

IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO

Madison Sparks
c/o Cooper Elliott
305 West Nationwide Boulevard
Columbus, Ohio 43227,

Plaintiff,

v.

South-Western City School District
3805 Marlane Drive
Grove City, Ohio 43123

and

South-Western City School District
Board of Education
3805 Marlane Drive
Columbus, Ohio 43228

and

Tresa Davis, Former Principal
Norton Middle School

[REDACTED]

and

James Marion, Administrator
South-Western City School District

[REDACTED]

and

Mary A. Kinnaird-Padovan
Former Principal
South-Western City School District

[REDACTED]

and

CASE NO.

JUDGE

JURY DEMAND
ENDORSED HEREON

3. Plaintiff now brings this Complaint against Defendants Benjamin Rutan, as well as Defendants South-Western City School District, South-Western City School District Board of Education, Tresa Davis, James Marion, Mary A. Kinnaird-Padovan, William Wise, Amber Hufford, Dr. Susan Hayward, and their employees, agents, successors in office and predecessors in office.

PARTIES, JURISDICTION, AND VENUE

4. Plaintiff Madison Sparks is a 23-year-old woman who attended Norton Middle School from 2011 to 2013 and “assisted” coaching as a minor at Norton Middle School from approximately 2015 to 2016. Madison also participated in a career mentorship program at Norton Middle School in 2016. Madison resides in Franklin County, Ohio.

5. Defendant South-Western City School District (the “District”) is the public-school office which oversees the schools within its district, and with the power to hire and terminate the District’s employees and regulate its employees’ conduct and security at the schools and their premises. Norton Middle School is a school that, at all relevant times, served middle school aged children and operated under the authority and control of the District. Norton Middle School is located in Franklin County, Ohio. Rutan sexually battered Madison in the Norton Middle School building, including during school hours, at various locations throughout the school, including in his classroom and office, temporary classrooms adjacent to the building, his vehicle while parked at Norton Middle School, and during school-sponsored athletic events.

6. The District is located in Franklin County, Ohio.

7. Defendant South-Western City School Board is an entity located in Franklin County, Ohio, which operates, oversees, and develops policies for the District.

8. Defendant William Wise was, at all relevant times, the District's Superintendent, during which time some of the criminal acts and violations of Madison's rights occurred. Wise was an employee and agent of the District at all relevant times and is being sued in both his individual and official capacities. Defendant Wise is a resident of Franklin County, Ohio.

9. Defendant Tresa Davis was Principal of Norton Middle School during which time some of the criminal acts and violations of Madison's rights occurred. At all relevant times, Davis was an employee and agent of the District and is being sued in both her individual and official capacities. Davis is a resident of Franklin County, Ohio.

10. Defendant James Marion was an administrator for the South-Western City School District during which time some of the criminal acts and violations of Madison's rights occurred. At all relevant times, Marion was an employee and agent of the District and is being sued in both his individual and official capacities. Marion is a resident of Franklin County, Ohio.

11. Defendant Mary A. Kinnaird-Padovan was Principal of Norton Middle School during which time some of the criminal acts and violations of Madison's rights occurred. At all relevant times, Kinnaird-Padovan was an employee and agent of the District and is being sued in both her individual and official capacities. Kinnaird-Padovan is a resident of Franklin, Ohio.

12. Defendant Amber Hufford is Coordinator of Student Services and a former administrator for South-Western City School District during which time some of the criminal acts and violations of Madison's rights occurred. At all relevant times, Hufford was an employee and agent of the District and is being sued in both her individual and official capacities. Hufford is a resident of Franklin County, Ohio.

13. Defendant Dr. Susan Hayward is the Assistant Superintendent of Personnel and former administrator for South-Western City School District during which time some of the

criminal acts and violations of Madison's rights occurred. At all relevant times, Hayward was an employee and agent of the District and is being sued in both her individual and official capacities. Hayward is a resident of Knox County, Ohio.

14. Defendant Benjamin Rutan is a former middle school teacher and coach who committed criminal acts against Madison Sparks. In December 2021, Rutan was charged with two felony counts of sexual battery and one felony count of unlawful sexual conduct with a minor. Rutan is currently awaiting trial. At all relevant times, Rutan was an employee and agent of the District and is being sued in both his individual and official capacities. Rutan is a resident of Franklin County, Ohio.

