

R. Armen McOmber, Esq. – NJ ID #018251998
ram@njlegal.com
Austin B. Tobin, Esq. – NJ ID #002622010
abt@njlegal.com
McOMBER McOMBER & LUBER, P.C.
54 Shrewsbury Avenue
Red Bank, New Jersey 07701
(732) 842-6500 Phone
*Attorneys for Plaintiffs, Azuree Albanese and Edward Albanese,
as the parents and natural guardians of L.A.*

AZUREE ALBANESE and EDWARD ALBANESE, as the parents and natural guardians of L.A.,

Plaintiffs,

v.

BOARD OF EDUCATION OF THE TOWNSHIP OF WALL, IN THE COUNTY OF MONMOUTH; JESSICA BERUBE; ADRIENNE FOUTZ; ABC CORPORATIONS 1-5 (fictitious names describing presently unidentified business entities); and JOHN DOES 1-5 (fictitious names describing presently unidentified individuals);

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MONMOUTH COUNTY

DOCKET NO.:

Civil Action

**COMPLAINT & DEMAND FOR TRIAL
BY JURY; FIRST DEMAND FOR
PRODUCTION OF DOCUMENTS AND
FIRST SET OF INTERROGATORIES
DIRECTED TO ALL DEFENDANTS**

Azuree Albanese (“Plaintiff A. Albanese”) and Edward Albanese (“Plaintiff E. Albanese”), as the parents and natural guardians of L.A. (“Minor Plaintiff L.A.”) (all collectively “Plaintiffs”), by way of Complaint against Defendant Board of Education of the Township of Wall, in the County of Monmouth (“Defendant WBOE”), Defendant ABC Corporations 1-5 (fictitious names describing presently unknown business entities) (along with “Defendant WBOE,” collectively referred to as the “Corporate Defendants”), Defendant Jessica Berube (“Defendant Berube”), Defendant Adrienne Foutz (“Defendant Foutz”), and Defendants John Does 1-5 (fictitious names

describing presently unidentified individuals) (along with “Defendant Berube” and “Defendant Foutz,” collectively referred to as the “Individual Defendants”) (all collectively “Defendants”) allege as follows:

PRELIMINARY STATEMENT

School is a place for students to not only learn an academic curriculum, but should also serve as an environment for children to cultivate confidence and engage in meaningful social interaction. It is therefore incumbent upon teachers, administrators, and staff to facilitate a positive and inclusive social setting where students feel safe at all times. In this case, however, Defendant WBOE’s administration and teachers completely and utterly abdicated these responsibilities when Defendant Berube deliberately and forcibly placed Minor Plaintiff L.A., one of her fourth (4th) grade students, in a classroom closet with the door closed during school hours.

Indeed, on April 8, 2022, allegedly because Minor Plaintiff L.A. was laughing in class, Defendant Berube removed a drum set from a classroom closet and forced Minor Plaintiff L.A. to go into said closet. Thereafter, Defendant Berube walked out of the closet, closed the door, and left Minor Plaintiff L.A. alone and unsupervised. Adding insult to injury, once Minor Plaintiff L.A. was eventually out of the classroom closet, she overheard Defendant Foutz, another music teacher employed by Defendant WBOE, tell a student to delete a recording of the aforementioned events. As a direct result of the foregoing events, Minor Plaintiff L.A. is now experiencing severe and lasting emotional distress.

In allowing the events on April 8, 2022 to transpire, Defendants were, clearly and unequivocally, grossly negligent and reckless in permitting Minor Plaintiff L.A. to be subjected to such unlawful conduct. Fortunately, New Jersey law provides redress for victims of such conduct.

Accordingly, Plaintiffs bring the instant action to assert their basic right to attend school in a safe environment.

PARTIES

1. Plaintiffs A. Albanese and E. Albanese are individuals currently residing in Wall Township, New Jersey. At all times relevant herein, Plaintiffs A. Albanese and E. Albanese are the legal guardians of Minor Plaintiff L.A.

2. Minor Plaintiff L.A. is a minor currently residing in Wall Township, New Jersey. Minor Plaintiff L.A. is an eleven (11) year old female, and at all times relevant hereto, was a student at Central Elementary School in the County of Monmouth and State of New Jersey. Central Elementary School is operated by Defendant WBOE.

3. Defendant WBOE is a body politic of the State of New Jersey which operates the Wall Township School District, including, but not limited to, Central Elementary School, in the County of Monmouth and the State of New Jersey. Central Elementary School, located at 2007 Allenwood Road, Wall Township, New Jersey 07719, is an elementary school operated by Defendant WBOE. At all times relevant hereto, Minor Plaintiff L.A. was a student at Central Elementary School.

4. Upon information and belief, Defendant Berube, at all times relevant hereto, is employed by Defendant WBOE as an Instrumental Music Teacher at Central Elementary School and resides in the State of New Jersey.

