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Jun 18 2025

SC Court of Appeals

The State of South Carolina
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

Hon. Michael G. Nettles, 12th Circuit Court Judge

Case No. 2021-CP-21-022121

(Appellate Case No. 2024-001454)

Hannah L. Secka, Individually and (M.Y.N.S.)

Appellants-Plaintiffs

vs.

Florence School District One (FSD1) *and*
Florence County Sheriff Department (FCSD)

Appellee-Defendants

INITIAL BRIEF BY APPELLANT

Hannah L. Secka (Pro se litigant)
(Moudou-Yasen Nasir Secka) Age 21
(Pro se disabled litigant)
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~ STATEMENT OF ISSUES ON APPEAL ~

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2. Did the Circuit Court err that Plaintiffs have failed, as matter of law, to establish a compensable "loss" under the Tort Claims Act regarding the actions of District employees?

*(Medical Expenses, Lost Wages, Loss of Enjoyment of Life, Defamation)
Emotional Damages, Pain and Suffering*

3. Did the Circuit Court err that Plaintiffs have failed to establish a genuine issue of material fact tending to show that the district failure to follow its policies that led to the locker room incident; labeling an "assault & battery" as a 'tussle?' (*Section 63-7-310 Child Protection*)
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TABLE OF AUTHORITIES

1. *Porter v. Manhattan Beach Unified School District et. al.* (9th Cir. 2002)
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2. *Schaffer v. Weast* (2005): Fourth Circuit
3. *Doe v. Arlington County School Board* (1994): Fourth Circuit
4. *E.S. v. Katonah-Lewisboro School District* (2012): Fourth Circuit
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6. *Board of Education of Hendrick Hudson Central School District v. Rowley* (1982): Supreme Court
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10. *Long v. Murray County Board of Education* (2003): Fourth Circuit
11. *Wright v. Roanoke City School Board* (2012): Fourth Circuit
12. *Board of Education of Oklahoma City v. Dowell* (1991): Supreme Court
13. *Goss v. Lopez* (1975): Supreme Court
14. *Doe v. Taylor Independent School District* (2001): Fifth Circuit
15. *Nelson v. Adams County Board of Education* (2007): Eleventh Circuit
16. *Doe v. Withers* (2006): District Court for the Eastern District of Virginia

17. J.C. v. Beverly Hills Unified School District (2013): The United States District Court for the Central District of California
18. Pachhofer v. Board of Education of the City of Chicago (2015): The United States District Court for the Northern District of Illinois
19. States District Court for the Northern District of Illinois
20. John Doe v. Indiana Department of Education (2018)
21. Winkelman v. Parma City School District (2007) Supreme Court
22. Perez v. Sturgis Public School (2023) Supreme Court
23. Reed v. Becca, 333 S.C. 676, 683-684 (1999)
24. State v. Morgan, 417 S.C. 338, 341-344 (2016)
25. Willimon v. City of Greenville 243 S.C. 82, 86 (1963)
26. Redmond v. Lexington County School District No. Four 445 (1984)
27. Anderson v. Ballenger, 166 S.C. 44, 55, (1932).
28. Ethrudge v. Richland School District No. 17, 317, S.C. 50, 451 S.Ed 885 (1994)
29. Moore v. Berkeley County School District, 326 S.C. 584, SE2d 9 (1998)

Constitutional Provisions

42 U.S. Code § 1983 - Civil action for deprivation of rights/ Title IX

South Carolina Tort Claims Act (“SCTCA”)

Gross Negligence

S.C. Code Ann. 15-78-60(25)

South Carolina Victim’ Bill of Rights

S.C. Const. Art. 1 § 24(C)(2)

Right to Due Process

S.C. Const. XIV § 1 Art. 1 § 3

Participatory Rights

S. C. Code § 16-3-1110 (C)

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S. C. Code § 16-3-1110 (C)

Right to Protection

S. C. Const., Art. I, § 16-3-1525(G)

Right to Restitution

S. C. Const., Art. I, § 24(A)(9)

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Assault & Battery 3rd Degree

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Mandatory Reporters Neglect & Abuse

SC Code §§63-7-20 (310, 360, 390, and 410)

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S.C. Code 16-3-1700 and SC Code of Laws §59-63-110-140

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School Crime Report Act: S.C. Code Ann 59-63-330

S.C. Code Ann. § 59-17-10 and S.C. Ann § 59-19-10

~ARGUMENT~

1. Did the Circuit Court err by using false information of material facts provided by Defense Counsel David N. Lyon, Esq. of Duff, Freeman, and Lyon Law Firm in its' 2/12/2024 Memorandum in Support of Summary Judgment, by intentionally placing a distorted misinterpretation of (M.Y.N.S.) testimony in his 11/16/2022 Deposition that damaged the case?

A. The basis for Plaintiffs' South Carolina Court of Appeal is that a genuine issue of material fact does exist as to the "loss" suffered by Plaintiffs as defined by the South Carolina Tort Claims Act.

The South Carolina Torts Claim Act (hereinafter, "SCTCA") defines a compensable "loss" as: bodily injury, disease, death, or damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages recoverable in cause of actions for negligence or gross negligence, pursuant to S.C. Code § 15-78-40 *"The State, an agency, a political subdivision, and a governmental entity are liable for their torts in the same manner and to the same extent as a private individual under like circumstances, subject to the limitations upon liability and damages; and S.C. Code § 15-78-60(25) The governmental entity is not liable for a loss resulting from: responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student, patient, prisoner, inmate, or client of any governmental entity, except when the responsibility or duty is exercised in a grossly negligent manner;"* respectively of the South Carolina Tort Claims Act.

The rule governing summary judgment provides that *"supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matter stated therein."* Rule 56(e), SCRPC. (Nonetheless, "an expert witness may state an opinion based on facts not within his firsthand knowledge.... He may base his opinion on information, whether or not admissible, made available to him before hearing if the information is of the type reasonably relied upon in the field to make opinions." *Hundley v. Rite Aid of South Carolina, Inc.*, 339 S.C. 285, 529 S.E.2d 45, 50 (Ct. App. 2000) (citations omitted); see also Rule 703, SCRE). Personal injury claims arise when harm results from another's negligence. Gross negligence, or intentional actions. To succeed, a plaintiff must establish the defendant's duty of care, a breach of that duty, causation, and damages.

Hannah L. Secka has Power of Attorney (POA) granting her the authority to act in all legal matters or claims for (M.Y.N.S.). She brings forth this Appeal due to the “*ineffective counsel*” and “*legal malpractice*” of Darryl C. Caldwell, Esq. Who filed a personal injury complaint on 9/29/2021 without the agreed upon *client-attorney* causes of action from a conference on 2/18/2020 during the time of COVID-19. Caldwell intentionally failed to properly investigate claims and secure witnesses. Which resulted in Summary Judgment being Granted on 9/4/2024 for failure to state a claim. Attorney Caldwell also had a flagrant “*conflict of interest*” with opposing counsel David T. Duff, Esq. and David N. Lyon, Esq. Whom he worked with at Duff, White & Turner, LLC Law Firm for 16 years in procurements. Attorney Caldwell, told his client that David Duff had offered us a settlement agreement in 2020. Hannah Secka met Attorney Caldwell on 11/18/2019 and gave him possession of all evidence for this case on 12/12/2019. Hannah Secka was always under the impression that the lawsuit was filed on or about 2/20/2020. It wasn’t until 11/16/2022 during the day of depositions of Hannah Secka and (M.Y.N.S.) that Attorney Caldwell provided Ms. Secka with a copy of the lawsuit to read and review. In which, Attorney Caldwell did not name the appropriate defendants, he placed minimal objections and declined to cross examine his clients to set the record straight regarding the line of questioning conducted by David Lyon, Esq. or Jerome Scott Koziack. Attorney Lyon literally placed false misleading statements to the Courts in the Defendant Memorandum in Support of Motion for Summary Judgment dated 2/12/2024 by distorting (M.Y.N.S.) testimony in his deposition.

Pursuant to S.C. Code Ann. § 59-17-10, the school district is the “body politic and corporate,” which may sue and be sued in its name. The District is under the management and control of the Board. S.C. Ann § 59-19-10. Thus, there is generally no legal distinction between the District and the Board. Whether this suit should distinguish between the District and the Board, and there are also no allegations against the Board, the Court should treat the District and the Board as one in the same. Nevertheless, the Plaintiffs' claims are not solely for emotional harm. The photos/images of the visible bodily injuries to face, lips and back of (M.Y.N.S.), the Sheriff Department Incident Reports, Medical Documentation, and the Clinical Psychological Trauma Evaluations of (M.Y.N.S.) and Hannah Secka indicate that they both were intentionally physically and emotionally harmed and injured by school staff while under the care of the school district and all staff were mandated to act and report such violations of the school crimes pursuant to S.C. Code §§63-7-20 (310, 360, 390, and 410) and S.C. Code Ann 59-63-330 (School Crime Report Act).

Plaintiff (M.Y.N.S.) testified that on multiple occasions he was violently and physically touched without his consent or permission by Kathy Luhrs, his 8th Grade Math Teacher at Sneed Middle School when she forcibly grabbed his arm and held it down and wrote on his arm with a black permanent Sharpie marker to mimic a misspelled gang tattoo, which violates his Constitutional religious beliefs as a practicing Muslim of Islam. (M.Y.N.S.) was under a protected class for his disabilities outlined in his 5/30/2018 Individualized Education Program (IEP) and Behavior Intervention Plan (BIP). (M.Y.N.S.) has longstanding formal diagnoses of certain special needs, resulting in Autism Spectrum Disorder (ASD), intellectual disabilities, speech/language social pragmatic delay, epilepsy, sleep apnea, narcolepsy, learning disabilities and physical disabilities. Through his Individualized Education Program, (hereinafter "IEP"), numerous accommodations had been made for (M.Y.N.S.) because of his disabilities. Amongst these many disabilities, (M.Y.N.S.) has cerebral palsy, associated with muscle weakness from traumatic brain injury (TBI) "skull fracture" at birth. As a result, he had a one-to-one paraprofessional at all times as a part of these accommodations at school.

Any unwanted touch is an assault or battery in accordance with the law, that makes this action a crime. S.C. Code 16-3-29 (C) (1) and 16-3-600. This incident was revealed in a 5/30/2018 IEP Transition Meeting with an SCDE Facilitator, Mr. Bruce Smith, and twelve (8) FSD1 district staff members who signed the IEP and were mandatory reporters. Due to intentional concealment of the crime and lack of confidence, accountability for the ongoing physical attacks, harassment and bullying by peers and school staff led to (M.Y.N.S.) attempting suicide due to teachers and students referring to him as a "*pinkening*" and "*black devil*" school staff placing him in "*isolation*" where he almost died by swallowing his tongue due the onset of a seizure at and extreme misconduct by District Staff, failing to provide his IEP accommodations for a nap in the Nurse Station. This incident was intentionally undocumented by school staff due to their extreme reckless actions.

