

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: _____

JOHN DOE NO. 103, by and through
JOHN DOE NO. 103's MOTHER
as parent and natural guardian,

Plaintiffs,

vs.

SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA,

Defendant.

_____ /

COMPLAINT

PLAINTIFF, JOHN DOE NO. 103, a minor, by and through JOHN DOE NO. 103's MOTHER as parent and natural guardian, hereby sues DEFENDANT, SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, and states the following:

JURISDICTION, VENUE AND PARTIES

1. JOHN DOE NO. 103 ("JOHN DOE") is a resident of Broward County, Florida and is not *sui juris* by virtue of his minority. JOHN DOE NO. 103's MOTHER, as natural guardian and parent of JOHN DOE, is a citizen and resident of Broward County, Florida, and is over the age of 18 and is otherwise *sui juris*. This action is brought anonymously to protect the identities of JOHN DOE and his mother and avoid further psychological damage, as this matter concerns the rape and sexual assault of a minor.

2. Defendant, SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, is a political subdivision or agency of Broward County, Florida. The SCHOOL BOARD controls, operates and maintains Lauderhill Middle School in Broward County, Florida. JOHN DOE was

HERMAN
LAW

a student at Broward County Public Schools at all relevant times.

3. The court has federal question subject matter jurisdiction of this action pursuant to 28 U.S.C. §1331 and 20 U.S.C. §1681(a).

4. The Court has venue of this action under 28 U.S.C. §1391 as the Defendant's principal place of business is in this District, the Plaintiff resides in this District, and a substantial part of the events and omissions giving rise to the claim occurred in this District.

FACTUAL ALLEGATIONS

A. Kristen Sullivan's Sexual Relationship with John Doe

5. At all relevant times, Kristen Sullivan was a teacher at Lauderhill Middle School.

6. Upon information and belief, in or about the 2008-2009 school year, when JOHN DOE was 13 years old, Ms. Sullivan met JOHN DOE and began grooming him into a sexual abuse victim in an open and notorious manner, on school grounds.

7. Starting in or about Spring of 2009, when JOHN DOE was 13 years old and in the 8th grade, Ms. Sullivan began engaging in sexual activities with JOHN DOE. This included kissing, inappropriate touching, oral sex, and sexual intercourse. This was the first time JOHN DOE had ever engaged in sexual intercourse with anyone.

8. The sexual abuse took place in various locations on school premises, as well as off school grounds, and continued through approximately 2010.

B. The School Board Had Actual Notice of Kristen Sullivan's Continuing Sexual Harassment of John Doe

9. The Assistant Principal of Lauderhill Middle School, Antonio Lindsay, had actual notice that Kristen Sullivan was engaged in a sexually inappropriate relationship with John Doe.

10. During the time Ms. Sullivan and JOHN DOE were engaged in a sexual

relationship, Ms. Sullivan began bringing JOHN DOE to a back computer office every morning before school. The two of them would have sexual intercourse in the back computer office on a daily basis.

11. Upon information and belief, Assistant Principal Lindsay was assigned to a supervisory "post", right outside the back computer office.

12. Upon information and belief, Assistant Principal Lindsay observed Ms. Sullivan and JOHN DOE exit the discreet back office together, alone, on a daily basis, to the point that it would have been obvious to any reasonable person that the two were in an intimate and sexually inappropriate relationship.

13. Upon information and belief, Assistant Principal Lindsay questioned and reprimanded Ms. Sullivan about taking JOHN DOE to the back computer office alone every morning, and told Ms. Sullivan that it was not appropriate, and not to do it again.

14. Assistant Principal Lindsay did nothing to enforce this rule, and Ms. Sullivan continued to bring JOHN DOE to the back computer office alone every morning, where she had daily sexual intercourse with JOHN DOE.

15. Upon information and belief, a substitute teacher at Lauderhill Middle School, Ms. Robertson, discussed with Ms. Sullivan her sexual relationship with JOHN DOE, and even spent time with Ms. Sullivan and JOHN DOE recreationally outside of school, on weekends.

16. Upon information and belief, in addition to Assistant Principal Lindsay, Lauderhill Middle School administration and staff became aware that Ms. Sullivan was engaging in sexually inappropriate conduct and/or sexual intercourse with JOHN DOE, failed to take any action in response, and as a result the sexual abuse continued.

