

1. It is admitted that the Hamilton County Board of Education operates Ooltewah High School. All remaining allegations are denied.
2. The first grammatical sentence is admitted. All remaining allegations are denied on the grounds that this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments set forth herein and strict proof of same is hereby demanded.
3. It is admitted that the OHS boys' basketball team attended an out of town tournament in Gatlinburg. All remaining allegations are denied on the grounds that this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments set forth herein and strict proof of same is hereby demanded.
4. Presently denied on the grounds that this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments set forth herein and strict proof of same is hereby demanded.
5. It is denied that this Defendant is responsible to the Plaintiffs' under any theory of law. It is further denied that this Defendant can be subject to punitive damages under any theory of law. All remaining allegations inconsistent with the foregoing are denied.
6. It is denied that this Defendant is liable to the Plaintiffs' under any theory of law. The legal conclusion in this paragraph are neither admitted nor denied, therefore, strict proof is demanded. All remaining allegations inconsistent with the foregoing are denied.
7. Denied.

8. It is admitted that Sevier and Hamilton Counties are a part of the United States District Court for the Eastern District of Tennessee. The legal conclusion in this paragraph are neither admitted nor denied, therefore, strict proof is demanded. All remaining allegations are denied on the grounds that this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments set forth herein and strict proof of same is hereby demanded.
9. It is admitted that the Plaintiff was a student-athlete at OHS. It is admitted that at the time of the alleged incident the Plaintiff was a minor. All remaining allegations are denied on the grounds that this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments set forth herein and strict proof of same is hereby demanded.
10. Denied on the grounds that this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments set forth herein and strict proof of same is hereby demanded.
11. Admitted.
12. Admitted.
13. It is admitted that James Jarvis was the Principal OHS at the time of the alleged incidents in question. It is further admitted that Jarvis had previously coached OHS boys' football and basketball teams and was a former Athletic Director. All remaining allegations are denied on the grounds that this Defendant is without sufficient information or knowledge to form a belief as to

the truth of the averments set forth herein and strict proof of same is hereby demanded.

14. It is admitted that at the time of the alleged incidents, Jesse Nayadley was the Athletic Director of OHS. All remaining allegations are denied on the grounds that this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments set forth herein and strict proof of same is hereby demanded.
15. It is admitted that at the time of the alleged incidents in question, Andre Montgomery was the Head Coach of the OHS boys' basketball team. All remaining allegations are denied on the grounds that this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments set forth herein and strict proof of same is hereby demanded.
16. Denied.
17. Denied as to this Defendant.
18. Denied as to this Defendant.
19. Denied as to this Defendant.
20. Denied as to this Defendant.
21. Denied as to this Defendant.
22. Admitted.
23. It is admitted that Attorney Courtney Bullard was retained by the Board of Education. It is admitted that she set forth her opinions in the August 4, 2016 report. All remaining allegations inconsistent with the foregoing are denied.

24. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
25. It is admitted that the Board of Education is unaware of hazing or violence regarding the OHS girls' athletic programs. All remaining allegations inconsistent with the foregoing are denied.
26. Denied on the grounds that the allegations contained in this specially numbered paragraph are directed at someone other than this Defendant; therefore strict proof is demanded.
27. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
28. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
29. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
30. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.

31. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
32. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
33. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
34. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
35. To the extent Plaintiff seeks to establish liability by the language herein, the Defendant denied any liability. All allegations inconsistent with the foregoing are denied.
36. Denied on the grounds that the allegations contained in this specially numbered paragraph are directed at someone other than this Defendant; therefore strict proof is demanded.
37. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.

38. To the extent Plaintiff seeks to establish liability by the language herein, the Defendant denied any liability. All allegations inconsistent with the foregoing are denied. All allegations inconsistent with the foregoing are denied.
39. It is admitted that T.C.A. § 49-6-4503 is entitled Development of Policy Regarding Harassment, Intimidation, Bullying or Cyber-bullying. All remaining allegations are denied.
40. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
41. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
42. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
43. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
44. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.

45. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
46. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
47. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
48. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
49. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
50. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
51. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.

52. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
53. Denied on the grounds that the allegations contained in this specially numbered paragraph are directed at someone other than this Defendant; therefore strict proof is demanded.
54. Denied on the grounds that the allegations contained in this specially numbered paragraph are directed at someone other than this Defendant; therefore strict proof is demanded.
55. Admitted.
56. Denied on the grounds that the allegations contained in this specially numbered paragraph are directed at someone other than this Defendant; therefore strict proof is demanded.
57. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
58. Denied on the grounds that the allegations contained in this specially numbered paragraph are directed at someone other than this Defendant; therefore strict proof is demanded.
59. Denied on the grounds that the allegations contained in this specially numbered paragraph are directed at someone other than this Defendant; therefore strict proof is demanded.

60. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
61. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
62. Denied on the grounds that the allegations contained in this specially numbered paragraph are directed at someone other than this Defendant; therefore strict proof is demanded.
63. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
64. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
65. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
66. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.

67. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
68. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
69. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
70. Denied on the grounds that the allegations contained in this specially numbered paragraph are directed at someone other than this Defendant; therefore strict proof is demanded.
71. It is admitted that T.C.A. § 37-1-605 and school board policies speak for themselves. All remaining allegations inconsistent with the foregoing are denied.
72. Denied on the grounds that the allegations contained in this specially numbered paragraph are directed at someone other than this Defendant; therefore strict proof is demanded.
73. Denied on the grounds that the allegations contained in this specially numbered paragraph are directed at someone other than this Defendant; therefore strict proof is demanded.

74. Denied on the grounds that the allegations contained in this specially numbered paragraph are directed at someone other than this Defendant; therefore strict proof is demanded.
75. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
76. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
77. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
78. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
79. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
80. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.

81. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
82. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
83. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
84. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
85. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
86. Denied to the extent that the Plaintiffs would seek to impose a duty upon this Defendant that is not recognized under law. All remaining allegations are denied on the grounds that they are directed at someone other than this Defendant.
87. Denied on the grounds that the allegations contained in this specially numbered paragraph are directed at someone other than this Defendant; therefore strict proof is demanded.

88. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
89. To the extent Plaintiff seeks to establish liability by the language herein, the Defendant denied any liability. All allegations inconsistent with the foregoing are denied.
90. It is admitted that Superintendent Rick Smith informed the HCBOE about the alleged incident in Gatlinburg. All remaining allegations inconsistent with the foregoing are denied.
91. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
92. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
93. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
94. Denied on the grounds that the allegations contained in this specially numbered paragraph are directed at someone other than this Defendant; therefore strict proof is demanded.
95. Denied.

96. It is admitted that the Board maintains a policy entitled "Child Abuse and Neglect". All allegations inconsistent with the foregoing are denied.
97. Denied as to this Defendant.
98. Denied on the grounds that the allegations are directed at someone other than this Defendant, therefore strict proof is demanded.
99. Denied on the grounds that the allegations are directed at someone other than this Defendant, therefore strict proof is demanded.
100. Denied on the grounds that the allegations are directed at someone other than this Defendant, therefore strict proof is demanded.
101. Denied on the grounds that the allegations are directed at someone other than this Defendant, therefore strict proof is demanded.
102. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
103. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
104. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
105. This Defendant incorporates by reference their responses to paragraphs one through one hundred and four as if set forth herein.
106. Denied.

107. Denied as to this Defendant.
108. Denied.
109. Denied as to this Defendant.
110. Denied.
111. Denied.
112. Denied.
113. Denied.
114. Denied.
115. Denied.
116. Denied.
117. Denied.
118. Denied.
119. Denied.
120. This Defendant incorporates by reference its responses to paragraphs one through one hundred and nineteen as if set forth herein.
121. Denied.
122. Denied.
123. Denied.
124. Denied.
125. Denied.
126. Denied.

127. Denied on the grounds that the allegations in this specifically numbered paragraph are directed at someone other than this Defendant, therefore strict proof is demanded.
128. Denied as to this Defendant.
129. Denied as to this Defendant.
130. This Defendant incorporates by reference its responses to paragraphs one through one hundred and twenty-nine as if set forth herein.
131. Denied.
132. Denied.
133. Denied.
134. This Defendant incorporates by reference its responses to paragraphs one through one hundred and thirty-three as if set forth herein.
135. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
136. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
137. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.

138. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
139. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
140. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
141. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
142. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
143. Denied on grounds that this Defendant is without sufficient information or knowledge to either admit or deny the allegations and strict proof of same is hereby demanded.
144. It is denied that this Defendant is liable to the Plaintiffs under any theory of law.
145. This Defendant incorporates by reference its responses to paragraphs one through one hundred and forty-four as if set forth herein.
146. Denied as to this Defendant.

