

MAY 15 2023

RICK WARREN
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IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

1. KRISTAL TRENKAMP, INDIVIDUALLY
AND AS A PARENT AND NEXT OF KIN
OF S.W., A MINOR CHILD,

PLAINTIFF

VS.

1. EDMOND PUBLIC SCHOOLS,
2. VERONICA JOHNSON, AN INDIVIDUAL,
AND
3. CITY OF EDMOND,

DEFENDANTS.

CASE No.: CJ-2023-1168

JUDGE DON ANDREWS

**DEFENDANT EDMOND PUBLIC SCHOOLS' MOTION TO DISMISS PLAINTIFF'S
AMENDED COMPLAINT AND BRIEF IN SUPPORT**

Defendant Edmond Public Schools ("District") moves for dismissal of Plaintiff's Amended Complaint for failure to state a claim upon which relief can be granted under Okla. Stat. tit. 12 §2012. In support of this Motion to Dismiss, District respectfully directs the Court to the following:

INTRODUCTION

Plaintiff filed this action on March 3, 2023, following an alleged incident on May 10, 2021, involving S.W. and Veronica Johnson, the principal of Heartland Middle School in Edmond, Oklahoma. Defendants removed this action to the United States District Court for the Western District of Oklahoma. Plaintiff then filed an Amended Complaint on April 17, 2023, in which Plaintiff withdrew certain causes of action and asserted a new cause of action against District, invasion of privacy/intrusion of seclusion. (*See* Plaintiff's Amended Complaint, attached as Exhibit "1"). The case was remanded back to this Court.

While District disputes the factual allegations asserted in Plaintiff's Amended Complaint, the parties do agree that an incident occurred because of some suspicion that S.W., a minor, possessed a nicotine vape on the campus of Heartland Middle School. As a result of the underlying incident, Plaintiff now alleges five (5) causes of action against District. Plaintiff alleges the following causes of action against District: Intentional Infliction of Emotional Distress, Negligence, Negligence Per Se, Assault, and Invasion of Privacy and Intrusion of Seclusion.

As a preliminary matter, Plaintiff has failed to plead compliance with the Government Tort Claims Act ("GTCA") and all claims asserted against District by Plaintiff should be dismissed. Furthermore, District cannot be held liable for intentional torts allegedly committed by its employees, such as Plaintiff's intentional infliction of emotional distress, assault, or invasion of privacy/intrusion of seclusion causes of action. District is also immune from liability that arises from its exercise of discretionary functions, including those discretionary actions of Johnson during the course and scope of her employment. The

discretionary functions relate to Plaintiff's general negligence cause of action against District. Finally, there is no separate cause of action for violation of school policy nor has Plaintiff properly plead a negligence per se claim concerning Okla. Stat. tit. 70 § 24-102.

ARGUMENT AND AUTHORITY
STANDARD OF REVIEW

The purpose of a motion to dismiss is to test the law that governs the claim in litigation, not the underlying facts. *Darrow v. Integrus Health, Inc.*, 2008 OK 1, ¶ 7, 176 P.3d 1204, 1208. A motion to dismiss will be sustained if it appears without doubt that the plaintiff cannot prove a set of facts supporting the claim for relief. *Id.* To determine whether a plaintiff has stated a legally sufficient claim under 12 O.S. § 2012(B)(6), the court must determine whether there is any relief possible under any set of facts that could be proved consistent with the allegations of the pleadings.

A petition should be dismissed if a plaintiff fails to submit a cognizable legal theory or fails to present sufficient facts under the theory advanced. *Lockhart v. Loosen*, 1997 OK 103, ¶ 5, 943 P.2d 1074, 1078. In considering a motion to dismiss, a court has broad discretion to consider matters outside the complaint without converting the procedure to one for summary judgment. *Visteon Corp. v. Yazel*, 2004 OK CIV APP 52, 91 P.3d 690, 694. Subject matter jurisdiction is not dependent upon the consent of a party, and a challenge to subject matter jurisdiction may be raised at any time in the course of the proceedings. *Shaffer v. Jeffery*, 1996 OK 47, 915 P.2d 910, 913; *Barrett v. Barrett*, 1994 OK 42, 878 P.2d 1051, 1054; *Campbell v. Campbell*, 1994 OK 84, 878 P.2d 1037, 1044 n. 24.

