

**STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE**

DOLORES A. RODOVICH,

Plaintiff,

SUMMONS

v.

BUFFALO CITY SCHOOL DISTRICT,
712 City Hall
65 Niagara Square
Buffalo, New York 14202

Child Victims Act Proceeding
22 NYCRR 202.72

Defendant.

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorney(s) within twenty (20) days after the service of this summons, exclusive of the day of service [or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York]; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Erie County is designated as the place of trial on basis of residence of the plaintiff, who resides in Erie County, New York.

Dated: May 26, 2020
Hamburg, New York

s/ Daniel J. Chiacchia
Daniel J. Chiacchia, Esq.
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**STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE**

DOLORES A. RODOVICH,

Plaintiff,

COMPLAINT

v.

BUFFALO CITY SCHOOL DISTRICT,

Defendant.

Plaintiff, DOLORES A. RODOVICH, by her attorneys Chiacchia & Fleming, LLP, brings this action against BUFFALO CITY SCHOOL DISTRICT alleges, on personal knowledge as to herself and on information and belief as to all other matters, as follows:

JURISDICTION AND VENUE

1. This Court has personal jurisdiction over the Defendants pursuant to CPLR 301 and 302, in that each Defendant either resides in New York or conducts or, at relevant times conducted, activities in New York that give rise to the claims asserted herein.

2. Venue for this action is proper in the County of Erie pursuant to CPLR 503 in that one or more Defendant has its principal place of business in this County and a substantial part of the events or omissions giving rise to the claims asserted herein occurred here.

3. This action is brought pursuant to CPLR § 214-G, as added by the New York State Child Victims Act, which has revived claims of child sexual abuse for a period of one year beginning on August 14, 2019, six months after the effective date of the section (February 14, 2019). This action is timely.

PARTIES

4. Plaintiff DOLORES A. RODOVICH, (“Plaintiff”), is an individual residing in Erie County, New York.

5. Defendant BUFFALO CITY SCHOOL DISTRICT (“BCSD”) was and continues to be a municipal entity and educational institution existing by the laws of the State of New York. At all relevant times, Defendant BCSD operated schools for minor children, including Buffalo Public School # 29. Buffalo Public School # 29 closed in 1980.

FACTS COMMON TO ALL CLAIMS

6. At all relevant times and events, DOLORES A. RODOVICH was a student at Buffalo Public School # 29, her name during her attendance was Dolores A. Walsh.

7. During all times relevant to all allegations set forth herein, Frederick Speidel (“SPEIDEL”) was employed as an assistant principal at Buffalo Public School # 29, and therefore an authority figure with direct control over Plaintiff’s successes or failures in school.

8. Upon information and belief, during all times relevant to the allegations set forth herein, SPEIDEL was under the direct supervision, employ, and /or control of the Defendant BCSD.

9. Through his positions at, within, or for Defendant BCSD, SPEIDEL was put in direct contact with Plaintiff, a student at Buffalo Public School # 29. SPEIDEL was assigned to instruct her. It was under these circumstances that Plaintiff came to be under the direction and control of SPEIDEL, who used his position of authority and trust over Plaintiff to have unpermitted sexual contact with Plaintiff.

10. On numerous occasions, during the years from approximately 1970 through 1971, while Plaintiff was a minor, SPEIDEL, while acting as an assistant principal, instructor,

counselor, trustee, director, officer, employee, agent, servant and/or volunteer of Defendant BCSD, sexually assaulted, sexually abused and/or had unpermitted sexual contact with Plaintiff in violation of the laws of the State of New York. The sexual abuse, sexual harassment and sexual contact occurred repeatedly for several months, beginning when Plaintiff was approximately 13 to 14 years old.

11. Defendant BCSD knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of SPEIDEL who sexually assaulted, sexually abused, sexually harassed and had unpermitted sexual contact with Plaintiff.

12. Defendant BCSD had the responsibility to supervise and/or direct staff at Buffalo Public School # 29, and specifically, had a duty not to aid a pedophile such as SPEIDEL, by assigning, maintaining and/or appointing him to a position with access to minors.

13. Defendant violated various New York statutes, including, but not limited to N.Y. Soc. Serv. Law §§ 413 and 420, which require school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

14. Plaintiff suffered personal physical and psychological injuries and damages as a result of SPEIDEL's actions, as well as other damages related thereto, as a result of her childhood sexual abuse.

