

FILED
MAY 11 2015

YAKIMA COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF YAKIMA

RICHARD L. MATHIEU, as litigation
guardian ad litem for minor child A.R.,
and E.R., individually and as parent of
minor child A.R.,

Plaintiffs,

v.

YAKIMA SCHOOL DISTRICT NO.
7, and JOHN EPPERSON,

Defendants.

NO.:

15 2 01284 2

COMPLAINT FOR DAMAGES

Plaintiffs allege as follows:

I. PARTIES, VENUE & JURISDICTION

1.1 Plaintiff Richard L. Mathieu is the duly appointed Litigation Guardian ad Litem
of minor child A.R.

1.2 At all times relevant, Plaintiff E.R. resided in Yakima County, Washington and
is the natural father of minor child, A.R.

COPY

1.3 Defendant Yakima School District No. 7 is a government entity located and transacting business in Yakima County, Washington.

1.4 All material acts and omissions of the Defendant alleged herein occurred in Yakima County, Washington.

1.5 Venue is proper in Yakima County, Washington.

1.6 This Court has jurisdiction over the subject matter and parties in this case.

1.7 Plaintiffs have fulfilled all of the administrative requirements for initiating and maintaining this action as required by RCW 4.96.020.

1.8 Due to the sensitive nature of these allegations, and to protect the privacy of the Plaintiff E.R. and his minor child, A.R., initials have been used in lieu of their full legal names. Plaintiffs are willing to file their legal names under seal upon request of the Court.

1.9 Upon the filing of this complaint, pursuant to RCW 4.24.010, Plaintiffs will cause to be served upon Ernestina Agapito, the biological mother of A.R., a notice of institution of this lawsuit.

II. FACTS

2.1 A.R. was born on September 2, 2005, in Yakima, Washington.

2.2 At birth, A.R. was diagnosed with Down syndrome. Down Syndrome is a genetic condition that causes developmental delays of varying severity. As a result of down syndrome, A.R. cannot communicate verbally. Therefore, it is of utmost importance to supervise her and those around her as she is unable to communicate to protect herself from dangers around her.

2.3 Defendants were aware of the nature and extent of A.R.'s disabilities and vulnerabilities while riding on a school bus.

1 2.4 E.R. is A.R.'s biological father and has sole parental custody of A.R.

2 2.5 During the 2013 to 2014 academic school year, A.R. was eight years old, and
3 was a special needs student in the second grade at Adams Elementary School in Yakima,
4 Washington.

5 2.6 Adams Elementary School is operated by Defendant Yakima School District
6 No. 7.
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8 2.7 In the 2013 to 2014 academic school year, A.R. was a passenger on a special
9 needs school bus operated and staffed by Defendant Yakima School District No. 7.

10 2.8 Defendant John Epperson was a bus driver employed by Defendant Yakima
11 School District No. 7.
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13 2.9 Defendants were responsible for the transportation and safety of the students,
14 including A.R., and to ensure that their health and welfare were protected. Defendants stood
15 en loco parentis (in the place of the parent) while Plaintiff A.R. was in their care.

16 2.10 At least one paraprofessional educator employed by Defendant Yakima School
17 District No. 7 also rode the special needs bus operated and staffed by Defendant Yakima
18 School District No. 7.
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20 2.11 M.A., an 11-year-old male, was a student in the fifth grade at Adams
21 Elementary who also rode the subject bus.

22 2.12 During the time period of February 2014 to March 2014, while riding the
23 subject bus, M.A. sexually and physically abused A.R. on at least twenty-five bus rides.
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25 2.13 These instances of sexual and physical abuse ranged in duration from several
26 minutes up to more than fifteen minutes.
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1 2.14 These instances of sexual and physical abuse were recorded by the bus
2 surveillance video.

