMES CHADAM and JENNIFER CHADAM
6 and reside with their parents. Pursuant to FRCivP 5.2, AC and CC are named in this complaint
7 by initials to preserve and protect their anonymity and privacy.

8 On February 28, 2014, Jennifer Chadam was appointed guardian *ad litem* of AC and CC
9 by this court to represent and protect their interests in this action. The four plaintiffs are
10 collectively referred to as “the Chadams” or “the Chadam family.”

11 2. Defendant Palo Alto Unified School District (hereafter “PAUSD”) is a
12 governmental entity created and existing under the laws of the State of California. PAUSD
13 operates a public system of primary and secondary schools within the City of Palo Alto, County
14 of Santa Clara, State of California.

15 **JURISDICTION AND VENUE**

16 3. This action is brought under the Americans with Disability Act, 42 USC §12101
17 *et seq.*, the Rehabilitation Act of 1972, 29 USC §794 *et seq.* and the First Amendment to the
18 Constitution of the United States. Jurisdiction of this action is conferred upon this court by
19 28 USC §1331.

20 **FACTUAL ALLEGATIONS**

21 4. At the time of his birth in 2000, CC was diagnosed with a life-threatening cardiac
22 defect which required immediate surgical intervention in order to save his life.

23 5. As part of the newborn CC’s medical treatments, a genetic screening of CC was
24 performed. That genetic screening revealed that CC carried genetic “markers” consistent with
25 those of persons who may develop the disease of cystic fibrosis, a life-threatening illness. A
26 further diagnostic test was performed on CC which revealed he did not have cystic fibrosis.

1 6. Although CC's medical condition has been carefully monitored since his birth and
2 the emergency cardiac surgery which saved his life, CC has never had cystic fibrosis and is, in all
3 respects, a healthy teenager.

4 7. AC, CC's elder brother, is 22 months older than CC.

5 8. Prior to becoming permanent residents of Palo Alto, the Chadams resided in the
6 nation of Singapore where James Chadam worked as a consultant for a global consulting firm.

7 9. In July of 2012, the Chadam family moved into their permanent residence in the
8 City of Palo Alto. A primary motivating factor for the Chadams choosing Palo Alto as a place to
9 reside was the reputed quality of its public education system.

10 10. The nearest middle school to the Chadam's new residence is the Jordan Middle
11 School, owned and operated by the defendant PAUSD.

12 11. On or about July 22, 2012, JENNIFER CHADAM completed and delivered a
13 form entitled "Student Registration" to defendant intending to enroll her sons, AC and CC at the
14 Jordan Middle School,

15 12. On or about August 1, 2012, JENNIFER CHADAM provided a "Report of Health
16 Examination For School Entry" to the PAUSD regarding CC. The contents of that document
17 contained private, personal and privileged medical information of CC.

18 13. On or about August 2, 2012, the Chadams received a "Secondary Admit Slip"
19 from the PAUSD stating that AC and CC had been assigned to attend the Jordan Middle School.

20 14. Between August 2, 2012 and August 16, 2012, the Chadams provided additional
21 medical information and forms to the PAUSD regarding CC. This additional information was
22 also private, personal and privileged medical information of CC.

23 15. On August 16, 2012, AC and CC began attending the Jordan Middle School.

24 16. On August 22, 2012, one of CC's teachers, an employee of PAUSD, contacted
25 Mr. and Mrs. CHADAM to make an inquiry regarding CC's medical condition.

1 17. On or about September 11, 2012, one of CC’s teachers, while conducting a
2 parent-teacher conference with the parents of other student(s) at the Jordan Middle School (“Mr.
3 and Mrs. X”), without any prior authorization, permission, notice or knowledge from any
4 plaintiff, disclosed private, personal and privileged medical information regarding CC to Mr.
5 and Mrs. X, specifically that CC had the disease of cystic fibrosis.¹

6 18. That same day, September 11, 2012, JAMES CHADAM and JENNIFER
7 CHADAM were asked to attend a meeting with (a) Gregory Barnes, Jordan Middle School
8 Principal, (b) Linda Lenoir, PAUSD District Nurse and (c) Grant Althouse, Vice-Principal and
9 Administrator of the Sixth Grade. Alarmed at this development, JAMES CHADAM and
10 JENNIFER CHADAM agreed to attend the emergency meeting.

11 19. On September 11, 2012, for the first time, Mr. and Mrs. CHADAM were
12 informed by the PAUSD that other students at the Jordan Middle School (eventually disclosed to
13 be the children of Mr. and Mrs. X) had active cystic fibrosis and that these “other parents” “had
14 discovered CC’s ‘condition.’ ”

15 20. During this September 11, 2012 meeting, JAMES CHADAM and JENNIFER
16 CHADAM informed the PAUSD that CC did *not* have the disease of cystic fibrosis and that he
17 posed no health threat to any other person.

