

JP

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PAIGE ROBBINS,
437 Hidden River Road
Penn Valley, PA 19072

Plaintiff,

v.

LOWER MERION SCHOOL DISTRICT,
301 East Montgomery Avenue
Ardmore, PA 19003,

and

**THE BOARD OF DIRECTORS OF THE
LOWER MERION SCHOOL DISTRICT,**
301 East Montgomery Avenue
Ardmore, PA 19003,

and

CHRISTOPHER W. McGINLEY,
Superintendent of Lower Merion School District,
301 East Montgomery Avenue
Ardmore, PA 19003

Defendants.

CIVIL ACTION

11 7495

NO:

CIVIL ACTION

PLAINTIFF'S, PAIGE ROBBINS, COMPLAINT

Plaintiff, Paige Robbins, individually, by and through her undersigned attorneys, Bogan Law Group LLC, allege the following upon information and belief and after due investigation by undersigned counsel.

NATURE OF THE ACTION

1. Plaintiff, Paige Robbins, brings this action based on an occurrence as a student in the Lower Merion School District, who had been issued a personal laptop computer equipped with a web

camera (“webcam”) by Lower Merion School District. Plaintiff seeks to recover damages caused to herself by Defendants’ invasion of Plaintiff’s privacy, theft of Plaintiff’s private information and unlawful interception and access to acquired and exported data and other stored electronic communications in violation of the Electronic Communications Privacy Act, The Computer Fraud Abuse Act, the Stored Communications Act, § 1983 of the Civil Rights Act, The Fourth Amendment of the United States Constitution, the Pennsylvania Wiretapping and Electronic Surveillance Act and Pennsylvania common law.

2. Unbeknownst to Plaintiff, and without her authorization, Defendants spied on the activities of Plaintiff by Defendants’ indiscriminant use of and ability to remotely activate the webcams incorporated into each laptop issued to students by the School District. This continuing surveillance of Plaintiff’s home use of the laptop issued by the School District, including the indiscriminant remote activation of the webcams incorporated into each laptop, was accomplished without the knowledge or consent of the Plaintiff.

3. Plaintiff brings the action pursuant to §§2511 and 2520 of the Electronic Communications Privacy Act (“ECPA”), 18 U.S.C. §§2511 and 2520, § 1030 of the Computer Fraud and Abuse Act (“CFAA”), 18 U.S.C. § 1030, § 2701, § 1983 of the Civil Rights Act, 42 U.S.C. § 1983, The Fourth Amendment of the United States Constitution, U.S. CONST. amend IV, the Pennsylvania Wiretapping and Electronic Surveillance Act, 18 Pa. C.S.A. § 5701 *et seq.* (“PWESA”), and Pennsylvania common law.

4. The Court has original jurisdiction over Plaintiff’s federal law claims pursuant to 28 U.S.C. §§1331 and 1137.

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c) as each Defendant is a resident of and/or maintains a permanent business office in this district.

6. In connection with the acts and conduct complained of, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including the internet.

THE PARTIES

7. Plaintiff, Paige Robbins, attended high school at Harriton High School at 600 North Ithan Avenue, Rosemont, Pennsylvania, 19010. Harriton High School is part of the Lower Merion School District.

8. Plaintiff, Paige Robbins is a resident of the Commonwealth of Pennsylvania at 437 Hidden River Road, Penn Valley, Pennsylvania, 19072-1112. Paige Robbins is hereinafter referred to as “Plaintiff.”

9. Defendant, Lower Merion School District (“School District”), is a municipal corporation body politic within the Commonwealth of Pennsylvania with a principal place of business at 301 East Montgomery Avenue, Ardmore, Pennsylvania, 19003.

10. Defendant, Board of Directors of the Lower Merion School District (“Board”), is comprised of a nine (9) member board elected locally to act as a corporate body in fulfilling the School District’s and the Commonwealth of Pennsylvania’s obligation to provide public education. The Board can be contacted through its secretary, Fran Keaveney, with an address of 301 East Montgomery Avenue, Ardmore, Pennsylvania, 19003.

11. Defendant, Superintendent of Schools Christopher W. McGinley (“McGinley”), is a School District Administrator appointed by the Board to supervise the day to day operation of the School District. As such, he is responsible for the implementation of policies, procedures and practices instituted by the Board. The School District, the Board and McGinley are hereinafter collectively referred to as “Defendants”.

