

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BRITNEE KENYON,)	
)	
Plaintiff,)	
)	Case No. 1:24-cv-09878
v.)	
)	Hon. Sharon Johnson Coleman
BOARD OF EDUCATION TOWNSHIP)	
HIGH SCHOOL DISTRICT 113, DANIEL)	
STRUCK, Individually and in his Official)	
Capacity, THOMAS KRIEGER,)	
Individually and in his Official Capacity,)	
and MICHELLE HAMMER BERNSTEIN,)	
)	
Defendants.)	
)	

VERIFIED SECOND AMENDED COMPLAINT AT LAW

NOW COMES Plaintiff, Britnee Kenyon (“Plaintiff” or “Ms. Kenyon”), by and through her attorneys, Miller Berger, LLC, and for her Verified Second Amended Complaint at Law against the BOARD OF EDUCATION TOWNSHIP HIGH SCHOOL DISTRICT 113, DANIEL STRUCK, Individually and in his Official Capacity, THOMAS KRIEGER, Individually and in his Official Capacity, and MICHELLE HAMMER BERNSTEIN, hereby states as follows:

PARTIES, JURISDICTION, and VENUE

1. At all times relevant, Britnee Kenyon (“Ms. Kenyon”) was employed by the Board of Education of Township High School District 113 as the Deerfield High School (“DHS”) Theatre Director. Ms. Kenyon is Jewish.

2. Defendant Board of Education Township of High School District 113 (“Board of Education”) is a group of private citizens who have been elected to their offices and have all powers given to them, express or implied, by § 5/10 of the Illinois School Code.

3. Defendant Daniel Struck (“Struck”), was at all times relevant to the matters at issue in this Verified Second Amended Complaint the President of the Board of Education, who on information and belief, resides in the Village of Deerfield, State of Illinois. Struck is named in his individual and official capacities. Struck resigned from his position as Board President on or about February 7, 2024, in connection with the matters at issue in this Verified Second Amended Complaint.

4. Defendant Thomas Krieger (“Krieger”) is the Chief Human Resources Officer for the Board of Education, who on information and belief, resides in the Village of Deerfield, State of Illinois. Krieger is named in his individual and official capacities.

5. Defendant Michelle Hammer Bernstein (“Bernstein”) is an individual, who on information and belief, resides at 1430 Waukegan Road, in the Village of Deerfield, State of Illinois.

6. This Court has subject-matter jurisdiction over Plaintiff’s federal civil-rights claims pursuant to 28 U.S.C. § 1331 because those claims arise under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

7. This Court also has jurisdiction over Plaintiff’s civil-rights claims under 28 U.S.C. § 1343(a)(3) and (4), which authorize district courts to provide relief for the deprivation, under color of state law, of rights secured by the Constitution and federal statutes.

8. This Court has supplemental jurisdiction over Plaintiff’s pendant state-law claims pursuant to 28 U.S.C. § 1367(a) because those claims are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

9. Venue is proper in the Northern District of Illinois, Eastern Division, under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to Plaintiff’s

claims occurred in Lake County, Illinois, which lies within this District and Division. In the alternative, venue is proper under 28 U.S.C. § 1391(b)(1) and (c) because each Defendant resides in this District.

FACTS COMMON TO ALL COUNTS

10. Ms. Kenyon has been employed as DHS’s Theatre Director since 2019.

11. In Ms. Kenyon’s capacity as DHS’s Theatre Director, Ms. Kenyon is considered a “public employee.”

12. Prior to the beginning of the 2023-2024 school year, the Board of Education and the union of which Ms. Kenyon is a member, District 113 Education Association, IEA-NEA, executed a certain Collective Bargaining Agreement (“CBA”). A copy of the signed CBA is attached hereto as Exhibit A.

13. The CBA provides in relevant part,

ARTICLE IV – RIGHTS OF LICENSED STAFF MEMBERS [“LSM”]

* * *

D. Privacy / Non-School Activities

Neither the Board nor the Administration shall make regulations that attempt to govern employees’ non-school activities save in exceptional circumstances where such activities can be proven to have had a substantial negative impact on the LSMs ability to perform the duties associated with their assigned role.

* * *

M. Parent Complaints

Any complaint by a parent of a student directed toward an LSM which is to be used for evaluative purposes shall be reported to the LSM in writing. No disciplinary action shall be taken without following the guidelines established within this Agreement.

* * *

ARTICLE V – DISCIPLINE

C. Investigation of Complaints and Alleged Misconduct

Complaints regarding an LSM upon which disciplinary action may occur will be reported to the LSM within five (5) school days. In the event a meeting with an administrator is required to discuss and/or investigate such a complaint or allegation, the LSM may be accompanied to such a meeting by a DEA representative. LSMs will be provided at least 24 hours notice of such a meeting and informed of their right to have a DEA representative present at the meeting. Where a complaint or allegation involves a matter related to the safety of a student or the school community, 24 hours notice shall not be required.

Notice will be provided in writing and will state the complaint or allegation being investigated. The LSM will have the opportunity to respond to the complaint/investigation. The Administration may direct that during the investigation, all information related to the complaint or allegation remain confidential. Retaliation against any individual who makes a complaint is not permitted.

* * *

C. Just Cause

The District shall inform an employee of the right to Association representation during a meeting which may lead to disciplinary action. The District shall give an employee 24 hours notice before holding a meeting related to potential disciplinary action except in an egregious situation.

Employees shall only be disciplined for just cause.

The Association and the District agree that discipline should be timely, progressive (when appropriate) and accompanied by counseling (where appropriate). The Parties agree that progressive discipline typically includes, in order: oral reprimand; written reprimand; suspension; and termination. The District may combine steps of progressive discipline if the severity and facts of the situation warrant such action.

