

**VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF NEWPORT NEWS**

**MICHELLE WEBB,**

**Plaintiff,**

v.

Case No.: CL 2302960T-00

**NEWPORT NEWS SCHOOL BOARD,**

**SERVE:**

Lisa R. Surles-Law  
Chairperson  
Newport News School Board  
12465 Warwick Boulevard  
Newport News, Virginia 23606

Len Wallin, Esq.  
Director of Legal Services  
Newport News School Board  
12465 Warwick Boulevard  
Newport News, Virginia 23606

Collins L. Owens, Jr., Esq.  
City Attorney  
Office of the City Attorney for the  
City of Newport News  
2400 Washington Avenue  
9<sup>th</sup> Floor, City Hall  
Newport News, Virginia 23607

FILED  
2023 JUL 20 PM 3:13  
CITY OF NEWPORT NEWS, VA.  
MICHELLE E. MORGAN  
CLERK

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**SUPERINTENDENT DR. GEORGE PARKER III,**  
**Individually and in his Official Capacity as Superintendent**  
**of Newport News Schools,**

**SERVE:**

Dr. George Parker, III  
366 Robert Frost Street  
Newport News, Virginia 23606

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**VIRGINIA DEPARTMENT OF EDUCATION**

**SERVE:**

James Monroe Building  
101 N. 14<sup>th</sup> Street  
Richmond, Virginia 23219

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**Dr. Earling Hunter, Individually and in her Official Capacity  
as Principal of Heritage High School,**

**SERVE:**

Dr. Earling Hunter, Principal  
Heritage High School  
5800 Marshall Avenue  
Newport News, Virginia 23605

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**FILED**

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CLERK OF COURT  
JULY 20 2013  
NEWPORT NEWS, VA.  
V.D.

**COMPLAINT**

COMES NOW the Plaintiff, Michelle Webb, by counsel, respectfully moves this Court for judgment against Defendants, Newport News School Board (hereinafter "School Board"), Dr. George Parker, III, Virginia Department of Education (hereinafter "VDOE"), and Dr. Earling Hunter, jointly and severally, on the grounds set forth below:

**PARTIES**

1. At all relevant times, Plaintiff, Michelle Webb, a resident of Toano and a citizen of the Commonwealth of Virginia, was employed as a twelfth-grade teacher at Heritage High School in the Newport News School District.

2. Defendant VDOE is a corporate body and a political subdivision of the Commonwealth of Virginia under the authority of Title 22.1 of the Code of Virginia and is vested with the responsibility for the general supervision of the public school system, including, but not limited to, public schools within the City of Newport News.

3. Defendant School Board is a corporate body and a political subdivision of the Commonwealth of Virginia under the authority of Title 22.1 of the Code of Virginia and is vested with the responsibility for supervision of schools, and oversight and fiscal allocation of funds for student-teacher programs within the City of Newport News.

4. Defendant Dr. George Parker, III was, at all relevant times herein, the Superintendent of the Newport News School District.

5. At all relevant times stated herein, Defendant Parker was working within the scope of his employment for Defendant Newport News School Board; was subject to the direct control and supervision of Defendant School Board; his actions were incident to the business of Defendant School Board; and Defendant School Board had the power and authority to control his actions. Defendant School Board is therefore vicariously liable for the actions and inactions of Defendant Parker as alleged herein.

6. Defendant Dr. Earling Hunter (hereinafter "Principal") was, at all relevant times herein, the Principal of Heritage High School within the Newport News School District.

7. At all relevant times stated herein, Defendant Hunter was working within the scope of his employment for Defendant Newport News School Board; was subject to the direct control and supervision of Defendant School Board; his actions were incident to the business of Defendant School Board; and Defendant School Board had the power and authority to control his actions. Defendant School Board is therefore vicariously liable for the actions and inactions of Defendant Hunter as alleged herein.

### **JURISDICTION AND VENUE**

8. This Court has personal jurisdiction over Defendants pursuant to Va. Code Sec. 8.01-328.1(1)-(4).

9. Venue is proper in this Court pursuant to Va. Code Sec. 8.01-262(1) and Va. Code Sec. 8.01-262(2) because, upon information and belief, Defendants reside in, and the causes of action alleged herein arise in, Newport News, Virginia.

