

COMMONWEALTH OF KENTUCKY
JEFFERSON CIRCUIT COURT
DIVISION NO. _____
CASE NUMBER _____

B.F., a minor, BY AND THROUGH HER PARENT
AND NEXT FRIEND, KRIS ANN NAUCKE, and
KRIS ANN NAUCKE, individually

PLAINTIFF

V.

COMPLAINT

LOUISVILLE COLLEGIATE SCHOOL
Serve: Dr. James Calleroz White
2427 Glenmary Avenue
Louisville, Kentucky 40204

DEFENDANTS

And

DR. JAMES CALLEROZ WHITE, Individually and in his
Official Capacities as Headmaster of Louisville Collegiate School
Serve: D. James Calleroz White
2427 Glenmary Avenue
Louisville, Kentucky 40204

PARTIES AND JURISDICTION

1. At all times relevant hereto, B.F., a minor, and her parent and next friend, Kris Ann Naucke, are and were residents of Louisville, Jefferson County, Kentucky.
2. The Defendant, Louisville Collegiate School (hereinafter "Collegiate"), is and was at all times relevant hereto a Kentucky Corporation holding itself out as grade school, middle school and high school in Louisville, Kentucky, whose principal place of business is 2427 Glenmary Avenue, Louisville, Kentucky 40204 and whose agent for service of Process

of Dr. James Calleroz White, who can be served at 2427 Glenmary Avenue, Louisville, Kentucky 40204.

3. The Defendant, Dr. James Calleroz White, is and was at all times relevant hereto a resident of Louisville, Jefferson County, Kentucky, whose address for service of process is 2427 Glenmary Avenue, Louisville, Kentucky 40204.

4. All matters related to the above-styled action arise from gross, reckless and negligent behavior by the Defendants, their employees, agents, servants and assigns during the course and scope of their employment with Defendant Collegiate, or alternatively acting as an individual, during the 2014-2015 school year, and involving a student, N.B., under the custody and control of the Defendants, jointly and/or individually.

5. As a direct result of the gross, reckless and negligent conduct of the Defendants, jointly and individually, the minor child B.F. suffered and continues to suffer significant personal injury and damages all in excess of the jurisdictional limits of this Court.

6. Collegiate has in full force and effect a Student and Family Handbook (hereinafter “The Handbook”) which specifically disallows verbal and physical sexual harassment and sets forth policies and procedures which are mandated to be followed in the event of such harassment. Relevant sections include, but are not in any way limited to, the following.

7. The Handbook states in relevant part that “Louisville Collegiate School is committed to a safe a civil educational environment where all students . . . are treated with respect. This means Collegiate will not tolerate harassment/bullying in any form.”

8. As to Sexual Harassment, the Handbook states that it is “illegal and against the policy of Collegiate for any person, male or female, to harass sexually another person by

making unwelcome sexual advances or request for sexual favors or other verbal or physical contact of a sexual nature....Sexual harassment is unlawful even when the alleged conduct has caused an employee or student no economic or educational harm or loss.”

9. In the event any person or employee of Collegiate becomes aware of such harassment at Collegiate, said individual is mandated to “immediately advise the Head of School”, in this instance Defendant White, and the Head of School “shall promptly investigate the matter.” If a violation is deemed to have occurred, “Collegiate will take disciplinary action....”

10. Collegiate maintains an Honor Code which holds that all students and employees and the Head of School shall show “respectful, responsible, honorable and compassionate practices.”

11. There is a Discipline Process at Collegiate which states that “The intent of the discipline system at Collegiate is to cultivate honorable behavior, self-discipline and respect for others. Collegiate believes that positive discipline incorporates clear expectations, clear consequences, and consistent enforcement.”

12. It is clear from the allegations set forth in this Complaint that Collegiate failed to comply with its own policies and procedures as set forth in the Handbook.

13. The parents of B.F. made a tuition payment of \$23,000 for the 2014-2015 school year based upon the assurances, guarantees and warranties made in this Handbook.

COUNT I

14. Plaintiffs reassert, reallege, adopt and incorporate each and every allegation set forth in numerical paragraphs 1 through 13 of Plaintiffs’ Complaint as if set forth more fully herein.

