



IN THE CIRCUIT COURT OF MADISON COUNTY, ALABAMA

TOWANDA MOORE, as Administratrix of	}	
the Estate of TODD BROWN, deceased,	}	
	}	
Plaintiff,	}	
	}	
vs.	}	Civil Action No.: _____
	}	
CITY OF MADISON BOARD OF EDUCATION;	}	
DEE FOWLER, individually; ROBBIE SMITH,	}	
individually; IQBAL MEMON; SAFIA MEMON;	}	
HAMMED MEMON; FICTITIOUS	}	
DEFENDANTS "1- 46;"	}	
	}	
Defendants.	}	

There may be other entities whose true names and identities are unknown to the Plaintiff at this time who may be legally responsible for the claim(s) set forth herein who may be added by amendment by the Plaintiff when their true names and identities are accurately ascertained by further discovery. Until that time, the Plaintiff will designate these parties in accordance with ARCP 9(h). The word entity as used herein is intended to refer to and include any and all forms of individuals, partnerships, any and all types of corporations and unincorporated associations. The symbol by which these party defendants are designated is intended to include more than one in the event that discovery reveals that the descriptive characterization of the symbol applies to more than one "entity." In the present action, the party defendants which the Plaintiff must include by descriptive characterization are as follows: **FICTITIOUS DEFENDANT NO. 1:** the proper legal designation for Defendant City of Madison Board of Education; **FICTITIOUS DEFENDANT NO. 2-4:** whether singular or plural being that person or persons responsible for hiring, training, and/or supervising employees of any fictitious or named defendant prior to and on the occasion of the incident made the basis of this lawsuit; **FICTITIOUS DEFENDANTS NO. 5-7:** whether singular or plural being that person or persons or entity responsible for reporting prior discipline complaints, problems or concerns related to Hammad Memon to school officials prior to the date of the incident made the basis of this lawsuit; **FICTITIOUS DEFENDANTS NO. 8-10:** whether singular or plural being that individual(s), entity or entities who or which were responsible for failing to notify Discovery Middle School administrators of prior safety concerns regarding Hammed Memon prior to and on the occasion of the incident made the basis of this complaint; **FICTITIOUS DEFENDANTS NO. 11-13:** whether singular or plural being that individual(s), entity or entities who or which were responsible for violating City of Madison Board of Education policies, procedures and/or bylaws in allowing Hammed Memon to attend Discovery School prior to and on the occasion of the incident made the basis of this complaint; **FICTITIOUS DEFENDANTS NO. 14-16:** whether singular or plural being that individual(s), entity or entities who or which were responsible for supervising students while on the Discovery Middle School campus prior to and at the time of the incident made the basis

of this complaint; **FICTITIOUS DEFENDANTS NO. 17-19:** whether singular or plural being that individual(s), entity or entities who or which were responsible for providing safe premises for Discovery Middle School students and personnel prior to and at the time of the incident made the basis of this complaint; **FICTITIOUS DEFENDANTS NO. 20-22:** whether singular or plural being that individual(s), entity or entities who or which permitted Hammed Memon admission and/or re-admission to the Discovery Middle School following numerous violations to the City of Madison Board of Education "Code of Student Conduct" prior to and at the time of the incident made the basis of this complaint; **FICTITIOUS DEFENDANTS NO. 23-25:** whether singular or plural being that individual(s), entity or entities who or which were responsible for providing protection for students and personnel against violence while attending Discovery Middle School; **FICTITIOUS DEFENDANTS NO. 26-28:** whether singular or plural being that individual(s), entity or entities who or which failed to take adequate actions to notify Discovery Middle School and/or City of Madison Board of Education personnel of the violent potential of Hammed Memon prior to or at the time of the incident made the basis of this complaint; **FICTITIOUS DEFENDANTS NO. 29-31:** whether singular or plural being that individual(s), entity or entities who or which failed to undertake preventive measures to protect against weapons being allowed on school property prior to and at the time of the incident made the basis of this complaint; **FICTITIOUS DEFENDANTS NO. 32-34:** whether singular or plural being that individual(s), entity or entities who or which ignored prior incidents and/or warning signs with regard to Hammed Memon prior to or at the time of the incident made the basis of this complaint; **FICTITIOUS DEFENDANTS NO. 35-37:** whether singular or plural being that individual(s), entity or entities who or which failed to provide Discovery Middle School and/or City of Madison Board of Education members with complete and accurate reports, records or information of any kind regarding the conduct and/or behavior of Hammed Memon prior to or on the occasion of the incident which is made the basis of this complaint; **FICTITIOUS DEFENDANTS NO. 38-40:** whether singular or plural being that individual(s), entity or entities who or which were responsible for causing the death of Plaintiff's decedent on the occasion of the incident made the basis of this lawsuit; **FICTITIOUS DEFENDANTS NO. 41-43:** whether singular or plural being those persons, corporations or other legal entities, who owned, leased, rented or otherwise controlled the premises on which the minor was killed on the occasion of the incident made the basis of this lawsuit; **FICTITIOUS DEFENDANTS NO. 44-46:** whether singular or plural being those persons, corporations or other legal entities who were acting individually or by and through their agents, servants or employees, whose negligence and/or wantonness proximately caused or contributed to cause the death of the Plaintiff's decedent on the occasion of the incident made the basis of this lawsuit. Plaintiff avers that the identities of all the foregoing fictitious party defendants are otherwise unknown to the Plaintiff at this time, or, if their names are known to the Plaintiff at this time, their identities as proper party Defendants are not known at this time, but whose true and correct names will be substituted when ascertained.

