

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

BRETT A. MCMASTER, Individually and
As Next Friend for MARAT MCMASTER, a Minor,

Plaintiff,

Case No. 14 -
Hon.

NO 14-002241-NO
FILED IN MY OFFICE
WAYNE COUNTY CLERK
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CATHY M. GARRETT

vs.

ZIGLOR PERNELL,
JULIE AVANT,
SAX GUTHERY, JR.,
ACADIA HEALTHCARE COMPANY, INC.,
a Delaware Corporation, d/b/a
DETROIT CAPSTONE ACADEMY and/or CAPSTONE PROGRAM, and
DETROIT BEHAVIORAL INSTITUTE, INC.,
a Michigan Corporation d/b/a
DETROIT BEHAVIORAL INSTITUTE – CAPSTONE PROGRAM,

Defendants.

MARIO J. AZZOPARDI (P46971)
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There is no other pending or resolved civil action arising out of
the same transaction or occurrence as alleged in this Complaint.

/s/Lawrence R. Rothstein
LAWRENCE R. ROTHSTEIN (P19697)

COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES the Plaintiff, BRETT MCMASTER, Individually and as Next Friend

MARAT MCMASTER, a Minor, by and through his attorneys, ROTHSTEIN LAW GROUP PLC, and complains unto this Honorable Court as follows:

General Allegations

1. That the Plaintiff herein is a resident of the City of Dearborn Heights, County of Wayne, State of Michigan.

2. That, based upon information and belief, Defendant, ZIGLOR PERNELL, was, at all times relevant hereto, employed by Defendants, ACADIA HEALTHCARE COMPANY, INC. and/or DETROIT BEHAVIORAL INSTITUTE, INC., to act as clinical director of Detroit Behavioral Institute and Detroit Capstone Academy and/or Capstone Program, and that at all times relevant hereto, Defendant PERNELL was acting within the authority, course and scope of his employment within the City of Detroit, County of Wayne, State of Michigan.

3. That, based upon information and belief, Defendant, JULIE AVANT, was, at all times relevant hereto, employed by Defendants, ACADIA HEALTHCARE COMPANY, INC. and/or DETROIT BEHAVIORAL INSTITUTE, INC., to act as Group CEO of Detroit Behavioral Institute and Detroit Capstone Academy and/or Capstone Program, and that at all times relevant hereto, Defendant AVANT was acting within the authority, course and scope of her employment within the City of Detroit, County of Wayne, State of Michigan.

4. That, based upon information and belief, Defendant, SAX GUTHERY, JR., was, at all times relevant hereto, employed by Defendants, ACADIA HEALTHCARE COMPANY, INC. and/or DETROIT BEHAVIORAL INSTITUTE, INC., to act as program director of Detroit Behavioral Institute and Detroit Capstone Academy and/or Capstone Program, and that at all times

relevant hereto, Defendant GUTHERY was acting within the authority, course and scope of his employment within the City of Detroit, County of Wayne, State of Michigan.

5 Defendant, ACADIA HEALTHCARE COMPANY, INC., d/b/a Detroit Capstone Academy and/or Capstone Program, hereinafter referred to as Defendant “AHC”, is a Delaware corporation qualified to do business in Michigan, whose registered agent is The Corporation Trust Company, located at Corporation Trust Center 1209 Orange St , Wilmington, Delaware 19801, and at all relevant times was conducting a regular part of its business in the City of Detroit, County of Wayne, State of Michigan

6 Defendant, DETROIT BEHAVIORAL INSTITUTE, INC , d/b/a Detroit Behavioral Institute – Capstone Program, hereinafter referred to as Defendant “DBI”, is a Michigan corporation qualified to do business in Michigan, whose resident agent is The Corporation Company, located at 30600 Telegraph Road, Bingham Farms, Michigan 48025, and at all relevant times was conducting a regular part of its business in the City of Detroit, County of Wayne, State of Michigan

7. Defendants, ACADIA HEALTHCARE COMPANY, INC. and DETROIT BEHAVIORAL INSTITUTE, INC , upon information and belief, are private entities and are not public or governmental corporations or sub-divisions of a governmental agency and therefore are not governed by or shield from liability by governmental immunity as provided by MCL §691 1401, et seq

8 This cause of action arose in the City of Detroit, County of Wayne, State of Michigan

9 That the amount in controversy herein exceeds the sum of Twenty-Five

Thousand Dollars (\$25,000.00). exclusive of attorney fees and costs.

