

ATTACHMENT TO TORT CLAIMS NOTICE

[Drawn from the July 29, 2019 letter from John Rue & Associates
to counsel for Hopewell Valley Regional School District]

This claim arises from the inappropriate sexual contact and physical and verbal abuse by Hopewell Valley teacher Mr. Mark Amantia (“Amantia”) against Student S., and the deliberate indifference of the Timberlane Middle School administration, faculty, and staff to that misconduct. Amantia’s pervasive sexual harassment of young girls is no secret to the school community. Furthermore, the proximity of Amantia’s assigned classroom to the main office, his open and notorious conduct, and his long tenure with Hopewell Valley leaves little doubt that the administration and staff has turned a blind eye. In this regard, the family has learned that Vice Principal Nicole Gianfredi, Principal Rosetta Treece, and Assistant Superintendent Anthony Suozzo all were made aware of the student’s initial allegations of sexual harassment, but did nothing about them.

It also appears that once the allegations came out, Hopewell Valley willfully impeded an investigation by the State of New Jersey into Amantia. For example, before either the police or State investigation began, Assistant Superintendent Anthony Suozzo alerted Amantia to the allegations and also told him the name of the student making them. Similarly, although Student S. provided an extensive list of witnesses, few, if any witnesses were interviewed by State officials. It appears that State officials relied on Vice Principal Patricia Pinelli to gain parental permission for them to speak with witnesses. Pinelli approached the parents in a vague, abstract way saying a State investigator would like to speak to their child, that she couldn’t provide details of what the inquiry was regarding, and that it was optional and not a big deal. Not surprisingly, permission was not granted.

We know that the police have investigated this matter. But District personnel have falsely represented to members of the school community that the prosecutor concluded that the allegations recounted below were without basis. This representation was incorrect, at least, and quite possibly intentionally fabricated. The Family has spoken to the prosecutor, who denied making any such representation to the District. Rather, the prosecutor indicated to the Family that he found Student Student S.’s story to be entirely credible, and he could not ask for a more believable witness. He nonetheless declined to bring criminal charges, but only because (i) the key facts supporting criminal liability could not be corroborated by a second witness (Student Student S. and Amantia were alone), and (ii) criminal charges would have to be supported by proof beyond a reasonable doubt. But the prosecutor drew no conclusion that Student S.’s story was factually without foundation, as suggested by the District. In fact, he suggested that the Family might obtain civil counsel (which they have), and asked to be kept in the loop regarding any additional facts that might be uncovered in discovery. But he most assuredly did not conclude that the State’s investigation exonerated Amantia. It did not.

BACKGROUND FACTS

During the 2016-2017 school year, Student S. was an eighth-grade student at Timberlane Middle School. At that time, she was an outgoing 13-year-old who enjoyed school and thrived academically. Unfortunately, Student S.’s excitement at starting a new school year soon turned to dread, when Amantia started grooming Student S. to be receptive to his improper physical and sexual advances. Amantia’s conduct began with unwarranted and excessive attention to Student

S.. Notably, he singled Student S. out in front of her peers, made inappropriate comments, and inappropriately touched her. These incidents did not occur under the cloak of concealment, but in the open, in front of students and faculty alike. At no point did a teacher or staff member intervene to protect Student S., even after she informed her guidance counselor, Ms. Fertig, of Amantia's behavior.

As a direct consequence of this extremely hostile and sexually abusive environment, Student S.'s mental health declined. The school utterly failed to meet its duty to provide Student S. with a safe environment conducive to learning. To date, Amantia remains in the classroom, he remains the Athletics Coordinator, and he is positioned to continue his rampant abuse of female students. We have every reason to believe that he does so, and no reason to believe he has stopped. The District was put on notice of this continued conduct, and this knowledge (both constructive and actual) place it in the position of both direct and vicarious liability, by a theory of *respondeat superior* and otherwise.

