

United States District Court
Eastern District of Michigan

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Williams et al.,

Complaint

Jury Trial Demanded

Case: 2:06-cv-14556

Plaintiffs,

Assigned to: Victoria A. Roberts, District Judge

-against-

Port Huron Area School District
Board of Education,

and

Craig Dahlke,

and

Jeffrey Stout,

and

Thomas Crosby,

and

Rasha Demashkieh,

and

Geoffrey Hering,

and

Michael Jones

and

Charles Meeker

and

Anna Kovar

Defendants.

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Plaintiffs, by their attorney Joshua Friedman, complain as follows:

Jurisdiction

1. This is a student-on-student racial harassment and race discrimination case, brought pursuant to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (“Title VI”), the Elliott Larsen Act (“ELA”), Mich. Comp. Laws Ann. § 37.2102 et seq., the Equal Accommodations Act (“EAA”), Mich. Comp. Laws Ann. § 750.146 et seq., and Michigan common law.

2. This Court has jurisdiction pursuant to 28 USCS § 1343. This Court has supplemental jurisdiction over plaintiffs’ state law claims pursuant to 28 USCS § 1367. Venue is proper in this district pursuant to the general venue statute, 28 U.S.C. §1391.

Parties

3. Plaintiff T.S.L. is a 17 year old African-American Port Huron Northern High School (“PHNHS”) student, residing in Port Huron, MI.

4. Plaintiff D.L.H. is a 19 year old African-American PHNHS student, residing in Port Huron, MI.

5. Plaintiff Z.H. is a 15 year old African-American PHNHS student, residing in Port Huron, MI.

6. Plaintiff D.J. is a 15 year old African-American PHNHS student, residing in Port Huron, MI.

7. Plaintiff D.J.2 is a 17 year old African-American PHNHS student, residing in Port Huron, MI.

8. Plaintiff N.T. is a 15 year old bi-racial PHNHS student, residing in Port Huron, MI.

9. Plaintiff K.J. is a 16 year old African-American PHNHS student, residing in Port Huron, MI.

10. Plaintiff L.S. is a 20 year old African-American PHNHS student, residing in Port Huron, MI.

11. Plaintiff J.S. is a 14 year old bi-racial PHNHS student, residing in Port Huron, MI.

12. Plaintiff J.P. is a 15 year old African-American PHNHS student, residing in Port Huron, MI.

13. Plaintiff P.J. is a 17 year old African-American PHNHS student, residing in Port Huron, MI.

14. Plaintiff G.H. is a 15 year old bi-racial PHNHS student, residing in Port Huron, MI.

15. Defendant Port Huron Area School District Board of Education (hereinafter “Defendant,” or the “PHASD,” or the “Board”) receives federal financial assistance from the United States Department of Education, and operates PHNHS, a public high school, within the District.

16. Defendant is a place of public accommodation within the meaning of the ELA and the EAA.

17. Defendant Craig Dahlke, sued herein in his personal capacity, was the Principal of Port Huron Northern High School during the 2005/2006 school year and continues in that capacity.

18. Defendant Jeffrey Stout, sued herein in his personal capacity, was at all times relevant hereto a member of the PHASD BOE.

19. Defendant Thomas Crosby, sued herein in his personal capacity, was at all times relevant hereto a member of the PHASD BOE.

20. Defendant Rasha Demashkieh, sued herein in her personal capacity, was at all times relevant hereto a member of the PHASD BOE.

21. Defendant Geoffrey Hering, sued herein in his personal capacity, was at all times relevant hereto a member of the PHASD BOE.

22. Defendant Michael Jones, sued herein in his personal capacity, was until he resigned, and at times relevant hereto, a member of the PHASD BOE.

23. Defendant Charles Meeker, sued herein in his personal capacity, was at times relevant hereto a member of the PHASD BOE.

24. Defendant Anna Kovar, sued herein in her personal capacity, was at times relevant hereto a member of the PHASD BOE.

Facts

25. PHNHS is a public high school attended by approximately 1665 students. Of that number, approximately 92% are Caucasian; only 8% are minority. The demographics at PHNHS reflect those of Port Huron at large. The residents of City of Port Huron are approximately 87% Caucasian, and 13% minority.