COMPLAINT

Parties

1. Plaintiff, Towanda Moore, is an adult resident of Madison County, Alabama. Moore is the natural and legal mother of Todd Brown and is the duly appointed Administratrix of her deceased son's estate.

2. Defendant, City of Madison Board of Education (hereinafter "Board"), is the educational arm of the City of Madison, Alabama. The Board has a legal and moral obligation to provide schools that are safe for the City of Madison children. The Board is also responsible for overseeing schools within its system and implementing policies, procedures and bylaws to operate those schools safely.

3. Defendant, Dee Fowler, is the Superintendent of City of Madison Schools. Dr. Fowler is sued in his individual capacity. Based upon information and belief, Dr. Fowler is an adult resident citizen of Madison County, Alabama.

4. Defendant, Robbie Smith, is the Principal of Discovery Middle School. Ms. Smith is sued in her individual capacity. Based upon information and belief, Ms. Smith is an adult resident citizen of Madison County, Alabama.

5. Defendant, Iqbal Memon, is the natural and legal father of Hammed Memon. Dr. Memon is sued in his individual capacity. Based upon information and belief, Dr. Memon is an adult resident citizen of Madison County, Alabama.

6. Defendant, Safia Memon, is the natural and legal mother of Hammed Memon. Mrs. Memon is sued in her individual capacity. Based upon information and belief, Mrs. Memon is an adult resident citizen of Madison County, Alabama.

7. Defendant, Hammed Memon, is a minor individual currently charged with murdering Todd Brown on the campus of Discovery Middle School. Based upon information and belief,

Hammed Memon is a minor resident citizen of Madison County, Alabama.

8. Fictitious Defendants “1 through 46,” whether singular or plural, individual or corporation, who are either Alabama corporations, foreign corporations or other entities that participated in the conduct that led to Todd Brown’s death.

Facts

9. This civil case arises after the tragic shooting of Todd Brown on the campus of Discovery Middle School on February 5, 2010, and the outrageous failure of several individuals and the City of Madison Board of Education to acknowledge safety risks, alert appropriate school personnel of safety risks and take active preventive measures to protect school children in the face of such risks. Todd Brown was a fourteen year old student at Discovery Middle School who was shot in the back of the head between classes by a fellow student, Hammed Memon.

10. By all accounts, Hammed Memon was a troubled teenage boy who suffered from personality and emotional disorders. These disorders manifested themselves in Hammed Memon by having a “difficult temperament,” lack of self control, problems with impulsivity, temper tantrums and “emotional blow-ups.” A cursory review of Hammed Memon’s family and school history illustrates that there were consistent problems in school with lack of compliance to the teacher’s requests and arguments with his teachers. As a result, Hammed Memon received a number of school suspensions mostly due to defying authority figures.

