

SANDY ROUGELY individually and as next §
friend of minor K.P.; and KEVIN PARKER, §
individually and as next friend of minor K.P. §

Plaintiffs,

VS.

**LIVE OAK CLASSICAL SCHOOL; and
LAWRENCE L. GERMER,**

Defendants.

~~~~~

**IN THE DISTRICT COURT OF**

**TRAVIS COUNTY, TEXAS**

\_\_\_\_ JUDICIAL DISTRICT

**PLAINTIFFS SANDY ROUGELY, INDIVIDUALLY AND AS NEXT FRIEND OF  
MINOR K.P., AND KEVIN PARKER, INDIVIDUALLY AND AS NEXT FRIEND OF  
MINOR K.P.'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE**

Plaintiffs Sandy Rougely and Kevin Parker, each as next friend of minor child K.P. (“Plaintiffs”) file this Original Petition and Request for Disclosure complaining of Defendants Live Oak Classical School (“Live Oak”) and Lawrence L. Germer (“Germer”) (collectively “Defendants”) and for cause of action state as follows:

## I. DISCOVERY CONTROL PLAN

1. Pursuant to Rules 190.1 and 190.3 of the Texas Rules of Civil Procedure, Plaintiffs state that discovery in this cause is intended to be conducted under Level 2.

## II. PARTIES

2. Plaintiffs are individuals residing in McLennan County, Texas, and may be served through undersigned counsel. Plaintiffs are the biological parents of minor K.P., and each bring this suit as next friend of K.P.

3. Defendant Live Oak Classical School is an entity doing business in Texas and may be served with process through its registered agent Carolyn Still at 500 Webster P.O. Box 647, Waco, Texas 76703.

4. Lawrence L. Germer is a resident of Travis County, Texas, and can be served at his residence: 16001 Fontaine Ave., Austin, Texas 78734-2644.

### **III.** **VENUE AND JURISDICTION**

5. Venue is proper in this Court by virtue of Tex. Civ. Prac. & Rem. Code §15.002(a) because one or more of the Defendants reside in Travis County. Furthermore, this Court has jurisdiction in that the damages being sought are within the jurisdictional limits of this Court. Plaintiffs affirmatively plea they seek damages from Defendants in excess of Three Million Dollars (\$3,000,000) to not only compensate the victims in this case, but to deter this type of egregious conduct from others in the future, and to serve as an example to all educational institutions that this type of behavior is unacceptable with regard to both the treatment of children and their parents.

### **IV.** **FACTS**

6. This is a case involving injury to a child. K.P. is an African-American child who attended Live Oak during the 2015-2016 school year. Live Oak is a largely white private school with tuition of just over \$7,000 per year. Her mother, Sandy Rougely (“Sandy”), applied for scholarship grants and sacrificed a large percentage of her pay check each month so her daughter could attend a school that, Sandy thought, would give K.P. a better education and provide a wholesome learning environment.

7. Sandy enrolled K.P. in the Live Oak 5<sup>th</sup> grade class in 2014, and for a time K.P. flourished in what Sandy thought was an improvement from the public school system. Despite the sizable cost and sacrifice, Sandy believed that by enrolling K.P. in Live Oak, she was setting K.P. up for a future that included college and graduate degrees.

8. However, in the fall of 2016 during K.P.'s 6<sup>th</sup> grade year, K.P. began to come home with disturbing reports that her classmates did not accept her, would not talk with her, and even physically bullied her. Specifically, on two of the most severe occasions, K.P. was physically bullied by one boy. In one incident, the boy pushed K.P. to the ground in the cubby room, and in the other, he kicked, pushed, and shoved her during a class assignment when the teacher was not looking.

9. Sandy was unsurprisingly concerned at what K.P. was experiencing at school. When she enrolled K.P. in Live Oak, which bills itself as a Christian school with a core value of "providing clear expectations and rules for disciplined behavior," Sandy never dreamed that bullying would be a problem her child had to deal with on a daily basis. She immediately contacted the school's principal, Allison Buras ("Ms. Buras"), and alerted her to these incidents and asked what the school planned to do about it. Her pleas for help were met with deference to the Live Oak boy who bullied K.P. The school's response was that the bullying had been an "accident," and the boy had not meant to push K.P. to the ground. *See* Exhibit A. The school also responded that the incident when the same boy kicked, pushed, and shoved K.P. was just "something kids sometimes do" and "[the boy] didn't remember pushing her or kicking her." *See* Exhibit A.

