

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

J.A., a minor, by her Next Friends, :
LISA ANDROMALOS and :
PETER ANDROMALOS :
LISA ANDROMALOS, individually; :
and PETER ANDROMALOS, :
individually :

v. :

C.A. NO. 2015- :
:

TOWN OF TIVERTON by and through :
its Treasurer DENISE G. SAURETTE; :

TIVERTON SCHOOL DEPARTMENT, :
by and through its Superintendent :
WILLIAM J. REARICK; :

TIVERTON SCHOOL DEPARTMENT, :
by and through its Superintendent :
MANUEL CABRAL; :

THOMAS BLAKEY, :
individually and in his official capacity as :
Chief of Police of the Town of Tiverton :

WILLIAM R. MUNROE, :
individually and in his official capacity as :
a Sergeant in the Tiverton Police Department; :

JOSEPH WIESZBICKI, :
individually and in his official capacity as a :
Corporal in the Tiverton Police Department; :

JOHN LEDUC, :
individually and in his official capacity as :
an Officer in the Tiverton Police Department; :

SCHOOL ADMINISTRATOR JOHN :
and/or JANE DOE, Alias, individually :
and in their official capacity :

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff J.A., through her parents and next friends, Lisa Andromalos and Peter Andromalos, in their individual capacities, by their counsel complains against defendants and state as follows:

PRELIMINARY STATEMENT

1. This is a civil rights action lawsuit pursuant to 42 U.S.C. §1983, by minor J.A., Lisa Andromalos and Peter Andromalos for violations of their United States Constitutional rights, under the Fourth and Fourteenth Amendment and Article I, Sections 2, 6 and 14 of the Rhode Island Constitution, by the Town of Tiverton Police Department, its police officers and the Town of Tiverton School Department and its employees. After a misunderstood and innocent exchange by the plaintiff and another fourth grade student at school concerning who the plaintiff was going to sit with on the school bus ride home, eight-year old J.A. and another student were unlawfully and unconstitutionally removed from the school bus and brought to the Tiverton Police Station and held there for several hours. This improper action was made (1) without a valid court order, (2) absent any emergency or other exigent circumstances, (3) without probable cause, and (4) in violation of J.A.'s Fourth, Fifth, and Fourteenth Amendment rights to be free from unlawful arrest and seizure.

The alleged basis for the defendant police officers' and school department employees' actions was that the defendants had been called to the location of a stopped school bus of kindergarten through fifth grade students as a result of a false and unsubstantiated claim by another fourth grade student that J.A. and another eight-year old student had "chemicals" in their backpacks. Defendant members of the Tiverton Police

Department, as well as the superintendents of schools, William J. Rearick and Manual Cabral, removed J.A. and the other eight-year old student from the school bus, searched their backpacks and found no evidence whatsoever of “chemicals.”

Notwithstanding the fact that plaintiff J.A. and her friend were clearly the victims of a false accusation, J.A. was taken, without parental consent, alone in a police cruiser and transported to the Tiverton Police Department where she was held, questioned, accused of not telling the truth and finally released to her parents.

It is clear that the unnecessary and illegal actions taken by the defendant Tiverton School Department and Tiverton Police Department, by and through its employees, were in violation not only of the plaintiffs’ United States and Rhode Island constitutional rights, but also in violation of the student interrogation statute which prohibits such actions without first obtaining parental consent for any interrogation of a minor student.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343 (a)(3) and (4), because this case involves a federal question, and federal law under 42 U.S.C. § 1983.

3. Venue is proper in the United States District Court, District of Rhode Island pursuant to 28 U.S.C. § 1391(b) because the actions which give rise to the claims asserted in this Complaint arose in this district, and defendants reside or are located within the district.

PARTIES

4. Plaintiff, J.A. is a minor child. During the event at issue in this litigation, she was eight years old. J.A. is a resident of Tiverton, Rhode Island and a citizen of the United States.

5. Plaintiff Lisa Andromalos is the parent and Next Friend and legal guardian of J.A. Lisa Andromalos is a resident of Tiverton, Rhode Island and a citizen of the United States.

6. Plaintiff Peter Andromalos is the parent and Next Friend and legal guardian of J.A. Peter Andromalos is a resident of Tiverton, Rhode Island and a citizen of the United States.

7. Defendant Town of Tiverton is a municipal corporation organized and existing under the laws of the State of Rhode Island. The Tiverton Police Department is the town's agent, created and authorized by the town to conduct the acts alleged herein.

8. Defendant Denise G. Saurette (hereinafter "Saurette") is herein sued in her official capacity, pursuant to R.I. Gen. Laws §45-15-5, as the current Treasurer of the Town of Tiverton and should another individual occupy this position, this suit shall continue against said individual in his/her official capacity.

9. Defendant Superintendent William J. Rearick (hereinafter "Rearick") is the Superintendent of Schools in the Town of Tiverton, and at all times material to this action was responsible for the care of children attending the Town of Tiverton schools and is being sued herein individually and in his official capacity.

10. Defendant Manuel Cabral (hereinafter "Cabral") was the acting Superintendent of Schools in the Town of Tiverton, and at all times material to this action, was responsible for the care of children attending the Town of Tiverton schools and is being sued herein individually and in his official capacity.