15. This Court has subject matter jurisdiction over this case, and venue is appropriate in this Court, because all or a substantial majority of the events leading to this lawsuit occurred in Franklin County, Ohio.

**Norton Middle School's and the District's History of
Employees' Sexual Misconduct Against Students**

16. Norton Middle School, the District, and the Board have a pattern and practice of sweeping sexual assault and abuse of minor students under the rug.

17. During the 2010-2011 school year, William Rutan, Defendant Benjamin Rutan's relative, was found to have "engaged in inappropriate interactions with students." His license was suspended from August 2, 2011 to September 28, 2011. Upon information and belief, the District then transferred William Rutan to another middle school in the District.

18. Additionally, upon information and belief, in the early to mid-2000s, a male Norton Middle School teacher was caught with sexually suggestive photographs of middle school cheerleaders that he took with the school's yearbook camera. The teacher, who taught yearbook, attended pep rallies at Norton Middle School and, with his school-issued camera, zoomed in on

the female cheerleaders' underwear and backsides while they were performing toe touches. Norton Middle School administrators discovered the photos on the school-issued camera and did the unimaginable. Instead of contacting the parents or guardians of the girls whose sexually explicit photos were taken, Norton Middle School administrators simply called each of the five girls individually to the office for a meeting. Norton administrators showed each girl the photos taken of them and then asked each girl whether they believed the school should fire the teacher. Being just middle school girls, and not wanting to get anyone in trouble, the girls said no. Up until 2022, that teacher remained a teacher at Norton Middle School.

Benjamin Rutan Groomed Young Female Students from the Start

19. The District hired Defendant Benjamin Rutan as a language arts/social studies teacher and coach for Galloway Ridge Intermediate (now Norton Middle School) in 2005. Rutan had graduated from Ohio Dominican University the previous year. Rutan attended school in the South-Western City School District.

20. Early on in his career, Defendant Rutan began engaging in textbook grooming behavior with students. For example, he asked one of his female students to babysit for him in order to obtain that student's cell phone number. Rutan began drunk texting the student in the middle of the night and showed up drunk at her house. He would also write the student notes to excuse her from school events like plays so that he could bring her to his classroom where they would be alone together, and he would flirt with her. Rutan also bought this student gifts and gave them to her at school. Additionally, Rutan frequently took photos of the two of them at school—eventually assembling a scrapbook he gifted the student containing those pictures and romantic notes. Rutan also wrote this student poems and love letters, expressing how “mature” she was compared to her middle school peers. Law enforcement would later retrieve many of these items

from Rutan's desk in his classroom, along with a bra and underwear Rutan had purchased for Madison. Rutan would even meet this student and her friends at an elementary school in the District and let them take turns driving his car.

21. Rutan's behavior was so blatant that, at one point, Norton Middle School's health teacher pulled the student aside and warned her to stop talking to and spending time with Rutan. Other teachers also often gave the two sideways glances in the hallway. This student, however, was afraid to say anything out of fear that Rutan—a popular and influential teacher and coach—would retaliate against her.

22. Also, early on in his career at Norton Middle School, Rutan placed a special chair in front of his desk that he spraypainted gold. All his other students sat in typical classroom tables that fit several students per table. But at this one gold desk, Rutan would seat a single girl in his class. He would give this girl special attention, allow her to skip assignments, and bring her fast food to eat in front of the rest of the class. Years later, Madison Sparks would sit in Rutan's special gold chair. Law enforcement discovered the chair, with spray paint wearing off, in Rutan's classroom after his arrest.

Benjamin Rutan was Popular in the District

23. Rutan had strong connections within the District that allowed him to get away with bad behavior for years. For example, he had a relative who was a principal at one of the schools in the District, another relative, William Rutan, who was also accused of molesting female students, taught in the District, too.

