IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY ILLINOIS

JANE DOE-1	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	NO 2012 L 83
	)	
JONA JAMISON ST JOSEPH-OGDEN CHSD #305 BOARD OF DIRECTORS, CHAD UPHOFF, BRIAN BROOKS and JAMES M ACKLIN	)	
	)	
Defendants	)	

DEFENDANTS' REPLY IN SUPPORT OF THEIR MOTION PURSUANT TO SECTION 2-619 1 TO DISMISS COUNTS III-XIX

Defendants ST JOSEPH-OGDEN COMMUNITY HIGH SCHOOL DISTRICT 305 BOARD OF EDUCATION (incorrectly named as St Joseph-Ogden CHSD #305 Board of Directors), BRAD UPHOFF BRIAN BROOKS AND JAMES ACKLIN (hereinafter referred to as District " by individual name or, collectively as Defendants) by their attorneys, Spesia & Ayers and in Reply in Support of their Motion to Dismiss Counts III – XIX of Plaintiff's Complaint pursuant to Section 2-619 1 of the Illinois Code of Civil Procedure state as follows

I **DEFENDANTS' REPLY IN SUPPORT OF THE 2-615 SECTION OF THEIR MOTION TO DISMISS**

A Counts IV and VI Must be Dismissed Because Plaintiff Has Failed to State a Claim for IIED

Plaintiff first argues that she has pled severe emotional distress and adequately pled an Intentional Infliction of Emotional Distress (IIED) claim because 1) it is axiomatic that childhood sexual abuse causes extreme lifelong, sever emotional distress ' and 2) that it is not necessary to allege a myriad of physical symptoms ' Plt s Resp 2 These statements do not address the Defendants argument that it is inadequate as a matter of law to state an IIED claim

allegations fail in this regard

Lastly Plaintiff argues that Defendants conduct is extreme and outrageous because recitation of the facts would result in the average member of the community exclaiming Outrageous!" Plt s Resp 3 However as clearly argued in Defendants Motion the only thing that can be inferred from Plaintiff's allegations is that the Defendants made a concerned and thorough response to the report of certain conduct Jamison was alleged to have engaged in, none of which indicated that *any* student was being sexually abused Defs ' Mot 4

Plaintiff's Response attempts to re-characterize the alleged conduct by stating Defendant Brooks engaged in an interrogation of the Plaintiff that was an extreme and outrageous exercise of his power as Principal Plt s Resp 3 This is not alleged in the Complaint Rather Plaintiff alleges only that Brooks investigated a mother's report to him that her daughter had told her that Jamison friended female students on MySpace, had a telephone conversation with Jane Doe-1 and "flirted" with female students in the lunchroom Plt s Compl ¶ 36 Thereafter Plaintiff alleges Brooks interviewed the mother s daughter regarding the report and 'confronted Jane Doe-1 about the allegations Plt s Comp ¶¶ 39-40 As alleged this is not an interrogation of a possible sexual abuse victim conduct indicative of recklessness or an intention to inflict severe emotional distress as Plaintiff attempts to argue in her Response by severely exaggerating her own allegations Plt s Mot 3

Further Plaintiff argues Defendant Brooks was not trained in interviewing alleged childhood victims of sexual abuse ' Plt 's Mot 3 Apart from this being an entirely unsupported statement made outside of the Complaint being untrained does not make one guilty of extreme and outrageous conduct Nor has Plaintiff alleged anything was reported to Brooks that would alert him that Jane Doe-1 as a victim of sexual abuse Plt s Compl ¶ 36 Lastly Plaintiff argues again without support, that Brooks was not competent or authorized to conduct an interview of

the Plaintiff Plt 's Resp 4 Again neither of these statements equates to extreme and outrageous conduct In light of the above, Plaintiff has failed to plead a claim for IIED and so Counts IV for IIED, and Count V for Respondeat Superior must be dismissed

B Count VI for Negligent Hiring Should be Dismissed Because Plaintiff's Allegations Fail to Allege Knowledge of a Particular Unfitness

Plaintiff incorrectly states that Defendants do not argue that they did not know of Jamison s alleged misconduct " Plt s Resp 4 To the contrary, Defendants unambiguously argue that Plaintiff's own non-conclusory allegations demonstrate that the District did not know of any particular unfitness in Jamison Defs ' Mot 5