SUBSTANTIVE ALLEGATIONS

12. During the pertinent timeframe, in the Superintendent of Schools welcome address appearing on the Lower Merion School District website, the Superintendent stated as follows:

The District is also in the final stages of implementing a one to one laptop initiative at the High Schools. Thanks in part to State and Federal grants secured by our technology staff during the past few years, every high school student will have their own personal laptop-enabling an authentic 21st Century learning environment. The initiative, which was launched with great success in Harriton last year, enhances opportunities for ongoing collaboration, and resources and the ability to seamlessly work projects and research at school and at home. The results: more engaged, active learning and enhanced student achievement. While other districts are exploring ways to make these kinds of incentives possible, our programs are already in place, it is no accident that we arrived ahead of the curve; in Lower Merion, our responsibility is to lead.

13. As part of this initiative as indicated by the Superintendent, laptop computers equipped with webcams had been issued on a one to one basis to all high school students in the School District.

14. An examination of all of the written documentation accompanying the laptop, as well as any documentation appearing on any website or handed out to students or parents concerning the use of the laptop, reveals that no reference is made to the fact that the school district had the ability to remotely activate the embedded webcam at any time the school district wished to intercept images from that webcam of anyone or anything appearing in front of the camera at the time of the activation.

15. Based upon information and belief, Defendant remotely accessed the webcam feature on the laptop issued to the Plaintiff while she was in the bathroom, or in the nude, or partially dressed or sleeping or in her bedroom in a compromised state. In or about April 2010, Plaintiff discovered from a deposition given by Lindy (Lynn) Matsko, the Assistant Vice Principal, that Defendants possessed images of Plaintiff, including, but not limited to, while she was in the bathroom, or in the nude, or partially dressed or sleeping or in her bedroom or in a compromised state.

16. Ms. Matsko confirmed that the School District, in fact, had the ability to remotely activate the webcam contained in a students' personal laptop computer issued by the School District at

any time it chose and to view and capture whatever images were in front of the webcam all without knowledge, permission or authorization of any persons then and there using the laptop computer.

17. Additionally, by virtue of the fact that the webcam could be remotely activated at any time by the School District, the webcam would capture anything happening in the room in which the laptop computer is located, regardless of whether the student is sitting at the computer and using it.

18. Defendants had never disclosed to the Plaintiff that the School District had the ability to capture webcam images from any location in which the personal laptop computer was kept.

19. Based upon deposition testimony provided on April 7, 2010, as a result of a prior action, Defendants possess webcam images of Plaintiff, as stated below.

Q: Was she -- Paige Robbin (sic) naked in the pictures that you looked;
Do you remember? Her top was off, right? In the picture that you looked at?

A: There was a picture of probably Paige Robbins'. I can't imagine any IT person umm, I mean, it...

(See Exhibit "A", relevant portions of the Deposition testimony from Lynn Matsko, dated April 7, 2010, a true and correct copy is attached hereto, and incorporated herein).

**COUNT I – INTERCEPTION OF ELECTRONIC
COMMUNICATION UNDER THE ECPA**

20. Plaintiff repeats and re-alleges each and every allegation above as if fully set forth herein.

21. Plaintiff asserts this count against all Defendants, jointly and severally, pursuant to §§ 2511 and 2520 of the ECPA, 18 U.S.C. §§ 2511 and 2520.

22. Section 2511 of the ECPA provides in part:

(1) Except as otherwise specifically provided in this chapter any person who-

(a) intentionally intercepts, endeavors to intercept, or procures any other person to intercept, or endeavor to intercept, any ... electronic communications;

(d) intentionally uses, or endeavors to use, the contents of any... electronic communication knowing or having reason to know that the information was obtained through the interception of a[n]... electronic communication in violation of this subsection; ... shall be punished as provided in subsection (4) or shall be subject to suit as provided in subsection (5).

23. Section 2520 of the ECPA provides in pertinent part:

(a) In general, -Except as provided in section 2511 (2)(a)(ii), any person whose ... electronic communication is intercepted ... or intentionally used in violation of this chapter may in a civil action recover from the person or entity which engaged in that violation such relief as may be appropriate.

(b) Relief. -In the action under this section, appropriate relief includes-

(1) such preliminary and other equitable or declaratory in appropriate cases; and

(2) damages under subsection (c) and punitive damages in appropriate cases; and

(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

24. Section 2510 of the ECPA, setting forth the definitions of the terms in § 2511 defines “person” to include “any employee, or agent of the United States or any State or political subdivision thereof...” 18 U.S.C. § 2510(6). Accordingly, each Defendant is a “person” within the meaning of § 2511.