PROPOSITION I: PLAINTIFF HAS FAILED TO PLEAD COMPLIANCE WITH THE GOVERNMENTAL TORT CLAIMS ACT.

It is well-settled that a Plaintiff's complaint must *plead* compliance with the GTCA to withstand a Motion to Dismiss. *Mansell v. City of Lawton*, 1995 OK 81, 901 P.2d 826, n.2 (citing to *Willborn v. City of Tulsa*, 1986 OK 44, 721 P.2d 803, 805; *Girdner v. Bd. Of Comm'rs*, 2009 OK CIV APP 94, 227 P.3d 1111, 1115. Here, Plaintiff has failed to make even a minimal factual allegation that she has fulfilled the requirements of the GTCA. (*See* Exhibit "1"). As such, the claims against District in Plaintiff's Amended Complaint should be dismissed.

PROPOSITION II: AS A MATTER OF LAW, DISTRICT CANNOT BE HELD LIABLE FOR ALLEGED INTENTIONAL TORTS OF VERONICA JOHNSON.

Plaintiff's First Cause of Action alleges District is liable for intentional infliction of emotional distress, Plaintiff's fourth and fifth causes of action allege District is liable because of Johnson's alleged actions on May 10, 2021, specifically an alleged assault and an invasion of privacy/intrusion of seclusion of S.W. Doc. (See Exhibit "1", ¶¶19-22, 45-49, 50-53) To the extent Plaintiff's claims seek to hold District liable for the alleged intentional torts of Veronica Johnson, District cannot be liable under the GTCA because intentional torts fall outside the scope of employment.

To state a claim of intentional infliction of emotional distress (also known as the tort of "outrage"), a plaintiff must prove "(1) the defendant acted intentionally or recklessly; (2) the defendant's conduct was extreme and outrageous; (3) the defendant's conduct caused the plaintiff emotional distress; and, (4) the resulting emotional distress was severe." *Computer Publ'ns, Inc. v. Welton*, 2002 OK 50, ¶ 5, 49 P.3d 732, 735. A cause of action for outrage involves "[O]ne who by *extreme or outrageous conduct intentionally or recklessly causes severe emotional distress to*

another is subject to liability for such emotional distress, and if bodily harm to the other results from it, for such bodily harm.” *Eddy v. Brown*, 1986 OK 3, ¶ 5, 715 P.2d 74, 76 (emphasis added); *see also Tuffy’s Inc. v. City of Okla. City*, 2009 OK 4, 212 P.3d 1158, n.4. Under this theory, a plaintiff must show the tortfeasor engaged in conduct which, although unprofessional or unreasonable, is so outrageous as to go beyond the bounds of decency in the setting in which it occurred, and which can be considered as utterly intolerable in a civilized community. *Id.* at ¶ 7. For Plaintiff to prevail on her assault cause of action, Plaintiff must show a “willful and unlawful attempt or offer with force or violence to do a corporal hurt to another.” Okla. Stat. tit. 21 § 641. With respect to Plaintiff invasion of privacy/intrusion of seclusion cause of action, the Supreme Court of Oklahoma has previously recognized:

The Restatement of Torts 2d §652(A) sets forth four distinct categories of invasion of privacy. These are as follows:

- (1) One who invades the right of privacy of another is subject to liability for the resulting harm to the interest of the other.
- (2) The right of privacy is invaded by:
 - (a) Unreasonable intrusion upon the seclusion of another.
 - (b) Appropriation of the other’s name or likeness.
 - (c) Unreasonable publicity given to the other’s private life.
 - (d) Publicity that unreasonably places the other in a false light before the public.

