

**STATE OF NEW YORK
SUPREME COURT: COUNTY OF ORLEANS**

AB 511 DOE,

Plaintiff,

v.

LYNDONVILLE CENTRAL SCHOOL
DISTRICT; LYNDONVILLE ELEMENTARY
SCHOOL,

Defendants.

Index No. _____

AMENDED COMPLAINT

DEMAND FOR JURY TRIAL¹

Plaintiff, by and through Plaintiff's attorneys, states and alleges as follows:

PSEUDONYM

1. Plaintiff is authorized to file the instant action under a pseudonym and defendants are barred from disclosing Petitioner's true identity to the general public pursuant to an Amended Order of the Honorable Deborah A. Chimes, J.S.C. dated August 13, 2018 which is attached hereto.

PARTIES

2. At all times material to this Complaint, Plaintiff resided in the State of New York.
3. Whenever reference is made to any Defendant entity, such reference includes that entity, affiliates, predecessors, and successors. In addition, whenever reference is made to any act, deed, or transaction of any entity, the allegation means that the entity engaged in the act, deed, or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control, or transaction of the entity's business or affairs.

¹ Pursuant to §4 of the New York Child Victims Act, Plaintiff is entitled to a trial preference.

4. At all times material, Defendant Lyndonville Central School District (“Lyndonville C.S.D.”) was and continues to be a public-school district located in the County of Orleans and State of New York.

5. At all times material, Defendant Lyndonville Elementary School was and continues to be a public school owned, controlled, supervised, operated and managed by Defendant Lyndonville C.S.D.

6. At all times material, Terry E. Houseman was an employee of Defendant Lyndonville C.S.D.

JURISDICTION

7. This Court has jurisdiction pursuant to C.P.L.R. § 301 as Defendant Lyndonville C.S.D. is a quasi-municipal corporation created and organized by state legislatures and charged with the administration of public schools in the State of New York, including Defendant Lyndonville Elementary School, and because the unlawful conduct complained of herein occurred in New York.

8. Venue is proper pursuant to C.P.L.R. §504 in that Defendant Lyndonville C.S.D. is situated in Orleans County.

9. This complaint is brought under the Child Victims Act and, as such, the filing of a Notice of Claim is not required.

FACTS

10. At all times material, Houseman was employed by Defendant Lyndonville C.S.D. and remained under the direct supervision, employ, and control of Defendant Lyndonville C.S.D.

11. Defendant Lyndonville C.S.D. placed Houseman in positions where he had access to and worked with children as an integral part of his work. Specifically, Defendant Lyndonville

C.S.D. placed and retained Houseman at Lyndonville Elementary School as an elementary school teacher.

12. At all times material, Plaintiff was a student at Lyndonville Elementary School.

13. Plaintiff, as a minor and vulnerable child, was dependent on Defendant Lyndonville C.S.D. and Houseman. Defendant Lyndonville C.S.D. and Houseman had custody of Plaintiff and were entrusted with the safety of Plaintiff and, therefore, had responsibility for and authority over Plaintiff.

14. From approximately 1986 to 1987, when Plaintiff was approximately 11 to 12 years old, Houseman engaged in unpermitted sexual contact with Plaintiff.

15. Defendant Lyndonville C.S.D. knew or should have known that Houseman was a danger to children before Houseman sexually assaulted Plaintiff.

16. Prior to the sexual abuse of Plaintiff, Defendant Lyndonville C.S.D. learned or should have learned that Houseman was not fit to work with children. Defendant Lyndonville C.S.D., by and through their agents, servants and/or employees, became aware, or should have become aware of Houseman's propensity to commit sexual abuse and of the risk to Plaintiff's safety. At the very least, Defendant Lyndonville C.S.D. knew or should have known that they did not have sufficient information about whether or not its employees, more specifically, Houseman, were fit to work with children.

17. Defendant Lyndonville C.S.D. knew or should have known that there was a risk of the sexual abuse of children attending Lyndonville Elementary School. At the very least, Defendant Lyndonville C.S.D. knew or should have known that they did not have sufficient information about whether or not there was a risk of child sex abuse for children attending Lyndonville Elementary School.

18. Instead, Defendants negligently deemed that Houseman was fit to work with children and/or that any previous misconduct was fixed or cured and/or that Houseman would not sexually assault children and/or that Houseman would not injure children.

19. Defendant Lyndonville C.S.D. owed Plaintiff a duty of reasonable care because they had superior knowledge about the risk that Houseman posed to Plaintiff, the risk of abuse in general in its schools and/or the risks that its facilities posed to minor children.

20. Defendant Lyndonville C.S.D. owed a duty to Plaintiff to protect Plaintiff from harm because Defendant Lyndonville C.S.D.'s actions created a foreseeable risk of harm to Plaintiff. As a vulnerable child attending Lyndonville Elementary School, Plaintiff was a foreseeable victim. As a vulnerable child who Houseman had access to through his employment with Defendant Lyndonville C.S.D., Plaintiff was a foreseeable victim.

21. Defendant Lyndonville C.S.D. also breached its duty to Plaintiff by actively maintaining and employing Houseman in a position of power and authority through which Houseman had access to children, including Plaintiff, and power and control over children, including Plaintiff.

22. Defendant Lyndonville C.S.D. breached its duties to Plaintiff. Defendant Lyndonville C.S.D. failed to use ordinary care in determining whether its facilities were safe and/or determining whether it had sufficient information to represent its facilities as safe. Defendant Lyndonville C.S.D.'s breach of its duties include, but are not limited to: failure to protect Plaintiff from a known danger, or reasonably foreseeable failure to have sufficient policies and procedures to prevent child sex abuse, failure to properly implement policies and procedures to prevent child sex abuse, failure to take reasonable measures to make sure that policies and procedures to prevent child sex abuse were working, failure to adequately inform families and children of the risks of

child sex abuse, failure to investigate risks of child sex abuse, failure to have any outside agency test its safety procedures, failure to protect the children attending its programs from child sex abuse, failure to adhere to the applicable standard of care for child safety, failure to investigate the amount and type of information necessary to represent the school and its employees as safe, failure to train its employees properly to identify signs of child sexual abuse by fellow employees, and failure to engage or timely engage certified mental health professionals.

23. Defendant Lyndonville C.S.D. also breached its duty to Plaintiff by failing to warn Plaintiff and Plaintiff's family of the risk that Houseman posed. Defendant Lyndonville C.S.D. further failed to warn Plaintiff and Plaintiff's family of Defendant Lyndonville C.S.D.'s knowledge of the occurrence of child sexual abuse.

24. Defendant Lyndonville C.S.D. and/or its other agents violated their legal duty by failing to report known and/or suspected abuse of children by Houseman to law enforcement.

25. As a direct result of Defendants' negligence, Plaintiff has suffered, and will continue to suffer, great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation and/or physical, personal and psychological injuries. Plaintiff was prevented, and will continue to be prevented, from performing normal daily activities and obtaining the full enjoyment of life; and/or has incurred and will continue to incur expenses for psychological treatment, therapy, and counseling, and, on information and belief has and/or will incur loss of income and/or loss of earning capacity.

AS AND FOR A FIRST CAUSE OF ACTION:
NEGLIGENCE

26. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count.

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