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

Attorneys and Counsellors at Law

9 Robbins Street

Toms River, NJ 08753

732-797-1600

Attorneys for Defendant Toms River Regional Schools Board of Education

And Jody Simone

Our File No. 5876-077

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 COMPANIES1-10 (fictitious
defendants); and JOHN/JANE DOE

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION /OCEAN COUNTY

DOCKET NO. L-1348-17

Civil Action

**ANSWER TO PLAINTIFFS' FIRST
AMENDED COMPLAINT ON BEHALF
OF DEFENDANTS TOMS RIVER
BOARD OF EDUCATION AND JODY
SIMONE**

3. Admitted only to the extent that the Toms River Board of Education is a public entity and does not answer this paragraph to the extent that it does not allege any facts pertaining to other defendants. To the extent that that these allegations state, suggest or imply any liability on the part of the Toms River Board of Education, 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(A-N). Denied.

6. Denied.

7. Denied.

8. Admitted.

WHEREFORE, the Toms River Board of Education and Jody Simone demand judgment in his/her/its/their favor, together with costs of suit, interest, attorney's fees and such other relief as the Court deems necessary.

SECOND COUNT

1. Answering 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(A-N). Denied.

7. Denied.

8. Denied.

9. Admitted.

WHEREFORE, the Toms River Board of Education and Jody Simone demand judgment in his/her/its/their 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, the Toms River Board of Education and Jody Simone demand judgment in his/her/its/their 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.

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(A-N). 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.

9. 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, the Toms River Board of Education and Jody Simone demand judgment in his/her/its/their favor, together with costs of suit, interest, attorney's fees and such other relief as the Court deems necessary.

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(A-N). 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, the Toms River Board of Education and Jody Simone demand judgment in his/her/its/their 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, the Toms River Board of Education and Jody Simone demand judgment in his/her/its/their 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, the Toms River Board of Education and Jody Simone demand judgment in his/her/its/their 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, the Toms River Board of Education and Jody Simone demand judgment in his/her/its/their 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, the Toms River Board of Education and Jody Simone demand judgment in his/her/its/their 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, the Toms River Board of Education and Jody Simone demand judgment in his/her/its/their favor, together with costs of suit, interest, attorney's fees and such other relief as the Court deems necessary.

ELEVENTH 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.

4. [sic] 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.

5. 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.

WHEREFORE, the Toms River Board of Education and Jody Simone demand judgment in his/her/its/their 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.

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.

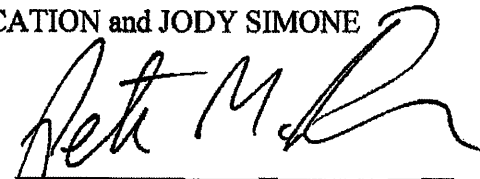
I HEREBY CERTIFY that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

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

Dated:

3/1/2018

By:


PETER M. DRAPER, ESQ.

HOBBIE, CORRIGAN & BERTUCIO, P.C.
Norman M. Hobbie, Esq. (ID No: 015541980)
125 Wyckoff Road
Eatontown, New Jersey 07724
(732) 380-1515
Attorneys for Plaintiffs
File No: 25-1744

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

Plaintiffs,

v.

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

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
OCEAN COUNTY
DOCKET NO. OCN-L-1348-17

Civil Action

**FIRST AMENDED COMPLAINT
AND DEMAND FOR TRIAL BY
JURY**

Plaintiffs, Mary Pitera, as *Guardian ad Litem* for David Pitera, a minor; Mary
Pitera, as *Guardian ad Litem* for Anna Pitera, a minor; Mary Pitera, Individually; and
Matthew Pitera, Individually, residing at 1189 Shepherd Court, in the Township of Toms
River, County of Ocean and State of New Jersey, by way of Complaint against
Defendants herein, say as follows:

FIRST COUNT

1. On or about October 18, 2016, and at all times pertinent hereto, Minor
Plaintiff, David Pitera was a student and passenger on a school bus owned, leased,
operated, supervised and/or controlled by the Township of Toms River School District,

which was traveling southbound on New Hampshire Avenue, in the Township of Toms River, County of Ocean and State of New Jersey.

2. On or about October 18, 2016, and at all times pertinent hereto, Defendant, Toms River School District was/were the owner(s)/lessor(s)/lessee(s) of the school bus being operated by its employee, agent, and/or representative and permitted user/operator Defendant, Jody Simone southbound on New Hampshire Avenue, in the Township of Toms River, County of Ocean and State of New Jersey.

3. At all times pertinent hereto, Defendant Toms River School District, was and is a public school district entrusted with the care, supervision, and safety of minor children and therefore had a heightened duty to exercise a higher standard of care to its passengers/students and their families.

4. On or about October 18, 2016, and at all times pertinent hereto, Defendant Toms River School District through its principals, administrators, agents, employees, servants and/or representatives, had a duty to ensure that the operator of its passenger bus would operate said passenger bus in a safe and prudent manner so as to avoid an unreasonable risk of injury to others, including passengers/students who had boarded said bus for transportation purposes, specifically, Minor Plaintiff David Pitera.

5. On or about October 18, 2016, and at all times pertinent hereto, Defendant Toms River Regional School District, through its principals, administrators, agents, employees, servants and/or representatives, negligently, carelessly, recklessly, and palpably unreasonably breached their duty as aforesaid in that they:

A. Engaged in negligent and careless hiring practices of the driver of the subject school bus (namely, Defendant Jody Simone);

- B. Failed to conduct proper background checks of the driver of the subject school bus (namely, Defendant Jody Simone);
- C. Negligently hired, supervised and trained the drivers of the subject bus;
- D. Hired a school bus driver who was unqualified to drive a school bus pursuant to the governing statutes, laws, and regulations;
- E. Failed to properly train and supervise the driver of the subject school bus;
- F. Failed to provide students with a safe and secure means of transportation to and from school;
- G. Failed to appropriately respond to the subject school bus driver's demonstrated history of motor vehicle violations and being involved in crashes while driving the subject school bus;
- H. Failed to properly discipline and/or retrain the subject school bus driver;
- I. Permitted a knowingly dangerous, imminent, palpably unreasonable and foreseeable risk of bodily injury to students, and specifically to Minor Plaintiffs herein;
- J. Failure to take sufficient steps to protect students, including the Minor Plaintiffs, from an imminent and known risk of physical harm;
- K. Failed to enforce the internal policies, rules and regulations of the Toms River Regional School District;
- L. Failed to formulate and enforce appropriate policies for the hiring, training, supervision, retraining, discipline, and termination of bus drivers to ensure that said drivers would provide students with safe and secure transportation;

M. Failed to exercise proper care so as to ensure the safety of students; and/or

N. Otherwise negligently entrusted the subject school bus to unqualified/unskilled/inept drivers who it knew or should have known posed an unreasonable risk of harm to its passengers.