11. Prior to becoming a student at Discovery Middle School, Hammed Memon attended Liberty Middle School - also part of the City of Madison School System. Hammed Memon was allowed by administrators to transfer into Discovery Middle School to get a “fresh start” because of problems getting along with others and behavioral problems at Liberty Middle. Additionally,

Hammed Memon spent the few months prior to the shooting - October 2009 through December 2009 - in an alternative school setting following a vandalism incident at Discovery Middle School in which he painted the word "CRIPS" on school property. Apparently, Hammed Memon had also been disciplined for drug paraphernalia on previous occasions as well.

12. Discovery School personnel characterize Hammed Memon's conduct in school prior to the shooting as liking to start trouble and being a "very troubled student." Hammed Memon would constantly wear clothing with pictures of drug paraphernalia and enjoyed negative attention.

13. Hammed Memon had a history of severe, observable mental instability, violence and disregard for authority dating back to his attendance at liberty Middle School. City of Madison Board of Education personnel and administrators knew or should have known of the first hand accounts from Discovery and Liberty Middle Schools of Hammed Memon's violent tendencies and emotional instability. Peers and Discovery School teachers observed Hammed Memon as angry, stressed, distracted, troubled, disruptive and having inappropriate behavior leading up to the day of the shooting. There are several student accounts of Hammed Memon bringing a gun to the Discovery Middle School campus several times prior to the gunning down of Todd Brown.

14. Defendant Fowler was directly aware of Hammed Memon's troubles prior to the shooting. Defendant Fowler allowed Hammed Memon to be placed in Discovery Middle School - outside of his zone - because of the behavioral problems he was exhibiting at Liberty Middle School. Defendant Fowler would have been directly aware of the "several suspensions" from school; the drug paraphernalia incident(s); the vandalism of school property involving painting of gang signs.

15. The above referenced and, upon information and belief, other facts and circumstances were either directly known or brought to the attention of Defendant Fowler, yet he acted beyond the

scope of his authority in allowing Hammed Memon to (1) transfer into Discovery Middle School and/or (2) remain a student at Discovery Middle School by failing to adhere to the strict guidelines for the transfer of students outside of the particular school “zone” and failing to adhere to state and local statutes for the re-admission of students to school following behavioral incidents which lead to suspension and/or expulsion. By failing to abide by these guidelines, policies and procedures and state and local statutes, Defendant Fowler failed to protect the students of Discovery Middle School, specifically Todd Brown, from the ensuing shooting, despite having knowledge of Hammed Memon’s violent tendencies and emotional instability. Had Defendant Fowler adhered to the guidelines as directed, Hammed Memon would not have been allowed to transfer into Discovery Middle School or would have been required to remain in alternative school in which he would have been monitored with greater scrutiny and focus which would have been given to his behavioral issues. Given Hammed Memon’s disruptive behavior and penchant for negative attention, the alternative school provided a more appropriate setting for his education as well as providing for the safety and orderly function of Discovery Middle School by eliminating his dangerous presence. The Board’s guidelines, policies and procedures and generally recognized standards of safety would have prevented Hammed Memon from being on the freshman hall of Discovery Middle School on February 5, 2010, where he shot Todd Brown had they been appropriately followed.

16. Defendant Smith was directly aware of Hammed Memon’s troubles prior to the shooting as well. Defendant Smith allowed Hammed Memon to be placed in Discovery Middle School - outside of his zone - despite the behavioral problems he was exhibiting at Liberty Middle School. Defendant Smith would have been directly aware of the “several suspensions” from school; the drug paraphernalia incident(s); the vandalism of school property involving painting of gang

signs. Furthermore, as Principal of Discovery Middle School, Defendant Smith would have been specifically aware of the behavioral and disruptive problems of Hammed Memon. Defendant Smith would have been aware that Hammed Memon was a “troubled student” who reportedly brought a gun to school on several occasions prior to the shooting.

