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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND – *Northern Division***

L.J., AS PARENT AND NEXT FRIEND
OF T.G., A MINOR,
c/o Bryan J. Chant, Esquire
923 North Calvert Street
Baltimore, Maryland 21202

Plaintiffs,

v.

BALTIMORE CURRICULUM PROJECT,
INC. d/b/a CITY SPRINGS
ELEMENTARY SCHOOL,
Serve On: Laura Doherty
111 South Calvert Street, Suite 2300
Baltimore, Maryland 21202

BALTIMORE CITY BOARD OF
SCHOOL COMMISSIONERS,
Serve On:
Sonja Santelises
200 E. North Avenue
Baltimore, Maryland 21202

LAURA DOHERTY, INDIVIDUALLY
AND IN HER OFFICIAL CAPACITY AS
CHIEF EXECUTIVE OFFICER OF
BALTIMORE CURRICULUM PROJECT,
111 South Calvert Street, Suite 2300
Baltimore, Maryland 21202

RHONDA RICHETTA INDIVIDUALLY
AND IN HER OFFICIAL CAPACITY AS
PRINCIPAL OF CITY SPRINGS
ELEMENTARY SCHOOL
Serve:
100 S. Caroline Street
Baltimore, Maryland 21231

COMPLAINT

Civil Rights Violations

Jury Trial Demanded

1
2
3 and

4
5 TIMOTHY KORR

6 **Serve:**

7 1225 Garden Court

8 Quakerstown, Pennsylvania 18951

9
10 Defendants.

11
12 Plaintiffs L.J. as Mother and Next Friend of T.G., a Minor, hereby brings suit
13 against Defendants Baltimore Curriculum Project, Inc. d/b/a City Springs Elementary
14 School; Baltimore City Board of Schools Commissioners; Laura Doherty, Individually
15 and in her Official Capacity as Chief Executive Officer of Baltimore Curriculum Project;
16 Rhonda Richetta, Individually and in her Official Capacity as Principal of City Springs
17 Elementary School; and Timothy Randall Korr and herein states and alleges as follows:

18 **INTRODUCTION**

- 19 1. "I am writing to remind you that the Federal civil rights laws, regulations, and
20 guidance that apply to charter schools are the same as those that apply to other
21 public schools. For this reason, it is essential that charter school officials and staff
22 be knowledgeable about Federal civil rights laws. These laws extend to all
23 operations of a charter school, including recruiting, admissions, academics,
24 educational services and testing, school climate (including prevention of
25 harassment), disciplinary measures (including suspensions and expulsions),

1 athletics and other nonacademic and extracurricular services and activities, and
2 accessible building and technology.” Catherine E. Lhamon, Assistant Secretary for
3 Civil Rights, U.S. Department of Education, DEAR COLLEAGUE LETTER: CHARTER
4 SCHOOLS (May 14, 2014).

- 5 2. This action arises out of the unconstitutional operation of charter schools in
6 Baltimore City which created an environment which allowed Timothy Randall
7 Korr, a twenty-five year-old school tutor, to brutally attack T.G., a disabled seven
8 year-old child at City Springs Elementary School while T.G. was physically
9 restrained in such a fashion to entirely eliminate T.G.’s ability to care for himself.
10 After smashing T.G.’s face into the wall, Korr then concocted various lies about
11 what had truly happened even though the entire incident was captured on CCTV.
12 Principal Rhonda Richetta then conspired with Korr to conceal the true nature of
13 the attack on T.G. by attempting to influence Baltimore City School Police into
14 abandoning its investigation immediately after showing the CCTV surveillance to
15 the officer. Some of these lies ended up being published internationally in a
16 campaign by some or all of the defendants to conceal the truth, and later on, to
17 attempt to mitigate the first degree child abuse charge Korr was facing in the
18 Circuit Court of Maryland for Baltimore City.
- 19 3. T.G. suffered a fractured jaw, three fractured teeth, a concussion, and post-
20 traumatic stress disorder.



Figure 1

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4 4. Plaintiffs seek to vindicate T.G.'s constitutional right to be free from unlawful
5 search and seizure, from a deprivation of his due process rights, and his bodily
6 integrity from both government actors and the government. This suit also seeks
7 to vindicate T.G.'s state tort claims of negligence, battery, defamation, and
8 vicarious liability.

9 **JURISDICTION AND VENUE**

10 5. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331
11 because a significant portion of Plaintiffs' claims arising under the Constitution,
12 law or treaties of the United States.

13 6. This Court has supplemental jurisdiction over Plaintiffs' state tort claims pursuant
14 to 28 U.S.C. § 1367 because they are so related to the claims in the action within

1 such original jurisdiction that they form part of the same case or controversy under
2 Article III of the United States Constitution.

- 3 7. Venue is proper in this District because a substantial part of the events or
4 omissions giving rise to the claim occurred in this judicial district. 28 U.S.C. §
5 1391(b)(2).

6 **FACTS COMMON TO ALL COUNTS**

- 7 8. Plaintiff L.J. was and is the mother and natural guardian of T.G., a Minor.
- 8 9. Plaintiff T.G. was a seven (7) year-old disabled child who was a first-grader at City
9 Springs Elementary School in November 2016. T.G. suffered from numerous
10 challenges including:
- 11 a. Intellectual disability due to a tested intelligence quotient of 61;¹
 - 12 b. Attention Deficit Hyperactivity Disorder (ADHD); and
 - 13 c. Becoming easily upset.
- 14 10. Defendants knew of T.G.'s special needs and provided him an individualized
15 educational program (IEP) before the incident which is the subject of this lawsuit.
- 16 11. The true identities of these individuals are well known to all defendants.
- 17 12. Defendant Laura Doherty (hereinafter, "Doherty") is, and was at all times
18 material, the Chief Executive Officer of Baltimore Curriculum Project, Inc. Doherty

¹ The Diagnostic and Statistical Manual version 5 defines intellectual disability as an IQ score of approximately 70 or below. DSM-5 Intellectual Disability Fact Sheet, AM. PSYC. ASSOC. (2013).

1 was ultimately responsible for the conduct and operations of all BCP charter
2 schools, including City Springs Elementary School, during the 2016-2017 school
3 year.

4 13. Defendant Rhonda Richetta (hereinafter, "Richetta") is, and was at all times
5 material, the Principal at City Springs Elementary School. Richetta was ultimately
6 responsible for the conduct of staff and the day-to-day operations at City Spring
7 Elementary School.

