

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTERFIELD)

IN THE COURT OF COMMON PLEAS
FOURTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2019-CP-13-_____

Jessica Condon, a biological parent and)
natural guardian of A.A., a minor child;)

Plaintiff,)

vs.)

SUMMONS FOR RELIEF
COMPLAINT SERVED
(JURY TRIAL DEMANDED)

Ronnie Lee Sires, in his individual capacity)
as an agent/employee of Chesterfield County)
School District; Harrison Goodwin, in his)
individual capacity as Superintendent of)
Chesterfield County School District;)
Chesterfield County School District; and)
the South Carolina Department of)
Education,)

Defendants.)

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is hereby served upon you, and to serve a copy of your answer to the said Complaint on the subscribers at their offices at 403 Second Loop Road, Florence, S.C. within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint and judgment by default will be rendered against you.

WUKELA LAW FIRM

BY:s/Patrick J. McLaughlin
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Attorney for Plaintiff

DATED: March 21, 2019

STATE OF SOUTH CAROLINA)
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COUNTY OF CHESTERFIELD) IN THE COURT OF COMMON PLEAS
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COMPLAINT

(JURY TRIAL DEMANDED)

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as an agent/employee of Chesterfield County)
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Chesterfield County School District;)
Chesterfield County School District; and)
the South Carolina Department of)
Education,)

Defendants.)
_____)

The Plaintiff, by and through the undersigned counsel, hereby makes the following claims and allegations:

JURISDICTION:

1. That Plaintiff, Jessica Condon, and her minor child, A.A. are citizens and residents of the County of Chesterfield, State of South Carolina.
2. That Plaintiff is informed and believes that Defendant Ronnie Lee Sires (hereinafter “SIREs”) is a citizen and resident of the County of Chesterfield, State of South Carolina, and was at all times relevant to this complaint, acting under color of state law in the course and scope of his employment as an agent/employee of Chesterfield County School District. Defendant SIREs is sued in his individual capacity under federal law for compensatory and punitive damages and such other relief available pursuant federal law. This Defendant is a “person” as that term is used in the text of 42 U.S.C. §1983.

3. That Plaintiff is informed and believes that Defendant Harrison Goodwin (hereinafter “GOODWIN”) is a citizen and resident of the County of Chesterfield, State of South Carolina, and was at all times relevant to this complaint, acting under color of state law in the course and scope of his employment as Superintendent of Chesterfield County School District and was/is one of the policy making authorities of Defendant Chestferfield County School District. Defendant GOODWIN is sued in his individual capacity under federal law for compensatory and punitive damages and such other relief available pursuant federal law. This Defendant is a “person” as that term is used in the text of 42 U.S.C. §1983.
4. That the Plaintiff is informed and believes that Defendant CHESTERFIELD COUNTY SCHOOL DISTRICT (hereinafter “CCSD”), at all times relevant to this action, is a local government entity and was acting through its agents, servants, employees and /or officers to include and not be limited to Defendant SIRES . As such, Defendant CCSD is statutorily liable under South Carolina law for the actions and omissions of their employees/agents acting in the course and scope of their official duties pursuant to the South Carolina Tort Claims Act. Defendant CCSD is sued under South Carolina law for compensatory damages pursuant to the South Carolina Tort Claims Act S.C. Code Ann. §15-78-10 et seq. and §15-5-90 et seq.
5. That the Plaintiff is informed and believes that Defendant CCSD is the policy making authority for its agents/employees and as such, Defendant CCSD is also being sued under federal law for compensatory and punitive damages and such other relief available pursuant federal law for Municipal Liability Custom/Practice and Policymaking Authority. This Defendant is a “person” as that term is used in the text of 42 U.S.C. §1983.
6. That the Plaintiff is informed and believes that Defendant South Carolina Department of

Education (hereinafter "SCDOE"), at all times relevant to this action, is a state agency as defined by 15-78-10, et seq., Code of Laws, 1976, as amended and has agents, employees, offices and/or properties located in the County of Chesterfield, State of South Carolina. At all times relevant to this action, Defendant SCDOE was acting by and through its agents, servants, employees, and/or officers to include and not be limited to those persons and/or individuals named in this complaint. As such, Defendant SCDOE is statutorily liable for the actions and omissions of their employees/agents acting in the course and scope of their official duties pursuant to the South Carolina Tort Claims Act.