McCormack v. Oklahoma Pub. Co., 613 P.2d 737, 1980 OK 98 (Okla. 1980). Two years before *McCormack*, the Oklahoma Supreme Court analyzed the “intrusion of seclusion” cause of action:

One who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another, or his private affairs or concerns, is subject to liability to the other for invasion of his privacy, if the intrusion would be highly offensive to a reasonable person.

Munley v. ISC Financial House, Inc., 584 P.2d 1336 1978 OK 123 (Okla. 1978). Plaintiff's First, Fourth and Fifth Cause of Action all involve an element of intent to specifically do the intended act.

The GTCA provides "a political subdivision shall be liable for loss resulting from its torts or the torts of its employees **acting within the scope of their employment**[" Okla. Stat. tit. 51 § 153(A) (emphasis added). Scope of employment is defined to mean performance by an employee acting in good faith within the duties and tasks lawfully assigned. Okla. Stat. tit. 51 § 152(9). The state or political subdivision is *not* liable for acts or omissions of an employee acting outside the scope of her employment. Okla. Stat. tit. 51 § 153.

An employee is acting within the scope of employment if the employee is "engaged in work assigned, or if doing that which is proper, necessary and usual to accomplish the work assigned, or doing that which is customary within the particular trade or business." *Tuffy's*, *supra* at ¶ 7. A governmental entity subject to the protections of the GTCA, such as District, cannot be held liable for any act of an employee unless the employee can be found to have acted in good faith and within the scope of employment. *McMullen v. City of Del City*, 1996 OK CIV APP 46, ¶¶ 5–9, 920 P.2d 528, 530–31; *Parker v. City of Midwest City*, 1993 OK 29, ¶¶ 6–10, 850 P.2d 1065, 1066–67; *Febring v. State Ins. Fund*, 2001 OK 11, 19 P.3d 276, 283 ("when, for viability, the tort cause of action sued upon requires proof of an element that necessarily excludes good faith and conduct on the part of governmental employees, there can be no liability against the governmental entity in [an Act]-based suit."). As a result, courts have

consistently dismissed claims of intentional infliction of emotional distress brought against school districts. *Covey v. Lexington Pub. Sch.*, 2010 WL 5092781 (12/7/10 Order on Motion to Dismiss); *Culbertson v. Fletcher Pub. Sch.*, 2011 WL 3477112 (8/9/11 Order on Motion to Dismiss).

By definition, District cannot be liable for employees' intentional torts that include an essential bad faith or bad intent element, as a finding of bad faith negates a finding that an employee has acted within the scope of her employment. Since Plaintiff can only recover against District for actions of its employees performed in good faith, any claim by Plaintiff arising out of intentional, bad faith acts of its employee fails as a matter of law. Accordingly, Plaintiff's claim of intentional infliction of emotional distress, assault, and intrusion of seclusion/invasion of privacy are based on the alleged intentional acts of Johnson and should be dismissed as to District.

PROPOSITION III: PLAINTIFF CANNOT RECOVER FOR HER CLAIM OF NEGLIGENCE AGAINST DISTRICT AS DISTRICT IS IMMUNE FROM LIABILITY FOR INJURIES THAT ARISE OUT OF ITS EXERCISE OF DISCRETIONARY FUNCTIONS AND THE GOVERNMENTAL TORT CLAIMS ACT

In the Second Cause of Action, Plaintiff alleges that District "knew or should have known the request for S.W. to lift her shirt and expose her undergarments in the presence of another student and in front of a window with a view allowing access to the inside of the school was improper and negligent." (*See* Exhibit "1" at ¶ 27) Plaintiff's Amended Complaint further alleges that District "did not exercise the care which a reasonably careful person would use under the circumstances..." Thus, Plaintiff's Amended Complaint admits that the actions of District were discretionary as Plaintiff compares the actions of District to what a "reasonably careful person" would do under the same circumstances. (*See* Exhibit "1" at ¶ 28)

