

**CV - 07 0542**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.**

**JOHN CAVE and NANCY CAVE as individuals and  
as parents and legal guardians of JOHN CAVE JR. and  
JOHN CAVE JR.**

★ FEB - 8 2007 ★

**LONG ISLAND OFFICE**

**Plaintiffs,**

**-against-**

**CIVIL COMPLAINT**

**EAST MEADOW UNION FREE SCHOOL DISTRICT,  
W. TRESPER CLARKE HIGH SCHOOL, ROBERT R.  
DILLON as administration of The East Meadow Union  
Free School District and W. Tresper Clarke High School  
and ROBERT R. DILLON individually and personally,  
JOSEPH BARBERA as administration of The East  
Meadow Union Free School District and W. Tresper  
Clarke High School and JOSEPH BARBERA individually  
and personally, LEON J. CAMPO as administration of  
The East Meadow Union Free School District and  
W. Tresper Clarke High School and LEON J. CAMPO  
individually and personally, TIMOTHY VOELS as  
administration of The East Meadow Union Free School  
District and W. Tresper Clarke High School and TIMOTHY  
VOELS individually and personally, DEBORAH COATES  
as President of the Board of Education of EAST MEADOW  
SCHOOL DISTRICT and W. TRESPER CLARKE HIGH  
SCHOOL and DEBORAH COATES individually and  
Personally, BRIAN O'FLAHERTY as Vice President of  
the Board of Education of EAST MEADOW SCHOOL  
DISTRICT and W. TRESPER CLARKE HIGH  
SCHOOL and BRIAN O'FLAHERTY individually and  
Personally, DEBRA KIRSH, as Trustee of the Board of**

- CV - ( )  
**SPATT, J.**

**ORENSTEIN, M.**

**Education of EAST MEADOW UNION FREE SCHOOL DISTRICT and W. TRESPER CLARKE HIGH SCHOOL and DEBRA KIRSH individually and Personally, JUDY SHIECHEL, as Trustee of the Board of Education of EAST MEADOW UNION FREE SCHOOL DISTRICT and W. TRESPER CLARKE HIGH SCHOOL and JUDY SHIECHEL individually and Personally, WALTER SKINNER, as Trustee of the Board of Education of EAST MEADOW UNION FREE SCHOOL DISTRICT and W. TRESPER CLARKE HIGH SCHOOL and WALTER SKINNER individually and Personally, BARRY RUBINSTEIN, as Trustee of the Board of Education of EAST MEADOW UNION FREE SCHOOL DISTRICT and W. TRESPER CLARKE HIGH SCHOOL and BARRY RUBINSTEIN individually and Personally, JOSEPH PARISI, as Trustee of the Board of Education of EAST MEADOW UNION FREE SCHOOL DISTRICT and W. TRESPER CLARKE HIGH SCHOOL and JOSEPH PARISI individually and Personally, GERALDINE DODDATO as Assistant Principal and administration of The East Meadow Union Free School District and W. Tresper Clarke High School and GERALDINE DODDATO individually and personally, DARRYL STRABUK as Assistant Principal and administration of The East Meadow School District and W. Tresper Clarke High School and DARRYL STRABUK individually and personally, PATRICE DOBIES as an employee, agent and servant of EAST MEADOW UNION FREE SCHOOL DISTRICT and W. TRESPER CLARKE HIGH SCHOOL and PATRICE DOBIES individually and Personally and JOHN CAMPO as an employee, agent and servant of EAST MEADOW SCHOOL**

**DISTRICT and W. TRESPER CLARKE HIGH SCHOOL  
and JOHN CAMPO (individually and Personally,  
Defendants.**

**X**

Plaintiffs, **JOHN CAVE, NANCY CAVE and JOHN CAVE JR.**, (hereinafter collectively referred to as "**PLAINTIFFS**") complaining of the Defendants, by their attorney Paul J. MARGIOTTA, ESQ., herein, allege as follows:

