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Attorneys for Plaintiffs, Nicholas Fabian, Richard Fabian, and Dawn Fabian

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

NICHOLAS FABIAN, RICHARD FABIAN,
and DAWN FABIAN,

Plaintiffs,

vs.

TOWNSHIP OF NORTH BRUNSWICK SCHOOL
DISTRICT, MARK ZIELINSKI, BRIAN
ZACOWSKI, BRIAN BROCHELL, and JOHN
DOES 1-10, fictitious designations,

Defendants.

CIVIL ACTION

DOCKET NO.

COMPLAINT

Plaintiffs, Nicholas Fabian, Richard Fabian, and Dawn Fabian, whose principal residence is 952 Cranbury Cross Road, North Brunswick, New Jersey 08902 by way of complaint against defendants, Township of North Brunswick School District, Mark Zielinski, Brian Zacowski, Brian Brochell, and John Does 1-10, allege the following:

FACTUAL BACKGROUND

1. During the relevant time period, plaintiff, Nicholas Fabian, was a high-school student at North Brunswick High School. He is now of the age of majority. Plaintiffs, Richard Fabian and Dawn Fabian, are his parents.

2. In 2009, plaintiff, Nicholas Fabian, participated in the football program at North Brunswick High School. The team was coached by defendant, Mark Zielinski. During the football season, plaintiff, Nicholas Fabian, was the subject of bullying and abusive conduct from defendant,

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Mark Zielinski, and this conduct was subsequently joined by other players and students, defendants, John Does 1-10, against plaintiff, Nicholas Fabian.

3. Defendant, Township of North Brunswick School Board, along with defendant, Brian Zacowski, who was the superintendant of the school district at the time, and defendant, Brian Brochell, who was the principal of the high school at the time, were made aware of but did not successfully prevent the bullying and abuse visited on and suffered by plaintiff, Nicholas Fabian.

4. As a result of the bullying and abusive conduct, plaintiffs, Richard Fabian and Dawn Fabian, removed their son, plaintiff, Nicholas Fabian, from North Brunswick High School and transferred him to a parochial school. This school required the payment of tuition by plaintiffs, Richard Fabian and Dawn Fabian.

5. As a result of the intentional bullying and abusive conduct in this matter and its negligent toleration by school officials, plaintiff, Nicholas Fabian, has suffered severe and permanent injuries, and plaintiffs, Richard Fabian and Dawn Fabian, have suffered financial losses.

COUNT FOR

DEPRIVATION OF FEDERAL STATUTORY AND CONSTITUTIONAL RIGHTS

1. Plaintiffs, Nicholas Fabian, Richard Fabian, and Dawn, Fabian, repeat the allegations set forth above and incorporate them as if set forth at length in this Count.

2. Plaintiff, Nicholas Fabian, as a public-school student at the time of the bullying incidents alleged in this complaint, enjoyed federal constitutional and statutory protections against precisely the sort of abuse he endured.

3. As a result of the intentional bullying and abusive conduct of defendants, Mark Zielinski and John Does 1-10, the federal statutory and constitutional rights of plaintiff, Nicholas Fabian,

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have been violated, and as a result of these deprivations he has suffered severe and permanent injuries.

4. As a result of their negligent response to reports of bullying by defendants, Township of North Brunswick School District, Brian Zacowski, and Brian Brochell, plaintiff, Nicholas Fabian, has suffered severe and permanent injuries.

5. As a result of the intentional and negligent deprivation of their son's federal statutory and constitutional rights, plaintiffs, Richard Fabian and Dawn Fabian, have suffered financial losses.

WHEREFORE, plaintiffs, Nicholas Fabian, Richard Fabian, and Dawn Fabian, demand judgment against defendants, Township of North Brunswick School District, Mark Zielinski, Brian Zacowski, Brian Brochell, and John Does 1-10, for relief for the deprivation of the federal statutory and constitutional (by way of 42 U.S.C. § 1983) rights in the form of damages, punitive damages, legal fees, and all other relief that the Court deems equitable and just.

JURY DEMAND

Plaintiffs, Nicholas Fabian, Richard Fabian, and Dawn Fabian, hereby demand a trial by jury as to all issues.

HARTSOUGH KENNY CHASE & SULLIVAN

By: 

Gregory J. Sullivan, Esquire

Dated: September 21, 2012

RELEASE

This Release, dated June 24, 2013, is given

BY the Releasers

Richard Fabian, Dawn Fabian, and Nicholas Fabian

referred to as "I",

TO

Township of North Brunswick School District, Mark Zielinski, Brian Zacowski, and Brian Brochell,

See attached Addendum

referred to as "You"

1. **Release.** I release and give up any and all claims and rights which I may have against you. This releases all claims, including those of which I am not aware and those not mentioned in this Release. This Release applies to claims resulting from anything which has happened up to now. I specifically release the following claims:

For any and all claims arising out the matter as more fully set forth in the United States District Court for the District of New Jersey complaint bearing Docket No. 3:12-cv-05964.

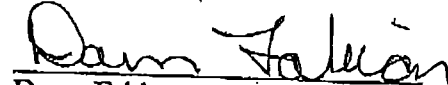
2. **Payment.** I have been paid a total of \$20,000.00 in full payment for making this Release. I agree that I will not seek anything further including any other payment from you.

3. **Who is Bound.** I am bound by this Release. Anyone who succeeds to my rights and responsibilities, such as my heirs or the executor of my estate, is also bound. This Release is made for your benefit and all who succeed to your rights and responsibilities, such as your heirs or the executor of your estate.

4. **Signatures.** I understand and agree to the terms of this Release.

Witnessed or Attested to:


Richard Fabian


Dawn Fabian


Nicholas Fabian

STATE OF NEW JERSEY, COUNTY OF Middlesex

SS:

I certify that on 7/20/13, 2013, Richard Fabian, Dawn Fabian, and Nicholas Fabian personally came before me and acknowledged under oath, to my satisfaction, that they

ADDENDUM TO RELEASE

The North Brunswick School District is designated the "Settling Defendant".

Defendants, Mark Zielinski, Brian Zychowski, and Brian Brotschul (designated as Brochell) are "Non-settling Defendants".

The plaintiffs also release any claims for attorney fees and costs to which they may be entitled, and agree that the \$20,000.00 figure is the full and final settlement. The plaintiffs shall not be considered "prevailing parties" for the purposes of attorney fees or costs.