Kathy Luhrs was present at the 5/30/3018 *Transition IEP Meeting* and admitted to physically harming (M.Y.N.S.) body and violating his religious beliefs. They had a contentious teacher-student relationship where she had to be reprimanded by Haley Cagle, Sneed Middle School Principal for misconduct of violating his special education IEP and BIP earlier that school year. Kathy Luhrs went as far as to go to Sheriff Department after work hours to file a false police report against (M.Y.N.S.). Her actions towards (M.Y.N.S.) were pure revenge and hateful immoral conduct to embarrass and humiliate him in front of his peers and shatter his self-esteem. At the end of the meeting, district administration (Brian Denny, Director of Special Education) assured parent immediate adverse action against the teacher, but he failed

to act, report, document or do anything to protect (M.Y.N.S.) when he transitioned from Sneed Middle School to West Florence High School (WFHS), the parent's reputation for swift advocacy for her son became well-known and district employees continued the disability-based harassment and retaliation with heinous allegations of "possession of child pornography" "improper search and seizure" of his cell phone, "illegal interrogation of a minor" "assault on a child" and "threatening to send him to jail" his freshman year at WFHS. (M.Y.N.S.) refused to go back to school out fear of his safety and freedom from the School Resource Officer and Matthew Dowdell, Principal.(Exhibit: 10 Day Notice Letter) As a result, the parent went to law enforcement for action due to the gross negligence and extreme recklessness of failing to document the incidents and the ongoing negative student-staff relationships with undertones of religious and racial discrimination. (Exhibit: FCSO #2019-06-0227)

Then, Hannah Secka filed for an IDEA Due Process Hearing on 2/13/2019 where district staff was libel, slanderous, and defamed the mother and willfully and intentionally committed perjury *pursuant to 16-9-10* with their testimony about the academic performance, physical and emotional harm Kathy Luhrs caused to the student and his mother by stating that District had no knowledge and never saw the image of (M.Y.N.S.) arm. The staff employees violated the Board Policy GBEB Staff Conduct and Policy GCQF Discipline, Suspension, and Removal of Professional Staff. They refused to make Kathy Luhrs available as a witness at the due process hearing. There is no statute of limitations on crimes committed in the State of South Carolina. The district acted with gross negligence and extreme recklessness to conceal the crime, harm, and injury she caused (M.Y.N.S.) and his mother, Hannah Secka.

Evidence: Brian Denny Perjury DPH# 2 Transcript 10/20/2020 Page 148 line 8-24

Q. Was there ever a facilitated IEP meeting at Sneed Middle School?

A. Yes.

Q. Okay. Were you given evidence of teacher abuse of my son's religious civil rights being violated?

A. No.

Page 152 line 10-14

Q. Okay. Have you ever seen this picture?

A. Yes.

Q. Okay. Where?

A. I've seen it over email. That's where I remember it was, over email.

Q. Okay. Did there ever come another time where there had to be a facilitated IEP meeting for my son?

A. There -- yes, there was other requests for a facilitated meeting, yes.

Giving false testimony in court or falsely swearing before someone who is authorized to administer oaths. The penalty is up to five (5) years in prison and a fine at the court's discretion. In South Carolina, perjury is a crime that involves giving false or misleading testimony under oath or providing false information in a required document. Brian Denny intentionally lied under oath. The physical evidence was given to him on 5/30/2018 and he failed (M.Y.N.S.) as a mandatory reporter.

As Mandatory Reporters the district was grossly negligent, careless and reckless for failing to report this abuse and immoral conduct to SCDE for Educator Misconduct and other outside agencies for proper investigation and prosecution. Training Requirements for *Mandatory Reporters Citation: Ann. Laws § 63-7-450*. The Department of Social Services Protective Services shall inform all persons required to report pursuant to § 63-7-310(A) of the nature, problem, and extent of child abuse and neglect of their duties and responsibilities in accordance with this law. When a person is so *“indifferent as to his conduct as to not give slight care to what he is doing, he is guilty of gross negligence.” Anderson v. Ballenger, 166 S.C. 44, 55, (1932)*. The school employees exercised no care to protect (M.Y.N.S) from harm. The evidence shows that they *“knew”* exactly what happened to him, encouraged it, participated in it, and chose not to take control over the situation, then retaliated against the mother for bringing the concerns to outside agencies.

Richard O'Malley, FSD1 Superintendent, signed his contract on May 4, 2018, and assumed his role in August 2018. Hannah Secka contacted him directly on 11/26/2018, after Brian Denny caused the parent to suffer a stroke in a 11/19/2018 IEP Meeting. He met with the parent Hannah Secka on 12/3/2018, to hear her grievances and took possession of the 3 photos containing the teacher abusing (M.Y.N.S.) by forcibly writing on him with a permanent sharpie marker in a gang style tattoo without consent, the visible bodily injuries to his face, lips, and back, that occurred in football locker room. Whether a *“hazing” “sexual assault”* and the *“assault & battery”* by the quarterback and other upper classmen.” Due to the districts' acts of *“gross negligence”* and *“extreme recklessness”* there is no investigation or supporting documentation other than what the parents secured from the Sheriff Department. Richard O'Malley attended a scheduled Facilitated IEP Meeting on 1/14/2019 at West Florence High School with Bruce Smith, SCDE Facilitator. ([Exhibit: Bruce Smith, Facilitator for ongoing bullying 2/11/2019](#)),

That Facilitated IEP was unsuccessful due to Brian Denny's gross negligence and extreme recklessness of failing to provide the IEP Team with the Individual Educational Evaluation (IEE) data from Dr. Pritchard-Boone that solidified that FSD1 was grossly negligent and reckless in their Initial Full-Comprehensive

Evaluation Assessment, where they stated that (M.Y.N.S.) had *no* disabilities under IDEA. This is a federal violation of IDEA Child Find Mandate. On 3/9/2019 Richard O'Malley saw Hannah Secka and her daughter Sgt. Khadijah F. Secka at the McLeod Rehabilitation Facility and walked over to her and agreed to send (M.Y.N.S.) to the Riverside Military Academy for his safety in exchange to withdraw her Due Process Hearing Complaint against the district. When the parents refused, he became angry and retaliatory. The DPH#1 was held on 4/10/2019. The *Decision* was rendered on 4/19/2019. While the Notice of Appeal was filed Richard O'Malley paid Doug Dent, Hearing Officer a \$63,707.57 *client appreciation fee* on 5/13/2019. Hannah Secka went to the S.C. State Board Meeting on 6/11/2019 with a PowerPoint to expose Molly Spearman, State Superintendent and Barbara Drayton, SCDE, OGC for failure to act, when abuse and neglect was given to them as well. Instead of the SCDE helping provide relief to parents along with FSD1 Superintendent they retaliated against the mother by causing her to lose her teaching job in FSD3 (Lake City) that resulted in "Wrongful Termination" settlement Case No. 4:20-cv-3342-JD-TER. They also unilaterally dismissed her State Complaints and she alleges the SCDE and FSD1 both engaged in a civil conspiracy to silence her by seeking advice from attorney Doug Dent to relieve O'Malley of liability from his first-hand knowledge of the abuse & neglect, by Kathy Luhrs, the intentional misconduct of Brian Denny failing to report the teacher to the SCDE, assault & battery, hazing, and sexual contact by the football quarterback and other upper classmen.

Exhibit: Richard O'Malley Transcript 9/6/2023

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Q. Do you recall ever participating in an IEP meeting with Hannah, Moudou, and other members of your special services department?

A. I remember being in an IEP meeting, but I don't recall who else was there.

Q. Do you recall being in any due process hearings with Hannah Secka regarding services being provided to her son, Moudou-Yatsen?

A. I do recall. I don't recall when, but I do recall being at one.

Exhibit: Doug Dent DENIED Subpoena for Richard O'Malley in DPH#1, and he was paid a \$63,707.57 bribe. Brian P. Murphy also DENIED Subpoena in DPH#2.

Q. Okay. Do you recall being at more than one?

A. No

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Q. One of allegations in the complaint is that Kathy Luhrs wrote on plaintiff's Yatsen -- Moudou-Yatsen Secka's arm. Do you recall that occurring?

A. Do you know what the date of that occurrence was?

Q. On about May 29th, 2018.

A. No.

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Q. So I'll rephrase the question. Do you recall Hannah Secka filing a complaint with the Office of Civil Rights against you or -- and Florence County School District One?

A. I don't recall. Any of those complaints that come in go directly to our attorneys who handle it.

Q. Okay. Do you provide any input to complaints that are filed to you or the district?

A. I do not. My assistant superintendent has been handling those.

Q. And your assistant superintendent that handled that for you, what's their name?

A. His name is Greg Hall. And can -- Hall? Hall?

Q. Okay. You don't recall ever meeting with Hannah Secka regarding any issues with her son, Moudou-Yatsen Secka?

A. I do not recall.

Q. Did you -- do you recall signing any resolution agreement with the Office of Civil Rights and Hannah Secka?

A. I don't recall.

Q. Do you recall meeting -- strike that.

Do you record meetings that you participate in with parents of students in the school -- in Florence County School District One?

Do you recall ever meeting Hannah Secka in your office in a meeting regarding her son, Yatsen --Moudou-Yatsen Secka?

A.I do not recall.

Evidence: 11/26/2018 to O'Malley for 12/3/2018 parent meeting)

From: Hannah Secka hannsc2@aol.com
Date: November 26, 2018 at 9:48 AM EST
To: Richard O'Malley romalley@fsd1.org
Cc: JGalloway@fsd1.org, alexixpipkins@aol.com, ejmcover@fsd1.org,
pstewart@mcgowanlaw.com,

Subject: Secka (WFHS)

I am requesting an immediate meeting to address my parental concerns about WFHS staff and your Director of OEC. Please be prompt!

Hannah Secka
843 407 8867

From: Hannah Secka <hannsc2@aol.com>
Date: November 26, 2018 at 3:02:10 PM EST
To: Richard O'Malley <romalley@fsd1.org>, bdrayton@ed.sc.gov

Subject: Fake Secka Meeting

This meeting never occurred. Nor did I participate. This is an illegal act to correct their improper actions.

Hannah Secka

On Nov 26, 2018, at 4:34 PM, RICH O'MALLEY <romalley@fsd1.org> wrote:

Thank you for your email regarding a meeting. It is my understanding that this matter will be addressed a future IEP meeting and/or mediation.

From: Hannah Secka <hannsc2@aol.com>
Date: November 26, 2018 at 5:12:02 PM EST
To: RICH O'MALLEY <romalley@fsd1.org>, Barbara A Drayton
<bdrayton@ed.sc.gov>, dsteppara@ed.sc.gov

Subject: Re: Fake Secka Meeting

Thank you Dr. O'Malley for your response but I have been informed by Barbara Drayton that Mr. Denny has refused to participate in the Mediation Process.

On Nov 26, 2018, RICH O'MALLEY <romalley@fsd1.org> wrote:
How's Monday, December 3rd at 9:00 am at the district office?

Richard O'Malley intentionally committed perjury in his deposition on 9/6/2023. Greg Hall was hired in April 2020. He definitively knew he met with Hannah Secka on 12/3/2018 at 9am at the district office, where Hannah Secka informed him of the gross negligence and extreme recklessness of Brian Denny failing to report Kathy Luhrs, Coach Jeff Lee and Mathew Dowdell for educator misconduct. O'Malley personally asked Plaintiff if he could make copies of the injuries of (M.Y.N.S.) and he was allowed. The parent clearly informed the superintendent about the locker room hazing, assault, and sexual contact. After O'Malley met with the parents and she made it abundantly clear that the parent and the student did not want to attend WFHS due to the ongoing physical attacks, improper searches, detainment, isolation, academic failure, teacher-peer disability based-harassment, intimidation, bullying and failure to protect (M.Y.N.S.) from harm and injury both physically and emotionally. The child was afraid to attend school due to the school employees' gross negligence and extreme reckless actions toward him. O'Malley promised Plaintiffs relief in firing Mr. Denny and Kathy Luhrs and possibly sending (M.Y.N.S.) to the out-of-district placement for his safety.