25. Section 2510 defines “electronic communication to include “any transfer of signs, signals, writing, imaging, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photo electronic, or photo optical system that effects interstate or foreign commerce, ...” 18 U.S.C. § 2510 (12). Accordingly, the webcam images complained of constitute an “electronic communication” within the meaning of § 2511.

26. Section 2510 defines “intercept” to mean “the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.” 18 U.S.C. § 2510(4). Section 2510 defines “electronic, mechanical, or other device” to mean “any device or apparatus which can be used to intercept a wire, oral, or electronic communication,” subject to exclusions not relevant to this action. 18 U.S.C. § 2510(5).

27. The software/hardware used by the School District to remotely activate the webcams complained of constitute an “electronic ... device” within the meaning of 18 U.S.C. § 2510(5). By using said software/hardware to secretly obtain webcam images, each Defendant “intercepts” that communication within the meaning of § 2511.

28. By virtue of foregoing, Plaintiff is a “person whose ... electronic communication is intercepted... or intentionally used in violation of this chapter” within the meaning of § 2520.

29. By virtue of the foregoing, Defendants are liable to Plaintiff for their violations of §§ 2511 and 2520 of the ECPA.

30. Since Plaintiff first learned of Defendants’ unlawful remote activation of the webcams complained of in the deposition given by Lynn Matsko, in the month of April 2010, this action is timely and not beyond ECPA’s applicable statute of limitations.

31. Defendant’s actions complained of herein were conscious, intentional, wanton and malicious, entitling Plaintiff to an award of punitive damages.

32. Plaintiff has no adequate remedy at law for Defendants continued violation of the ECPA.

**COUNT II- THEFT OF
INTELLECTUAL PROPERTY UNDER THE CFAA**

33. Plaintiff repeats and re-alleges each and every preceding allegation as if fully set forth herein.

34. Plaintiff assert this Count against Defendants, jointly and severally, pursuant to § 1030 of the CFAA, 18 U.S.C. § 1030.

35. Section 1030 provides in part:

(a) Whoever-

(2) intentionally accesses a computer without authorization or exceeds authorized access, and thereby obtains-

(C) information from any protected computer if the conduct involved an interstate or foreign communication;

shall be punished as provided in subsection (c) of this section.

(b) Whoever attempts to commit an offense under subsection (a) of this section shall be punished as provided in subsection (c) of this section.

(g) Any person who suffers damage or loss by reason of a violation of this section may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.

36. Section 1030 of the CFAA defines the term “protected computer” to include “a computer ... Which is used in interstate or foreign commerce or communication.” 18 U.S.C. §1030(e)(2)(B). Each laptop issues by the School District and equipped with a webcam is used in interstate communications and is therefore a “protected computer” within the meaning of § 1030.

37. Section 1030 of the CFAA defines the term “exceeds authorized access” to mean “to access a computer with authorization and to use such access to obtain or alter information in the computer that the accessor is not entitled so to obtain or alter.” 18 U.S.C. § 1030(e)(6). By using software/hardware to remotely activate the webcams complained of and intercept their images, each Defendant has gained “access a computer without authorization or exceeds authorized access” within the meaning of § 1030.

38. By virtue of the foregoing, Defendants are liable to Plaintiff for their violations of § 1030 of the CFAA.

39. Since Plaintiff first learned of Defendants remote activation of the webcams complained of as to Plaintiff in or about April 2010, this action is timely as to Plaintiff.

40. Pursuant to the court Order of October 18 2010, Defendants have in their possession the webcam images or screenshots, or any information contained therein, at issue herein. (See Exhibit "B", October 14, 2010 Order, a true and correct copy is incorporated herein).

41. Defendants actions complained of herein were conscious, intentional, wanton and malicious entitling Plaintiff to an award of punitive damages.

42. Plaintiff has no adequate remedy at law and seeks any and all permissible compensation for Defendants violation of the CFAA, as well as the production and relinquishment of any and all webcam images or screenshots, or any information contained therein.

**COUNT III – STORED
COMMUNICATIONS ACT (18 U.S.C. §2701)**

43. Plaintiff repeats and re-alleges each and every preceding allegation as if fully set forth herein

44. Section 2701 of the SCA provides, in pertinent part:

Except as provided in subsection (c) of this section, whoever-

1) intentionally accesses without authorization a facility through which an electronic communication service is provided; or

2) intentionally exceeds an authorization to access that facility; and thereby obtains, alters or prevents authorized access to a wire or electronic communication while it is in electronic storage in such system shall be punished as provided in subsection (b) of this section.

