

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

_____X
MONIQUE PARSONS as p/n/g of M.P and GP.,
JENNIFER VENTH as p/n/g of C.T

Plaintiffs

Index No: _____

-against-

SUMMONS

RIVERHEAD CENTRAL SCHOOL DISTRICT,
RIVERHEAD CENTRAL SCHOOL DISTRICT
BOARD OF EDUCATION, DR. AUGUSTINE
TORNATORE, PATRICK BURKE, DR. STEPHEN
HUDSON, GLENN MCKAY

Plaintiff designates
Suffolk County as the place
of trial.

Defendants

_____X
TO THE ABOVE NAMED DEFENDANTS

YOU ARE HEREBY SUMMONED to answer the Complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorney within twenty (20) days after the service of this Summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: Uniondale, New York
November 30, 2022

Respectfully,



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COUNTY OF SUFFOLK

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TO THE SUPREME COURT OF THE STATE OF NEW YORK
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JURY TRIAL DEMANDED

VERIFIED COMPLAINT

PRELIMINARY STATEMENT

A child's innocence can never be replaced, once stolen. When the adults acting as educators become their tormentors, they take away something more precious than education: their innocence. Every child in New York has the right to an education. Schools shield children from the harsh realities of adulthood, while giving them the tools needed to thrive as adults. Parents trust the adults running schools (Educators) to foster their children's development. Not stifle it. Educators are entrusted to lift children up, not bring them down. School as an institution, rest on the principle that the Educators in charge do not become the bullies they are sworn to protect children from.

School is a safe "bubble" for children irrespective of what occurs in the outside world. The institution does not change inside, because of events occurring outside. The institution does not yield to the strife and gloom portrayed daily by the media. Education is a long-term endeavor that takes place over twelve years. The institution must therefore be impervious to politics and perceived popular opinions of the day. COVID-19 exposed the cracks in the foundation. Overall, Children were just another brick in the wall.

Defendants are in the business of teaching children to think critically, but abandoned critical thought when it was needed most. Defendants compelled G.P., M.P., and C.T. (Children or Girls) to wear masks to school despite its harmful effects. Defendants then took it a step further through severe disciplinary measures and discrimination that went beyond the text of the unconstitutional regulation they were supposedly following.

January 25, 2022, was a day of joy and happiness for most children. The Nassau County Supreme Court had just rendered a Decision and Order declaring 10 NYCRR §2.60 (Mask Reg) to be unconstitutional and enjoined the State of New York from enforcing it. G.P., M.P., and C.T. (Children or Girls) were ecstatic, for the first time in a while, to go to school. After more than a year of compulsory masking, they were finally free to choose. Their hearts were filled with hope that day. They hoped things were going to get better. They hoped for normalcy. They hoped to breathe in fresh air once again. The Riverhead Central School District (RCSD) had other plans, however.

The Children walk into school with big, visible smiles. Their smiles quickly dissipate as they walk through the school doors. RCSD staff order the Girls to put masks on. Despite contrary legal advice. Despite the law. Despite the Girl's wellbeing. RCSD had deputized itself as the mask police. With the courage of a lioness, the Girls politely respond "no." RCSD then dispatches security guards to round up the Girls from their first period class. The security guards take the Girls into segregation rooms. Several other children in the general population come and go throughout the day. RCSD staff kept the girls in that room all day. No class. No recess. No education. January 25, 2022, became of day of hopelessness and fear. This was just the beginning though.

In the following week, school became a prison. Except RCSD did not provide them with breakfast some days. Other days they were not given lunch on time. Other days, RCSD failed to give them lunch altogether. RCSD did not let them go to the bathroom unless two or more students had to go. And even then, a security guard escorted them. They were isolated from everyone. Further, RCSD did not provide them with the proper educational instruction. RCSD staff told the Children they were diseased and going to harm everyone else. The Children were no threat to anyone.

RCSD implemented a COVID-19 policy divorced from an educational setting, logic, and science. No governmental health agency advised the defendants to punish healthy children going to school to learn. RCSD utterly and ineptly failed to train its employees how to interact with Children, in an age-appropriate way, when enforcing public health guidance. RCSD ran its schools like a prison. The staff treated Children like criminals. And even then, it treated them inhumanely. RCSD staff yelled at Children for pulling their mask down because they were having trouble breathing. Instead of making sure Children were okay, or letting them breath in air, RCSD staff forced them to pull up their masks all the way. RCSD imprisoned Children against their will when they chose to be mask free.

COVID-19 did not give RCSD a free hall pass to violate Plaintiffs' civil rights, deny them an education, attack their mental and physical wellbeing, and break the law. Their conduct is reprehensible, outrageous, and has no place in a free, civilized

society. Accordingly, Plaintiffs bring this action to hold RCSD accountable and to be made whole.

PARTIES

1. Monique Parsons resides in Suffolk County, New York, is the parent of G.P. and M.P and resides with them.
2. Jennifer Venth resides in Suffolk County, New York, is the parent of C.T. and is domiciled with C.T.
3. At all times relevant herein, G.P. was an elementary school student at Pulaski Street School located in Riverhead New York.
4. At all relevant times herein, M.P. was a student attending Riverhead Middle School located in Riverhead, New York.
5. At all relevant times herein, C.T. was a student attending Riverhead Middle School located in Riverhead, New York.
6. Defendant Riverhead Central School District (RCSD or District) is a New York State municipal corporation operating in Suffolk County, New York as an educational institution. Its principal place of business is 814 Harrison Ave, Riverhead, New York 11901. The District operates several schools, including Pulaski Street School and Riverhead Middle School.
7. At all relevant times herein, Defendant Board of Education was the governing Board of Directors for RCSD and responsible for overseeing all operations of RCSD and personnel.
8. Dr. Augustine Tornatore was at all times relevant herein the Superintendent of Riverhead Central School District, its chief executive officer and responsible for administration throughout the Riverhead school district.
9. At all relevant times herein Patrick Burke was the Principal of Pulaski Street School and in charge of school administration.
10. At all relevant times herein Dr. Stephen Hudson was the Principal of Riverhead Middle School and in charge of school administration.

