

**THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION**

No. :-

CLARINDA COX and LIONEL SHAWN COX, )  
as Parents and Next Friends of J.C., a minor, )

Plaintiffs, )

v. )

COMPLAINT  
Fed. R. Civ. P. 3

THE SAMPSON COUNTY BOARD OF )  
EDUCATION, a North Carolina body )  
corporate, and TERESA HOLMES, )  
in her individual and official capacities, )

Defendants. )

COME NOW the Plaintiffs, Clarinda Cox and Lionel Shawn Cox, as parents and next friends of J.C., a minor, by and through the undersigned counsel, and make this Complaint against the Defendants for relief arising from a deprivation constitutional rights and harm inflicted on 10-year old J.C. as a result of an unreasonable and unwarranted strip search of J.C. by a public school agent. In support of this Complaint, the Plaintiffs allege and aver as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over the instant action under 28 U.S.C. §§ 1331 and 1343(a)(3), as this is an action seeking relief under 42 U.S.C. § 1983 for a deprivation of rights protected by the Constitution and/or laws of the United States.

2. Plaintiffs also invoke this Court's supplemental jurisdiction under 28 U.S.C. § 1367, as to the claims based upon the laws of the State of North Carolina, as such claims form

part of the same case or controversy that is the basis for the claims within this Court's original jurisdiction.

3. Venue in the Eastern District of North Carolina, Southern Division, is proper pursuant to 28 U.S.C. §1391 because (a) all of the Defendants reside in this judicial district and in the State of North Carolina, and (b) all or a substantial part of the events or omissions which give rise to the present claims occurred in this judicial district, and more specifically within the County of Sampson, State of North Carolina.

### **PARTIES**

4. Clarinda Cox is an adult female, resident of Sampson County, North Carolina, and the natural mother and custodial parent of J.C., a 10-year old male. Clarinda Cox brings this action as the parent and next friend of J.C.

5. Shawn Cox is an adult male, resident of Fayetteville, Cumberland County, North Carolina, and the natural father of J.C. Shawn Cox brings this action as the parent and next friend of J.C.

6. The Sampson County Board of Education (hereafter "the Board") is a body corporate created and existing under the laws of the State of North Carolina, N.C.G.S. §115C-40, and has the general control and supervision of all matters pertaining to the public schools within Sampson County, North Carolina. In all respects set forth in this Complaint, the Board acted under color of the law of the State of North Carolina.

7. Teresa Holmes is an adult female and at times relevant to this complaint was an agent and employee of the Board, holding the position of Assistant Principal of Union Elementary School. In all respects set forth in this complaint, Defendant Holmes acted under

color of the law of the State of North Carolina and as the employee and agent of the Board.  
Defendant Holmes is sued herein in both her individual and official capacities.

### **FACTUAL ALLEGATIONS**

8. J.C. is a 10-year old male who attended Union Elementary School during the 2011-2012 school year as a 5th-grade student. J.C. attended Union Elementary School on Friday June 1, 2012.

9. Union Elementary School is a school within Sampson County Schools and supervised and controlled by the Board.

10. In the course of the school day on June 1, 2012, J.C. and his classmates went to the school's cafeteria to eat lunch.

11. As J.C. and the other students sat at tables eating their lunch, one of the female students dropped coins on the floor.

12. J.C. went under the table, retrieved the coins, and returned them to the girl.

13. Defendant Holmes was also in the cafeteria at that time. She became aware of a commotion near where J.C. and his classmates were sitting and was motioned to come over to the table by other adult personnel.

14. Defendant Holmes went over to where J.C. and the other students were and was told that the same student had dropped \$20.00 and that the money was missing. She was told by others there that J.C. had gone down under the table after the money.

15. Defendant Holmes approached J.C., asked him if he had the money, and told him if he did he should give it to her or she would search him.

16. J.C. told Defendant Holmes he did not have the money.

17. Defendant Holmes then ordered J.C. to come with her to her office. Defendant Holmes also called by radio a school custodian and asked him to meet her at her office.

18. When Defendant Holmes, J.C. and the custodian arrived at the office, Defendant Holmes shut the door and again asked J.C. if he had the money and he again told her "no." J.C. pulled out his pockets to show that he did not have the money. Defendant Holmes then told J.C. that he left her no choice and that she had to search him, and that she was within her legal rights to do so.