* * *

Id. at §§ IV(D); IV(M); V(A); and V(C).

14. At all times relevant, Ms. Kenyon was, and continues to be, generally well-liked by DHS students, parents, colleagues, and the community at large.

15. During Ms. Kenyon's tenure as DHS's Theatre Director, she has received all positive performance evaluations from her supervisors.

16. Throughout her employment at DHS, Ms. Kenyon received numerous compliments and accolades from students, parents, teachers, and the community at large for her hard work,

dedication, and successful direction of the DHS Theater program. In fact, in February of 2022, Ms. Kenyon was selected as one of the thirty (30) finalists for the 2022 Golden Apple Award for Excellence in Teaching.

17. Prior to December 2023, Ms. Kenyon has never been subjected to disciplinary action or warning by either DHS or the Board of Education on any allegation of misconduct.

18. On Saturday, December 9, 2023, Ms. Kenyon shared a story on her private Instagram account (“December 9 Instagram Story”). A screenshot of the December 9 Instagram Story is attached hereto as Exhibit B.

19. The December 9 Instagram Story was not Ms. Kenyon’s original post; it was a repost of an “antiracist” author named Ibram X. Kendi concerning the military conflict in Israel and Gaza.

20. The December 9 Instagram Story was automatically removed from Ms. Kenyon’s Instagram account 24 hours after it was shared.

21. The December 9 Instagram Story did not in any way relate to, involve, interfere with, or detract from her employment as DHS’s Theatre Director.

22. Ms. Kenyon posted the December 9 Instagram Story privately. It was *not* published for the purpose of expressing her political views and/or beliefs in her capacity as DHS’s Theatre Director.

23. Ms. Kenyon began following Ibram X. Kendi in 2019 after District 113 Associate Superintendent of Diversity, Equity, and Inclusion, Mirah Anti, organized a book study of Ibram X. Kendi’s book, *How to be an Anti-Racist*.

24. Mirah Anti’s book study of Ibram X. Kendi’s book, *How to be an Anti-Racist* was authorized and endorsed by School District 113, which includes DHS.

25. Defendant Bernstein saw or otherwise learned about the December 9 Instagram Story.

26. In response to the December 9 Instagram Story, Defendant Bernstein, using the pseudonym “Michelle Leah,” created a post on the DHS Parent Group Facebook Page accusing Ms. Kenyon, a Jewish woman, of posting “memes” that “slandered” Israel (“Bernstein’s First Facebook Post”). A copy of Bernstein’s First Facebook Post is attached hereto as Exhibit C.

27. At no time had Ms. Kenyon ever posted memes that slandered Israel.

28. Defendant Bernstein’s First Facebook Post demanded that parents “call Bruce [Law] and send to the [Board of Education] if you agree.” *Id.*

29. Defendant Bernstein also posted the content of Bernstein’s First Facebook Post on “Deerfield High School – Friend of the Arts” Facebook Page (“Bernstein’s Second Facebook Post”), then again on the “Highland Park / Highwood, Planning Our Future” Facebook page (“Bernstein’s Third Facebook Post”). Bernstein’s Second Facebook Post and Bernstein’s Third Facebook Post are attached hereto as Exhibit D and Exhibit E, respectively.

30. On December 14, 2023, at 1:15 p.m., Defendant Krieger emailed Ms. Kenyon and ordered her to attend a pre-disciplinary meeting on December 15, 2023, at 2:27 p.m. concerning the December 9 Instagram Story. Krieger only advised Ms. Kenyon that her private sharing of a story constituted “harassment or bullying.”

31. On December 14, 2023, at approximately 4:00 p.m., Ms. Kenyon spoke with DHS Principal Kathryn Anderson about Defendant Bernstein’s false and defamatory Facebook posts circulating throughout the greater Deerfield community.

32. Upon information and belief, and based on Defendant Bernstein's three Facebook posts, Defendant Bernstein complained to the Board of Education, falsely claiming that Ms. Kenyon was an anti-Semite and that her December 9 Instagram Story "slandered" Israel.

33. At approximately 6:10 p.m. on December 14, 2023 and in response to the December 9 Instagram Story, Defendant Struck, purporting to act on the Board of Education's behalf, issued the statement ("December 14 Statement") attached hereto as Exhibit F.

34. Struck's December 14 Statement maliciously and recklessly portrayed Ms. Kenyon as an anti-Semite who "disparages the personal beliefs and human decency of a substantial portion of our student body." *Id.*

35. Lending credence to the claims of anti-Semitism and an attack on the "human decency of a substantial portion of our student body," Struck then maliciously described the situation with Ms. Kenyon as an "ongoing personnel matter" which "we are taking...very seriously." *Id.*

36. Upon information and belief, the December 14 Statement was issued in direct response to Ms. Kenyon's December 9 Instagram Story following the false claims of "harassment" and "antisemitism" circulated by Defendant Bernstein.

37. Upon information and belief, the December 14 Statement was published to more than 40,000 individuals in the Deerfield, Bannockburn, Riverwoods, Highland Park, and Highwood communities.

38. The December 14 Statement maliciously and recklessly accused Ms. Kenyon of "disparag[ing] the personal belief and human decency of a substantial portion of our student body." *Id.*

39. The December 14 Statement was published to the greater Deerfield community before any DHS Administration, school official, or Board of Education member communicated with Ms. Kenyon to gather necessary facts and information.

40. Defendant Struck never communicated with Ms. Kenyon to gather necessary facts before issuing the December 14 Statement.

41. Defendant Struck's December 14 Statement directly violated the CBA by attempting to restrain Ms. Kenyon's personal free speech and regulate Ms. Kenyon's non-school-related activities.

