

DOCKET NUMBER: WWM-CV21-5012142-S	:	SUPERIOR COURT
	:	
JANE DOE	:	J.D. OF WINDHAM
	:	
v.	:	AT PUTNAM
	:	
HYDE SCHOOL AT SOUTH WOODSTOCK, INC., ET AL	:	JULY 12, 2021

OBJECTION TO REQUEST TO REVISE

Pursuant to Practice Book § 10-37, the plaintiff, **JANE DOE**, hereby objects to the following Request to Revise sought by the defendant, **HYDE SCHOOL AT SOUTH WOODSTOCK, INC.** and **HYDE SCHOOL**, filed under the date of June 17, 2021, in accordance with the attached objections.

First Requested Revision:

- A. **Portion of Pleading To Be Revised:** Fourth Count and Sixth Count
- B. **Requested Revision:** Please delete those counts in their entirety .
- C. **Reason for Requested Revision:**

The Fourth and Sixth Counts are counts alleging negligent infliction of emotional distress. As such, they are duplicative of the Second Count, which is also a count for negligent infliction of emotional distress.

Plaintiff's Objection:

The plaintiff objects to the defendants' First Requested Revision to delete the Fourth and Sixth Count in their entirety. The plaintiff has successfully pled a cognizable cause of action in both the Fourth and Sixth Count. There are four elements that a plaintiff must prove in order to prevail on a claim of negligent infliction of emotional distress. The plaintiff must prove: "(1) the defendant's conduct created an unreasonable risk of causing the plaintiff emotional distress; (2) the plaintiff's distress was foreseeable; (3) the emotional distress was severe enough that it might result in illness or bodily harm; and (4) the defendant's conduct was the cause of the plaintiff's distress." Carrol v. Allstate Ins. Co., 262 Conn. 433, 444, 815 A.2d 119, 127 (2003).

In the present case, the Fourth Count sounds in negligent infliction of emotional distress. In doing so, the plaintiff incorporates by reference a number of paragraphs from the Third Count which is premised upon negligent supervision and/or training. Similarly, the Sixth Count sounds in negligent infliction of emotional distress. In doing so, the plaintiff incorporates by reference a number of paragraphs from the Fifth Count which is premised upon negligent hiring and retention. Accordingly, the defendant's contentions that the Fourth and Sixth Count are duplicative of the Second Count are misguided. The Second Count

sounding in negligent infliction of emotional distress is premised upon the negligence allegations outlined in the First Count.

The Second, Fourth and Sixth Counts sounding in negligent infliction of emotional distress are all derivative upon different theories of negligence. As stated above, the first element of negligent infliction of emotional distress is that the defendant's conduct created an unreasonable risk of causing the plaintiff emotional distress. In the Fourth and Sixth Count, the plaintiff alleges conduct that is completely different from the conduct that is alleged in the Second Count. As such, the Fourth and Sixth Counts are independent causes of action and the defendant's Request to Revise should be denied.

Second Requested Revision: (this request is identical to the First Request, except that it is specific to the second Defendant)

- A. **Portion of Pleading to Be Revised:** Tenth Count and Twelfth Count
- B. **Requested Revision:** Please delete those counts in their entirety.
- C. **Reason for Requested Revision:**

The Tenth and Twelfth Counts are counts alleging negligent infliction of emotional distress. As such, they are duplicative of the Eighth Count, which is also a count for negligent infliction of emotional distress.

Plaintiff's Objection:

The plaintiff objects to the defendants' Second Requested Revision to delete the Tenth and Twelfth Count in their entirety. The plaintiff has successfully pled a cognizable cause of action in both the Tenth and Twelfth Count. There are four elements that a plaintiff must prove in order to prevail on a claim of negligent infliction of emotional distress. The plaintiff must prove: "(1) the defendant's conduct created an unreasonable risk of causing the plaintiff emotional distress; (2) the plaintiff's distress was foreseeable; (3) the emotional distress was severe enough that it might result in illness or bodily harm; and (4) the defendant's conduct was the cause of the plaintiff's distress." Carrol v. Allstate Ins. Co., 262 Conn. 433, 444, 815 A.2d 119, 127 (2003).

In the present case, the Tenth Count sounds in negligent infliction of emotional distress. In doing so, the plaintiff incorporates by reference a number of paragraphs from the Ninth Count which is premised upon negligent supervision and/or training. Similarly, the Twelfth Count sounds in negligent infliction of emotional distress. In doing so, the plaintiff incorporates by reference a number of paragraphs from the Eleventh Count which is premised upon negligent hiring and retention. Accordingly, the defendant's contentions that the Tenth and Twelfth Count are duplicative of the Eighth Count are misguided. The Eighth Count sounding in negligent infliction of emotional distress is premised upon the negligence allegations outlined in the Seventh Count.