Count I – GROSS NEGLIGENCE

10. Plaintiff herein re-incorporates and re-alleges Paragraphs 1 through 9 of the General Allegations of her Complaint with the same force and effect as if same were set forth in full hereunder, and further states:

11. That on or about April 11, 2012, Defendants, ACH and DBI, were the owners/co-owners, operators/co-operators, lessors/co-lessors, and/or were otherwise in control and/or co-control of said property, complex, and premises known as Detroit Behavioral Institute and Detroit Capstone Academy and/or Capstone Program, located at 3500 John R, in the City of Detroit, County of Wayne, State of Michigan, and maintained same for the use of their youth residents, business invitees, students and other persons lawfully housed on the premises, and maintained same as an adolescent residential treatment program and facility.

12. That in January 2012 the Minor Plaintiff, MARAT MCMASTER, was ordered by the Wayne County Juvenile Court to reside at and was held at Detroit Behavioral Institute and Detroit Capstone Academy and/or Capstone Program to undergo treatment, counseling and educational curriculum.

13. That upon his arrival at Detroit Behavioral Institute and Detroit Capstone Academy and/or Capstone Program the Minor Plaintiff, MARAT MCMASTER, then age fifteen (15), was specifically assigned to a residential placement room within Detroit Behavioral Institute and Detroit Capstone Academy wherein he was forced to reside with two other program residents.

14. That one of the roommates assigned to the Minor Plaintiff's room to reside

with the Minor Plaintiff was Jermia Leroy Jackson, then age eighteen (18).

15. That on or about April 11, 2012, Defendants, ZIGLOR PERNELL, JULIE AVANT, and SAX GUTHERY, JR , were employees, agents, representatives, directors, clinicians, and/or instructors of the Defendants, ACH and DBI, and at all times relevant hereto working within the authority, scope and course of their employment at Detroit Behavioral Institute and Detroit Capstone Academy and/or Capstone Program while on the premises

16 That on or about April 11, 2012, the Minor Plaintiff, MARAT MCMASTER, was a youth resident participating in treatment, counseling and enrolled at as a student of Detroit Behavioral Institute and Detroit Capstone Academy and/or Capstone Program located at 3500 John R, in the City of Detroit, County of Wayne, State of Michigan

17. That on or about April 11, 2012, the Defendants, ACH, DBI and their employees, agents, representatives, directors, clinicians, and/or instructors ZIGLOR PERNELL, JULIE AVANT, and SAX GUTHERY, JR , were responsible for the inspection, operation, security, supervision, monitoring, safety and well-being of the premises and/or the youth residents placed at and residing therein or were otherwise in control and/or co-control of said property, complex, and premises known as Detroit Behavioral Institute and Detroit Capstone Academy and/or Capstone Program, located in the City of Detroit, County of Wayne, State of Michigan

18 That on or about April 11, 2012, the Minor Plaintiff, MARAT MCMASTER, was lawfully in his assigned residential room inside the Detroit Behavioral Institute and Detroit Capstone Academy and/or Capstone Program when his adult roommate, Jermia Leroy Jackson, forced the Minor Plaintiff to perform and/or participate in a sexual act against his will

19 That at all times relevant hereto and more especially on April 11, 2012, the youth residents of the Detroit Behavioral Institute and Detroit Capstone Academy and/or Capstone Program were left alone in their rooms unsupervised, unmonitored and without any form of adult oversight

20. That Defendants, ACH, DBI and their employees, agents, representatives, directors, clinicians, and/or instructors ZIGLOR PERNELL, JULIE AVANT, and SAX GUTHERY, JR , failed to properly and/ r reasonably screen the individuals assigned as roommates to ensure that adult residents or residents with a history of sexual assault, deviancy or predatory behavior were not assigned to reside in a room with minor residents

21 That Defendants, ACH, DBI and their employees, agents, representatives, directors, clinicians, and/or instructors ZIGLOR PERNELL, JULIE AVANT, and SAX GUTHERY, JR , failed to assign an adult, monitor, supervisor, teacher, or instructor to watch or supervise the residence rooms and failed to inspect or watch so as to ensure that all residents were accounted for and under the supervision of an adult and/or trained and qualified staff member and/or employee.

