

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION**

**MELISSA BOSCH**

**PLAINTIFF**

**v.**

**CASE NO. 4:22-cv-00677-LPR**

**CABOT PUBLIC SCHOOL SUPERINTENDENT  
DR. TONY THURMAN; CABOT PUBLIC SCHOOL DISTRICT;  
CITY OF CABOT, ARKANSAS**

**DEFENDANTS**

**ANSWER TO COMPLAINT**

Separate Defendants, Dr. Tony Thurman and Cabot School District (collectively “District” or “District Defendants”), by their attorneys, Bequette, Billingsley & Kees, P.A., for their Answer to Plaintiff’s Complaint (ECF Doc. 1), allege and state:

1. District Defendants admit the existence of the laws referred to in paragraph 1 of Plaintiff’s Complaint, which speak for themselves. District Defendants admit jurisdiction is proper before this Court.

2. District Defendants do not dispute the applicable statute of limitation but cannot admit when the alleged events occurred but generally do not dispute it is within the applicable statute of limitations.

3. District Defendants admit the parties are residents of Lonoke County, Arkansas.

4. District Defendants admits the venue is proper.

5. District Defendants admit the allegations contained in paragraphs 5, 6, 7 and 8 of Plaintiff’s Complaint.

6. District Defendants are without knowledge of the events alleged in paragraphs 9 and 10 of Plaintiff’s Complaint, and therefore deny the allegations.

7. District Defendants admit Dr. Thurman filed a police report on June 14, 2022, but they deny the remaining allegations in paragraph 11 and the allegations of paragraph 12 of Plaintiff's Complaint.

8. District Defendants deny the allegations contained in paragraphs 13, 14, 15, 16, 17 and 18 of Plaintiff's Complaint.

9. District Defendants deny the allegations contained in paragraphs 22, 23, 24, 25 and 26 of Plaintiff's Complaint.

10. District Defendants generally admit the existence of the laws referenced in paragraphs 19, 20 and 21, but deny that the District Defendants in any way violated the law.

11. District Defendants deny the allegations contained in paragraphs 22, 23, 24, 25 and 26 of Plaintiff's Complaint.

12. District Defendants restate and reallege its responses to the preceding paragraphs.

13. District Defendants admit paragraph 28 of Plaintiff's Complaint.

14. District Defendants deny the allegations contained in paragraph 29, 30, 31, 32, 33, 34, 35 and 36 of Plaintiff's Complaint.

15. District Defendants deny Plaintiff is entitled to any relief as requested in paragraphs 37, 38 and 39 of Plaintiff's Complaint.

16. District Defendants demand a trial by jury.

17. District Defendants deny that Plaintiff is entitled to any relief as requested in her "WHEREFORE" paragraph of her Complaint.

#### **JURY DEMAND**

18. District Defendants demand trial by jury of all issues triable by a jury.

### **AFFIRMATIVE DEFENSES**

19. District Defendants affirmatively state that Plaintiff's Complaint is barred by principles of statutory and governmental immunity.

20. District Defendants affirmatively plead Plaintiff has not taken appropriate steps to mitigate any alleged damage and therefore is not entitled to damages.

21. District Defendants affirmatively plead all defenses available to them pursuant to Fed. R. Civ. P. 12(b).

22. District Defendants affirmatively state Plaintiff's claims for equitable relief are barred as a matter of law.

23. District Defendants affirmatively plead all actions taken by them with regard to Plaintiff were in good faith.

24. District Defendants assert they acted reasonably and in compliance with the law at all times relevant hereto.

25. District Defendants affirmatively plead as a defense the applicable statute of limitations.

26. District Defendants affirmatively state that the remedies sought in the Complaint are barred by the principle of estoppel.

27. District Defendants affirmatively state that they did not authorize any unlawful acts set forth in the Complaint.

28. All claims asserted in the Complaint are barred because District Defendants did not engage in any unlawful conduct, and no act or omission of District Defendants caused any injury, including any injury alleged in the Complaint.

29. The Complaint fails to allege a basis for the relief claimed, including without limitation, any claims for statutory damages and attorneys' fees.

30. The alleged conduct of District Defendants cannot support an award of punitive damages and any award of punitive damages in this matter would violate the Due Process Clause of the United States Constitution and the corresponding provision of the Constitution of the State of Arkansas. Furthermore, District Defendants plead immunity to any punitive damage award.

31. Any award of punitive damages to the Plaintiff would be in violation of the constitutional rights and safeguards provided to District Defendants under the Constitution of the United States of America including, without limitation, because there are no limitations placed on a jury's discretion in considering the imposition or amount of punitive damages, there are no meaningful trial court and appellate review mechanisms to constitutionally confirm any punitive damage award, the imposition of a punitive damage award would allow a verdict tainted by passion and prejudice, and Plaintiff impermissibly seeks punitive damages which bear no constitutional relationship to the alleged actual amount in question.

32. Imposition of punitive damages in this case would violate District Defendants' constitutional rights under the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution.

33. Any award of punitive damages in this case would violate the constitutional rights and safeguards provided to District Defendants under the due process clause of the Fourteenth Amendment and/or Fifth Amendment to the Constitution of the United States of America and/or under the due process clause of the Constitution of the State of Arkansas, in that punitive damages and any method by which they might be assessed are unconstitutionally vague and not rationally related to a legitimate government interest.

34. Any award of punitive damages to the Plaintiff in this case will violate the Eighth Amendment to the Constitution of the United States and/or the Constitution of the State of Arkansas, in that said punitive damages would be an imposition of an excessive fine.

WHEREFORE, Separate Defendants, Dr. Tony Thurman and Cabot School District, pray that Plaintiff's Complaint be dismissed and that she take nothing thereby; for their attorneys' fees and costs incurred herein; and for all other just and proper relief to which District Defendants may be entitled.

Respectfully submitted,

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