

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**BETTINA LITTELL, AS PARENT AND  
NEXT FRIEND OF I.L., A Minor, and  
YVONNE BENAVIDES, AS PARENT  
AND NEXT FRIEND OF A.B., A Minor**

**CIVIL ACTION NO. \_\_\_\_\_**

**JURY DEMANDED**

**Plaintiffs**

**vs.**

**HOUSTON INDEPENDENT SCHOOL  
DISTRICT**

**Defendant**

**PLAINTIFFS’ ORIGINAL COMPLAINT AND JURY DEMAND**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**COMES NOW** Bettina Littell as Parent and Next Friend of I.L., a minor, and Yvonne Benavides as Parent and Next Friend of A.B., a minor hereinafter called Plaintiffs, complaining of and about Houston Independent School District, hereinafter called “Defendant” or “HISD,” for relief arising from a deprivation of constitutional rights and harm inflicted on 12-year old I.L. and 12-year old A.B. because of an unreasonable and unwarranted strip search of I.L. and A.B. by a public school agent. To support this Complaint, the Plaintiffs would show :

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over the instant action under 28 U.S.C.§§1331 and 1343(a)(3), as this is an action seeking relief under 42 U.S.C. §1983 for a deprivation of rights protected by the Constitution and/or laws of the United States.

2. Plaintiffs also invoke this Court’s jurisdiction under 28 U.S.C. §1367, on the claims based

upon the laws of Texas, as such claims form part of the same case or controversy that is the basis for the claims within this Court's original jurisdiction.

3. Venue is proper in the Southern District of Texas, Houston Division under 28 U.S.C. §1391 because (a) all of the Defendants reside in this judicial district and in the State of Texas, and (b) all or a substantial part of the events or omissions which give rise to the present claims occurred in this judicial district, and within the County of Harris, State of Texas.

### **PARTIES AND SERVICE**

4. Plaintiff, Bettina Littell as Parent and Next Friend of I.L., a minor, is an individual who resides in Harris County, Texas. She is the natural mother and a custodial parent of I.L. a 12-year old female at the time of that occurrence. Bettina Littell sues as the parent and next friend of I.L.

5. Plaintiff Yvonne Benavides as Parent and Next Friend of A.B., a minor resides in Harris County, Texas. She is the natural mother and a custodial parent of A.B., a 12-year old female at the time of that occurrence. Yvonne Benavides sues as the parent and next friend of A.B.

6. Defendant, Houston Independent School District is an independent school district and political subdivision of the State of Texas, and can be served by serving its Superintendent, Dr. Terry B. Grier, 4400 West 18<sup>th</sup> Street, Houston, Texas 77092.

### **FACTS**

7. I.L. was a 12 year old female attending Sidney Lanier Middle School during the 2012 – 2013 school year as a 6<sup>th</sup> Grade Student. I.L. attended Sidney Lanier Middle School on Monday, December 3, 2012. A.B. was a 12 year old female attending Sidney Lanier Middle School during the 2012 – 2013 school year as a 6<sup>th</sup> Grade Student. A.B. attended Sidney Lanier Middle School on Monday, December 3, 2012.

8. Sidney Lanier Middle School is a school within the Houston Independent School District and is supervised and controlled by the district.

9. During I.L. and A.B.'s Choir Class, a student allegedly set down \$50.00 which then allegedly disappeared. The student stated that she could not find her money. No allegation of theft was ever made.

10. The sixth Grade Administrator, Ms. Higgins was brought in by the substitute teacher to investigate. Backpacks were checked and the students were given the opportunity to return the money without consequences. The money was not found.

11. The school police officer, David Warren, suggested that girls like to hide things in their bras and panties.

12. Ms. Higgins took all of the girls in the choir class to the school nurse, Joan Lawrence, who took each girl into a private bathroom and searched them. The girls were lined up in a hallway and had to endure watching each of their classmates enter the bathroom, knowing they would be the next to be searched.

13. No other adults were present during the search. The girls' parents were not notified even though several of the girls stated that they did not want to participate in the search and asked that their parents be called. A.B. asked to call her mother and was denied.

14. The search included checking around the waistband of the girls' panties, under their shirts, and loosening their bras. According to the victims, they were made to lift their shirts so they were exposed from the shoulder to the waist.

15. Principle Linda Smith claims she was not notified the illegal searches were occurring. Twenty-two young girls were stripped searched that day. As the missing money was never found, it

is clear that the money was not in the possession of either I.L. or A.B.

