

THIRD JUDICIAL DISTRICT COURT
FOR THE PARISH OF LINCOLN
STATE OF LOUISIANA

NO. _____

DIVISION _____

MICHAEL AND NICOLE CONROY, INDIVIDUALLY
AND ON BEHALF OF THEIR MINOR SON, PAUL

VERSUS

CEDAR CREEK SCHOOL, ET AL.

FILED: _____

DEPUTY CLERK: _____

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT, Plaintiffs file the below Original
Petition and respectfully plead as follows:

1.

Plaintiffs

Plaintiffs are citizens of the State of Louisiana and are domiciled in Lincoln Parish,
Louisiana. Specifically, Plaintiffs are:

- a. Michael "Duffy" Conroy is the father of an unemancipated child, hereinafter
"Paul"¹ and is suing Defendants on his own behalf and on behalf of his minor child.
- b. Nicole "Nikki" Conroy is the mother of Paul and is suing Defendants on her own
behalf and on behalf of her minor child.

2.

Defendants

Defendants are citizens of the State of Louisiana and are domiciled in Lincoln Parish,
Louisiana. Specifically, Defendants are:

- a. Cedar Creek School ("Cedar Creek") is a Louisiana Non-Profit Corporation and Non-
Public School located at 2400 Cedar Creek Drive Ruston, Louisiana 71270 and can be served with
notice of this suit to its registered agent on file with the Louisiana Secretary of State, Robert G.
Dawkins who is located at 308 North Vienna Ruston, Louisiana 71270.
- b. Terry "Tuna" Lowery is a named Defendant in his own right and on behalf of his
unemancipated minor child Alex.²
- c. Lisa Barnett Lowery is a named Defendant in her own right and on behalf of her
minor unemancipated child Alex.

¹ Paul is a fictitious name. His legal name is filed with the court under seal.

² Alex is a fictitious name. His legal name is filed with the court under seal

Lincoln
Filed Sep 15, 2021 9:06 AM
Laura Barmore
Deputy Clerk of Court

C-61909
UNASSIGNED

E-File Received Sep 14, 2021 4:42 PM

d. Erik Austin Shepherd is a named Defendant in his own right and on behalf of his unemancipated minor child Bill.³

e. Margaret "Ellen" Baxter Shepherd is a named Defendant in her own right and on behalf of her unemancipated minor child Bill.

f. Sommar Elizabeth McKoin Hall is a named Defendant in her own right and on behalf of her minor unemancipated child Charlie.⁴

g. Jonah Merle Jones is a named Defendant in his own right and on behalf of his unemancipated minor child Charlie.

h. Robert Mitcham is a named Defendant in his own right and on behalf of his unemancipated minor child Derrick.⁵ Mr. Mitcham is also named as an employee and coach of Cedar Creek School.

i. Melissa Mitcham is a named Defendant in her own right and on behalf of her unemancipated minor child Derrick.

j. Frank Ernest Johnson III is a named Defendant in his own right and on behalf of his unemancipated minor child Edward.⁶

k. Erin Elizabeth Sheehan Johnson is a named Defendant in her own right and on behalf of her unemancipated minor child Edward.

l. Robert Charles "Chuck" Earle is a named Defendant in his own right and on behalf of his unemancipated minor child Frank.⁷

m. Mary Anne "Andy" Hill is a named Defendant in her own right and on behalf of her unemancipated minor child Frank. Mary Anne Hill is also named as an employee and agent of Cedar Creek School.

n. Lonnie Menzina is a named Defendant in his own right and on behalf of his unemancipated minor child George.⁸ Dr. Menzina is also named as a current or past Director on the Board of Directors for Cedar Creek School.

o. Jill Brown Menzina is a named Defendant in her own right and on behalf of her unemancipated minor child George.

p. Clay Kenner McConnell is a named Defendant in his own right and on behalf of his unemancipated minor child Harry.⁹

q. Leigh Baskin McConnell is a named Defendant in her own right and on behalf of her unemancipated minor child Harry.

³ Bill is a fictitious name. His legal name is filed with the court under seal.

⁴ Charlie is a fictitious name. His legal name is filed with the court under seal.

⁵ Derrick is a fictitious name. His legal name is filed with the court under seal.

⁶ Edward is a fictitious name. His legal name is filed with the court under seal.

⁷ Frank is a fictitious name. His legal name is filed with the court under seal.

⁸ George is a fictitious name. His legal name is filed with the court under seal.

⁹ Harold is a fictitious name. His legal name is filed with the court under seal.

- r. Andrew Yepson is a named Defendant as an employee and agent of Cedar Creek.
- s. Zach Johnston is a named Defendant as an employee and agent of Cedar Creek.
- t. Jace Moss is a named Defendant as an employee and agent of Cedar Creek.
- u. Tyler Mann is a named Defendant as an employee and agent of Cedar Creek.
- v. Great American Insurance Group is a named Defendant as the insurance carrier for Cedar Creek School.
- w. Guide One Insurance is a named Defendant as the insurance carrier for Cedar Creek School.
- x. XYZ Insurance Company, is an unknown insurance carrier of any above Defendants.

