

CASE NUMBER: 602397/2023

## SUMMONS + COMPLAINT

Document prepared for:

**CASE NAME**

L.N., Individually, L.N., As Parents And Natural Guardians Of Infant A.V., E.V., Individually, E.V., As Parents And Natural Guardians Of Infant A.V. v. Brookhaven-Comsewogue ...

**CASE FILING DATE**

Jan. 27th, 2023

**CATEGORY**

Torts - Other Negligence (negligent supervision)

**DOCUMENT FILED DATE**

Jan. 27th, 2023

**COUNTY**

Suffolk county, NY

**STATUS**

Pre-RJI

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----X Index No.: \_\_\_\_\_

L.N. and E.V., individually, and as parents and natural  
guardians of infant A.V.,

Date Filed: \_\_\_\_\_

Plaintiff,

Plaintiffs designate  
Suffolk County as  
the place of trial

-against-

BROOKHAVEN-COMSEWOGUE SCHOOL DISTRICT,  
JENNIFER J. QUINN, DEBRA ROSENQUIST,  
TERRYVILLE ROAD ELEMENTARY SCHOOL, and  
ANNEMARIE V. SCIOVE,

The basis of the venue is the place  
of business of Defendant  
Terryville Road Elementary  
School

Defendants.

**SUMMONS**

Defendant Terryville Road  
Elementary School  
401 Terryville Road  
Port Jefferson Station, NY 11776

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TO THE ABOVE NAMED DEFENDANT(S):

**YOU ARE HEREBY SUMMONED** to answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance on the Plaintiff’s attorneys, Stagg Wabnik Law Group LLP, within twenty (20) days after the service of this Summons, exclusive of the day of service or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New

York; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: Garden City, New York  
January 27, 2023

Stagg Wabnik Law Group LLP

By: /s/Debra L. Wabnik  
Amanda B. Slutsky  
Debra L. Wabnik  
*Attorneys for Plaintiffs*  
*L.N. and E.V., individually, and as parents*  
*and natural guardians of infant A.V.*  
401 Franklin Avenue, Suite 300  
Garden City, New York 11530  
(516) 812-4550

To: Brookhaven-Comsewogue School District  
290 Norwood Avenue  
Port Jefferson Station, New York 11776

Jennifer J. Quinn  
Superintendent  
Brookhaven-Comsewogue School District  
290 Norwood Avenue  
Port Jefferson Station, New York 11776

Debra Rosenquist  
Brookhaven-Comsewogue School District  
290 Norwood Avenue  
Port Jefferson Station, New York 11776

Terryville Road Elementary School  
401 Terryville Road  
Port Jefferson Station, New York 11776

Annemarie V. Sciove  
Principal  
Terryville Road Elementary School  
401 Terryville Road  
Port Jefferson Station, New York 11776

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----X  
L.N. and E.V., individually, and as parents and natural  
guardians of infant A.V.,

Index No.:

**COMPLAINT**

Plaintiffs,

-against-

BROOKHAVEN-COMSEWOGUE SCHOOL DISTRICT,  
JENNIFER J. QUINN, DEBRA ROSENQUIST,  
TERRYVILLE ROAD ELEMENTARY SCHOOL, and  
ANNEMARIE V. SCIOVE,

Defendants.

-----X  
Plaintiffs L.N. (“L.N.”) and E.V. (“E.V.”), individually and as parents and natural  
guardians of infant A.V. (“A.V.”) (collectively “Plaintiffs”), by their attorneys, Stagg Wabnik Law  
Group LLP, complaining of Defendants Brookhaven-Comsewogue School District (the “District”),  
Jennifer J. Quinn (“Quinn”), Debra Rosenquist (“Rosenquist”), Terryville Road Elementary  
School (the “School”), and Annemarie V. Sciove (“Sciove”) (collectively “Defendants”), allege as  
follows:

**NATURE OF THE ACTION**

1. A.V., who was assigned female at birth and identifies as female, was targeted by  
her teacher, Rosenquist, throughout the 2021/2022 school year. Rosenquist forced the then nine  
and ten-year-old A.V. to use male pronouns and a male name. As a result, A.V. became  
confused as to her gender. Despite knowing about Rosenquist’s conduct and A.V.’s involvement,  
it took the District, Quinn, and Sciove months to inform L.N. and E.V. about it. By that time,

A.V. was so distressed by Rosenquist's referring to her as a male that she drew a picture of a girl and referenced suicide.