Nevertheless, Plaintiff relies on this false predicate and a broad and unsourced definition of Sexual Grooming" in an attempt to allege that the Defendants were aware of known prior sexual misconduct " Plt s Resp 5 Plaintiff goes farther and makes an allegation that does not exist in her complaint That she was summoned to the office of the Principal by an adult male and interrogated about her alleged sexual misdeeds with a teacher' Plt s Resp 5 The spurious nature of this Response does nothing with respect to Defendants argument for dismissal of Count VI and this Court should dismiss this Count accordingly

C Count VII for Negligent Supervision Should be Dismissed Because Plaintiff's Allegations Fail to Allege Knowledge of a Particular Unfitness

Plaintiff adopts her argument from Paragraph E' of her Response which addresses Negligent Hiring in Count VI for her argument in support of her Negligent Supervision claim in Count VII Defendants therefore, adopt their argument in Paragraph B above in Reply herein

D Count VIII for Negligent Retention Claim Must Be Dismissed Because it Relies Wholly on Conclusions of Fact

Plaintiff argues that she has offered "14 different specific factual allegations in support of her Negligent Retention claim in Count VIII and that the burden of rewording her pleading would 'elevate form over substance Plt s Resp 6 However read as alleged all that can be

VIII ¶50 This is not a matter of form over substance it is a complete lack of substance and insufficient under Illinois fact pleading standards *Towne v Libertyville*, 190 Ill App 3d 563 567 (2d Dist 1989)

Plaintiff is attempting to allege knowledge on the part of the District through conclusory allegations Without these, Plaintiff cannot state a claim for Negligent Retention *Helfers-Beutz v Degelman* 406 Ill App 3d 264 268 (3d Dist 2010) Plaintiff must allege that the employer knew or should have known that the employee had a particular unfitness for the position so as to create a danger of harm to third persons " *Id* at 268 (quoting *Van Horne v Muller* 185 Ill 2d 299 311 (1998)) As Plaintiff's vague and conclusory pleading fails to allege that the District had knowledge of the 14 different specific factual allegations ' Count VIII must be dismissed

E Count IX for Premises Liability Must Be Dismissed Because Plaintiff Fails to Allege a Condition of the Property Caused Injury[2]

Plaintiff argues she has properly alleged a premises liability claim because she alleged Jamison s alleged conduct took place on a school bus or in the gymnasium Plt s Resp 6 Plaintiff argues *Deborah K v Sperlik*, 2005 U S Dist LEXIS 31179 (N D Ill Nov 30, 2005) supports the viability of this claim because the *Sperlik* court held a claim for premises liability had been stated under similar allegations Plt s Resp 6 *Sperlik* s holding is predicated on a common-law duty to maintain premises codified under 745 ILCS 10/3-102(a) of the Illinois Governmental and Governmental Employees Tort Immunity Act *Sperlik* 2005 U S Dist LEXIS 31179 at *13 However, relevant case law makes it clear Plaintiff's argument fails and

[2] This argument is adopted in the 2-619 section of Defendants Reply as it involves the Tort Immunity Act

that *Sperlik* does not support her claim

This is clearly articulated in *Doe v Board of Education of the Community Unit School District No 5*, 680 F Supp 2d 957 (C D Ill 2009), which stated why a claim for premises liability cannot be maintained in Illinois based on a teacher's sexual abuse of a student in a classroom rather such a claim can only be 'premised' on an unsafe condition of the property itself *Id* at 992-94 *Doe* squarely addressed Illinois law with respect to these allegations and stated plainly that *Sperlik*, an unreported case failed to discuss relevant Illinois case law on the matter *Id* at 994 This was a magistrate s report and recommendation adopted by the court on the Premises Liability issue with the court stating that the plaintiff in *Doe* had 'failed to state a Premises Liability claim *Doe v Board of Education of the Community Unit School District No 5*, 680 F Supp 2d 957 966 (C D Ill 2010)

In brief, the court in *Doe* considered the following Illinois case law to reach its conclusion[3] *Burdinie v Village of Glendale Heights*, 139 Ill 2d 501 (1990)(overruled on other grounds in *McCuen v Peoria Park District* 163 Ill 2d 125 130 (1994))(holding that no cause of action was stated under Section 3-102 where a plaintiff was injured after a command to jump into a pool because there were no allegations that the swimming pool itself was in an unsafe condition), *McCuen v Peoria Park District* 163 Ill 2d 125, 130 (1994)(holding 745 ILCS 10/3-106 of the Tort Immunity Act did not apply to the misuse of property, only the condition of said property)[4], *Nelson v Northeast Illinois Regional Commuter Railroad Corp* 364 Ill App 3d 181 (1st Dist 2006)(holding that Section 3-102 applies only to conditions of the property itself not

