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23 D.S., a minor by and through his

24 Guardian ad Litem CORTNEY LARSON

25 UNITED STATES DISTRICT COURT

26 DISTRICT OF NEVADA

27 D.S., a minor by and through his Guardian  
28 Ad Litem CORTNEY LARSON,

Plaintiff,

v.

CLARK COUNTY SCHOOL DISTRICT,  
MELISSA OLSZEWSKI, SHAWN  
HALLAND and DOES 1-50,

Defendants.

Case No.

**COMPLAINT**

[JURY DEMAND]

1 **INTRODUCTION**

2 Plaintiff D.S., a minor by and through his Guardian Ad Litem CORTNEY  
3 LARSON (hereinafter “Plaintiff”) alleges as follows:

4 **PARTIES**

5 1. Plaintiff D.S. is a minor and a resident of Satellite Beach, Florida.

6 2. Cortney Larson (“LARSON”) is the mother of Plaintiff D.S. and a  
7 resident of Satellite Beach, Florida. She brings this action on behalf of her minor  
8 son D.S., as his guardian ad litem.

9 3. Defendant CLARK COUNTY SCHOOL DISTRICT (“CCSD”) is a  
10 public entity duly incorporated and operating under Nevada law as a public school  
11 district.

12 4. Defendant MELISSA OLSZEWSKI (“OLSZEWSKI”) was at all times  
13 relevant herein, employed by Defendant CCSD as a special education teacher at  
14 Sandra Thompson Elementary School (“STES”) in Las Vegas, Nevada. All actions  
15 by Defendant OLSZEWSKI alleged herein were taken under color of state law and  
16 in the course and scope of her employment with Defendant CCSD.

17 5. Defendant SHAWN HALLAND (“HALLAND”) was at all times  
18 relevant herein, employed by Defendant CCSD as Principal of STES. All actions by  
19 Defendant HALLAND alleged herein were taken under color of state law and in the  
20 course and scope of his employment with Defendant CCSD.

21 6. On information and belief, HALLAND and other CCSD administrators  
22 and employees were responsible for the training and supervision of school district  
23 staff at STES and for ensuring compliance with state and federal laws.

24 **JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT**

25 7. This court has original jurisdiction over Plaintiff’s claims for relief  
26 pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3). This court has  
27 supplemental jurisdiction over Plaintiff’s state law claims pursuant to 28 U.S.C. §  
28

1 1367(a).

2 8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because a  
3 substantial part of the events or omissions giving rise to Plaintiff's claims occurred in  
4 Clark County, Nevada.

5 9. This case arose in Clark County, Nevada, and, pursuant to Rule 1-6 of  
6 the Local Rules of the District of Nevada should be assigned to the Southern  
7 Division of the District of Nevada.

8 **MINOR D.S.'s SPECIAL NEEDS and CLASSROOM ASSIGNMENT**

9 10. At all times relevant to the allegations herein, D.S. was a special  
10 education student at STES and entrusted to the care of Defendants.

11 11. D.S. was assigned to the special education classroom of OLSZEWSKI  
12 beginning on or about August 2019.

13 12. D.S. was born in 2016 and was 3 years old at the time he was assigned  
14 to OLSZEWSKI's "Autism Pre-K" special education classroom at STES in August,  
15 2019.

16 13. At the time he attended CCSD and was assigned to OLSZEWSKI's  
17 classroom, D.S. had been diagnosed with Developmental Delay. D.S. has also since  
18 been diagnosed with Autism Spectrum Disorder.

19 **GENERAL FACTUAL ALLEGATIONS**

20 21 14. For the 2019-20 school year, OLSZEWSKI was assigned by CCSD to  
22 oversee a pre-kindergarten self-contained autism classroom at STES.

23 15. Multiple special education aides who worked in OLSZEWSKI's  
24 classroom have reported regularly observing OLSZEWSKI act aggressively with  
25 D.S. and his disabled classmates including spanking, flicking, pinching, "popping,"  
26 pulling, yanking, screaming at, striking students in the head with objects and  
27 acting out of anger in response to their disabilities. On information and belief,  
28 aides in OLSZEWSKI's classroom reported her abuse of D.S. and his classmates to

1 HALLAND and other responsible administrators and employees of CCSD who  
2 failed to document or investigate the reported incidents, failed to intervene to stop  
3 the OLSZEWSKI's abuse of disabled students including D.S., failed to discipline or  
4 retrain OLSZEWSKI to prevent future violations, and concealed known incidents of  
5 abuse from victims' parents, including LARSON.

6 16. On or about February, 2020, LARSON was notified by telephone that  
7 an "incident" had occurred involving D.S. and that OLSZEWSKI had "lost her cool"  
8 and grabbed D.S. by his arm pulling him off the ground and striking his body  
9 multiple times in front of eyewitnesses.

10 17. During CCSD Police Department's (CCSDPD) criminal investigation,  
11 classroom aides confirmed that OLSZEWSKI repeatedly engaged in misconduct  
12 with D.S. and other disabled students in the class on a "regular basis" which  
13 included but was not limited to: flicking fingers, slapping, pulling, aggressively  
14 jerking students by their hands and arms, physically forcing students bodies down  
15 into chairs while screaming in their face "sit down!"; slapping and "popping"  
16 students on their arms and hands, spanking, yanking, and striking students in the  
17 head with paper, notebooks, and other items.

18 18. During D.S.'s time in OLSZEWSKI classroom, OLSZEWSKI routinely  
19 subjected D.S. and other disabled students to physical, emotional and verbal  
20 abuses. The mistreatment and abuse of D.S. by OLSZEWSKI was based upon and  
21 in response to D.S.' disabilities.