3 2.15 These instances of abuse by M.A. included, but were not limited to, punching,
4 pinching, scratching, hitting, slapping, kissing, fondling of A.R.'s chest, pulling A.R.'s hair,
5 touching of A.R.'s crotch inside and outside of her clothing, forcing A.R.'s head onto his
6 genitals, forcing A.R. to touch and massage his inner thigh, and forcing and physically
7 manipulating A.R. to rub, fondle and masturbate M.A. A.R. cried after these instances of
8 abuse.
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10 2.16 On March 27, 2014, A.R. rode the Defendant Yakima School District No. 7 bus
11 from Adams Elementary to her home in Union Gap, Washington. Defendant Epperson was the
12 bus driver. During this bus ride M.A. physically and sexually assaulted A.R. This assault
13 resulted in bruising, deep scratches, and bleeding on A.R.'s face. Upon arriving at her
14 designated bus stop and exiting the bus, the Defendant Epperson and the paraprofessional-
15 educator both noticed and commented on the scratches on A.R.'s face. When A.R. arrived
16 home, A.R.'s grandmother noticed the scratches on A.R.'s face and immediately contacted
17 Adams Elementary school officials.
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20 2.17 On or around March 28, 2014, the Defendant Yakima School District No. 7
21 placed the assailant-student M.A. on emergency expulsion from Adams Elementary and
22 prohibited him from riding the bus.
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24 2.18 On April 7, 2014, Defendant Yakima School District No. 7 placed the bus
25 driver, Defendant Epperson, on administrative leave with pay pending an investigation
26 regarding "alleged negligent supervision of students on [his] bus route."
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1 2.19 On April 8, 2014, Adams Elementary school officials notified the Washington
2 State Department of Child Protective Services (“CPS”) of the incident. CPS conducted an
3 investigation.

4 2.20 On April 11, 2014, employees of Defendant Yakima School District No. 7
5 notified the Yakima Police Department of the incident, which then conducted a criminal
6 investigation.
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8 2.21 After concluding an internal investigation, on April 14, 2014, the Defendant
9 Yakima School District No. 7 suspended Defendant Epperson for two days without pay for
10 “supervision concerns” and “remiss[ing] in [his] duties” including: (1) failure to recognize
11 signs that inappropriate touching was occurring; (2) failure to utilize the interior mirror to scan
12 student activity in accordance with prescribed training techniques and redirect any behavior of
13 concern; (3) engaging in excessive dialogue with the paraprofessionals assigned to ride your
14 route, thereby undermining your ability to supervise; (4) failure to follow student seating
15 protocol; (5) failure to recognize a student in a distressed state of mind; (6) failure to
16 investigate “crying” on the bus; (7) failure to investigate when suspecting a student of
17 misbehavior; and (8) failure to follow-up on suspected injury to a student while being
18 transported.
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21 2.22 In a letter dated April 14, 2014, the Deputy Superintendent of the Defendant
22 Yakima School District No. 7, Dr. Jack Irion, stated that the “primary responsibility of our
23 school bus drivers is to transport our students safely to and from school. This includes diligent
24 supervision of students to ensure their health and welfare is protected.” Due to the “serious
25 nature of the incidents that occurred on your [his] route” Dr. Irion suspended Defendant
26 Epperson.
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2.23 Due to A.R.'s behavior before boarding the school bus before March 28, 2014, A.R. was likely abused starting on or around the beginning of the 2013 – 2014 academic school year.

2.24 A.R., and her father, E.R., suffered injuries, harms, and losses as a result of Defendants' negligence.

III. CLAIMS

3.1 Defendants had a duty to exercise ordinary care, including a duty to reasonably ensure the safety of its students on its buses, supervise students on its buses, and develop, implement and enforce policies and procedures to protect the safety of its students on its buses.

3.2 Defendants had a special relationship with the Plaintiff A.R. when she was in the custody of the Defendant, standing en loco parentis for A.R.'s father.

3.3 It was reasonably foreseeable that Plaintiff A.R., would be at risk of being assaulted on one of its buses when students are not appropriately supervised by its staff.

3.5 The Defendants breached the aforementioned duties, proximately causing injuries, damages, harms, and losses to A.R. and E.R. in an amount to be determined at trial.

3.6 The aforementioned acts and/or omissions of the Defendants amounted to negligence.

3.7 Defendants therefore are liable for all damages proximately caused to A.R. and E.R., including damages to A.R. pursuant to RCW 4.24.010.

3.8 Defendant Yakima School District No. 7 is vicariously liable for the negligence of Defendant John Epperson, as he was working within the course and scope of his employment for the Defendant District at the time of the acts and omissions alleged herein.

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IV. PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray for the following relief:

- A. Judgment against the Defendant in an amount that will fairly compensate Plaintiffs E.R. and minor child A.R. for all damages sustained;
- B. Statutory costs and attorney's fees;
- C. Interest calculated at the maximum amount allowable by law; and
- D. Any other relief the Court deems just.

DATED this 11 day of May, 2015.

TAMAKI LAW OFFICES
Attorneys for Plaintiffs

By: 

Bryan G. Smith, WSBA No. 29382

By: 

Sergio A. Garcidueñas-Sease, WSBA No. 46958