

Fernandez, Sabrina E (SPEC SRVCS)

From: Graham, Justin R (SPEC SRVCS)
Sent: Friday, April 07, 2017 10:35 AM
To: Hindt, Lance A (SUPT OFF)
Subject: New Lawsuit
Attachments: Original Complaint filed 4-7-2017.pdf

Lawsuit filed today.

JRG

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emotional distress. This case arises from a mentally and physically abusive and improper relationship between Doe and Katy Independent School District employee and teacher, Robert Evan Milton. Milton used his position of authority to coerce Doe, a young vulnerable girl, into an improper sexual relationship while she was a student at Katy High School. Defendants herein had actual knowledge of Milton's inappropriate and criminal behavior toward young female students and did nothing about it. In fact, they conspired with Milton to conceal the inappropriate conduct and helped him transfer to another school within the school district. Despite multiple reports to school administrators concerning Milton's inappropriate conduct with school girls, the Defendants acted with deliberate indifference to the health and safety rights of Doe, and to her right of bodily integrity. It was only after Doe's parents forced the Defendants into action that Milton was made to resign and face criminal prosecution.

2. Jurisdiction of this action is conferred on this Court by 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1367.

3. All or a substantial part of the events or omissions giving rise to this claim occurred in this district. Accordingly, venue lies within this district, pursuant to 28 U.S.C. § 1391(b)(2).

4. At all times material herein, Doe was entitled to the rights, protections and benefits provided under the federal laws cited herein.

THE PARTIES

5. Plaintiff Jane Doe ("Doe") is a female individual and citizen of the State of Texas. As of the time of filing of this complaint, Doe is older than eighteen (18) years of age.

6. Defendant Katy Independent School District (“Katy ISD”) is formed under the Constitution, statutes, and laws of the State of Texas. Specifically, Katy ISD is established under the Texas Education Code. Katy ISD is tasked with serving the education needs of more than 70,000 students in and around Katy, Texas. Katy ISD receives federal funds.

7. Defendant Alton Frailey (“Frailey”) is the former Superintendent of Schools of Katy ISD, and, as such, a former employee of Katy ISD.

8. Defendant Lance Hindt (“Hindt”) is the current Superintendent of Schools of Katy ISD, and, as such, an employee of Katy ISD.

9. Defendant Rick Hull (“Hull”) is the current Principal of Katy High School, the former work location of defendant Milton and the former school of plaintiff Doe. Hull is an employee of Katy ISD.

10. Defendant Obra “O.D.” Thompkins, Jr. (“Thompkins”) is the former Principal of Mayde Creek High School, a school located within Katy ISD. Thompkins is a former employee of Katy ISD.

11. Defendant Robert Evan Milton (“Milton”) was a teacher at Katy High School and was an employee of Katy ISD. Before working at Katy High School, Milton worked at Mayde Creek High School as a teacher.

FACTUAL ALLEGATIONS

12. Jane Doe (“Doe”) is a young woman whose date of birth is 10/23/1996.

13. In 2011, when she was 14-years-old, Doe began attending Katy High School as a freshman.

14. While a freshman or sophomore at Katy High School, Doe met art teacher Milton through class or school-sponsored activities. Upon information and belief, Milton's date of birth is 7/6/1974.