8 14. Defendant Baltimore City Board of School Commissioners (hereinafter, "BCBSC")
9 is a government entity created by state law for the purpose of raising the level of
10 academic achievement of the students in the Baltimore City Public School System
11 and to improve the management and administration of the public school system
12 in Baltimore City. MD. EDUC. § 4-303(b)(1)-(2). Defendant BCBCS is required to
13 maintain a system of free public schools in Baltimore City. MD. EDUC. § 4-302.

14 15. Defendant Baltimore Curriculum Project Inc. (hereinafter, "BCP") is a non-profit
15 corporation founded in 1996. BCP is the largest charter operator in Maryland. BCP
16 operates charter schools in the City of Baltimore such as City Springs Elementary,
17 Frederick Elementary School, Govans Elementary School, Wolfe Street Academy
18 and others. BCP is entrusted with children from the City of Baltimore pursuant to
19 the Maryland Public Charter School Program. *See* MD. EDUC. § 9-101(a). The
20 purpose of the Program is to establish an alternative means **within the existing**

1 **public-school system** in order to provide innovative learning opportunities and
2 to improve the education of students. *Id.* at § 9-101(b).

3 16. A public charter school is a public school that is *inter alia* entirely non-sectarian, is
4 a new public school or conversion of an existing public school, is tuition-free, and
5 operates under the supervision of the public chartering authority. MD. EDUC. § 9-
6 102.

7 17. A public charter school is entitled to receive an amount of county, State, and
8 federal money for elementary, middle, and secondary students that is
9 commensurate with the amount disbursed to other public schools in the local
10 jurisdiction. MD. EDUC. § 9-102(b).

11 18. A public charter school is required to comply with all provisions of law and
12 regulations relating to the health, safety, and civil rights of its students. MD. EDUC.
13 § 9-106(d)(3).

14 19. Under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400, *et*
15 *seq.*, the federal government provides funds to the states and, in exchange, states
16 must provide special education and related services to students with disabilities.

17 20. BCBSC is the chartering authority for public charter schools in the City of
18 Baltimore. MD. EDUC. § 9-103.

19 21. BCBSC and its charter schools claim that they promote “conflict resolution,” which
20 is defined as, “Conflict resolution empowers students to take responsibility for

1 peacefully resolving conflicts. The student, parent, school staff, and/or
2 administrator engage in activities that promote problem solving, skills and
3 techniques, such as conflict and anger management, active listening, and effective
4 communication.” (Student Discipline Policy JKA, page 2 of 8.)

5 22. BCBSC and its charter school claims that “[s]chool personnel are required to use
6 an array of positive behavior interventions, strategies, and supports to increase or
7 decrease targeted student behaviors.” (Student Discipline Policy JKA, page 7 of
8 8.)

9 23. The policies and procedures authorize draconian discipline such as
10 (Administrative Regulation JKA-RA):

- 11 a. Separation;
12 b. Physical Restraint; and
13 c. Seclusion.

14 24. The policies and procedures applicable to the defendants during the 2016-2017
15 school year do not address de-escalation techniques even though the need for de-
16 escalation techniques were well known to the defendants.

LEVEL 1 // CLASSROOM INTERVENTIONS AND RESPONSES

These interventions aim to teach correct and alternative behavior so students can learn and demonstrate safe and respectful behavior. Teachers are encouraged to try a variety of teaching and classroom management strategies.

- Contact parent via telephone, email, or (if permission to do so has been secured) text message
- Verbal correction
- Reminders and redirection (e.g., role play)
- Written reflection or apology
- Seat change
- Parent or guardian conference
- Daily progress sheet on behavior
- Establish buddy teacher system
- Classroom system of positive reinforcement
- Teacher or student conference
- Detention (before or after school)

17
18 *Figure 2*

1 25. The defendants recognized that a lack of training regarding de-escalation can
 2 result in dangerous abuse. *See* DE-ESCALATION FOR LAW ENFORCEMENT, Baltimore
 3 City School Police Department (2016), p. 3. In fact, in 2016, the defendants began
 4 their de-escalation training with the following quote: “The greater the power, [t]he
 5 more dangerous the abuse. – Edmund Burke”

6 26. By 2018, the defendants publicly acknowledged the need for de-escalation
 7 training. On or about December 13, 2018, Defendant Sonja Santelises told a
 8 reporter, in a videotaped interview, from WBAL-TV that teachers wanted de-
 9 escalation training. This training was supported by the president of the Baltimore
 10 Teacher’s Union who stated, “As a special educator, I had that training. It’s very
 11 important that you know how to de-escalate a situation because when children
 12 come to school, many of them are coming with trauma.”²

13 27. The defendants admit the need for de-escalation techniques and, in fact,
 14 incorporated it into the 2019-2020 Student Code of Conduct as follows:

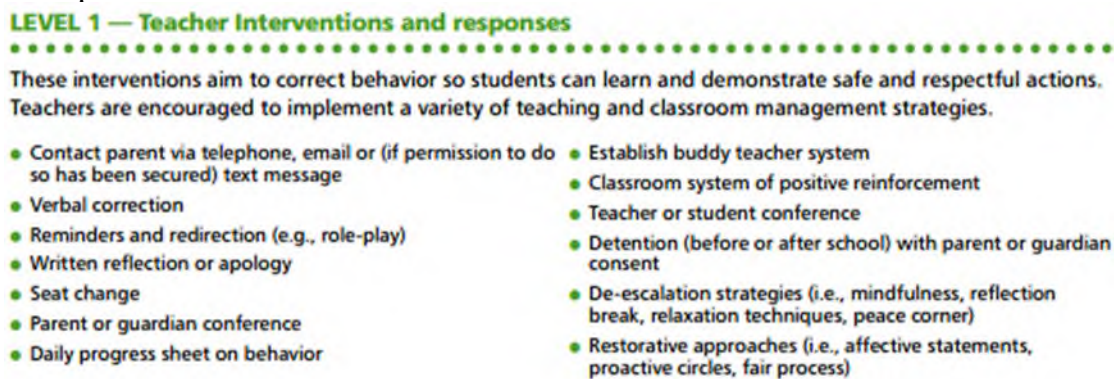


Figure 3

² *Baltimore City schools to provide de-escalation training to staff*, BALTIMORE SUN (Dec. 13, 2018).

1 28. The defendants knew of the importance of de-escalation techniques but ignored
2 the need for those policies to be implemented in the schools. Specifically, in,
3 BCBSC provided de-escalation training to school police but not to teachers and
4 staff. DE-ESCALATION FOR LAW ENFORCEMENT, Baltimore City School Police
5 Department (2016), p. 10.

