

CAUSE NO.: 2019CI02190

DEREK ROTHSCHILD
as Next Friend of D.R.

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IN THE DISTRICT COURT

v.

BEXAR COUNTY, TEXAS

JOHN DOE(S)
and/or JANE DOE(S)

407th JUDICIAL DISTRICT

PLAINTIFF’S ORIGINAL PETITION

TO THE HONORABLE COURT:

COMES NOW the Plaintiff, DEREK ROTHSCHILD, as next friend of D.R., and files this original petition, and will show:

I. DISCOVERY

1. This suit seeks monetary relief not to exceed \$100,000 and seeks non-monetary relief. Therefore, discovery is intended to be conducted under Level 2 of TEX. R. CIV. P. 190.3.

II. PARTIES

Plaintiff

2. **DEREK ROTHSCHILD** (“Plaintiff”) brings this suit as next friend of **D.R.**, a minor child, pursuant to TEX. R. CIV. P. 44.

Defendant(s)

3. **JOHN DOE(S) and/or JANE DOE(S)** are unknown parties who are liable to Plaintiff. Through discovery, Plaintiff anticipates identifying Defendant(s), which is anticipated to include their parents/guardians or persons standing in parental relation to the Defendant(s), and will amend this petition in accordance with TEX.

R. Civ. P. 62, 63, and 64. The forenamed persons shall be collectively referred to herein as “Defendant(s)” herein.

III. VENUE & JURISDICTION

4. This court has jurisdiction to hear this case because the amount in controversy is within the jurisdictional limits of the court and the subject matter of this suit is not reserved for any other court. The Court has jurisdiction over all parties because all parties are citizens of Bexar County, Texas.
5. Venue is proper in Bexar County, Texas because, at all times relevant hereto, the parties to this suit were residents of Bexar County, Texas, and the event giving rise to this suit occurred exclusively in Bexar County, Texas.

IV. BASIS OF SUIT

6. Plaintiff is D.R.’s father, a student at North East Independent School District (“NEISD”) who, at all times herein, was enrolled at Hill Middle School (“HMS”).
7. Defendant(s), at all times relevant herein, were also enrolled at HMS.
8. On or about January 16, 2019, Defendant(s) began an online discussion or poll amongst HMS students to the effect of ‘who is likely to shoot up the school,’ and identified D.R. as a likely school shooter.
9. Defendant(s) published statements were reasonably calculated to produce one of more of the results described in TEX. CIV. PRAC. & REM. CODE § 73.001,
10. Defendant(s) continued to orally spread false and defamatory rumors about D.R. being a school shooter amongst HMS students on January 16, 2019 through on or about January 18, 2019.

11. The online activities and rumors created and/or perpetrated by Defendant(s), according to the school's principal, caused "substantial [stress]" at the school.
12. HMS students began to ostracize, avoid, ridicule, taunt, and repeatedly ask D.R. questions related to whether he intended to commit a shooting.
13. At no time did D.R. have any intent, desire, or even the notion of committing *any* act of violence against anyone.
14. HMS and NEISD staff identified the creators of the online postings and rumors and reported to HMS parents they had been disciplined. Instead of exonerating D.R., Defendant(s) took no corrective or mitigating action, further subjecting D.R. to ridicule and suspicion. DR was not offered any resources or counselins.
15. Eventually, as a direct and proximate cause of Defendant(s) actions, D.R. made an unrelated comment which was interpreted by NEISD and HMS staff as a threat. Instead of taking *any* remedial action to protect D.R., NEISD punished D.R.
16. As a result of the whole ordeal prompted and wholly initiated by Defendant(s), D.R. has suffered substantial damages and injury.

V. CAUSES OF ACTION

17. Plaintiff incorporates all facts alleged above, below, and herein, and sues Defendant(s) and/or their parents or person standing in parental relation, for the following causes of action:

Count # 1 – Injunctive Relief Under *David's Law*

18. Plaintiff sues Defendant(s) pursuant to TEX. CIV. PRAC. & REM. CODE § 129A.002(a) and seeks injunctive relief against Defendant(s).

