

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
11-CVS- 9174

JANE DOE,)
)
 Plaintiff,)
)
 v.)
)
 THE CHARLOTTE-MECKLENBURG)
 BOARD OF EDUCATION and RICHARD)
 PRIODE, individually and as an employee of)
 the Charlotte-Mecklenburg Board of)
 Education,)
)
 Defendants.)

**COMPLAINT
(JURY TRIAL DEMANDED)**

Plaintiff Jane Doe ("Doe" or "Plaintiff"), used as a pseudonym for her legal name, complains of the Defendants, alleges and says as follows:

VENUE, JURISDICTION AND PARTIES

1. Plaintiff Doe, is a citizen and resident of Mecklenburg County, North Carolina, whose legal name is known to the Defendants because she was formerly a student at South Mecklenburg High School. Her identity was shared with the Defendant Board prior to this suit being instituted.

2. Defendant The Charlotte-Mecklenburg Board of Education ("Board"), is a body corporate whose members are residents of Mecklenburg County and who are elected by the citizens of Mecklenburg County.

3. Defendant Richard Priode ("Priode") is, upon information and belief, a resident of Mecklenburg County, North Carolina, who was previously hired by and supervised by the Board and its agents or employees. Doe's identity is known to Priode, since he has pled guilty in Mecklenburg County Criminal Superior Court on October 28, 2009 to having taken indecent liberties with her.

4. The court has jurisdiction over the subject matter of this action and over all parties to this action.

5. The appropriate venue for this action is Mecklenburg County, North Carolina.

FACTUAL ALLEGATIONS

6. Pursuant to N.C.G.S. § 115C-40, the Board has general control and supervision of all matters pertaining to the public schools of Mecklenburg County, including the authority to prosecute or defend suits for or against the Board.

7. Among the other powers and duties set out in N.C.G.S. § 115C, the Board has ultimate control and the ability to delegate control over the hiring and firing of school personnel, the supervision and discipline of school personnel, and the adoption of rules concerning the conduct and duties of personnel.

8. Upon information and belief the Board has waived the defense of sovereign immunity either by the purchase of liability insurance or alternatively by participation in a plan of self insurance or pooled insurance.

9. Upon information and belief, the Board participates in the North Carolina School Board's Trust, which either purchases insurance coverage for its members directly or indirectly, or alternatively by pooling resources provides the functional equivalent of insurance coverage.

10. Upon information and belief, the Defendant Priode was hired by the Board or its agents as a teacher sometime prior to the beginning of the 2006-2007 school year.

11. Upon information and belief, Priode had a history of inappropriate behavior with students at some of his prior schools that should have been known to the Board, had a proper background check been conducted.

12. Upon information and belief, at the time of his employment by the Board, Priode was married to one of his prior high school students, notwithstanding a significant age difference between them,

13. Prior to that time, Priode had taught at several other North Carolina schools, including Laney High School in New Hanover County and Scotland High School in the Scotland County school system, as well as Central High School in Darlington, SC and high schools in both Richlands and Radford, Virginia.

14. Priode was hired to be the band director and teacher for South Mecklenburg High School in Charlotte, North Carolina.

15. Doe was a student at South Mecklenburg High School, who began her junior year in the summer of 2006. Doe was a member of the band and was a student of Priode for two years beginning in August of 2006.

16. In the spring of 2007, Priode began making sexual innuendos to Doe in an attempt to eventually have her engage in sexual relationships with him, her teacher.

17. Eventually, at a time when she was sixteen years old, Doe was persuaded by Priode to engage in oral sex with him.

18. The sexual encounters took place at South Mecklenburg High School, in Priode's office or in the music library/band room.

19. Beginning in the spring of 2007 and continuing through her senior year, Doe and Priode had frequent oral sex. At the same time, Priode was relentlessly urging her to have vaginal intercourse with him. Priode knew that Doe was a virgin, and he made a point of this in his overtures toward plaintiff.

20. Their sexual encounters at school often caused Doe to be late to her next period class. Their sexual encounters also occurred in some instances after school hours.

21. In April of 2008 during her senior year, at a time she was seventeen years old, Priode finally managed to take Doe's virginity while on a school sponsored band trip.

22. While other students doubled up in their motel rooms, Priode insisted on Doe having her own individual room, and it was on this trip that he had vaginal intercourse with her.

23. In addition to his sexual relationship with Doe, on a number of occasions Priode made sexual remarks and innuendos to Doe and others regarding other female students.

24. Before and during the time Priode conducted his sexual relationship with Doe, an adult working with the color guard became concerned about Priode and his sexual innuendos and remarks.

25. Upon information and belief, Ms. conveyed her concerns to the principal of South Mecklenburg High School, Dr. Furr.

26. Ms. was advised by Dr. Furr that she was not an employee of the school and that she should refrain from funneling complaints about Priode to Dr. Furr and that she, Dr. Furr, should receive the complaints directly as it was her job to deal with such matters.

27. Sometime thereafter, Ms. was fired from her position at South Mecklenburg High School.

28. In the summer of 2009, after a thorough investigation by the Charlotte-Mecklenburg Police Department, Priode was charged with the felony offense of indecent liberties with a student, he being more than four years older than the student.

29. When the first sexual encounter occurred between Priode and the Plaintiff, she was sixteen years of age and Priode was forty-two years old, over twenty-six years older than Plaintiff.

30. On October 28, 2009, Priode pled guilty to the felony offense of having had indecent liberties with Doe in violation of the North Carolina General Statutes.