1. That at all times hereinafter mentioned, Plaintiffs were and still is a resident of the State of New York, County of Suffolk.
2. That upon information and belief at all times hereinafter mentioned, defendant East Meadow Union Free School District is a corporation existing under the laws of the State of New York and has its principal place of business at 718 The Plain Road, Westbury, NY 11590.
3. That upon information and belief at all times hereinafter mentioned, defendant W. Tresper Clarke High School which has its principal place of business at 740 Edgewood Drive, Westbury, NY 11590, and is a subsidiary of East Meadow Union Free School District, a corporation existing under the laws of the State of New York and has its principal place of business at 718 The Plain Road, Westbury, NY 11590.
4. That upon information and belief at all times hereinafter mentioned, defendant Robert R. Dillon is the Superintendent of the East Meadow Union Free School District, a corporation existing under the laws of the State of New York and has its principal place of business at 718 The Plain Road, Westbury, NY 11590.
5. That upon information and belief at all times hereinafter mentioned, all individual defendants are employees, agents, servants, officers and officers of the East Meadow

Union Free School District, a corporation existing under the laws of the State of New York and has its principal place of business at 718 The Plain Road, Westbury, NY 11590.

6. That Defendants are subject to the jurisdiction of this court as residents of the State of New York, Counties of Suffolk and Nassau and as a New York State Corporation doing business in Nassau County.

7. That this cause of action arises under The American's with Disabilities Act, 42 U.S.C. § 12182, AMERICANS WITH DISABILITIES ACT OF 1990, THE REHABILITATION ACT OF 1973, including but not limited to §504 and relief and relief and remedies under 42 USC 1983, upon which jurisdiction is based, as well as PENDENT STATE CLAIMS for Violations of the NEW YORK STATE HUMAN RIGHTS LAW, NEW YORK STATE EXECUTIVE LAW, including but not limited to §296, including but not limited to subsections 2(a), 4, 6, 7, 14, NEW YORK STATE CIVIL RIGHTS LAW, including but not limited to § 40, § 40-c, § 47 (1) and (2), 47-b § 47-c; NEW YORK STATE EDUCATION LAW Article 89 §4401.

8. That all individual Defendants did act in their official capacity in all allegations in this complaint and that said actions against each individual as charged personally, is complained of and remedies are requested pursuant to 42 USC 1983.

9. That upon information and belief the defendants did violate plaintiff's civil, constitutional and statutory rights pursuant to a policy known and employed by Robert R. Dillon, the East Meadow Union Free School District and W. Tresper Clarke High School.

10. That upon information and belief it is the policy of the Board of Education of the East Meadow School District to deny access to individuals with disabilities entry to their public facilities if said individuals require the use of a seeing/hearing/service or assistance dog.

11. JOHN CAVE JR. (hereinafter JOHH JR.), is a 14 year old deaf boy attending East Meadow School District, specifically, W. TRESPER CLARKE HIGH SCHOOL at 740 Edgewood Drive, Westbury, NY and is in the 9<sup>th</sup> grade.

12. JOHN CAVE and NANCY CAVE are JOHN CAVE JUNIOR'S parents and legal guardians.

13. PLAINTIFFS reside in Westbury New York, within the East Meadow School District and JOHN JR. attends W. TRESPER CLARKE HIGH SCHOOL.

14. JOHN JR. is profoundly deaf and has been so since infancy (approximately 10 months old), before attending any public school.

15. JOHN JR has struggled with his disability throughout his childhood and has utilized every available help he could obtain to provide him with the best hearing he could possibly obtain.

16. These helps have been in the form of hearing aids, sign language and sign language interpreters, Cochlear implants and most recently, by the grace of GOD, and NEADS (National Education of Assistance Dog Services) and the generosity of CDK (Canines for Disabled Kids) and others, a service dog named SIMBA.

17. On or about January 3, 2007, the JOHN JR. and his mother NANCY, visited the W. TRESPER CLARKE HIGH SCHOOL with SIMBA, to get SIMBA acquainted with the layout of the school and to get JOHN JR. acquainted with SIMBA in a school environment.