Evidence: State Complaint 11/26/2018

The ongoing disability-based harassment, bullying, retaliation, discrimination caused a steady decline and regression of both Plaintiffs physical and mental health. As a result of the parent going to federal entities Richard O'Malley had to sign two (2) Resolution Agreements with the Office of Civil Rights (OCR) for *Staff Training and Revision of Section 504 Policies and Procedures* as a result of the complaints the mother filed against the district for disability-based harassment, intimidation and bullying and physical attacks against her son. (**Exhibit: OCR Letter/RA 2019-2021**) They concealed school crimes to protect the quarterback and his accomplices. The State and District are equal culprits in the crimes committed against (M.Y.N.S.) while in the district's care. The South Carolina Torts Claim Act (hereinafter, "SCTCA") defines a compensable "loss" as: *bodily injury, disease, death, or damage to tangible property, including lost wages and economic loss to the person who*

suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages recoverable in cause of actions for negligence or gross negligence, pursuant to S.C. Code § 15-78-40. Porter v. Manhattan Beach (2003)

(Exhibit: PowerPoint to SCDE Board Meeting 6/11/2019-12/1/2021)

(Exhibit: Teacher Abuse & Neglect/Battery)



(M.Y.N.S.) 11/16/2022 Deposition Testimony (Kathy Luhrs) Page 77-85

By MR. LYON: (M.Y.N.S.)

Q All right. Mr. Secka, tell me about the -- the situation involving Ms. Luhrs, who you say -- or the complaint says used a marker to write something on your arm. You agree it said, loyalty.

A Right.

Q How did that even make you feel and do you that -- that what was written on your arm-looks with that really lovely cursive writing, writing on your arm. So tell me what happened before and after that. How did that come to pass?

A This was -- I believe, the last week of school. And before this situation even happened, me and Ms. Luhrs' relationship was already like, on the rocks. Because - - we -- we also had like, different types of altercations and situations that were way bigger than this incident. But this specific one she -- yeah. This was the last week of school. I believe, we were watching a movie. Yeah. Was watching a movie and we all was just talking like, we was all chilling in Ms. Luhrs' class. And then I can't remember what happened. I just remember we all ended up like, piling up by her desk and she had a Sharpie. And I told her -- I told her like, in a -- in a kind of nonchalant type of way that I -- I told her -- basically, we was talking about -- everybody in the classroom was talking about tattoos. And she began to say something about she wanted a tattoo or something like that. And she asked me if I ever thought about getting one because me and the other students were all talking about it. And I told her that I was Muslim and that I didn't really like, plan on getting

any type of tattoos. And she began to just start doodling on pieces of paper. And I'm trying to remember exactly how she ended up writing on my arm. But I just remember I did not really appreciate it, but -- I'm trying -- I'm trying to reach far back right now. Trying to go down memory lane.

Q Take your time.

A But I -- I do remember -- I do remember the -- the other students laughing because she spelled it wrong, though. And I felt very humiliated because it -- because it just -- it didn't really sit right with me because I just-- it just didn't really, really sit right with me to be honest. But as far as like, her writing on my arm, I'm not going to say I let her do it, but I'm not going to sit here and say like, she did it just like randomly because -- I got thrown off just now. Yeah. Yeah.

Basically, long story short, we was watching a movie in class and we was all -- we was all just chilling, talking about tattoos. And then she ended up doodling on a piece paper. And then she began to just start writing on my arm. And she drew -- she drew something else on somebody else's arm, but it was kind of small on theirs. It was like a little butterfly or something. And then, she -- she drew -- she drew a rose on the girl's hand. Then after that, she drew -- she -- she wrote on my arms and she wrote-- she wrote loyalty on my left forearm. Well, loyalty, but it wasn't even spelled right. I didn't really too much appreciate that. I didn't really -- I didn't really try to conversate with her after that. I just tried to wash it off.

Q Are you -- are you upset that she wrote on your arm or that she spelled it wrong and then that made everybody laugh.

A In a sense, kind of both because I didn't really appreciate it because it felt like-- it felt like -- a kind of like, retaliation mixed with humi--- humiliation. Is that how you say it?

Q Humiliation. Yes.

A Yeah. Yeah. It just sounded like a mix of that. Because me and her already had very rocky relationship. Like, before this with, like, different other incidents where she's -- I believe, she -- yeah, I'm pretty sure she pressed charges against me. And I -- I believe she -- no, I don't believe. She did run off with my phone and tried to -- tried to -- I don't know what she tried to do with my phone. But she -- she promised

me she was going to give me my phone at one point at the end of the class when she snatched it off of the desk. And instead of her giving me back my phone when the bell rang, she decided to take it out of the cabinet and go and walk off towards the - - the principal's office. And as I was behind her, I was asking her and I was like, hey, what are you doing with my phone. Because mind you, she promised me she was going to give me my phone at the end of the class period. But she also did snatch it from -- like, without my consent. So that's why I said me and her relationship already was like, rocky. And when I -- when I did try to get my phone back from her, like, when I tried to reach, she made a scene and made it seem like I basically tried to hit her. And she -- she tried to call the S.R.O. and make a big 'ole scene and make it seem like I tried to harm her. When in reality, I was just trying to get my belongings back. You know what I'm saying?

Q So you grabbed your -- you grabbed for your phone is what you're saying?

A Right. Right. Right. But she made-- she made it seem like something that was -- she blew it out of proportion, basically.

Q All right. Were you -- do you also recall looking at an incident in your behavior - -in your student discipline summary and the interaction with Luhrs that I'm looking at, said that -- that you cursed at her, saying, that's F'd up. I can show you if you want, but does that -- do you recall any cursing at your -- I guess, your eight grade teacher at that point?

A I don't recall any cursing --

Q All right.

A -- but I'm going to be honest. If I did, it was probably because I was mad because she took my phone.

Q Okay. All right. And what -- what's your -- what the understanding -- your understanding of when you can have your phone at school?

Q Yes. That's a good way to say it.

A Well, whenever we're not doing

A You said what's my understanding when I can and can't have my phone? seat by her table. That's what she did. She moved my seat by her table, so it was kind of easy

for her to just reach over and just grab it anything in class like, whenever we're not doing actual classwork or tests or projects, et cetera, et cetera. You see my phone -- my phone wasn't bothering her or anybody like, it was on the corner of my desk and I was literally doing my -- my work. And she -- what she did was she moved my without me actually like, paying attention for her, since I'm doing my work.

Q So if she says you were playing with it, that's not --

A No.

Q -- not your recollection?

A No, I wasn't playing with my phone at all.

Q Why did she move your seat over by her desk?

A I guess, so she could keep a good eye on me.

A To be honest, I don't know. Like, I really don't know because I really don't remember hearing no type of conversation that like, coerced

Q Was there a reason she needed to keep a better eye on you?

A I believe, she didn't really -- *I believe, she didn't really like me*, to be honest.

Q Okay.

A That's just how I felt.

Q Go -- going back to the writing on your arm. How many other students did she write on their arms?

A It was just me and one other student.

Q Okay. Did the other student ask for the -- for her to write on her arm?

A her to do something like that. As far as like --yeah, I don't remember like, no type of conversation that like, led up to that, basically.

Q Okay. So you don't -- you don't remember why she chose the word loyalty to try and spell?

A No.No.

Q Was there a movie on about loyalty or--

A No.

Q -- y'all talking about loyalty?

A No.

Q You didn't have any discussions with her about loyalty?

A No. She was just -- it started off with her doodling on a piece of paper. Like, she was just -- she was just showing people -- well, the kids in the classroom like, stuff she could do, I guess. I don't know, to be honest.

Q And -- and I think you already answered this, but how did that make you feel?

A Oh, very, very -- what's the word I'm looking for? I already say humiliated, but I also felt kind of like, different from the others. Especially in her classroom environment. Because it just -- it just didn't sit right with me, the fact that she -- she put something on my arm and it wasn't even spelled right. So it just -- it just didn't really sit right with me because it just -- it just looked goofy. And then when I tried to wash it off, it wouldn't come off. So I had to wait like, a day or two, so it was just -- it was just kind of like there for like, a couple days.

Q Okay. So it was on there for a couple days. What -- did you say this was the last day of school?

A No, it was the last week of school.

Q Last week of school. Okay.

A Yes.

Q All right. Okay. Have you -- is this—is this an issue that you discussed with your counselor—Miss—I think it's, Ms. Boone?

A From Sneed?

Q No. I'm sorry.

A Oh, you're talking about Doctor --Dr. Pritchard-Boone?

Q Yes.

Oh, oh, yes, sir. Yes, sir.

Q Okay. How -- how many times did you did you talk to her about it?

A A few --a few for her to be familiar, anyway. (*End of Testimony*) No where does (M.Y.N.S.) indicate “*I can’t remember what happened*” as described in the 2/12/2024 Motion for Summary Judgment by Attorney David N. Lyon. The Circuit Court accepted what Defense Counsel quoted as factual, and it is not.

Pursuant to FSD1 Employee Handbook Kathy Luhrs violated Board Policy GBED Staff Conduct when she was deliberately harmed and injured (M.Y.N.S.) and his mother both physically and emotionally by going against Plaintiffs religion that rebukes any sort of ink, carving, or writing on the body. David N. Lyon intentionally provided false misinformation to the Courts in his narrative on Motion for Summary Judgment dated 2/12/2024. Plaintiff (M.Y.N.S.) definitively elaborated on his testimony of how and why Kathy Luhrs violated his religious and civil rights by forcibly writing and touching his body without his consent. She stole his innocence as a vulnerable student. Once again, Attorney Caldwell did not cross-examine (M.Y.N.S.) at the deposition.

Institutional Responsibility to Report Citation: Ann. Code §§ 63-7-310; 63-7-315. A person who reports child abuse or neglect to a supervisor or person in charge of an institution, school, facility, or agency is not relieved of their individual duty to report in accordance with this section. The duty to report is not superseded by an internal investigation within the institution, school, facility, or agency. An employer must not dismiss, demote, suspend, or otherwise discipline or discriminate against an employee who is required or permitted to report child abuse or neglect pursuant to § 63-7-310 since the employee has made a report of child abuse or neglect. An employee who is adversely affected by conduct that is in violation of this section may bring a civil action for reinstatement and back pay. An action brought pursuant to this section may commence against an employer, including the State; a political subdivision of the State; and an office, department, independent agency, authority, institution, association, or other body in State government.

Standards for Making a Report Citation: Ann. Code § 63-7-310. A report is required when a reporter, in their professional capacity, receives information that gives them reason to believe that a child has been or may be abused or neglected. The Board and District Employees failed to act, respond, document, investigate internally, and report the mothers’ complaints of abuse & neglect. Anyone required to report who knowingly fails to do so may be found guilty of a misdemeanor in the court of law and/or face disciplinary actions by the district. Under South Carolina Law, there is no statute of limitations for any crime, whether felony or misdemeanor.

(Exhibit: Open-Hand Bodily Injury; Slap in the Face/Busted Lip)



Pursuant to FSD1 Board Policy JI Student Rights and Responsibilities

Students have civil rights.

The gross negligent and extreme reckless conduct of the entire Board of Trustees, Superintendent, Director of Special Education, Principal of West Florence High School, *district employees* Christopher Coleman, Coach Jeff Lee, and Lisa Doyle as an entity due to their willful intentional neglect of duty, unprofessional, cruelty, immorality, dishonesty, retaliation and blatant discrimination has caused severe emotional distress for a lifetime of pain and suffering, both physical and mental injury and medication to mother and student. **Evidence:** Trauma Evaluations

Pursuant to FSD1 Board Policy GBE Staff Rights and Responsibilities

The Board expects all staff members, at a minimal:

- be faithful and prompt in attendance.
- follow, support, and enforce federal and state law, board policies, and administrative rules and district practices and procedures.
- be diligent in adhering to time frames and due dates.
- take care of and protect district property.
- demonstrate concern and attention toward his/her Board's legal responsibility for the safety, welfare, and protection of students.*
- act professionally at all times.
- maintain a strictly professional relationship with students, both inside and outside of school.