3.

Facts

Paul is a former student at Defendant Cedar Creek School in Ruston, Louisiana. Paul attended Cedar Creek with his three of his siblings and is the oldest of the Conroy children. Originally from out of state, the Conroy family enrolled their children at Cedar Creek where they have attended for over six years.

4.

Alex, Bill, Charlie, Derrick, Edward, Frank, George, and Harold are unemancipated minors and Cedar Creek School students whose parents are named Defendants in this matter and are collectively referred to as "Minors." Terry "Tuna" Lowery, Lisa Barnett Lowery, Erik Sheppard, Erin Baxter Sheppard, Sommar Elizabeth McKoin Hall, Jonah Merle Jones, Robert Mitcham, Melissa Mitcham, Frank Johnson, Erin Johnson, Robert Charles "Chuck" Earle, Mary Ann Hill, Lonnie Menzina, Jill Brown Menzina, Jay Robbins, and Leigh McConnell ("Parent Defendants") are individual Defendants as the parents of the Minors.

5.

Defendant Cedar Creek School is a private, independent Louisiana school that is accredited and approved by Louisiana Board of Elementary and Secondary Education. Cedar Creek School enrolls approximately seven-hundred students in grades pre-kindergarten through seventh grade.¹⁰ Cedar Creek is accredited by the Southern Association of Independent Schools ("SAIS") and also holds membership in SAIS, the Louisiana High School Athletic Association ("LHSAA"), and Independent School Management ("ISM"). Cedar Creek School represents that it is accredited by the Southern Association of Colleges & Schools ("SACS.")¹¹

6.

¹⁰ See National Council of Educational Statistics, Private School Universe Survey 2017-2018. https://nces.ed.gov/surveys/pss/privateschoolsearch/school_detail.asp?ID=00540636

¹¹ However, a search of the SACS database did not return Cedar Creek School as an accredited institution. See <http://www.sacs.org/> and <http://www.advanc-ed.org/oasis2/upar/search>.

Cedar Creek School prides itself on providing superior educational experience and a “tradition of excellence [that] extends to emphasizing teamwork, sportsmanship and leadership.”¹² The School’s Handbook states, “Every student is expected to adhere to a high standard of personal and ethical conduct and to act with respect both to his or her fellow students...The Cedar Creek motto Super Omnia [The Best of All] extends to all aspects of a Cedar Creel School student’s life...and personal behavior. It is the bedrock tradition of the Cedar Creek School.”¹³ Unfortunately, this was not the Cedar Creek School that Paul experienced.

7.

“Paul Hell Day”

“Paul Hell Day” took place on Thursday, May 13, 2021. “Paul Hell Day” was the term created by Paul’s classmates and they used it to designate the dreadful day they had planned for Paul. The evening before “Paul Hell Day,” Paul’s classmates communicated online. Amongst other things, they wrote, “Tomorrow is [Paul] Hell Day make sure to bully him at least once.”

8.

Paul was a freshman who attended Cedar Creek School with his three younger siblings. During the week just prior to the 2021 Summer Break, Paul’s final exams were ending. Unbeknownst to Paul, May 13, 2021 had been predetermined by his peers to be “Paul Hell Day,” a day where months of bullying, pain and suffering would culminate.

9.

Like most school days, Paul was dropped off with his siblings at approximately 7:45 in the morning in front of Cedar Creek by his mother, Nikki Conroy. Paul’s first class of the day was Spanish. Paul’s Spanish instructor, Mr. Zach Johnston, was late for school and the classroom remained locked. As Paul unsuspectingly approached the classroom, a group of boys gave chase. Paul was fearful even though he was not privy to the fact that it was “Paul Hell Day.” He fled and hid in the restroom for approximately five minutes. When Paul exited, another student named Harry again chased him. Paul retreated into the bathroom for a second time. After a few more minutes, Paul tried to exit. Paul’s fellow students continued chasing and threatening him as he fled in terror around the school building. Paul, who was desperate to get away, attempted to enter his Spanish classroom through an outside window. When Harry caught up to Paul, he put Paul in a headlock and dragged him into the school building. Harry’s grip loosened briefly while Paul struggled. Another student named Alex assisted Harry in successfully placing Paul in a headlock. Kim Brasher, a teacher, finally walked onto “Paul Hell Day” where the incidents above were unfolding. All of the students fled except for Paul.

10.

