

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ADAM FRIED, ADMINISTRATOR OF THE
ESTATE OF ALIANNA S. DEFREEZE
101 West Prospect Avenue, Suite 1400
Cleveland, OH 44115

and

DONNESHIA COOPER
11003 Dove Avenue
Cleveland, OH 44105

and

DAMON DEFREEZE
15703 Waterloo
Cleveland, OH 44110

Plaintiffs,

v.

FRIENDS OF BREAKTHROUGH
SCHOOLS, d/b/a BREAKTHROUGH
SCHOOLS
3615 Superior Avenue
Building 44, Suite 4403A
Cleveland, OH 44114

ALSO SERVE:

FRIENDS OF BREAKTHROUGH
SCHOOLS, d/b/a BREAKTHROUGH
SCHOOLS
c/o Amy J. Borman, Esq.
Statutory Agent
150 East Gay Street, 24th Floor
Columbus, OH 43215

and

CASE NO.

JUDGE

COMPLAINT

(Jury Demand Endorsed)

E PREP & VILLAGE PREP WOODLAND HILLS
9201 Crane Avenue
Cleveland, OH 44105

and

CLEVELAND METROPOLITAN SCHOOL DISTRICT
1111 Superior Avenue, E, Suite 1800
Cleveland, OH 44114

and

LYNESHIA RICHARDSON
c/o E PREP & VILLAGE PREP
WOODLAND HILLS
9201 Crane Avenue
Cleveland, OH 44105

and

CHRISTOPHER WHITAKER
Inmate No. A750460
Chillicothe Correctional Institution
15802 State Route North 104
Chillicothe, OH 45601

and

CITY OF CLEVELAND
Department of Law
601 Lakeside Ave., Room 106
Cleveland, OH 44114

and

JOHN DOE, CITY OF CLEVELAND
EMPLOYEE
c/o City of Cleveland
Department of Law
601 Lakeside Ave., Room 106
Cleveland, OH 44114

and	:
	:
LAVONTAY D. MCKENZIE	:
2923 East 120 th Street	:
Cleveland, OH 44120	:
	:
and	:
	:
JOHN DOE INDIVIDUALS	:
1 THROUGH 10	:
(Names currently undiscoverable)	:
	:
and	:
	:
JOHN DOE COMPANIES	:
1 THROUGH 10,	:
(Names currently undiscoverable)	:
	:
Defendants.	:

For their Complaint against Defendants Friends of Breakthrough Schools d/b/a Breakthrough Schools (“Breakthrough”), E Prep & Village Prep Woodland Hills (“E Prep”), Cleveland Metropolitan School District (“CMSD”), Lynesha Richardson (“Richardson”) (Breakthrough, E Prep, CMSD and Richardson shall be collectively referred to as “Defendants School System”), John Doe Companies 1 through 10 (“Defendant Technology Company”), Christopher Whitaker (“Whitaker”), The City of Cleveland, (“City of Cleveland”), John Doe Employee of City of Cleveland (“City Employee”), Lavontay D. McKenzie (“McKenzie”), and John Doe Individuals 1 through 10 (all defendants shall be collectively referred to as “Defendants”), Plaintiffs Estate of Alianna S. DeFreeze (“Alianna”), Donnesha Cooper (“Ms. Cooper”), and Damon

DeFreeze ("Mr. DeFreeze") (collectively, "Plaintiffs"), by and through undersigned counsel, state and aver as follows:

PARTIES

1. Plaintiff Adam Fried is the Administrator of the Estate of Alianna S. DeFreeze, a deceased minor, being appointed by the Probate Court of Cuyahoga County in Case No. 2017EST223103. Adam Fried, whose office is located in Cleveland, Ohio, Cuyahoga County, brings these claims on behalf of the Estate of Alianna S. DeFreeze and the statutory wrongful death beneficiaries. A copy of his letters of authority are attached as Exhibit A.

2. Plaintiff Donnesha Cooper is the mother and custodial guardian of deceased minor Alianna S. DeFreeze and a resident of Cleveland, Ohio, Cuyahoga County.