### **FACTS**

10. Upon information and belief, at all relevant times herein, Plaintiff was employed by the Newport News School Board as a teacher at Heritage High School for the purpose of teaching twelfth-grade Government.

11. Upon information and belief, on or about September 20, 2021, a fifteen-year-old student, hereinafter referred to as “John Doe,” was involved in an altercation with two other students in the school cafeteria before he fired multiple rounds in a crowded, main hallway, in close proximity of the Plaintiff, thereby placing the Plaintiff in the zone of danger.

12. The traumatic effects of the event endured by the Plaintiff caused her to suffer, among others, physical injuries, severe emotional disturbances, and mental anguish.

### **JOHN DOE’S BACKGROUND**

13. Upon information and belief, John Doe had a violent past that involved a criminal charge of felonious malicious wounding with the use of a firearm. He was convicted of these charges in March of 2021—just months prior to the September 20, 2021 shooting. Per the terms of his release on parole or probation, he was ordered to wear an electronic tracking ankle device on his person, of which Defendants had knowledge thereof.

14. Upon information and belief, the March 2021 conviction was related to a school incident at Heritage High School.

15. Defendants permitted John Doe to return to school at Heritage High School for the 2021-2022 school year in the fall of 2021, thereby subjecting students and staff to a heightened and unnecessary risk of violence and dangerous conditions.

### **SCHOOL SHOOTING ON SEPTEMBER 20, 2021**

16. The Plaintiff suffered, and continues to suffer, from a disability that severely impairs her mobility that requires, at baseline, the assistance of a walker.

17. On September 20, 2021, John Doe, donning all black clothing, brought a gun to school. As the first lunch block was ending, students filled the adjacent main hallway to attend afternoon classes. Around this time, an altercation ensued between John Doe and two other students inside the school cafeteria. The fight carried out into the main hallway, causing a significant disturbance from students yelling and bodies slamming into the school lockers. Shortly thereafter, John Doe drew his gun and started shooting.

18. Upon information and belief, one of the students involved in the altercation attempted to flee after the first of many shots. John Doe had his black hoodie pulled over his head and mask over his face as he gave chase into the crowded hallway of approximately one hundred individuals. He continued to fire multiple rounds with the intent to maim and/or kill.

19. The Plaintiff was preparing for her next class when she heard the fighting. Subsequently, and upon hearing the first gunshot, the Plaintiff was overcome with shock and suddenly feared that death was imminent. The gunshots in conjunction with the preceding fight gave rise for concern, alerting her to the fact that the shooter was acting with the intent to cause one or more persons substantial harm or death. She instinctively dove to the floor in a panic.

sustaining physical injuries to her legs. Due to the Plaintiff's physical disabilities, she was substantially limited in her movements once she fell to the ground. Multiple gunshots ensued thereafter; the horrifying sound echoed throughout the school and inside the Plaintiff's ears—a sound that traumatizes and disables her to this day.

20. The students ran through the halls seeking safe shelter as John Doe continued to fire his weapon. The Plaintiff felt helpless as she lacked any knowledge of any safety plans or designated safety exits designed for these types of situations due to the lack of school response training specific to Heritage High School. Nonetheless, the Plaintiff instructed the students to drop to the floor in the corner of the classroom and to stay low on the ground. She then handed the keys to her student-teacher, Ms. Leslie Turner, to lock the classroom door. The Plaintiff and the students in the room, however, were still extremely vulnerable and visibly exposed since the wall adjacent to the main hallway bore a large picture window and the door to the classroom contained a vertical, rectangular glass window. The Plaintiff knew that those in the room were merely “sitting ducks.”

21. Later, when law enforcement arrived at the classroom, the Plaintiff required the assistance of multiple law enforcement officers to help her off the floor and regain her balance due to her disability. Everyone that was with the Plaintiff was directed to pass through the building to a designated meeting point—an outdoor tennis court—to await further instructions. Again, the Plaintiff felt completely vulnerable and exposed in an open field without any protection between a shooter and the crowd of students and staff who were congregated on the tennis court. The Plaintiff knew that the shooter had not yet been identified nor detained and worried whether the shooter remained on the school campus.