24. Rutan was a popular and influential coach and was friends with many teachers in the District.

25. This popularity and influence made students, teachers, and families shy away from reporting Rutan's inappropriate conduct for fear of retaliation or being rebuffed. Indeed, in 2014, reports regarding Rutan's inappropriate behavior towards Madison were spreading like wildfire. Specifically, during a track meet, two mothers of eighth grade female students and athletes were discussing their concerns over Rutan and Madison. Rutan overheard their discussion and specifically, one mother's comment that she intended to report Rutan to the administration. So, Rutan's friend and fellow track coach, met with the girls track team and told them to stop the "rumors" because they were not true. That coach then told the student's mother who had noted her intent to report Rutan to the administration that she should apologize to Rutan if she did not want to jeopardize her children's athletic futures.

26. Around the same time, the Norton Middle School football coach told the same mother to shut her eighth-grade daughter up. And Rutan confronted the eighth-grade daughter—demanding to know where the rumors were coming from.

27. Afraid to compromise her children's athletic futures, the mother sent an email to Rutan's school email account on May 15, 2014. In her email, she wrote that it had been "brought to [her] attention that you think [we] are spreading rumors about you. This is not true. I and only me asked Pam, Madison Sparks' grandmother if there was an investigation involving you being inappropriate . . ." The mother went on to write, "[h]opefully this is all a misunderstanding and the allegations if there are any are false, because I see the great way you impact NMS in both academics and sports." The mother then reassured Rutan that "at no time did I think you were a bad teacher, coach, or role model for students but I will have at least 3 other children going through NMS and wanted to know if I should be concerned." She continued, noting that she had been told that an investigation had "been started" and that a parent may have called the school. The mother

concluded her email by begging, “[p]lease don’t be mad at the students. They had nothing to do with this and I personally think you are a great coach. Someone else came to me and told me some questionable things that was more than likely twisted up at least I hope so, but I was concerned, so I did ask if that was the case.”

28. Also, at various points during Rutan’s tenure with the District, Rutan served in different administrative and leadership roles for which he was compensated, including for example, Language Arts Department Leader, Athletic Coordinator, and Building Coordinator for Norton Middle School.

29. In sum, Rutan’s popularity and influence in the District and among teachers and families insulated Rutan from discipline or oversight.

2011/2012 School Year: Rutan Zeroes in on Madison During Her 7th Grade Year

30. Benjamin Rutan first set eyes on Madison Sparks when she was a twelve-year-old seventh grader. Madison was in history class taught by one of Rutan’s friends. Rutan walked into Madison’s class at the moment the history teacher cracked a joke. Rutan inquired about the joke, and the history teacher pointed to Madison. Rutan locked eyes with Madison. At the time, as an innocent twelve-year-old girl, Madison thought nothing of it.

31. About a year later, Rutan would tell Madison this was the moment he was first attracted to her.

2012/2013 School Year: Rutan Grooms Madison and Has Sex With Her at Norton Middle School

32. Madison was Rutan’s student in his eighth grade accelerated English class.

33. Rutan was in his early thirties at the time. He was married and had a young child.

34. Rutan immediately set to work grooming Madison for sexual contact and a codependent relationship. He paid more attention to Madison than his other students—seating her

at the special gold desk in front of his desk and telling his class that Madison was the only student allowed to sit at that desk. Rutan often selected Madison to be the leader of class projects and gave her free points to allow her to get out of assignments.

35. For example, Rutan assigned the class a two-month project in which the students worked to put on a jury trial. Rutan selected Madison as the judge and did not require her to do any work. Instead, Rutan would have Madison sit with him at his desk and flirt with her and physically touch her. Rutan gave Madison an A for that assignment, which was their only grade for the last 9 weeks of the eighth-grade year.

36. Additionally, Rutan brought Madison outside food like Roosters to eat in front of her classmates.

37. Rutan would frequently have Madison sit on his lap during class and would let other female students kiss him on the cheek. He played favorites so that the girls in his class would compete for his attention.

38. Throughout her eighth-grade year, Rutan directed Madison to arrive to Norton Middle School early and wait for him on the steps by his classroom before her homeroom bell. If she ever missed a day, Rutan would ignore her until she apologized.

39. Rutan also obtained Madison's cell phone number on the bus ride home from a Norton Middle School athletic event. From then on, he texted Madison every day—both during and outside of the instructional day.