¹² See <https://www.cedarcreekschool.org/>

¹³ See Cedar Creek School Student Handbook 2020-2021, p. 3

Acts Prior to "Paul Hell Day"

"Paul Hell Day" was neither an isolated nor a spontaneous incident. Rather, it was the final incident in weekly, if not daily occurrences of bullying, verbal insults, physical assaults, and sexual battery on Paul that had started almost eight months prior. Like most days, Paul's Spanish instructor, Mr. Zach Johnston, was late for school. And like most days, Mr. Johnston's students were left to their own devices while they should have been receiving instruction in Spanish. Unbeknownst to Paul's parents, the most serious abuse began in September of 2020. Around that time, Paul had arrived at school and was walking into his Spanish class. Two boys, later identified as Alex and Charlie, grabbed Paul without warning. Alex incapacitated Paul and pinned him down so he couldn't move while Charlie penetrated Paul's anal cavity with an Eiffel Tower statue. When Alex and Charlie finally stopped, Paul was frozen with fear. He remained in the classroom while all of the other students laughed at him.

11.

Alex substantially outweighs Paul and is described as an adolescent weighing more than 240 pounds. Paul is much smaller in build and weighs only about 140 pounds. Like the sexual battery described above, Alex and Charlie committed similar acts *almost weekly* throughout the Fall of 2020 and the Spring of 2021. These sexual batteries continued through March of 2021. Each time, Alex held Paul while Charlie forced the statue to penetrate his rectum. Nevertheless, Paul continued to attend school each week knowing that without fail and without warning, Alex and Charlie would grab him, embarrass him, and hurt him. Incredulously, and without school intervention, the assaults and batteries on Paul increased in frequency in the weeks immediately preceding the Christmas holiday break and continued through the Spring of 2021.

12.

Just before Christmas break, a group of boys tortured Paul in the same hallway where the "Paul Hell Day" episode would occur months later. During this particular incident, a group of boys too large to count, held Paul down and forced the Eifel Tower statue into his rectum. This group of boys included Alex, Bill, Charlie, and others. A second group of students watched the events unfold and laughed at Paul. Paul has since described these incidents as painful and frightening, and his feelings during these incidents as scared, sad, and alone.

13.

Two students, Edward and Frank, used a mobile device to film the events surrounding one incident of assault and battery on Paul. Approximately one month later, Edward and Frank gave a presentation to the French class. They used photos and/or video of Paul's battery in their Power Point presentation, the premise of which was "A Day in the Life of a Cedar Creek Student." During

the presentation, photos depicting Paul being sexually assaulted and battered were displayed and viewed by the entire class and by the French teacher, Stephanie Viator.¹⁴

14.

During the 2020-2021 holiday break, Paul thought the worst had passed. However, when he returned to school in January, he suffered the same abuse. On the first day of class in 2021, Alex, Bill and Charlie accosted Paul and repeated what had happened so often before — they held Paul down and forced a statue into his rectum.

15.

Throughout the school year, Paul suffered multiple sexual batteries that occurred in different areas of the school and with different objects. On many occasions during recess, Charlie would grab Paul and shove a water bottle into Paul's rectum. During another incident, Charlie threatened to rape Paul with a broom stick. On one occasion in March, after Paul had been attacked, he remained in the restroom for some time. Even though Paul was late for class and visibly upset, his instructor failed to enquire about his whereabouts, condition, or even tardiness.

16.

In total, Paul suffered at school in this manner in excess of twenty-five times over the 2020-2021 scholastic year. Each act of sexual battery (anal penetration) is reported to have lasted between ten to fifteen seconds. During several of these batteries, other Cedar Creek students stood by and watched or laughed while Paul suffered humiliation and abuse. These recurrent instances added to the shame, embarrassment, and humiliation endured by Paul over the school year at Cedar Creek.

17.

During 2020, the World experienced the coronavirus outbreak also known as ("COVID-19"). In the Spring of 2020, communities throughout the United States implemented several measures to slow viral spread. These measures have altered the way all citizens work, play and live. Even school children experienced temporary and permanent changes to their daily routine. Prior to COVID-19, the students at Cedar Creek School generally gathered in the early morning hours in the gym of the school. As teachers arrived, the children would be directed to their classrooms. In the Fall of 2020 and Spring of 2021, Cedar Creek altered its procedures so that students in grades six through twelve were asked to bypass the gym and proceed directly to their respective classrooms to begin instruction.

18.

Most of the sexual batteries against Paul occurred at Cedar Creek during the morning hours after class was scheduled to begin. This was made possible by of the lack of teacher supervision.

¹⁴ In the State of Louisiana, it is unlawful for a person to possess and distribute pornography involving juveniles. L. R.S. § 14:81.1 (2021).

Paul generally arrived on time each day for his Spanish class, which began at 8:00 a.m. The Cedar Creek Student Handbook provides that students who do not arrive by 7:58 a.m. are tardy.¹⁵ Instructors for Cedar Creek generally arrive at the school for 7:30 a.m. However, the Spanish instructor, Zach Johnston, routinely arrived late. Many times, Mr. Johnston did not begin instruction until 20 to 30 minutes past the scheduled start of school. Students, whose parents thought they were in a supervised setting during this time, were instead left unsupervised, able to assault and batter Paul at their will on a regular basis.

19.