17. Upon information and belief, School Board officials also became aware of this sexual relationship.

18. Upon information and belief, in response to this knowledge, the SCHOOL BOARD removed Ms. Sullivan from a teaching position at Lauderhill Middle School, and assigned her as a computer technician. The purpose and intent of this transfer was to remove her from her position as teacher where she had demonstrated a sexual interest in her male students, particularly JOHN DOE.

**C. The School Board Failed to Engage in Corrective Measures
in Response to Actual Notice of Sexual Harassment**

19. The SCHOOL BOARD did not report the sexual abuse of JOHN DOE to authorities or his parents, or otherwise undertake any corrective measures to ensure that Ms. Sullivan's sexual relationship with JOHN DOE would cease.

20. School officials could have taken corrective measures to prevent the sexual abuse of JOHN DOE by Ms. Sullivan. These corrective measures included, without limitation: warning JOHN DOE and his family of the risk of sexual misconduct by Ms. Sullivan; more closely supervising or monitoring Ms. Sullivan; assuring she was not alone with JOHN DOE; warning Ms. Sullivan to avoid private contact with JOHN DOE; forbidding Ms. Sullivan from driving JOHN DOE home from school and enforcing that rule; forbidding Ms. Sullivan from being alone on campus with JOHN DOE and enforcing that rule; issuing a written reprimand or taking other employment action against Ms. Sullivan; or undertaking any other appropriate responsive action to reduce or eliminate the risk of Ms. Sullivan engaging in sexual misconduct with JOHN DOE. School Administrators at Lauderhill Middle School took none of these corrective measures.

21. Upon information and belief, due to the lack of corrective measures in response to notice of sexual harassment and the risk posed by Ms. Sullivan to JOHN DOE and other male students, Ms. Sullivan continued to spend time with JOHN DOE in her classroom alone, take JOHN DOE home from school alone, ply JOHN DOE with gifts and drugs, and take JOHN DOE to other places around campus alone, where she engaged in sexual harassment and sexual acts.

22. As a result of the SCHOOL BOARD's lack of adequate corrective measures, Ms. Sullivan continued to engage in a sexual relationship with JOHN DOE when JOHN DOE was in 9th grade, despite the SCHOOL BOARD's knowledge thereof.

23. Because of the lack of responsive action and the failure to engage in corrective measures, Ms. Sullivan was emboldened, and became more aggressive in her sexual pursuit of JOHN DOE.

**D. Other "Red Flags" Demonstrated Notice to the School
Board of Kristen Sullivan's Sexual Harassment of John Doe**

24. Ms. Sullivan would spend a great deal of time with JOHN DOE alone in her classroom and other locations on school grounds, both during and after school.

25. A foreseeable harm of Ms. Sullivan spending a great deal of time alone with JOHN DOE in her classroom and other locations on school grounds is sexual activity taking place between Ms. Sullivan and JOHN DOE.

26. Upon information and belief, Lauderhill Middle School administration and staff, including the Principal of Lauderhill Middle School, Leo Nesmith, were aware that Ms. Sullivan and JOHN DOE would spend a great deal of time alone in Ms. Sullivan's classroom and other locations on school grounds.

27. On multiple occasions, Lauderhill Middle School staff and administrators

questioned Ms. Sullivan as to why JOHN DOE was spending so much time in her classroom.

28. Ms. Sullivan would routinely call JOHN DOE out of other classes to spend time with her in her own class, during school hours.

29. A foreseeable harm of Ms. Sullivan routinely calling JOHN DOE out of other classes to come spend time with her in her own class is sexual activity taking place between Ms. Sullivan and JOHN DOE.

30. Upon information and belief, Lauderhill Middle School administration and staff were aware that Ms. Sullivan routinely called JOHN DOE out of other classes to come spend time with her in her own class.

31. Upon information and belief, on one occasion, Principal Nesmith, who was a close friend of Ms. Sullivan, reprimanded and told Ms. Sullivan that she could no longer allow JOHN DOE to spend so much time in her class.

32. Principal Nesmith did nothing to enforce this rule, however, and JOHN DOE continued to spend a great deal of time in Ms. Sullivan's classroom, both alone, and when other students were present.

33. JOHN DOE was involved in the after-school boxing program and Ms. Sullivan routinely drove JOHN DOE home alone from this program.

34. A foreseeable harm of Ms. Sullivan driving JOHN DOE home from school alone is sexual activity taking place between Ms. Sullivan and JOHN DOE.

