

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

AURIELLE AUSTIN, INDIVIDUALLY, AND AS PARENT
AND NATURAL GUARDIAN OF SIRGIO JETER, AN
INFANT

Claimant,

NOTICE OF CLAIM

vs.

Index No.:

BUFFALO PUBLIC SCHOOLS,
DR. KRINER CASH, SUPERINTENDENT OF BUFFALO
PUBLIC SCHOOLS

Respondents.

PLEASE TAKE NOTICE, that the undersigned of John V. Elmore, P.C., attorneys for claimants, hereby make, in accordance with the General Municipal Law Section 50 *et seq.*, a claim and demand against the respondents, on behalf of claimants, as follows:

1. The Claimants are AURIELLE AUSTIN, individually, and as Parent and Natural Guardian of SIRGIO JETER, an infant, both residing at 42 Landon Street, Buffalo, NY 14208.
2. The attorneys for the claimants are John V. Elmore, P.C., 2969 Main Street, Suite 200, Buffalo, New York 14214. Attorney's telephone number is (716) 300-0000.
3. The incident giving rise to these damages occurred on February 9, 2022, at approximately 3:45 p.m. on the grounds of Buffalo Public Schools, McKinley High School, 1500 Elmwood Ave, Buffalo, NY 14207, premises owned, controlled, supervised, operated, and managed by respondents, when claimant was stabbed multiple times. The infant claimant has since been confined to John R. Oishei Children's Hospital where he remains in critical condition.
4. The nature of the claim is one of negligence and recklessness on the part of BUFFALO

PUBLIC SCHOOLS, and DR. KRINER CASH. Respondents neglected their duty to provide a safe and secure environment, in that their agents, servants and/or employees were negligent in failing to supervise students; in hiring and training of faculty, staff and administration; failing to secure the school grounds; failing to suspend, properly discipline and counsel students who have committed violent acts; ignoring threatening behavior from students; ignoring credible complaints made by parents, school teachers and representatives from the Buffalo Teacher's Federation; allowing bullying, fighting and violent behavior from students to escalate; negligent investigating of incidents of student violence; failing to maintain a disciplined, safe and organized school climate; and negligently allowing a culture of violence to develop within the schools. This negligence resulted in needless suffering, and significant multiple critical injuries to infant SIRGIO JETER.

5. Respondents knew or should have known despite multiple warnings and signs for concern that there was potential for violence.

6. On December 9, 2021, the President of the Buffalo Teachers Federation Philip Rumore sent a memorandum to the Buffalo Public Schools Superintendent DR. KRINER CASH advising that since September 2021, there have been 40 incidents of violence at the school, and that there was a critical need for more security and community officers at the school. There was also a request for more support teachers, counselors, psychologists, intervention programs and resources. BUFFALO PUBLIC SCHOOLS and DR. KRINER CASH failed to implement the recommendations of Mr. Rumore and the Buffalo Teacher's federation. Furthermore, Dr. Cash failed to adequately address Mr. Rumore's Concerns of escalating violence.

7. Other incidents of the Buffalo Public Schools, and DR. KRINER CASH having notice, and creating an environment of elevated risk of violence on McKinley High School grounds

include:

- a. A female student being attacked by two fellow students, causing her to suffer from scratches and broken personal property February 2022.
- b. A teacher being pushed to the ground and kicked on January 24, 2022;
- c. A teacher and a security guard being pushed by a student on January 13, 2022;
- d. A hollow-point bullet being found on McKinley high school grounds during the 2021-2022 school year
- e. A teacher being hit, kicked, by a student, and falling to the floor causing injuries to her back, neck and hand, as well as a student biting a male teacher in the same altercation in January 2022;
- f. A parent reporting that her daughter was assaulted, suffering a broken nose and bruises in December 2021;
- g. A female student was subject to being beaten in a school bathroom, causing the student to suffer facial fractures, and bloodying the school bathroom sink and floor;
- h. A teacher reporting that a male student grabbed her arm causing pain and bruising in September 2021;
- i. An instance of a student threatening to shoot a teacher on October 29, 2019;
- j. A student pushing a teacher into a door from behind, an incident to which the student was not subject to suspension in May 2019;
- k. A student who viciously attacked a school teacher, and was involved in other serious disciplinary issues was returned to classes at McKinley, while involuntarily transferring the teacher who was assaulted to another school in February 2019;

l. A female teacher became subject to inappropriate, verbally abusive comments from three students in January 2019 after they barged into her classroom and attempted to hug her;

m. During the 2019-2020 school year, there were often as many as 10 fights on school grounds during a single day, resulting in building wide “shelter in place” lockdowns.