[3] Parentheticals are based on *Doe* s analyses of the cited cases *Doe v Board of Education of the Community Unit School District No 5*, 680 F Supp 2d 957 992-94 (C D Ill 2009)

[4] The court in *Doe* noted that *McCuen* was interpreting Section 3-106 of the Tort Immunity Act, not Section 3-102 however the court stated that *McCuen* could be seen as supporting the holding in *Burdinie* that public entities and employees have immunity from premises liability claims when the injury is caused by wrongful conduct rather than the condition of the property *Doe v Board of Education of the Community Unit School District No 5* 680 F Supp 2d 957 993 (C D Ill 2009)

activities conducted on the property) and *Lawson v City of Chicago* 278 Ill App 3d 628, 640 (1st Dist 1996)(holding there can be no premises liability for criminal acts of third persons when such acts are not facilitated by the conditions of the premises)

As *Sperlik* failed to analyze Illinois case law, which clearly holds that the District cannot be held liable for Premises Liability for the alleged conduct of Jamison Plaintiff's citation to this case does not support her claim As articulated in *Doe v Board of Education of the Community Unit,School District No 5*, 680 F Supp 2d 957 992-94 (C D Ill 2009) Illinois law clearly states Plaintiff's Premises Liability claim cannot stand,,therefore, Count IX must be dismissed with prejudice

F Plaintiff Cannot State Claims Under ANCRA as the Statute Provides No Private Right of Action

There is no private right of action under the Abused and Neglected Child Reporting Act ("ANCRA") 325,ILCS 5/1 et al Defs Mot 8 Plaintiff counters this argument by stating that the Illinois Supreme Court has not taken the opportunity to endorse case law cited by Defendants Plt s Resp 8 Plaintiff tries to support her claim with the statement that she "interprets [an accommodating comment" in a supreme court footnote] as an invitation by the Illinois Supreme Court to attempt private right of action claims under the ANCRA Plt 's Resp 8 She goes further and speculates that the Illinois Supreme Court might endorse a private right of action " Plt 's Resp 8 This is speculation not a legal argument, speculation is not enough to overcome Defendants' clearly cited case law on this topic and all counts predicated on the ANCRA must be dismissed accordingly

1 There is No Duty To Report Arising Apart from the ANCRA

Plaintiff argues,against dismissal of Counts VI through VII X through XIII and XVI through XVIII because they,are based on a duty that arises apart from the ANCRA Plt s Resp

10 Contrary to this assertion Plaintiff then admits that Counts XVI though XVIII are all in fact based on conspiracy to violate the ANCRA Plt 's Resp 10 However Plaintiff argues they should nonetheless remain because there is a private right of action under ANCRA " Plt s Resp 10 As this argument admits it is predicated on the ANCRA it must be dismissed because there is not private right of action under the statute Defs ' Mot 8-9

Plaintiff also argues that Counts X-XIII[5] are not brought under a failure to report theory, this is belied by her allegations which make each and every one of these counts completely dependent on alleged failures to report under the ANCRA Plt 's Compl Counts X ¶¶ 1-55 Count XI ¶¶ 1-49 Count XII ¶¶ 1-55, Count XIII ¶¶1-49 [6] Nevertheless Plaintiff argues that these counts "sound in negligence with a duty arising quite apart from the ANCRA Plt s Resp 10 This argument fails because no such duty exists The same is true for Counts VI (Negligent Hiring) and VII (Negligent Supervision)

As the court in *Doe-10 v White* found, there is no common law duty that requires school administrators to report suspected child abuse 627 F Supp 2d 905 919-20 (C D Ill March 3 2009)(magistrate's report and recommendation adopted by trial court in *Doe v White*, 627 F Supp 2d 905 (C D Ill March 30 2009)(overruled on other grounds *Doe v White* 2010 U S Dist LEXIS 4163, *11 (C D Ill Jan 20, 2010)) Hence the only duty to report under the ANCRA would arise under the ANCRA itself (*Id* at 920) not as Plaintiff argues "quite apart from the ANCRA " Plt s Resp 10