6. As a direct and proximate result of the carelessness, negligence, recklessness and palpably unreasonable conduct of Defendant Toms River Regional School District, as aforesaid, Minor Plaintiff David Pitera was caused to sustain severe and permanent life-altering injuries, including but not limited to physical and emotional pain and suffering, grief, anguish, torment, and a profound loss of enjoyment of life; Minor Plaintiff David Pitera suffered and will in the future suffer great pain and mental anguish, was required and will in the future be required to seek medical care and attention and was prevented and will in the future be prevented from engaging in his usual pursuits and occupations.

7. Defendant Toms River Regional School District, through its principals, administrators, agents, representatives, servants and/or employees, are both primarily and vicariously liable for the Minor Plaintiff's injuries.

8. On or about November 4, 2016, a Tort Claims Notice was served upon Defendant, Toms River Regional School District, regarding the subject motor vehicle crash that occurred on October 18, 2016.

WHEREFORE, Plaintiff, David Pitera, a minor, by his g/a/l Mary Pitera, hereby demands judgment against Defendant Toms River Regional School District, their principals, administrators, agents, representatives, servants and/or employees,

individually, jointly or severally, for damages, together with interest, costs of suit attorneys' fees and such other relief as the Court may deem just and equitable.

SECOND COUNT

1. Plaintiff hereby repeats and realleges each and every allegation in the First Count of this Complaint and incorporates same by reference, as though more fully set forth at length herein.

2. On or about October 18, 2016, and at all times pertinent hereto, Minor Plaintiff David Pitera was a student and passenger on a school bus owned, leased, operated, supervised and/or controlled by Defendant Toms River Board of Education, which was traveling southbound on New Hampshire Avenue, in the Township of Toms River, County of Ocean and State of New Jersey.

3. On or about October 18, 2016, and at all times pertinent hereto, Defendant Toms River Board of Education was/were the owner(s)/lessor(s)/lessee(s) of the school bus being operated by its employee, agent, and/or representative and permitted user/operator Defendant, Jody Simone, westbound on New Hampshire Avenue, in the Township of Toms River, County of Ocean and State of New Jersey.

4. At all times pertinent hereto, Defendant, Toms River Board of Education was and is operating a public school district entrusted with the care, supervision, and safety of minor children and therefore had a heightened duty to exercise a higher standard of care to its passengers/students and their families.

5. On or about October 18, 2016, and at all times pertinent hereto, Defendant, Toms River Board of Education, through their principals, administrators, agents, employees, servants and/or representatives, had a duty to ensure that the operator

of the subject school bus would operate said bus in a safe and prudent manner so as to avoid an unreasonable risk of injury to others, including passengers/students who had boarded said bus for transportation purposes, specifically, Minor Plaintiff David Pitera.

6. On or about October 18, 2016, and at all times pertinent hereto, Defendant, Toms River Board of Education, through their principals, administrators, agents, employees, servants and/or representatives, negligently and carelessly breached their duty as aforesaid in that they:

- A. Engaged in negligent and careless hiring practices of the driver of the subject school bus (namely, Defendant Jody Simone);
- B. Failed to conduct proper background checks of the driver of the subject school bus (namely, Defendant Jody Simone);
- C. Negligently hired, supervised and trained the drivers of the subject bus;
- D. Hired a school bus driver who was unqualified to drive a school bus pursuant to the governing statutes, laws, and regulations;
- E. Failed to properly train and supervise the driver of the subject school bus;
- F. Failed to provide students with a safe and secure means of transportation to and from school;
- G. Failed to appropriately respond to the subject school bus driver's demonstrated history of motor vehicle violations and being involved in crashes while driving the subject school bus;
- H. Failed to properly discipline and/or retrain the subject school bus driver;

I. Permitted a knowingly dangerous, imminent, palpably unreasonable and foreseeable risk of bodily injury to students, and specifically to Minor Plaintiffs herein;

J. Failure to take sufficient steps to protect students, including the Minor Plaintiffs, from an imminent and known risk of physical harm;

K. Failed to enforce the internal policies, rules and regulations of the Toms River Regional School District;

L. Failed to formulate and enforce appropriate policies for the hiring, training, supervision, retraining, discipline, and termination of bus drivers to ensure that said drivers would provide students with safe and secure transportation;

M. Failed to exercise proper care so as to ensure the safety of students; and/or

N. Otherwise negligently entrusted the subject school bus to unqualified/unskilled/inept drivers who it knew or should have known posed an unreasonable risk of harm to its passengers.

7. As a direct and proximate result of the carelessness, negligence, recklessness and palpably unreasonable conduct of Defendant, Toms River Board of Education, as aforesaid, Minor Plaintiff David Pitera was caused to sustain severe and permanent life-altering injuries, including but not limited to physical and emotional pain and suffering, grief, anguish, torment, and a profound loss of enjoyment of life; Minor Plaintiff David Pitera suffered and will in the future suffer great pain and mental anguish, was required and will in the future be required to seek medical care and attention and was

prevented and will in the future be prevented from engaging in his usual pursuits and occupations.

8. Defendant, Toms River Board of Education, through their principals, administrators, agents, representatives, servants and/or employees, are both primarily and vicariously liable for the Plaintiff's injuries.

9. On or about November 4, 2016 a Tort Claims Notice was served upon Defendant, Toms River Board of Education, regarding the subject motor vehicle crash that occurred on October 18, 2016.

WHEREFORE, Plaintiff, David Pitera, a minor by his g/a/l Mary Pitera, hereby demands judgment against Defendant, Toms River Board of Education, their principals, administrators, agents, representatives, servants and/or employees, individually, jointly or severally, for damages, together with interest, costs of suit attorneys' fees and such other relief as the Court may deem just and equitable.

THIRD COUNT

1. Plaintiff hereby repeats and realleges each and every allegation in the First and Second Counts of this Complaint and incorporates same by reference, as though more fully set forth at length herein.

2. On or about October 18, 2016, and at all times pertinent hereto, Minor Plaintiff David Pitera was a student and passenger on a school bus owned, leased, operated, supervised and/or controlled by Defendant Toms River School District and/or Defendant Toms River Board of Education, which was traveling southbound on New Hampshire Avenue, in the Township of Toms River, County of Ocean and State of New Jersey.