Student S. first met Amantia in the Spring of 2016, when she was in seventh grade, and acting as a time-keeper/assistant for lacrosse games. Shortly thereafter, Amantia began hovering over Student S., invading her personal space, talking to her while she attempted to keep score, and otherwise encroaching on her. Student S. told him repeatedly that she needed to focus on the game; but Amantia was undeterred and was not asked by the other adults that were present to give her the space she clearly needed. These uncomfortable lacrosse interactions were Student S.'s first indication of the inappropriate and unwelcome attention that was yet to come. As previously stated, and in an additional preview of the events yet to unfold, Amantia's inappropriate behavior towards Student S. (and other female athletes) occurred in the presence of other adults, and yet, no one said anything. Other students witnessed and endured the harassment as well; but we will refrain for now from identifying specific student witnesses, for reasons that we hope are obvious to you.

Student S. was assigned to Amantia's social studies class in eighth grade. Almost immediately, Amantia resumed his inappropriate behavior towards Student S., singling her out, making jokes at her expense, and commenting on her appearance and mannerisms. Soon, Amantia began to inappropriately touch Student S. Amantia frequently stood behind Student S., pulling her back against the chair. With his pelvis placed against Student S.'s back, Amantia would "massage" her during class (and in plain view of other students) by painfully squeezing Student S.'s neck and shoulders. When she tried to turn around or move away, Amantia would press against her more forcefully, which prevented Student S.'s escape.

Amantia did not limit his abuse of Student S. to the classroom, but continued his brazen conduct in other areas of the school, as well. On one occasion, Amantia approached Student S. in the cafeteria (filled with students and staff) as she sat with her friends, and began to roughly squeeze Student S.'s neck and shoulders. To escape his painful grasp, Student S. tried to squirm away, but Amantia refused to let her go. Finding no other recourse, Student S. slid from her seat to the floor and then under the table, all while her friends and teachers watched. No one intervened on Student S.'s behalf to protect her from Amantia's obviously inappropriate behavior. Student S.'s friends laughed nervously as Student S. sat under the table, waiting for Amantia to leave. After making a joke, he finally moved on. This incident is just one particularly disturbing example of the harassment and abuse Student S. endured.

As if the unwarranted touching and unwanted attention wasn't enough, Amantia invented ways to maintain inappropriate contact with Student S. Particularly, he enjoyed standing in the door frame of his classroom before his class, with his body positioned so that Student S. would have to squeeze under his arm to enter. On one instance, when Student S. attempted to enter the classroom with Amantia stationed within the doorframe, she politely asked him to move, but he refused. When Student S. tried to duck under Amantia's arm, he violently threw his hip into her (known as a "hip-check"), which slammed her into the doorframe, where Amantia pinned Student S. for several seconds. Shocked and in pain, Student S. remained against the frame until Amantia suddenly moved, causing her to stumble into the classroom. As a result of this assault, Student S. suffered sore ribs, extreme embarrassment, not to mention the exacerbation of the fear she felt for her physical safety while in Amantia's presence. This open, outrageous and abusive conduct, taken without consequence, is unconscionable.

Amantia's torment took its toll on Student S.; the once confident and engaged student became anxiety ridden, scared, and confused. So, she vented her feelings to a friend, who not only listened, but claimed to have also been harassed by Amantia. Student S. subsequently heard from and about several other girls whom Amantia had acted inappropriately towards, with varying degrees and frequency. Feeling overwhelmed by the intolerably hostile environment, and emboldened by the knowledge that other victims considered reporting his behavior to their respective guidance counselors, Student S. and her friend visited Ms. Fertig, Student S.'s guidance counselor. This would be the first of four visits. None resulted in an end to Amantia's misconduct.