The Eighth, Tenth and Twelfth Counts sounding in negligent infliction of emotional distress are all derivative upon different theories of negligence. As stated above, the first element of negligent infliction of emotional distress is that the defendant's conduct created an unreasonable risk of causing the plaintiff emotional distress. In the Tenth and Twelfth Count, the plaintiff alleges conduct that is completely different from the conduct that is alleged in the Eighth Count. As such, the Tenth and Twelfth Counts are independent causes of action and the defendant's Request to Revise should be denied.

Third Requested Revision:

- A. **Portion of Pleading to Be Revised:** First Count , Paragraph 13d.
- B. **Requested Revision:** Please provide a more detailed statement as to what "proper safeguards and/or procedures" the Defendant failed to implement, or alternatively, please delete paragraph 13d.

C. **Reason for Requested Revision:**

Paragraph d. is very generic and non-specific. The Complaint already has 13 allegations of negligence in the First Count (the general negligence count), 11 allegations of negligence in the Third Count (negligent supervision and training) and 5 allegations of negligence in the Fifth Count (negligent hiring and retention), many of which specify "proper safeguards" the Defendant failed to implement. As such, there is no reason to allow such a broad allegation that does not advise the

Defendant of what the Plaintiff is claiming. Does paragraph d. refer to the same safeguards and/or procedures referenced in the other allegations? Does it refer to a different safeguard and/or procedure? Respectfully, the Defendant needs more details before it can respond to this allegation.

Plaintiff's Objection:

The plaintiff objects to the defendants' Third Request to Revise paragraph 13d of the First Count of the plaintiff's complaint. A request to revise seeks "an order directing the opposing party to revise his pleading in the manner specified." Royce v. Westport, 183 Conn. 177, 180 (1981). It has been held that a more definite statement should be ordered with caution and never for unsubstantial reasons. Itzkowitz v. Markow, 12 Conn. Sup. 68, 69 (C.P. 1943); *but see* Massa v. Union & New Haven Trust Co., 12 Conn. Sup. 324, 325 (Super. Ct. 1944). "The power of the trial court . . . to direct a fuller and more particular statement of the ground to be claimed or defense contained in any pleading, is largely discretionary, to be exercised with caution, and never for frivolous or unsubstantial reasons." Prince v. Takash, 75 Conn. 616, 619 (1903); *see* Multi Mail v. TEK Electronic Mfg. Co., Superior Court, Geographical Area No. 8, Docket No.: CV 8-1044 (April 27, 1992). The plaintiff's complaint as written, fully, fairly and adequately apprises the defendant of her cause of action. The plaintiff seeks only to plead his complaint as he sees fit rather than as the defendant would have him, as allowed under the Rules of Practice.

Bank v. Blakeslee, 4 Conn. Sup. 354 (1936); Freeman's Appeal, 71 Conn. 708, 714; Stephenson, Connecticut Civil Procedure, 2d. Ed., Vol. 1, Sec. 90.

When deciding a request to revise, the issue is not whether the complaint discloses all that the defendant desires to know in the aid of its defense, but whether it discloses the material facts which constitute the cause of action. Kileen v. General Motor's Corporation, 36 Conn. Sup. 347, 348 (1980). So long as the complaint fully discloses the grounds of the claim and sufficiently defines the issues, the request to revise should not be granted. Cervino v. Coratti, 131 Conn. 518, 520 (1945). In Deming v. Nationwide, Ins. Co., 279 Conn. 745 (2006), the Court stated: "In Connecticut, we long have eschewed the notion that pleadings should be read in a hypertechnical manner. Rather [t]he modern trend, which is followed in Connecticut, is to construe pleadings broadly and realistically, rather than narrowly and technically ... [T]he complaint must be read in its entirety in such a way as to give effect to the pleading with reference to the general theory upon which it proceeded and do substantial justice between the parties ... Our reading of pleadings in a manner that advances substantial justice means that a pleading must be construed reasonably, to contain all that it fairly means, but carries with it the related proposition that it must not be contorted in such a way so as to strain the balance of rational comprehension."

The plaintiff has fully disclosed the grounds of her claim and sufficiently defined the issues of her claim. Here, the plaintiffs have properly asserted a claim of negligence against the defendants. A request to revise is permissible to obtain information to allow the defendant to intelligently plead a defense, but it is never appropriate where the information sought is merely evidential. Kileen, 36 Conn. Sup. at 349. After reading the complaint as a whole, the material facts, issues or grounds of the plaintiff's claim are clearly discernable to the defendants. The facts as alleged sufficiently apprise the defendant of the basis of the plaintiff's cause of action. Therefore, a more complete and particular statement of the facts as requested by the defendant is unnecessary and the plaintiff's objection thereto should be sustained.