10. Instead of addressing the issue of how K.P. was being treated, the administration of Live Oak began to instead blame K.P. for how others interacted with her. In a series of emails to

Sandy, Live Oak administrators stated they were “concerned about some of [K.P.’s] social skills and abilities to see other’s perspectives at times” and that “[K.P.] is not emotive.” Live Oak seemed concerned only with the symptoms of the bullying, rather than the problem. In another email from Ms. Buras, she again pointed the finger at K.P. saying “[K.P.] will not find a kinder or more mature group of girls in another setting” but that she was “concerned about [K.P.’s] social skills.” *See* Exhibit A.

11. Each year, the sixth grade class goes on an end-of-year overnight campout. This year, it was to the Germer Ranch, owned by Defendant Lawrence L. Germer. Sandy was concerned about K.P. going on this trip, and asked to be one of the parent chaperones. *See* Exhibit A. However, Live Oak chose four other parents to chaperone instead of Sandy. Sandy continued to express her concerns about this trip to Live Oak’s administration, but was assured in several emails that the teachers and chaperones would “keep a eye out for [K.P].” *See* Exhibit A.

12. The trip started on April 28th, 2016. K.P., along with twenty-one other children and seven chaperones (including four parent chaperones), loaded up and left Waco on a trip that would taken them to Enchanted Rock in Fredricksburg, and then the Germer Ranch in Blanco County, Texas. When K.P. and the other children reached Germer Ranch, they began to explore the property and found a rope swing hanging from a tree. *See* Exhibit A. The swing was a single rope, with one end tied to a branch of the tree, and the other end holding a circular seat that a child would sit in. A second and much longer rope had been tied to the seat and the children would pull the longer rope, lifting the swing in the air, and then let it go to allow the child in the seat to swing. This swing was a dangerous condition that Defendant Lawrence L. Germer had actual or constructive knowledge of and which posed an unreasonable risk of harm and for which

he did not exercise reasonable care to reduce or eliminate the risk to the children on his property.

13. There were several children all taking turns sitting on the swing, while the other children pulled the rope. K.P. helped pull the rope several times, but stopped to watch after a few turns and stood to the side of the rope with a group of other kids. Behind her in this group, within an arms length, were three boys, one of whom was the same boy Sandy had alerted Live Oak was bullying K.P.

14. During one swing, K.P. watched as some of the other kids pulled the pull-rope back, ready to swing another child. She watched the kids let the rope go, thinking this was just like every other turn. However, she did not see what the boys behind her were doing, and the next thing K.P. knew, she felt the rope wrap around her neck and she was violently jerked to the ground with the pull-rope wrapped around her neck. *See Exhibit A.* The rope cut into her skin and left a severe and painful burn. K.P. looked up, and saw the three boys an arms length from where she was laying. None of the three boys, nor anyone else, helped her off the ground or helped remove the rope from her neck as they would have done if it had been an accident.

15. K.P. got up on her own, unwrapped the rope from her neck, and went to find someone that could help. She found Ms. Buras, who was supposed to be watching the children on the swing at the time of the incident. Ms. Buras saw K.P.'s neck, knew that at least one of the boys had bullied her in the past, and yet Ms. Buras did nothing to discover whether the act was intentional. Another chaperone applied Vaseline to her neck and gave her Motrin. K.P.'s mother was never notified her child had been injured, and was not told that the boy who bullied her in the past was right behind her when it happened. The children spent the night at the Germer Ranch and returned to Waco at approximately 8:00 P.M. the next day, Friday April 29<sup>th</sup>, 2016.

16. Sandy waited in the parking lot to pick up K.P., and when she got in the car, Sandy thought K.P.'s neck had been ripped open and stitched back together based on how the injury appeared. Sandy immediately went to a parent chaperone and asked what happened, and the parent chaperone said she did not know. The chaperone stated only that Ms. Buras was watching them at the time, and Sandy should ask her. Sandy approached Ms. Buras, very concerned, and asked what happened. Ms. Buras was, as she had been during the prior bullying incidents, dismissive. She said that K.P. had received a rope burn but indicated it was not matter of concern. Sandy informed Ms. Buras that she would be taking K.P. to the emergency room immediately for a medical professional to evaluate K.P.'s injuries. Ms. Buras acted shocked, as if this course of action was unreasonable and unnecessary.

