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Attorneys for Plaintiff, Andre Jackson

RECEIVED
JUN 17 2009
FINANCE DIVISION
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ANDRE JACKSON, :
Plaintiff, :

v. :

NEWARK PUBLIC SCHOOLS, :
MARION BOLDEN, :
SUPERINTENDENT, DR. MARIO :
SANTOS, PRINCIPAL, EAST SIDE, :
HIGH SCHOOL, JOHN DOES :
(1-10), JANE DOES (1-10), :
Defendants, :

SUPERIOR COURT OF NEW JERSEY
ESSEX COUNTY: LAW DIVISION
DOCKET NO.: 5050-09

COMPLAINT AND JURY DEMAND

BATCH # 244 JUN 17 2009
CHECK/RECEIPT AMT. JBC

Andre Jackson, residing at 166 Somerset Street, Newark, NJ 07108 by way of complaint says:

1. On or about June 18, 2007 and at all other applicable times plaintiff, was a student at East Side High School in Newark, NJ, County of Essex.
2. This is an action to remedy federal and state civil rights violations and tortuous conduct committed by the State of New Jersey, City of Newark, Newark Public Schools and the State Department of Education and its employees against Plaintiff who was subjected to severe mental and emotional trauma based on his sexual preference while under the supervision, care and control of the Newark Public Schools and a student at East Side High School.
3. At the above time and place the plaintiff paid to have a photo array placed in the East Side High School Senior Yearbook. The plaintiff contracted along with others to purchase a page exclusively dedicated to display of photos of his choice.
4. Plaintiff received a copy of the yearbook displaying the page in which his photos were arranged in addition to the photos of others.
5. Plaintiff was handed the yearbook at a year end event created by the school for students to share words and signatures in their yearbooks. Each student in the graduating class systematically received a yearbook as they were handed out by East Side High School staff, teachers and principal.

6. Plaintiff learned upon receipt of his yearbook that his photo page had been altered in his and other copies of the yearbook. Plaintiff inquired and learned that each and every copy was being altered as they were handed out. Plaintiff witnessed the staff blacking out a photo on his page in a room behind the table from which the yearbooks were distributed to all graduating students. Plaintiff was shocked to see his photo blacked out in every yearbook and to observe staff altering the yearbooks after print and at the affair celebrating plaintiff's graduation.
7. Upon information and belief, plaintiff was told by the Superintendent of Schools that his photo was provocative because it portrayed a homosexual kiss between plaintiff and his male partner.
8. The same yearbook permitted similar photos of kisses between heterosexual students.

COUNT ONE

Plaintiff refers to the allegations set forth above and by such reference repleads and incorporates them as though fully set forth herein.

1. This action is brought pursuant to N.J.S.A. 10:5-1 et seq., the New Jersey Law Against Discrimination which prohibits discrimination against a person in the terms, conditions or privileges on the basis of sexual orientation. At all relevant times, N.J.S.A. 10:5-1 et seq., provided statutory jurisdiction over defendants. Defendants both jointly and severely subjected plaintiff to disparate treatment based on his sexual orientation.
2. Defendants discriminated against plaintiff because of his sexual preference in that they defaced his photo display while allowing similarly situated heterosexual photos. For example, upon information and belief other heterosexual students were permitted to display kisses in their photos.
3. Plaintiff alleges that defendants' reason for defacing photos and alleging, upon information and belief that it was provocative was a pretext for discrimination.
4. Plaintiff believes and alleges that his sexual orientation was the substantial and determining factor in defendant's decision pertaining the defacing of his photo.
5. Defendants conduct as alleged in this complaint constitutes a discrimination in violation of N.J.S.A. 10:5-1 et seq.

6. As a direct, foreseeable, and proximate result of defendants' discriminatory acts, plaintiff has suffered and will in the future suffer substantial losses and has suffered and will in the future suffer humiliation, embarrassment, mental and emotional distress and discomfort.

WHEREFORE, plaintiff requests judgment against all defendants as follows:

1. For Compensatory Damages;
2. Punitive Damages;
3. Pain and Suffering;
4. Attorney fees and costs, plus interest; and
5. For such other and further relief as the Court deems proper.

COUNT TWO

Plaintiff refers to the allegations set forth in statement of facts in Count one of the complaint and by such reference repleads and incorporates them as though fully set forth herein.

1. Defendants' actions deprived plaintiff of his civil rights under the Agreement and the New Jersey Constitution Article I, paragraph 19 (Right to Grieve) and First Amendment. Also defendants discriminated against plaintiff based on sexual orientation. The defendants entered into an agreement or mutual understanding with each other and with others presently unknown to plaintiff. Whereby they would seek to deny plaintiff his right to have his photo displayed thus denying him equal protection under the law including but not limited to his right to contract.
2. Defendants' actions violated 42 U.S.C.A. sections 1981, 1983, 1985 (3) and 1988.
3. As a direct, foreseeable and proximate result of defendants' discriminatory and conspiratorial acts, plaintiff has suffered and continues to suffer substantial losses and has suffered and continues to suffer humiliation, embarrassment, mental and emotional distress and discomfort.

WHEREFORE, plaintiff requests judgment against all defendants as follows:

1. For Compensatory Damages;
2. Punitive Damages;
3. Pain and Suffering;
4. Attorney fees and costs, plus interest; and

5. For such other and further relief as the Court deems proper.

COUNT THREE

1. Plaintiff refers to allegations set forth in statement of Facts Counts One and Two above and by such reference repleads and incorporates them as though fully set forth herein.
2. Defendants in committing the above-described acts intended to and did inflict severe emotional distress upon plaintiff. Defendants both jointly and severally acted with a reckless disregard of the probability of causing plaintiff emotional distress.
3. As a direct result of the outrageous acts, omissions, conduct and discrimination, plaintiff became distraught.

WHEREFORE, plaintiff requests judgment against all defendants as follows:

1. For compensatory Damages;
2. Punitive Damages;
3. Pain and Suffering;
4. Attorney fees and costs, plus interest; and
5. For such other and further relief as the Court deems proper.

COUNT FOUR

Plaintiff refers to the allegations set forth in Counts One, Two, and Three of the Complaint and by such reference repleads and incorporates them as though fully set forth herein.

1. Defendants knew or should have known that the failure to exercise due care in the handling the situation in which plaintiff was discriminated against on the aforesaid date, time and circumstances would cause plaintiff severe emotional distress.
2. As a proximate result of defendants' actions, plaintiff has suffered pain and emotional distress, anger, frustration and disappointment over defendant's actions.

WHEREFORE, plaintiff requests judgment against all defendants as follows:

1. For compensatory Damages;
2. Punitive Damages;
3. Pain and Suffering;
4. Attorney fees and costs, plus interest; and
5. For such other and further relief as the Court deems proper.


WHEREFORE, plaintiff, demands judgment for damages together with cost and interest.

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all issues.

MACK & GIL, LLC

Dated: June 16, 2009


By: Anthony C. Mack, Esq.

CERTIFICATION

I hereby certify that the matter in controversy is not the subject of any other action or arbitration proceeding, now or contemplated, and that no other parties should be joined in this action. R. 4:5-1.

MACK & GIL, LLC

Dated: June 16, 2009


Anthony C. Mack, Esq.