26. Over the years, Port Huron as a City and within its schools, has experienced racial turmoil. In 1986, an Assistant Principal at Port Huron High School was reprimanded (but not fired) for having four staff members dress up in Ku Klux Klan regalia as a “joke” on an African-American teacher. Upon information and belief, in the 1990’s, there was a racial clash between Caucasian students at PHNHS and African American students at Port Huron High School.

27. Over the past several years at a minimum, and as described more fully below, racial harassment has increased within PHNHS and the community.

28. This harassment at PHNHS is hardly surprising given the lack of minority teachers and administrators at PHNHS, and given the lax enforcement of anti-discrimination/harassment rules at the School, even though school administrators and the BOE have been notified numerous times about problems.

29. For example, upon information and belief, there are no minority teachers at PHNHS, and currently, only one of PHNHS's administrators is African-American. Additionally, as described more fully below, the African-American Superintendent of Schools was asked to resign in June 2006, and an African-American administrator, Assistant Principal Marla Philpot ("AP Philpot"), was involuntarily transferred to Port Huron High School. On information and belief, her transfer was in retaliation for her opposition to racial harassment of students at PHNHS, and her attempts to force the PHASD BOE to take appropriate remedial action.

30. Since at least September 2003, many of PHNHS's minority students, including but not limited to plaintiffs, have been subjected to a racially hostile environment, which has gone unremedied despite actual notice to defendant. Defendants' failure to take appropriate remedial action has amounted to deliberate indifference, and has resulted in significant injury to plaintiffs.

31. For example, but not by way of limitation, during at least the period September 2003 through September 2006:

- a. Caucasian students have routinely used racial slurs, directed at and/or heard by plaintiffs, including the word "nigger;"
- b. PHNHS teachers and staff hearing racial slurs have taken no action to stop the use of such slurs or discipline students using inappropriate language;
- c. Graffiti of racial slurs and threats of physical harm (such as "die nigger") has been found on school lockers, desks and other public areas. Despite

the open and obvious nature of these slurs, PHNHS has taken no action to put a stop to the graffiti or to clean it in a timely manner;

d. Notes threatening physical violence have been found in students' lockers. Defendant has failed to take action to identify the person(s) responsible for the notes;

e. In or around October 24, 2005, a picture of a rebel flag, with the words "death to all niggers" (the "racist picture") was found on school premises. At a meeting televised to each classroom, ostensibly to express to students that the picture was unacceptable but with no introduction, PHNHS's Principal Dahlke held up the picture next to his face. When students laughed, PHNHS teachers did nothing to discipline or stop them.

f. Even after the racist picture was discovered, Defendant did not take action to affirm or explain any policies prohibiting discrimination or provide additional information about complaint procedures. Defendant's "remedial" action was limited to calling a meeting of all the African-American students, including Plaintiffs, and telling them that they should not themselves use the word "nigger" because it led Caucasian students to believe they could use the word too.

g. In or about October/November 2005, after the racist picture was found, Liz Guertin, plaintiff G.H.'s mother, attended an "Open School" night at PHNHS and met with Defendant Dahlke at her request to discuss the racial problems and the racist picture. Demonstrating his indifference, at that meeting, Dahlke stated that Ms. Guertin should not be so upset because her son was not involved in the incident. Ms. Guertin responded that the statement "'death to all niggers' definitely involved her son."

h. In or about November 2005, Ms. Guertin went to a scheduled

Board meeting and asked whether the Board was aware of the racial problems at PHNHS. No one on the Board acknowledged having any knowledge of the incident.

i. In or about November/December 2005, Ms. Guertin called former Superintendent Jones (“Mr. Jones”) to discuss the racial incidents at Northern. Ms. Guertin asked Mr. Jones why no white students were asked to meet with school officials after the racist picture, and further discussed the incident with Jones.

