

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO.: 12-02029 CA 9

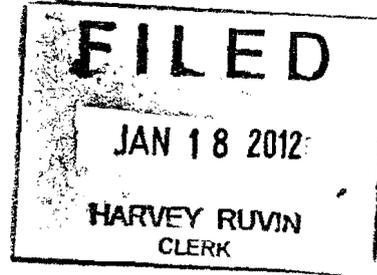
KENNETH CLEMENTS,

Plaintiff,

vs.

MIAMI-DADE COUNTY SCHOOL BOARD  
FOUNDATION, INC. D/B/A MIAMI-DADE  
COUNTY PUBLIC SCHOOLS

Defendant.



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2-155  
rect  
DEBRA SANCHEZ

COMPLAINT

Plaintiff, KENNETH CLEMENTS, sues Defendant, Miami-Dade County School Board Foundation, Inc. d/b/a Miami-Dade County Public Schools (HEREAFTER, "Miami-Dade County School District"), and alleges:

1. This is an action for damages that exceed \$15,000 exclusive of attorneys' fees and costs.
2. Defendant is the appropriate party as this action alleges tortious conduct of employees of Miami-Dade County School District regarding a student of Ronald Reagan High School, in Miami-Dade County, Florida.
3. All pre-requisites have been brought for bringing of this action.
4. Plaintiff, through his natural guardian (as a minor) served appropriate Notice to the Defendant within the applicable statutory requirements and within the applicable statute of limitations.
5. This action is being filed within the applicable statute of limitations.
6. At all material times, Plaintiff, Kenneth Clements was a student of Ronald Reagan High School located in Miami-Dade County, Florida.

Complaint

7. At all material times, the Defendant, through its employees and agent operated and supervised a school newspaper that was disseminated throughout the school and open to the public.

8. At all material times, Defendant's employees and agents operated and supervised the school newspaper within the course and scope of their agency and/or employment.

9. Defendant, through its agents, employees and apparent agents was responsible for the content of the newspaper, and Defendant insisted on final approval of all content before publication of all content of the paper, including final approval by the school principle.

10. Thus, the students that wrote stories were in essence agents and/or apparent agents of the Miami-Dade School Board, as they were directly controlled by their supervisor and principle of the school who had the right to final approval of all content in the school newspaper.

11. Specifically, the persons that wrote, edited and selected the subject newspaper and article that featured the Plaintiff's photograph were agents of the Miami-Dade County School District, to the extent that the Miami-Dade County School District had actual control over their activities related to content of the school newspaper.

12. Specifically, the persons that wrote, edited and selected the subject newspaper and article that featured the Plaintiff's photograph were agents of the Miami-Dade County School District, to the extent that the Miami-Dade County School District had the right to control over their activities related to content of the school news paper.

13. Additionally, the faculty advisor of the newspaper was responsible for editing the content of the school newspaper, and had total editorial control.

Complaint

14. At all material times, the faculty advisor of the newspaper owed a duty to operate the newspaper in a reasonable and prudent manner and to avoid the paper and its agents from committing defamation, invasion of privacy and avoid intentional and negligent infliction of emotional distress.

15. Additionally, the school principle had final approval of all content of the newspaper and assumed the duty of reviewing the newspaper before publication, and had total editorial control.

16. At all material times, the faculty advisor of the newspaper owed a duty to operate the newspaper in a reasonable and prudent manner and to avoid committing defamation, and invasions of privacy and avoid intentionally inflicting emotional distress on students of the school.

17. The school newspaper in question was part of an official school activity and part of school based program that was directly operated, and supervised as a school activity.

18. At all material times the agents, employees, and apparent agents, acted in inappropriate manner in the supervision, publication, and production of the school newspaper with reckless indifference.

19. The Plaintiff, Kenneth Clements did not give approval for the publication of his image for the school newspaper.

20. On or about February 4, 2011 the Plaintiff, Kenneth Clements was a twelfth grade student at Ronald Reagan High School.

21. At all material times, Kenneth Clements did not have any sexually transmitted disease.

Complaint

22. At all material times, Kenneth Clements never discussed or was even interviewed by any member of the Miami-Dade County School District, his high school newspaper or anyone else about whether he was infected with a sexually transmitted disease.

23. However, on February 4, 2011, the Defendant published a story in the school newspaper titled "TEENS STAY QUIET ABOUT STD'S". The story featured a photograph of the Plaintiff with an "X" over his mouth.

24. The Defendant, published the Plaintiff's picture as pictorial demonstration of a teen that had a sexually transmitted disease, with the "x" indicating he was keeping quiet about an alleged sexually transmitted disease.

25. The publication was reviewed by a faculty advisor and the principle before being allowed to be disseminated.

**COUNT I DEFAMATION**

26. Plaintiff re-alleges paragraphs 1 through 25.

27. At all material times, the Plaintiff was a private individual, who was not a public figure.

28. At all material times the statements and representations were in some significant respect a false statement of fact, as it represented that the Plaintiff had a sexually transmitted disease.

29. At all material times the statements and representations of the publication was in some significant respect a false statement of fact, as it implied the Plaintiff was covertly hiding the alleged sexually transmitted disease, and thus implying the Plaintiff may knowingly be transmitting the disease to other persons, which is utterly despicable and utterly false.

30. At all material times the statements and representations of the publication tended to expose the Plaintiff to hatred, ridicule, or contempt.

Complaint

31. At all material times the statements and representations implied that the Plaintiff was committing a crime, by having keeping an alleged sexually transmitted disease secret, presumably so he could have sexually conduct with other persons without revealing his alleged disease, which would be the criminal acts of battery, and deceit.

32. At all material times the statements and representations of the publication tended to injure the Plaintiff's reputation.

33. The publication was made with knowledge by the Defendant, through its employees, agents and/or apparent agents with knowledge that the publication represented facts that it knew or should have known were not true.

34. The publication was made with malice towards the truth, as the Plaintiff was chosen as the poster child for a teen with sexually transmitted disease, even though there was absolutely no basis to conclude he had contracted such a disease.

35. At all material times the Defendant, through its agents, apparent agents and/or employees was negligent in publishing false statement and representations by utilizing a photograph of the Plaintiff with an "x" on his mouth, without ever substantiating that he had any sexually transmitted disease, which was below the standard of care and unreasonable under the circumstances.

36. At all material times the Defendant was not a member of the media, as the school newspaper was a school activity and directly controlled and supervised by school officials, and the alleged above acts constitute defamation.

37. Alternatively, the Plaintiff alleges that even if the Defendant is considered a member of the "media", the acts described above constitute defamation under Florida law.

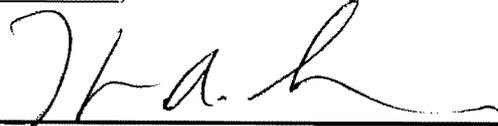
Complaint

38. The Defendant and its agents, employees, and/or apparent agents were not entitled to any qualified immunity or immunity to make the defamatory statements and representations.

39. As a direct and proximate result of the above alleged defamatory acts, Plaintiff suffered injury to his reputation and his health, aggravation of existing disease or defect, and suffered shame, humiliation, mental anguish, and hurt feelings experienced in the past and to be experienced in the future

WHEREFORE, Plaintiff judgment for damages against Defendant, MIAMI-DADE SCHOOL DISTRICT, and demands trial by jury.

DATED this 29 day of December, 2011.



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