42. After the December 14 Statement was published by Struck, the amount of patently false, harassing, and threatening communications Ms. Kenyon received from parents in the community increased exponentially. Those communications accused Ms. Kenyon of being an antisemite and called for Ms. Kenyon's termination.

43. On December 15, 2023, Ms. Kenyon met with Defendant Krieger, DEA Representative Jason Smith, and DHS Principal Kathryn Anderson pursuant to Krieger's prior email regarding the pre-disciplinary meeting ("First Pre-Disciplinary Meeting").

44. During the First Pre-Disciplinary Meeting, Ms. Kenyon explained that she shared the December 9 Instagram Story because she firmly believed that it was not an "anti-Israel" post, but rather a call for peace. Ms. Kenyon further explained that as a practicing Jewish woman, Ms. Kenyon would never speak out against Jewish people.

45. On December 15, 2023, at approximately 4:35 p.m., Krieger advised Ms. Kenyon that the Board of Education scheduled a second pre-disciplinary meeting on December 18, 2023, at 9:00 a.m. "to discuss complaints received regarding [Ms. Kenyon's] use of Snapchat to

communicate with students, in violation of Board Policy 5-125 and 5-125 Aps 1 and 2.” (“Second Pre-Disciplinary Meeting”).

46. Ms. Kenyon, Ms. Kenyon’s representative Jason Smith, DHS Principal Kathryn Anderson, IEA Uniserv Director Mark Stein, and Board of Education attorney Dana Fattore Crumley attended the Second Pre-Disciplinary Meeting

47. After the Second Pre-Disciplinary Meeting, the Board of Education conducted an investigation into Ms. Kenyon’s use of Instagram and Snapchat.

48. The Board of Education’s investigation failed to comply with the requirements set forth in the CBA, the District’s Written Policies and Procedures, and Illinois Law by:

- a. Failing to ensure Ms. Kenyon had an equal opportunity to present evidence during the investigation;
- b. Failing to produce and/or provide Ms. Kenyon with statements from the complainant;
- c. Failing to remain objective during the investigation; and
- d. Failing to keep the investigation and findings confidential.

49. On January 9, 2024, Defendant Krieger sent Ms. Kenyon a document titled “Written Reprimand.” The Written Reprimand was to be made a part of her employment record and used as a basis for limiting her freedom of speech and expression as well as future discipline and/or termination.

50. The Written Reprimand included a narrative section revealing that Krieger had investigated Ms. Kenyon’s past posts on her private Instagram account and her allegedly inappropriate communication with students using Snapchat’s messaging feature. Krieger took these actions to manufacture a reason to discipline Ms. Kenyon.

51. For example, Krieger claimed that pictures on Ms. Kenyon’s private Instagram account which were admittedly “personal in nature” were also somehow violative of school or

District policy. The personal photographs referenced included Ms. Kenyon in a bathing suit, Ms. Kenyon in bed, and Ms. Kenyon smoking a cigarette.

52. One of the photographs referenced in Krieger's Written Reprimand related to a post detailing Ms. Kenyon's experience as a victim of sexual assault at age 19.

53. The Written Reprimand stated, "The caption on at least one of the photos referenced your experience with sexual assault when you were 19." Krieger's reference to Ms. Kenyon's sexual assault was made with reckless disregard to the effects it would have and ultimately did have upon Ms. Kenyon's mental, emotional, and physical health and wellbeing.

54. The Written Reprimand also falsely accused Ms. Kenyon of "communicating with students on Snapchat about inappropriate topics, such as birth control."

55. Ms. Kenyon never initiated contact with any students via Snapchat. Instead, it was the students who initiated contact with Ms. Kenyon.

56. Based on his willful and wanton invasion of Ms. Kenyon's privacy, Krieger determined, on behalf of the Board of Education, that Ms. Kenyon violated:

- a. Policy 5-120, Exhibit 5-120 E2 and Administrative Procedure 5-120-AP2 by allowing students to follow Ms. Kenyon's Snapchat and Instagram accounts;
 - b. Policy 5-120, Exhibit 5-120 E2 and Administrative Procedure 5-120-AP2 by permitting students to view personal photographs of Ms. Kenyon in which she was drinking alcohol, smoking a cigarette, and partially unclothed; and
 - c. Policy 5-125, and Administrative Procedures 5-125 AP1 and AP2 by communicating with current students on her personal Instagram and Snapchat accounts.
57. Defendant Krieger concluded the Written Reprimand by stating,

It is without question that the content in question, both in regard to the Dr. Kendi quote and photographs where you are partially clothed and engaged in adult activities, has undermined your ability to maintain the standards set forth above, and has undermined the trust that parents have in us to provide a safe and appropriate climate for instruction.

58. The Written Reprimand was not supported by any documentary evidence and did not identify any complainant, in violation of the CBA and District Policy.

59. Ms. Kenyon objected to the Written Reprimand on both substantive and procedural grounds. She was advised that the Written Reprimand was likely to be released to the public. As a result, she asked to edit it so that it did not contain references to her sexual assault.

60. On January 19, 2024, Krieger and Ms. Kenyon met to discuss Ms. Kenyon's proposed amendments to the Written Reprimand.

61. Defendant Krieger, DHS Principal Kathryn Anderson, DEA President Marty Esgar, and representative Jason Smith attended the January 19, 2024 meeting.

62. During the January 19, 2024 meeting, Ms. Kenyon presented proposed changes to the Written Reprimand.

63. Before Defendant Krieger would consider Ms. Kenyon's proposed edits to the Written Reprimand, it forced Ms. Kenyon to describe why she posted about her sexual assault on her private Instagram account, forced Ms. Kenyon to recount her traumatic experience, and forced Ms. Kenyon to defend herself from Krieger's and the Board of Education's sexist and false accusations of impropriety.