7. The Plaintiff further invokes this court's concurrent jurisdiction to hear claims against Defendants SIRES, GOODWIN and CCSD arising under the United States Constitution and federal statutes. Specifically 42 U.S.C. § 1983, 1988, the Fourteenth Amendment to the United States Constitution.
8. That venue is properly laid in this Court pursuant to § 15-7-30 South Carolina Code of Laws Annotated [Law. Co-op. 1976].

FACTS:

9. That on the morning of November 5, 2018, A.A. was a 4-year old female minor child who was being transported by Defendant CCSD on a special needs bus to the special needs program at Ruby Elementary School, a program operated by Defendant CCSD.
10. That A.A. is classified as a special needs child as she is non-verbal autistic.
11. That at all times on November 5, 2018, the special needs bus A.A. was riding on was driven by Defendant SIRES, who was acting as an agent/employee of Defendant CCSD.
12. That on the morning of November 5, 2018, A.A. was turned over to the custody and care of

Defendant SIRES and CCSD when her parents brought her out to the bus when it stopped at their home.

13. That Defendants SIRES and CCSD affirmatively took custody and control over A.A. by picking her up, placing her on a bus seat and strapping her in with a harness to that bus seat.
14. That by strapping A.A. in to the harness described above, Defendants SIRES and CCSD affirmatively restricted A.A.'s freedom of movement and her ability to move and/or defend/protect herself.
15. That subsequent to the events described above, A. A. sat quietly in her seat as the bus drove along its morning route for approximately twenty-two (22) minutes. During this time, SIRES stops the bus twice to pick up two other students. One of these other passengers is another small child who is also picked up by SIRES, placed in a seat in front of A.A. on the first row, and also strapped in via a harness by SIRES. The other passenger is a wheel chair student who is loaded by SIRES using the lift and then strapped in behind A.A.
16. That at approximately the 23:21 mark of the school bus video, SIRES stops the bus and picks up another child, J.M. J.M. boards the bus with no assistance and takes the seat immediately behind SIRES. That at the approximately 23:56 mark, J.M. has loaded and the bus has resumed driving.
17. That at approximately the 24:01 mark, J.M. crosses the aisle and attacks A.A., physically grabbing and punching her, before retreating back to his seat. A.A. begins crying/screaming and SIRES looks back several times asking "What's wrong, baby?"
18. That at approximately the 24:52 mark, J.M. crosses the aisle and again attacks A.A., punching and slapping her, causing A.A. to again cry/scream, before J.M. retreats to his seat.
19. That subsequent to the above, and as A.A. continues to cry/scream, SIRES looks back at her

several times, again asking “What’s wrong, baby?,” eventually stopping the bus at approximately the 26:33 mark and going back to check on A.A. After checking the harness straps, SIRES tells A.A. to “Stop crying, baby. We be to school in a little bit” before getting back in his seat and resuming the route.