In addition to the sexual battery he suffered, Paul routinely experienced other physical and verbal bullying at school. For example, in September 2020, Paul was eating his lunch in the Cedar Creek courtyard. Without any warning or provocation, Charlie threw an ice cube at Paul hitting his ear. It struck Paul's ear so forcefully that he immediately heard ringing, which continued throughout the day. Charlie only walked away and laughed at Paul.

20.

Paul participated in athletics at Cedar Creek School. Part of that participation included traveling to games via group bus transport. During travel, another student, George would routinely verbally insult Paul and encourage him to commit suicide. Specifically, George would say, "You are ugly as shit..."; "Nobody wants you here, you should just kill yourself..."; and "You're a waste of sperm..." among other egregious comments. Many times, George would finish his verbal assaults with a stare down of Paul. Plaintiffs estimate that George repeated the above verbal insults more than forty times.¹⁶ Other children also report that another student frequently encouraged Paul to commit suicide estimating that this occurred more than twenty-five times.

21.

In April of 2021, Paul was diagnosed with a broken thumb. Paul had surgery to repair the injury two days later. Paul's fracture required percutaneous pinning, i.e., that pins be inserted through the skin to hold the fracture in place until the bone healed. This required the end of the pin to remain exposed, protruding from Paul's finger until removed by his physician approximately a month later. Over the course of that month, several students would repeatedly and purposefully hit Paul's broken digit and the exposed pin in order to purposefully inflict pain.

22.

On at least one occasion, Jace Moss, a Cedar Creek coach, overheard George insulting Paul. Coach Moss asked George, "What is your problem with Paul?" George responded, "Just 'cause he is." Another reported bullying incident occurred during a long bus trip where many of

¹⁵ See Cedar Creek Student Handbook, p. 22 (2013-4).

¹⁶ "All school policies apply to students while on the bus." See Cedar Creek School Student Handbook 2020-2021, p. 25

the students were overheated. George asked Paul for a sip of his bottled water. Paul relented and gave his bottle to George who proceeded to drink all of it. When a nearby senior student protested, George replied, "I don't care...."

23.

George and Derrick also took turns to physically assault and batter Paul. George and Derrick stapled Paul's shirt in class. They also poured scented oils that they had taken from a teacher's classroom on Paul. During one class, George sprayed Paul with an aerosol spray directly into his face. When George and Derrick passed Paul in the hallway, they routinely hit Paul and touched his chest and nipples to harass and embarrass him.

24.

Upon information and belief, it is suspected that several of the aforementioned minors would further bully Paul by damaging or altering Paul's belongings. For example, Alex, Bill and Charlie would routinely "turtle" Paul's backpack during Spanish Class. "Turtling" consisted of emptying the contents of Paul's backpack, turning it inside out, and returning the disheveled items. Upon information and belief, the prank escalated and Alex, Bill and Charlie began placing Paul's backpack in the boys' restroom urinal and urinating on Paul's belongings.¹⁷

25.

Bullying erodes feelings of self-worth and can have traumatic, long-lasting consequences...."¹⁸ Children victimized by bullying often experience significant personal consequences including feelings of isolation and humiliation and are significantly more likely to experience depression, anxiety, suicidal ideation, mental health problems, and substance abuse.¹⁹ Because bullying is associated with these negative outcomes, the common consensus among experts is that *effective* interventions should be implemented in schools.²⁰

26.

Unfortunately, most kids like Paul never speak up or tell an adult. Bullying is about power and control and those targeted are specifically meant to feel powerless or weak.²¹ For many children, this creates feelings of intense shame and embarrassment.²² Studies show that children are often too embarrassed to talk about or report inappropriate behavior and students in younger grades are more likely to report bullying than students in older grades.²³ In fact, as many as 64%

¹⁷ "Emphasis is placed upon the respect for the property of others and the right of everyone to the free use of his own possessions...Damaging property whether it is personal or school property, is a violation of the rights of others. It is expected that all damage...will be acknowledged by the person involved, make an immediate report to the office and amend made." See *Cedar Creek School Student Handbook 2020-2021*, p. 24.

¹⁸ *Id.* at p. 15.

¹⁹ Moore, Sophie E. et al. Consequences of bullying victimization in childhood and adolescence: A systematic review and meta-analysis. *World J Psychiatry*. 2017 Mar 22; 7(1): 60-76.

²⁰ *Id.*

²¹ Cedar Creek defines bullying as "a form of harassment that causes adverse physical, psychological, and social effects." See *Cedar Creek School Student Handbook 2020-2021*, p. 15.

²² Troop-Gordon W, Ladd GW. Teachers' victimization-related beliefs and strategies: Associations with students' aggressive behavior and peer victimization. *J Abnorm Child Psychol*. 2015;43(1):45-60.

²³ *Id.*

of bullied students never tell anyone; even when injuries occur, it is estimated that 40% never report the incident.²⁴

27.

Paul's schoolwork, in the possession of Cedar Creek, seemed to indicate an environmental concern in the classroom. Paul had routinely been an above average student. However, his Spanish grades were his lowest. Overall, his scores in Spanish were Cs. Upon quick examination, Paul scored Fs on his tests while scoring As on his homework. A simple review of his performance should have indicated some concern or inquiry regarding the Spanish classroom environment for Paul.

