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**GENE UZIEL and FRANCES TESTINI,
General Administrators and as
Administrators ad Prosequendum of The
Estate of CARTHORIS “CARTER”
UZIEL, and GENE and FRANCES
TESTINI, Individually,**

Plaintiffs,

vs.

**WESTFIELD BOARD OF EDUCATION,
WESTFIELD TOWNSHIP, MARGARET
DOLAN, Ed.D., and JOHN DOES 1-30,
Jointly, severally, and in the alternative,**

Defendants.

**SUPERIOR COURT OF NEW JERSEY
UNION COUNTY: LAW DIVISION**

DOCKET NO.

CIVIL ACTION

**COMPLAINT, DEMAND FOR JURY
TRIAL, DESIGNATION OF
TRIAL COUNSEL AND DEMAND
PURSUANT TO RULE 1:4-8**

Plaintiffs Gene Uziel (“Gene”) and Frances Testini (“Frances”) (collectively, “The Uzies”) as General Administrators and Administrators ad Prosequendum of the Estate of Carthoris “Carter” Uziel, and Gene Uziel, individually, and Frances Testini individually residing in the County of Union, New Jersey, complaining against the Defendants, says as follows:

PARTIES

1. Gene and Frances reside at 75 Highwood Terrace, Weehawken, New Jersey and are the parents of Carter Uziel, decedent.

2. In or about August 2018, Gene and Frances were appointed as General Administrators and as Administrators Ad Prosequendum of their son's Estate.

3. Defendant Westfield Board of Education ("WBOE") is a governmental entity created under the laws of the State of New Jersey with a principal address at 302 Elm Street, Westfield, New Jersey 07090.

4. WBOE is responsible for operating and maintaining the Westfield Public Schools including without limitation, Edison Intermediate School ("Edison"), Roosevelt Intermediate School ("Roosevelt") and Westfield High School ("WHS"), and has a duty to provide for the safety and security of students within the School District and to adhere to and provide the protections and other legal requirements under the New Jersey Anti-Bullying Bill of Rights Act, N.J.S.A. 18A:37.1 et seq.

5. Defendant Westfield Township is a municipality or other form of governmental entity who has a duty to provide for the safety and security of students within the School District and to adhere to and provide the protections and other legal requirements under the New Jersey Anti-Bullying Bill of Rights Act, N.J.S.A. 18A:37-1 et. seq.

6. .At all times relevant herein, Defendant, Margaret Dolan, Ed.D. ("Dolan"), is employed by Defendants as the Superintendent of the Westfield Public School District and has a duty to provide for the safety and security of students within the School District and to adhere to and provide the protections and other legal requirements under the New Jersey Anti-Bullying Bill of Rights Act, N.J.S.A. 18A:37-1 et seq. Dolan is being sued in this matter in both her official and individual capacity.

7. At all times relevant herein, Defendants, John Does 1-30, are individuals, whose identities are not currently known, who have a duty to provide for the safety and security of students within the Westfield School District and to adhere to and provide the protections and other legal requirements under the New Jersey Anti-Bullying Bill of Rights Act, N.J.S.A. 18:A:37-1 et. seq., and for implementing policies to prevent and/or address abusive student-to-student bullying, harassment and/or intimidation; the training and/or supervision of staff responsible for implementing said policies; and/or the design and/or implementation of policies and programs consistent with the Anti-Bullying Bill of Rights Act, N.J.S.A. 18A:37-13.2, et seq. One, some or all of the John Does 1-30 are principals, agents, ostensible agents, servants and/or employees of Defendants WBOE and/or Defendant Westfield Township and as such, they are vicariously liable and vicariously responsible for the negligent acts, grossly negligent acts and/or omissions and/or other wrongful and unlawful conduct on the part of Defendants set forth herein.

FACTS

8. At all times relevant herein, Defendants promulgated a policy to address complaints of Harassment, Intimidation, and Bullying (“HIB”) in the Westfield School District.