11. Defendant Chief Thomas Blakey (hereinafter "Blakey"), upon information and belief, is a citizen and resident of the State of Rhode Island and of the United States. Blakey, who is sued herein individually and in his official capacity, has been at all times

relevant to this complaint, the Chief of Police employed by the Town of Tiverton. Blakey was the commanding officer over defendants Wieszbicki, Munroe, and Leduc at all relevant times. As the commanding officer and the supervising authority of defendants Wieszbicki, Munroe and Leduc, Blakey was responsible for the hiring, screening, training, supervision and conduct of defendants Wieszbicki, Munroe and Leduc.

12. Defendant Sergeant William R. Munroe (hereinafter “Munroe”), upon information and belief, is a citizen and resident of the State of Rhode Island and of the United States. Munroe, who is sued herein individually and in his official capacity, was at all times relevant to this complaint, a duly appointed sergeant in the Tiverton police department, Town of Tiverton.

13. Defendant Corporal Joseph J. Wieszbicki (hereinafter “Wieszbicki”), upon information and belief, is a citizen and resident of the State of Rhode Island and of the United States. Wieszbicki, who is sued herein individually and in his official capacity, was at all times relevant to this complaint, a duly appointed corporal in the Tiverton police department, Town of Tiverton.

14. Defendant Officer John Leduc (hereinafter “Leduc”), upon information and belief, is a citizen and resident of the State of Rhode Island and of the United States. Leduc, who is sued herein individually and in his official capacity, was at all times relevant to this complaint, a duly appointed officer in the Tiverton police department, Town of Tiverton.

15. Defendant School Administrator John and/or Jane Doe, Alias was, at all relevant times, a school administrator in the Tiverton School Department. The true name of the defendant school administrator is unknown to plaintiffs who consequently sue said

defendant by said fictitious name. Plaintiffs will seek leave to amend their Complaint to state defendant school administrator's true name when such has been ascertained.

FACT ALLEGATIONS

16. On October 24, 2014 at 4:00 p.m. the parents of the plaintiff J.A. received a telephone call from the Tiverton Police Department advising them that their eight-year old daughter J.A. was in their custody at the Tiverton Police Station.

17. Lisa and Peter Andromalos subsequently learned that their daughter had been removed from school custody while riding home in a school bus and transported alone in a police cruiser to the Tiverton Police Station and held for questioning based upon spurious and unsupported allegations made by a fourth grade student.

18. Apparently the saga began earlier in the afternoon of October 24, 2014 at the Fort Barton Elementary School as the third and fourth grade students were coming down a staircase prior to dismissal time.

19. Student G. called to plaintiff J.A., "Can I sit with you on the bus?" Plaintiff J.A. said, "No, I'm sitting with Student B." Student B. said something which was mumbled, while taking out a notebook and showing Plaintiff J.A. Plaintiff J.A. laughed and said, "It sounded like you said we're going to play with chemicals." Both girls laughed.

20. Student D. and Student G. went to a fourth grade teacher, Mrs. L., and told of the two girls referring to "chemicals." Teacher Mrs. L. sent the two girls, Student D. and Student G. to see a guidance counselor, Mrs. B., to report the incident.

21. Student D. and Student G. spoke with the guidance counselor about what they thought Plaintiff J.A. stated about chemicals and then proceeded to get into the school bus line for their bus.

22. Guidance Counselor Mrs. B. spoke with Student B. and Plaintiff J.A. as they were standing in the bus line and asked them, “Did either of you girls say anything inappropriate in the stairwell coming down for the buses?” Both girls were shocked. Guidance Counselor Mrs. B. then asked, “Did you say something about chemicals?” Again both girls looked upset and confused. Guidance Counselor Mrs. B. then said, “Well, okay.”

23. Guidance Counselor Mrs. B. then went back to the other two students and said that she investigated and it is all taken care of. She told these girls to sit away from Student B. and Plaintiff J.A. on the bus.

24. Once on the bus and being transported to each student’s respective bus stop, Student D. told the bus monitor that both Student B. and Plaintiff J.A. have “chemicals” in their backpacks.

25. When the monitor questioned Student D. further and asked if it was reported at school, Student D. said, “Mrs. B. had checked their backpacks.”

26. The bus monitor then informed the bus driver of Student D.’s allegations, at which time the bus driver stopped the bus and called the Tiverton Police Department.

27. Shortly thereafter, defendants Sergeant Munroe and Corporal Wieszbicki, both of the Tiverton Police Department, and Superintendents Manuel Cabral and William J. Rearick, both of the Tiverton School Department, had been called to the location of a stopped school bus of kindergarten through fifth grade students.

28. Defendants were called to this location to determine whether the plaintiff J.A. and another eight-year old girl had “chemicals” in their backpacks.

29. Defendant police officers removed plaintiff J.A. and the other eight-year old girl from the school bus, looked through their backpacks and found no evidence of chemicals.

30. Notwithstanding the defendants' complete lack of probable cause or suspicion of any kind, the plaintiff and her friend were taken, without parental consent, alone in a police cruiser by defendant Leduc and transported to the Tiverton Police Department. Eventually, J.A.'s parents arrived and the questioning of J.A. continued by Sergeant Munroe until Peter and Lisa Andromalos left the police station with their daughter.

31. Upon information and belief, later that evening, a Connect Ed call from the school department was made to all elementary school parents stating that two students claimed to have chemicals and made threats to set a school bus on fire.

32. The plaintiffs suffered extreme stress, anxiety and trauma from the conduct of the defendants, as alleged herein.

33. Defendants were acting under color of law at all times relevant herein.

34. The acts of the defendant police officers and school department employees were done pursuant to the policy, practice and action of the Town of Tiverton and the Tiverton Police Department when removing the children from the school bus, arresting them without probable cause and questioning the plaintiff without parental consent and without exigent circumstances or imminent danger.