20. Subsequent to the above, J.M. crosses the aisle two more times, attacking A.A. and causing her to cry/scream. One of these attacks is at approximately the 31:23 mark, and SIRES catches J.M. attacking her, telling him to “Leave her alone. Leave her alone” and causing J.M. to retreat to his seat. Despite catching J.M. in the act, SIRES states aloud about A.A., “I don’t know what could be wrong with you.”
21. Subsequent to the above, over the remaining approximately forty (40) minutes of video for the morning bus ride, J.M. attacks A.A. seven (7) more times, bringing the total number of attacks on the morning ride to eleven (11).
22. That at approximately the 1:12:14 mark, SIRES has stopped the bus, walks back to A.A., unfastens her from the harness, takes her out of the seat and walks her up to the steps at the front of the bus, where a female takes A.A.’s book bag from SIRES as A.A. exits the bus. SIRES tells this female that “She was crying quite a bit. I don’t know what was going on with her.” The female responds that A.A. does that sometimes and that most of the time “it be play crying,” to which SIRES responds “For real?” The female walks off and SIRES closes the bus door and drives off.
23. That subsequent to the above-described morning bus ride, there was an afternoon bus ride for November 5, 2018.
24. The video for the afternoon bus ride begins at approximately the 0:01 mark with SIRES helping what appears to be the same other child from the morning ride back in to the same

first row seat on the left side, while J.M. boards the bus on his own and takes his same seat on the first row on the right side, directly behind the driver's seat.

25. That at approximately the 0:09 mark, A.A. is helped on to the bus steps by what appears to be the same female from the morning ride. While SIRES is still strapping the other child in to his harness, A.A. walks up the steps. As A.A. gets to the top of the steps and turns to go down the aisle, she appears to see J.M., turns around and starts crying. SIRES asks the female "She okay today" and the female answers "Yeah," but then asks SIRES "Did anything happen to her unusual this morning?" SIRES takes A.A. by hand and pulls her back to her seat, responding that "...she all of a sudden started crying..." SIRES picks A.A. up, places her in the same seat as the morning ride, straps her in via the harness, then walks back to the front of the bus saying "She be okay when she get home, hopefully." J.M. sits down on the edge of his seat, turns back towards A.A., who starts crying again as SIRES sits down in the driver's seat, closes the door and begins driving.
26. That at approximately the 3:15 mark, J.M. reaches across and attacks the other student, grabbing his left foot, pulling off his shoe and throwing it to the rear of the bus.
27. That at approximately the 3:20 mark, J.M. reaches across and attacks the other student, again, this time taking his right shoe. The other child begins crying, causing SIRES to turn around and look. J.M. throws the shoe back towards the rear of the bus, but it lands on A.A.
28. That at approximately the 4:29 mark, J.M. reaches across, grabs the shoe that is now on A.A.'s seat and hits A.A. in the face with it, causing her to begin crying. SIRES turns around to look at her and says "We got to get her home pretty quick." J.M. crosses the aisle, kneels on the seat in front of A.A., facing her as SIRES says "I think I'm going to take her home first."

29. Subsequent to the above and over the next approximately 34 minutes, J.M. attacks A.A. another eighty-five (85) times, said attacks including punching, biting, grabbing, kicking, shaking and slamming her back in to her seat. During these attacks, A.A. cries and screams almost constantly. During this time period, J.M. also attacks the other child two (2) more times.
30. That at approximately the 13:14 mark, SIREs again tells J.M. to “Leave her alone,” referencing A.A.
31. That at approximately the 15:05 mark, SIREs tells J.M. to “Leave him alone,” referencing the other child.
32. That at approximately the 40:10 mark, SIREs stops the bus, opens the door, gets up and walks back to A.A., who continues to cry. SIREs unfastens her harness, picks her up and begins carrying her down the aisle. SIREs gets A.A.’s book bag from J.M. and continues towards the steps. J.M. reaches out and attacks A.A. once last time by grabbing her leg, causing her to scream out. SIREs places her down on the top step, where she waits crying until her father gets there and takes her. SIREs tells her father that “It’s been a bad day for her.” When asked by the father if A.A. had been like this the whole time, SIREs responds “time she got on the bus.” The father responds she does not normally act like that and SIREs claims it is the first time he has experienced it. Father responds that maybe she does not feel good and it is hard to tell because she doe not really talk. Father and A.A. leave, SIREs closes door and resumes driving bus.
33. That at approximately the 48:00 mark, SIREs has stopped the bus again, this time to unload the wheel chair student. Over the remaining time of the video (approximately 4 minutes), J.M. attacks the other student eight (8) times, punching, kicking and grabbing that student

while SIRES unloads the wheel chair student. At one point during that procees, SIRES picks up the other child's shoes, one from back around the chair lift, the other from A.A.'s vacated seat, carrying the shoes to the front of the bus and placing them on the dash. The video ends after SIRES has unloaded the wheel chair student and resumes driving the bus.

