

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

CASE NO.: 2020-CA-000403

CARISSA A. JACKSON, as Personal
Representative of the Estate of SHUANTIANA
A. STAFFORD,

Plaintiff,

vs.

FLAGLER COUNTY SCHOOLS,

Defendant.
_____ /

**THE SCHOOL BOARD'S ANSWER AND
AFFIRMATIVE DEFENSES TO THE COMPLAINT**

Defendant Flagler County Schools (“the School Board”), through undersigned counsel, responds to the correspondingly-numbered paragraphs of Plaintiff’s Complaint, as follows:

1. Admit the jurisdiction of this court. Deny the remaining allegations this paragraph.
2. Without knowledge.
3. Without knowledge.
4. Without knowledge.
5. Without knowledge.
6. Without knowledge.
7. Admit the School Board is responsible for the operation of the public schools within the district including Flagler Palm Coast High School located at 5500 E. Highway 100, Palm Coast, FL 32164. Deny the remaining allegations of this paragraph.

8. Admit that the School Board has a duty to provide reasonable supervision of its students while on campus during school hours, including the deceased Shauntiana A. Stafford, but deny any breach thereof. Deny the remaining allegations of this paragraph.
9. Admit that the School Board was responsible for its employees and agents acting within the course and scope of their employment. Deny the remaining allegations of this paragraph.
10. Admit that the School District had a policy in place regarding bullying and harassment, which was followed by the School Board. Deny the remaining allegations of this paragraph.
11. Deny.
12. Admit that some instances of alleged bullying and harassment were reported to the School District, but deny any breach of duty. Deny remaining allegations of this paragraph.
13. Deny.
14. Admit that the School District received a Notice of Claim from Plaintiff's counsel dated March 22, 2019, a copy of which is attached as Exhibit A to this Complaint. Deny the remaining allegations of this paragraph.
15. Without knowledge as to Plaintiff has met all conditions precedent. Deny that Defendant waived all conditions precedent.

COUNT I-
WRONGFUL DEATH

16. The School Board reincorporates and realleges its responses to paragraphs 1-15 above as if fully set forth herein.

17. Admit.
18. Admit that the School Board operated Flagler Palm Coast High School.
19. Admit.
20. Deny.
21. Deny.
22. Admit Shauntiana A. Stafford reported to School Board employees on occasion negative comments by other students. Deny the remaining allegations of this paragraph.
23. Deny.
24. Deny.
25. Deny
26. Deny.
27. Admit that the School Board had a duty of reasonable supervision to Shauntiana A. Stafford and other students while at school during school hours or at school sponsored activities, but deny any breach thereof. Admit that the School Board developed and implemented policy for bullying and harassment, but deny any breach thereof. Deny the remaining allegations of this paragraph.
28. Deny.
 - a. Deny.
 - b. Deny.
 - c. Deny.
 - d. Deny.
 - e. Deny.
 - f. Deny.

29. Deny.

Defendant School Board denies Plaintiffs are entitled to the relief sought.

All allegations not specifically admitted to herein are denied.

DEMAND FOR JURY TRIAL

The School Board demands trial by jury on all issues so triable.

AFFIRMATIVE DEFENSES

First Defense

The injuries and damages alleged to be suffered by Plaintiff were caused by persons and/or entities over whom Defendant had no control or duty to control. Defendant affirmatively asserts the right to include on the verdict forms those persons or entities, whether or not such persons or entities are ever named in this action or remain in the action at the time of trial, pursuant to the holdings of *Fabre v. Martin*, 623 So. 2d 1182 (Fla. 1993) and *Nash v. Wells Fargo Guard Services*, 678 So. 2d 1262 (Fla. 1996). Discovery is continuing and there may be other persons or entities whose identity is not presently known, or whose identity is known but their potential responsibility is not yet ascertained, who may be responsible. Defendant affirmatively asserts its right upon proper notice to Plaintiff and the Court as these persons or entities may be discovered will be added.

Second Defense

Plaintiff ought not to recover from the School Board, or in the alternative, Plaintiff's recovery should be diminished for that, at the time and place alleged, Plaintiff herself was

negligent. Such negligence was either the sole legal cause or was a contributing cause of the action and injury and damages claimed herein.

Third Defense

The School Board denies liability for the damages complained of, but in the event that the School Board should be found liable in any degree for such damages, its liability should be limited to the percentage of total fault, if any, assigned by the trier of fact to the School Board and not on the basis of the doctrine of joint and several liability, pursuant to Section 768.81, Florida Statutes.

Fourth Defense

The School Board is an agency or subdivision of the State and therefore is entitled to sovereign immunity, subject only to the limited waiver of that immunity provided by Section 768.28, Florida Statutes.

Fifth Defense

The damages complained of have been paid, in whole or in part, by collateral sources of indemnity as defined by Florida Statute and are not recoverable from Defendant.

Sixth Defense

The School Board is not the insurer of the safety of its students and is not strictly liable for any injuries that may occur. Further, the School Board did not have a duty to Shauntiana A. Stafford to supervise all of her movements at all of the times. Benton v. Sch. Bd. of Broward Cnty., 386 So. 2d 831 (Fla. 4th DCA 1980).

Seventh Defense

Defendant School Board is entitled to any and all health insurance contractual adjustments and/or write offs and only that sum should be presented to the jury as the actual damage incurred. Goble v. Frohman, 901 So 2d 830 (Fla. 2005); Thyssenkrupp Elevator Corp v. Lasky, 868 So 2d 547 (Fla. 4th DCA 2003).

Eighth Defense

No causal connection between Plaintiff's allegations and any act or omission of School District.

Ninth Defense

The damages described in the Complaint were not caused by any action or inaction of the School District, its employees, agents or apparent agents, but rather caused by an independent intervening or superseding cause which occurred after the action or inaction of the School District, its employees, agents or apparent agents or any alleged causal connection between the allegations against the School District, its employees, agents or apparent agents and Plaintiff's alleged damages.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed with the Florida Courts E-Filing Portal and designated service to the following in accordance with Rule 2.516, Florida Rules of Judicial Administration: Eric R. Andeer, Morgan & Morgan, 2601 North Ponce De Leon Blvd., St. Augustine, FL 32084, eandeer@forthepeople.com; stickner@forthepeople.com ; kscherer@forthepeople.com this November 4, 2020.

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