

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

JANE DOE, by and through her)
mother and next of friend,)
MAMA DOE,)
)
Plaintiff,)

v.)

Case No. _____

HAMPTON ROADS)
TRANSIT AUTHORITY,)
d/b/a HRT,)
Serve: Michael S. Townes)
President/CEO)
3400 Victoria Blvd.)
Hampton, VA 23661)

) JURY TRIAL DEMANDED

and)

KOKOU FEDY,)
Serve: Kokou Fedy)
2913 Stalham Rd., Apt. 1)
Chesapeake, VA 23324)
)
Defendants.)

COMPLAINT

Plaintiff Jane Doe (“Doe”), by and through her mother and next of friend, Mama Doe (“M. Doe”), by counsel, pursuant to Va. Sup. Ct. R. 3:2 and Va. Code Ann. § 8.01-15.1A, submits her Complaint against Defendants Hampton Road Transit Authority, d/b/a HRT (“HRT”) and Kokou Fedy (“Fedy”) and, in support of same, states as follows:

PARTIES

1. Doe is a Virginia citizen, residing in Henrico County, Virginia. Doe is a minor child. At all relevant times hereto, Doe was thirteen-years old.

2. M. Doe is a Virginia citizen, residing in Henrico County, Virginia. M. Doe is Doe's mother.

3. HRT is a transportation organization formed under the laws of the Commonwealth of Virginia. HRT is engaged in the business of providing public transportation for a fee in the cities of Virginia Beach, Norfolk, Suffolk, Chesapeake, Portsmouth, Hampton, and Newport News.

4. Fedy is a Virginia citizen, residing in Chesapeake, Virginia. Fedy is employed as a bus driver for HRT. At all relevant times hereto, Fedy was acting in the scope of his employment as a HRT bus driver.

VENUE AND JURISDICTION

5. This Court has jurisdiction over Doe because she is a Virginia citizen.

6. This Court has jurisdiction over M. Doe because she is a Virginia citizen.

7. This Court has jurisdiction over HRT because it is a transportation organization formed under the laws of the Commonwealth of Virginia.

8. This Court has jurisdiction over Fedy because he is a Virginia citizen.

9. Venue is appropriately laid in the Circuit Court of the City of Virginia Beach pursuant to Va. Code Ann. § 8.01-262, because the events giving rise to Doe's claims against HRT and Fedy occurred in the City of Virginia Beach and HRT and Fedy regularly conduct business operations in the City of Virginia Beach.

FACTUAL ALLEGATIONS

10. On September 23, 2006, Doe was with her family in Henrico County, Virginia, preparing to move into a new family residence.

11. Doe was thirteen-years old.

12. After the moving truck had been fully packed, the family's cars loaded, and other tasks had been done for the move, Doe's family learned that the purchasers of their residence had reneged on their contract leaving Doe's family "in limbo" about where they would live in the future. Naturally, this news was traumatic and stressful on Doe's family. In particular, Doe was particularly upset about the situation because she was eagerly looking forward to her family's new home.

13. To relieve Doe's stress and place her in a more comfortable environment, Doe's family took Doe to her grandfather and grandmother's home in the Little Neck section of Virginia Beach, Virginia.

14. After arriving at her grandparents' home, having dinner, preparing for bed, and going to a bedroom for the night, Doe's stress reached a point where she decided to leave the home, walk around, and try to relax.

15. When Doe left her grandparent's home it was well after 11:00 p.m., meaning Doe could not legally be out under the City of Virginia Beach's curfew for children her age.

16. Doe's grandparents did not know that she had left their home until early on September 24, 2006.

17. When Doe left her grandparents' home, her hair was uncombed, she was not wearing any makeup, and she was wearing a pair of her grandfather's tennis shoes, pants,

and an oversized sweatshirt belonging to her grandfather. Doe was essentially in her pajamas.

18. When Doe left her grandparents' home, it was raining off and on as the Virginia Beach, Virginia area had been experiencing an evening of thunderstorms.