Cultural Diversity:

The Board *will not* tolerate language or behavior which demeans or insults others, whether it stems from ignorance, emotionalism, or maliciousness. Any employee who violates this policy will be subject to dismissal. Branding (M.Y.N.S.) with a marker to mimic a tattoo is religious discrimination. (M.Y.N.S.), was a constant target in danger, who was continuously harmed mentally and physically

when he was harassed, bullied, intimidated, and physically attacked by multiple students while inside the athletic locker room without supervision. Under SC Code of Laws 1976, this can be defined as a “*Hazing*” SC Code of Laws 16-3-510, “*Sexual Assault*” SC Code 16-3-652, and FSD1 Board Policy JICFA Hazing, Specifically, (M.Y.N.S.) testified that, “*They both end up just basically start attacking me!*” South Carolina Code 16-3-210. *Assault and battery by mob*; investigation and apprehension; civil liability applies. Ex. 1, PLT FCSDO 000009- 000010; Ex. 3, M.Y.S Dep. p. 77, In. 2 -p. 88, In. 8. Ex. 4, Hannah J. Secka Dep. p. 112, In. 13- 18. Students have the right to be recognized and respected, (M.Y.N.S.) was abused and neglected by school employees. Ex. 4, Hannah J. Secka Dep. p. 150, In. 1-p. 151, In.18. After the hazing, assault & battery, and sexual assault occurred no school official took appropriate action to help to document, investigate, or report the school crimes committed against this vulnerable disabled child while in their care. Florence School District One Superintendent and Board of Trustees failed their “*duty of care*” and violated, Board Policy JII Student Concerns, Complaints, and Grievances for their “*oath of office*” when they failed to take action and investigate parent concerns, complaints, and allegations *pursuant to the Universal Citation* SC Code § 59-25-160 *and* Board Policy GCQF Discipline, Suspension, and Dismissal. The District, Board, Superintendent, Director of Special Services, Principal of West Florence High School demonstrated gross negligence with a conscious disregard for the safety of (M.Y.N.S.) while in their care. They failed to adhere to their own Board Policies for school safety.

S.C. Code § 59-25-160 “*Just cause*” may consist of any one or more of the following:

- (1) Incompetence;
- (2) Willful persistent neglect of duty;
- (3) Willful violation of the rules and regulations of the SCDE policies/procedures;
- (4) Unprofessional or inappropriate conduct;
- (5) Criminal Conduct
- (6) Cruelty;
- (7) Crime against the law of this State or the United States;
- (8) Immorality;
- (9) Any conduct involving moral turpitude;
- (10) Dishonesty;
- (11) Harassment, intimidation, or bullying (HIB)
- (11) Evident unfitness for position for which employed; or failure to comply with contract.

HISTORY: 1962 Code Section 21-375.1; 1974 (58) 1928.

During this entire assault, there were no supervision by any school officials, no administrators, no employees in the vicinity to supervise the football locker room when (M.Y.N.S.) was attacked by the quarterback and other upper classmen. The lawsuit argues that FSD1 was “*grossly negligent, careless and reckless*” for not having enough staff to monitor students and failing to take reasonable precautions to prevent the hazing, sexual assault, and assault & battery 3rd degree. They intentionally took no action after the mother continued for months seeking accountability for the injuries. The filing also says FSD1 failed to enforce adequate policies to prevent ongoing bullying of (M.Y.N.S.), such as a “*School Bully Safety Plan*” requested by his mother. FSD1 staff employees intentionally concealed a felony. Gross negligence is the “*intentional, conscious failure to do something which is incumbent upon one to do or the doing of a thing intentionally that one ought not to do.*” *Ethrudge v. Richland School District No. 17*, 317, S.C. 50, 451 S.Ed 885 (1994)

Plaintiff’s IEP clearly states that (M.Y.N.S.) was to always have additional one-to-one supervision and Section 504 Accommodations were to take effect for extracurricular activities due to his Autism and Traumatic Brain Injury. Instead of providing a safe learning environment for (M.Y.N.S.), they’ve provided a breeding ground for violence and criminal activity. Defendant Florence School District One owed a *common law duty* to protect the minor child from harm, including abuse, neglect, hazing, bullying, harassment, intimidation, and assaults, while he was under FSD1 care, which is a “*breach of duty.*” The student and his mother suffered severe physical harm, disease of hypertension, stomach ulcers, severe migraines, insomnia, night terrors, anxiety, depression, PTSD, libel, slander, defamation, neglect, abuse, false arrest, DJJ Assault & Battery 3rd Degree victim, invasion of privacy, lost wages, loss of enjoyment of life, negligence, gross negligence, pain and suffering and emotional distress because of the Board of Trustees and *District Employee’s* intentional actions or inactions and failure to protect (M.Y.N.S.) and act with reasonable care while standing in the *loco parentis* for the student when he was present at school, whether in the classroom, cafeteria, playground, locker room, bathroom, parking lot, or the school bus.

In the State of South Carolina, the law defines battery charges within the context of assault and battery, with different degrees of the offence depending on the severity of the injury and other aggravating factors.as intentionally touching another without their consent or intentionally causing bodily harm to another person. Battery is an unlawful application of force directly or indirectly upon another person or their

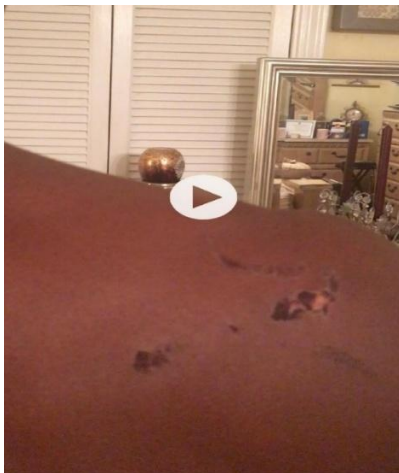
belongings, causing bodily injury or offensive contact. The attempt of battery is assault. It is for a jury to determine the fate of Kathy Luhrs, Christopher Coleman, Matthew Dowdell, Brian Denny, Richard O'Malley and WFHS Quarterback and other accomplice's actions against (M.Y.N.S.) and his mother, Hannah Secka.

Sexual Assault

What is SC Code 16-3-652?

Sexual assault is any type of forced or coerced sexual contact or behavior that happens without consent. Sexual assault includes rape and attempted rape, child molestation, groping, forced kissing and sexual harassment or threats. Sexual assault is a crime of power and control. The football locker room attack should have been documented and investigated for the appropriate criminal charges to be brought against the quarterback and the other upper classmen that attacked (M.Y.N.S.). Instead, the district protected the quarterback and concealed a crime. Sexual assault is any type of forced or coerced sexual contact or behavior that happens without consent. Sexual assault includes rape and attempted rape, child molestation, groping, forced kissing and sexual harassment or threats. Criminal sexual conduct in the first degree. (1) A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven: (a) The actor uses aggravated force to accomplish sexual battery. David N. Lyon provided false testimony to the Courts in his narrative on Motion for Summary Judgment dated 2/12/2024. Coach Lee did nothing when the mother brought the proof of visible injuries her child obtained in the locker room on his watch. The Principal and the Superintendent engaged in a cover up to protect the quarterback They deliberately refused to act on parent concerns then brutally harassed a disabled child.

(Exhibit: Bodily Injuries) Evidence: Assault & Battery 3rd Degree Report# #2019-06-0227)



What is SC code 16-3-300?

Pursuant to South Carolina Code Annotated 16-3-300(B)(1), the crime of assault and battery of a high and aggravated nature occurs when the Defendant unlawfully injures another individual resulting in: (1) great bodily injury to the other person OR (2) the act is accomplished by methods that are likely to cause death or..

What is SC code 16-3-600 C?

Assault & Battery 1st Degree

Under South Carolina Code Annotated 16-3-600, the crime of assault and battery in the first degree occurs when the defendant unlawfully injures another person by either: (1) nonconsensual touching of the private parts of a person (under or above the clothing), with lewd and lascivious intent OR (2) occurred during the...

Assault and Battery 3rd Degree – Also known as “Simple Assault,” this charge is a Misdemeanor charge in South Carolina that often involves causing so-called “minor” injuries to someone else or simply threatening them with violence.

FSD1 Policy JICFAA Harassment, Intimidation and Bullying (HIB)

“The Board prohibits acts of harassment, intimidation, or bullying of a student by students and staff, and third parties that interfere or disrupts a student’s ability to learn and the school’s responsibility to educate its students in a safe orderly environment in the class, school premises, school bus, school-sponsored activity or at any other program or function.” (HIB) is defined as a gesture, electronic communication, written, verbal, or sexual act reasonably perceived to have harmed a student physically or emotionally damaging a student’s person or property.

Evidence: Parent-Superintendent Meeting 12/3/2018 **Exhibit:** Impact Statement

Evidence: DPH#1 Testimony Hannah Secka (Mother/Guardian) page 62-93

The parents outlined the ongoing physical attacks, harassment, intimidation, and bullying of her son while being a student at Briggs Elementary, Sneed Middle, and West Florence High School in her testimony under oath during the due process hearing, causing physical bodily injuries, broken glasses, racial epithets, stolen cell phone, and taking his designer clothing. The Parent testified and district administration corroborated a suicide attempt by (M.Y.N.S.) due to all the peer and harassment, intimidation, bullying and physical attacks at school. The school staff created a foreseeable risk of third-party conduct to criminal acts perpetrated on (M.Y.N.S.). *Moore v. Berkeley County School District*, 326 S.C. 584, SE2d 9 (1998)

HEARING OFFICER: I have a question.

EXAMINATION OF DAISY JOHNSON BY HEARING OFFICER:

Q: Ms. Johnson, have you you indicated that the other children had harassed M.Y.N.S. did you ever witness any incident where he was physically attacked?

A: One occurred, one had occurred but I hadn't gotten at work yet. It happened before I even clocked in during one morning at breakfast. That's what he had to go in the office about because somebody, this boy kept, he told the principal this boy kept bothering him, picking at him every morning, and we didn't know that, the principal didn't know that, and knocked his glasses off and stuff like that. Now I didn't even know what was going on, but he said that happened, the boy kept bothering him every morning, but I didn't see it because I wasn't there. We can't clock until 8:00 o'clock, but he said it happened like around about 7:30 like during the mornings, and they have the other supervision all around, but I wasn't there.

Q: So, the children got into a physical altercation?

A: Yes, him and this other boy.

Q: Any others that you can think of?

A: I can't think of none other. It almost been well, there's another one when I was on my break, when I got back they had already they was

already gone out of the classroom. It was in the, it was like during the let's see, how that thing go, how it go, when I got back this little boy just came in the classroom and he was sitting in the back, but when I went to lunch, the coach asked I go at that time every morning, I went to lunch, when I got back this little boy was sitting behind M.Y.N.S., and how it got started was the little boy, the coach asked M.Y.N.S. to take his hood off, M.Y.N.S. took it off and put it back on again, and when he put the hood back on again, from my understanding the little boy left from the back and came and sat behind him and told him if he put it back on again, he told the coach that he would take it off, and that's when M.Y.N.S. got up. When M.Y.N.S. got up, the boy hit him in the stomach, so I think they gave the little boy OSS because he had started it. M.Y.N.S. said he knew that was going to happen because he used to be there, he knew that boy was going to do that because the boy was kind of fast like, fast mouth and started that argument.

Q: Did you ever witness any situation where multiple children were harassing him?