3. Plaintiff Damon DeFreeze is the father of deceased minor Alianna S. DeFreeze and a resident of Cleveland, Ohio, Cuyahoga County.

4. Upon information and belief, Defendant Breakthrough is an Ohio not-for-profit corporation with its principal place of business in Cleveland, Ohio, Cuyahoga County and it manages, operates and/or controls E Prep and other charter schools.

5. Upon information and belief, Defendant E Prep is a d/b/a and authorized agent for Breakthrough with its principal place of business in Cleveland, Ohio, Cuyahoga County.

6. Upon information and belief, Defendant Richardson is the Principal for E Prep and occupied this role during all material times herein and resides in the State of Ohio.

7. Defendant Christopher Whitaker is the individual who tortured, raped and murdered Alianna and is currently a death row inmate, Inmate No. A750460, at Chillicothe Correctional Institution located at 15802 State Route North 104, Chillicothe, Ohio 45601, in the State of Ohio.

8. Defendant City of Cleveland is a municipal government located in Cleveland, Ohio, Cuyahoga County.

9. Defendant City Employee is an unknown employee or employees of the City of Cleveland responsible for assuring the maintenance of properties and/or determining nuisances, including, but not limited to, abandoned properties, in the City of Cleveland.

10. Defendant McKenzie was the owner of the premises located at 9412 Fuller Avenue in Cleveland, Ohio, Cuyahoga County, with permanent parcel number 127-16-137.

11. John Doe Individuals 1 through 10, presently unknown, are individuals who acted as agents and/or representatives of Defendants and played a role in the allegations and claims asserted herein and will in no way be prejudiced in the maintenance of any defenses on the merits within the meaning of Rule 15(D) of the Ohio Rules of Civil Procedure.

12. John Doe Companies 1 through 10, presently unknown, are companies, including, but not limited to, a company or companies that provided communication services to Defendants School System for the purpose of contacting parents of E Prep students and/or played any role in the allegations and claims asserted herein and will in no way be prejudiced in the maintenance of any defenses on the merits within the meaning of Rule 15(D) of the Ohio Rules of Civil Procedure.

VENUE

13. Defendants transact business in Cleveland, Ohio, Cuyahoga County.

14. Defendants supply services in Cleveland, Ohio, Cuyahoga County.

15. Defendants conduct sales in Cleveland, Ohio, Cuyahoga County.

16. Defendants regularly solicit business in Cleveland, Ohio, Cuyahoga County.

17. Defendants derive substantial revenue from services rendered and/or sales conducted in Cleveland, Ohio, Cuyahoga County.

18. At all times referenced herein, the material events alleged in this Complaint occurred in Cuyahoga County, Ohio.

19. Therefore, personal jurisdiction is proper over Defendants pursuant to Ohio Revised Code §2307.382(A)(1)-(4).

20. This Court has general jurisdiction over the claims presented herein, including all subject matters of this Complaint.

FACTS

21. Plaintiffs Donnesha Cooper and Damon DeFreeze are the parents of the deceased minor child, Alianna.

22. Alianna attended E Prep for two (2) school years and, during the 2016-2017 school year, she was enrolled as a 14-year-old seventh grader with a developmental disability that was known to Defendants School System.

23. Alianna had never missed a day of school without notice during her years at E Prep and she was a thoughtful child who enjoyed attending class each and every day.

24. During the 2016-2017 school year, Defendants School System made the conscious and intentional decision to maintain an accountability system for E Prep students and parents, whereby the school would send an automated text message notification, rather than making personal telephone calls, to parents to alert them about important matters related to their children, including, but not limited to, immediate notice of any unexcused absences (“Accountability Program”).

25. By electing to use the Accountability Program instead of other means of communicating with parents about important matters, Defendants School System imposed a duty on themselves to provide parents with notice via electronic communication to protect the safety and well-being of their children, among other things.

26. Defendants School System identified, researched, retained and paid Defendant Technology Company to provide the technology for the Accountability Program and it was their duty, along with Defendant Technology Company, to ensure

that the system always worked properly and was used when necessary to alert parents about important matters, including unexcused absences.