45. Section 2711 of the SCA defines "electronic communication" as "any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or optical system that affects interstate or foreign commerce...." 18 U.S.C. §§ 2711, 2510(12). Accordingly, the webcam images complained of are "electronic communications" within the meaning of the SCA.

46. Section 2711 of the SCA defines “person” to include “any employee, or agent of the United States or of a State or political subdivision thereof, and any individual, partnership, association....” 18 U.S.C. §§2711, 2510(6). Accordingly, all Defendants are “persons” within the meaning of the SCA.

47. Section 2711 of the SCA defines “electronic storage” to include “any temporary intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof....” 18 U.S.C. §§ 2711, 2510(17)(A).

48. Defendants’ use of the software/hardware to remotely activate the webcams complained of and to obtain their images constitutes an unauthorized acquisition of stored electronic communications in violation of the SCA.

49. Section 2701(b) of the SCA provides punishment in those instances where the unauthorized acquisition of stored electronic communications was not done for commercial gain or advantage of “a fine under this title or imprisonment for not more than six months, or both....” 18 U.S.C. § 2701(b)(B).

COUNT IV – VIOLATION OF THE CIVIL RIGHTS ACT (42 U.S.C. §1983)

50. Plaintiff repeats and re-alleges each and every allegation set forth above as if fully set forth herein.

51. Section 1983 states in pertinent part:

Every person who under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, Suit in equity, or other proper proceeding for redress....”

52. All Defendants are “persons: within the meaning of § 1983, in that at all times material hereto they were acting under the color of state law as a political subdivision of the Commonwealth of Pennsylvania, or a representative thereof.

53. Defendants’ clandestine remote activation of the webcams complained of deprived Plaintiff of her right to privacy as protected by the Fourth Amendment of the United States Constitution.

54. As Plaintiff first learned of Defendants unlawful deprivation of their privacy rights during the deposition testimony during April 2010, this action has been commenced within § 1983’s applicable two-year statute of limitations.

55. Defendants’ conduct in remotely activating the webcams complained of, which resulted in the deprivation of Plaintiff’s constitutionally-protected right to privacy was intentional, extreme and outrageous, and thereby entitles Plaintiff to an award of punitive damages.

**COUNT V – INVASION
OF PRIVACY (U.S. CONST. AMEND. IV)**

56. Plaintiff repeats and re-alleges each and every preceding allegation as if fully set forth herein.

57. At a minimum, and pursuant to the Fourth Amendment of the United States Constitution, U.S. CONST. amend. IV, Plaintiff had a reasonable expectation of privacy with respect to the use of the webcams embedded in the laptop computers issued by the School District.

58. In particular, Plaintiff was never informed that the webcam incorporated into the students’ personal laptop computer could be remotely activated by the School District and/or its agents, servants, workers or employees indiscriminately at the whim of the School District, and that such activation would naturally capture images of anything in front of the webcam at the time of its activation.

59. In as much as the personal laptop computers were used by students of the high schools and their families, it is believed and therefore averred, that the School District has the ability to and has

captured images of Plaintiff without her permission and authorization, all of which is embarrassing and humiliating.

60. As the laptops at issue were routinely used by the students while at home, it is believed and therefore averred, that many of the webcam images captured and/or intercepted consist of Plaintiff, a then minor, in compromising or embarrassing positions, including, but not limited to, in various stages of dress or undress.

COUNT VI-PENNSYLVANIA WIRTAPPING AND
ELECTRONIC SURVEILLANCE ACT (18 PA. C.S.A. §5101, ET SEQ.)

61. Plaintiff repeats and re-alleges each and every preceding allegation as if fully set forth herein.

62. Section 5703 of the PWESA states in pertinent part:

Except as otherwise provided in this chapter, a person is guilty of a felony of the third degree if he:

1) intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, electronic or aural communication;

63. Section 5702 of the PWESA defines “intercept” to include the “aural or other acquisition of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical or other device.” 18 Pa. C.S.A. §5702.

64. Section 5702 of the PWESA defines “electronic communications” to include “any transfer of signs, signals, writing, images, ... transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system....” 18 Pa. C.S.A. §5702.

65. Pursuant to § 5702 of PWESA defines “person” as “any employee, or agents of the United States or any state or political subdivision thereof....” 18 Pa. C.S.A. § 5702.

66. Pursuant to § 5702 to PWESA, Defendants are “persons” within the meaning of the Act, and Defendants’ conduct with respect to the webcams complained of constitutes an interception of electronic communications violative of the PWESA.