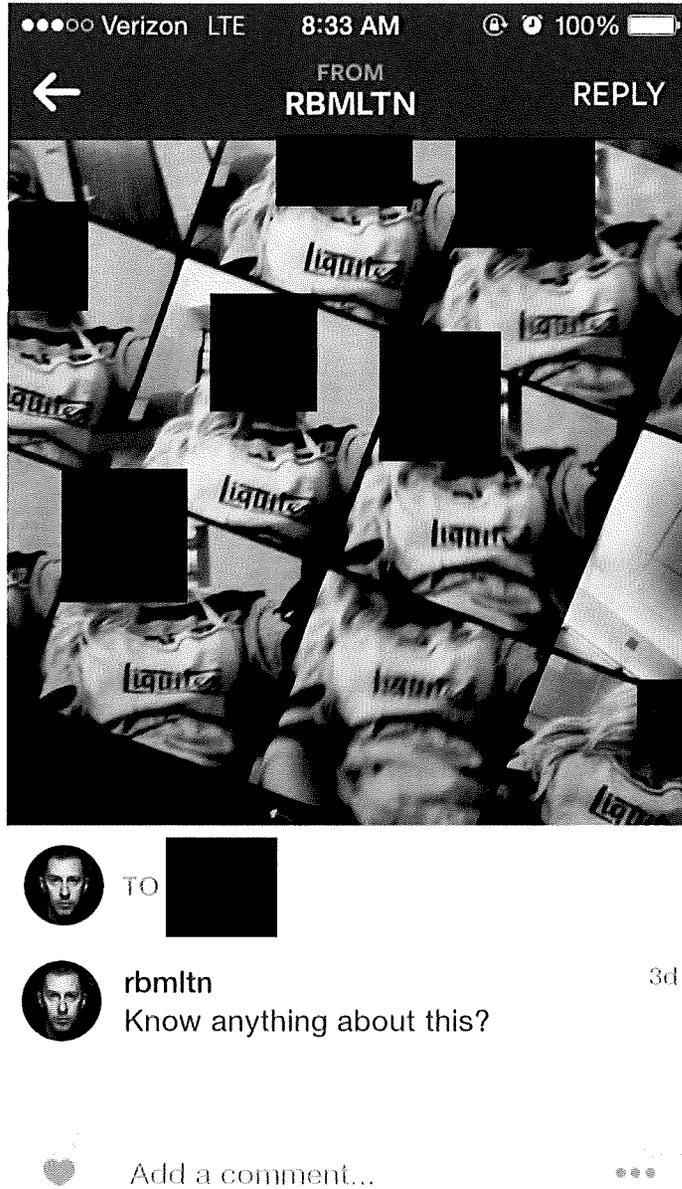
15. At all times applicable hereto, Milton was an employee and agent of Mayde Creek High School, Katy High School and/or Katy ISD. Milton taught art history and other art-related classes. Milton was also in charge of the school's affiliation with the National Art Honors Society (NAHS). Through her school, Doe was a member or participant of NAHS.

16. While a student at Katy High School, Doe was approached by Milton in an inappropriate way. Milton was overtly friendly and flirtatious. He exerted his substantial influence as a teacher and older adult on Doe. Milton befriended Doe and spoke with her frequently during school hours. Milton located Doe on social media and contacted her using electronic messaging. His messages were inappropriate at the outset, but quickly crossed into grossly inappropriate when Milton "sexted" Doe with photos of his penis.

17. During Doe's sophomore and junior years at Katy High School, Milton would make inappropriate and often flirtatious comments to Doe. Upon information and belief, other students of Katy High School made the school administration aware of Milton's behavior which often crossed the line. Katy ISD and the other named defendants did nothing to address these serious concerns.

18. In approximately the Fall of 2014, during Doe's senior year at Katy High School, Milton approached Doe and told her that he was having an affair and cheating on his wife. Doe thought this was too much information for a teacher to be sharing with an underage student, but she was too embarrassed to report it. As the school year progressed, so did Milton's interest in

Doe. Milton began communicating with Doe outside of school, messaging her through her social media accounts such as his Instagram account under the nickname “rbmltn.” *See below.*



19. In early 2015, still during her senior year of high school, Doe scheduled senior photos with Milton at the Houston sculpture garden at Milton’s request. Milton was an amateur

photographer in addition to being a teacher. At the sculpture garden, Milton used his influence to force himself on Doe physically – kissing, touching, and penetrating her vagina with his fingers.

20. Ultimately, and due to the influence of the much older Milton, Doe was coerced into a romantic relationship with Milton, who was still her teacher. Milton enticed Doe into a sexual relationship, often paying for motels in which they would have sex after school or picking Doe up for sex in his car. Improper conduct also occurred at the school. The sexual relationship began while Doe was a student at Katy High School and continued after her graduation.

21. Doe graduated Katy High School in June of 2015 and started college outside of Texas.

22. When Doe realized that she had been manipulated by Milton, and the extent of his manipulation in furthering the inappropriate relationship, she ended the relationship with him.

23. The gravity and reality of the situation, that she had been manipulated by an older man with significant influence and power over her, began to become apparent to Doe. Traumatized by the realization, Doe reported the events to her parents and sought psychological treatment. Doe received extensive counseling. Doe's parents reported the relationship to Katy High School administrators.

24. Upon investigation of Milton's conduct, Doe and her parents learned that Milton previously engaged in another improper relationship with at least one other Katy ISD student, although there are others upon information and belief.

Milton's Prior Abuse and Manipulation of High School Girls

25. Milton met Jackie (a pseudonym) when he was a teacher at Mayde Creek High School, also within Katy Independent School District.