3. At the aforesaid time and place, Defendant Jody Simone, who was an employee, agent and/or representative of Defendant Toms River School District and/or Defendant Toms River Board of Education, was the permissive operator of the subject school bus that was traveling on southbound on New Hampshire in the Township of Toms River, County of Ocean and State of New Jersey.

4. At all times pertinent hereto, Defendant Jody Simone was the operator of a school bus transporting minor children and as such, had a heightened duty to exercise the highest standard of care for the safety of the students/children she was transporting.

5. On or about October 18, 2016, and at all times pertinent hereto, Defendant Jody Simone breached her duty as aforesaid, in that she operated her school bus in a negligent and careless manner, failed to make proper observations, failed to keep a safe turning distance, failed to take evasive action, failed to maintain requisite control over said school bus and otherwise failed to comply with the laws of the State of New Jersey governing the safe operation of motor vehicles (and specifically school buses with minor passengers), causing the subject school bus to collide with another motor vehicle.

6. As a direct and proximate result of the carelessness, negligence, recklessness, and palpably unreasonable conduct of Defendant Jody Simone, Minor Plaintiff David Pitera was caused to sustain severe and permanent life-altering injuries, including but not limited to physical and emotional pain and suffering, grief, anguish, torment, and a profound loss of enjoyment of life; Minor Plaintiff David Pitera suffered and will in the future suffer great pain and mental anguish, was required and will in the future be required to seek medical care and attention and was prevented and will in the future be prevented from engaging in his usual pursuits and occupations.

WHEREFORE, Plaintiff, David Pitera, a minor by his g/a/l Mary Pitera, demands judgment against Defendant, Jody Simone, individually, jointly or severally, for damages, together with interest, costs of suit and such other damages as the Court may deem just and appropriate.

FOURTH COUNT

1. Plaintiff hereby repeats and realleges each and every allegation in the First through Third Counts of this Complaint and incorporates same by reference, as though more fully set forth at length herein.

2. On or about October 18, 2016, and at all times pertinent hereto, Defendants ABC Bus Companies 1-10 (fictitious defendants) were companies in the business of employing bus drivers to operate school buses transporting minor students.

2. On or about October 18, 2016, and at all times pertinent hereto, Minor Plaintiff David Pitera was a student and passenger on a school bus owned, leased, operated, supervised and/or controlled by Defendants ABC Bus Companies 1-10 (fictitious defendants), which bus was traveling southbound on New Hampshire Avenue, in the Township of Toms River, County of Ocean and State of New Jersey.

3. On or about October 18, 2016, and at all times pertinent hereto, Defendants ABC Bus Companies 1-10 (fictitious defendants) were the owner(s)/lessor(s)/lessee(s) of the school bus being operated by permitted user/operator Defendant, Jody Simone.

4. At all times pertinent hereto, Defendants ABC Bus Companies 1-10 (fictitious defendants) were and are engaged in the business of transporting minor

children to and from school and therefore had a heightened duty to exercise a higher standard of care to its passengers/students and their families.

5. On or about October 18, 2016, and at all times pertinent hereto, Defendants ABC Bus Companies 1-10 (fictitious defendants), through their principals, administrators, agents, employees, servants and/or representatives, had a duty to ensure that the operator of the subject school bus would operate said school bus in a safe and prudent manner so as to avoid an unreasonable risk of injury to others, including passengers who had boarded said school bus for transportation purposes, specifically, Minor Plaintiff David Pitera.

6. On or about October 18, 2016, and at all times pertinent hereto, Defendants ABC Bus Companies 1-10 (fictitious defendants) through their principals, administrators, agents, employees, servants and/or representatives, carelessly, negligently, recklessly, and/or palpably unreasonably breached their duty as aforesaid in that they:

- A. Engaged in negligent and careless hiring practices of the driver of the subject school bus (namely, Defendant Jody Simone);
- B. Failed to conduct proper background checks of the driver of the subject school bus (namely, Defendant Jody Simone);
- C. Negligently hired, supervised and trained the drivers of the subject bus;
- D. Hired a school bus driver who was unqualified to drive a school bus pursuant to the governing statutes, laws, and regulations;
- E. Failed to properly train and supervise the driver of the subject school bus;

F. Failed to provide students with a safe and secure means of transportation to and from school;

G. Failed to appropriately respond to the subject school bus driver's demonstrated history of motor vehicle violations and being involved in crashes while driving the subject school bus;

H. Failed to properly discipline and/or retrain the subject school bus driver;

I. Permitted a knowingly dangerous, imminent, palpably unreasonable and foreseeable risk of bodily injury to students, and specifically to Minor Plaintiffs herein;

J. Failure to take sufficient steps to protect students, including the Minor Plaintiffs, from an imminent and known risk of physical harm;

K. Failed to enforce the internal policies, rules and regulations of the Toms River Regional School District;

L. Failed to formulate and enforce appropriate policies for the hiring, training, supervision, retraining, discipline, and termination of bus drivers to ensure that said drivers would provide students with safe and secure transportation;

M. Failed to exercise proper care so as to ensure the safety of students; and/or

N. Otherwise negligently entrusted the subject school bus to unqualified/unskilled/inept drivers who it knew or should have known posed an unreasonable risk of harm to its passengers.

7. As a direct and proximate result of the carelessness, negligence, recklessness and/or palpably unreasonable conduct of Defendants ABC Bus Companies

1-10 (fictitious defendants), as aforesaid, Minor Plaintiff David Pitera was caused to sustain severe and permanent life-altering injuries, including but not limited to physical and emotional pain and suffering, grief, anguish, torment, and a profound loss of enjoyment of life; Minor Plaintiff David Pitera suffered and will in the future suffer great pain and mental anguish, was required and will in the future be required to seek medical care and attention and was prevented and will in the future be prevented from engaging in his usual pursuits and occupations.

8. Defendants ABC Bus Companies 1-10 (fictitious defendants), through their principals, administrators, agents, representatives, servants and/or employees, are both primarily and vicariously liable for the Plaintiff's injuries.

WHEREFORE, Plaintiff, David Pitera, a minor by his g/a/l Mary Pitera, hereby demands judgment against Defendant, Defendants ABC Bus Companies 1-10 (fictitious defendants), their principals, administrators, agents, representatives, servants and/or employees, individually, jointly or severally, for damages, together with interest, costs of suit attorneys' fees and such other relief as the Court may deem just and equitable.

FIFTH COUNT

1. Plaintiff hereby repeats and realleges each and every allegation in the preceding counts of this Complaint and incorporates same by reference, as though more fully set forth at length herein.