9. Specifically, in recognition of its legal obligations under the Anti-Bullying Bill of Rights Act, N.J.S.A. 18A:37-13.2, et. seq. Defendants promulgated Policy 5512, Harassment, Intimidation and Bullying (HIB).

10. Pursuant to Policy 5512 (“the Policy”), WBOE purported to prohibit “acts of harassment, intimidation, or bullying of a pupil” and recognized that “[a] safe and civil environment in school is necessary for pupils to learn and achieve high academic

standards.” The Policy further provides that “[h]arassment, intimidation, or bullying, like other disruptive or violent behaviors, is conduct that disrupts both a pupil’s ability to learn and a school’s ability to educate its pupils in a safe and disciplined environment.”

11. Section F of the Policy “requires the Principal at each school to be responsible for receiving complaints alleging violations of this Policy,” and further provides that school employees are “required to verbally report alleged violations of this Policy to the Principal or the Principal’s designee on the same day when the individual witnessed or received reliable information regarding any such incident,” and to “submit in writing a report in writing to the Principal within two school days of the verbal report.” Section F also states that “[a] school administrator who receives a report of harassment, intimidation, and bullying from a district employee, and fails to initiate or conduct an investigation, or who should have known of an incident of harassment, intimidation, or bullying and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying, may be subject to disciplinary action”

12. As set forth more fully herein, beginning in 2010, Carter Uziel was subjected to an ongoing pattern of harassment, intimidation and bullying by students of Edison, Roosevelt, and WHS, of which Defendants were fully aware but deliberately indifferent to, resulting in substantial harm to him and ultimately in causing Carter to take his own life.

13. Defendants repeatedly failed to follow the Policy and failed to provide Plaintiff with “[a] safe and civil environment.”

14. Specifically, but not by way of limitation, Carter was subjected to the following:

- i) In or about October 2013, several classmates hid Carter's lunch box and threw it in the trash; said incident was reported in a June 10, 2014 email to Dolan and Assistant Superintendent Weissman;
- ii) On or about November 23, 2013, a classmate sexually assaulted Carter; said incident was reported in a June 10, 2014 email to Dolan and Assistant Superintendent Weissman;
- iii) Incidents of bullying and sexual harassment; as acknowledged in a letter dated June 17, 2014- these incidents were reported to Dolan;
- iv) In or about 2014, multiple incidents of bullying occurred including three (3) sexual assaults of Carter which were immediately reported to Edison Principal Matt Bolton and were further reported in a March 18, 2016 email to Dolan;
- v) In or about 2014, a fellow student threw an ice ball and hit Carter in the face, damaging his glasses; said incident was reported in a June 10, 2014 email to Dolan and Assistant Superintendent Weissman and in a March 18, 2016 email to Dolan;
- vi) In or about 2014, a fellow student threw Carter against a locker in the hallway, which was reported to Edison Principal Matt Bolton;
- vii) In or about May 2014, allegations made by an unidentified group of female students against Carter resulting in his being coerced into signing a confession and serving a detention for this alleged incident; said incident was reported on or about March 18, 2016 to Dolan;

- viii) A pattern of additional bullying incidents occurred between November 2014 and January 2015; as acknowledged in a letter dated February 4, 2015, these incidents were reported in or about the winter of 2015 to Roosevelt Principal Carey;
 - ix) On or about May 20, 2015, an incident occurred in which a fellow classmate, J.B., who had a prior history of bullying and other inappropriate behavior, pulled down Carter's pants in class; as acknowledged in a letter dated August 24, 2015 from Roosevelt Principal Carey and Assistant Superintendent Weissman, this incident was reported; J.B. was not suspended for this action and Carter had to serve a detention; said incident was reported in a March 18, 2016 email to Dolan;
 - x) On or about January 14, 2016, an incident occurred in which another student without provocation pushed Cater against a cabinet, causing him to fall to the ground and knocking the wind out of Carter; as acknowledged in a letter dated February 3, 2016, this incident was reported to Roosevelt Principal Carey and also reported in a March 18, 2016 email to Dolan;
 - xi) On or about March 15, 2016, Carter's notebooks were vandalized, and homework, notes and school supply box were stolen; said incident was reported in a March 18, 2016 email to Dolan;
15. As set forth above, on numerous occasions, Gene complained both verbally and in writing regarding the aforementioned incidents.
16. In a March 16, 2016 email, Dolan stated the following to Gene:
- You are the single and only parent out of the thousands of parents of our Westfield Public School students who has consistently