34. That after they took custody of A.A. from the afternoon bus ride, A.A.'s parents thought her crying may be because of a soiled diaper, so they went to change her. Upon removing her pants to change her, they discovered numerous bite marks and bruises on her legs, leading them to discover more such marks all over her body. Upon this discovery, they contacted law enforcement.
35. Subsequent to the above, the Plaintiff is informed and believes that SIRES was criminally charged for a violation of S.C. Code §63-5-70, Unlawful Conduct towards a Child. During the course of that investigation, SIRES reportedly told law enforcement that nothing happened on the bus, that day was like any other day, that he did not see anyone doing anything wrong, and that he never saw J.M. doing anything to A.A.
36. Subsequent to the above, the Plaintiff is informed and believes that SIRES was placed on administrative leave by Defendant CCSD.
37. Prior to the events described above, Defendant CCSD had received notice from Defendant SCDOE of the dangers created by Defendant CCSD's custom and/or formal policy of operating special needs buses without "attendants." Specifically, the Plaintiffs are informed and believe that two (2) months before the incident giving rise to this complaint (from September 3, 2018 through September 7, 2018), there were emails between Defendant SCDOE's Driver Trainer, P.J. Crouse and Defendant CCSD's Karen Rogers, Director of Exceptional Children, wherein Defendant SCDOE notified Defendant CCSD of safety issues

created and enhanced by Defendant CCSD's custom and/or formal policy of operating special needs buses without additional adult "attendants" other than the bus driver.

38. The Plaintiff is informed and believes Defendant CCSD was specifically noticed through the emails described above that "any bus that transports students who use wheel chairs or restraint systems should have more than one adult..." and that special needs buses "have a greater chance of having to stop for behavior or medical issues."
39. That despite the notice described in the paragraph above, Defendant CCSD continued to operate the special needs bus that transported wheel chair students and use restraint systems on children like A.A. with no adult other than the driver present on the bus.

FOR A FIRST CAUSE OF ACTION
Gross Negligence against Defendants CCSD and SCDOE

40. That the Plaintiff re-alleges the above paragraphs by reference as if recounted at length herein.
41. That as a minor child in their custody as a student, the Defendants owed A.A. a responsibility and duty to supervise, protect and control A.A., other students and their agents/employees.

AS TO DEFENDANT CCSD:

42. That the Plaintiff is informed and believes that at all relevant times, SIREs was acting as an agent, employee, servant, representative and/or ostensible agent of Defendant CCSD during the course of these events, thereby making Defendant CCSD liable for the acts and/or omissions of SIREs under the doctrines of *respondent superior* or principal and agent and/or under the South Carolina Tort Claims Act.
43. That as a school district accepting custody of a minor child, Defendant CCSD owed A.A. and her parents a responsibility and duty to supervise, protect and control A.A., other students

and their agents/employees.

44. That Defendant CCSD exercised their responsibilities and duties to A.A. and her parents in a grossly negligent manner. Specifically, but not limited to, the acts and omissions described in paragraphs six (6) through thirty-three (33) evince gross negligence on the part of Defendant CCSD in:

- a) Failing to protect A.A. from harm;
- b) Failing to provide adequate safety measures;
- c) Failing to adequately monitor A.A. and other students under their control and custody;
- d) Failing to properly supervise/train agents/employees;
- e) Failing to timely and adequately inform A.A.'s parents of the incident and potential injuries suffered by A.A.;
- f) Failing to properly and timely investigate the cause of apparent medical duress in A.A.;
- g) Any other failures to meet reasonable and standard duties of care which may be uncovered through additional discovery.

