

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

-----X  
CLARICE MARTIN and DOUGLAS RICHARD,

Index No.:

Date Filed: 8/21/17

S U M M O N S

Plaintiffs,

Plaintiff designates  
WESTCHESTER COUNTY  
as the place of trial

The basis of the venue is  
location of occurrences

-against-

The incidents occurred at  
Irvington High School,  
Irvington, New York

IRVINGTON UNION FREE SCHOOL DISTRICT,  
DAVID J. SOTTILE, AND SCOTT PALERMO,

WESTCHESTER COUNTY

Defendants.

-----X  
**TO THE ABOVE NAMED DEFENDANTS:**

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer on the Plaintiffs' Attorney within 20 days after service of this summons, exclusive of the day of service, or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York, and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
August 21, 2017



MICHAEL SHAPIRO, PLLC  
Attorney for Plaintiffs  
270 Madison Avenue, Suite 1501  
New York, New York 10016  
(212) 417-9191

To:

New York State Department of State  
99 Washington Avenue  
Albany, NY 12207

Irvington Union Free School District  
6 Dows Lane  
Irvington, New York 10533

David J. Sottile  
c/o Irvington Union Free School District  
6 Dows Lane  
Irvington, New York 10533

Scott Palermo  
c/o Irvington Union Free School District  
6 Dows Lane  
Irvington, New York 10533

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

-----X Index No.:  
CLARICE MARTIN and DOUGLAS RICHARD,  
VERIFIED COMPLAINT  
Plaintiffs,  
-against-

IRVINGTON UNION FREE SCHOOL DISTRICT,  
DAVID J. SOTTILE, AND SCOTT PALERMO,

Defendants.  
-----X

Plaintiffs, by their attorney, Michael Shapiro, PLLC, complaining of the Defendants,  
respectfully state and allege as follows:

**AS AND FOR A FIRST CAUSE OF ACTION**

1. That at all times herein mentioned, the occurrences which gave rise to the commencement  
of this action took place in the County of Westchester.

2. That this matter involves an attack that occurred on March 16, 2017 upon Plaintiff

CLARICE MARTIN by a student ("INFANT STUDENT HT") in her classroom at  
Irvington High School, Irvington, New York, whereby Plaintiff CLARICE MARTIN  
suffered grievous and permanent injuries, which include but are not limited to,  
concussion, post-concussion syndrome, adjustment disorder with depression and  
anxiety, post-traumatic vision syndrome, injuries to head, neck, shoulders, vertigo,  
nausea, headache, impaired sight, sleeping, balance, and walking, fatigue, noise and  
light sensitivity, inability to concentrate, speech impairment, memory loss, nightmares,  
cervical muscle strain, pain, numbness and tingling, loss of consortium, and related  
pain and suffering, and loss of income and potential retirement benefits.

3. That the March 16, 2017 attack could have been prevented by Defendants IRVINGTON UNION FREE SCHOOL DISTRICT, DAVID J. SOTTILE, and SCOTT PALERMO, as they were on prior notice from Plaintiff CLARICE MARTIN as to the violent behavior of INFANT STUDENT HT.
4. That upon information and belief, and at all times herein mentioned, Defendant IRVINGTON UNION FREE SCHOOL DISTRICT was and still is a municipal corporation or political subdivision of Irvington, New York, duly organized and existing under and by virtue of the laws of the State of New York and/or County of Westchester.
5. That upon information and belief, and at all times herein mentioned, Defendant DAVID J. SOTTILE was employed by IRVINGTON UNION FREE SCHOOL DISTRICT as its Principal of Irvington Middle School, Irvington, New York.
6. That upon information and belief, and at all times herein mentioned, Defendant SCOTT PALERMO was employed by IRVINGTON UNION FREE SCHOOL DISTRICT as its Director of Pupil Personnel Services.
7. That on or about May 23, 2017, Plaintiffs CLARICE MARTIN and DOUGLAS RICHARD caused a Notice of Claim dated May 19, 2017, in writing, sworn to by or on their behalf to be served upon the Defendants, by service upon the New York State Department of State, Division of Corporations, State Records and Uniform Commercial Code, which set forth the name and post office address of the Plaintiffs and their attorney, the nature of the claim, the time when, the place where, and the manner in which the claim herein sued upon arose and the items of damages or injuries claimed to have been sustained, so far as then practicable.
8. That no 50-(h) hearing was commenced by Defendants IRVINGTON UNION FREE SCHOOL DISTRICT, DAVID J. SOTTILE and SCOTT PALERMO.