35. Upon information and belief, Lauderhill Middle School's administration and staff were aware that Ms. Sullivan routinely drove JOHN DOE home from school alone.

36. Upon information and belief, the Assistant Principal of Lauderhill Middle School,

Antonio Lindsay, who was also involved in the afterschool boxing program, questioned Ms. Sullivan as to why she was routinely taking JOHN DOE home from school alone.

37. Upon information and belief, Assistant Principal Lindsay also reprimanded Ms. Sullivan that it was inappropriate for her to take JOHN DOE home alone from school, and told her not to take JOHN DOE home from school again.

38. Assistant Principal Lindsay did nothing to enforce this rule, and Ms. Sullivan continued to drive JOHN DOE home from school alone.

39. Ms. Sullivan gave JOHN DOE numerous expensive gifts, such as shoes, clothes, video games, food, money, and drugs.

40. Upon information and belief, Lauderhill Middle School administration and staff were aware that Ms. Sullivan had given JOHN DOE expensive gifts.

41. A foreseeable harm of Ms. Sullivan giving JOHN DOE numerous expensive gifts is sexual activity taking place between Ms. Sullivan and JOHN DOE.

42. Despite notice and knowledge of Ms. Sullivan's inappropriate relationship with JOHN DOE, Principal Nesmith, Assistant Principal Lindsay, and other Lauderhill Middle School administrators, took no action against Ms. Sullivan, and she continued to teach at Lauderhill Middle School and be given unfettered access to JOHN DOE at the school.

43. As a direct and proximate result of this sexual abuse, JOHN DOE has suffered and will continue to suffer severe psychological and emotional injuries, mental anguish and the loss of enjoyment of life.

44. Plaintiff has retained the undersigned counsel and has agreed to pay reasonable attorneys' fees.

COUNT I

**(Violation of Title IX, Education
Amendments of 1972 - 20 U.S.C. §1681 et seq.)**

45. Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 through 43 above.

46. At all relevant times, the education program or activity at Lauderhill Middle School received federal financial assistance.

47. JOHN DOE had a right to not be subject to sexual discrimination, harassment or abuse while he participated in the educational program or activities at Lauderhill Middle School.

48. At all relevant times, the SCHOOL BOARD and Lauderhill Middle School administration had actual notice alerting them to the possibility that Ms. Sullivan was sexually harassing her male students, including JOHN DOE. Upon information and belief, Lauderhill Middle School administration and the SCHOOL BOARD knew that Ms. Sullivan had engaged in sexual harassment and posed a grave risk of sexual misconduct with her male students.

49. At all relevant times, the SCHOOL BOARD and Lauderhill Middle School administration knew of Ms. Sullivan's propensity to engage in sexual misconduct with male students on school grounds.

50. Upon information and belief, Lauderhill Middle School administration and the SCHOOL BOARD had authority to address the risk of sexual abuse by Ms. Sullivan and institute corrective measures.

51. The decision of the SCHOOL BOARD and Lauderhill Middle School administration to not institute or enforce necessary corrective measures, after receiving actual notice that Ms. Sullivan posed a risk of sexual misconduct, was an official decision to ignore the

danger of sexual abuse to children.

52. Despite actual notice, Lauderhill Middle School administration acted with deliberate indifference to the sexual harassment of male students by Ms. Sullivan, including JOHN DOE, in failing to undertake necessary corrective measures.

53. Despite actual notice, the SCHOOL BOARD, its agents and representatives, acted with deliberate indifference to the sexual harassment of male students by Ms. Sullivan, including JOHN DOE, in failing to undertake necessary corrective measures.

54. At all relevant times, the SCHOOL BOARD and Lauderhill Middle School Administrators had actual notice alerting them that Ms. Sullivan was engaged in a sexual relationship with JOHN DOE.

55. Upon information and belief, Lauderhill Middle School Administrators and the SCHOOL BOARD had authority to address the sexual relationship between Ms. Sullivan and JOHN DOE and institute corrective measures.

56. The decision of the SCHOOL BOARD and Lauderhill Middle School Administrators to not institute or enforce necessary corrective measures, after receiving actual notice that Ms. Sullivan was engaged in a sexual relationship with JOHN DOE, was an official decision to ignore the sexual abuse of children.