j. On or about December 19, 2005, Ms. Guertin attended a school board meeting. Previously, she had requested in writing permission to speak to the Board. At the meeting, Ms. Guertin displayed an enlarged photo copy of the racist picture and handed out copies of the note to the Board and the audience. Ms. Guertin addressed the Board and asked them what they were going to do about the racism at PHNHS. The Board did not respond. The Board did not ask any questions or in any way indicate that they were not familiar with the racial problems at PHNHS.

k. After the board meeting Mr. Dahlke approached another parent, Patsy Chapman, and asked her why Ms. Guertin was so angry.

l. On information and belief a group of students at PHNHS called “810” is known to students, teachers and administrators as having leanings toward white supremacist beliefs. This group is known to have confederate flags on their cars and the students in the group wear identical tan “Carhart” flannel jackets at school. After the racist picture was found, several parents raised the possibility with Defendant Dahlke, and Mr. Jones that this group may have been responsible

for the notes. Defendant Dahlke and Mr. Jones dismissed the parents' questions about the group and did not investigate the activities of this group at NHS.

m. Upon information and belief, in or around April 2006, an African-American student, who is the son of a current BOE member, was assaulted by a group of Caucasian students, which was captured on the School's video camera.

n. In or around April/May 2006, Assistant Principal Marla Philpot (hereinafter "AP Philpot") found a textbook with racial slurs directed at her. AP Philpot later found a "Hit List" (the "Hit List") in the book, which targeted African-Americans, including herself, with violence. AP Philpot initially closed the textbook before finding the Hit List because the book was just one of many incidents where racial slurs have been said or written about her, and she had become "numb."

o. Despite the clear threat of violence contained in the Hit List and the nature of the slurs in the textbook, Principal Dahlke failed to immediately involve the police, who might have obtained evidence concerning the identity of the individual(s) responsible.

p. After the Hit List was discovered, at AP Philpot's direction, a video was prepared to train some of PHNHS's staff and students about discrimination and harassment. Not all staff and students were required to participate in the training.

q. In May 2006, AP Philpot had two or more meetings with parents of African-American students who were complaining about ongoing racial harassment of their children. In each of these meetings Philpot stated that she had heard complaints of racial harassment for the past three years. In each meeting,

she said she had been documenting the complaints, and showed the parents a stack of papers.

r. AP Philpot also showed the parents copies of e-mails and a letter that she had sent to the Port Huron Board of Education (the “BOE”) over the course of the 2005-2006 school year. In the e-mails she advised the BOE members of the racially hostile environment for African-American students at PHNHS, which belied Board members’ claims of ignorance.

s. AP Philpot did not receive a response to her e-mails, so she wrote a letter to the BOE asking permission to address the BOE in person regarding the racially hostile environment for African-American students at PHNHS.

t. A short time after her complaints to the PHASD BOE, AP Philpot was involuntarily transferred to a different school.

u. At or around the time AP Philpot was transferred, in June 2006, Mr. Jones, who was also on the Hit List, was asked to resign.

v. Despite the racial turmoil, and despite the negative implications of using such a word, in a meeting with parents after the Hit List was discovered, Principal Dahlke referred to African-Americans as “colored.”

w. In or about June 2006, several plaintiffs with email accounts on the website myspace.com received racist emails with racial slurs and threats signed by “810,” an apparent reference to the group discussed in par. e, above.

x. Prior to the discovery of the Hit List, PHNHS had retained consultants to review all factors that might negatively affect the learning environment of the School. After the Hit List was found, the parameters of the consultants’ review was expanded to focus on racial issues and tensions. The consultants’, in preface to their July 2006 report (“the report”), acknowledged that

the racial problems developed “over an extended period of time and was more the result of a gradual and cumulative series of events as opposed to any single episode.” The methodology employed by the consultants in obtaining information about racial harassment and tension at PHNHS did not meet United States Department of Education standards for investigation. Even so, while the report recommended, among other things, training to be provided to staff and students, to date, students have not received any training or education regarding racial harassment or discrimination.

