

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Mother Doe 203 on her own behalf and )  
on behalf of her minor child, Jane Doe )  
203, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
Berkeley County School District and )  
James Spencer, )  
 )  
Defendants. )

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C.A. No. 2:14-cv-3575-PMD

**NOTICE OF REMOVAL**

TO: The Honorable Judges of the United States District Court for the District of South Carolina, Charleston Division:

Petitioners, Berkeley County School District and James Spencer, by and through their undersigned attorneys, hereby appear for the purpose of removal only, and respectfully show this Court the following:

I.

Petitioners are the Defendants in the above-entitled action.

II.

The above-entitled action was filed on August 7, 2014, in the Court of Common Pleas, Berkeley County, State of South Carolina. Said action is now pending in the Court of Common Pleas of Berkeley County, State of South Carolina.

III.

Defendants were served with the Complaint on August 15, 2014. Said Summons and Complaint constitutes all process, pleadings, and orders received by Defendants. A copy of the Summons and Complaint are attached hereto as **Exhibit A**.

IV.

No further proceedings have been had herein in the Court of Common Pleas, Berkeley County, State of South Carolina.

V.

As set forth in the Complaint attached hereto as **Exhibit A**, Plaintiffs assert claims arising under the laws of the United States, and more specifically, 42 U.S.C. § 1983 and 20 U.S.C. 1681, *et seq.*

VI.

This Court, therefore, has original jurisdiction of the above-entitled action pursuant to 28 U.S.C. §§ 1331 and 1343, and removal of the action to this Court is proper pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1367.

VII.

This notice is filed with this Court within thirty (30) days after receipt by the Defendants "through service or otherwise, of a copy of a pleading, motion, order or other paper from which it may be first ascertained that the case is one which is or has become removable" as provided in 28 U.S.C. § 1446(b). *See also Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

VIII.

Petitioners will give written notice of the filing of this Notice to Plaintiff as provided in 28 U.S.C. § 1446(d). A copy of said Notice of Filing of Notice of Removal is attached hereto as **Exhibit B**.

IX.

A duplicate copy of this Notice will be filed with the Clerk of Court of Berkeley County, State of South Carolina, as provided in 28 U.S.C. § 1446(d).

Wherefore, Petitioners request that the above-entitled action be removed from the Court of Common Pleas, Berkeley County, State of South Carolina, to this Court.

Respectfully submitted,

CHILDS & HALLIGAN, P.A.

By: s/ Thomas K. Barlow  
Thomas K. Barlow, Fed. I.D. No. 7483  
tbarlow@childs-halligan.net

Jasmine Rogers Drain, Fed. I.D. No. 10169  
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P.O. Box 11367  
Columbia, South Carolina 29211  
(803) 254-4035

Attorneys for Defendants

September 8, 2014

Columbia, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BERKELEY )

IN THE COURT OF COMMON PLEAS

Mother Doe 203 on her own behalf and )  
on behalf of her minor child, Jane Doe )  
203, )

C.A. No. 2014-CP-08-1775

Plaintiffs, )

**NOTICE OF FILING NOTICE OF  
REMOVAL**

vs. )

Berkeley County School District and )  
James Spencer, )

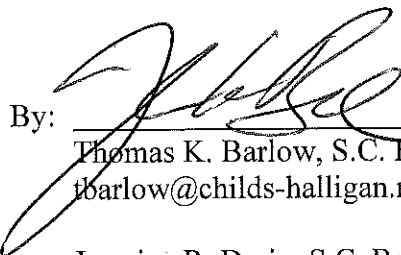
Defendant. )

PLEASE TAKE NOTICE that on September 8, 2014, in the above-entitled action, Defendants Berkeley County School District and James Spencer are filing a Notice of Removal, a copy of which is attached hereto as Exhibit A, of the above-entitled action to the United States District Court for the District of South Carolina, Charleston Division.

You are also advised that Defendants, on filing such notice in the Office of the Clerk of Court of the United States District Court for the District of South Carolina, Charleston Division, are also filing copies of the same with the Clerk of Court, Berkeley County, South Carolina to effect removal pursuant to 28 U.S.C. Section 1446(d).

