

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
EASTERN DIVISION**

John Hennager, individually, and as the legal  
guardian on behalf of A.R.T., a minor,

Plaintiff,

vs.

United States of America and the Bureau of  
Indian Education, a division of the Bureau of  
Indian Affairs,

Defendant.

Case No. \_\_\_\_\_

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**COMPLAINT**

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[¶1] NOW COMES Plaintiff John Hennager, individually and as the guardian of A.R.T., through his attorneys of record, Daniel M. Traynor and David A. Owens; and for their cause of action against Defendants United States of America and the Bureau of Indian Education, a division of the Bureau of Indian Affairs; hereby alleges as follows:

**IDENTIFICATION OF PARTIES**

[¶2] At all times relevant hereto, John Hennager, individually and as the guardian of A.R.T. is a resident of 111C Street E., PO Box 44, Minnewaukan, North Dakota.

[¶3] Upon information and belief, at all times relevant hereto, Defendant United States of America, by and through the Bureau of Indian Education (“BIE”), a division of the Bureau of Indian Affairs (“BIA”), has a principal place of address located at Department of the Interior, Main Building, 1849 C Street NW, MS-3609-MIB, Washington, DC 20240.

[¶4] The Great Plains regional office for the BIA and BIE is located at the Great Plains Regional Office, Indian Affairs, 115 4<sup>th</sup> Avenue Southeast Ste. 400, Aberdeen, South Dakota 57401.

[¶5] Plaintiffs bring this Complaint against the United States of America pursuant to the Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 1346(b) for the acts and omissions perpetrated by the Bureau of Indian Education, a division of the Bureau of Indian Affairs.

### **JURISDICTIONAL STATEMENT**

[¶6] This Court has jurisdiction over this claim against the United States for money damages pursuant to 28 U.S.C. § 1346(b)(1).

[¶7] Upon information and belief, at all times relevant hereto, Defendant BIE has under its direction a school in Wahpeton, North Dakota, named “Circle of Nations.” On the basis of information and belief, “Circle of Nations” is an “Off-Reservation Boarding School” and is managed, controlled, funded, or is otherwise found under the administration of the Bureau of Indian Education, an agency of the Bureau of Indian Affairs, which is overseen by the United States Department of the Interior.

[¶8] Plaintiff filed its Complaint within two (2) years of the offending incident. Plaintiff thereby exhausted the administrative remedies available to Plaintiff by filing and serving the required forms with the Defendant. See Exhibit A (Administrative Complaint, SF-95). The Administrative Complaint was received by the Defendant on May 29, 2018. See Exhibit B, (Certified Mail Receipt and USPS Tracking Confirmation). No response or denial was ever received by the BIA, BIE, the Department of the Interior, or any other agency of the United States. Therefore, Plaintiff hereby exercises the option granted by 28 U.S.C. § 2675, and deems the claim to have been denied October 21, 2019 for the purposes of timely filing. See 28 U.S.C. § 2675 (“The failure of an agency to make final disposition of a claim within six months after it is filed shall, *at the option of the claimant at any time thereafter*, be deemed a final denial of the claim for purposes of this section) (emphasis added).

[¶9] The acts or omissions giving rise to the claim occurred in the District of North Dakota. Venue is therefore proper under 28 U.S.C. § 1402(b).

### **GENERAL ALLEGATIONS**

[¶10] A.R.T., a minor child, was, at the time of the incident in question, under the care and control of Circle of Nations as he was an enrolled student at their school.

[¶11] While a student at Circle of Nations, A.R.T. resided in a dorm campus. While residing in the dorm, A.R.T. was sexually assaulted by another student on or about February 20, 2017.

[¶12] While in the dorm, A.R.T. he was held down by a student while another student pulled down his shorts and made penis to anus contact with A.R.T.

[¶13] Staff of Circle of Nations witnessed the end of this incident and separated those involved. She then contacted additional staff to assist.

[¶14] Law enforcement was called and a report was created regarding this incident. Juvenile Court cases were initiated against the two individuals who were involved in the sexual assault of A.R.T.