2. On or about October 18, 2016, and at all times pertinent hereto, Minor Plaintiff David Pitera was a student and passenger on a school bus owned, leased, operated, supervised and/or controlled by Defendants DEF Public Entities 1-10 (fictitious

defendants), which school bus was traveling southbound on New Hampshire Avenue, in the Township of Toms River, County of Ocean and State of New Jersey.

3. On or about October 18, 2016, and at all times pertinent hereto, Defendants DEF Public Entities 1-10 (fictitious defendants) was/were the owner(s)/lessor(s)/lessee(s) of the school bus being operated by their employee, agent, and/or representative and permitted user/operator Defendant, Jody Simone, westbound on New Hampshire Avenue, in the Township of Toms River, County of Ocean and State of New Jersey.

4. At all times pertinent hereto, Defendants DEF Public Entities 1-10 (fictitious defendants) were and are entrusted with the care, supervision, and safety of minor children and therefore had a heightened duty to exercise a higher standard of care to its passengers/students and their families.

5. On or about October 18, 2016, and at all times pertinent hereto, Defendants DEF Public Entities 1-10 (fictitious defendants), through their principals, administrators, agents, employees, servants and/or representatives, had a duty to ensure that the operator of the subject school bus would operate said bus in a safe and prudent manner so as to avoid an unreasonable risk of injury to others, including passengers/students who had boarded said bus for transportation purposes, specifically, Minor Plaintiff David Pitera.

6. On or about October 18, 2016, and at all times pertinent hereto, Defendants DEF Public Entities 1-10 (fictitious defendants) through their principals, administrators, agents, employees, servants and/or representatives, negligently,

carelessly, recklessly, and/or palpably unreasonably breached their duty as aforesaid in that they:

- A. Engaged in negligent and careless hiring practices of the driver of the subject school bus (namely, Defendant Jody Simone);
- B. Failed to conduct proper background checks of the driver of the subject school bus (namely, Defendant Jody Simone);
- C. Negligently hired, supervised and trained the drivers of the subject bus;
- D. Hired a school bus driver who was unqualified to drive a school bus pursuant to the governing statutes, laws, and regulations;
- E. Failed to properly train and supervise the driver of the subject school bus;
- F. Failed to provide students with a safe and secure means of transportation to and from school;
- G. Failed to appropriately respond to the subject school bus driver's demonstrated history of motor vehicle violations and being involved in crashes while driving the subject school bus;
- H. Failed to properly discipline and/or retrain the subject school bus driver;
- I. Permitted a knowingly dangerous, imminent, palpably unreasonable and foreseeable risk of bodily injury to students, and specifically to Minor Plaintiffs herein;
- J. Failure to take sufficient steps to protect students, including the Minor Plaintiffs, from an imminent and known risk of physical harm;
- K. Failed to enforce the internal policies, rules and regulations of the Toms River Regional School District;

L. Failed to formulate and enforce appropriate policies for the hiring, training, supervision, retraining, discipline, and termination of bus drivers to ensure that said drivers would provide students with safe and secure transportation;

M. Failed to exercise proper care so as to ensure the safety of students; and/or

N. Otherwise negligently entrusted the subject school bus to unqualified/unskilled/inept drivers who it knew or should have known posed an unreasonable risk of harm to its passengers.

7. As a direct and proximate result of the carelessness, negligence, recklessness and/or palpably unreasonable conduct of Defendants DEF Public Entities 1-10 (fictitious defendants), as aforesaid, Minor Plaintiff David Pitera was caused to sustain severe and permanent life-altering injuries, including but not limited to physical and emotional pain and suffering, grief, anguish, torment, and a profound loss of enjoyment of life; Minor Plaintiff David Pitera suffered and will in the future suffer great pain and mental anguish, was required and will in the future be required to seek medical care and attention and was prevented and will in the future be prevented from engaging in his usual pursuits and occupations.

8. Defendants DEF Public Entities 1-10 (fictitious defendants), through their principals, administrators, agents, representatives, servants and/or employees, are both primarily and vicariously liable for the Plaintiff's injuries.

WHEREFORE, Plaintiff, David Pitera, a minor by his g/a/l Mary Pitera, hereby demands judgment against Defendants DEF Public Entities 1-10 (fictitious defendants), their principals, administrators, agents, representatives, servants and/or employees,

individually, jointly or severally, for damages, together with interest, costs of suit attorneys' fees and such other relief as the Court may deem just and equitable.

SIXTH COUNT

1. Plaintiff hereby repeats and realleges each and every allegation in the preceding counts of this Complaint and incorporates same by reference, as though more fully set forth at length herein.

2. On or about October 18, 2016, and at all times pertinent hereto, Defendants John/Jane Doe Public Employees 1-10 (fictitious defendants) were employees, agents, servants, representatives, administrators, supervisors and/or officials employed by Defendants Toms River Regional School District, Toms River Board of Education, and/or DEF Public Entities 1-10 (fictitious defendants).

3. On or about October 18, 2016, and at all times pertinent hereto, Minor Plaintiff David Pitera was a student and passenger on a school bus owned, leased, operated, supervised and/or controlled by Defendants John/Jane Doe Public Employees 1-10 (fictitious defendants), which school bus was traveling southbound on New Hampshire Avenue, in the Township of Toms River, County of Ocean and State of New Jersey.

4. At all times pertinent hereto, Defendants DEF Public Entities 1-10 (fictitious defendants) were and are entrusted with the care, supervision, and safety of minor children and therefore had a heightened duty to exercise a higher standard of care to its passengers/students and their families.

5. On or about October 18, 2016, and at all times pertinent hereto, Defendants John/Jane Doe Public Employees 1-10 (fictitious defendants) had a duty to

ensure that the operator of the subject school bus would operate said bus in a safe and prudent manner so as to avoid an unreasonable risk of injury to others, including passengers/students who had boarded said bus for transportation purposes, specifically, Minor Plaintiff David Pitera.

