

FILED

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION

APR 9 2009  
DAVID CREWS, CLERK  
By *[Signature]*  
Deputy

D.P., individually and on behalf of her minor daughter K.P.; U.S., individually and on behalf of her minor daughter D.S.; T.W., individually and on behalf of her minor son D.H., B.F., individually and on behalf of her minor son T.F.; D.G., individually and on behalf of her minor son A.S.; and P.H., individually and on behalf of her minor daughter M.G.,

PLAINTIFFS

V.

CIVIL ACTION NO. 2:09CV068-M-A

CITY OF SOUTHAVEN; SOUTHAVEN POLICE SERGEANT TOMAS AGUILAR, in his individual and official capacities; SOUTHAVEN POLICE OFFICER LEE HOLIDAY, in his individual and official capacities; DESOTO COUNTY SCHOOL DISTRICT; DESOTO COUNTY SCHOOL BUS DRIVER MARY ROBBINS, in her individual and official capacities; and DESOTO COUNTY SCHOOL BUS DRIVER BELINDA HEYMAN, in her individual and official capacities,

DEFENDANTS

JURY TRIAL DEMANDED

PRELIMINARY STATEMENT

1. This is an action for injunctive relief and to recover damages to vindicate the civil rights of Mississippi schoolchildren subjected to unlawful arrest, excessive force, and intentional racial discrimination by police officers and school bus drivers.

2. African American and multiethnic children riding on a public school bus were singled out for arrest by police officers acting in concert with school bus drivers, and physically

assaulted by the police, for no reason at all other than the color of their skin. Similarly situated white students on the bus were not subjected to such treatment.

3. Plaintiffs' claims arise under 42 U.S.C. § 1983, the Fourth Amendment to the United States Constitution, the Equal Protection and Due Process Clauses of the Fourteenth Amendment of the United States Constitution, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 1985, and 42 U.S.C. § 1986.

4. Upon the expiration of the 90-day notice period prescribed under the Mississippi Tort Claims Act, Miss. Code Ann. §§ 11-46-1 *et seq.*, Plaintiffs will move to amend this complaint to add claims arising under state law.

5. Pursuant to Rule 8.1 of the Uniform Local Rules of the United States District Court of the Northern District of Mississippi, this Complaint abbreviates Plaintiffs' names, as well as the names of nonparty minors.

### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. §§ 1331 and 1343(a) because this action seeks a remedy under 42 U.S.C. § 1983, 42 U.S.C. § 1985, 42 U.S.C. § 1986, the Fourth Amendment to the United States Constitution, the Equal Protection and Due Process Clauses of the Fourteenth Amendment of the United States Constitution, and Title VI of the Civil Rights Act of 1964.

7. This Court has jurisdiction to declare the rights of the parties and to award any further necessary and proper relief pursuant to 28 U.S.C. §§ 2201 and 2202. Rule 65 of the Federal Rules of Civil Procedure authorizes injunctive relief. This Court has authority to award costs and attorney's fees under 42 U.S.C. § 1988.

8. Venue is proper in this action pursuant to 28 U.S.C. § 1391 because the events or omissions giving rise to Plaintiffs' claims occurred in Southaven, Mississippi, which is within the Northern District of Mississippi, Delta Division.

### **PARTIES**

9. Plaintiff U.S. appears individually and on behalf of her African American minor daughter, D.S. D.S. is fourteen years old and in the eighth grade at DeSoto Central Middle School. At all relevant times, she has attended DeSoto County public schools.

10. Plaintiff D.P. appears individually and on behalf of her multiethnic minor daughter, K.P. K.P. is fifteen years old and in the ninth grade at DeSoto County's Magnolia School. At all relevant times, she has attended DeSoto County public schools.

11. Plaintiff T.W. appears individually and on behalf of her African American minor son, D.H. D.H. is seventeen years old and is currently in the process of obtaining his GED from Ability Works in DeSoto County. At all relevant times, he attended DeSoto County public schools.

12. Plaintiff D.G. appears individually and on behalf of her African American minor son, A.S. A.S. is fifteen years old and in the ninth grade at DeSoto County's Alpha-Omega program. At all relevant times, he has attended DeSoto County public schools.

13. Plaintiff B.F. appears individually and on behalf of her African American minor son, T.F. T.F. is sixteen years old and in the ninth grade at Hernando High School. At all relevant times, he has attended DeSoto County public schools.

