

**CIVIL**

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Petition



██████████ INDIVIDUALLY  
AND ON BEHALF OF HER  
MINOR DAUGHTER, JANE DOE

NUMBER: 165403 DIVISION "C"

VERSUS

21<sup>ST</sup> JUDICIAL DISTRICT COURT

LIVINGSTON PARISH SCHOOL BOARD,  
ET AL

PARISH OF LIVINGSTON

STATE OF LOUISIANA

\*\*\*\*\*

PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel comes petitioner, ██████████  
██████████, INDIVIDUALLY AND ON BEHALF OF HER MINOR DAUGHTER,  
JANE DOE, a person of the full age of majority residing in Livingston Parish, State of  
Louisiana, who, with respect, represents the following:

1.

Made defendants herein are the following:

- A. **LIVINGSTON PARISH SCHOOL BOARD**, upon information to a public entity that can be served through its agent for service of process and school board president, Buddy Mincey, Jr., 13909 Florida Boulevard, Livingston, Louisiana 70754; and
- B. **CYNTHIA PERKINS**, a person of the full age of majority and resident Livingston Parish, State of Louisiana;
- C. **DENNIS W. PERKINS**, a person of the full age of majority and resident Livingston Parish, State of Louisiana;

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2.

The defendants are justly and truly indebted unto your petitioner, jointly, severally and *in solido*, for damages, injuries, and losses sustained together with legal interest from date of judicial demand, and all costs of these proceedings, and for general and equitable relief for the following to-wit:

3.

In November of 2018 and May of 2019, JANE DOE was a student of defendant, **CYNTHIA PERKINS**, at Westside Junior High School in Walker, Louisiana.

4.

On two separate occasions in November of 2018 and May of 2019, **CYNTHIA PERKINS** served cupcakes to her students, including JANE DOE, that she had prepared at home and brought to the class.

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5.

On October 30,2019, [REDACTED] received a call from the Livingston Parish School Board wherein she was informed that her daughter, JANE DOE, ingested cupcakes that were brought to the school by **CYNTHIA PERKINS** that were adulterated with human bodily fluids, including human semen that was supplied by defendant, **DENNIS W. PERKINS**, and videoed by **CYNTHIA PERKINS**.

6.

On October 31,2019, [REDACTED] met with the Louisiana Attorney General's Office and was informed of the above again.

7.

At no time prior to October 30,2019, were plaintiffs informed of or aware of the adulterated cupcakes.

8.

Upon information and belief, at all times pertinent hereto defendant, **CYNTHIA PERKINS**, was employed by the defendant, **LIVINGSTON PARISH SCHOOL BOARD** and at the time of the accident was in the course and scope of employment for the defendant, **LIVINGSTON PARISH SCHOOL BOARD**. Petitioner therefore pleads the doctrine of *Respondeat Superior*.

9.

Petitioner alleges that a substantial cause of the above-described events was the fault and/or negligence of **CYNTHIA PERKINS**, which is described in part but not exclusively as follows:

- a. Participating in the adulterating of food;
- b. In serving adulterated food to her students, including JANE DOE;
- c. In negligently inflicting emotional harm on plaintiffs;
- d. In violating the laws of Louisiana, including but not limited to serving adulterated food; and
- e. In committing a battery upon plaintiff.

10.

Petitioner alleges that a substantial cause of the above-described events was the fault and/or negligence of **DENNIS W. PERKINS**, which is described in part but not exclusively as follows:

- a. Participating in the adulterating of food;
- b. In negligently inflicting emotional harm on plaintiffs;
- c. In violating the laws of Louisiana, including but not limited to serving adulterated food; and
- d. In committing a battery upon plaintiff.

11.

In addition to the negligence alleged heretofore, petitioner alleges that a substantial cause of the above-described events was the fault and/or negligence of the **LIVINGSTON PARISH SCHOOL BOARD** which is described in part but not exclusively as follows:

- a. In allowing Cynthia Perkins to violate school policy by allowing her to bring homemade goods and serve them to her students;
- b. In failing to employ a safe and competent teacher;
- c. In failing to properly check the background of Cynthia Perkins prior to hiring her;and
- d. In failing to employ proper procedures to ensure the safety of its students.