35. The Town of Tiverton, defendant Police Officers, and defendant School Department and its employees were all indifferent to the plaintiffs' constitutional rights.

COUNT I
FOURTEENTH AMENDMENT VIOLATION
SUBSTANTIVE DUE PROCESS
AGAINST MUNROE, WIESZBICKI AND LEDUC

1. Plaintiffs hereby incorporate by reference Paragraphs 1 through 35 of this complaint as if fully set forth herein.

2. Defendants, by their unlawful acts and acting under color of Rhode Island law, violated Peter Andromalos' and Lisa Andromalos' right to the care, custody and association with their child, J.A., in violation of their Fourteenth Amendment substantive due process right to family integrity.

3. Defendants, by their unlawful act and acting under color of Rhode Island law, deprived J.A. of her right to receive such care, custody and association with her parents, in violation of her Fourteenth Amendment substantive due process right to family integrity.

4. Plaintiffs claim damages for the pain, suffering and emotional distress caused by the defendants Munroe, Wieszbicki, and Leduc in violation of their constitutional rights under color of law.

5. As a direct and proximate result of the actions by defendants Munroe, Wieszbicki, and Leduc, the plaintiffs endured embarrassment, emotional distress, humiliation and deprivation from J.A.'s removal from her parents.

6. As a direct and proximate result of the actions and/or omissions of the defendants Munroe, Wieszbicki, and Leduc, plaintiffs Lisa and Peter Andromalos have suffered a loss of consortium as provided in R.I. General Laws 10-7-1.

7. Plaintiffs have no adequate remedy of law to redress the irreparable harm which the defendants have caused.

WHEREFORE, plaintiffs pray that this Honorable Court:

- a. Declare that the actions and policies of the defendant Town of Tiverton Police Department, through its employees, Munroe, Wieszbicki, and Leduc, in removing J.A. from the care, custody and control of the defendant, Tiverton School Department, without parental consent, were in violation of J.A.'s Fourth Amendment right to be free from unreasonable search and seizure and her right to due process of law.
- b. Declare that the actions and policies of the Town of Tiverton Police Department, by and through its employees, Munroe, Wieszbicki, and Leduc, deprived Lisa and Peter Andromalos, as parents of J.A., of the care, custody and association with their child in violation of their Fourteenth Amendment substantive due process right to family integrity.
- c. Declare that the actions and policies of the Town of Tiverton Police Department by and through its employees, Munroe, Wieszbicki, and Leduc, deprived J.A. of her right to receive care, custody and association with her parents in violation of her Fourteenth Amendment substantive due process right to family integrity.
- d. Request the defendant Town of Tiverton Police Department establish policies, protocols and/or procedures concerning the rights of students and parents of students as it relates to the removal of the Town of Tiverton students from school custody.
- e. Award plaintiffs all reasonable compensatory damages, including mental anguish and emotional distress, for each count alleged in the Complaint;

- f. Award plaintiffs punitive damages against all defendants for each count alleged in the Complaint;
- g. Award plaintiffs reasonable attorneys' fees and court costs pursuant to federal and state law;
- h. Award plaintiffs legal interest and costs; and
- i. Award such other relief as this Honorable Court deems right and just.

COUNT II
FOURTH AND FOURTEENTH AMENDMENT VIOLATIONS
AGAINST DEFENDANTS MUNROE, WIESZBICKI AND LEDUC

- 1. Plaintiffs incorporate by reference Paragraphs 1 through 35 and Count I as if fully set forth herein.
- 2. At all times relevant herein, defendants Munroe, Wieszbicki, and Leduc were acting under color of law by exercising power pursuant to the authority of law.
- 3. The actions of the defendants Munroe, Wieszbicki, and Leduc violated J.A.'s rights against unreasonable seizures under the Fourth Amendment to the United States Constitution.
- 4. The actions of defendants Munroe, Wieszbicki, and Leduc in removing J.A. from the school bus and arresting her without probable cause were neither necessary nor just, constituting unreasonable force and seizure of J.A.'s person and, thus, depriving plaintiffs of their rights under the Fourth and Fourteenth Amendment to the United States Constitution.

5. Plaintiffs claim damages for the pain, suffering and emotional distress caused by the defendants Munroe, Wieszbicki, and Leduc in violation of their constitutional rights under color of law.

6. As a direct and proximate result of the actions by defendants Munroe, Wieszbicki, and Leduc, the plaintiffs endured embarrassment, emotional distress, humiliation and deprivation from J.A.'s removal from her parents.

7. As a direct and proximate result of the actions and/or omissions of the defendants Munroe, Wieszbicki, and Leduc, plaintiffs Lisa and Peter Andromalos have suffered a loss of consortium as provided in R.I. General Laws 10-7-1.

8. Plaintiffs have no adequate remedy of law to redress the irreparable harm which the defendants have caused.

WHEREFORE, plaintiffs pray that this Honorable Court:

- a. Declare that the actions and policies of the defendant Town of Tiverton Police Department, through its employees, Munroe, Wieszbicki, and Leduc, in removing J.A. from the care, custody and control of the defendant, Tiverton School Department, without parental consent, were in violation of J.A.'s Fourth Amendment right to be free from unreasonable search and seizure and her right to due process of law.