14. Plaintiff P.H. appears individually and on behalf of her African American minor daughter, M.G. M.G. is fifteen years old and in the eighth grade at Southaven Middle School. At all relevant times, she has attended DeSoto County public schools.

15. Defendant City of Southaven is a political subdivision of the State of Mississippi and at all relevant times operated under color of state law. Defendant City of Southaven is responsible for the City of Southaven Police Department and for the actions of its officers acting under color of state law. The City of Southaven may be served with process through Mayor Greg Davis at 8710 Northwest Drive in Southaven, Mississippi. Upon information and belief, the City of Southaven receives federal funds.

16. Defendant Sergeant Tomas Aguilar is an officer of the Southaven Police Department. He is sued in his individual and official capacities. He may be served with process in his official capacity through Mayor Greg Davis at 8710 Northwest Drive in Southaven, Mississippi, and in his individual capacity at his place of business.

17. Defendant Officer Lee Holiday is an officer of the Southaven Police Department. He is sued in his individual and official capacities. He may be served with process in his official capacity through Mayor Greg Davis at 8710 Northwest Drive in Southaven, Mississippi, and in his individual capacity at his place of business.

18. Defendant DeSoto County School District is a school district operating under color of state law and located in DeSoto County, Mississippi. It may be served with process through Superintendent Milton Kuykendall at 5 East South Street in Hernando, Mississippi. Upon information and belief, the DeSoto County School District receives federal funds.

19. Defendant DeSoto County School Bus Driver Mary Robbins is an employee of the DeSoto County School District. Defendant Robbins is known to Plaintiffs as "Miss Mary." On August 12, 2008, together with Defendant DeSoto County School Bus Driver Belinda Heyman, Defendant Robbins was responsible for the operation of Bus #179. Defendant Robbins is sued in her individual and official capacities. She may be served with process in her official capacity

through Superintendent Milton Kuykendall at 5 East South Street in Hernando, Mississippi, and in her individual capacity at her place of business.

20. Defendant DeSoto County School Bus Driver Belinda Heyman is an employee of the DeSoto County School District. Defendant Heyman is known to Plaintiffs as "Miss Belinda." On August 12, 2008, together with Defendant Robbins, Defendant Heyman was responsible for the operation of Bus #179. Defendant Heyman is sued in her individual and official capacities. She may be served with process in her official capacity through Superintendent Milton Kuykendall at 5 East South Street in Hernando, Mississippi, and in her individual capacity at her place of business.

#### **STATEMENT OF FACTS**

21. DeSoto County is located in the northwest corner of Mississippi, just across the state line from Memphis, Tennessee and is part of the Memphis metropolitan area. DeSoto County consists of several towns and cities, including Southaven, Mississippi.

22. The DeSoto County School District is one of the largest school districts in Mississippi, with 29,886 students as of the 2007-08 school year. In the same year, the student population of the DeSoto County School District was 65 percent white and 28 percent black.

23. After school on the afternoon of August 12, 2008, minor Plaintiffs, all residents of DeSoto County, Mississippi and students enrolled at the DeSoto County Alternative Center, were aboard DeSoto County School Bus #179. There were approximately thirty children on the bus, including black, multiethnic, and white students. Also present on the bus were Defendant Robbins, who was supervising the students, and Defendant Heyman, who was driving.

24. A video camera was recording the interior of the bus, creating a continuous visual and audio record.

25. At approximately 3:20 p.m., Plaintiff K.P. tried to get the attention of another student in order to ask her a question. M.S., a seventeen-year-old white female student, objected. This prompted Defendant Robbins, who was seated near the back of the bus, to direct K.P. to move to a different seat. K.P. obeyed immediately.

26. Thereafter, a verbal dispute arose between M.S. and Plaintiff D.S., and continued for several minutes. During their argument, each girl stood up and gestured at the other, but the dispute remained verbal in nature at all times.

27. At approximately 3:22 p.m., rather than asking D.S. or M.S. to move to a different seat, or requiring the girls to sit down and be quiet, Defendant Robbins used her cell phone to call the police and directed Defendant Heyman to pull the bus to the side of the road. Then, leaving D.S. and M.S. to continue their argument, Defendant Robbins moved to the front of the bus and sat down.

28. At approximately 3:25 p.m., a student approached Defendant Robbins and suggested that she simply separate the two girls, so that they could all go home, but Defendant Robbins responded that there was nothing she could do. Shortly afterward, M.S. left her seat near the back of the bus and took a seat at the front.

