

Multiple Documents

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2	Demand for Jury Trial
3	Summons

ORIGINAL
For Filing or Service

LAW OFFICES OF CARL M. VARADY

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Attorney for Plaintiffs

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

MAR 28 2008
at 5 o'clock and 24 min. M.
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

MICHAEL P. as Guardian Ad Litem
of COURTNEY G., an incompetent
minor,

Plaintiffs,

vs.

DEPARTMENT OF EDUCATION,
STATE OF HAWAI'I,

Defendant.

CV C V 08 00146

HG BMK

(Other Civil Action)

COMPLAINT; DEMAND
FOR JURY TRIAL;
SUMMONS

COMPLAINT

Plaintiff MICHAEL P., Individually and as Guardian Ad Litem of
COURTNEY G., an incompetent minor, for their Complaint against Defendant
STATE OF HAWAI'I, DEPARTMENT OF EDUCATION, state the following:

JURISDICTION AND VENUE

1. This is a civil action arising under, Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §§1400-1487 and its implementing regulations, Section 504 of the Rehabilitation Act of 1973 ("Section 504"), 29 U.S.C. § 794 and its implementing regulations. This Court has jurisdiction over plaintiff's federal law claims pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) and all conditions precedent to the exercise of jurisdiction have been satisfied.

2. Venue in this district is proper under 28 U.S.C § 1391(b). All Defendants reside and the claims arose within the District of Hawai'i.

3. Plaintiff, COURTNEY G., is the minor granddaughter of MICHAEL P., and was a resident of Honolulu, Hawaii at the time the events giving rise to this cause took place. She is proceeding under a pseudonym to protect her privacy and to avoid further aggravating her disability.

4. Plaintiff MICHAEL P., is the grandfather of COURTNEY G., and was a resident of Honolulu, Hawaii at the time the events giving rise to this cause of action accrued. He is proceeding under a pseudonym to protect his and his granddaughter's privacy.

5. MICHAEL P., with whom COURTNEY G., resides, is a "parent" for purposes of the IDEA under 20 U.S.C. § 1401(23) and 34 C.F.R. §

300.30.

6. MICHAEL P., is employed by the Hawai'i Department of Education as a Student Services Coordinator, who coordinates services of students eligible to receive special education and related services under IDEA. MICHAEL P., is employed at the school COURTNEY G., attends.

7. Defendants have been informed of all plaintiffs' identities.

8. Defendant STATE OF HAWAI'I, is a body politic, charged with providing special education and related services under IDEA to COURTNEY G.

9. An evidentiary hearing was held pursuant to 20 U.S.C. § 1415, on August 29-31, September 21 and December 12, 2007, before the Hawai'i Office of Administrative Hearings, Department of Commerce and Consumer Affairs, in which Plaintiffs sought a ruling that the Defendant had denied COURTNEY G. free appropriate public education ("FAPE"), and, in particular, that she was eligible for special education and related services under IDEA under the category of specific learning disability, because of her dyslexia.

10. On February 29, 2008, the hearing officer issued his Findings of Fact, Conclusion of Law and Decision (the "Decision").

11. Plaintiffs are parties aggrieved by the Decision, as defined by

20 U.S.C., § 1415(e), 34 C.F.R., § 300-512 and § 8-56-77, Haw. Admin R.

12. Plaintiffs seek de novo review and reversal of the Decision and assert that the DOE has failed to provide FAPE to COURTNEY G.

13. Defendant has violated both the procedural and substantive provisions of IDEA and Section 504 and their implementing regulations.

14. Defendant's actions constitute unlawful retaliation against MICHAEL P. for seeking special education and related services for his granddaughter, COURTNEY G.

15. Defendant's actions have caused Plaintiffs immediate and irreparable harm.

16. Plaintiffs assert that DOE denied COURTNEY G. FAPE and the Decision is in error and should be reversed.

17. Defendant's action has caused Plaintiffs damages for which they can recover under Section 504 and its implementing regulations..

WHEREFORE, Plaintiffs pray for relief as from the Court as follows:

1. A ruling that COURTNEY G. is eligible for special education and related services under IDEA and was denied FAPE;
2. Reversal of the hearing officer's Decision that COURTNEY G. was not eligible for special education and related services was

not denied FAPE;

3. Awarding Plaintiffs damages for violation of their civil rights arising under Section 504 and its implementing regulations; and
4. Declaring that Plaintiffs are prevailing parties under 20 U.S.C. § 1415(f), and therefore entitled to their attorneys' fees and costs incurred in this action.

Dated: Honolulu, Hawai'i, March 28, 2008.



CARL M. VARADY

Attorney for Plaintiffs

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(Other Civil Action)

DEMAND FOR JURY TRIAL

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial by jury on all matters for which such trial is available in this matter. This demand is ongoing and applies to all claims or issues added by subsequent amendment, agreement or consent, express or implied, for which a jury trial is available in this matter.

DATED: Honolulu, Hawai'i, March 28, 2008.


CARL M. VARADY

Attorney for Plaintiffs

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TO THE DEFENDANT:

YOU ARE HEREBY SUMMONED and required to serve upon
Plaintiffs' attorney, CARL M. VARADY, whose address is: American Savings
Bank Tower, 1001 Bishop Street, Suite 2870, Honolulu, Hawai'i, 96813 an answer
to the First Amended Complaint which is attached. This action must be taken
within twenty days after service of this summons upon you exclusive of the date of
service.

If you fail to make your answer within the twenty (20) day time limit,
judgment by default will be taken against you for the relief demanded in the First
Amended Complaint.

This Summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this Summons, personal delivery during those hours.

MAR 28 2008

DATED: Honolulu, Hawai'i, _____.

SUE BEITIA

CLERK OF THE ABOVE-ENTITLED COURT

Deputy Clerk, United States
District Court, District of Hawaii