[¶15] On or about February 21, 2017, at approximately 2:00 p.m. an Investigator Marohl (“Marohl”) received a call from an employee of Southeast Human Services Center located in Fargo, North Dakota, stating she received some information regarding a sexual assault that occurred at the Circle of Nations dormitory campus.

[¶16] On or about February 22, 2017, at approximately 8:30 a.m. Marohl called Special Resource Officer Mauch (“SRO Mauch”) who, on the basis of information and belief, was the Special Resource Officer for Circle of Nations. Mauch stated that one of the witnesses had already been picked up by his parents and already removed from the school. Mauch stated that the other witness was at the Circle of Nations school and was ready to remove him, also. Mauch stated that the two

suspects, J.L.R. DOB 2003 (“J.L.R.”) and J.O.O. DOB 2003 (“J.O.O.”) were in Roberts County at that time. A.R.T. was still at the Circle of Nations boarding school.

[¶17] Marohl met with A.R.T. in the conference room that same day at about 9:30a.m. A.R.T. informed him that he went to J.L.R. and J.O.O.’s room to go get his roommate because it was getting late and it was time for bed. A.R.T. went to the suspects’ room at about 9:25p.m. on the date of the incident.

[¶18] When A.R.T. opened the door, J.L.R. had exposed his penis and was showing J.O.O. and one of the other witnesses. Once A.R.T. was in the room, J.O.O. pushed A.R.T. onto the bed. A.R.T. was lying on his stomach and J.O.O. sat on his back so A.R.T. could not get up. J.L.R. then removed his shorts and boxers, and J.L.R. inserted his penis into A.R.T.’s anus. A.R.T. told J.L.R. to stop and to get off of him. It was not until A.R.T. yelled that staff member Esmeralda Forero arrived and yelled at the boys. The events recounted by A.R.T. have been corroborated by a witness known to investigators, but unknown to the undersigned at this time as the record is redacted.

[¶19] Ms. Forero provided a statement to law enforcement on or about February 21, 2017, at 12:15 a.m. Ms. Forero stated that, once she heard A.R.T.’s cries of “help, help!” she opened up J.L.R.’s room and saw A.R.T. face up on the bed with his legs separated with J.L.R. on top of A.R.T. while J.O.O. also sat on top of A.R.T. Ms. Forero noted that both J.O.O. and J.L.R.’s pants and underwear were pulled down to the knees. Ms. Forero demanded to know what the boys were doing. While the redacted witness backed away, J.O.O. and J.L.R. were trying to cover themselves. Ms. Forero was informed that J.O.O. and J.L.R. have showed their genitals and have jumped on top of the other boys prior to the incident.

[¶20] On or about February 23, 2017, Investigator Marohl went to Circle of Nations to again meet with SRO Mauch. SRO Mauch had the two suspects, J.O.O. and J.L.R. back from Roberts County to speak with Marohl regarding the assault.

[¶21] When Marohl spoke with J.O.O., J.O.O. was mirandized, and agreed to speak with Marohl. J.O.O. indicated he knew Marohl wanted to speak with him about the sexual assault. J.O.O.'s statement confirmed that J.L.R. had exposed his penis. Once A.R.T. arrived in the room, J.O.O. asked if they (J.O.O. and J.L.R.) should rape A.R.T. J.O.O. claims that he was joking, but that J.L.R. really did it. J.O.O. corroborated the remainder of the incident, including the "dog pile" on A.R.T. and the insertion of J.L.R.'s penis in A.R.T.'s anus.

**COUNT ONE**  
**NEGLIGENCE – FAILURE TO ADEQUATELY SUPERVISE**

[¶22] Plaintiff realleges and incorporates by reference the allegations of the preceding paragraphs as if set forth herein.

[¶23] Defendants have a duty to ensure that all of its schools funded and/or operated by the BIA and BIE provide their students with reasonable care and adequate supervision within the dorm campus.

[¶24] Defendants breached their duty of care by facility to properly care for A.R.T. and allowing him to be sexually assaulted while in the care of the BIE, a division of the BIA, overseen by the United States Department of the Interior.

[¶25] On basis of information and belief, J.O.O. and J.L.R. were known delinquents or otherwise possessed criminal records.

[¶26] Defendants knew, or should have known, that the juvenile perpetrators of this incident had a history of delinquent behavior.



