7.19.06.

fourteen (14) years, by his mother and natural guardian, EVELYN NICHOLSON, and EVELYN NICHOLSON, individually,

Plaintiffs,

-against- VERIFIED COMPLAINT

FREEPORT UNION FREE SCHOOL DISTRICT and THE JUDGE ROTENBERG EDUCATIONAL CENTER INC.,

Defendants.
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Plaintiffs, ANTWONE NICHOLSON AND EVELYN NICHOLSON, by their attorneys, The Law Office of Kenneth M. Mollins, P.C. respectfully allege as follows:
PARTIES
1. Plaintiff, Antwone Nicholson (
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU
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ANTWONE NICHOLSON, an infant over the age of fourteen (14) years, by his mother and natural guardian, EVELYN NICHOLSON, and EVELYN NICHOLSON, individually, Index No:

Plaintiffs,

-against- VERIFIED COMPLAINT

FREEPORT UNION FREE SCHOOL DISTRICT and THE JUDGE ROTENBERG EDUCATIONAL CENTER INC.,

Defendants.
----------X

Plaintiffs, ANTWONE NICHOLSON AND EVELYN NICHOLSON, by their attorneys, The Law Office of Kenneth M. Mollins, P.C. respectfully allege as follows:
PARTIES
1. Plaintiff, Antwone Nicholson ("ANTWONE"), is a 17-year-old emotionally challenged child who was born to drug addicted parents who badly burned him as an infant. ANTWONE also suffers from Attention Deficit Hyperactive Disorder as well as Oppositional Defiance Disorder.
2. ANTWONE currently resides at Stoney Lodge Hospital, located in Ossining, New

York, which is a residential facility for students with disabilities.
3. Plaintiff, Evelyn Nicholson, is an individual who, at all times relevant herein, resides in Freeport, New York located in Nassau County.
4. Plaintiff Evelyn Nicholson is the mother and legal guardian of Plaintiff ANTWONE and who adopted ANTWONE as an infant and raised him as her own.
5. From on or about November 6, 2003, through and including April 14, 2006, ANTOWNE resided and attended Defendant Judge Rotenberg Educational Center (the "JRC") located in Canton, Massachusetts.
6. Upon information and belief, the JRC is a residential facility for students with disabilities which is on the New York State Department of Education's ("DOE") list of approved out of state residentialf this action.
15. That more than thirty (30) days have elapsed since the service of said Notice as aforesaid, and the claim remains unpaid and the Defendant, Freeport SD, has failed and refused to make any adjustments of the same.
16. The Plaintiff has duly complied with all the conditions necessary to the commencement of this action and has complied with all the provisions of the Laws and Statutes of the City and State of New York in relation thereto.
17. That this action was commenced within one (1) year and ninety (90) days from the date that said cause of action accrued.
18. ANTWONE was most recently placed at the JRC pursuant to an agreement between the Freeport SD and the JRC (the "Agreement") for the training, treatment and education of ANTWONE.
RELEVANT FACTS
The Judge Rotenberg Educational Center ("JRC")
19. Upon information and belief, the JRC was founded by its current Director – Dr. Matthew L. Israel – in 1971. The JRC was originally founded under the name "Behavior Research Institute" ("BRI").
20. The basic plan of the JRC, from its inception, has been to apply newly emerging behavioral psychology , such as physical aversive treatment, not commonly done or accepted elsewhere.
21. The JRC is well-known for its treatment of disabled students by the use of aversive behavioral interventions , especially electric shock treatment transmitted by a Graduated Electronic Decelerator ("GED") which is manufactured by the JRC.
22. The JRC was on the DOE's list of approved residential facilities for students with disabilities despite the fact that many New York State agencies including, but not limited to, the Office of Mental Health and the Office of Mental Retardation and developmental Disabilities do not approve of the use of physical aversives in the treatment of children with disabilities and despite the fact that Freeport SD and the DOE prohibits the use of corporeal punishment on students.
23. The JRC is, in essence, a psychological laboratory, using students as test cases as is demonstrated by the fact that Dr. Israel has published, and upon information and belief continues to publish, numerous academic papers with respect to the JRC's use of aversive treatment.
24. The JRC has a history riddled with litigation and attempts by various Massachusetts' state agencies to close the JRC's doors because of its questionable practices and treatment of students.