Respectfully submitted,

CHILDS & HALLIGAN, P.A.

By:   
Thomas K. Barlow, S.C. Bar No. 8995  
tbarlow@childs-halligan.net

Jasmine R. Drain, S.C. Bar No. 76156  
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Columbia, South Carolina 29211  
(803) 254-4035

Attorneys for Defendants

September 8, 2014

Columbia, South Carolina

# **EXHIBIT A**

STATE OF SOUTH CAROLINA )
)
COUNTY OF BERKELEY )
)
Mother Doe 203, for herself and Jane Doe 203 )
Plaintiff(s) )
)
vs. )
)
Berkeley County School District, et al., )
Defendant(s) )

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2014-CP -

2014 AUG -7 AM 11:36
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

COPY FILED

(Please Print)
Submitted By: Gregg Meyers
Address: Jeff Anderson & Associates PA, 366 Jackson
Street Suite 100, Saint Paul, MN
55101

SC Bar #: 9908
Telephone #: 651-227-9990
Fax #: 651-297-6543
Other:
E-mail: Gregg@andersonadvocates.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.
NON-JURY TRIAL demanded in complaint.
This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), Employment (120), General (130), Breach of Contract (140), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case # 20-CP- - , Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Assault/Slander/Label (300), Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Other (799)
Administrative Law/Relief: Reinstate Driver's License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Commission (990), Employment Security Comm (991), Other (999)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Sexual Predator (510)

Submitting Party Signature: Gregg Meyers

Date: 8-1-14

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

**FOR MANDATED ADR COUNTIES ONLY**

Allendale, Anderson, Beaufort, Colleton, Florence, Greenville, Hampton, Horry,  
Jasper, Lexington, Pickens (Family Court Only), Richland, Union and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

**You are required to take the following action(s):**

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210<sup>th</sup> day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
  - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
  - b. Requests for temporary relief;
  - c. Appeals
  - d. Post Conviction relief matters;
  - e. Contempt of Court proceedings;
  - f. Forfeiture proceedings brought by governmental entities;
  - g. Mortgage foreclosures; and
  - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.  
Failure to do so may affect your case or may result in sanctions.**



STATE OF SOUTH CAROLINA  
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS  
2014-CP-08-

~~2014~~ **CP-08**

2014 AUG -7 AM 11:36  
MARY P. BROWN  
CLERK OF COURT  
BERKELEY COUNTY, SC

FILED  
175

Mother Doe 203 on her own behalf )  
and on behalf of her minor child, )  
Jane Doe 203, )

Plaintiffs, )

v. )

Berkeley County School District, )  
And James Spencer, )

Defendants, )

### Summons

To: Berkeley County School District  
James Spencer

**YOU ARE HEREBY SUMMONED** and required to answer the complaint in this action. A file-stamped copy of the complaint is served upon you with this summons.

Your answer to the complaint is to be served upon the attorney for the plaintiff at 366 Jackson Street, St. Paul MN 55101.

According to the South Carolina Rules of Civil Procedure, which govern litigation, you are required to appear and defend yourself in this action by making and serving an answer to this complaint within thirty (30) days after the complaint is served upon you. The thirty days begin to run from the date after this summons and complaint are served upon you; the date the service is made is excluded.

If within that time you fail to appear and defend as you are required to do by the Rules of Civil Procedure, the Plaintiff(s) in this action shall apply to the Court for the

relief demanded in this Complaint and judgment by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gregg Meyers". The signature is fluid and cursive, with the first name "Gregg" written in a larger, more prominent script than the last name "Meyers".