6. On or about October 18, 2016, and at all times pertinent hereto, Defendants John/Jane Doe Public Employees 1-10 (fictitious defendants) negligently, carelessly, recklessly, and/or palpably unreasonably breached their duty as aforesaid in that they:

- A. Engaged in negligent and careless hiring practices of the driver of the subject school bus (namely, Defendant Jody Simone);
- B. Failed to conduct proper background checks of the driver of the subject school bus (namely, Defendant Jody Simone);
- C. Negligently hired, supervised and trained the drivers of the subject bus;
- D. Hired a school bus driver who was unqualified to drive a school bus pursuant to the governing statutes, laws, and regulations;
- E. Failed to properly train and supervise the driver of the subject school bus;
- F. Failed to provide students with a safe and secure means of transportation to and from school;
- G. Failed to appropriately respond to the subject school bus driver's demonstrated history of motor vehicle violations and being involved in crashes while driving the subject school bus;
- H. Failed to properly discipline and/or retrain the subject school bus driver;

I. Permitted a knowingly dangerous, imminent, palpably unreasonable and foreseeable risk of bodily injury to students, and specifically to Minor Plaintiffs herein;

J. Failure to take sufficient steps to protect students, including the Minor Plaintiffs, from an imminent and known risk of physical harm;

K. Failed to enforce the internal policies, rules and regulations of the Toms River Regional School District;

L. Failed to formulate and enforce appropriate policies for the hiring, training, supervision, retraining, discipline, and termination of bus drivers to ensure that said drivers would provide students with safe and secure transportation;

M. Failed to exercise proper care so as to ensure the safety of students; and/or

N. Otherwise negligently entrusted the subject school bus to unqualified/unskilled/inept drivers who it knew or should have known posed an unreasonable risk of harm to its passengers.

7. As a direct and proximate result of the carelessness, negligence, recklessness and/or palpably unreasonable conduct of Defendants John/Jane Doe Public Employees 1-10 (fictitious defendants), as aforesaid, Minor Plaintiff David Pitera was caused to sustain severe and permanent life-altering injuries, including but not limited to physical and emotional pain and suffering, grief, anguish, torment, and a profound loss of enjoyment of life; Minor Plaintiff David Pitera suffered and will in the future suffer great pain and mental anguish, was required and will in the future be required to seek medical

care and attention and was prevented and will in the future be prevented from engaging in his usual pursuits and occupations.

WHEREFORE, Plaintiff, David Pitera, a minor by his g/a/l Mary Pitera, hereby demands judgment against Defendants John/Jane Doe Public Employees 1-10 (fictitious defendants), individually, jointly or severally, for damages, together with interest, costs of suit attorneys' fees and such other relief as the Court may deem just and equitable.

SEVENTH COUNT

1. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs of this Complaint and incorporate same by reference, as though more fully set forth at length herein.

2. On October 18, 2016, and at all times pertinent hereto, Minor Plaintiff Anna Pitera was and is the natural sister of Plaintiff, David Pitera, and was in close physical proximity to her beloved brother immediately following the tragic crash that forms the basis for this Complaint, and she witnessed the unimaginable horror of her beloved brother, David Pitera, after being violently thrown about the subject school bus which caused Plaintiff David Pitera to sustain gruesome and life-altering physical injuries.

3. As a direct and proximate result of the negligent, careless, reckless, and palpably unreasonable conduct of Defendants Toms River School District, Toms River Board of Education, Jody Simone, ABC Bus Companies 1-10, DEF Public Entities 1-10, and/or John/Jane Doe Public Employees 1-10 (fictitious entities), as set forth in the preceding counts of this Complaint, Minor Plaintiff Anna Pitera was caused to suffer

severe emotional distress, great pain and mental anguish, a profound loss of the enjoyment of her life, and she has been prevented from engaging in her usual occupational and/or personal pursuits.

WHEREFORE, Plaintiff, Anna Pitera, a minor by her g/a/l Mary Pitera, pursuant to Portee v. Jaffe and other case law and common law, demands judgment against Defendants Toms River School District, Toms River Board of Education, Jody Simone, ABC Bus Companies 1-10, DEF Public Entities 1-10, and/or John/Jane Doe Public Employees 1-10 (fictitious entities), individually, jointly or severally, for damages, together with interest and costs of suit and such other relief as the Court may deem just and equitable.

EIGHTH COUNT

1. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs of this Complaint and incorporate same by reference, as though more fully set forth at length herein.

2. On October 18, 2016, and at all times pertinent hereto, Minor Plaintiff Anna Pitera was and is the natural sister of Plaintiff David Pitera, and, as such, was entitled to the services, consortium, advice, companionship, society, counsel, love, support, care, contributions and assistance of her brother, Minor Plaintiff David Pitera.

3. As a direct and proximate result of the negligent, careless, reckless, and palpably unreasonable conduct of Defendants Toms River School District, Toms River Board of Education, Jody Simone, ABC Bus Companies 1-10, DEF Public Entities 1-10, and/or John/Jane Doe Public Employees 1-10 (fictitious entities), as set forth in the

preceding counts of this Complaint, Minor Plaintiff Anna Pitera has been deprived of the services, consortium, advice, companionship, society, counsel, love, support, care, contributions, and assistance of her brother, Minor Plaintiff David Pitera.

WHEREFORE, Plaintiff, Anna Pitera, a minor by her g/a/l Mary Pitera, demands judgment against Defendants Toms River School District, Toms River Board of Education, Jody Simone, ABC Bus Companies 1-10, DEF Public Entities 1-10, and/or John/Jane Doe Public Employees 1-10 (fictitious entities), individually, jointly or severally, for all damages arising from the aforestated losses, including but not limited to such damages as are recoverable under Green v. Bittner and other case law and common law, together with interest and costs of suit and such other relief as the Court may deem just and equitable.

NINTH COUNT

1. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs of this Complaint and incorporate same by reference, as though more fully set forth at length herein.

2. On October 18, 2016, and at all times pertinent hereto, Plaintiff Mary Pitera was and is the natural mother of Plaintiffs David Pitera and Anna Pitera, and, as such, was entitled to the services, consortium, advice, companionship, society, counsel, love, support, care, contributions and assistance of her children, Minor Plaintiff David Pitera and Minor Plaintiff Anna Pitera.

3. As a direct and proximate result of the negligent, careless, reckless, and palpably unreasonable conduct of Defendants Toms River School District, Toms River

Board of Education, Jody Simone, ABC Bus Companies 1-10, DEF Public Entities 1-10, and/or John/Jane Doe Public Employees 1-10 (fictitious entities), as set forth in the preceding counts of this Complaint, Plaintiff Mary Pitera has been deprived of the services, consortium, advice, companionship, society, counsel, love, support, care, contributions, and assistance of her children, Minor Plaintiff David Pitera and Minor Plaintiff Anna Pitera.