19. Defendant Holmes ordered J.C. to remove his shoes, socks, pants, and shirt. When J.C. was stripped down to his undershorts and undershirt, Defendant Holmes put her fingers inside the waistband of J.C.'s undershorts and ran her fingers around the waistband. Defendant Holmes also lifted J.C.'s undershirt and searched his bare torso.

20. Defendant Holmes did not find the \$20.00 bill or any other money on J.C. in the course of stripping him down and checking through his garments and undergarments.

21. Defendant Holmes then told J.C. that she had the authority to search him as she did because teachers and other students thought that J.C. had the money.

22. Another teacher then came to Defendant Holmes' office and told her that they had found the \$20.00 bill and that it was on the floor of the cafeteria.

23. J.C. finished his classes for that day and went home after school.

24. At about 6:15 p.m. that day, Plaintiff Clarinda Cox arrived at home and found J.C. outside waiting for her, which was unusual.

25. Plaintiff Clarinda Cox asked J.C. why he was outside, and he told her that she needed to go to his school because "she made me take my clothes off."

26. Plaintiff Clarinda Cox then asked J.C. what he was talking about and he explained how he had been strip searched by Defendant Holmes.

27. The following Monday June 4, 2012, Plaintiff Clarinda Cox went the Sampson County Schools offices to speak with administrators about the strip search of J.C..

28. Plaintiff Clarinda Cox first spoke with Susan Warren, Public Relations/Student Services Coordinator for Sampson County Schools and an employee and agent of the Board and explained to Warren the circumstances of the strip search of J.C. Warren told Plaintiff Clarinda Cox that school personnel have the authority to perform strip searches and that Defendant Holmes was within her rights in doing so.

29. Plaintiff Clarinda Cox then went to Union Elementary School and spoke with school principal, Dr. Linda Jewell-Carr. Principal Jewell-Carr was unaware of the incident, and called Defendant Holmes and the custodian to her office to meet with Plaintiff Clarinda Cox.

30. Defendant Holmes and the custodian arrived at Principal Jewell-Carr's office and the Principal asked Defendant Holmes about the incident. Defendant Holmes stated at that time that she was within her legal rights in conducting the strip search of J.C.

31. As a result of the strip search and the substantial invasion of his privacy, personal security and dignity, J.C. suffered and continues to suffer significant emotional harm, embarrassment, stress, pain and suffering.

**FIRST CLAIM**  
**Deprivation of Fourth Amendment Rights – 42 U.S.C. §1983**

32. The Plaintiffs reallege and incorporate by reference the allegations in ¶¶ 1-31 set forth above.

33. J.C. was deprived of his right under U.S. Const. amend. IV to be free from unreasonable searches and seizures when he was subjected and required to submit to a strip search in the office of Defendant Holmes on June 1, 2012. Such strip search was unreasonable because, inter alia, it was not justified at its inception, was not reasonably related to the objectives of the search, and was excessively intrusive.

34. Defendant Holmes is liable for the deprivation of J.C.'s Fourth Amendment rights and the resulting harm because Defendant Holmes, acting under color of state law, executed the unreasonable strip search.

35. The Board is liable for the deprivation of J.C.'s Fourth Amendment rights and resulting harm because the strip search resulted from and was caused by a policy, custom or practice of the Board to allow student strip searches to occur. Additionally, the Board is liable because its failure to train or instruct its employees on the rights of students and legal restrictions on strip searching students amounted to deliberate indifference toward the rights of students and thereby resulted in and caused the deprivation of J.C.'s Fourth Amendment rights.

36. The Plaintiffs are entitled to relief for the harm caused by the deprivation of J.C.'s Fourth Amendment rights under 42 U.S.C. §1983.

**SECOND CLAIM**  
**Deprivation of Rights Under N.C. Const. Art. I, § 20**

37. The Plaintiffs reallege and incorporate by reference the allegations in ¶¶ 1-36 set forth above.

38. J.C. was deprived of his right under N.C. Const. Art. I, §20 to be free from unreasonable searches and seizures when he was subjected and required to submit to a strip

search in the office of Defendant Holmes on June 1, 2012. Such strip search was unreasonable because, inter alia, the intrusion effected by the strip search far outweighed any governmental interest in conducting the strip search.

39. Defendant Holmes is liable for the deprivation of J.C.'s right under N.C. Const. Art. I, §20 and the resulting harm because Defendant Holmes, acting under color of state law, executed the unreasonable strip search.