29. While seated at the front of the bus, M.S. spoke with Defendants Robbins and Heyman about what had happened. Both bus drivers spoke to her kindly. Defendant Heyman said, "You're okay. They're not." After a moment, D.S. approached the front of the bus, saying that M.S. should mind her own business. In reply, Defendant Heyman shouted that M.S. "ain't said nothing" and Defendant Robbins demanded that D.S. return to the back of the bus, which she did.

30. At approximately 3:27 p.m., Defendant Holiday, an officer of the Southaven Police Department, boarded the school bus in response to the call made by Defendant Robbins. By the

time Defendant Holiday boarded the bus, the argument was over. Nevertheless, as he boarded the bus, Defendant Holiday repeatedly shouted, "Who was it?" and threatened the children on the bus that if they did not answer, he would "run all your little asses in."

31. Defendant Robbins identified two students, and only two students, to Defendant Holiday for arrest: K.P., who is multiethnic, and D.S., who is African American. Although M.S., a white student, had been a full participant in the dispute, Defendant Robbins did not identify her to Defendant Holiday.

32. Moving to the back of the bus, and without making any effort to determine whether any factual basis existed to support an arrest, Defendant Holiday repeatedly shouted at K.P., who was the first student identified by Defendant Robbins, to "Get up!" As K.P. got up, Defendant Holiday stated that he would "take your little ass down to juvenile hall" and handcuffed her. Defendant Holiday then removed both K.P. and D.S. from the bus.

33. As she was being removed from the bus, D.S. asked Defendant Robbins why M.S., the white student who had been a full participant in the argument, did not have to leave the bus as well. Defendant Robbins rebuked D.S., but told M.S. to "come on" and motioned for her to exit the bus.

34. After their removal from the bus, K.P. and D.S. were placed in the back of Defendant Holiday's police cruiser. By this time both girls' hands were cuffed behind their backs. M.S., meanwhile, was neither handcuffed nor placed in the cruiser.

35. After placing both K.P. and D.S. in his cruiser, Defendant Holiday remained standing outside his car to speak with the white student, M.S., and with Defendant Robbins to ascertain their version of the incident. At no point did any of the Defendants ask either K.P. or D.S. to describe the incident. In fact, although the bus was full of children who had witnessed the entire argument, no student other than M.S. was ever interviewed.

36. Upon information and belief, Defendants Robbins and Holiday agreed between themselves that K.P. and D.S., multiracial and black students, would be punished, but M.S., a white student, would not. Further, upon information and belief, Defendants Aguilar and Heyman were aware of this conspiracy to violate Plaintiffs' right to equal treatment. And although each of the individual defendants was in a position to prevent or aid in preventing the conspiracy, none did so.

37. While K.P. and D.S. were seated in the cruiser, K.P. called out through the vehicle's open rear window to a group of bystanders to draw attention to the officers' actions. When she did so, Defendant Holiday told her that if she said another thing out his window, he would "pull [her] neck through and chop it off."

38. At approximately 3:30 p.m., a second officer of the Southaven Police Department, Defendant Aguilar, boarded the school bus. The students remaining on the bus were laughing and talking excitedly. Defendant Aguilar immediately began taunting the students, repeatedly saying, "You think this is funny?" and "Who wants to try me?" Although no student had been engaged in any action other than talking and laughing, Defendant Aguilar said that he had six pairs of handcuffs and was prepared to arrest as many students

39. D.H., a black male student, was seated near the front of the bus. When Defendant Aguilar boarded the bus, D.H. looked up with a smile on his face. Defendant Aguilar responded by asking D.H. if he thought the situation was funny. D.H. shook his head no but did not otherwise respond. Defendant Aguilar instructed D.H. to "show me that smile," whereupon D.H. smiled. Defendant Aguilar then removed D.H. from the bus. At no time did D.H. do anything that could be construed as unlawful conduct.

40. A moment later, T.F., also seated at the rear of the bus, was the next black student to be arrested. When Defendant Aguilar singled him out for arrest, T.F. was sitting in his seat



without speaking. At no time did T.F. do anything that could be construed as unlawful conduct. However, Defendant Aguilar removed T.F. from the bus.

41. After T.F. had been arrested and removed from the bus, Defendant Aguilar immediately targeted another black male student, A.S., who was seated near the back of the bus. Though A.S. ducked his head and smiled when Defendant Aguilar looked in his direction, he was sitting in his seat without speaking when Aguilar singled him out. At no time did A.S. do anything that could be construed as unlawful conduct. Nevertheless, Defendant Aguilar removed A.S. from the bus.

