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CARLUCCIO, LEONE, DIMON, DOYLE & SACKS, L.L.C.

Attorneys and Counsellors at Law

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Attorneys for Defendant Toms River Regional Schools Board of Education

And Jody Simone

MARY PITERA, as Guardian ad Litem
for DAVID PITERA, a minor, MARY
PITERA, as Guardian ad Litem for
ANNA PITERA, a minor and MARY
PITERA, Individually and MATTHEW
PITERA, Her Husband

Plaintiff,

v.

TOMS RIVER REGIONAL SCHOOL
DISTRICT; TOMS RIVER BOARD OF
EDUCATION; JODY SIMONE; ABC
BUS COMPANIES 1-10 (fictitious
defendants); and JOHN/JANE DOE
PUBLIC EMPLOYEES 1-10 (fictitious
defendants)

Defendants/Third-Party
Plaintiffs

v.

AUSTIN B. TOBIN

Third-Party Defendants

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION /OCEAN COUNTY

DOCKET NO. L-1348-17

Civil Action

ANSWER AND THIRD PARTY
COMPLAINT

Defendants, TOMS RIVER REGIONAL SCHOOLS BOARD OF EDUCATION

(improperly pled as Toms River Regional School District and Toms River Board of

Education) and JODY SIMONE by way of their attorney, Ronald E. Prusek, by way of

Answer to the Complaint say:

FIRST COUNT

1. Admitted.

2. Admitted.

3. Admitted only to the extent that these defendants are a public entity and does not answer this paragraph to the extent that it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

4. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

5. Denied.

6. Denied.

7. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

8. Admitted.

WHEREFORE, These defendants demand judgment in his/her/its favor, together with costs of suit, interest, attorney's fees and such other relief as the Court deems necessary.

SECOND COUNT

1. These defendants repeat and reiterate all of the answers to all of the previous allegations contained in hereinabove.
2. Admitted.
3. Admitted.
4. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.
5. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.
6. Denied.
7. Denied.
8. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.
9. Admitted.

WHEREFORE, These defendants demand judgment in his/her/its favor, together with costs of suit, interest, attorney's fees and such other relief as the Court deems necessary.

THIRD COUNT

1. These defendants repeat and reiterate all of the answers to all of the previous allegations contained in hereinabove.
2. Admitted.
3. Admitted.
4. Admitted only to the extent that Defendant Jody Simone was the operator of the school bus at the relevant time and these defendants do not answer the balance of this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.
5. Denied.
6. Denied.

WHEREFORE, These defendants demand judgment in his/her/its favor, together with costs of suit, interest, attorney's fees and such other relief as the Court deems necessary.

FOURTH COUNT

1. These defendants repeat and reiterate all of the answers to all of the previous allegations contained in hereinabove.
2. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

2. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

3. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

4. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

5. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

6. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

7. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

8. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

WHEREFORE, These defendants demand judgment in his/her/its favor, together with costs of suit, interest

FIFTH COUNT

1. These defendants repeat and reiterate all of the answers to all of the previous allegations contained in hereinabove.
2. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.
3. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.
4. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.
5. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.
6. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

7. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

8. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

WHEREFORE, These defendants demand judgment in his/her/its favor, together with costs of suit, interest, attorney's fees and such other relief as the Court deems necessary.

SIXTH COUNT

1. These defendants repeat and reiterate all of the answers to all of the previous allegations contained in hereinabove.

2. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

3. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

4. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

5. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

6. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

7. These defendants do not answer this paragraph as it does not allege any facts pertaining to these defendants. To the extent that that these allegations state, suggest or imply any liability on the part of these defendants, they are denied.

WHEREFORE, this defendant demands judgment in his/her/its favor, together with costs of suit, interest, attorney's fees and such other relief as the Court deems necessary.

SEVENTH COUNT

1. These defendants repeat and reiterate all of the answers to all of the previous allegations contained in hereinabove.

2. These defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent that the allegations state, suggest or imply any liability on the part of these defendants, they are denied.

3. Denied.

WHEREFORE, These defendants demand judgment in his/her/its favor, together with costs of suit, interest, attorney's fees and such other relief as the Court deems necessary.

EIGHTH COUNT

1. These defendants repeat and reiterate all of the answers to all of the previous allegations contained in hereinabove.
2. These defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent that the allegations state, suggest or imply any liability on the part of these defendants, they are denied.
3. Denied.