11. At all relevant times herein Glenn McKay was employed as a teacher in Riverhead Middle School.
12. For purposes of this pleading, RCSD encompasses Dr. Tornatore and the BOE at all times herein.

JURISDICTION AND VENUE

13. This Court has jurisdiction pursuant to CPLR §301 and venue is proper pursuant to CPLR §504(2).
14. Plaintiffs timely filed a notice of claim and Plaintiffs were examined pursuant to section 50-h of the General Municipal Law .

STATEMENT OF FACTS

THE MASK REGULATION AND MASKS IN THE 2021-2022 SCHOOL YEAR

15. For the 2021-2022 school year, RCSD required students and staff to wear face coverings.
16. Students could wear cloth masks over their noses and mouths.
17. Students could wear bandannas over their noses and mouths.
18. Students and staff could wear surgical masks as illustrated by the [Centers for Disease Control](#) (CDC).
19. According to the CDC, surgical masks do not provide a “reliable level of protection from inhaling smaller airborne particles.”¹
20. SARS-CoV-2—the virus that causes COVID-19—can be transmitted through small airborne particles.
21. The CDC stated that surgical masks have a loose-fitting face seal fit *i.d.*
22. Leakage occurs around the sides of surgical masks when the person wearing it inhales *i.d.*
23. Logically then, a person walking into poisonous smoke for example, would inhale the smoke if only protected by a surgical mask.
24. Surgical masks have visible holes.

¹ <https://www.cdc.gov/niosh/npptl/pdfs/UnderstandDifferenceInfographic-508.pdf> CDC Infographic. (last retrieved 11/17/2022).

25. RCSD required students two years and older to wear masks because of an unconstitutional regulation promulgated as 10 NYCRR §2.60 (Mask Reg).
26. The text of the Mask Reg does not imbue RCSD with the power to compel masking.
27. The Mask Reg does not define medically tolerate.
28. The Mask Reg does not require a doctor's note to persuade a school that a student cannot medically tolerate a mask.
29. The Mask Reg does not provide enforcement guidance for educational institutions like RCSD.
30. It—in relevant part—gives the commissioner of the State Department of Health (Commissioner), the power to make masking “determinations.”
31. In August 2021, the Commissioner first determined that school children who could *medically tolerate* masks and were *unable to maintain social distancing*, must wear masks while in school.
32. Several determinations thereafter followed.
33. The penalty for not complying was a one thousand dollar (\$1,000) fine.
34. The Mask Reg tasked local health departments with enforcing the Commissioner's determinations.
35. This “one size fits all approach” did not contemplate that enforcing the Mask Reg in schools should be different than in other institutions such as jail for instance.
36. New York's history is bereft of a time and place when the State coerced its citizens to engage in conduct or be fined, through something called a “determination.”
37. Laws and rules—not unbridled determinations—govern society.
38. The Defendants—as an educational institution—abandoned the basic tenants of subjects they teach such as political science and American History.
39. As educators, Defendants recklessly pursued its own means of enforcement across the District.
40. The defendants implemented punitive measures, discriminated against Children, and violated the law.

41. Defendants executed measures on their own volition.
42. Defendants recklessly disregarded the foreseeable consequences of its conduct.

CHILDREN COULD NOT MEDICALLY TOLERATE MASKS & ACTIONS
TAKEN BY DEFENDANTS

43. G.P. has Duane syndrome and requires glasses to see.
44. Duane syndrome causes decreased vision and eye movement in G.P.'s left eye.
45. G. P. cannot fully rotate her eye to the side.
46. G. P.'s condition hindered her ability to see objects in her periphery.
47. In addition, G.P. had difficulty seeing because wearing a mask fogged her glasses.
48. G.P. also had difficulty breathing with a surgical mask plastered to her face.
49. G.P. could not focus on where she was walking.
50. G.P.'s condition plus the mask endangered her wellbeing.
51. The masks caused G.P. to suffer from headaches, dizziness, and nausea.
52. As a result, Mrs. Parsons informed RCSD that G.P. could not medically tolerate masks.
53. RCSD required a letter from a doctor.
54. Mrs. Parsons provided RCSD with a doctor's letter.
55. Defendants exempted G.P. from wearing a mask during the 2020-2021 school year.
56. On the first day of school for the 2021-2022 school year, G.P. went to school without a mask.
57. Defendant Burke pulled G.P. from class into his office.
58. Defendant Burke forced G.P. to sit in his office for the entire school day.
59. Defendant Burke gave G.P. assignments but no educational instruction.
60. Defendant Burke informed Mrs. Parsons that G.P. would need another note from the doctor's office.
61. G.P.'s condition remained unchanged from the prior school year.

62. Mrs. Parsons asked the Board of Education, Dr. Tornatore, and Mr. Burke what their policy was regarding medical exemptions.
63. They had no policy.
64. RCSD arbitrarily decided that G.P. needed a new doctors note even though she had provided them with one only a few months prior.
65. G.P.'s ophthalmologist sent another letter to Mr. Burke.
66. The letter stated that G.P. could not tolerate a mask outdoors.
67. Mr. Burke informed Mrs. Parsons that G.P. would have to wear a mask inside the school.
68. Mrs. Parsons informed Dr. Tornatore and Mr. Burke that G.P. could not tolerate a mask indoors either. G.P.'s condition did not change when she went inside.
69. They defied logic, and insisted that G.P. had to wear a mask indoors.
70. Mrs. Parsons told Mr. Burke that if anything happened to G.P. he would be held accountable.
71. Mr. Burke nonchalantly told Mrs. Parsons that he was "indemnified."
72. In December of the 2021-2022 school year, G.P. had injured her collar bone.
73. G.P. wore a sling.
74. G.P. was walking up the school stairs carrying her lunch tray with the hand that was not in a sling.
75. G.P. was wearing a mask.
76. Her glasses fogged up.
77. G.P. tripped and fell on her injured collarbone.
78. Food fell everywhere.
79. Towards the end of January 2022, G. P. was forced to run laps in gym class with a mask covering her nose and mouth.
80. RCSD staff scolded G.P. when she pulled the mask down to breathe.
81. G.P. was scared to pull down her mask.
82. G.P. passed out in gym class.
83. Masks caused M.P. to suffer skin rashes around her nose and cheeks.
84. Masks caused M.P. to suffer from anxiety.