[¶27] Defendants knew, or should have known, of the many other incidents occurring upon the “Circle of Nations” campus, and of which the perpetrators were a part, that involved similar, sexual behavior and reports indicating the perpetrators have accosted other students in the past.

[¶28] Accordingly, Defendants knew or should have known that insufficient supervision of said perpetrators could reasonably lead to the incident described herein.

[¶29] As a direct and proximate result of Defendants’ negligent supervision, A.R.T. sustained and continues to sustain serious, permanent physical and emotional injuries and have incurred damages in an amount to be determined at trial.

[¶30] As a direct and proximate result of Defendants’ negligent supervision, John Hennager, individually, and as the legal guardian of A.R.T., has sustained and continues to sustain serious, permanent physical and emotional injuries and has incurred damages in an amount to be determined at trial.

**COUNT TWO:**  
**NEGLIGENCE - FAILURE TO PROVIDE A SAFE ENVIRONMENT**

[¶31] Plaintiff Hennager realleges and incorporates by reference the allegations of the preceding paragraphs as if set forth herein.

[¶32] Defendants owed a duty to provide A.R.T. with a safe environment in which to learn and reside.

[¶33] Defendants breached their duty of care by allowing a sexual assault to occur to A.R.T. while he was within the dorm campus, which was also where A.R.T. resided.

[¶34] As a direct and proximate result of Defendants’ failure to provide a safe environment, A.R.T. sustained and continues to sustain serious, permanent physical and emotional injuries and have incurred damages in an amount to be determined at trial.

[¶35] As a direct and proximate result of Defendants' failure to provide a safe environment, John Hennager, individually, and as the legal guardian of A.R.T., has sustained and continues to sustain serious, permanent physical and emotional injuries and has incurred damages in an amount to be determined at trial.

**COUNT THREE**  
**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

[¶36] Plaintiff Hennager realleges and incorporates by reference the allegations of the preceding paragraphs as if set forth herein.

[¶37] On basis of information and belief, J.O.O. and J.L.R. were known delinquents or otherwise possessed criminal records.

[¶38] On basis of information and belief, the Defendants were or should have been aware that J.O.O. and J.L.R. were known to be delinquents or otherwise possess criminal records.

[¶39] The incident described herein created an unreasonable risk of physical injury to both A.R.T. and John Hennager.

[¶40] When John Hennager was informed of the sexual assault that occurred, he became very concerned for A.R.T.'s welfare. A.R.T. began counselling and other treatment directed towards the mitigation of this trauma.

[¶41] The incident described herein was directly and proximately caused by the Defendants' negligent harm to A.R.T. and John Hennager, individually, and as the guardian of A.R.T., while A.R.T. in the Defendants' care, custody, and control.

[¶42] The Defendants endangered the safety of A.R.T., and such endangerment is a direct and proximate cause of the negligent harm sustained by A.R.T. and John Hennager.

[¶43] The Defendants' conduct, or lack thereof, constitutes, extremely alarming and outrageous behavior.

[¶44] Defendants' aforementioned negligence directly and proximately caused, and continues to cause, emotional distress that resulted in bodily harm to both A.R.T. including pain and suffering. A.R.T. has sustained and continues to sustain serious, permanent physical and emotional injuries and has incurred damages in an amount to be determined at trial.

[¶45] As a direct and proximate result of Defendants' aforementioned negligence, A.R.T. has sustained and continues to sustain serious, permanent physical and emotional injuries and have incurred damages in an amount to be determined at trial.

[¶46] As a direct and proximate result of Defendants' aforementioned negligence, John Hennager, individually, and as the legal guardian of A.R.T., has sustained and continues to sustain serious, permanent physical and emotional injuries and has incurred damages in an amount to be determined at trial.

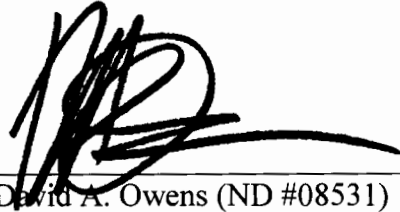
#### **PRAYER FOR RELIEF**

[¶47] WHEREFORE, Plaintiff, John Hennager, individually and as the legal guardian of A.R.T.; and A.R.T., a minor, prays for recovery of damages to date, including payment of medical bills, economic and non-economic damages in an amount not more than what is allowed by federal law, together with pre-judgment interest, costs, disbursements, and attorney fees incurred herein, and for other such relief as the Court may seem just and equitable.