28.

During April of 2021, several of Paul's classmates were outside playing near the Conroy home. Duffy Conroy encouraged Paul to go out and see his peers. Paul refused and was adamant that he would not go but was short in his silence. Paul kept all of the specifics to himself for the duration of the school year until finally, at the behest of his parents, Paul began to open up. Although not admitting to the physical or sexual abuse, Paul did finally indicate that he had been having difficult times with his classmates.

29.

It was not until May 13, 2021, "Paul Hell Day" that the Conroys would begin to learn the true extent of Paul's fears and the abuse Paul suffered at school. While Paul was being terrorized at school, Mr. and Mrs. Conroy went about their days without any notice of what Paul had been facing. Mrs. Conroy would not hear from school officials until some ten hours after the "Paul Hell Day" incident when Cedar Creek principal, Andrew Yepson, contacted Mrs. Conroy and indicated that he had become aware of an issue that had occurred that afternoon. In fact, an unrelated teacher, not assigned to Paul, contacted the Conroys earlier that same day and encouraged them to talk to their son and to check on him after the incidents that had occurred at school during "Paul Hell Day."

30.

The Conroys had no knowledge or information that Paul was being bullied, abused, assaulted, and violated at school. No one from Cedar Creek had ever notified or contacted them prior "Paul Hell Day." On the evening of May 13, 2021, Mr. And Mrs. Conroy questioned their son regarding the excessive assault, battery, bullying and humiliation he had been suffering throughout the 2020-2021 school year. Although Paul has finally disclosed much of what occurred

²⁴ Petrosino A, Guckenbug S, DeVoe J, Hanson T. What characteristics of bullying, bullying victims, and schools are associated with increased reporting of bullying to school officials? (Issues & Answers Report, REL 2010–No. 092). Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory Northeast and Islands. August 2010.

at Cedar Creek, Paul is believed to have repressed some of the past violent acts against him. Paul may or may not ultimately recall all of the sickening acts.

31.

Ultimately, Cedar Creek Coaches coaches admitted to what had been going on at school. On May 14, 2021, the day after “Paul Hell Day,” Mrs. Conroy was approached by Coach Robert Mitchum in the morning drop-off carpool line. Coach Robert Mitchum is the father of Harry, a named student in this matter. Coach Mitchum explained, “I thought we nipped this in the bud during the basketball season... and basketball players aren’t even the worst.” That same day, a second coach, Tyler Mann, admitted to Mrs. Conroy, “We talked to Harry and [another student] with about three weeks left in the season to tone it down with their treatment of Paul.” These statements, and others, demonstrate that the agents of Cedar Creek, and therefore, Cedar Creek School, had knowledge of the past assaults and bullying of Paul.

32.

Cedar Creek purportedly maintains policies regarding harassment and bullying. The School Handbook defines bullying, provides examples, and states, “Harassment/Bullying of or by any...student or guest is strictly prohibited and will not be tolerated.”²⁵ “If a student, parent, or faculty member is being bullied or has been a witness to bullying, it should be immediately reported to the appropriate division coordinator or assistant principal.”²⁶ Inexplicably, Cedar Creek tolerated the bullying and harassment of Paul for the duration of the school year.

33.

Paul has since been placed under the care of a mental health professional. In all likelihood, Paul will need continuing mental health treatment to cope with the damage caused by the events that took place at school, as well as to repair the relationships with his parents and his siblings.

34.

Louisiana has criminalized sexual battery.²⁷ In Louisiana, it is also unlawful for a person to possess and distribute pornography involving juveniles. *See* L. R.S. § 14:81.1 (2021). On May 17, 2021, the Conroys made a complaint with the Ruston Police Department concerning the physical and sexual battery committed on their minor son. The Ruston Police Department

²⁵ *See Cedar Creek School Student Handbook 2020-2021*, p. 15.

²⁶ *Id.* at 14.

²⁷ *See* LA, R.S. § 14:43.1 (2021) (“Sexual battery is the intentional touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender, directly or through clothing, or the touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim, directly or through clothing, when any of the following occur: (1) The offender acts without the consent of the victim...”)

immediately filed a complaint and initiated an investigation. Upon information and belief, that investigation is still ongoing, and some individuals have been charged or summoned.

35.

Paul is cooperating with local law enforcement regarding the prosecution of the above students. Paul has met many times with his family, police officers, attorneys, and his therapist regarding the facts alleged above and will likely have to continue to do so. Every time Paul retells his story or uncovers portions that he has repressed, he suffers additional trauma. Many scholars have identified and studied such re-traumatization caused by having a child recount the abuse they suffered to authorities, courts, doctors, therapists, and lawyers.²⁸ This re-traumatization is a continuation of the damages Paul suffers and will continue to suffer.

36.