22 19. On October 26, 2020, the State of Nevada filed criminal charge against  
23 OLSZEWSKI, charging her with six counts of felony child abuse, neglect or  
24 endangerment. In addition to the felony charges brought against OLZEWSKI for  
25 her abuse of Plaintiff D.S., she was also charged with abusing D.S.'s classmates,  
26 T.A., J.D., S.T., J.L. and C.T, all of whom were between 3 and 4 years old at the  
27 time of the abuse.  
28

1           20.    On information and belief, prior to the eyewitness reports in February,  
2 2020, Defendant HALLAND and other STES administrators received reports of  
3 OLSZEWSKI's ongoing mistreatment of disabled students, but failed to document  
4 and investigate known instances of corporal punishment and aversive interventions  
5 as required, failed to complete mandatory CCF-624 forms, failed to comply with  
6 their statutory obligation to notify the Nevada Department of Education ("DOE") of  
7 violations of students rights and establish a Corrective Action Plan (CAP) to retrain  
8 OLSZEWSKI so that future violations would not occur and failed to discipline  
9 OLSZEWSKI to deter her from committing further abuses against students  
10 including D.S..

11           21.    On information and belief, Defendant HALLAND and other STES  
12 administrators and employees knew D.S. and other non-verbal disabled students in  
13 OLSZEWSKI's class were being abused but concealed this information from  
14 LARSON and other parents and from the DOE.

15           22.    In addition to suffering direct abuse by OLSZEWSKI, students  
16 including D.S. were also forced to witness the physical and emotional abuse of their  
17 classmates.

18           23.    The use of aversive interventions is expressly prohibited by state law,  
19 which provides that "[a] person employed by the board of trustees of a school district  
20 or any other person shall not use any aversive intervention on a pupil with a  
21 disability." NRS 388.497. The term "aversive intervention" is defined broadly and  
22 includes the use of corporal punishment as well as verbal and mental abuse where  
23 those actions are used to punish or to eliminate, reduce or discourage maladaptive  
24 behavior of a student with a disability. NRS 388.473. Aversive interventions, which  
25 include physical or mechanical restraints on students with disabilities, are also  
26 proscribed under District regulations. CCSD Regulation 5141.3.

27           24.    State law mandates that school districts must provide training to staff  
28

1 regarding the use of physical and mechanical restraints to ensure the safety of  
2 pupils in their care. NRS 388.505. Any person who intentionally uses aversive  
3 intervention on a pupil with a disability is subject to disciplinary action. NRS  
4 388.506.

5 25. Any incident involving an “aversive intervention” must be reported to  
6 the board of trustees of the school district not later than 24 hours after the incident  
7 occurred, or as soon thereafter as it is discovered. NRS 388.508. The board of  
8 trustees and school superintendent must then develop a Corrective Action Plan to  
9 retrain involved staff “to ensure that within 30 calendar days appropriate action is  
10 taken by the school and the board of trustees to prevent future violations.” Further,  
11 any “aversive action” taken against a student with a disability must be entered into  
12 the student’s cumulative record. NRS 388.513.

13 26. Pursuant to CCSD Regulation 5141.3 and NRS 388.501, if a physical  
14 restraint or aversive intervention has been used on a student, it must be reported in  
15 the pupil’s file no later than one working day after the fact. A report (form CCF-624)  
16 must also be sent to the student’s Individualized Education Program (“IEP”) Team,  
17 the student’s parent or guardian, and the Board of School Trustees/designee of the  
18 school district. Pursuant to NRS 388.508 and 388.5295, in order to prevent future  
19 violations by staff, the school district must report the details of each violation of a  
20 student’s rights to the Department of Education (DOE) and develop and submit a  
21 Corrective Action Plan (“CAP”) to the DOE *within 30 calendar days of the violation*.

22 27. On information and belief, Defendants HALLAND and CCSD  
23 repeatedly failed to comply with state laws and district policies regarding the  
24 prompt documentation of the use and nature of aversive interventions. Further, on  
25 information and belief, Defendants HALLAND and CCSD repeatedly failed to  
26 timely report the use of aversive interventions and corporal punishment by  
27 OLSZEWSKI to the parents of D.S. in violation of NRS 388.501.  
28

1           28.     On information and belief, HALLAND and other CCSD administrators  
2 and employees were aware of OLSZEWSKI's physical and emotional abuse of  
3 disabled students at STES, including D.S., but failed to take action to intervene to  
4 protect the disabled students in their care and/or to report the abuse to law  
5 enforcement, DOE, or to the students' parents.

6           29.     On information and belief, HALLAND and other CCSD administrators  
7 and employees knew that OLSZEWSKI's use of prohibited aversive interventions  
8 and corporal punishment with disabled students including D.S. violated their  
9 rights, but intentionally concealed known violations from the DOE, failed to timely  
10 notify the DOE, failed to establish a CAP to re-train or discipline OLSZEWSKI to  
11 ensure future violations would not reoccur and concealed violations from the  
12 parents of non-verbal student victims.

13           30.     On information and belief, OLSZEWSKI's abuse of D.S. and other  
14 disabled students at STES was open and obvious and by virtue of the nature of the  
15 misconduct was known, or reasonably should have been known, to HALLAND and  
16 other CCSD administrators and employees responsible for supervision. On  
17 information and belief, despite their knowledge that OLSZEWSKI was abusing D.S.  
18 and other disabled students, Defendants concealed the abuse from parents and the  
19 DOE and failed to take measures to prevent OLSZEWSKI from continuing to abuse  
20 functionally non-verbal disabled students.  
21

22                   **EFFECTS OF THE ABUSE ON THE MINOR PLAINTIFF**

23                   ***Effect of the Abuse on Minor Plaintiff D.S.***

24           31.     On information and belief, D.S. routinely experienced physical and  
25 emotional abuse by OLSZEWSKI which exacerbated and escalated behaviors that  
26 manifested from D.S.'s disabilities.

27           32.     During the time that D.S. was in OLSZEWSKI's classroom, D.S.  
28 regressed in physical skills such as toileting and began to exhibit new behaviors

1 which were uncharacteristic of him prior to his assignment to the classroom. Such  
2 new behaviors include but are not limited to, increased aggression towards family  
3 members, sleep disruption, refusal to go to the bathroom on his own, loss of toileting  
4 skills, an inability to sleep alone and severe separation anxiety.