22. John Doe was not detained until several hours after the shooting had occurred. He was subsequently charged with six counts; he pleaded guilty to all charges.

23. The two Heritage High School students targeted by John Doe sustained substantial bodily harm from gunshot wounds.

**COUNT I – NEGLIGENCE, GROSS NEGLIGENCE, and  
WILLFUL AND WANTON CONDUCT –**

**Defendants' Breach of Duty of Care  
(as to ALL DEFENDANTS)**

24. Plaintiff hereby incorporates by reference, as if fully set forth herein, each and every allegation asserted in the preceding and following paragraphs, and hereby re-adopts and re-alleges each factual and legal allegation.

25. In the recent years leading up to the September 2021 shooting, a marked increase in school-related violence and shootings had become common knowledge. Similarly, the Newport News community suffered substantially high crime rates, particularly crimes related to aggravated assault. Defendants had, or should have had, knowledge of the ongoing increase in violence in schools and the Newport News community to conclude that reasonable safety precautions should be undertaken to minimize the risk of harm and danger to the students, staff, and subordinates attending its schools within the Newport News school district.

26. Defendant VDOE possesses the power and authority to delegate duties and responsibilities to Defendant School Board, which, then imposes an obligation on the School Board to comply and perform in accordance with its obligations and duties.

27. Pursuant to Va. Code Sec. 22.1-125, title to all school property, both real and personal, within the Newport News School District, is vested in the School Board, and such

property is within its official care and authority. Thus, title to Heritage High School vests with Defendant School Board.

28. Va. Const. art. VIII, Sec. 7 provides that “[t]he supervision of the schools in each school division shall be vested in a school board.”

29. School boards are obligated to ensure that schools are “conducted according to law,” Va. Code Sec. 22.1-79(2), and must “[c]are for, manage and control” school property. Va. Code Sec. 22.1-79(3).

30. The School Board and school Administrators have a duty to establish policies “designed to provide [] public education [to] be conducted in an atmosphere free of disruption and threat to persons or property and supportive of individual rights”<sup>1</sup> and to develop programs to prevent violence and crime on school property.<sup>2</sup>

31. Further, state regulations delegate a duty to the school Principal, Defendant Hunter, to provide effective school management that promotes a positive and safe school climate.<sup>3</sup>

32. The School Board and school Administrators were, and continue to be, responsible for the supervision, care, management, and control of its schools. They therefore owe to Plaintiff, as an invitee, a duty of ordinary care to inspect, maintain, and upkeep the premises in a reasonably safe condition, and to warn of any hidden dangers of which they are aware, and a heightened duty to inspect the premises thoroughly until they know with reasonable certainty that the danger(s) had been identified and removed.

33. The School Board and school Administrators failed to fulfill its duties and act in accordance with various Virginia state laws. Despite the Defendants’ knowledge of John Doe’s

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<sup>1</sup> See, Va. Code Sec. 22.1-253.13:7(C)(3)

<sup>2</sup> See, Va. Code Sec. 22.1-279.9

<sup>3</sup> See, 8 VAC 20-131-210(C)(7)



recent conviction for crimes involving gun violence, Defendants chose not to act in any fashion to prevent guns from entering the premises, despite having the present means to do so, or to protect or warn Plaintiff of the potential danger and harm associated with allowing a violent felon to attend Heritage High School while consciously choosing not to inspect the premises or John Doe's person, and to allow John Doe to remain on the property without any supervision, monitoring, or inspection for firearms. As a result of Defendants' breach in duty of care, Defendants posed a serious risk of bodily injury or death to Plaintiff and to all persons on the property.

34. As a direct and proximate result of the Defendants' breach of its duty to inspect the premises and to provide a safe work and educational environment in the presence of a known violent felon, John Doe brought a gun to school, engaged in a violent altercation with two other students, and fired multiple shots inside a crowded school hallway.

35. The Defendants' choice not to inspect the property or John Doe's person for lethal firearms or to provide the Plaintiff and others on the property any form of protection from John Doe's known violent tendencies was negligent, grossly negligent, and willful and wanton negligence.