26. Much like the relationship with Doe, Milton initiated his improper relationship with Jackie when she was underage.

27. During his relationship with Jackie, which took place in approximately 2000-2001, Milton sent letters to Jackie indicating that he wanted to be “more than a big brother to her.”

28. Upon information and belief, Milton was married at the time.

29. Jackie’s uncle found these letters and reported Milton’s conduct to Mayde Creek principal and defendant O.D. Thompkins.

30. Immediately following her uncle’s report to Thompkins, Jackie withdrew from Mayde Creek High School and moved to Louisiana to escape the abuse.

31. Rather than discipline Milton for his inappropriate conduct and make a report to the authorities, Thompkins and Katy ISD conspired with Milton to conceal his transgressions and transferred him to Katy High School where he later preyed upon Doe.

32. Upon information and belief, a third girl was subject to the same targeted abuse of Milton in approximately 2012. Doe’s attempts to investigate this third victim were blocked by counsel for Katy ISD. *See **Exhibit A***.

Milton’s Resignation and Criminal Prosecution

33. Faced with evidence of a crime, Katy ISD was left with no choice but to cease their efforts to conceal the conduct of Milton that persisted for years. They reported his most recent criminal conduct to the law enforcement.

34. Milton was arrested and/or surrendered and was charged with an improper relationship with a student.

35. Milton resigned from Katy High School/Katy ISD in July of 2016 after the relationships were revealed.

36. Milton was charged with the felony of improper relationship with a student on July 28, 2016.

37. Milton entered a guilty plea on November 22, 2016 and accepted a deferred adjudication for a term of four (4) years.

38. Doe has suffered immensely at the hands of Milton and KISD. She has sought and received hours of counseling and psychotherapy in an attempt to resolve the psychological trauma she suffered. The damage caused by the defendants' extreme and outrageous conduct will be lifelong. Doe has been forever harmed by the actions of defendants who intentionally, willfully, and recklessly placed her wellbeing into harms way.

39. As early as 2002, when Jackie's guardian reported the conduct of Milton to defendant Thompkins, the named defendants had actual knowledge of Milton's dangerous predatory nature. The defendants learned of facts or a pattern of inappropriate sexual behavior by Milton which would lead them to the reasonable conclusion that he was a danger to students.

40. Rather than immediately address the issue, defendants showed deliberate indifference to the rights of students, including Jackie and Doe, by failing to take action that was obviously necessary to prevent or stop the abuse.

41. Had the defendants taken the appropriate steps to stop Milton, Doe would not have suffered a Constitutional injury.

CLAIMS FOR RELIEF
(COUNT 1 – VIOLATIONS OF SUBSTANTIVE DUE PROCESS UNDER 42 U.S.C. § 1983)

42. Doe re-alleges and incorporates by reference the paragraphs stated above as fully stated verbatim herein.

43. 42 U.S.C. § 1983 protects individuals from violations of their federally protected rights. School children have a federally protected liberty interest in their bodily integrity that is specifically violated through physical sexual abuse by a school employee. A governmental entity, such as a school district, is liable under Section 1983 when its policies or customs violate an individual's federally protected rights.

44. Doe was a student at Katy High School when she was mentally, physically, and sexually abused by Katy ISD employee Robert Milton. As such, her right to bodily integrity under the 14th Amendment was violated, thereby giving rise to liability under Section 1983. As set forth below, the policies, customs, and practices of Katy ISD caused the abuse suffered by Doe.

45. Katy ISD has a duty and responsibility to establish appropriate official policies for its employees and teachers. Through its official and de facto policies, Katy ISD created a school environment that both promoted and failed to prevent the mental, physical, and sexual abuse of Doe.

46. Through its policies, Katy ISD engaged in a custom and practice of permitting its teachers to sexually abuse students, even those younger than eighteen years of age. When Milton was transferred from Mayde Creek High School to Katy High School in response to the revelation of the sexual abuse of Jackie, Katy ISD was engaging in a policy of concealing, aiding, abetting, and promoting abuse of its students.

47. Katy ISD failed to properly train and supervise its supervisors, principals, teachers and other staff. Had Katy ISD fulfilled this important duty, the warning signs concerning Milton's conduct would have been recognized and addressed, thereby preventing harm to Doe.