12.

As a result of the combined fault and/or negligence of the defendants in causing the aforementioned events, petitioner, **JANE DOE**, suffered injuries including, but not limited to:

- a. Fear of AIDS;
- b. Fear of Communicable diseases;
- c. Emotional distress;
- d. Loss of enjoyment of life;
- e. Nausea; and
- d. Other damages and losses to be shown at trial.

13.

As a result of the aforementioned accident, petitioner, **JANE DOE**, suffered the following damages:

- a. Physical pain and suffering – past, present, and future;
- b. Mental and emotional pain, anguish, and distress – past, present, and future;
- c. Medical expenses – past, present, and future;
- d. Loss of enjoyment of life – past, present, and future;
- e. Other damages and losses to be shown at trial.

14.

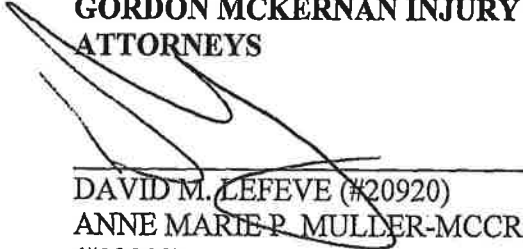
As a result of the combined fault and/or negligence of the defendants in causing the aforementioned events, petitioner, [REDACTED], suffered injuries including, but not limited to:

- a. Fear of her daughter contracting AIDS;
- b. Fear of her daughter contracting communicable diseases;
- c. Emotional distress;
- d. Loss of enjoyment of life;
- e. Loss of consortium; and
- d. Other damages and losses to be shown at trial.

**WHEREFORE PETITIONER PRAYS** that the defendants be served with a copy of the petition and citation, and after all legal delays and due proceedings had, there be judgment in favor of petitioner, [REDACTED] **INDIVIDUALLY AND ON BEHALF OF HER MINOR DAUGHTER, JANE DOE** and against the defendants, **LIVINGSTON PARISH SCHOOL BOARD, DENNIS W. PERKINS and CYNTHIA PERKINS**, for compensatory damages in an amount that will fully and adequately satisfy the demands of justice in equity, together with legal interest thereon from date of judicial demand, until paid, and for all cost of these proceedings.

**RESPECTFULLY SUBMITTED:**

**GORDON MCKERNAN INJURY  
ATTORNEYS**



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**PLEASE SERVE:**

**LIVINGSTON PARISH SCHOOL BOARD**

Through its president:  
Buddy Mincey, Jr.  
13909 Florida Boulevard  
Livingston, Louisiana 70754

**CYNTHIA PERKINS**

At the Livingston Parish Jail  
20300 Government Boulevard  
Livingston, Louisiana 70754

**DENNIS W. PERKINS**

At the Ascension Parish Jail  
2384 Lemaville Cutoff Road  
Donaldsonville, Louisiana 70346

■■■■■■ INDIVIDUALLY  
AND ON BEHALF OF HER MINOR  
DAUGHTER, JANE DOE

SUIT NO.: 165403 DIVISION "C"  
21<sup>st</sup> JUDICIAL DISTRICT COURT

VERSUS  
LIVINGSTON PARISH SCHOOL  
BOARD

PARISH OF LIVINGSTON  
STATE OF LOUISIANA

**ANSWER AND AFFIRMATIVE DEFENSES**

NOW INTO COURT, through undersigned counsel, comes the LIVINGSTON PARISH SCHOOL BOARD (LPSB), a political subdivision of the State of Louisiana, who for Answer to the Petition for Damages filed herein by plaintiff, ■■■■■■, individually and as the Court appointed Tutrix on behalf of her minor daughter, JANE DOE, avers as follows:

1.

The Livingston Parish School Board admits that it is a political subdivision of the State of Louisiana. The remaining allegations of Paragraph 1(A) pertain to other parties and do not require a response on behalf of LPSB. To the extent a response is required, any and all allegations contained therein are denied as written for lack of sufficient information in which to justify a belief therein.