45. That as a direct and proximate result of Defendant CCSD's recklessness, gross negligence, and willful and wanton conduct, the Plaintiffs have suffered injuries and damages as hereinafter set out.

AS TO DEFENDANT SCDOE:

46. That the Plaintiff is informed and believes that Defendant SCDOE is the owner/operator of the school bus in question and/or is the entity statutorily responsible for training and certifying all school bus drivers in South Carolina.

47. That as the entity owning/operating the bus involved in this incident and statutorily responsible for the training and certification of any bus driver accepting custody of a minor child for transportation in South Carolina, Defendant SCDOE owed A.A. and her parents a responsibility and duty to supervise, protect and control A.A., other students and their certified bus drivers.

48. That Defendant SCDOE exercised their responsibilities and duties to A.A. and her parents in a grossly negligent manner. Specifically, but not limited to, the acts and omissions described in paragraphs six (6) through thirty-three (33) evince gross negligence on the part of Defendant CCSD in:

- a) Failing to protect A.A. from harm;
- b) Failing to provide adequate safety measures;
- c) Failing to adequately monitor A.A. and other students under their control and custody;
- d) Failing to properly supervise/train a bus driver they certified;
- e) Any other failures to meet reasonable and standard duties of care which may be uncovered through additional discovery.

49. That as a direct and proximate result of Defendant SCDOE's recklessness, gross negligence, and willful and wanton conduct, the Plaintiffs have suffered injuries and damages as hereinafter set out.

FOR A SECOND CAUSE OF ACTION

Violations of 42 U.S.C. §1983 for a State Created Danger against Defendant SIRES pursuant to *DeShaney v. Winnebago County Department of Social Services, et al.*, 489 U.S. 189, 109 S.Ct. 998, 103 L.Ed.2d 249, 1989 U.S.

50. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

51. That in his role as an agent/employee of Defendant CCSD, and under color of state law, Defendant SIRES, took physical custody of A.A., picking her up, placing her in a seat and then strapping her to the seat via a harness, restricting her liberty and freedom of movement. Specifically, being strapped in to her seat via a harness prevented A.A. from defending herself and/or escaping the attacks against her.

52. That Defendant SIRES similarly restrained all other children on the bus, either by harness or by securing their wheelchair, except for J.M.

53. That Defendant SIRES did not in any way restrain J.M. and instead allowed him to be the only child on the bus free to move about as he wished.
54. That by restricting the liberty and freedom of movement of every child on the bus except for J.M., Defendant SIRES created an unreasonable danger to A.A., by exposing her to physical attack/danger without providing her any way to defend herself or escape such attack/danger.
55. Defendant SIRES owed A.A. and her parents a responsibility and duty to supervise, protect and control A.A. and other students and to keep A.A. safe from harm while she was in his custody and that Defendant SIRES failed in this regard, proximately causing harm to A.A.
56. That the harm that was inflicted upon A.A. was a direct and proximate result of the danger created by Defendant SIRES.
57. That the harm was a foreseeable result of the Defendant SIRES' actions.
58. That Defendant SIRES' conduct was in willful and intentional disregard for A.A.'s safety and/or was in deliberate indifference to A.A.'s safety.
59. That A.A. was a minor child with special needs, who was entrusted into Defendant SIRES' custody and care for safe transportation to school, and was unable to protect herself from the dangerous condition created by Defendant SIRES.
60. That Defendant SIRES used his authority to create an opportunity for the infliction of the harm upon A.A. by violating her constitutional rights, without which, the opportunity to inflict the harm upon A.A. would not have existed.
61. That as a direct and proximate result of Defendant SIRES' conduct, A.A. was deprived of her rights under the Fourteenth Amendment to the United States Constitution and

suffered injuries and damages as hereinafter set out.