48. Katy ISD had policies that placed predators such as Milton into dangerous and inappropriate proximity to students such as Doe. For example, Milton was permitted to mentor students in his classroom without supervision. Further, Milton was permitted to chaperone trips abroad with little to no supervision by other adults or employees of Katy ISD. These lapses in protection occurred after Katy ISD had actual knowledge of Milton's propensity to pursue young female students. Katy ISD had actual knowledge of Milton's predatory nature as early as 2002.

49. In addition to Katy ISD, each of the named defendants had actual or constructive knowledge of the violations described herein.

50. As a direct and proximate result of each named defendant's deliberate indifference and reckless disregard to Doe's Constitutional right to bodily integrity, Doe suffered both bodily injury and severe mental anguish. Among other things, Doe required psychological counseling and therapy in an attempt to overcome the damage caused by defendants. Doe suffered severe anxiety and depression. To this day, Doe suffers from severe apprehension, nightmares, and other physical symptoms.

(COUNT 2 – VIOLATION OF TITLE IX; 20 U.S.C. § 1681)

51. Doe re-alleges and incorporates by reference the paragraphs stated above as fully stated verbatim herein.

52. Federal law provides that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance[.]” 20 U.S.C. § 1681.

53. Katy ISD and its schools receive federal financial assistance and funds.

54. Milton treated Doe differently on the basis of her female sex. Specifically, Milton targeted Doe and abused her mentally, physically, and sexually because she was a young female.

55. Every other named defendant had supervisory power over Milton.

56. Every named defendant had actual knowledge of Milton's sexual abuse, abusive and predatory proclivities, and the risk posed to young female students like Doe. They intentionally placed Doe in harm's way when they disregarded this knowledge. Their actions (and inactions) show a deliberate indifference to Doe's rights.

57. The conduct of defendants directly resulted in Doe's loss of equal opportunity to participate in Katy ISD and Katy High School education programs, based on her female gender.

58. Doe suffered disparate treatment at the hands of defendants because of her female sex.

(COUNT 3 – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS –
DEFENDANT MILTON)

59. Doe re-alleges and incorporates by reference the paragraphs stated above as fully stated verbatim herein.

60. Milton intentionally coerced a minor female student under his supervision into a sexual relationship. Milton's conduct was extreme and outrageous.

61. As a direct result of Milton's actions, Doe suffered severe emotional distress.

DAMAGES

62. Doe has suffered and continues to suffer severe emotional distress and mental anguish and physical injuries by the wrongful conduct of the named defendants.

63. Doe has suffered severe impairment to her reputation caused by the wrongful conduct of the named defendants.

64. Doe has suffered severe personal humiliation caused by the wrongful conduct of the named defendants.

65. Doe has incurred and expects to incur future medical expenses which are recoverable as damages.

66. Doe has incurred and expects to incur future psychological and psychiatric expenses which are recoverable as damages.

67. Doe has lost educational and job opportunities as a result of the wrongful conduct of the named defendants.

68. Doe is seeking damages for past and future emotional distress and mental anguish caused by the named defendants.

69. Doe is entitled to recover punitive damages for the defendants' reckless indifference to her Constitutional rights.

70. Doe is entitled to recover punitive damages for the defendants' gross negligence and intentionally tortious conduct.

71. Doe is entitled to recover all other damages available to her at law or in equity.

CONDITIONS PRECEDENT

72. All conditions precedent have occurred or have been performed.

ATTORNEYS' FEES

73. Doe is entitled to recover from defendants her reasonable and necessary attorneys' fees, costs, and expenses (including expert fees) for the preparation and prosecution of this action under 42 U.S.C. §§ 1983 and 1988 as a result of defendants' conduct as described herein.

LEAVE TO AMEND

74. Doe reserves the right to amend this Complaint as indicated by the law and as the facts dictate.

JURY DEMAND

75. Plaintiff Jane Doe requests a trial by jury as described in Rule 38 of the Federal Rules of Civil Procedure.

CONCLUSION AND PRAYER

WHEREFORE, premises considered, Plaintiff Jane Doe prays that defendants be summoned to appear herein and answer; further plaintiff prays and requests:

- a. That upon trial by jury, this Honorable Court enter a judgment and order against defendants for the following;
- b. All money damages available for defendants' violations, including actual and punitive damages, attorneys' fees, costs, and expenses;
- c. Pre- and post-judgment interest at the maximum rate permitted by law;
- d. Cost of Court; and
- e. such other and further relief as the Court deems just and proper.

Dated: April 6, 2017

Respectfully submitted,

THE VERDE LAW FIRM, PLLC

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