

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF RENSSELAER

-----X  
T.T.,

Plaintiff,

**SUMMONS**

-against-

Index No. \_\_\_\_\_

HOOSIC VALLEY CENTRAL SCHOOL DISTRICT,

Defendants.

-----X

To the above-named Defendant(s)

HOOSIC VALLEY CENTRAL SCHOOL DISTRICT – 2 Pleasant Avenue, Schaghticoke, NY 12154

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff’s attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The venue and location for trial is Rensselaer County. The basis of venue is where the cause of action arose.

Dated: New York, NY  
August 9, 2021

HERMAN LAW

By  \_\_\_\_\_  
Jeff Herman, Esq.  
c/o Herman Law  
Attorney for Plaintiff  
434 W. 33<sup>rd</sup> Street  
Penthouse  
New York, NY 10001  
(212) 390-0100

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF RENSSELAER

-----X  
T.T.

Plaintiff,

**COMPLAINT**

-against-

Index No. \_\_\_\_\_

HOOSIC VALLEY CENTRAL SCHOOL DISTRICT,

Defendant.

-----X  
TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, T.T., by and through undersigned counsel, respectfully shows to this Court and alleges as follows:

**INTRODUCTION**

1. This is a revival action arising from child sexual abuse brought pursuant to the New York Child Victims Act, CPLR § 214-g. As a minor, the Plaintiff was sexually abused and assaulted as a public school student.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff, T.T., is a citizen and resident of the State of New York. Plaintiff brings this Complaint using a pseudonym because of the sensitive nature of the allegations of child sexual abuse in the Complaint, which is a matter of the utmost intimacy. Plaintiff fears embarrassment and further psychological damage if Plaintiff's identity as a victim of child sexual abuse were to become publicly known.

3. Defendant, HOOSIC VALLEY CENTRAL SCHOOL DISTRICT (hereinafter, "DISTRICT"), is a public school district with a principal place of business located at 2 Pleasant Avenue, Schaghticoke, New York 12154. At all times relevant and material hereto, Defendant

DISTRICT owned, operated, controlled, managed, inspected and/or maintained HOOSIC VALLEY CENTRAL SCHOOL (hereinafter, "SCHOOL").

4. At all times relevant and material hereto, JACK SCERBO (hereinafter "PERPETRATOR") was an employee and/or agent of the Defendants and worked at the SCHOOL.

5. This Court has subject matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

6. Personal jurisdiction lies over Defendants as they are present and domiciled in the State of New York and/or transacts business within the State of New York and/or regularly solicits business in the state of New York and/or otherwise falls within the jurisdiction of the Court pursuant to CPLR § 302.

7. Venue of this action lies in Rensselaer County as a substantial part of the events or omissions giving rise to the claim occurred in Rensselaer County and/or one or more of the Defendants resides in Rensselaer County.

8. The amount in controversy exceeds the jurisdictional limit of all lower courts.

### **DUTY**

9. At all times relevant and material hereto, the Defendants and Plaintiff were in a special relationship of school-student, in which the Defendants owed Plaintiff a duty of reasonable care to protect Plaintiff from foreseeable harms on school grounds and during school-related activities.

10. Defendants had a duty to act as a reasonably prudent parent would in the circumstances. In this regard Defendants owed a duty *in loco parentis* to the Defendants' students, including Plaintiff.

11. At all times relevant and material hereto, the Defendants and PERPETRATOR were in a special relationship of employer-employee, in which the Defendants owed a duty to control the acts and conduct of PERPETRATOR to prevent foreseeable harm.

12. The Defendants owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being, and health of Plaintiff while under the care, custody or in the presence of the Defendants. The Defendants' duties encompassed using reasonable care in the retention, supervision and hiring of PERPETRATOR and the duty to otherwise provide a safe environment for Plaintiff.

13. At all material times, Defendants owned a duty to use reasonable care to protect the health, safety, care, and well-being of the minor Plaintiff while under the care, custody or in the presence of the Defendants. These duties encompassed the protection and supervision of Plaintiff, and otherwise providing a safe environment for Plaintiff while on school premises.

14. The Defendants had a duty to exercise reasonable care in the training of teachers, administration, employees, and staff, including PERPETRATOR, in the prevention of sexual abuse and protection of the safety of students in their care.

15. The Defendants had a duty to establish and implement policies and procedures in the exercise of reasonable care for the prevention of sexual abuse and protection of the safety of the students in their care.

#### **BACKGROUND AND SEXUAL ASSAULTS OF PLAINTIFF**

16. At all times relevant and material hereto, Plaintiff was a student at the SCHOOL.

17. At all times relevant and material hereto, PERPETRATOR was an employee, agent and/or independent contractor over eighteen (18) years of age, employed by the Defendants and assigned to the SCHOOL.

18. In approximately 1982, when Plaintiff was about twelve (12) years old, he was regularly and repeatedly sexually assaulted by PERPETRATOR, his sixth grade science teacher at SCHOOL. The acts of sexual abuse and assault perpetrated against Plaintiff by PERPETRATOR took place at the school, in PERPETRATOR's classroom and in the restroom approximately twice per week for the duration of the school year.

19. The acts of sexual assault and abuse perpetrated by PERPETRATOR against Plaintiff included conduct which constitutes a sexual offense on a minor as defined in Article 130 of the New York Penal Law or the use of a child in a sexual performance as defined in § 263.05 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of sexual intercourse) (N.Y. Penal Law §§ 130.25 - 130.35); criminal sexual act (consisting of oral or anal sexual conduct) (N.Y. Penal Law §§ 130.40 - 130.53), and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 - 130.77).

#### **NOTICE – FORESEEABILITY**

20. Upon information and belief, PERPETRATOR was at all relevant times a serial sexual predator who sexually assaulted and abused Plaintiff and other students during his employment by the Defendant DISTRICT at the SCHOOL.

21. At all relevant times, Defendant DISTRICT knew, or in the exercise of reasonable care should have known, that PERPETRATOR had a propensity for the conduct which caused injury to Plaintiff, particularly that he had a propensity to engage in the sexual abuse of children.

22. At all relevant times, it was reasonably foreseeable to Defendant DISTRICT that PERPETRATOR would commit acts of child sexual abuse or assault on a child.

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.