42. At approximately 3:32 p.m., Defendant Aguilar identified a final black student, M.G., for arrest. M.G., was seated in the second to last row of the bus. At no time did M.G. do anything that could be construed as unlawful conduct. Nonetheless, Defendant Aguilar proceeded to remove her from the bus.

43. As she was being removed from the bus, M.G. stated that she would be calling her mother. In response, Defendant Aguilar, a full-grown adult male officer, grabbed the smaller teenage girl by the neck, flung her down into the adjacent seat with her upper body pressed up against the window, and then used the weight of his body to subdue her by landing forcibly on top of her, even though she had done nothing to provoke this attack and was not struggling.

44. As he lay on top of M.G., Defendant Aguilar yelled very loudly and directly into her face, "You don't talk to me like that! You don't talk to me like that! Do you understand?" Defendant Aguilar punctuated his threats and question by squeezing M.G.'s neck with his thumb and finger, choking M.G. and cutting off her ability to breathe. Finally, Defendant Aguilar let off the pressure he was applying to choke M.G., which allowed her to respond, "Yes, sir."

45. Defendant Aguilar jerked M.G. to her feet by her arm, stood her at the front of the bus, and cuffed her hands behind her back. Throughout, he berated her and her classmates.

Removing M.G. from the bus, he stood her outside with the three boys. He then got back on the bus. The attack on M.G. scared her and left red marks where Defendant Aguilar had squeezed her neck.

46. Similarly situated white students, who were behaving no differently than the black students who were singled out for arrest, were not arrested.

47. At some point in time while the four students were being arrested for smiling or laughing, Defendant Holiday commented about whether the students were “from Memphis.” Then, he continued, “Yeah, that’s what I thought, all you niggers are from Memphis.”

48. At approximately 3:33 p.m., Defendant Aguilar re-boarded the bus. He continued yelling at the children on the bus for several minutes. Finally, with his hand resting on the butt of his gun, Defendant Aguilar shouted, “Y’all think this is funny? Y’all think this is funny? Wait until you get a bullet between your eyes!”

49. Defendant Aguilar then got off the bus and approached D.H. with a pair of handcuffs in his hand. D.H. moved his arm away from Defendant Aguilar, asking, “Why am I being arrested?” Defendant Aguilar proceeded to handcuff one of D.H.’s wrists, at which time D.H. moved his free hand away from Defendant Aguilar. Defendant Aguilar grabbed the arm that D.H. had moved and put the remaining cuff on his wrist.

50. Then, although D.H. had done nothing to provoke an assault, Defendant Aguilar tackled D.H., threw him to the ground, and landed on top of him, putting his knee in D.H.’s back. Defendant Aguilar also drew his Taser, pressed it to the back of D.H.’s upper back near his neck, and threatened him, saying, “If you don’t calm down and stop talking, I’m going to Tase you.” At the same time, Defendant Holiday drew his gun and aimed it at D.H.’s head. Finally, Defendant Aguilar pulled D.H. up by the arm and put him in his police cruiser.

51. Subsequently, Defendant Aguilar placed M.G. in the back of the cruiser with K.P. and D.S., then handcuffed A.S. and T.F. and placed them in the back of his own police cruiser, where D.H. was waiting.

52. At approximately 3:42 p.m., an adult white male, upon information and belief Reid Elliott, business manager for the DeSoto County School District transportation department, boarded the school bus and spoke with several students. A student seated near the front of the bus asked Elliott whether the arrests of his classmates were proper, but received no answer. When another student commented, "Sir, this ain't right," Elliott replied, "What's wrong with it?" Elliott asked Defendant Robbins which student had refused to sit down, and Defendant Robbins responded, "She's sitting down now." Elliott then exited the bus. Several minutes later, while outside the bus, he instructed the drivers that they should continue on their route.

53. Also at approximately 3:42 p.m., M.S., the white student who had initiated and participated fully in the verbal dispute, re-boarded the bus without having been placed under arrest. She took a seat near the back. Upon information and belief, M.S. was not subject to any disciplinary sanctions by the DeSoto County School District on the basis of this incident. Nor were any charges filed against her by the Southaven Police Department.

