

THE LAW OFFICE OF  
JUSTIN E. FAIRFAX  
PLLC

May 2, 2023

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**MAY NOT BE USED AT TRIAL EXCEPT ON THE ISSUE OF ATTORNEYS' FEES**

**VIA FIRST CLASS AND ELECTRONIC MAIL**

Chrissy Smith  
Division Counsel  
Office of Division Counsel  
Arlington Public Schools  
2110 Washington Boulevard  
Arlington, Virginia 22204

Re: **NOTICE OF CLAIM AND DEMAND**

Date of Claim: February 8, 2023

Our Clients: Sidney Rousey, Jr., by and through his parents, Keisha  
Kirkland and Sidney Rousey, Sr.

Dear Counsel:

As you know, our firm represents Sidney Rousey, Jr., (hereinafter "Sidney") by and through his parents, Keisha Kirkland and Sidney Rousey, Sr. Please be advised that this letter serves as a **time-limited** demand on behalf of our clients.

This demand arises out of a February 8, 2023, incident in which Sidney was forced to play "nose dive" at the direction of his long-term substitute teacher and the continued harassment, discrimination, and denial of educational equality that Sidney has faced since February 8, 2023. This demand is made to settle the claim of Sidney and his family, individually and collectively, without the necessity of protracted litigation and attendant legal expenses. It is expressly understood that any and all representations made herein are for the limited purpose of settlement discussions and in no way may be used in any legal proceeding regarding this matter.

**RELEVANT FACTS**

Sidney is an eighth-grade student at Gunston Middle School (GMS). GMS has long benefitted from Sidney's matriculation and contributions. Sidney personifies young Black excellence; his strong academic performance, athleticism and sportsmanship, and superior social competency skills have strengthened the school's performance and culture. What Sidney has given

to GMS, however, has not been reciprocated. In fact, as described more fully below, since February 8, 2023, Sidney has been ostracized, bullied, and tormented at GMS. The institution statutorily charged with ensuring Sidney's social-emotional learning and safety has abandoned him and failed to address the harm it has caused him.

On February 8, 2023, Sidney attended his regular French class taught by a long-term substitute teacher. For reasons unknown to Sidney and yet to be revealed by Arlington Public Schools (APS), Sidney's teacher directed the class to participate in a game called "nose dive." The game requires participants to dip their nose in petroleum jelly and bob for cotton balls, one at a time.

On February 8, the teacher informed the students of the activity, its rules and expectations, and asked for volunteers. No student volunteered; instead, recognizing the cultural insensitivity of the assignment, the students all turned their attention to the lone Black student in the class: Sidney Rousey, Jr. Sidney did not willingly volunteer to participate in the game; rather, he was visibly uncomfortable with the prospect of participating in the exercise. Sidney was coerced into a situation that was deeply traumatizing; he was the first student forced to participate in the activity and only did so because out of fear that noncompliance would result in him getting "in trouble."

Sidney discussed the matter with his parents and has received the support of his family and the community, including the Arlington Branch of the NAACP. Although APS subsequently issued a public statement claiming that GMS "is committed to fostering a learning environment that is inclusive, safe, and supportive for all[.]" neither GMS nor APS has worked to secure Sidney's emotional or physical safety. Indeed, GMS and APS have isolated Sidney and negatively impacted his academics. Once a popular child, Sidney has been constructively discharged from the classroom to learn French independently, on a computer, in the school library. He received constructive in-school suspension, and receives a period of solitary educational confinement, through no fault of his own. Conversely, the substitute teacher was initially permitted to continue instruction at GMS.

GMS's actions and inactions have served to vilify Sidney resulting in the school community turning on this child. Sydney has been ostracized and isolated; he is the victim of a hostile educational environment. GMS continues to treat Sidney as if he engaged in wrongdoing; the administration laid the foundation, and the school community has followed suit. Sidney rightfully raised this issue; he blew the whistle on a racist incident at his school. APS retaliated by bullying Sidney, and it continues to teach other kids the lesson that protecting and advocating for your needs will be swiftly and promptly punished. Sidney has been the target of continuous and documented bullying, including, most recently, students wishing death upon him. In today's climate with rising school-based violence, including a February 2022 threat of gun violence with racial animus at Key Elementary School, APS's actions are grossly negligent and intentional. It enjoys no immunity and the community, again, demands change.

Arlington and APS was not created on a pillar of inclusivity; it, like school districts throughout the Commonwealth, has a history of racial injustice. Within two generations of Sidney's young life, the Arlington County School Board was legally forced to desegregate and comply with *Brown v. Board of Education*. Moreover, Sidney is within a generation of when the

School Board finally adopted a pupil-placement system that was sufficiently non-race-based to gain court approval. APS has neither historically led nor does it presently lead in protecting Black children like Sidney. Indeed, Gunston Middle School's name remains unchanged despite its namesake, Gunston Hall, and the enslavement of hundreds of Black Americans at the plantation. Battles to protect the educational rights of Black students in Arlington County have been waged for nearly 100 years. Sadly, the battles with APS must continue to safeguard the health and well-being of Black children.