9. That at least thirty (30) days have elapsed prior to the commencement of this action since the service of the Notice of Claim on the Defendants and a 50-h hearing and payment has been neglected and/or refused by Defendants IRVINGTON UNION FREE SCHOOL DISTRICT, DAVID J. SOTTILE and SCOTT PALERMO.
10. That at no time between the service of the Notice of Claim and the commencement of this action did Defendants IRVINGTON UNION FREE SCHOOL DISTRICT, DAVID J. SOTTILE and SCOTT PALERMO demand a physical examination of Plaintiffs to be conducted.
11. That this action was commenced within one (1) year and ninety (90) days after the happening of the events upon which the claim is based, or otherwise within the time to commence the action pursuant to and permitted by the CPLR.
12. That at all times herein mentioned Defendant IRVINGTON UNION FREE SCHOOL DISTRICT owned the school known as IRVINGTON MIDDLE SCHOOL, located at 40 North Broadway, Irvington, New York 10533.
13. That at all times herein mentioned Defendant IRVINGTON UNION FREE SCHOOL DISTRICT operated the school known as IRVINGTON MIDDLE SCHOOL, located at 40 North Broadway, Irvington, New York 10533.
14. That at all times herein mentioned Defendant IRVINGTON UNION FREE SCHOOL DISTRICT managed the school known as IRVINGTON MIDDLE SCHOOL, located at 40 North Broadway, Irvington, New York 10533.
15. That at all times herein mentioned Defendant IRVINGTON UNION FREE SCHOOL DISTRICT controlled the school known as IRVINGTON MIDDLE SCHOOL, located at 40 North Broadway, Irvington, New York 10533.

16. That at all times herein mentioned Defendant IRVINGTON UNION FREE SCHOOL DISTRICT leased the school known as IRVINGTON MIDDLE SCHOOL, located at 40 North Broadway, Irvington, New York 10533.
17. That at all times herein mentioned Defendant IRVINGTON UNION FREE SCHOOL DISTRICT used the school known as IRVINGTON MIDDLE SCHOOL, located at 40 North Broadway, Irvington, New York 10533.
18. That at all times herein mentioned Defendant IRVINGTON UNION FREE SCHOOL DISTRICT was the administrative entity for the school known as IRVINGTON MIDDLE SCHOOL, located at 40 North Broadway, Irvington, New York 10533.
19. That at all times herein mentioned Plaintiff CLARICE MARTIN was employed by the school known as IRVINGTON MIDDLE SCHOOL, located at 40 North Broadway, Irvington, New York 10533.
20. That at all times herein mentioned Plaintiff CLARICE MARTIN worked at the school known as IRVINGTON MIDDLE SCHOOL, located at 40 North Broadway, Irvington, New York 10533, as a special education teacher of students with autism and developmental disabilities.
21. That at all times herein mentioned, Defendant DAVID J. SOTTILE in his dealings and/or contacts and /or interactions with Plaintiff CLARICE MARTIN, did so with the knowledge (actual, tacit, constructive, or otherwise) and/or consent (actual, tacit, constructive, or otherwise), and/or permission (actual, tacit, constructive, or otherwise) of Defendant IRVINGTON UNION FREE SCHOOL DISTRICT.
22. That at all times herein mentioned, Defendant SCOTT PALERMO in his dealings and/or contacts and /or interactions with Plaintiff CLARICE MARTIN, did so with the knowledge (actual, tacit, constructive, or otherwise) and/or consent (actual, tacit,

constructive, or otherwise), and/or permission (actual, tacit, constructive, or otherwise) of Defendant IRVINGTON UNION FREE SCHOOL DISTRICT.