A: Two or three, recently two or three of them started bothering him, they started talking about like shoes and stuff, and their clothing and this little girl

bust out and say that M.Y.N.S. told the little boy, the little boy sat beside him because they had quarrels from the other school, saying little boy sits beside him again, started an argument about clothes and shoes and stuff and this little girl burst out to M.Y.N.S. that you can't bother him, because that's my friend, and then they got all loud, the little boy got all loud because they they was in a fight before at Sneed, but this time the didn't because we stopped it, we stopped them because the boy jumped up and was ready to fight, but I told them no, they can't do that. There won't be a fight. He wanted to fight M.Y.N.S., but M.Y.N.S. didn't want to fight, but he wanted to fight. This same little boy just started again.

They got loud when they got out of class, a lot of cursing and stuff, this other boy, but (M.Y.N.S.) maintained. I just took him on to class. They just bother him a lot by petty stuff, M.Y.N.S. is a friendly person, and they love to jump in on him all the time and start this because it comes from before. (*End of Testimony*) David Lyon refused to incorporate this evidence into his Motion for Summary Judgment and Darryl Caldwell did not object or cross-examine (M.Y.N.S.) to get the evidence in the record.

Pursuant to FSD1 Board Policy JICFA Hazing

“The district prohibits hazing.” The SC Code 59-63-274 defines hazing as the *“wrongful striking, laying open hand upon, threatening with violence, or offering to do bodily harm by a superior student to a subordinate student with intent to punish or injure the subordinate student, or other unauthorized treatment by the superior student of the subordinate student of a tyrannical, abusive, shameful, or humiliating nature.”*

S.C. Code Section 59-63-275 *Student hazing is prohibited.*

(M.Y.N.S.) Testimony Hazing/Sexual Assault/Assault & Battery pages 89-102

By MR. LYON: (M.Y.N.S.)

Okay. This was the locker room
21 incident. So this was when me -- well, this is
22 when I first started playing football actually.
23 Yeah.

Q As a freshman, right?

A Right. Right. And I guess, like,

1 they had this thing going on, call like, fresh
2 meat, basically. So, at first -- when I first,
3 like, joined the team, I didn't know what it meant
4 until like, other people would describe to me what
5 it meant basically.

Q Let me stop you real quick. Did you
say fresh meat -- M-E-E -- I'm sorry. M-E-A-T?

11 meant
12 started playing football, we were going to locker
13 rooms and you know, we would all change and stuff.
14 And it'll be kind of like -- it'll be common for
15 the boys to start acting gay when we would change
16 and like, put on our -- our football gear,
17 basically. It'll be a common thing like, for the
18 boys to actually start acting gay and stuff.
19 Because like, that'd just be like -- that'd just
20 be some people's thing, you know.

But one -- one particular day, I

22 remember these two -- these two white males, they
23 were messing with me because -- well, one came up
24 to me. He was like -- he was like, who are you?

25 Oh, he was like, *you the fresh meat*. And I was

A Right. Right.

Q Okay. All right. Go ahead. Sorry.

A Now, I didn't understand what the term at the time, but I do now. So when I first

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1 I like, what you mean by that? And he start

2 laughing. And then he went and got his friend.

3 He was like, hey, bro, we got fresh meat. And

4 they start laughing. And then they start like,

5 laughing and getting closer and closer to me like,

6 as I'm changing my clothes and stuff. And so one

7 of the boys ends up like, grabbing my pants (penis area) and

8 ends up just yanking them like, as I'm trying to

9 put my pants on.

10 And so I began to get up and try to

11 basically defend myself because I had to point --

12 at that point, I just felt like they was just

13 trying to play with me just because I was new. So

14 as I'm trying to defend myself, that's when they

15 both end up just basically start attacking me.

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19 Q All right. Is this an issue that

20 you've talked with Ms. Pritchard-Boone about?

21 A Right.

22 Q No, that's a question. Is it?

23 A Oh, yes. Yes.

24 Q Okay. On more than one occasion?

25 A Right.

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1 Q All right. What have those

2 conversations been about?

3 A Well, me and Dr. Pritchard -- well, we

4 frequently had conversations when it came down to

5 like, school and like, things outside of school.

6 But like, when -- there's certain topics that

7 involve school would be topics that we're talking

8 about right now. Like, football, bullying

9 problems, class problems like, really anything

10 that involves school, me, my mother like, our

11 personal problems. But like, yeah. Yeah, that's

12 -- that's basically what we would talk about.

13 Q All right. And I think *your mom*

14 stated that she felt like that attack was

15 essentially, criminal in nature, against the law,

16 as we discussed earlier.

Q Do you agree with that?

17 A I believe so, yes (*End of Testimony*)

Plaintiff (M.Y.N.S.) clearly described the criminal act of assault/hazing/battery/sexual contact by several teammates. Attorney Lyon deliberately distorted (M.Y.N.S.) testimony in the 2/12/2024 Motion. Attorney Lyon intentionally provided false misinformation to the Circuit Courts in his narrative for Summary Judgment. Plaintiff (M.Y.N.S.) definitively testified that he was attacked in the locker room with no supervision of school staff. He identified who did it and who he reported it to, and no action was taken. There is no mandatory Title IX investigation of these concealed crimes that have no statute of limitations, where a Writ of Mandamus is appropriate. Their conduct is indeed gross negligence and extreme recklessness under the South Carolina Tort Claims Act.

When it comes to Christopher Coleman, Hannah Secka testified under oath that he assaulted, harassed and retaliated against her and (M.Y.N.S.). So much, that she filed a grievance with the Principal, Superintendent and BOT requesting the harassment to cease and desist and that an official reprimand be placed in his file. Hannah Secka

requested the SRO (Sheriff Deputy) at the school arrest him on sight. Instead, the SRO attempted to arrest the parent. FSD1 has a pattern of arresting parents for false allegations. Hannah Secka contacted Lt. Vince Hanna, SRO Supervisor to come to the scene (WFHS) to resolve the issue due to the climate and disrespect school employees engaged in towards the parent and her child. Mr. Coleman would harass (M.Y.N.S.) on a daily basis upon arriving at school at the metal detectors and at lunch by forcing him to remove his hoodie, which he had accommodation in his IEP to cover his cranio-facial deformity. On 1/14/2020 parents sent correspondence regarding Mr. Coleman staying away from her child because (M.Y.N.S.) had told his mother that Ms. Coleman, said he was going to jail. On 12/16/2019 the parent sent an email to Richard O'Malley regarding "Adult Bully & Harassment" for constantly yelling in (M.Y.N.S.) ear at lunch for listening to his ear pods, another sensory accommodation in his IEP. On 2/11/2020 parents sent an email to O'Malley and the BOT for "Administrative Bullying and Harassment" where Mr. Coleman followed (M.Y.N.S.) to class and sat at the back of class and stared at him as intimidation. On 11/3/2020 parent sent an email to O'Malley and the BOT regarding an "Illegal Search of Private Property" where (M.Y.N.S.) felt he was targeted by Mr. Coleman every day while going through the metal detectors causing (M.Y.N.S.) to have nightmares about school and grave fear of law enforcement. On 3/6/2020 Mr. Coleman, harassed (M.Y.N.S.) by going to his football coaches and telling them to kick him off the Team. On 3/8/2020 parents sent an email to O'Malley regarding him assaulting her in the face. The district conduct went beyond ordinary carelessness and had a total disregard for the safety of (M.Y.N.S.) and his mother Hannah Secka.

[Evidence:](#) 11/16/2019-3/6/2020 Hannah Secka Deposition 11/16/2022

Plaintiffs, Hannah Secka and (M.Y.N.S.) have provided an outline and identified proof of the establish compensable "loss" under the Tort Claims Act regarding the actions of District employees. These assaults should have been treated as crimes; reported, documented, investigated, and prosecution of the identified perpetrators. The quarterback and the other football players that caused visible physical injuries to (M.Y.N.S.). As (M.Y.N.S.) testified he lost his motivation for the game because school staff turned a blind eye to what happened to him in that football locker room, then benched him for telling.

Richard O'Malley, Superintendent committed perjury stating that he testified or was present at the DPH#1 in 2019 with Doug Dent, as Local Hearing Officer, during his deposition on 9/6/2023. He was not on any witness list; in fact, the hearing officer DENIED the subpoena for his testimony by parent. Under no circumstance pursuant to IDEA federal regulations does a Superintendent pay a hearing officer

\$63,707.57. That is the legal duty of the District LEA Brian Denny. Brian Denny paid Doug Dent \$6,737.17 with federal funds.

Evidence: Doug Dent, Esq. Invoice Payments from Brian Denny, LEA

Evidence: Richard O'Malley Deposition/Denied Subpoena

(M.Y.N.S.) was morbidly depressed and placed on Homebound Instruction Services by his Pediatrician Dr. Richard Davis and Dr. Leah Pritchard-Boone, Licensed Clinical Psychologist they both agreed that it was in the students best interest not attend school at WFHS due to the constant threats of going to jail, physical assaults, ongoing harassment, bullying, and overall violence (trauma) committed against him and as his mother. The district used the Sheriff Department and the U.S. Marshall Officer to further harass and intimidate both Plaintiffs.

Evidence: Photo/Email/Video to Sheriff TJ Joye



The 11/1/2018 undocumented incidents of WFHS harassing (M.Y.N.S.), violated FSD1 Code of Conduct for alleged; *“Possession of Child Pornography”* *“Assault on Child”* *“Improper Search and Seizure”* *“SRO Intimidation/Illegal Interrogation”* violation of Policy KLG A School Resource Officers. Their actions were grossly negligent, and the allegations were unfounded and (M.Y.N.S.) was in fear of his safety and freedom at WFHS.

The Board of Trustees were informed of the ongoing disability-based harassment, intimidation, bullying, physical attacks against (M.Y.N.S.) and school staff misconduct and failure to follow the established Board policies and local, state, and federal law and regulations for (M.Y.N.S.) to be safe and protected at WFHS. It was their duty and responsibility with consciousness, care, concern, and attention to always ensure student supervision pursuant to Board Policy GBE Staff Rights and Responsibilities. The District failed to respond, act, document, investigate and protect (M.Y.N.S.) pursuant to Board Policy BC: Board Member Conduct, and Board Policy BBAA: Board Authority and Responsibilities in violation of their

“*oath of office*” pursuant to SC Code Section 8-1-10, and “*neglect of duty*” pursuant to Board Policy BBA: Powers and Duties, when abuse and misconduct was brought to their attention regarding (M.Y.N.S.). The *Ethical Conduct of Public Officials and Employees* pursuant to Section 8-13-700, et. seq. SC Code of Laws rules include being induced to perform or fail to perform an act in violation of his/her responsibility. [Exhibit](#): SCSBA Online Policies

On June 5, 2019, (M.Y.N.S.) and five (5) other students overdosed on lased or “tainted” marijuana inside of a vape in the boy’s bathroom at West Florence High School. Mathew Dowdell, Richard O’Malley, and the Board of Trustees failed to get (M.Y.N.S.) immediate medical care. The other four (4) students were escorted via ambulance to the local hospital emergency room. (M.Y.N.S.) was intentionally left behind to suffer and potentially die. (M.Y.N.S.) One to One Paraprofessional Mrs. Daisy Johnson called Hannah Secka via telephone to inform her of the emergency. In his gross negligence, Matthew Dowdell instructed school staff to leave (M.Y.N.S.) behind at the school. Depriving him of immediate medical care. Which is a violation of Policy GBEC Drug-Free and Alcohol Schools/Workplace. (M.Y.N.S.) mother, Hannah Secka got her son the emergency medical treatment to recover. The district was grossly negligent by failing to document, reported to the public, or investigate by the appropriate authorities because FSD1 staff intentionally failed to follow their own policies to deliberately conceal the violence at WFHS. Richard O’Malley and Matthew Dowdell are in another Title IX federal lawsuit for *Criminal Sexual Contact* where a rape (sexual assault) was concealed of a special education student at WFHS on September 26, 2024. FSD1 has a pattern of concealing school crimes.