64. The forced recounting of her sexual assault trauma was willful, wanton, and reckless on the part of the Board of Education, DHS Administration, Struck, and Krieger and caused Ms. Kenyon great mental, emotional, and physical damage.

65. On January 25, 2024, Krieger sent Ms. Kenyon the revised Written Reprimand ("Final Written Reprimand"). A true and accurate copy of the Final Written Reprimand will be filed under-seal as Exhibit G following the entry of a protective and confidentiality order.

66. While the Final Reprimand removed reference to Ms. Kenyon's sexual assault, it also removed the full quote from the December 9 Instagram Story. This had the effect of camouflaging the truth behind the purpose of the December 9 Instagram Story and materially altering the meaning of the Kendi post. All other findings and conclusions from the Written Reprimand remained intact as originally intended.

67. The Final Written Reprimand was placed in Ms. Kenyon's personnel file, where it will remain in perpetuity to diminish Ms. Kenyon's future employment opportunities.

68. Defendants' foregoing accusations of wrongdoing were false and known to be false at the time they were made.

69. The allegations of wrongdoing and the subsequent investigation by the Board of Education, Struck, and Krieger concerning Ms. Kenyon's use of Instagram and Snapchat was pretextual. They were done to curtail Ms. Kenyon's freedom of speech and expression and to form a basis for either a direct or constructive termination of Ms. Kenyon's employment.

70. The Board of Education, Struck, and Krieger launched the campaign to harass Ms. Kenyon and force a direct or constructive termination of Ms. Kenyon's employment because they were under pressure to do so by the Board of Education and/or the above-described members of the greater Deerfield community, including Defendant Bernstein, who disagreed with Ms. Kenyon's personal beliefs.

71. Because of the Board of Education's pretextual investigation into Ms. Kenyon's Instagram and Snapchat accounts, Ms. Kenyon has been the recipient of incessant harassment and abuse from members of the community.

72. Upon information and belief, the Board of Education and/or Krieger released the contents of the investigation to members of the community, including but not limited to, Bernstein.

73. After Defendant Bernstein learned that Ms. Kenyon was not terminated from her position as DHS's Theatre Director, Bernstein once again disseminated patently false and disparaging statements concerning Ms. Kenyon ("Bernstein's Fourth Facebook Post"), as depicted below and attached hereto as Exhibit H:



74. Defendant Bernstein's Fourth Facebook Post, like Bernstein's First Facebook Post, Bernstein's Second Facebook Post, and Bernstein's Third Facebook Post, falsely and maliciously asserts that Ms. Kenyon is antisemitic without any factual basis and with reckless disregard for truth of Defendant Bernstein's published statements. *Id.*

75. As a direct result of Defendant Bernstein's Fourth Facebook Post and Struck's December 14, Statement, Ms. Kenyon received additional threats and harassment, including one believed to be someone from as far away as Canada.

76. Because of the constant harassment, bullying, and abuse, Ms. Kenyon was forced to take a mental health leave of absence from her position as DHS's Theatre Director and undergo extensive therapy.

77. As a result of Struck's publication of the December 14 Statement, Ms. Kenyon was unfairly targeted, harassed, bullied, and abused, causing irreparable damage to Ms. Kenyon's professional reputation and mental well-being, effectively creating an environment of hostility and prejudice.

78. Krieger's reckless and malicious actions in reopening Ms. Kenyon's past traumatic events unrelated to any legitimate investigation of wrongdoing had a profound impact on Ms. Kenyon's mental health. Krieger's disregard for Ms. Kenyon's mental and emotional well-being magnifies the stress and anxiety Ms. Kenyon was forced to endure.

79. The December 14 Statement and release of confidential information from the Board of Education's investigation to parents in the community subjected Ms. Kenyon to constant abuse and harassment and the further dissemination of false statements concerning Ms. Kenyon. The relentless nature of the harassment instills fear and anxiety, making it increasingly difficult for Ms. Kenyon to fulfill her professional duties and maintain a healthy mental, emotional, or physical state.

80. Struck and the Board of Education felt it was necessary to share the "Board of Education's" political view and stance on the Israel-Gaza conflict by explicitly stating to the parents and students in the community which political views are "correct."

81. The mental anguish that Ms. Kenyon was forced to endure would have been avoided had Struck communicated with Ms. Kenyon before issuing the December 14 Statement to 40,000+ members of the District 113 Community.

82. The December 14 Statement was published with reckless disregard of any consequences it could have, and did have, on Ms. Kenyon's wellbeing and professional reputation.

83. The December 14 Statement and the pretextual investigation which followed caused irreparable harm to Ms. Kenyon's mental, emotional, and physical health and professional reputation.

COUNT I – FIRST AMENDMENT VIOLATION, 42 U.S.C. § 1983
(Britnee Kenyon v. Board of Education Township of High School District 113)

84. Ms. Kenyon reincorporates and realleges Paragraphs 1 through and including 83 as though fully set forth herein as Paragraph 84 of Count I of Ms. Kenyon's Verified Second Amended Complaint at Law.

85. Ms. Kenyon was harassed, targeted, and subject to a pretextual investigation, solely because Ms. Kenyon exercised her First Amendment rights by sharing the December 9 Instagram Story on her private Instagram account.

86. The Board of Education is the entity with final policy-making authority in the decision to investigate and subsequently reprimand Ms. Kenyon resulting from the expression of her First Amendment rights. By sharing the December 9 Instagram Story on her private Instagram account, Ms. Kenyon was speaking as a citizen engaged in Constitutionally protected First Amendment activity and was not acting as an employee of the Board of Education.

