

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

**SASHIA FURST as Parent & Guardian of
HEAVEN BARBER**

Plaintiff,

VERIFIED
COMPLAINT

- against -

**ERIE 1 BOCES EDUCATIONAL FOUNDATION, INC.
ERIE 1 BOCES POTTER CTR & TECHNICAL CTR
ANTHONY M GREGORY II
(a/k/a Tony M. Gregory II)**

Defendant.

Plaintiff by her Attorneys, Pratcher & Associates, Etido Udousoro, Esq. (of Counsel), as and for her Verified Complaint against defendants ERIE 1 BOCES EDUCATIONAL FOUNDATION, INC, ERIE 1 BOCES POTTER CTR & TECHNICAL CTR AND ANTHONY M GREGORY II (a/k/a Tony M. Gregory II) and 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 of the Defendants resides in this county and a substantial part of the events or omissions giving riser to the claims asserted herein occurred here.
3. This action is brought pursuant to CPLR 214-g, as amended 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 and extended due to COVID-19 pandemic to January 14, 2021. This action is timely.

PARTIES

4. At all times herein mentioned plaintiff Heaven Barber was a student at ERIE 1 BOCES EDUCATIONAL FOUNDATION, INC, AND ERIE 1 BOCES POTTER CTR & TECHNICAL CTR (hereinafter collectively referred to as Erie 1 BOCES) and has remained a resident of the County of Erie in New York State.
5. Upon information and belief Erie 1 BOCES is a Domestic not-for-profit Corporation and Educational institution existing under the laws of the State of New York.
6. Upon information and belief, Anthony M. Gregory II (a/k/a Tony M. Gregory II) was a Teacher's Aid/ instructor/Supervisor employed by Erie 1 BOCES.
7. From September 2018 to November 2018, Plaintiff, was 14 years old, she attended school with Defendant Erie 1 BOCES and was supervised by Defendant Anthony M. Gregory II, referred to as Defendant GREGORY.

FACTS COMMON TO ALL CLAIMS

8. During the time of the allegations more fully described herein, Defendant GREGORY was a Teacher Aid /instructor/ Supervisor employed by Erie 1 BOCES.
9. Through his position as Teacher's Aid/instructor for Erie 1 BOCES, Defendant GREGORY was put in direct contact with the Plaintiff. Defendant GREGORY used the power bestowed upon him by the Defendant Erie BOCES 1, to sexually abuse and harass the Plaintiff.
10. Plaintiff was sent to the restroom, study hall, class, tutoring, and after school activities with Defendant GREGORY thus placing the Plaintiff in one-on-one contact with a pedophile.
11. From September 2018 to November 2018, Defendant GREGORY sexually abused the Plaintiff for approximately two months, at least 5 times per week and online via social media.
12. Defendant GREGORY forcibly touched the Plaintiff without her consent and exposed himself to the Plaintiff.
13. At all times herein, Defendant GREGORY was under the direct supervision and control of the Defendant.
14. The Defendant Erie 1 BOCES knew or should have known of the inappropriate and unlawful sexual activities of Defendant GREGORY against the Plaintiff.
15. Defendant Erie 1 BOCES knowingly condoned and/or covered up Defendant GREGORY's inappropriate and unlawful sexual acts against the Plaintiff.
16. Defendant Erie 1 BOCES had the responsibility to supervise and/or direct their employees working under their authority, and specifically, had a duty not to aid Defendant GREGORY in his unlawful sexual acts by consisting placing a minor such as Plaintiff under his direct and control.

17. Plaintiff suffered both physical and psychological injuries and damages as a result of Defendant GREGORY's actions as well as other damages related to the incident herein.
18. As a direct result of both Defendants' conduct described herein, Plaintiff suffered and continues to suffer both to her body and mind, severe and permanent emotional distress that has manifested itself in many negative ways throughout her life.
19. Plaintiff has been prevented and continues to be prevented from performing her normal daily activities and obtaining the full enjoyment of life as a result of the abuse she has suffered.
20. As a result of the damages described herein, Plaintiff has incurred and continues to incur medical expenses related to counseling, therapy, and treatment, along with loss earnings.

**FIRST CAUSE OF ACTION:
Negligent Hiring/Retention/ Supervision/Direction**

21. Plaintiff incorporates herein by reference and realleges each and every allegation set forth in paragraphs 1 - 20.
22. The sexual abuse of children by adults, including Teachers and Teacher's Aid is foreseeable.
23. By establishing, staffing and operating Erie 1 BOCES, , encouraging the enrollment and instruction of Plaintiff in Erie 1 BOCES School, accepting her as a student, and holding Erie 1 BOCES out to be a safe environment for learning and engaging in youth activities, Defendant Erie 1 BOCES 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.
24. Defendant Erie 1 BOCES negligently hired, retained, directed, and supervised Defendant GREGORY when they knew or should have known that he posed a threat of sexual abuse to children.