40. Notably, Rutan knew of Madison's vulnerabilities, insecurities, and childhood traumas, and took advantage of those perceived weaknesses by taking on a paternalistic role and acting under the false pretense of providing her with fatherly guidance and emotional support. But Rutan had an ulterior motive.

41. Rutan routinely bought Madison presents he gave to her at school, wrote her letters he slipped her during the school day, and made her a book of vows, in which he dedicated himself to her.

42. By taking advantage of Madison's vulnerabilities, Rutan manipulatively groomed Madison for a sexual contact and a codependent relationship by building a relationship of trust while also taking advantage of the imbalanced power dynamics and his reputation in the local community and District.

43. Rutan's inappropriate behavior towards Madison was brazen. He would allow Madison to drive his car on school property. And, as Madison's track and basketball coach, the two would sit together on the bus to and from games/meets, cuddled underneath blankets, and holding hands. Madison would sometimes fall asleep on his shoulder. Rutan engaged in this conduct despite other District coaches and/or employees riding on the same bus.

44. Parents began to express concerns over Rutan's inappropriate behavior towards Madison, but as set forth above, parents were told to stop talking and apologize to Rutan or risk threatening their children's athletic opportunities.

45. The reality was, as a former Norton Middle School teacher later admitted to Madison via social media, everyone knew about Rutan and Madison—people were just afraid to do anything because of his popularity and influence in the District.

46. On the evening of Madison's eighth-grade dance, Rutan chaperoned. This allowed him to see Madison. Rutan told Madison he "fell in love with her" that night. Rutan was in his early thirties, and Madison was thirteen. At the dance, Rutan expressed anger towards Madison because she went to the dance with an eighth-grade boy. Law enforcement would later find photos in Rutan's desk in his classroom of Madison and her friends at the eighth-grade dance.

47. During Madison's eighth-grade year, Madison made a t-shirt with, "I [heart] BMR [Rutan's initials]" written on it. Madison regularly wore that t-shirt to school. That t-shirt was later discovered by law enforcement in Rutan's desk at Norton Middle School.

48. During the late spring and summer following Madison's eighth-grade year, Rutan asked Madison to be the "stat girl" for the Norton Middle School eighth-grade football team. Rutan drove Madison home after every practice and spent time alone with her on school property nearly every day.

49. Rutan began playing a "game" with Madison after practices, in which he would hide in the girls locker room of Norton Middle School and make Madison come find him. One day, Rutan kissed Madison in the locker room. Madison was in shock and walked away. Rutan immediately panicked and begged Madison not to tell anyone.

50. Two weeks later, Rutan had sex with Madison in the volleyball coach's office at Norton Middle School. Rutan was 31 years old, and Madison had just turned 14 years old. This was Madison's first sexual encounter. She cried from pain the entire time. Madison was too scared to tell her parents or report Rutan because he Rutan immediately threatened her that they would both get into trouble if she told.

51. Rutan then began having sex with Madison three to four times a week that summer on Norton Middle School property, including in the locker rooms, portable units, his classroom, other classrooms, coach's offices, and elsewhere. Madison cried each and every time. Whenever Madison would try to make excuses to avoid these sexual encounters, Rutan flew into a jealous rage—accusing her of having sexual relationships with others.

52. As a student minor working with the football coaches on school property—something that was not even allowed—the District, Norton Middle School, and their employees

and agents owed Madison a duty of care to protect Madison against unreasonable harm, including sexual abuse at the hands of a Norton Middle School teacher and coach.

2013–2017: Madison Returns to Norton Middle School Nearly Every Day

53. Madison attended high school in another school district. There, she enrolled in a class called Career Mentorship. Despite having dreams of becoming a lawyer one day, Rutan encouraged her to set her sights on teaching. In the Career Mentorship class, students selected a mentor working in the career in which they were interested. Rutan instructed Madison to choose him as her “mentor”.

54. So, Madison went to Norton Middle School for the two-block period, and Rutan encouraged her to skip the rest of her high school classes and spend the rest of the day with him. Rutan would then have sex with Madison at Norton Middle School—often during school hours.