y. After the 2005/2006 school year ended, on or about July 25, 2006, Plaintiff L.S. and five other African-American friends were speaking with several Caucasian girls at the Cottage Inn, in Port Huron. A crowd of Caucasian males from a club across the street called The Grotto chased them with metal chairs down the street and into a movie theatre, where L.S. and others were able to call the police. On information and belief the crowd who chased Plaintiff Smith and his friends were recognized as members of the “810” group and students at PHNHS.

z. In or about September 2006, the Michigan branch of the American Nazi Party I (“ANP”) distributed recruitment flyers in and around the neighborhood of PHNHS. The group’s leader, Dan Hill, was quoted in the Port Huron Times Herald stating that the group deliberately distributed the pamphlets near the high school because of published reports of racial incidents at the school. Upon information and belief, the ANP believed it would find a receptive audience at PHNHS.

aa. On or about September 9, 2006, a racist message was found in a boys’ rest room at the School, which included racial slurs.

bb. On or about September 19, 2006, a racist message was found in another rest room at the School.

cc. Also in or about September 2006, another racist message was found on School premises. With respect to the three incidents of harassment in September 2006, the School's "investigation" has, upon information and belief, been limited to offering a reward of \$100 for information leading to identification of the person(s) responsible.

32. Plaintiffs individually are aware of foregoing these racist events. These events have contributed to a racially hostile school environment, which has interfered with their education. Plaintiffs have also been personal targets of racial harassment directed toward them specifically. By way of example only, but not by way of limitation, the individual plaintiffs have experienced the following types of racial harassment and discrimination:

Plaintiff T.S.L.

33. Beginning in at least August 2003, Plaintiff T.S.L. was the object of racial harassment. For example, in August 2003, T.S.L. found "die nigger" written on her desk. On at least three occasions during the 2003/2004 school year, students threw papers at her with the words "die nigger." Despite reporting these notes to the School's Health teacher, Mrs. Jameson (who assured T.S.L. she would pass the notes to the Principal), and despite the open and obvious nature of the racial harassment, Defendant took no action to investigate or discipline the responsible individuals.

34. Also during the 2003/2004 school year, Plaintiff T.S.L. was also subjected to racial harassment from her teachers. For example, but not by way of limitation, the tennis team's Coach the Coach referred to T.S.L. only as Serena or Venus (referring to

the African-American professional tennis players, the Williams sisters). Although Plaintiff T.S.L. complained, the Coach refused to stop referring to her in that manner. It is unlikely that the comments were meant in a positive way, because the coach refused to allow T.S.L. to play on the Varsity team, although she previously had played on the Varsity team. Nor would he allow her or another girl of Middle Eastern descent to play any matches that counted toward a championship.

35. During the 2004/2005 school year, Plaintiff T.S.L. frequently heard students use the word “nigger” in a derogatory manner. T.S.L.’s mother complained to then-Principal Voetess, but to Plaintiff’s knowledge, nothing was done.

36. Additionally, T.S.L. was not asked to be on the tennis team for the 2004/2005 school year.

37. On or about October 24, 2005, T.S.L. discovered a racist note in her locker with a picture of a confederate flag and a swastika, with the words, “Death to all niggers.”

38. The following day, on or about October 25, 2005, T.S.L. discovered another note, this time including a poem with racist language.

39. The next day, on October 26, 2005, T.S.L. finds the word “nigger” written on her locker in pencil.

40. At least the first note was reported to both Principal Dahlke and AP Philpot. Philpot informed T.S.L.’s mother, Cassandra Williams that Dahlke was responsible for taking action, but to Ms. Williams’ knowledge, nothing was done.

41. Plaintiff T.S.L. also reported the notes to the police department. Just prior to the police arriving at PHNHS to investigate, Principal Dahlke removed the racist graffiti on T.S.L.’s locker, preventing the police from seeing the graffiti or obtaining evidence.

42. In May 2006, T.S.L.'s mother was advised that her daughter's name was on the Hit List.

43. As a result of Defendant's failure to remedy the racially hostile environment and the threat of physical violence, Plaintiff T.S.L. suffered emotional distress.

