

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION**

MELISSA LEWIS, as Mother and )  
Next Friend of PAYTON LEWIS, )

Plaintiff, )

Vs. )

CASE NUMBER: \_\_\_\_\_

DEKALB COUNTY BOARD OF )  
EDUCATION, )

MARY ETTA BAILEY, HAROLD )  
BOBO, CLAUDE CALLAHAM, )

MARK RICHARDS, TERRY )  
WOOTEN, in their official capacities )

as members of the DeKalb County )  
Board of Education and in their )

individual capacities, STUART )  
MITCHELL and RONALD BELL, )

in their capacities as )  
employees of the DeKalb County )

Board of Education and in their )  
individual capacities, and )

CHARLES D. WARREN, in his )  
official capacity as superintendent )

of the DeKalb County Board of )  
Education and in his individual )

capacity, )

Defendants. )

**COMPLAINT FOR EQUITABLE RELIEF AND MONEY DAMAGES**  
**PURSUANT TO 42 U.S.C. §1983**

**I. Jurisdiction**

This Court has jurisdiction of this action pursuant to 28 U.S.C. §1331 as presenting a federal question.

## **II. Parties**

1. Plaintiff Melissa Lewis brings this action as mother and next friend of her minor child, Payton Lewis. Melissa Lewis is an adult resident of DeKalb County, Alabama.

2. The DeKalb County Board Of Education is an agency of the State of Alabama.

3. Mary Etta Bailey, Harold Bobo, Claude Callaham, Mark Richards, and Terry Wooten, are adult residents of DeKalb County, Alabama, and, at all times relevant hereto, were individual members of the DeKalb County Board of Education .

4. Stuart Mitchell is an adult resident of DeKalb County, Alabama and an employee of the DeKalb County Board of Education.

5. Ronald Bell is an adult resident of DeKalb County, Alabama and, at all relevant times hereto, was the Principal of Plainview High School and an employee of the DeKalb County Board of Education.

6. Charles D. Warren is an adult resident of DeKalb County, Alabama and is the Superintendent of the DeKalb County Board of Education .

## **III. Facts**

7. The Code of Student Conduct and Student Handbook for DeKalb County Schools, DeKalb County, Alabama, revised July 2010 (hereinafter the

“Code”), was adopted and enacted by the Defendant, DeKalb County Board of Education, by the defendant members of said Board of Education, the Defendants Bailey, Bobo, Callaham, Richards, Wooten and Warren and Defendant Bell. The said Code contains a section entitled “Due Process.” The Due Process provisions provided that Due Process should include the following:

1. The student should be given oral or written notice of the charge against him/her. (Oral notice should be followed by a written notice, especially Type II and III Offenses.)
2. If the student denies the charges, he is entitled to an explanation of the evidence the school has as basis of the charge.
3. The student shall have an opportunity to tell his side of the story.
4. There need be no delay between the time notice is given and the time of the hearing. In a majority of cases the principal may normally discuss the alleged misconduct with the student minutes after it has occurred.
5. Since the hearing may occur almost immediately following the misconduct, generally the notice and hearing should precede the suspension.
6. In cases where the presence of the student poses a continuing danger to persons or property or an ongoing threat of disrupting academic process, the student may be immediately removed from school. In such cases, the notice and hearing should follow as soon as practicable.
8. Paddling students is covered by the term “corporal punishment” listed in the Code under Section 1.18 (7.) on page 18. Corporal punishment is available for violations of Type I and II offenses. (Exhibit “A,” pp. 16-20).

9. At all relevant times hereto, Payton Lewis was a seventh grade student at Plainview High School in the DeKalb County School system.

10. On October 6, 2010, Payton was a student in Defendant Mitchell's science class. During the class, Defendant Mitchell announced that certain students made a below a particular grade on a test. Mitchell ordered four students, including Payton, to go into the hallway. One student, a female, cried, and Mitchell ordered her back in the classroom. Mitchell then told Payton that his daddy paddled Mitchell and Mitchell was going to paddle Payton for making an unacceptable grade on the test. Mitchell never provided Payton with any alternatives to paddling or afforded Payton the opportunity to have a hearing before the imposition of the paddling.

11. Defendant Mitchell then used a wooden paddle that had two holes drilled into it to beat Payton so severely that it caused bruising that was visible for approximately two weeks. Defendant Mitchell then hugged Payton in an inappropriate manner. Reduced to tears, Payton had to immediately reenter the classroom and face his peers, who were all aware that he had just been paddled.