147. Denied that this Defendant is liable to the Plaintiffs under any theory of law. Further, punitive damages cannot be awarded against this Defendant under any theory of law.

GENERAL DENIAL

This Defendant would deny that the Plaintiffs are entitled to any recover under any theory of law and all allegations in the Complaint not heretofore admitted, denied or explained are now expressly denied.

AFFIRMATIVE DEFENSES

1. This Defendant would rely upon any and all immunities, whether qualified and/or absolute, and will assert that at all times this Defendant acted as reasonable and prudent school board members in good faith without deliberate indifference to Plaintiffs' constitutional rights.
2. This Defendant would assert they acted as reasonable and prudent board members in furtherance of their discretionary duties.
3. That this Defendant would rely upon any and all immunities and defenses which exists pursuant to Tennessee Code Annotated §29-20-101, et. seq., otherwise known as the Tennessee Government and Tort Liability Act. This Defendant would further rely upon the "public duty doctrine," which is recognized as common law immunity for actions of governmental officials in the furtherance of the course and scope of their employment. Therefore, the Plaintiffs may not recover from this Defendant.

4. That punitive damages may not be awarded against this Defendant on the grounds which includes those set forth in 42 §1983 and 42 U.S.C. §1988 and the Tennessee Government and Tort Liability Act.
5. This Defendant would deny that there was any deliberate indifference with regard to the minor Plaintiff by any action whatsoever by this Defendant. This Defendant would rely upon any defenses available to it under 42 U.S.C. §1983, Title IX, Tennessee Code Annotated §29-20-101 et. seq. and any and all other federal and state laws.
6. This Defendant would specifically allege that any injuries or alleged injuries sustained by the minor Plaintiff were the result of the acts the alleged perpetrators identified in Plaintiffs Complaint, K.J., J.B., and J.N, and said actions of K.J., J.B., and J.N, are the sole and proximate cause of the alleged injuries sustained by the Plaintiffs, and therefore the Plaintiffs may not recover from this Defendant. To the extent that the proof would reveal that the alleged minor perpetrators described in the Complaint were known to have a propensity to engage in the acts that are further described in the Complaint and such knowledge was known by the parents of that child, it is alleged that the sole and proximate cause of the alleged injuries sustained by the minor Plaintiff would be the actions of the parents of the minor perpetrators.
7. Should the proof reveal the same, this Defendant would specifically allege that any injuries or alleged injuries sustained by the minor Plaintiff were the result of the acts the any additional perpetrators of the alleged

incidents presently unknown to this Defendant and are the sole and proximate cause of the alleged injuries sustained by the Plaintiffs, and therefore the Plaintiffs may not recover from this Defendant.

8. Should the proof reveal the same, this Defendant would specifically allege that any injuries or alleged injuries sustained by the minor Plaintiff were the result of the acts of the minor Plaintiff and are the sole and proximate cause of the alleged injuries sustained by the Plaintiffs, and therefore the Plaintiffs may not recover from this Defendant.
9. The Plaintiffs have no legally cognizable action against this Defendant for negligent supervision.
10. Plaintiffs are not allowed to assert the theory of respondeat superior against this Defendant under 42 U.S.C. §1983. Therefore, Plaintiffs cannot recover from this Defendant.
11. Pursuant to Tennessee Code Annotated §29-20-205, Plaintiffs cannot maintain a claim for alleged intentional affliction of mental anguish or emotional distress, and therefore Plaintiffs' claims against this Defendant should be dismissed.
12. The Plaintiffs have filed state causes of actions for which this Court has no supplemental jurisdiction.
13. Should the Court determine to exercise supplemental jurisdiction, this Defendant would rely upon the doctrine of modified comparative fault to proportionately reduce any award of damages against this Defendant by

the fault apportioned to the any K.J., J.B., and J.N and any other third party not presently know to this Defendant.

14. Should the proof reveal the same, Plaintiffs' claims are barred by the statute of limitations.

Having responded to the Complaint, this Defendant seeks dismissal of this cause or, in the alternative, for Judgment for this Defendant with costs to be assessed against the Plaintiffs for which execution may issue if necessary.

RESPECTFULLY SUBMITTED,

This the 9th day of November, 2016.

Respectfully submitted,

PURCELL, SELLERS & CRAIG, INC.

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was forwarded by electronic means via the Court's electronic filing system.

s/Charles M. Purcell

Date: November 9, 2016