18. To their surprise, NANCY CAVE, JOHN JR. and SIMBA were accosted by TIMOTHY VOELS and DARRYL STRABUK, and thrown out of the school. In fact, TIMOTHY VOELS threatened the CAVES, by getting uncomfortably close to their faces and ordering them out of the school and called the police.

19. On or about January 4, 2007, JOHN JR. and SIMBA, accompanied by his parents and JESSICA, arrived at school at approximately 7:00 a.m., like all the other students. JOHN JR. and JESSICA were met by TIMOTHY VOELS and DARRYL STRABUK, at the entrance of the school and ordered to stop and were forbidden entry to the school with SIMBA. JOHN JR., SIMBA and JESSICA were forced to wait outside the entrance of the school in the frigid cold for 30 minutes, until JOHN JR.'S interpreter arrived to sign that SIMBA was denied access to the school.

20. On or about January 5, 2007, JOHN JR. and SIMBA, accompanied by his parents and JESSICA, arrived at school at approximately 7:30 a.m., like all the other students. JOHN JR. was met by TIMOTHY VOELS and school administrators, at the entrance of the school and ordered to stop and was forbidden entry to the school with SIMBA.

21. January 8, 2007, JOHN JR., SIMBA, and JESSICA, accompanied by their parents, arrived at school at approximately 7:30 a.m., like all the other students. JOHN JR. and JESSICA were met, at the entrance of the school and ordered to stop and were forbidden entry to the school with Simba.

22. On or about January 16, 2007, NANCY CAVE met with TIMOTHY VOELS, DARRYL STRABUK and GERALDINE DODDATO to discuss the violation of JOHN JR'S civil rights and the discrimination being displayed by the Defendants.

23. On or about January 16, 2007, NANCY CAVE met with TIMOTHY VOELS, DARRYL STRABUK and GERALDINE DODDATO to discuss the violation of JOHN JR'S civil rights and the discrimination being displayed by the Defendants and the threat to suspend JOHN JR. for INSUBORDINATION if SIMBA was not removed from the school.. At this meeting, NANCY CAVE requested that TIMOTHY VOELS expedite the setting up of a

one-on-one meeting between herself and ROBERT DILLON in order to discuss the violation of JOHN JR'S. civil rights and the discrimination being displayed by the Defendants.

24. As of January 28, 2007, JOHN JR. and SIMBA have been consistently denied access to the W. TRESPER CLARKE HIGH SCHOOL by TIMOTHY VOELS, DARRYL STRABUK, GERALDINE DODDATO and JOHN BOYLE.

25. JOHN JR. was born on August 4, 1992. From early childhood it was clear that JOHN JR could not speak and hear as most children.

26. On or about OCTOBER, 1995, JOHN JR. was diagnosed with Profound Hearing Loss in his Right ears and a Severe to Profound Hearing Loss in his Left ear. Subsequently at age 8 JOHN JR. lost all residual hearing in his Left ear, leaving him Profoundly Deaf in both ears.

27. JOHN JR has Profound Deafness, which results in his inability to hear and therefore speak, as typical hearing children.

28. JOHN JR has struggled with his disability and has been strong in the face of adversity and even the discrimination disabled people face everyday in our society.

29. JOHN JR. and his parents, have taken every possible action to assist in augmenting his hearing and accepting all helps available, including Sign Language and even the drastic step of Bi-lateral Cochlear implants.

30. When JOHN JR and his parents learned that JOHN JR. was eligible for a service dog, they were overwhelmed with joy and happiness. While JOHN JR. had to pass ADI'S (Assistance Dogs International) Public Access tests to actually receive a non-facilitated service dog, they knew JOHN JR. would give it his all, as he has his whole life when it comes to fighting back against his disability.

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31. On or about January 2, 2007, JOHN JR. passed the ADI Public Access test and was certified eligible for a non-facilitated service dog.

32. NEADS (National Education of Assistance Dog Services) trained and provided SIMBA, a service dog for JOHN JR. through the grant of CDK (Canines for Disabled Kids) and others December, 2006 and January, 2007.