19. Defendant(s)' conduct constitutes cyberbullying as defined by TEX. EDUC. CODE § 37.0832(a)(2), and D.R. was the recipient of the bullying and cyberbullying.

20. Once the Defendant(s) are identified and upon a showing that Defendant(s) were cyberbullying D.R., Plaintiff requests the court enter a temporary injunction and permanent injunction under the circumstances, enjoining Defendant(s) from engaging in cyberbullying, or if the Defendant(s) are underage, compelling their parent(s) or person(s) acting in parental relation to take reasonable to cease engaging in cyberbullying.

21. Plaintiff requests the court waive the requirement of a bond for the issuance of a temporary injunction, or if a bond is required, set the bond for a nominal amount.

Count # 2 – Defamation *Per Se* by Statutory Libel

22. Plaintiff sues Defendant(s) for defamation *per se* by statutory libel pursuant to TEX. CIV. PRAC. & REM. CODE § 73.001. Defendants published statements online, in which D.R. could be identified, which were false and made with malice and/or with reckless disregard for their truth, which injured D.R.'s reputation, exposing D.R. to public hatred, contempt or ridicule, and impeached D.R.'s virtue and/or reputation, and otherwise caused D.R. damages and injury.

Count # 3 – Defamation by Slander

23. Plaintiff sues Defendant(s) for defamation by slander. Defendant(s) published statements of fact which referred to and/or identified Plaintiff which were defamatory and false, which Defendant(s) made with actual malice or negligence, and D.R. suffered pecuniary injury and injury is presumed as a matter of law.

Count # 3 – Intentional Infliction of Emotional Distress

24. In the alternative, Plaintiff sues Defendant(s) for intentional infliction of emotional distress. D.R. is a person and Defendant(s) acted intentionally or recklessly by their actions accusing and/or implying D.R. is a school shooter – conduct which is extreme and/or outrageous. D.R. suffered severe emotional distress, which was proximately caused by Defendant(s)' conduct, for which no other cause of action would provide a remedy.

VI. DAMAGES

25. Plaintiff sues Defendant(s) for the following damages:

- a. \$10,000 for past mental anguish;
- b. \$10,000 for future mental anguish;
- c. \$10,000 for injury to D.R.'s reputation;
- d. \$10,000 for in actual damages; and
- e. \$10,000 in exemplary damages.

26. Plaintiff sues Defendant(s) for a total of \$50,000.

VII. DECLARATORY RELIEF

27. Pursuant to TEX. CIV. PRAC. & REM. CODE §§ 37.003, 37.004, Plaintiff requests the court declare the rights, status, or other legal relations of the parties as affected by statute, and requests the court enter a judgment declaring:

- a. Defendant(s) engaged in bullying as defined by TEX. EDUC. CODE § 37.0832(a)(1);
- b. Defendant(s) engaged in cyberbullying as defined by TEX. EDUC. CODE § 37.0832(a)(2); and
- c. D.R. was the recipient of Defendant(s) bullying and/or cyberbullying.

VIII. PLEADINGS IN THE ALTERNATIVE

28. All pleadings herein are made in the alternative pursuant to TEX. R. CIV. P. 48.

IX. ATTORNEY'S FEES & COSTS

29. Pursuant to TEX. CIV. PRAC. & REM. CODE § 37.009, or other law, Plaintiff requests the court award all costs and reasonable attorney's fees as are equitable and just.

X. PRAYER

WHEREFORE, Plaintiff prays:

1. Defendant(s) be cited herein;
2. For the injunctive relief as requested herein;
3. For declaratory relief as requested herein;
4. For judgment against Defendant(s) as sought herein;
5. Post-judgment interest at the highest rate allowed by law;
6. For all costs and attorney's fees requested herein; and
7. For all other relief, at law or equity, specific or general, to which Plaintiff may show to be justly entitled.

Respectfully submitted,

THE NICHOLS LAW FIRM, P.L.L.C.



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