Because of the acts alleged above, the Conroys were forced to withdraw their children from Cedar Creek School and enroll them in other schools in or around Lincoln Parish, Louisiana. Upon information and belief, Cedar Creek either expelled or asked many of the offending students not to return to Cedar Creek. The only other school of choice for many of the students, including Paul is a local public school. In essence, this has allowed Cedar Creek to wash its hand of the past problems and ultimately place all of the students back together in the same scholastic environment. As a result, Paul must again attend school with the same boys who battered, bullied and harassed him at Cedar Creek.

37.

Plaintiffs allege that, in addition to the above specific allegations of notice, Cedar Creek was also generally aware of a campus ripe with recent and specific instances of bullying. By being aware of past instances, Cedar Creek should have instituted more stringent policies regarding anti-bullying to promote student safety. Upon information and belief, Plaintiffs aver that several past Cedar Creek students will testify to such specific instances of past bullying and the general overarching inaction by Cedar Creek School.

38.

Plaintiffs further allege that Cedar Creek had prior knowledge that bullying had been a perceived and/or actual issue at the school. For instance, social media internet postings and reviews by suspected parents, faculty and students raise concern at best. Such reviews paint a picture that systematic problems were reported by numerous school stakeholders. These statements are not

²⁸ Newgent, Rebecca, Fender-Scarr, Lisa K. and Bromley, Janet L., *The Retraumatization of Child Sexual Abuse: The Second Insult*, University of Arkansas & University of Akron; 2002. CITE.

plead for their truth of the matter asserted. Rather, they demonstrate a widespread, prior knowledge that bullying has continuously caused concern over time at Cedar Creek School. These statements include:

“Very disappointed with inappropriate mean girls behavior that appears to be reinforced by parents. Administration has not changed the behavior of those students or parents.” Niche User, December 18, 2019.²⁹

“The academics and most of the teachers are great, but there is definitely some bullying going on.” Sophomore, November 13, 2019.³⁰

“This toxic environment is something that I can't wait to get away from. You are constantly judged every day if you are the slightest bit different from the ”norm.” Senior, June 6, 2018.³¹

“It’s bad because bullying is very prevalent. Teachers ignore it if the student is popular.” Niche User, May 13, 2015.³²

“I have taught public school for thirty years. I am very disappointed with how bullying is allowed at the elementary level at Cedar Creek. Certain students and parents are allowed to negatively discuss other students.” Lisa M., December 18, 2019.³³

“It seems that, as mentioned in other reviews, education comes second while social status comes first. My daughter is treated like trash because of our personal religious beliefs.” Parent / Guardian, June 13, 2011.³⁴

“The other students at the school will not talk to your child unless they are mean and cruel. This has become the normal thing to do at this school.” Other (school staff, family member, recent alum, etc), September 01, 2013.³⁵

“The school is also VERY "clicky" with certain groups of popular people who can do no wrong, and others who are treated more like outcasts... I'll conclude by saying that even after 13 years at Cedar Creek and knowing virtually everyone on the campus at the time, I never really felt like the staff welcomed me or treated me in the same manner as other students.” Other (school staff, family member, recent alum, etc), August 24, 2011.³⁶

“Children in this school can be very brutal toward other students especially if you are new comer to this school.” Parent / Guardian, April 08, 2011.³⁷

“It is really sad to see adults allow their children to emotionally hurt other children just to ensure their child is in the "POPULAR" group. I have been amazed at some of the outright mean children my children have been exposed to.” Parent/ Guardian, August 22, 2010.³⁸

²⁹ See <https://www.niche.com/k12/cedar-creek-school-ruston-la/reviews>.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ See https://www.yelp.com/not_recommended_reviews/cedar-creek-school-ruston.

³⁴ See <https://www.greatschools.org/louisiana/ruston/1105-Cedar-Creek-School/reviews>.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

Because Cedar Creek School had knowledge that such problems existed, Cedar Creek's policies and preventive efforts to stop the potential abuse were woefully inadequate. Had appropriate policies, training, and reporting been in place and enforced, Plaintiffs' injuries would not have occurred.

39.

At the time of the acts described above, Mr. Zach Johnston, Mrs. Kim Brasher, Ms. Stephanie Viator, Coach Robert Mitchum, Coach Jayce Moss, and Coach Tyler Mann, were the agents and employees of Cedar Creek and were acting as the agents, employees and representatives of Cedar Creek within the course and scope of their employment by Cedar Creek. At the time of many of the acts described above, Dr. Lonnie Menzina, was a member of the Cedar Creek School Board of Directors and was acting as the agent, employee, and representative of Cedar Creek. Cedar Creek School is solidarily liable for damages suffered by Plaintiffs herein caused by the negligence of Mr. Zach Johnston, Mrs. Kim Brasher, Ms. Stephanie Viator, Coach Robert Mitchum, Coach Tyler Mann, and Dr. Lonnie Menzina.

40.

Plaintiffs allege on information and belief, that at the time of the incidents described above, Cedar Creek School maintained casualty, property, liability and other excess liability insurance, which has been sold and delivered by unknown parties and insurers and that the policy or policies were then in full force and effect by virtue of the payment of premiums and otherwise.