5 33. D.S.'s parents became concerned about the changes in their son's  
6 behavior but, because of his disabilities, D.S. was unable to communicate the full  
7 extent of the cause of his distress to his parents at the time of the abuse.

8 34. Because of his disabilities, D.S. is unable to report all that occurred to  
9 him while he was in the care of Defendants and the full extent and duration of all of  
10 the abuse suffered by D.S. is currently unknown.

11 35. Following the abuse of D.S. by OLSZEWSKI, the family removed D.S.  
12 from CCSD and moved out of state.

13 36. Since leaving OLSZEWSKI's classroom at STES, D.S. continues to  
14 experience extreme anxiety, stress and fear as a result of the misconduct of the  
15 Defendants and by their failures to act.

16 37. The severe abuse of D.S. as herein alleged has and will continue to  
17 cause permanent psychological harm.

18 38. On information and belief, D.S. will require psychological treatment to  
19 address the traumas he has experienced.

20 39. As a proximate result of the actions of OLSZEWSKI, D.S. has suffered  
21 unjustifiable physical pain and mental suffering.

22 40. At the relevant times hereto, D.S.'s behavior did not rise to the level of  
23 an emergency or a serious or imminent threat of harm to himself or others which  
24 would permit using emergency physical force against him or restraining his freedom  
25 of movement.

26 41. LARSON does not seek any services or remedies available under the  
27 Individuals with Disabilities Education Act ("IDEA") for D.S.  
28



1                    **CCSD's RESPONSE TO REPORTS OF OLSZEWSKI's ABUSE OF**  
2    **DISABLED STUDENTS**

3            42.     On information and belief, CCSD has the *de facto* policy and practice of  
4 concealing, failing to document or report and intentionally under-reporting  
5 incidents in which CCSD employees violate the rights of special education students.  
6 Such incidents are often concealed from the DOE, the parents of student victims,  
7 and the District Attorney ("DA"). On information and belief, this district-wide  
8 policy and practice is longstanding, ongoing, and amounts to ratification of both the  
9 perpetrators' abuse and the efforts by administrators to conceal the severity and  
10 frequency of the abuse from the DOE, parents and the DA. On information and  
11 belief, CCSD does not investigate or discipline administrators involved in  
12 concealing, failing to report and under-reporting incidents in which CCSD  
13 employees violate the rights of disabled students. The effect of this policy and  
14 practice, and the ratification of misconduct giving rise to violations of disabled  
15 students' rights, perpetuates, condones and allows further violations of disabled  
16 students' rights to continue without remedial measures to decrease or prevent  
17 future violations.  
18

19            43.     On information and belief, after CCSD was on notice of OLSZEWSKI's  
20 use of prohibited aversive interventions and corporal punishment and violations of  
21 disabled students' rights, CCSD failed to document the reported incidents on CCF-  
22 624 forms as required, failed to notify the parents of victim students, failed to make  
23 the required violation of rights determinations, failed to discipline or retrain  
24 OLSZEWSKI, failed to notify the DOE as required and failed to discipline STES  
25 administrators including HALLAND for their mishandling of the reported  
26 incidents.

27            44.     On information and belief, HALLAND and other District  
28 administrators and employees received reports of OLSZEWSKI's emotional and

1 physical abuse and use of aversive interventions and corporal punishment with D.S.  
2 and other disabled students and knew that the rights of disabled students including  
3 D.S. had been violated, but intentionally concealed the violations from the DOE,  
4 failed to establish a Corrective Action Plan to re-train OLSZEWSKI and failed to  
5 discipline OLSZEWSKI and/or HALAND to ensure future violations would not  
6 occur.

#### 7 **Allegations Specific to CCSD Policies and Practices**

8 45. On information and belief, CCSD had multiple “written” policies,  
9 regulations, rules, and practices which contributed to the incidents giving rise to  
10 the constitutional violations in this case. Multiple persistent and widespread  
11 customs and practices of CCSD personnel also contributed. Some of the entrenched  
12 customs and practices of CCSD at issue consist of employees’ persistent failure to  
13 follow written policies, regulations, rules, or laws, as well as employees who go  
14 through the motions of complying with the letter of written policies, regulations,  
15 rules, or laws while violating the substantive intent of the relevant directives.  
16 These customs and practices were so widespread as to be the functional equivalent  
17 of CCSD policy.  
18

#### 19 **CCSD’s Practices Ratify Unconstitutional Use of Force**

##### 20 **Against Disabled Students**

21 46. On information and belief, CCSD fosters a culture of concealment of  
22 abuse of disabled students through the practices of each division of CCSD with a  
23 responsibility to document, report, investigate, retrain, and discipline employees  
24 who physically and emotionally abuse disabled students. The top down  
25 concealment of abuse from the DOE and victims’ parents is ratified by CCSD  
26 through their failure to investigate, retrain or discipline employees and  
27 administrators who are known to the District to have concealed abuse and  
28 violations of disabled students’ rights. On information and belief, the failure to

1 investigate, retrain or discipline administrators and employees who conceal abuse  
2 of special needs students creates an environment that leads to the use of  
3 unconstitutional force and seizure by CCSD employees against special needs  
4 students, including D.S. and others.

5 47. CCSD's Office of Compliance and Management ("OCM") acts as the  
6 Superintendent's designee to comply with the statutory requirement to report all  
7 incidents where employee misconduct violates the rights of a special needs student  
8 to the DOE and to establish a Corrective Action Plan ("CAP") to retrain the  
9 offending employee(s) so future violations do not occur.

10 48. On information and belief, practices within OCM foster a culture of  
11 deliberate indifference to the abuse of disabled students and lead directly to the  
12 constitutional violations complained of in Plaintiffs' complaint. These practices  
13 amount to ratification of the abuser's misconduct and of the administrators'  
14 concealment of the misconduct from parents and the state DOE, allowing CCSD's  
15 *de facto* policies to flourish.