25. In the 1970's through the 1980's, the JRC employed physical aversives such as a pinch, spank, muscle squeeze, water spray, vapor spray, ammonia capsule, unpleasant taste and white noise. The white noise was inflicted upon a student while the student was shackled and forced to listen to static-like noise through headphones in a helmet.
26. In July 1985, a Queens, New York student died while the "white noise" treatment was being administered to him which sparked multiple actions targeted at the JRC's license and ability to continue its operations. Indeed, with the commencement of litigation in 1985 regarding this student's death, the JRC was prohibited from accepting new students until the litigation was ultimately resolved by way of a settlement agreement.
27. In 1990 another student died at the JRC as a result the JRC's use of aversives. Indeed, an in-depth investigation concluded that the JRC took actions that were "egregious" and "inhumane beyond all reason" constituting not only violations of legal standards, but violations of "universal standards of human decency".
28. In or about 1995, the JRC began to manufacture the Graduated Electronic Decelerator ("DEC") which administers electric shocks to students who are required to wear the device all day and night.
29. The JRC is a facility where the owner/operator has a financial interest in using the GED for aversive conditioning.
30. The Director of the JRC, Dr. Israel, has admitted that a few students have received as many as 100 or 200 shocks a day.
31. The device has not been approved by the FDA for its current use, and the use of the GED for aversive conditioning has been, and continues to be, the subject of much social, political, academic and medical controversy.
32. Indeed, the New York deputy State Education Commissioner – Rebecca Cort – has categorized the use of the GED for aversive conditioning as "a very unusual and very extreme form of treatment."
33. Upon information and belief, there have been, and continue to be, issues of the JRC's non-compliance with various Massachusetts's State Departments' laws, rules , ordinances and regulations regarding the use of aversive treatments such as the GED.
Freeport SD's Placement of Antwone at the JRC
34. ANTWONE is a resident of Nassau County within the Freeport SD.
35. Upon information and belief, the Freeport SD, after evaluating ANTWONE, determined that it was unable to provide ANTWONE with an appropriate education, training and treatment due to his Attention Deficit Hyperactive Disorder and Oppositional Defiance Disorder.
36. Upon information and belief, the Freeport SD determined, after evaluating ANTWONE, that ANTWONE would be more appropriately educated, trained and treated in a residential facility for students with disabilities.
37. Accordingly, the Freeport SD contracted with JRC for the education, training and treatment of ANTWONE.
38. Pursuant to the express terms and provisions of the Agreement, the Freeport SD was to develop, in cooperation with JRC and Mrs. Nicholson, and Individualized Education Program ("IEP"), Individualized Treatment Plan ("ITP") or similar document, identifying the specific goals and objectives for ANTWONE and the services and programs designed to meet those goals and objectives.

39. Pursuant to the express terms and conditions of the Agreement, the Freeport SD acknowledged that it was fully informed of JRC's program and was aware of the procedures the JRC may utilize in its education, training and treatment of ANTWONE.
40. Prior to executing the Agreement with the JRC, the Freeport SD sent its own staff to see the JRC and evaluate its suitability for ANTWONE's education, training and treatment.
41. Accordingly, at the time the Freeport SD entered into the Agreement for the placement of ANTWONE at the JRC, the Freeport SD was or should have been, upon information and belief, fully informed of JRC's use of physical aversive treatment including, but not limited to, electric shock treatment administered by the GED.
42. In accordance with, and pursuant to, the Agreement, ANTWONE was placed at the JRC currently by the Freeport SD for education, training and treatment appropriate for ANTWONE's disabilities.
43. Upon information and belief, the DOE has an agreement with the JRC pursuant to which the JRC is an approved out of state residential facility for New York State students with disabilities, and pursuant to which the JRC receives approximately $50,000,000 of federal, state and local earmarked funds each year to educate, train and treat New York State students with disabilities.
44. Upon information and belief, the Freeport SD's placement of ANTWONE at the JRC was made in accordance with, and pursuant to, the DOE's approval of, and agreement with, JRC.
45. Upon information and belief, some of the monies paid to JRC in consideration for the education, treatment and training of ANTWONE come from the Freeport SD's annual budget.
46. Upon information and belief, the monies paid to JRC are in consideration for the education, treatment and training of ANTWONE come from the DOE.
Antwone's Treatment at the JRC
47. Beginning in August 2004, and continuing every day thereafter until April 14, 2006 when ANTWONE was discharged from the JRC, ANTWONE was required to wear a backpack which "housed" the GED through which the electric shocks would be administered to ANTWONE. ANTWONE was also forced to wear a belt around his waist and another on his calf from which the electrical shock was administered.
48. ANTWONE was required to wear the backpack every day and night, even while sleeping and bathing.
49. ANTWONE's treatment regimen included daily GED aversive therapy meaning that he was daily given multiple electrical shocks to deter him from performing certain acts or certain types of behavior that the JRC deemed inappropriate.
50. ANTWONE was shocked, at times, in excess of seven times in a given day.
51. ANTWONE would be shocked for simply swearing; for responding "No" to a directive, or for stopping his school work for a period of more than ten seconds. Any one of these activities resulted in an electric shock being administered ANTWONE.
52. The shock administered to ANTWONE was so painful that many times ANTWONE was knocked off his feet and fell to the ground as a result of the shock administered. ANTWONE was not the only student being shocked. ANTWONE lived in an environment where people all around him were being shocked. Accordingly,

ANTWONE constantly witnessed the torture of his peers occurring all around him all day and even at night in the residential facility.

Recent Events

53. On August 2, 2005, Section 10-C of the Social Service Law was amended to include the provisions of what has become known as "Billy's Law." (Section 483-d) This law was passed as a result of the abuse Billy Albanese – a New York State student sustained while in an out-of-state residential facility.