Gregg Meyers, SC Bar No. 9908  
Jeff Anderson & Associates, P.A.  
366 Jackson Street Suite 100  
Saint Paul, MN 55101  
651-227-9990  
Gregg@andersonadvocates.com

Attorney for the Plaintiff

STATE OF SOUTH CAROLINA  
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS  
2014-CP-08-

~~2014-CP-08-17B~~

Mother Doe 203 on her own behalf )  
and on behalf of her minor child, )  
Jane Doe 203, )

Plaintiffs, )

v. )

Berkeley County School District, )  
And James Spencer, )

Defendants, )

COMPLAINT

2014 AUG -7 AM 11:36  
MARY P. BROWN  
CLERK OF COURT  
BERKELEY COUNTY, SC

FILED

For her Complaint, the Plaintiff Mother Doe 203 alleges:

1. The Plaintiff, Mother Doe 203, is a South Carolina citizen and resident who resides in Berkeley County, S.C. She is the natural parent of Jane Doe 203, a minor child who attended Marrington Middle School, at 109 Gearing Street, Goose Creek, S.C. 29445, from 2012 to 2014. They are referred to in this Complaint as Mother Doe and Jane Doe.

2. Marrington Middle School is located on federal property within Berkeley County, SC, on property referred to locally as the Naval Weapons Station.

3. The Plaintiffs are identified in this complaint using a pseudonym to comply with S.C. Code § 16-3-730, and 18 U.S.C. § 2252A(e), each of which prohibit publication of the name or identifying information of any person upon whom the crime of criminal sexual conduct has been committed. The Defendants shall be informed of the identity of the Plaintiffs to the extent each provides written agreement to protect the Plaintiffs' identities as to the public record; or, upon refusal by one or more defendants to provide that written assurance to protect the Plaintiffs' identities as to the public record, upon motion for a protective order and order of the Court.

4. The Defendant, Berkeley County School District, is a governmental entity with its principal place of business located in Berkeley County at 229 East Main Street, Moncks Corner SC 29461. The District and its officials are referred to in this Complaint collectively as the District. The Berkeley County School does business in South Carolina by operating schools in Berkeley County.

5. At all times pertinent to this Complaint, Defendant the District owned and operated in Berkeley County the Marrington Middle School.

6. At all times pertinent to this Complaint, Defendant the District employed James Spencer as principal of Marrington Middle School. In that capacity, Defendant Spencer had authority over teachers and students at Marrington Middle School, and in that capacity he did business in, and committed tortious acts in, Berkeley County.

7. James Spencer is a citizen and resident of South Carolina.

8. The Court has subject matter jurisdiction over the causes of action alleged in this Complaint and personal jurisdiction over the parties.

#### **Nature of Wrongdoing**

9. At all times pertinent to this Complaint, the District had, and continues to have, a duty to protect from sexual battery each minor child who attends its schools.

10. At all times pertinent to this Complaint, and at all times while employed by the District, Defendant Spencer had a duty to protect from sexual battery each student attending Marrington Middle School.

11. Since at least February, 2013, a particular male student attending Marrington Middle School has been known to the Defendants to sexually batter female students. Jane Doe is

among the female students who had been assaulted by the male student known to sexually assault female students.

12. Mother Doe met with Defendant Spencer and others in February, 2013 about the need for her daughter and other students being protected from the male student known to sexually batter female students.

13. After the meeting, Defendant Spencer, on behalf of the Berkeley County School District, took no steps to effectively protect Jane Doe. In fact, despite the information given to him about the sexual contact by the male student towards Jane Doe, the male student who had sexually battered her was left in the same class for the remainder of the 2012-2013 school year and in 2013-2014 was assigned to a common class with Jane Doe.

14. As a consequence of continued sexual battering of Jane Doe by that male student, the academic performance by Jane Doe deteriorated, other batterings of Jane Doe by the same male student occurred, and Jane Doe had other injuries from those batterings and the apprehension of those repeated batterings.

15. Mother Doe was also injured by the repeated sexual batterings of her daughter caused by the deliberate indifference of the Defendants to the batterings of her child.

16. Jane Doe was born in 2001. Her sexual batterings by the male student known to assault female students began when she was twelve years old, in February, 2013. Those batterings of Jane Doe continued into the 2013-2014 school year until the student was removed in 2014.