District is immune from liability for all claims of negligence based on the discretionary function exemption of the GTCA. The GTCA waived the sovereign immunity of the State of Oklahoma and its political subdivisions, but the legislature reserved immunity from suit for 37 specifically-defined causes of action. Okla. Stat. tit. 51 §§ 153, 155. One such exemption is for losses or claims that result from the “performance or failure to exercise or perform any act or service which is in the discretion of the [. . .] political subdivision or its employees.” Okla. Stat. tit. 51 § 155(5). An action is discretionary when it is the result of judgment. *Robinson v. City of Bartlesville Bd. of Educ.*, 1985 OK 39, 700 P.2d 1013, 1017.

As to Plaintiff's claims of negligence concerning the alleged search of S.W, a school's decision as to when and where a search can occur and how it should be completed are discretionary decisions exempt from liability under the GTCA because they are the result of the judgment of the individual completing the search. Even if Plaintiff disagrees with the judgment used by Johnson, her exercise of that judgment is discretionary, and Plaintiff's Second Cause of Action should be dismissed.

Alternatively, Plaintiff's Amended Complaint alleges that District's employee, Johnson, did not enforce District's established policy with respect to the alleged search of S.W. Plaintiff's negligence claim against District hinges upon the alleged search of S.W. by Johnson and how the policy concerning searches of students was not enforced with respect to the alleged search of S.W. As will be discussed more fully below, Oklahoma courts have found that political subdivisions are exempt for “failure to enforce” a policy. *Young v. Okla. City Pub. Sch. Dist. 89*, 2013 WL 6567144 (W.D. Okla. 2013). Therefore, District respectfully requests

the Court to dismiss Plaintiff's Second Cause of Action against District pursuant to the Governmental Tort Claims Act.

PROPOSITION IV: THERE IS NO SEPARATE CAUSE OF ACTION FOR VIOLATIONS OF SCHOOL POLICY OR OKLA. STAT. TIT. 70 § 24-102 NOR HAS PLAINTIFF PROPERLY PLEAD A NEGLIGENCE *PER SE* CAUSE OF ACTION

Plaintiff labels her third cause of action against District as "Negligence Per Se." (*See* Exhibit "1," ¶¶29-36). Generally, a cause of action for negligence arises when a defendant owes a duty of care to the plaintiff and breaches that duty with conduct contrary to that of a reasonably prudent person under the same or similar circumstances. However, if "there are criminal or regulatory statutes which delineate the defendant's conduct, courts may adopt the conduct required by the statutes" as the standard of care. *Busby v. Quail Creek Golf & Country Club*, 1994 OK 63, 885 P.2d 1326, 1329. Adoptions of a *statutory* standard of care in negligence is said to be "negligence *per se*." The Oklahoma Supreme Court further recognized in *Busby* that "[t]o establish negligence *per se* on the basis of a statutory violation the party must establish that: 1) the injury was caused by the violation; 2) the injury was of a type intended to be prevented by the statute; and 3) the injured party was of the class meant to be protected by the statute." *Id.* Plaintiff's Third Cause of Action fails to plead any of the requirements for establishing a negligence *per se* cause of action against District, including any allegation that S.W. suffered injury because of an alleged violation of Edmond Public School Policy #4820 and/or Okla. Stat. tit 70 §102. For this reason, District requests the Court dismiss Plaintiff's claims of negligence *per se* against District.

In support of her third cause of action, Plaintiff alleges that Edmond Public Schools violated Edmond Public School Policy #4820, which relates to searches of students and only

allowed the removal of “cold weather outerwear.” However, a violation of the Edmond Public School policy does not give rise to a negligence *per se* claim against District. Further, such claims are prohibited by the GTCA. Okla. Stat. tit. 51 § 155(4), the Governmental Tort Claims Act, provides an exemption for an alleged failure to adopt or enforce a policy:

The state or a political subdivision shall not be liable if a loss or claim results from:

...