- b. Declare that the actions and policies of the Town of Tiverton Police Department, by and through its employees, Munroe, Wieszbicki, and Leduc, deprived Lisa and Peter Andromalos, as parents of J.A., of the care, custody and association with their child in violation of their Fourteenth Amendment substantive due process right to family integrity.
- c. Declare that the actions and policies of the Town of Tiverton Police Department by and through its employees, Munroe, Wieszbicki, and Leduc, deprived J.A. of her right to receive care, custody and association with her parents in violation of her Fourteenth Amendment substantive due process right to family integrity.
- d. Request the defendant Town of Tiverton Police Department establish policies, protocols and/or procedures concerning the rights of students and parents of students as it relates to the removal of the Town of Tiverton students from school custody.
- e. Award plaintiffs all reasonable compensatory damages, including mental anguish and emotional distress, for each count alleged in the Complaint;
- f. Award plaintiffs punitive damages against all defendants for each count alleged in the Complaint;
- g. Award plaintiffs reasonable attorneys' fees and court costs pursuant to federal and state law;
- h. Award plaintiffs legal interest and costs; and
- i. Award such other relief as this Honorable Court deems right and just.

COUNT III
42 U.S.C. § 1983
SUPERVISING LIABILITY AGAINST DEFENDANT
CHIEF THOMAS BLAKEY, CHIEF OF POLICE

1. Plaintiffs incorporate by reference Paragraphs 1 through 35 and Counts I and II of this Complaint as if fully set forth herein.

2. At all times relevant herein, defendants Munroe, Wieszbicki, Leduc were acting under color of law by exercising power pursuant to the authority of law.

3. By reason of the foregoing, defendant Chief Thomas Blakey, Chief of Police and commanding officer of defendants Munroe, Wieszbicki and Leduc, acted with reckless disregard and deliberate indifference in hiring, screening, training, and supervising defendants Munroe, Wieszbicki, and Leduc.

4. The failure of defendants Chief Blakey, Chief of Police and/or John and/or Jane Doe, supervisory personnel, to provide training, education, supervision and discipline of defendants Munroe, Wieszbicki, and Leduc has resulted in the denial of plaintiffs' rights protected by the Fourth and Fourteenth Amendment to the United States Constitution.

5. Plaintiffs claim damages for the pain, suffering and emotional distress caused by the defendants Chief Blakey, Chief of Police and/or John and/or Jane Doe, supervisory personnel, in violation of their constitutional rights under color of law.

6. As a direct and proximate result of the actions by defendants Chief Blakey, Chief of Police and/or John and/or Jane Doe, supervisory personnel, the plaintiffs endured embarrassment, emotional distress, humiliation and deprivation from J.A.'s removal from her parents.

7. As a direct and proximate result of the actions and/or omissions of the defendants Chief Blakey, Chief of Police and/or John and/or Jane Doe, plaintiffs Lisa and

Peter Andromalos have suffered a loss of consortium as provided in R.I. General Laws 10-7-1.

8. Plaintiffs have no adequate remedy of law to redress the irreparable harm which the defendants have caused.

WHEREFORE, plaintiffs pray that this Honorable Court:

- a. Declare that the actions of the defendant Chief Thomas Blakey, Chief of Police and commanding officer of defendants Munroe, Wieszbicki and Leduc, were in complete reckless disregard and deliberate indifference in hiring, screening, training, and supervising Munroe, Wieszbicki and Leduc.
- b. Declare that the failure of defendants Chief Thomas Blakey, Chief of Police for the Town of Tiverton, and/or John and/or Jane Doe, supervising personnel, to provide training, education, supervision and discipline of defendants, Munroe, Wieszbicki and Leduc has resulted in the denial of plaintiffs' rights as protected by the Fourth and Fourteenth Amendment to the United States Constitution.
- c. Award plaintiffs all reasonable compensatory damages, including mental anguish and emotional distress, for each count alleged in the Complaint;
- d. Award plaintiffs punitive damages against all defendants for each count alleged in the Complaint;
- e. Award plaintiffs reasonable attorneys' fees and court costs pursuant to federal and state law;
- f. Award plaintiffs legal interest and costs; and

- g. Award such other relief as this Honorable Court deems right and just.

COUNT IV
FOURTH AMENDMENT VIOLATION
UNLAWFUL SEIZURE
AGAINST DEFENDANTS REARICK, CABRAL, BLAKEY, MUNROE, WIESZBICKI AND
LEDUC

1. Plaintiffs incorporate by reference Paragraphs 1 through 35 and Counts I through III of this Complaint as if fully set forth herein.

2. Defendants, each and every one of them, by their acts and acting under color of law, violated J.A.'s rights against unreasonable seizure under the Fourth Amendment to the United States Constitution.

3. J.A. suffered deprivations as a result of her removal from school custody and the custody of her parents when she was taken into police custody and held for several hours at the Tiverton Police Station.

4. This action being done with the approval and assistance of employees and/or representatives of the Tiverton School Department which includes, but is not limited to, Superintendents William J. Rearick and Manuel Cabral and John and Jane Doe.

5. The unlawful seizure and holding in police custody without probable cause or parental consent and not justified by any exigent circumstances, and without due process was in violation of the Fourth and Fourteenth Amendment to the United States Constitution.

6. Plaintiffs claim damages for the pain, suffering and emotional distress caused by the defendants Rearick, Cabral, Blakey, Munroe, Wieszbicki and Leduc in violation of their constitutional rights under color of law.

