

IN THE CIRCUIT COURT OF THE TENTH
JUDICIAL CIRCUIT IN AND FOR POLK
COUNTY, FLORIDA CIVIL DIVISION

TRICIA NORMAN, Individually and as
Personal Representative of the Estate of
REBECCA SEDWICK, deceased,

Plaintiff,

-v-

SCHOOL BOARD OF POLK COUNTY, a CASE NO.:
Florida Governmental entity; G.S., a minor, by
and through her parent and natural guardian,
J.S.; and CEMEX CONSTRUCTION
MATERIALS FLORIDA, LLC, a Foreign
Limited Liability Company,

Defendants.

COMPLAINT

COMES NOW the Plaintiff, TRICIA NORMAN, Individually, and as Personal Representative of the Estate of REBECCA SEDWICK, deceased, by and through her undersigned counsel, and hereby sues Defendants, POLK COUNTY SCHOOL BOARD, a Florida governmental entity; G.S., a minor, by and through her parent and natural guardian, J.S.; and CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC, a Foreign Limited Liability Company, and states as follows:

GENERAL ALLEGATIONS

1. This is an action for damages in excess of fifteen thousand (\$15,000.00) dollars, exclusive of interest, costs, and attorney's fees, and is brought pursuant to the Florida Wrongful Death Act (the Act), Fla. Stat. §768 et. seq.

2. Plaintiff, TRICIA NORMAN, is the mother and natural guardian of REBECCA SEDWICK, a minor child, now deceased, who took her life on September 10, 2013.

3. Plaintiff, TRICIA NORMAN, has been duly appointed as Personal Representative of the Estate of REBECCA SEDWICK, deceased (Letters of Administration are attached as Exhibit (“A”)).

4. Defendant, J.S., is the father and natural guardian of defendant, G.S., This action is brought against G.S. by and through J.S., in that capacity, pursuant to Florida Rule of Civil Procedure 1.210(b).

5. The actions of Defendant, POLK COUNTY SCHOOL BOARD (SCHOOL BOARD), as alleged herein are “operational” level decision making activities. These activities do not fall into the category of institutional acts which involves policy making or planning, and do not involve discretionary governmental functions. As such, Defendant, SCHOOL BOARD is not immune from tort liability for this incident and, in accordance with Article X, Section 13 of the Florida Constitution, Defendant SCHOOL BOARD has waived sovereign immunity from liability for these torts.

6. At all times material to this cause, Defendant, SCHOOL BOARD operated a public school commonly known as Crystal Lake Middle School (Crystal Lake), located at 2410 North Crystal Lake Drive, Lakeland, Polk County, Florida. Both REBECCA SEDWICK and G.S. attended Crystal Lake.

7. All conditions precedent to the bringing of this action against Defendant, SCHOOL BOARD have been performed or have been waived. Specifically, Plaintiff has complied with the provisions of Section 768.28 Florida Statutes by serving upon Defendant, SCHOOL BOARD by Certified Mail, the attached statutory notice (see attached Exhibit “B”).

8. The undersigned attorneys hereby certify that a reasonable investigation has been conducted and they have a good-faith belief that grounds exist for this action against Defendant, SCHOOL BOARD.

9. That at all times material to this cause Plaintiff, TRICIA NORMAN, was a resident of Polk County, Florida.

10. The conduct of all Defendants complained of herein occurred in Polk County Florida.

COUNT ONE
NEGLIGENT SUPERVISION OF G.S. BY THE POLK COUNTY SCHOOL BOARD

11. Plaintiff realleges and adopts by reference paragraphs 1 through 10 above.

12. Plaintiff's decedent, REBECCA SEDWICK, and Defendant, G.S. were students at Crystal Lake during the 2012-2013 school year, during which time G.S. engaged in an open, notorious, and protracted pattern of bullying against REBECCA SEDWICK.

13. At all times material to this cause of action Defendant, SCHOOL BOARD, had an operational duty to adequately supervise G.S.'s activities while she was present during the school day at Crystal Lake.

14. Additionally, Defendant, SCHOOL BOARD, also had a duty to provide an educational setting that was safe, secure, and free from harassment, intimidation, abuse, unwanted touching and bullying for all of its students while they were present at Crystal Lake, including Plaintiff's decedent, REBECCA SEDWICK, and to reasonably ensure that REBECCA SEDWICK would be free from harassment, intimidation, abuse, unwanted touching, and bullying.