8. Further incidents demonstrating notice of the culture of violence in Buffalo Public Schools include an incident at I-Prep International School that caused a grievance to be filed on December 10, 2019 in reaction to a District administrator advising a Buffalo Teachers Federation staff member that having police officers present in school buildings with serious incidents of violence or threatened violence was “not an option.”

9. The respondents were aware of potential for violence involving the specific students who attacked Infant claimant SIRGIO JETER, and his Infant cousin, a fellow McKinley High School student whose identity is known to BUFFALO PUBLIC SCHOOLS administrators. The respondents inadequately addressed the potential for violence as they had multiple times in the past. They did not provide adequate security, protection, and oversight for Infant-Claimant, SIRGIO JETER, and other students at the school.

10. The respondents were aware of the potential for violence and threats made specifically against claimant SIRGIO JETER’s Infant cousin, in that the school’s Acting Principal Karen Kibler as well Vice Principal Solomon Jackson had meetings with the student attackers, the cousin of Infant SIRGIO JETER, and had an opportunity to review text messages and social media messages threatening the same.

11. Upon information and belief, Infant SIRGIO JETER'S cousin was receiving threatening messages even during the meeting with administrators. This meeting occurred around 3:19PM on February 9, 2022. All students were allowed to return to their classes, and were dismissed from school without any security measures offered to them for their safe transportation home.
12. Respondents failed to notify the parents of the students who were attacked that there was a potential for violence, even after having knowledge through the Respondents' meeting with students.
13. Respondents failed to notify law enforcement of the potential for violence after having notice through their meeting with students.
14. Respondents failed to provide a safety plan, or safe transportation home from school after having notice through their meeting with students.
14. Respondents failed to prevent the individuals who attacked Infant claimant SIRGIO JETER, from possessing a weapon (a knife) on the subject premises.
15. Respondents failed to provide the Infant claimant, SIRGIO JETER, and other students with a safe environment.
16. Respondents failed to prevent the individuals who attacked Infant claimant, SIRGIO JETER, from using said weapon (knife) on the Infant Claimant, SIRGIO JETER.
15. But for the BUFFALO PUBLIC SCHOOLS and DR. KRINER CASH's actions and inactions, the stabbing and subsequent injuries sustained by infant SIRGIO JETER would not have occurred.
16. By virtue of the negligence of the BUFFALO PUBLIC SCHOOLS and DR. KRINER CASH, their agents, employees and/or servants, Claimants AURIELLE AUSTIN, Individually, and as Parent and Natural Guardian of SIRGIO JETER, an Infant, make a claim for pain and

suffering, medical expenses, loss of income, and punitive damages, the amount of which is undetermined to date.

The undersigned therefore presents this claim for adjustment and payment, and notifies you that unless same is adjusted, compromised and/or paid within the time provided by law from the date of its presentation to you, it is the intention of the undersigned to commence an action thereon.

DATED: February 21, 2022

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Kristen Elmore-Garcia, Esq.
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TO: BUFFALO PUBLIC SCHOOLS
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Buffalo, New York 14202

DR. KRINER CASH
Superintendent of Buffalo Public Schools
717 City Hall
Buffalo, New York 14202

VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF ERIE)

AURIELLE AUSTIN, Individually, and as Parent and Natural Guardian of SIRGIO JETER, being duly sworn deposes and says: that deponent is the claimant in the within action, that deponent has read the foregoing **Notice of Claim** and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

AURIELLE AUSTIN

Sworn to before me this ____
day of _____, 2022.