54. Billy's Law requires the creation of an Out-of-State Placement Committee whose duty it is, among other things, to determine whether the types of care being provided to out-of-state students in residential facilities are consistent with New York State Law and the applicable committee member's regulations.

Billy's Law provides, in pertinent part, that:

§483-d. Out-of-state placement committee.

* * *

2(b) the out-of-state placement committee shall develop core requirements for the inclusion of an out-of-state congregate residential program or residential school on such a registry, which shall include but may not be limited to requirements that:

* * *

(iii) appropriate laws and regulations exist in the state where the congregate residential program or residential school is located for the investigation and resolution of allegations of abuse or neglect;

(iv) the appropriate member or members of the out-of-state placement committee shall have evaluated the out-of-state congregate residential program or residential school to determine whether the types of care being provided are consistent with New York state law and the applicable committee member agency's regulations...

55. Immediately prior to the enactment of Billy's Law, a report was issued to the Governor by the Interagency Out-of-State Residential Placement Work Group on June 1, 2005 and in that report the Group reports: While there appear to be no substantial differences in program models and service quality between in state and out of state residential facilities, the Work Group is concerned that some children may be placed in facilities that employ behavior modification techniques not approved for use in New York State.

56. While, upon information and belief, an investigation of the JRC was conducted by an Out-of-State Committee Member during the Summer of 2005, no evaluation or report of said investigation was made, as is required by Billy's Law, to determine whether the type of care and treatment being provided at the JRC are consistent with New York State Law and the applicable committee members' regulations (Social Services Law section 483-d(2)(b)(i) and (iv)) until the events leading up to this litigation became a matter of media investigation.

57. On December 29, 2003, a report was issued by the Certification Team on the application of the JRC for Level III behavior Modification certification, which report deals with the JRC's certification for the use of Level III aversive therapy. That report found that shock therapy was being used improperly for behaviors not deemed extraordinarily difficult or dangerous, and JRC's certification to use this type of therapy was made contingent upon changing the use of aversive therapy to comply with the

aforesaid standards.
58. Upon information and belief, the State of Massachusetts, by way of any of their agents, never checked to determine whether the recommended changes and prerequisites to certification were ever made and, as such, the Defendants herein knew or should have know of the problems elicited and enumerated in this report and took no action to protect ANTWONE from the uncertified aversive therapy described therein.
59. The aforesaid contingent certification expired in January 2006, and the JRC was never re-certified for use of aversive therapy thereafter, although ANTWONE continued to receive GED shock therapy. The Defendants did nothing to protect ANTWONE from the uncertified use of electric shock therapy, thereby allowing continued pain and physical and emotional harm to occur.
60. On March 3, 2006, after much media investigation and attention into the shock treatment administered by the JRC to New York State students, Plaintiffs herein served and filed a Notice of Claim pursuant to General Municipal Law section 50-I against the Freeport SD seeking damages against the Freeport SD.
61. The Freeport SD has refused to settle the claim necessitating the commencement of the instant action.
62. On March 20, 2006, the New York State DOE issued a report on the issue of whether the Board of Regents should adopt a new policy that prohibits or limits the use of aversive or noxious stimuli to reduce or eliminate maladaptive behaviors of students.
63. In its report, the DOE conceded that it was only as a result of the recent events sparked by Plaintiffs' decision to take action against the Freeport SD that led the DOE to bring this issue to the attention of the Board of Regents at this time.
64. The DOE report discusses the issues raised by the use of aversive treatment in schools serving students with disabilities; specifically, the report notes, among other things, that:
A. There is a general concern and consensus among various state agencies that the use of aversives for any New York State student must be addressed.
B. DOE has received parent complaints regarding the behavioral interventions used with students, but DOE allegedly lacks clear authority to make specific findings in the absence of a state standard on the use of behavioral interventions.
C. DOE was allegedly under the belief that the use of extreme forms of aversive intervention such as the administration of electric shock at the JRC was primarily limited to the most significantly cognitively impaired students who were engaged in severe self-destructive and/or aggressive behaviors. According to the DOE, "a recent request for data from the [JRC] on its use of aversives revealed that, in fact, electric shock has been approved for use with significantly increased frequency (for 77 of 151 NYS students)" and that "the majority of these children are higher functioning, including those with emotional disabilities, attention deficit hyperactive disorder, oppositional defiant disorders, obsessive compulsive disorders, conduct disorders and with behavior problems such as truancy, aggression, depression, suicidal actions and fire setting."