27. Defendants School System made the voluntary decision to entrust the most basic and fundamental duty owed to parents – the safety and well-being of children – to the Accountability Program.

28. Providing notice to parents about matters related to child safety and school attendance is necessary because it is foreseeable that a child could be kidnapped, harmed, tortured, raped or even murdered on the way to school.

29. Ms. Cooper, ever concerned about the well-being of her only daughter, immediately signed up to receive messages from the Accountability Program. Ms. Cooper trusted that the program was reliable, and she counted on the system to notify her if Alianna did not arrive safely to school in the morning.

30. On January 26, 2017, Alianna was traveling on an RTA bus headed to school for an early morning tutoring session. At around 7:00 that morning, Alianna exited the bus and began walking down the street.

31. As Alianna was walking down the street, she was followed by Defendant Whitaker and was ultimately abducted and forced into an abandoned home located at 9412 Fuller Avenue. Young Alianna was last seen alive getting off the bus that morning.

32. Defendants School System had specific knowledge that Alianna did not show up for school that day. She was not present for class and she was completely unaccounted for by Defendants School System without any notice from Ms. Cooper, Mr. DeFreeze or any other family member.

33. Alianna's absence – without any notice – should have raised serious red flags for Defendants School System, especially since she suffered from developmental disabilities. Indeed, Alianna did not miss school days without some sort of notice from Ms. Cooper, so her absence was completely uncharacteristic.

34. While Defendants School System had specific knowledge of Alianna's unexcused absence, they never contacted Ms. Cooper to inform her that Alianna did not make it to school on January 26, 2017, despite having appropriate contact information.

35. Defendants School System took absolutely no action to notify Ms. Cooper of Alianna's absence on January 26, 2017.

36. Defendants School System took absolutely no action to notify Mr. DeFreeze of Alianna's absence on January 26, 2017.

37. Defendants School System did not utilize the Accountability Program to provide Ms. Cooper with immediate and prompt notice that Alianna was absent from school on January 26, 2017.

38. Defendants School System did not call Ms. Cooper, Mr. DeFreeze and/or any other family member to provide them with immediate and prompt notice that Alianna was absent from school on January 26, 2017.

39. Defendants School System did not email Ms. Cooper, Mr. DeFreeze and/or any other family member to provide them with immediate and prompt notice that Alianna was absent from school on January 26, 2017.

40. Defendants School System did not send someone to Ms. Cooper's home to determine why Alianna was absent from school on January 26, 2017.

41. Defendants School System did not immediately contact the appropriate authorities to put them on notice that Alianna was absent from school on January 26, 2017 without any prior notice from Ms. Cooper or Mr. DeFreeze.

42. In sum, Defendants School System utterly and without question breached a critical duty owed to each and every parent to provide notice of a missing child – no text messages, phone calls, emails or any other form of communication were ever sent by Defendants School System to Ms. Cooper and/or Mr. DeFreeze to notify them about Alianna’s unexcused absence to prevent her from being harmed.

43. Defendants School System did not do everything within their power to notify Ms. Cooper and/or Mr. DeFreeze about Alianna’s absence on January 26, 2017.

44. Because Ms. Cooper and/or Mr. DeFreeze did not receive any notice of Alianna’s absence from school on January 26, 2017, they properly assumed that their precious daughter was safe and being protected from harm by Defendants School System during the hours when they assume this duty.

45. At approximately 4:00 p.m. on January 26, 2017, however, Ms. Cooper became extremely concerned about Alianna because she had not arrived home from E Prep. As a result, Ms. Cooper called E Prep and – for the very first time – she was told that Alianna never arrived at school and was absent the entire day.

46. Ms. Cooper knew that missing school was completely out of character for her daughter so she urgently called the authorities in order to immediately alert them to Alianna’s disappearance.

47. Ms. Cooper was terrified and began to panic about the safety and well-being of Alianna.

48. The search for Alianna did not begin until the evening of January 26 – approximately ten (10) hours after she had been abducted.