15. During the Fall of 2014, the minor child, B.F., a 6th grade student at Collegiate, was sitting in math class when male student N.B. made explicit sexual gestures toward B.F., causing her embarrassment, shock, surprise and emotional upset resulting in significant mental and emotional damages.

16. The actions taken by N.B. as against B.F. were specifically reported to numerous employees and administrators of Defendant Collegiate, including but not limited to Defendant Dr. James Calleroz White and middle school Director Brad Davies. The parents of the minor child, B.F., specifically asked that actions and interventions be taken to address the assault in accordance with the Louisville Collegiate School Student and Family Handbook as well as KRS 620.030, Common Law, and the laws of the Commonwealth of Kentucky.

17. Despite assurances by both Mr. Davies and Dr. Calleroz White, no actions were taken to separate N.B. from B.F., and in fact the children were forced to stay in the same classroom and no corrective actions were taken against N.B., in complete and total disregard for the safety of B.F., the Louisville Collegiate School Student and Family Handbook as well as KRS 620.030, Common Law, and the laws of the Commonwealth of Kentucky.

18. Defendant White failed to take any corrective actions as the parents of N.B. were members of the Jefferson County School Board of Education and/or the Kentucky Department for Family Services, and further failed to respond to requests made by the parents of B.F. despite assurance in the Louisville Collegiate School Student and Family Handbook, and his own emails, that action would be taken to investigate, resolve and remedy all such claims of sexual harassment by one student against another.

19. Said failures to investigate, take action and protect B.F., caused her great emotional distress and were all grossly and wantonly negligent and reckless, thus entitling Plaintiffs to compensatory, exemplary and punitive damages.

COUNT II

20. Plaintiffs reassert, reallege, adopt and incorporate each and every allegation set forth in numerical paragraphs 1 through 19 of Plaintiffs' Complaint as if set forth more fully herein.

21. In approximately January, 2015, the minor child, B.F., was in the lunch line when male student N.B. called her name, then proceeded to grab both of B.F.'s breasts and thrust his pelvis into her backside. This was witnessed by another student, L.W., also a minor. The incident was reported to staff at Collegiate, who in turn reported it to Ms. Kat Crawford, an employee of Collegiate. Ms. Crawford had both B.F. and L.W. report on Chrome Books what happened. No actions were taken to address this assault. The assault caused and continues to cause B.F. embarrassment, shock, surprise and emotional upset resulting in significant mental and emotional damages.

22. The actions taken by N.B. as against B.F. were specifically reported to numerous employees and administrators of Defendant Collegiate, specifically Defendant Dr. James Calleroz White. The parents of the minor child, B.F., specifically asked that actions and interventions be taken to address the assault in accordance with the Louisville Collegiate School Student and Family Handbook as well as KRS 620.030, Common Law, and the laws of the Commonwealth of Kentucky.

23. Defendant White made assurances that these very serious issues would be investigated and addressed no later than April 1, 2015, and based upon those assurances the

parents and guardian of the minor child, B.F., made a tuition deposit of \$1,000 for the 2015-2016 school year.

24. Despite these assurances by Dr. Calleroz White, no actions were taken against N.B., nor further investigation undertaken by Dr. White, in complete and total disregard for the safety of B.F., the Louisville Collegiate School Student and Family Handbook as well as KRS 620.030, Common Law, and the laws of the Commonwealth of Kentucky. Further, no actions were taken to investigate the damages suffered by B.F., and no steps were put into place to protect her from further assault. Most importantly, guidance was only given to B.F. by one of the counselors when specifically insisted upon by her parents.

25. Defendant White and other employees, agents, and assigns of Collegiate failed to take any corrective actions as the parents of N.B. were members of the Jefferson County School Board of Education, and further failed to respond to requests made by the parents of B.F. despite assurances, guarantees and warranties in the Louisville Collegiate School Student and Family Handbook, and his own emails, that action would be taken to investigate, resolve and remedy all such claims of sexual harassment by one student against another.

26. Said failures to investigate, take action and protect B.F., caused her great emotional distress and were all grossly and wantonly negligent and reckless, thus entitling Plaintiffs to compensatory, exemplary and punitive damages.

COUNT III

27. Plaintiffs reassert, reallege, adopt and incorporate each and every allegation set forth in numerical paragraphs 1 through 26 of Plaintiffs' Complaint as if set forth more fully herein.