85. During the spring of the 2020-2021 school year Mrs. Parsons obtained a mask exemption for M.P.
86. For the entire spring of the 2021-2022 school year Dr. Hudson acknowledged that M.P. was exempt from wearing a mask.
87. Nevertheless, Dr. Hudson demanded her to wear a plastic face shield.
88. Plastic face shields are less effective at preventing viral transmission than cloth masks.
89. In addition, wearing a plastic face shield would make M.P. the target of bullying from her peers.
90. Neither Dr. Hudson nor Dr. Tornatore could explain to Mrs. Parsons why M.P. required a face shield.
91. RCSD staff treated M.P. disparately when she was maskless.
92. For instance, in home economics, the teacher forced M.P. to sit in a corner of the classroom by herself. The teacher did not permit M.P. to participate in classroom activities.
93. Dr. Hudson and Dr. Tornatore were informed of this occurrence.
94. RCSD employees yelled at M.P. multiple times, on multiple days, in front of other students to put a mask on, even though she was not required to.
95. Mrs. Parsons had to pick M.P. up from school several times during the spring of the 2020-2021 school year.
96. M. P. was suffering from anxiety attacks, digestive problems, and vomiting because of how she was being treated.
97. In August of 2021, Mrs. Parsons informed the Riverhead Central School District Board of Education (BOE), Dr. Tornatore, and Dr. Hudson of the problems the masks had caused for G.P. and M.P.
98. Dr. Hudson assured Mrs. Parsons that he would handle the situation and speak with staff.
99. Nothing changed.
100. C.T. has asthma.
101. C.T. had trouble breathing with a mask on.
102. Masks would cause her to have headaches and migraines.

103. C.T. could not tolerate wearing a mask.
104. RCSD staff consistently and continuously scolded C.T. and M.P. when their mask dropped below their nose.
105. C.T. would get occasional mask breaks.
106. Mask breaks allowed C.T. to leave the classroom for a fleeting period so she could pull her mask down to breathe.
107. Even then, staff would yell at C.T. to pull her mask up.
108. The staff was not interested in her reason for taking a mask break.
109. The staff was not interested in her wellbeing.
110. The staff cared only about compliance; at all costs.
111. RCSD staff engaged in this conduct for the spring of the 2020-2021 school year as well as the 2021-2022 school year.
112. C.T. would come home from school crying because she was being bullied. Not by other students. But by the staff.
113. C.T. had many absences because she was terrified to go to school.
114. Ms. Venth provided the nurse at C.T.'s school with a doctors letter explaining that C.T. could not wear a mask because of her asthma.
115. RCSD permitted C.T. to take mask breaks during part of the 2021-2022 school year.
116. But they stopped permitting C.T to take mask breaks.
117. RCSD constructively suffocated C.T. for her to assert her right to an education.
118. For C.T. to receive an education she had to suffer.
119. Mrs. Venth contacted Dr. Hudson, around or about February 2022.
120. Dr. Hudson said his hands were tied and would not allow Ms. Venth to even request a medical accommodation.

RCSD ADMINISTRATION RESPONSIBILITIES AND POLICY

121. The Riverhead Central School District Board of Education (BOE) has many duties imposed by law and RCSD's Book of Policy and Procedure.
122. The BOE has duty to provide appropriate training for school staff.

123. The BOE has a duty to fulfill its governance responsibilities as required by law.
124. The BOE has a duty to create school policies and procedures.
125. It is the responsibility of the BOE to provide ALL students with a safe and healthy environment.
126. RCSD's health services policy allows the District to exclude students who have been *diagnosed with* or *show symptoms* of an infectious disease.
127. The Superintendent of Schools—Dr. Tornatore—is responsible to enforce the policy.
128. Dr. Tornatore has statutory duties as well as duties conferred by the RCSD Book of Policies.
129. Dr. Tornatore is the chief executive officer for the RCSD.
130. Dr. Tornatore—amongst several of his obligations—must implement the policy of the BOE and report issues to the BOE.
131. Dr. Tornatore is responsible for supervising all RCSD personnel; including taking disciplinary actions.
132. Dr. Tornatore is also responsible for creating and implementing personnel policy.
133. Pursuant to Dignity For All Students Act, RCSD implemented a “Student Harassment and Bullying Prevention and Intervention Regulation.” (Bullying Regulation).
134. RCSD coincidentally revised it on January 25, 2022—the day the State was enjoined from enforcing the Mask Reg.
135. The Bullying Regulation acknowledges that bullying has characteristics of: (1) Power Imbalance, (2) Intent to harm, (3) Threat of further aggression, and (4) Terror.
136. The Bullying Regulation acknowledges three kinds of bullying: (1) verbal, (2) physical and (3) social/relational bullying.
137. It illustrates social or relational bullying with examples such as “excluding someone from a group, isolating, shunning . . . arranging public humiliation [and] undermining relationships . . .”

138. The Bullying Reg further defines and illustrates discrimination and harassment consistent with Education Law §§ 10-18.
139. The BOE and Dr. Tornatore insidiously permitted the same conduct that it prohibits.
140. They became the tormentors Children feared.
141. Administrators excluded Children although they had not been diagnosed with or showed any symptoms of infectious disease.

