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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

KATHY NIELSEN and ED NIELSEN, as the
parents and guardians of Brooke Nielsen, a
minor,

Plaintiffs,

v.

NORTHSHORE SCHOOL DISTRICT;
HEATHER MILLER; BOB STEWART;
JAN PETERSON; DONNA TYO,

Defendant.

No. **08-2-39373-9**

**COMPLAINT FOR VIOLATION OF 110
U.S.C. § 2252, VIOLATION OF RCW
9.96A, VIOLATION OF PRIVACY,
NEGLIGENT INFLECTION OF
EMOTIONAL DISTRESS AND
OUTRAGE, VIOLATION OF RCW
28A.640, VIOLATION OF DUE PROCESS**

COMES NOW Plaintiffs, Kathy Nielsen and Ed Nielsen, and allege as follows:

I. PARTIES

1.1 Plaintiffs, Kathy Nielsen and Ed Nielsen, are a married couple residing in Snohomish, Washington. They are the parents and guardians of Brooke Nielsen, a minor, against whom the acts alleged herein were committed.

1.2 Defendant, Northshore School District, is a public school district doing business in Bothell, King County, Washington.

COMPLAINT
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WERSHOW & RITTER, INC. P.S.
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1 as assistant principals, received notice that topless photographs of the school's cheerleaders were
2 being circulated among and viewed by the students.

3 3.4 Specifically, the Administration received notice that such photographs were being
4 possessed and viewed by members of the school's football team.

5 3.5 On June 16, 2008, the Administration provided a letter to the cheer squad parents
6 stating that postings of inappropriate photographs would not be tolerated and would result in
7 immediate dismissal from the team.

8 3.6 Other than providing this letter, the Administration took no steps at this time to
9 find the individuals who possessed such photographs or stop the circulation. The school also did
10 not inform the parents that these photographs were currently being circulated among the school's
11 students.

12 3.7 The only action the Administration took with regard to the issue of the football
13 players viewing these photographs was to instruct the football coach to advise the football
14 players to delete such pictures.

15 3.8 In or about early August 2008, the Administration received in an unmarked
16 envelope two photographs. One of the photographs was the picture of Ms. Nielsen and her
17 friend. The Administration also received a copy of the photograph via text message from an
18 individual they will not name to this date.

19 3.9 The Administration did not contact Ms. Nielsen or her parents regarding the
20 photograph until August 26, 2008. The Niensens contacted the Bothell Police Department to
21 report the pictures on August 29, 2008. At that time they discovered that the Administration had
22 not filed a police report regarding the matter, despite the fact that the girls in the photograph are
23 minors and the photograph was being circulated among the public.

1 3.10 The Niensens also discovered that the Administration showed the picture of their
2 daughter to other adults without their consent or other lawful authority.

3 3.11 On September 2, 2008, the Administration notified Ms. Nielsen that she was
4 being removed from the Cheer Squad for a period of one year as punishment for the photograph.

5 3.12 The Administration's position was the Ms. Nielsen had violated the Student
6 Athletic Code contained in the Northshore School District Student Handbook, as her conduct did
7 not reflect the high standards and ideals of the school and community or fulfill her
8 responsibilities as a student leader.

9 3.13 The Northshore School District has acknowledged that the Student Athletic Code
10 does not expressly set forth Ms. Nielsen's conduct as one of the behaviors constituting
11 reasonable cause for disciplinary action and/or loss of eligibility through the denial of the
12 opportunity to participate that are listed within the Student Athletic Code.

13 3.14 As the Student Athletic Code does not include Ms. Nielsen's conduct as
14 prohibited behavior, it also does not provide notice of the expected disciplinary action that will
15 be imposed as a result of such behavior, despite the fact that the Athletic Code sets forth
16 anticipatory consequences for first, second, and third violations of the Athletic Code for each of
17 the prohibited behaviors listed.

18 3.15 Ms. Nielsen appealed the matter to the Northshore School District and the
19 Northshore School Board. Despite the fact that there were other girls on the squad that had
20 participated in the same alleged prohibited conduct, Ms. Nielsen is the only individual that the
21 Northshore School Board suspended from the Cheer Squad for one year.

22 3.16 No disciplinary action was imposed on the football players, despite the fact that
23 they had possessed and were viewing the photograph.

1 3.17 As student leaders of Bothell High School, the actions of the football players
2 constitute actions on behalf of Bothell High School and the Northshore School District.

3 3.18 Despite learning of the facts and circumstances surrounding this incident, the
4 Northshore School District took no action to stop the circulation of the photograph or to find the
5 individuals that possessed, viewed, and were circulating copies of the photograph.

6 3.19 The Administration relinquished possession and control of the photographs only
7 as a result of the Bothell Police Department's investigation into the incident as requested by the
8 Niensens and other cheer squad parents.

9 **IV. VIOLATION OF 110 U.S.C. § 2252, SEXUAL EXPLOITATION AND OTHER**
10 **ABUSE OF CHILDREN**

11 4.1 Plaintiffs reallege paragraphs 1.1 through 3.19 of their Complaint.