54. At approximately 3:49 p.m., the bus resumed its route.

55. Defendant Holiday drove the cruiser containing the three girls to the Southaven police station. On their way, Defendant Holiday continued his verbal abuse, making other racial and derogatory comments. When K.P. noted that she was not black, he asked her, "What are you?" to which she responded that she was part Hispanic. Defendant Holiday replied that he did not arrest many Hispanics, saying, "Why can't you be like them?"

56. Defendant Aguilar drove the cruiser containing the three boys to the Southaven police station. On the way, he subjected the boys to verbal abuse and profanity, telling them to

“shut the fuck up.” Defendant Aguilar also cursed the boys’ mothers as he sped towards the station. He told the boys that he did not “give a shit” about them, and that he would insult them if he pleased. He also threatened to “whoop their asses.”

57. On the way to the station, Defendant Aguilar drove very fast. At one point, he purposely slammed on the brakes, causing both T.F. and D.H. to smash headfirst into the plexiglass barrier separating the detention seats from the front of the car, and also causing D.H.’s glasses to fall off. D.H. could not recover his glasses from the footwell, because his hands were cuffed behind his back very tightly. When he asked Defendant Aguilar to permit him to do so, so that the glasses would not be stepped on and broken, Defendant Aguilar refused.

58. When D.H., T.F., and A.S. arrived at the police station, Defendant Aguilar continued to bait the boys, asking them, “What are you going to do now that you’re out of the car?” and “Which one of you is going to hit me?” The boys, who were handcuffed, did not respond. Defendant Aguilar continued: “That’s exactly what I thought, you ain’t going to do nothing.” He also threatened to Tase the boys if they made “any sudden moves,” and threatened to send them to the detention facility in Hernando. Another officer was present who retrieved D.H.’s glasses from the car and put them back on him. Throughout this time, another officer stood nearby with her hand on her Taser.

59. The boys were escorted into the station and placed in a holding pen with their hands still cuffed behind them to wait on their parents. Once inside the holding pen, they continued to joke and laugh, and Defendant Aguilar threatened them with more charges if they did not “shut up.” When the boys asked to call their parents, Defendant Aguilar told them “No.” After the boys had been locked inside the holding pen for a while, another officer finally removed their handcuffs.

60. When the girls got to the police station, their handcuffs were removed and K.P. and D.S. were seated on a bench while M.G. was put in a room by herself. At some point, Defendant Aguilar came into the room with M.G. She asked him why she had been arrested, when all she did was laugh. Defendant Aguilar responded that she had cursed at him. M.G. said, "All I did was say I was going to call my mama." Defendant Aguilar told her that he took that as a threat. He continued to taunt all of the students, saying he would send them to the juvenile detention facility.

61. At no point did anyone notify D.H.'s parents that he had been arrested. When D.H. did not get off the bus at his regular stop, his mother began calling around to see if he had gotten off elsewhere. She finally called the bus barn and learned that her son had been arrested and taken to the Southaven Police Department. She called the Southaven Police Department, which confirmed that her son was there. She and her husband went to pick D.H. up at the station.

62. When D.H.'s parents arrived at the station, Defendant Aguilar brought D.H. to meet them, and offered them an inaccurate description of the afternoon's events. D.H. objected to Defendant Aguilar's version of events and invited Defendant Aguilar to repeat the insults he had made about D.H.'s mother. In an effort to silence D.H., Defendant Aguilar threatened to send him to the juvenile detention facility in Hernando. When D.H. continued to disagree with Defendant Aguilar's version of events, Defendant Aguilar removed D.H. from the room, returned him to the holding pen, and returned to continue the conversation with D.H.'s parents without D.H. present. Finally, D.H. was released to his parents.

63. B.F., T.F.'s mother, was not notified that her son had been arrested until shortly before 6:00 p.m. Arriving at the station, she objected to the police department's failure to notify her of the incident earlier. Because she complained, Defendant Aguilar angrily refused to release

her son. Instead, he arranged for T.F. to be transferred to the juvenile detention facility in Hernando, where T.F. remained until 2:00 p.m. the next day.

