

AMERICAN CIVIL LIBERTIES UNION
OF HAWAII FOUNDATION

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

SARAH DOE, as Guardian Ad Litem)	Civil No.
for JANE DOE,)	
)	
Plaintiff,)	COMPLAINT; SUMMONS
)	
vs.)	
)	
STEVE HIRAKAMI, in his individual)	
and official capacity; and ANDREA)	
IRVINE; in her individual and official;)	
capacity)	
Defendants.)	
_____)	

COMPLAINT

Plaintiff Sarah Doe, as Guardian Ad Litem for Jane Doe by and through her undersigned counsel, alleges as follows:

Introduction

This action seeks to redress the unlawful strip search of Jane Doe by school

officials at the Hawaii Academy of Arts and Sciences; and arises under the Constitution of the United States, particularly the Fourth, Fifth, and Fourteenth Amendments, 42 U.S.C. § 1983, Article I, §§ 6 and 7 of the Hawaii State Constitution, and Hawaii statutory and common law.

Jurisdiction

1. Jurisdiction of the Court is invoked under 28 U.S.C. §§ 1331 and 1343(a)(3) and (4), and supplemental jurisdiction over state law claims is invoked under 28 U.S.C. § 1367(a).

Venue

2. All acts and omissions and the resulting claims made in this Complaint occurred and arose in the District of Hawai`i. Venue is properly laid in this court in the District of Hawai`i pursuant to 28 U.S.C. Section 1391.

Parties

3. Plaintiff Sarah Doe is the natural mother and legal guardian of Jane Doe, a minor born on November 11, 1987, and is and has been a resident and citizen of the County of Hawaii, State of Hawaii, at all times pertinent hereto.

4. Defendant Steven Hirakami was at all times relevant to this action employed by the Hawaii State Department of Education as principal of the Hawaii Academy of Arts and Sciences and is named herein as a Defendant in his individual capacity. Defendant Hirakami is a resident and citizen of the County of Hawaii,

State of Hawaii. At all times pertinent hereto, Defendant Hiramami was acting under color of state law.

5. Defendant Andrea Irvine was at all times relevant to this action employed by the Hawaii State Department of Education as a secretary at the Hawaii Academy of Arts and Sciences and is named herein as a Defendant in her individual capacity.

Defendant Irvine is a resident and citizen of the County of Hawaii, State of Hawaii. At all times pertinent hereto, Defendant Irvine was acting under color of state law.

Factual Allegations

6. On January 30, 2003, Jane, a fifteen-year-old girl, boarded a school van in front of the Hawaii Academy of Arts and Science to be taken to lunch.

7. Jane sat on the front row of the school van.

8. Subsequently, the van driver, Annie Kaaukai, boarded the van, looked into her fanny pack, and alleged that thirty dollars had been stolen.

9. Jane and one other girl, who was also sitting in the first row of seats, and one boy, who was sitting in the front passenger seat, were singled out as suspects by Kaaukai solely because they were sitting nearest the fanny pack, which was on the floor between the driver's and front passengers seat.

10. Jane denied taking the \$30.

11. Jane did not take the \$30.

12. Nevertheless, Defendant Hiramami detained Jane, and the two other children, and called the police.

13. Defendant Hiramami and the police officers questioned Jane, and the two other children, about the missing \$30.

14. Jane and her belongings were also searched, and Jane was ordered to turn her pockets inside out.

15. Neither the questioning of Jane or of the other students, nor the search of Jane's person and belongings, produced any evidence that she had taken the money.

16. Unable to locate the money, Defendant Hiramami announced that he was going to have the girls strip-searched.

17. Section 8-19-24 of the Hawaii Administrative Rules, applicable to employees and officials of the Hawaii Academy of Arts and Sciences, specifically prohibits strip-searching of students.

18. Defendant Hiramami summoned Defendant Irvine to conduct a strip search of the two girls, including Jane.

19. Sarah Doe was not informed that her daughter Jane was to be strip search.

20. Had she been contacted, Sarah Doe would not have agreed to her daughter being strip-searched.

21. Jane was instructed, in the presence of police officers, that she had to submit to a strip search.

22. Jane was taken alone into a tent by Defendant Irvine, where Jane was instructed to strip completely naked.

23. At Jane's requested, Defendant Irvine agreed to let her leave her shirt on, but forced Jane to take of her bra, pants, and panties.

24. Defendant Irvine looked down Jane's shirt.

25. Defendant Irvine then forced Jane to continue standing naked while she looked inside Jane's pants, panties, and bra.

26. Jane suffered mental anguish, emotional distress, embarrassment, humiliation, worry and anger by having to stand naked in front of Defendant Irvine, the school secretary, while the Defendant looked through her clothes.

27. Defendant Irvine did not find the allegedly missing \$30 on Jane or in her clothes.

28. Defendant Irvine handed Jane her clothes back one-by-one and allowed her to get dressed.

29. Jane was then instructed that she could go back to class.

30. Neither Defendant Hiramami, Defendant Irvine, the bus driver, nor any other school official apologized to Jane for needlessly subjecting her to a humiliating strip search.

31. Jane stopped attending the Hawaii Academy of Arts and Sciences due to the mental anguish, emotional distress, anxiety, embarrassment, humiliation, and anger associated with continuing to attend the Hawaii Academy of Arts and Sciences after being forced to strip naked in front of the school secretary.

32. As a direct and proximate result of the defendant's actions, Jane suffered and continues to suffer great mental anguish, emotional distress, anxiety, embarrassment, humiliation, worry, fear, and anger in amounts to be proven at trial.

First Cause of Action (Illegal Search)

35. Plaintiff re-alleges the above paragraphs as though they were fully set forth herein, and incorporates them into her first cause of action.

36. As set forth in the factual allegations above, the strip search of Jane Doe violated her right to be free from unreasonable searches and seizures under the Fourth Amendment to the United States Constitution, actionable under 42 U.S.C. Section 1983, and her right to privacy and right to free from unreasonable searches under Article I, §§ 6 and 7 of the Hawaii State Constitution of the Hawaii State Constitution, thereby proximately causing the damages of which Plaintiff complains herein in amounts to be proven at trial.

37. As set forth in the factual allegations above, Defendants, and each of them, have deprived Jane Doe of rights and entitlements created by state law

without due process in violation of the due process clause of the Fourteenth Amendment.

38. The actions of Defendants constitute an illegal search and seizure of Jane Doe's person and violation of well-established constitutional rights of which Defendants knew, or should have known.

Second Cause of Action (Intentional Infliction of Emotional Distress)

39. Plaintiff re-alleges the above paragraphs and incorporates them into her Second Cause of Action.

40. As set forth in the factual allegations above, Defendants knowingly, intentionally, willfully, and deliberately caused Jane Doe to suffer great mental anguish, emotional distress, anxiety, embarrassment, humiliation, worry, and anger in amounts to be proven at trial.

Third Cause of Action (Negligence)

41. Plaintiff re-alleges the above paragraphs and incorporates them into her Third Cause of Action.

42. As set forth in the factual allegations above, Defendants acted negligently thereby causing the injuries of which Plaintiff complains herein, in amounts to be proven at trial.

WHEREFORE, Plaintiff prays for relief as follows:

(1) For general damages according to the proof thereof at trial;

- (2) For special damages according to the proof thereof at trial;
- (3) For punitive damages against Defendants;
- (4) For reimbursement of costs and expenses, including reasonable provision for attorney's fees; and
- (5) For such further relief as the Court deems appropriate and just.

DATED: Honolulu, Hawai'i, May 13, 2003.

BRENT T. WHITE
Attorney for Plaintiff