16 49. On information and belief, OLSZEWSKI's use of aversive interventions  
17 and corporal punishment with D.S. and his classmates violated his rights and  
18 OCM was required to document, report and investigate each of the incidents fully  
19 and completely but they failed to do so.

20 50. On information and belief, OCM's acquiescence in the pattern of  
21 unconstitutional misconduct, including its failure to investigate credible reports of  
22 violations of disabled students' rights and their failure to comply with the District's  
23 statutory obligation to report all violations and retrain offending employees to  
24 prevent future violations, constitutes ratification of the violations of the rights of  
25 D.S..

26 51. On information and belief, OLSZEWSKI was acting in accordance with  
27 the policy of permitting, allowing and, in effect, condoning and encouraging the  
28

1 unconstitutional use of force on disabled students at the time she abused D.S. and  
2 other students. The failure of OCM to establish a CAP to retrain OLSZEWSKI to  
3 prevent further abuse of students ratified the misconduct and allowed additional  
4 abuse to occur.

5 52. On information and belief, HALLAND and OCM employees were each  
6 acting pursuant to a district wide policy and practice that ratified concealment of  
7 unconstitutional use of force by District staff on disabled students. On information  
8 and belief, this policy was the moving force behind the unconstitutional violations  
9 of D.S. by OLSZEWSKI.

10 53. CCSD's Employee Management Relations Department ("EMR") is the  
11 division of CCSD responsible to receive, track and respond to reports of employee  
12 misconduct and to determine appropriate discipline. On information and belief,  
13 CCSD has no policy requiring administrators who learn that a district employee  
14 has physically mistreated a disabled student to report the incident to EMR.

15 54. On information and belief, CCSD has no policy that requires EMR to  
16 report to OCM incidents it learns of where a CCSD employee has used corporal  
17 punishment, employed a prohibited aversive intervention, or otherwise physically  
18 mistreated a disabled student.

19 55. On information and belief, the failure of CCSD to have policies  
20 requiring all incidents of physical abuse of disabled students by employees to be  
21 reported to both EMR and OCM creates a practice where known abuse of disabled  
22 students by staff is under-reported, known violations of disabled students' rights  
23 are concealed from the DOE and offending employees are not retrained or  
24 disciplined, all of which leads to continued abuse and violations.

25 56. On information and belief, CCSDPD has a long-standing practice when  
26 investigating reports of abuse/neglect or battery of a disabled student by a CCSD  
27 employee to conclude that no crime has been committed without evidence of  
28

1 “malicious intent to hurt” the victim. Under Nevada criminal statutes, neither the  
2 crime of battery nor abuse/neglect require the elements of malice or “intent to hurt”  
3 for the crimes to have been committed. (NRS 200.481 and 200.508).

4 57. On information and belief, CCSDPD has a custom and practice of  
5 failing to respond to, adequately investigate or refer cases of battery of special  
6 needs students by staff to the District Attorney for prosecution.

7 58. On information and belief, such CCSDPD practices result in under  
8 reporting of incidents where CCSD employees commit abuse/neglect or battery  
9 against special needs students.

10 **CCSD Policies Prevent Accurate Record Keeping and Appropriate**  
11 **District Response**

12 59. On information and belief, CCSD does not track all reports of physical  
13 and emotional abuse of special education students by CCSD staff and has no  
14 centralized location where such information is maintained or shared among the  
15 District’s divisions. This practice prevents analysis of the causes of such  
16 misconduct, prevents patterns of abuse from being identified, prevents effective  
17 discipline of employees that have been reported to have physically abused disabled  
18 students and increases the likelihood that perpetrators will continue to abuse and  
19 victimize vulnerable disabled students in the future.

20 60. CCSD Policy 1213 and Regulation 1213.1 require that complaints be  
21 submitted, investigated, and resolved at the lowest levels in the “chain of  
22 command,” and state that any concerns received by board members or the District’s  
23 superintendent will not be considered, but instead will be passed on to appropriate  
24 person lower in the command structure for handling. These policies, and the  
25 manner in which they are implemented, create a decentralized system of obtaining,  
26 investigating, and resolving complaints. As a result, the individuals at the “top” of  
27 the system prevent themselves from hearing complaints, or knowing whether they  
28

1 were properly dealt with, thereby allowing themselves to have “plausible  
2 deniability” as to the breadth of problems within the system. Furthermore, by  
3 insisting that complaints of abuse by teachers be handled by the principal of the  
4 school, CCSD creates a clear conflict of interest, in which the person investigating  
5 and responding to complaints has strong motivation to minimize or conceal  
6 misconduct by teachers under their supervision, in order to make their own job  
7 easier, by not losing staff to suspension or termination, and out of concern that the  
8 situation might reflect negatively upon themselves, resulting in poor performance  
9 evaluations and financial consequences.

#### 10 **CCSD Regulations Prohibit Anonymous Reporting**

11 61. CCSD Regulation R-5152 prohibits employees of CCSD from making  
12 reports to authorities regarding suspected child abuse without also informing  
13 school administrators. On information and belief, policies such as these have a  
14 chilling effect on the reporting of abusive conduct committed by employees because  
15 by making a report, an employee places himself or herself at risk of retaliation and  
16 peer backlash. The Nevada State Legislature itself recognized the importance of  
17 the availability of the option of reporting anonymously, in its passage of the Safe  
18 and Respectful Learning Environment legislation, when it stated: “The ability to  
19 anonymously report information about dangerous, violent or unlawful activities, or  
20 the threat of such activities [...] is critical in preventing, responding to and  
21 recovering from such activities.” NRS 388.1454.