AS AND FOR A FIRST CAUSE OF ACTION AGAINST
FREEPORT SD FOR BREACH OF CONTRACT

65. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs "1" through "64" above as if the same were more fully set forth at length below.
66. Plaintiffs were a beneficiary of the Agreement between the Freeport SD and the JRC inasmuch as ANTWONE was to receive a free appropriate public education, treatment and training at the JRC pursuant to the Agreement.
67. ANTWONE was, pursuant to the express terms and conditions of the Agreement, granted the right to receive services, including but not limited to, training and education, in accordance with an appropriate Individualized Treatment Plan ("ITP") and an appropriate Individualized Education Plan ("IEP"), or similar plan developed for ANTWONE.
68. Ms. Nicholson was, pursuant to the express terms and conditions of the Agreement, granted the express right to develop, in cooperation with the JRC, an IEP or other appropriate document identifying the specific goals and objectives for ANTWONE and the services and programs designed to meet those goals and objectives.
69. In breach of the Agreement, ANTWONE was not provided with an appropriate education, treatment or training; rather, ANTWONE was subjected to severe corporal punishment in the form of electric shock treatment applied on a daily basis through the GED which caused ANTWONE to sustain serious physical injuries and mental anguish and anxiety.
70. In breach of the Agreement, a legal, appropriate ITP and IEP, or similar plan was not developed for ANTWONE and his training, education and treatment.
71. In breach of the Agreement, the terms of the IEP and/or ITP were used as a basis to institute and prolong the use of the GED and other aversive therapy although said therapy was not incorporated into said plan or approved as part of the plan, all with the knowledge of the Defendants.
72. In breach of the Agreement, the education, treatment and training actually received by ANTWONE at the JRC was in direct contravention of any ITP or IEP, or similar plan, developed for ANTWONE.
73. In breach of the Agreement, the Freeport SD did not cooperate with either the JRC or Ms. Nicholson in developing a legal, appropriate ITP or IEP, or similar plan, for the education, treatment and training of ANTWONE.
74. In breach of the Agreement, the Freeport SD failed to monitor or check on ANTWONE's education, treatment and training to verify that it was appropriate andt that it was meeting established goals and objectives set for ANTWONE.
75. In breach of the Agreement, the Freeport SD failed to verify whether the services and treatment provided by JRC to ANTWONE were properly administered by certified, trained and licensed professionals.
76. In breach of the Agreement, the Freeport SD failed to verify whether the JRC' s use of aversive treatment, including, but not limited to shock treatment, was properly authorized by all appropriate licensing authorities in Massachusetts, and that same was consistent with New York's laws, rules and regulations regarding same.
77. As a result of the breach of the Agreement, ANTWONE was denied his beneficial contractual right to a freen appropriate public education, training and treatment, and, instead, was tortured and tortured with painful shocks on a daily basis by the application of a multiplicity of electric shocks administered as punishment and deterrence in

furtherance of ANTWONE's ITP and IEP.
78. Although the use of the GED was, upon information and belief, approved by the Massachusetts Court for use on ANTWONE, the power, intensity and duration of said treatment, and the way in which it was coupled with other aversives were inconsistent with the Court approval and were designed only to inflict pain, ensure compliance and fear of further aversive therapy.
79. Ms. Nicholson was never advised of or approved the extent, duration, intensity or the infliction of severe pain to her son for any purpose whatsoever.
80. As a result of the breach of the Agreement, ANTWONE was denied his beneficial contractual right to a freen appropriate public education, training and treatment, and, instead, was treated as a psychological laboratory specimen subject to experimenetal and controversial aversive behavioral testing that is not approved in the State of New York.
81. As a result of the breach of the Agreement, Ms. Nicholson was denied her beneficial contractual right to cooperate in developing a legal and/or appropriate IEP and ITP, or similar plan, for the education, treatment and training of ANTWONE, consistent with the laws, rules and regulations of the State of New York.
82. As a result of the breach of the Agreement Ms. Nicholson was uninformed by the Freeport SD as to ANTWONE's factual educational and treatment progress.
83. As a result of the breach of the Agreement, Plaintiffs have been damaged in a sum to be determined at trial.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST
THE JRC FOR ASSAULT

84. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs "1" through "83" above as if the same were more fully set forth at length below.
85. ANTWONE was subjected by the JRC to daily aversive treatment, including, but not limited to, shock treatment administered multiple times a day through the GED.
86. ANTWONE was subjected to two types of GED applications at the JRC, the Base application and a much more severe, extremely painful application called GED IV.
87. There is no educational purpose whatsoever to the shock therapy applied, especially the GED IV application. As such, the shock treatment administered to ANTWONE were an unjustifiable use of force.
88. Inasmuch as ANTWONE was required to wear the GED every day and night, ANTWONE never knew when, or how often, he would be shocked, or whether the shock would be a base application shock or the more severe GED IV shock.
89. As such, ANTWONE was continuously subjected to, on a daily basis, an unjustifiable, reckless and wanton threat of force.
90. The JRC's purpose in administering the electrical shocks was to intentionally punish bad behavior and arouse apprehension in ANTWONE so as to curb negative behavior in the future.
91. JRC succeeded in creating in ANTWONE a reasonable apprehension of immediate physical harm inasmuch as ANTWONE was always afraid that he would be shocked.
92. Inasmuch as the JRC required ANTWONE to wear the GED every day, all day and night, even while bathing, the JRC always had the apparent present ability to shock ANTWONE.
93. Accordingly, the JRC has assaulted ANTWONE thereby causing him serious

personal injuries and emotional and mental anguish and anxiety.
94. Plaintiffs have been damaged in a sum to be determined at trial.
95. As a result of JRC's reckless, wanton disregard of ANTWONE's life, safety and well-being, punitive damages are appropriately awarded.