2. Plaintiffs bring this action against Defendants for their negligence, negligent supervision, negligent retention of employees, and intentional infliction of emotional distress. Defendants' conduct was willful and wanton and showed a reckless disregard for the safety of A.V. and the obligation to inform L.N. and E.V. of Rosenquist's conduct. This has caused Plaintiffs to suffer substantial economic and noneconomic damages and severe mental anguish and emotional distress.

### **PARTIES**

3. A.V. was enrolled as a fifth-grade student at the School during the 2021/2022 school year.

4. At all relevant times, Plaintiffs were and are residents of Suffolk County, New York.

5. At all relevant times, the District was and is a municipality which controlled the School, and is located at 290 Norwood Avenue, Port Jefferson Station, New York 11776.

6. At all relevant times, the School was and is a municipality which was controlled by the District, and is located at 401 Terryville Road, Port Jefferson Station, New York.

7. At all relevant times herein, Rosenquist was a fifth grader teacher at the School and was A.V.'s teacher during the 2021/2022 school year. Upon information and belief, Rosenquist remains employed by the School.

8. At all relevant times herein, Quinn was and is the Superintendent of the District, and upon information and belief, has the authority to hire and fire employees, establish and pay their wages, set their work schedules, determine their job duties and responsibilities, maintain

their employment records, and/or otherwise had the authority to alter the terms and conditions of the employees' employment, including Rosenquist.

9. At all relevant times herein, Sciove was and is the School's Principal, and upon information and belief, has the authority to hire and fire employees, establish and pay their wages, set their work schedules, determine their job duties and responsibilities, maintain their employment records, and/or otherwise had the authority to alter the terms and conditions of the employees' employment, including Rosenquist.

### **STATEMENT OF FACTS**

10. In or around mid-October 2021, Rosenquist began to call A.V., who was assigned female at birth, by the traditionally male name "Leo" and used he/him pronouns for A.V.

11. No one at the District, including Rosenquist herself, informed L.N. and E.V. that Rosenquist called A.V. "Leo" and used male pronouns for her.

12. On or about January 27, 2022, Sciove called L.N. and informed her that A.V. drew a picture of a girl with the words "I wanna kill myself" and "I feel sad like a lot." Sciove told L.N. that A.V. met with a District psychologist and told the psychologist that A.V. was confused about her gender identity.

13. L.N. was utterly shocked as this was the first time she heard that A.V. had expressed any confusion about her gender identity or any suicidal ideation. At no time prior to January 27, 2022 had anyone from the District contacted L.N. or E.V. to inform them that A.V. was being called by male pronouns and names, or that she had expressed confusion regarding her gender identity.

14. It was also during this call that Sciove informed L.N. that A.V. allegedly asked to be called "Leo" and asked L.N. if that was okay. L.N. had no idea that Rosenquist had been calling A.V. by "Leo" for months at that point. L.N. said she gave her approval as long as it was A.V. who had requested the name change.

15. This was not the first time L.N. heard the name Leo associated with A.V., as A.V. had been referred to as Leo in the past by one of A.V.'s friends in reference to the astrological sign. A.V.'s use of the name Leo as a nickname had never been associated with the male gender by A.V. or her friends.

16. The next day, on or about January 28, 2022, Sciove called L.N. to tell her that A.V. won "Citizen of the Month," and that when she asked A.V. what name to use on the certificate, A.V. stated she wanted Leo. L.N. agreed based upon Sciove's representation that it was A.V. who really wanted Leo on the certificate. During that call, Sciove referred to A.V. as "he."

17. Later that day, L.N. called Sciove back to set up a meeting with the psychologist and principal to discuss the entire situation involving A.V., especially the use of male pronouns. The meeting was scheduled for February 3, 2022 at 1:30 p.m. L.N. was incredibly concerned about A.V. and wanted to ensure that District and School personnel properly supervised A.V. and addressed her needs.

18. On or about February 2, 2022, A.V. and her fellow students were asked to wear blue in support of two police officers who were shot and killed. L.N. saw on Facebook that Rosenquist had worn a Black Lives Matter shirt that day. Upon reading the comments, L.N. learned that Rosenquist was reported to the District for physical abuse and the District's only response was that Rosenquist was tenured, so it could not do anything.

