

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

A.B., a minor, by WILLIAM JESSE FORBES,
as his Guardian *Ad Litem*,

Plaintiffs,

v.

CIVIL ACTION NO:

FILED
2015 MAY 22 PM 3:37
CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

15-C-1016

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BLUE CREEK ACADEMY, a West Virginia entity;
BIBLE BAPTIST CHURCH, a West Virginia
Nonprofit Corporation; JAMES WALDECK,
Individually, and as an Officer of BLUE
CREEK ACADEMY; JR THOMPSON, Individually,
and as an Officer of BLUE CREEK ACADEMY;
JOHN DOE CORPORATIONS; and, JOHN DOE AGENTS,

Defendants.

COMPLAINT

COMES NOW the Plaintiff, A.B., through his Guardian Ad Litem, William Jesse Forbes, by counsel Troy N. Giatras and Matthew Stonestreet of The Giatras Law Firm, PLLC, and brings this action against the Defendants and hereby states as follows for the grounds in the Complaint:

NATURE OF THE CASE

1. This action arises as a result of physical, sexual, and emotional abuse sustained by a child during his stay at a boarding school located in Kanawha County.
2. Blue Creek Academy fostered a dangerous and neglectful environment imposing policies that resulted in significant and tragic injuries to the Plaintiff A.B.
3. Notably, this case involves conduct by the Defendants in total disregard for the health and safety of a child resulting in extreme maltreatment and significant injuries.

PARTIES

4. The Plaintiff, A.B., is a child under the age of 18, currently under the jurisdiction of the Kanawha County Circuit Court in West Virginia and is in placement through an independent court action.

5. The Plaintiff, William Jesse Forbes, has been appointed guardian ad litem of A. B and authorized by the Circuit Court of Kanawha County to pursue any potential civil action on behalf of the minor A.B.

6. Defendant Blue Creek Academy is a boarding school located in Clendenin, Kanawha County, West Virginia 25045.

7. Defendant Bible Baptist Church, a nonprofit entity, is located in Belva, Nicholas County, West Virginia 26656.

8. Defendant James Waldeck was, at all times relevant, an officer of Blue Creek Academy which is located in Clendenin, Kanawha County, West Virginia 25045.

9. Defendant JR Thompson was, at all times relevant, the Director of Blue Creek Academy which is located in Clendenin, Kanawha County, West Virginia 25045.

10. Upon information and belief, the Defendant John Doe Corporations are foreign and/or domestic corporations, the names and addresses of which are unknown.

11. Upon information and belief, John Doe agents or employees are foreign and/or domestic individuals, the names and addresses of which are unknown.

JURISDICTION & VENUE

12. Jurisdiction is proper in this Court, pursuant to West Virginia Code §§ 51-2-2 and 56-3-33, as the amount in controversy, excluding interest, exceeds \$2,500.00 and

as the Defendants, with regard to the matter in dispute and concerning general business practices, transacted business in the State of West Virginia.

13. Venue is proper in this Court, pursuant to West Virginia Code § 56-1-1, as these causes of action arose in Kanawha County, West Virginia.

BACKGROUND

14. At all times relevant, Defendant Blue Creek Academy (hereafter “BCA”) was a boarding school that claimed to offer “...an alternative to today’s degenerate, secular culture and education methods, and to assist teen boys solve their spiritual problems...”¹

15. BCA boarding school is a ministry of the Bible Baptist Church of Belva, West Virginia and advertises that “[m]olding youth is better than mending men.” *Id.*

16. Upon information and belief and at all times relevant, the Director of BCA boarding school was JR Thompson.

17. BCA boarding school had a duty to maintain close supervision and scrutiny over all of its employees and agents.

18. The employees and agents of BCA had obligations to act *in loco parentis* for the students of the boarding school.

19. At all times relevant, BCA and its financial supporters held obligations to notify the West Virginia Department of Health and Human Resources and report that a child had been or may be abused or neglected.

20. BCA owed a duty to its students to maintain a safe and healthy environment free from physical, sexual, and emotional abuse.

21. Plaintiff A.B. was enrolled at BCA for approximately two years.

¹ <http://www.bluecreekacademy.com/index.html> (last visited 4-23-15)

22. During his two year tenure at BCA, Plaintiff A.B. suffered significant physical and emotional abuse.

23. BCA subjected A.B. to malnourishment, isolationism, corporal punishment, starvation, and physical abuse.

24. Plaintiff A.B. was sexually abused by another resident of the facility due to the lack of supervision and other improper standards utilized by the facility.

25. A.B. reported that he would rather sleep in the woods or be “locked up” than return to the custody of BCA.

26. The negligence and abuse at BCA was so extreme that A.B. fled, running through the wilderness with no place to go, on June 10th, 2014.

27. BCA boarding school employs aggressive and abusive policies that fail to consider the health and safety of the minor children residing at the boarding school.