AS AND FOR A THIRD CAUSE OF ACTION
AGAINST FREEPORT SD FOR THE ASSAULT
COMMITTED UPON ANTWONE

96. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs "1" through "95" above as if the same were more fully set forth at length below.
97. Despite the fact that the Freeport SD knew of the type of aversive therapy used by the JRC, including, but not limited to shock therapy, and that the same is prohibited in the New York State school system, the Freeport SD placed ANTWONE at the JRC and thereby consented to the use of aversive treatment on ANTWONE.
98. Despite the fact that the Freeport SD has a policy that no teacher, administrator, officer or other employee of the Freeport SD shall use corporal punishment against a pupil, the Freeport SD placed ANTWONE in a facility that administers corporal punishments and consented to the use of corporeal punishment upon ANTWONE, thereby initiating the assault on ANTWONE.
99. Accordingly, the Freeport SD initiated the assault committed upon ANTWONE and intended same to occur, which caused ANTWONE serious personal injuries as well as severe emotional and mental anguish and anxiety.
100. As a result, Plaintiffs have been damaged in a sum to be determined at trial.

AS AND FOR A FOURTH CAUSE OF ACTION
AGAINST THE JRC FOR BATTERY

101. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs "1" through "100" above as if the same were more fully set forth at length below.
102. The JRC's conduct in intentionally administering physical aversive treatment to ANTWONE, including, but not limited to electric shocks, constituted a battery.
103. The aversive treatment administered to ANTWONE was harmful and offensive in nature causing ANTWONE serious personal injuries and mental and emotional anguish and anxiety.
104. As a result of said battery, ANTWONE has been damaged in a sum to be determined at trial.
105. As a result of JRC's reckless, wanton disregard of ANTWONE's life, safety and well-being, punitive damages are appropriately awarded.

AS AND FOR A FIFTH CAUSE OF ACTION
AGAINST FREEPORT SD FOR THE BATTERY
COMMITTED UPON ANTWONE

106. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs "1" through "105" above as if the same were more fully set forth at length below.
107. Despite the fact that the Freeport SD knew of the type of aversive therapy used by the JRC, including, but not limited to shock therapy, and that the same is prohibited in the

New York State school system, the Freeport SD placed ANTWONE at the JRC and thereby consented to the use of aversive treatment on ANTWONE, and intended same to occur.
108. Despite the fact that the Freeport SD has a policy that no teacher, administrator, officer or other employee of the Freeport SD shall use corporal punishment against a pupil, the Freeport SD placed ANTWONE in a facility that administers corporeal punishments and consented to the use of corporeal punishment upon ANTWONE, thereby initiating the use of corporal punishment and battery on ANTWONE.
109. Accordingly, the Freeport SD initiated the battery committed upon ANTWONE, and caused same to occur, all of which caused ANTWONE serious personal injuries as well as severe emotional and mental anguish and anxiety.
110. As a result, Plaintiffs have been damaged in a sum to be determined at trial.

AS AND FOR A SIXTH CAUSE OF ACTION
AGAINST THE JRC FOR THE INTENTIONAL
INFLICTION OF EMOTIONAL DISTRESS

111. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs "1" through "110" above as if the same were more fully set forth at length below.
112. JRC shocked ANTWONE every day several times a day.

113. JRC often shocked ANTWONE for simply swearing or saying "no" to a directive.
114. JRC at times repeatedly shocked ANTWONE for no reason at all other than allegedly for purposes of deterrence.
115. The shock administered to ANTWONE often times knocked him off of his feet leaving him writhing on the floor in pain.
116. JRC forced ANTWONE to wear the GED during sleeping hours and while bathing when there would be no reason at all to administer shocks.
117. JRC created an environment wherein ANTWONE witnessed other students at JRC receive aversive treatment in cruel and inhumane manners, and/or be beaten by staff members.
118. JRC's conduct was extreme and outrageous and performed with the intent to cause ANTWONE severe emotional distress in the guise of curbing negative behavior in the future.
119. JRC's conduct was extreme and outrageous and performed in utter and complete disregard of the substantial probability of causing ANTWONE severe emotional distress.
120. As a result of the JRC's extreme and outrageous conduct, ANTWONE has, in fact, suffered severe emotional distress, anxiety and mental anguish.
121. As a result, Plaintiffs have been damaged in a sum to be determined at trial.
122. As a result of JRC's reckless, wanton disregard of ANTWONE's life, safety and well-being, punitive damages are appropriately awarded.
AS AND FOR A SEVENTH CAUSE OF ACTION
AGAINST FREEPORT SD FOR THE
INFLICTION OF EMOTIONAL DISTRESS

123. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs "1" through "122" above as if the same were more fully set forth at length below.
124. Despite the fact that the Freeport SD knew of the type of aversive therapy used by the JRC, including, but not limited to shock therapy; JRC's reasoning and rationale behind the administration of aversive therapy, and that the same is prohibited in the New York State school system, the Freeport SD placed ANTWONE at the JRC and consented to the use of aversive treatment on ANTWONE.
125. Accordingly, the Freeport SD placed ANTWONE at the JRC intending for the JRC to cause ANTWONE to be subjected to emotional distress and they intentionally caused and inflicted emotional distress upon ANTWONE, which caused ANTWONE serious personal injuries as well as severe emotional and mental anguish and anxiety.
126. As a result, Plaintiffs have been damaged in a sum to be determined at trial.