FOR A THIRD CAUSE OF ACTION

Violations of 42 U.S.C. §1983 for a State Enhanced Danger against Defendant SIRES pursuant to *DeShaney v. Winnebago County Department of Social Services, et al.*, 489 U.S. 189, 109 S.Ct. 998, 103 L.Ed.2d 249, 1989 U.S.

62. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
63. That in his role as an agent/employee of Defendant CCSD, and under color of state law, Defendant SIRES, took physical custody of A.A., picking her up, placing her in a seat and then strapping her to the seat via a harness, restricting her liberty and freedom of movement. Specifically, being strapped in to her seat via a harness prevented A.A. from defending herself and/or escaping the attacks against her.
64. That Defendant SIRES similarly restrained all other children on the bus, either by harness or by securing their wheelchair, except for J.M.
65. That Defendant SIRES did not in any way restrain J.M. and instead allowed him to be the only child on the bus free to move about as he wished.
66. That by restricting the liberty and freedom of movement of every child on the bus except for J.M., Defendant SIRES enhanced the danger to A.A., by exposing her to physical attack/danger without providing her any way to defend herself or escape such attack/danger.
67. Defendant SIRES owed A.A. and her parents a responsibility and duty to supervise, protect and control A.A. and other students and to keep A.A. safe from harm while she was in his custody and that Defendant SIRES failed in this regard, proximately causing harm to A.A.
68. That the harm that was inflicted upon A.A. was a direct and proximate result of the

danger enhanced by Defendant SIRES.

69. That the harm was a foreseeable result of the Defendant SIRES' actions.

70. That Defendant SIRES' conduct was in willful and intentional disregard for A.A.'s safety and/or was in deliberate indifference to A.A.'s safety.

71. That A.A. was a minor child with special needs, who was entrusted into the Defendant SIRES' custody and care for safe transportation to school, was unable to protect herself from the dangerous condition enhanced by Defendant SIRES.

72. That Defendant SIRES used his authority to enhance the opportunity for the infliction of the harm upon A.A. by violating her constitutional rights, without which, the opportunity to inflict the harm upon A.A. would not have been as great.

73. That as a direct and proximate result of Defendant SIRES' conduct, A.A. was deprived of her rights under the Fourteenth Amendment to the United States Constitution and suffered injuries and damages as hereinafter set out.

FOR A FOURTH CAUSE OF ACTION

Violations of 42 U.S.C. §1983 for a State Created Danger against Defendant GOODWIN pursuant to *DeShaney v. Winnebago County Department of Social Services, et al.*, 489 U.S. 189, 109 S.Ct. 998, 103 L.Ed.2d 249, 1989 U.S. and *Monell v. Dept. of Soc. Servs.* 436 U.S. 658 (1979)

74. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

75. That in his role as Superintendent of Defendant CCSD, and under color of state law, Defendant GOODWIN, was an official with Defendant CCSD who had authority over Defendant CCSD's custom and/or formal policy of operating special needs buses without "attendants."

76. That Defendant GOODWIN had notice that Defendant CCSD's custom and/or formal policy of operating special needs buses without "attendants" created danger, specifically to special needs students who were restrained.
77. That Defendant GOODWIN owed A.A. and her parents a responsibility and duty to supervise, protect and control A.A. and other students and to keep A.A. safe from harm while she was in the custody Defendant CCSD and that Defendant GOODWIN failed in this regard, proximately causing harm to A.A.
78. That the harm that was inflicted upon A.A. was a direct and proximate result of the danger created by Defendant CCSD's custom and/or formal policy of operating special needs buses without "attendants," over which Defendant GOODWIN had authority.
79. That the harm was a foreseeable result of the Defendant GOODWIN's actions.
80. That Defendant GOODWINs conduct was in willful and intentional disregard for A.A.'s safety and/or was in deliberate indifference to A.A.'s safety.
81. That A.A. was a minor child with special needs, who was entrusted into the Defendant GOODWIN's custody and care for safe transportation to school, was unable to protect herself from the dangerous condition created by Defendant GOODWIN.
82. That Defendant GOODWIN used his authority to create an opportunity for the infliction of the harm upon A.A. by violating her constitutional rights, without which, the opportunity to inflict the harm upon A.A. would not have existed.
83. That as a direct and proximate result of Defendant GOODWIN's conduct, A.A. was deprived of her rights under the Fourteenth Amendment to the United States Constition and suffered injuries and damages as hereinafter set out.