17. This action arises out of multiple acts of sexual abuse and is brought pursuant to S.C. Code § 15-3-555(A), prior to age 27 for Jane Doe and within three years from the abuse for the claims of Mother Doe.

18. Through Defendant Spencer, the District was aware, or should have been aware, that Jane Doe needed protection from the male student known to sexually assault female students and known to assault Jane Doe.

19. In February 2013, the Mother Doe alerted Defendant Spencer to the danger posed to her daughter by the male student. Defendant Spencer took no action to protect Jane Doe from subsequent batterings by the male student and left the male student in the class with Jane Doe where he continued to assault her and sexually batter her on multiple occasions.

20. The District has policies and practices grossly insufficient to prevent male students from battering Jane Doe and other female students.

21. Defendant Spencer and other District officials knew, or should have known, that Jane Doe needed protection from the male student known to sexually batter female students. When Mother Doe complained to the Defendants about that student, the Defendant Spencer was grossly negligent in investigating her complaints and adjusting operations to prevent additional acts of sexual violence against Jane Doe.

22. District officials were grossly negligent in failing to protect the Plaintiff student from the male student known to sexually batter female students.

23. Officials of the District were unresponsive to the complaints of Mother Doe. Jane Doe was sexually battered by the same male student after her mother's complaint.

24. Even without the mother's complaint, officials of the District knew, or should have known, that the conduct of the male student was inappropriate and other students needed to be protected from him. Officials of the District were grossly negligent in taking no action to effectively restrain that student. As a result of the gross negligence of the Districts officials, including Defendant Spencer, multiple female students were sexually battered.

25. District officials were grossly negligent in failing to properly supervise the male student and the District's facilities. The male student had opportunities he should not have had on school premises to sexually batter Jane Doe in each of the 2012-2013 and the 2013-2014 school years.

26. Sexual contact occurred between the male student and Jane Doe on multiple occasions at Marrington Middle, on school grounds, in common areas within Marrington Middle, and in school classrooms. Sexual battery occurred after Mother Doe alerted Defendant Spencer to the danger presented by the male student.

27. The District knew, or should have known, about the male student's conduct, and officials of the District were grossly negligent supervising that student and its own facilities. That gross negligence by Spencer and his subordinates enabled the male student to continue to sexually batter Jane Doe.

**For a First Cause of Action:  
Gross Negligence As to Each Plaintiff Under State Law Against the District**

28. Allegations above are incorporated into this cause of action as if fully stated.

29. Defendants had a duty to refrain from any act or omission which might cause harm to minor children under their care and control, including Jane Doe.

30. Defendant Spencer's conduct is the conduct of The District for purposes of this cause of action.

31. Defendants' conduct was grossly negligent and failed to meet the standard of conduct for a reasonable and prudent person under the same or similar circumstances in at least the following particulars:

- a. In failing to provide adequate security for minor students who attended Marrington Middle School;

- b. After Mother Doe complained in February, 2013, in failing to conduct a meaningful investigation into the nature of the male student's conduct with Jane Doe and other children;
- c. In failing to have procedures and policies appropriate to prevent or detect both the male student's sexual battery of female students, including Jane Doe, and
- d. In failing to have sufficient education and training for employees, staff, students and parents about protecting students from sexual battery.

32. The Plaintiffs were each harmed as a result of the gross negligence of the District and its officials.

33. The harm to each of the Plaintiffs was proximately caused by the gross negligence of the Defendants.

34. The Plaintiffs are entitled to a judgment against Defendants for actual damages, jointly and severally, in an amount to be determined by the jury.

**For a Second Cause of Action:  
Loss of Services by Mother Doe Under State Law, Against the District**

35. Allegations above are incorporated into this cause of action as if fully stated.

36. This cause of action is alleged against The District under state law.

37. After having been alerted to the sexual battery by the male student on Jane Doe, the District had a duty to refrain from any act or omission which might cause harm to a minor child within a foreseeable danger, including Jane Doe.

38. Every parent has an interest in avoiding injury to her child, and sustains an injury herself when her child is injured. That injury as a matter of law is independent of the injury to her child.