40. The Board is liable for the deprivation of J.C.'s rights under N.C. Const. Art. I, § 20 and resulting harm because the strip search resulted from and was caused by a policy, custom or practice of the Board to allow student strip searches to occur. Additionally, the Board is liable because its failure to train or instruct its employees on the rights of students and legal restrictions on strip searching students amounted to deliberate indifference toward the rights of students and thereby resulted in and caused the deprivation of J.C.'s rights under N.C. Const. Art. I, §20.

41. The Plaintiffs are entitled to relief for the harm caused by the deprivation of J.C.'s right under N.C. Const. Art. I, §20.

### **THIRD CLAIM Battery**

42. The Plaintiffs reallege and incorporate by reference the allegations in ¶¶ 1-41 set forth above.

43. Defendant Holmes' strip search and touching of J.C. in her office on June 1, 2012 constituted an offensive touching of J.C. without the consent of J.C. and Defendant Holmes is liable for the harm caused by that offensive touching.

44. On information and belief, Plaintiffs allege that the Board has obtained liability

insurance and has waived any immunity in accordance with N.C.G.S. §115C-42.

45. The Board is liable for the harm caused to J.C. by Defendant Holmes' offensive touching of J.C. because the offensive touching was committed within the scope and course of Defendant Holmes' employment by the Board.

**FOURTH CLAIM**  
**Invasion of Privacy**

46. The Plaintiffs reallege and incorporate by reference the allegations in ¶¶ 1-45 set forth above.

47. Defendant Holmes' strip search and touching of J.C. in her office on June 1, 2012 constituted a physical intrusion into the solitude or seclusion of J.C. that was highly offensive and Defendant Holmes is liable for the harm caused by that offensive touching.

48. On information and belief, Plaintiffs allege that the Board has obtained liability insurance and has waived any immunity in accordance with N.C.G.S. §115C-42.

49. The Board is liable for the harm caused to J.C. by Defendant Holmes' highly offensive physical intrusion of J.C.'s person because the intrusion was committed within the scope and course of Defendant Holmes' employment by the Board.

WHEREFORE, the Plaintiffs pray for judgment against the Defendants, joint and severally, as follows:

A. That judgment be entered finding in favor of the Plaintiffs on each of the claims set forth above;

B. That Plaintiffs be awarded compensatory damages in an amount to be shown at trial for the pain, suffering, emotional distress, and embarrassment caused by the Defendants'



actions;

C. That Plaintiffs be awarded attorneys fees pursuant to 42 U.S.C §1988 and any other applicable statute or law granting a right to recover attorneys fees, together with costs of this litigation; and

D. Such other and further relief as the Court may deem proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Plaintiffs hereby demand a trial by jury.

This the 6<sup>th</sup> day of December, 2012

**MEYER LAW OFFICES, P.A.**

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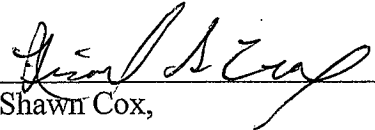
Participating Attorney for  
The Rutherford Institute

NORTH CAROLINA

CUMBERLAND COUNTY

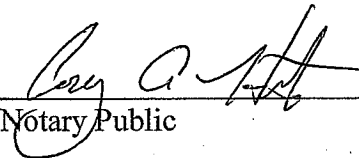
VERIFICATION

Mr. LIONEL SHAWN COX, after first being duly sworn, deposes and says that she is the Plaintiff in the foregoing action; that she has read the foregoing Complaint and that the facts set forth therein are true to the best of her own knowledge, information and belief.

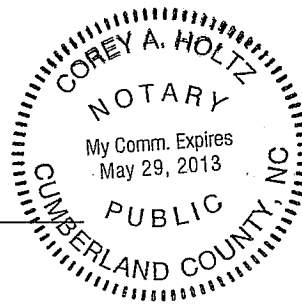
  
Shawn Cox,

Sworn to and subscribed before

me, this the 28<sup>TH</sup> day of SEPTEMBER, 2012

  
\_\_\_\_\_  
Notary Public

My Commission expires: MAY 29, 2013



NORTH CAROLINA

SAMPSON COUNTY

VERIFICATION

Ms. CLARINDA COX, after first being duly sworn, deposes and says that she is the Plaintiff in the foregoing action; that she has read the foregoing Complaint and that the facts set forth therein are true to the best of her own knowledge, information and belief.

Clarinda L. Cox  
Clarinda Cox,

Sworn to and subscribed before

me, this the 28<sup>th</sup> day of SEPTEMBER, 2012

Corey A. Holtz  
Notary Public

My Commission expires: May 29, 2013