31. Priode was given a suspended sentence, ordered to give a DNA sample, and ordered to undergo a sex offender evaluation and to comply with the recommendations of that evaluation during his twenty-four months on probation

FIRST CAUSE OF ACTION:
NEGLIGENT HIRING, SUPERVISION AND RETENTION
BY DEFENDANT BOARD

The Plaintiff incorporates herein Paragraphs 1 through 31 of the complaint as if fully set forth herein.

32. The Defendants owed a duty to the Plaintiff to provide her with an education in a safe environment, free from negligent and intentional harm.

33. The Board, through its agents and employees, was negligent in the following ways:

- a. In failing to fully investigate Priode and his background, and in particular his conduct at previous schools prior to his hiring and assignment to South Mecklenburg High School;
- b. In failing the Board's obligation to supervise Priode's conduct and contact with the Plaintiff, both at school and on school-sponsored trips;
- c. In failing to detect an ongoing inappropriate relationship between Priode and the Plaintiff that occurred with frequency over a period of over thirteen months;
- d. In ignoring frequent complaints regarding Priode, including complaints of his inappropriate sexual remarks and practices with other students;
- e. In failing to full investigate complaints of Priode's other inappropriate conduct;

f. In failing to take notice of the excessive amount of time that Priode spent with the Plaintiff and failing to investigate the circumstances surrounding this situation;

g. In failing to realize Priode's incompetency for his position based on his conduct and by failing to take appropriate actions in regard to his competency.;

h. In failing to use ordinary care in the oversight and supervision of Priode, resulting in the Board's failure to detect the long- term inappropriate relationship between Priode and the Plaintiff;

i. In failing to report Priode's conduct to the appropriate authorities as required by the North Carolina General Statutes;

j. In failing to document known instances of Priode's inappropriate behavior, or to investigate those instances and make appropriate inquiries that should have lead to revealing Priode's inappropriate relationship with the Plaintiff;

k. In failing to appropriately investigate or inquire into the Plaintiff's consistent tardiness to the classes immediately following her classes with Priode, during which periods of tardiness Priode was engaging in oral sex with the Plaintiff in the band room, the drum major's closet, Priode's office or in the music library/band room; and

l. In failing to follow-up on complaints made by Tracy Smith regarding various occasions in which Priode acted in a sexually inappropriate way towards some of his female students.

34. Upon information and belief, the Board was negligent in other ways as yet unknown to the Plaintiff, but which will become known during the litigation of this action.

35. As a direct and proximate result of the negligence of the Defendants as alleged in this complaint, the Plaintiff has sustained serious disabling injuries, emotional distress and

psychological and mental suffering, all having significantly altered the Plaintiff's life and career plans, and all having required and requiring in the future psychological and psychiatric care.

36. As a direct and proximate result of the negligence of the Defendants as alleged in this complaint, the Plaintiff has abandoned her love of playing an instrument in band and gave up the scholarship she received to play at the college level.

SECOND CAUSE OF ACTION:
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
BY DEFENDANTS

37. The Board negligently through its agents and employees inflicted severe emotional distress upon the Plaintiff because of Priode's conduct and Priode negligently and inflicted emotional distress upon the Plaintiff through his conduct as herein alleged.

38. The Board is further liable for Priode's conduct under the Doctrine of Respondeat Superior as Priode's conduct toward the Plaintiff as its agent and employee as previously alleged in this complaint, including but not limited to the significant period of "grooming" the Plaintiff so that she would forego her moral beliefs and engage in sexual conduct with him culminating in the loss of her virginity.

39. As a result of the Defendants' negligence as alleged herein, the Plaintiff has suffered damages in excess of Ten Thousand Dollars (\$10,000.00).

THIRD CAUSE OF ACTION:
VIOLATION OF NORTH CAROLINA CONSTITUTION
BY DEFENDANT BOARD

40. As a separate and distinct cause of action, Plaintiff sues the Defendants for violating her constitutional rights pursuant to North Carolina State Constitution in the following particulars:

a. Violation of Article I Section 15 on the grounds that the Defendant allowed the conduct as alleged in this complaint and that this conduct deprived the Plaintiff of her right to an education that is free from harm;

b. Violation of Article IX Section 1 in that the Plaintiff was denied educational opportunities free from physical harm or psychological abuse; and

c. Violation of Article I Section 19 in that the Plaintiff has been deprived of her liberty, interest and privilege in an education free from abuse or psychological harm as alleged in this complaint.

41. This constitutional claim for damages is pled as an alternative remedy, should the court find that sovereign immunity or governmental immunity in any way of its various forms exists and, if it does exist, in that event Plaintiff has no adequate remedy at law and asserts the constitutional violations pursuant to the laws of North Carolina.

PRAAYER FOR RELIEF

WHEREFORE, the Plaintiff prays for relief as follows:

1. That the Plaintiff have and recover from the Defendants, jointly and severally, an award in excess of Ten Thousand Dollars (\$10,000.00), sufficient to compensate her for her damages past, present and future.

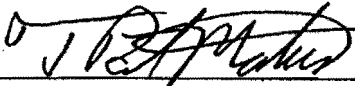
2. That the Plaintiff have and recover such costs, expenses and fees as may be allowable by law.

3. That the Plaintiff have and recover such other, further and different relief as to which she may be entitled by law.

4. That all matters of fact be resolved by trial by jury.

This the 13th day of MAY, 2011.

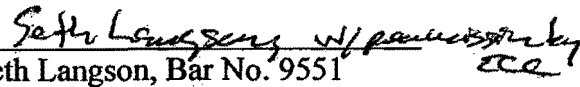
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