6 29. BCP, BCBSC, and City Springs Elementary School operate under color of law by
7 and through the provision of taxpayer funded compulsory public education
8 services, a traditional state function.

9 **THE INCIDENT**

10 30. On November 28, 2016, T.G. was seven (7) years old and was a first grader at City
11 Springs Elementary School in the City of Baltimore, Maryland.

12 31. Defendant Korr was summoned to escort T.G. to the principal's office because T.G.
13 was experiencing behavioral difficulties. Korr began walking T.G. down the
14 hallway when he picked T.G. up and slung him over his shoulder like a sack of
15 potatoes. Korr then walked down the hallway towards the stairwell.

16 32. T.G. resisted briefly but because Korr was much larger and stronger, T.G.
17 submitted. T.G. then submitted and laid motionless and he was carried by Korr
18 down the hallway over his shoulder. Korr then continued until he reached the
19 floor's stairwell landing.

- 1 33. Two adults, whom are believed to be agents or employees of BCP/BCBSC,
2 observed Korr carrying T.G. like a sack of potatoes and did not react.
- 3 34. Two adults, whom are believed to be agents or employees of BCP/BCBSC,
4 observed Korr carrying T.G. like a sack of potatoes and failed to intervene.
- 5 35. Korr then walked down to, upon information and belief, the first-floor stairwell
6 landing. Korr then goes beserk, losing all sense of self-control, and then grabs T.G.
7 with both hands from his shoulder, shifts all of his weight, and then smashes T.G.'s
8 face into the wall.
- 9 36. An older Caucasian man witnessed the incident wherein Korr smashes T.G.'s face
10 into the wall.
- 11 37. Upon information and belief, the older Caucasian man was an agent or employee
12 of BCP/BCBSC based upon *inter alia* a worn visible badge.
- 13 38. The older Caucasian man failed to investigate why T.G.'s face was being smashed
14 into the wall by Korr.
- 15 39. The older Caucasian man failed to render aid to T.G. after T.G. had his face
16 smashed into the wall by Korr.
- 17 40. The older Caucasian man then left the vicinity despite the presence of a seriously
18 injured child.
- 19 41. T.G. instantly went limp and was unresponsive after being smashed into the wall.

1 42. After smashing T.G.'s face into the wall, Korr then picked up T.G. and continued
2 down the stairs to the basement. As he was carried to the basement, T.G.'s feet
3 and head swung freely, and his head rocked back and forth, giving the appearance
4 that T.G. was unconscious.

5 43. Upon information and belief, as Korr is carried T.G.'s motionless body to the
6 principal's office, Korr begins to contemplate various false statements that he
7 would tell other school staff in an effort to conceal his odious conduct. These false
8 statements are described *infra*.

9 44. Baltimore City Police Department investigated this incident. In his sworn
10 Application for Statement of Charges, Detective Hunsicker outlined the incident.

11 45. Baltimore City Police Department issued a public statement through its
12 representative T.J. Smith who described the video as follows:

- 13 a. The video does show [Korr] carrying the child and slamming him up
14 against the wall, and it's very difficult to watch.”
- 15 b. “We cringed a number of times as we watched the video.”
- 16 c. Mr. Smith stated that the video showed T.G.'s body go limp.
- 17 d. No other faculty or staff were seen in the video, but other children were
18 present.

1 e. "It showed an assault, and it showed this 7-year-old boy in school being
2 slammed about by this 25-year-old man, and I'm being nice by calling him
3 a 25-year-old man."

4 f. Mr. Smith called the video "disgusting."

5 46. Defendant BCP, Richetta, and other presently unknown individuals, then engaged
6 in efforts to conceal the true nature and extent of Korr's conduct from L.J., T.G.'s
7 medical providers, the police, and the public at large by and through the following
8 acts:

9 a. Falsely claiming that Korr had lost his footing;

10 b. Falsely claiming that T.G. "hit himself" on the wall;

11 c. Falsely claiming that T.G. had brought a gun to school and was brandishing
12 the gun;

13 d. Falsely telling paramedics that T.G. was in possession of a gun;

14 e. Directly or indirectly falsely notifying Johns Hopkins Hospital that the
15 incident involved T.G. having a gun.

16 47. T.G. did not have a gun in his possession.

17 48. Defendant Richetta did not tell Detective Hunsicker that T.G. was in possession of
18 a gun at the time of the incident.

19 49. Defendants knew that Korr's claim that T.G. was in possession of a gun was false
20 because there was no gun recovered from T.G.

1 50. These false statements were republished by major news organizations nationally
2 and internationally such as:

- 3 a. Associated Press;
- 4 b. Baltimore Sun;
- 5 c. CNN;
- 6 d. Daily Mail (United Kingdom);
- 7 e. Fox Baltimore;
- 8 f. Fox 5 (Washington, DC);
- 9 g. Fox 23 (Tulsa, Oklahoma);
- 10 h. Sioux Land News (South Dakota);
- 11 i. WBAL;
- 12 j. WMAR; and
- 13 k. WTOP.

14 51. Defendant Richetta personally attempted to conceal the true nature and extent of
15 Korr's conduct from the public by lying to police officers investigating the
16 incident. Specifically, on November 28, 2016, Police Officer J. Seay responded to
17 City Springs Elementary School. Defendant Richetta told police that T.G. hit
18 himself on the wall while a staff member was holding him in his arms. After the
19 police officer viewed the surveillance of the incident **with Defendant Richetta**,
20 Richetta doubled down on her false statements by making "multiple [remarks]

1 that the adult male (identified as Tim Korr (tutor)) fell down the steps or lost his
2 footing and the student identified as [T.G.] throw (sic) himself into that wall.”

3 After this officer viewed the school surveillance with Dr. Richetta (Principal), and Ms. Kellie McGuire (HomeroomTeacher) the
4 principal made multiple remarkers that the adult male (identified as Tim Korr (tutor)) fell down the steps or lost his footing and the
5 student identified as [REDACTED] throw himself into that wall. This officer responded to John Hopkins University Pediatrics

6 Figure 4

7 52. Upon information and belief, Defendant’s Richetta’s motive for attempting to
8 obstruct justice was based upon:

- 9 a. An attempt to preserve her own employment in light of the complete chaos
10 and disorder at City Springs Elementary School;
- 11 b. An attempt to garner favor or preserve BCP’s relationship with Defendant
12 BCBSC, which was in the midst of defending a lawsuit entitled Southwest
13 Baltimore Charter School, Inc. v. Baltimore City Board of School
14 Commissioners, which was filed in the Circuit Court of Maryland for
15 Baltimore City. The substance of that lawsuit was a funding dispute
16 between numerous other charter schools and Defendant BCBSC.