attempted to harass and malign teachers, counselors, nurses, and administrators in three different schools over several years. In my capacity as Superintendent of Schools, I do not believe that the District must continue to respond to further inappropriate, intentionally offensive or harassing communications. ... [T]his email shall serve as notice to you that any emails sent by you that contain content that constitutes harassment or defamation of staff members will no longer receive a response.

17. In response to Dolan's March 16, 2016 email referenced above, Gene, in his March 18, 2016 email to Dolan as well as county officials, stated, "[t]his email involves no name calling, just the facts. In summation, because we believe that Carter has been inappropriately placed in an unsafe learning environment, this impedes education."

18. On or about December 22, 2017, Gene emailed Westfield High School counselor, Paul Valenzano, and informed him that "Carter had been bullied recently by 2 students." He further stated that, on December 20, 2017, one of these students had "punched [Carter] in the nose" and, moreover, that they had stalked him for two days.

19. In the same December 22, 2017 email, Gene informed Mr. Valenzano that "[d]uring the school year, at lunch a few of the students used racially and explicit curses against Carter. One of them called him a 'Jewish c*nt' and a few other choice words..."

20. As acknowledged by Mr. Valenzano, Carter previously informed him of the "Jewish c*nt" slur that had been made against him.

21. On April 19, 2018, Gene reported to Spanish Teacher Paula Parada that Carter "ha[d] been bullied for years[,] [wa]s still being bullied ... [and had] been called racial slurs..."

22. On or about June 17, 2018, Carter shot himself in the head.

23. Gene and Frances encountered Carter immediately after the latter shot himself and witnessed him bleeding from his head.

24. Plaintiff called 911 at approximately 9:07 p.m.

25. In an effort to save his son's life, Plaintiff became covered in Carter's blood.

26. Life saving measures were administered and witnessed by Gene and Frances.

27. Carter was taken to Rahway Hospital, where he was pronounced dead at 10:03 p.m.

28. On or about September 7, 2018, a Notice of Claim pursuant to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et. seq. was filed.

FIRST COUNT
(Negligence)

29. Plaintiffs hereby repeats and realleges all of the allegations set forth above as if set forth at length herein.

30. Defendants had actual and/or constructive knowledge that Carter had been and was continually being bullied, tormented, intimidated and harassed in violation of the New Jersey Anti-Bullying Bill of Rights Act.

31. Defendants did not prevent the bullying, intimidation and/or harassment and/or or take appropriate remedial measures to stop the unlawful conduct from occurring.

32. Defendants failed to exercise reasonable care and failed to take reasonable precautions for the safety and well-being of Carter.

33. Defendants failed to enact and/or enforce adequate written and/or verbal policies, procedures and/or regulations to provide for the safety and well-being of Carter.

34. As a direct and proximate result of the negligence and carelessness of Defendants as well as John Does 1-30, Carter sustained severe and permanent injuries until the time of his death, conscious pain and suffering and Gene and Frances suffered

temporary and permanent harm, including, but not limited to, pain, suffering, emotional and psychological trauma and humiliation.

35. As a direct and proximate result of the negligence and carelessness of Defendants as well as John Does 1-30, medical, hospital and funeral and burial expenses were incurred on behalf of Carter.

36. As a direct and proximate result of the negligence and carelessness of Defendants as well as John Does 1-30, and to those who would eventually be dependent upon Carter for financial defendants' negligence, there has been and will continue to be loss of financial support, contribution, assistance, advice, guidance, counsel, and household services.

