

**JACKSON COUNTY JUSTICE COURT
STATE OF MISSISSIPPI**

COMPLAINT

Mark Primo Miller,
Plaintiff

Vs.

Pascagoula School District ("PSD"), and Pascagoula School District Board of Trustees ("Board"), and Wayne Rodolfich, in his personal and professional capacity as Superintendent, and Dr. J.J. Morgan, in his personal and professional capacity as Assistant Superintendent, and Dan Marks, in his personal and professional capacity as Board Trustee President, and Mike Phillips, in his personal and professional capacity as Board Trustee, and Mike Concannon, in his personal and professional capacity as Board Trustee, and Sonny Backs, in his personal and professional capacity as Board Trustee, and Jennifer Colmer in her personal and professional capacity as Board Trustee, and Boyd West, in his personal and professional capacity as Gautier High School Principal, and Janene Thweatt, in her personal and professional capacity as Teacher,
Defendants

Plaintiff Mark Primo Miller, individually and on behalf of all similarly situated persons, brings forth the following causes of action and alleges the following:

1. Plaintiff is an individual and resident of Jackson County since 1972; he is a graduate of Pascagoula High School and resides at 4500 Scarlet Oaks Drive, Gautier, MS 39553 with his wife Pam of 23 years and 3 sons, Ben (18), Paul (16), and Luke (14), who all attend school within the Pascagoula School District.
2. Defendants include a municipal body politic charged with oversight of the education of the children residing within the Pascagoula School District Community and can be contacted at 1006 Communy Avenue, PO Box 250, Pascagoula, MS 39568-0250, 228-938-6491, www.psd.ms. The individuals named in their official capacity as part of the PSD have all been approached for remedy, and Plaintiff holds them accountable for the damages suffered because of both their actions and inactions.
3. On or about Wednesday February 8, 2012, Math Teacher Janene Thweatt confiscated an iPhone 4s from Plaintiff's son Paul, which was in his backpack during class. The property was legally owned by Plaintiff and legally in the possession of his son Paul.
4. The PSD, based upon a policy never agreed to or signed by the Plaintiff, has refused to return Plaintiff's property until after the school year ends.
5. The iPhone is a computer with phone and camera capability built-in so that only one device needs to be carried. Plaintiff loans his son the device for educational reasons, for communication reasons, and for parental reasons to monitor his son's activities and whereabouts.
 - a. While Plaintiff recognizes the procedural right of the PSD to maintain order within the classroom, their policy of confiscating his property for the entire school year is substantively too oppressive a measure that hinders his efforts to be a good parent.
 - b. The PSD policy interferes with Plaintiff's ability to communicate with his child after school hours, such as regarding transportation to extracurricular activities.
 - c. The PSD policy hinders Plaintiff's ability to monitor his son's activities, whether during school hours or after school hours. Plaintiff installs monitoring software into the device that enables him to monitor his son's activities and know where he is located.
 - d. The PSD policy creates a serious safety concern for his children. After the Columbine shootings in Colorado, the school systems there and many other places started allowing phones at school,

because in the event of an emergency, such as a school shooting or destructive storm, it can be used to contact authorities for assistance and to communicate with parents.

- e. The iPhone serves educational purposes in regards to accessing information, such as access to the internet, e-books, audio books, and the like. Therefore, ironically, the PSD's policy runs contrary to their public mandate regarding education.
6. Plaintiff is obligated by a long term contract to pay for voice & data services for this iPhone device, even if the device is lost or stolen. Plaintiff is subject to a \$395 early termination fee.
7. Although the iPhone has telephone functionality, it is primarily a computer that has been marketed as a phone to draw attention to its small size. If the device were treated as a computer, music player, or video game, school policy would have directed that it be returned to the Plaintiff at the end of the day. Plaintiff believes that the defendants unnecessarily caused the damages because they treated the device as a phone rather than a computer, music player, or video game all functions which the device performs.
8. Unlike many other Districts, The PSD Student Handbook omits any legal disclaimer for damages caused by their policy.
9. The PSD neglects to enforce their policy using readily available technology (see attached documentation). Students regularly violate the policy and violations are not equitably enforced.
10. Most school districts that do not allow phones, such as neighboring Ocean Springs School District, return them at the end of the day. Although Plaintiff believes that a policy of allowing phones for safety and educational reasons would be a better policy, at the very least, the property of parents, especially those under which they have contractual obligations, should be returned to them in a more timely fashion.
11. Plaintiff has exhausted all known procedures within the PSD to resolve this matter, including an appeal to the Board of Trustees which heard this matter both in public meeting during visitor comment time and in closed-door Executive Session. Unfortunately, the PSD has proved negligent, refused to even vote on the matter, and did not even acknowledge Plaintiff's ownership of the device. The PSD also did not respond to requests for the phone case to be returned or allow the Plaintiff to backup the device to transfer contents to a new device. This would not have violated policy and shows their complete disrespect to the Plaintiff and Parents.