17 53. Instead of coming to the support of T.G., a special needs child whom was entrusted
18 to City Springs Elementary School, Defendant BCP drafted – “collectively” by the
19 school’s staff – a public statement, which was published in part by the Baltimore
20 Sun, further attempting to conceal Korr’s odious conduct. The statement reads, in
part: “The children whose lives he touched are devastated by the way in which he

1 is being portrayed to the public and by his absence now at our school, as are we.

2 There has been tremendous outpouring of love, support and disbelief this week

3 by students and parents who know him well. **It is very difficult for us to believe**

4 **that Mr. Korr would ever intentionally hurt a child.**

5 54. Further, the public statement made by City Springs Elementary School also stated

6 that “we cannot sit by silently as his character is so horribly misrepresented to the

7 public.”

8 55. After being charged with felony child abuse, Defendant Korr entered an Alford

9 plea wherein he continued to deny his guilt but conceded that a guilty verdict was

10 likely. At his sentencing hearing, City Springs Elementary School staff members

11 filled the Courtroom wearing purple shirts and cried as Korr was sentenced. Upon

12 information and belief, 42 people submitted letters on Korr’s behalf.

13 56. No staff member sat with L.J. or provided comfort as the felon who assaulted her

14 child was sentenced. In fact, staff members largely ignored L.J. as they publicly

15 championed a convicted child abuser.

16 57. In his defense, Korr stated “I honestly was trying to do my job in protecting the

17 students.”

18 **POLICIES**

19 58. The chaos and disorder at City Springs Elementary School was, or should have

20 been, well known to all the defendants. Defendants knew or should have known

1 for the need for appropriate training in managing children with behavioral
2 difficulties and de-escalating behavioral emergencies.

3 59. The defendants knew or should have known of pervasive behavioral problems in
4 the school such as lack of respect by students, fighting, bullying, and roaming the
5 halls. In addition, the defendants knew or should have known of inconsistent
6 consequences for rule breaking. This was verified by a school survey during the
7 2016-2017 year as follows:

- 8 a. Lack of Respect: 71% of responsive students raising concern;
- 9 b. Fighting: 85% of responsive students raising concern and 62% of staff
10 raising concern;
- 11 c. School Bullying: 82.8% of responsive students raising concern and 66% of
12 staff raising concerns;
- 13 d. Roaming the Hall: 82.7% of responsive students raising concern and 64%
14 of responsive staff raising concern; and
- 15 e. Unfair Consequences for Rule Breaking: 62% of responsive teachers raising
16 concerns.

17 60. In 2015, the year before the Korr incident, the defendants were on actual notice
18 that:

- 19 a. Only 35.2% of students reported respecting each other;

1 b. 43% of elementary school city wide students reporting that bullying was a
2 problem; and

3 c. Other information to be determined.

4 61. In 2016, the defendants suspended or expelled students on 8,513 different
5 occasions. In light of the total student enrollment of 82,354, the rate of suspensions
6 or expulsions occur in 1 every 10 students.

7 62. In response to the criminal investigation into this incident, Defendant Richetta
8 falsely stated that school policy was that teachers are not to handle, carry, or
9 pickup students regardless of the situation.

10 63. Defendant Richetta did not notify Detective Hunsicker of the Baltimore City Police
11 Department that there was any type of policy concerning staff de-escalation or
12 training regarding de-escalation.

13 64. Upon information and belief, de-escalation training was not brought to Baltimore
14 City Schools until 2019.

15 65. De-escalation tactics include, but are not limited to:

16 a. Listening;

17 b. Empathy;

18 c. Refocusing;

19 d. Distraction; and

20 e. Motivation.

1 66. Upon information and belief, the defendants knew or should have known for the
2 need of de-escalation training as evidenced by the fact that Defendant BCBSC had
3 received "Conflict De-escalation & Management Training for Baltimore City
4 School Resource Officers/Police and School Administration" by and through the
5 University of Maryland School of Social Work during the 2016-2017 school year.

6 67. In May 2012, the United States Department of Education published a document
7 entitled, "Restraint and Seclusion: Resource Document." This publication notified
8 schools, including defendants, that, *inter alia*:

9 a. "Every effort should be made to prevent the need for the use of restraint
10 and for the use of seclusion";

11 b. "Restraint or seclusion should never be used as punishment or discipline
12 (e.g. placing in seclusion for out-of-seat behavior), as a means of coercion
13 or retaliation, or as a convenience."

14 c. "Any behavioral intervention must be consistent with the child's rights to
15 be treated with dignity and to be free from abuse."

16 d. "Every instance in which restraint or seclusion is used should be carefully
17 and continuously and visually monitored to ensure the appropriateness of
18 its use and safety of the child, other children, teachers, and other
19 personnel."

1 68. Restraint or seclusion should not be used (1) as a form of punishment or discipline
2 (e.g., for out-of-seat behavior); (2) as a means to coerce, retaliate, or as a
3 convenience for staff; (3) as a planned behavioral intervention in response to
4 behavior that does not pose imminent danger of serious physical harm to self or
5 others; or (4) in a manner that endangers the child.

6 **AFFIRMATIVE ALLEGATIONS**

7 69. **Statutory Notice.** On December 22, 2016, Defendant Baltimore City Board of
8 School Commissioners were timely placed on notice pursuant to the Maryland
9 Local Government Tort Claims Act and/or Maryland Tort Claims Act. On January
10 4, 2017, Baltimore City Board of School Commissioners acknowledged the claim
11 via written letter and indicated that the matter would be referred to the Central
12 Bureau of Investigation.

13 70. **Statutory Notice.** On January 17, 2016, L.J. placed Baltimore Curriculum Project
14 on notice of this claim within the time periods set forth in the Maryland Local
15 Government Tort Claims Act and/or Maryland Tort Claims Act.

16 71. **Charitable Immunity.** Plaintiffs affirmatively allege that charitable immunity is
17 inapplicable to Plaintiffs' state tort claims because BCP's charter agreement
18 requires commercial general insurance in the amount of \$1,000,000 per occurrence
19 with a \$2,000,000 umbrella policy; said policy, upon information and belief, also

1 contains \$250,000 liability insurance for acts constituting sexual and/or physical
2 abuse.

3 72. **Release.** Defendant Korr was ordered to pay restitution to the Plaintiffs in
4 connection of this matter. It is well established that restitution judgments do not
5 bar subsequent civil actions.