17. The above referenced and, upon information and belief, other facts and circumstances were either directly known or brought to the attention of Defendant Smith, yet she acted beyond the scope of her authority in allowing Hammed Memon to (1) transfer into Discovery Middle School and/or (2) remain a student at Discovery Middle School by failing to adhere to the strict guidelines for the transfer of students outside of the particular school “zone” and failing to adhere to state and local statutes for the re-admission of students to school following behavioral incidents which lead to suspension and/or expulsion. By failing to abide by these guidelines, policies and procedures and state and local statutes, Defendant Smith failed to protect the students of Discovery Middle School, specifically Todd Brown, from the ensuing shooting, despite having knowledge of Hammed Memon’s violent tendencies and emotional instability. Had Defendant Smith adhered to the guidelines as directed, Hammed Memon would not have been allowed to transfer into Discovery Middle School or would have been required to remain in alternative school in which he would have been monitored with greater scrutiny and focus which would have been given to his behavioral issues. Given Hammed Memon’s disruptive behavior and penchant for negative attention, the alternative school provided a more appropriate setting for his education as well as the safety and orderly function of Discovery Middle School. The Board’s guidelines, policies and procedures and generally recognized standards of safety would have prevented Hammed Memon from being on the freshman hall of Discovery Middle School on February 5, 2010, where he shot Todd Brown had they

been appropriately followed. Furthermore, Defendant Smith knew or should have known of Hammed Memon bringing a gun to school on several occasions prior to the shooting. Board guidelines and policies and procedures demand certain action on the part of school personnel upon learning of conduct such as Hammed Memon's. The Board's guidelines were not adhered to and the police authorities were not notified of such incidents.

18. This case also seeks to hold Defendant Fowler and Defendant Smith accountable for failing to disclose Hammed Memon's full school record to Discovery Middle School personnel; failing to request Hammed Memon's full school history prior to and after admission to Discovery Middle School. Defendant Fowler was directly aware of the behavioral incidents prior to admission to Discovery by virtue of the fact that the very reason for Hammed Memon's transfer was due to his inappropriate conduct. Failing to "pull" and review Hammed Memon's history deprived the school personnel from conducting a proper and thorough risk assessment. Also, having become directly aware of the increasing disruptive behavior of Hammed Memon while a student at Discovery, Defendant Smith failed to request Memon's prior history in order to gain an appropriate and accurate understanding to the risks to other students.

19. This case also seeks to hold Hammed Memon responsible for the brutal killing of Todd Brown despite his likely severe personality and emotional disorders. Hammed Memon's parents, Iqbal and Safia Memon, are also responsible for the killing of Todd Brown as they each had a "front row seat" and direct knowledge to Hammed Memon's behavioral problems, history of violence, mood swings, lack of respect for authority, depressive states, school suspensions and admission to alternative school just prior to the shooting. As a condition of Hammed Memon's admission to Discovery Middle School, Memon's parents agreed to be responsible for any student

conduct violations that occurred at Discovery Middle; and agreed to be responsible for any physical harm or property damage that resulted from Hammed Memon's violation of the Student Code of Conduct. Such Codes of Conduct clearly and expressly forbade students from bringing weapons onto the school campus and using such weapons to inflict harm on other students or personnel. This lawsuit seeks to hold Hammed Memon, along with his parents, Iqbal and Safia, individually and jointly accountable for Hammed Memon's misconduct in causing and failing to prevent to shooting of Todd Brown.

20. Finally, this case seeks to hold all Defendants responsible for their combined and concurring negligence and wrongful conduct that led to the tragic events and death of Todd Brown on February 5, 2010.

Count I

Dee Fowler

21. Pursuant to Board guidelines, Defendant Fowler is responsible for authorizing transfer of students to other "zones" within the City of Madison school system and whether students are allowed re-admission to schools following multiple incidents of disruption whether criminal or otherwise. As Superintendent, Defendant Fowler was directly aware of Hammed Memon's troubles prior to the shooting. Defendant Fowler allowed Hammed Memon to be placed in Discovery Middle School - outside of his zone - because of the behavioral problems he was exhibiting at Liberty Middle School. Defendant Fowler would have been directly aware of the "several suspensions" from school; the drug paraphernalia incident(s); the vandalism of school property involving painting of gang signs.