While it may come as a shock to most, APS has readily admitted that "nose dive" is an approved "optional team-building activit[y]" for 8th grade Gunston students to foster collaboration." The indignity of this circumstance was entirely avoidable, however. Within the past four (4) years, APS has found itself in a number of racially insensitive situations negatively impacting the most vulnerable of our population: children. For example, in May 2019, a Campbell Elementary School (CES) teacher commenced a cotton-growing project with children. Despite this nation's history of trafficking in and profiteering from the forced labor of enslaved people first brought to the Commonwealth on the White Lion, APS seemingly fails to recognize the historical trauma triggered by activities that include cotton as a focal point. Both CES and GMS enjoy a diverse population with approximately sixteen percent (16%) of students identifying as Black. Nonetheless, APS learned little from the experience nearly four (4) years prior and chose not to review and strike "nose dive" from its "approved" list of activities.

In May 2020, the world witnessed George Floyd's murder; it saw a man's life violently extinguished on television. Nonetheless, in December 2020, before the end of the calendar year, a tenth-grade chemistry teacher at H-B Woodlawn Secondary program diminished the atrocity suffered by George Floyd by including a reference to his killing in a fill-in-the-blank exercise. Specifically, students were called on to respond with the answer "neon" to the question: "George Floyd couldn't breathe because a police officer put his \_\_\_\_\_ George's neck." Superintendent Francisco Duran admitted, "The reference showed extremely poor judgement and a blatant disregard for African American lives." Despite APS's *mea culpa* three (3) years ago, it finds itself in a situation where the school system, its administration, and one of its teachers have, yet again, blatantly disregarded African American lives. This time, their conduct directly and caustically injured Sidney Rousey, Jr. and his family. Sidney continues to be under direct threats of violence. Sidney remains in an isolated position with regard to the French Class and has been all but made to learn French on his own as an 8th grade student. The harm also has negatively impacted the GMS's school climate and culture. It is without question that Sidney did not engage in any wrongdoing; he was the victim of APS, GMS, and the teacher's actions. Nonetheless, APS and GMS have perpetuated systemic trauma on the child and have simultaneously taught GMS students that Sidney, a Black child, was bad for standing-up for himself and his personhood.

Additionally, in May 2020, Yorktown High School's administration engaged in blatantly racist behavior when it approved the publication of a banner that oriented pictures of children of color in shadows to create the outline of the school's initial letter, "Y." Remarkably, fifty (50) years after meaningful school integration in Arlington, APS still required external pressure to recognize that children of color are neither ornamental nor do they play supporting roles to amplify the images and lives of their White counterparts. After community pressure for APS to recognize that the lives and well-being of children of color matter, a restorative process was held, and an

action plan developed. However, in the years following the process, the community has raised concerns that there has been little follow-through and growth on the part of APS. Unfortunately, Sidney's experience at GMS validates the community's concerns.

Ironically, on the very day Sidney was victimized by his teacher, Kerri Hirsch, Director of Curriculum and Instruction, and Terrell Fleming, Supervisor of Social Studies for Office of Academics, served as panelists at an event hosted by the Arlington Committee of 100 entitled: Teaching Black History in Arlington: What It Means Now and In the Future. During that discussion, Ms. Hirsch stated that APS considers "how each student's identity can be honored within the curriculum" and "make[s] sure all of our students can both see themselves but also recognize the stories of other people that may or may not look like them in the curriculum." Mr. Fleming added that APS works to "infuse Black joy into our curriculum." It is impossible to reconcile APS's public-facing rhetoric with the climate young Black and Brown children, namely Sidney Rouse have been forced to endure. Far from joy, Sidney and his family have yet to receive even an apology from GMS or APS, and APS has failed to indicate any intention of commencing an independent investigation into the matter.

Imagine going to school every day and feeling that the administration and most of the students and teachers "hate" you. Also imagine being Sidney and having to attend GMS, an institution in which classes have been dismissed based on racial threats and ammunition has been found on the person of students.

No child should have to endure what Sidney has experienced since February 8, 2023. Sidney's parents and family have had to navigate this trauma with their son and his siblings. The emotional, social, and physical harm suffered by Sydney and his family is irreparable. APS cannot undue the past, but it can work to remedy its failures. Accordingly, we present an offer of settlement in the amount of \$10,000,000.00.

We look forward to receiving your response to this claim within thirty (30) days of the date of this letter. We appreciate in advance your prompt attention to this matter. Please do not hesitate to contact us with any questions.

Very truly yours,



Justin E. Fairfax, Esq.

*Phillip E. Thompson*

Phillip E. Thompson, Esq.

Enclosure

cc: Sidney Rousey, Jr.  
Keisha Kirkland  
Sidney Rousey, Sr.