19. After thirty or forty-five minutes, Doe reached the HRT bus stop at the Little Neck Road and Virginia Beach Boulevard intersection. After waiting several minutes, an HRT bus driven by Fedy approached and stopped at the HRT bus stop between 12:10 and 12:30 a.m.

20. After the bus stopped, Doe and an African-American male boarded the bus.

21. Prior to September 24, 2006, Doe had never been on a public bus before.

22. Since Doe is Caucasian, Fedy should have known that Doe was an unaccompanied minor and that the African-American male was not her father or relative.

23. If Fedy was not aware of this fact, he should have become aware of it when Doe did not know how to pay for the bus fair and required Fedy's assistance to pay it. Even if this did not awaken Fedy's awareness that Doe was an unaccompanied minor child, he should have learned this fact when the African-American male subsequently exited the HRT bus a few stops later without Doe.

24. Despite these facts and the fact that Doe was violating the City of Virginia Beach's curfew, Fedy did not ask how old Doe was, ask her where she was going, ask her the location of her parents or guardian, or ask her if she needed any assistance.

25. A reasonable and prudent HRT bus driver would have asked Doe these questions or would have alerted the City of Virginia Beach police about the fact that a minor child was riding an HRT bus, unaccompanied well after midnight on a Saturday

night wearing pajama-like clothes.

26. Instead, Fedy allowed an unaccompanied, thirteen-year old girl to board the HRT bus in her pajamas.

27. Naturally, one would think that HRT would have rules and regulations in place to govern similar situations when minors board its buses in violation of city curfew laws, unaccompanied by an adult, etc., and are placed in situations where it is obvious that they need an adult's guidance or aid.

28. Unfortunately for Doe, HRT's only regulation relating to the use of its buses by minors is one that requires a child to be thirty-eight inches tall to ride an HRT bus by themselves. Since Doe was over three feet, two inches tall, Doe was able to board and ride the HRT bus after midnight on September 24, 2006.

29. When Doe boarded the bus, Calvin Boyd ("Boyd") was already on the bus and seated toward the bus' rear.

30. Boyd is a forty-eight year old African-American male who weighs almost three hundred pounds. Boyd was known by the Virginia Beach City Police as a "predator" who often stalked young girls.

31. While on the HRT bus, Doe sat by herself, talked with no one, and tried to relax and calm down from the prior day's events. Since she had never ridden a bus before, Doe was under the impression that the HRT bus would "do a circle" and return to the Little Neck Road/Virginia Beach Boulevard HRT bus stop.

32. Doe was unaware that the HRT bus' last stop would be at the Virginia Beach Oceanfront.

33. Thirty or so minutes later, the HRT bus approached the HRT bus stop near the

intersection of 19th Street and Pacific Avenue at the Virginia Beach Oceanfront. At this time, it was raining and storming.

34. At the HRT bus stop at the intersection of 19th Street and Pacific Avenue, Fedy announced that this was the HRT bus' last stop. All of the passengers, except Doe, proceeded to exit the HRT bus, including Boyd.

35. Having never ridden a public bus before, Doe was confused as what to do based on the fact that it was late, it was raining, she was unfamiliar with the Virginia Beach Oceanfront, and she had no way to get back to her grandparents' home over ten miles away.

36. By this time, however, Boyd had left the HRT bus and was waiting outside the HRT bus door for Doe.

37. From his driver's seat, Fedy could see that Boyd was waiting outside the HRT bus for Doe despite the fact that it was raining.

38. Despite the fact that the Doe was a minor child, was dressed in pajama like clothes, was unaccompanied by an adult, was violating the City of Virginia Beach's curfew for children her age, it was raining, and Boyd was waiting outside the HRT bus door for her, Fedy did not ask Doe any questions, but simply allowed her to exit the HRT bus at the Virginia Beach Oceanfront at or around 1:45 a.m. on September 24, 2006.