22. Defendant Fowler, both individually and in his position with the Board, received

knowledge of Hammed Memon's behavioral troubles, suspensions and emotional and personality disorders. Defendant Fowler's position requires formulating, reviewing and implementing guidelines, policies and procedures and safety codes of conduct which ensure the safety of students and staff.

23. On or before February 5, 2010, Defendant Fowler knew or should have known, of his obligation to adhere to Board rules, guidelines and policies and procedure undertaken to protect students and staff. These guidelines to be followed by Defendant Fowler are not subject to individual judgment or discretion particularly by administrators who do not have the day to day involvement with teenage school children and whether multiple reports of emotional outburst, disruptive behavior or repeated disciplinary concerns may turn violent.

24. Defendant Fowler knew or should have known that guidelines, rules and policies and procedures for undertaken to protect students and staff was because it is reasonably foreseeable that following safety guidelines for repeat code of conduct offenders will increase the likelihood of saving someone from being harmed in an episode of school violence.

25. At all relevant times, Defendant Fowler knew or reasonably should have known, of extensive, credible information, reports and conclusions that Hammed Memon was mentally and emotionally unstable, threatening, disruptive, a "troubled student," and that such a mental state posed a direct and serious threat to the students of Discovery Middle School.

26. At all relevant times, Defendant Fowler knew or reasonably should have known, of extensive, credible information, reports and conclusions that Hammed Memon was demonstrating disruptive, uncontrollable and threatening behavior and that such behavior posed a direct and serious threat to the students of Discovery Middle School.

27. Defendant Fowler had a clear, written, mandatory duty to follow the guidelines, rules and policies and procedures set forth by the Board.

28. On or before February 5, 2010, Defendant Fowler wilfully, maliciously, fraudulently, in bad faith and beyond the scope of his authority refused to adhere to the clear, written, mandatory guidelines, rules and policies and procedures of the Board in allowing Hammed Memon to transfer to a school outside of his “zone” to be rehabilitated and/or allowed re-admission to Discovery Middle School after the numerous credible reports and conclusions that Hammed Memon was a very troubled student.

29. As a proximate consequence of Defendant Fowler’s refusal, Todd Brown was shot and killed by Hammed Memon.

30. All of the allegations of this Count are also asserted against Fictitious Parties.

Count II

Robbie Smith

31. Pursuant to her role as Principal of Discovery Middle School, Defendant Smith is responsible for overseeing the day to day operations of the school and ensuring the school is safe for students and staff . As Principal, Defendant Smith was directly aware of Hammed Memon’s troubles prior to the shooting. Defendant Smith allowed Hammed Memon to be placed in Discovery Middle School - outside of his zone - because of the behavioral problems he was exhibiting at Liberty Middle School. Defendant Smith would have been directly aware of the “several suspensions” from school; the drug paraphernalia incident(s); the vandalism of school property involving painting of gang signs; the continuous disruptive behavior; prior occasions of bringing a gun to school and so forth.

32. Defendant Smith, both individually and in her position as Principal, received knowledge of Hammed Memon's behavioral troubles, suspensions and emotional and personality disorders. Defendant Smith's position requires formulating, reviewing and implementing guidelines, policies and procedures and safety codes of conduct which ensure the safety of students and staff.

33. On or before February 5, 2010, Defendant Smith knew or should have known, of his obligation to adhere to Board rules, guidelines and policies and procedure undertaken to protect students and staff. These guidelines to be followed by Defendant Smith are not subject to individual judgment or discretion particularly by personnel who do not have the education, training or experience to qualify if and whether multiple reports of emotional outburst, disruptive behavior or repeated disciplinary concerns may turn violent.

34. Defendant Smith knew or should have known that guidelines, rules and policies and procedures for undertaken to protect students and staff was because it is reasonably foreseeable that following safety guidelines for repeat code of conduct offenders will increase the likelihood of saving someone from being harmed in an episode of school violence.

35. At all relevant times, Defendant Smith knew or reasonably should have known, of extensive, credible information, reports and conclusions that Hammed Memon was mentally and emotionally unstable, threatening, disruptive, a "troubled student," and that such a mental state posed a direct and serious threat to the students of Discovery Middle School.