28. Despite several emails between the parents of B.F. and Defendant White, Defendant White did not follow up on assurances he made that the matter would be investigated and N.B. properly disciplined. Therefore, again on or about March 20, 2015, N.B. made sexually explicit advances toward B.F. Specifically, when B.F. bent down to pick up a pen at the request of N.B., he made gestures toward her as though he were masturbating directly into her face.

29. This incident was reported by the parents of B.F. directly to Defendant White, and they received no response to their repeated reports and requests for assistance.

30. As Head Master and Principal of Collegiate, Defendant White owes a duty, more specifically set forth in the student handbook and Kentucky Statutes, to protect students of Collegiate, regardless of his friendships, personal agendas, and biases. Defendant White chose inaction, apathy, and complete disregard for the rights and protection of B.F. over N.B., and as a direct result B.F. has suffered and continues to suffer significant personal injury.

31. Said failures to investigate, take action, and protect B.F. caused her great emotional distress and were all grossly and wantonly negligent and reckless, thus entitling Plaintiffs to compensatory, exemplary and punitive damages.

COUNT IV

32. Plaintiffs reassert, reallege, adopt and incorporate each and every allegation set forth in numerical paragraphs 1 through 31 of Plaintiffs' Complaint as if set forth more fully herein.

33. Defendants jointly and individually were aware of other claims of sexual harassment and assault by N.B., and failed to give notice to other students and parents, or take

corrective action to protect the students of Louisville Collegiate School, including but not limited to B.F.

34. N.B. was permitted to continue attending Collegiate and exposing the student body to a risk of mental, emotional and physical harm.

35. B.F., as a student of a private school, is entitled to be free from harassment, assault and other sexually explicit actions, as clearly set forth in the Louisville Collegiate School Family and Student Handbook.

36. Defendant White and employees, agents and assigns of Defendant Collegiate allowed the Student Handbook policies and procedures to be violated on numerous occasions and in total disregard for the safety of the student body, including but not limited to B.F.

37. Such gross and wanton failure to follow the policies and procedures of said handbook were egregious, dangerous, and specifically resulted in additional injury to B.F.

38. As a result of the repeated, offensive and deliberate indifference shown to the rights of B.F. as a student of Collegiate, B.F. has suffered extreme and irreparable permanent emotional and psychological injury. She has also been forced to change schools in order to protect herself from further harassment and assault.

39. All such actions by the defendants were grossly negligent, reckless, and wanton and as a result B.F., by and through her parent and guardian, is entitled to an award of punitive damages.

40. Moreover, the repeated failures by Defendants individually and/or jointly were a direct breach of contract and warranties as made in the Handbook, and as such Plaintiff Naucke is entitled to a complete and total refund of the tuition payments made for the 2014-2015 school year in the amount of \$23,000.00

COUNT V: NEGLIGENCE PER SE

41. Plaintiffs reassert, reallege, adopt and incorporate each and every allegation set forth in numerical paragraphs 1 through 40 of Plaintiffs' Complaint as if set forth more fully herein.

42. At all times relevant herein, the named Defendants and their employees, agents and assigns had a duty to report sexual assault and abuse pursuant to KRS 620.030(2).

43. Said duty to report was a non-delegable duty on the part of Defendants for which the parents of B.F. specifically requested that an investigation be conducted and if appropriate reporting be made.

44. In failing to investigate and report to the appropriate authorities the sexual assault by N.B upon B.F., the Defendants, individually and/or jointly, are negligent per se, and as such Plaintiffs are entitled to an award of liability for such negligence per se.

45. As a result of the negligence per se, Plaintiff B.F. has suffered and will continue to suffer great emotional and mental injuries and damages, past and future, and should be awarded compensatory, exemplary and punitive damages for same.

WHEREFORE, Plaintiffs respectfully demand as follows:

1. For any and compensatory and exemplary damages against Defendants jointly and/or individually to which B.F. may be entitled;
2. For reimbursement of the \$23,000 payment made for the 2014-2015;
3. For reimbursement of the \$1,000 deposit made for the 2015-2016 school year;
4. For punitive damages against Defendants jointly and/or individually;
5. For their costs herein expended;
6. FOR TRIAL BY JURY;

7. And for any and all other relief to which they may be entitled.

Respectfully submitted,

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