

IN THE CIRCUIT COURT FOR HAMILTON COUNTY, TENNESSEE

ALISHA BIBBS)
)
 Plaintiff)
)
 v.)
)
 DURHAM SCHOOL SERVICES, L.P.,)
 NATIONAL EXPRESS, LLC and)
 JOHNTHONY WALKER)
)
 Defendants)

NO. 17C1266

DIVISION _____

JURY DEMAND

2017 NOV 17 AM 8:54
CJP

COMPLAINT

Comes now the Plaintiff, Alisha Bibbs, by and through counsel, and would show this Honorable Court as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Alisha Bibbs is the school secretary and staff member of Woodmore Elementary School in Chattanooga, Hamilton County, Tennessee. She suffered psychological injuries as a result of a motor vehicle collision involving her students that occurred on November 21, 2016 on Talley Road in Chattanooga, Hamilton County, Tennessee.

2. Plaintiff resides in Hamilton County, Tennessee and is a citizen and resident of Tennessee.

3. Defendant Durham School Services, L.P. ("Durham") is a foreign corporation existing under the laws of the state of Delaware with its principal place of business located at 1431 Opus Place, Suite 200, Downers Grove, Illinois. Durham may be served through its registered agent CT Corporation System, 800 S. Gay Street, Suite 2021, Knoxville, TN 37929.

4. Defendant National Express, LLC ("NELLC") is a foreign corporation existing under the laws of the state of Delaware with its principal place of business located at 4300

Weaver Parkway in Warrenville, Illinois. NELLC may be served through its registered agent CT Corporation System, 208 South LaSalle St., Suite 814, Chicago, IL 60604.

5. Defendant Johnthony Walker (“Walker”) is a resident of Tennessee and may be served through his attorney of record, Ronald D. Wells, 633 Chestnut Street, Suite 700, Chattanooga, TN 37450.

6. All Defendants are subject to the jurisdiction of this Court pursuant to Tenn. Code Ann. § 16-10-101.

7. The cause of action arose in Chattanooga, Hamilton County, Tennessee and venue would be in Hamilton County, Tennessee pursuant to Tenn. Code Ann. § 20-4-101.

FACTS

8. On November 21, 2016, the Defendant Walker was operating a bus owned and operated by Defendants Durham and NELLC. The presumptions stated in Tenn. Code Ann. § 55-10-311 and Tenn. Code Ann. § 55-10-312 would apply. Walker was within the course and scope of his employment with Durham and NELLC and was operating the bus as a commercial bus driver, employee and statutory employee of Durham and NELLC. Durham and NELLC would be responsible for Walker’s conduct under agency and/or *respondeat superior* and/or imparted negligence.

9. The Defendants were negligent, grossly negligent and operated the bus in a reckless manner with an indifference to the lives and safety of others.

10. The Defendants were negligent as Walker was speeding, travelling too fast for conditions, failed to maintain a proper lookout ahead, failed to keep his bus under proper control, failed to stay in his lane of travel, failure to stay on the road, and was guilty of reckless driving. The Defendants, by operating a commercial bus, owed the highest degree of care.

11. Plaintiffs allege the Defendants were guilty of violating the following provisions of the Tennessee Code:

- Tenn. Code Ann. §55-8-106. Public officers and employees – Exceptions.
- Tenn. Code Ann. §55-8-115. Driving on right side of roadway – Exceptions.
- Tenn. Code Ann. §55-8-120. Further limitations on driving to left of center of roadway.
- Tenn. Code Ann. §55-8-123. Driving on roadways laned for traffic.
- Tenn. Code Ann. §55-8-136. Drivers to exercise due care.
- Tenn. Code Ann. §55-8-152. Speed limits – Penalties
- Tenn. Code Ann. §55-8-153. Establishment of speed zones.

12. The negligence, gross negligence, recklessness, and negligence *per se* of Defendant Walker caused him to lose control of the bus and caused the bus to flip over. This bus crash occurred on Talley Road in Chattanooga, Hamilton County, Tennessee.