64. After dismissing T.F.'s mother, Defendant Aguilar escorted T.F. back to his cell. When T.F. complained about the way Defendant Aguilar had "cussed his mother like a dog," Defendant Aguilar told T.F. to "shut up." T.F. responded with some derogatory language. Defendant Aguilar told him that he had just incurred another charge, and that if he said something else, another charge would be filed against him. At the same time, Defendant Aguilar yanked on T.F.'s shirt, ripping it from T.F.'s body. In the process, Defendant Aguilar scratched T.F.'s back, breaking the skin and leaving marks. T.F. tried to pull back from Defendant Aguilar, at which point Defendant Aguilar threw him to the floor in the booking room, landing on top of him. Several police officers then held T.F. with his face pressed against the floor while Defendant Aguilar handcuffed him again. When Defendant Aguilar finally placed T.F. back in the cell, T.F. made a final derogatory comment, to which Defendant Aguilar said "another charge."

65. Approximately three hours later, T.F. asked if the handcuffs could be removed so that he could use the restroom. Defendant Aguilar consented, but told T.F. that if he made another move he would throw T.F. back to the ground.

66. At approximately 12:00 a.m., T.F. was transferred to the DeSoto County juvenile detention facility in Hernando. When he arrived there, the booking officer observed his badly ripped and shredded shirt and asked what had happened to him. The booking officer also placed a call to T.F.'s mother to notify her that T.F. would need a new shirt when she came to get him, and that T.F. had arrived at the detention center in that condition. T.F. was finally released to his mother the following afternoon, after spending almost twenty-four hours in police custody.

67. As a result of this incident, each of the arrested children was charged with multiple minor offenses, such as disorderly conduct, disturbing the peace, and resisting arrest.

68. In addition, the DeSoto County School District suspended each of the student Plaintiffs from riding the school bus for three days. For example, on August 13, 2008, Defendant Heyman wrote out a Bus Conduct Report for D.H., denying him bus privileges until Monday, August 18, 2008, for the offense of "Laughing at Police Officer while talking to him." On August 15, 2008, Defendant Heyman wrote out a Bus Conduct Report for A.S., suspending him from the bus for "Disrespecting Police Officer by laughing and nodding head while he was speaking to him." Upon information and belief, none of the white students present on the bus during this incident, who were engaged in similar behavior, were ever disciplined as a result.

69. Several of the student Plaintiffs have observed the bus drivers treating children differently on the basis of race. On the day in question, M.S., the white student who was involved in the verbal dispute, cursed openly, but was not disciplined. By contrast, whenever black students curse on the bus, they are disciplined. Likewise, when black students ask to move to different seats, they are told not to, while M.S. or other white students are free to sit where they want. And white students are allowed to get off the bus at different stops, but black students are not allowed to get off on any but their regular stops. On a previous occasion, Defendant Robbins knowingly drove away from a black student who was running to catch the bus, even though she previously had stopped for a white student who was farther away from the bus and running to catch it. On another occasion, Defendant Robbins permitted a white student to curse at her without disciplining him, yet she would discipline any black student who cursed in her presence. Finally, Defendant Robbins answered questions posed by white students and would speak to them, while frequently refusing to respond or speak to black students.

70. Upon information and belief, Defendants Robbins and Heyman operated Bus #179 in the absence of adequate supervision or training. Defendant DeSoto County School District, by its failure to provide Defendants Robbins and Heyman with adequate supervision and training,

exhibited deliberate indifference. Earlier the same day, as recorded on the videotape, the two employees had sat on the bus complaining about the students and describing possible behavior management “strategies.” Defendant Robbins expressed her view that they should be equipped with a “a needle and a pill,” or, in the alternative, “a straightjacket and a gag.” Defendant Heyman recalled that her husband had suggested they use a “cattle shocker” on the children, and noted, “We’re making up our own rules as we go along.” The injuries to Plaintiffs described in this Complaint were a direct result of the failure of Defendant DeSoto County School District to provide Defendants Robbins and Heyman with adequate supervision and training.

71. Upon information and belief, the City of Southaven was on notice of a history of abuses of authority on the part of Defendants Aguilar and Holiday, but failed to provide the officers with adequate supervision and training, thus exhibiting deliberate indifference to the likelihood that Defendants Aguilar and Holiday would commit future abuses. In the cruiser on the way to the station, Defendant Holiday told the girls he had been sued plenty of times, and asked them, “You think this little something will do anything?” Similarly, when P.H. arrived at the station to pick up M.G., Defendant Aguilar told her that he wasn’t worried about anyone suing him because people had tried to sue him before but never won. The City of Southaven has assigned Defendant Aguilar to patrol Southaven Middle School, where he interacts with students on a daily basis. The injuries to Plaintiffs described in this Complaint were a direct result of the failure by Defendant City of Southaven to provide Defendants Aguilar and Holiday with adequate supervision and training.

