

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

B.R. and A.R., as parents and next friends of	:	
M.R., a minor	:	
	:	C.A. No.
Plaintiff	:	
	:	
v.	:	JURY TRIAL CLAIMED
	:	
CITY OF WARWICK,	:	
by and through its Treasurer,	:	
BRIAN SILVIA; and COLLEEN MERCURIO	:	

COMPLAINT

JURISDICTION

1. This is a Complaint seeking vindication of minor child M.R.’s right to a school environment free of harassment based upon disability pursuant to Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act. This is also a Complaint seeking to vindicate Plaintiff B.R.’s rights to advocate for her son’s rights pursuant to the First Amendment of the United States Constitution, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act. This Court has subject matter jurisdiction pursuant to 28 U.S.C.A. § § 1331 and 1367.

2. Plaintiff has duly served the City Council of the City of Warwick with notice of her claim as mandated by R.I. General Laws. § 45-15-5, but has received no satisfaction.

PARTIES

3. Plaintiffs B.R. and A.R. is the parents and next friends of M.R., now fourteen years old.

4. M.R. suffers from autism, and at all times relevant to this complaint has been deemed a child with a disability, eligible for special education services under the Individuals with

Disabilities Education Act (IDEA), 20 U.S.C. § 1400 *et seq.* He is also entitled to reasonable accommodations for his disability pursuant to Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 as well as the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, *et seq.*

5. Plaintiffs have resided in the City of Warwick throughout M.R.'s public school career.

6. The Defendant City of Warwick is a municipal corporation duly organized under the laws of the State of Rhode Island, and is sued by and through Brian Silvia, its Treasurer.

7. At all times relevant hereto, Defendant Colleen Mercurio was employed as the Principal of the Cedar Hill Elementary School in the Warwick School Department.

FACTS

8. Defendant Mercurio took the position of Principal of the Cedar Hill Elementary School in or about school year 2013-2014.

9. At the time, M.R. was receiving special education services under an Individualized Education Plan (IEP).

10. Among other things, M.R.'s disability substantially impairs his ability to concentrate and follow classroom routines.

11. Said (IEP) placed M.R. in the mainstream classroom with 1:1 paraprofessional support throughout the school day.

12. M.R. had been provided with the same or similar level of 1:1 paraprofessional support in his past.

13. For programmatic reasons, M.R. had been assigned to Cedar Hill Elementary School although he and his family did not live in its attendance zone. Prior to the 2013-2014 school

year, Warwick administration had guaranteed that M.R.'s three younger siblings would be permitted to attend Cedar Hill throughout their elementary school careers.

14. During the previous school year, 2012-2013, the 1:1 paraprofessional and M.R. had not enjoyed a good working relationship. That paraprofessional was removed at the request of B.R.

15. When Defendant Mercurio was first introduced to B.R. in August, 2013, Defendant Mercurio immediately said to B.R., in a hostile tone: "You had an aide removed."

16. Several months later, an IEP Team meeting was convened to review M.R.'s IEP. Defendant Mercurio was present, along with B.R.

17. Defendant Mercurio stated that did not think that M.R. receive a 1:1 paraprofessional because, as she stated "other children" needed the support more than M.R. and were not receiving it.

18. B.R. objected to the removal of the paraprofessional, and asked if she needed a lawyer.

19. The remainder of the Team agreed that removal of the paraprofessional was inappropriate, and in any case beyond the scope of the meeting notice.

20. Shortly after IEP Team Meeting, Defendant Mercurio began a pattern of bullying and harassment of M.R. and his family.

21. Towards the close of the 2013-2014 school year, Defendant Mercurio sent B.R. a letter stating that M.R. and his siblings would no longer be permitted to attend Cedar Hill because the family did not live within its attendance zone.

22. By this time, M.R. was scheduled to begin his sixth grade year in September, 2014, and his younger siblings had already begun their elementary school careers at Cedar Hill.

23. On or about May 6, 2014, B.R. wrote to Defendant Mercurio and informed him of the reasons for the decision to place M.R. at Cedar Hill, and also of the promise that he and his siblings would be permitted to attend Cedar Hill for their entire elementary careers.

24. When Defendant Mercurio continued to insist in writing that M.R. and his siblings would no longer be permitted to attend Cedar Hill, B.R. contacted central administration.