Plaintiff D.L.H.

44. Beginning in or about 2003, Plaintiff D.L.H. was subjected to racial discrimination and harassment by students and teachers at PHNHS, including having racial slurs directed at him.

45. Belinda Rivera, Plaintiff D.L.H.'s mother, repeatedly complained to at least PHNHS's former Principal Voetoss, and Assistant Principal, AP Philpot, about among other things about ongoing racial harassment.

46. In or around the 2004/2005 school year, Plaintiff D.L.H. was accused of having broken into a school guidance counselor's home. D.L.H. was falsely accused because of his race, the counselor having generally described an "African-American male." The School searched his locker, but nothing was found.

47. Throughout the 2004/2005 year, PHRHS teachers routinely treated white students more favorably than African-American students.

48. Despite complaints to the administration, the racially hostile environment was not addressed. In May 2006, the Hit List was discovered with Plaintiff Hayes' name was on it.

49. After D.H. learned that his name appeared on the Hit List, Principal Dahlke told Ms Rivera that he could not guaranty D.L. H.'s safety at school, and suggested that she keep him home until it was safe. Following Dahlke's instructions,

Plaintiff D.L.H. missed four days of school. As a result of the unremedied racially-motivated harassment, as well as the threat of violence against him, Plaintiff Hayes grades suffered so much that he was not permitted to graduate on time, in June 2006. As a consequence of Defendants' actions, he has suffered severe emotional distress.

Plaintiff Z.H.

50. Plaintiff Z.H. viewed the racist picture on the School's in-house television.

51. Z.H. was one of the students called to a meeting with the Principal after the racist picture was found. Only African-American students were called into the meeting. The Principal told the African-American students that their use of the N word gave white students the idea that it was permissible to use it as well and encouraged racist conduct. Z.H. felt, as did many of the other African-American students who attended the meeting, that they, the victims, were being blamed for the racist conduct.

52. In May 2006, the Hit List was discovered with Plaintiff Z.H.'s name was on it.

53. Plaintiff Z.H. missed two days of school at Principal Dahlke's suggestion when she learned that her name appeared on the Hit List.

54. The racial harassment, including the Hit List, caused Z.H. to request a transfer out of PHNHS due to an unsafe environment. Her request is pending because she was informed by the School District that she had allegedly missed the deadline for transfer requests, and cannot transfer until January 2007. Z.H.'s mother was also informed that Principal Dahlke wished to speak with her about the transfer request.

55. As a result of the racially hostile environment, including the threats of physical harm, Plaintiff Z.H. has suffered severe emotional distress.

Plaintiff D.J.

56. In or around April, 2006, Plaintiff D.J. was subjected to a series of racially hostile and physically threatening acts. For example, but not by way of limitation, D.J. found that his school identification card had been stolen from his gym locker, and then taped to a door with a note saying, “You’re a dead man.”

57. Throughout the 2005/2006 school year, D.J. was threatened at least four times.

58. During the 2005/2006 school year, D.J. was struck by a Caucasian student. While D.J. was suspended for three days, the Caucasian student was only suspended for one day.

59. In May 2006, when the Hit List was discovered, Plaintiff D.J.’s name was listed first. When informing D.J. about the Hit List, Principal Dahlke’s response to the threat was to tell D.J. (along with the other students whose names were on the Hit List) to stay home from school. As a result of the threat of physical violence, D.J. missed two and one half weeks of school.

60. Prior to experiencing racial harassment, Plaintiff D.J. was an honor student. Although AP Philpot was made aware of all the incidents of harassment directed toward D.J., nothing was ever done. As a result of the harassment being permitted to continue, and the threat of physical violence, Plaintiff D.J. became withdrawn, and began receiving barely passing grades.

Plaintiff N.T.

61. During the 2005/2006 school year, Plaintiff N.T. was the object of racial harassment at PHNHS. For example, but not by way of limitation, several students walking behind N.T. were using the word “nigger” in discussing certain African-

American children, then pointed at N.T. saying, “like that nigger.” Although reported to AP Philpot, Defendant took no remedial action.