7. As a direct and proximate result of the actions by defendants Rearick, Cabral, Blakey, Munroe, Wieszbicki and Leduc, the plaintiffs endured embarrassment, emotional distress, humiliation and deprivation from J.A.'s removal from her parents.

8. As a direct and proximate result of the actions and/or omissions of the defendants Rearick, Cabral, Blakey, Munroe, Wieszbicki and Leduc, plaintiffs Lisa and Peter Andromalos have suffered a loss of consortium as provided in R.I. General Laws 10-7-1.

9. Plaintiffs have no adequate remedy of law to redress the irreparable harm which the defendants have caused.

WHEREFORE, plaintiffs pray that this Honorable Court:

- a. Declare that the actions of defendants Rearick, Cabral, Blakey, Munroe, Wieszbicki and Leduc, each and every one of them acting under color of state law, violated J.A.'s right against unreasonable seizures under the Fourteenth Amendment to the United States Constitution.
- b. Declare that this action of unlawful removal of J.A. from school department custody and the custody of her parents with the approval and assistance of employees and/or representatives of the Tiverton School Department which includes, but is not limited to, William J. Rearick, Manuel Cabral and John and/or Jane Doe, without probable cause or parental consent and not justified by exigent circumstances and without due process, was in violation of plaintiffs' rights under the Fourth and Fourteenth Amendment to the United States Constitution.

- j. Award plaintiffs all reasonable compensatory damages, including mental anguish and emotional distress, for each count alleged in the Complaint;
- k. Award plaintiffs punitive damages against all defendants for each count alleged in the Complaint;
- l. Award plaintiffs reasonable attorneys' fees and court costs pursuant to federal and state law;
- m. Award plaintiffs legal interest and costs; and
- n. Award such other relief as this Honorable Court deems right and just.

COUNT V
42 U.S.C. 1983
AGAINST THE TOWN OF TIVERTON

1. Plaintiffs incorporate herein Paragraphs 1 through 35 and Counts I through IV of this Complaint as if fully set forth herein.

2. Defendant Town of Tiverton developed and maintained customs, policies, and/or practices exhibiting deliberate indifference to the constitutional rights of its citizens which caused the violations of the plaintiffs' rights.

3. It was the custom, policy, and/or practice of the Town of Tiverton to provide no training or grossly inadequate training to its police officers and school department employees regarding the following: their duties, responsibilities and conduct toward minor school children; use of force; preventing abuse of authority; communicating with parents of students in their care, custody and control; and the apprehension of school children and their arrest or detention.

4. It was the policy and/or custom or practice of the Town of Tiverton to conduct grossly inadequate screening in the hiring of its police officers regarding the officers' propensities for misuse of and abuse of authority.

5. It is the policy and/or custom of the Town of Tiverton to provide grossly inadequate supervision, discipline, and remediation to officers.

6. The Town of Tiverton has been deliberately indifferent in training, supervising, and disciplining officers regarding their duties, responsibilities, and conduct towards school children in the care and custody of the school department, and preventing abuse of authority.

7. The Town of Tiverton has been deliberately indifferent in hiring officers who demonstrate their propensities with abuse of authority.

8. As a direct and proximate result of the actions by defendant Town of Tiverton, the plaintiffs endured embarrassment, emotional distress, humiliation and deprivation from J.A.'s removal from her parents.

9. As a direct and proximate result of the actions and/or omissions of the defendant Town of Tiverton, plaintiffs Lisa and Peter Andromalos have suffered a loss of consortium as provided in R.I. General Laws 10-7-1.

10. Plaintiffs have no adequate remedy of law to redress the irreparable harm which the defendants have caused.

WHEREFORE, plaintiffs pray that this Honorable Court:

- a. Declare that the customs, policies and or practices of the defendant Town of Tiverton in providing no training or grossly inadequate training to its police officers and school department employees regarding the following: their

duties, responsibilities and conduct toward minor school children and their parents; use of force; preventing abuse of authority, communicating with parents of students in their care, custody and control; apprehension of school children and their arrest or detention, were in violation of plaintiffs' Fourth and Fourteenth Amendment rights of the United States Constitution.

- b. Declare that the Town of Tiverton has been deliberately indifferent in training, supervising and disciplining officers and their supervisors regarding their duties, responsibilities and conduct towards school children in the care and custody of the school department, and in preventing abuse of authority, which has resulted in the denial of plaintiffs' Fourth and Fourteenth Amendment rights of the United States Constitution.
- c. Award plaintiffs all reasonable compensatory damages, including mental anguish and emotional distress, for each count alleged in the Complaint;
- d. Award plaintiffs punitive damages against all defendants for each count alleged in the Complaint;
- e. Award plaintiffs reasonable attorneys' fees and court costs pursuant to federal and state law;
- f. Award plaintiffs legal interest and costs; and
- g. Award such other relief as this Honorable Court deems right and just.

COUNT VI
VIOLATION OF ARTICLE 1, SECTIONS 2, 6 AND 14 OF THE
RHODE ISLAND CONSTITUTION
AGAINST MUNROE, WIESZBICKI AND LEDUC

1. Plaintiffs incorporate herein Paragraphs 1 through 35 and Counts I through V of this Complaint as if fully set forth herein.

2. The actions of the defendants in removing the plaintiff from school department custody and arresting her were without just cause and in violation of J.A.'s rights under Article I, Sections 2, 6, and 14 of the Rhode Island Constitution.