12. Payton suffered such severe physical and mental trauma based on Defendant Mitchell beating him that Payton had to undergo psychological counseling in an attempt to overcome the effects of the beating.

13. Defendants DeKalb County Board of Education and the individual members thereof, and Defendant Bell, individually and his official capacity as an employee of the DeKalb County Board of Education, had notice that Mitchell, in his capacity as an employee, regularly engaged in courses of conduct that posed a pervasive and unreasonable deprivation of the procedural and substantive due process rights of the students under his control. Parents of students under Mitchell's control had complained for decades about Mitchell's imposition of beatings of the type inflicted on Payton Lewis in violation of the DeKalb County School Board policies. The students' conduct for which the beatings were allegedly inflicted did not warrant corporal punishment under the Defendant School Board's policies. Moreover, the parents complained that the infliction of these beatings was imposed without any due process hearings as required by the school board policies. However, the Defendant School Board failed to take any action against Mitchell or to otherwise enforce its rules to stop the beatings. The failure of Defendants to enforce the School Board rules with knowledge of Defendant Mitchell's beatings of the students was a policy decision of Defendants and amounted to authorization of Mitchell's violations of the students' due process rights. An affirmative casual link existed between the Defendants' failure to enforce the rules and the injury suffered by Payton Lewis.

## COUNT ONE

14. Plaintiff adopts the allegations of paragraphs one through thirteen as if fully set forth herein.

15. Defendant Stuart Mitchell, a grown man weighing approximately 350 pounds, imposed a beating on Payton Lewis, a child (13) years old weighing 170 pounds by striking him on the buttocks with a paddle using terrific force and violence.

16. The blow administered by Mitchell was so severe that it caused bruising and the breaking of blood vessels. The beating was imposed because Payton Lewis had missed questions on an examination, which is not listed as a Schedule I or Schedule II violation for which corporal punishment is authorized.

17. Payton Lewis was not allowed any due process prior to the imposition of the beating by Defendant Mitchell.

18. Plaintiff avers that the failure of Defendant Mitchell to provide Payton Lewis with due process as provided by the Code is a violation of Payton Lewis' rights under the Fourteenth Amendment to the United States Constitution and gives rise to a cause of action pursuant to 42 U.S.C. §1983 as Defendant Mitchell was acting under color of state law at the time of imposing the beating.

19. Defendants DeKalb County Board of Education, Mary Etta Bailey, Harold Bobo, Claude Callaham, Mark Richards, Terry Wooten, Ronald Bell and

Charles D. Warren knew, or would have known but for ignoring the facts available to them, that Defendant Mitchell over a period of years frequently imposed beatings on students in violation of the Code in that the beatings were imposed for matters which were not listed as offenses under the Code and in violation of due process. The failure of the Defendants to enforce the Code promulgated by them for the benefit of the students under their protection and control constitutes a violation of Plaintiff's Fourteenth Amendment rights and a cause of action under 42 U.S.C. §1983.

20. Plaintiff claims Defendants Mitchell, Mary Etta Bailey, Harold Bobo, Claude Callaham, Mark Richards, Terry Wooten, Ronald Bell, and Charles D. Warren in their individual capacities compensatory and punitive damages to be determined by a jury for the intentional or reckless failure to obey and follow or otherwise enforce the Code.

21. Plaintiff claims expenses and attorney fees from the said Defendants as provided by 42 U.S.C. §1985.

22. Plaintiff further avers that he is entitled to obtain injunctive relief on behalf of himself and/or other DeKalb County students subject to the Code requiring the Defendants DeKalb County Board of Education, Mary Etta Bailey, Harold Bobo, Claude Callaham, Mark Richards, Terry Wooten, Ronald Bell and

Charles D. Warren in their official capacities to enforce the provisions of the Code relating to corporal punishment and due process.

**COUNT TWO**  
**Violation of Substantive Due Process**

23. Plaintiff adopts the allegations of paragraphs one through twenty-two as if fully set forth herein.

24. Defendant Mitchell intentionally used force against Payton for making a grade below a seventy on a test. The force of a 350-pound man using a weapon such as a wooden paddle against a child less than half his weight presented a reasonably foreseeable risk of serious bodily injury to the child. Payton did not present any disruptive behavior that would warrant corporal punishment under the Code. The beating inflicted by Defendant Mitchell caused Payton severe physical and emotional trauma.

25. The force used by Defendant Mitchell exceeded any reasonable standard of acting in good faith to maintain or restore discipline. The beating was so unreasonable and unjustified that it was inflicted maliciously for the purpose of causing harm to the minor child.