49. It is well-known that the first few hours a child goes missing are the most crucial in order to find them before they are harmed or killed.

50. Defendants School System's complete and utter failure to notify Ms. Cooper and/or Mr. DeFreeze of their daughter's unexcused absence from school caused the police to be notified of her disappearance much later than they would have been if Defendants School System had given Ms. Cooper prompt and immediate notice that Alianna never arrived for school that day.

51. Defendants School System's failure to provide notice of Alianna's absence to Ms. Cooper and/or Mr. DeFreeze prevented the police from beginning an immediate and possibly life-saving search for Alianna.

52. The deferred search, which was directly caused by Defendants School System, significantly and materially lowered the chances of the police finding Alianna alive.

53. Because of Defendants School System's failure to notify Ms. Cooper and/or Mr. DeFreeze of Alianna's absence, the search trail for her went cold and her lifeless body was found in an abandoned house three (3) days after her abduction. Alianna had been brutally beaten, raped and tortured with tools before she was finally murdered in a horrific manner that no person – let alone a child – should ever have to experience.

54. The last hours of Alianna's life were spent in excruciating, paralyzing, debilitating and unthinkable physical and mental pain as her body was desecrated before her life was snuffed out at the hands of Defendant Whitaker due to the negligence of Defendants.

55. Alianna's death has caused Ms. Cooper and/or Mr. DeFreeze to suffer tremendous, unimaginable and unbearable grief and mental distress.

56. Defendants School System owed various legal duties to Plaintiffs to protect Alianna from harm and to provide Ms. Cooper and/or Mr. DeFreeze with notice of their child's unexcused absence during school hours.

57. Defendants School System are required to care for, protect and be accountable for students, including Alianna, during school hours and Defendants School System imposed a higher duty on themselves when they elected to adopt the Accountability Program to notify parents of their children's absences, among other things.

58. Upon information and belief, Defendants School System have tried to cover up their fatal inaction by claiming that they sent Ms. Cooper a message through the Accountability Program notifying her of Alianna's absence, but that the system malfunctioned and/or failed to send the message.

59. Upon information and belief, Defendants School System have lied about their action of sending a message through the Accountability Program to Ms. Cooper on January 26, 2017 - the day Alianna was abducted. In fact, Defendants School System used the Accountability Program later that same day to alert E Prep parents about Alianna's

disappearance and the system did not malfunction, thereby undermining their representation that the system was malfunctioning that day.

60. At the time Defendants School System falsely misrepresented this critical fact to conceal the negligent conduct that led to Alianna's death, they had full knowledge that their lie would cause Ms. Cooper and/or Mr. DeFreeze severe emotional distress. Defendants School System's wrongful attempt to cover up their failure to notify Ms. Cooper has indeed caused Plaintiffs to suffer tremendous, unimaginable and unbearable grief and emotional distress.

61. In the alternative, even if the Accountability Program happened to malfunction on the most critical day it needed to work properly, Defendant Technology Company, along with Defendants School System, breached its duty to Plaintiffs to provide a functioning and operational messaging service that parents relied on to be notified of safety concerns, including a child's absence from school.

62. Instead of using an employee to personally alert parents to important issues involving their children, such as absences, Defendants School System voluntarily chose to rely on a computer system to perform this function and willingly subjected themselves to potential technical malfunctions that would not be present if they chose a more active and verifiable means of contacting parents.

63. As a result of the foregoing, on January 26, 2017, Defendants School System breached the duties they owed to Alianna and her parents by failing to provide immediate notice to Ms. Cooper and/or Mr. DeFreeze about Alianna's absence from school, which materially contributed to her rape, torture and death.

64. Defendant CMSD, as a sponsor of Breakthrough and E Prep, has a duty to Plaintiffs to oversee those entities by communicating, implementing and applying policies and procedures to ensure the safety of children and to establish proper channels of communication with parents to further that goal.

65. Defendants School System breached their duty to Plaintiffs by failing to communicate, implement and apply policies and procedures to ensure the safety of children and to establish proper channels of communication with parents to provide them with notification when their children do not show up for school.

