

**IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CIVIL DIVISION**

ARISLEYDES FUENTES, an individual,

Plaintiff,

CASE NO.: _____

v.

**MIAMI-DADE COUNTY SCHOOL BOARD,
And WPLG, LLC, A Foreign Limited Liability
Company, d/b/a CHANNEL 10,**

Defendants.

_____ /

**COMPLAINT
DEMAND FOR A JURY TRIAL**

COMES NOW, PLAINTIFF, ARISLEYDES FUENTES, an individual by and through the undersigned counsel, and sues Defendants, MIAMI-DADE COUNTY SCHOOL BOARD, and WPLG, LLC, A Foreign Limited Liability Company, d/b/a CHANNEL 10, and for her Complaint alleges as follows:

I. JURISDICTION AND VENUE

1. This is a cause of action arising under Florida Statutes and common law related to damages caused from intentional acts and reckless disregard of the duty to protect the identity of a victim of a sexual offenses, negligent infliction of emotional distress, negligent training, negligent supervision, and gross negligence in the treatment of Plaintiff, ARISLEYDES FUENTES.

2. This is an action for damages in excess of \$15,000 exclusive of interest, costs and

attorney's fees.

3. Plaintiff has fully complied with all conditions precedent imposed by the laws of the State of Florida to bring this action, particularly the provisions of § 768.28, Florida Statutes. See composite Exhibit "E," attached hereto and incorporated herein by reference.

4. Both Plaintiffs and Defendants are residents of, or doing business in, Miami-Dade County, Florida.

5. All events complained of herein occurred in Miami-Dade County, Florida.

6. Accordingly, venue lies in the Miami-Dade County, Florida, because the events giving rise to the claims herein occurred in this Circuit and County.

II. PARTIES

7. Plaintiff, ARISLEYDES FUENTES, ("Ms. Fuentes") is a resident of Miami-Dade County, Florida.

8. Defendant, the MIAMI-DADE COUNTY SCHOOL BOARD, is the independent entity responsible for the administration and maintenance and all aspects related to the operation of the public schools in Miami-Dade County, Florida (the "BOARD"). The BOARD maintains its own Police Department, the Miami-Dade Schools Police Department, which operates as an agent of the BOARD.

9. Defendant, WPLG, LLC, is a registered Foreign Limited Liability Company doing business as Channel 10, in Miami-Dade County, Florida ("CHANNEL 10").

III. GENERAL ALLEGATIONS

10. This action is brought against the BOARD for the failure to properly train and supervise the Miami-Dade Schools Police Department in the preparation and release of Internal

Affairs Investigations, and for gross negligence, particularly for releasing information providing the identity of a juvenile victim of a sexual offense.

11. This action is brought against CHANNEL 10 for gross negligence, particularly for releasing information providing the identity of a juvenile victim of a sexual offense.

12. On April 3, 2013, MS. FUENTES was a student at Miami Jackson Senior High School, and was then 15 years of age.

13. On or about April 3, 2013, MS. FUENTES left school, was believed missing, and was sexually assaulted by an adult male. During this time MS. FUENTES' father made contact with police in an effort to try and locate his daughter.

14. On that same date, MS. FUENTES started receiving text messages. "Where are you," and "Are you OK?" from Miami-Dade Schools Police Department Officer, Juan Cecchinelli ("Cecchinelli"), who was known to MS. FUENTES' family.

15. On or about April 4, 2013, MS. FUENTES returned home and met with Cecchinelli.

16. Both on April 3 and April 4, 2013, MS. FUENTES believed she was receiving text messages and phone call(s) from Cecchinelli, who confirmed to MS. FUENTES that it was him that had sent the earlier text messages when he met her and her father at her home on April 4, 2013.

17. On April 5, 2013, Cecchinelli continued to text MS. FUENTES, and sent her a text, stating, "Don't let them know ur chating with me," (sic) to which MS. FUENTES responded, "Who, my parents??" to which Cecchinelli responded, "Yeah, I don't need any drama."