[Evidence](#): Article: *Florence 1 Schools Sued Over Suspected Sexual Assault at School* by, Tonya Brown abc15News

“*When did this become rape?*” ~Richard O’Malley by, WMBF News 10/8/2024

Jane Doe v. Richard O’Malley Florence 1 Schools Case No. 4:2024cv05305



Evidence: Matthew Dowdell Football Participation Harassment 8/12/2019

Evidence: SCHSL Jerome Singleton, Commissioner Letter 8/14/2019

(M.Y.N.S.) Deposition Testimony Matthew Dowdell, Principal page 104-105

Q What -- what did Matt Dowdell do to
2 you that you think is wrong? Let's do it that
3 way. Did he ever wrong you?

A So in a way, I felt like I was being
18 singled out and different towards the other
19 players because it just looked different. Because
20 like, I would also get bullied because of that.
21 Because people would be like how everybody else
22 playing and you not playing. You know what I'm saying? And a way it'll be --
it'll just be like, I just felt singled out from the others because of that. Which
eventually made me lose my motivation for sports, which is why I stopped playing
sports.

Q Okay. Was -- was that Matt Dowdell decision?

A He was a part of that decision. So in a way, yes. (*End of Testimony*)

Football was (M.Y.N.S.) dream, considering all his adversities being born
dead due to a birth injury of Traumatic Brain Injury (TBI) skull fracture and told you
had cerebral palsy, paralysis and chances he would never walk, talk, or be able to
hear. This young man beat all the odds and persevered with tenacity and resilience.
It was Matthew Dowdell, Principal of West Florence High School (WFHS), who
took (M.Y.N.S.) to the School Resource Officer office to be physically attacked by
Deputy Jablonski Greene. Sheriff Joye apologized, fired the deputy, and settled for
their wrongdoing with the Plaintiffs in Mediation on 10/26/2023. On the other hand
Richard O'Malley stated, "I'm not giving the mother a dime!"

Pursuant to Policy GBEB Staff Conduct and Policy JICFAA (HIB)

“The board reaffirms one of the oldest beliefs in education: one of the best methods is setting a good example.”

After the Office of Civil Rights (OCR) informed the district that they were under investigation Matthew Dowdell engaged in a vicious retaliatory attack to disqualify (M.Y.S.N.) from playing football as a starting linebacker out of malice for his mother filing a complaint against him. He went as far as to instruct the Athletic Director not to comply with Doctors Orders for the *Protective Riddle Helmet*, then violated HIPPA by reporting (M.Y.N.S.) medical disabilities to SCHSL for disqualification. He intentionally, willfully, and knowingly harassed (M.Y.N.S.) and took away the very thing the student cared most about in school “Football!”

Evidence:

From: "DOWDELL, MATTHEW" <mdowdell@fsd1.org> (mailto:mdowdell@fsd1.org)
Date: August 12, 2019 at 6:51:08 PM EDT
To: Hannah Secka <hannsc2@aol.com> (mailto:hannsc2@aol.com)
Cc: GREG JOHNSON <gjohnson@fsd1.org> (mailto:gjohnson@fsd1.org)
Subject: Football Participation

Ms. Secka,

I am following up with you regarding Yasen’s sports physical for participation in football. On the form you submitted, Yasen’s doctor indicated that Yasen can participate in football only with additional padding on his helmet. Although there are no other instructions or limitations listed on the form you submitted, you expressed concern in an email to Greg Johnson, Athletic Director for West Florence High School, that Yasen should not play certain football positions that you feel would put him at risk for injury and that practices are too taxing on him.

We have looked into whether Yasen can participate in football with altered equipment. Unfortunately, students are not eligible to play in games with equipment that is altered in such a manner. Yasen may participate in practices with the “Guardian” padded cover on his helmet, and he is using the Guardian currently in practice; however, the Guardian is not approved for use in games and helmets that meet safety standards may not be altered in this manner, consistent High School League/National Federation of State High School Associations requirements on helmets and the manufacturer’s own specifications. If Yasen’s physician can clarify his recommendation for Yasen’s ability to participate in football with unaltered equipment, or if he would like us to provide him additional safety information regarding the kind of helmet currently required for game play, we would be glad to speak with Yasen’s physician. Otherwise, he is not eligible for game play.

With regard to your concerns about the positions Yasen plays and his potential for injury, or the strenuous nature of practice, we will need additional information from Yasen’s doctor to clarify whether there are any other limitations as you have referenced in your email, because at this time, we have no other information on such limitations. Please know that we are very proud of Yasen’s participation in West Florence High School’s sports community; however, we take student safety very seriously. We will send a release for your signature so that Yasen’s physician can discuss these limitations with us and clarify his recommendations.

Thank you,

Matthew Dowdell
Principal
West Florence High School
mdowdell@fsd1.org (mailto:mdowdell@fsd1.org)

None of this is true. (M.Y.N.S.) was cleared by his neurologist and pediatrician. He played freshman year with no interference. They refused to provide the appropriate helmet for (M.Y.N.S.) until the mother reported them to Jerome Singleton, Commissioner of SCHSL.

Mathew Dowdell failed to report, document, investigate, protect, and respond to parents' concerns of hazing, sexual contact, assault & battery, abuse, neglect, harassment, intimidation, bullying, and retaliation as the chief administrator of WFHS. Matthew Dowdell illegally and intentionally dropped (M.Y.N.S.) from enrollment at WFHS w/o informing his parents. As (M.Y.N.S.) testified, "*I lost all my motivation*" due to the harassment from Lisa Doyle, Mathew Dowdell, Christopher Coleman, Brian Denny, and Richard O'Malley. The Pediatrician and Neurologist cleared (M.Y.N.S.) to play football and wrote an order for a Riddell Helmet with *cushion padding* in the front of the helmet to protect against concussion. Instead, (M.Y.N.S.) was given a sponge cap where he was severely humiliated, ridiculed and benched as a "linebacker" for his sophomore season. Matthew Dowdell, Principal, cancelled the *Post Secondary IEP Meeting* for (M.Y.N.S.) as a retaliation. Matthew Dowdell, continued to retaliate and harass (M.Y.N.S.) by placing him in Summer School and said he did not meet the requirements for graduation. His actions caused (M.Y.N.S.) to have double classes senior year. Which is impossible to complete. The mother (Hannah Secka) had to lose work 5 consecutive days as a History Teacher to complete EdGenuity Online Classwork none-stop 24 hrs. to ensure that (M.Y.N.S.) graduates on June 1, 2022.

Lisa Doyle, SPED Teacher telling (M.Y.N.S.) he looked like "Wonder." Due to his craniofacial deformities and skull fracture. Then she intentionally failed him by going into PowerSchool and illegally changing his grade from 86 to 34, causing him to lose academic credits for promotion to become a rising senior. This is academic fraud. Her gross negligence caused (M.Y.N.S.) to lose credit in her Special Education class. He was put on the Summer School list. After this, (M.Y.N.S.) lost all hope in school and was placed on Homebound Instruction at the direction of his Licensed Clinical Psychologist Dr. Leah Pritchard-Boone and Primary Care Physician Dr. Richard Davis for Morbid Depression. Dr. Pritchard-Boone describe (M.Y.N.S.) "*as in a vegetative state.*" He was diagnosed with PTSD on 7/7/2021 due to school-based trauma. The district was so grossly negligent and extremely reckless in their conduct that they DENIED the Homebound Services request 3 times.

(M.Y.N.S.) did not appreciate being compared to "Wonder." It was an insult to him. A child with multiple disabilities and obvious craniofacial deformity should never be called or referred to any character in a book or movie regarding being bullied due to his facial deformities and disabilities. Social emotional harm is just as detrimental as physical harm. Words matter, and it is important to use respectful language when communicating about people with disabilities. This constant

harassment from all angles of the school was pushing (M.Y.N.S.) over the edge. The purpose was to intentionally trigger his disabilities to justify arrest and/or expulsion from school. As a result of this incident the parents (Hannah Secka) had to provide the educational course work, childcare and lose time off from work Sept 2020 to August 2021 to educate (M.Y.N.S.) from home at his beside at an annual salary of \$60,000 as a SC History Teacher. The South Carolina Torts Claim Act (hereinafter, "SCTCA") defines a compensable "loss" as: *bodily injury, disease, death, or damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages recoverable in cause of actions for negligence or gross negligence*, pursuant to S.C. Code § 15-78-40.



(M.Y.N.S.) Deposition Testimony Lisa Doyle, Sped Teacher page 108-110

Q Okay. How about -- what did Ms. Doyles do? Ms. Doyles, did she --

A Oh, man.

Q What did she do that wronged you?

A Ms. Doyles, she -- I don't even know.

Doyles, she -- she -- I didn't really like her class.

1. Because well, for one, she failed me one
2 time. And I felt some type of way about that
3 because I was actually doing her work. And her
4 work wasn't even that hard. That's why I don't
5 understand why she failed me. Because I lost a
6 whole credit because of that. And that actually
7 set me back a lot. Like, I had to -- I had to
8 pull a trick out the hat in my senior year. But
9 she also -- she also -- I didn't -- I didn't

10 really like her.
11 Because it'll be certain things she
12 would say and I would catch her saying that on
13 accident. Like -- like, for example, one time she
14 -- she -- she brought up -- she brought up the --
15 the Wonder movie/book and she asked me if I ever
16 watched it. And I said, yeah, yeah. I watched it
17 when I was in seventh grade. She's like, yeah.
18 Yeah. She made a comment basically, making it
19 sound as if she was comparing me to the boy in the
20 book, Wonder. And I didn't like that comment at
21 all. Because it made me feel like -- like, you
22 know, like what you trying to say, basically. You
23 feel me? Like, it just made me feel very like --
24 I don't know. I don't -- I can't even find a word
25 to describe how I felt. I just didn't like how I
24 I don't know. I don't -- I can't even find a word
25 to describe how I felt. I just didn't like how I felt. I didn't like how I felt at all.

Because

2 when she -- when she said, you remind me of the
3 boy, I began to ask her and I was like, what you
4 mean by that? And then I don't even think she
5 elaborated on that. I don't -- I don't think she
6 elaborated on that at all. I think

And after that, I just -- I just felt very singled out from basically, everybody in the school. Because I was like ,it just—I know—I know what the movie is and I read the book. So like, that's why I was really like, mad when she said that. Because she wouldn't elaborate when I asked her to.

MR. LYON: Okay. Just one sec. Can we take a break just real quick?

MR. KOZACKI: Of course.

(Whereupon, a break was taken from the proceedings.)

By MR. LYON:

Q Okay. Mr. Secka, your mom was telling us that junior year, you didn't go to school at all?

A Correct.

Q Why -- why is that? In your words.

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1 felt. I didn't like how I felt at all. Because
2 when she -- when she said, you remind me of the
3 boy, I began to ask her and I was like, what you
4 mean by that? And then I don't even think she
5 elaborated on that. I don't -- I don't think she
6 elaborated on that at all.