41.

CAUSES OF ACTION

Negligence

Plaintiffs incorporate all prior paragraphs and allegations in support of this claim. Plaintiffs allege that their injuries are a result of Defendants' negligence in failing to enforce their policies and failing to implement any effective intervention to stop the bullying and harassment of Paul for the duration of the school year, failing to keep a student in their custody and control safe from harm, and any other acts of negligence.

Gross Negligence

Plaintiffs incorporate all prior paragraphs and allegations in support of this claim. Plaintiffs alleges that their injuries are a result of Defendants' gross negligence in failing to enforce their policies, failing to implement any effective intervention to stop the bullying and harassment of Paul for the duration of the school year, failing to keep a student in their custody and control safe from harm, and any other acts of gross negligence.

42.

Negligent Supervision

Plaintiffs incorporate all prior paragraphs and allegations in support of this claim. Plaintiffs allege that their injuries are a result of Cedar Creek School's negligent supervision. Plaintiffs allege liability under both La. C.C. art. 2315 and 2320. Specifically, Plaintiffs allege that Cedar Creek School failed to meet its duty of supervision by:

- a. Failing to provide any supervision, during school hours, of those attending Mr. Zach Johnston's Spanish class;
- b. Failing to enforce its own policies regarding school start times, tardiness, bullying, harassment, safe school environments, and other general school policies;
- c. Failing to report abuse according to school policy or to take reasonable action based on the school project turned into Mrs. Brasher;
- d. Failing to notify Paul's parents of the intense prior bullying or assaults and batteries that occurred in 2020 and 2021;
- e. Failing to contact Paul's parents the day of "Paul Hell Day" until approximately ten hours after the alleged battery;
- f. Failing to report instances of bullying in accordance with school policy on the parts of Mr. Zach Johnston, Mrs. Kim Brasher, Ms. Stephanie Viator, Coach Robert Mitchum, Coach Tyler Mann and Dr. Lonnie Menzina and others;
- g. Negligently failing to reasonably supervise the students given their prior acts as plead above;
- h. Failing to enact, educate, and to enforce appropriate policies as reasonably necessary;
- i. Other acts of negligence.

Because Cedar Creek School had knowledge of prior misconduct and bullying, the school had a duty to provide a reasonable level of supervision to prohibit the continuation of such abuse. Since Cedar Creek School failed to take reasonable measures in the supervision of Paul and of the students, Plaintiffs were injured and suffered considerable damages.

43.

Breach of Contract and Promissory Estoppel

Plaintiffs incorporate all prior paragraphs and allegations in support of this claim. Because Cedar Creek School is a private school, the Conroys pay tuition to educate their children at Cedar Creek School. The base tuition is \$7,200 per year, per child. In addition, the Conroy household is required to pay for fees, uniforms, after-school activities, athletic activities, and other fees for

special school related functions. Because four of the five Conroy children attend Cedar Creek School, the Conroy household pays more than \$28,000 per year in such base tuition costs and fees. In fact, the Conroys have paid upwards of \$150,000 in total for tuition and fees since the date of their childrens' enrollment.

44.

In return for tuition paid, Cedar Creek School agreed to provide "a safe and comfortable physical and emotional environment promot[ing] student learning."³⁹ The Board of Directors for Cedar Creek School sets the tuition amount at a "level to allow for a top-quality program."⁴⁰ By accepting the Conroys' payments, Cedar Creek School acted in place of the parents as a non-public school educator for the Conroy children. Based on its representations, Cedar Creek School promised to provide a safe supervised learning environment free from continuing bullying, assault and battery. Plaintiffs relied on these promises and paid monies to Cedar Creek School. However, Cedar Creek School breached its duties by not providing adequate supervision and, occasionally, no supervision of Paul whatsoever. By breaching its representations, policies, and promises and by not fulfilling its contractual duties with the Conroys, the Conroys suffered monetary and consequential damages.

45.

Breach of Fiduciary Duty

Plaintiffs incorporate all prior paragraphs and allegations in support of this claim. As a non-public primary and secondary school, Cedar Creek School stood *in loco parentis* for Duffy and Nikki Conroy. Because of this contractual and parental relationship, Cedar Creek School maintained a fiduciary duty with Plaintiffs. Cedar Creek School breached this duty by failing to provide basic supervision and care of the Conroys' child. Further, because Cedar Creek School concealed and did not notice the Conroys of the prior bullying, assaults and batteries on their child, Cedar Creek further breached its duties. Cedar Creek School's breach caused substantial and ongoing damages to the Conroys' child.

46.

Negligent Infliction of Emotional Distress

³⁹ See Cedar Creek Student Handbook, p. 6 (2013-4).

⁴⁰ *Id.* at p.12.

Plaintiffs incorporate all prior paragraphs and allegations in support of this claim. Plaintiffs allege that the actions of Defendant Cedar Creek School have been outrageous and have inflicted severe emotional distress upon Plaintiff.