66. These policies and procedures are particularly important in high-crime areas, such as where E Prep is located.

67. Defendant CMSD's failure to mandate that Breakthrough and E Prep immediately notify parents of a child's absence actively diminishes a child's safety and a parent's assurance that their children are actually accounted for during school hours when Defendants School System assume this duty. To be sure, Defendants School System's failure adversely impacted Plaintiffs and materially contributed to Alianna being murdered after hours of being tortured and raped.

68. Had Ms. Cooper and/or Mr. DeFreeze been notified immediately, or even within a reasonable amount of time, about their daughter's absence from school on January 26, 2017, Alianna may have survived the gruesome events that ended her short life in such a painful manner. Indeed, according to the Cuyahoga County Medical Examiner's Office testimony at Defendant Whitaker's criminal trial, Alianna survived the

horrific violence inflicted on her for at least “several hours” before she was ultimately killed.

69. If Ms. Cooper and/or Mr. DeFreeze had been timely notified that Alianna was missing from school, the search for their precious daughter would not have been delayed for nearly ten (10) hours. Alianna may have been located before she was tortured, raped and killed.

70. Due to the blatant failures of Defendants School System and Defendant Technology Company, Plaintiffs were denied the most critical hours to alert the authorities about the disappearance of Alianna, and Alianna was deprived of vital hours to be rescued alive from the abandoned property owned by Defendant McKenzie.

71. In or around 2015, there were more than 12,000 abandoned properties located in the City of Cleveland.

72. Those abandoned properties tainted neighborhoods, hurt home values and were the location of numerous violent crimes that the City of Cleveland had full knowledge of and did nothing about it.

73. A survey conducted by the Thriving Communities Institute documented that approximately 8.8% of the residential structures in the City of Cleveland are vacant. Upon information and belief, this survey was funded, in part, with \$20,000 from Cleveland City Counsel.

74. Defendant City of Cleveland and Defendant City Employee have a duty to do everything within their power to protect citizens from preventable harm within its boundaries.

75. Defendant City of Cleveland and Defendant City Employee were aware of these abandoned properties and the criminal acts and nefarious conduct that took place as a result of these structures being vacant.

76. Defendant City of Cleveland and Defendant City Employee were aware that abandoned properties were a nuisance and increased the likelihood of violent criminal activity in them.

77. Defendant City of Cleveland and Defendant City Employee breached their duties to Plaintiffs by failing to monitor and prevent illicit activities in these abandoned properties, including the property located at Fuller Avenue ("Fuller House") where Alianna was brutally murdered.

78. Based on Defendant City of Cleveland and Defendant City Employee's knowledge of the violent crimes committed in abandoned properties and their failure to oversee and/or demolish them, the murder of Alianna at the Fuller House was foreseeable.

79. Defendant City of Cleveland and Defendant City Employee's failures were due to malicious purpose, bad faith and/or done in a wanton and reckless manner.

80. Defendant McKenzie was the owner of the Fuller House at the time Alianna was murdered at that location.

81. The Fuller House was a nuisance and, based upon information and belief, became a location for criminal activity.

82. Defendant McKenzie knew or should have known that the failure to maintain and monitor the Fuller House increased the likelihood that it would be used for criminal and nefarious activity.

83. Defendant McKenzie breached her duty to Plaintiffs and other citizens by allowing the Fuller House to be vacant and abandoned and by failing to maintain and monitor the property in a manner that would discourage and prevent foreseeable criminal activity.

84. Defendant McKenzie's breached duty materially contributed to Alianna's horrific torture, rape and murder and caused Plaintiffs tremendous harm.

85. Alianna's life was lost prematurely in one of the most violent ways imaginable while suffering from excruciating pain and mental distress. She has been deprived of an entire life of earnings, happiness and companionship. Ms. Cooper and Mr. DeFreeze, as her parents, now have to deal with the devastating reality and grief associated with their daughter's gruesome torture, rape and death and the diabolical plan to cover up negligent conduct for the rest of their lives.