FOR A FIFTH CAUSE OF ACTION

Violations of 42 U.S.C. §1983 for a State Enhanced Danger against Defendant GOODWIN pursuant to *DeShaney v. Winnebago County Department of Social Services, et al.*, 489 U.S. 189, 109 S.Ct. 998, 103 L.Ed.2d 249, 1989 U.S. and *Monell v. Dept. of Soc. Servs.* 436 U.S. 658 (1979)

84. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
85. That in his role as Superintendent of Defendant CCSD, and under color of state law, Defendant GOODWIN, was an official with Defendant CCSD who had authority over Defendant CCSD's custom and/or formal policy of operating special needs buses without "attendants."
86. That Defendant GOODWIN had notice that Defendant CCSD's custom and/or formal policy of operating special needs buses without "attendants" enhanced danger, specifically to special needs students who were restrained.
87. That Defendant GOODWIN owed A.A. and her parents a responsibility and duty to supervise, protect and control A.A. and other students and to keep A.A. safe from harm while she was in the custody Defendant CCSD and that Defendant GOODWIN failed in this regard, proximately causing harm to A.A.
88. That the harm that was inflicted upon A.A. was a direct and proximate result of the danger enhanced by Defendant CCSD's custom and/or formal policy of operating special needs buses without "attendants," over which Defendant GOODWIN had authority.
89. That the harm was a foreseeable result of the Defendant GOODWIN's actions.
90. That Defendant GOODWIN's conduct was in willful and intentional disregard for A.A.'s safety and/or was in deliberate indifference to A.A.'s safety.
91. That A.A. was a minor child with special needs, who was entrusted into the

Defendant GOODWIN's custody and care for safe transportation to school, was unable to protect herself from the dangerous condition enhanced by Defendant GOODWIN.

92. That Defendant GOODWIN used his authority to enhance the opportunity for the infliction of the harm upon A.A. by violating her constitutional rights, without which, the opportunity to inflict the harm upon A.A. would not have been as great.

93. That as a direct and proximate result of Defendant GOODWIN's conduct, A.A. was deprived of her rights under the Fourteenth Amendment to the United States Constitution and suffered injuries and damages as hereinafter set out.

FOR A SIXTH CAUSE OF ACTION

Violations of 42 U.S.C. §1983 for a State Created Danger against Defendant CCSD pursuant to *DeShaney v. Winnebago County Department of Social Services, et al.*, 489 U.S. 189, 109 S.Ct. 998, 103 L.Ed.2d 249, 1989 U.S. and *Monell v. Dept. of Soc. Servs.* 436 U.S. 658 (1979)

94. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

95. That Defendant CCSD, and under color of law, had a custom and/or formal policy of operating special needs buses without "attendants."

96. That Defendant CCSD's custom and/or formal policy of operating special needs buses without "attendants" created danger, specifically to special needs students who were restrained.

97. That Defendant CCSD owed A.A. and her parents a responsibility and duty to supervise, protect and control A.A. and other students and to keep A.A. safe from harm while she was in the custody Defendant CCSD and that Defendant CCSD failed in this regard, proximately causing harm to A.A.

98. That the harm that was inflicted upon A.A. was a direct and proximate result of the

danger created by Defendant CCSD's custom and/or formal policy of operating special needs buses without "attendants."