55. The District and Norton Middle School participated in this mentorship program by allowing students from other districts to spend time with a Norton Middle School teacher. Accordingly, they owed Madison a duty to protect her from unreasonable harm, including sexual abuse at the hands of a Norton Middle School teacher on school property.

56. Upon information and belief, Norton Middle School never contacted Madison’s high school regarding Madison spending entire days with Rutan at Norton Middle School.

57. Throughout Madison’s high school years, Rutan frequently sent Madison romantic and suggestive emails from his South-Western City School District email account.

58. Rutan also asked Madison to help him “coach” track at Norton Middle School. He assured Madison she would be compensated like the other coaches—something that was not permitted.

59. Nearly every day after track practice, Rutan would keep Madison at Norton Middle School and have sex with her at the school, including in the locker rooms, his classroom, coach's offices, and other locations within the school building.

60. As a minor volunteering with Norton Middle School athletics, the named Defendants owed Madison a duty to keep her safe from sexual abuse at Norton Middle School and at the hands of a Norton Middle School employee.

61. Rutan had full access to the school—not only during the instructional day, but also before and after school, on weekends, and even on holidays. Rutan even invited Madison to the school on Christmas when the school was closed for winter break, and where he would give Madison gifts and engage in sexual acts with her.

62. It was not until after Rutan's arrest that the District decided to implement reasonable security measures to prevent this from happening again.

63. Rutan also emotionally abused and manipulated Madison. When he discovered that Madison was in a relationship with a boy her age, Rutan texted Madison that he was going to kill himself or trap her in his classroom while he "repeated everything she had done with her boyfriend."

64. Additionally, Rutan isolated Madison in an effort to keep her from confiding in others about the sexual abuse. He tried to keep her from spending time with her family and threatened to hurt himself if she ever distanced herself from him.

65. Rutan's inappropriate behavior towards Madison was common knowledge at Norton Middle School. Norton Middle School teachers and staff members cruelly gossiped about the two of them—watching them attend school-sponsored athletic events together and flirt and touch at school and school events. Students gossiped about Rutan and Madison in the hallways

and school lunchroom at Norton Middle School, often in the presence of adult staff and teachers who did nothing to protect Madison.

66. Defendants were actually or constructively aware of Rutan's sexual abuse of Madison Sparks. Yet they routinely dismissed complaints or comments about Rutan's misconduct as "rumors" or "gossip."

67. As a result of these dismissive attitudes, Defendants never appropriately evaluated these complaints, thereby engaging in reckless indifference to the safety and wellbeing of Madison Sparks.

68. Despite Rutan's open and obvious conduct, and Defendants' actual or constructive knowledge of Rutan's sexual abuse of Madison Sparks, Defendants failed to properly investigate early complaints regarding Rutan, appropriately monitor or observe Rutan, take disciplinary action against Rutan, and essentially left Madison—beginning when she just thirteen years old—to fend for herself.

69. Despite knowledge of Rutan's inappropriate contact with Madison Sparks, Defendants nevertheless: permitted Rutan to have unsupervised contact with female student athletes and students, including Madison Sparks before, during, and after school hours; failed to report to law enforcement Rutan's acts of sexual harassment, sexual grooming, sexual abuse, and illegal sexual contact and conduct with a minor; failed to comply with duties set forth in District policies and procedures, as well as Ohio law; actively and purposely concealed Rutan's unlawful conduct; were deliberately indifferent to the safety, security, and wellbeing of Norton Middle School students, athletes, minors "assisting" or otherwise engaged with Norton Middle School athletics, and minor students shadowing a mentor at Norton Middle School; prevented Madison from receiving an education without being subject to sexual battery and grooming; and promoted

school policies that fostered a climate to flourish where innocent female students including Madison Sparks were victims of sexual abuse.

70. In sum, Defendants concealed, intentionally ignored, and failed to exercise virtually any oversight or supervision of Rutan as a teacher, coach, or student mentor, despite information indicating he was a threat towards students, including Madison Sparks.

2017 – 2021: Madison Attends Capital University

71. After Madison graduated from high school in 2017, she attended Capital University. As a result of the years of sexual and emotional abuse she endured through most of her adolescence, Madison developed a severe eating disorder during her freshman year and lost 60 pounds. Madison required medical intervention for her eating disorder.