COUNT I: WRONGFUL DEATH

86. Plaintiffs reincorporate, reassert and reallege all of the allegations contained above as if fully restated herein.

87. Defendants negligently, recklessly, willfully and/or wantonly violated various duties owed to Plaintiffs as alleged herein.

88. Defendants' actions directly and proximately contributed to Alianna's rape, torture and ultimate death.

89. Defendants are jointly and severely liable for the wrongful death of Alianna due to their wrongful conduct, including the breach of duties owed to Plaintiffs, which contributed to her rape, torture, and murder.

90. Alianna is survived by her parents, Ms. Cooper and Mr. DeFreeze.

91. As a direct and proximate cause of Defendants' wrongful conduct, Alianna was raped, tortured and murdered and Plaintiffs suffered serious financial harm, tremendous and unimaginable physical harm, debilitating mental distress and/or other significant damages.

COUNT II: SURVIVAL CLAIM

92. Plaintiffs reincorporate, reassert and reallege all of the allegations contained above as if fully restated herein.

93. As a direct and proximate result of Defendants' wrongful conduct, Plaintiffs' decedent experienced excruciating pain and suffering, pre-death terror and tremendous emotional distress before her murder.

COUNT III: NEGLIGENCE OF DEFENDANTS SCHOOL SYSTEM

94. Plaintiffs reincorporate, reassert and reallege all of the allegations contained above as if fully restated herein.

95. Defendants School System owed Plaintiffs a duty to protect Alianna from harm, to provide Ms. Cooper and/or Mr. DeFreeze with notice of any unexcused absences during school hours and to ensure that the notification system they use to alert parents is functional, operational and effective.

96. Defendants School System negligently, willfully, recklessly and/or wantonly failed to provide notice to Ms. Cooper and/or Mr. DeFreeze - in any way - about Alianna's unexcused absence on January 26, 2017.

97. Defendants School System negligently, willfully, recklessly and/or wantonly failed to ensure that the Accountability Program was functional, operational and effective.

98. Defendant School System's breach of the duties they owed to Plaintiffs directly and proximately contributed to Alianna's rape, torture and death, which were foreseeable.

99. As a direct and proximate cause of Defendant School System's wrongful conduct, Plaintiffs have suffered serious financial harm, tremendous and unimaginable physical harm, debilitating mental distress and/or other significant damages.

COUNT IV: NEGLIGENCE OF DEFENDANT TECHNOLOGY COMPANY

100. Plaintiffs reincorporate, reassert and reallege all of the allegations contained above as if fully restated herein.

101. Defendant Technology Company - the company that provided and/or ran the Accountability Program for E Prep - owed Plaintiffs a duty to provide a functioning, operational and effective messaging service that parents relied on to be notified of safety concerns involving their children.

102. Defendant Technology Company breached this duty when, according to Defendants School System, the Accountability Program malfunctioned and failed to send

a message to Ms. Cooper notifying her of Alianna's absence from school on January 26, 2017.

103. Defendant Technology Company's breach of the duties owed to Plaintiffs directly and proximately contributed to Alianna's rape, torture and death, which were foreseeable.

104. As a direct and proximate cause of Defendant Technology Company's wrongful conduct, Plaintiffs have suffered serious financial harm, tremendous and unimaginable physical harm, debilitating mental distress and/or other significant damages.

**COUNT V: NEGLIGENCE OF DEFENDANT CITY OF CLEVELAND AND
DEFENDANT CITY EMPLOYEE**

105. Plaintiffs reincorporate, reassert and reallege all of the allegations contained above as if fully restated herein.

106. Defendant City of Cleveland and Defendant City Employee owed a duty to the public to monitor and prevent criminal activity from taking place inside abandoned properties.

107. Defendant City of Cleveland and Defendant City Employee knew or should have known about the criminal activity taking place in abandoned properties within the city boundaries.

108. Defendant City of Cleveland and Defendant City Employee knew or should have known that the Fuller House was abandoned and located in a high-crime area, yet did nothing to abate this nuisance and prevent criminal activity therein.