6 73. **Statute of Limitations.** Plaintiffs affirmatively allege that all state tort statutes of
7 limitation are tolled due to minority pursuant to Maryland Courts and Judicial
8 Proceedings Article 5-201(a).

9 74. **11th Amendment.** The Eleventh Amendment to the United States Constitution
10 does not bar this action relative to Defendant Baltimore Curriculum Project, Inc.
11 and its agents because Baltimore Curriculum Project Inc. is not a governmental
12 entity or agency.

13 **COUNT I – CIVIL RIGHTS VIOLATION**

14 Plaintiffs v. Defendant Timothy Randall Korr
15 42 U.S.C. § 1983 – Unlawful Seizure & Excessive Force
16 Maryland Declaration of Rights, Article 24, 26
17

18 75. Plaintiff incorporates herein by reference the allegations set forth *supra*.

19 76. Defendant Korr is employed by Defendant Baltimore Curriculum Project, Inc.

20 77. At all times material, T.G. had the right to be secure in his person and to be free
21 from unreasonable searches and seizures under the Fourth Amendment to the
22 United States Constitution and enforceable against the States through the Due
23 Process Clause of the Fourteenth Amendment.

1 78. Defendant Korr by acting as a public charter school employee acted under color of
2 state law in the course and scope of his employment at all times material.

3 79. Defendants are “persons” within the definition of the Federal Civil Rights Act and
4 are required to act pursuant to the requirements expressed therein.

5 80. While acting under color of state law, Defendant Korr violated T.G.’s right to be
6 free from unreasonable seizures by restraining T.G. over Korr’s shoulder and by
7 throwing T.G. against a wall causing *inter alia* the injuries depicted in Figure 1.

8 81. Defendant Korr’s attack on T.G. was manifestly unreasonable and illegal and
9 constitutes excessive force.

10 82. T.G. had a clearly established constitutional right under the Fourteenth
11 Amendment to his bodily integrity and to be free from excessive force by state
12 actors, such as Korr.

13 83. Any reasonable school employee knew or should have known of these rights.

14 84. Plaintiffs reallege and incorporate herein by reference the allegations contained in
15 this Count and assert that the conduct also violates the Maryland Declaration of
16 Rights.

17 85. As a direct and proximate result of Korr’s conduct, Plaintiffs were caused to suffer
18 severe, painful, and permanent injuries to mind and body, was caused to seek
19 medical care and attention for said injuries, incurred medical bills and expenses
20 for said treatment, and was otherwise damaged.

COUNT II – CONSPIRACY TO COMMIT DEPRIVATION OF CIVIL RIGHTS

Plaintiffs v. Defendant Rhonda Richetta, Individually
Maryland Declaration of Rights

- 86. Plaintiff incorporates herein by reference the allegations contained in Count I.
- 87. Defendant Richetta conspired with Timothy Randall Korr to deprive the constitutional rights of T.G.
- 88. A party may be found to be a co-conspirator in a civil rights deprivation claim by engaging in at least one act in furtherance of the conspiracy. Defendant Richetta conspired, after the fact, with Korr to deprive T.G. of his civil rights by attempting to influence Police Officer J. Seay to abandon the criminal investigation by repeatedly describing the incident as an accident when the video, in fact, shows a criminal assault.
- 89. Defendant Richetta’s conduct was manifestly wrong, improper, and illegal. Pursuant to Maryland Criminal Law Code 9-501, it is illegal to make a false statement to a police officer. Pursuant to Maryland Criminal Law Code 9-306, it is illegal to, by corruption, obstruction, or impediment, try to obstruct or impede the administration of justice in a court of this State.
- 90. Defendant Richetta’s conduct was a clear attempt to conspire with Korr by attempting to manipulate a criminal investigation to reduce culpability upon Korr, City Springs Elementary, Baltimore Curriculum Project, and Baltimore City Board of School Commissioners.

1 91. Moreover, upon information and belief, at the time that this incident occurred, a
2 large number of public charter schools had commenced litigation against
3 Defendant Baltimore City Board of School Commissioners. Richetta's conduct
4 was, or may have been, motivated by a desire to ensure the continued funding of
5 Baltimore Curriculum Project and/or City Springs Elementary School.
6 Alternatively, this may have been motivated by an attempt to ensure that City
7 Springs Elementary School's charter was renewed.

8 92. Defendant Richetta's conduct constitutes actions with actual malice by and
9 through the above-referenced attempt to criminally obstruct justice in violation of
10 Maryland law.

11 93. As a direct and proximate result of Korr's conduct, Plaintiffs were caused to suffer
12 severe, painful, and permanent injuries to mind and body, was caused to seek
13 medical care and attention for said injuries, incurred medical bills and expenses
14 for said treatment, and was otherwise damaged.

15 **COUNT III – CIVIL RIGHTS VIOLATION**

16 Plaintiffs v. Defendants Korr and Baltimore Curriculum Project, Inc.

17 Violation of 8th Amendment

18
19 94. Plaintiff incorporates herein by reference the allegations *supra*.

20 95. "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and
21 unusual punishments inflicted." U.S. CONST. AMEND. VIII.

1 96. In *Ingraham v. Wright*, the United States Supreme Court held that the Cruel and
2 Unusual Punishments Clause of the Eighth Amendment does not apply to the
3 paddling of students in public school because the Eighth Amendment was
4 designed to protect those convicted of a crime. 430 U.S. 651, 651 (1977).

5 97. The use of corporal punishment upon school children is a violation of international
6 human rights laws.

7 98. The Court should depart from *Ingraham v. Wright* because:

8 a. Corporal punishment is used in a discriminatory fashion with a statistically
9 higher utilization upon students of color than white;

10 b. Corporal punishment is used in a discriminatory fashion with a statistically
11 higher utilization upon boys than girls;

12 c. Corporal punishment is used in a discriminatory fashion with a statistically
13 higher utilization upon disabled children than non-disabled children.

14 99. T.G. is a male, student of color, with disabilities.

15 100. Plaintiff T.G. had the constitutional right to be free from cruel and unusual
16 punishment.

17 101. Plaintiff T.G. was subjected to cruel and unusual punishment in the form of a
18 violent punishment for behavior wherein T.G. had his face smashed into the wall.

19 102. As a direct and proximate result of Korr's conduct, Plaintiffs were caused to suffer
20 severe, painful, and permanent injuries to mind and body, was caused to seek

1 medical care and attention for said injuries, incurred medical bills and expenses
2 for said treatment, and was otherwise damaged.