2 Plaintiff's IIED Claims Must Be Dismissed Because they Rely on Allegations of Failure to Report under the ANCRA

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[5] Respectively Negligence – Ministerial Act Mandated Reporting *JANE DOE-1 v Uphoff Brooks and Acklin* Negligence – Ministerial Act Mandated Reporting *JANE DOE-1 v St Joseph-Ogden District* Willful and Wanton Mandated Reporting Failures *JANE DOE-1 v Uphoff Brooks and Acklin*, and Willful and Wanton Mandated Reporting Failures *JANE DOE-1 v St Joseph-Ogden District*

[6] Counts XI and XIII are brought against the District under *respondeat superior* and therefore dependent upon liability being found in Counts X and XII

Plaintiff argues Count IV (IIED) and Count V (Respondeat Superior for Count IV) are properly pled because they are based on Defendants' intentional concealment from the Plaintiff of known threats ' Plt s Resp 11 As an initial matter, Plaintiff has alleged only in the most conclusory of fashions that any Defendant concealed anything See Defs Mot 3-4 Moreover Plaintiff argues that the Defendants violated the ANCRA as just one mechanism for causing her distress Plt 's Resp 10 This clearly runs afoul of the First District's holding in *Varela v St Elizabeth s Hospital of Chicago Inc* , 372 Ill App 3d 714 723 (1st Dist 2006) that it would be illogical to allow a plaintiff to proceed by styling a reporting act claim as a common law claim and Count IV and V should be dismissed Alternatively if this Court believes Plaintiff has alleged enough apart from her ANCRA allegations to otherwise state a claim for IIED, all allegations in Counts IV and V related to the ANCRA should be stricken

G There is no Independent Tort for Willful and Wanton in Illinois

Plaintiff argues Counts XII (Willful and Wanton Mandate Reporting Failures) and XIV (Willful and wanton Indifference to Known Sexual Harassment") are pled as negligence and that Counts XIII and XV are brought for these counts under respondeat superior Plt s Resp 11 Based on Plaintiff's argument, Counts X and XI which are brought for Negligence and Respondeat Superior with nearly identical allegations to Counts XII and XIII should be dismissed as duplicative to Counts XII and XIII

H No State Created Danger

Plaintiff argues that the Fourth District opened the door to claims for state created danger in *Doe-3 v White* 409 Ill App 3d 1087 (4th Dist 2011) and Plaintiff cites a very long block quotation from that case in support of her contention Plt s Resp 12 However the most salient part of the quotation is this "We note that the doctrine [of state created danger] has not yet been recognized by any Illinois appellate court our supreme court or the United States

Supreme Court " Plt s Resp 12 (citing *Doe-3* 409 Ill app 3d at 1100) Nowhere in *Doe-3* does the Fourth District adopt state created danger as a cause of action Moreover Plaintiff admits that the court's statements regarding state created danger were dicta ' Plt 's Resp 12 As the Fourth District itself noted, no such cause of action is recognized in Illinois

II DEFENDANTS' REPLY IN SUPPORT OF THE 2-619 SECTION OF THEIR MOTION TO DISMISS

A The District is Entitled to Section 2-201 Immunity

Defendant argues that the District is not entitled to immunity under Section 2-201 because reporting under the ANCRA is ministerial, not discretionary Plt 's Resp 14 In support, Plaintiff argues that 'sexual grooming' had been reported to Defendant Uphoff and that 'further sexual misconduct" had been reported Defendant Brooks divesting them any discretion in making a mandated report Plt s 15

At the outset, there are two fundamental flaws in Plaintiff's argument First, Plaintiff again relies on her own unsourced and very broad definition of sexual grooming ' [7] and compounds it with sexual abuse to argue 'sexual grooming' and further sexual abuse had been reported to the Defendants Plt s Resp 13 However Plaintiff's allegations do not even come close to supporting such a factual leap Only non-reportable conduct is alleged to have been reported to the Defendants Defs 'Mot 11-12 Plaintiff's infusion of the terms sexual grooming" and ' further sexual abuse does not make the allegations of what was actually reported to the Defendants more substantial than they are And Defendants were required to exercise discretion in the determination of policy in their response to what Plaintiff herself alleges was actually reported Defs Mot 11-12

Moreover Plaintiff's reliance on *Doe v Dimovsky* 336 Ill App 3d 292 (2d Dist 2003) is