72. Rutan stalked Madison during her freshman year, and Madison turned to self-harm methods to deal with her emotional trauma she endured not only from Rutan but also from the negligence and recklessness of the named Defendants who let her down.

73. As a result of this trauma, Madison's grades suffered, and Madison has also required medical intervention, including psychological medication, in addition to therapy and counseling.

December 2021: Madison Reports Rutan to Law Enforcement

74. On November 16, 2021, Madison reported Rutan to law enforcement. Franklin County Sherriff's Office gave her a recording device on December 2, 2021, and Rutan made several admissions about their sexual contact from 2013-2018 while Madison wore the device.

75. On December 8, 2021, the District was notified by Franklin County Sherriff's Department that Rutan had been arrested and charged with two felony counts of sexual battery and

one felony count of unlawful conduct with a minor. The District placed Rutan on administrative leave on that same day.

76. On December 27, 2021, Rutan submitted a handwritten resignation letter to the District stating that he was resigning “from all positions of employment” within the District “for personal reasons effective immediately.”

77. Investigators recovered numerous objects in Rutan’s desk and classroom that were collected as evidence of his crimes against Madison. Some of these objects include love letters, the t-shirt Madison made with Rutan’s initials, gifts and receipts of gifts Rutan had bought Madison, Madison’s driver’s permit paperwork, underwear and bra that Rutan had purchased for Madison, a photo collage of the two of them, and photos of Madison and her friends at the Norton Middle School eighth-grade dance—the night Rutan “fell in love” with Madison.

78. The District also conducted an internal investigation and made its findings on December 28, 2021. Some of these findings include:

- Rutan “did not make [Madison] do a lot of classwork.”
- Rutan and Madison texted back and forth multiple times a day.
- Rutan asked Madison to help her with the football team after her eighth-grade year and had sex in the Norton Middle School girls locker room that summer.
- Rutan and Madison “had sex a couple times each week in various locations at Norton Middle School[.]”
- When Madison chose Rutan as a mentor in high school, the two “did have sex during school hours, during Mr. Rutan’s lunch or break period.”
- Numerous artifacts were discovered in Rutan’s desk, including the bra and underwear he had purchased for her, and pictures of Madison and her friends at the Norton Middle School 8th grade dance—the night Rutan “fell in love with her.”
- “Upon review of Mr. Rutan’s work email account,” emails from Rutan to Madison were uncovered in which he called her “beautiful.”

79. Based upon this investigation, the District found, “[b]ased upon the preponderance of the evidence” that Rutan did violate the SWCSD policy 3362: Anti Harassment and SWCSD policy 3210: Staff Ethics.” Further, “[b]ased upon the preponderance of the evidence it could be determined that Mr. Rutan did engage in an inappropriate sexual relationship with a female under the age of 18 and did so using SWCSD facilities and resources. It could be found that Mr. Rutan used his position as the female student’s teacher and coach to build her trust and to gain access to times in which he could be alone with the female student.” Additionally, “Rutan engaged in grooming behaviors that he used to develop a relationship and to sexually exploit [Madison] when she was a minor.”

80. Still, the District concluded, “[b]ased upon the preponderance of the evidence, it cannot be found that any District employee other than Mr. Rutan was aware of or had reason to know of the relationship between them.”

81. Roughly a week after authorities notified the District regarding Rutan’s charges, the District “decided” to “deactivate all [alarm] codes except for our custodial and administrative staff and establish codes for those who need them.”

82. As a direct and proximate result of Rutan’s crimes against her and Defendants’ negligent, willful, wanton, and reckless misconduct and reckless disregard to Madison’s safety, rights, and wellbeing, Madison has suffered serious bodily injuries, pain, suffering, emotional distress, mental anguish, and has incurred and will continue to incur medical, hospital, professional therapy, and other healthcare related expenses. Said injuries, damages, and expenses will continue in the future and are permanent. Madison seeks compensatory and punitive damages, as well as attorneys’ fees for being forced to prosecute this action, all in an amount to be determined at trial.