39. The District was grossly negligent, in at least the following particulars:

- a. In failing to respond appropriately after Mother Doe complained in February, 2013 about the male student;



- b. In failing to disrupt or impede in any way the male student's sexual battering of his female classmates;
- c. In failing to have sufficient education and training for Defendant Spencer, its administrators, employees, staff, and agents about responding to reports about students known to have engaged in sexual misconduct with other students; and
- d. By creating conditions where children, including Plaintiff mother's child, would be isolated with a person known to sexually batter other students.

40. Mother Doe has been harmed as a result of the gross negligence of the District as set forth above, in that she has had impaired her interest in the services and companionship of her child by proximate result of the conduct by the District.

41. As a proximate result of the conduct of the District, the Plaintiffs must be mindful of the potential for long-lasting effects on her child of the male student's sexual batterings, and must be mindful of the increased risks of harm that accompanies a minor's sexual abuse, which effects extends into adulthood and can be life-long.

42. Inaction by the District's agents and employees has been aimed directly at the mother's interest in her child and the parent-child relationship. Among other things, since her February, 2013 complaint, officials at the District failed to take appropriate action to protect her child from the known danger the student presented.

43. Plaintiff Mother Doe is entitled to a judgment against the District, for damages in an amount to be determined by the jury, and injunctive relief to be ordered by the Court to protect Jane Doe and other female students from the sexual harassment by the known male student and any other student.

**For a Third Cause of Action  
Violation of 42 U.S.C. § 1983 Count One: State Created Danger  
By Each Plaintiff Against Defendant Spencer**

44. This cause of action is directed against Defendant Spencer individually under federal, not state, law, pursuant to 42 U.S.C. § 1983, in his individual and official capacities acting within the course and scope of his positions within the Berkeley County School District.

45. Allegations above are incorporated into this cause of action, other than allegations of the first two causes of action directed against the District.

46. At all times Defendant Spencer acted under color of state law in his capacity as principal of Marrington Middle School.

47. Defendant Spencer acted intentionally so as to harm the Plaintiffs, and created a danger for the Plaintiffs, or by his conduct was deliberately indifferent to the dangers created for the interests of the Plaintiffs.

48. Defendant Spencer was told explicitly by Mother Doe, in February, 2013, that the conduct of the male student with her child was improper sexual touching and was inappropriate. Defendant Spencer analyzed the facts reported to him in 2013 and made a conscious decision to not restrict the male student's contact with Jane Doe, or with other female students.

49. Defendant Spencer left the abusive male student in the class where the abuse had occurred and then in the 2013-2014 academic year he permitted Jane Doe to be assigned to be in the same class as Jane Doe, where, as a result, additional sexual battering occurred.

50. The Plaintiffs have an interest, cognizable under the United States Constitution and federal law, in avoiding sexual assault on her child at school. Jane Doe has a protected federal interest in her own bodily integrity. Mother Doe has a protected federal interest in the bodily integrity of her child. Additionally, Mother Doe is a consumer of services offered by

Marrington Middle School and has a cognizable federal interest in the safety of her child at school.

51. Conduct by the Defendant Spencer posed a direct injury, and direct harm, to the Constitutional interest of the Plaintiffs. It was foreseeable to Defendant Spencer beginning in February, 2013 that failing to impede or investigate the male student's conduct in inappropriately touching female students would leave that student at liberty to subject Jane Doe and other students to sexual battery and to deprive each of the Plaintiffs of their Constitutional rights.

52. The Plaintiffs' interests have been directly affected by Defendant Spencer failing to impede or investigate the male student in 2013 and thereafter, after he was told that Jane Doe had been sexually battered by the male student. By his inaction after the explicit complaint, Defendant Spencer created opportunity for the male student to sexually exploit Jane Doe and other students, posed a direct risk of injury to each of the Plaintiffs.

53. In failing to impede or investigate the male student in 2013 and thereafter, Defendant Spencer acted at the expense of the interests of the Plaintiffs, whose interests were ignored. Defendant Spencer was deliberately indifferent to the interest of each Plaintiff.