[¶48] **PLAINTIFF DEMANDS A JURY TRIAL BY THE LARGEST NUMBER ALLOWED BY LAW ON ALL ISSUES HEREIN.**



[¶49] DATED November 22, 2019.

A handwritten signature in black ink, appearing to be 'DA Owens', written over a horizontal line.

David A. Owens (ND #08531)

Daniel M. Traynor (ND #05395)

TRAYNOR LAW FIRM, PC

509 5<sup>th</sup> St NE, Ste 1 – P.O. Box 838

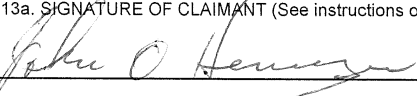
Devils Lake, ND 58301-0838

Telephone: (701) 662-4077

Email: davidowens@traynorlaw.com

dantraynor@traynorlaw.com

*Attorneys for Plaintiff John Hennager, individually,  
and as the legal guardian of A.R.T.*

<b>CLAIM FOR DAMAGE, INJURY, OR DEATH</b>		<b>INSTRUCTIONS:</b> Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Bureau of Indian Education Department of the Interior, Main Building 1849 C Street, NW MS-3609-MIB Washington, DC 20240			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.  John Hennager 111 C Street E., PO Box 44 Minnewaukan, ND 58351		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN		4. DATE OF BIRTH 07/25/2007	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 02/20/2017	
7. TIME (A.M. OR P.M.) 2130					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).  The Claimant's grandson, A.R.T., DOB 2007, over whom he has custody, was sexually assaulted at the Circle of Nations school in Wahpeton, North Dakota. The sexual assault was committed by other students of the Circle of Nations school while the students were in the dormitory at night. The Claimant believes that there is a claim of negligence on the part of Circle of Nations for failing to provide and save and secure environment for A.R.T. and for failing to properly safeguard A.R.T. from persons known to have a history of abusive behavior.					
9. <b>PROPERTY DAMAGE</b>					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. <b>PERSONAL INJURY/WRONGFUL DEATH</b>					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.  The victim received physical injuries consistent with sexual assault. In addition, the victim received mental injuries as a result of being the victim of sexual assault.					
11. <b>WITNESSES</b>					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
Esmeralda Forero  Christoffer Meyer		c/o Circle of Nations, 832 8th St. N, Wahpeton, ND 58075  c/o Circle of Nations, 832 8th St. N, Wahpeton, ND 58075			
12. (See instructions on reverse). <b>AMOUNT OF CLAIM</b> (in dollars)					
12a. PROPERTY DAMAGE  0.00		12b. PERSONAL INJURY  \$2,500,000.00		12c. WRONGFUL DEATH  12d. TOTAL (Failure to specify may cause forfeiture of your rights).  \$2,500,000.00	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).  			13b. PHONE NUMBER OF PERSON SIGNING FORM 701-303-0772		14. DATE OF SIGNATURE 5-21-18
<b>CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM</b>  The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			<b>CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS</b>  Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

## INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☒ No

Victim is insured through Medicaid.

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☒ No

17. If deductible, state amount.

Victim is insured through Medicaid.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☒ No

Victim is insured through Medicaid.

## INSTRUCTIONS

**Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.**

**Complete all items - Insert the word NONE where applicable.**

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

**Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.**

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

## PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. **Principal Purpose:** The information requested is to be used in evaluating claims.  
C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.  
D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

## PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

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**Bureau of Indian Education**  
**1849 C STREET NW - MS-3609-MB**  
**Washington, DC 20240**

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

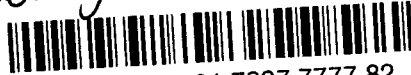
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**Certified Mail service provides the following benefits:**