#### 22 **CCSD’s Practices Discourage Reporting of Abuse by Employees**

23 62. On information and belief, CCSD supervisory personnel have a  
24 permanent and well-settled custom and practice of discouraging employees from  
25 reporting abuse of students by fellow employees. On information and belief, this  
26 custom and practice is enforced by displaying antagonism toward employees when  
27 they do report; by failing to act on the reports, thereby creating a sense of  
28

1 hopelessness, helplessness and demoralization in the reporting employees; and by  
2 tolerating the peer approbation displayed against employees who do report.

3 ///

4 ///

5 **CCSD Policies Threaten Legal Consequences for Employees Who Disclose**

6 **Abuse to Parents or Media**

7 63. CCSD Policy 1213 and CCSD Regulation 1213.1 require that any  
8 disciplinary action regarding an employee, and any concerns or complaints made  
9 about an employee be kept confidential. They also warn employees of the  
10 possibility that they could expose themselves to litigation by speaking about  
11 concerns. No parallel warning regarding the potential legal consequences of silence  
12 or concealment are included. On information and belief, these policies, and the  
13 manner in which they are implemented, discourage employees from reporting  
14 abusive conduct of fellow employees against students, and explicitly make it the  
15 policy of CCSD to conceal from parents of students those instances when their  
16 children's teachers have engaged in abusive conduct toward students, even when  
17 that conduct has been confirmed. In its communications with the public and with  
18 individual parents, it is the policy of CCSD to venerate the privacy of abusive and  
19 allegedly abusive employees above all other concerns, including its obligations for  
20 the safety of its students, and its obligations as a public agency to provide  
21 information regarding its function to members of the public and elected officials so  
22 that proper oversight can be exercised.  
23

24 **CCSD's Practices Fail to Ensure Proper Training**

25 64. On information and belief, CCSD has a wide-spread, permanent and  
26 well-settled custom and practice of failing to ensure that special education teachers  
27 and their classroom assistants are properly qualified and trained to respond  
28 appropriately to the behaviors of students with disabilities. On information and

1 belief, current and former employees of CCSD received little to no training  
2 regarding the appropriate handling of behavioral issues related to disabilities.

3 65. On information and belief, CCSD has a wide-spread, permanent and  
4 well-settled custom and practice of failing to report to the DOE known incidents of  
5 physical and emotional abuse that have violated the rights of disabled students  
6 and failing to establish required CAPs to retrain offending employees so that  
7 future violations do not reoccur.

8 66. On information and belief, there is a long history of CCSD teachers  
9 and other employees abusing disabled students who are unable to communicate  
10 what is happening to them, but CCSD has failed to take steps to address the  
11 problem, to improve the means to prevent abuse or to take steps to ensure that  
12 CCSD employees who engage such abuse are retrained, disciplined and/or removed  
13 from the District to ensure students' safety.  
14

15 **FIRST CLAIM FOR RELIEF**  
16 **Violation of Constitutional Rights, 42 U.S.C. § 1983**  
17 **Plaintiff vs. OLSZEWSKI, HALLAND and CCSD**

18 67. Plaintiff refers to, and incorporates by reference, all of the preceding  
19 paragraphs as though fully set forth herein.

20 68. Plaintiff had a constitutional right under the Fourth Amendment to  
21 the United States Constitution to be free from unreasonable seizures and to be  
22 secure in his person and to maintain his bodily integrity against unreasonable  
23 assaults on his person.

24 69. On information and belief, OLSZEWSKI violated the rights of Plaintiff  
25 under the Fourth Amendment and Fourteenth Amendment by using unjustified  
26 and unreasonable force against him and/or by failing to prevent it.

27 70. On information and belief, OLSZEWSKI's conduct was objectively  
28 unreasonable under the circumstances and in light of the educational objectives



1 Plaintiff was trying to achieve.

2 71. On information and belief, OLSZEWSKI's conduct in physically seizing  
3 Plaintiff unlawfully subjected him to excessive, unreasonable, and unnecessary  
4 physical force.

5 72. On information and belief, HALLAND violated the rights of Plaintiff  
6 under the Fourth and Fourteenth Amendments to the U.S. Constitution by actions,  
7 including but not limited to, acting with deliberate indifference to the risk of harm  
8 to Plaintiff from OLSZEWSKI.

9 73. On information and belief, Plaintiff alleges Defendant HALLAND  
10 personally participated in the deprivation of his constitutional rights by failing to  
11 act in response to allegations of serious child abuse, and through his deliberate  
12 indifference to the fact that abuse was occurring.

13 74. On information and belief, HALLAND personally participated in the  
14 deprivation of constitutional rights of Plaintiff by failing to act in response to  
15 reports he received of ongoing abuse of disabled students by OLSZEWSKI.

16 75. On information and belief, the actions of OLSZEWSKI, HALLAND and  
17 other CCSD administrators and employees, as described herein, were objectively  
18 unreasonable, willful and wanton, in light of the facts and circumstances.

19 76. On information and belief, CCSD violated the rights of Plaintiff under  
20 the Fourth Amendment by its failure to maintain adequate policies or conduct  
21 adequate training to prevent violations of the constitutional rights of disabled  
22 students. On information and belief, CCSD had multiple "written" policies,  
23 regulations, rules, and practices which contributed to the occurrence of the  
24 incidents which gave rise to the constitutional violations in this case. Multiple  
25 persistent and widespread customs and practices of CCSD gave rise to the  
26 constitutional violations alleged herein. Violations such as the ones inflicted on  
27 Plaintiff were an obvious risk of the procedures adopted by CCSD and its  
28

1 policymakers. CCSD's acts and omissions constitute deliberate indifference.

2 77. On information and belief, CCSD also violated the rights of Plaintiff  
3 under the Fourth Amendment when it displayed deliberate indifference to the  
4 demonstrated propensity of OLSZEWSKI to violate the constitutional rights of  
5 citizens in the manner that Plaintiff's rights were violated.

6 78. On information and belief, as a proximate result of the violations  
7 alleged hereinabove, Plaintiff has suffered damages, including special and general  
8 damages, according to proof.