18. Based on Cecchinelli's position of trust and his prior association with MS.

FUENTES' family, MS. FUENTES confided in him regarding the initial sex offense investigation, and told him she had been to the hospital and to the police station, after which time she started receiving more text messages from Cecchinelli of an entirely inappropriate and graphic nature.

19. On or around April 8, 2013, Cecchinelli sent for MS. FUENTES to come to his office and continued to ask her inappropriate questions regarding her experiences from the sexual assault, and other matters.

20. On or about April 10, Cecchinelli resumed his texts to MS. FUENTES, saying, "I wanna b doing u but u too dam young." (sic).

21. On or about April 11, 2013, MS. FUENTES showed her teacher, Ms. Yamaris Roman, the texts that Cecchinelli had been sending her.

22. On or about April 17, 2017, Mr. Carlos Rios, the Principal of Miami Jackson Senior High School, advised the Miami-Dade Schools Police Department that Cecchinelli had sent "inappropriate" texts to "a juvenile," MS. FUENTES. Principal Rios requested an Internal Affairs Investigation be conducted.

23. On April 17, 2013, the Miami-Dade Schools Police Department Investigators took sworn statements from MS. FUENTES, with follow up sworn statements on May 9, and 10, 2013. They also took statements form MS. Roman, MS. FUENTES' Father, Cecchinelli, and others.

24. A forensic analysis of Cecchinelli's Department issued cell phone and computer verified that his phone and computer were the sources of the inappropriate text messages to MS. FUENTES.

25. On June 17, 2013, the Miami-Dade Schools Police Department issued its Internal Affairs Memorandum from Lourdes Hodges, Sergeant, Internal Affairs Unit, to Edwin Lopez, Commander, Miami-Dade Schools Police Department. A copy of the Internal Affairs Memorandum, IA 13-001, is attached hereto as Exhibit "A."

26. The report noted that, "Florida State Statute 794.03 states it is unlawful to publish or broadcast information identifying sexual offense victims. ***For the purposes of this report the initials A.F. will be used in reference to the minor child.***" See Exhibit A, p. 2, emphasis added.

27. In fact, Sec. 794.03, Florida Statutes, is quite concise, and states as follows:

794.03 Unlawful to publish or broadcast information identifying sexual offense victim.—

No person shall print, publish, or broadcast, or cause or allow to be printed, published, or broadcast, in any instrument of mass communication the name, address, ***or other identifying fact or information of the victim of any sexual offense within this chapter,*** except as provided in s. 119.071(2)(h) or unless the court determines that such information is no longer confidential and exempt pursuant to s. 92.56. An offense under this section shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. (emphasis added).

A copy of Sec. 794.03, Florida Statutes, is attached hereto and incorporated herein as Exhibit "C."

28. Additionally, Sec. 794.026, Florida Statutes, provides a civil cause of action against parties and/or individuals who publish or broadcast such information:

794.026 Civil right of action for communicating the identity of a sexual crime victim.—

(1) An entity or individual who communicates to others, prior to open judicial proceedings, the name, address, or ***other specific identifying information concerning the victim of any sexual offense*** under this chapter or chapter 800 shall be liable to that victim for all damages reasonably necessary to compensate the victim for any injuries suffered as a result of such communication.

(2) The victim shall not be able to maintain a cause of action unless he or she is able to show that such communication was intentional and was done with reckless disregard for the highly offensive nature of the publication. (emphasis added).

A copy of Sec. 794.026, Florida Statutes is attached hereto and incorporated herein as Exhibit "D."

29. In direct violation of the above statutes, the Internal Affairs Memorandum, as issued and sporadically redacted, contains MS. FUENTES' initials "***A.F.***" the name of her then Teacher, ***Ms. Yamaris Roman***, and the name of her then high school, ***Miami Jackson Senior High School***.