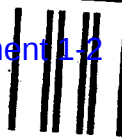
- A unique identifier for your mailpiece.
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- Important Reminders:**
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  - Certified Mail service is *not* available for international mail.
  - Insurance coverage is *not* available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
  - For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:
    - Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt*; attach PS Form 3811 to your mailpiece;
    - Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
    - Adult signature service, which requires the signee to be at least 21 years of age (not available at retail).
    - Adult signature restricted delivery service, which requires the signee to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).
  - To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.
- IMPORTANT: Save this receipt for your records.**



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SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY															
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>		<p>A. Signature <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span></p> <p><b>X</b></p>															
<p>Article Addressed to:</p> <p>Bureau of Indian Ed. 1849 C Street, NW MS-3609-MB Washington, DC 20240</p>  <p>9590 9402 3391 7227 7777 82</p>		<p>B. Received by (Printed Name) <span style="float: right;">C. Date of Delivery</span></p>															
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>															
<p>2. Article Number (Transfer from service label)</p> <p>7017 1450 0000 2575 0475</p>		<p>3. Service Type</p> <table border="0"><tr><td><input type="checkbox"/> Adult Signature</td><td><input type="checkbox"/> Priority Mail Express®</td></tr><tr><td><input type="checkbox"/> Adult Signature Restricted Delivery</td><td><input type="checkbox"/> Registered Mail™</td></tr><tr><td><input checked="" type="checkbox"/> Certified Mail®</td><td><input type="checkbox"/> Registered Mail Restricted Delivery</td></tr><tr><td><input type="checkbox"/> Certified Mail Restricted Delivery</td><td><input type="checkbox"/> Return Receipt for Merchandise</td></tr><tr><td><input type="checkbox"/> Collect on Delivery</td><td><input type="checkbox"/> Signature Confirmation™</td></tr><tr><td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td><td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td></tr><tr><td><input type="checkbox"/> all Restricted Delivery</td><td></td></tr></table>		<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> all Restricted Delivery	
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®																
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™																
<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery																
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise																
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™																
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery																
<input type="checkbox"/> all Restricted Delivery																	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>		<p>Domestic Return Receipt</p>															

USPS TRACKING#



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

9590 9402 3391 7227 7777 82

United States  
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

*Attn: David Owens*

**TRAYNOR LAW FIRM, PC**  
509 5th Street NE • Suite 1 • P.O. Box 838  
Devils Lake, North Dakota 58301-0838



FAQs > (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

**Track Another Package** +

**Tracking Number:** 70171450000025750475

Remove X

Your item has been delivered to the mail room at 7:30 am on May 29, 2018 in WASHINGTON, DC 20240.

## **Delivered**

May 29, 2018 at 7:30 am  
Delivered, To Mail Room  
WASHINGTON, DC 20240

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**Tracking History**



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**Product Information**



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**See Less** ^

## **Can't find what you're looking for?**

Go to our FAQs section to find answers to your tracking questions.

**FAQs** (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

**The easiest tracking number is the one you don't have to know.**

With Informed Delivery<sup>®</sup>, you never have to type in another tracking number. Sign up to:

- See images\* of incoming mail.
- Automatically track the packages you're expecting.
- Set up email and text alerts so you don't need to enter tracking numbers.
- Enter USPS Delivery Instructions<sup>™</sup> for your mail carrier.

**Sign Up**

**([https://reg.usps.com/entreg/RegistrationAction\\_input?](https://reg.usps.com/entreg/RegistrationAction_input?app=UspsTools&appURL=https%3A%2F%2Ftools.usps.com%2Fgo%2Ftr)**

**\*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.**

## CIVIL COVER SHEET

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 NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

John Hennager, individually; John Hennager, as the legal Guardian on behalf of A.R.T., a minor,

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Traynor Law Firm, P.C., 509 5th St. NE, Ste. 1, PO Box 838, Devils Lake, ND 58301-0838

**DEFENDANTS**

United States of America and the Bureau of Indian Education, a division of the Bureau of Indian Affairs

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF 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)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 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)

Click here for: Nature of Suit Code Descriptions.

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 (Excludes 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	<b>PERSONAL INJURY</b> <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 checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <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))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <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 (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS
<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	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	

**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 - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

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

Brief description of cause:

Negligent Supervision, Negligent Infliction of Emotional Distress, Failure to Provide Safe Environment

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
2,500,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/22/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.