4. Adoption or enforcement of or failure to adopt or enforce a law, whether valid or invalid, including, but not limited to, any statute, charter provision, ordinance, resolution, rule, regulation or written policy.

In applying this exemption, Oklahoma courts have found that political subdivisions are exempt for “failure to enforce” a policy. *Young v. Okla. City Pub. Sch. Dist. 89*, 2013 WL 6567144 (W.D. Okla. 2013) (Court dismissed plaintiff’s claim that District was negligent in providing safety to a student allegedly bullied by a teacher); *GJA v. Okla. Dept. of Human Servs.*, 2015 OK CIV APP 32, 347 P.3d 310 (Court dismissed plaintiff’s claim that DHS failed to investigate a sexual abuse case under Section 155(4) of the GTCA). As Plaintiff is attempting to assert liability for District’s failure to adhere to/enforce the provisions of Edmond Public School Policy #4820, Plaintiff’s Third Cause of Action should be dismissed as to District.

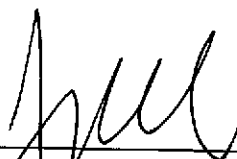
PROPOSITION V: DISTRICT CANNOT BE LIABLE FOR PUNITIVE DAMAGES.

Plaintiff seeks to recover punitive damages against District. (*See* Exhibit “1,” under Plaintiff’s Prayer for Relief heading). Pursuant to the GTCA, punitive damages may not be awarded against a political subdivision such as District for any action or claim. Okla. Stat. tit. 51 § 154(B). As such, any claim for punitive damages against District, or an employee acting within thtrene scope of their employment, for a state law tort claim must be dismissed.

CONCLUSION

District requests that Plaintiff's Amended Complaint against District be dismissed in its entirety because Plaintiff has failed to plead compliance with the Governmental Tort Claims Act. Alternatively, District requests that the Court dismiss all of Plaintiff's claims against it as Plaintiff's allegations either involve discretionary functions of Edmond Public Schools which are exempt from liability under the Governmental Tort Claims Act or they allege intentional actions by Defendant Johnson, for which District cannot be liable for under the Governmental Tort Claims Act. Lastly, District further requests any other relief that the Court deems just and equitable.

Respectfully submitted,




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CERTIFICATE OF SERVICE

This is to certify that on this May 15, 2023, a true and correct copy of the above and foregoing was mailed to the below individuals via:

- U.S. Mail, Postage Prepaid
- Certified U.S. Mail, Postage Prepaid
- Certified U.S. Mail, Postage Prepaid, Return Receipt Requested
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F. Andrew Fugitt

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

1. KRISTAL TRENKAMP, individually)	
and as parent and next of kin of S.W.,)	
a minor child,)	
)	
Plaintiff,)	
)	
v.)	
)	
1. EDMOND PUBLIC SCHOOLS,)	Case No. CIV-23-269-SLP
2. VERONICA JOHNSON,)	
)	
and)	Judge Scott L. Palk
)	
3. CITY OF EDMOND)	
)	
)	
Defendants.)	

AMENDED COMPLAINT

Plaintiff, Kristal Trenkamp, individually and as parent and next of kin of S.W., a minor child, and pursuant to Fed. R. Civ. P. 15(a)(1)(B), in support of its Amended Complaint against Defendants, Edmond Public Schools, Veronica Johnson, and the City of Edmond, states and avers as follows:

NATURE OF COMPLAINT

1. This is an action for monetary damages associated with, inter alia, the unreasonable and inappropriate strip search of a minor student by a school authority and an Edmond Police School Resource Officer.

PARTIES

1. Plaintiff, Kristal Trenkamp (hereinafter the "Plaintiff"), is an individual residing in Oklahoma County, Oklahoma.

2. Plaintiff, S.W., is a minor child residing in Oklahoma County, Oklahoma and is the daughter of Kristal Trenkamp.

3. Defendant, Edmond Public Schools (hereinafter the "District"), is an educational institution of the State of Oklahoma located in Oklahoma County, Oklahoma.