47.

Intentional Infliction of Emotional Distress

Plaintiffs incorporate all prior paragraphs and allegations in support of this claim. Plaintiffs allege that the actions of the Defendants have been outrageous and have intentionally inflicted emotional distress upon Plaintiff's minor child, who suffers and continues to suffer extreme emotional distress as a result of Defendants' misconduct.

48.

Civil Assault and Battery

Plaintiffs incorporate all prior paragraphs and allegations in support of this claim. Plaintiffs assert a claim for assault and battery against Parent Defendants Terry "Tuna" Lowery, Lisa Barnett Lowery, Erik Austin Shepard, Margaret "Ellen" Baxter Shepherd, Sommar Elizabeth McKoin Hall, Jonah Merle Jones, Robert Mitcham, Melissa Mitcham, Lonnie Menzina, Jill Brown Menzina, Clay Kenner McConnell, Leigh Baskin McConnell on behalf of their minor children who threatened to commit and did intentionally commit harmful and offensive contact on Paul on a regular basis, thus, Defendants are liable.

49.

Violations of the Louisiana Unfair Trade Practices and Consumer Protection Law

Plaintiffs incorporates all prior paragraphs and allegations in support of this claim. The Louisiana Unfair Trade Practices Act ("LUTPA") prohibits "unfair or deceptive acts or practices in the conduct of any trade or commerce." La. R.S. 51: 1405 et seq. Here, Cedar Creek School represented through its literature that a safe environment would be provided for the Conroy's son, that all students are held to the highest standards of conduct and personal behavior, and that bullying was prohibited and would not be tolerated. Pursuant to LUTPA, Plaintiff is entitled to recover reasonable attorney's fees and costs incurred in bringing this action. *See* La. R.S. 51:1409.

50.

Parental Liability

Plaintiffs incorporate all prior paragraphs and allegations in support of this claim. Parent Defendants are the parents of the unemancipated minors that are also named as Defendants in this

lawsuit. Under La. Civ. Code Ann. art. 2318, parents are “responsible for the damage occasioned by their minor child, who resides with them or who has been placed by them under the care of other persons, reserving to them recourse against those persons.” Plaintiffs bring their claims under art. 2318 pleading that this court hold the listed Parent Defendants liable for the acts of their children. These minors are alleged to have committed tort and criminal acts of assault, battery, sexual battery, damage to property, invasion of privacy and juvenile pornography.

51.

General and Special Damages

Plaintiffs aver that general and special damages will substantially exceed the limitations amounts under La. Code Civ. Proc. Ann. § art.1732. Plaintiffs therefore demand trial of this matter by jury. Plaintiffs request the jury to assess general and special damages caused by the Defendants’ individual and joint conduct for the following areas:

- a. Mental pain and suffering.
- b. Past physical pain, suffering and /or disability.
- c. Future physical pain, suffering and /or disability.
- d. Plaintiffs’ inconvenience.
- e. The loss of intellectual gratification or physical enjoyment.
- f. Past medical expenses including mental health treatment.
- g. Future medical expenses including mental health treatment.
- h. Contractual and consequential damages for the amounts paid by the Conroys to Cedar Creek school for their breach of duty in failing to supervise Paul.
- i. Past and future damages for the costs of their child’s education at other institutions.
- j. Loss of Consortium Damages payable to Michael Conroy and Nicole Conroy, as if they sued Defendants in their own right, for the losses they sustained including the loss of lifestyle, loss of convenience, or other losses of life including:
 - (i) loss of love and affection;
 - (ii) loss of society and companionship;
 - (iii) loss of performance of material services;
 - (iv) loss of financial support;
 - (v) loss of aid and assistance and;
 - (vi) loss of fidelity.

Plaintiffs are therefore entitled to damages for the items set forth above in such amounts as are reasonable in the premises against Defendants.

52.

Exemplary & Punitive Damages

In addition to the general damages, Plaintiff pleads the jury to award such exemplary damages as allowed under La. Civ. Code Ann. § Art. 2315.7 (Liability for damages caused by criminal sexual activity occurring during childhood) and § Art. 2315.3 (Additional damages; child pornography) against those Defendants who apply to the above articles and under any other provision allowable under Louisiana law.

53.

Prayer

WHEREFORE, premises considered, Plaintiffs pray:

- a. That certified copies of this petition, together with citation, be issued and served according to law on the Defendants.
- b. That this matter be tried before a jury.
- c. After the lapse of all legal delays and proceedings had, there be judgment against all Defendants, in solido, in favor of Plaintiffs in such amounts as are reasonable in the premises.
- d. For legal interest from date of judicial demand on all amounts awarded, and for all costs of these proceedings; and
- e. For all necessary orders and decrees as may be required or proper in the premises and for full, general and equitable relief.

Respectfully Submitted,

J.W. BEARDEN & ASSOCIATES, PLLC

BY: /s/ James "Wes" Bearden

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