JANUARY 25, 2022, AND THE TORMENT THAT FOLLOWED

142. On January 24, 2022, the Supreme Court, County of Nassau, declared the Mask Reg to violate N.Y. Const. art III §I. (**EXHIBIT 1**).
143. The court enjoined the State from enforcing it *id*.
144. On January 25, 2022, schools in Nassau and Suffolk County were restrained from compelling students to wear masks *id*.
145. Ingerman Smith L.L.P. is the law firm that represents RCSD.
146. On January 25, 2022, Ingerman Smith advised Dr. Tornatore, the BOE, and other administrators—District wide—that they should not compel masking.
147. Dr. Tornatore and the BOE (Administration or RCSD) defied counsel's advice.
148. Defendants Burke and Dr. Hudson ignored counsel's advice.
149. On January 25, 2022, C.T. and M.P. were forcibly, escorted by security guards into a room adjoining the principal's office where they were segregated from the other students.
150. Why? Because RCSD unlawfully forced them to wear a mask as a condition to receive their guaranteed right to an education.
151. They did not receive educational instruction.
152. They were in the room for the entire school day.
153. RCSD prohibited C.T. and M.P. from even leaving the room they were segregated in, until the last school bus left.
154. They were not allowed to speak.
155. Dr. Hudson had no just cause or rational basis to discipline them.

156. They were not allowed to sit at the same table.
157. They were given assignments without instructions.
158. M.P. and C.T. were not allowed to eat breakfast.
159. On or about January 26, 2022, Dr. Hudson isolated and segregated C.T. and M.P. for not wearing a mask.
160. They were not allowed to speak.
161. Dr. Hudson had no just cause or rational basis to discipline them.
162. They were not allowed to sit at the same table.
163. They were given assignments without instructions.
164. They could not go to the bathroom when other students were in the hallways.
165. On or about January 27, 2022, they experienced the same treatment as the day prior.
166. In addition, Defendant McKay refused to allow M.P. to use the restroom.
167. M.P. had to secretly inform her Mrs. Parsons what was happening.
168. Mrs. Parsons called Dr. Hudson.
169. Dr. Hudson intervened, and the Girls were allowed to go to the bathroom.
170. On or about Friday, January 28, 2022, M.P. was escorted by security guards into a technology room with Defendant McKay where she was segregated from the other students.
171. She did not receive educational instruction.
172. She could not speak to other students. She could not ask for educational instruction. When she tried, Defendant McKay and sometimes another teacher would impose further punishment.
173. M.P. was in the room for the entire school day.
174. C.T. was absent because she had to continuously use a nebulizer to control her asthma.
175. On or about Wednesday, February 2, 2022, Dr. Hudson isolated and segregated C.T. and M.P. for not wearing a mask.
176. Dr. Hudson had no just cause or power to discipline them.
177. They were not allowed to speak.

178. They were not allowed to sit at the same table.
179. They were given assignments without instructions.
180. On or about February 9, 2022, Dr. Hudson segregated C.T. and M.P. for not wearing a mask.
181. They were not allowed to speak.
182. They were not allowed to sit at the same table.
183. They were given assignments without instructions.
184. Dr. Hudson had no just cause or power to discipline them.
185. Between January 25, 2022, and February 9, 2022, RCSD deprived M.P. and C.T. of their right to eat lunch and breakfast.
186. For instance, Ms. Venth brought donuts to school on one occasion because the staff had not permitted M.P. and C.T. to eat lunch.
187. When staff did allow the Girls to eat lunch, it was later than their actual lunch period, and food was brought to them—like an inmate in a jail cell.
188. M.P. and C.T. often had to wait upwards of one to three periods just to use the restroom.
189. By February 9, 2022, the Girls could not take the grinding abuse anymore. Except for C.T. they put the masks back on.
190. C.T. left the school entirely.
191. Between January 26, 2022, and February 9, 2022, Defendant Burke forced G.P. out of her first period class at least four times for not wearing a mask.
192. Defendant Burke—as the head administrator—ordered security guards to police students not wearing masks.
193. During the above time period, G.P. went to school without a mask at least four times.
194. At least four times, someone from Mr. Burke's office would call the teacher of G.P.'s first period class, to tell him that G.P. had to go to the principal's office.
195. It was always for not wearing a mask.
196. During the above time period, Defendant Burke left G.P. by herself at least two times for most of the school day.

197. Defendant Burke gave G.P. homework assignments to complete but no instruction.
198. G.P. could not speak with her teachers.
199. G.P. was not allowed to leave without security escorting her.
200. G.P. was not allowed to be around other students.
201. G.P. did not have recess, lunch with her peers, or any interactions with students.
202. G.P. was isolated in that room all day.
203. G.P. was not infected with COVID-19 that time.
204. RCSD had no evidence that G.P. was infected with a contagious disease.
205. RCSD had no medical diagnosis that G.P. contracted a communicable disease.
206. G.P.'s grades dropped as a result.
207. Burke did not allow G.P. to go outside, eat with her peers, or play her musical instrument in band class; all activities in which full masking was not even required.
208. Administrators knew that their employees harassed and discriminated against Children for part of the 2020-2021 school year and the 2021-2022 school year.
209. Dr. Tornatore, and the BOE's acquiescence emboldened staff to enforce masking policies that harmed Children.
210. The practice was so widespread and consistent that it amounted to a custom or usage that Administrators implicitly authorized.
211. In August of 2021, M.P. and G.P. even spoke publicly at a BOE meeting about the detrimental effects of masking.
212. In addition, Administrators knew that its agents came into contact with children who could not tolerate masks, and would not wear masks.
213. Administrators failed to adequately train or supervise their subordinates to such an extent that it amounted to a deliberate indifference of Children's rights.