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2.

The allegations of Paragraph 2 are denied. LPSB denies any joint and/or solidary liability with any other party sought to be made a defendant in this action, and solidarity cannot be presumed. La. C.C. arts. 2324, 1796.

3.

The allegations of Paragraph 3 are admitted.

4.

The allegations of Paragraph 4 are denied as written for lack of sufficient information in which to justify a belief therein.

5.

The allegations of Paragraph 5 are denied as written for lack of sufficient information in which to justify a belief therein.

6.

The allegations of Paragraph 6 are denied as written for lack of sufficient information in which to justify a belief therein.

7.

The allegations of Paragraph 7 are denied as written for lack of sufficient information in which to justify a belief therein.

8.

The allegations of Paragraph 8 are denied. Further, LPSB asserts that the theory of *respondeat superior* does not apply to the allegations of the Petition, as the acts of Cynthia Perkins as alleged were not within the course and scope of her employment with LPSB or the exercise of functions in which she was employed. La. C.C. art. 2320. Further, LPSB asserts that it had no knowledge of the independent, intentional criminal propensities and/or acts of any other defendant and/or for any such acts committed by them or any one of them, including any tortious or intentionally criminal activities that occurred away from any LPSB facility and, therefore, could not have prevented such acts as are alleged. Further, LPSB expressly asserts that any theory of negligence, fault or liability, including but not limited to *respondeat superior*, does not apply to any alleged wrongful and/or intentionally criminal act or acts of Dennis W. Perkins who is not, and has never been, an employee of LPSB and for whom LPSB cannot be held liable as a matter of law.

9.

The allegations of Paragraph 9 do not apply to LPSB and, therefore, no answer is required. Out of an abundance of caution, the allegations are denied as written for lack of sufficient information in which to justify a belief therein.

10.

The allegations of Paragraph 10 do not apply to LPSB and, therefore, no answer is required. Out of an abundance of caution, the allegations are denied as written for lack of sufficient information in which to justify a belief therein.

11.

The allegations of Paragraph 11 are denied.

12.

The allegations of Paragraph 12 are denied for lack of sufficient information in which to justify a belief therein, with defendant calling for strict proof thereof. Further, LPSB denies that there is any "combined fault and/or negligence," and to the extent that plaintiff is asserting *in solido* liability with any other defendant, LPSB again denies any joint and/or solidary liability with

any other party sought to be made a defendant in this action, and asserts that the Petition fails to state any claim for solidarity, which cannot be presumed. La. C.C. arts. 2324, 1796.

13.

The allegations of Paragraph 13 are denied, with defendant calling for strict proof thereof. Further, LPSB denies that the Petition has stated any "accident," as plaintiffs allege the intentional and criminal acts of Cynthia Perkins and Dennis W. Perkins, as the cause of plaintiffs' alleged damages.

14.

The allegations of Paragraph 14 are denied, with defendant calling for strict proof thereof. Further, LPSB denies that there is any "combined fault and/or negligence," and to the extent that plaintiff is asserting *in solido* liability with any other defendant, LPSB again denies any joint and/or solidary liability with any other party sought to be made a defendant in this action, and asserts that the Petition fails to state any claim for solidarity, which cannot be presumed. La. C.C. arts. 2324, 1796.

15.

The prayer for relief does not require an answer of LPSB but, in an abundance of caution, any allegations of fact or law are denied, and LPSB denies that plaintiffs have stated any cause or right of action for equitable relief.

**AND NOW**, in further answer, LPSB asserts the following **AFFIRMATIVE DEFENSES**:

16.

Now, in the alternative, and only in the event that this Honorable Court should determine that LPSB, or anyone for whom LPSB may be held accountable, was guilty of negligence which was a proximate cause of the damages sued upon, then and in that event only, LPSB affirmatively alleges and avers that the negligence of the plaintiffs may either bar plaintiff's recovery totally or proportionately to the amount of their negligence as compared to the alleged negligence of LPSB.