19. Additional comments by parents of Rosenquist's former students stated that Rosenquist went beyond the District's curriculum and taught her students about transgender individuals and suggested that the kids "try being gay" or try being a boy (if they were a girl) or girl (if they were a boy). Rosenquist's actions were said to have been reported to the District.

20. L.N. also learned from the comments that Rosenquist had created an LGBTQ+ book, "I Am Neither," for her nine and ten-year-old students which was not on the curriculum. Rosenquist also read to and provided the students with a book entitled "When Aiden Becomes a Brother," which was not on the curriculum, that dealt with gender dysphoria and transgender transitioning. L.N. was concerned not by the subject matter itself, but that she did not know whether the material was age appropriate and it seemed that Rosenquist had significantly deviated from the District's curriculum.

21. Although a meeting was already scheduled for the afternoon of February 3, 2022, the District's Assistant Superintendent for Staff and Student Services Joe Coniglione ("Coniglione") called L.N. earlier that day about A.V.'s situation with Rosenquist. That afternoon, L.N. met with Coniglione, Sciove, and Quinn. During this meeting, L.N. expressed her support of A.V. and desire to help A.V. with any issues about her gender identity, but said it did not seem as if A.V. had raised any gender issues on her own.

22. While Quinn claimed at the meeting that the District had investigated the situation, it was clear the investigation was superficial at best. The District did not even know if it was Rosenquist who had suggested A.V. be called Leo or use male pronouns. Notably, during this meeting, Quinn, Sciove, and Coniglione admitted that they knew Rosenquist suggested her students "try being gay" before L.N. mentioned it.

23. Quinn and Sciove admitted Rosenquist should have come to L.N. and E.V. if A.V. wanted to be called by a different name or pronoun. They admitted that the issue was "not handled properly." They further admitted that they had no idea Rosenquist taught from a book about LGBTQ+ individuals that was not part of the curriculum and how detailed the book was



about transitioning, surgery, and hormones. They later admitted District personnel had found at least one of the books in her classroom.

24. Defendants knew or should have known that Rosenquist was inappropriately addressing gender and sexuality with her students due to the books in the classroom, their duty to evaluate and monitor what is going on in the classroom, and previous complaints about Rosenquist. In addition, Rosenquist had a display called “What is a stereotype?” on the board in the front of the classroom. Rosenquist included in the display what she described as examples of stereotypes including, “Girls like boys and Boys like girls.”<sup>1</sup>

25. L.N. and E.V. were incredibly concerned about the well-being of their nine-year-old daughter. They have and will always support A.V. but worried that A.V. was being persuaded by Rosenquist to be transgender when she had not expressed any such inclination

26. After L.N. and E.V. complained about Rosenquist’s conduct, A.V. was placed in a different classroom. Upon information and belief, Rosenquist was removed from the classroom, but the District refused to provide Plaintiffs with any information regarding Rosenquist’s status as a teacher at the District, causing Plaintiffs additional stress and anxiety.

27. After A.V. was placed in a different classroom, she began to experience bullying and harassment from other students directly because of Defendants’ conduct.

28. A text message group was formed with several students from A.V.’s class that intentionally excluded A.V. On or about May 20, 2022, when directly talking about adding A.V. to this text message group, one student stated: “I swear if you add her Im [sic] going to kill you onto pieices [sic].” Another student stated: “bro I would kill my self if you add that bitching girl

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<sup>1</sup> Other “examples” of stereotypes Rosenquist identified were:

- Black people are thieves
- Certain jobs aren’t for Black people
- It’s Asian peoples [sic] fault for causing covid

or boy.” And another student responded: “literally tho what is she??? Girl?? Boy??? One day her name is leo and one day her name is A LIKE WHAT IS IT??!!!!” One student even said, “Idk what to call ‘it’.” These messages, the constant stares, and horrifying looks further caused more stress and anxiety to A.V.

29. A.V. suffered extreme emotional pain, trauma, distress, mental anguish, and psychological injuries, including but not limited to: humiliation; fear; discomfort and anxiety; loss of enjoyment of life; medical costs for psychological treatment and attorneys’ fees, all as a result of the inappropriate conduct inflicted upon A.V. by Rosenquist; intentional and/or negligent violation of policies, rules, regulations, protocols and guidelines by Defendants; negligent performance of administrative duties of Defendants; and negligent training, supervision, retention, hiring and control of staff employed by the School and the District.