62. In or around the beginning of the 2005/2006 school year, when Principal Dahlke showed the picture of the racist picture on the school’s internal television, many Caucasian students in N.T.’s classroom laughed, without any response from her teacher. When N.T.’ mother complained to Principal Dahlke about the manner in which he handled the racially hostile picture, Dahlke informed her that he was advised by unnamed community members to respond in the manner he had.

63. Plaintiff N.T.’s name was on the Hit List. On Principal Dahlke’s advice, Plaintiff N.T.’s parents removed her from school for one week when notified that N.T. was on the Hit List. Despite Principal Dahlke’s promise that the removal would not have a negative impact on her grades, N.T.’s math teacher lowered all her grades by 50% for each late assignment due to her absence.

64. As a result of Defendant’s failure to remedy the racially hostile environment and the threat of physical violence, over the course of the 2005/2006 school year, Plaintiff N.T.’s grades slipped from a “B” average to a “D” average, and she was required to attend summer school.

Plaintiff D.J.2

65. Plaintiff D.J.2 also experienced a racially hostile environment, including but not limited to the following incidents:

66. D.J.2’ name was on the Hit List with the other African American students. When D.J.2’s parents were informed by Dahlke that D.J.2’s name was on the “Hit List,” Dahlke attempted to downplay the seriousness of the incident, saying it was nothing to be alarmed about, and everything was under control.

67. In May 2006, Plaintiff D.J.2 was lifting weights in the PHNHS weight room, with a Caucasian student spotter. The spotter, along with the staff, all left the area; as a result, the weights D.J.2 was lifting fell on him, requiring multiple stitches to his chin. Upon information and belief, PHNHS staff and students would not have allowed a Caucasian student to lift weights with no spotter.

68. Also in or about May 2006, an unidentified Caucasian student called to D.J.2's and a friend, saying "hey nigger" in a racially offensive manner while walking in the hallway.

69. As a result of the racially hostile environment and the threat of physical violence, D.J.2 suffered severe emotional distress.

Plaintiff K.J.

70. Throughout her attendance at PHNHS, K.J. routinely heard African Americans referred to as "nigger." Although teachers and administrators were aware of the frequent use of racial slurs, based on their presence in the hallways when students used the word, to plaintiff's knowledge no action was taken to stop it.

72. Throughout the 2005/2006 school year, K.J. saw drawings of the Confederate Flag in her text books.

73. K.J.'s name was also on the Hit List, which she became aware of when AP Philpot called her into her office. As a result of her meeting, Plaintiff was late to class. When her teacher yelled at her for being late, K.J. was shaken and upset and began to cry. K.J.'s mother later confronted the teacher and explained K.J. was late because she was

meeting with Philpot about being on the Hit List. The teacher defended having yelled at K.J. by saying, “We weren’t supposed to talk about [the Hit List].”

74. As a result of Defendant’s failure to remedy the racially hostile environment and the threat of physical violence, K.J. suffered severe emotional distress.

Plaintiff L.S.

75. Throughout the 2005/2006 school year, Plaintiff L.S. heard Caucasian students referring to African-American students as “nigger.”

76. Principal Dahlke advised L.S. and his mother that Plaintiff L.S.’s name was on the Hit List. Dahlke advised that he could not assure L.S.’s safety, and as a result of being on the hit list, and fearing for his own safety, L.S. stayed out of school for one day, which caused his probation officer to place him in lock up for missing school.

77. As a result of Defendant’s failure to remedy the racially hostile environment and the threat of physical violence, Plaintiff L.S. suffered severe emotional distress.

Plaintiff J.S.

78. On or about November 17, 2005, Plaintiff J.S.’s mother, Mrs. Smith was called to a conference with PHNHS computer teacher, Mr. Lewandowski, who told her that J.S. was a “problem child,” and he “had four [4] other Black children in the class who were also problem children.”

79. After the racist picture was displayed, Plaintiff J.S. attended a meeting at which African American students were told that there would be a school assembly to address the racial hostility in the School. However, none was held until after the Hit List was discovered.