WHEREFORE, Plaintiff Mary Pitera demands judgment against Defendants Toms River School District, Toms River Board of Education, Jody Simone, ABC Bus Companies 1-10, DEF Public Entities 1-10, and/or John/Jane Doe Public Employees 1-10 (fictitious entities), individually, jointly or severally, for all damages arising from the aforesaid losses, including but not limited to such damages as are recoverable under Green v. Bittner and other case law and common law, together with interest and costs of suit and such other relief as the Court may deem just and equitable.

TENTH COUNT

1. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs of this Complaint and incorporate same by reference, as though more fully set forth at length herein.

2. On October 18, 2016, and at all times pertinent hereto, Plaintiff Matthew Pitera was and is the natural father of Plaintiffs David Pitera and Anna Pitera, and, as such, was entitled to the services, consortium, advice, companionship, society, counsel, love, support, care, contributions and assistance of his children, Minor Plaintiff David Pitera and Minor Plaintiff Anna Pitera.

3. As a direct and proximate result of the negligent, careless, reckless, and palpably unreasonable conduct of Defendants Toms River School District, Toms River Board of Education, Jody Simone, ABC Bus Companies 1-10, DEF Public Entities 1-10, and/or John/Jane Doe Public Employees 1-10 (fictitious entities), as set forth in the preceding counts of this Complaint, Plaintiff Matthew Pitera has been deprived of the services, consortium, advice, companionship, society, counsel, love, support, care, contributions, and assistance of his children, Minor Plaintiff David Pitera and Minor Plaintiff Anna Pitera.

WHEREFORE, Plaintiff Matthew Pitera demands judgment against Defendants Toms River School District, Toms River Board of Education, Jody Simone, ABC Bus Companies 1-10, DEF Public Entities 1-10, and/or John/Jane Doe Public Employees 1-10 (fictitious entities), individually, jointly or severally, for all damages arising from the aforesaid losses, including but not limited to such damages as are recoverable under Green v. Bittner and other case law and common law, together with interest and costs of suit and such other relief as the Court may deem just and equitable.

ELEVENTH COUNT

1. Plaintiffs hereby repeat and reallege each and every allegation in the First through Tenth Counts of this Complaint and incorporate same by reference, as though more fully set forth at length herein.

2. On or about October 18, 2016, Defendant Austin Tobin, was the operator of a motor vehicle which was traveling northbound on New Hampshire in the Township of Toms River, County of Ocean and State of New Jersey.

4. On or about October 18, 2016, and at all times pertinent hereto, Defendant Austin Tobin breached his duty as aforesaid, in that he operated his vehicle in a negligent and careless manner, failed to make proper observations, failed to take evasive action, failed to maintain requisite control over said vehicle and otherwise failed to comply with the laws of the State of New Jersey governing the safe operation of motor vehicles, causing the subject vehicle to collide with another motor vehicle (school bus).

5. As a direct and proximate result of the carelessness, negligence, recklessness, and palpably unreasonable conduct of Defendant Austin Tobin, Minor Plaintiff David Pitera and Minor Plaintiff Anna Pitera were caused to sustain severe and permanent life-altering injuries, including but not limited to physical and emotional pain and suffering, grief, anguish, torment, and a profound loss of enjoyment of life; Minor Plaintiffs suffered and will in the future suffer great pain and mental anguish, were required and will in the future be required to seek medical care and attention and were prevented and will in the future be prevented from engaging in their usual pursuits and occupations.

WHEREFORE, all Plaintiffs listed above, demand judgment against Defendant, Austin Tobin, individually, jointly or severally, for damages, together with interest, costs of suit and such other damages as the Court may deem just and appropriate.

HOBBIE, CORRIGAN & BERTUCIO, P.C.
Attorneys for Plaintiffs

BY: _____
NORMAN M. HOBBIE, ESQ.

DATED: November 14, 2017

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury as to all issues raised in the within pleading.

HOBBIE, CORRIGAN & BERTUCIO, P.C.
Attorneys for Plaintiffs

BY: _____
NORMAN M. HOBBIE, ESQ.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:25-4, Norman M. Hobbie, Esq. is hereby designated as trial counsel herein.

HOBBIE, CORRIGAN & BERTUCIO, P.C.
Attorneys for Plaintiffs

BY: _____
NORMAN M. HOBBIE, ESQ.

DATED: November 14, 2017

CERTIFICATION PURSUANT TO 4:5-1

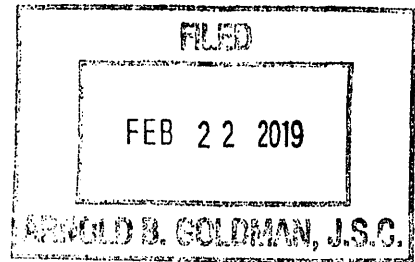
1. The within matter is not the subject of any other proceeding or arbitration;
2. No other proceeding or arbitration is contemplated herein;
3. All parties presently known to Plaintiff have been identified herein.

HOBBIE, CORRIGAN & BERTUCIO, P.C.
Attorneys for Plaintiffs

BY: _____
NORMAN M. HOBBIE, ESQ.

DATED: November 14, 2017

HOBBIE, CORRIGAN, & DECARLO, P.C.
Jacqueline DeCarlo, Esq. (Atty. I.D. No. 001321996)
125 Wyckoff Road
Eatontown, NJ 07724
(732) 380-1515
Attorneys for Plaintiffs
File No.: 25-1744



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

Plaintiffs,

v.

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

Defendants

SUPERIOR COURT OF NEWJERSEY
LAW DIVISION
OCEAN COUNTY
DOCKET NO. OCN-L-1348-17

Civil Action

**ORDER APPROVING ALLOCATION
AND
ENTERING JUDGMENT
AND
DIRECTING DEPOSIT OF FUNDS**

THIS MATTER having been brought before the Court by Jacqueline DeCarlo, Esq., of the law firm of Hobbie, Corrigan & DeCarlo, a professional corporation, attorneys for the infant Plaintiffs, and the attorneys for the parties having reported to the Court that a Settlement of the infant Plaintiff David Pitera's personal injury claim and infant Plaintiff Anna Pitera's Portee v. Jaffe/Green v. Bitner (loss of consortium) claim has been arrived at between the infant Plaintiffs and the Defendants, and the Court having taken proofs on the record on February 22, 2019 concerning the terms of the settlement, and having been satisfied that the settlement amount is fair and reasonable and in the best interest of the two infant Plaintiffs, David Pitera and Anna Pitera, and for good cause having been shown:

FILED

FEB 19 2019

IT IS on this 22nd day of February, 2019, **ORDERED** and **ADJUDGED**

that:

1. The allocation recommended by the Hon. Thomas E. O'Brien, P.J. Civ. (Retired) on January 31, 2019 regarding the minor Plaintiffs' **\$2.7 Million lump sum aggregate settlement** with Defendants, Toms River Schools Board of Education, Jody Simone, and Austin Tobin, is hereby approved by the Court.
2. Pursuant to the January 31, 2019 allocation recommended by Judge O'Brien, Judgment is hereby entered on behalf of, and in favor of, the infant Plaintiff, David Pitera, a minor by his Guardian *ad Litem*, Mary Pitera, against Defendants, Toms River Schools Board of Education, Jody Simone, and Austin Tobin, **in the amount of \$2,450,000.00 on his personal injury claim;**
3. Pursuant to the January 31, 2019 allocation recommended by Judge O'Brien, Judgment is hereby entered on behalf of, and in favor of, the infant Plaintiff, Anna Pitera, a minor by her Guardian *ad Litem*, Mary Pitera, against Defendants, Toms River Schools Board of Education, Jody Simone, and Austin Tobin, **in the amount of \$250,000.00 on her Portee v. Jaffe and Green v. Bitner (loss of consortium) claim.**
4. The gross settlement proceeds awarded to the infant David Pitera, a minor by his Guardian *ad Litem*, Mary Pitera, **on his personal injury claim** in the amount of **\$2,450,000.00** shall be subject to the following deductions and paid as follows:
 - a. **\$45,148.64** to be paid to Plaintiffs' attorneys for actual disbursements, costs, and expenses incurred in the prosecution of this matter [leaving an adjusted gross sum of **\$2,404,851.36**];

LEAH M. S. CANTRELL

FEB 19 2019

LEAH M. S. CANTRELL

- b. **\$601,212.84** for attorneys' fees awarded to law firm of Hobbie Corrigan & DeCarlo¹, P.C., [leaving a gross recovery of **\$1,803,638.52**];
 - c. **\$69,536.44** to be paid to **Blue Cross Blue Shield of North Dakota (BCBSND)** in full and final satisfaction of their subrogation/repayment interest for medical expenses paid for the benefit of the minor, David Pitera; thereby leaving a total net recovery of **\$1,734,102.08** for the benefit of the minor, David Pitera.
5. Pursuant to R.4: 48, the sum of **\$1.7 Million** from the total net recovery of **\$1,734,102.08**, shall be utilized to purchase a structured annuity from BHG Structured Settlements, Inc. through an annuity contract issued by Berkshire Hathaway Life Insurance Company of Nebraska, rated A++ by AM Best, for the benefit of the minor, David Pitera, which will generate the following payments:
- (a) The infant Plaintiff, David Pitera, will receive monthly payments in the amount of **\$7,702.00** per month, for life, guaranteed for **40 years**, beginning on **01/16/2026**, with the last guaranteed payment on **12/16/2065**; and
6. The remaining sum of **\$34,102.08** shall be deposited with the Surrogate of Ocean County, for the benefit of the minor, David Pitera.
7. All sums set forth above constitute damages on account of personal injuries and sickness, within the meaning of Section 104(a)(2) of the Internal Revenue Code of 1986, as amended.
8. The gross settlement proceeds awarded to the infant Anna Pitera, a minor by her Guardian *ad Litem*, Mary Pitera, on her **Portee v. Jaffe** and **Green v. Bitner**

¹ The law firm of Hobbie Corrigan & DeCarlo, P.C. will deduct the sum of \$150,303.21 from the total legal fee amount, which will be paid to Ben Montenegro, Esq., representing his referral fee in this matter.

(**loss of consortium**) claim in the amount of **\$250,000.00** shall be subject to the following deductions and paid as follows:

- (a) **\$5,260.43** to be paid to Plaintiffs' attorneys for actual disbursements, costs, and expenses incurred in the prosecution of this matter [leaving an adjusted gross sum of **\$244,739.57**];
- (b) The law firm of Hobbie Corrigan & DeCarlo, P.C. is **waiving their rights to recover any legal fee in this case**, thereby leaving a total net recovery of **\$244,739.57** for the benefit of the minor, Anna Pitera;

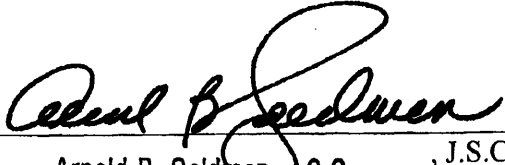
9. Pursuant to R.4: 48, that the sum of **\$240,000.00** from the total net recovery of **\$244,739.57** shall be utilized to purchase a structured annuity from BHG Structured Settlements, Inc. through an annuity contract issued by Berkshire Hathaway Life Insurance Company of Nebraska, rated A++ by AM Best, for the benefit of the minor, Anna Pitera, **guaranteed for 4 years**, which will generate the following payments:

- (a) The infant Plaintiff, Anna Pitera, will receive a guaranteed lump sum payment on 06/14/2024 in the amount of **\$73,455.00**.
- (b) The infant Plaintiff, Anna Pitera, will receive a guaranteed lump sum payment on 06/14/2025 in the amount of **\$73,455.00**.
- (c) The infant Plaintiff, Anna Pitera, will receive a guaranteed lump sum payment on 06/14/2026 in the amount of **\$73,455.00**.
- (d) The infant Plaintiff, Anna Pitera, will receive a guaranteed lump sum payment on 06/14/2027 in the amount of **\$73,455.00**.

APPROVED AND FORWARDED:

FEB 19 2019

10. The remaining sum of \$4,739.57 shall be deposited with the Surrogate of the New Jersey Superior Court, for the benefit of the minor, Anna Pitera.
11. The payment of all settlement proceeds shall be made by the settling parties within 30 days of the date hereof.
12. The attorney for the minor Plaintiffs shall deliver a copy of this Judgment to all parties and the Surrogate of Ocean County within 7 days of the date hereof.


Arnold B. Goldman, J.S.C.

RECEIVED & APPROVED

FEB 19 2019

OFFICE OF THE CLERK OF THE COURT

RELEASE

This Release, dated February 4, 2019 is given:

BY the Releasor, **MARY PITERA** as *Guardian ad Litem* for **ANNA PITERA** (Social Security # [REDACTED]) referred to as "I"

TO TOMS RIVER SCHOOLS BOARD OF EDUCATION, JODY SIMONE, BRIT INSURANCE COMPANY and INSERVCO INSURANCE SERVICES INC, referred to as "You".

If more than one person signs this Release, "I" shall mean each person who signs this Release.