39. A reasonable and prudent HRT bus driver would not have allowed Doe to exit the bus at the Virginia Beach Oceanfront, but would have indicated the presence of an unaccompanied minor child on the HRT bus to his HRT dispatcher who would have alerted the Virginia Beach police of this fact.

40. In fact, since the City of Virginia Beach Police Second Precinct is located on

17th Street, Fedy could have dropped Doe off at this location to ensure her safety.

41. Under no circumstances, however, would a reasonable and prudent HRT bus driver, permit a thirteen-year old girl to exit an HRT bus at the Virginia Beach Oceanfront at 1:45 a.m. on a Saturday night, early Sunday morning in pajama-like clothes.

42. This is true because the Virginia Beach Oceanfront at or around 1:45 a.m. on a Saturday night, early Sunday morning is a dangerous place and is known to be a frequent location for murders, muggings, assaults, and rapes. This is especially true for a thirteen-year old girl who is by herself wearing pajama like clothes.

43. After she left the HRT bus, Doe was immediately met by Boyd who convinced her to “get out of the rain” by following him to a vacant building near 27th Street and Pacific Avenue.

44. While in the vacant building, Doe was raped by Boyd.

45. Prior to being raped by Boyd, Doe was a virgin who had never been kissed or even held hands with a boy. In fact, Doe wore a chastity ring that her father had given to her indicating the pride that she had in her virginity.

46. Shortly after the rape, Doe escaped the vacant building, ran to a convenience store, and called her family for help.

47. After her family arrived and learned of her rape, Doe was transported to a Virginia Beach hospital for medical treatment.

48. As treatment for rape, a physician will normally give a victim the “morning after pill” to ensure that no pregnancy occurs. Doe, however, was unable to take the “morning after pill” because she is Catholic and was forced to wait several, agonizing months to learn that Boyd did not impregnate her when he raped her.

49. Boyd's rape of Doe, however, did cause Doe to contract the incurable, Herpes Simplex II virus. Moreover, the question of whether Boyd infected Doe with the HIV virus is not yet known.

50. In addition to the physical injuries that were inflicted upon her, Boyd's rape has caused Doe to suffer tremendous mental anguish, embarrassment, and humiliation. For example, the humiliation caused by Boyd's rape of her led Doe to throw away the chastity ring that her father had given to her.

51. Subsequent to the rape, Boyd was arrested and pled guilty to unlawful carnal knowledge of a minor in violation of Va. Code Ann. § 18.2-63.

52. Due to the fact that Doe was an unaccompanied, thirteen-year old girl and the Virginia Beach Oceanfront at or around 1:45 a.m. on a Saturday night, early Sunday morning is a dangerous place for an unaccompanied, thirteen-year old girl, Boyd's rape of Doe was a foreseeable consequence of Fedy's action and omissions in allowing Doe to exit the HRT Bus at the HRT bus stop at 19th Street and Pacific Avenue.

53. As a common carrier, HRT owed a duty to Doe to allow her to exit the HRT bus in a safe place and under safe circumstances.

COUNT ONE
(Negligence Against HRT and Fedy)

54. Doe repeats and realleges the allegations set forth in Paragraphs 1 through 53 as though the same were set forth herein.

55. HRT is a common carrier and owes a duty to its passenger, *e.g.*, Doe, a high standard of care to protect their passengers' well-being and safety.

56. Part of the duty that a common carrier, like HRT, owes to their passengers is to provide them with a safe place or area to leave the HRT bus.

57. As a passenger on HRT, Doe was owed the highest standard of care by HRT to ensure that her safety and well-being was protected.

58. As a passenger on HRT, Doe was also entitled to have HRT provide her with a safe place and area to depart the HRT bus.

59. As HRT's employee, Fedy owed Doe each of the above duties that HRT owed to her as a common carrier.

60. Since Fedy was acting in the scope of his employment as an HRT bus driver, HRT is liable for Fedy's negligence in the operation of the HRT bus and his failure to fulfill the obligations imposed on him as a common carrier.