WHEREFORE, Plaintiff seeks compensatory damages in the amount of \$890.45 and an injunction by the court for the PSD to immediately stop enforcement of the portion of its policy which deprives parents of their legal property. The draconian policy of PSD results in financial damages to parents and hinders the spirit of cooperation that should exist between the school system and parents. The policy also creates a serious safety problem in that students have no means to contact authorities or parents in the case of emergency. Handling this problem properly now, at the local level, will prevent the need to seek relief in federal court under U.S. Title 42 USC Section 1983 for the violation of constitutionally protected liberties secured by the Fourteenth Amendment.

Dated this 11th day of April, 2012



Mark P. Miller, P.E., Plaintiff

IN THE JUSTICE COURT OF JACKSON COUNTY MISSISSIPPI

I certify that this is a true and

PLEASE CHECK ONE OF THE FOLLOWING correct copy of the court record.

Money Replevin Rent & Eviction Eviction Description *Sully J. Williams*

DECLARATION

Donna V. Davis, Clerk Jackson County Justice Court

1. The PLANTIFF(S):

Name(s): MARK PRIMO MILLER, P.E.
Mailing Address(s): 4500 SCARLET OAK DR.
City, State, Zip Code: GAUTIER, MS 39553
Telephone Number: 228-218-9523 OR 228-497-6328

2. The DEFENDANT(S):

Agent of Process: WAYNE Rodolfich OR DAN MARKS

Name(s): PASCAGOULA SCHOOL DISTRICT
Mailing Address(s): 1006 Community Ave., PO Box 250
City, State, Zip Code: PASCAGOULA, MS 39568 County JACKSON
Address to serve summons: 1006 Community Ave.
City, State, Zip: PASCAGOULA, MS 39567 County JACKSON
Telephone Number: 228-938-6491

3. The defendant(s) is indebted to the plaintiff(s) in the amount of: \$ 890.45

phone = \$695.49, Case = \$76, Software = \$118.96

4. State why you claim the defendant(s) owe you money. If for rent state the date(s) and amount due with total delinquent amount. Attach any additional information. If for a replevin must have the description of any personal property, value of each separate article and the value of the total. (#5 and #6 apply to replevin only)

CONFISCATION OF iPhone & REFUSAL to RETURN
CAUSED me to purchase replacement phone, case, & software
INVOICED & DEMANDED PAYMENT
PSD IGNORES EFFORTS to collect
PSD exercises unquitable enforcement of Policy - see Attachments

5. That the property is in the possession of the defendant.
6. That the defendant wrongfully took and detains or wrongfully detains same
7. Is there an arbitration agreement between the above parties Yes No

Attorney of Plaintiff

Signed: *Mark P. Miller*
Plaintiff

Sworn to and subscribed before me, this the 11 day of April 2012

Sully J. Williams DC.
Clerk/Deputy Clerk or Notary

JACKSON COUNTY

DRAWER 2 SYW - CASH

CK NO.

RECEIVED FROM: MILLER MARK PRIMO PE the sum of \$ 75.00
is hereby acknowledged; said sum being paid in cause styled
MILLER MARK PRIMO PE -VS- PASCAGOULA SCHOOL DISTRICT
PASCAGOULA SCHOOL DISTRICT

In the court of the undersigned and that said sum so paid is for and on account of the following:

For costs on: CIVIL SUIT TOTAL DEMAND \$ 890.45
COURT DATE 4/24/2012 10:00 AM _____

-----CIVIL FUND-----

CV-CLERK FEE 30.00
CV-CONSTABLE 40.00
CV-SCCF .50
CV-LAW LIB 1.50
CV-SCEF 2.00

RECORDS MANAGMENT FEE-ARCHIVES 1.00

-----CLEARING FUND-----

GARNISHMENT BALANCE-----> 0.00
Court Fees 75.00 Fees Pd 75.00 Fees Owed=> 0.00
Total PAID for this receipt 75.00 Case Balance=>

****NOTE** AS A PLAINTIFF IN A JUSTICE COURT CIVIL CASE, IT IS YOUR RESPONSIBILITY TO KEEP UP WITH THE STATUS OF YOUR CASE.**

This the 11th day of April , 2012

5343 JEFFERSON STREET

MOSS POINT, MS 39563

Shelly J. Williams
Justice Court Clerk

PHONE 769-3086 769-3087 FAX 769-3364