15. As a direct result of the Defendant's conduct described herein, Plaintiff suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, alcohol and substance abuse, problems sleeping, concentrating, low self-confidence, low self-respect, low self-esteem, feeling of worthlessness, feeling shameful and embarrassed, feeling alone and isolated, feeling helpless and hopeless,

problems with sexual intimacy, relationship problems, trust issues, feeling confused and angry, the feeling that the good things have been ruined, feeling sad and depressed, suicidal, feeling anxiety, feeling dirty, used, and damaged, having flashbacks, feeling like she took the wrong road, feeling that her innocence was stolen, and feeling that her life was ruined. Plaintiff was prevented and will continue to be prevented from performing her normal daily activities and obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and, on information and belief, has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of SPEIDEL's sexual abuse, Plaintiff is unable at this time to fully describe all of the details of that abuse and the extent of the harm She suffered as a result.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Negligent Hiring/Retention/Supervision/Direction

16. Plaintiff repeats and realleges each and every allegation set forth in the foregoing as if fully set forth herein.

17. The sexual abuse of children by adults, including school administrators and teachers, is foreseeable.

18. By establishing, staffing, and/or operating Buffalo Public School # 29, and Defendant BCSD encouraging the enrollment and instruction of Plaintiff in said school, accepting her as a student, and holding Buffalo Public School # 29 out to be a safe environment for learning and engaging in youth activities, Defendant BCSD entered into an express and/or implied duty to provide a reasonably safe environment for Plaintiff and assumed the duty to protect and care for her.

19. Defendant BCSD negligently hired, retained, directed, and supervised SPEIDEL

when they knew or should have known that he posed a threat of sexual abuse to children.

20. Defendant BCSD knew or should have known of SPEIDEL's propensity for the conduct which caused Plaintiff's injuries prior to the injuries' occurrence.

21. SPEIDEL sexually assaulted, sexually abused and/or had unpermitted sexual contact with Plaintiff on Defendant BCSD's premises, including the music room and the auditorium.

22. Defendant BCSD owed a duty of care to all persons, including Plaintiff, who were likely to come within the influence of SPEIDEL in his role as an assistant principal, instructor, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that SPEIDEL did not abuse his authority as a principal, instructor, counselor, trustee, director, officer, employee, agent, servant and/or volunteer to injure minors by sexual assault, battery, and/or abuse.

23. At all times material hereto, Defendant's actions were willful, wanton, malicious, reckless and/or outrageous in its disregard for the rights and safety of Plaintiff.

24. As a direct and proximate result, Plaintiff has suffered and will continue to suffer the injuries described herein.

25. By reason of the foregoing, the Defendant is liable to the Plaintiff, jointly, severally and/or in the alternative, for compensatory damages, and for punitive damages, together with interest and costs.

**SECOND CAUSE OF ACTION
Negligence/Gross Negligence**

26. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

27. Defendant knew, or was negligent in not knowing, that SPEIDEL posed a threat

of sexual abuse to children.

28. The acts of SPEIDEL described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his employment, appointment, and/or agency with the Defendant BCSD.

29. Defendant BCSD owed Plaintiff, at the relevant times a minor, a duty to protect her from SPEIDEL's sexual deviancy, both prior to and/or subsequent to SPEIDEL's misconduct.

30. Defendant's willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damage set forth herein at length.

31. Defendant BCSD:

- a. gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons or instrumentalities in work involving risk of harm to others;
- b. failed adequately to supervise the activities of SPEIDEL;
- c. permitted, and/or intentionally failed and/or neglected to prevent, negligent and/or grossly negligent conduct and/or allowed other tortious conduct by persons, whether or not its servants and/or agents and/or employees, upon premises or with instrumentalities under its control; and
- d. allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint, to occur.

32. At all times material hereto, with regard to the allegations contained herein, SPEIDEL was under the direct supervision, employ and/or control of Defendant BCSD.

33. At all times material hereto, Defendant's actions were willful, wanton, malicious, reckless, and outrageous in its disregard for the rights and safety of Plaintiff, which amounted to conduct equivalent to criminality.

34. As a direct and/or indirect result of said conduct, Plaintiff has suffered the injuries and damages described herein.

35. By reason of the foregoing, Defendant are liable to the Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

THIRD CAUSE OF ACTION
Breach of Fiduciary Duty

36. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

37. Through his positions at Defendant BCSD, SPEIDEL was put in direct contact with Plaintiff, then a minor student at Buffalo Public School # 29, specifically being assigned to instruct her. It was under these circumstances that Plaintiff came to be under the direction and control of SPEIDEL, who used his position of authority and trust over Plaintiff to sexually assault, sexually abuse and sexually harass her.

38. There exists a fiduciary relationship of trust, confidence, and reliance between Plaintiff and Defendant herein.

39. Pursuant to its fiduciary relationship, Defendant was entrusted with the well-being, care, and safety of Plaintiff.

40. Pursuant to its fiduciary relationship, Defendant assumed a duty to act in the best interests of Plaintiff.

41. Defendant breached its fiduciary duties to Plaintiff.

42. At all times material hereto, Defendant's actions and/or inactions were willful,

wanton, malicious, reckless, and outrageous in its disregard for the rights and safety of Plaintiff.

43. As a direct result of said conduct, Plaintiff has suffered injuries and damages described herein.

44. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

**FOURTH CAUSE OF ACTION
Breach of Non-Delegable Duty**

45. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

46. Plaintiff, when she was a minor, was placed in the care of Defendant for the purposes of, *inter alia*, providing plaintiff with a safe environment to receive a lay education, training, guidance and/or counseling. There existed a non-delegable duty of trust between Plaintiff and Defendant.

47. Plaintiff was a vulnerable child when placed within the care of the Defendant.

48. As a consequence, Defendant was in the best position to prevent Plaintiff's abuse, and to learn of SPEIDEL's repeated sexual abuse of Plaintiff and stop it.