**COUNT II – NEGLIGENCE, GROSS NEGLIGENCE, and  
WILLFUL AND WANTON CONDUCT –**

**Defendants Failed to Establish Protocols and Provide Proper and  
Adequate Safety Training  
(as to ALL DEFENDANTS)**

36. Plaintiff hereby incorporates by reference, as if fully set forth herein, each and every allegation asserted in the preceding and following paragraphs, and hereby re-adopts and re-alleges each factual and legal allegation.

37. Upon information and belief, Defendants failed to ensure that a written procedure for responding to violent, disruptive, or illegal activities by students on school property was

established in violation of 8 VAC 20-131-260(D)(3). Defendant VDOE has a duty to provide schools with well-designed emergency and crisis management plans, along with technical support, resources, model plans, and policies in support thereof.

38. Defendant Parker had a duty to collaborate with the Director of the Department of Criminal Justice Services regarding their respective roles and responsibilities pertaining to areas of mutual concern, such as school safety audits and crime prevention. Further, Defendant VDOE had the responsibility to collaborate with multiple entities, including the Department of Criminal Justice System, to create and provide schools a model critical incident response training program for public school personnel and to other school service providers, a model policy for establishing threat assessment teams, and procedures for the assessment of and intervention with students who endanger the safety of school students and staff.

39. Upon information and belief, Defendants VDOE, School Board, and school Administrators chose not to invest in nor allocate funds to ensure protection of its students and staff. Additionally, Defendants failed to distribute funds to train and provide instructions to the Plaintiff and other employees and subordinates on school shooting protocols or crisis and safety training so that staff members could safely exercise these protocols to protect themselves and other persons on campus from harm. Such failures occurred despite advice from both the United States and VDOE, and in violation of federal, state, and local laws.

40. Because the Plaintiff was unaware of such emergency and crisis plans, protocols, or policies, and because the School Board and school Administrators breached their duty of care by choosing not to provide and ensure that the Plaintiff and other staff members received the critical information contained in these plans, protocols, and policies provided by Defendant VDOE, if, and in fact, they were provided in accordance with the statutory requirements, the

Plaintiff lacked the relevant necessary knowledge to respond to the school shooting on September 20, 2021, and, as a direct result thereof, she suffered from severe insecurity that led to greater psychological harm.

41. The Defendants' choice not to provide critical protocols, policies, and procedures to protect the Plaintiff and others on the premises from John Doe's known violent tendencies was negligent, grossly negligent, and willful and wanton negligence.

**COUNT III – NEGLIGENCE, GROSS NEGLIGENCE, and  
WILLFUL AND WANTON CONDUCT –**

**Defendants Failed to Implement Adequate Safety Measures  
(as to Defendants SCHOOL BOARD, PARKER, and HUNTER)**

42. Plaintiff hereby incorporates by reference, as if fully set forth herein, each and every allegation asserted in the preceding and following paragraphs, and hereby re-adopts and re-alleges each factual and legal allegation.

43. As a twelfth-grade Government teacher at Heritage High School, Plaintiff reasonably anticipated that Defendants would honor, exercise, and uphold its duty to keep the premises in a reasonably safe condition and to protect her from harm against students who posed a foreseeable danger to her. The risk of a school shooting was not part of Plaintiff's employment as a twelfth-grade teacher, did not arise out of her student assignment, and was not a rational consequence of risk associated with her work as a teacher. Further, as a school service provider charged with the instruction and care of students, the danger arising from a student's possession and use of a firearm was not an actual risk associated with the Plaintiff's work.

44. In the alternative, the risk of a school shooting arising from Plaintiff's employment could have been avoided had Defendants exercised its duty to provide a safe work environment free of reasonably foreseeable dangers to all persons located on the premises, including Plaintiff.

45. John Doe's known criminal history of malicious wounding with a firearm was known and shared by all Defendants, thus, all Defendants were, or should have been, alerted to John Doe's violent tendencies and propensity for violence.

46. The presence of a juvenile convicted of a violent felony just months before his return to the environment that is believed to have caused the effect leading to John Doe's March 2021 conviction, without allowing sufficient time to lapse for rehabilitation, substantially and foreseeably escalated the risk of gun-related violence on the school's premises.