109. Defendant City of Cleveland and Defendant City Employee's failure to monitor this decrepit home and prevent criminal activity from taking place inside it directly and proximately contributed to Defendant Whitaker's ability to rape, torture, and murder Alianna inside the abandoned house.

110. As a direct and proximate cause of Defendant City of Cleveland and Defendant City Employee's wrongful conduct, Plaintiffs have suffered serious financial harm, tremendous and unimaginable physical harm, debilitating mental distress and/or other significant damages.

COUNT VI: NEGLIGENCE OF DEFENDANT LAVONTAY MCKENZIE

111. Plaintiffs reincorporate, reassert and reallege all of the allegations contained above as if fully restated herein.

112. Defendant McKenzie, as the owner of the Fuller Property, owed the public a duty to reasonably maintain and secure the property in a manner that would prevent criminal activity therein.

113. Defendant McKenzie knew that the Fuller House was abandoned and located in a high-crime area, yet did nothing to abate this nuisance and prevent criminal activity therein.

114. Defendant McKenzie breached the duties she owed to Plaintiffs when she failed to maintain, monitor and operate the Fuller House in a safe and reasonable manner by making repairs to the property, keeping the property occupied, locking the doors and windows of the property, and/or boarding up entry ways into the property, among other things.

115. Defendant McKenzie's failure to properly maintain and/or secure this abandoned home directly and proximately contributed Defendant Whitaker's ability to rape, torture, and murder Alianna inside the house.

116. As a direct and proximate cause of Defendant McKenzie's wrongful conduct, Plaintiffs have suffered serious financial harm, tremendous and unimaginable physical harm, debilitating mental distress and/or other significant damages.

COUNT VII: FRAUDULENT MISREPRESENTATION

117. Plaintiffs reincorporate, reassert and reallege all of the allegations contained above as if fully restated herein.

118. Defendants School System, upon information and belief, lied and misrepresented to Plaintiffs that they sent a text message to Ms. Cooper through the Accountability Program on January 26, 2017.

119. Defendants made this misrepresentation with full knowledge of its falsity.

120. Defendants made this misrepresentation with the intent to induce Ms. Cooper and Mr. DeFreeze to believe that Defendants complied with the duties they owed to Plaintiffs for the purpose of systematically covering up their negligent conduct to avoid liability.

121. For a period of time, Ms. Cooper and Mr. DeFreeze believed that Defendants complied with their duties and sent a message to Ms. Cooper on January 26, 2017 through the Accountability System and that the system malfunctioned.

122. Ms. Cooper and Mr. DeFreeze relied on this misrepresentation and, initially, believed that Defendants School System did everything they could to protect Alianna on that fateful day, and found comfort in this false belief.

123. In addition, Ms. Cooper and Mr. DeFreeze initially refrained from taking action against Defendants based on the misrepresentation that Defendants School System satisfied their duty to protect Alianna and this delay directly caused the spoliation of evidence crucial to this case.

124. Ms. Cooper and Mr. DeFreeze now believe that Defendants School System purposefully made these misrepresentations to conceal their negligent conduct and this revelation has directly caused tremendous harm.

125. As a result of Defendants School System's knowingly false representation, Plaintiffs have suffered irreparable harm, debilitating mental distress and/or other significant damages.

COUNT VIII: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

126. Plaintiffs reincorporate, reassert and reallege all of the allegations contained above as if fully restated herein.

127. Defendants School System, upon information and belief, lied to Plaintiffs about their action of sending a message to Ms. Cooper through the Accountability Program on January 26, 2017.

128. Defendants School System, upon information and belief, lied with full knowledge of the serious emotional distress it would cause Ms. Cooper and/or Mr. DeFreeze in wake of their daughter's rape, torture and murder.

129. Defendants School System, upon information and belief, lied about attempting to contact Ms. Cooper through the Accountability Program because they were engaging in a calculated plot to cover up their negligent conduct.

130. Defendants School System's knowingly false representations undoubtedly go beyond all possible bounds of decency to the extent that it is utterly intolerable in a civilized community.

131. Defendants School System's conduct directly and proximately caused Plaintiffs to suffer a level of mental anguish that no reasonable person should ever be expected to endure.