54. By his actions and inactions, Defendant Spencer created for each of the Plaintiffs the danger of enabling the male student's continuing access to Jane Doe, enabling that student to continue to sexually exploit her.

55. Defendant Spencer knew, and was deliberately indifferent to, the male student's continuing after February, 2013 to sexually exploit Jane Doe and other female students.

56. The conduct by Spencer was egregious and arbitrary, and reflected a callous disregard so ill-conceived and malicious that it shocks the conscience. Defendant Spencer ignored the dangers to Jane Doe from that students sexual assaults, enabled the student to

continue his sexual exploitation, and assisted the male student in creating the harm suffered by the Plaintiffs.

57. Defendant Spencer acted under color of state law and within the scope of his official duty.

58. Since February, 2013, Defendant Spencer has had reason to know, and has known, that the male student was dangerous to his female peers.

59. Defendant Spencer is aware that as sexually abused children age, they have an increased risk of harm from substance abuse and other complications. “Trigger” mechanisms can occur throughout an abuse victim’s life to disrupt the victim’s stability.

60. Starting in February, 2013, Defendant Spencer has been deliberately indifferent to the known risks the male student represented for the Plaintiffs.

61. The harm ultimately caused to each of the Plaintiffs was foreseeable to Defendant Spencer, and directly resulted from the male student’s not having been impeded, investigated, or reported, and having had continued access to female students after February, 2013.

62. After February, 2013, Defendant Spencer willfully disregarded the safety of children attending Marrington Middle School, including the Plaintiff, and by his inaction assisted the male student’s sexual exploitation of children and was consciously and deliberately indifferent to the interests of the Plaintiff.

63. Defendant Spencer created the danger that otherwise would not have existed for the female students whose sexual assaults occurred after February, 2013.

64. Defendant Spencer created and exacerbated a known dangerous situation for the Plaintiffs, who were within the identifiable harm of which the Defendant Spencer was aware not later than February, 2013.

65. But for the conduct of Defendant Spencer in failing to act against the male student, his opportunities to assault Jane Doe would have ended in February, 2013.

66. Defendants Spencer was aware that the male student had continued access to Jane Doe and other minor female students after February, 2013, and that those female students were each exposed to the increased risk of harm that Defendant Spencer used his state position to create by taking no effective action to limit the male student's conduct.

67. Plaintiffs were in discrete classes of foreseeable victims of the male student, Jane Doe being a female student and Mother Doe being her parent.

68. The Plaintiffs would have had no exposure to the conduct of the male student after February, 2013 had Defendant Spencer taken effective action to limit the male student's access to continue his sexual assaults of female students. The ineffective conduct by Defendant Spencer shocks the conscience in his disregard for the safety of children and families.

69. The Plaintiffs are each entitled to actual and punitive damages in amounts to be determined by the trier of fact.

**For a Fourth Cause of Action  
Violation of Title IX, 20 U.S.C. § 1681 et seq  
For Each Plaintiff Against Defendant the District**

70. Allegations above are incorporated into this cause of action as if fully stated.

71. The Berkeley County School District is a public school system and as such, qualifies as each of a "local educational agency" and "school system" within the meaning of 16 U.S.C. § 1687.

72. Federal financial assistance extends to the Berkeley County School District.

73. Title IX, 20 U.S.C. § 1681 et seq, applies to the Berkeley County School District.

74. Among other things, Title IX prohibits discrimination on the basis of sex from participation in and benefits of any educational program.

75. Plaintiffs are individuals with an interest in access to public education free of Jane Doe being discriminated against because she is female.

76. Jane Doe has an individual interest in being free of discrimination directed at her.

77. Mother Doe on her own behalf and on behalf of her minor child attending Berkeley County Schools has an interest in her child being free of gender based discrimination in programs and activities offered by the Berkeley County School District.

78. Since February, 2103, Berkeley County School District agents and employees have been aware that Jane Doe and other female students have sustained inappropriate sexual touching by a male student at Marrington Middle School.