67. Pursuant to § 5725 of the PWESA:

Any person whose wire, electronic or oral communication is intercepted, disclosed or used in violation of this chapter shall have a civil cause of action against any person who intercepts, discloses or uses or procures any other person to intercept, disclose or use, such communication; and shall be entitled to recover from any such person:

- 1) Actual damages, but not less than liquidated damages computed at the rate of \$100.00 a day for each day of violation, or \$1,000.00, which is higher.
- 2) Punitive damages.
- 3) A reasonable attorney’s fee and other litigation costs reasonably incurred.

**COUNT VII – INVASION OF
PRIVACY: PENNSYLVANIA LAW**

68. Plaintiff repeats and re-alleges each and every preceding allegation as if fully set forth herein.

69. At all times material hereto, and pursuant to the common law of Pennsylvania, Plaintiff had a reasonable expectation of privacy with respect to the operation of the webcams complained of.

70. Plaintiff was never informed of the School District’s capability and practice of remotely activating the webcams complained of.

71. As the laptops at issue were routinely used by the students while at home, it is believed and therefore averred, that many of the webcam images captured and/or intercepted consist of Plaintiff, a then minor, in compromising or embarrassing positions, including, but not limited to, in various stages of dress or undress.

WHEREFORE, Plaintiff, Paige Robbins, requests judgment in her favor and against Defendants, Lower Merion School District, The Board of Directors of the Lower Merion School District and Christopher W. McGinley, jointly and severally, as follows:

- 1) for compensatory damages;
- 2) for punitive damages;
- 3) for liquidated damages pursuant to the PWESA;
- 4) for attorneys' fees and costs;
- 5) for declaratory and injunctive relief; and
- 6) for such other and further relief as this Court deems just and appropriate.


DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues for which a right to jury trial exists.

Respectfully submitted,

BOGAN LAW GROUP, LLC

By: _____



Mary Elizabeth Bogan, Esquire
1800 John F. Kennedy Boulevard, Suite 300
Philadelphia, PA 19103
(215) 385-5254/ (215) 695-2185
Attorneys for Plaintiff

EXHIBIT “A”

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BLAKE J. ROBBINS, a : CIVIL ACTION
Minor by his Parents :
and Natural Guardians, :
MICHAEL E. ROBBINS and :
HOLLY S. ROBBINS, :
Individually and on :
Behalf of all Similarly :
Situated Persons :

COPY

-vs-

LOWER MERION SCHOOL :
DISTRICT, THE BOARD OF :
DIRECTORS OF THE LOWER :
MERION SCHOOL DISTRICT, :
and CHRISTOPHER W. :
McGINLEY, :
Superintendent of Lower :
Merion School District : NO. 00665-JD

Videotape deposition of LYNN C. MATSKO,
taken on behalf of the Plaintiffs, in the Law
Offices of LAMM RUBENSTONE, LLC, 3600 Horizon
Boulevard, Suite 200, Trevose, Pennsylvania, on
Wednesday April 7, 2010, commencing at or about
10:15 a.m., before Colleen A. Young, R.P.R.,
C.S.R. - Notary Public.

B & R SERVICES FOR PROFESSIONALS, INC.
235 SOUTH 13TH STREET
PHILADELPHIA, PENNSYLVANIA 19107
(215) 546-7400

B & R Services for Professionals, Inc.

LYNN C. MATSKO

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1 BY MR. HALTZMAN:

2 Q. I just showed you 6112, correct?

3 A. Uh-huh.

4 Q. Let's look at the rest of that e-mail which is
5 on 6113. It starts off with an e-mail from Lynn
6 Matsko saying I spoke with Paige yesterday.

7 A. Uh-huh.

8 Q. The next e-mail string above that says, is she
9 admitting she has it, can someone come down to JF
10 to verify it is her on the laptop, I have a picture
11 of her.

12 A. Uh-huh.

13 Q. So you knew when you read this e-mail that
14 that were taking pictures of her, correct?

15 A. She -- he just says I have a picture of her.

16 Q. Well, what did you think they were talking
17 about if it wasn't that they were taking pictures
18 from the Web-cam, what kind of picture were they
19 talking about?

20 A. They -- they -- the -- she opened up the --
21 the laptop computer and it's a picture of her.

22 Q. So you understood that if somebody doesn't
23 return at the end of the year they are going to
24 track it and take pictures of people, correct?

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LYNN C. MATSKO

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1 A. I -- I don't understand that. I understand in
2 this case this is what they did.