COUNT IX: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

132. Plaintiffs reincorporate, reassert and reallege all of the allegations contained above as if fully restated herein.

133. Defendants owed duties to Plaintiffs that have been discussed herein to prevent children from being subjected to dangerous conditions that could foreseeably lead to physical and/or mental harm.

134. Defendants breached the duties owed to Plaintiffs by failing to take reasonable and necessary action protect Plaintiffs from physical and/or mental harm.

135. Plaintiffs were helpless bystanders to Defendants' negligence towards them when their conduct contributed to Alianna's rape, torture and death and Ms. Cooper and Mr. DeFreeze experienced extreme peril for three (3) days while searching for their missing, unknowingly deceased daughter.

136. As a direct and proximate cause of Defendants' wrongful conduct, Plaintiffs have suffered serious financial harm, tremendous and unimaginable physical harm, debilitating mental distress and/or other significant damages.

COUNT X: NUISANCE

137. Plaintiffs reincorporate, reassert and reallege all of the allegations contained above as if fully restated herein.

138. The Fuller House was a hazard to the general welfare and safety of the public by means of its inadequate maintenance, dilapidation and abandonment and, therefore, constituted an absolute and/or qualified nuisance.

139. Defendants City of Cleveland, City Employee and McKenzie negligently created, contributed to and/or allowed this nuisance to exist, knowing that the property was unsafe and presented a high-risk of hosting violent criminal activity and thus created an unreasonable risk of harm to the public.

140. Defendants City of Cleveland, City Employee and McKenzie's failure to abate this nuisance allowed serious and potentially unavoidable criminal activity to take place inside - namely, Alianna's rape, torture and murder.

141. Defendants City of Cleveland, City Employee and McKenzie's actions in permitting this nuisance to exist directly and proximately contributed to Defendant Whitaker's ability to rape, torture and murder Alianna inside the house.

142. As a direct and proximate cause of Defendants City of Cleveland, City Employee and McKenzie's wrongful conduct, Plaintiffs have suffered serious financial

harm, tremendous and unimaginable physical harm, debilitating mental distress and/or other significant damages.

COUNT XI: SPOILIATION OF EVIDENCE

143. Plaintiffs reincorporate, reassert and reallege all of the allegations contained above as if fully restated herein.

144. Defendants had reason to believe that Plaintiffs may name them as Defendants in an action for their daughter's wrongful death, among other claims.

145. Despite having knowledge that such litigation was probable, upon information and belief, Defendants willfully destroyed and/or failed to maintain evidence which is directly relevant to Plaintiffs' case in a manner designed to disrupt Plaintiffs' claims.

146. As the result of the collective and/or individual conduct of Defendants, Plaintiffs have been harmed in their ability to properly prepare for and prosecute their case.

DEMAND FOR RELIEF

WHEREFORE, Plaintiffs Estate of Alianna S. DeFreeze, Donnesha Cooper and Damon DeFreeze respectfully request that this Honorable Court grant the following relief:

- (a) Funeral and burial expenses;
- (b) Mental anguish, solace, loss of society, companionship, comfort, guidance, and advice of the decedent suffered by Plaintiffs;

- (c) The reasonable value of the loss of services, protection, care and assistance provided by the decedent;
- (d) Pain and suffering of the decedent as a result of any non-fatal injuries as allowed under law;
- (e) Compensatory and punitive damages in an amount in excess of \$25,000;
- (f) Attorneys' fees, costs and expenses incurred; and
- (g) For an award of such other relief as this Court may deem necessary and proper.

Respectfully submitted,

/s/ F. Allen Boseman, Jr.

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JURY DEMAND

Plaintiffs Estate of Alianna S. DeFreeze, Donnesha Cooper, and Damon DeFreeze demand a trial by jury by the maximum number of jurors permitted.

/s/ F. Allen Boseman, Jr.

F. Allen Boseman, Jr.

One of the Attorneys for Plaintiffs,
ESTATE OF ALIANNA S. DEFREEZE,
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