33. JOHN JR. and SIMBA have been inseparable, well, that was until the Defendants began to interfere with JOHN JR. and SIMBA'S training and necessary bonding.

34. SIMBA is a 2 year old Yellow Labrador Retriever.

35. SIMBA was trained from May, 2006 to December, 2006 to be a service dog. It takes approximately 6 months to train and prepare a dog to be a service dog.

36. The training and sacrifice are extraordinary and the cost prohibitive.

37. A major requirement for a service dog to be effective and retain their training is that the dog and the disabled child be together 24 hours a day, 7 days a week.

38. It takes effort and dedication for a disabled child and a service dog to bond and function as one.

39. SIMBA has been excluded from JOHN JR.'S daily life due to the violation of his civil rights and discrimination by the Defendants, as consequently, SIMBA is waning.

40. SIMBA is alone 6 to 8 hours a day and has been declining in his ability and training, and as such is in serious risk of failing to provide the services he was trained to provide.

41. In fact, recently, SIMBA barked. While this might sound harmless for most dogs, this is an absolutely prohibited behavior he was trained in which not to engage.

42. This simple fact alone is clear evidence to JOHN JR. that he is losing his service dog and that he is in immediate danger of becoming an exorbitantly high priced pet.

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43. The denial of access by the Defendants, if left unresolved, will soon have the consequences of destroying the benefit that SIMBA has been provided to JOHN JR. to provide, as well as fatally injuring SIMBA as a service dog and precluding JOHN JR. from receiving another service dog in the further.

**AS AND FOR A FIRST CAUSE OF ACTION**

44. Plaintiff repeats and incorporates paragraphs 1 through 43.

45. On or about January 3, 2007, the JOHN JR. and his mother NANCY, visited the W. TRESPER CLARKE HIGH SCHOOL with SIMBA, to get SIMBA acquainted with the layout of the school and to get JOHN JR. acquainted with SIMBA in a school environment.

46. NANCY CAVE, JOHN JR. and SIMBA were accosted by TIMOTHY VOELS and DARRYL STRABUK, and thrown out of the school.

47. TIMOTHY VOELS threatened the CAVES, by getting uncomfortably close to their faces and ordering them out of the school and called the police.

48. That on or about January 3, 2007, JOHN CAVE JR. was wrongfully and illegally denied access to a public school, specifically W. TRESPER CLARKE HIGH SCHOOL due to his disability and his use of a hearing dog to assist him with his disability in violation of The American's with Disabilities Act, 42 U.S.C. § 12182, AMERICANS WITH DISABILITIES ACT OF 1990, THE REHABILITATION ACT OF 1973, including but not limited to §504, a violation of the NEW YORK STATE HUMAN RIGHTS LAW, NEW YORK STATE EXECUTIVE LAW, including but not limited to §296, including but not limited to subsections 2(a), 4, 6, 7, 14, NEW YORK STATE CIVIL RIGHTS LAW, including but not limited to § 40, § 40-c, § 47 (1) and (2), 47-b § 47-c; NEW YORK STATE EDUCATION LAW Article 89 §4401.

**AS AND FOR A SECOND CAUSE OF ACTION**

49. Plaintiff repeats and incorporates paragraphs 1 through 48.

50. On or about January 5, 2007, JOHN JR. and SIMBA, accompanied by his parents and JESSICA, arrived at school at approximately 7:30 a.m., like all the other students. JOHN JR. was met by TIMOTHY VOELS and school administrators, at the entrance of the school and ordered to stop and was forbidden entry to the school due to his disability and his use of a hearing dog to assist him with his disability.

51. On or about January 5, 2007, JOHN JR. was wrongfully and illegally denied access to a public school, specifically W. TRESPER CLARKE HIGH SCHOOL due to his disability and his use of a hearing dog to assist him with his disability in violation of The American's with Disabilities Act, 42 U.S.C. § 12182, AMERICANS WITH DISABILITIES ACT OF 1990, THE REHABILITATION ACT OF 1973, including but not limited to §504, a violation of the NEW YORK STATE HUMAN RIGHTS LAW, NEW YORK STATE EXECUTIVE LAW, including but not limited to §296, including but not limited to subsections 2(a), 4, 6, 7, 14, NEW YORK STATE CIVIL RIGHTS LAW, including but not limited to § 40, § 40-c, § 47 (1) and (2), 47-b § 47-c; NEW YORK STATE EDUCATION LAW Article 89 §4401.