3 Q. Well, why?

4 A. Specific to this case.

5 Q. Well, why were they doing --

6 A. You are asking me generally do I understand
7 that. No, I don't generally understand that.

8 Q. Why did they do it for Paige Robbins, it --
9 was it because she was a bad kid and we are going
10 to spy on her?

11 A. Paige Robbins was not a bad kid.

12 Q. So why were they taking a picture of her just
13 because she didn't return the thing at the end of
14 year as -- and -- because you've already said, I'm
15 calling her?

16 A. They are trying to get pic- -- they are trying
17 to get the laptop back.

18 Q. So it's all right, you understood that as part
19 of the procedure there they are going to start
20 tracking computers and start taking pictures of the
21 kids?

22 A. I did not understand that.

23 Q. You -- so you didn't understand that when you
24 read this e-mail, correct?

B & R Services for Professionals, Inc.

LYNN C. MATSKO

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1 A. When I read the e-mail it says, I have a
2 picture of her, he is asking me to come down and
3 take a look at it.

4 Q. And you are saying it's her?

5 A. Yes.

6 Q. Did you say to him, yeah, how did you get a
7 picture of her?

8 A. No.

9 Q. Why not? You are just looking at a picture of
10 somebody that was clearly from Web-cam, why didn't
11 you ask him, where did you get this picture from
12 and why are you taking the picture?

13 A. The purpose of his question is to verify does
14 the student still have her laptop computer.

15 Q. So you don't believe you have any
16 responsibility to ask the question about, wait a
17 second, why were you taking pictures of Bla- -- of
18 Paige Robbins?

19 A. I work for Lower Merion School District, I
20 have Steve Kline and whether it was George Frazier
21 or Ginny DiMedio or Jason Hiltz, but this was all
22 cleared by them.

23 Q. So if it was cleared by them it's good enough
24 for them; fair statement.

B & R Services for Professionals, Inc.

LYNN C. MATSKO

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1 A. If it's cleared by them, I work for them.

2 Q. Was she -- Paige Robbin (sic) naked in the
3 picture that you looked at; do you remember? Her
4 top was off, right? In the picture that you looked
5 at?

6 A. There was a picture probably of Paige Robbins'
7 face. I can't imagine any IT person, I mean, it...

8 Q. How do know they what they are going to get a
9 picture of?

10 A. It's really difficult for me to answer that.

11 I mean, that's --

12 Q. Really?

13 A. -- a question you are asking to me --

14 Q. It's difficult? They open up the computer and
15 it takes a picture of a Web-cam. You are
16 sophisticated enough about a picture to know it
17 will take a picture of anything in front of it,
18 correct? Correct? Do you understand that about a
19 computer?

20 A. When you open up a -- a -- a -- a computer --

21 Q. Right.

22 A. -- it takes, usually the picture that I have
23 seen of -- of students it's hard, sometimes it's
24 difficult to see them because the student is so

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EXHIBIT “B”

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BLAKE J. ROBBINS, et al.,	:	Civil Action
	:	
Plaintiffs,	:	No. 10-665
	:	
v.	:	Hon. Jan E. DuBois
	:	
LOWER MERION SCHOOL DISTRICT, et al.,	:	
	:	
Defendants.	:	
	:	

ORDER GRANTING PERMANENT EQUITABLE AND INJUNCTIVE RELIEF

AND NOW, this 12th day of October 2010, upon consideration of Defendants' Cross-Motion for Entry of Permanent Equitable Relief, the Court having ordered counsel for the parties to meet and confer in an effort to reach agreement on the form of an order for permanent equitable and injunctive relief, by agreement of the Parties, and good cause appearing.

IT IS ORDERED that:

1. The injunctive relief granted in the Court's prior orders in this action is superseded by the relief granted in this Order.
2. The Lower Merion School District (the "District") and its officers, employees, and agents (including its attorneys and computer consultants) (collectively, "LMSD") are permanently enjoined from remotely activating, or causing to be remotely activated, webcams on laptop computers issued by LMSD to its students ("student laptops").
3. Except as otherwise provided in this paragraph, LMSD is permanently enjoined from purchasing any software, hardware, or other technology that allows for the remote activation of webcams on student laptops or the remote monitoring or recording of audio or video from student laptops. To the extent that any standard operating system software or other commercially available software that LMSD may wish to use for educational purposes includes

functionality that could possibly allow for the remote activation of webcams on student laptops or the remote monitoring or recording of audio or video from student laptops, LMSD may purchase and use the software only for purposes consistent with the policies and regulations contemplated by paragraph 7 of this Order, and LMSD shall disable any such functionality to the extent feasible.