87. The Constitutionally protected First Amendment includes Ms. Kenyon's right to express her political opinion regarding the ongoing conflict in Gaza, and more specifically, calling for peace.

88. The adverse action taken by the Board of Education against Ms. Kenyon was motivated as a response to Ms. Kenyon's exercise of her Constitutional free speech rights.

89. Ms. Kenyon's free speech was a matter of public concern as it related to her political opinions and beliefs as a private citizen.

90. Ms. Kenyon has a valid interest as a citizen of the community to comment on matters of public concern, which outweighs any purported concerns of the Board of Education, which led to the Board of Education reprimanding Ms. Kenyon and subjecting Ms. Kenyon to harassment by parents in the community.

91. The Board of Education's adverse action against Ms. Kenyon has caused Ms. Kenyon to suffer mental, emotional, physical, and economic injuries that are likely to chill a person of ordinary firmness from engaging in Constitutionally protected free speech.

WHEREFORE, Britnee Kenyon respectfully requests the Court enters judgment in her favor and against Defendant Board of Education Township of High School District 113 on Count I of Ms. Kenyon's Verified Second Amended Complaint at Law and awards damages in excess of \$50,000, plus attorneys' fees, costs, punitive damages, prejudgment interest, and for such other or further relief the Court deems just and proper.

COUNT II – DEFAMATION PER SE
(Britnee Kenyon v. Daniel Struck)

92. Ms. Kenyon reincorporates and realleges Paragraphs 1 through and including 91 as though fully set forth herein as Paragraph 92 of Count II of Ms. Kenyon's Verified Second Amended Complaint at Law.

93. At all relevant times, Defendant Daniel Struck ("Struck") served as President of the Board of Education of Township High School District 113. In that position, Struck had access to and control over official Board communications but was also subject to the rights, responsibilities, and limitations of District policies and Illinois law.

94. On or about December 14, 2023, Struck caused dissemination of a public statement (the "December 14 Statement") on official District 113 letterhead, purporting to address "an ongoing personnel matter."

95. In that statement, Struck described a teacher who had made an Instagram post "disparaging the personal beliefs and human decency of a substantial portion of our student body," which he characterized as "harassment or bullying."

96. Although the statement did not name Plaintiff explicitly, it contained details, context, and timing that made the teacher in question identifiable as Plaintiff Britnee Kenyon to the members of the District 113 community.

97. At the time Struck published the December 14 Statement, the public was already aware that Plaintiff had recently posted commentary on her private Instagram account concerning the Israel–Gaza conflict.

98. News and accusations about this incident, and Plaintiff in particular, circulated widely on social media and in local Facebook groups, including through posts by Defendant Michelle Hammer Bernstein. The news, accusations, and social media posts were sufficient to identify Plaintiff to, at a minimum, members of the Deerfield High School Community.

99. Due to these circumstances, the December 14 Statement was widely understood to refer specifically to Plaintiff.

100. The December 14 Statement ascribed to Plaintiff (1) bigoted views, falsely insinuating she was anti-Semitic, (2) a professional inability to teach or serve students fairly, and (3) behavior amounting to moral wrongdoing toward the student body.

101. The allegations described above are capable of objective verification and thus constitute statements of fact, not mere opinion.

102. The December 14 Statement was disseminated broadly – via District e-mail, the official District website, traditional media, and social media – to thousands of parents, students, and community members.

103. Struck published the December 14 Statement with knowledge of its falsity or, at minimum, reckless disregard. Moreover, Struck published the December 14 Statement with knowledge and understanding that his thinly veiled references to Plaintiff would allow the Deerfield High School Community and wider District community to easily identify the teacher he referenced in his December 14 Statement.

104. Struck did not review Plaintiff's actual post, speak with Plaintiff, or determine her religious identity before making the accusations in his December 14 Statement, despite having the means and opportunity to do so.

105. Struck's December 14 Statement therefore imputes to Plaintiff an inability to perform or a lack of integrity in the discharge of her professional duties as a teacher.

106. By depicting Plaintiff as someone who attacks the "human decency" of students, the statement stigmatizes her as unfit to teach and engages in an outright assault on her professional reputation and character.

107. The December 14 Statement, on its face, tends to prejudice Plaintiff in her profession, trade, or business and constitute defamation per se under Illinois law.

108. Struck's defamatory December 14 Statement was made outside any legitimate privilege or immunity. Although Struck was Board President, his choice to publish false allegations of anti-Semitic harassment against a specific teacher when the community plainly knew who that teacher was exceeded any proper scope of official commentary.

109. Neither Illinois nor federal law grants an absolute privilege or immunity to statements made with reckless disregard for the truth.

110. As a result of Struck's December 14 Statement, Plaintiff suffered and continues to suffer harm to her professional standing and reputation within the District 113 community and beyond.

111. Plaintiff has experienced harassment, threats, mental anguish, reputational damage, and other economic and noneconomic damages.

112. Because the December 14 Statement is defamatory per se, damages to Plaintiff's reputation are presumed.

113. Struck consistently posted politically inflammatory and divisive content on Facebook, openly expressing opinions related to international conflicts, including the Israel-Gaza conflict, without facing any repercussions from District 113. See Facebook posts from Defendant Daniel Struck, attached as Group Exhibit I.

114. Despite his own provocative political statements, Struck reprimanded Plaintiff specifically because her private Instagram posts expressed views he personally disliked.

115. Struck's actions demonstrate viewpoint discrimination, violating her First Amendment rights because he selectively enforced school policies against Plaintiff based on his disagreement with her political speech.

116. Plaintiff additionally pleads special harm in the form of humiliation, mental anguish, harassment, threats, and damage to her professional prospects.