3. The actions of the defendants were neither necessary nor just and constitute unreasonable force and the unlawful seizure and the arrest of J.A.'s person and, thus, the officers deprived J.A. of her rights under Article I, Sections 2, 6, and 14 of the Rhode Island Constitution.

4. Plaintiffs claim damages for the pain, suffering and emotional distress caused by the defendants Munroe, Wieszbicki and Leduc in violation of their constitutional rights under color of law.

5. As a direct and proximate result of the actions by defendants Munroe, Wieszbicki and Leduc, the plaintiffs endured embarrassment, emotional distress, humiliation and deprivation from J.A.'s removal from her parents.

6. As a direct and proximate result of the actions and/or omissions of the defendants Munroe, Wieszbicki and Leduc, plaintiffs Lisa and Peter Andromalos have suffered a loss of consortium as provided in R.I. General Laws 10-7-1.

7. Plaintiffs have no adequate remedy of law to redress the irreparable harm which the defendants have caused.

WHEREFORE, plaintiffs pray that this Honorable Court:

- a. Declare that the actions of the defendants in removing J.A. from the Tiverton School Department's custody and control and arresting her without just cause were in violation of her rights under Article I, Sections 2, 6 and 14 of the Rhode Island Constitution.
- b. Declare that the actions of the defendants were neither necessary nor just and constituted unreasonable force and unlawful seizure and arrest of J.A.'s person, thus, depriving J.A. of her rights under Article I, Sections 2, 6, and 14 of the Rhode Island Constitution.
- c. Declare that the actions and policies of the defendants which resulted in the removal of J.A. from the care, custody and control of the Tiverton School Department and her parents were unconstitutional and in violation of her rights under Article I, Sections 2, 6, and 14 of the Rhode Island Constitution.
- d. Declare that the actions and policies of the defendants deprived J.A. of her right to receive care, custody and association with her parents in violation of Article I, Sections 2, 6, and 14 of the Rhode Island Constitution and her right to family integrity.
- e. Declare that the actions and policies of the defendants deprived Lisa and Peter Andromalos, as parents of J.A., of their care, custody and association with their child in violation of Article I, Sections 2, 6, and 14 of the Rhode Island Constitution and their right to family integrity.

- f. Award plaintiffs all reasonable compensatory damages, including mental anguish and emotional distress, for each count alleged in the Complaint;
- g. Award plaintiffs punitive damages against all defendants for each count alleged in the Complaint;
- h. Award plaintiffs reasonable attorneys' fees and court costs pursuant to federal and state law;
- i. Award plaintiffs legal interest and costs; and
- j. Award such other relief as this Honorable Court deems right and just.

COUNT VII
VIOLATION OF ARTICLE 1, SECTIONS 2, 6 AND 14 OF THE
RHODE ISLAND CONSTITUTION
AGAINST TIVERTON SCHOOL DEPARTMENT, REARICK AND CABRAL

1. Plaintiffs incorporate by reference Paragraphs 1 through 35 and Counts I through VI of this Complaint as if fully set forth herein.

2. Defendants, Tiverton School Department, Rearick and Cabral, by their acts and acting under color of law, violated J.A.'s rights against unreasonable seizure under Article I, Sections 2, 6, and 14 of the Rhode Island Constitution.

3. The actions of the defendants in allowing the removal of J.A. from the Tiverton School Department's custody and in allowing her arrest without just cause and parental consent was in violation of her rights under Article I, Sections 2, 6 and 14 of the Rhode Island Constitution.

4. The unlawful allowance of J.A.'s seizure and holding in police custody without probable cause or parental consent and not justified by any exigent circumstances

and without due process was in violation of J.A.'s rights under Article I, Sections 2, 6 and 14 of the Rhode Island Constitution.

5. Plaintiffs claim damages for the pain, suffering and emotional distress caused by the defendants Tiverton School Department, Rearick and Cabral in violation of their constitutional rights under color of law.

6. As a direct and proximate result of the actions by defendants Tiverton School Department, Rearick and Cabral, the plaintiffs endured embarrassment, emotional distress, humiliation and deprivation from J.A.'s removal from her parents.

7. As a direct and proximate result of the actions and/or omissions of the defendants Tiverton School Department, Rearick and Cabral, plaintiffs Lisa and Peter Andromalos have suffered a loss of consortium as provided in R.I. General Laws 10-7-1.

WHEREFORE, plaintiffs pray that this Honorable Court:

- a. Declare that the actions of the defendants in removing J.A. from the Tiverton School Department's custody and control and arresting her without just cause were in violation of her rights under Article I, Sections 2, 6 and 14 of the Rhode Island Constitution.
- b. Declare that the actions of the defendants were neither necessary nor just and constituted unreasonable force and unlawful seizure and arrest of J.A.'s person, thus, depriving J.A. of her rights under Article I, Sections 2, 6, and 14 of the Rhode Island Constitution.
- c. Declare that the actions and policies of the defendants which resulted in the removal of J.A. from the care, custody and control of the Tiverton School

Department and her parents were unconstitutional and in violation of her rights under Article I, Sections 2, 6, and 14 of the Rhode Island Constitution.