30. Some months later, on or about May 7, 2014, CHANNEL 10 did a widely publicized report, which was both televised and contained on CHANNEL 10's website, entitled "***School Police Officer Sent Sexually Explicit Text Messages to Student, Report Claims.***" A copy of the report from the CHANNEL 10 website is attached hereto and incorporated herein as Exhibit "B."

31. The CHANNEL 10 report both noted, "The student had apparently run away, and was sexually assaulted," and also quoted the more salacious sexually explicit text messages sent from Cecchinelli to MS. FUENTES, and, most critically, contained a "link" to the Internal Affairs Memorandum:

"READ: Internal Affair Report (Warning: Graphic Material Inside)
[<http://www.local10.com/blob/view/-/25875498/data/1/-/bytjuwz/-/IA-Report-Juan-Cecchinelli.pdf>]." See Exhibit B, p. 2.

32. The partially redacted Internal Affairs Memorandum (Exhibit A) is an exact copy of the document made available from the "link" identified in the CHANNEL 10 Report (Exhibit B).

33. The partially redacted Internal Affairs Memorandum (Exhibit A) made available from the “link” identified in the CHANNEL 10 Report (Exhibit B) was only sporadically redacted, and clearly contains MS. FUENTES initials “**A.F.**” on page 2 of the IA Memo (Exhibit A, p. 2), as well as containing the name of her then Teacher, **Ms. Yamaris Roman**, (Exhibit A, p 1 and 2) and the name of her then high school, **Miami Jackson Senior High School** (Exhibit A, pp. 1 and 2).

34. The **other identifying fact or information of the victim of any sexual offense** was clear on the face of the Internal Affairs Memorandum (Exhibit A), and made widely available through the “link” on the CHANNEL 10 report (Exhibit B).

35. The release and publication of this “other identifying information” made it possible for members of the public to simply compare anyone with the initials “A.F.” in Ms. Roman’s class at Miami Jackson Senior High School to determine that MS. FUENTES, then a juvenile, was exactly the victim to which these reports (Exhibits A and B) referred to, as the victim of a sexual offense.

36. The release and publication of this other identifying information was entirely without justification because:

- a. The identity of MS. FUENTES, the victim was not already known in the community;
- b. The victim, MS. FUENTES, had not voluntarily called public attention to the offense;
- c. The identity of the victim, MS. FUENTES, had not otherwise become a reasonable subject of public concern;
- d. The disclosure of MS. FUENTES’ identity would be offensive to a reasonable person;

e. The disclosure of the identity of MS. FUENTES' as the victim in this matter endangered MS. FUENTES through retaliation, harassment, or intimidation; and

f. The disclosure of the identity of MS. FUENTES, as the victim in this matter, caused MS. FUENTES severe emotional and mental harm and subjected her to enormous and incalculable humiliation, embarrassment, and shame.

37. As a result of the humiliation, embarrassment, and shame suffered by MS. FUENTES, she dropped out of Miami Jackson High School, and she became despondent and depressed.

38. Additionally, she lost any benefit from the counseling she had been taking after the events of April 3, 2013, and all prior benefits from earlier counseling were destroyed by the May 14, 2014, release and publication of the "other identifying information" that facilitated her identification as a victim of the sexual offenses described above.

39. As a direct and proximate result of the actions of the BOARD, through the BOARD'S agents, which were intentional and committed with reckless disregard of the duty to protect her identity, MS. FUENTES has suffered substantial harm including, by way of example and not limitation, embarrassment, emotional trauma, loss of capacity for the enjoyment of life, mental anguish, resulting pain and suffering, and the cost of medical care and treatment.

40. As a direct and proximate result of the actions of CHANNEL 10, which were intentional and committed with reckless disregard of the duty to protect her identity, MS. FUENTES has suffered substantial harm including, by way of example and not limitation, embarrassment, emotional trauma, loss of capacity for the enjoyment of life, mental anguish, resulting pain and suffering, and the cost of medical care and treatment.