61. HRT and Fedy were negligent in the duties they owed to Doe because:

- a. They permitted her to board an HRT bus after midnight and in violation of the City of Virginia Beach's curfew; and
- b. They forced her to exit the HRT bus at the Virginia Beach Oceanfront at or around 1:45 a.m. on a Saturday night, early Sunday morning despite knowing that the Virginia Beach Oceanfront is a dangerous place for an unaccompanied, thirteen-year girl wearing pajama-like clothes.

62. By forcing Doe to exit the HRT bus at the Virginia Beach Oceanfront at or around 1:45 a.m. on a Saturday night, early Sunday morning, HRT and Fedy knew that they were leaving Doe in an unsafe place where her safety and well-being was likely in jeopardy.

63. Boyd's rape of Doe was a foreseeable result of HRT and Fedy's decision to force Doe off the HRT bus at the Virginia Beach Oceanfront at or around 1:45 a.m. on a Saturday night.

64. As a result of HRT and Fedy's negligence, Doe has and will continue to incur physical and mental suffering that will last her entire lifetime.

COUNT TWO
(Gross Negligence Against HRT and Fedy)

65. Doe repeats and realleges the allegations set forth in Paragraphs 1 through 64 as though the same were set forth herein.

66. HRT is a common carrier and owes a duty to its passenger, *e.g.*, Doe, a high standard of care to protect their passengers' well-being and safety.

67. Part of the duty that a common carrier, like HRT, owes to their passengers is to provide them with a safe place or area to leave the HRT bus.

68. As a passenger on HRT, Doe was owed the highest standard of care by HRT to ensure that her safety and well-being was protected.

69. As a passenger on HRT, Doe was also entitled to have HRT provide her with a safe place and area to depart the HRT bus.

70. As HRT's employee, Fedy owed Doe each of the above duties that HRT owed to her as a common carrier.

71. Since Fedy was acting within the scope of his employment as an HRT bus driver, HRT is liable for Fedy's gross negligence in the operation of the bus and failure to fulfill the obligations imposed on him as a common carrier.

72. HRT and Fedy were grossly negligent in the duties they owed to Doe because:

- c. They permitted her to board an HRT bus after midnight and in violation of the City of Virginia Beach's curfew; and
- d. They forced her to exit the HRT bus at the Virginia Beach Oceanfront at or around 1:45 a.m. on a Saturday night, early Sunday morning despite knowing that the Virginia Beach Oceanfront is a dangerous place for an unaccompanied, thirteen-year girl wearing pajama-like clothes.

73. By forcing Doe to exit the HRT bus at the Virginia Beach Oceanfront at or

around 1:45 a.m. on a Saturday night, HRT and Fedy knew that they were leaving Doe in an unsafe place where her safety and well-being were likely in jeopardy.

74. HRT and Fedy's decision to force Doe to exit the HRT bus under the above circumstances amounts to such a deviation from the duties owed to her by a common carrier as to equal gross negligence on the part of HRT and Fedy.

75. Boyd's rape of Doe was a foreseeable result of HRT and Fedy's decision to force Doe off the HRT bus at the Virginia Beach Oceanfront at or around 1:45 a.m. on September 24, 2006.

76. As a result of HRT and Fedy's gross negligence, Doe has and will continue to incur physical and mental suffering that will last her entire lifetime.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Jane Doe, by and through her mother and next of friend, Christine Conroy, requests respectfully that the Court award her the following relief:

- a. Actual damages in the amount of Five Million Dollars (\$5,000,000) jointly and severally against Defendants Hampton Road Transit Authority, d/b/a HRT and Kokou Fedy;
- b. Punitive damages in the amount of Five Million Dollars (\$5,000,000) jointly and severally against Defendants Hampton Road Transit Authority, d/b/a HRT and Kokou Fedy;
- c. An award of the attorneys' fees and costs incurred herein; and
- d. Such other and further relief as the Court deems is just and appropriate.

JURY TRIAL DEMANDED

JANE DOE, by and through her
mother and next of friend,
MAMA DOE

By: _____

Of Counsel

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