80. Plaintiff J.S. stayed out of school for one day after the discovery of the Hit List to ensure his safety.

81. As a result of Defendants' failure to remedy the racially hostile environment and the threat of physical violence, Plaintiff J.S. suffered severe emotional distress.

Plaintiff J.P.

82. Plaintiff J.P. viewed the racist picture on the School's in-house television.

83. J.P. was one of the students called to a meeting with the Principal after the racist picture was found.

84. In May 2006, the Hit List was discovered with Plaintiff J.P.'s name was on it. As a result of being on the hit list, J.P. feared for his safety.

85. The racial harassment, including the threat of violence in the Hit List, caused J.P. to transfer out of PHNHS.

86. As a result of Defendants' failure to remedy the racially hostile environment and the threat of physical violence, Plaintiff J.P. suffered severe emotional distress.

Plaintiff P.J.

87. Plaintiff P.J. viewed the racist picture on the School's in-house television.

88. P.J. was one of the students called to a meeting with the Principal after the racist picture was found.

89. In May 2006, when the Hit List was discovered, Plaintiff P.J.'s name was on it.

90. The racial harassment, including the Hit List, caused P.J. to transfer out of PHNHS.

91. As a result of Defendant's failure to remedy the racially hostile environment and the threat of physical violence, Plaintiff P.J. suffered severe emotional distress.

Plaintiff G.H.

92. G.H., who is biracial (African-American and Caucasian) was in 9th grade in the 2005-2006 school year at PHNHS.

93. In or about October 2005 while he was in algebra class G.H. observed Mr. Dahlke on the in-house television holding the racist picture. G.H. heard Mr. Dahlke tell the school that the note was unacceptable. After Mr. Dahlke's announcement was finished, his class continued without comment about the announcement.

94. G.H. was not called into the meeting in the library of minority students. After the meeting, friends who were in the meeting asked why he was not there.

95. As set forth more fully above, Ms. Guertin, plaintiff G.H.'s mother, discussed the ongoing racial harassment and hostility with Principal Dahlke and Superintendent Jones in the October/November 2005 .

96. On or about December 19, 2005, she spoke with the Board about the racist picture and questioned them as to what they were going to do about the racism at PHNHS.

97. Approximately one week after the Board meeting, G.H. was in the hall with his girlfriend, who is Caucasian. The two were holding hands and kissing. In the hallway were other couples, all Caucasian, who were also hugging and kissing. Assistant Principal Wagner approached G.H. and told him and his girlfriend that their behavior was unacceptable and against school rules for "PDA," [public displays of affection] and sent

the couple to his office.

98. Wagner did not cite any of the other Caucasian couples in the hallway. G.H. and his girlfriend waited in Mr. Wagner's office for an hour after which he came in and called their parents. Ms. Guertin asked Mr. Wagner why her son was singled out and why Ms. Philpot (the Assistant Principal to whom Gregory was assigned), had not called her. Ms. Guertin also asked Mr. Wagner whether her son was being harassed because she spoke out at the Board meeting the previous week.

99. Subsequently, Ms. Guertin called Ms. Philpot and asked whether she knew anything about Mr. Wagner's actions and why Ms. Philpot had not called her. Ms. Guertin stated that Ms. Philpot knew nothing of the action by Mr. Wagner.

100. In or about the November/December 2005, G.H.'s biology teacher, Ms. Murphy, told the class that the teachers do not discriminate against any students and they should stop complaining.

101. The additional scrutiny G.H. is under as a result of his mother's complaints to the Board has negatively affected G.H.'s perception of the school and has caused significant stress. Additionally, in May 2006, when the Hit List was discovered, as a bi-racial student, G.H. felt threatened.

102. Defendant's failure to remedy the racially hostile environment and the threat of physical violence caused Plaintiff G.H. to suffer severe emotional distress.