22 That Defendants, ACH, DBI and their employees, agents, representatives, directors, clinicians, and/or instructors ZIGLOR PERNELL, JULIE AVANT, and SAX GUTHERY, JR , failed to inspect the premises to ensure that safety and/or security personnel were present to restrict residents from harming or sexually abusing other residents and/or roommates within the premises

23 That at all times relevant hereto, it was the duty of Defendants, ACH, DBI and their employees, agents, representatives, directors, clinicians, and/or instructors ZIGLOR PERNELL,

JULIE AVANT, and SAX GUTHERY, JR , to formulate, implement and enforce policies and procedures regarding resident conduct, safety and facility security at the Detroit Behavioral Institute and Detroit Capstone Academy and/or Capstone Program

24 That at all times relevant hereto, Defendants, ACH, DBI and their employees, agents, representatives, directors, clinicians, and/or instructors ZIGLOR PERNELL, JULIE AVANT, and SAX GUTHERY, JR , were responsible for creating, instituting, implementing and enforcing safety and security policies and procedures for the Detroit Behavioral Institute and Detroit Capstone Academy and/or Capstone Program, and Defendants were in control and/or co-control of said residential placement facility, school, property, complex, and premises

25 That the Minor Plaintiff, MARAT MCMASTER, was exercising all due care and caution when he was in his residential room as assigned, directed and scheduled on the premises owned, controlled/co-controlled and supervised/co-supervised by Defendants, ACH, DBI, ZIGLOR PERNELL, JULIE AVANT, and SAX GUTHERY, JR

26. That at all times relevant and material hereto, it was the duty of the Defendants to provide and maintain a reasonably safe and fit residential placement facility, residential rooms, school, property and premises for the use and benefit of their youth residents while entrusted in their care and custody.

27 That the Defendants breached their aforestated duties to provide and maintain a reasonably safe and fit residential placement facility and premises by allowing adult residents and/or mature residents to room with minor students unsupervised and without monitors and to further allow residents to remain in rooms without periodic checks or monitoring, thus creating a

dangerous and hazardous condition to be present upon the property

28. That Defendants negligent acts and/or omissions were so reckless that they demonstrated a substantial lack of concern for whether injury or harm would result to youth residents entrusted to their care and custody.

29. That Defendants' negligent acts and/or omissions were grossly negligent and therefore Defendants are not immune from tort liability for the injuries and damages sustained by the minor Plaintiff pursuant to the provisions of MCL §691.1407(2).

30. That Defendants, ACH, DBI, ZIGLOR PERNELL, JULIE AVANT, and SAX GUTHERY, JR, were negligent and/or or grossly negligent in, but not limited to, the following duties and particulars:

A. Failing to provide or assign safety and/or security personnel to the residential dorm and living areas;

B Failing to inspect the residential and dorm areas to ensure safety and/or security personnel were present or insure that those who were delegated that responsibility did so in a reasonable and prudent manner;

C Failing to provide an adult supervisor or monitor in all residential and dorm areas where youth residents were living and leaving youth residents completely unsupervised and unattended;

D Failing to account for the whereabouts of all youth residents on the premises to prevent older or mature residents from interacting with minor students from or wandering the hallways and classrooms without permission and without supervision;

E Failing to maintain hallway monitors to prevent students from wandering hallways and classrooms during school hours without permission and without supervision;

F Failing to formulate a reasonable policy, procedure and/or protocol for student safety and security while students are on the school premises during school hours;

G Failing to implement or enforce a reasonable policy, procedure and/or protocol for student safety and security while students/residents are on the school premises during school hours;

H Failing to install, operate and/or monitor surveillance/security cameras or video feeds to prevent dangers to students while students are present on the premises;

I Failing to review, modify and/or update the policies, procedures and/or protocols for student/resident safety and security while present on the premises;

J Failing to check on or inspect students left unattended in a residential rooms and/or dorms;

K Allowing a student/resident with a history and/or background of violence to be left unsupervised in the presence of other minor students/residents and exposing those students/residents to the threat of danger by his presence;

L Failing to provide adequate and reasonable counseling to the student who assaulted, battered and raped the minor Plaintiff, when Defendants knew or should have known he had a history of violence and posed a potential risk of harm to other students;

M Failing to monitor the video/surveillance cameras at all times during to

watch the students/residents and monitor student/resident safety and security;