17. At the emergency room, K.P. was treated for severe rope burns around her neck. Sandy recalls doctors commenting on the severity of the injury. The police were notified, and an officer came to take a report. Upon seeing K.P.'s injuries, the officer immediately called the crime scene unit, who came to the hospital and took photographs of K.P.'s neck for use in a police investigation.

18. No one from Live Oak followed up with Sandy or K.P. that weekend on what happened during the trip. No one contacted Sandy to explain why she had not been called when this happened. No one from Live Oak asked that weekend how the emergency room trip went, or offered to pay for K.P.'s medical expenses. In fact, no one from Live Oak conducted any investigation into how K.P. was injured until Live Oak was faced with legal action.

19. On Monday morning, May 2, Ms. Buras emailed Sandy and said:

“I just wanted to check on [K.P.]. Did you take her to the doctor? How is she?  
We were glad to have a doctor on our trip who could check her out or we also

might have felt a need to take her in. I remember getting rope burns as a child and they are not fun! I hope she is doing okay.” *See Exhibit A.*

Later, Alison Moffatt, a founder of Live Oak, sent another email and said:

“When you're ready to talk, I'm available. I think I can explain to you what happened and bring you some peace.” *See Exhibit A.*

20. Sandy was terrified for her daughter’s safety. Live Oak had tolerated K.P. being bullied for months, despite Sandy’s pleas for change. Now K.P. had been brutally injured on a school trip when a rope was wrapped around her neck, with the bully standing right behind her. Sandy saw the injuries on her daughter’s neck, and could not understand how such an injury could be an accident. Even if this incident was unintentional, the school’s lack of supervision to let this happen, dismissive and tone deaf response after it happened, and refusal to investigate until legally prompted to, showed an utter disregard for one of the only African American children in the school. Even ignoring what or who caused this injury, the school’s failure to notify the injured child’s mother is inexcusable and reckless. Live Oak’s actions, and inactions, left K.P. with scars, both emotionally and physically. Sandy refused to allow her daughter to continue to be subject to this treatment, and she removed K.P. from Live Oak immediately.

21. Since the public became aware of how Live Oak treated K.P., at least two separate families have come forward to voice their stories of how they too pulled their children out of Live Oak due to relentless bullying that went unaddressed by the school. They each said they too notified the school that their child was being bullied, and they were told the same thing Sandy was – either the incident had been an accident, or it was “just something kids do.”

**V.**  
**CAUSES OF ACTION**

***Count 1 – Negligence Against Live Oak Classical School***

22. Plaintiffs incorporate the previous paragraphs by reference as though fully set forth in their entirety. Defendant Live Oak had, at the time of the incident in question, a duty to protect and properly supervise the children in its charge, including K.P. Defendant Live Oak, by and through its employees, agents, servants, and/or representatives, failed to properly protect and supervise K.P., and her classmates, which proximately caused serious injury to K.P. when a rope was wrapped around her neck and she was violently jerked to the ground, leaving burns on her neck that required medical attention. Defendant Live Oak was further negligent in failing to notify K.P.'s mother that her child had been injured and giving her the choice of whether to seek appropriate medical treatment, causing severe emotional distress and mental anguish.

***Count 2 – Gross Negligence Against Live Oak Classical School***

23. Plaintiffs incorporate the previous paragraphs by reference as though fully set forth in their entirety. The above-mentioned acts of negligence on the part of Defendant Live Oak were of such character as to make Live Oak guilty of gross negligence. Defendant's acts of negligence when viewed objectively from the standpoint of Defendant, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others. Defendant had actual, subjective awareness of this risk, but nevertheless proceeded with conscious indifference to the rights, safety, and welfare of Plaintiffs. Defendant's acts of malice involve such entire want of care as could only have resulted from actual conscious indifference to the rights, safety, and welfare of Plaintiffs. The gross negligence of Live Oak was a proximate cause of the incident in question and of the damages and injuries alleged herein. As a result of Live Oak's gross



negligence, Plaintiffs seek exemplary damages in an amount in excess of the jurisdictional limits of this Court.

***Count 3 – Intentional Infliction of Emotional Distress Against Live Oak Classical School***

24. Plaintiffs incorporate the previous paragraphs by reference as though fully set forth in their entirety. Live Oak is guilty of Intentional Infliction of Emotional Distress because the above-mentioned acts committed by Live Oak were extreme and outrageous and were committed intentionally or with reckless disregard. In addition, Live Oak's actions caused K.P. and her parents severe emotional distress.