49. By virtue of the fact that Plaintiff was sexually abused as a student, Defendant BCSD breached its non-delegable duty to Plaintiff.

50. At all times material hereto SPEIDEL was under the direct supervision, employ and/or control of the Defendant BCSD.

51. As a direct result of said conduct, Plaintiff has suffered injuries and damages described herein.

52. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

FIFTH CAUSE OF ACTION
Fraudulent Concealment

53. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

54. Defendant BCSD allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint, to occur.

55. Defendant BCSD knew or should have known of SPEIDEL's propensity for the conduct which caused Plaintiff's injuries prior to the injuries' occurrence.

56. Defendant BCSD had a duty to report any reasonable suspicion of child abuse.

57. Defendant BCSD owed a duty of care to all persons, including Plaintiff, who were likely to come within the influence of SPEIDEL in his role as an assistant principal, instructor, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that SPEIDEL did not abuse his authority as an assistant principal, instructor, counselor, trustee, director, officer, employee, agent, servant and/or volunteer to injure minors by sexual assault, battery, and/or abuse.

58. Defendant BCSD breached its duty by knowingly and willfully failing to report reasonable suspicion of abuse by SPEIDEL of children in its care.

59. Defendant BCSD breached its duty by knowingly and willfully failing to disclose reasonable suspicions of abuse by SPEIDEL of children in its care to current or prospective students.

60. By knowingly and willfully failing to inform other current and prospective students of the abuse of SPEIDEL, Defendant BCSD intended to defraud other current and prospective students.

61. When Plaintiff chose to attend Buffalo Public School # 29, she reasonably relied

upon the Defendant's representation that Defendant would look out for Plaintiff's well-being, care, and safety.

62. While attending Buffalo Public School # 29, Plaintiff was sexually assaulted, sexually abused, sexually harassed and had unpermitted sexual contact by SPEIDEL and has suffered injuries and damages described herein.

63. At all times material hereto, said Defendant's actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in its disregard for the rights and safety of Plaintiff.

64. As a direct result of Defendants' conduct, Plaintiff has suffered the injuries and damages described herein.

65. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

**SIXTH CAUSE OF ACTION
Negligent Infliction of Emotional Distress**

66. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

67. As described aforesaid, the actions of Defendant, its predecessors and/or successors, agents, servants and/or employees were conducted in a negligent and/or grossly negligent manner.

68. Defendant's actions endangered Plaintiff's safety and caused her to fear for her own safety.

69. As a direct and proximate result of Defendant's actions, which included but were not limited to, negligent and/or grossly negligent conduct, Plaintiff suffered the severe injuries

and damages described herein, including but not limited to, mental and emotional distress.

70. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

**SEVENTH CAUSE OF ACTION
Intentional Infliction of Emotional Distress**

71. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

72. During the approximate time period from 1970 through 1971, Defendant BCSD allowed SPEIDEL unrestricted access to Plaintiff and willfully and/or intentionally ignored suspicious behavior and/or complaints against SPEIDEL of sexual assault, sexual abuse and sexual contact.

73. During the time period referenced above, Defendant BCSD willfully and/or intentionally ignored Plaintiff's safety by requiring Plaintiff to be under the supervision of SPEIDEL by herself during school hours.

74. Defendant BCSD was deliberately indifferent to the risk of sexual assault, sexual abuse, and sexual contact posed to Plaintiff by being alone with SPEIDEL.

75. Defendant willfully and/or intentionally created a hostile and unsafe school environment that no child would be able to tolerate.

76. Defendant BCSD, in order to avoid embarrassment, scandal, and negative publicity, intended to cause Plaintiff shame, humiliation and extreme emotional distress so he would stay silent, and not report the abuse.

77. Defendant behaved in a manner toward Plaintiff that was so outrageous as to exceed all reasonable bounds of decency.

78. Defendant knew with substantial certainty or should have known that its behavior

would cause Plaintiff to be a victim of sexual assault, sexual abuse and sexual contact.

79. Defendant knew with substantial certainty or should have known that its behavior would cause severe emotional distress to Plaintiff.

80. The foregoing acts of Defendant caused Plaintiff physical, mental and emotional distress.

81. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**EIGHTH CAUSE OF ACTION
Breach of Statutory Duty to Report Abuse under Soc. Serv. Law §§ 413, 420**

82. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

83. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420, Defendant had a statutorily imposed duty to report reasonable suspicion of abuse of children in its care.

84. Defendant breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by SPEIDEL of children in its care.

85. As a direct and/or indirect result of said conduct, Plaintiff has suffered injuries and damages described herein.

86. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

WHEREFORE, plaintiff respectfully requests judgment against Defendant herein in sums which exceed the jurisdictional limit of all lower courts which would otherwise have jurisdiction in this action, including compensatory damages, punitive damages, prejudgment interest to the extent permitted by law; costs, disbursements and fees of this action, including

attorneys' fees, to the extent permitted by law; and any other relief as the Court deems just and proper.

Dated: May 26, 2020
Hamburg, New York

s/ Daniel J. Chiacchia
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