AS AND FOR AN EIGHTH CAUSE OF ACTION
AGAINST JRC FOR NEGLIGENCE

127. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs "1" through "126" above as if the same were more fully set forth at length below.
128. JRC, as a school contracting with the Freeport SD to provide education, training and treatment to ANTWONE, owed ANTWONE a quasi-parental duty to provide supervision to insure ANTWONE's safety and to prevent foreseeable injury to ANTWONE from instruments, dangerous conditions and harm by third parties.
129. There is a special relationship between the JRC and ANTWONE that calls for greater security protection of ANTWONE because the JRC assumed physical custody and control over ANTWONE and therefore acted in loco parentis.
130. The supervision duty imposed upon the JRC as the school having had physical custody and control over ANTWONE is unqualified and mandatory.
131. JRC had a duty to provide ANTWONE with competent instructors and properly licensed professionals qualified to educate, train and treat ANTWONE.
132. The JRC had a duty not to provide ANTWONE with, or to condone, highly improper, controversial, experimental educational and treatment practices.
133. JRC had a duty to provide a safe environment for ANTWONE which was conducive to ANTWONE's education and treatment.
134. In breach of its duty of care owed to ANTWONE, the JRC negligently, recklessly and in wanton disregard of ANTWONE"S life, health and safety, subjected

ANTWONE to physical aversive therapy, including, but not limited to, the administration of electrical shocks for punishment purposes and as an alleged behavioral deterrent.
135. In breach of its duty of care owed to ANTWONE, the JRC negligently, recklessly and in wanton disregard of ANTWONE's life, health and safety, housed students with conductive disorders together thereby creating an environment wherein such students would ban together and plan assaultive coordinative behavior such as attacks on other students.
136. In breach of its duty of care owed to ANTWONE, the JRC negligently, recklessly and in wanton disregard of ANTWONE"S life, health and safety, created housing procedures which facilitated disruptive behavior and coerced dangerous behavior.
137. In breach of its duty of care owed to ANTWONE, the JRC negligently, recklessly

and in wanton disregard of ANTWONE"S life, health and safety, admitted higher level students with conduct disorders which created significant risks of exacerbating assaultive coordinative, disruptive and dangerous behavior.
138. In breach of its duty of care owed to ANTWONE, the JRC negligently, recklessly and in wanton disregard of ANTWONE"S life, health and safety, placed higher functioning students with conduct disorders in housing with autistic and mentally retarded students.
139. In breach of its duty of care owed to ANTWONE, the JRC negligently, recklessly and in wanton disregard of ANTWONE's life, health and safety, created an environment wherein ANTWONE witnessed other students receive excruciatingly painful shocks through the GED, while, at times, placed on a board, face down and tied onto the board with their arms above their heads and their legs spread for, in some instances, six or seven hours a day.
140. In breach of its duty of care owed to ANTWONE, the JRC negligently, recklessly and in wanton disregard of ANTWONE"S life, health and safety, forced ANTWONE and the other students at the JRC to eat only those foods that are vegan without option or choice.
141. In breach of its duty of care owed to ANTWONE, the JRC negligently, recklessly and in wanton disregard of ANTWONE's life, health and safety, employed untrained, unlicensed and unqualified staff members who made decisions concerning ANTWONE's education, training and treatment.
142. In breach of its duty of care owed to ANTWONE, the JRC negligently, recklessly and in wanton disregard of ANTWONE's life, health and safety, created an environment wherein ANTWONE would witness staff members of JRC restrain and beat students.
143. In breach of its duty of care owed to ANTWONE, the JRC negligently, recklessly and in wanton disregard of ANTWONE's life, health and safety, administered aversive therapy and knew or should have known same would cause injury and damage to ANTWONE.
144. In breach of its duty of care owed to ANTWONE, the JRC negligently, recklessly and in wanton disregard of ANTWONE"S life, health and safety, failed to develop a legal or appropriate ITP or IEP or similar plan for ANTWONE's education, training and treatment.