72. As a result of this incident, K.P. has suffered and continues to suffer ongoing harm, including, but not limited to, missed school, suspension from the bus for three days, emotional distress, and mental anxiety. D.P., K.P.’s mother has also suffered mental anxiety and emotional



distress because of this incident, as well as inconvenience, disruption of her work schedule, and other continuing harm and suffering.

73. As a result of this incident, D.S. has suffered and continues to suffer ongoing harm, including, but not limited to, being summarily removed from the school bus the following morning without notice to her parents or a way to get back home, suspension from the bus for three days, emotional distress, and mental anxiety. U.S., D.S.'s mother, has also suffered mental anxiety and emotional distress because of this incident, as well as inconvenience, disruption of her work schedule, and other continuing harm and suffering. D.S. continues to ride DeSoto County school buses.

74. As a result of this incident, D.H. has suffered and continues to suffer ongoing harm, including, but not limited to, missed school, suspension from the bus for three days, emotional stress, and mental anxiety. D.H. also suffered physical injuries and soreness as a result of being tackled by Defendant Aguilar outside the bus. D.H.'s mother, T.W., continues to suffer emotional distress and mental anxiety because of this incident, as well as inconvenience, disruption of her work schedule, and other harm and suffering.

75. As a result of this incident, A.S. has suffered and continues to suffer ongoing harm, including, but not limited to, missed school, suspension from the bus for three days, emotional stress, and mental anxiety. A.S.'s mother, D.G., continues to suffer emotional distress and mental anxiety because of this incident, as well as inconvenience, disruption of her work schedule, and other harm and suffering. A.S. continues to ride DeSoto County school buses.

76. As a result of this incident, T.F. has suffered and continues to suffer ongoing harm, including, but not limited to, missed school, suspension from the bus for three days, emotional stress, and mental anxiety. He suffered physical harm at the police station and had lacerations on his back from Defendant Aguilar's fingernails. T.F.'s mother, B.F., also continues to suffer

emotional distress and mental anxiety as a result of this incident, as well as inconvenience, disruption of her work schedule, and other harm and suffering. T.F. continues to ride DeSoto County school buses.

77. As a result of this incident, M.G. has suffered and continues to suffer ongoing harm, including, but not limited to, missed school, suspension from the bus for three days, emotional stress, and mental anxiety. She suffered physical harm and had red marks on her neck that lasted for at least a day as a result of Defendant Aguilar grabbing her by the neck, and she sustained other physical injuries resulting from Defendant Aguilar throwing her down and landing on top of her. Because Defendant Aguilar patrols Southaven Middle School, where M.G. is a student, she sees him on a daily basis. Since this incident, she has witnessed Defendant Aguilar physically and verbally abusing other students, and continues to fear for her safety. P.H., M.G.'s mother, suffered an increase in blood pressure due to the stress she experienced as a result of this incident. She sought medical treatment for this condition and was placed on medication. P.H. also continues to suffer emotional distress and mental anxiety, in addition to inconvenience, disruption of her work schedule, and other harm and suffering. M.G. continues to ride DeSoto County school buses.

**COUNT ONE: FOURTH AMENDMENT FALSE ARREST CLAIM**

78. Plaintiffs incorporate paragraphs one through seventy-seven herein by reference.

79. Defendant City of Southaven is liable for the unlawful arrest of Plaintiffs K.P., D.S., D.H., T.F., A.S., and M.G., pursuant to 42 U.S.C. § 1983 and the Fourth Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment.

80. Defendant Holiday is liable for the unlawful arrest of Plaintiffs K.P. and D.S., pursuant to 42 U.S.C. § 1983 and the Fourth Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment.

81. Defendant Aguilar is liable for the unlawful arrest of Plaintiffs D.H., T.F., A.S., and M.G., pursuant to 42 U.S.C. § 1983 and the Fourth Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment.

82. Defendant DeSoto County School District is liable for the unlawful arrest of Plaintiffs K.P. and D.S., pursuant to 42 U.S.C. § 1983 and the Fourth Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment.

83. Defendant Robbins is liable for the unlawful arrest of Plaintiffs K.P. and D.S., pursuant to 42 U.S.C. § 1983 and the Fourth Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment.

**COUNT TWO: FOURTH AMENDMENT EXCESSIVE FORCE CLAIM**

84. Plaintiffs incorporate paragraphs one through eighty-three herein by reference.

85. Defendant City of Southaven is liable for the use of excessive force on Plaintiffs M.G., D.H., and T.F., pursuant to 42 U.S.C. § 1983 and the Fourth Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment.