47. Upon information and belief, the school district possessed metal detectors as part of the Newport News security services team's roughly \$3.5 million budget. Despite this allocation of funds to provide students and staff with a safe work environment, the school refused to provide consistent and adequate security at Heritage High School. For instance, a single security resource officer (hereinafter "SRO") was employed and assigned to attend to multiple schools within the Newport News school district. Consequently, at the time of the shooting, the SRO employed by the Newport News School Board was, upon information and belief, on a split assignment at neighboring Newport News middle and high schools.

48. Upon information and belief, Heritage High School had installed metal detectors at the entrance of the school; however, these metal detectors were subsequently removed without adequate justification. Rather, the Defendant School Board opposed their use in desire to support a group of parents, who were against the use of metal detectors, so that students "[did not] feel like they were going into a detention home."

49. Upon information and belief, Defendant Parker personally echoed this sentiment with the justification that he "[was] not a big proponent of making schools look like prisons[.]"

and further asserted that random screening was sufficient to deter students from bringing illicit items onto school property.

50. The Defendants' conduct demonstrated utter disregard for the safety and well-being of those on the school premises by allowing their subjective and personal views to cloud their judgment and to govern and supersede their duty to exercise reasonable care in their decision-making and use of sound judgment by permitting a violent offender to walk among the students and staff at Heritage High School without properly monitoring John Doe's behavior and without implementing adequate safety measures or safety protocols, to detect the presence of weapons on John Doe's person, and to prevent serious foreseeable crimes.

51. Defendants knew or should have known that removing security measures in the form of metal detectors at school entryways, which had been installed for the purpose of remediating potential incidents of school violence involving weapons, would nonetheless pose a substantial risk of same at the students' and staff's detriment. Further, Defendants were conscious of the security deficits present at Heritage High School when John Doe was permitted to return to Heritage High School but knowingly failed to correct those issues due to their apparent disregard for the safety of the school's invitees.

52. Upon information and belief, Defendants merely showed a greater concern for the psychological welfare of a group of students' mental perceptions of metal detectors, a device commonly encountered in the open community in non-invasive settings, over the safety and physical and psychological welfare of its invitees, including Plaintiff.

53. Defendants accepted the risk posed by John Doe's return to Heritage High School; specifically, Defendants assumed the risk that a known violent offender, who had successfully and unlawfully secured a gun to commit a crime, would not create a danger to students or staff.

54. Nonetheless, in response to the school shooting on September 20, 2021, Defendants convened a safety plan committee, employed six SSOs assigned to Heritage High School, provided multiple training sessions, heightened the school's safety measures by installing several metal detectors, and employed various deterrent methods, such as the use of various detection wands, classroom and bag searches, quick scans, and other modalities in attempt to restore a sense of safety in students and staff on the school premises. Additionally, a Support Hotline was implemented for those affected by the shooting. Within one week of initiating this program, more than five hundred individuals had called the hotline. These actions to reconcile security deficits were, unfortunately, too little, too late as the physical and psychological harms to the Plaintiff and others present on school property that horrifying day had already incurred.

55. Despite these assurances and the implementation of the aforementioned security measures, Defendants continued to show indifference towards the necessity of a safe school and work environment. Upon information and belief, less than two months after the September 2021 shooting, the utility of metal detectors was, and continued to be, conducted on random days and at random times. Once again, Defendants asserted that the adoption of this method of random screening is more effective than utilizing metal detectors all day, every day, in order to protect students from a subjective perspective of attending a "prison yard." It was not until after the subsequent Richneck Elementary School shooting did the School Board and school Administrators decide to take decisive action to address the seriousness of gun preventions in its districted schools.

56. The Defendants' choice to remove the metal detectors at school entryways and to forego any reasonable substitute, knowing that John Doe posed a substantial and foreseeable risk to the school and the community, was negligent, grossly negligent, and done willfully with indifference and with an utter disregard and prudence for the safety of its invitees, which amounted