[7] Found in Plaintiff's Complaint ¶ 17

strained The nature the allegations in *Dimovski* renders that case inapplicable In *Dimovsky* the Plaintiff alleged that a teacher *Dimovsky* sexually abused her when she was under 18 *Dimovsky* 336 Ill App 3d at 294 The Plaintiff in that case also alleged that *prior* to Dimovksy s sexually abusing *her*, he sexually abused *another student* That first student and her mother directly informed employees of the school board of Dimovsky s actual sexual abuse, along with other inappropriate conduct *Id* This *prior* sexual abuse was **fully reported by a victim and her mother to agents of the school board, along with other conduct specifically defined under 89 Ill Adm. Code § 300 app B as "Sexual Exploitation "** *Dimovsky* 336 Ill app 3d at 296

Given the nature of conduct that is alleged to have been reported to the Defendants in this case, the Defendants could not have notice that any of this type of reportable conduct had occurred The conduct the Defendants are alleged to have been aware of in this case simply did not constitute sexual exploitation

Moreover, *Dimovsky* clearly states **there is no reason to suspect sexual abuse when such abuse is denied by the plaintiff** *Dimovsky*, 336 Ill App 3d at 297 Specifically in distinguishing *Jane Doe I v Board of Educ* 18 F Supp 2d 954 (N D Ill 1998) which held that Section 2-201 applied to a failure to report claim, (*Id* at 962) the *Dimovsky* court stated In *Doe I*, when the rumors of sexual abuse were denied by the plaintiffs themselves **there was no reason to suspect sexual misconduct** *Dimovsky* 336 Ill App 3d at 297 (emphasis added)

In the instant case, Plaintiff has unambiguously alleged her own denial of any inappropriate conduct Plt s Compl ¶ 40 Therefore under *Dimovsky* there is no divestiture of immunity part of administrators in this case [8]

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[8] See also *Jane Doe I v Board of Educ* 18 F Supp 2d 954 (N D Ill 1998)("[T]he reporter must first determine what constitutes "suspect sexual abuse" within the meaning of the reporting act and whether such abuse likely occurred Reaching such a conclusion clearly entails the exercise of a degree of judgment and discretion Accordingly the court concludes that § 2-201 applies to plaintiffs' claims based on failure to report under the Reporting Act ") *Peck v W Aurora Sch Dist* 129 2006 U S Dist LEXIS 67145, *20 (N D Ill Aug 30

B Defendants Were Required to Determine Policy in Hiring Jamison

Plaintiff argues that the District is not afforded immunity for hiring Jamison because doing so did not require the making of policy Plt s Resp 15-16 This argument appears to be limited to Count VI and VIII for Negligent Hiring and Retention respectively First Plaintiff admits that the hiring of Jamison was discretionary Plt s Resp 16 But Plaintiff argues that the analysis in *Johnson v Mers*, 279 Ill App 3d 372 (2d Dist 1996), was incomplete, because the matter of making policy was not addressed Plt 's Resp 15 Plaintiff misinterprets *Johnson* As the court in *Johnson* clearly stated,

> In hiring a police officer there are many factors which a police department must consider and evaluate The hiring decision is not one which is made when certain specific factors are present, with no regard to the hiring officials' discretion *Id* at, 380

This is precisely what the Illinois Supreme Court identified as determining policy in *Harinek v 161 N Clark St Ltd Pshp* 181 Ill 2d 335 342 (1998) cited by Plaintiff in support of her argument Plt s Resp 16 In *Harinek*, the Court stated

> [P]olicy decisions made by a municipality" as "those decisions which require the municipality to balance competing interests and to make a judgment call as to what solution will best serve each of those interests " *Id* (quoting *West v Kirkham* 147 Ill 2d 1 11 (1992))

Clearly the hiring of a teacher involves any number of competing interests which must be balanced – including but certainly not limited to the weighing applicants qualifications and experience against District needs relate to instruction and enrollment Therefore Section 2-201 immunity is afforded to the Defendants with respect to Plaintiff's Negligent Hiring and Retention Counts

C Premises Liability

2006)(holding that the determination of whether reports of sexual abuse are credible require the exercise of discretion)

Defendants incorporate their argument in Section I Paragraph 'E' in Reply to Plaintiff's argument in support of her Premises Liability claim