1. **RELEASE.** I release and give up any and all claims and rights which I may have against you. This releases all claims, including those of which I am not aware and those not mentioned in this Release. This Release applies to claims resulting from anything which has happened up to now. I specifically release the following claims:

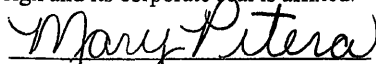
Any and all claims for personal injury that Plaintiff Anna Pitera (a minor by her Guardian ad Litem) has against Defendants, Toms River Regional School District, Toms River Board of Education and Jody Simone, arising from or in connection with a bus crash which occurred on October 18, 2016, specifically including those claims set forth in an action entitled Pitera v. Toms River Regional School District, et als., filed in the Superior Court of New Jersey, Ocean County, Law Division, Docket No. L-1348-17.

2. **Payment.** In consideration for making this Release, you have agreed to pay me a total settlement of **\$240,000.00** to be paid in accordance with the structure set forth in attached Schedule "A". (a structured annuity guaranteed for four payments on each of the four consecutive years beginning on 6/14/24, 6/14/25, 6/14/26 and 6/14/27).

3. **Liens.** For an in consideration of the above sum, the undersigned hereby agrees to satisfy all liens or encumbrances which may apply to the above sum including but not limited to medical providers, medical insurance companies, HMO's, Medicare, Medicaid, Workers' Compensation liens and any and all subrogation claims and hereby agrees to indemnify all the above named Releases and their respective insurance carriers against any further liability for the satisfaction of any such liens or encumbrances.

4. **Who is Bound.** I am bound by this Release. Anyone who succeeds to my rights and responsibilities, such as my heirs or the executor of my estate, is also bound. This Release is made for your benefit and all who succeed to your rights and responsibilities, such as your heirs or the executor of your estate.

5. **Signatures.** I understand and agree to the terms of this Release. If this Release is made by a Corporation its proper corporate officers sign and its corporate seal is affixed.

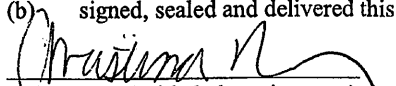


MARY PITERA, as *Guardian ad Litem* for Anna Pitera, a minor

STATE OF NEW JERSEY, COUNTY OF MONMOUTH SS.:

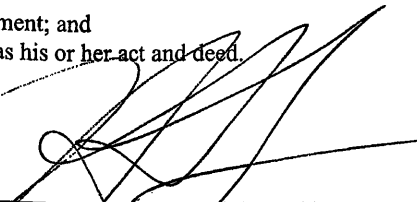
I CERTIFY that on February 4, 2019, Mary Pitera, as Guardian ad Litem for Anna Pitera, a minor, personally came before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is named in and personally signed this document; and
- (b) signed, sealed and delivered this document as his or her act and deed.


(print name & title below signature)

CHRISTINA MANNION
A NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES DECEMBER 10, 2019

Prepared By:


NORMAN M. HOBBIE, ESQ.

RELEASE

This Release, dated February 4, 2019 is given:

BY the Releasor, **MARY PITERA as Guardian ad Litem for DAVID PITERA (Social Security # [REDACTED])** referred to as "I"

TO TOMS RIVER SCHOOLS BOARD OF EDUCATION, JODY SIMONE, BRIT INSURANCE COMPANY and INSERVCO INSURANCE SERVICES INC, referred to as "You".

If more than one person signs this Release, "I" shall mean each person who signs this Release.

1. **RELEASE.** I release and give up any and all claims and rights which I may have against you. This releases all claims, including those of which I am not aware and those not mentioned in this Release. This Release applies to claims resulting from anything which has happened up to now. I specifically release the following claims:

Any and all claims for personal injury that Plaintiff David Pitera (a minor by his Guardian ad Litem) has against Defendants, Toms River Regional School District, Toms River Board of Education and Jody Simone, arising from or in connection with a bus crash which occurred on October 18, 2016, specifically including those claims set forth in an action entitled Pitera v. Toms River Regional School District, et als., filed in the Superior Court of New Jersey, Ocean County, Law Division, Docket No. L-1348-17.

2. **Payment.** In consideration for making this Release, you have agreed to pay me a total settlement of **\$2,360,000.00** to be paid as follows:

- \$1,700,000.00 to be paid in accordance with the structure set forth in attached Schedule "A" (a structured annuity starting at age 18 (1/16/26), monthly payments guaranteed on the 16th day of each month until the death of David Pitera, guaranteed for 40 years (guaranteed 480 certain monthly payments) and then payable for as long as he lives);
- The cash money to be paid "up front" for litigation expenses, legal fees, and health insurance lien;
- The remaining monies to be deposited with the Ocean County Surrogate's Office.

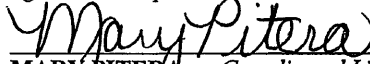
3. **Liens.** For an in consideration of the above sum, the undersigned hereby agrees to satisfy all liens or encumbrances which may apply to the above sum including but not limited to medical providers, medical insurance companies, HMO's, Medicare, Medicaid, Workers' Compensation liens and any and all subrogation claims and hereby agrees to indemnify all the above named Releases and their respective insurance carriers against any further liability for the satisfaction of any such liens or encumbrances.

4. **Who is Bound.** I am bound by this Release. Anyone who succeeds to my rights and responsibilities, such as my heirs or the executor of my estate, is also bound. This Release is made for your benefit and all who succeed to your rights and responsibilities, such as your heirs or the executor of your estate.

5. **Signatures.** I understand and agree to the terms of this Release. If this Release is made by a Corporation its proper corporate officers sign and its corporate seal is affixed.



CHRISTINA MANNON
A NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES DECEMBER 10, 2019



MARY PITERA, as Guardian ad Litem for
David Pitera, a minor

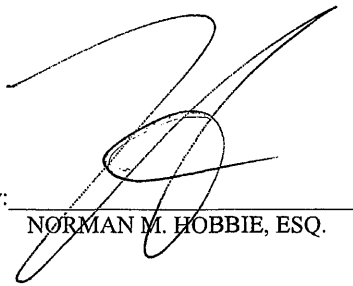
STATE OF NEW JERSEY, COUNTY OF MONMOUTH SS.: I CERTIFY that on February 4, 2019, Mary Pitera, as Guardian ad Litem for David Pitera, a minor, personally came before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is named in and personally signed this document; and
- (b) signed, sealed and delivered this document as his or her act and deed.


(print name & title below signature)

CHRISTINA MANNON
A NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES DECEMBER 10, 2019
(HC&B Tax ID# 22-3715584)

Prepared By: _____


NORMAN M. HOBBIE, ESQ.