COUNT I v. Port Huron Area School District Board of Education

**Hostile Environment in Violation of Title VI
of the Civil Rights Act of 1964**

103. Plaintiff incorporates paragraphs one (1) through ninety-five (95) as if fully set forth herein at length.

104. As more fully set forth herein, but without limitation, students at PHNHS harassed plaintiffs on the basis of race.

105. Officers and employees of defendant had authority to correct the problems had actual notice of the racially hostile environment.

106. The defendant was deliberately indifferent to the problems.

107. This indifference was the cause of plaintiffs' injuries.

COUNT II v. Port Huron Area School District Board of Education

**Hostile Environment in Violation of the
Elliott Larsen Civil Rights Act-- Mich. Comp. Laws Ann.
§ 37.2102(a) et seq.; § 37.2402 et seq.; § 37.2302(a) et seq.**

108. Plaintiffs incorporate paragraphs one (1) through one hundred eight (108) as if fully set forth herein at length.

109. Defendant denied plaintiffs the full and equal enjoyment of the facilities, privileges, advantages, or accommodations of a place accommodation, namely, of public education, and denied plaintiffs full utilization and/or benefit of an educational institution, because of race, by allowing students at PHNHS to harass plaintiffs on the basis of race, causing plaintiffs' injuries.

COUNT III v. Port Huron Area School District Board of Education

**Denial of Advantages of Public Accommodation on a
Account of Race in Violation of
the Equal Accommodation Act-- Mich. Comp. Laws Ann. § 750.146 et seq.**

110. Plaintiff incorporates paragraphs one (1) through one hundred nine (109) as if fully set forth herein at length.

111. Defendant denied plaintiffs the full and equal accommodations, advantages, facilities and privileges of a place of public accommodation, namely a public

education, because of race, by allowing students at PHNHS to harass plaintiffs on the basis of race, causing plaintiffs' injuries.

COUNT IV v. Port Huron Area School District Board of Education
Intentional Infliction of Emotional Distress

112. Plaintiffs incorporate paragraphs one (1) through one hundred eleven (111) as if fully set forth herein at length.

113. Defendant's conduct, including but not limited to intentionally and/or recklessly discriminating against plaintiffs in a place of public accommodation, and allowing a racially hostile environment to continue unabated despite notice, caused plaintiffs severe emotional distress.

COUNT V v. Defendants Dahlke, Stout, Daniels, Crosby,
Demashkieh, Hering, Jones, Meeker, and Kovar
Violation of 42 U.S.C. § 1983

114. Plaintiffs incorporate paragraphs one (1) through one hundred fourteen (114) as if fully set forth herein at length.

115. Defendants, acting under color of state law, deprived Plaintiffs with reckless and/or callous indifference to federally protected rights, including but not limited to, rights secured by the 14th Amendment of the U.S. Constitution, as well as rights secured by 42 U.S.C. § 2000d et seq., and in so doing were motivated by evil intent.

116. Specifically, but without limitation, Defendants deprived Plaintiffs of the equal protection of the laws when Plaintiffs were harassed by students at Port Huron Northern High School, of which Defendants had actual notice, and deliberately failed to take effective measures to end the harassment and discrimination.

117. Defendants' conduct proximately caused Plaintiffs' injuries.

WHEREFORE, Plaintiffs respectfully requests that this Court grant the following relief:

A. Declare Defendants conduct complained of herein to be in violation of the Plaintiffs' rights as secured by 42 U.S.C. § 2000d, the U.S. Constitution, Mich. Comp. Laws Ann. 37.2102(a) et seq., Mich. Comp. Laws Ann. 750.146 et seq.;

B. Award the Plaintiffs compensatory damages to be determined by the jury at the time of trial;

C. Award the Plaintiffs punitive damages to be determined by the jury at the time of trial;

D. Award the Plaintiffs treble damages;

E. Award the Plaintiffs reasonable attorneys' fees and costs, including the fees and costs of experts, incurred in prosecuting this action; and

F. Grant such further relief as the Court deems necessary and proper.

JURY TRIAL DEMANDED

The Plaintiffs request a jury trial on all questions of fact raised by the Complaint.

Dated: October 17, 2006

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