***Count 4 – Premises Liability Against Lawrence L. Germer***

25. Plaintiffs incorporate the previous paragraphs by reference as though fully set forth in their entirety. Defendant Lawrence L. Germer had actual or constructive knowledge of a condition on his property which posed an unreasonable risk of harm and for which he did not exercise reasonable care to reduce or eliminate the risk. His failure to use such care proximately caused K.P.'s injury.

**VI.**

**PERSONAL INJURIES AND DAMAGES**

26. As a result of the negligence of the Defendants, K.P. and her parents suffered the following damages for which Plaintiffs seek recovery:

- a. Medical Expenses: K.P. suffered bodily injuries which were caused by the incident in question. She has incurred reasonable and necessary medical expenses in the past and in reasonable medical probability will continue to incur them in the future.
- b. Physical Pain: K.P. has endured severe and constant physical pain in the past and will endure pain in the future.

- c. Mental Anguish: K.P. and her parents have endured mental and emotional anguish in the past and will endure mental and emotional anguish in the future.
- d. Disfigurement: K.P. is disfigured as a result of the Defendants' negligence.
- e. Impairment: K.P. has endured physical impairment in the past, and will continue to suffer the effects in the future.
- f. Loss of Use and Enjoyment of Life: K.P. and her parents suffered and will continue to suffer impairment and a diminished quality of life.

**VII.**  
**JURY DEMAND**

27. Plaintiffs respectfully demand this Court empanel a lawful jury to hear this case.

**VIII.**  
**REQUEST FOR DISCLOSURE**

28. Pursuant to the Texas Rules of Civil Procedure, Plaintiffs serve this their Request for Disclosure to Defendants. TEX. R. CIV. P. 194.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, Plaintiffs respectfully pray that Defendants be cited to appear and answer herein; and that upon trial of this cause, this Honorable Court enter judgment for Plaintiffs against Defendants for all damages sought herein, and grant Plaintiffs such other relief to which they may show themselves entitled in law and equity.

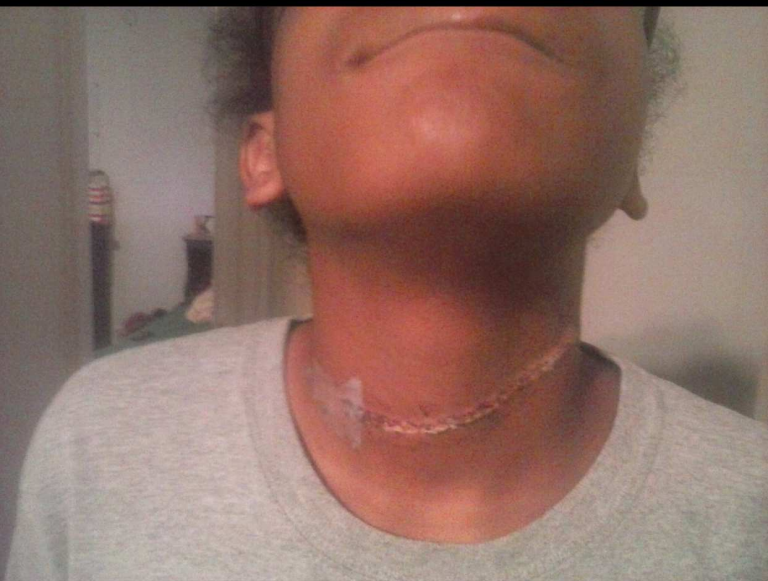
Respectfully submitted,

/s/Levi G. McCathern, II

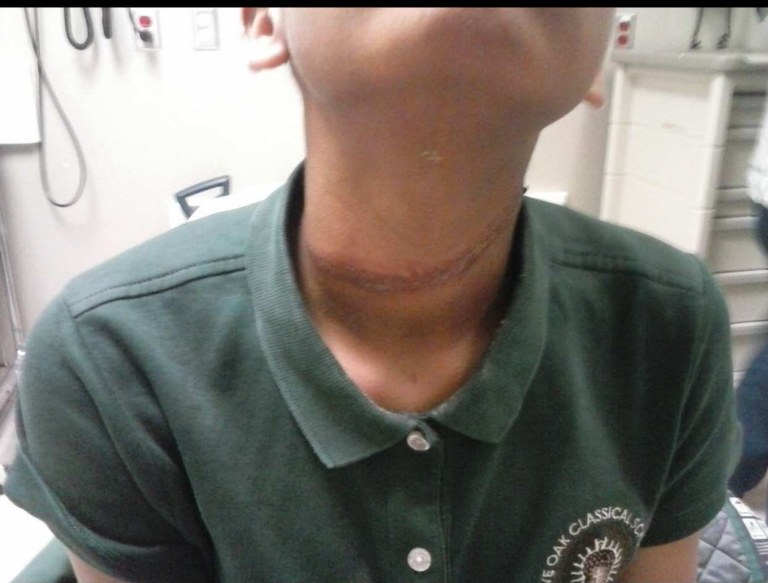
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**ATTORNEYS FOR PLAINTIFFS**

# Exhibit A











----- Forwarded message -----

From: "Allison Buras" [REDACTED]

Date: Oct 16, 2015 2:09 PM

Subject: G6 Overnight Trip

To: [REDACTED]

Cc:

Dear G6 Parents,

It's a long time until April, but I wanted to let you know the dates for your G6 student's first overnight field trip with LOCS! On Thursday, April 28th, the G6 students will leave for the Texas hillcountry where they will climb Enchanted Rock, visit the Nimitz Museum in Fredericksburg, and stay at a private ranch for one night, returning on Friday, April 29th. This trip is a combined history/science trip. There are opportunities for nature study and as well as an encounter with artifacts and stories from WW2. We'll plan to travel in a Live Oak bus.