41. In the interval since MS. FUENTES was subjected to the actions of the BOARD and CHANNEL 10, MS. FUENTES has suffered lingering traumatic effects, anxiety and sporadic periods of complete and debilitating emotional distress.

42. MS. FUENTES' losses, pain and suffering, as described above, are either permanent or continuing and MS. FUENTES will suffer these losses, pain and suffering, into the future.

43. All conditions precedent to support the maintenance of this action have occurred.

44. MS. FUENTES has been required to retain the undersigned attorney and to pay him a reasonable fee for those services rendered in this matter.

COUNT I
THE BOARD AND CHANNEL 10 COMMITTED GROSS NEGLIGENCE

45. Plaintiff re-alleges and incorporates herein ¶¶ 1 through 44, *supra*, as if fully set out herein.

46. Defendants, the BOARD and CHANNEL 10, both owed Plaintiff the duty of care to prevent the release and publication of the above described "other identifying information" which made it possible for members of the public to identify MS. FUENTES as the juvenile victim of a sexual assault.

47. The existence of this duty is recognized by law, requiring the BOARD and CHANNEL 10 to conform to a certain standard of conduct for the protection of juveniles whom have been the victims of a sexual assault, including MS. FUENTES.

48. Defendant BOARD breached its duty in the following ways:

a. Negligent failure of the BOARD to verify that any and all Internal Affairs

Memoranda released or published do not contain any “other identifying information” that make it possible for members of the public to identify the victim of a sexual offense.

b. Negligent failure to train the BOARD’S Agents that they must verify that any and all Internal Affairs Memoranda released or published do not contain any “other identifying information” that make it possible for members of the public to identify the victim of a sexual offense.

c. Negligent failure to establish procedures to prevent the BOARD’S Agents from releasing Internal Affairs Memoranda so they do not contain any “other identifying information” that make it possible for members of the public to identify the victim of a sexual offense.

49. Defendant BOARD’S intentional acts and reckless disregard of the duty not to release or publish “other identifying information” that made it possible for members of the public to identify MS. FUENTES as the victim of a sexual offense were the direct, proximate and legal cause of MS. FUENTES injuries, pain and suffering and related damages.

50. Defendant CHANNEL 10 breached its duty in the following ways:

a. Negligent failure of CHANNEL 10 to verify that any and all documents linked to news reports, such as the Internal Affairs Memorandum found at Exhibit “A,” do not contain any “other identifying information” that make it possible for members of the public to identify the victim of a sexual offense.

b. Negligent failure to establish procedures to prevent the BOARD’S Agents from releasing Internal Affairs Memoranda so they do not contain any “other

identifying information” that make it possible for members of the public to identify the victim of a sexual offense.

51. Defendant CHANNEL 10’s intentional acts and reckless disregard of the duty not to release or publish “other identifying information” that made it possible for members of the public to identify MS. FUENTES as the victim of a sexual offense were the direct, proximate and legal cause of MS. FUENTES injuries, pain and suffering and related damages.

COUNT II
THE BOARD AND CHANNEL 10 VIOLATED SEC. 794.026, FLORIDA STATUTES

52. Plaintiff re-alleges and incorporates herein ¶¶ 1 through 44, *supra*, as if fully set out herein.

53. Sec. 794.026, Florida Statutes, provides a civil cause of action against parties and/or individuals who publish or broadcast information that identifies the identity of the victim of a sexual offense:

794.026 Civil right of action for communicating the identity of a sexual crime victim.—

(1) An entity or individual who communicates to others, prior to open judicial proceedings, the name, address, or **other specific identifying information concerning the victim of any sexual offense** under this chapter or chapter 800 shall be liable to that victim for all damages reasonably necessary to compensate the victim for any injuries suffered as a result of such communication.

(2) The victim shall not be able to maintain a cause of action unless he or she is able to show that such communication was intentional and was done with reckless disregard for the highly offensive nature of the publication. (emphasis added).