30. Defendants are vicariously liable pursuant to the doctrine of respondent superior for violations of state tort laws committed by and through their agents, officers and/or employees, including but not limited to Rosenquist.

31. Upon information and belief, Defendants had actual and/or constructive notice that Rosenquist had previously engaged in similar instances of misconduct while being employed by the District and/or a propensity to engage in such inappropriate conduct.

32. Upon information and belief, Quinn knew about Rosenquist’s previous inappropriate conduct which was similar to or the same as her conduct toward A.V. and took no remedial action to prevent Rosenquist from engaging in inappropriate behavior again.

33. The District negligently, carelessly, recklessly and with deliberate indifference employed Rosenquist, continued to employ Rosenquist and continued to allow Rosenquist to have unsupervised contact with students, including but not limited to A.V.

34. On or about March 28, 2022, a Notice of Claim was duly presented to Defendants on behalf of Plaintiffs.

35. On or about May 31, 2022, an Amended Notice of Claim was duly presented to Defendants on behalf of Plaintiffs.

36. On or about August 26, 2022, A.V. was examined under oath pursuant to New York General Municipal Law § 50-h.

37. On or about November 1, 2022, E.V. was examined under oath pursuant to New York General Municipal Law § 50-h. L.N. was produced for an examination under oath that same day as requested by counsel for the District, but counsel refused to proceed with her examination. As of the date of this filing, L.N. is scheduled to be examined pursuant to New York General Municipal Law § 50-h on February 12, 2023.

38. More than 30 days have passed since the Notice of Claim was served, and Plaintiffs' claim has not been adjusted or settled.

**AS AND FOR A FIRST CAUSE OF ACTION  
AS AGAINST DEFENDANTS  
(Negligence)**

39. Plaintiffs repeat and reallege each and every allegation made in the above paragraphs of this complaint as if set forth herein more fully at length.

40. Defendants owed and continue to owe Plaintiffs a duty to take due care to protect the safety of students enrolled in the School.

41. Defendants were also under a duty to supervise the individuals employed in the School.

42. Defendants' duty extended to include a duty to supervise and train teachers employed by the School and ensure teachers complied with the District's curriculum.

43. Rosenquist pursued her own agenda outside the curriculum, which included persuading her fifth-grade students to try “being gay” or being another gender even when they were not. To further her agenda, Rosenquist read and provided her students graphic books about gender and sexuality which were not on the curriculum.

44. Also to further her agenda, Rosenquist called A.V. by the name “Leo” and referred to A.V. using male pronouns during the school day.

45. Rosenquist’s conduct was not focused on teaching tolerance and respect, but rather on persuading her students to transition from one gender to another and/or “be gay” even if the student did not express a decision or inclination to do so.

46. Defendants failed to notify E.V. and L.N. that their female daughter was being called a traditionally male name which was not hers, and was being referred to using male pronouns, while she was at school. As a result, E.V. and L.N. were kept out of the loop as to mental health issues of A.V.

47. It was not until A.V. drew a picture depicting suicidal ideations that Defendants informed E.V. and L.N. what was being done to their daughter by Rosenquist.

48. Defendants failed to take due care to supervise Rosenquist; failed to protect A.V. from Rosenquist, who they knew or should have known had a propensity to teach matters outside of the District’s curriculum and was inappropriately promoting transitioning from one gender to another and/or being gay for students who had no expressed any such inclination; failed to promulgate and enforce policies and procedures to ensure Rosenquist did not deviate from the District’s curriculum; failed to exercise reasonable care to investigate the behavior of Rosenquist; failed to create or develop a plan to address the behavior of Rosenquist; kept Rosenquist on as a teacher despite multiple complaints from parents about her conduct, including

her pushing her nine and ten-year-old students to try being gay or another gender; and otherwise were careless, reckless and/or negligent.

49. The negligence of Defendants, their agents, employees and/servants damaged A.V., causing her lost educational opportunities, severe emotional distress, and other consequential damages to be determined at trial.