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Well, I forgot to
5 mention one main thing she actually did was -- was
6 when she did fail me, she did it like, in the
7 sneakiest way possible, basically. Because what
8 she did was she waited to the very last day of
9 grade changes to change my grade. And when I
10 noticed she did that, I asked her about it.
11 Because I believe I had like, a 89 and the very
12 last day of like, grade changes, she changed it to
13 like, a 50 something. And when I asked her about
14 it, I had already lost the credit because the
15 semester had already changed. So she did it like,
16 kind of fast, basically. Like, she did it like,
17 on some end of the day type-ness. And when I
18 asked her about it the very next day, she began to
19 say, oh, I'm sorry. I'm sorry. And she tried to
20 change it, but by then, I had already lost the
21 credit because the semester had changed. So it
22 was kind of like, it was just weird because like,
23 why would you do that? I felt like that was very
24 wrong.

Q Did you challenge that at all? It

2 seems like something your mom would have
3 challenged and you.

A We did. We did. We talked about it. We -- we talked about it in I.E.P.

A that I was like, not smart enough to know that I
12 had already lost my credit. She thought since I
13 noticed she went and bumped my grade back up, that
14 it was going to -- I guess, she -- she thinks that
15 I didn't know good enough, basically.

16 Q So you didn't -- you -- you -- she
17 took -- you're saying she failed you?
Did you get it fixed?
I mean, I still lost my credit, so,
Okay. And --
She tried to change my grade thinkin

Page 118-120

Q So you didn't -- you -- you -- she
17 took -- you're saying she failed you?
Did you get it fixed?
I mean, I still lost my credit, so,
Okay. And --
She tried to change my grade thinking
failed the class.

24 A But that's -- that's not -- I'm -- I'm
25 telling you how she did it, though. Like, you --
Right.

But then, I mean, the teacher's going
say-- I don't fail anybody. The student failed the class.

24 A But that's -- that's not -- I'm -- I'm
25 telling you how she did it, though. Like, you --
Right. But then, I mean, the teacher's going
But she didn't ---- I don't fail anybody.

23 The students failed the class.

24 A But that's -- that's not -- I'm -- I'm telling you how she did it, though.

A She -- she failed me on the -- the day
9 of grade changes at the end of the day is what I'm
10 telling you. That's not -- that's -- that's --
11 that's not how teachers -- teachers post --
12 teachers put in grades before the day is over
13 with. Especially, on the day when grades come
14 out, so students can see their updated grade.
15 That's how all my teachers did it. She didn't do
16 it that way.

Q That you had the grades to pass the class?

A Right. I had a 89 throughout the
whole entire semester is what I'm telling you.

Q Well, is that -- is that what was posted in PowerSchool?

A Yes. Yes.

Q Okay. And then -- and then on the last day, you realize you have a 50?

A Right. Right. Because she -- she did it like -- she tried -- she tried to sneak and do it like I wouldn't notice is what I'm trying to tell you.

Q I hear you. And but—but you—you addressed that with the school, did you not in the Special Ed setting, due process I.E.P. situation?

A We addressed it, but I never received my credit back. So it was just like, addressed for what exactly. Because all she did was just bump my grade to a 30

Q So you still lost the credit somehow?

A Yeah. Because she did it the day of grade changes. (*End of Testimony*) There was no cross-examination by Darryl C. Caldwell, Esq.

Ms. Secka taught her son his entire Junior School Year from his bed with the of a child care worker. The mother requested the accommodation and services in (M.Y.N.S.) IEP be given at home and the district refused to provide any type of homebound services as retaliation, revenge, and pure malice. They reassigned Ms. Daisy Johnson to another student after she had worked with (M.Y.N.S.), since he was in Middle School. When the mother registered (M.Y.N.S.) for 12th Grade Matthew Dowdell and Brian Denny unilaterally transferred her away from (M.Y.N.S.) because she testified truthfully to the abuse, assaults, bullying, harassment, and the attack of SRO. This contributed to morbid depression. The employee they placed with (M.Y.N.S.) engaged in inappropriate conversations with (M.Y.N.S.) told him he didn't want to be with him and was eventually terminated for sexual harassment of a female colleague at the school.

Exhibits: Dr. Leah Pritchard Boone/Dr. Richard Davis (Homebound Denied)

Evidence: Grievance to BOT against Brian Denny adverse transfer of Daisy Johnson One-to-One Paraprofessional from (M.Y.N.S.) as retaliation for her testimony at both hearings. 1/15/2022

Evidence: Email to Sheriff TJ Joye and Major Nunn Sheriff Deputy Harassment

From: Hannah Secka <hannsc2@aol.com>

Date: January 27, 2022, at 8:08:37 PM EST

To: Michael Nunn <MNunn@fcsso.org>, Caldwell Firm
<dcaldwell@dcaldwelllawfirm.com>

Subject: Sheriff Deputy Harassment

Major Nunn,

I have just called 911 for assistance on a white heavy set aggressive deputy named Sgt Bryant trying to illegally serve me documents when he was told I gave a lawyer. He opened my screen door banged in my glass window with either his gun or black hack saying, “*come here, come to this door now Hannah!*”

I am in *fear of my safety* of this deputy. Please respond and act to this conduct.

This officer is out of control and has crossed the line. If this is in regard to FSD1 I was served via certified mail two weeks ago. **Evidence:** Video-Clip

Hannah Secka

Pursuant to 16-3-1700 Harassment is illegal. The South Carolina Torts Claim Act (hereinafter, "SCTCA") defines a compensable "loss" as: bodily injury, disease, death, or damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages recoverable in cause of actions for negligence or gross negligence, pursuant to S.C. Code § 15-78-40.

Even after my (M.Y.N.S.) graduated Matthew Dowdell, Brian Denny, Richard O’Malley and the Board engaged in a racist harassing campaign to continue to use Doug Dent and Brian P. Murphy as hearing officer to write favorable decisions that were slanderous, defamation, and character assassination against Hannah Secka. The Board launched a civil conspiracy on 11/11/2021 to sue the mother for alleged attorney fees with fraudulent Declaration Statements from Vernie William, Esq. and Kimberly Blackburn, Esq. violating the lawyer ethics code of billing hours for a non-evidentiary hearing. Parent timely withdrew her IDEA Complaint. Due to hearing officer bias and unethical financial relationship with Richard O’Malley.

Evidence: Expert Affidavit Larry Jackson, Former FSD1 Superintendent

[Evidence](#): (H.S.) Due Process Hearings Testimony #1 Doug Dent Esq., pages 62-95

Q: So what made you consider placement at Riverside specifically?

A: I am in fear for M.Y.N.S.'s safety at West Florence High School.

Q: Why did you choose Riverside?

A: There is another parent that I know that the District whose child is special needs that the District pays for his tuition at Riverside Military Academy and she had rave reviews about his experience at Riverside at that time.

Q: What is your understanding of the services they would be able to offer your child?

A: Well, they can provide the speech, the ABA, not they per se the school, but Brian Denny as the LEA is responsible to go to that placement just like he did for the other child and with his IEP and provide, seek out and find and provide the services that will help M.Y.N.S. be successful at Riverside.

Q: Would you consider private placement somewhere other than Riverside?

A: Absolutely.

Q: What types of placement would you consider?

A: A religious school, institution, Christian school, a private school. I went I need peace. I don't feel I can trust them because they have lied.

Q: And initially Riverside is what was specifically requested

A: Yes.

Q: in the correspondence with the District previously had we indicated that we would accept something other than Riverside?

A: Yes, absolutely, yes.

Q: So when did when did you tell the District you would accept private placement somewhere other

A: Oh, I don't think I've ever told them that. No, no, I'm sorry, I misunderstood.

Q: Why are you now open to placements other than Riverside?

A: Well, in the scope of receiving all of this evidence and the paperwork, I noticed and I read a note from Jane Congrove and it is very disheartening and disappointing because she states things I never said to her in that note.

Q: Who is Jane Congrove

A: She is the admission counselor for Riverside. She says I told her about a hearing. I never told her anything about a hearing. I didn't even know we'd be in a hearing in December. I told her I was having a facilitated IEP meeting in January.

Q: Did you have a conversation with this admissions counselor about M.Y.N.S.?

A: Yes, I did, I filled out the application on December the 6th through the portal, and she pulled the application, obviously it goes to her, and once she pulled it she called me, and then we had the conversation, and I was very up-front and honest about M.Y.N.S.'s history, his health conditions, his

Q: So are you now willing to investigate options beyond Riverside Military?

A: Yeah. When you come home and you see your child hanging from a ceiling fan trying to kill himself, but he's so unhappy. Teachers, children, and administrators are so mean and evil. (*End of Testimony*) The South Carolina Torts Claim Act (hereinafter, "SCTCA") defines a compensable "loss" as: *bodily injury, disease, death, or damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages recoverable in cause of actions for negligence or gross negligence*, pursuant to S.C. Code § 15-78-40.

[Evidence](#): (H.S.) Due Process Hearing#2 Opening Statement page 14-27

On 6/11/2019, I attended the SCDE Board Meeting Public Participation and provided a binder and PowerPoint to all SBE Board Members, Del-Gracia Jones, Chair the evidence to expose the State General Counsel Barbara Drayton and Molly Spearman for failing their SEA obligation to conduct oversight over FSD1 and Brian Denny as LEA in accordance with IDEA pursuant to 34 CFR 300.149 it is the SEA responsibility for general supervision. The evidence demonstrated that the incidents occurred, and all parties were mandatory reporters, and they failed to act, report and document the abuse of my child. This is blatant and extreme recklessness!

A partial FOIA request for payments to Doug Dent, Esq., for impropriety and bribery was received and revealed he was paid a total of \$63,707 from Richard O'Malley and \$6,737 from Brian Denny for a 2-day hearing! The parents assert that Doug Dent counseled Richard O'Malley, FSD1 Superintendent, on how to relieve himself from liability and the promise to send (M.Y.N.S.) to an out-of-district placement at Riverside Military Academy for (M.Y.N.S.) as promised to the mother for (M.Y.N.S.) safety.

[Exhibit: Riverside Military Academy Acceptance Letter](#)
[Exhibit: 5/30/2018 IEP BIP and IHP \(Health Plans\)](#)

Additionally, Plaintiffs brought forth an expert witness with personal knowledge of school procedures and policies. Plaintiffs' expert witness has first-hand knowledge working with regular students, student athletes, and students with mental disabilities, all of which applies to (M.Y.N.S.) Plaintiffs' expert witness indicated that it is his opinion based on his many instances seeing children after physical altercations that it appeared that M.Y.S.' face was swollen, his lip was bleeding according to mother's testimony which indicates that he suffered bodily injury. Ex. 3, M. Y.S Dep. p. 77, In. 2 -p. 88, In. 8. Ex. 1, PLT FCSDO 000005-000011. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 68, In. 3-p. 71, In. 15. He also indicated that had the school been following procedures that a reasonable educator in extra-curricular settings would have followed, (M.Y.N.S.) may not have suffered the loss he did. South Carolina defines the offense of assault as when you injure or attempt to injure another person. If the other person reasonably feared that you were going to harm them, you may be charged with assault even if you did not lay a hand on them. Threatening someone with bodily harm constitutes assault. Ex. 2A, Dr. S. Harris, Ph. D, Expert Dep. p. 5, In. 11-p. 6, In. 12. South Carolina Code of Laws Section 16-3-210. Assault and battery by mob; investigation and apprehension; civil liability. S.C. Code §16-3-600(E) Assault Charges in South Carolina. Assault can be understood as the unlawful touching of another.