WHEREFORE, Plaintiffs Gene Uziel and Frances Testini, as General Administrators and Administrators Ad Prosequendum of the Estate of Carthoris Uziel and in their Individual Capacities, demand judgment against Defendants and John Doe Defendants 1-30, jointly, severally and/or in the alternative, for compensatory damages, punitive damages, damages pursuant to the New Jersey Wrongful Death Act, damages pursuant to the New Jersey Survival Act, interest, costs of suit, attorney's fees, and such other relief as the Court deems just and equitable.

SECOND COUNT
**(Violation of the New Jersey Civil
Rights Act, N.J.S.A. § 10:6-1 et seq.)**

37. Plaintiffs hereby repeats and realleges all of the allegations set forth above as if set forth at length herein.

38. The Anti-Bullying Bill of Rights Act, N.J.S.A. 18A:37-13.2, et seq. ('the Act') was enacted to "strengthen the standards and procedures for preventing, reporting,

investigating, and responding to incidents of harassment, intimidation, and bullying.”
N.J.S.A. 18A:37-13.1(f).

39. Defendants, acting under color of law, deprived Carter of substantive due process and equal protection rights and privileges secured by the Constitution and laws of the United States, and of the laws of New Jersey, by allowing a discriminatory, hostile, and retaliatory environment to foster at the Westfield Public School District, and by failing to take prompt and effective measures to remediate and end the harassment, intimidation and bullying to which Carter was subjected in violation of the Act.

40. Pursuant to New Jersey’s Survival Act, N.J.S.A. 2A:15-3, Plaintiffs may bring an action on behalf of Carter.

WHEREFORE, Plaintiffs Gene Uziel and Frances Testini, General Administrators and Administrators Ad Prosequendum of the Estate of Carthoris Uziel, demand judgment against Defendants, jointly, severally and/or in the alternative, for compensatory damages, punitive damages, damages pursuant to the Wrongful Death Act, damages pursuant to the Survivorship Act, interest, costs of suit, attorney’s fees, and such other relief as the Court deems just and equitable.

THIRD COUNT

**Hostile Environment in Violation of the New Jersey Law
Against Discrimination - N.J.S.A. 10:5-1 et seq.**

41. Plaintiff hereby repeats and realleges all of the allegations set forth above as if set forth at length herein.

42. The Westfield Public School District, operated by Defendants, is a place of public accommodation within the meaning of the LAD.

43. Defendants denied Carter the privileges and advantages of a public education because of his membership in classes protected under the LAD, including, but not limited to, his religion and/or perceived religion (“Jewish”).

44. Plaintiff endured severe and/or pervasive harassment that created an intimidating, hostile and offensive environment.

45. Defendants knew of the harassment and failed to take effective measures to end it, causing Plaintiffs injuries.

46. Pursuant to New Jersey’s Survival Act, N.J.S.A. 2A:15-3, Plaintiffs may bring an action on behalf of Carter.

WHEREFORE, Plaintiffs Gene Uziel and Frances Testini, General Administrators and Administrators Ad Prosequendum of the Estate of Carthoris Uziel, demand judgment against Defendants, jointly, severally and/or in the alternative, for compensatory damages, punitive damages, damages pursuant to the New Jersey Wrongful Death Act, damages pursuant to the New Jersey Survival Act, interest, costs of suit, attorney’s fees, and such other relief as the Court deems just and equitable.

FOURTH COUNT

**Retaliation in Violation of the New Jersey Law
Against Discrimination - N.J.S.A. 10:5-1 et seq.**

47. Plaintiffs hereby repeats and realleges all of the allegations set forth above as if set forth at length herein.

48. Plaintiffs engaged in protected activity under the LAD including, but not limited to, filing numerous complaints of bullying, harassment and/or intimidation as set forth and incorporated herein.