28. BCA exposed and subjected A.B. to significant physical and emotional abuse.

29. Plaintiff A.B., as a result of the abuse at BCA, now suffers from and has been diagnosed with Post-Traumatic Stress Disorder, Reactive Attachment Disorder, and Oppositional Defiant Disorder.

30. Aside from the starvation, physical abuse, extreme punishments, and various other maltreatments, BCA also committed educational neglect.

31. BCA failed to sufficiently staff its facilities in order to manage the safety and welfare of its students.

32. The Defendants took affirmative steps to maintain the abusive and neglectful atmosphere at BCA by failing to report the instances of abuse.

33. At all times relevant, the Defendants breached their duty to exercise appropriate and safe dominion, control, oversight, and proper management of BCA, thereby violating the law and causing significant injury and damages to the minor Plaintiff.

I. FIRST CAUSE OF ACTION
(Negligence)

34. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 33, inclusive.

35. Defendants owed a legal duty to A.B. of reasonable care and were negligent, reckless, and careless in repeatedly breaching this duty of care.

36. Defendants negligently and carelessly failed to adopt and implement adequate procedures and policies to protect A.B. from abuse.

37. Defendants failed to follow or institute basic educational institution policies concerning the care of children and students.

38. Defendants did not take reasonable steps to prevent or prohibit child abuse or neglect at BCA.

39. Despite being entrusted to care for A.B., Defendants failed to inform parents or authorities of child abuse incidents.

40. Defendants also failed to report incidents of child abuse or neglect to the West Virginia Department of Health and Human Resources.

41. The Defendants' negligence and carelessness is both a direct cause and a proximate cause of the injuries sustained by the child Plaintiff.

42. Defendants engaged in such conduct in a negligent, reckless, outrageous, willful, wanton and malicious manner, thereby entitling the Plaintiff to an award of compensatory damages as well as punitive damages.

II. SECOND CAUSE OF ACTION
(Negligent Supervision and Hiring)

43. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 42 inclusive.

44. Defendants failed to ensure that teachers, staff employees, and other individuals having access to BCA students by virtue of their employment and/or affiliation with BCA had or received adequate training, experience, and supervision.

45. Defendants did not exercise reasonable care in hiring and/or supervising teachers, staff employees, and others having access to BCA students, specifically A.B., by virtue of their employment and/or affiliation with BCA.

46. Defendants failed to conduct meaningful background checks and/or investigations when hiring its employees and staff.

47. The breach of duty and negligence by the Defendants directly and proximately caused damage to the child Plaintiff, including past and future medical expenses; physical and mental pain; anguish and suffering.

48. Defendants engaged in such conduct in a negligent, reckless, outrageous, willful, wanton and malicious manner, thereby entitling the Plaintiff to an award of compensatory damages as well as punitive damages.

III. THIRD CAUSE OF ACTION
(Negligent Infliction of Emotional Distress)

49. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 48, inclusive.

50. The negligent acts and omissions of the Defendants caused serious emotional injury to A.B.

51. Defendant knew or should have known that there was a high probability that their conduct would cause severe emotional distress and suffering to A.B.

52. The Defendants' conduct in fact caused A.B. severe emotional distress.

53. Defendants engaged in such conduct in a negligent, reckless, outrageous, willful, wanton and malicious manner, thereby entitling the Plaintiff to an award of compensatory damages as well as punitive damages.

IV. FOURTH CAUSE OF ACTION
(Civil Conspiracy)

54. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 53, inclusive.

55. Defendants combined their efforts to engage in a conspiracy of silence to protect the reputation of the Defendants while endangering the health, safety, and welfare of BCA students, specifically A.B.

56. Together, the Defendants failed to inform parents or governmental entities in furtherance of the conspiracy.

57. Defendants conspiracy of silence directly and proximately caused injuries to the Plaintiff including permanent mental impact and physical abuse.

58. Defendants engaged in such conspiratorial conduct in a negligent, reckless, outrageous, willful, wanton and malicious manner, thereby entitling the Plaintiff to an award of compensatory damages as well as punitive damages.

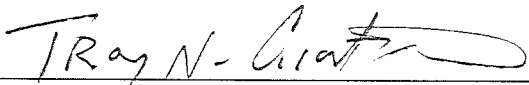
WHEREFORE, for the reasons set forth above, the Plaintiff hereby demands judgment in an amount in excess of the jurisdictional limits of the Court against the Defendants, jointly and severally, and as pled within the above Complaint as follows:

1. Compensatory damages in the amount to be determined by a jury;
2. For punitive damages, according to proof;
3. Consequential and other derivative damages in an amount to be determined by a jury;
4. Inconvenience, annoyance, and other general damages as permitted by law in an amount to be determined by a jury;
5. For an award of attorney fees and costs of suit incurred herein;
6. Interest on the judgment at the legal rate from the date of judgment;
7. Pre-judgment interest on the Plaintiff's damages as allowed by law; and,
8. For such other and further relief as the Court deems just and proper.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

A.B., a minor, by
WILLIAM JESSE FORBES,
as his guardian ad litem,

By Counsel:


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