145. In breach of its duty of care owed to ANTWONE, the JRC negligently, recklessly and in wanton disregard of ANTWONE's life, health and safety, failed to provide adequate and/or appropriate supervision of its students.
146. In breach of its duty of care owed to ANTWONE, the JRC negligently, recklessly and in wanton disregard of ANTWONE's life, health and safety, ran as a psychological laboratory wherein students, including, but not limited to ANTWONE, were used as experimental test cases for the benefit of the JRC and its director – Dr. Israel.
147. The JRC knew or should have known that all of the aforesaid created an unreasonable and foreseeable risk of physical and emotional injury to ANTWONE and that JRC allowed and caused same to continue, causing physical and psychological injury to ANTWONE.
148. The above-referenced breaches of its duty of care and negligent conduct caused ANTWONE serious physical injuries as well as severe emotional and mental anguish and

anxiety.
149. As a result, Plaintiffs have been damaged in an amount to be determined at trial.
150. As a result of JRC's reckless, wanton disregard of ANTWONE's life, safety and well-being, punitive damages are appropriately awarded.
AS AND FOR A NINTH CAUSE OF ACTION
AGAINST FREEPORT SD FOR NEGLIGENCE

151. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs "1" through "150" above as if the same were more fully set forth at length below.
152. The Freeport SD, as the school district within which Plaintiffs reside, had the duty to place ANTWONE in an appropriate school which would provide ANTWONE with a free appropriate public education.
153. The Freeport SD had the duty to place ANTWONE in an appropriate school which would provide ANTWONE with proper supervision to insure ANTWONE's safety and which would prevent foreseeable injury to ANTWONE from instruments, dangerous conditions and harm by third parties.
154. The Freeport SD had the duty to place ANTWONE in an appropriate school with competent instructors and licensed professionals who could properly and competently educate, train and treat ANTWONE.
155. The Freeport SD had the duty not to place ANTWONE in a school which implemented highly improper, controversial, experimental education, treatment and practices.
156. The Freeport SD had a duty to monitor the education, treatment and training provided to ANTWONE by the JRC to insure that it was safe and appropriate for ANTWONE.

157. The Freeport SD had the duty to work in conjunction with the JRC and Ms. Nicholson to develop an IEP, ITP or similar plan for the education, treatment and training of ANTWONE.
158. The Freeport SD had the duty to insure that the education, treatment and training received by ANTWONE at the JRC was in compliance with the policies and procedures of New York State agencies that operate educational programs.
159. The Freeport SD had the duty to insure that the JRC did not use or inflict corporeal punishment in direct contravention of New York State's and Freeport SD's policy regarding no corporeal punishment.
160. In breach of its duty of care owed to ANTWONE, the Freeport SD negligently, recklessly and in wanton disregard of ANTWONE"S life, health and safety, failed to place ANTWONE in an appropriate school which would provide ANTWONE with a free appropriate public education.
161. In breach of its duty of care owed to ANTWONE, the Freeport SD negligently, recklessly and in wanton disregard of ANTWONE"S life, health and safety, failed to place ANTWONE in an appropriate school which would provide ANTWONE with proper supervision to insure ANTWONE's safety and which would prevent foreseeable injury to ANTWONE from instruments, dangerous conditions and harm by third parties.
162. In breach of its duty of care owed to ANTWONE, the Freeport SD negligently,

recklessly and in wanton disregard of ANTWONE"S life, health and safety, failed to place ANTWONE in an appropriate school with competent instructors and

licensed professionals who could properly and competently educate, train and treat ANTWONE.

163. In breach of its duty of care owed to ANTWONE, the Freeport SD negligently, recklessly and in wanton disregard of ANTWONE's life, health and safety, placed ANTWONE in a school which implemented highly improper, controversial, experimental education, treatment and practices.

164. In breach of its duty of care owed to ANTWONE, the Freeport SD negligently, recklessly and in wanton disregard of ANTWONE's life, health and safety, failed to monitor the education, treatment and training provided to ANTWONE by the JRC to insure that it was safe and appropriate for ANTWONE.

165. In breach of its duty of care owed to ANTWONE, the Freeport SD negligently, recklessly and in wanton disregard of ANTWONE's life, health and safety, failed to work in conjunction with the JRC and Ms. Nicholson to develop an IEP, ITP or similar plan for the education, treatment and training of ANTWONE.

166. In breach of its duty of care owed to ANTWONE, the Freeport SD negligently, recklessly and in wanton disregard of ANTWONE's life, health and safety, failed to insure that the education, treatment and training received by ANTWONE at the JRC was in compliance with the policies and procedures of New York State agencies that operate educational programs.

167. In breach of its duty of care owed to ANTWONE, the Freeport SD negligently, recklessly and in wanton disregard of ANTWONE's life, health and safety, failed to insure that the JRC did not use or inflict corporal punishment in direct

contravention of New York State's and Freeport SD's policy regarding no corporal punishment.

168. The above-referenced breaches of duty of care and negligent conduct caused ANTWONE serious physical injury as well as serious emotional and mental anguish and anxiety.

169. As a result, ANTWONE has been damaged in an amount to be determined at trial.

AS AND FOR A TENTH CAUSE OF ACTION
AGAINST THE DEFENDANTS FOR VIOLATION OF
42 U.S.C.SECTION 1983 AS RELATED TO IDEA

170. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs "1" through "169" above as if the same were more fully set forth at length below.

171. In 1975 Congress enacted the Individuals With Disabilities Education Act ("IDEA") – 20 U.S.C. section 1400 et. seq. which was recently amended in 2004.