5. Upon information and belief, Defendant Foutz, at all times relevant hereto, is employed by Defendants WBOE and School as a Fourth Grade Music Teacher at Central Elementary School and resides in the State of New Jersey.

6. Defendant ABC Corporations 1-5 are currently unidentified business entities that have acted in concert with Corporate Defendants and/or are currently unidentified business entities responsible for the creation and/or implementation of school policies of Corporate Defendants and/or currently unidentified business entities that have liability for the damages suffered by Plaintiffs under any theory advanced herein.

7. Defendant John Does 1-5 are currently unidentified business entities who have acted in concert with Defendants and/or currently unidentified individuals responsible for the creation and/or implementation of school policies of Corporate Defendants and/or currently unidentified individuals who may have liability for the damages suffered by Plaintiffs under any theory advanced herein.

FACTS COMMON TO ALL CLAIMS

8. Minor Plaintiff L.A. is an eleven (11)-year-old female who was in the fourth (4th) grade at Central Elementary School during the 2021-22 school year. During that school year, Defendant Berube was Minor Plaintiff L.A.'s Instrumental Music Teacher.

9. During a class on April 8, 2022, Defendant Berube informed Minor Plaintiff L.A. that she needed to go into the classroom closet because she was laughing during class. Defendant Berube then moved a drum set from the aforementioned closet and forced Minor Plaintiff L.A. to enter same. Once Minor Plaintiff L.A. was within said closet, Defendant Berube walked out of said closet and closed the door to same at which time Minor Plaintiff L.A. was left alone, and completely unsupervised, in the closet (the "April 8, 2022 incident").

10. Minor Plaintiff L.A. was in the closet in Defendant Berube's classroom for approximately 2-3 minutes, and during that time, Defendant Berube did not allow Minor Plaintiff L.A. out of the closet at any time.

11. Thereafter, Minor Plaintiff L.A. opened the door herself to let her out when she saw the rest of her class leaving the classroom. Prior to that, not a single teacher, including, but not limited to Defendants Berube or Foutz, ever opened the door for Minor Plaintiff L.A. to leave.

12. While Minor Plaintiff was in the school closet in Defendant Berube's classroom, she observed other students laughing, making faces at, and otherwise ridiculing her as there was a window on the closet's door.

13. Once out of said closet, Minor Plaintiff L.A. overheard Defendant Foutz, another teacher employed by Defendant WBOE who was present at the time of the April 8, 2022 incident, instructing a student to delete a recording of the April 8, 2022 incident. Upon information and belief, said recording was, in fact, deleted at that time.

14. When Minor Plaintiff L.A. exited the closet, no teacher, including but not limited to Defendants Berube and Foutz, ever spoke further to her about why she was put in the closet in the first place.

15. Following the April 8, 2022 incident, a classmate of Minor Plaintiff L.A. was allowed to repeatedly ridicule Minor Plaintiff L.A. later that day by referring to her as the "closet girl."

16. Incredibly, neither Plaintiff A. Albanese nor Plaintiff E. Albanese were ever contacted directly by a school employee at any point in time on April 8, 2022, or thereafter, to advise that the April 8, 2022 incident took place; in fact, Minor Plaintiff L.A.'s parents only became aware of same the following day at a softball game at which time they were informed of same from a parent whose child was in Minor Plaintiff L.A.'s class.

17. After learning of the April 8, 2022 incident, Plaintiff A. Albanese promptly complained to the Principal of Central Elementary School, Jill Antonello ("Principal Antonello")

via email and telephone on April 9, 2022. At that time, Principal Antonello stated that Defendant Foutz had denied that Minor Plaintiff L.A. was put in the closet in Defendant Berube's classroom.

18. At that time, Plaintiff A. Albanese also informed Minor Plaintiff L.A.'s 4th grade teacher, Kyra LaFerlita ("Mrs. LaFerlita"), of the April 8, 2022 incident and further advised Ms. LaFerlita that it had been difficult to convince Minor Plaintiff L.A. to return to school due to the aftermath of the April 8, 2022 incident.

19. Upon information and belief, Defendant WBOE has still, to this day, failed to (1) conduct an appropriate investigation into the April 8, 2022 incident or (2) take any meaningful remedial action with respect to same.

20. Following the April 8, 2022 incident, Minor Plaintiff L.A. was continuously humiliated and embarrassed at school, as students constantly asked Minor Plaintiff L.A. if she was, in fact, put inside the classroom closet.

21. Thereafter, and as a direct result of said humiliation and embarrassment, Minor Plaintiff L.A. experienced a mental health crisis at school on May 10, 2022, necessitating immediate intervention by the school guidance counselor, Lauren Young ("Ms. Young").

22. Minor Plaintiff L.A., has, and continues to, experience severe emotional distress and trauma as a result of the April 8, 2022 incident. She experiences periods of anxiousness, has no longer wanted to attend Central Elementary School for periods of time, and exhibits diminished self-esteem and symptoms of depression. Minor Plaintiff L.A. was also greatly embarrassed and humiliated from the April 8, 2022 incident insofar as she was ridiculed by other students about same.