15. On numerous separate occasions, Defendant, SCHOOL BOARD, through the acts or omission of the teachers and administrators at Crystal Lake, breached its duty to Plaintiff's decedent, REBECCA SEDWICK by negligently failing to adequately supervise Defendant, G.S., and negligently failing to take reasonable steps to protect Plaintiff's decedent, REBECCA SEDWICK from harassment, abuse, intimidation and bullying by Defendant G.S., which was well known to the school, and created a hostile educational environment, in violation of Defendant, SCHOOL BOARD'S, articulated by-laws and policies.

16. Additionally, Defendant SCHOOL BOARD negligently failed to adequately supervise Defendant G.S. and to take reasonable steps to protect Plaintiff's decedent, REBECCA SEDWICK from a physical assault planned by Defendant, G.S. and initiated by another student (a non-party).

17. As a direct and proximate result of Defendant SCHOOL BOARD's negligent supervision, Defendant G.S. undertook to physically and emotionally bully Plaintiff's decedent, REBECCA SEDWICK, proximately causing her to suffer serious mental and psychological injuries during the school year, which directly and proximately led to her death by suicide.

18. The statutory survivors of REBECCA SEDWICK, deceased, are as follows:

- a. The Estate of REBECCA SEDWICK, for the payment of burial and funeral expenses;
- b. Her mother, TRICIA NORMAN, surviving parent – mental pain and suffering, anguish, and loss of decedent's companionship, loss of decedent's support and services, all both past and future as defined by Fla. Stat. § 768.21; and

- c. Her father, KIM LEE (KEN) SEDWICK, surviving parent – mental pain and suffering, anguish, and loss of decedent's companionship, loss of decedent's support and services, all both past and future as defined by Fla. Stat. § 768.21.

19. Plaintiff brings this action on behalf of her deceased minor daughter's Estate, on behalf of herself, individually, and on behalf of KIM LEE (KEN) SEDWICK.

WHEREFORE, TRICIA NORMAN, Individually, and as Personal Representative of the Estate of REBECCA SEDWICK, demands judgment against Defendant SCHOOL BOARD, a Florida governmental entity, in an amount in excess of Fifteen Thousand (\$15,000.00) Dollars, and requests a trial by jury of all issues triable as of right by a jury.

COUNT TWO
NEGLIGENT FAILURE BY THE POLK COUNTY SCHOOL BOARD TO
ADEQUATELY DISCIPLINE G.S. BEFORE SEPTEMBER 9, 2013

20. Plaintiff realleges and adopts by reference paragraphs 1 through 17 above.

21. Defendant, SCHOOL BOARD, had a duty to properly and adequately discipline disruptive and violent students at Crystal Lake so that they would (i) not further create an intimidating, hostile, and offensive educational environment or (ii) endanger the physical and emotional safety of other Crystal Lake students, including Plaintiff's decedent, REBECCA SEDWICK.

22. Before September 9, 2013, Defendant, SCHOOL BOARD, knew that G.S. engaged in an escalating and recidivist pattern of disruptive and aggressive conduct toward Plaintiff's decedent, REBECCA SEDWICK while at Crystal Lake. This conduct continued due to limited and inefficacious supervisory efforts by Defendant, SCHOOL BOARD.

23. Specifically, Before September 9, 2013, Defendant, SCHOOL BOARD, knew that Defendant G.S. had systematically and repeatedly inflicted an escalating pattern of

psychological distress upon Plaintiff's decedent, REBECCA SEDWICK on several occasions throughout the 2012-2013 school year.

24. As a result of Defendant G.S.'s escalating and recidivist pattern of disruptive and aggressive conduct while at Crystal Lake, Defendant, SCHOOL BOARD knew or should have known that a proper measure of discipline of G.S. required that she be held to account and face adequate and measured discipline for each of her incidents of inappropriate conduct.

25. Defendant, SCHOOL BOARD knew or should have known that its failure to adequately and expeditiously discipline G.S. for her conduct would result in a further escalating pattern of disruptive and violent behavior which, in turn, would threaten the safety of Crystal Lake students, and breach the Defendant, SCHOOL BOARD'S duty to provide a safe and secure educational environment and to protect students from harm by other students, including Plaintiff's decedent, REBECCA SEDWICK.