23. That upon information and belief, on or about the school year of 2014 through March 2017, Defendants IRVINGTON UNION FREE SCHOOL DISTRICT, DAVID J. SOTTILE and SCOTT PALERMO, their agents, servants and/or employees were negligent, careless, and reckless to remove Infant Student HT from the IRVINGTON UNION FREE SCHOOL DISTRICT due to his documented violent behavior; failure by the IRVINGTON UNION FREE SCHOOL DISTRICT, its agents, servants, licensees, contractors, subcontractors, and employees, and Defendants DAVID J. SOTTILE and SCOTT PALERMO to prevent Infant Student HT in a special education classroom at Irvington Middle School, Irvington, New York, to strike with a closed fist Plaintiff CLARICE MARTIN upon the top of her head, driving her head down into her spine causing her grievous injuries; failure by the IRVINGTON UNION FREE SCHOOL DISTRICT, its agents, servants, licensees, contractors, subcontractors, and employees, and Defendants DAVID J. SOTTILE and SCOTT PALERMO to provide Plaintiff CLARICE MARTIN with adequate protection from the documented violent behavior of Infant Student HT; failure by the IRVINGTON UNION FREE SCHOOL DISTRICT, its agents, servants, licensees, contractors, subcontractors, and employees, and Defendants DAVID J. SOTTILE and SCOTT PALERMO to cause, allow, and permit Infant Student HT to remain in the Irvington Middle School, Irvington, New York, when IRVINGTON UNION FREE SCHOOL DISTRICT, its agents, servants, licensees, contractors, subcontractors, and employees, and Defendants DAVID J. SOTTILE and SCOTT PALERMO knew Infant Student HT was unfit and dangerous to others to so remain; failure by the IRVINGTON UNION FREE SCHOOL DISTRICT, its agents, servants, licensees, contractors, subcontractors, and employees,

and Defendants DAVID J. SOTTILE and SCOTT PALERMO to create a safe and proper atmosphere and teaching environment for Plaintiff CLARICE MARTIN; failure by the IRVINGTON UNION FREE SCHOOL DISTRICT, its agents, servants, licensees, contractors, subcontractors, and employees, and Defendants DAVID J. SOTTILE, and SCOTT PALERMO to take the proper steps to have avoided the violent attacks upon Plaintiff CLARICE MARTIN and the other teachers and aides in the special education classroom; failure by the IRVINGTON UNION FREE SCHOOL DISTRICT, its agents, servants, licensees, contractors, subcontractors, and employees, and Defendants DAVID J. SOTTILE and SCOTT PALERMO to obey all laws, statutes, regulations, policies, and the like relating to the IRVINGTON UNION FREE SCHOOL DISTRICT, its agents, servants, licensees, contractors, subcontractors, and employees, and Defendants DAVID J. SOTTILE, and SCOTT PALERMO's administration and/or prevention of acts of violence by students despite adequate and complete notice by Plaintiff CLARICE MARTIN of the IRVINGTON UNION FREE SCHOOL DISTRICT, its agents, servants, licensees, contractors, subcontractors, and employees, and Defendants DAVID J. SOTTILE and SCOTT PALERMO over a period of three (3) years of the occurrence of such acts of violence by Infant Student HT and the likelihood of further such attacks of violence by Infant Student HT against other students, teachers, and aides including but not limited to Plaintiff CLARICE MARTIN; failure by the Defendant IRVINGTON UNION FREE SCHOOL DISTRICT, its agents, servants, licensees, contractors, subcontractors, and employees, and Defendants DAVID J. SOTTILE and SCOTT PALERMO to properly own, operate, maintain, manage, control, administer, and/or supervise the School, its administrative staff, teachers, and other employees.