Fourth Requested Revision: (this request is identical to the Third Request, except that it is specific to the second Defendant)

- A. **Portion of Pleading to Be Revised:** Seventh Count, Paragraph 13d.
- B. **Requested Revision:** Please provide a more detailed statement as to what "proper safeguards and/or procedures" the Defendant failed to implement, or alternatively, please delete paragraph 13d in its entirety.
- C. **Reason for Requested Revision:**

Paragraph d. is very generic and non-specific. The Complaint already has 13 allegations of negligence in the Seventh Count (the general negligence count), 11 allegations of negligence in the Ninth Count (negligent supervision and training) and 5 allegations of negligence in the Eleventh Count (negligent hiring and retention), many of which specify "proper safeguards" the Defendant failed to implement. As such, there is no reason to allow such a broad allegation that does not advise the Defendant of what the Plaintiff is claiming. Does paragraph d. refer to the same safeguards and/or procedures referenced in the other allegations?

Does it refer to a different safeguard and/or procedure? Respectfully, the Defendant needs more details before it can respond to this allegation.

Plaintiff's Objection:

The plaintiff objects to the defendants' Fourth Request to Revise paragraph 13d of the Seventh Count of the plaintiff's complaint. A request to revise seeks "an order directing the opposing party to revise his pleading in the manner specified." Royce v. Westport, 183 Conn. 177, 180 (1981). It has been held that a more definite statement should be ordered with caution and never for unsubstantial reasons. Itzkowitz v. Markow, 12 Conn. Sup. 68, 69 (C.P. 1943); *but see* Massa v. Union & New Haven Trust Co., 12 Conn. Sup. 324, 325 (Super. Ct. 1944). "The power of the trial court . . . to direct a fuller and more particular statement of the ground to be claimed or defense contained in any pleading, is largely discretionary, to be exercised with caution, and never for frivolous or unsubstantial reasons." Prince v. Takash, 75 Conn. 616, 619 (1903); *see* Multi Mail v. TEK Electronic Mfg. Co., Superior Court, Geographical Area No. 8, Docket No.: CV 8-1044 (April 27,

1992). The plaintiff's complaint as written, fully, fairly and adequately appraises the defendant of her cause of action. The plaintiff seeks only to plead his complaint as he sees fit rather than as the defendant would have him, as allowed under the Rules of Practice. Bank v. Blakeslee, 4 Conn. Sup. 354 (1936); Freeman's Appeal, 71 Conn. 708, 714; Stephenson, Connecticut Civil Procedure, 2d. Ed., Vol. 1, Sec. 90.

When deciding a request to revise, the issue is not whether the complaint discloses all that the defendant desires to know in the aid of its defense, but whether it discloses the material facts which constitute the cause of action. Kileen v. General Motor's Corporation, 36 Conn. Sup. 347, 348 (1980). So long as the complaint fully discloses the grounds of the claim and sufficiently defines the issues, the request to revise should not be granted. Cervino v. Coratti, 131 Conn. 518, 520 (1945). In Deming v. Nationwide, Ins. Co., 279 Conn. 745 (2006), the Court stated: "In Connecticut, we long have eschewed the notion that pleadings should be read in a hypertechnical manner. Rather [t]he modern trend, which is followed in Connecticut, is to construe pleadings broadly and realistically, rather than narrowly and technically ... [T]he complaint must be read in its entirety in such a way as to give effect to the pleading with reference to the general theory upon which it proceeded and do substantial justice between the parties ... Our reading of pleadings in a manner that advances substantial justice means that a pleading must be construed reasonably, to contain all that it fairly means, but carries with it the related

proposition that it must not be contorted in such a way so as to strain the balance of rational comprehension.”

The plaintiff has fully disclosed the grounds of her claim and sufficiently defined the issues of her claim. Here, the plaintiffs have properly asserted a claim of negligence against the defendants. A request to revise is permissible to obtain information to allow the defendant to intelligently plead a defense, but it is never appropriate where the information sought is merely evidential. Kileen, 36 Conn. Sup. at 349. After reading the complaint as a whole, the material facts, issues or grounds of the plaintiff’s claim are clearly discernable to the defendants. The facts as alleged sufficiently apprise the defendant of the basis of the plaintiff’s cause of action. Therefore, a more complete and particular statement of the facts as requested by the defendant is unnecessary and the plaintiff’s objection thereto should be sustained.