26. Prior to September 9, 2013, Defendant, SCHOOL BOARD was negligent in its failure to provide discipline G.S., which compromised an educational setting that was safe, secure, and free from harassment, intimidation and bullying for all of its students, including REBECCA SEDWICK by one or more of the following ways after being on notice of Defendant, G.S.'S behavior:

- a. By failing to impose adequate and measured discipline upon G.S. based upon her escalating misbehavior.
- b. By failing to expeditiously impose adequate and measured discipline upon Defendant G.S. in a timely fashion after the conduct which required the discipline occurred and became known to the Defendant SCHOOL BOARD;

- c. By failing to modify the discipline administered to Defendant, G.S. for her conduct when it was or should have been known to the Defendant, SCHOOL BOARD that past disciplinary efforts were not achieving their intended purpose;
- d. By failing to impose stricter discipline upon Defendant, G.S. when prior efforts at more lenient discipline failed; and
- e. By failing to place Defendant, G.S. in a more restrictive setting when it was obvious that her escalating pattern of systematically and chronically inflicting physical hurt or psychological distress upon other Crystal Lake students, including Plaintiff's decedent, REBECCA SEDWICK.

27. Defendant SCHOOL BOARD's negligent failure to impose adequate and measured discipline upon G.S. prior to September 9, 2013, as set forth above, was a direct and proximate cause of or substantially contributed to cause the death of REBECCA SEDWICK on September 9, 2013.

28. The statutory survivors of REBECCA SEDWICK, deceased, are as follows:
- a. The Estate of REBECCA SEDWICK, for the payment of burial and funeral expenses;
 - b. Her mother, TRICIA NORMAN, surviving parent – mental pain and suffering, anguish, and loss of decedent's companionship, loss of decedent's support and services, all both past and future as defined by Fla. Stat. § 768.21; and
 - c. Her father, KIM LEE (KEN) SEDWICK, surviving parent – mental pain and suffering, anguish, and loss of decedent's companionship, loss of decedent's support and services, all both past and future as defined by Fla. Stat. § 768.21.

29. Plaintiff brings this action on behalf of her deceased minor's Estate, and on behalf of herself, individually, and on behalf of KIM LEE (KEN) SEDWICK.

30. As a direct and proximate result of Defendant failing to adequately discipline in causing the death of the decedent, the survivors of the decedent, TRICIA NORMAN and KIM LEE (KEN) SEDWICK, have lost the support, love, affection, comfort, and companionship of REBECCA SEDWICK, and has experienced mental pain and suffering in the past, and will continue to suffer such losses in the future.

WHEREFORE, TRICIA NORMAN, Individually, and as Personal Representative of the Estate of REBECCA SEDWICK, demands judgment against Defendant, SCHOOL BOARD, a Florida governmental entity, in an amount in excess of Fifteen Thousand (\$15,000.00) Dollars, and requests a trial by jury of all issues triable as of right by a jury.

COUNT THREE
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS BY G.S.

31. Plaintiff realleges and adopts by reference paragraphs 1 through 10 and paragraph 12, above.

32. In addition to the bullying and other wrongful conduct by G.S. described more fully, *supra*, G.S. bullied, harassed and intimidated outside of the school setting over a period of several months until REBECCA SEDWICK'S death.

33. Defendant, G.S., knowing that emotional distress, humiliation, indignity, and disgrace was certain, or substantially certain to result from her outrageous conduct, in reckless disregard, continually inflicted psychological distress upon REBECCA SEDWICK, until she took her own life.

34. Defendant G.S.'s conduct was intentional and/or reckless, in that Defendant knew or should have known that REBECCA SEDWICK would likely suffer emotional distress, humiliation, indignity, disgrace, mental anguish, and loss of capacity to enjoy life as a result of Defendant's outrageous conduct.

35. Defendant G.S.'s conduct was so outrageous in character and so extreme in degree that it exceeded all bounds of decency and can therefore be regarded as atrocious, and utterly intolerable in a civilized community.

36. Examples of Defendant G.S.'s outrageous conduct consist of her communicating to Plaintiff's decedent, REBECCA SEDWICK, via social media and other forms of electronic communications that she "drink bleach and die" and "go kill yourself." In an acknowledgement of the established pattern of bullying of REBECCA SEDWICK, Defendant G.S.'S outrageous conduct included a Facebook posting by Defendant G.S., subsequent to Plaintiff's decedent taking her own life that stated, "Yes ik [I know] I bullied Rebecca nd [and] she killed herself but IDGAF [I don't give a f**k]."

37. As a direct proximate result of the above stated intentional tortious acts of Defendant G.S., Plaintiff's decedent, REBECCA SEDWICK, suffered serious mental and psychological injuries, which directly and proximately led to her death by suicide.