24. That said occurrences and the injuries resulting therefrom and sustained by Plaintiff

CLARICE MARTIN were caused by reason of the negligence, carelessness, recklessness, and intentional actions, and conduct of the Defendant IRVINGTON UNION FREE SCHOOL DISTRICT, its agents, servants, licensees, contractors, subcontractors, and employees, and Defendants DAVID J. SOTTILE and SCOTT PALERMO.

25. The Defendants jointly and/or severally owed a legal duty of care to Plaintiffs that was breached.

26. That by reason of the foregoing, Plaintiff CLARICE MARTIN sustained severe and permanent personal and psychological injuries, the full extent of which are not presently known, including, but not limited to, upon information and belief, severe physical and emotional injuries.

27. That this action falls within one or more exceptions set forth in CPLR Section 1602 as the duty to maintain is non-delegable and the conduct of the Defendants was reckless and intentional.

**WHEREFORE**, Plaintiff CLARICE MARTIN demands judgment on the First Cause of Action against Defendants in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction over this action on the Causes of Action alleged herein, together with the interest, costs, and disbursements of this action.

**AS AND FOR A SECOND CAUSE OF ACTION**

28. That Plaintiffs repeat, reiterate, and re-allege each and every allegation set forth in the preceding paragraphs of this complaint marked and designated "1" through "27" with the same force and effect as though the same were more wholly and fully set forth at length herein.

29. As a result of the physical and psychological injuries sustained by her, Plaintiff CLARICE MARTIN shall upon information and belief suffer substantial loss of income and retirement benefits, all as the result of the negligence of Defendant IRVINGTON UNION FREE SCHOOL DISTRICT, its agents, servants, licensees, contractors, subcontractors, and employees, and Defendants DAVID J. SOTTILE and SCOTT PALERMO, and all other damages allowed by statute and case law as a result of the negligence, carelessness, recklessness, and gross negligence of the Defendant IRVINGTON UNION FREE SCHOOL DISTRICT, its agents, servants, licensees, contractors, subcontractors, and employees, and Defendants DAVID J. SOTTILE and SCOTT PALERMO.

**WHEREFORE**, Plaintiff CLARICE MARTIN demands judgment on the Second Cause of Action against Defendants in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction over this action on the Causes of Action alleged herein, together with the interest, costs, and disbursements of this action.

**AS AND FOR A THIRD CAUSE OF ACTION**

30. That Plaintiffs repeat, reiterate, and re-allege each and every allegation set forth in the preceding paragraphs of this complaint marked and designated "1" through "29" with the same force and effect as though the same were more wholly and fully set forth at length herein.

31. Plaintiff DOUGLAS RICHARD was at all times the spouse of CLARICE MARTIN, was and is entitled to the consortium, including love, affection, and services of his wife; and as a result of the foregoing was deprived of said services.

32. By reason of the negligence of the Defendants as set forth herein Plaintiff DOUGLAS RICHARD has been damaged *inter alia* in the loss of Plaintiff CLARICE MARTIN's support, consortium and companionship.

**WHEREFORE**, Plaintiff DOUGLAS RICHARD demands judgment on the Third Cause of Action against Defendants in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction over this action on the Causes of Action alleged herein, together with the interest, costs, and disbursements of this action.