During the initial visit, Ms. Fertig appeared to be concerned. Nonetheless, she downplayed the allegations, stating that she knows Amantia can be "friendly," and promising the girls that she would "talk" with the teacher. And it appears that she did, for the harassment temporarily ceased. Under the assumption that Amantia would no longer bother her, Student S. began to relax. But her respite was short-lived; Amantia simply took a two-week hiatus and then began inappropriately touching Student S. once again, this time with additional vehemence.¹

The increased violence and frequency of Amantia's abuse caused Student S. to pay Ms. Fertig a second visit. Fertig still acted as if she was concerned, yet the guidance counselor simply reiterated the promise she made during the first visit to "talk" to Amantia. Student S. felt that speaking to Amantia would not suffice. However, as she did not want to argue with Ms. Fertig, and considering the trust and respect Student S. had for her, she felt she shouldn't question Ms. Fertig. Unfortunately, unlike after the first visit, Amantia's behavior did not cease, and Student S. visited Ms. Fertig *two* more times. After one of Student S.'s visits, Ms. Fertig contacted Student S.'s mother regarding an unrelated matter. At the conclusion of this conversation, Ms. Fertig vaguely alluded to Student S.'s complaints, but she de-emphasized the significance of Student S.'s accusations, characterizing the claims as nothing more than the result of "a friendly teacher who made Student S. a little uncomfortable." As a result of this mischaracterization, and the absence of corresponding details, Student S.'s parents were not aware of the severity and pervasiveness of the

¹ It appears that Ms. Fertig did report S.'s claims to her superiors. Nonetheless, for reasons that are not presently clear, the reporting of Student S.'s claims appears to have stopped partway up the chain of command. There was no investigation. Even if nothing more, this was a clear breach of the school's obligations under the HIB laws.

matter and were therefore prevented from taking steps to protect their daughter, something no one at Timberlane Middle School had any interest in doing.²

Unsurprisingly, Student S. became extremely anxious and emotionally withdrawn from her friends and family. The once enthusiastic student now feared going to school, and went to great lengths to avoid her tormentor.³ However, Amantia's positions as both teacher and Athletics Coordinator made avoiding him virtually impossible for Student S.⁴

In the Spring of 2017, Amantia's disturbing behavior reached new depths of depravity. One afternoon when Student S. stayed after school, Amantia approached and asked Student S. to accompany him to his classroom. Student S. did not want to go, but acquiesced to Amantia's authority. When they were both inside the classroom, Amantia locked the door and covered the window with the "lock down" cover. To Student S.'s shock and disgust, Amantia pulled down his pants, thereby exposing his genitalia. Once Student S. realized what was happening, she froze in panic. Subsequently, Amantia pushed Student S. against the wall, and in an effort to escape his grasp, she tried to slide down it. Determined to complete his assault, Amantia moved down the wall with her, preventing Student S. from moving, while pulling down the waistband of Student S.'s pants as she struggled to keep them up and cover herself in a state of terror and humiliation. Utterly horrified and seeing no other way out, Student S. stabbed Amantia in the arm with a pencil and managed to flee the room. As a coping mechanism, Student S. repressed her memories of the attack (and the entirety of the harassment and abuse).⁵

During the late summer and fall of 2018, as a result of fear of Amantia's assaulting her younger sister, who had just been promoted to Timberlane, Student S.'s repressed memories began to surface.⁶ As her memories began to come back to her, Student S. disclosed to her mother details of the abuse and harassment, and stated that she wanted to speak to her current guidance counselor, Ms. Rachel Curran, and Vice Principal Tricia Pinelli.⁷ Unlike her middle school counterpart, when confronted with the same information, Ms. Curran immediately contacted the school's administration, as required by law. A State IAIU investigation ensued, and Amantia was temporarily removed from the classroom. The Hopewell Police Department and the Mercer County Prosecutor's office also investigated Student S.'s allegations. Unfortunately, owing to the

² It should also be noted that Ms. Fertig's blasé attitude regarding Student S.'s claims caused Student S. to doubt and blame herself (and her decision to report Amantia).

³ Student S. could not even find respite in the Nurse's Office. For example, there were times when Student S. suffered an anxiety attack and reported to the Nurse's Office, only to have Amantia come find her, even going as far as to sit next to Student S. on the bed. One of the anxiety attacks was severe enough to warrant a visit to the ER.