18 21. During this September 11, 2012 meeting, Gregory Barnes stated to JAMES
19 CHADAM and JENNIFER CHADAM, “We are learning as we go here.”

20 22. During the evening of September 11, 2012, JENNIFER CHADAM received a
21 telephone call from Mrs. X. During this telephone call, Mrs. X aggressively interrogated
22 JENNIFER CHADAM about CC’s medical condition, whether CC received any “home
23 treatments,” and whether CC had ever been hospitalized. Mrs. X also demanded to know from
24

25 ¹ PAUSD has repeatedly asserted that the teacher who made this unlawful disclosure of CC’s personal,
26 private and confidential medical information to Mr. And Mrs. X learned of CC’s “illness” from an essay CC wrote at
school in which he disclosed his “illness.” In fact, no such essay has ever existed.

1 Mrs. CHADAM for how long the CHADAM FAMILY intended to remain in Palo Alto and
2 whether the CHADAMs owned or rented their home.

3 23. On or about September 13, 2012, Dr. Carlos Milla authored a letter to the
4 PAUSD discussing the alleged medical issues arising by the presence of CC at the Jordan Middle
5 School. Dr. Milla's letter states, "I have been asked to comment . . ." but Dr. Milla does not state
6 by whom he was "asked to comment." Dr. Milla's letter recommends that CC be removed from
7 Jordan Middle School for the safety of the children of Mr. and Mrs. X.

8 24. On September 14, 2012, JENNIFER CHADAM was informed by email that two
9 employees of PAUSD, Sarah Zabel and Sarah Pierce, had been "talking to" CC without the
10 knowledge of CC's parents about his private health issues and to inquire of CC whether he had
11 been discussing health issues with his (CC's) parents.

12 25. On September 14, 2012, JENNIFER CHADAM had a conversation with Gregory
13 Barnes during which JENNIFER CHADAM informed Barnes that she did not wish to have her
14 son transferred out of Jordan Middle School. In this conversation, Barnes informed JENNIFER
15 CHADAM that Mr. and Mrs. X had decided to stop allowing their children to attend school so
16 there was no need "to make any changes" at the present time.

17 26. From September 14 to September 17, 2012, there was a continuous stream of
18 email communication between the X family and representatives of defendant PAUSD, including
19 a statement from one of the X parents that "the ideal solution" was for CC to be removed from
20 Jordan Middle School. Mr. And Mrs. X further complained that the privacy of their children was
21 being compromised but expressed no concern for the privacy of CC, AC or Mr. and Mrs.
22 CHADAM.

23 27. On September 16, 2012, defendant PAUSD received an unsigned letter reciting
24 the alleged harmful effects of individuals with cystic fibrosis have on each other.

1 28. On September 16, 2012, Mrs. X sent a 10-page letter to “Linda [Lenoir, PAUSD
2 Nurse]” requesting that CC be removed from the Jordan Middle School so that her children can
3 resume attending school.

4 29. On September 17, 2012, defendant PAUSD received another letter from Carlos
5 Milla, MD in which Dr. Milla changes his recommendation that children with cystic fibrosis
6 from “should not” be in school together to “must not be” in the same classroom or school. No
7 explanation is provided by Dr. Milla regarding why he altered his opinion.

8 30. On September 17, 2012, Gregory Barnes telephoned JAMES CHADAM and
9 JENNIFER CHADAM and stated that based upon CC’s private, personal and confidential
10 medical information and the demands of Mr. And Mrs. X, the PAUSD intended to transfer CC
11 out of the Jordan Middle School to Terman Middle School. Terman is 3.5 miles from the
12 CHADAM’s home.

13 31. On September 17, 2012, JAMES CHADAM and JENNIFER CHADAM sent an
14 email letter to Charles Young, Assistant Superintendent of the PAUSD, demanding to be
15 provided the documentation and evidence upon which the PAUSD based its decision to transfer
16 CC out of the Jordan Middle School. The same demand was repeated to Mr. Young in person
17 the following morning.

18 32. On or about September 20, 2012, defendant PAUSD was provided a letter from
19 John Morton, MD, who was CC’s last physician before the CHADAM family moved to Palo
20 Alto. Dr. Morton states,

21 “It is unfortunate this boy has been given the label of CF and is now recognized
22 that there are probably many of these children in the community who will be
23 diagnosed as CF carriers but have a second minor gene lurking in the background,
24 but no disease.