WHEREFORE, Plaintiff, Britnee Kenyon, respectfully requests that this Court enter judgment in her favor and against Defendant Daniel Struck on Count II of this Amended Complaint for Defamation Per Se, and award Plaintiff:

- i. Compensatory damages for harm to her reputation and emotional distress;
- ii. Punitive damages as permitted by law, given Struck's knowing or reckless disregard for the truth;
- iii. Reasonable attorneys' fees and costs; and
- iv. Such other relief as the Court deems just and proper.

COUNT III – FALSE-LIGHT INVASION OF PRIVACY
(Britnee Kenyon v. Daniel Struck)

117. Ms. Kenyon reincorporates and realleges Paragraphs 1 through and including 116 as though fully set forth herein as Paragraph 117 of Count III of Ms. Kenyon's Verified Second Amended Complaint at Law.

118. By virtue of his role as President of the Board of Education of Township High School District 113, Struck exercised official authority and had the ability to almost instantly communicate with the Deerfield High School and broader District 113 community.

119. On or about December 14, 2023, Struck caused or authorized publication of statements that wrongly portrayed Plaintiff as a person harboring anti-Semitic or bigoted views that were "highly offensive" to, or disparaging of, a substantial portion of the school district student body.

120. However, Plaintiff's Instagram post was in fact a repost of an antiracist author's quotation calling for peace and did not direct any disparaging remarks toward students or the community. The repost contained language from *How to be an Antiracist* a book written by the author in question, Ibram X. Kendi. That book was used by District 113 Associate Superintendent of Diversity, Equity, and Inclusion, Mirah Anti, in a book study which was authorized and endorsed by the District.

121. Struck's depiction of Plaintiff as someone who attacked the human decency of students was factually false, highly offensive, and misleading. Moreover, it was hypocritical given the fact it was used in a District sanctioned book study.

122. Struck either knew or acted in reckless disregard of these facts, failing to verify the post or Plaintiff's religious background before disseminating the December 14 Statement.

123. The December 14 Statement was widely circulated via District e-mail, website, and social media, reaching thousands of residents, parents, and community members.

124. As a direct and proximate result, Plaintiff endured severe humiliation, harassment, threats, and emotional anguish, requiring therapy and other interventions.

125. Struck's publication of the December 14 Statement was unprivileged and undertaken with actual malice.

126. Illinois law confers no immunity for knowingly false or recklessly misleading public statements that purport to state facts about a private individual.

127. As a result of being placed in this false light, Plaintiff suffered immediate and ongoing harm to her reputation and emotional well-being.

128. Group Exhibit I establishes that Struck's own inflammatory and divisive postings amplify the offensiveness and recklessness of placing Plaintiff in a false and damaging light.

129. Further compounding the offensiveness and recklessness of Struck's actions is his documented history of making similarly provocative and inflammatory statements on social media platforms, highlighting a clear double standard and malicious intent. See Group Exhibit I.

130. The impact of these actions placed Plaintiff in a false and damaging public light, severely compromising her standing and reputation within the community.

WHEREFORE, Plaintiff respectfully requests judgment in her favor and against Defendant Daniel Struck on Count III and an award of compensatory and punitive damages, attorneys' fees, and such other relief as the Court deems just.

COUNT IV – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(Britnee Kenyon v. Daniel Struck)

131. Ms. Kenyon reincorporates and realleges Paragraphs 1 through and including 130 as though fully set forth herein as Paragraph 131 of Count IV of Ms. Kenyon's Second Amended Verified Second Amended Complaint at Law.

132. Struck's December 14 Statement characterized Plaintiff's private Instagram post as "harassment or bullying" of a "substantial portion of the student body," thereby branding Plaintiff a bigot in front of thousands of residents, students, parents, and peers.

133. Struck knew or reasonably should have known that publicly labeling a teacher a bigot would incite severe backlash, yet he published the December 14 Statement before verifying basic facts.

134. The above-described conduct was extreme and outrageous.

135. By deliberately publishing accusations without verifying their truth, and while disregarding Plaintiff's Jewish faith, Struck intended to cause, or recklessly disregarded the likelihood of causing, severe emotional distress.

136. Within days, Plaintiff received hateful messages and threats, suffered anxiety, insomnia, panic attacks, and ultimately took a mental-health leave from work. She remains in therapy and on medication.

137. Defendant Struck, by publicly characterizing Plaintiff as disparaging of human decency, intentionally or recklessly inflicted emotional distress.

138. Plaintiff supports this allegation by noting that Struck engaged in hypocritical behavior by making similarly inflammatory posts himself, indicating his extreme disregard for the impact on Plaintiff.

139. The wave of community harassment was the foreseeable result of Struck's December 14 Statement and directly caused Plaintiff's psychological injuries and professional disruption.

WHEREFORE, Plaintiff requests judgment in her favor and against Defendant Daniel Struck on Count IV and an award of compensatory and punitive damages, attorneys' fees, costs, and any further relief this Court deems just.

COUNT V – INTENTIONAL INFLICTION OF EMOTION DISTRESS

(Britnee Kenyon v. Thomas Krieger)

140. Ms. Kenyon reincorporates and realleges Paragraphs 1 through and including 139 as though fully set forth herein as Paragraph 140 of Count V of Ms. Kenyon's Verified Second Amended Complaint at Law.

141. The intentional conduct of Krieger, including Krieger's reference in the Written Reprimand to a photograph shared on Ms. Kenyon's private Instagram Account detailing Ms. Kenyon's experience as a victim of sexual assault at age 19, and forcing Ms. Kenyon to recount and describe why she posted about her sexual assault on her private Instagram Account before the Board of Education would consider editing the Written Reprimand, was extreme and outrageous, going beyond the ordinary bounds of decency.