Fifth Requested Revision:

- A. **Portion of Pleading To Be Revised:** First Count, Paragraphs 13a and 13b.
- B. **Requested Revision:** Please delete those paragraphs in their entirety.
- C. **Reason for Requested Revision:**

Paragraphs 13a and 13b of the First Count are duplicative of Paragraphs 13a and 13b of the Third Count. In addition, the First Count is

a general negligence count, therefore, there is no reason to allege negligent supervision in that count, particularly when it is already alleged in the negligent supervision count (the Third Count). As such, they are duplicative and do not need to be alleged again.

Plaintiff's Objection:

The plaintiff objects to the defendants' Fifth Request to delete paragraphs 13a and 13b of the First Count. The defendant alleges that Paragraphs 13a and 13b of the First Count are duplicative of Paragraphs 13a and 13b of the Third Count. Upon a close reading of the complaint, it is plainly obvious that the paragraphs are not duplicative of each other. Paragraphs 13a and 13b of the First Count state that the defendant was negligent in that it:

- a. had a duty to supervise its campers, yet failed to do so when it knew or should have known that they posed a foreseeable risk of harm to others, such as the plaintiff, **JANE DOE**;
- b. failed to properly observe, monitor, and/or control the actions of its campers, particularly the two male campers who made sexual and physical contact with the minor plaintiff;

(emphasis added).

Paragraphs 13a and 13b of the Third Count state that the defendant was negligent in that it:

- a. had a duty to supervise its camp staff, yet failed to do so when it knew or should have known that they posed a foreseeable risk of harm to others, such as the plaintiff, **JANE DOE**;

b. failed to properly supervise and/or train its camp staff, even though it knew or should have known that its failure to supervise could cause injury to others, including the plaintiff, JANE DOE;
(emphasis added).

Based upon a simple reading of the plaintiff's complaint it is clear that the First Count focuses on the negligence of the defendant with regard to the campers under their care. Alternatively, the Third Count focuses on the negligent supervision and training of the defendant's camp staff. Accordingly, the defendant's Request to Revise should be denied.

Sixth Requested Revision: (this request is identical to the Fifth Request, except that it is specific to the second Defendant)

A. **Portion of Pleading To Be Revised:** Seventh Count, Paragraphs 13a and 13b.

B. **Requested Revision:** Please delete those paragraphs in their entirety.

C. **Reason for Requested Revision:**

Paragraphs 13a and 13b of the Seventh Count are duplicative of Paragraphs 13a and 13b of the Ninth Count. In addition, the Seventh Count is a general negligence count, therefore, there is no reason to allege negligent supervision in that count, particularly when it is already alleged in the negligent supervision count (the Ninth Count). As such, they are duplicative and do not need to be alleged again.

Objection:

The plaintiff objects to the defendants' Sixth Request to delete paragraphs 13a and 13b of the Seventh Count. The defendant alleges that Paragraphs 13a and 13b of the Seventh Count are duplicative of Paragraphs 13a and 13b of the Ninth Count. Upon a close reading of the complaint, it is plainly obvious that the paragraphs are not duplicative of each other. Paragraphs 13a and 13b of the Seventh Count state that the defendant was negligent in that it:

- c. had a duty to supervise **its campers**, yet failed to do so when it knew or should have known that they posed a foreseeable risk of harm to others, such as the plaintiff, **JANE DOE**;
- d. failed to properly observe, monitor, and/or control the actions of **its campers**, particularly the two male campers who made sexual and physical contact with the minor plaintiff;

(emphasis added).

Paragraphs 13a and 13b of the Ninth Count state that the defendant was negligent in that it:

- c. had a duty to supervise **its camp staff**, yet failed to do so when it knew or should have known that they posed a foreseeable risk of harm to others, such as the plaintiff, **JANE DOE**;
- d. failed to properly supervise and/or train **its camp staff**, even though it knew or should have known that its failure to supervise could cause injury to others, including the plaintiff, **JANE DOE**;

(emphasis added).

Based upon a simple reading of the plaintiff's complaint it is clear that the Seventh Count focuses on the negligence of the defendant with regard to the campers under their care. Alternatively, the Ninth Count focuses on the negligent supervision and training of the defendant's camp staff. Accordingly, the defendant's Request to Revise should be denied.

WHEREFORE, for all the foregoing reasons, the plaintiff respectfully requests that her Objection to the defendants' Request to Revise be sustained.

THE PLAINTIFF,
JANE DOE

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CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on July 12, 2021 to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all attorneys and self-represented parties of record who received or will immediately be receiving electronic delivery.

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