We will have more information for you in the coming months. We will likely have four female teachers and one male teacher going on the trip. We can accomodate two more male and one- two more female chaperones. Some may need to sleep on air mattresses. Because overnight trips at Live Oak, like this one, have space constraints, I wanted to highlight for you the Chaperone Policy from The Standard:

*Selection of Chaperones*

*All Parents are welcome to volunteer to chaperone field trips. We encourage parents to express to coordinating staff their desire to attend. Coordinating staff will offer parents the opportunity to volunteer in early informational emails. However, parents should be aware that some trips have a limited need for chaperones. If space is limited by the trip's inherent constraints, which may include the purpose of the trip, number of vehicles or rooms, etc. the coordinating staff will select chaperones based on the needs of the group which may include but are not limited to the following:*

- *Balance of male to female ratio*
- *Adult to student ratio*
- *Knowledge and Abilities/Experience*
- *Volunteer chaperones should anticipate covering their own costs for the trip. Families on tuition assistance may apply for a reduced cost.*

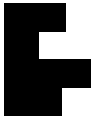
Please send me an email by October 30th indicating your interest, if you would like to accompany the G6 students this year. If would like to help with grocery shopping prior to the trip, also please let me know.

Many thanks,

Allison Buras

Grammar School Dean

Live Oak Classical School



----- Forwarded message -----

From: "Sandy R" [REDACTED]

Date: Oct 17, 2015 11:09 AM

Subject: Re: G6 Overnight Trip

To: "Allison Buras" [REDACTED]

Cc:

I would like to help chaperone the 6 th grade class on their trip in April.

Thanks,  
Sandy Rougely

----- Forwarded message -----

From: "Allison Buras" [REDACTED]  
Date: Nov 17, 2015 8:20 AM  
Subject: Re: Student pushing on my daughter  
To: "Sandy R" [REDACTED]  
Cc:

Sandy,

Thank you so much for letting me know. We would never want children hurting one another. I just talked with both of them together. [REDACTED] didn't remember pushing her or kicking her during play rehearsal but did apologize. It sounds like he may have pushed on the back of her leg to make her leg buckle, which is something the kids sometimes do. Rarely is that done out of meanness but more out of a desire for sport. I encouraged [REDACTED] to be honest with [REDACTED] or anyone who is doing something she doesn't like, and to tell them to stop, and to talk to a teacher if needed. The second incident involved [REDACTED] tripping over some things in the cubby room and grabbing on to [REDACTED] to break his fall. [REDACTED] then pushed him. I think they both trust that this was an accident and not meant in a mean spirit. If you have further concerns or hear of more of this kind of thing happening, please do let me know.

Many thanks,  
Allison

On Tue, Nov 17, 2015 at 7:37 AM, Sandy R [REDACTED] wrote:

Hello Mrs. Buras:

[REDACTED] said that [REDACTED] keeps pushing and shoving her.

This is not the first time this has happened

During the the Tempest play rehearsal he was pushing and kicking her in the line that they were in. I informed Mr. Crews about what happened and he spoke with [REDACTED]

This is very disturbing behavior that needs to be looked into immediately.