3 **COUNT IV – CIVIL RIGHTS VIOLATION**

4 Plaintiffs v. Defendant BCP and BCBSC

5 *Failure to Train*

6
7 103. Plaintiff incorporates herein by reference the allegations set forth *supra*.

8 104. Defendants BCP and BCBSC had a duty to adequately train and supervise all
9 employees having any contact with Baltimore City students. This training should
10 have included *inter alia* de-escalation training and management of behavioral
11 emergencies especially in consideration of the defendants' failure to ensure a safe
12 and ordered learning environment.

13 105. Defendants BCP and BCBSC knew of the need for de-escalation training based
14 upon the fact that such training was provided to police with warnings as to the
15 dire consequences for failing to implement the training and based upon the fact
16 that City Springs Elementary School was in a complete state of chaos at all times
17 material.

18 106. The chaos at City Springs Elementary School was, or should have been, well
19 known to the Defendants.

20 107. Said defendants were deliberately indifferent to such duties and thereby
21 proximately caused injury to Plaintiffs.

1 108. The conduct set forth herein, as to Defendant BCP, violates 42 U.S.C. § 1983,
2 *Monell*, Maryland's Declaration of the Rights, and *Longtin*. The conduct described
3 herein constitutes a violation of the 42 U.S.C § 1983; Maryland Declaration of
4 Rights Articles 16, 24, and 26; the conduct constitutes a pattern or practice of
5 unconstitutional conduct. *See also Prince George's Co. v. Longtin*, 19 A.3d 859 (2011).
6 *See also Monell v. Dep't of Soc. Serv. of the City of New York*, 436 U.S. 658 (1978).

7 109. The conduct set forth herein, as to Defendant BCBSC, violates Maryland's
8 Declaration of Rights and *Longtin*. The conduct described herein constitutes a
9 violation of the Maryland Declaration of Rights Articles 16, 24, and 26; the conduct
10 constitutes a pattern or practice of unconstitutional conduct. *See also Monell v. Dep't*
11 *of Soc. Serv. of the City of New York*, 436 U.S. 658 (1978); *Prince George's Co. v. Longtin*,
12 19 A.3d 859 (2011)

13 110. As a direct and proximate result of Baltimore Curriculum Project Inc.'s conduct,
14 Plaintiffs were caused to suffer severe, painful, and permanent injuries to mind
15 and body, was caused to seek medical care and attention for said injuries, incurred
16 medical bills and expenses for said treatment, and was otherwise damaged.
17

COUNT V – CIVIL RIGHTS VIOLATION

Plaintiffs v. Defendant BCP and BSBSC

Monell v. Dep’t of Soc. Serv. of the City of New York

Maryland Declaration of Rights, Article 16, 24, and 26

Prince George’s Co. v. Longtin, 19 A.3d 859 (2011)

Custom of Unconstitutional Conduct

111. Plaintiff incorporates herein by reference the allegations set forth *supra*.

112. Defendants BCP and BCBSC permitted a custom of unconstitutional conduct to exist at City Springs Elementary School.

113. This custom of unconstitutional conduct is evidenced by the juxtaposition of:

- a. The alleged policy that no staff member should touch a student;
- b. The stated school policy authorizing:
 - i. Separation;
 - ii. Physical restraint; and
 - iii. Seclusion.
- c. The fact three individuals, believed to be agents of defendants, witnessed Korr throw T.G. around and failed to react and/or intervene;
- d. One such witness, whom was wearing an identification badge, even sees the brutal assault, having looked in the direction of T.G.’s body on the ground, and keeps on walking.

114. This custom of unconstitutional conduct is also evidence by the following policies, procedures, and/or customs set forth in the Classroom Management and Student Behavioral Interventions policy:

- 1 a. Defendants failed to implement a policy notifying teachers and staff that
- 2 restraint should not be used as a form of punishment or discipline;
- 3 b. Defendants failed to implement a policy notifying teachers and staff that
- 4 restraint should not be used to coerce, retaliate, or as a convenience for staff;
- 5 c. Defendants failed to implement a policy notifying teachers and staff that
- 6 restraint should not be used in a fashion that generally endangers the child.
- 7 d. School policy fails to notify staff that restraint should never be used in a
- 8 manner that harms the child.

9 115. This custom of unconstitutional conduct is also evidenced by the media campaign
10 by City Springs Elementary School to conceal or mitigate the truth of this attack
11 by and through the publication of a letter stating that the school officials were
12 “devastated” by the way that Korr was being portrayed in the media. Further, the
13 publication states that the school officials were “devastated” by his absence at
14 school. The fact that individuals entrusted with the safety and security of children
15 would defend the videotaped assault of a disabled child who left the school with
16 a broken jaw goes beyond all possible bounds of decency and to be regarded as
17 utterly intolerable in a civilized community; this demonstrates the complete
18 disorder at City Springs Elementary School.

1 116. As to Defendant BCP, this conduct violates 42 U.S.C § 1983; *Monell*; Maryland
2 Declaration of Rights; and *Longtin*. As to Defendant BCBSC this conduct violates
3 the Maryland Declaration of Rights and *Longtin*.

4 117. As a direct and proximate result of BCP's conduct, Plaintiffs were caused to suffer
5 severe, painful, and permanent injuries to mind and body, was caused to seek
6 medical care and attention for said injuries, incurred medical bills and expenses
7 for said treatment, and was otherwise damaged.

8 **COUNT VI – CIVIL RIGHTS VIOLATION**

9 Plaintiffs v. Defendants BCP and BSBSC
10 *Deshaney v. County of Winnebago*

11 118. Plaintiff incorporates herein by reference the allegations set forth *supra*.

12 119. Defendants Baltimore Curriculum Project, Inc. owed a special and affirmative
13 duty to Plaintiff T.G. when T.G. was constitutionally seized, and quite literally
14 seized, by Defendant Korr. This special duty arises *inter alia* from the limitations
15 that defendants imposed on T.G.'s freedom to act on his own behalf through the
16 actual and physical restraint of T.G.'s personal liberty.

17 120. T.G.'s personal liberty was restrained because Defendant Korr physically removed
18 T.G. from an instructional area for the purpose of escorting him to the principal
19 for discipline. T.G. was physically restrained. This restraint communicated to T.G.,
20 and any reasonable child or person, that he was not free to ignore Defendant Korr
21 nor was T.G. free to leave at his own will.

1 121. The unconstitutional conduct was or should have been foreseeable to defendants
2 due to the fact that the defendants actually saw Korr carrying T.G. around like a
3 sack of potatoes with T.G. hanging off Korr's hip at times in violation of alleged
4 school policy.