25. B.R. reminded central administration of the fact that M.R. had been placed at Cedar Hill by the IEP Team, and that the family had been promised that M.R.'s three younger siblings could attend Cedar Hill.

26. Central administration overruled Defendant Mercurio's attempt to remove M.R. and his siblings from Cedar Hill.

27. From the beginning of the 2014-2015 school year, M.R. was subjected to bullying based upon his disability by a classmate, Student A.

28. Student A. would repeatedly mock M.R. in class for M.R.'s difficulty with attention and following classroom routines. Student A. also called M.R. "stupid," and stated that M.R. "didn't deserve" to be in a class with his non-disabled peers. Student A.'s abuse escalated to hitting and punching M.R.

29. This behavior was witnessed by staff and students alike.

30. When B.R. brought this matter to Defendant Mercurio's attention, Defendant Mercurio refused to take any effective action. Instead, her responses were to tell M.R. to "deal with it," and "get over it."

31. Defendant Mercurio, in response to the reports about Student A.'s harassment, also told M.R. to "get used to it." Defendant Mercurio thus communicated directly to M.R. that he

should expect to be harassed based upon his disability as a normal part of his attendance in the Warwick Public Schools.

32. Student A. moved away.

33. In May, 2015, a lunchroom assistant reprimanded M.R. for talking in line. She began yelling at M.R. and demanding that he look her in the eye and give her his name.

34. M.R.'s disability makes it extremely difficult to maintain eye contact, particularly when under stress.

35. The lunchroom assistant submitted a "write-up" in which she referred to M.R. as the "most disrespectful student I have come across in this school," and described his attitude as "deplorable."

36. Defendant Mercurio signed the write-up, despite her awareness of M.R.'s disability and its impact on his behavior.

37. When B.R. discussed the incident with Defendant Mercurio, she asked if Defendant Mercurio had explained M.R.'s disability and its impact to the lunchroom aide. Defendant Mercurio stated that she had not.

38. Beginning sometime towards the end of the 2014-2015 school year, two other boys in M.R.'s class, Students B and C, began encouraging M.R. to engage in homosexual behavior in the bathroom.

39. Due to his disability, M.R. has difficulty reading social cues and understanding whether or not social behaviors are appropriate to the time and place.

40. Students B and C knew of M.R.'s social difficulties, and were taking advantage of them in order to make M.R. the butt of a cruel joke.

41. M.R. did not understand that Student B and C were taking unfair advantage of his disability for their amusement, but thought he was making friends with Students B and C.

42. M.R.'s other classmates witnessed the behavior and recognized that Students B and C were taking unfair advantage of M.R.'s disability. They reported the behavior to M.R.'s Special Education Teacher.

43. M.R.'s Special Education Teacher immediately reprimanded Students B and C and warned them that sexual harassment was not and would not be tolerated.

44. When B.R. learned of this activity, she consulted the Special Education Teacher, who agreed to keep Students B and C away from M.R. in the bathroom.

45. However, because they were aware of Defendant Mercurio's earlier treatment of M.R. when being harassed based upon his disability, neither B.R. nor the Special Education Teacher referred the matter to Defendant Mercurio.

46. In June, 2015, M.R. was once again victimized by Students B and C while on a bus for a school field trip. Students B and C persuaded M.R. to sit on their laps and play what they referred to as the "open mouth breathing game." This game involved their grabbing the back of M.R.'s head and blowing air into his mouth.

47. Students B and C had already been reprimanded for having encouraged M.R. to engage in homosexual behavior.

48. M.R. attempted to re-enact the so-called game with another student, Student D., at recess during the same school day.

49. When teachers witnessed M.R.'s re-enacting the so-called "game," they questioned M.R. and spoke to B.R.

50. B.R. spoke to Student D's mother, who stated that Student D understood M.R.'s behavior, and was not troubled by it. Student D. had also told his mother that he was aware that Students B and C had taken advantage of M.R. before.

51. When Defendant Mercurio was informed of the situation, she convened a closed-door meeting between M.R., Students B and C, and Student D.

52. B.R. arrived at school while the meeting was still ongoing, and witnessed the students who had bullied her son leaving the room, laughing and talking and behaving in an unconcerned fashion.

53. Student D. tried to explain to Defendant Mercurio that M.R. had not understood what he was doing, but Defendant Mercurio would not listen.