25 “I have seen this boy for the last 5 years on a regular basis to check that there is
26 no sign of CF disease and also that there has been no progression of the symptoms
and during that time he has shown no signs of progression. He has a slight asthma
tendency and also some nasal allergy but nothing else evident related to CF. For
this reason, I don’t think that this boy is any risk whatsoever to other children with
CF even if they were using the same classroom.”

1 33. On September 20, 2012, JAMES CHADAM and JENNIFER CHADAM met with
2 Charles Young and Linda Lenoir. During this meeting, the CHADAMs reiterated that, while CC
3 did have genetic markers, he did *not* have and had never had the disease of cystic fibrosis. When
4 asked for the basis for PAUSD’s decision to transfer CC out of Jordan Middle School, Young
5 said it was based on a letter “from a top Stanford doctor,” but refused to name the source. When
6 the CHADAMs pressed further, Young mentioned making a “Freedom of Information” request
7 and continued to refuse to identify the “top Stanford doctor.”

8 34. On September 24, 2012, JENNIFER CHADAM again met with Charles Young
9 and offered to provide more medical evidence that CC was not a health risk to anyone.

10 35. On September 28, 2012, Charles Young informed JENNIFER CHADAM by
11 telephone that the PAUSD had formally decided to transfer CC out of Jordan Middle School.

12 36. On September 28, 2012, Charles Young wrote JAMES CHADAM and
13 JENNIFER CHADAM formally announcing CC’s involuntary transfer of schools.

14 37. On October 10, 2012, CC was attending Jordan Middle school as usual and was in
15 the middle of a class. Jordan Middle School Principal Gregory Barnes entered the classroom,
16 whispered to the teacher and then left. Then, in the presence of his friends and classmates, the
17 teacher removed CC from the classroom to the hallway and informed CC that it was his last day
18 of school at Jordan. The teacher asked CC if he wanted to go back into the classroom to say
19 goodbye to his friends. Extremely distraught, CC declined and walked home.

20 38. On October 12, 2012, JAMES CHADAM and JENNIFER CHADAM brought a
21 civil proceeding against PAUSD in the Santa Clara Superior Court, Case No. 1-12-CV-233921.
22 That civil action sought injunctive relief against the PAUSD seeking to enjoin it from
23 transferring CC out of Jordan Middle School. Prior to the time the matter being heard on its
24 merits, the parties settled the matter and CC has continued to attend Jordan Middle School.

1 39. Plaintiffs are informed and believe and thereupon allege that, in addition to the
2 foregoing unlawful disclosure of CC's private, personal, privileged medical information on or
3 about September 11, 2012, the PAUSD further provided additional private, personal and medical
4 information regarding CC to Mr. and Mrs. X with no prior authorization, permission, notice or
5 knowledge of any plaintiff.

6 **FIRST CAUSE OF ACTION**
7 **By CC v. PAUSD**
8 **Violation of the Americans With Disabilities Act**

9 40. Plaintiffs re-allege each and every allegation set forth in Paragraphs 1-39 of the
10 complaint as if fully recited in this cause of action.

11 41. CC is a person protected under the Americans With Disabilities Act, 42 USC
12 §12101 *et seq.*, 42 USC §12102(1)(C) (the "ADA") because he is a person "perceived" to be
13 disabled person within the defined meaning of that term by the ADA.

14 42. The acts and conduct of the defendant PAUSD, as described and set forth in this
15 complaint, violated the ADA, because, on account of him being perceived as a disabled person
16 (i.e., a "carrier of a genetic disorder") they deprived CC of fundamental and substantial rights
17 under the law, including, without limitation:

- 18 (a) his right to attend the public school within the PAUSD closest to his home as
19 provided for in PAUSD's own policy;
- 20 (b) the right to have his private, personal and confidential medical information not
21 unlawfully disclosed by PAUSD to unauthorized persons including, without
22 limitation, Mr. And Mrs. X, as alleged above;
- 23 (c) his right to be free from being deliberately embarrassed and humiliated by the
24 school principal in the presence of his friends and classmates as occurred on
25 October 10, 2012, by being forcibly escorted and removed from his classroom in
26 the middle of a class and removed from the school property;

1 (d) his right not to be labeled, stigmatized and treated by PAUSD as being a person
2 posing a potential health threat or danger to other students and persons at his
3 school.

4 43. As the direct and proximate result of the conduct of the PAUSD in violating the
5 ADA including, without limitation, its unlawful disclosure of CC's personal, private and
6 confidential, medical information, CC suffered extreme humiliation, embarrassment, anxiety,
7 nightmares, loss of sleep, a disruption in his family and social relationships, a dramatic
8 deterioration of his grades and academic performance and various physical symptoms. CC was
9 not permitted to attend school for approximately two weeks which substantially exacerbated his
10 damages.