172. IDEA insures and protects the right of every disabled child to be provided with a Free Appropriate Public Education ("FAPE") in the least restrictive environment which emphasizes special education and related services designed to meet the students' unique needs and prepare them for employment and independent living.

173. As is detailed in the paragraphs above, the Defendants failed to provide ANTWONE – a disabled individual within the meaning and intent of IDEA - with a

FAPE in the least restrictive environment which emphasized his unique needs and thus has failed to prepare him for employment and independent living.

174. As is detailed in the paragraphs above, the Defendants failed to develop a legal and/or appropriate IEP or ITP, or similar plan for ANTWONE's education, training and treatment.
175. Such acts, as well as those detailed in the paragraphs above, of the Freeport SD, were carried out by the Freeport SD in its official capacity as a municipality.
176. Such acts, as well as those detailed in the paragraphs above, of the JRC were carried out by the JRC under color of state law.
177. Such acts, as well as those detailed in the paragraphs above, of the Defendants deprived ANTWONE of his federally secured rights and privileges under IDEA, and, therefore, violated the Civil Rights Act of 1871 – 42 U.S.C. section 1983.
178. By reason of the foregoing, Plaintiffs have been damaged in a sum to be determined at trial.

AS AND FOR A ELEVENTH CAUSE OF ACTION
AGAINST THE DEFENDANTS FOR VIOLATION OF
42 U.S.C. SECTION 1983 AS RELATES TO THE
REHABILITATION ACT OF 1973

179. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs "1" through "178" above as if the same were more fully set forth at length below.
180. In 1973 Congress enacted Section 504 of the Rehabilitation Act of 1973 - ("Rehabilitation Act ") – 29 U.S.C. section 794.
181. The Rehabilitation Act insures and protects the right of handicapped individuals to receive evenhanded treatment in relation to non-handicapped individuals.
182. The acts of the Freeport SD and the JRC detailed in the paragraphs above establish that ANTWONE – a disabled individual under the meaning and intent of the Rehabilitation Act – was denied the benefits of a FAPE.
183. Such acts, as well as those detailed in the paragraphs above, of the Freeport SD, were carried out by the Freeport SD in its official capacity as a municipality.
184. Such acts, as well as those detailed in the paragraphs above, of the JRC were carried out by the JRC under color of state law.
185. Such acts, as well as those detailed in the paragraphs above, of the Defendants deprived ANTWONE of his federally secured rights and privileges under the Rehabilitation Act, and, therefore, violated the Civil Rights Act of 1871 – 42 U.S.C. section 1983.
186. By reason of the foregoing, Plaintiffs have been damaged in a sum to be determined at trial.

AS AND FOR AN TWELFTH CAUSE OF ACTION
AGAINST THE DEFENDANTS FOR ATTORNEYS FEES
PURSUANT TO 42 U.S.C. SECTION 1988

187. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs "1" through "186" above as if the same were more fully set forth at length below.
188. As a result of Defendants' violation of the Civil Rights Act of 1871, the Freeport

SD and the JRC are liable for Plaintiffs' reasonable attorneys' fees pursuant to the Civil Rights Attorneys Fees Awards Act of 1976 – 42 U.S.C. section 1988.

189. By reason of the foregoing, Plaintiffs are entitled to an award of attorneys' fees in a sum to be determined after trial.

WHEREFORE, based upon all of the foregoing, Plaintiffs demand that a monetary judgment hereby be entered in favor of Plaintiffs:

A. ON THE FIRST CAUSE OF ACTION against FREEPORT SD in an amount to be determined at trial;

B. ON THE SECOND CAUSE OF ACTION against JRC in an amount to be determined at trial, and punitive damages in an amount to be determined at trial;

C. ON THE THIRD CAUSE OF ACTION against FREEPORT SD in an mount to be determined at trial;

D. ON THE FOURTH CAUSE OF ACTION against JRC in an amount to be determined at trial and punitive damages to be determined at trial;

E. ON THE FIFTH CAUSE OF ACTION against the Freeport SD in an amount to be determined at trial;

F. ON THE SIXTH CAUSE OF ACTION against the JRC in an amount to be determined at trial and punitive damages in an amount to be determined at trial;

G. ON THE SEVENTH CAUSE OF ACTION against the Freeport SD in an amount to be determined at trial and punitive damages in an amount to be determined at trial;

H. ON THE EIGHTH CAUSE OF ACTION against the JRC in an amount to be determined at trial and punitive damages in an amount to be determined at trial;

I. ON THE NINTH CAUSE OF ACTION against the Freeport SD in an amount to be determined at trial;

J. ON THE TENTH CAUSE OF ACTION against the Freeport SD in an amount to be determined at trial;

K. ON THE ELEVENTH CAUSE OF ACTION against the Freeport SD in an amount to be determined at trial;

L. ON THE TWELFTH CAUSE OF ACTION against the Freeport SD in an amount to be determined at trial; and

M. ON ALL CAUSES OF ACTION against Defendants such other, further and different relief as this court deems proper including costs and disbursements of this action.

Dated: Melville, New York
July 19, 2006

LAW OFFICE OF KENNETH M. MOLLINS, P.C.

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