54. Defendant Mercurio then began to loudly berate M.R. in Student D.'s presence, and threatened to expel him for the remainder of the year if he did not calm down.

55. Student D. left the room looking sad and concerned.

56. When B.R. was admitted to the meeting room, she asked whether Defendant Mercurio was going to investigate the incident on the bus, and pointed out that the bus incident bordered on sexual.

57. When Defendant Mercurio indicated that she would not investigate, B.R. stated that she would be calling the parents of the other students involved.

58. Defendant Mercurio then told B.R. that if she did so, she would call the Student D.'s parents, and that those parents would call the police. She also stated that M.R. was the one who "had issues" and would "go down" for this.

59. Defendant Mercurio at one point also asked B.R. whether or not she intended to follow M.R. around when he moved on to junior high school.

60. Student M.R. was present in the room during this exchange between B.R. and Defendant Mercurio.

61. Student M.R. went to a graduation practice later that day.

62. On the way to that graduation practice, M.R. demonstrated extreme emotional distress, including but not limited to sitting on the floor of the bus crying, punching himself, trying to choke himself, and saying that he wanted to die.

63. M.R.'s teachers contacted Defendant Mercurio regarding M.R.'s distraught state. Defendant Mercurio replied: "Get him out of here, call his mother."

64. B.R. received a telephone call informing her of M.R.'s distress.

65. M.R.'s emotional state was such that he required and still requires therapy to cope with the trauma that he endured at the hands of not only Students A, B, and C, but also Defendant Mercurio.

66. B.R. reported this situation to Warwick School Department central administration.

67. Despite Defendant Mercurio's previous behavior, central administration instructed Defendant Mercurio to investigate what had taken place on the bus.

68. Defendant Mercurio, although not instructed to do so, turned the investigation towards the incident with Student D. on the playground, asking students to make written statements.

69. Defendant Mercurio also ignored an attempt by the parent of another student, Student E., to inform Defendant Mercurio of what her daughter had seen on the bus. Defendant Mercurio also told Student E.'s mother that she "felt bad for M." because he had a mother like B.R.

70. Defendant Mercurio also said to Student E.'s mother that B.R. ". . . made it so if certain boys go into the bathroom they have to leave if [M.R.] is in there because they tell him to say gay and call people gay."

71. B.R. contacted central administration regarding Defendant Mercurio's actions with respect to Student E.'s mother.

72. B.R. was told by Lynn Dambruch, Director of Elementary Education, that Defendant Mercurio had acted improperly when trying to turn the investigation towards M.R., and was removed from that investigation. B.R. was also told that Defendant Mercurio was being instructed to "stay away" from M.R. and his siblings.

73. Defendant Mercurio's refusal to take effective action against the disability-based harassment was motivated by animus towards B.R. for having advocated for an appropriate educational environment for her son.

74. Although M.R. moved on the junior high beginning with the school year 2015-2016, his younger siblings still attend Cedar Hill, and Defendant Mercurio has continued her harassing and retaliatory behavior.

75. Over the 2015-2016 school year, Defendant Mercurio made disparaging remarks to others about the punctuality of M.R.'s younger siblings, in violation of their rights to privacy.

76. Notwithstanding Defendant Mercurio's actions, B.R. remained active in Cedar Hill's parent-teacher organizations. Defendant Mercurio's response has been to repeatedly disparage and frustrate B.R.'s efforts.

77. For example, Defendant Mercurio abruptly cancelled a "teacher appreciation" event which had come to be an annual event at Cedar Hill.

78. On another occasion, Defendant Mercurio approved a fundraiser, then once again abruptly cancelled it once she learned that B.R. was working on it. Children and parents were upset because they were already dressed for it. Mercurio then cancelled all fundraising for the year.

79. B.R. brought this incident to central administration's attention, and was told that Defendant Mercurio would be "spoken to."

80. Towards the end of the 2015-2016 school year, Defendant Mercurio pointed out B.R. to another parent, identifying her as the "ringleader" of a group that was trying to get Defendant Mercurio fired, and told the parent that B.R. and other parents were simply angry that they were "not allowed to run the school."

81. Immediately prior to the 2016-2017 school year, Defendant Mercurio sent B.R. another letter informing her that M.R.'s younger siblings would not be permitted to attend Cedar Hill because M.R. was no longer attending.