4. LMSD is permanently enjoined from remotely capturing, or causing to be remotely captured, screenshots of student laptops. The preceding sentence shall not preclude LMSD from remotely accessing student laptops for purposes of maintenance, repairs, or troubleshooting in accordance with the policies and regulations contemplated by paragraph 7 of this Order.

5. LMSD may implement a technological alternative to track student laptops that are reported by the student or his or her parent or guardian as lost or stolen provided that the loss or theft is documented in writing and that such tracking technology: (i) is used only to track the location of a laptop reported lost or stolen; (ii) operates in a manner that will not compromise the privacy rights of District students, their families, or anyone else within the viewing capability of the student laptop's webcam; (iii) is conspicuously disclosed and its functionality and uses are explained in a document requiring the signature of students and parents/guardians before any laptop with such tracking technology is issued to any student; and (iv) may only be activated under policies and regulations for such activation as contemplated by paragraph 7 of this Order. By way of example, if it complies with the foregoing requirements, the District may install on laptops global positioning system devices or other anti-theft tracking devices or features that do not permit the remote activation of webcams, the remote capturing of screenshots, or any remote monitoring or recording of audio, video, or on-screen text.

6. LMSD is permanently enjoined from accessing or reviewing any student-created files contained on student laptops (including but not limited to documents, e-mails, instant messaging records, photographs, Internet usage logs, and Web browsing histories) for any reason except as permitted by the policies and regulations contemplated by paragraph 7 of this Order or otherwise pursuant to a signed consent form signed by the student and his or her parent or guardian that clearly and conspicuously sets forth the ability of LMSD to access or review such files. In the event that the District does not issue a laptop to a student on the basis of the student's declining to sign such a consent form, the District shall use its best efforts to make necessary accommodations to ensure that such student's education is not adversely affected.

7. To the extent, if any, that such policies and regulations are not already in place, the District shall prepare and adopt official policies in accordance with its By-Laws, and the District shall promulgate official regulations, governing: the distribution, maintenance, and permissible uses of student laptops; the privacy of student data in such laptops; the training of District information services personnel with respect to student laptops and privacy; and the administration, oversight, and enforcement of such policies and regulations including, among other things, which persons at the District are responsible for administering, overseeing, and enforcing the policies and regulations and the specific regulations and/or policies that those persons are responsible for administering, overseeing, and enforcing. Such policies and/or regulations shall require, among other things: (i) that the District explain to, and obtain the written consent of students and parents or guardians with respect to, the manner and circumstances in which District personnel may remotely access student laptops or otherwise access or review any information or data (including but not limited to documents, e-mails, instant messaging records, photographs, Internet usage logs, and Web browsing histories) contained on

student laptops; (ii) a procedure to make necessary accommodations for a student to whom the District does not issue a laptop on the basis that the student declined to sign such a consent form to ensure that such student's education is not adversely affected; (iii) that immediately prior to remotely accessing any student laptop for reasons permitted by and disclosed in such policies while the laptop is in use, the District shall notify the student of such impending access directly (in person or by telephone) and/or via a pop-up notification on the laptop's screen, and that the District may not remotely access a student laptop without the student's permission; and (iv) the District to maintain a permanent log of each and every instance in which it remotely accesses any student laptop that details the date and time of remote access and the reason for such access.

8. LMSD shall preserve all electronic files, data, and storage media that pertain to Plaintiffs' claims and claims that other students or their family members may have with respect to the District's use of LANrev software, including but not limited to any and all images obtained by the District via the remote activation of webcams on student laptops for at least six years after the date of this Order or until further order of the Court.

9. To the extent that the process required by the May 14, 2010 order entered by Judge Jan E. DuBois, and the May 14, 2010 order entered by Chief Magistrate Judge Thomas J. Rueter, with respect to the viewing of images by affected students and/or their parents/guardians is not completed as of the date of this Order, then that process shall be completed. That process, developed under the auspices of, and supervised and approved by, Judge Jan E. DuBois and Chief Magistrate Judge Thomas J. Rueter, requires LMSD – to the extent it is in possession of webcam photographs or screenshots from certain student laptops resulting from the District's use of the tracking feature of the LANrev software – to provide any students who possessed those laptops while tracking was activated and/or their parents or

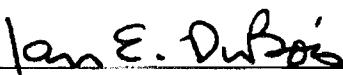
guardians an opportunity to view such images consistent with the terms set forth in the May 14, 2010 orders.