- d. Declare that the actions and policies of the defendants deprived J.A. of her right to receive care, custody and association with her parents in violation of Article I, Sections 2, 6, and 14 of the Rhode Island Constitution and her right to family integrity.
- e. Declare that the actions and policies of the defendants deprived Lisa and Peter Andromalos, as parents of J.A., of their care, custody and association with their child in violation of Article I, Sections 2, 6, and 14 of the Rhode Island Constitution and their right to family integrity.
- f. Award plaintiffs all reasonable compensatory damages, including mental anguish and emotional distress, for each count alleged in the Complaint;
- g. Award plaintiffs punitive damages against all defendants for each count alleged in the Complaint;
- h. Award plaintiffs reasonable attorneys' fees and court costs pursuant to federal and state law;
- i. Award plaintiffs legal interest and costs; and
- j. Award such other relief as this Honorable Court deems right and just.

COUNT VIII
VICARIOUS LIABILITY
AGAINST THE TOWN OF TIVERTON
AND THE TIVERTON SCHOOL DEPARTMENT

1. Plaintiffs incorporate herein Paragraphs 1 through 35 and Counts I through VII of this Complaint as if fully set forth herein.

2. At all relevant times, defendants Saurette, Blakey, Munroe, Wieszbicki, Leduc, Rearick and Cabral, were employees and agents of the Town of Tiverton and/or of the Tiverton School Department and were acting within the course and scope of their employment and agency.

3. As a direct and proximate result of the actions by defendants Saurette, Blakey, Munroe, Wieszbicki, Leduc, Rearick and Cabral, the plaintiffs endured embarrassment, emotional distress, humiliation and deprivation from J.A.'s removal from her parents.

4. As a direct and proximate result of the actions and/or omissions of the defendants Saurette, Blakey, Munroe, Wieszbicki, Leduc, Rearick and Cabral, plaintiffs Lisa and Peter Andromalos have suffered a loss of consortium as provided in R.I. General Laws 10-7-1.

5. Plaintiffs have no adequate remedy of law to redress the irreparable harm which the defendants have caused.

WHEREFORE, plaintiffs pray that this Honorable Court:

- a. Award plaintiffs all reasonable compensatory damages, including mental anguish and emotional distress, for each count alleged in the Complaint;

- b. Award plaintiffs punitive damages against all defendants for each count alleged in the Complaint;
- c. Award plaintiffs reasonable attorneys' fees and court costs pursuant to federal and state law;
- d. Award plaintiffs legal interest and costs; and
- e. Award such other relief as this Honorable Court deems right and just.

COUNT IX
VIOLATION OF TITLE 16, CHAPTER 21.5, SECTIONS 1 THROUGH 5
AGAINST THE TIVERTON SCHOOL DEPARTMENT

1. Plaintiffs incorporate herein Paragraphs 1 through 35 and Counts I through VIII of this Complaint as if fully set forth herein.

2. Title 16, Chapter 21.5 et seq. entitled "Student Interrogation" was enacted by the General Assembly to provide a framework for the interrogation of students by police officers while in school department custody.

3. Title 16, Chapter 21.5-1 sets forth the legislative intent of this chapter by stating that, "In furtherance of this objective, it is the intent of the legislature to increase the level of participation of parents when their minor children are being questioned by law enforcement in school or at a school-sponsored activity."

4. Title 16, Chapter 21.5-2 through 5 goes on to establish clear parameters for student interrogations by law enforcement in the school setting. Specifically, Section 2 sets forth the procedure for interrogating elementary school students by law enforcement officers in that a pupil cannot be questioned until a parent or guardian is present unless the parents are unavailable.

5. Defendant, Tiverton School Department and its employees, servants and agents, including the superintendent, no exigent circumstances being present, failed to contact J.A.'s parents, Lisa and Peter Andromalos, before questioning her and removing her from the school bus and before arresting her.

6. As a consequence of the defendant, Tiverton School Department's and its employees', violation of the plaintiffs' rights and privileges as provided for and protected under Title 16, Chapter 21.5, Section 1, et seq., the plaintiffs suffered deprivations as a result of J.A.'s interrogation and removal from school custody and the custody of her parents.

7. Defendant, Tiverton School Department's and its employees', course of action in violation of Title 16, Chapter 21.5 Section 1, et seq., was intentional, unconsented and unlawful.

8. Defendant, Tiverton School Department and its employees, by their unlawful acts and acting under color of Rhode Island law, violated Peter Andromalos' and Lisa Andromalos' right to the care, custody and association with their child, J.A., in violation of their Fourteenth Amendment substantive due process right to family integrity.

9. Defendant, Tiverton School Department and its employees, by their unlawful acts and acting under color of Rhode Island law, deprived J.A. of her right to receive such care, custody and association with her parents, in violation of her Fourteenth Amendment substantive due process right to family integrity.

10. Plaintiffs claim damages for the pain, suffering and emotional distress caused by the defendant, Tiverton School Department, and its employees, in violation of Title 16, Chapter 21.5, Section 1, et seq., and of their constitutional rights under color of law.

11. As a direct and proximate result of the actions by defendant, Tiverton School Department, and its employees, the plaintiffs endured embarrassment, emotional distress, humiliation and deprivation from J.A.'s removal from her parents.

12. As a direct and proximate result of the actions and/or omissions of the defendant, Tiverton School Department, and its employees, plaintiffs Lisa and Peter Andromalos have suffered a loss of consortium as provided in R.I. General Laws 10-7-1.

13. Plaintiffs have no adequate remedy of law to redress the irreparable harm which the defendant, Tiverton School Department, and its employees, have caused.