**AS AND FOR A THIRD CAUSE OF ACTION**

52. Plaintiff repeats and incorporates paragraphs 1 through 51.

53. On or about January 8, 2007, JOHN CAVE JR. and JESSICA CAVE, accompanied by their parents, arrived at school at approximately 7:30 a.m., like all the other students. JOHN JR. and JESSICA were met, at the entrance of the school and ordered to stop and were forbidden entry to the school due to his disability and his use of a hearing dog to assist him with his disability.

54. On or about January 8, 2007, JOHN JR. was wrongfully and illegally denied access to a public school, specifically W. TRESPER CLARKE HIGH SCHOOL due to his disability and his use of a hearing dog to assist him with his disability in violation of The American's with Disabilities Act, 42 U.S.C. § 12182, AMERICANS WITH DISABILITIES ACT OF 1990, THE REHABILITATION ACT OF 1973, including but not limited to §504, a violation of the NEW YORK STATE HUMAN RIGHTS LAW, NEW YORK STATE EXECUTIVE LAW, including but not limited to §296, including but not limited to subsections 2(a), 4, 6, 7, 14, NEW YORK STATE CIVIL RIGHTS LAW, including but not limited to § 40, § 40-c, § 47 (1) and (2), 47-b § 47-c; NEW YORK STATE EDUCATION LAW Article 89 §4401.

**AS AND FOR A FOURTH CAUSE OF ACTION**

55. Plaintiff repeats and incorporates paragraphs 1 through 54.

56. During the entire month of January, 2007, JOHN CAVE JR. has been repeatedly, wrongfully and illegally denied access to a public school, specifically W. TRESPER CLARKE HIGH SCHOOL due to his disability and his use of a hearing dog to assist him with his disability in violation of The American's with Disabilities Act, 42 U.S.C. § 12182, AMERICANS WITH DISABILITIES ACT OF 1990, THE REHABILITATION ACT OF 1973, including but not limited to §504, a violation of the NEW YORK STATE HUMAN RIGHTS LAW, NEW YORK STATE EXECUTIVE LAW, including but not limited to §296, including but not limited to subsections 2(a), 4, 6, 7, 14, NEW YORK STATE CIVIL RIGHTS LAW, including but not limited to § 40, § 40-c, § 47 (1) and (2), 47-b § 47-c; NEW YORK STATE EDUCATION LAW Article 89 §4401.

**AS AND FOR A FIFTH CAUSE OF ACTION**

57. Plaintiff repeats and incorporates paragraphs 1 through 56.

58. On or about January 12, 2007, defendants TIMOTHY VOELS, GERALDINE DODDATO and DARRYL STRABUK did and custodians with two way radios did stalk, follow and intimidate John CAVE JR., Jessica Cave and their friends while they attended the W. Tresper Clarke High School.

59. That on or about January 12, 2007, defendants TIMOTHY VOELS, GERALDINE DODDATO and DARRYL STRABUK did, with intent to interfere with the rights of JOHN CAVE JR, stalk, follow and intimidate John CAVE JR., Jessica Cave and their friends while they attended the W. Tresper Clarke High School.

60. That on or about January 12, 2007, defendants TIMOTHY VOELS, GERALDINE DODDATO and DARRYL STRABUK did stalk, follow and intimidate John CAVE JR., Jessica Cave and their friends while they attended the W. Tresper Clarke High School, due to JOHN CAVE JR'S exercise of his civil rights, objection to the defendants violation of his civil rights and due to complaints about the defendant's civil rights, in an effort to retaliate for, intimidate, prevent and discourage from JOHN CAVE JR pursuing his civil rights.