**AS AND FOR A FOURTH CAUSE OF ACTION**

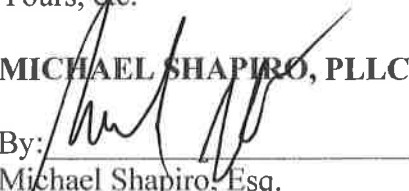
33. That Plaintiffs repeat, reiterate, and re-allege each and every allegation set forth in the preceding paragraphs of this complaint marked and designated "1" through "32" with the same force and effect as though the same were more wholly and fully set forth at length herein.
34. Plaintiff DOUGLAS RICHARD was at all times the spouse of Plaintiff CLARICE MARTIN, has become the caregiver of his wife Plaintiff CLARICE MARTIN; and as a result of the foregoing was and is restricted from the unfettered pursuit of Plaintiff DOUGLAS RICHARD's work as a music arranger and copyist.
35. By reason of the negligence of the Defendants as set forth herein, Plaintiff DOUGLAS RICHARD has been damaged *inter alia* in the loss of income and opportunities relating to the pursuit of Plaintiff DOUGLAS RICHARD's work as a music arranger and copyist.

**WHEREFORE**, Plaintiff DOUGLAS RICHARD demands judgment on the Fourth Cause of Action against Defendants in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction over this action on the Causes of Action alleged herein, together with the interest, costs, and disbursements of this action.

Dated: New York, New York  
August 21, 2017

Yours, etc.

**MICHAEL SHAPIRO, PLLC**

By:   
Michael Shapiro, Esq.  
Attorney for Plaintiffs  
270 Madison Avenue, suite 1501

New York, New York 10016  
(212) 417-9191

To:

New York State Department of State  
99 Washington Avenue  
Albany, NY 12207

Irvington Union Free School District  
6 Dows Lane  
Irvington, New York 10533

David J. Sottile  
c/o Irvington Union Free School District  
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Scott Palermo  
c/o Irvington Union Free School District  
6 Dows Lane  
Irvington, New York 10533

## ATTORNEY'S VERIFICATION BY AFFIRMATION

State of New York                    )  
  ) ss:  
County of New York                )

I, the undersigned, am an attorney admitted to practice in the Courts of the State of New York, and say that I am the attorney of record, or of counsel with the attorney of record, for Plaintiffs. I have read the annexed and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon the following: books, records, documents memoranda contained in the file, which I have in my possession.

The reason I make this affirmation instead of Plaintiffs is that Plaintiffs do not reside in the County where I have my offices.

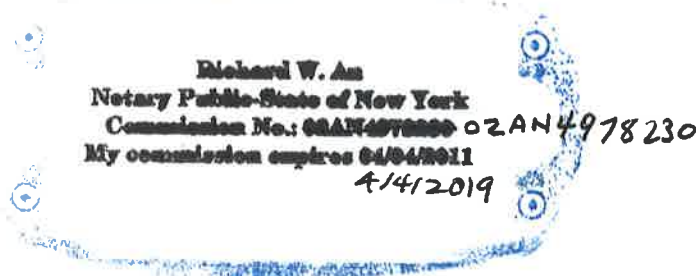
I affirm the foregoing statements are true under penalties of perjury.

Dated: New York, New York  
August 21, 2017

  
Michael Shapiro, Esq.

Sworn to before me this 21<sup>st</sup> day of August, 2017

  
Notary Public



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

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CLARICE MARTIN and DOUGLAS RICHARD,  
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Plaintiffs,  
-against-

IRVINGTON UNION FREE SCHOOL DISTRICT,  
DAVID J. SOTTILE, AND SCOTT PALERMO,

Defendants.  
-----X

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**SUMMONS AND VERIFIED COMPLAINT**

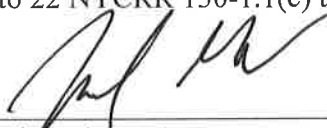
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Michael Shapiro, Esq.  
Attorney for Plaintiffs  
270 Madison Avenue, suite 1501  
New York, New York 10016  
(212) 417-9191

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I certify, upon information and belief and reasonable inquiry, as an attorney admitted to practice in the courts of New York State and pursuant to 22 NYCRR 130-1.1(c) that the contentions contained in the within pleadings are not frivolous.

Dated: August 21, 2017

  
\_\_\_\_\_  
Michael Shapiro, Esq.

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