9 **SECOND CLAIM FOR RELIEF**  
10 **Discrimination in Violation of the Americans With Disabilities Act, 42**  
11 **USC § 12101**  
12 **Plaintiff v. CCSD**

13 79. Plaintiff refers to, and incorporate by reference, all of the preceding  
14 paragraphs as though fully set forth herein.

15 80. Effective January 26, 1992, Title II of the Americans with Disabilities  
16 Act of 1990 entitled D.S. to the protections of the "Public Services" provision. Title  
17 II, Subpart A prohibits discrimination by any "public entity," including any state or  
18 local government, as defined by 42 USC § 12131, section 201 of the ADA.

19 81. Pursuant to 42 USC §12132, Section 202 of Title II, no qualified  
20 individual with a disability shall, by reason of such disability, be excluded from  
21 participation in or be denied the benefits of the services, programs or activities of a  
22 public entity, or be subjected to discrimination by any such entity. Plaintiffs were  
23 at all times relevant herein qualified individuals with a disability as therein  
24 defined.

25 82. On information and belief, by subjecting Plaintiff to ongoing physical,  
26 verbal and psychological abuse, Plaintiff was denied the benefits of the services,  
27 programs, or activities of a public entity on the basis of their disability. Non-  
28 disabled students were not subjected to similar acts of abuse.

1           83. On information and belief, CCSD has failed in its responsibilities  
2 under Title II to provide its services, programs and activities in a full and equal  
3 manner to disabled persons as described hereinabove, including failing to ensure  
4 that educational services are provided on an equal basis to children with  
5 disabilities and free of hostility toward their disability.

6           84. On information and belief, CCSD has further failed in its  
7 responsibilities under Title II to provide services, programs and activities in a full  
8 and equal manner to disabled persons as described hereinabove by subjecting  
9 Plaintiff to a hostile educational environment.

10           85. On information and belief, OLSZEWSKI engaged in physical,  
11 emotional, and verbal abuse as herein alleged, which escalated the severity and  
12 frequency of Plaintiff's behaviors, and said Defendants were deliberately  
13 indifferent to the risk that their actions would deprive Plaintiff of equal and  
14 meaningful access to education.

15           86. On information and belief, HALLAND and other District employees  
16 were deliberately indifferent to the abuse committed by OLSZEWSKI because the  
17 victims of their abuse, including Plaintiff, were persons with a disability.  
18 Furthermore, HALLAND was informed by others that disabled students, including  
19 Plaintiff, were being abused by OLSZEWSKI but, on information and belief,  
20 despite this knowledge HALLAND and other CCSD administrators and employees  
21 failed to stop the ongoing abuse, and in fact actively misled parents of students  
22 placed in OLSZEWSKI's class, including LARSON, as to the competency of  
23 OLSZEWSKI and as to Plaintiff's experiences in OLSZEWSKI's classroom.

24           87. On information and belief, the deliberate indifference by employees of  
25 CCSD gives rise to respondeat superior liability of CCSD.

26           88. As a direct and proximate result of CCSD's failure to comply with their  
27 duty under Title II, Plaintiff suffered damages as described herein.  
28

**THIRD CLAIM FOR RELIEF**  
**Violation of the Rehabilitation Act of 1973, 29 U.S.C. § 794**  
**Plaintiff vs. CCSD**

1  
2  
3           89. Plaintiff incorporates and realleges by reference all the foregoing  
4 paragraphs as if they were fully set forth herein.

5           90. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C.  
6 794 (“Section 504”), and the regulations promulgated thereunder prohibit  
7 discrimination against persons with disabilities. Section 504 prohibits the  
8 exclusion from the participation in, or being denied the benefits of, or being  
9 subjected to discrimination under, any program or activity receiving Federal  
10 financial assistance.

11           91. Plaintiff is informed and believes and thereon alleges that CCSD is  
12 and has been at all relevant times the recipient of federal financial assistance, and  
13 that part of that financial assistance has been used to fund the operations,  
14 construction and/or maintenance of the specific public facilities described herein  
15 and the activities that take place therein.

16           92. On information and belief, by subjecting Plaintiff to ongoing physical,  
17 verbal and psychological abuse, Plaintiff was denied the benefit of his attendance  
18 at CCSD and subjected to discrimination. Non-disabled children were not subjected  
19 to similar acts of abuse.

20           93. On information and belief, by its actions or inactions in denying equal  
21 access to educational services and by subjecting Plaintiff to a hostile educational  
22 environment, CCSD has violated his rights under § 504 of the Rehabilitation Act of  
23 1973, 29 U.S.C. § 794, and the regulations promulgated thereunder.

24           94. On information and belief, OLSZEWSKI engaged in physical,  
25 emotional, and verbal abuse as herein alleged, and said Defendants were  
26 deliberately indifferent to the risk that their actions would deprive Plaintiff of  
27 equal and meaningful access to education.  
28

1           95. On information and belief, CCSD is vicariously liable for the actions or  
2 inactions of its employees. HALLAND and other CCSD administrators and  
3 employees were deliberately indifferent to the reported abuse committed by  
4 OLSZEWSKI. They had actual knowledge of the ongoing abuse and knew that  
5 OLSZEWSKI was likely to continue abusing students including Plaintiff, but failed  
6 to act upon that knowledge.

7           96. On information and belief, this deliberate indifference by employees of  
8 CCSD gives rise to respondeat superior liability of CCSD.

9           97. As a direct and proximate result of CCSD's failure to comply with their  
10 duty under § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and the  
11 regulations promulgated thereunder, Plaintiff suffered damages as described  
12 herein.

13   **FOURTH CLAIM FOR RELIEF**

14   **Battery**

15                           **Plaintiff vs. Defendants OLSZEWSKI and CCSD**

16           98. Plaintiff incorporates and realleges by reference all the foregoing  
17 paragraphs, as if they were fully set forth herein.