4. Defendant, Veronica Johnson (hereinafter "Johnson"), is an individual employed as Principal of Heartland Middle School which is under the control and supervision of Edmond Public Schools.

5. Defendant, The City of Edmond (the "City") (collectively with the District and Johnson, the "Defendants"), is an Oklahoma municipal corporation located in Oklahoma County, state of Oklahoma.

FACTUAL BACKGROUND

6. S.W. is a minor child, formerly enrolled at Heartland Middle School, under the supervision and control of the Edmond Public Schools school district on the date of the incident, May 10, 2022.

7. On or about May 10, 2022, S.W. was called into the office of the Principal of Heartland Middle School, Defendant Johnson, based on her alleged suspicion of being in possession of a nicotine vape device.

8. Present in Johnson's office was also Officer Brooks, a member of the Edmond Police Department, and the school resource officer stationed at Heartland Middle School (hereinafter "Brooks").

9. Upon being informed that another student accused S.W. of being in possession of a nicotine vape device, Johnson and Brooks proceeded to conduct a search of S.W.'s person, including improperly and unreasonably subjecting her to a strip search in search of such a device.

10. The search was conducted by Johnson, the principal of Heartland Middle School, and an employee of the District. Johnson was the highest-ranking authority for the District located at Heartland Middle School.

11. Also present and assisting with the unreasonable strip search was Brooks, the school resource officer stationed at Heartland Middle School, who also recorded the entire search via her body camera.

12. The search was also conducted in front of another minor student.

13. Johnson initiated the search by utilizing a metal detection wand on both S.W.'s person as well as her bag, prior to conducting a physical search of both S.W.'s bag and her person. Upon locating no contraband, Johnson proceeded to initiate an illegal strip search of S.W.

14. During the search, S.W. Johnson instructed S.W. to lift her shirt, exposing her bare abdomen and a portion of her underwear, and spin while doing so.

15. Following the exposure of S.W.'s bare abdomen and action of spinning, Johnson then inquired about what undergarments S.W. was wearing under her pants.

16. Subsequently, Johnson inquired about S.W.'s bra, and proceeded to instruct her to lift her shirt high enough so that Johnson was able to inspect S.W.'s bra and the underwire therein.

17. The search took place in a room with two uncovered windows that allow a clear view to general access areas of the school, including other students, faculty and staff and neither Johnson or Brooks lowered the shades or otherwise attempted to obstruct the view of S.W.'s strip search.

18. No contraband was found during the search, nor was any evidence that S.W. was ever in possession of contraband provided to S.W.

**FIRST CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)**

19. Plaintiff incorporates herein each and every allegation contained in the foregoing paragraphs of this Petition as if fully set forth herein, further states as follows:

20. The acts of each Defendant described herein were wrongful, extreme, and outrageous, transcending the bounds of all human decency.

21. That despite having been informed by S.W. she was not in possession of a nicotine vape, the Defendant proceeded to request her to partially remove or lift her clothing exposing her bare skin with the intention or recklessness to cause severe emotional distress upon the Plaintiff beyond that which a reasonable person could be expected to endure.

22. As a result of these wrongful acts, Plaintiff has suffered extreme emotional distress and hardship.

**SECOND CAUSE OF ACTION
(Negligence)**

23. Plaintiff incorporates herein each and every allegation contained in the foregoing paragraphs of this Petition as if fully set forth herein, further states as follows:

24. The Defendants owed a duty of care to the victim, S.W.

25. The duty of care owed to the victim was breached during the illegal strip search.

26. This breach of duty caused injury to the victim and resulted in costs for the victim including medical expenses, moving costs, lost wages, and pain and suffering.

27. That Defendants either knew or should have known the request for S.W. to lift her shirt and expose her undergarments in the presence of another student and in front of windows with views allowing access to the inside of the school was improper and negligent on the part of the Defendants.

28. That the Defendants did not exercise the care which a reasonably careful person would use under the circumstances to determine whether a search should be conducted.