10. LMSD is permanently enjoined from viewing, disseminating, or otherwise permitting access to any webcam photographs or screenshots, or any information contained therein, that the District obtained remotely from student laptops, except in connection with the process contemplated by paragraph 9 of this Order or as otherwise permitted by a court order. The obligation set forth in this paragraph not to view, disseminate, or otherwise permit access to information contained in webcam photographs or screenshots shall survive any physical destruction of the webcam photographs or screenshots after the expiration of LMSD's duty – pursuant to paragraph 8 of this Order – to preserve all such information for at least six years after the date of this Order or until further order of the Court.

11. The injunctive relief granted in this Order shall be enforceable by any persons adversely affected by any violations of this Order, including parents or guardians of any adversely affected individual who is then a minor. This Order shall remain in effect until further order of the Court notwithstanding any dismissal of this action.

12. Without in any way affecting the finality of this Order, the Court shall retain jurisdiction over all matters relating to the implementation, enforcement, construction, administration, and interpretation of this Order notwithstanding any dismissal of this action.

BY THE COURT:



JAN E. DUBOIS, J.

10-12-10 faxes to
All Counsel.

VERIFICATION

I verify that I am the Plaintiff in the attached pleading, and that the statements made in the foregoing Plaintiff's Complaint are true and correct. I understand that false statements herein are subject to the penalties of 18 PA C.S. Section 4904, relating to unsworn falsification to authorities.

Dated: Dec. 6, 2011

Paige Robbins
Paige Robbins

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Paige Robbins

(b) County of Residence of First Listed Plaintiff Montgomery
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Bogan Law Group, LLC 1800 JFK Blvd. Suite 300 Philadelphia, PA

DEFENDANTS

Lower Merion School District, Board of Directors et al.

County of Residence of First Listed Defendant Montgomery
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|--|---|--------------------------------|--|--------------------------------|---|
| Citizen of This State | <input checked="" type="checkbox"/> PTF 1 | <input type="checkbox"/> DEF 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> PTF 4 | <input checked="" type="checkbox"/> DEF 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. Section 1983

Brief description of cause:

Claims under Civil Rights Act; Fourth Amendment of US Constitution

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 300,000

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

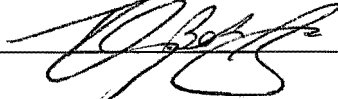
JUDGE

DOCKET NUMBER

DATE

12/7/11

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICIAL USE ONLY

RECEIPT #

AMOUNT

APPLYING FFP

JUDGE

MAG. JUDGE

DEC 7 2011

11 7495

Address of Plaintiff: 437 Hidden River Road, Penn Valley, PA 19072

Address of Defendant: 301 East Montgomery Avenue, Ardmore, PA 19003

Place of Accident, Incident or Transaction: Harriton High School, Lower Merion School District

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: Judge

Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐

No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐

No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐

No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐

No ☒

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify)

DEC 7 2011

(Check Appropriate Category)

I, Mary Elizabeth Bogan, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☒ Relief other than monetary damages is sought.

DATE: 12/7/11Bogan Law Group, LLC 1800 JFK Blvd. Suite 300, Philadelphia, PA 19103

Attorney-at-Law Mary Elizabeth Bogan, Esquire

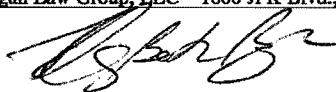
Attorney I.D.# 57072

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 12/7/11Bogan Law Group, LLC 1800 JFK Blvd., Suite 300, Philadelphia, PA 19103

Attorney-at-Law



Attorney I.D.# 57072

CIV. 609 (6/08)

CASE MANAGEMENT TRACK DESIGNATION FORM

Paige Robbins

CIVIL ACTION

v.

11 7495

NO.

Lower Merion School District, Board of Directors of the Lower
 Merion School District, and Christopher W. McGinley

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus — Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security — Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration — Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos — Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management — Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (X)
- (f) Standard Management — Cases that do not fall into any one of the other tracks. ()

		<u>Mary Elizabeth Bogan, Esquire</u>	
<u>12/7/11</u>	<u>Bogan Law Group, LLC</u>	<u>1800 JFK Blvd. Suite 300, Philadelphia, PA</u>	<u>19103</u>
Date	Attorney-at-law		
Attorney for Plaintiff			
<u>215-385-5254</u>	<u>215-695-2185</u>	<u>mbogan@boganlawgroup.com</u>	

DEC 7 2011