18           99. On information and belief, the use of force employed by OLSZEWSKI  
19 against Plaintiff as alleged herein was unnecessary to carry out any reasonable  
20 purpose and/or exceeded the force reasonably necessary under the circumstances.

21           100. On information and belief, the use of force, as alleged herein, by  
22 OLSZEWSKI against Plaintiff constituted a battery.

23           101. On information and belief, the actions of OLSZEWSKI as alleged  
24 herein all occurred in or around the classroom and on the public school campus of  
25 STES, to which OLSZEWSKI was assigned by CCSD to work, and during regular  
26 workday hours while charged with the care and supervision of Plaintiff.

27           102. On information and belief, the actions of OLSZEWSKI as alleged  
28

1 herein were committed in the course and scope of the tasks assigned to her by  
2 CCSD.

3 103. On information and belief, all of the actions of OLSZEWSKI as alleged  
4 herein were reasonably foreseeable to CCSD considering the nature and scope of  
5 her employment with CCSD, in that it was foreseeable that in the course and scope  
6 of carrying out her duties OLSZEWSKI would have to exercise control over  
7 Plaintiff and other students in the class.

8 104. On information and belief, the actions of OLSZEWSKI as alleged  
9 herein were also reasonably foreseeable to CCSD because OLSZEWSKI was  
10 permitted to continue in her duties after her propensity for committing such acts of  
11 battery became known to her supervisors at CCSD.

12 105. CCSD is vicariously liable for OLSZEWSKI's acts of battery pursuant  
13 to Nev. Rev. Stat. §41.745(1).

14 106. On information and belief, as a proximate result of OLSZEWSKI's  
15 battery, Plaintiff has suffered damages as alleged herein.

17 **FIFTH CLAIM FOR RELIEF**  
18 **Criminal Violations Motivated by Characteristics of Victim, NRS 41.690**  
19 **Plaintiff vs. Defendant OLSZEWSKI**

20 107. Plaintiff incorporates and realleges by reference all the foregoing  
21 paragraphs, as if they were fully set forth herein.

22 108. On information and belief, the use of force, as alleged herein, by  
23 OLSZEWSKI against Plaintiff constituted willful violations of NRS §§ 200.400  
24 (battery) and 200.508 (abuse/neglect).

25 109. On information and belief, OLSZEWSKI's willful violations of these  
26 provisions as they relate to Plaintiff were motivated by the actual or perceived  
27 disabilities of said Plaintiff.

28 110. As a direct and proximate result, Plaintiff has suffered damages as

1 alleged herein.

2 **SIXTH CLAIM FOR RELIEF**  
3 **Intentional Infliction of Emotional Distress**  
4 **Plaintiff vs.**  
5 **Defendants OLSZEWSKI, HALLAND and CCSD**

6 111. Plaintiff incorporates and realleges by reference all the foregoing  
7 paragraphs, as if they were fully set forth herein.

8 112. On information and belief, in subjecting Plaintiff to physical, verbal  
9 and psychological abuse as alleged herein, OLSZEWSKI engaged in extreme and  
10 outrageous conduct beyond the bounds tolerated in a decent society. In particular,  
11 OLSZEWSKI was the adult and the teacher of Plaintiff, who was a three year old  
12 pre-kindergarten student with disabilities who was unable to verbally  
13 communicate. As a result, OLSZEWSKI was in a position of authority. Plaintiff  
14 was particularly vulnerable because of his young age, disabilities and his inability  
15 to functionally communicate to his parents what he was being subjected to at  
16 school. OLSZEWSKI knew Plaintiff was particularly vulnerable and knew her  
17 abuse of Plaintiff would likely result in harm due to his disabilities.

18 113. On information and belief, in committing the violent acts alleged  
19 herein, OLSZEWSKI acted with the intent to cause Plaintiff extreme emotional  
20 distress, or at a minimum, acted with a reckless disregard as to whether such  
21 actions would cause such extreme emotional distress.

22 114. On information and belief, HALLAND and other District  
23 administrators and employees received reports that disabled students, including  
24 Plaintiff, were being abused. HALLAND had actual knowledge of violent acts  
25 committed against Plaintiff by OLSZEWSKI, but failed to document, investigate,  
26 report to the DOE, or establish a CAP to retrain or to discipline OLSZEWSKI to  
27 ensure future violations would not reoccur and actively concealed the abuse from  
28 the both the DOE and Plaintiff's parents. Such misconduct by school district  
administrators charged with the care of disabled students is outrageous.

1           115. On information and belief, HALLAND and other CCSD administrators  
2 and employees took advantage of Plaintiff's disabilities by attempting to cover up  
3 the reported abuse, knowing full well Plaintiff would be unable to verbally  
4 communicate to his parents that he was routinely being subjected to physical,  
5 verbal and psychological abuse by his teacher. Because Defendants concealed the  
6 abuse from Plaintiff's parents, they were unable to timely and appropriately  
7 respond to the abuse of Plaintiff at the time he was suffering the abuse.

8           116. Defendants' conduct in this regard was outrageous and Defendants  
9 acted either with the intent to inflict emotional distress or, at a minimum, acted  
10 with a reckless disregard as to whether such actions would cause such extreme  
11 emotional distress.

12           117. CCSD is liable for injuries proximately caused by the acts or omissions  
13 of its employees acting within the scope of their employments. See NRS 41.031,  
14 NRS 41.038.

15           118. As a direct and proximate result of each Defendants' intentional acts,  
16 Plaintiff has incurred damages as alleged herein.

17  
18                           **SEVENTH CLAIM FOR RELIEF**

19                                   **Negligence**

20                                   **Plaintiff vs.**

21                           **Defendants OLSZEWSKI, HALLAND and CCSD**

22           119. Plaintiff incorporates and realleges by reference all the foregoing  
23 paragraphs, as if they were fully set forth herein.

24           120. Defendants, and each of them, owed a duty to exercise reasonable care  
25 in their interactions with Plaintiff.