142. Krieger acted with reckless disregard for the physical, mental, and emotional well-being of Ms. Kenyon by forcing her to recount her past sexual assault before the Board of Education.

143. Defendant Krieger's intentional inclusion and forced recounting of Plaintiff's sexual assault experience during disciplinary meetings served no legitimate investigative purpose and was done with extreme disregard for Plaintiff's emotional well-being.

144. The exhibited Facebook interactions and public backlash instigated by Defendant Bernstein's posts are compounding evidence of the foreseeable emotional harm resulting from Krieger's reckless behavior.

145. As a direct and proximate result of the Defendant Krieger's unlawful, reckless, and malicious conduct, Ms. Kenyon has suffered severe emotional distress, humiliation, embarrassment, mental and emotional distress, anxiety, economic harm, and such other consequential damages flowing from the Defendant Krieger's conduct.

WHEREFORE, Britnee Kenyon respectfully requests the Court enters judgment in her favor and against Defendant Thomas Krieger on Count V of Ms. Kenyon's Verified Second Amended Complaint at Law and awards damages in excess of \$50,000, plus attorneys' fees, costs, punitive damages, prejudgment interest, and for such other or further relief the Court deems just and proper.

COUNT VI – INDEMNIFICATION

(Britnee Kenyon v. Board of Education Township of High School District 113)

146. Ms. Kenyon reincorporates and realleges Paragraphs 1 through and including 145 as though fully set forth herein as Paragraph 146 of Count VI of Ms. Kenyon's Verified Second Amended Complaint at Law.

147. Public entities are required by law to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

148. Defendants Struck and Krieger were employees of the Board of Education, who acted within the scope of their employment in committing the tortious acts alleged herein.

WHEREFORE, should Defendants Daniel Struck and/or Thomas Krieger be found liable for the acts alleged herein, Defendant Board of Education Township of High School District 113 would be liable to pay any judgment obtained against those defendants.

COUNT VII – DEFAMATION *PER SE*
(Britnee Kenyon v. Michelle Hammer Bernstein)

149. Ms. Kenyon reincorporates and realleges Paragraphs 1 through and including 148 as though fully set forth herein as Paragraph 149 of Count VII of Ms. Kenyon’s Verified Second Amended Complaint at Law.

150. Defendant Bernstein, using the pseudonym “Michelle Leah,” created and published the First Facebook Post, maliciously, and intentionally accusing Ms. Kenyon, a Jewish woman, of posting anti-Semitic “memes” that “slandered” Israel. *See Exhibit C.*

151. Defendant Bernstein’s First Facebook Post demanded that parents “call Bruce [Law] and send to the [Board of Education] if you agree.” *Id.* The obvious intent behind Bernstein’s First Facebook Post was to harm Ms. Kenyon and motivate Bruce Law to terminate her.

152. Defendant Bernstein also posted the content of Bernstein’s First Facebook Post on “Deerfield High School – Friend of the Arts” Facebook Page, then again on the “Highland Park / Highwood, Planning Our Future” Facebook page. *Exhibit D* and *Exhibit E.*

153. After Bernstein learned that Ms. Keynon was not terminated from her position as DHS’s Theatre Director, Bernstein once again disseminated patently false and disparaging statements concerning Ms. Kenyon, once again falsely declaring that Ms. Kenyon is “antisemitic.” *See Exhibit H.*

154. On or about February 7, 2024, Bernstein published the following statement in the “DHS Parent Group” Facebook page: “These memes slandering the IDF and Israel were on Ms.

Kenyon's (the DHS Theater Director) social-media account... This is not the message that should be represented by our staff/school district... Feel free to call Bruce and send to the D113 Board if you agree."

155. The clear import of this declaration is that Ms. Kenyon holds hateful, discriminatory views incompatible with her profession and Jewish faith.

156. The foregoing statements were false when made, were published with actual malice, and on their face impute both professional unfitness and moral turpitude, thereby constituting defamation *per se* under Illinois law.

157. Defendant Bernstein's repeated public Facebook posts falsely accused Plaintiff of antisemitism without any supporting factual basis.

158. Bernstein encouraged community action against Plaintiff based on these false accusations, significantly harming Plaintiff's reputation and employment standing.

159. Defendant Bernstein's First, Second, Third, and Fourth Facebook Posts contain statements regarding Ms. Kenyon that were unequivocally false and maliciously accused Ms. Kenyon of being anti-Semitic without any factual basis and with reckless disregard for the truth.

160. Bernstein's First, Second, Third, and Fourth Facebook Posts concerning Ms. Kenyon were published and disseminated to thousands of individuals in the greater Deerfield community.

161. As a direct result of Defendant Bernstein's various Facebook posts concerning Ms. Kenyon, Ms. Kenyon received numerous threats and harassing communications from people she did not know, including one believed to be someone from as far away as Canada.

162. Bernstein's First, Second, Third, and Fourth Facebook Posts concerning Ms. Kenyon were false and defamatory and constitute defamation *per se* in that they impute an inability

to perform or want of integrity in the discharge of the duties of Ms. Kenyon's employment, and in that they prejudiced Ms. Kenyon, and imputed a lack of ability in her trade, profession, and business.

163. Bernstein's statements were made and published with the direct intent of injuring Ms. Kenyon.

164. As a direct and proximate result of Defendant Bernstein's statements, Ms. Kenyon suffered humiliation, loss of reputation, and emotional and mental anguish.