Please let me know what actions are being taken.

Thank you,  
Sandy Rougely- [REDACTED] mother

--

Allison Buras  
Dean of Grammar School  
Live Oak Classical School  
[\(254\) 714-1007](tel:2547141007)

----- Forwarded message -----

From: "Allison Buras" [REDACTED]

Date: Feb 11, 2016 2:35 PM

Subject: Fwd: [REDACTED]

To: "Sandy R" [REDACTED]

Cc:

Sandy,

I didn't have these comments from Melinda Johnson, [REDACTED] science teacher, when we met, so I am forwarding them to you so you will know her observations, which are very similar to other teachers' comments.

Thanks,

Allison

----- Forwarded message -----

From: **Melinda Johnson** [REDACTED]

Date: Thu, Feb 11, 2016 at 2:20 PM

Subject: Re: [REDACTED]

To: Allison Buras [REDACTED]

I am sorry that I am just now responding to this.

[REDACTED] is not emotive. Occasionally I can get her to smile but it is rare. Socially, she does not interact with her classmates. However, we do a lot of labs and activities in which I will break students into groups or pairs and she seems to work well with the others. I also witness her classmates reaching out to her or attempting to include her in the group discussion. She responds favorably in those situations.

Academically, she is a good student who works very hard and is eager to please. She does not seem inhibited to ask questions, however she often articulates those questions in a slow methodical way. Processing seems very slow.

Melinda

--

Allison Buras

Dean of Grammar School

Live Oak Classical School

[\(254\) 714-1007](tel:2547141007)

[REDACTED]

----- Forwarded message -----

From: "Allison Buras" [REDACTED]  
Date: Mar 23, 2016 2:10 PM  
Subject: observation  
To: "Sandy R" [REDACTED] "Rachel Craig"  
<[REDACTED]>  
Cc:

Sandy,  
Did you have any thoughts following your observation? Ms. Mundhenk noted that [REDACTED] was about 50% more vocal in class today with you there. I want you to know that we love [REDACTED] and very much want her to continue as part of our school community even though we are concerned about her social development. I want to remind you that [REDACTED] had trouble at her former school, and that we truly work very hard to nurture a climate of kindness and care among students. [REDACTED] will not find a kinder or more mature group of girls in another setting. If there is something you think we can do for [REDACTED] that we are not doing, please let us know. [REDACTED] has met with Mrs. Craig and reported that things are better.

--

Allison Buras  
Dean of Grammar School  
Live Oak Classical School  
[\(254\) 714-1007](tel:2547141007)



----- Forwarded message -----

From: "Joel" [REDACTED]  
Date: Apr 26, 2016 8:15 PM  
Subject: Re: [REDACTED] Parker-Overnight Trip  
To: "Sandy R" [REDACTED]  
Cc:

Thanks, Sandy. She won't be pressured to swim at all, and we'll keep a eye out for her if she decides to wade in at the ranch.

Sent from my iPhone

On Apr 26, 2016, at 7:23 PM, Sandy R [REDACTED] wrote:

[REDACTED] is a beginner swimmer. She can not swim well. I will be sending her life jacket with her on this trip. She will need her life jacket at all times when near and/or playing in lakes, rivers, ponds, creeks, holes etc.

Thank you,  
Sandy Rougely-mother  
[REDACTED]

----- Forwarded message -----

From: "Allison Buras" [REDACTED]

Date: Apr 30, 2016 11:37 AM

Subject: checking on [REDACTED]

To: "Sandy R" <[REDACTED]>

Cc:

Sandy,

I just wanted to check on [REDACTED] Did you take her to the doctor? How is she? We were glad to have a doctor on our trip who could check her out or we also might have felt a need to take her in. I remember getting rope burns as a child and they are not fun! I hope she is doing okay.

--

Allison Buras

Dean of Grammar School

Live Oak Classical School

[\(254\) 714-1007](tel:2547141007)

[REDACTED]

----- Forwarded message -----

From: "Alison" [REDACTED]  
Date: May 3, 2016 8:59 AM  
Subject: [REDACTED]  
To: [REDACTED]  
Cc:

Sandy,  
When you're ready to talk, I'm available. I think I can explain to you what happened  
and bring you some peace.  
Alison

Sent from Alison's iPhone