25. Defendant Erie 1 BOCES knew or should have known of Defendant GREGORY propensity for the conduct which caused Plaintiff's injuries prior to the injuries' occurrence.
26. Defendant GREGORY sexually assaulted, sexually abused and/or had unpermitted sexual contact with Plaintiff on Defendant Erie 1 BOCES's premises, including in the suspension practice room and bathroom.
27. Defendant Erie 1 BOCES was put on notice of Defendant GREGORY'S improper and inappropriate actions with Plaintiff, having subjected the Plaintiff and GREGORY to questioning about the nature of their relationship.
28. Defendants Erie 1 BOCES owed a duty of care to all persons, including Plaintiff, who were likely to come within the influence of Defendant GREGORY in his role as a Teacher's Aid /instructor, employee, agent, servant to injure minors by sexual assault, battery, and/or abuse.
29. At all times material hereto, Defendants' actions were willful, wanton, malicious, reckless and/or outrageous in their disregard for the rights and safety of Plaintiff.
30. As a direct and proximate result, Plaintiff has suffered and will continue to suffer the injuries described herein.
31. Defendants Erie 1 BOCES knew, or were negligent in not knowing, that Defendant GREGORY posed a threat of sexual abuse to children.
32. The acts of Defendant GREGORY 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 Erie 1 BOCES.
33. Defendants Erie 1 BOCES owed Plaintiff, as the relevant times a minor, a duty to protect her from Defendant GREGORY'S sexual deviancy, both prior to and/or subsequent to Defendant GREGORY'S misconduct.
34. Defendants' willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or approximately in the damage set forth herein at length.
35. Defendant Erie 1 BOCES:

- 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 Defendant GREGORY;
 - 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 their servants and/or agents and/or employees, upon premises or with instrumentalities under their control; and allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint, to occur.
36. At all times material hereto, with regard to all the allegations contained herein, Defendant GREGORY was under the direct supervision, employ and/or control of Defendant Erie 1 BOCES.
37. At all times material hereto, Defendants' actions were willful, wanton, malicious, reckless, and outrageous in their disregard for the rights and safety of Plaintiff, which amounted to conduct equivalent to criminality.
38. As a direct and/or indirect result of said conduct, Plaintiff has suffered the injuries and damages described herein.
39. By reason of the foregoing, Defendants, jointly, severally, and/or in the alternative, are liable to the Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

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

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

41. As described aforesaid, the actions of Defendants, their predecessors and/or successors, agents, servants and/or employees were conducted in a negligent and/or grossly negligent manner.
42. Defendants' actions endangered Plaintiff's safety and caused her to fear for her own safety.
43. As a direct and proximate result of Defendants' 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.
44. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.
45. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.
46. During the time period from September 2018 to November 2018, Defendant GREGORY had unrestricted access to Plaintiff and willfully and intentionally sexually assaulted, sexually abused, and had sexual contact with Plaintiff.
47. Defendant GREGORY willfully and intentionally created a hostile and unsafe school environment that no child would be able to tolerate.
48. Defendant GREGORY behaved in a manner toward Plaintiff that was so outrageous as to exceed all reasonable bounds of decency.
49. Defendant GREGORY knew with substantial certainty or should have known that his behavior would cause Plaintiff to be a victim of sexual assault, sexual abuse, and sexual contact.
50. Defendant GREGORY knew with substantial certainty or should have known that his behavior would cause severe emotional distress to Plaintiff.

51. The foregoing acts of Defendants caused Plaintiff Physical, mental and emotional distress.
52. 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.


THIRD CAUSE OF ACTION

Breach of Statutory Duty to Report Abuse under Soc. Serv. Law §§413,420

53. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.
54. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420, Defendant Boces 1 had a statutorily imposed duty to report reasonable suspicion of abuse of children in their care.
55. Defendant Erie BOCES 1 breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Defendant GREGORY of children in their care.
56. As a direct and/or indirect result of said conduct, Plaintiff has suffered injuries and damages herein.
57. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

WHEREFORE, plaintiff respectfully requests judgment against Defendants 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 attorney's fees, to the extent permitted by law; and any other relief as the Court deems just and proper.

Dated: July 22, 2020
Buffalo, New York



ETIDO UDOUSORO, ESQ. (OF COUNSEL)

Pratcher & Associates

Attorney for Plaintiff

1133 Kensington Avenue

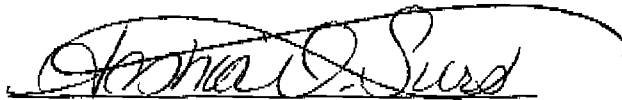
Buffalo, New York 14215

Telephone (716) 838-4612

INDIVIDUAL VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

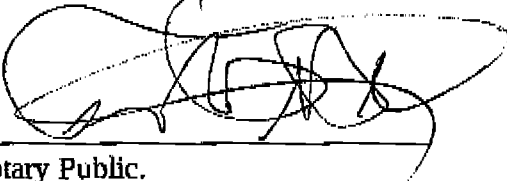
SASHIA FURST as Parent & Guardian of HEAVEN BARBER, being duly sworn, deposes and says: that deponent is the parent and guardian of the plaintiff in the within action; that deponent has read the attached verified complaint and knows the content thereof; that same is true to deponent's knowledge, except as to those matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.



SASHIA FURST as Parent & Guardian of
HEAVEN BARBER

Sworn to before me this 24

Day of July 2020.



Notary Public.

FRANKLIN R. PRATCHER
Notary Public, State of New York
Reg. No. 02PR6258195
Qualified in Erie County
Commission Expires 3-26-2027