38. The statutory survivors of REBECCA SEDWICK, deceased, is as follows:

- a. The Estate of REBECCA SEDWICK, for the payment of burial and funeral expenses;
- b. Her mother, TRICIA NORMAN, surviving parent – mental pain and suffering, anguish, and loss of decedent's companionship, loss of decedent's

support and services, all both past and future as defined by Fla. Stat. § 768.21;
and

- c. Her father, KIM LEE (KEN) SEDWICK, surviving parent – mental pain and suffering, anguish, and loss of decedent's companionship, loss of decedent's support and services, all both past and future as defined by Fla. Stat. § 768.21.

39. Plaintiff brings this action on behalf of her deceased minor's Estate, and on behalf of herself, individually, and on behalf of KIM LEE (KEN) SEDWICK.

40. As a direct and proximate result of Defendant G.S.'s tortious acts causing the death of the decedent, REBECCA SEDWICK, the survivors of the decedent, TRICIA NORMAN, KIM LEE (KEN) SEDWICK, have lost the support, love, affection, comfort, and companionship of REBECCA SEDWICK, and have experienced mental pain and suffering in the past, and will continue to suffer such losses in the future.

WHEREFORE, TRICIA NORMAN, Individually, and as Personal Representative of the Estate of REBECCA SEDWICK, demands judgment against Defendants, G.S., a minor, by and through, J.S., as father and natural guardian of G.S., in an amount in excess of Fifteen Thousand (\$15,000.00) Dollars, and requests a trial by jury of all issues triable as of right by a jury.

COUNT FOUR
NEGLIGENT MAINTENANCE BY CEMEX CONSTRUCTION MATERIALS
FLORIDA, LLC's PREMISES

41. Plaintiff realleges and adopts by reference paragraphs 1 through 10 above.

42. On or about September 9, 2013 Defendant, CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC, owned and/or possessed an abandoned cement plant (the cement plant) located at 317 North Eastside Drive, Lakeland, Florida, and had a duty to maintain the

cement plant and its grounds in a reasonably safe condition so as to reasonably secure dangerous aspect of the property from use by known minor trespassers.

43. At that time and place, the perimeter fence to the cement plant was left in a state of increasing disrepair, which gave unrestricted access to the property to minor children, including Plaintiff's decedent, REBECCA SEDWICK.

44. On or about September 9, 2013, while in a state of emotional distress, Plaintiff's decedent, REBECCA SEDWICK entered the property of the cement plant through one of several openings in the perimeter fence and gained access to an unsecured ladder, which serviced a cement tower, which allowed REBECCA SEDWICK to climb to a great height to a platform from which she leapt or fell to her death.

45. Defendant, CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC, breached its duty of care it owed to Plaintiff's decedent, REBECCA SEDWICK, by failing to reasonably maintain its premises, and when it knew, or should have known, through reasonable inspections, of the existence of minor children trespassers, and knew, or should have known of the dangerous condition of its property, including holes in its perimeter fence which allowed access to the cement plant by minor children trespassers, who utilized unsecured ladders which allowed access to great heights, and as such facilitated the means for decedent, REBECCA SEDWICK to climb from the ground up to a great height where she leapt or fell to her death.

46. As a direct and proximate result of the negligence of Defendant, CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC, in reasonably maintaining and securing its premises, the Plaintiff's decedent, REBECCA SEDWICK, suffered multiple injuries, ultimately resulting in her death.

47. The statutory survivors of REBECCA SEDWICK, deceased, are as follows:

- a. The Estate of REBECCA SEDWICK, for the payment burial and funeral expenses;
- b. Her mother, TRICIA NORMAN, surviving parent – mental pain and suffering, anguish, and loss of decedent's companionship, loss of decedent's support and services, all both past and future as defined by Fla. Stat. § 768.21; and
- c. Her father, KIM LEE (KEN) SEDWICK, surviving parent – mental pain and suffering, anguish, and loss of decedent's companionship, loss of decedent's support and services, all both past and future as defined by Fla. Stat. § 768.21.

48. Plaintiff brings this action on behalf of her deceased minor's Estate, and on behalf of herself, individually, and on behalf of KIM LEE (KEN) SEDWICK.

49. As a direct and proximate result of Defendant's negligence in causing the death of the decedent, the survivors of the decedent, TRICIA NORMAN and KIM LEE (KEN) SEDWICK, have lost the support, love, affection, comfort, and companionship of REBECCA SEDWICK, and has experienced mental pain and suffering in the past, and will continue to suffer such losses in the future.

WHEREFORE, TRICIA NORMAN, Individually, and as Personal Representative of the Estate of REBECCA SEDWICK, demands judgment against Defendant, CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC, in an amount in excess of Fifteen Thousand (\$15,000.00) Dollars, and requests a trial by jury of all issues triable as of right by a jury.

DATED this _____ day of August, 2014.

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