13. Durham and NELLC are guilty of additional negligence and gross negligence by negligently hiring Walker to drive the bus; negligently training him; negligently continuing to employ him after receiving numerous complaints; failing to properly supervise him; failing to install monitoring equipment to monitor him; failing to pay reasonable wages in order to obtain competent drivers; and failing to operate their system in a manner that would ensure the lives and safety of the children they were transporting. They also failed to maintain safe buses.

14. The Defendants also violated the provisions of the Motor Vehicle Carrier Safety Regulations. These will be specified after discovery.

15. When the bus flipped over, many of the children suffered horrific injuries. Six of the children died in the crash and others were severely injured.

16. Plaintiff Alisha Bibbs is the school secretary at Woodmore Elementary School. Since she was the school secretary, the children involved in the crash of the school bus were with her all of the time.

17. Upon learning of the bus crash, she was told to go back to the school. Parents were coming to the school as the hospital was telling them their children were not at the hospital. She knew which children were dead and which children were in ICU with horrific injuries, but was not allowed to tell the parents the truth.

18. Many of the parents told her they could trust her and desperately wanted to know the condition of their children. She was not able to be truthful with the parents. She felt guilty not being able to tell the truth to people who trusted her and told her they trusted her. The parents now know she did not tell them the truth.

19. Ms. Bibbs was not prepared or trained to deal with the situation. In addition to her above actions, she had to deal with a chaotic situation at the school where she was dealing with children and with their parents.

20. In spite of having to deal with the trauma of the parents and children, the deaths and horrific injuries, the despair, consoling parents and others, dealing with the chaos at the hospital, dealing with injured children and deaths of children, dealing with concealing information as ordered by the medical personnel, and in spite of all of the emotional trauma, Ms. Bibbs was expected to be back at her school the next morning, acting normal for her students.

21. She was forced to try and act normal day after day even while attending visitations at funeral homes and funerals of her students.

22. Many of the children on the bus had an extremely close relationship with Ms. Bibbs and she had close to a familial relationship with many of these students.

23. Ms. Bibbs suffered such stress and emotional distress that she had to take a leave of absence.

24. She has continued to have severe emotional distress and has sought counseling and medical help for her condition. Plaintiff suffered such severe emotional distress that she attempted to transfer to another school. She was not able to obtain the transfer.

25. To make matters worse, Defendant Durham offered to pay for her counseling. In spite of the promise made by Durham, Durham did not pay for counseling and later attempted to shorten the time they would pay for counseling.

26. Ms. Bibbs therefore alleges that she is also entitled to counseling and medical treatment by contract.

27. The Defendants had a duty to the teachers and staff at Woodmore Elementary School as it was foreseeable that their negligence, resulting in the death and horrific injury to a large number of students, would cause the teachers and staff severe emotional trauma. The Plaintiff is entitled to recover from the Defendants for their negligent infliction of emotional distress.

28. The Defendants are also liable to Plaintiff for intentional infliction of emotional distress and for their outrageous conduct. Plaintiff alleges that the conduct of the Defendants was intentional or reckless, their conduct was so outrageous that it should not be tolerated in civilized society, and the conduct of the Defendants resulted in serious mental injury to the Plaintiff Alisha Bibbs.

29. In addition to the previous allegations, which are hereby incorporated by reference, Plaintiff alleges the Defendants are guilty of negligence, gross negligence, and willful and wanton conduct demonstrating a conscious indifference to the lives and safety of others. The Defendants owed a duty to all the staff at the school to keep the students safe. It was foreseeable

that the staff members would suffer injury if the Defendants did not provide safe transportation to the students.

30. Alisha Bibbs suffered severe emotional distress and depression. She suffered from mental pain and suffering and lost the enjoyment of life. Her condition also caused problems in dealing with others. She also incurred medical and counseling bills.

31. The damages and injuries to Plaintiff Alisha Bibbs are permanent.

Wherefore, Alisha Bibbs sues the Defendants for \$250,000 in compensatory damages and \$4,500,000 punitive damages. The Plaintiff seeks prejudgment interest.

Plaintiff demands a jury to try the issues when joined.

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