N. Failing to take reasonable precautions to prevent such molestation, violence and injuries as incurred by the minor Plaintiff;

O. Failing to regularly train, re-train and/or instruct their personnel and/or staff in reasonable and necessary safety and security policies, procedures, protocols and methods;

P Failing to take reasonable precautions for the safety of students/residents lawfully on the premises when Defendants knew or should reasonably have known of the dangerous conditions present on or about the premises;

Q. Failing to take any precautions or make reasonable efforts to remove students with questionable backgrounds or violent propensities from the general student/resident population when the Defendants knew or should have reasonably known of the potential dangers posed;

R Failing to properly train, supervise, manage and/or instruct their employees, staff, agents and/or representatives;

S Creating a dangerous condition or contributing to the creation of a dangerous condition on the premises in an unreasonable and reckless disregard of the safety and security of students/residents on the premises despite the substantial risk of injury;

T Failing to respond to the minor Plaintiff's screams for help during and after the commission of his assault, battery and rape on the school's premises;

U. Failing to employ and/or deploy a reasonable and adequate number of safety and security personnel when Defendants knew or should have known of the likelihood of harm

such as that suffered by the minor Plaintiff;

V. Failing to contact and/or request assistance from Detroit Police to provide additional personnel and manpower to provide a reasonably safe and secure premises;

W Disregarding the potential for harm in a manner so reckless as to demonstrate a substantial lack of concern for whether injury resulted;

X Failing to conduct proper review of resident records and/or implement policies and procedures meant to identify students/residents who pose a potential risk of harm so as to prevent such molestation, violence and injuries as incurred by the minor Plaintiff;

Y Failing to remove or relieve staff members and/or employees of their job and/or employment responsibilities for failing to enforce or implement policies, procedures, and/or protocols concerning safety and security of students/residents in reckless disregard of the substantial risk of injury which could result to students/residents entrusted to their care and custody;

Z Committing other acts of negligence not yet known but which will be ascertained through the course of discovery in said litigation

31 That in the happening of the aforestated incident, the minor Plaintiff was not negligent, but rather the minor Plaintiff's injuries were the sole, direct, and proximate result of the Defendants' negligence, gross negligence, breaches of duties, and conduct so reckless that they demonstrated a substantial lack of concern for whether an injury or harm would result

32 That as a direct and proximate result of the Defendants' negligence and gross negligence, the minor Plaintiff, MARAT McMASTER, was assaulted, battered, molested, and raped while he suffered other severe injuries to his body, including but not limited to injury to his bones,

muscles, ligaments, nerves and nervous system, and injury and trauma to his psychological and emotional well being.

33 That as a result of the said incident, the minor Plaintiff, MARAT McMASTER, was made to suffer debilitating emotional, psychological and psychiatric trauma and damage in addition to severe embarrassment, distress, discomfort, inconvenience, mental anguish, pain and suffering, and a possible aggravation of a pre-existing psychological condition, requiring medical treatment, including hospital treatment, rehabilitation therapy, counseling, nursing services, and other medical treatment

34 That as a result of the said incident, the minor Plaintiff, MARAT McMASTER, and his family incurred significant doctor bills, medical bills, counseling bills, and hospital bills and will continue to do so in the future.

35 That, additionally, the minor Plaintiff, MARAT McMASTER, suffered significant and potentially permanent diminution of his earning capacity and that, because of the nature of said injuries, the minor Plaintiff was and continues to be unable to participate in many of the activities of life in which he was able to indulge in prior to said injuries

WHEREFORE, the Plaintiff prays for judgment in favor of Plaintiff and against the Defendants in whatever amount this Court deems Plaintiff is entitled, together with interest, costs, and reasonable attorney fees.

ROTHSTEIN LAW GROUP PLC

/s/Lawrence R. Rothstein
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Dated: February 18, 2014

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DEMAND FOR JURY TRIAL

NOW COMES the Plaintiff, BRETT MCMASTER, Individually and as Next Friend

MARAT MCMASTER, a Minor, by and through his attorneys, ROTHSTEIN LAW GROUP PLC,
and hereby demands a trial by jury as to any and all issues so triable in the captioned matter.

ROTHSTEIN LAW GROUP PLC

/s/Lawrence R. Rothstein
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Dated: February 18, 2014