11 **SECOND CAUSE OF ACTION**
12 **By CC v. PAUSD**
13 **Violation of the Rehabilitation Act of 1972**

14 44. Plaintiffs re-allege each and every allegation set forth in Paragraphs 1-39 of the
15 complaint as if fully recited in this cause of action.

16 45. CC is a person protected under the Rehabilitation Act of 1972, 29 USC §794 *et*
17 *seq.*

18 46. PAUSD is an entity described by the Rehabilitation Act of 1972 because it
19 receives federal funding of its operations and activities.

20 47. The acts and conduct of the defendant PAUSD, as described and set forth in this
21 complaint, violated the Rehabilitation Act of 1972, because, on account of him being perceived
22 as a disabled person (i.e., a "carrier of a genetic disorder") it deprived CC of fundamental and
23 substantial rights under the law, including, without limitation:

24 (a) his right to attend the public school within the PAUSD closest to his home as
25 provided for in PAUSD's own policy;

26 (b) the right to have his private, personal and confidential medical information not
unlawfully disclosed by PAUSD to unauthorized persons including, without

1 limitation, Mr. and Mrs. X, as alleged above;

2 (c) his right to be free from being deliberately embarrassed and humiliated by the
3 school principal in the presence of his friends as classmates as occurred on
4 October 10, 2012, by being forcibly escorted and removed from his classroom in
5 the middle of a class and removed from the school property;

6 (d) his right not to be labeled, stigmatized and treated by PAUSD as being a person
7 posing a potential health threat or danger to other students and persons at his
8 school.

9 48. As the direct and proximate result of the conduct of the PAUSD in violating the
10 Rehabilitation Act of 1972 including, without limitation, its unlawful disclosure of CC's
11 personal, private and confidential, medical information, CC suffered extreme humiliation,
12 embarrassment, anxiety, nightmares, loss of sleep, a disruption in his family and social
13 relationships, a dramatic deterioration of his grades and academic performance and various
14 physical symptoms. CC was not permitted to attend school for approximately two weeks which
15 substantially exacerbated his damages.

16 **THIRD CAUSE OF ACTION**
17 **By All Plaintiffs v. PAUSD**
18 **Violation of Federal Constitutional Right to Privacy**

19 49. Plaintiffs re-allege each and every allegation set forth in Paragraphs 1-39 of the
20 complaint as if fully recited in this cause of action.

21 50. The acts and conduct of the defendant PAUSD, as described and set forth in this
22 complaint, violated CC's constitutional right to privacy conferred upon him by the First
23 Amendment of the Constitution of the United States, entitling CC to civil damages and other
24 relief from this court.

25 51. As the direct and proximate result of the unlawful disclosure of CC's private,
26 personal, privileged medical information including, without limitation, its disclosure to Mr. and
Mrs. X made on September 11, 2012 and thereafter, every member of the CHADAM family,

SECOND AMENDED COMPLAINT

1 individually and collectively, has been severely damaged. These damages include but are not
2 limited to, severe past, present and future emotional distress, the incurring of substantial attorney
3 fees and litigation costs, unwanted public attention and scrutiny, humiliation, embarrassment,
4 physical and medical problems, a profound disruption in their family life and family
5 relationships, medical expenses and other damages directly caused by the unlawful disclosure of
6 information regarding CC's medical information. The conduct of PAUSD was willful, deliberate
7 and intended to cause harm and injury to plaintiffs, and each of them entitling them to punitive
8 damages.

9 **FOURTH CAUSE OF ACTION**
10 **By All Plaintiffs v. PAUSD**
11 **Negligence**

12 52. Plaintiffs re-allege each and every allegation set forth in Paragraphs 1-33 of the
13 complaint as if fully recited in this cause of action.

14 53. At all times mentioned herein, defendant PAUSD owed a duty of care to the
15 CHADAM family, and each member thereof, not to allow the unlawful and improper disclosure
16 of personal, confidential, private medical and other information regarding any member of the
17 CHADAM family to persons not authorized by law to have such information.

18 54. On September 11, 2012, the PAUSD breached its duty of care by allowing one of
19 its teachers to disclose personal, confidential, private medical and other information regarding a
20 member of the CHADAM family to Mr. and Mrs. X at a parent-teacher conference.

21 55. As the direct and proximate cause of the negligence of the defendant, plaintiffs,
22 and each of them, have been damaged. These damages include but are not limited to, severe
23 past, present and future emotional distress, the incurring of substantial attorney fees and litigation
24 costs, unwanted public attention and scrutiny, humiliation, embarrassment, physical and medical
25 problems, a profound disruption in their family life and family relationships, medical expenses
26 and other damages directly caused by the unlawful disclosure of information regarding CC's
medical information. The conduct of PAUSD was willful, deliberate and intended to cause harm