to complete neglect. In further exacerbation of this gross negligence, Defendants failed to exercise or provide even the slightest amount of care or diligence. Rather, Defendants acted willfully and wantonly, knowing (1) that John Doe had a violent criminal history of malicious wounding involving the use of a firearm that stemmed from an incident related to Heritage High School in March 2021; (2) that John Doe pleaded guilty to those charges and was convicted thereof; (3) that John Doe was ordered to wear an ankle tracking device as a condition of his probation or bail; (4) that an ankle tracking device does not detect guns or prevent the user from possessing a gun; (5) that malicious wounding with a gun is a serious crime that reflects a potential propensity for violence; (6) that the prior or present school Administrators and those responsible for the school safety had ordered metal detectors for the school's entryways; and (7) that metal detectors are likely the sole, actual deterrent from guns entering the school premises at the time that Defendants consciously chose to withhold essential school shooting protocols, policies, and procedures in the presence of a felon-student attending school under the authority of, and granted by, the Defendants, in conjunction with removing the pre-existing metal detectors from entryways, placing them aside, and foregoing any safety measure to detect or inspect for weapons, despite knowing that if a gun were to unlawfully enter the school's premises that it would create a dangerous condition and potential disaster. Thus, it was reasonably foreseeable that the Defendants' decisions and conduct would create a dangerous environment that was ripe for disaster in consequence of a dangerous felon bringing a gun onto school property in the absence of effective preventive measures.

57. Despite the Defendants' knowledge of John Doe's recent conviction for crimes involving gun violence, Defendants chose not to act in any fashion to prevent guns from entering the premises, despite having the present means to do so, or to protect or warn Plaintiff of the potential danger and harm associated with allowing a violent felon to attend Heritage High School

while consciously choosing not to inspect the premises or John Doe's person, and to allow John Doe to remain on the property without any supervision, monitoring, or inspection for firearms. As a result of Defendants' breach in duty of care, Defendants posed a serious risk of bodily injury or death to Plaintiff and to all persons on the property.

58. As a direct and proximate result of the Defendants' breach of its duty to inspect the premises and to provide a safe work and educational environment in the presence of a known violent felon, John Doe brought a gun to school, engaged in a violent altercation with two other students, and fired multiple shots inside a crowded school hallway.

59. The Defendants' choice not to inspect the property or John Doe's person for lethal firearms or to provide the Plaintiff and others on the property any form of protection from John Doe's known violent tendencies was negligent, grossly negligent, and willful and wanton negligence.

**COUNT IV – NEGLIGENCE, GROSS NEGLIGENCE, and  
WILLFUL AND WANTON CONDUCT –**

**Defendants Failed to Take Preemptive Measures to Avoid and Prevent Violent Conduct  
(as to ALL DEFENDANTS)**

60. Plaintiff hereby incorporates by reference, as if fully set forth herein, each and every allegation asserted in the preceding and following paragraphs, and hereby re-adopts and re-alleges each factual and legal allegation.

61. Under Va. Code Sec. 22.1-79.4, the Superintendent and the School Board are obligated to establish threat assessment teams for each school for the assessment of and intervention with individuals whose behavior may pose a threat to the safety of school staff or students. Threat assessment team leaders include a school principal or other senior administrator who are advised to collaborate with the assessment team.



62. Defendant VDOE is responsible for the appropriation of funds to be used to employ and train SROs, to ensure safety, and to prevent violence, which are subsequently disbursed by the Defendant School Board.

63. The school security officer (hereinafter "SSO") failed to ensure the safety, security, and welfare of the students and staff in the school while serving as employee-agents under the direction of Defendant School Board.

64. Upon information and belief, Defendants failed to adequately implement and/or adhere to the Virginia Center for School and Campus Safety (VCSCS) policies and procedures, a program under the governance of the VDOE, for the assessment of and intervention with students whose behavior poses a threat to the safety of school staff and students, and to properly employ the use of threat assessment teams to satisfy the school's obligations to these statutory requirements.

65. John Doe's prior felony criminal conviction, just months before the shooting at issue, was sufficient for the school Administrators and School Board to reasonably foresee the risk of future violence, and, therefore, the shooter should have been placed under the purview of the school threat assessment team.

66. Once John Doe had been identified as a person posing a threat of violence to others, the authority to request and receive information from appropriate government parties regarding the shooter's criminal history vested in the threat assessment team. The threat assessment team also had an affirmative duty to immediately report its findings to the Superintendent, who is subsequently required to report this information to the school Principal.

67. Upon information and belief, Defendant Parker had received written notice of the disposition ordered by the court related to the March 2021 proceedings, including the nature of the

offense in accordance with Title 16.1 of the Code of Virginia. Thus, Defendant Parker knew or should have known that a felon convicted of malicious wounding with the use of a firearm was designated to return to Heritage High School in September 2021, and that the involvement of the threat assessment team was critical for safety and security reasons.

