

IN THE DISTRICT COURT IN AND FOR OTTAWA COUNTY
STATE OF OKLAHOMA

FILED
DISTRICT COURT
OTTAWA CO. OKLA.

JUN 09 2022

CASSIE [Signature] COURT CLERK
BY _____

KENDRA PARKER, as parent and next
friend of C.P., a minor child,

Plaintiff,

v.

INDEPENDENT SCHOOL DISTRICT
NO. 23 OF OTTAWA COUNTY,
OKLAHOMA a/k/a MIAMI PUBLIC
SCHOOLS, a Political Subdivision of the
State of Oklahoma.

Defendant.

Case No. CG-22-603

ATTORNEY LIEN CLAIMED

PETITION

COMES NOW the Plaintiff, Kendra Parker, as parent and next friend of C.P., a minor child, by and through her attorneys of record, SMOLEN | LAW, PLLC, and for her cause of action against the Defendant, Independent School District No. 23 of Ottawa County a/k/a Miami Public Schools ("MPS") states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is a resident of Ottawa County, Oklahoma, and mother of minor child C.P., also a resident of Ottawa County, Oklahoma.
2. Defendant MPS is a political subdivision, organized and existing under the laws of the State of Oklahoma, operating facilities and schools in Ottawa County, Oklahoma.
3. The events and occurrences that give rise to this cause of action occurred in Ottawa County, Oklahoma.
4. On or around September 27, 2021, Defendant MPS was timely placed on

notice of Plaintiff's tort claims in conformance with the Oklahoma Governmental Tort Claims Act, 51 Okla. Stat. §§ 151, *et seq.*

5. Defendant took no formal action upon the Tort Claim Notice and the same was deemed denied ninety (90) days thereafter and, pursuant to 51 O.S. § 157, this action is timely filed.

6. This Court has jurisdiction and venue is proper in Ottawa County, Oklahoma.

FACTUAL ALLEGATIONS

7. Paragraphs 1-6 are incorporated herein by reference.

8. C.P. is a minor who, at all pertinent times, was an elementary student at Washington Elementary School ("WES") located in Miami, Oklahoma.

9. WES is a school within the MPS District and operated by Defendant MPS. At all pertinent times, WES was under the control and supervision of Defendant MPS.

10. A special relationship exists between Defendant MPS and the students entrusted to its care, including C.P.

11. On or about October 5, 2020, C.P. suffered severe and serious injuries and related damages while attending school at WES when an employee and/or agent of WES and/or MPS, [REDACTED] negligently and recklessly used unreasonable and inappropriate discipline against C.P. while he was entrusted to her custody, care, and control.

12. On October 5, 2020, C.P. was seven (7) years old and was previously diagnosed with autism.

13. Specifically, [REDACTED] inappropriately and violently grabbed C.P. by the face and dragged him across a classroom by his head.

14. As both a direct and proximate result, C.P. suffered severe and serious

physical and emotional trauma which is permanent and chronic in nature.

15. These injuries and related damages were caused by the faculty, staff, and/or agents of WES and MPS, and the tortuous and unlawful acts that occurred at WES, located at 1930 B Street N.E. in Miami, Oklahoma.

16. Further, WES is a member of the MPS.

17. MPS was negligent and is legally, directly, and/or vicariously responsible for C.P.'s injuries, including, but not limited to, liability for the actions of [REDACTED] and/or other negligence of other WES and MPS agents, that occurred during and within the scope of duties and agency with MPS.

18. Further, MPS was negligent in hiring, supervising, retaining and/or training the employees or agents entrusted and responsible for supervising C.P., such as [REDACTED], and is legally responsible for the injuries that occurred to C.P. while in MPS custody and care *in loco parentis*.

CAUSES OF ACTION

I. NEGLIGENCE

19. Paragraphs 1-18 are incorporated herein by reference.

20. Defendant MPS owed a duty to C.P., as well as all other students, to use reasonable care while in custody, care, and control of its students, like C.P., to ensure with reasonable care that C.P. and the other students would be free from danger, threat, harm, and embarrassment.

21. Defendant MPS, by and through its employee(s), staff, and/or agents, breached these duties by failing to use reasonable care in disciplining C.P., negligently using force in such a way as to cause him serious injury.

22. Defendant MPS, by and through its employee(s), staff, and/or agents, further breached these duties by failing to use reasonable care to protect C.P., or to ensure that its employees and/or agents were appropriately disciplining students, and by failing to use reasonable care to prevent and protect C.P. from unreasonable and inappropriate discipline being used by its employees and/or agents that caused him physical and emotional trauma and injury.

23. This breach by Defendant was the actual and proximate cause of C.P.'s injuries.

24. As a both a direct and proximate result of Defendant MPS's negligence, C.P. has suffered personal injury, mental pain and suffering, emotional distress and other actual damages in excess of seventy-five thousand dollars (\$75,000.00).

II. NEGLIGENT HIRING, TRAINING, SUPERVISION, AND RETENTION

25. Paragraphs 1-24 are incorporated herein by reference.

26. Defendant MPS owed a duty to C.P., and all other students, to hire qualified, competent employees and/or agents to teach the students of the community. Defendant also owed a duty to supervise, retain, and hire any and all employees and/or agents in how to supervise and protect students, including how to discipline students in an appropriate manner.

27. By failing to hire in such a way, and by acting recklessly with complete disregard for the health and well-being of others including, C.P., Defendant breached the duty owed to C.P.

28. Additionally, by failing to properly train, supervise, and/or retain its employees and/or agents in the reasonable administration and performance of its teaching duties, Defendant breached its duty owed to C.P.

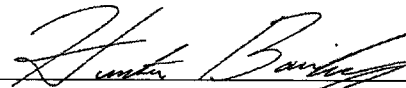
29. These breaches were the actual and proximate cause of C.P.'s injuries.

30. As a result of Defendant MPS's negligence, C.P. has suffered personal injury, mental pain and suffering, emotional distress and other actual damages in excess of seventy-five thousand dollars (\$75,000.00).

WHEREFORE, based on the foregoing, Plaintiff prays that this Court grant the relief sought, including, but not limited to, actual damages, including mental and physical pain and suffering; and all other relief deemed appropriate by this Court.

Respectfully submitted,

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