49. As a result of Plaintiffs engaging in protected activity under the LAD, Carte, Gene and Frances were subjected to unlawful retaliation by the failure of Defendants to comply with policies and procedures aimed at protecting Carter from further harassment, intimidation and bullying, by subjecting him to unwarranted discipline, and by treating him less favorably than the students who had engaged in the bullying, harassment, and intimidation, and by Defendant Dolan stating on or about March 16, 2016, that any email she deemed “constitute[d] harassment or defamation of staff members w[ould] no longer receive a response.”

50. Pursuant to New Jersey’s Survival Act, N.J.S.A. 2A:15-3, Plaintiffs may bring an action on behalf of Carter.

WHEREFORE, Plaintiffs Gene Uziel and Frances Testini, General Administrators and Administrators Ad Prosequendum of the Estate of Carthoris Uziel, demand judgment against Defendants, jointly, severally and/or in the alternative, for compensatory damages, punitive damages, damages pursuant to the New Jersey Wrongful Death Act, damages pursuant to the New Jersey Survival Act, interest, costs of suit, attorney’s fees, and such other relief as the Court deems just and equitable.

FIFTH COUNT
(Portee Claim of Gene)

51. Plaintiff Gene Uziel repeats and realleges each of the allegations set forth above as if set forth herein at length.

52. As a direct and proximate result of Defendants’ combined negligence and carelessness, Carter suffered a self-inflicted gunshot wound to the head, resulting in his death.

53. Gene was Carter’s father.

54. Plaintiff encountered Carter immediately after the latter shot himself and witnessed him bleeding from his head. In an effort to save his son's life, Plaintiff became covered in Carter's blood and witnessed life saving measures being administered to his son.

55. As a direct and proximate result of the aforesaid wrongful and negligent conduct of Defendants, Gene suffered severe emotional distress, severe permanent injuries, pain, suffering, loss of enjoyment of life, medical bills and economic damage.

WHEREFORE, Plaintiff Gene Uziel demands judgment of compensatory damages, punitive damages, attorneys' fees, interests, costs and such further relief as the Court deems equitable and just.

FIFTH COUNT
(Portee Claim of Frances)

56. Plaintiff Frances Testini repeats and realleges each of the allegations set forth above as if set forth herein at length.

57. As a direct and proximate result of Defendants' combined negligence and carelessness, Carter suffered a self-inflicted gunshot wound to the head, resulting in his death.

58. Frances was Carter's mother.

59. Plaintiff encountered Carter immediately after the latter shot himself and witnessed him bleeding from his head and witnessed life saving measures being administered to her son.

60. As a direct and proximate result of the aforesaid wrongful and negligent conduct of Defendants, Frances suffered severe emotional distress, severe permanent injuries, pain, suffering, loss of enjoyment of life, medical bills and economic damage.

WHEREFORE, Plaintiff Frances Testini demands judgment of compensatory damages, punitive damages, attorneys' fees, interests, costs and such further relief as the Court deems equitable and just.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demands a trial by jury as to all issues and claims.

DESIGNATION OF TRIAL COUNSEL

Plaintiffs designates Heidi R. Weintraub, Esquire as trial counsel in this matter.

DEMAND TO PRESERVE EVIDENCE

All Defendants are hereby directed and demanded to preserve all physical and electronic information pertaining in any way to Plaintiff's cause of action and/or prayers for relief, to any defense to same, and pertaining to any party, including, but not limited to, electronic data storage, closed circuit TV footage, digital images, computer images, cache memory searchable data, emails, spread sheets, employment files, memos, text messages and any and all online social or work related website, entries on social networking sites (including, but not limited to, Facebook, Twitter, Instagram).

CERTIFICATION

The undersigned counsel certifies that there are no other actions or arbitrations pending or contemplated involving the subject matter of this controversy at this time, and there are no additional known parties who should be joined to the present action at this time. I certify the foregoing to be true. I am aware if the above is willfully false, I am subject to punishment.

**JAVERBUM WURGAFT HICKS KAHN
WIKSTROM & SININS, P.C.**

By: Heidi R. Weintraub /s/
HEIDI R. WEINTRAUB

Dated: June 16, 2020