- 214. Administrators recklessly, intentionally, and knowingly, established COVID-19 masking protocols in August 2021, that were cruel, unusual, and illogical.
- 215. The practice was widespread.
- 216. Based on information and belief, students in Riverhead High School for instance, who did not wear masks ordered food through a food delivery service and staff threw out the food.
- 217. Every Defendant recklessly disregarded facts and intentionally enforced its own masking policy or custom. RCSD’s enforcement foreseeably would harm Children.
- 218. The Administrators reckless disregard proximately caused the harms inflicted upon Children.
- 219. After February 9, 2022, C.T. did not go back to school.
- 220. According to the most recent United States Census data Riverhead’s population is 26.2% Hispanic, 15.4% Black, and 53% White.
- 221. Per the Census data 12.4% of resident in Riverhead were in poverty. Which is merely 5% less than New York City residents living in poverty.

CAUSES OF ACTION

AS AND FOR A FIRST CAUSE OF ACTION

-Against Defendants RCSD, Dr. Tornatore, BOE, and Patrick Burke-
As to G.P.

VIOLATION OF CIVIL RIGHTS LAW §40-C

- 222. Plaintiffs repeat and re-allege every allegation above as though fully set forth herein.
- 223. Pursuant to New York Civil Rights Law section 40-C “No person . . . shall be subjected to discrimination in his or her civil rights, or to any harassment, as defined in section 240.25 of the penal law, in the exercise thereof, by any . . . institution, or by the state or any agency or subdivision thereof.”
- 224. Under Executive Law section 292[19] discrimination is defined to include “segregation and separation.”
- 225. Under Executive Law section 292[21][c] the term disability includes a condition regarded by others as a “physical, mental, or medical” impairment.

226. Every person in New York State has a right to full and equal privileges in places of public accommodation, resort, or amusement pursuant to Civil Rights Law section 40.
227. Primary and secondary schools are places of public accommodation, resort, or amusement *id.*
228. Every person in New York State has the equal right to obtain an education free from discrimination under Executive Law section 291.

Count 1: September 2021.

229. Defendant Administrators recklessly enforced and permitted a policy encouraging or permitting Mr. Burke to discriminate against G.P. through means of segregation; violating Civil Rights Law § 40-C.
230. Administrators had no legal basis to require G.P. wear a mask to attend class.
231. Administrators instructed staff to enforce masking.
232. G.P. could not medically tolerate a mask.
233. Defendant Burke had no lawful basis to restrain G.P. from class.
234. Defendant Burke had no lawful basis to discriminate against G.P. by segregating her from the rest of the school.
235. But he did so anyway.
236. Named Defendants deprived G.P. of her right to an education.
237. Named Defendants violated Civil Rights Law § 40-C by segregating G.P.
238. Alternatively, said Defendants discriminated against G.P. for asserting her civil right to obtain an education without forced face coverings; that were intended to prevent the spread of a disease G.P. was not diagnosed with.
239. In the second alternative, named Defendants discriminated against G.P. based on socioeconomic status and class.
240. G.P. was never diagnosed with a disease nor showed signs of being sick with an infectious disease.

Count 2: January 28, 2022.

241. Defendant Administrators recklessly enforced and permitted a policy encouraging or permitting Mr. Burke to discriminate against G.P. through means of segregation; violating Civil Rights Law § 40-C.
242. Mr. Burke segregated G.P. thereby violating Civil Rights Law § 40-C.
243. Alternatively, named Defendants discriminated against G.P. based on disability as far as they regarded G.P. had a medical impairment.
244. In the second alternative, named Defendants discriminated against G.P. based on socioeconomic status and class.
245. G.P. was never diagnosed with a disease nor showed signs of being sick with an infectious disease.

Count 3: February 8, 2022.

246. Defendant Administrators recklessly enforced and permitted a policy encouraging or permitting Mr. Burke to discriminate against G.P. through means of segregation; violating Civil Rights Law § 40-C.
247. Mr. Burke segregated G.P. thereby violating Civil Rights Law § 40-C.
248. Alternatively, named Defendants discriminated against G.P. based on disability as far as they regarded G.P. had a medical impairment.
249. In the second alternative, named Defendants discriminated against G.P. based on socioeconomic status and class.
250. G.P. was never diagnosed with a disease nor showed signs of being sick with an infectious disease.

AS AND FOR A SECOND CAUSE OF ACTION

-Against Defendants RCSD, Dr. Tornatore, BOE, and Dr. Hudson-
As to M.P. [6 Counts]

Violation of Civil rights Law §40

251. Plaintiffs repeat and re-allege every allegation above as though fully set forth herein.

Count 1: January 25, 2022.

252. Administrators had no legal basis to require M.P. wear a mask to attend class.
253. Administrators instructed staff to enforce masking.
254. Defendant Hudson had no lawful basis to restrain M.P. from class.

255. Defendant Hudson had no lawful basis to discriminate against M.P. by segregating her from the rest of the school.
256. But they did so anyway.
257. Named Defendants deprived M.P. of her right to an education.
258. Named Defendants violated Civil Rights Law § 40-C by segregating M.P.
259. Alternatively, said Defendants discriminated against M.P. for asserting her civil right to obtain an education without forced face coverings.
260. In the second alternative, Defendants discriminated against M.P. based on disability as far as they regarded M.P. had a medical impairment.
261. In the third alternative, named Defendants discriminated against M.P. based on socioeconomic status and class.
262. M.P. was not diagnosed with a disease nor showed signs of being sick with an infectious disease.

Count 2: January 26, 2022.

263. Defendant Administrators recklessly enforced and permitted a policy encouraging or permitting Dr. Hudson to discriminate against M.P. through means of segregation; violating Civil Rights Law § 40-C.
264. Dr. Hudson segregated M.P. thereby violating Civil Rights Law § 40-C.
265. Alternatively, Defendants discriminated against M.P. based on disability as far as they regarded M.P. had a medical impairment.
266. In the second alternative, named Defendants discriminated against M.P. based on socioeconomic status and class.
267. M.P. was not diagnosed with a disease nor showed signs of being sick with an infectious disease.

Count 3: January 27, 2022.