5 122. As to Defendant BCP, this conduct violates 42 U.S.C § 1983; *DeShaney*; Maryland
6 Declaration of Rights; and *Longtin*. As to Defendant BCBSC this conduct violates
7 the Maryland Declaration of Rights and *DeShaney* (via incorporation into State
8 law).

9 123. As a direct and proximate result of BCP's conduct, Plaintiffs were caused to suffer
10 severe, painful, and permanent injuries to mind and body, was caused to seek
11 medical care and attention for said injuries, incurred medical bills and expenses
12 for said treatment, and was otherwise damaged.

13 **COUNT VII - NEGLIGENCE**

14 Plaintiffs v. Defendant Korr
15 *Maryland Common Law*
16

17 124. Plaintiff incorporates herein by reference the allegations set forth *supra*.

18 125. Defendant Korr owed Plaintiffs a duty of reasonable care in responding to the
19 alleged disciplinary issue with T.G. because Defendant Korr assumed custody of
20 T.G. on the afternoon of November 28, 2016.

21 126. Defendant Korr breached that duty while *en route* to the principal's office carrying
22 T.G. causing injury to T.G. by failing to secure him properly.

1 127. As a direct and proximate result of Korr's conduct, Plaintiffs were caused to suffer
2 severe, painful, and permanent injuries to mind and body, was caused to seek
3 medical care and attention for said injuries, incurred medical bills and expenses
4 for said treatment, and was otherwise damaged.

5 **COUNT VIII - BATTERY**

6 Plaintiffs v. Defendant Korr

7 *Maryland Common Law*

8 128. Plaintiff incorporates herein by reference the allegations set forth *supra*.

9 129. Defendant Korr intentionally, harmfully, and offensively touched T.G. without
10 T.G.'s consent.

11 130. Defendant Korr offended T.G.'s reasonable sense of personal dignity.

12 131. As a direct and proximate result of Korr's conduct, Plaintiffs were caused to suffer
13 severe, painful, and permanent injuries to mind and body, was caused to seek
14 medical care and attention for said injuries, incurred medical bills and expenses
15 for said treatment, and was otherwise damaged.

16 **COUNT IX – FALSE IMPRISONMENT**

17 Plaintiffs v. Defendant Timothy Randall Korr

18 *Maryland Common Law*

19 132. Plaintiff incorporates herein by reference the allegations set forth *supra*.

20 133. Defendant Korr intentionally restricted, without legal justification, the freedom of
21 movement of T.G. who was aware of the restriction and did not consent.

22 134. As a direct and proximate result of Korr's conduct, Plaintiffs were caused to suffer
23 severe, painful, and permanent injuries to mind and body, was caused to seek

1 medical care and attention for said injuries, incurred medical bills and expenses
2 for said treatment, and was otherwise damaged.

3 **COUNT X – DEFAMATION**

4 Plaintiffs v. Defendants Korr, Richetta, BCP and BCBS
5 *Maryland Common Law*

6
7 135. Plaintiff incorporates herein by reference the allegations set forth *supra*.

8 136. Defendant Korr made a false statement about T.G. that exposed him to public
9 scorn, hatred, contempt, or ridicule thereby discouraging others in the community
10 from having a good opinion of T.G.

11 137. The false statements include:

- 12 a. T.G. inflicted the injuries depicted in part in Figure 1 on himself;
13 b. T.G. was in possession of and brandished a gun;
14 c. T.G. had concealed a gun in his pocket;
15 d. T.G. had resisted and fell.

16 138. Defendant Korr defamed T.G. as described above for the purpose of:

- 17 a. Attempting to conceal his wrongdoing;
18 b. Mitigate his criminal liability placed into jeopardy in *State vs. Timothy*
19 *Randall Korr* (Baltimore City Circuit Court case number 116357001).

20 139. Defendant Korr knew that his statement was false.

1 140. No gun was ever surrendered to Baltimore City Police Department, Baltimore City
2 School Police, Baltimore City Board of School Commissioners, nor Baltimore
3 Curriculum Project, Inc.

4 141. Upon information and belief, Defendant Baltimore Curriculum Project and/or
5 Baltimore City Board of School Commissioners could not confirm if a gun or gun
6 replica was found. *Staff Defends Reputation of School, Tutor Charged in Incident That*
7 *Left Baltimore Student Injured*, BALTIMORE SUN (Dec. 6, 2016).

8 142. Defendant Korr communicated these defamatory remarks to the school nurse,
9 whose identity is currently unknown. The school nurse then, in reckless disregard
10 of the truth or falsity of the matter, reiterated the false statement to paramedics
11 from the Baltimore City Fire Department.

12 143. Paramedics from Baltimore City Fire Department then communicated the false
13 statements from BCP and BCBSC to Rebecca Kamil M.D., a physician at the Johns
14 Hopkins Hospital.

15 144. Defendant Richetta then defamed T.G. by lying to Police Officer J. Seay by stating
16 that T.G. had, *inter alia*, thrown himself against the wall injuring himself. This false
17 statement was made after Richetta viewed the surveillance video. Richetta either
18 knew that her statements were false or made those false statements in reckless
19 disregard of the truth or falsity of such statements.

1 145. Defendants' defamatory remarks were then carried by major news organizations
2 nationally and internationally, such as:

- 3 a. Associated Press;
- 4 b. Baltimore Sun
- 5 c. Daily Mail (United Kingdom);
- 6 d. Fox Baltimore – *noting* that over 60 people showed up to Korr's sentencing
7 to support him;
- 8 e. Fox 5 (Washington, DC);
- 9 f. Fox 23 (Tulsa, Oklahoma);
- 10 g. WBAL;
- 11 h. WMAR; and
- 12 i. WTOP.

13 146. As a result of the permanence of the internet, Defendant Korr's defamatory
14 remarks will follow T.G. for his entire life.

15 147. Child Protective Services was involved as a result of this incident and, in part, the
16 Defendants' defamatory remarks to create a safety plan with T.G.'s parents.

17 148. Defendants Korr, Richetta, and other, presently unknown individuals, acted with
18 actual malice because all defendants knew the statement was false and had
19 obvious reasons to distrust the accuracy of the statement, which was outrageous

1 explanations of the injuries suffered by T.G. and the lack of any such gun
2 recovered by police.

3 149. As a direct and proximate result of the defamatory statements made by all
4 defendants, Plaintiffs have been caused to suffer presumed damages pursuant to
5 Maryland law.