68. With knowledge of John Doe’s criminal information, Defendant Parker and the School Board had sufficient grounds to suspend John Doe for these serious convictions.<sup>4</sup> A reasonably prudent person acting in each Defendant’s position would have foreseen that John Doe’s attendance at Heritage High School posed a severe safety concern that substantially heightened the risk of exposing its students and staff to unreasonably dangerous conditions by John Doe’s continued presence. Alternatively, the Defendants, at minimum, could have constructed a safety plan that involved monitoring John Doe’s behavior for violence and to implement remedial measures (e.g., maintain metal detectors at the school’s entryways) to prevent any future similar misconduct from recurring on school property.

69. Under Title 22.1, the School Board has the power to, and was advised to, require any student who has been charged with an intentional injury, including malicious wounding and/or unlawful possession and use of a firearm, to attend an alternative education program. In this case, it is readily ascertainable that John Doe satisfied these conditions. Accordingly, Defendants had the authority to enroll, and should have enrolled, John Doe in an alternative education program to protect the Plaintiff and others at Heritage High School from substantial harm.

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<sup>4</sup> Title 22.1 Va Code Sec. 22.1-277 provides that “[a]ny student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to Sec. 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of Sec. 16.1-260 [which includes a firearm offense and felonious assault and bodily wounding] may be suspended or expelled from school attendance pursuant to this article.

70. Pursuant to Va. Code Sec. 22.1-279.3:1, any student with certain enumerated criminal convictions is required to participate in prevention and intervention activities in accordance with the local school division's violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV – Safe and Drug-Free Schools and Communities Act). It is unknown as to whether John Doe was actually enrolled in any such program, or whether he participated in such designated activities as required by federal law.

71. Additionally, team members are to establish policies and procedures for referrals to outside resources for evaluation and/or treatment to students identified through this policy.

72. The defendants' permitted a known felon convicted of malicious wounding to attend Heritage High School without balancing the interests of the students and staff, and the risks being imposed upon them without any safety measures or protection, against John Doe's interests. The risk of John Doe's continued enrollment at Heritage High School overshadowed its benefit, especially when the risk is substantial harm or death and when an appropriate alternative education venue is available to John Doe. However, against the advisement of state and federal governments, Defendants chose to place all persons in the vicinity of the school and the community at risk.

73. The Defendants breached its duty to the Plaintiff by refusing to adequately establish and implement safety protocols and procedures, by refusing to provide or adhere to federal and Virginia statutory mandated preventative safety measures, by refusing to consider alternative education programs for John Doe, and by consciously refusing to provide any protection to students, employees, and subordinates while undertaking the dangers associated with John Doe's continued enrollment. The Defendants were advised to avoid risks associated with integrating certain violent offenders, including John Doe, with mainstream students and were obligated to require at-risk students to participate in behavior modification programs; however, the Defendants'

refusal to comply and/or heed to such advisements demonstrated a complete and reckless disregard for the safety and protection of its invitees and, by undertaking this risk, the Defendants actions were negligent, grossly negligent, and willful and wanton negligence.

## **DAMAGES**

### **(As to ALL DEFENDANTS)**

74. Plaintiff hereby incorporates by reference, as if fully set forth herein, each and every allegation asserted in the preceding and following paragraphs, and hereby re-adopts and re-alleges each factual and legal allegation.

75. A special relationship existed between the Plaintiff and Defendants, which gave rise to a special duty to protect the Plaintiff.

76. This special relationship arose on the day that Defendants knowingly permitted John Doe, a violent offender, to return to Heritage High School for the 2021-2022 school year. John Doe's felony malicious wounding with the use of a firearm stemmed from an incident at Heritage High School and Defendants were aware of John Doe's violent tendencies and propensity for violence and that by permitting his return to Heritage High School for the 2021-2022 school year, that Defendants were accepting that the potential for future conflicts to arise on school campus was substantially greater.

77. Because it was reasonably foreseeable that John Doe would act violently, the Defendants had an affirmative duty to protect its invitees, including Plaintiff.