26           121. A special relationship existed between each of Defendants and  
27 Plaintiff, which arose from the mandatory character of school attendance and the  
28 comprehensive control over students exercised by school personnel. CCSD owed a  
duty to exercise reasonable care to prevent harm to Plaintiff at the hands of



1 anyone, including OLSZEWSKI, negligently or intentionally.

2 122. Furthermore, on information and belief, upon learning that  
3 OLSZEWSKI had been suspected of using excessive force and physically  
4 mistreating disabled students, the duty to exercise reasonable care to prevent  
5 further harm to Plaintiff included a duty to disclose all of the suspected abuse to  
6 Plaintiff's parents.

7 123. Teachers, instructional aides, and administrative officers of CCSD are  
8 mandatory reporters as defined by NRS 432B.220. As such, they were under a  
9 mandatory duty to report to a law enforcement agency or to an agency which  
10 provides child welfare services whenever any of them, in his or her professional or  
11 occupational capacity, knew or had reasonable cause to believe that had a child had  
12 been the victim of child abuse or neglect. A mandatory reporter is required to  
13 report suspected child abuse as soon as reasonably practicable, but not later than  
14 24 hours after the person knows or has reasonable cause to believe that the child  
15 has been abused or neglected.  
16

17 124. On information and belief, Defendants, and each of them, breached  
18 their duty to exercise reasonable care when interacting with Plaintiff by physically  
19 and emotionally abusing them, thereby engaging in child abuse; by failing to  
20 prevent harms to said Plaintiff; by failing to train CCSD staff that they are  
21 mandatory reporters under state law and/or that they were required to report  
22 suspected child abuse immediately to the police as required by Nevada law; and/or  
23 by failing to inform Plaintiff's parents of suspected child abuse when Defendants  
24 first learned of it.

25 125. On information and belief, Defendants and each of them breached  
26 their duty to exercise reasonable care when interacting with Plaintiff by physically  
27 and emotionally abusing said them and/or by failing to prevent the use of a  
28 prohibited "Aversive Intervention" as defined in NRS 388.473, including but not

1 limited to the deprivation of necessities needed to sustain the health of Plaintiff.  
2 Defendants OLSZEWSKI's abuse of Plaintiff was known or should have been  
3 known to HALLAND and other CCSD administrators and employees.

4 126. As a direct and proximate result of Defendants' negligence, Plaintiff  
5 has suffered damages as alleged herein.

6 **EIGHTH CAUSE OF ACTION**  
7 **Negligent Supervision**  
8 **Plaintiff vs.**  
9 **Defendants HALLAND and CCSD**

10 127. Plaintiff incorporates and realleges by reference all the foregoing  
11 paragraphs, as if they were fully set forth herein.

12 128. As school personnel, HALLAND and/or other CCSD supervisory  
13 employees owed students under their supervision, including Plaintiff, a protective  
14 duty of care, which includes overseeing the educational environment and the  
15 performance of OLSZEWSKI and taking reasonable measures to guard Plaintiff  
16 against abuse from foreseeable sources, including OLSZEWSKI.

17 129. On information and belief, OLSZEWSKI was unfit to perform the work  
18 for which she was hired to do.

19 130. On information and belief, HALLAND and/or other CCSD supervisory  
20 employees knew or should have known that OLSZEWSKI was abusing students at  
21 STES either by personally observing the abuse, by reports received from other  
22 school employees and/or by providing reasonable supervision of its students and/or  
23 its employees.

24 131. On information and belief, HALLAND and/or other CCSD supervisory  
25 employees' negligence in supervising and retaining OLSZEWSKI was a substantial  
26 factor in causing harm to Plaintiff.

27 132. CCSD is liable for injuries proximately caused by the acts or omissions  
28 of its employees acting within the scope of their employment. See NRS 41.031, NRS

1 41.038.

2 133. As a direct and proximate result of Defendants' negligent supervision  
3 of OLSZEWSKI, Plaintiff has incurred damages as alleged herein.

4 **NINTH CAUSE OF ACTION**

5 **Enhanced Damages for Injury or Loss Suffered by a**  
6 **Vulnerable Person, NRS 41.1395**  
7 **Plaintiff vs. Defendants OLSZEWSKI**

8 134. Plaintiff incorporates and realleges by reference all the foregoing  
9 paragraphs, as if they were fully set forth herein.

10 135. At all times relevant to this action, Plaintiff was a vulnerable person  
11 as that term is defined by NRS 41.1395.

12 136. In committing the violent acts alleged herein, OLSZEWSKI acted with  
13 recklessness, oppression, fraud and/or malice as that term is defined by NRS  
14 41.1395.

15 137. Accordingly, Plaintiff is entitled to double damages and attorneys' fees  
16 and costs against OLSZEWSKI under NRS 41.1395.

17 **JURY DEMAND**

18 Plaintiff hereby demands that this matter be tried by a jury.

19 **PRAYER**

20 WHEREFORE, Plaintiff prays for judgment as follows:

- 21 1. Compensatory damages to Plaintiff for pain, suffering, injury, emotional  
22 distress and for medical expenses, past and future;
- 23 2. Punitive damages against Defendants OLSZEWSKI and HALLAND as  
24 authorized under NRS 41.690;
- 25 3. Double Damages against each Defendant causing Plaintiff's harm under NRS  
26 41.1395;
- 27 4. Attorneys' fees and costs as authorized under 42 U.S.C. § 1983, 42 U.S.C. §  
28 1210, 29 U.S.C. § 794, and NRS 41.690 and 41.1395;

- 1 5. Prejudgment interest and post judgment interest as allowed by law; and
- 2 6. Such other and further relief as the court deems just and proper.

3  
4 Dated: February 9, 2022

**PANISH SHEA & BOYLE LLP**

5 /s/ Rahul Ravipudi  
6 By: \_\_\_\_\_  
7 RAHUL RAVIPUDI  
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