**THIRD CAUSE OF ACTION
(Negligence Per Se)**

29. Plaintiff incorporates herein each and every allegation contained in the foregoing paragraphs of this Petition as if fully set forth herein, further states as follows:

30. Edmond Public School Policy #4820 provides, "The extent of any search conducted pursuant to this section shall be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. *In no event shall a strip search of a student be allowed.* No student's clothing, except cold weather outerwear, shall be removed prior to or during the conduct of any warrantless search." (Edmond Public School Policy #4810 ¶ 2).

31. OKLA. STAT. tit. 70, § 24-102 provides, "The extent of any search conducted pursuant to this section shall be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. *In no event shall a strip search of a student be allowed.* No student's clothing, except cold weather outerwear, shall be removed prior to or during the conduct of any warrantless search." (Okla. Stat. 70 § 24-102 ¶ 2)

32. Johnson and Brooks conducted a strip search of S.W., in clear violation of Edmond School Policy #4820 and OKLA. STAT. tit. 70, § 24-102.

33. That a shirt does not constitute "cold weather outerwear", and the request to have S.W. raise her shirt, exposing her undergarments is not reasonably related to the objective of the search.

34. Exposure of S.W.'s bare abdomen and undergarments constitutes a strip search and is excessively intrusive in light of the fact that S.W. was a fourteen (14) year old female.

35. There was no warrant for the search.

36. The Defendants are liable for damages associated with the clear and unequivocal violations of Edmond School Policy #4820 and OKLA. STAT. tit. 70, § 24-102.

**FOURTH CAUSE OF ACTION
(Assault)**

45. Plaintiff incorporates herein each and every allegation contained in the foregoing paragraphs of this Petition as if fully set forth herein, further states as follows:

46. At the time S.W. entered the office and was asked to lift her shirt and spin, S.W. had a reasonable belief that the Defendant's actions were an imminent threat of harm or danger.

47. Johnson's demand that S.W. raise her shirt in order to show her underwear, was an intentional act that directly resulted in injury to S.W.

48. At the time S.W. was asked to lift her shirt and spin, she was immediately apprehensive as she was aware that her naked midsection and undergarments would be on display in front of Brooks, Johnson, another student, and in front of multiple uncovered windows allowing the office and anyone in the hallway to view her.

49. S.W., as a proximate cause of the intentional actions of Johnson, suffered extreme emotional distress and hardship due to the actions of the Defendant.

**FIFTH CAUSE OF ACTION
(Invasion of Privacy/Intrusion of Seclusion)**

50. Plaintiff incorporates herein each and every allegation contained in the foregoing paragraphs of this Petition as if fully set forth herein, further states as follows:

51. By conducting an illegal, unwarranted and unreasonable strip search upon the person of S.W., Johnson and Brooks, by and through their positions with the District and the

City, respectively, intentionally intruded, physically upon the solitude and invaded the privacy of S.W.

52. By forcing S.W. to show her underwear and bare abdomen to both Johnson and Brooks, in full view of open windows, other students and the body camera of Brooks, Defendants' intrusion of S.W.'s person and invasion of her privacy would be highly offensive to any reasonable person.

53. As a proximate and direct cause of Defendants' invasion of S.W.'s privacy, S.W. has suffered severe emotional distress and hardship.

JURY DEMAND

54. Plaintiff demands trial by jury on all issues so triable herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Kristal Trenkamp, individually and as parent and next of kin of S.W., prays for judgment against Defendants ordering them to pay damages in an amount to be determined by the trier of fact, which damages shall include, without limitation, actual and exemplary damages associated with Plaintiffs causes of action, as well as any such other relief which this Court deems just and equitable.

Respectfully submitted,

s/ Shelby Shelton

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Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2023, I electronically transmitted the attached document to the Clerk of the Court using the Electronic Case Filing system for filing. Based on the records currently on file in this case, the Clerk of Court will transmit a Notice of Electronic Filing to those registered participants of the ECF System.

s/ Shelby Shelton

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