61. That defendants did the aforementioned in violation of The American's with Disabilities Act, 42 U.S.C. § 12182, AMERICANS WITH DISABILITIES ACT OF 1990, THE REHABILITATION ACT OF 1973, including but not limited to §504, a violation of the NEW YORK STATE HUMAN RIGHTS LAW, NEW YORK STATE EXECUTIVE LAW, including but not limited to §296, including but not limited to subsections 2(a), 4, 6, 7, 14, NEW YORK STATE CIVIL RIGHTS LAW, including but not limited to § 40, § 40-c, § 47 (1) and

(2), 47-b § 47-c; NEW YORK STATE EDUCATION LAW Article 89 §4401.

**AS AND FOR A SIXTH CAUSE OF ACTION**

62. Plaintiff repeats and incorporates paragraphs 1 through 56.

63. On or about January 16, 2007, defendants TIMOTHY VOELS, GERALDINE DODDATO and DARRYL STRABUK did and custodians with two way radios did stalk, follow and intimidate John CAVE JR., Jessica Cave and their friends while they attended the W. Tresper Clarke High School.

64. That on or about January 12, 2007, defendants TIMOTHY VOELS, GERALDINE DODDATO and DARRYL STRABUK did, with intent to interfere with the rights of JOHN CAVE JR, stalk, follow and intimidate John CAVE JR., Jessica Cave and their friends while they attended the W. Tresper Clarke High School.

65. That on or about January 12, 2007, defendants TIMOTHY VOELS, GERALDINE DODDATO and DARRYL STRABUK did stalk, follow and intimidate John CAVE JR., Jessica Cave and their friends while they attended the W. Tresper Clarke High School, due to JOHN CAVE JR'S exercise of his civil rights, objection to the defendants violation of his civil rights and due to complaints about the defendant's civil rights, in an effort to retaliate for, intimidate, prevent and discourage from JOHN CAVE JR pursuing his civil rights.

66. That defendants did the aforementioned in violation of The American's with Disabilities Act, 42 U.S.C. § 12182, AMERICANS WITH DISABILITIES ACT OF 1990, THE REHABILITATION ACT OF 1973, including but not limited to §504, a violation of the NEW YORK STATE HUMAN RIGHTS LAW, NEW YORK STATE EXECUTIVE LAW,

including but not limited to §296, including but not limited to subsections 2(a), 4, 6, 7, 14, NEW YORK STATE CIVIL RIGHTS LAW, including but not limited to § 40, § 40-c, § 47 (1) and (2), 47-b § 47-c; NEW YORK STATE EDUCATION LAW Article 89 §4401.


67. **WHEREFORE**, Plaintiffs request judgment against Defendants pursuant to The American's with Disabilities Act, 42 U.S.C. § 12182, AMERICANS WITH DISABILITIES ACT OF 1990, THE REHABILITATION ACT OF 1973, including but not limited to §504, a violation of the NEW YORK STATE HUMAN RIGHTS LAW, NEW YORK STATE EXECUTIVE LAW, including but not limited to §296, including but not limited to subsections 2(a), 4, 6, 7, 14, NEW YORK STATE CIVIL RIGHTS LAW, including but not limited to § 40, § 40-c, § 47 (1) and (2), 47-b § 47-c; NEW YORK STATE EDUCATION LAW Article 89 §4401 and 42 USC 1983 as follows:

**PERMANENTLY RESTRAINING AND ENJOINING** Defendants from denying Plaintiffs access to any and all school facilities within the East Meadow Union Free School District, either alone or while accompanied by a hearing/service/assistance dog.

**AWARDING** Plaintiff's damages in the sum of Fifty Million (\$50,000,000) Dollars; and Awarding Plaintiff's punitive damages in the sum of One Hundred Million (\$100,000,000) Dollars; and

**AWARDING** Plaintiff's court costs and fees, expenses and Attorneys fees and such other and further relief, as this Court may deem just and proper.

Dated: Lindenhurst, New York  
February 5, 2007



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PAUL J. MARGIOTTA  
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