A copy of Sec. 794.026, Florida Statutes, is attached hereto and incorporated herein as Exhibit “D.”

54. In direct violation of the above statutes, the BOARD released the Internal Affairs

Memorandum on June 17, 2013, which was sporadically redacted and contained MS. FUENTES' initials "*A.F.*" the name of her then Teacher, *Ms. Yamaris Roman*, and the name of her then high school, *Miami Jackson Senior High School*, which comprised "other information" that provided her identity to the public. (See Exhibit A).

55. Some months later, on or about May 7, 2014, CHANNEL 10 broadcast the above described widely publicized report, which was both televised and contained on CHANNEL 10's website, entitled "*School Police Officer Sent Sexually Explicit Text Messages to Student, Report Claims,*" linked to the June 17, 2013, Internal Affairs Memorandum (Exhibit A), which comprised "other information" that provided her identity to the public. (See Exhibit B).

56. Defendant BOARD violated Sec. 794.026, Florida Statutes, by intentionally, and with reckless disregard, releasing the Internal Affairs Memorandum, which contained "other identifying information" that made it possible for members of the public to identify MS. FUENTES as the victim of a sexual offense.

57. Defendant CHANNEL 10 violated Sec. 794.026, Florida Statutes, by intentionally, and with reckless disregard, releasing the Internal Affairs Memorandum, which contained "other identifying information" that made it possible for members of the public to identify MS. FUENTES as the victim of a sexual offense.

58. Defendant BOARD'S intentional acts and reckless disregard of the duty not to release or publish "other identifying information" that made it possible for members of the public to identify MS. FUENTES as the victim of a sexual offense were the direct, proximate and legal cause of MS. FUENTES injuries, pain and suffering and related damages.

59. Defendant CHANNEL 10's intentional acts and reckless disregard of the duty not

to release or publish “other identifying information” that made it possible for members of the public to identify MS. FUENTES as the victim of a sexual offense were the direct, proximate and legal cause of MS. FUENTES injuries, pain and suffering and related damages.

COUNT III
THE BOARD AND CHANNEL 10 INFLECTION OF EMOTIONAL DISTRESS

60. Plaintiff re-alleges and incorporates herein ¶¶ 1 through 44, *supra*, as if fully set out herein.

61. The aforementioned acts, omissions and conduct of both the Defendants, the BOARD and CHANNEL 10, were extreme outrageous, malicious or with total disregard or deliberate indifference to the safety and wellbeing of the Plaintiff and therefore, Defendants, the BOARD and CHANNEL 10, were aware of, and knew or should have known that their acts, omissions and conduct would cause Plaintiff extreme and severe emotional distress.

62. Defendants, the BOARD and CHANNEL 10 had a duty of reasonable care to protect Plaintiff and Defendants, the BOARD and CHANNEL 10, breached those duties owed.

63. It was reasonably foreseeable that the acts and omissions of Defendants, the BOARD and CHANNEL 10, by intentionally, and with reckless disregard, releasing the Internal Affairs Memorandum, which contained “other identifying information” making it possible for members of the public to identify MS. FUENTES as the victim of a sexual offense, would cause her extreme and severe emotional distress.

46. The outrageous acts, omissions and conduct of the Defendants, the BOARD and CHANNEL 10, did, in fact, proximately cause Plaintiff severe and extreme emotional distress, mental anguish, anxiety and physical injury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants, the BOARD and CHANNEL 10, as follows:

- a) An award of actual, compensatory, and special damages against Defendants, the BOARD and CHANNEL 10, in the actual amount of damages suffered by MS. FUENTES;
- b) Awarding Plaintiff the cost of this action and such other relief as may be just and proper.

DEMAND FOR A JURY TRIAL

A jury trial is demanded for all issues so triable.

Dated: June 15, 2017

Respectfully Submitted,

/s/ Luke Lirot

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