17.

LPSB prays for and is entitled to a reduction in liability for the damages claimed by the plaintiffs in this proceeding to the extent that the negligence and/or fault, including any intentional or criminal fault, of any other individuals, entities, and/or parties other than LPSB caused and/or contributed to the alleged damages, if any, claimed in this matter.



18.

While LPSB affirmatively avers that the plaintiffs have not suffered any damages as alleged in the Petition or otherwise for which LPSB may be held liable, this defendant would alternatively and affirmatively aver that the plaintiff, [REDACTED], failed in her respective duty to mitigate her damages and/or the alleged damages of her minor child; therefore, any and all damages alleged to have been suffered by the plaintiffs were caused or aggravated by the plaintiffs' or either plaintiff's actions or inactions and, thus, any alleged damages, if any, should be reduced to the extent that plaintiffs have failed to mitigate their damages.

19.

It is denied that plaintiffs' damages exceed \$50,000.00, each, exclusive of interest and costs; however, if it is later determined that plaintiffs' damages do exceed this amount, defendant respectfully prays for a trial by jury on all issues.

20.

Now, in the alternative, and only in the event that it is determined that LPSB, or anyone for whom LPSB may be held legally liable, was at fault in causing or contributing to any of the damages sued upon, which damages LPSB denies, then and in that event only, LPSB pleads the statutory limitations applicable to suits against the state or a state agency or political subdivision of the state, such as defendant, Livingston Parish School Board. La. R.S. 13:5106(B)(1). Defendant is a political subdivision of the State of Louisiana and shall be accorded the protections and limitations provided by law regarding the monetary limit on these claims, inclusive of all claims and derivative claims that are or may be asserted against LPSB herein.

21.

Now, in the alternative, and only in the event that it is determined that LPSB, or anyone for whom LPSB may be held legally liable, was at fault in causing or contributing to any of the damages sued upon, then and in that event only, LPSB affirmatively alleges and avers that at all material times herein, it was a political subdivision of the State of Louisiana and was acting in accordance with state law, regulations, and/or approved guidelines in its official capacity as a Public School Board/System, and it hired and retained Cynthia Perkins as a teacher based on objective data demonstrating competence, trustworthiness, and full compliance with all qualifications, training, experience, licensing, performance evaluations, and background screenings as established and required by the Louisiana Department of Education. The decision

made by defendant and/or the individual(s) charged by defendant and for whom defendant is responsible to hire and retain Cynthia Perkins was done in the exercise or performance of their policymaking or discretionary decision making within the course and scope of their lawful powers and duties. Accordingly, LPSB denies that plaintiffs may have stated any claim based on the decision to hire or retain Cynthia Perkins as a teacher because the acts or decisions related to her employment, evaluation, and retention as a Livingston Parish school teacher, at all material times herein until her termination, were reasonably related to the legitimate governmental objectives for which LPSB's policymaking or discretionary powers as a Louisiana School Board exist. Defendant further asserts that it is immune from a finding of any liability whatsoever, and as a public entity, it is entitled to and shall be accorded the protections and limitations provided by Louisiana law, including immunity for policymaking or discretionary acts or omissions of public entities or their officers or employees. La. R.S. 9:2798.1.

22.

The Petition fails to state any claim upon which relief can be granted against LPSB for violation of laws of the State of Louisiana, the Louisiana Civil Code Article 2315 et seq., or any other state law and/or regulatory provision; therefore, such claims against the LPSB should be dismissed.

WHEREFORE, defendant, LIVINGSTON PARISH SCHOOL BOARD, respectfully prays that this Answer be deemed good and sufficient and that after all due proceedings and legal delays there be judgment rendered in favor of LPSB and against plaintiffs, rejecting and denying plaintiffs' claims, and that this suit be dismissed as to LPSB, with prejudice, and at plaintiff's costs. AND FOR ALL GENERAL AND EQUITABLE RELIEF.

Respectfully submitted:

BOYER, HEBERT, CARUSO & ANGELLE, LLC

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Attorneys for Livingston Parish School Board