16. Because of the strip search and the substantial invasion of their privacy, personal security, and dignity, I.L and A.B. suffered and continue to suffer significant emotional harm, embarrassment, stress, pain and suffering.

**DEPRIVATION OF FOURTH AMENDMENT RIGHTS – 42 U.S.C.§1983**

17. The Plaintiffs re-allege and incorporate by reference the allegations in paragraphs 7-16 set forth above.

18. I.L. and A.B. were deprived of their rights under U.S. Const. amend. IV to be free from unreasonable searches and seizures when they were subjected to and required to submit to a strip search in the school nurse's bathroom on December 3, 2012. Such a strip search was unreasonable because it was not justified at its inception, was not reasonably related to the objectives of the search, and was excessively intrusive.

19. Defendant HISD is liable for the deprivation of I.L. and A.B.'s Fourth Amendment rights and the resulting harm because employees of HISD, acting under color of state law, executed the unreasonable strip searches.

20. Defendant HISD is liable for the deprivation of I.L. and A.B.'s Fourth Amendment rights and resulting harm because the strip search resulted from and was caused by a policy, custom or practice of HISD to allow student strip searches. Defendant HISD is liable because its failure to train or instruct its employees on the rights of students and legal restrictions of strip searching students amounted to deliberate indifference towards the rights of students and resulted in and caused the deprivation of I.L. and A.B.'s Fourth Amendment rights.

21. The Plaintiffs are entitled to relief for the harm caused by the deprivation of I.L. and A.B.'s

Fourth Amendment rights under 42 U.S.C. §1983.

**DEPRIVATION OF RIGHTS UNDER TEXAS CONST. ART. I, § 9**

22. The Plaintiffs re-allege and incorporate by reference the allegations in paragraphs 7-21 set forth above.

23. I.L. and A.B were deprived of their rights under Tex. Const. Art. I, § 9 to be free from unreasonable searches and seizures when they were subjected to and required to submit to a strip search in the school nurse's bathroom on December 3, 2012. Such a strip search was unreasonable because the intrusion effected by the strip search far outweighed any governmental interest in conducting the strip search.

24. Defendant HISD is liable for the deprivation of I.L. and A.B.'s rights under Tex. Const. Art. I, § 9 and the resulting harm because Defendant HISD, acting under color of state law, executed the unreasonable strip searches.

25. Defendant HISD is further liable for the deprivation of I.L. and A.B.'s rights under Tex. Const. Art. I, § 9 and resulting harm because the strip search resulted from and was caused by a policy, custom or practice of HISD to allow student strip searches. Additionally, HISD is liable because its failure to train or instruct its employees on the rights and legal restrictions when strip searching students amounted to deliberate indifference toward the rights of students and resulted in and caused the deprivation of I.L. and A.B's rights under Tex. Const. Art. I, § 9.

26. The plaintiffs are entitled to relief for the harm caused by the deprivation of I.L. and A.B.'s rights under Tex. Const. Art. I, § 9.

WHEREFORE, the plaintiffs pray for judgment against the Defendant as follows:

A. That judgment be entered finding in favor of the Plaintiffs on each of the claims set forth above;

B. That Plaintiffs be awarded compensatory damages in an amount to be shown at trial for the pain, suffering, emotional distress, and embarrassment caused by Defendant's actions;

C. That Plaintiffs be awarded attorneys' fees under 42 USC §1988 and any other applicable statute or law granting a right to recover attorneys' fees, with costs of this litigation; and

D. Such other and further relief as the Court may deem proper.

**PLAINTIFFS HEREBY DEMAND TRIAL BY JURY**

Respectfully submitted this 24th day of November, 2014.

Respectfully submitted,

**MIDANI & COLE, L.L.P.**

By: /s/ Tobias A. Cole  
Tobias A. Cole  
SBOT# 24007021  
Federal Bar No.: 23891  
[tcollection@mhclaw.net](mailto:tcollection@mhclaw.net)  
Bridgit A. White  
SBOT# 24008269  
[bwhite@mhclaw.net](mailto:bwhite@mhclaw.net)  
10497 Town & County Way, Suite 530  
Houston, Texas 77024  
TEL: (713) 871-1001  
FAX: (713) 871-1054  
**ATTORNEYS FOR PLAINTIFFS**