12 4.2 Defendants, through their actions and the actions of their agents, knowingly
13 received and/or distributed child pornography in violation of 110 U.S.C. § 2252.

14 4.3 Plaintiffs have suffered, and continue to suffer, injuries and damages as a result of
15 Defendants' conduct.

16 4.4 Plaintiffs are entitled to injunctive relief, as well as damages in an amount to be
17 proven at trial.

18 **V. VIOLATION OF RCW 9.68A, SEXUAL EXPLOITATION OF CHILDREN**

19 5.1 Plaintiffs reallege paragraphs 1.1 through 4.4 of their Complaint.

20 5.2 Defendants, through their actions and the actions of their agents, knowingly
21 possessed and/or disseminated child pornography in violation of RCW 9.68A.050.

22 5.3 Plaintiffs have suffered, and continue to suffer, injuries and damages as a result of
23 Defendants' conduct.

24 5.4 Plaintiffs are entitled to damages in an amount to be proven at trial.

25 **COMPLAINT**
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VI. VIOLATION OF RIGHT TO PRIVACY

6.1 Plaintiffs reallege paragraphs 1.1 through 5.4 of their Complaint.

6.2 Defendants, through their actions and the actions of their agents, violated Ms. Nielsen's right to privacy by possessing, viewing, and circulating Ms. Nielsen's image without her consent or authority of law.

6.3 Defendants' intrusion into Ms. Nielsen's privacy was a substantial interference that is highly objectionable and offensive to an ordinary person.

6.4 Defendants' possession, viewing, and circulation of Ms. Nielsen's image constituted publication of private matters that would be highly objectionable to an ordinary person and not of legitimate concern to the public.

6.5 Plaintiffs have suffered, and continue to suffer, injuries and damages as a result of Defendants' conduct.

6.6 Plaintiffs are entitled to injunctive relief, as well as damages in an amount to be proven at trial.

VII. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS & OUTRAGE

7.1 Plaintiffs reallege paragraphs 1.1 through 6.5 of their Complaint.

7.2 Defendants' actions and the actions of its agents in obtaining, viewing, and circulating Ms. Nielsen's image without her consent or authority of law constitutes extreme and outrageous conduct.

7.3 Defendants negligently, intentionally or recklessly inflicted emotional distress on Plaintiffs. As a result of Defendants' actions, Plaintiffs continue to experience severe emotional distress.

1 7.4 As a direct and proximate result of Defendants' outrageous conduct, Plaintiffs
2 have suffered injuries and damages in an amount to be proven at trial.

3 **VIII. VIOLATION OF RCW 28A.640, SEXUAL EQUALITY**

4 8.1 Plaintiffs reallege paragraphs 1.1 through 7.4 of their Complaint.

5 8.2 Defendants' actions in intentionally failing to punish any of the football players
6 for possession and viewing of child pornography, while punishing the cheerleaders for the taking
7 of such photographs, constitutes unequal treatment on the basis of sex in violation of RCW28A.
8 640.010.

9 8.3 Plaintiffs have suffered, and continue to suffer, injuries and damages as a result of
10 Defendants' conduct.

11 8.4 Plaintiffs are entitled to damages in an amount to be proven at trial.

12 **IX. VIOLATION OF DUE PROCESS**

13 9.1 Plaintiffs reallege paragraphs 1.1 through 8.4 of their Complaint.

14 9.2 Ms. Nielsen's ability to participate on the Cheer Squad constitutes a right to
15 property.

16 9.3 Defendants' actions in removing Ms. Nielsen from the Cheer Squad for violations
17 of the Student Athletic Code without providing prior notice of the alleged violation or the
18 expected consequences constitutes a violation of due process.

19 9.4 Plaintiffs are entitled to injunctive relief, as well as damages in an amount to be
20 proven at trial.

21 **X. PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs prays for judgment against Defendants as follows:

1 10.1 Judgment against Defendant for injuries and damages in an amount to be proven
2 at trial;

3 10.2 Injunctive relief against Defendants with regard to the suspension of Brooke
4 Nielsen from the Bothell High School Cheer Squad;

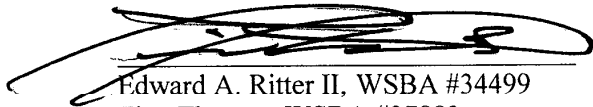
5 10.3 Injunctive relief against the Defendants with regard to the circulation of Ms.
6 Nielsen's photograph;

7 10.4 For attorneys' fees and costs as allowed by statute;

8 10.5 For such other further relief as may be just and proper.

9 DATED this 13th day of October, 2008.

10 Wershow & Ritter, Inc., P.S.

11 

12 Edward A. Ritter II, WSBA #34499
13 Tina Thomas, WSBA #37883
14 Attorneys for Plaintiff

15 I declare under penalty of perjury under the laws of the State of Washington that the
16 foregoing is true and correct. Executed this 13 day of October 2008 at Bothell,
17 Washington.

18 
19 Kathy Nielsen, Plaintiff

20  13 OCT 08

21 Ed Nielsen, Plaintiff