COUNT ONE: NEGLIGENT RETENTION AND SUPERVISION
(Against all Defendants Except Rutan)

83. Plaintiff restates and realleges the above allegations as if fully rewritten herein.

84. Defendants by their conduct set forth above were negligent in retaining and supervising Defendant Benjamin Rutan as a teacher and coach. The named Defendants, including their employees and agents, observed Rutan and Madison's inappropriate conduct, including the excessive amount of time they spent together, physically touching and cuddling on school busses to and from Norton Middle School athletic events, and knew or should have known that Defendant Rutan engaged in inappropriate behavior with minor female students and was thus unfit to serve as a teacher or coach and be left alone with minor girls. Nevertheless, the named Defendants retained Rutan as a teacher and coach for nearly two decades.

85. Upon information and belief, parents either formally or informally reported their concerns about Rutan's inappropriate behavior to employees of Norton Middle School, but those concerns were dismissed as "rumors."

86. Defendants by their conduct set forth above were negligent in supervising and monitoring the activities of Defendant Rutan even after allegations of inappropriate sexual behaviors were made by parents and despite Rutan's blatant and public inappropriate behavior towards Plaintiff.

87. Defendants also failed to properly train and educate District staff members on how to identify warning signs of employee sexual misconduct, when and how to report sexual misconduct by a staff member towards a student, and appropriate and inappropriate boundaries between staff and students.

88. Defendants by their conduct described above engaged in negligent, willful, wanton, and reckless misconduct, and their reckless disregard for the safety of Plaintiff, a minor student who was in their care for guidance and tutelage. As a direct and proximate result of Defendants' negligent retention and supervision, Madison seeks compensatory damages, punitive damages, and attorneys' fees, in an amount to be determined at trial.

COUNT TWO: NEGLIGENCE PER SE
(Against all Defendants except Rutan)

89. Plaintiff restates and realleges the above allegations as if fully rewritten herein.

90. The named Defendants were on notice or had reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that Madison Sparks suffered or faced a threat of suffering physical injury, including sexual battery at the hands of Benjamin Rutan. Accordingly, these Defendants had a legal duty pursuant to Ohio Revised Code Section 2151.421 to report their knowledge or suspicions to Franklin County Child Protective Services. These Defendants were agents of the District and Norton Middle School. Defendants' failure to report the allegations violated R.C. 2151.421, making Defendants negligent per se.

91. Defendants, by their conduct and misconduct, their failure to fail a report with Child Protective Services, and their negligence per se, enabled, empowered, and emboldened Defendant Rutan to continue engaging in crimes against Madison Sparks.

92. As a direct and proximate result of Defendants' negligence per se, Madison seeks compensatory damages, punitive damages, and attorneys' fees, in an amount to be determined at trial.

COUNT THREE: NEGLIGENCE/RECKLESSNESS
(Against All Defendants)

93. Plaintiff restates and realleges the above allegations as if fully rewritten herein.

94. At all times relevant to this action, each Defendant owed Plaintiff a duty of reasonable care to Madison Sparks and to ensure the safety and wellbeing of Madison Sparks both during the instructional day and while on Norton Middle School Property and while engaging in school-sponsored events, including athletics.

95. Defendants breached their duty of care by their conduct and misconduct described above, including their failure to prevent or stop Rutan's sexual battery, failure to protect Madison Sparks, and failure to intervene with Rutan's predatory behavior towards Madison Sparks. Specifically, Defendants were obligated to, among other things, investigate allegations, contact Madison Sparks' family, suspend or terminate Rutan, contact protective services, or take any other reasonable steps they were obligated to take in light of Rutan's conduct. Defendants' conduct in this regard was negligent, willful, wanton, and reckless, and constituted a disregard for the rights of Madison Sparks.

96. Had Defendants taken appropriate action both internally and by complying with Ohio law by acting with reasonable diligence in investigating and reporting Rutan, Rutan would have been suspended or terminated from the District, and Madison would not have suffered years of physical, emotional, and sexual abuse at the hands of Rutan.

97. Defendants by their conduct described above engaged in negligent, willful, wanton, and reckless misconduct, and their reckless disregard for the safety of Plaintiff, a minor student who was in their care for guidance and tutelage.

98. As a direct and proximate result of Defendant's negligence and recklessness, Madison seeks compensatory damages, punitive damages, and attorneys' fees, in an amount to be determined at trial.