⁴ There were numerous witnesses to Amantia's aforementioned behavior. As previously stated, at this time, we will refrain from disclosing their identities.

⁵ This repression will undoubtedly be challenged by the District, should litigation become unavoidable. But it is supported by clinical evidence that will eventually, if necessary, be introduced at trial.

⁶ Moreover, during a recent Youth Advisory Board meeting (around November 2018), Amantia came up behind Student S. in a manner that made her extremely uncomfortable. This occurrence (which is but a single example among many times that Amantia made Student S. uncomfortable at these meetings) helped Student S.'s repressed memories surface.

⁷ Student S.'s memories of the sexual assault had not yet resurfaced. Nevertheless, Student S. had a strong sense that something of that nature had occurred, though the details remained buried.

“he said; she said” nature of the investigation, the prosecutor ultimately decided not to bring criminal charges against Amantia. But no determination of Amantia’s innocence was made. And, most significant to our current discussions, these investigations were limited to consideration of those aspects of Amantia’s conduct that may have been criminal, which is only a subset of the conduct (if proven) that likely would subject him and the District to civil liability. Moreover, the latter category of conduct is comprised of many incidents which were public and witnessed, not only by other students, but by the District’s other employees.

The Parents were outraged that Student S. had suffered egregious abuse at the hands of a teacher in whose care she had been entrusted. But they were also shocked that, despite the open and notorious nature of the abusive conduct, no one at the school had intervened on Student S.’s behalf. Therefore, they began their own investigation, and what they found was almost beyond belief. While Ms. Fertig had told her superiors about Student S.’s allegations, the administration failed to take any action whatsoever. Specifically, when the Parents asked Superintendent Dr. Tom Smith why nothing had been done when Student S. initially made the allegations, he stated that he did not know, that there was likely “not enough information,” and claimed an investigation into the events would begin. Throughout the Parents’ meetings with various administrators, it quickly became evident that those with knowledge of the abuse did not take it seriously (or attempted to sweep the allegations “under the rug”), and opted to ignore Student S.’s claims entirely. The latter was underscored during a meeting between Student S. and Dr. Smith, who stopped Student S. in mid-recitation of the abuse, claiming that she was providing too much detail.

While Amantia’s behavior was beyond inappropriate, the school’s failures were equally inexcusable. Timberlane was beyond derelict in its duty to provide Student S. with a safe learning environment. Amantia routinely harassed and assaulted Student S. in plain sight of teachers and other staff members, who turned a blind eye, even when informed of the abuse directly by Student S. Further, when Ms. Fertig reported Student S.’s claims to her superiors, the administration circled the wagons, but did absolutely nothing to protect Student S. The school let Student S. down; its conduct was shameful. The emotional and psychological harm Student S. suffered is the natural consequence of such negligence.

As a result of reliving these traumatic events, school became a trigger for Student S. Notably, in or about February 2019, Student S. experienced a dissociative episode in the cafeteria and upon the recommendation from Ms. Curran, her guidance counselor, Student S. was taken to Princeton House for a psychological evaluation.⁸ Student S. was subsequently diagnosed with Post Traumatic Stress Disorder, Anxiety and Depression. Shortly thereafter, she began attending weekly, one-on-one sexual assault trauma therapy sessions at PEI Kids.⁹ The harm Student S. has suffered, and will continue to experience for the foreseeable future, is the direct result of Amantia’s misconduct, and the wanton negligence, and intentional and willful indifference of Hopewell Valley to that misconduct.

⁸ In March 2019 (due to the previously mentioned dissociative episode), Student S. entered into a partial hospitalization therapy program at Princeton House, where she would remain for several weeks. After graduating from Princeton House, Student S. began an intensive out-patient program there. Student S. has also suffered panic attacks related to the abuse.

⁹ A Mercer County non-profit organization, as recommended to the Parents by Princeton House.