82. When B.R. contacted central administration and reminded them of the agreement, she was told not to worry about it.

83. Warwick administration was also aware of other incidents in which Defendant Mercurio has failed to take effective action to stop students from being exposed to a hostile environment based on a prohibited characteristic, such as race. Instead, Defendant Mercurio disciplined and blamed the victim for "bullying."

84. Nevertheless, in early 2017, the Warwick School Committee gave Defendant Mercurio a three-year employment contract.

85. On or about July 10, 2017, Defendant Mercurio again sent B.R. a letter stating that M.R.'s siblings would no longer be permitted to attend Cedar Hill.

86. Over the summer of 2017, B.R. communicated with the Warwick School Department Administration, Superintendent Thornton, the Warwick School Committee, and the Mayor regarding the course of abuse and harassment.

87. Defendant City of Warwick failed to take any effective action to curb Defendant Mercurio.

88. In the school year 2017-2018, B.R.'s mother sought to participate in a "foster grandmother" program at Cedar Hill. This program had been in place for some years, and B.R.'s mother had in fact been in the program for a year

89. Upon learning that B.R.'s mother would be participating, Defendant Mercurio undertook to end the program. B.R.'s mother was turned away on arrival at school, and was told that the program was "not needed" and that the school was "too crowded."

90. B.R.'s mother received a voice mail from the grandparents' association relaying a message from Defendant Mercurio stating that she was no longer needed at Cedar Hill.

91. Defendant Mercurio's explanations for discontinuing the program were a pretext for retaliating once again against B.R. and her family.

COUNT I
SECTION 504 OF THE REHABILITATION ACT and
AMERICANS WITH DISABILITIES ACT (Hostile Environment)

92. Plaintiffs re-allege those averments contained in the Paragraphs above as if fully re-stated herein.

93. The Americans with Disabilities Act prohibits discrimination on the basis of disability and further prohibits retaliation for the exercise of protected conduct, including advocacy for the rights of individuals with disabilities.

94. Section 504 of the Rehabilitation Act prohibits discrimination on the basis of disability and further prohibits retaliation for the exercise of protected conduct, including advocacy for the rights of individuals with disabilities.

95. The Defendant, City of Warwick receives federal financial assistance, as defined by 29 U.S.C. § 794, and, as such, may not discriminate against a person because of disability, nor may it retaliate against individuals who advocate for the rights of individuals with disabilities.

96. The Defendant, City of Warwick, is a “public entity” as defined in 42 U.S.C. § 12131(1), and receives federal financial assistance so as to be covered by the mandates of the ADA.

97. M.R. was a qualified individual with a disability pursuant to both Section 504 and the ADA.

98. Pursuant to Section 504 and the ADA, M.R. had a right to be free of harassment based upon his disability.

99. Due to the inaction of the City of Warwick, and the actions and inactions of Defendant Mercurio, M.R. was subjected to harassment and discrimination based upon his disability by students and another staff member.

100. Said harassment and discriminatory treatment was so severe and pervasive, and objectively offensive that it denied M.R. equal access to his education.

101. Defendants Mercurio and the City of Warwick had actual knowledge of said harassment, but were deliberately indifferent to the same in that they failed to take effective action to stop the harassment and discrimination.

102. As a direct and proximate result of the wrongful actions of Defendants City of Warwick and Mercurio, Plaintiffs have suffered financial harm, as well as emotional distress,

personal inconvenience, worry, loss of enjoyment of life, and other non-pecuniary losses.

103. Said actions of Defendants were done with conscious disregard to Plaintiffs' legal rights.

104. Said actions of Defendants were wicked and wanton, and for the good of society must be punished.

WHEREFORE, Plaintiffs demand judgment against Defendants City of Warwick and Mercurio, including but not limited to injunctive relief, compensatory and punitive damages, attorneys' fees and costs in an amount sufficient to confer jurisdiction upon this Court.

COUNT II
SECTION 504 OF THE REHABILITATION ACT and
AMERICANS WITH DISABILITIES ACT
(Retaliation)

105. Plaintiffs re-allege those averments contained in the Paragraphs above as if fully re-stated herein.

106. Section 504 of the Rehabilitation Act and the Americans with Disabilities Act prohibit retaliation for the exercise of protected conduct, including advocacy for the rights of individuals with disabilities.