57. Despite actual notice, Lauderhill Middle School Administrators acted with deliberate indifference to the sexual relationship between Ms. Sullivan and JOHN DOE, in failing to undertake necessary corrective measures.

58. Despite actual notice, the SCHOOL BOARD, its agents and representatives, acted with deliberate indifference to the sexual relationship between Ms. Sullivan and JOHN DOE, in

failing to undertake necessary corrective measures.

59. As a result of this inaction in response to actual notice, JOHN DOE was sexually assaulted on multiple occasions by Ms. Sullivan.

WHEREFORE, Plaintiff demands compensatory damages, attorneys' fees and costs pursuant to 42 U.S.C. §1988, and such other and further relief as this Court deems just and proper.

COUNT II
(Common Law Negligence)

60. Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 through 43 above.

61. On or about March 21, 2013, Plaintiffs served a letter pursuant to §768.28, Florida Statutes, to the School Board, formally advising the School Board of Plaintiff's negligence claim arising from the events described in this lawsuit. While 180 days has not passed since the date of this notice, Plaintiff agrees to abate this claim pending expiration of the notice period.

62. The School Board had a duty to protect the safety of the students at Lauderhill Middle School. The School Board and John Doe were in the special relationship of school-student, and thus the School Board owed John Doe a duty of supervision and care.

63. Defendant School Board, by and through its agents, servants and employees knew or should have known of Kristen Sullivan's sexual harassment of John Doe.

64. In breach of its duty to exercise reasonable care, Defendant School Board failed to prevent the sexual interactions between Kristen Sullivan and John Doe.

65. Defendant School Board breached its duties to Plaintiff Jane Doe when it failed to exercise reasonable care in supervising John Doe and giving Kristen Sullivan access to male

students, including, Jane Doe.

66. As a direct and proximate cause of Defendant's negligence, Plaintiff has suffered severe and permanent physical and psychological injuries, mental anguish, pain and suffering, and loss of enjoyment of life.

WHEREFORE, Plaintiff John Doe demands judgment against Defendant School Board for compensatory damages, costs and such other and further relief as this Court deems just and proper.

JURY TRIAL DEMAND

Plaintiffs demand a trial by jury and all issues so triable as a matter of right.

Dated: May 15, 2013.

Respectfully Submitted,

HERMAN LAW
3351 NW Boca Raton Boulevard
Boca Raton, FL 33431
Tel: 305-931-2200
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By: _____

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HERMAN
LAW

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
JOHN DOE NO. 103 by and through JOHN DOE NO. 103's MOTHER as parent and natural guardian,
(b) County of Residence of First Listed Plaintiff Broward
(c) Attorneys (Firm Name, Address, and Telephone Number)
Jeffrey M. Herman, Esq., Herman Law
3351 NW Boca Raton Blvd., Boca Raton, FL 33431
(305) 931-2200

DEFENDANTS
SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation
PTF DEF
4 4
5 5
6 6

Table with 5 columns: CONTRACTS, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
20 U.S.C. Section 1681 et seq. (Title IX)
Brief description of cause:
Sexual Abuse of Student in Public School

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE
DOCKET NUMBER

DATE
05/15/2013
SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY
RECEIPT #
AMOUNT
APPLYING IFP
JUDGE
MAG. JUDGE

AO (Rev. 10/93) Summons in a Civil Action

United States District Court

Southern

DISTRICT OF Florida

SUMMONS

JOHN DOE NO. 103, by and through
JOHN DOE NO. 103's MOTHER
as parent and natural guardian,

Plaintiffs,

CASE NO.

vs.

SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA,

Defendant.

TO: THE SCHOOL BOARD OF BROWARD COUNTY, by serving its Superintendent:

James F. Notter
Broward County Public Schools
600 SE Third Avenue
Fort Lauderdale, FL 33301

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY,
Jeffrey M. Herman, Esq.
Stuart S. Mermelstein, Esq.
Herman Law
3351 NW Boca Raton Boulevard
Boca Raton, FL 33431
(305) 931-2200

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

CLERK

DATE

(BY) DEPUTY CLERK

RETURN OF SERVICE

Service of the Summons and Complaint was made by me ¹	DATE
NAME OF SERVER (PRINT)	TITLE

Check one box below to indicate appropriate method of service

Served personally upon the defendant. Place where served: _____

Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
 Name of person with whom the summons and complaint were left _____

Returned unexecuted: _____

Other (*specify*): _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
DATE

Signature of Server

Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.