36. At all relevant times, Defendant Smith knew or reasonably should have known, of extensive, credible information, reports and conclusions that Hammed Memon was demonstrating disruptive, uncontrollable and threatening behavior and that such behavior posed a direct and serious threat to the students of Discovery Middle School.

37. Defendant Smith had a clear, written, mandatory duty to follow the guidelines, rules and policies and procedures set forth by the Board.

38. On or before February 5, 2010, Defendant Smith wilfully, maliciously, fraudulently, in bad faith and beyond the scope of his authority refused to adhere to the clear, written, mandatory guidelines, rules and policies and procedures of the Board in allowing Hammed Memon to transfer to a school outside of his “zone” to be rehabilitated and/or allowed re-admission to Discovery Middle School after the numerous credible reports and conclusions that Hammed Memon was a very troubled student.

39. As a proximate consequence of Defendant Smith’s refusal, Todd Brown was shot and killed by Hammed Memon.

40. All of the allegations of this Count are also asserted against Fictitious Parties.

Count III

Hammed Memon

41. On or about February 5, 2010, Hammed Memon negligently and/or wantonly shot and killed Todd Brown between classes at Discovery Middle School.

42. As a proximate consequence of Hammed Memon’s negligence and wantonness, Hammed Memon caused or contributed to cause the death of Todd Brown.

43. All of the allegations of this Count are also asserted against Fictitious Parties.

Count IV

Iqbal Memon & Safia Memon

44. At all relevant times, Defendants Iqbal Memon and Safia Memon (“Memons”) knew of the many disturbing incidents and events which were occurring in their son’s life, *inter alia*:

- (1) bouts with depression;
- (2) vandalism incidents;
- (3) suspension for possession of drug paraphernalia;
- (4) emotional outbursts;
- (5) personality disorders;
- (6) attempts at suicide;
- (7) disruptive behavior during school;
- (8) school suspensions.

45. On or before February 5, 2010, the Memons knew or reasonably should have known, that the anger and emotional, mental instability and recent depression and violent outbursts of Defendant Hammed Memon created a foreseeable risk that Defendant Hammed Memon would engage in violent and harmful conduct against another individual, including Todd Brown. After the shooting, the Memons claimed Defendant Hammed Memon felt “threatened” by Todd Brown. Such a statement indicates that the Memons were aware of some perceived threat from Todd Brown and Defendant Hammed Memon’s mental and emotional instability at the same time.

46. On or before February 5, 2010, Defendants Memon negligently and wantonly failed to warn Administrators, Discovery School personnel and/or Todd Brown or his mother of the foreseeable risk that Hammed Memon would engage in violent and harmful conduct toward fellow schoolmates, including Todd Brown.

47. On or before February 5, 2010, Defendants Memon knew or should reasonably have known, that Defendant Hammed Memon, due to his reported and observable history of mental and emotional instability was likely to resort violence in a manner of unreasonable risk of harm to his

fellow class mates, including Todd Brown.

48. On or before February 5, 2010, Defendants Memon owed a duty to fellow classmates and school personnel to warn them and/or seek immediate professional help for Hammed Memon's mental instability, stress, anger, threats, lack of self awareness and control, and compulsion to commit violence toward others.

49. Defendants Memon breached these duties. As a proximate consequence of the Memons' negligence and wantonness, Hammed Memon caused or contributed to cause the death of Todd Brown. Defendants Iqbal, Safia and Hammed Memon are individually and jointly liable to Plaintiff's Estate for punitive damages related to the gravity of the negligence that proximately caused Todd Brown's death.

50. All of the allegations of this Count are also asserted against Fictitious Parties.

WHEREFORE PREMISES CONSIDERED, Plaintiff demands judgment against Defendants, separately and severally, in such sums of damages as a jury may assess after a full and fair consideration of the facts.

/s/ Erik S. Heninger
ERIK S. HENINGER [HEN068]
Attorney for Plaintiff

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JURY DEMAND

Plaintiff demands trial by struck jury on all issues raised herein.

/s/ Erik S. Heninger
ERIK S. HENINGER [HEN068]
Attorney for Plaintiff

Defendants' Address: TO BE SERVED VIA CERTIFIED MAIL

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