107. Plaintiff B.R. engaged in protected activity by advocating for the rights of her son, a student with a disability within the meaning of both Section 504 and the ADA, by advocating for appropriate educational services and for cessation of disability-based harassment.

108. Plaintiff B.R.'s protected activity was a substantial or motivating cause of retaliatory action against her and M.R. by the Defendants City of Warwick and Defendant Mercurio.

109. This retaliation took the form of tolerating a hostile educational environment for M.R., as well as ostracizing B.R. and her family from the Cedar Hill community, and also attempting to deprive M.R. and his siblings of their right to attend Cedar Hill

110. As a direct and proximate result of the wrongful actions of Defendants City of Warwick and Mercurio, Plaintiffs have suffered financial harm, as well as emotional distress, personal inconvenience, worry, loss of enjoyment of life, and other non-pecuniary losses.

111. Said actions of Defendants were done with conscious disregard to Plaintiffs' legal rights.

112. Said actions of Defendants were wicked and wanton, and for the good of society must be punished.

WHEREFORE, Plaintiff demands judgment against Defendants City of Warwick and Mercurio, including but not limited to injunctive relief, compensatory and punitive damages, attorneys' fees and costs in an amount sufficient to confer jurisdiction upon this Court.

COUNT III – 42 U.S.C. § 1983 (Fourteenth Amendment)

113. Plaintiffs re-allege those averments contained in the Paragraphs above as if fully re-stated herein.

114. The Fourteenth Amendment of the United States Constitution guarantees the right to equal protection under the law.

115. Defendant City of Warwick and Defendant Mercurio, acting under the color of state law, unlawfully deprived M.R. of his right to equal protection under the law.

116. Defendant Mercurio deprived M.R. of his right to equal protection under the law by failing to take action to remediate a hostile educational environment for M.R., as well as

ostracizing his family from the Cedar Hill community, and also attempting to deprive M.R. and his siblings of their right to attend Cedar Hill.

117. The Defendant City of Warwick failed to train, supervise, and discipline Defendant Mercurio for her actions against M.R. and his family, and thus permitted Defendant Mercurio to be in a position to violate M.R.'s right to equal protection.

118. The Defendant City of Warwick, being aware that Defendant Mercurio was engaged in a course of discriminatory conduct against Plaintiffs and failing to train, supervise, and discipline Defendant Mercurio in response, acted with deliberate indifference towards the Plaintiffs' constitutional rights.

119. As a result of a conscious policy, practice, custom or usage, the Defendant City of Warwick has permitted and allowed for harassment based upon disability.

120. As a direct result of the actions of Defendants City of Warwick and Mercurio, Plaintiffs have suffered and will continue to suffer financial harm, emotional distress, personal inconvenience, worry, loss of enjoyment of life, and other non-pecuniary losses.

121. Said actions of Defendants were done with conscious regard for the legal rights of Plaintiff.

122. Said actions of Defendants were wicked, wanton, and for the good of society must be punished.

WHEREFORE, Plaintiffs demand judgment against Defendants, including but not limited to injunctive relief, compensatory and punitive damages, attorneys' fees and costs in an amount sufficient to confer jurisdiction upon this Court.

COUNT IV – 42 U.S.C. § 1983 (First Amendment Retaliation)

123. Plaintiffs re-allege those averments contained in the Paragraphs above as if fully re-stated herein.

124. The First Amendment of the United States Constitution guarantees the right to petition for redress of grievances.

125. Plaintiff B.R. attempted to exercise her right to petition for redress of her grievances and advocate for her son regarding appropriate educational services and protection from disability-based harassment.

126. Defendant City of Warwick and Defendant Mercurio, acting under the color of state law, unlawfully retaliated against Plaintiff B.R. for having exercising her right to petition for redress of grievances.

127. Defendant Mercurio's retaliation took the form of failing to take action to remediate a hostile educational environment for M.R., as well as ostracizing B.R. and her family from the Cedar Hill community, and also attempting to deprive M.R. and his siblings of their right to attend Cedar Hill.

128. The Defendant City of Warwick failed to train, supervise, and discipline Defendant Mercurio for her actions against M.R. and his family, and thus permitted Defendant Mercurio to be in a position to violate the Plaintiff's constitutional rights.