268. Defendant Administrators recklessly enforced and permitted a policy encouraging or permitting Dr. Hudson to discriminate against M.P. through means of segregation; violating Civil Rights Law § 40-C.
269. Dr. Hudson segregated M.P. thereby violating Civil Rights Law § 40-C.
270. Alternatively, Defendants discriminated against M.P. based on disability as far as they regarded M.P. had a medical impairment.

271. In the second alternative, named Defendants discriminated against M.P. based on socioeconomic status and class.

272. M.P. was not diagnosed with a disease nor showed signs of being sick with an infectious disease.

Count 4: January 28, 2022.

273. Defendant Administrators recklessly enforced and permitted a policy encouraging or permitting Dr. Hudson to discriminate against M.P. through means of segregation; violating Civil Rights Law § 40-C.

274. Dr. Hudson segregated M.P. thereby violating Civil Rights Law § 40-C.

275. Alternatively, Defendants discriminated against M.P. based on disability as far as they regarded M.P. had a medical impairment.

276. In the second alternative, named Defendants discriminated against M.P. based on socioeconomic status and class.

277. M.P. was not diagnosed with or showed signs of being sick with an infectious disease.

Count 5: February 7, 2022.

278. Defendant Administrators recklessly enforced and permitted a policy encouraging or permitting Dr. Hudson to discriminate against M.P. through means of segregation; violating Civil Rights Law § 40-C.

279. Dr. Hudson segregated M.P. thereby violating Civil Rights Law § 40-C.

280. Alternatively, Defendants discriminated against M.P. based on disability as far as they regarded M.P. had a medical impairment.

281. M.P. was not diagnosed with a disease nor showed signs of being sick with an infectious disease.

Count 6: February 9, 2022.

282. Defendant Administrators recklessly enforced and permitted a policy encouraging or permitting Dr. Hudson to discriminate against M.P. through means of segregation; violating Civil Rights Law § 40-C.

283. Dr. Hudson segregated M.P. thereby violating Civil Rights Law § 40-C.

284. Alternatively, Defendants discriminated against M.P. based on disability as far as they regarded M.P. had a medical impairment.

285. M.P. was not diagnosed with a disease nor showed signs of being sick with an infectious disease.

AS AND FOR A THIRD CAUSE OF ACTION

-Against Defendants RCSD, Dr. Tornatore, BOE, and Dr. Hudson-
As to C.T. [5 Counts]

Violation of Civil rights Law §40

286. Plaintiffs repeat and re-allege every allegation above as though fully set forth herein.

Count 1: January 25, 2022.

287. Defendant Administrators recklessly enforced and permitted a policy encouraging or permitting Dr. Hudson to discriminate against C.T. through means of segregation; violating Civil Rights Law § 40-C.

288. Administrators had no legal basis to require C.T. wear a mask to attend class.

289. Administrators instructed staff to enforce masking.

290. Defendant Hudson had no lawful basis to restrain C.T. from class.

291. Defendant Hudson had no lawful basis to discriminate against C.T. by segregating her from the rest of the school.

292. Named Defendants deprived C.T. of her right to an education.

293. Named Defendants violated Civil Rights Law § 40-C by segregating C.T.

294. Alternatively, said Defendants discriminated against C.T. for asserting her civil right to obtain an education without forced face coverings.

295. In the second alternative, named Defendants discriminated against C.T. based on socioeconomic status and class.

296. C.T. was not diagnosed with a disease nor showed signs of being sick with an infectious disease.

Count 2: January 26, 2022.

297. Defendant Administrators recklessly enforced and permitted a policy encouraging or permitting Dr. Hudson to discriminate against C.T. through means of segregation; violating Civil Rights Law § 40-C.

298. Administrators had no legal basis to require C.T. wear a mask to attend class.

299. Administrators instructed staff to enforce masking.

300. Defendant Hudson had no lawful basis to restrain C.T. from class.
301. Defendant Hudson had no lawful basis to discriminate against C.T. by segregating her from the rest of the school.
302. Named Defendants deprived C.T. of her right to an education.
303. Named Defendants violated Civil Rights Law § 40-C by segregating C.T.
304. Dr. Hudson segregated C.T. thereby violating Civil Rights Law § 40-C.
305. Alternatively, Defendants discriminated against C.T.. based on disability as far as they regarded C.T. had a medical impairment.
306. In the second alternative, named Defendants discriminated against C.T. based on socioeconomic status and class.
307. C.T. was not diagnosed with a disease nor showed signs of being sick with an infectious disease.

Count 3: January 27, 2022.

308. Defendant Administrators recklessly enforced and permitted a policy encouraging or permitting Dr. Hudson to discriminate against C.T. through means of segregation; violating Civil Rights Law § 40-C.
309. Administrators had no legal basis to require C.T. wear a mask to attend class.
310. Administrators instructed staff to enforce masking.
311. Defendant Hudson had no lawful basis to restrain C.T. from class.
312. Defendant Hudson had no lawful basis to discriminate against C.T. by segregating her from the rest of the school.
313. Named Defendants deprived C.T. of her right to an education.
314. Named Defendants violated Civil Rights Law § 40-C by segregating C.T.
315. Dr. Hudson segregated C.T. thereby violating Civil Rights Law § 40-C.
316. Alternatively, Defendants discriminated against C.T.. based on disability as far as they regarded C.T. had a medical impairment.
317. In the second alternative, named Defendants discriminated against C.T. based on socioeconomic status and class.
318. C.T. was not diagnosed with a disease nor showed signs of being sick with an infectious disease.

Count 4: February 7, 2022.