WHEREFORE, plaintiffs pray that this Honorable Court:

- a. Declare that the Tiverton School Department and its employees, no exigent circumstances being present, failed to contact J.A.'s parents, Lisa and Peter Andromalos, before questioning J.A. and removing her from the Tiverton School Department's care, custody and control and arresting her in violation of Title 16, Chapter 21.5 -1 et seq.
- b. Declare that the Tiverton School Department and its employees, by their unlawful acts and acting under color of Rhode Island law, violated Lisa and Peter Andromalos' right to care, custody, control and association with their child J.A., in violation of their Fourteenth Amendment substantive due process right to family integrity and Article I, Sections 2, 6, and 14 of the Rhode Island Constitution.
- c. Declare that Defendant Tiverton School Department and its employees, by their unlawful acts and acting under color of Rhode Island law, deprived J.A.

of her right to receive such care, custody and association with her parents, in violation of Article I, Sections 2, 6 and 14 of the Rhode Island Constitution and her Fourteenth Amendment substantive due process right to family integrity.

- d. Award plaintiffs all reasonable compensatory damages, including mental anguish and emotional distress, for each count alleged in the Complaint;
- e. Award plaintiffs punitive damages against all defendants for each count alleged in the Complaint;
- f. Award plaintiffs reasonable attorneys' fees and court costs pursuant to federal and state law;
- g. Award plaintiffs legal interest and costs; and
- h. Award such other relief as this Honorable Court deems right and just.

COUNT X
FALSE IMPRISONMENT
AGAINST MUNROE, WIESZBICKI AND LEDUC

1. Plaintiff hereby incorporates by reference Paragraphs 1 through 35 and Counts I through IX of this Complaint as if fully set forth herein.

2. Defendants Munroe, Wieszbicki, and Leduc used force to remove J.A. from school custody and arrest her while cloaked with the authority of the Tiverton Police Department, and pursued this course of conduct without a reasonable basis for doing so.

3. Defendants lacked a reasonable basis for apprehending J.A. and, thus, the defendants' actions were unfounded assertions of authority.

4. Defendants' course of action to apprehend J.A. using their force and authority was intended to impede her liberty of movement; the defendants' conduct thereby resulting in an intentional, unconsented, and unlawful restraint of J.A.'s physical liberty.

5. Plaintiffs claim damages for the pain, suffering and emotional distress caused by the defendants Munroe, Wieszbicki and Leduc in violation of their constitutional rights under color of law.

6. As a direct and proximate result of the actions by defendants Munroe, Wieszbicki and Leduc, the plaintiffs endured embarrassment, emotional distress, humiliation and deprivation from J.A.'s removal from her parents.

7. As a direct and proximate result of the actions and/or omissions of the defendants Munroe, Wieszbicki and Leduc, plaintiffs Lisa and Peter Andromalos have suffered a loss of consortium as provided in R.I. General Laws 10-7-1.

8. Plaintiffs have no adequate remedy of law to redress the irreparable harm which the defendants have caused.

WHEREFORE, plaintiffs pray that this Honorable Court:

- a. Award plaintiffs all reasonable compensatory damages, including mental anguish and emotional distress, for each count alleged in the Complaint;
- b. Award plaintiffs punitive damages against all defendants for each count alleged in the Complaint;
- c. Award plaintiffs reasonable attorneys' fees and court costs pursuant to federal and state law;
- d. Award plaintiffs legal interest and costs; and

- e. Award such other relief as this Honorable Court deems right and just.

COUNT XI
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
AGAINST DEFENDANTS REARICK, CABRAL, MUNROE, WIESZBICKI AND LEDUC

1. Plaintiffs incorporate Paragraphs 1 through 35 and Counts I through X of this Complaint as if fully set forth herein.

2. Defendants, each and every one of them, by their conduct of removing J.A. from the bus and apprehending her without probable cause, demonstrated an intentional and/or reckless disregard of the probability of causing her emotional distress.

3. The conduct was extreme and outrageous.

4. There is a causal connection between defendants' conduct and the emotional distress suffered by the plaintiffs.

5. Plaintiffs claim damages for the pain, suffering and emotional distress caused by the defendants Rearick, Cabral, Munroe, Wieszbicki and Leduc in violation of their constitutional rights under color of law.

6. As a direct and proximate result of the actions by defendants Rearick, Cabral, Munroe, Wieszbicki and Leduc, the plaintiffs endured embarrassment, emotional distress, humiliation and deprivation from J.A.'s removal from her parents.

7. As a direct and proximate result of the actions and/or omissions of the defendants Rearick, Cabral, Munroe, Wieszbicki and Leduc, plaintiffs Lisa and Peter Andromalos have suffered a loss of consortium as provided in R.I. General Laws 10-7-1.

8. Plaintiffs have no adequate remedy of law to redress the irreparable harm which the defendants have caused.

WHEREFORE, plaintiffs pray that this Honorable Court:

- a. Award plaintiffs all reasonable compensatory damages, including mental anguish and emotional distress, for each count alleged in the Complaint;
- b. Award plaintiffs punitive damages against all defendants for each count alleged in the Complaint;
- c. Award plaintiffs reasonable attorneys' fees and court costs pursuant to federal and state law;
- d. Award plaintiffs legal interest and costs; and
- e. Award such other relief as this Honorable Court deems right and just.

Plaintiffs,
By their Attorneys,

/s/ Amato A. DeLuca
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**PLAINTIFFS DEMAND A TRIAL BY JURY AND DESIGNATE AMATO A.
DELUCA, ESQ. AS TRIAL COUNSEL.**