86. Defendant Aguilar is liable for the use of excessive force on Plaintiffs M.G., D.H. and T.F., pursuant to 42 U.S.C. § 1983 and the Fourth Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment.

**COUNT THREE: FOURTEENTH AMENDMENT EQUAL PROTECTION CLAIM**

87. Plaintiffs incorporate paragraphs one through eighty-six herein by reference.

88. Defendant City of Southaven is liable for intentional discrimination on the basis of race, pursuant to 42 U.S.C. § 1983 and the Fourteenth Amendment to the United States Constitution.

89. Defendant Holiday is liable for intentional discrimination on the basis of race, for singling out black and multiethnic students D.S. and K.P. for arrest, but not the similarly situated white student M.S., pursuant to 42 U.S.C. § 1983 and the Fourteenth Amendment to the United States Constitution.

90. Defendant Aguilar is liable for intentional discrimination on the basis of race for singling out African American students D.H., A.S., T.F., and M.G. for arrest and physical abuse, while not singling out similarly situated white students, pursuant to 42 U.S.C. § 1983 and the Fourteenth Amendment to the United States Constitution.

91. Defendant DeSoto County School District is liable for intentional discrimination on the basis of race, pursuant to 42 U.S.C. § 1983 and the Fourteenth Amendment to the United States Constitution, for disciplining the students on the bus on the basis of race and for deliberate indifference.

92. Defendants Robbins and Heyman are liable for intentional discrimination on the basis of race, for treating black and multiethnic students differently from similarly situated white students, pursuant to 42 U.S.C. § 1983 and the Fourteenth Amendment to the United States Constitution.

**COUNT FOUR: TITLE VI RACE DISCRIMINATION CLAIM**

93. Plaintiffs incorporate paragraphs one through ninety-two herein by reference.

94. Defendant City of Southaven is liable for intentional discrimination on the basis of race in violation of Title VI of the Civil Rights Act, 42 U.S.C. § 2000d.

95. Defendant DeSoto County Public School District is liable for intentional discrimination on the basis of race in violation of Title VI of the Civil Rights Act, 42 U.S.C. § 2000d, for disciplining the students on the bus on the basis of race and for deliberate indifference.

**COUNT FIVE: 42 U.S.C. § 1985 CONSPIRACY CLAIM**

96. Plaintiffs incorporate paragraphs one through ninety-five herein by reference.

97. Defendants Holiday and Robbins are liable for conspiring to deprive Plaintiffs, on the basis of race, of their rights to equal protection of the laws, in violation of 42 U.S.C. § 1985.

**COUNT SIX: 42 U.S.C. § 1986 CLAIM**

98. Plaintiffs incorporate paragraphs one through ninety-seven herein by reference.

99. Defendants Holiday, Aguilar, Robbins, and Heyman are liable for negligently failing to prevent a conspiracy to deprive Plaintiffs, on the basis of race, of their rights to equal protection of the laws, in violation of 42 U.S.C. § 1986.

**COUNT SEVEN: FOURTEENTH AMENDMENT DUE PROCESS CLAIM**

100. Plaintiffs incorporate paragraphs one through ninety-nine herein by reference.


101. Defendants City of Southaven, DeSoto County School District, Holiday, Aguilar, Robbins, and Heyman, by their actions and omissions as alleged in this Complaint, violated Plaintiffs' right to substantive due process, guaranteed by 42 U.S.C. § 1983 and the Due Process Clause of the Fourteenth Amendment to the United States Constitution, which prohibits arbitrary state conduct.

**PRAYER FOR RELIEF**

WHEREFORE the Plaintiffs respectfully pray for the following relief:

1. A finding that Defendants violated Plaintiffs' rights;
2. Compensatory damages, to be determined by a jury, against all Defendants;
3. Punitive damages against the individual Defendants in their individual capacities;
4. Expungement of all law enforcement, Youth Court, or discipline records of the Plaintiff children related to this incident;
5. Such injunctive relief as the Court deems necessary and proper;
6. Reasonable attorneys' fees and costs under 42 U.S.C. § 1988, including the fees and costs of experts that are incurred in prosecuting this action; and
7. Any other relief to which Plaintiffs may be entitled.

Respectfully Submitted,

By: 

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*\*Pro Hac Vice Motions to Follow*