319. Defendant Administrators recklessly enforced and permitted a policy encouraging or permitting Dr. Hudson to discriminate against C.T. through means of segregation; violating Civil Rights Law § 40-C.
320. Administrators had no legal basis to require C.T. wear a mask to attend class.
321. Administrators instructed staff to enforce masking.
322. Defendant Hudson had no lawful basis to restrain C.T. from class.
323. Defendant Hudson had no lawful basis to discriminate against C.T. by segregating her from the rest of the school.
324. Named Defendants deprived C.T. of her right to an education.
325. Named Defendants violated Civil Rights Law § 40-C by segregating C.T.
326. Dr. Hudson segregated C.T. thereby violating Civil Rights Law § 40-C.
327. Alternatively, Defendants discriminated against C.T.. based on disability as far as they regarded C.T. had a medical impairment.
328. In the second alternative, named Defendants discriminated against C.T. based on socioeconomic status and class.
329. C.T. was not diagnosed with a disease nor showed signs of being sick with an infectious disease.

Count 5: February 9, 2022.

330. Defendant Administrators recklessly enforced and permitted a policy encouraging or permitting Dr. Hudson to discriminate against C.T. through means of segregation; violating Civil Rights Law § 40-C.
331. Administrators had no legal basis to require C.T. wear a mask to attend class.
332. Administrators instructed staff to enforce masking.
333. Defendant Hudson had no lawful basis to restrain C.T. from class.
334. Defendant Hudson had no lawful basis to discriminate against C.T. by segregating her from the rest of the school.
335. Named Defendants deprived C.T. of her right to an education.
336. Named Defendants violated Civil Rights Law § 40-C by segregating C.T.

337. Dr. Hudson segregated C.T. thereby violating Civil Rights Law § 40-C.
338. Alternatively, Defendants discriminated against C.T.. based on disability as far as they regarded C.T. had a medical impairment.
339. In the second alternative, named Defendants discriminated against C.T. based on socioeconomic status and class.
340. C.T. was not diagnosed with a disease nor showed signs of being sick with an infectious disease.

AS AND FOR A FOURTH CAUSE OF ACTION

-Against Patrick Burke-

As to G.P.

Unlawful Imprisonment [3 counts]

341. Plaintiffs repeat and re-allege every allegation above as though fully set forth herein.
342. Unlawful or false imprisonment requires a showing that (1) the defendant intended to confine the plaintiff, (2) the plaintiff was aware of the confinement, (3) the plaintiff did not consent to the confinement, and (4) the confinement was not privileged. Ali Saleh Moshad Ali v City of New York, 122 AD3d 888 [2d Dept 2014]
343. On three separate occasions, as set forth above, Defendant Burke confined G.P. in a room all day, G.P. was aware that she was being confined, G.P. did not consent to being confined, and the confinement was not privileged.

AS AND FOR A FIFTH CAUSE OF ACTION

-Against Dr. Hudson-

As to M.P.

Unlawful Imprisonment [6 counts]

344. Plaintiffs repeat and re-allege every allegation above as though fully set forth herein.
345. On six separate occasions, as set forth above, Defendant Hudson confined M.P. in a room all day, M.P. was aware that she was being confined, M.P. did not consent to being confined, and the confinement was not privileged.

AS AND FOR A SIXTH CAUSE OF ACTION

-Against Dr. Hudson-

As to C.T.

Unlawful Imprisonment [5 counts]

346. Plaintiffs repeat and re-allege every allegation above as though fully set forth herein.

347. On five different occasions, as set forth above, Defendant Hudson confined C.T. in a room all day, C.T. was aware that she was being confined, C.T. did not consent to being confined, and the confinement was not privileged.

AS AND FOR A SEVENTH CAUSE OF ACTION

-Against all Defendants-

As to all Plaintiffs

Negligent Infliction Of Emotional Distress

348. Plaintiffs repeat and re-allege every allegation above as though fully set forth herein.

349. Negligent infliction of emotion distress occurs where the defendant owes the plaintiff a duty of care; (2) breaches that duty of care; (3) the breach unreasonably endangered Plaintiffs physical safety; or caused the plaintiff to fear for her physical safety. Sacino v Warwick Val. Cent. School Dist., 138 AD3d 717, 719 [2d Dept 2016].

350. Defendants owed Plaintiffs a duty of care “from effectively taking the place of parents and guardians and is [equal] with and [concurrent] to its physical custody and control over the child.” Vernali v Harrison Cent. School Dist., 51 AD3d 782, 783 [2d Dept 2008]. That is, the defendants have a duty to act *in loco parentis*.

351. Defendants must exercise the same degree of care that a reasonably prudent parent would exercise under similar circumstances.

352. The defendants breached their duty of care by forcing Plaintiffs to wear masks when they could not medically tolerate them.

353. Defendants breached their duty of care by punishing minor Children for trying to prevent harm to themselves.

354. Alternatively, Administrators breached their duty of care by failing to administer an age-appropriate masking policy and by allowing RCSD employees to act in a manner inconsistent with Children's wellbeing.

355. The breach unreasonably endangered Children's physical safety or caused them to fear for their own physical safety.

AS AND FOR AN EIGHTH CAUSE OF ACTION

-Against all Defendants-

As to all Plaintiffs

Intentional Infliction of Emotional Distress

356. Plaintiffs repeat and re-allege every allegation above as though fully set forth herein.

357. The elements of intentional infliction of emotional distress are "(1) extreme and outrageous conduct; (2) intent to cause, or disregard of a substantial probability of causing, severe emotional distress; (3) a causal connection between the conduct and injury; and (4) severe emotional distress." Capellupo v Nassau Health Care Corp., 97 AD3d 619, 623 [2d Dept 2012].