WHEREFORE, These defendants demand judgment in his/her/its favor, together with costs of suit, interest, attorney's fees and such other relief as the Court deems necessary.

NINTH COUNT

1. These defendants repeat and reiterate all of the answers to all of the previous allegations contained in hereinabove.
2. These defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent that the allegations state, suggest or imply any liability on the part of these defendants, they are denied.
3. Denied.

WHEREFORE, These defendants demand judgment in his/her/its favor, together with costs of suit, interest, attorney's fees and such other relief as the Court deems necessary.

TENTH COUNT

1. These defendants repeat and reiterate all of the answers to all of the previous allegations contained in hereinabove.
2. These defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent that the allegations state, suggest or imply any liability on the part of these defendants, they are denied.
3. Denied.

WHEREFORE, These defendants demand judgment in his/her/its favor, together with costs of suit, interest, attorney's fees and such other relief as the Court deems necessary.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

This Defendant has performed each and every duty owed to the Plaintiff herein.

SECOND AFFIRMATIVE DEFENSE

Pursuant to N.J.S.A. 2A:15-59.1 the cause of action stated against this Defendant is frivolous and the Defendants will, in completion of the matter, seek sanctions as allowed by the law.

THIRD AFFIRMATIVE DEFENSE

The cause of action alleged in the Complaint falls within the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq. and the Defendant is therefore immune from liability.

FOURTH AFFIRMATIVE DEFENSE

The claims of the Plaintiff are barred by the Statute of Limitations.

RESERVATION OF DEFENSES AND OBJECTIONS

Defendant hereby reserves the right to impose such other defenses and objections as continuing investigation may disclose.

RESERVATION OF DEFENSES AND OBJECTIONS

Defendant hereby reserves the right to impose such other defenses and objections as continuing investigation may disclose.

THIRD PARTY COMPLAINT

Defendants-third party plaintiffs, TOMS RIVER REGIONAL SCHOOLS BOARD OF EDUCATION and JODY SIMONE, by way of Third Party Complaint against the third party defendant, AUSTIN B. TOBIN say:

1. An action has been filed against the defendants-third party plaintiffs in the Superior Court of New Jersey, Law Division, Ocean County, bearing Docket No. OCN-L-1348-17, a copy of which is attached hereto.
2. The incident referred to in the Complaint of plaintiff was caused by the carelessness and negligence of the third party defendant AUSTIN B. TOBIN.
3. Third party plaintiffs deny negligence and states that the incident was the direct and proximate result of the actions of the third party defendant AUSTIN B. TOBIN, and that he is responsible, but in the event it is found that the third party plaintiffs are guilty of contributory negligence, they demand contribution pursuant to the New Jersey Joint Tortfeasors Contribution Act, N.J.S.A. 2A:53A-1, et seq. from the third party defendant.

WHEREFORE, defendants-third party plaintiffs, TOMS RIVER REGIONAL SCHOOLS BOARD OF EDUCATION and JODY SIMONE, demand judgment against the third party defendant AUSTIN B. TOBIN.

REQUEST FOR AMOUNT OF DAMAGES CLAIMED

Pursuant to R. 4:5-2, these Defendants request that Plaintiff submit to the undersigned counsel, within 5 days of service of this Answer, a statement of the amount of damages claimed by you as to each Count of the Complaint.

DEMAND FOR PRODUCTION OF INTERROGATORIES

PLEASE TAKE NOTICE that pursuant to R.4:17, defendants hereby demand that plaintiff answer Form A Uniform Interrogatories.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:25-4, Ronald E. Prusek, Esq., has been designated as trial counsel in the above-captioned matter.

CERTIFICATION PURSUANT TO RULE 4:5-1

I hereby certify that to the best of my knowledge, the within matter is not the subject of any other action pending in any Court or the subject of a pending arbitration proceeding and no other action or arbitration proceeding is contemplated. Further, at this time, I know of no other parties who should be joined in this action.

CERTIFICATION PURSUANT TO R. 4:6-1

The undersigned hereby certifies that the within Answer and Affirmative Defenses are being served within the time allowed by the Rules of Court.

I HEREBY CERTIFY that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

CARLUCCIO, LEONE, DIMON,
DOYLE & SACKS, L.L.C.
Attorneys for Defendants TOMS RIVER
REGIONAL BOARD OF EDUCATION
and JODY SIMONE

By: _____



RONALD E. PRUSEK

Dated: June 20, 2017