50. The negligence of Defendants, their agents, employees and/servants also damaged L.N. and E.V., causing them severe emotional distress and other consequential damages to be determined at trial.

51. By reason of the foregoing, Defendants are liable to Plaintiffs for compensatory damages in an amount to be determined at trial, plus punitive damages.

**AS AND FOR A SECOND CLAIM  
AS AGAINST DEFENDANTS  
(Negligent Infliction of Emotional Distress)**

52. Plaintiffs repeat and reallege each and every allegation made in the above paragraphs of this complaint as if set forth herein more fully at length.

53. Commencing in or around October 2021, Rosenquist called A.V. by the name Leo and used he/him pronouns when referring to A.V.

54. Because A.V. did not identify as a male, she became so confused and distressed that she drew a picture of a girl that expressed suicidal ideation.

55. Defendants knew or should have known of Rosenquist previously inappropriately persuading students to become gay or transgender who had not expressed any such inclination, and other inappropriate conduct toward students, but did not remove Rosenquist from the classroom.

56. Rosenquist's acts toward A.V. altered the terms and conditions of her educational experience at the School and caused her great emotional harm.

57. Defendants failed to take due care to supervise Rosenquist; failed to protect A.V. from Rosenquist, who they knew or should have known had a propensity to teach matters outside of the District's curriculum and was inappropriately persuading transitioning from one gender to another and/or being gay; failed to promulgate and enforce policies and procedures to ensure Rosenquist did not deviate from the District's curriculum; failed to exercise reasonable care to investigate the behavior of Rosenquist; failed to create or develop a plan to address the behavior of Rosenquist; kept Rosenquist on as a teacher despite multiple complaints from parents about her conduct, including her pushing her students to try being gay or another gender; and otherwise were careless, reckless and/or negligent.

58. The acts and/or omissions of Defendants, their agents, employees and/servants resulted in A.V. suffering great anxiety, discomfort and mental anguish.

59. The acts and/or omissions of Defendants, their agents, employees and/servants also damaged L.N. and E.V., causing them severe emotional distress, and other consequential damages to be determined at trial.

60. By reason of the foregoing, Defendants are liable to Plaintiffs for compensatory damages in an amount to be determined at trial, plus punitive damages.

**AS AND FOR A THIRD CAUSE OF ACTION  
AS AGAINST DEFENDANTS  
(Intentional Infliction of Emotional Distress)**

61. Plaintiffs repeat and reallege each and every allegation made in the above paragraphs of this complaint as if set forth herein more fully at length.

62. Rosenquist called A.V. by the name Leo and used he/him pronouns when referring to A.V.

63. Because A.V. did not identify as a male, she became so confused and distressed that she drew a picture of a girl that expressed suicidal ideation.

64. Defendants knew or should have known of Rosenquist's previously inappropriately persuading her nine and ten-year-old students transitioning from one gender to another and/or being gay when they did not express any such inclination, and other inappropriate conduct toward students, but did not remove Rosenquist from the classroom.

65. After L.N. and E.V. reported Rosenquist's actions to Defendants, they conducted a sham investigation and upon information and belief, continued to employ Rosenquist, and failed to protect A.V. from the ensuing significant bullying by her classmates.

66. A.V. became a topic of ridicule and rumor at the School and was continually harassed. She was called names and harassed through text messages.

67. As a result of Defendants' conduct, Plaintiffs suffered from extreme emotional distress, humiliation and embarrassment, for which Plaintiffs are entitled to an award of damages, including punitive damages.

**WHEREFORE**, Plaintiffs respectfully requests a judgment against the Defendants:

- A. Awarding Plaintiffs compensatory damages for mental, emotional and physical injury, distress, pain and suffering, humiliation, embarrassment, and injury to A.V.'s reputation in an amount to be determined at trial;
- B. Awarding Plaintiffs punitive damages;
- C. Awarding Plaintiffs attorneys' fees, costs, and expenses; and

D. Awarding Plaintiffs such other and further relief as the Court may deem equitable, just and proper to remedy Defendants' unlawful practices.

Dated: Garden City, New York  
January 27, 2023

Stagg Wabnik Law Group LLP

By: /s/Debra L. Wabnik  
Debra L. Wabnik  
Amand B. Slutsky  
*Attorneys for Plaintiffs*  
*L.N. and E.V., individually,*  
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