358. Defendants' conduct was nothing short of extreme and outrageous.

359. School attendance is compulsory.

360. Children were not diagnosed with COVID-19 nor exhibited symptoms of a communicable disease.

361. Masks harmed Children. They could not medically tolerate them.

362. And the masks did not even prevent transmission of the SARS-CoV-2 virus.

363. The masks had holes and gaps. They were not intended for children and did not properly fit around Children's face.

364. Children were able to socially distance.

365. Defendants stripped G.P. and M.P. of their reasonable accommodations without any explanation or supporting policy.

366. If masking did not obstruct Children's breathing then mask breaks would not be necessary.

367. On balance, masks significantly harmed Children while providing little, to no protection for anyone else.

368. Defendants nevertheless required Children to wear masks to attend school. As such, Defendants caused Children to experience severe, negative, harmful consequences.
369. Even worse, the defendants' severely punished Children for things they rely upon to survive—like breathing. Defendants treated the Children like they were less than human beings.
370. Defendants deprived Children of the right to food, to use the bathroom, an education, and social interactions.
371. Defendants did not allow Children to engage in activities—such as lunch—although other students did not wear masks to eat lunch.
372. Defendants' punished, humiliated, and bullied healthy Children for trying to breathe. For trying to see. For trying to prevent a rash.
373. Defendants' conduct exemplifies the very essence of extreme and outrageous. It goes beyond all bounds of decency and is utterly intolerable in a civilized society.
374. Defendant Administrators, Burke, and Dr. Hudson disregarded a substantial probability of causing severe emotional distress.
375. Defendant McKay intended to cause severe emotional distress.
376. On or about, and in between January 25, 2022, and February 9, 2022, Defendant McKay told C.T. and M.P. that they were, in sum and substance, “diseased and that he did not want to catch their diseases. That they were killing people and were bad children for not wearing the masks.” He further called them selfish and dangerous to others.
377. In addition, Mr. McKay refused to allow them to eat in his classroom.
378. Defendant McKay's conduct was extreme and outrageous. It was also intended to cause severe emotional distress. The import of his words, spoken to two girls in middle school—from an alleged educator—are self-evident.
379. Defendants conduct proximately caused Children to suffer severe emotional distress.
380. Children for example were caused to suffer anxiety, depression, confusion, panic, humiliation, fear, lowering in self-esteem, and sadness.

AS AND FOR A NINTH CAUSE OF ACTION

-Against Defendants Burke, Dr. Hudson, and Mr. McKay-

As to all Plaintiffs

Tort: Endangering the Welfare of a Child

381. Plaintiffs repeat and re-allege every allegation above as though fully set forth herein.
382. Pursuant to Penal Law section 260.10[1] a person commits endangering the welfare of a child when he or she “knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a child less than seventeen years old . . .”
383. Children are less than seventeen years old.
384. PL §260.10 [1] was enacted to protect children under seventeen as opposed to the general population as a whole.
385. Dr. Tornatore and BOE knowingly enforced a policy and/or knowingly permitted District wide customs that were likely to be injurious to Children’s physical, mental or moral welfare.
386. Mr. Burke knowingly made G.P. wear a mask even though it was likely to be injurious to her physical welfare.
387. Mr. Burke knowingly punished G.P. in a manner and under circumstances that were likely to be injurious to G.P.’s mental welfare.
388. Dr. Hudson knowingly forced M.P. and C.T. to wear a mask although doing so was likely to be injurious to their physical welfare.
389. Dr. Hudson knowingly punished C.T. and M.P. in a manner that was likely to be injurious to their mental welfare.
390. Defendant McKay knowingly treated C.T. and M.P. like diseased animals which was likely to be injurious to their mental welfare.

RELIEF SOUGHT

WHEREFORE Plaintiffs demand judgment against the defendants for the following:

1. The maximum amount of five hundred dollars, as authorized by Civil Rights Law section 40-D, for each and every violation of discrimination under the Civil Rights Law.

2. G.P. seeks two thousand dollars for the four acts of discrimination under the Civil Rights Law.
3. M.P. seeks three thousand dollars for the six acts of discrimination under the Civil Rights Law.
4. C.T. seeks two thousand five-hundred dollars for the five acts of discrimination under the Civil Rights Law.
5. As for the remaining causes of action, Plaintiffs seek judgment for an amount that exceeds the monetary limits of any lower court which would otherwise have jurisdiction.
6. Punitive damages in an amount appropriate as retribution for Defendant's outrageous and egregious conduct as well as to serve as an example to prevent school districts from harming students under the guise of furthering the public good.
7. Attorney's fees and all costs.
8. Such other and further relief as this Court deems just and proper.

Dated: November 30, 2022
Uniondale, New York

Respectfully Submitted,



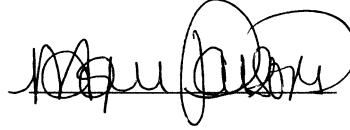
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VERIFICATION

STATE OF NEW YORK }
COUNTY OF NASSAU } ss.:

I am a Plaintiff in the action herein. I have read the annexed SUMMONS & COMPLAINT and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters, I believe them to be true.

Dated: November, 30, 2022
Uniondale, New York



Sworn to before me this
30 day of November, 2018 ~~2018~~ 2022


Notary Public

CHAD J. LAVEGLIA
Notary Public, State of New York
Reg. No. 02LA6384664
Qualified in Nassau County
Commission Expires December 17, 2022

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

MONIQUE PARSONS as p/n/g of M.P and GP.,
JENNIFER VENTH as p/n/g of C.T

Plaintiffs,

-against-

RIVERHEAD CENTRAL SCHOOL DISTRICT,
RIVERHEAD CENTRAL SCHOOL DISTRICT
BOARD OF EDUCATION,
DR. AUGUSTINE TORNATORE, PATRICK BURKE,
DR. STEPHEN HUDSON, GLENN MCKAY

Defendants.

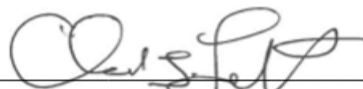
VERIFIED COMPLAINT

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CERTIFICATION PURSUANT TO 22 N.Y.C.R.R. § 130-1.1a

Chad J. LaVeglia Esq., hereby certifies that, pursuant to 22 N.Y.C.R.R. § 130-1.1a, the foregoing **Complaint** is not frivolous, nor frivolously presented.

Dated: Hauppauge, New York
November 30, 2022


Chad J. LaVeglia.

LAW OFFICE OF CHAD J. LA VEGLIA PLLC

EXHIBITS:

A. Court Decision and Order