Furthermore, Plaintiffs have suffered economic loss through the medical expenses for Hannah Secka and (M.Y.N.S.) from Seasons Psychology Associates, LLC 314 South McQueen Street, Florence, South Carolina 29501 with a closing balance of \$11, 875.00. for both his physical and psychological damage causing emotional distress and pain and suffering to (M.Y.N.S.) being diagnosed with PTSD due to school-based trauma as defined in the trauma evaluation resulting in intense psychotherapy counseling for the incidents that occurred at school and school staff intentional actions to continuously harass, retaliate and discriminate against both Plaintiffs. Ex. .1 PLT FCSDO 000038-000040. Hannah Secka has an excess of \$5,000.00 in psychological bills. Both Plaintiffs require extensive current and future psychological therapy and medications to cope with everyday living due to the school districts' gross negligence and recklessness. *Pursuant to S.C. Code § 15-78-60 ("SCTCA") defines a compensable "loss" as: bodily injury, disease, damage to tangible property, economic loss to the person who suffered the injury, disease, pain*

and suffering, mental anguish, and any other element of actual damages recoverable in actions for gross negligence.

2. The Circuit Court err that Plaintiffs have failed to establish a genuine issue of material fact tending to show that the District failure to follow its policies that led to the locker room incident.

B. The basis for Plaintiffs' South Carolina Court of Appeal is that the District violated State Law 59-25-160, 16-3-510, 16-3-20, 16-3-652, FSD1 Board Policy BC Board Member Conduct, Board Policy BBA Board Powers and Duties, Board Policy JICFAA Harassment, Intimidation or Bullying (HIB), Board Policy JI Student Rights and Responsibilities, Board Policy JII Student Concerns, Complaints, and Grievances, Board Policy JIH Student Interrogations, Searches, and Arrests, Board Policy JICFA Hazing, Board Policy GBEB Staff Conduct, Board Policy GCQF Discipline, Suspension, and Removal of Professional Staff as defined by the SC Tort Claims Act.

Plaintiffs believe the Circuit Court has failed as a “*matter of law*” to fully consider the expert testimony provided by Plaintiffs' expert witness or that of the mother (Hannah Secka). South Carolina courts have recognized that failure to fully consider an argument is grounds for a reconsideration upon specific grounds for the relief requested. *Elam, 361 S. C. at 24, 602 S.E.2dat 780*. Plaintiffs argue that Dr. Harris' expert testimony was not given full consideration. For this reason, Dr. Harris has provided a clarifying affidavit, and Plaintiffs has provided additional discussion below regarding its content and their expert's opinion of the case. Plaintiffs argue that expert psychological evidence was intentionally withheld resulting in brain damage from emotional trauma.

The mother (Hannah Secka) has testified that the District violated the Board Policies as follows: FSD1 Board Policy BC Board Member Conduct, Board Policy BBA Board Powers and Duties, Board Policy JICFAA Harassment, Intimidation or Bullying (HIB), Board Policy JI Student Rights and Responsibilities, Board Policy JII Student Concerns, Complaints, and Grievances, Board Policy JIH Student Interrogations, Searches, and Arrests, Board Policy JICFA Hazing, Board Policy GBEB Staff Conduct, Board Policy GCQF Discipline, Suspension, and Removal of Professional Staff.

In clarification of Dr. Harris' testimony, the violation of Florence School District One Board Policy JICFAA, entitled Harassment, Intimidation or Bullying and Board Policy GBEB further discussed. Dr. Harris Aff. 9 1-9. JICFAA states in pertinent part, "*an employee or volunteer who witnesses or has reliable information, that a student has been*

subject to harassment, intimidation, or bullying will report the incident to the principal or the designated school contact person." Id. The policy was violated by the district personnel failing to report harassment, intimidation, or bullying to the designated school contact person, and by failing to promptly investigate the incident and appropriately resolve it consistent with District policies and regulations. Dr. Harris Aff. 9 6-9. Any unwanted touch is "Assault & Battery" pursuant to SC Code 16-3-600, as well as neglect and abuse pursuant to SC Code Ann. §§63-7-20 (310, 360, 390, and 410). [Exhibit: FCSO Report#2019-06-0227](#)

Further, the FSD1 Board and District employees violated Board Policy GBEB Staff Conduct issued in their actions regarding employee, Kathy Luhrs, who wrote a misspelled word "Loyalty" on Plaintiff's arm without his permission or consent. This conduct is a violation of Policy GBAC Racial Harassment of Employees through her use of force to take the time to draw the heinous gang tattoo, which violates his Muslim faith against tattoos on the body. Ex. 3, M.Y.S. Dep. P. 78. Ex. ,1 PLT FCSDO 000011. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 68, In. 3-p. 71, In. 15. Dr. Harris Aff. ' 6-9. Dr. Harris' testified in his deposition and affidavit that this conduct violated Policy GBEB Staff Conduct which states "*no district employee will engage in immoral or criminal conduct or commit or attempt to induce students or others to commit an act or acts of immoral or criminal conduct.*"

A reasonable person would consider writing on a child in permanent marker, even with the parent's permission, to be immoral. There is no reason why a child should be written on by any adult in the building. Furthermore, the size, location, and color of the writing resembles a misspelled tattoo on Plaintiff's arm. As a minor, M.Y.S. could not have legally been able to obtain a real tattoo and his mother did not consent to have anything resembling a tattoo on her Muslim child, so Kathy Luhrs actions were in violation of the district policy, criminal neglect and abuse in which the District failed to investigate and refer to appropriate outside agencies for investigation and prosecution. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 68, In. 3-p. 71, In. 15. Dr. Harris Af. 96- 9. Therefore, Plaintiff asks the Court to reconsider its motion for summary judgment after fully considering the expert testimony.

3. Did the Court erred that Plaintiffs cause of action asserting breach of fiduciary duty must be dismissed as a matter of law.

[C. The basis for Plaintiff's South Carolina Court of Appeal is that the Plaintiffs have pled facts sufficient to establish damages for emotional distress because a](#)

reasonable jury could find the conduct of District employees to be “grossly negligence” and "extremely reckless."

South Carolina courts have recognized that an individual's negligent conduct can be so gross as to amount to recklessness. See *Berberich v. Jack*, 392 S.C. 278, 287, 709 S.E.2d 607, 612 (2011); *Jeffers v. Hardeman*, 231 S.C. 578, 582, 99 S.E.2d402, 404 (1957); *Grooms v. Marlboro Cty. Sch. Dist.*, 307 S.C. 310, 414 S.E.2d 802 (Ct. App. 1992). This is based on the principle that an individual's conduct cannot be reckless where it was not at least grossly negligent. See also 18 S.C. Jur. Negligence § 9 (2012) (“*Recklessness is a higher degree of negligence than gross negligence.*”). Recklessly indifferent conduct is the touchstone for recovery from emotional damage, where both the conduct and emotional injury are extreme. *Stephens v. United States*, Civil Action. 0:16-cv-149-BHH, 2017 U.S. Dist. (D.S.C. Jan. 19, 2017). The ultimate conclusion generally hinges on whether a school District "*knew or should have known*" of the need to exercise control over a given situation. *Moore v. Berkeley Cnty. Sch. Dist.*, 326 S.C. 584, 486 S.E.2d 9 (Ct. App. 1998). M.Y.N.S.'s mother informed the Board of Trustees, superintendent, special education director, school administration, IEP Team, assistant coach and the athletic director for the football team that students were harassing and threatening physical harm to M.Y.N.S. and that she was concerned about his physical safety and emotional well-being while participating on the football team. Ex. .1 PLT FCSDO 000011-000037

The mother (Hanah Secka) requested an Executive Session with the BOT and it was denied. Pursuant to Board Policy BEC Executive Session/Open Meeting the District was under obligation to investigate the alleged criminal conduct, pursuant to federal and state law; but did nothing, which contributed to ongoing abuse, assaults, harassment and school-based trauma for (M.Y.N.S.) and his mother as a bystander to the atrocities that their family endured due to district' gross negligence. Regardless of Due Process Hearings, the District was obligated to conduct an internal investigation.

By failing to investigate the allegation, intervene with the players, or supervise (M.Y.N.S.) based on the parent providing knowledge of anticipated danger, the employee's failure to act proximately caused (M.Y.N.S.) to be both emotionally and physically harmed in the locker room by subordinate teammates. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 61, In. 2-p. 64, In. 15. A reasonable football coach would have taken steps to protect his player from such harm, especially considering the vulnerable nature of M.Y.N.S. due to his mental conditions. Id. Coach Jeff Lee, Greg Johnson, Athletic Director and Matthew Dowdell, Principal, were under mandatory obligation to report this school crime to the appropriate authorities for internal and external

investigation. The plaintiff has provided expert testimony from an educational consultant stating it is his opinion that there should have been action taken by this coach in this circumstance. *Id.* Based on how severe physical abuse in a football locker room could have become, the coach's conduct, and expert testimony stating what a reasonable educational employee should have done in that situation, a reasonable jury can find the conduct to be considered “gross negligence” and “extremely reckless”. M.Y.N.S. has shown evidence of physical harm and it is reasonable for a child who already has emotional concerns to suffer extreme emotional harm from such conduct. Ex. 4 Hannah J. Secka Dep. p. 103, In. 8-p. 153, In. 5. (M.Y.N.S.) was diagnosed with PTSD due to school-based trauma in 2021. Hannah Secka has been diagnosed with Complex-PTSD as a direct result of the criminal activity done to her son, and the cover-up by school employees. Their conditions require present and future therapy and medications. Therefore, Plaintiffs have shown that a genuine issue of material fact exists as to whether the football coach’s conduct was “extremely reckless” and “gross negligence.”

D. The Court erred that Plaintiffs’ second cause of action asserting a breach of fiduciary duty must be dismissed as a matter of law.

In South Carolina, pursuant to 62-2-1075 a fiduciary (trust) duty is a legal and ethical obligation to act in the best interests of another person or entity. The duty requires the fiduciary (the person with the obligation) to prioritize the beneficiary’s (the person whom the duty is owed) needs above their own and to avoid actions that could harm the beneficiary. The district failure to act and took no action to protect (M.Y.N.S.). By failing to disclose relevant information to the appropriate authorities to conduct investigations into the crimes committed against (M.Y.S.N.) caused severe emotional damage and pain and suffering. Accordingly, since (M.Y.N.S.) was a student at WFHS, we believe that FSD1 may have incurred a fiduciary duty to protect (M.Y.N.S.) from harm. It is well established that a fiduciary or confidential relationship is characterized by a unique degree of trust and confidence between the parties, one of whom has superior knowledge, skill or expertise and is under a duty to represent the interest of the other. The superior position of the fiduciary or dominant party affords him great opportunity for abuse of the confidence reposed in him. Additionally, Section 33-44-409 of the South Carolina LLC Act states that a person who owes a duty of care must refrain from engaging in grossly negligent conduct, intentional misconduct, or knowingly violating the law. Richard O’Malley was in direct violation of his contract for “neglect of duty” by failing to act and report the crimes committed by his students and staff upon (M.Y.N.S.) and Hannah Secka. The district’ conduct was so “*extreme and outrageous*” so as to exceed “all possible bounds of decency” and must be regarded as “atrocious, and utterly intolerable in a civilized community;” no reasonable man could expect to endure it.” *Argoe v. Three Rivers Behavioral Health, L.L.C.*, (2011).

CONCLUSION

Based on the foregoing, as well as the arguments set forth by Plaintiff's have previously testified in 12th Circuit Court that through ineffective counsel to compose a complaint with the facts as a matter of law, all of which Plaintiff's incorporates herein by reference, Plaintiff's respectfully requests that the South Carolina Appeals Court REVERSE and REMAND this case for trial by jury.

Respectfully Submitted,

By: [s/Hannah L. Secka](#)

Hannah L. Secka (Pro se litigant)

(Moudou-Yasen Nasir Secka) Age 21

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June 18, 2025

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