



TOSCANO
LAW GROUP

January 24, 2023

VIA MAIL AND EMAIL

Newport News School Board
Lisa R. Surles-Law, Chairman
12465 Warwick Blvd.
Newport News, Virginia 23606

Re: Notice of Intent to File Lawsuit

CONFIDENTIAL AND PRIVILEGED

Dear Ms. Surles-Law,

This letter serves as notice that I represent Abigail Zwerner and intend to file suit against Richneck Elementary School administrators in connection with the shooting of Ms. Zwerner on January 6, 2023 at Richneck Elementary School.

On that day, over the course of a few hours, three different times Assistant Principal Parker was warned by concerned teachers or employees that the shooter had a gun on him at the school. This tragedy was entirely preventable if Assistant Principal Parker had done her job and acted when she had knowledge of imminent danger. But instead, the failure to act by the school administrator led to Ms. Zwerner being shot. Assistant Principal Parker did not call the police, she did not put the school on lockdown, she did not evacuate the school.

All of the details below have not yet been reported in the news media, I want you to know that the following information is based on extensive interviews with people with direct knowledge of these events.

Ms. Zwerner was shot at approximately 1:59 PM on January 6, 2023. Earlier that day between 11:15 AM and 11:30 AM, Ms. Zwerner went to Assistant Principal Parker's office to advise her that the shooter seemed more "off" than usual and was in a violent mood – the shooter had threatened to beat up a kindergartener and angrily stared down the security officer in the lunchroom. Then that same day, at approximately 11:45 AM, Teacher #2 was put on notice that the shooter told students that he had a gun in his backpack. Teacher #2 searched the shooter's backpack at approximately 12:30 PM. That same teacher was made aware that the shooter had taken something out of his backpack right before she searched the shooter's backpack, and the shooter put it in the pocket of his hoodie before going out to recess. Teacher #2 immediately made Assistant Principal Parker aware that students had told this teacher at approximately 11:45 AM that the shooter had a gun in his backpack. Teacher #2 then told Assistant Principal Parker that she

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took it upon herself to search the shooter's backpack and there was no gun; however, Teacher #2 went on to tell Assistant Principal Parker that Ms. Zwerner told her that she was concerned that the shooter had the gun on his person because Ms. Zwerner saw the shooter take something out of his backpack and put it in his pocket. Assistant Principal Parker responded to Teacher #2 that the shooter had small pockets insinuating that he could not possibly have a gun on his person. Assistant Principal Parker should have called police, instead she did not follow proper protocol and chose to do absolutely nothing.

A little after 1:00 p.m., Teacher #3 was informed by a student from Ms. Zwerner's class that the shooter showed him a gun in the shooter's pocket while at recess! And the shooter threatened to shoot that student if he told anyone. Teacher #3 kept that student in her class because he was so upset, she didn't want to send him back to the shooter's classroom. Teacher #3 immediately called the office and told Teacher #4, who answered the office phone, that the student told her the shooter had a gun in his pocket. Teacher #4 told Teacher #3 he would tell the administration. Teacher #4 then went directly to Assistant Principal Parker's office and told Assistant Principal Parker about the call from Teacher #3. Assistant Principal Parker responded that she was aware of the threat and the shooter's backpack had already been searched. Teacher #4 then called Teacher #3 and advised Teacher #3 that Assistant Principal Parker was not doing anything since Assistant Principal Parker said she was already aware of the threat and that the student's backpack was searched. Teacher #3 stressed to Teacher #4 that she believed the shooter did in fact have a gun and it was on his person. Teacher #4 then immediately went back to Assistant Principal Parker to tell her this; however, when Teacher #4 arrived at Assistant Principal Parker's office, a guidance counselor was already there telling Assistant Principal Parker the same thing and asked Assistant Principal Parker if he could search the shooter's person for the weapon. Assistant Principal Parker's response was no, because the shooter's mother would be arriving soon to pick up the shooter. Then approximately 45 minutes later Ms. Zwerner was shot in her left hand and upper chest by the shooter. Ms. Zwerner was sitting at her reading table when the shooter, who was sitting at his desk, pulled the gun out of his pocket and shot her one time.

What is even more astonishing is that the shooter had a history at Richneck Elementary School that Assistant Principal Parker was aware of. The shooter had been removed from the school a year prior after he choked his teacher until she couldn't breathe. Then this school year, the shooter was put on a modified schedule in the fall of 2022 after the school year had started because he constantly cursed at the staff and teachers and then one day took off his belt on the playground and chased kids trying to whip them. Moreover, the shooter had been suspended the day before the shooting (Thursday) because he slammed Ms. Zwerner's phone breaking it that Wednesday and had cursed at the guidance counselors. As if these things were not enough, the day of the shooting Ms. Zwerner told Assistant Principal Parker, while another teacher was in the office and overheard this conversation, that the shooter was in a "violent mood" and had already threatened to beat up a kindergartener. Yet, as early as 12:30 PM when Assistant Principal Parker is informed that this same individual may have a gun, absolutely nothing is done. Nothing is done for one and half hours before Ms. Zwerner is shot by this individual. If Assistant Principal Parker had acted on the information she was provided then the shooting of Ms. Zwerner would not have happened. It is a miracle that more people were not harmed. The shooter spent his entire recess with a gun in his pocket, a gun that was loaded and ready to fire, with his hand in that pocket while lots of first grade

students played. That fact is alarming! And Assistant Principal Parker was made aware at the beginning of recess that Ms. Zwerner was afraid that the shooter had a gun in his pocket. And again nothing was done.

The administration at Richneck Elementary School showed gross negligence and willful and wanton negligence in Assistant Principal Parker's failure to report this known threat. The school administration knew as early as 12:30 PM that the shooter was suspected to have a gun at school. The administration did not take any steps to search the shooter or report the suspected gun to police or security. The search of the backpack was not done by the administration, but by a teacher who did it without the administration requesting it. Moreover, the teacher told the administrator that she searched the backpack and believed the gun was on the shooter's person. Even when the administration was put on notice that a student saw the gun on the shooter's person, absolutely nothing was done. This is all evidence of bad faith and reckless conduct by the administrators.

It is my hope that the school district will not want to drag Ms. Zwerner through litigation after the trauma she has sustained. The response from the school district is going to be very important and will shed light on how it views its teachers. I hope that the school district will not send a message that being shot while teaching a lesson in class by a student is merely a hazard of the job. The city's teachers need to know that this is not an acceptable risk, that the school district cares for them, and that these failures to act will not happen again. Abby's road to full recovery will be long. As her physical condition improves, the psychological wounds cut deeply and remain fresh. And the psychological scars will be lasting.

If you would like to discuss this matter before Court filing, please contact me at 757-821-7972 or email at diane@toscanolawgroup.com.

Sincerely,



Diane P. Toscano, Esq.

cc: Dr. George Parker, III, Superintendent
Tiffany Moore-Buffaloe, Clerk of the Board