78. Although John Doe met the criteria for enrollment at an alternative school, Defendants permitted him to remain a student at Heritage High School. Defendants failed to properly monitor John Doe according to the threat assessment team protocols or to take any action

at all to remediate known, foreseeable safety risks associated with this undertaking. Accordingly, the Defendants violated their legal duty to the Plaintiff.

79. The Defendants' choice to remove the metal detectors at school entryways and to forego any reasonable substitute, knowing that John Doe posed a substantial and foreseeable risk to the school and the community, was negligent, grossly negligent, and done willfully with indifference and with an utter disregard and prudence for the safety of its invitees, which amounted to complete neglect. In further exacerbation of this gross negligence, Defendants failed to exercise or provide even the slightest amount of care or diligence. Rather, Defendants acted willfully and wantonly, knowing (1) that John Doe had a violent criminal history of malicious wounding involving the use of a firearm that stemmed from an incident related to Heritage High School in March 2021; (2) that John Doe pleaded guilty to those charges and was convicted thereof; (3) that John Doe was ordered to wear an ankle tracking device as a condition of his probation or bail; (4) that an ankle tracking device does not detect guns or prevent the user from possessing a gun; (5) that malicious wounding with a gun is a serious crime that reflects a potential propensity for violence; (6) that the prior or present school Administrators and those responsible for the school safety had ordered metal detectors for the school's entryways; and (7) that metal detectors are likely the sole, actual deterrent from guns entering the school premises at the time that Defendants consciously chose to withhold essential school shooting protocols, policies, and procedures in the presence of a felon-student attending school under the authority of, and granted by, the Defendants, in conjunction with removing the pre-existing metal detectors from entryways, placing them aside, and foregoing any safety measure to detect or inspect for weapons, despite knowing that if a gun were to unlawfully enter the school's premises that it would create a dangerous condition and potential disaster. Thus, it was reasonably foreseeable that the Defendants' decisions and conduct

would create a dangerous environment that was ripe for disaster in consequence of a dangerous felon bringing a gun onto school property in the absence of effective preventive measures.

80. The implementation of safety measures to protect those on school property was not unduly burdensome since metal detectors were readily available on site at Heritage High School but remained cast aside unused. Their removal was unjustified as the Defendants' refusal to utilize the pre-existing, and likely most effective deterrent, was premised on an unsubstantiated belief that students would feel that the use of metal detectors would cause them to feel that they were inside a prison-like structure, as if metal detectors are only found on prison premises.

81. The Defendants made a conscious decision to allow a violent offender to mainstream with the students at Heritage High School and made this decision knowing the risks of future violence. The Defendants had multiple options available to them to ameliorate those risks and, in the alternative, had the authority and advisement to place John Doe in a better suited educational environment that would have avoided the risks altogether. Instead, the Defendants consciously and intentionally chose to disregard the rights and safety of its students and staff without legal justification or excuse.

82. As a direct and proximate result of the Defendants' conduct, the Plaintiff has sustained, and will continue to sustain, pain and suffering, mental anguish, shock, emotional distress, physical manifestations of emotional distress, loss of self-esteem, fright, grief, humiliation, loss of enjoyment of life, inconvenience, post-traumatic stress disorder, anxiety, depression, sleep disorders, nightmares, and psychological injuries, as well as physical injuries as a result of her initial fall to the floor.


WHEREFORE, Plaintiff prays for judgment and execution against the Defendants, jointly and severally, in the amount of ONE MILLION SEVEN HUNDRED EIGHTY-SEVEN

THOUSAND FOUR HUNDRED SIXTY-TWO DOLLARS AND TWENTY-SEVEN CENTS  
(\$1,787,462.27), plus pre- and post-judgment interest, plus all costs incurred in proceeding with  
this matter.

Plaintiff demands a TRIAL BY JURY.

**MICHELLE WEBB**

By \_\_\_\_\_



Of Counsel

Robert J. Haddad, Esq. (VSB No. 22298)  
**RULOFF, SWAIN, HADDAD, MORECOCK,  
TALBERT, & WOODWARD, P.C.**  
317 30<sup>th</sup> Street  
Virginia Beach, Virginia 23451  
P: (757)671-6000  
F: (757)671-6004