6 **COUNT XI – CIVIL CONSPIRACY**

7 Plaintiffs v. Defendant Korr and Richetta

8 *Maryland Common Law – State Claims*
9

10 150. Plaintiff incorporates herein by reference the allegations set forth *supra*.

11 151. Defendants Korr and Richetta were a confederation of persons by understanding
12 by acting together in the tortious fashion described below.

13 152. Defendants Korr and Richetta conspired together in violation of Maryland law to
14 brutally assault a child entrusted to the care of Baltimore City Public Schools and
15 then attempt to cover it up.

16 153. Defendant Korr as described fully *supra* participated in the conspiracy by engaging
17 in the attack upon T.G.

18 154. Defendant Richetta conspired with Korr, after the fact, to conceal the event by
19 attempting to influence Police Officer J. Seay to believe that the surveillance video
20 in fact showed Korr falling down the stairs or losing his footing and T.G. throwing
21 himself into the wall.

22 155. Defendant Richetta's conduct was manifestly illegal.

1 156. Plaintiff incorporate herein by reference all other causes of action herein as the
2 underlying tort required to plead civil conspiracy.

3 157. As a direct and proximate result of Korr and Richetta's conduct, Plaintiffs were
4 caused to suffer severe, painful, and permanent injuries to mind and body, was
5 caused to seek medical care and attention for said injuries, incurred medical bills
6 and expenses for said treatment, and was otherwise damaged.

7 **COUNT XII – AGENCY/VICARIOUS LIABILITY**

8 Plaintiffs v. Defendants Baltimore Curriculum Project, Inc.

9 and Baltimore City Board of School Commissioners

10 *Maryland Common Law – State Claims*

11 158. Plaintiff incorporates herein by reference the allegations set forth *supra*.

12 159. Defendant Korr was acting in the course and scope of his employment with
13 Defendant Baltimore Curriculum Project, Inc. because:

- 14 a. He was working as a tutor at the time and place of the incident described
15 *supra*;
- 16 b. Korr was in the process of attempting to manage T.G.'s behavior at the time
17 that the wrongful conduct occurred;
- 18 c. Restraint of children is contemplated by the defendants; and
- 19 d. Because attempting to secure a misbehaving child is in the furtherance of
20 Defendants Baltimore Curriculum Project, Inc. and Baltimore City Board of
21 School Commissioners' business, namely the education of children of the
22 citizens of the City of Baltimore.

1 e. After personally viewing the video of the incident with police, Defendant
2 Richetta affirmed Korr's conduct by making "multiple [remarks] that [Korr]
3 fell down the steps or lost his footing and the student identified as [T.G.]
4 [threw] himself into that wall."

5 160. Defendants Baltimore Curriculum Project, Inc. and Baltimore City Board of
6 School Commissioners are vicariously responsible for the injuries caused by the
7 wrongful conduct of Defendant Korr because his wrongful acts were within the
8 scope of employment.

9 **COUNT XIII – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

10 Plaintiffs v. Defendant Richetta
11 *Maryland Common Law – State Claims*
12

13 161. Plaintiff incorporates herein by reference the allegations set forth *supra*.

14 162. Defendant Richetta intentionally inflicted emotional distress upon T.G. by and
15 through lying to police in an effort to interfere with a criminal investigation into
16 Richetta's school and her employees.

17 163. Defendant Richetta intended to inflict severe emotional distress upon T.G. by
18 publishing outrageously false statements, interfering with a criminal
19 investigation, and attempting to cover up a brutal assault under her watch. These
20 acts are described *supra*.

1 164. Defendant Richetta knew that such distress was substantially certain to occur or
2 acted in reckless disregard of a high degree of probability that emotional distress
3 would follow.

4 165. There was a high degree of probability that emotional distress would follow
5 Richetta's attempt to influence a criminal investigation because it required making
6 false statements about T.G., a disabled child entrusted to her care.

7 166. Publicly defaming a disabled child in an effort to conceal criminal conduct by a
8 public-school employee is so outrageous and so extreme, it extends beyond all
9 bounds of normal decency. It is atrocious and utterly shocking to any reasonable
10 person. Moreover, it completely violates T.G.'s human dignity. *Hamilton v. Ford*
11 *Motor Co.*, 502 A.2d 1057, 1064 (Md. 1986).

12 167. As a result of the misinformation campaign, T.G. will be followed with this
13 incident for his entire life due to the permanency of the internet. He has and will
14 continue to suffer extreme emotional distress.

15 168. As a direct and proximate result of Richetta's conduct, Plaintiffs were caused to
16 suffer severe, painful, and permanent injuries to mind and body, was caused to
17 seek medical care and attention for said injuries, incurred medical bills and
18 expenses for said treatment, and was otherwise damaged.

19 **DEMAND FOR JURY TRIAL**

20 Plaintiff demands a jury trial on all issues so triable.

1 **WHEREFORE**, Plaintiff L.J. as Mother and Next Friend of T.G., a Minor, requests
2 that this Honorable Court grant judgment in their favor against Defendants Baltimore
3 Curriculum Project, Inc., Baltimore City Board of School Commissioners, and Timothy
4 Randall Korr as follows:

- 5 1. Compensatory damages in excess of Seventy-Five Thousand Dollars (\$75,000.00);
- 6 2. Punitive damages in excess of Seventy-Five Thousand Dollars (\$75,000.00);
- 7 3. Attorney fees;
- 8 4. Interest as permitted by law;
- 9 5. Permanently enjoin Defendant Baltimore Curriculum Project, Inc., Baltimore City
10 Board of School Commissioners, its officers, agents, servants, employees,
11 volunteers, police officers, and attorneys from:
 - 12 a. Abusing children entrusted to Baltimore City schools;
 - 13 b. Abusing children exhibiting behavioral and/or emotional challenges by
14 way of immediately involving the school guidance counselor and/or social
15 workers instead of police or other disciplinarians;
 - 16 c. Violating the rights of students to be free from unlawful searches and
17 seizures by way of compulsory training to individuals interacting with
18 students; and
 - 19 d. Violating the rights of T.G. to be free from unlawful searches and seizures
20 by way of compulsory training to individuals interacting with students.

1 e. Any other such relief as the Court finds equitable.

2 LEVINESS, TOZMAN & HAMILTON P.A.

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6 _____
7 Bryan J. Chant, Esquire
8 Fed Bar No. 19894
9 923 North Calvert Street
10 Baltimore, Maryland 21202
11 T: 410-727-4991
12 F: 800-878-8257
13 E: bryan@lthlaw.com

14 *Attorneys for Plaintiff*

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