129. The Defendant City of Warwick, being aware that Defendant Mercurio was engaged in a course of retaliatory conduct against Plaintiff and failing to train, supervise, and discipline Defendant Mercurio in response, acted with deliberate indifference towards the Plaintiff's constitutional rights.

130. As a result of a conscious policy, practice, custom or usage, the Defendant City of Warwick has permitted and allowed for harassment based upon exercise of First Amendment rights.

131. As a direct result of the actions of Defendants City of Warwick and Mercurio, Plaintiff has suffered and will continue to suffer financial harm, emotional distress, personal inconvenience, worry, loss of enjoyment of life, and other non-pecuniary losses.

132. Said actions of Defendants were done with conscious regard for the legal rights of Plaintiff.

133. Said actions of Defendants were wicked, wanton, and for the good of society must be punished.

WHEREFORE, Plaintiff B.R. demands judgment against Defendants, including but not limited to injunctive relief, compensatory and punitive damages, attorneys' fees and costs in an amount sufficient to confer jurisdiction upon this Court.

COUNT V
Negligence

134. Plaintiffs re-allege those averments contained in the Paragraphs above as if fully re-stated herein.

135. Defendant Mercurio had a special relationship to M.R. as the principal of his school, and therefore, had a duty to use reasonable care in the supervision, custody, care and/or education of M.R. under state and federal law.

136. Defendant City of Warwick had a duty to exercise reasonable care in the supervision, custody, care, and education of M.R.

137. Defendant Mercurio breached that duty by failing to take reasonable actions to prevent M.R. from suffering discrimination and harassment based upon his disability, and by otherwise targeting him in order to retaliate against his mother for advocating on his behalf.

138. Defendant City of Warwick breached that duty when it failed to train, supervise, or discipline Defendant Mercurio, staff, and other students and otherwise prevent them from subjecting M.R. to discrimination, harassment, and retaliation.

139. As a direct result of the actions of Defendants City of Warwick and Mercurio, Plaintiff has suffered and will continue to suffer financial harm, emotional distress, personal inconvenience, worry, loss of enjoyment of life, and other non-pecuniary losses.

140. Said actions of Defendants were done with conscious regard for the legal rights of Plaintiff.

141. Said actions of Defendants were wicked, wanton, and for the good of society must be punished.

WHEREFORE, Plaintiffs demand judgment against Defendants, including but not limited to injunctive relief, compensatory and punitive damages, attorneys' fees and costs in an amount sufficient to confer jurisdiction upon this Court.

COUNT VI
(Rhode Island Civil Rights Act)

142. Plaintiffs re-allege those averments contained in the Paragraphs above as if fully re-stated herein.

143. Rhode Island Gen. Laws § 42-112-1 *et seq.* provides, in pertinent part:

- (a) All persons within the state, regardless of race, color, religion, sex, disability, age, or country of ancestral origin, have, except as is otherwise provided or permitted by law, the same rights to make and enforce contracts, to inherit, purchase, to lease, sell, hold, and convey real and personal property, to sue, be parties, give evidence, and to

the full and equal benefit of all laws and proceedings for the security of persons and property, and are subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

144. M.R. is a disabled person and has a disability covered by R.I.G.L. § 42-112-1 *et seq.*

145. Defendants, by their individual and concerted acts and omissions, including, but not limited to, those described herein, discriminated against M.R.. based upon his disability by subjecting him to a hostile educational environment.

146. Defendants' actions were outrageous, wicked and wanton, and for the good of society must be punished.

WHEREFORE, Plaintiffs demand judgment against Defendants, including but not limited to injunctive relief, compensatory and punitive damages, attorneys' fees and costs in an amount sufficient to confer jurisdiction upon this Court.

Plaintiffs,
By their attorney,

/s/ Vicki J. Bejma
Vicki J. Bejma #6498
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

B.R. and A.R. as parents and next friends of M.R.

(b) County of Residence of First Listed Plaintiff Kent (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Vicki J. Bejma; Robinson & Clapham, 123 Dyer Street, Suite 135, Providence, RI 02903, (401) 331-6565

DEFENDANTS

City of Warwick, by and through its Treasurer Brian Silvia, and Colleen Mercurio

County of Residence of First Listed Defendant Kent (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 USC 794, 42 USC 12101, 42 USC 1983. Brief description of cause: disability discrimination/harassment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 01/29/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Vicki J. Bejma

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.