23. Defendants failed to provide a safe learning environment to Minor Plaintiff L.A. by allowing Minor Plaintiff L.A. to be deliberately and forcibly placed in a classroom closet on April

8, 2022 and, thereafter, allowing Minor Plaintiff L.A.'s classmates to repeatedly mock Minor Plaintiff L.A. in connection with said events.

24. As a result of the April 8, 2022 incident, Minor Plaintiff L.A. has, and continues to, suffer severe emotional distress and trauma.

COUNT ONE

NEGLIGENCE

25. Plaintiffs repeat each and every allegation set forth above as if set forth fully herein at length.

26. Defendant WBOE supervised, cared for, and/or controlled the conduct of its employees during the school day at Central Elementary School.

27. It then and there became the duty of Defendant WBOE, by and through their agents, servants, and employees, to use reasonable care to supervise the conduct of its employees under the care of Defendant WBOE.

28. Notwithstanding said duty, Defendant WBOE, by and through its agents, servants, and employees, carelessly, negligently, and recklessly supervised Defendants Berube and Foutz.

29. As a direct and proximate result of the carelessness, negligence, and recklessness of Defendant WBOE as aforesaid, Plaintiffs were damaged; indeed, Minor Plaintiff L.A. has suffered, and will continue to suffer, severe mental anguish in the future.

WHEREFORE, Plaintiffs demand judgment against Defendants for the damages as a result of the carelessness, negligence, and recklessness of Defendants, together with punitive damages, attorneys' fees, interest, costs of suit, and other such relief as the Court may deem just and equitable under all circumstances.

COUNT TWO

NEGLIGENT SUPERVISION

30. Plaintiffs repeat each and every allegation set forth above as if set forth fully herein at length.

31. Defendants' negligence, gross negligence, reckless conduct, and supervision of its employees directly and proximately caused Minor Plaintiff L.A. to be deliberately and forcibly placed in a closet during the school day on April 8, 2022.

32. Defendants' negligent supervision of its employees directly and proximately caused Minor Plaintiff L.A. severe emotional damage.

33. As a proximate result of the aforementioned acts and omissions set forth herein, Plaintiffs have sustained damages.

WHEREFORE, Plaintiffs demand judgment in their favor and against Defendants on this Count, together with compensatory and equitable relief, all remedies available under the law, punitive damages, pre- and post-judgment interest, attorneys' fees and costs of suit, and for such other relief that the Court deems equitable and just.

COUNT THREE

NEGLIGENT TRAINING

34. Plaintiffs repeat each and every allegation set forth above as if set forth fully herein at length.

35. Defendant WBOE's negligence, gross negligence, reckless conduct, and training of Defendants Berube and Foutz, as employees and/or supervisors, directly and proximately caused Minor Plaintiff L.A. harm.

36. Defendant WBOE's negligent training of Defendants Berube and Foutz, as employees and/or supervisors, directly and proximately caused Minor Plaintiff L.A. severe emotional damage.

37. As a proximate result of the aforementioned acts and omissions set forth herein, Plaintiffs have sustained damages.

WHEREFORE, Plaintiffs demand judgment in their favor and against Defendants on this Count, together with compensatory and equitable relief, all remedies available under the law, punitive damages, pre- and post-judgment interest, attorneys' fees and costs of suit, and for such other relief as the Court deems equitable and just.

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to Rule 4:10-2(b), demand is made that Defendants disclose to Plaintiffs' attorney whether or not there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of the judgment which may be entered in this action or indemnify or reimburse for payments made to satisfy the judgment and provide Plaintiffs' attorney with true copies of those insurance agreements or policies, including, but not limited to, any and all declaration sheets. This demand shall include and cover not only primary insurance coverage but also any excess, catastrophe, and umbrella policies.

DEMAND FOR TRIAL BY JURY

Plaintiffs demand trial by jury on all issues.

McOMBER McOMBER & LUBER, P.C.
*Attorneys for Plaintiffs, Azuree Albanese and
Edward Albanese, as the parents and natural
guardians of L.A.*

By: /s/ Austin B. Tobin, Esq.
AUSTIN B. TOBIN, ESQ.

Dated: October 13, 2023

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, R. ARMEN McOMBER, ESQUIRE is hereby designated as trial counsel for Plaintiffs.

CERTIFICATION

Pursuant to Rule 4:5-1, it is hereby certified that, to the best of my knowledge, there are no other civil actions or arbitration proceedings involving this matter with respect to this matter and no other parties need to be joined at this time.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiffs, Azuree Albanese and Edward Albanese, as the parents and natural guardians of L.A.

By: /s/ Austin B. Tobin, Esq.
AUSTIN B. TOBIN, ESQ.

Dated: October 13, 2023