WHEREFORE, Britnee Kenyon respectfully requests the Court enters judgment in her favor and against Defendant Michelle Hammer Bernstein on Count VII of Ms. Kenyon's Verified Second Amended Complaint at Law and awards damages in excess of \$50,000, plus attorneys' fees, costs, punitive damages, prejudgment interest, and for such other or further relief the Court deems just and proper.

COUNT VIII – FALSE-LIGHT INVASION OF PRIVACY
(Britnee Kenyon v. Michelle Hammer Bernstein)

165. Ms. Kenyon reincorporates and realleges Paragraphs 1 through and including 164 as though fully set forth herein as Paragraph 165 of Count VIII of Ms. Kenyon's Verified Second Amended Complaint at Law.

166. Defendant Bernstein, using the pseudonym "Michelle Leah," created and published the First Facebook Post, maliciously, and intentionally accusing Ms. Kenyon, a Jewish woman, of posting anti-Semitic "memes" that "slandered" Israel. *See Exhibit C.*

167. Defendant Bernstein's First Facebook Post demanded that parents "call Bruce [Law] and send to the [Board of Education] if you agree." *Id.* The obvious intent behind Bernstein's First Facebook Post was to harm Ms. Kenyon and motivate Bruce Law to terminate her.

168. Defendant Bernstein also posted the content of Bernstein's First Facebook Post on "Deerfield High School – Friend of the Arts" Facebook Page, then again on the "Highland Park / Highwood, Planning Our Future" Facebook page. Exhibit D and Exhibit E.

169. After Bernstein learned that Ms. Keynon was not terminated from her position as DHS's Theatre Director, Bernstein once again disseminated patently false and disparaging statements concerning Ms. Kenyon, once again falsely declaring that Ms. Kenyon is "antisemitic." See Exhibit H.

170. By asserting that Ms. Kenyon published "memes slandering the IDF and Israel" and labeling her "antisemitic," Bernstein placed Ms. Kenyon before thousands of community members in a highly offensive and false light, that of a bigot who disparages her own religion and her students' "human decency."

171. Defendant Bernstein's First, Second, Third, and Fourth Facebook Posts concerning Ms. Kenyon were unequivocally false and each maliciously accused Ms. Kenyon of being antisemitic without any factual basis and with reckless disregard for the truth.

172. Bernstein's First, Second, Third, and Fourth Facebook Posts concerning Ms. Kenyon were published and disseminated to thousands of individuals in the greater Deerfield 113 community.

173. Bernstein's First, Second, Third, and Fourth Facebook Posts concerning Ms. Kenyon placed Ms. Kenyon in a false light before the public.

174. The false statements contained in Defendant Bernstein's First, Second, Third, and Fourth Facebook Posts concerning Ms. Kenyon were highly offensive to a reasonable person.

175. Bernstein intended to cause Ms. Kenyon loss of reputation, humiliation, and mortification.

176. As a result of Bernstein placing Ms. Kenyon in a false light before the public, Ms. Kenyon suffered loss of reputation, humiliation, mental and emotional distress, and mortification.

177. Bernstein understood the statements to be false or, at a minimum, acted with reckless disregard for their truth.

178. The foregoing demonstrates that Defendant Bernstein acted with actual malice. As such, Ms. Kenyon is entitled to punitive damages.

WHEREFORE, Britnee Kenyon respectfully requests the Court enters judgment in her favor and against Defendant Michelle Hammer Bernstein on Count VIII of Ms. Kenyon's Verified Second Amended Complaint at Law and awards damages in excess of \$50,000, plus attorneys' fees, costs, punitive damages, prejudgment interest, and for such other or further relief the Court deems just and proper.

COUNT IX – TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS

(Britnee Kenyon v. Michelle Hammer Bernstein)

179. Ms. Kenyon reincorporates and realleges Paragraphs 1 through and including 178 as though fully set forth herein as paragraph 179 of Count IX of Ms. Kenyon's Verified Second Amended Complaint at Law.

180. Plaintiff was party to a valid employment contract with the Board of Education.

181. Defendant Bernstein knew of Plaintiff's contractual relationship.

182. Bernstein attended many Board meetings, wherein the CBA was discussed.

183. Bernstein repeatedly posted on social media accusing Plaintiff of "slandering Israel," labeling her an antisemite, and urging community members to pressure the Board to discipline or terminate Plaintiff in reckless disregard and outright breach of the CBA. Bernstein's acts intended to induce the Board to breach the CBA.

184. As a result of Bernstein's actions in calling for the discipline and termination of Plaintiff, the Board initiated reprimands and investigations that undermined Plaintiff's contractual rights and professional standing.

185. The above-mentioned Exhibits C, D, E, and H show Bernstein actively solicited and orchestrated community pressure on the Board specifically to induce disciplinary and potentially terminating actions against Plaintiff.

186. Plaintiff suffered reputational harm, emotional distress, and loss of employment benefits and opportunities.

WHEREFORE, Plaintiff requests compensatory and punitive damages, attorneys' fees, costs, and such other relief deemed just and proper against Defendant Michelle Hammer Bernstein on Count IX.

JURY DEMAND

Ms. Kenyon demands a trial by jury on all issues so triable.

Respectfully submitted,

Britnee Kenyon,

By: /s/ Adam M. Berger
One of Her Attorneys

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VERIFICATION

Under penalties as provided by law pursuant to Section 5/1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in the foregoing Verified Second Amended Complaint are true and correct, except as to those matters stated to be on information and belief, and as to such matters, the undersigned certifies as aforesaid that she verily believes the same to be true.



By:

Britnee Kenyon

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of May, 2025, a copy of the foregoing Verified Second Amended Complaint and this Certificate of Service was electronically filed with the Clerk of the Court using the CM/ECF system and was served on all parties of record.

/s/ Thomas J. Cassady
Counsel for Plaintiff