COUNT FOUR: NEGLIGENT SECURITY
(Against All Defendants Except Rutan)

99. Plaintiff restates and realleges the above allegations as if fully rewritten herein.

100. Rutan engaged in felonious sexual battery and sexual contact against Madison Sparks on Norton Middle School's premises, both before, during, and after school, as well as weekends and holidays when the school was closed.

101. Defendants had actual and/or constructive knowledge of Rutan's unfettered access to the school and all offices and rooms within the school. Rutan especially had access to all areas of the school by virtue of his position as coach and various leadership positions in athletics.

102. Defendants, however, failed to implement reasonable security measures to prevent Rutan from bringing a minor student to Norton Middle School at any time of the day, any day of the week. Further, Defendants failed to train its employees on proper security to protect minor students on school premises.

103. There was no need or purpose for Rutan to have access to Norton Middle School after practices, on weekends, or on holidays. Rather, Rutan used that access to sexually batter Madison Sparks.

104. It was only after Rutan's arrest that Defendants decided to change the District's alarm systems to only allow custodians and others who needed access during non-school hours access to the school.

105. Defendants failed to properly provide security or surveillance to protect Madison Sparks, and as a direct and proximate result of Defendants' negligent security, Madison seeks compensatory damages, punitive damages, and attorneys' fees, in an amount to be determined at trial.

COUNT FIVE—INFLICTION OF EMOTIONAL DISTRESS
(Against All Defendants)

106. Plaintiff restates and realleges the above allegations as if fully rewritten herein.

107. Rutan sexually and emotionally abused Madison Sparks beginning when she was fourteen years old.

108. As set forth above, Defendants engaged in a negligent and reckless course of unreasonable and offensive conduct by retaining Rutan despite his clear inappropriate behavior, creating a substantial risk of sexual abuse and harassment to female students and Madison Sparks by failing to take appropriate remedial steps to report, stop, warn, or prevent the criminal conduct.

109. Defendants acted intentionally or recklessly and knew or should have known that their actions and/or inactions would result in serious emotional distress to Madison Sparks.

110. Defendants' conduct was so extreme and outrageous that it was utterly intolerable and exceeded the bounds of decency.

111. As a direct and proximate result of Defendants' unlawful conduct, Madison Sparks has suffered severe emotional distress that no reasonable person can be expected to endure well in the excess of \$25,000. For example, Madison suffers from mental health problems that have required prescription medications and medical intervention, including counseling. These damages are continuing.

COUNT SIX—PUNITIVE DAMAGES
(Against all Defendants)

112. Plaintiff restates and realleges the above allegations as if fully rewritten herein.

113. The acts and conduct alleged herein were committed by Defendants in violation of their legal duties to Madison Sparks and were committed intentionally, deliberately, and/or recklessly, and with wanton and reckless disregard for Madison's rights and safety.

114. Defendants either intended to cause emotional distress or knew or should have known that their action and inaction would result in serious emotional distress to Madison.

115. As a direct and proximate result of Defendants' deliberate, wanton, and/or reckless misconduct, Madison has suffered severe harm.

116. As a direct and proximate result of the intentional, deliberate, wanton, and reckless conduct, acts, and omissions of Defendants, Madison incurred damages as outlined above and will continue to incur damages in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

- (a) Award compensatory damages in excess of \$25,000;
- (b) Award punitive damages in an amount to be determined at trial;
- (c) Award reasonable attorneys' fees, and the costs and disbursements of this action; and
- (d) Grant other such relief as may be deemed just and proper.

Respectfully submitted,

/s/ Rex H. Elliott

Rex H. Elliott (0054054)

Chelsea C. Weaver (0096850)

Cooper Elliott

305 West Nationwide Boulevard

Columbus, Ohio 43215

(614) 481-6000

(614) 481-6001 (Facsimile)

rexe@cooperelliott.com

chelseaw@cooperelliott.com

Attorneys for Plaintiff

Madison Sparks

JURY DEMAND

Pursuant to Rule 38(B) of the Ohio Rules of Civil Procedure, Plaintiff hereby demands a trial by Jury.

/s/ Rex H. Elliott _____