D Section 3-108 Provides Immunity for Negligent Supervision Claim

Plaintiff appears to respond to Defendants' argument that Section 3-108 of the Illinois Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101 et al provides immunity for Plaintiff's Negligent Supervision claim where she states "Defendants argue that Plaintiff has not adequately pled willful and wanton conduct." Plt's Resp 17 Defendants' argument however is that Plaintiff has by rote alleged willful and wanton conduct in her Negligent Supervision claim to ward off notions of immunity under Section 3-108 Defs' Mot 14 As Defendants argue in their Motion, this is not enough to allege willful and wanton conduct Defs' Mot 14 Therefore Section 3-108 applies and the District has immunity from this claim

E Section 24-24 of the Illinois School Code Provides Defendants Immunity From Plaintiff's Negligence Counts

Plaintiff argues Section 24-24 of the Illinois School Code is inapplicable to her negligence claims because, she argues, she alleges the Defendants were negligent in allowing Jamison to continue to have contact with the Plaintiff Plt's Resp 18 This argument does not defeat Section 24-24 immunity on behalf of the Defendants As the First District held in *Doe v Lawrence Hall Youth Services* 966 N E 2d 52 (1st Dist 2012) under Section 34-84(a) of the School Code, which the court explained is identical to Section 24-24 but applicable to municipalities over 500 000 inhabitants (*Id* at n2), educators are not liable for injuries to students absent willful and wanton conduct *Id* at 59 Therefore Counts VI (Negligent Hiring) VII (Negligent Supervision) VIII (Negligent Retention), X (Negligence) XI (Negligence

Respondeat Superior) must be dismissed pursuant to Section 24-24 [9]

F Counts XVI and XVII for Conspiracy and Respondeat Superior Fail

Plaintiff argues it does not matter to her Conspiracy Count XVI that Defendants Uphoff and Acklin were not employed at the same time with the District Plt s Resp 19 However

> The elements of a civil conspiracy are (1) a combination of two or more persons, (2) for the purpose of accomplishing by some concerted action either an unlawful purpose or a lawful purpose by unlawful means, (3) in the furtherance of which one of the conspirators committed an overt tortious or unlawful act' *Fritz v Johnston* 209 Ill 2d 302 317 (2004) (citing *Adcock v Brakegate Ltd* 164 Ill 2d 54 62-63 (1994))

Given the elements of a conspiracy and the nature of Plaintiff's allegations this is simply untenable Acklin and Uphoff were not employed at the same times to enter into the alleged conspiracy Therefore this Count and Count XVII for Respondeat Superior should be dismissed

G Allegations Against Defendants for Times When They Were Not Employed By the District or in an Administrative Position Fail To Support Claims

Plaintiff also argues it is of no consequence' that allegations in Count XIV for Willful and Wanton Indifference to Known Sexual Harassment include allegations against Defendants for times when they were not employed in their positions with the District Plt s Resp 19 Plaintiff makes similar arguments related to alleged failures on the part of Defendants to take actions and Defendants alleged knowledge of events when they were not employed by the District in their respective positions Plt s Resp 19-20 These arguments are strained at best As fully argued in Defendants Motion, these allegations are unsupportable where Defendants were not employed by the District or in an administrative position Defs Mot 15-16

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[9] Plaintiff inserts single, rote allegations that Defendants' alleged conduct was willful and wanton in Counts VI (¶ 60), VII (¶ 53) and VIII (¶55) It is insufficient as a matter of law to simply insert willful and wanton into a claim and elevate the claim to one for willful and wanton conduct "When the plaintiff is alleging that the defendant engaged in willful and wanton conduct such conduct must be shown **through well-pled facts, and not by merely labeling the conduct willful and wanton** "*Thurman v Champaign Park Dist* 2011 Ill App LEXIS 820 *6 (4th Dist August 10 2011) (citing *Winfrey v Chicago Park District* 274 Ill App 3d 939 943 (1995)) (emphasis added)

WHEREFORE Defendants ST JOSEPH-OGDEN COMMUNITY HIGH SCHOOL DISTRICT 305 BOARD OF EDUCATION BRAD UPHOFF BRIAN BROOKS AND JAMES ACKLIN pray this Court enter an Order Pursuant Section 2-619 1 of the Illinois Code of Civil Procedure dismissing Counts III – XIX with prejudice, and granting any other relieve this Court deems just

Respectfully Submitted

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