79. Defendant Spencer and other Marrington School officials have been deliberately indifferent to that sexual misconduct, failed to protect Jane Doe and other female students from repeated acts of that misconduct, and assigned Jane Doe to be in the same class as her assailant, with inadequate supervision to restrain the male student's repeated misconduct.

80. The sexual harassment of Jane Doe has been so severe as to effectively bar her from access to educational opportunities and benefits of public education. She has had anxiety and aversion to school sufficient to frustrate her education.

81. The District has the authority and capacity to exercise substantial control over students at Marrington Middle School. Agents and employees of the District have chosen not to exercise that control, and by that failure have knowingly exposed Jane Doe to repeated sexual assault by the male student known to sexually harass female students.

82. Agents and employees of the District have been deliberately indifferent to the interests of the Plaintiffs in Jane Doe being free of sexual harassment.

83. Since February, 2013, the District has had, and ignored, actual knowledge that one of its male students has repeatedly battered Jane Doe and other female students.

84. The harassment of Jane Doe has consisted of repeated acts of sexually inappropriate touchings since February, 2013. The sexual harassment has occurred in class and on school grounds.

85. Agents and employees of the District have knowingly permitted the sexual harassment of Jane Doe and other female students by the male student known to assault female students. The District has remained idle in the face of known student on student harassment, exhibiting deliberate indifference to that harassment.

86. The District has authority to take remedial action to supervise and control both Jane Doe and the offending male student in conduct exhibited in classes and on school grounds, but has chosen not to take such action, and by so doing has exposed Jane Doe and other females students at Marrington Middle School to repeated acts of sexual harassment.

87. Since 1999 it has been known that the District is obligated to act when its female students are being sexually harassed by another student. The response by the District agents and employees after Mother Doe complained in February, 2013, about the sexual harassment of her daughter has been deliberate indifference to Jane Doe, and has resulted in continued sexual harassment of Jane Doe, and repeated injury to both Plaintiffs, and has undermined and detracted from Jane Doe's educational experience, caused her anxiety and distress that limited her interest in and participation in school so as to effectively deny her access to educational opportunities.

88. Jane Doe has been the victim of repeated acts of sexual harassment since February, 2013. The harassment has taken the form of the male student repeatedly touching her private body parts, and grabbing her from behind to engage her in unwanted simulated copulation.

89. Mother Doe met with Defendant Spencer and other Marrington officials about the male student's misconduct, as have at least one other family whose daughter has been similarly affected by the male student. Since February, 2013, Defendant Spencer has had actual knowledge of and deliberate indifference to the sexual harassment by Jane Doe. The District has taken no action to end the sexual harassment of Jane Doe.

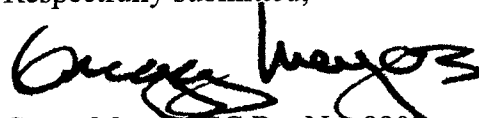
90. The Plaintiffs are each entitled to actual and punitive damages in amounts to be determined by the trier of fact.

**Request for Jury Trial**

91. Plaintiffs request trial by jury.

WHEREFORE, Plaintiffs, request actual and punitive damages as appropriate to the various Defendants under applicable law, costs and disbursements of this action, attorneys fees and costs as provided by statute for the federal causes of action, punitive damages as allowed by law, and for such other and further relief as the Court and jury shall deem just and proper.

Respectfully submitted,



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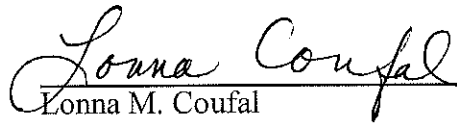


**CERTIFICATE OF SERVICE BY MAIL**

The undersigned of Childs & Halligan, P.A., hereby certifies that she has served the following counsel of record with the foregoing **NOTICE OF FILING NOTICE OF REMOVAL** by mailing a copy of same, postage prepaid and return address clearly indicated, to the following on this 8<sup>th</sup> day of September, 2014:

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Lonna M. Coufal