26. Plaintiff claims of Defendants Mitchell, DeKalb County Board of Education, Mary Etta Bailey, Harold Bobo, Claude Callaham, Mark Richards, Terry Wooten, Ronald Bell, and Charles D. Warren in their individual capacities



compensatory and punitive damages to be determined by a jury for the intentional or reckless failure to obey and follow or otherwise enforce the Code.

27. Plaintiff claims expenses and attorney fees from the said Defendants as provided by 42 U.S.C. §1985.

28. Plaintiff further avers that he is entitled to obtain injunctive relief on behalf of himself and/or other DeKalb County students subject to the Code requiring the Defendants DeKalb County Board of Education, Mary Etta Bailey, Harold Bobo, Claude Callaham, Mark Richards, Terry Wooten, Ronald Bell and Charles D. Warren in their official capacities to enforce the provisions of the Code relating to corporal punishment and due process.

### **COUNT THREE**

#### **Assault and Battery Against Defendant Mitchell**

29. Plaintiff adopts the allegations of paragraphs one through twenty-eight as if fully set forth herein.

30. On or about, October 6, 2010, Defendant Mitchell struck Payton Lewis with a wooden paddle. Defendant Mitchell's action constituted an assault and battery on Payton Lewis and caused him to suffer physical injury and emotional trauma.

WHEREFORE Plaintiff Melissa Lewis, on behalf of her minor son Payton Lewis, requests compensatory and punitive damages against Defendant Mitchell in amount to be determined by the jury.

**COUNT FOUR**  
**Negligent Training and Supervision Claims**

31. Plaintiff adopts the allegations of paragraphs one through thirty as if fully set forth herein.

32. Defendants DeKalb County Board of Education, Mary Etta Bailey, Harold Bobo, Claude Callaham, Mark Richards, Terry Wooten, Ronald Bell and Charles D. Warren, through their agents, had a duty to train and supervise employees in order to protect the minor children attending DeKalb County schools, including Payton Lewis.

33. Defendants DeKalb County Board of Education, Mary Etta Bailey, Harold Bobo, Claude Callaham, Mark Richards, Terry Wooten, Ronald Bell and Charles D. Warren, by and through their agents, and against the individual Defendants, had knowledge, either actual or presumed, that Defendant Mitchell was incompetent and in need of training and/or supervision. However, Defendants DeKalb County Board of Education, Mary Etta Bailey, Harold Bobo, Claude Callaham, Mark Richards, Terry Wooten, Ronald Bell and Charles D. Warren breached this duty by failing to adequately train and/or supervise Mitchell. As a result of an incompetent employee, Defendant Mitchell, was allowed to violate the DeKalb County Board of Education policies and procedures.

34. As a direct and proximate result of Defendants' misconduct, Payton Lewis, suffered physical pain, and mental anguish.

35. Plaintiff claims of DeKalb County Board of Education, Mary Etta Bailey, Harold Bobo, Claude Callaham, Mark Richards, Terry Wooten, Ronald Bell, and Charles D. Warren in their individual capacities compensatory and punitive damages to be determined by a jury.

**COUNT FIVE**  
**Wantonness**

36. Plaintiff adopts the allegations of paragraphs one through thirty-five as if fully set forth herein.

37. Defendants DeKalb County Board of Education, Mary Etta Bailey, Harold Bobo, Claude Callaham, Mark Richards, Terry Wooten, Ronald Bell and Charles D. Warren, in their official and individual capacities, acted recklessly or with conscious disregard of the rights and/or safety of Payton Lewis, failed to prevent injury to Payton Lewis. Defendants DeKalb County Board of Education, Mary Etta Bailey, Harold Bobo, Claude Callaham, Mark Richards, Terry Wooten, Ronald Bell and Charles D. Warren, knew or should have known of Defendant Mitchells continuous violations of the DeKalb County Board of Education policies and procedures including the beating of students.

38. As a direct and proximate result of Defendants' misconduct, Payton Lewis has suffered physical injury and mental anguish.

39. Plaintiff claims of Defendants Mitchell, DeKalb County Board of Education, Mary Etta Bailey, Harold Bobo, Claude Callaham, Mark Richards, Terry Wooten, Ronald Bell, and Charles D. Warren in their individual capacities compensatory and punitive damages to be determined by a jury.

/s/ Gregory F. Yaghmai  
(ASB-2411-h67g)

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**JURY DEMAND**

PLAINTIFF DEMANDS A STRUCK JURY FOR THE TRIAL OF THIS CAUSE.

/s/ Gregory F. Yaghmai  
Of Counsel