99. That the harm was a foreseeable result of the Defendant CCSD's actions.

100. That Defendant CCSD's conduct was in willful and intentional disregard for A.A.'s safety and/or was in deliberate indifference to A.A.'s safety.

101. That A.A. was a minor child with special needs, who was entrusted into the Defendant CCSD's custody and care for safe transportation to school, was unable to protect herself from the dangerous condition created by Defendant CCSD.

102. That Defendant CCSD used its authority to create an opportunity for the infliction of the harm upon A.A. by violating her constitutional rights, without which, the opportunity to inflict the harm upon A.A. would not have existed.

103. That as a direct and proximate result of Defendant CCSD's conduct, A.A. was deprived of her rights under the Fourteenth Amendment to the United States Constitution and suffered injuries and damages as hereinafter set out.

FOR A SEVENTH CAUSE OF ACTION

Violations of 42 U.S.C. §1983 for a State Enhanced Danger against Defendant CCSD pursuant to *DeShaney v. Winnebago County Department of Social Services, et al.*, 489 U.S. 189, 109 S.Ct. 998, 103 L.Ed.2d 249, 1989 U.S. and *Monell v. Dept. of Soc. Servs.* 436 U.S. 658 (1979)

104. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

105. That Defendant CCSD, and under color of state law, had a custom and/or formal policy of operating special needs buses without "attendants."

106. That Defendant CCSD had notice that Defendant CCSD's custom and/or formal policy of operating special needs buses without "attendants" enhanced danger, specifically to special needs students who were restrained.
107. That Defendant CCSD owed A.A. and her parents a responsibility and duty to supervise, protect and control A.A. and other students and to keep A.A. safe from harm while she was in the custody Defendant CCSD and that Defendant CCSD failed in this regard, proximately causing harm to A.A.
108. That the harm that was inflicted upon A.A. was a direct and proximate result of the danger enhanced by Defendant CCSD's custom and/or formal policy of operating special needs buses without "attendants."
109. That the harm was a foreseeable result of the Defendant CCSD's actions.
110. That Defendant CCSD's conduct was in willful and intentional disregard for A.A.'s safety and/or was in deliberate indifference to A.A.'s safety.
111. That A.A. was a minor child with special needs, who was entrusted into the Defendant CCSD's custody and care for safe transportation to school, was unable to protect herself from the dangerous condition enhanced by Defendant CCSD.
112. That Defendant CCSD used its authority to enhance the opportunity for the infliction of the harm upon A.A. by violating her constitutional rights, without which, the opportunity to inflict the harm upon A.A. would not have been as great.
113. That as a direct and proximate result of Defendant CCSD's conduct, A.A. was deprived of her rights under the Fourteenth Amendment to the United States Constitution and suffered injuries and damages as hereinafter set out.

DAMAGES

114. That as a direct and proximate result of the above set out acts and omissions of the Defendants, the Plaintiff was damaged in the following particulars:

- (a) Actual and consequential damages resulting from personal injury, to-wit:
 - (1) Disability, past and future;
 - (2) Pain and suffering, past and future;
 - (3) Stress, fear, anguish and anxiety, past and future;
 - (4) Medical costs, past and future;
 - (5) Transportation costs, past and future;
 - (6) Such other costs a jury and/or the Court may find appropriate, past and future.

115. That in addition, the Plaintiffs are informed and believes they are entitled to an award of punitive damages in an amount to be determined by a jury.

116. That in addition, the Plaintiffs are informed and believe that they are entitled to an award of attorney's fees and costs pursuant to 42 U.S.C. §1983 and 1988.

117. For such other and further relief as the Court may deem just and proper.

WHEREFORE, the Plaintiff prays judgment for actual, consequential and punitive damages against the Defendants in an amount to be determined by a jury, as well as attorney's fees and costs pursuant to 42 U.S.C. §1983 and 1988, and such other and further relief as the Court may deem just and proper.

WUKELA LAW FIRM

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