

Three more alleged victims join class-action lawsuit against New Hanover County Schools

By Benjamin Schachtman - July 30, 2019

STATE OF NORTH CAROLINA FILED IN THE GENERAL COURT
 COUNTY OF NEW HANOVER 2019 JUL 30 P 1:33 SUPERIOR COURT DISTRICT
 FILE NO: 19 CVS 2

JOHN DOES 1 to 5, inclusive, and JOHN DOE 6, by and through his *Guardian ad litem*, C.J., all individually and on behalf of all others similarly situated;

Plaintiffs,

v.

THE NEW HANOVER COUNTY BOARD OF EDUCATION; MICHAEL EARL KELLY; JAMES RICKIE "RICK" HOLLIDAY; TIMOTHY SCOTT MARKLEY; and MIKE ROES 1 to 10, inclusive;

Defendants.

FIRST AMENDED COMPLAINT

Filed Pursuant to N.C. Rule of Civil Procedure, Rule 15(d)

Jury Trial Demand

Class Action

One week after the initial complaint, lawyers have added three additional plaintiff to their suit against Michael Earl Kelly, the school board, and school superintendent. (Photo / New Hanover County Superior Court)

(Editor's note: This article contains some disturbing material.)

WILMINGTON — There are now six plaintiffs in a lawsuit against former teacher and convicted sex offender Michael Earl Kelly, the New Hanover School Board of Education, and top administrators.

This week, attorneys for the Wilmington-based Lea/Schulz and Rhine law firms, amended their complaint to include three additional plaintiffs. The lawsuit, **initially filed in New Hanover County Superior Court last week**, names as defendants Kelly, the school board, Superintendent Dr. Tim Markley, Deputy

Superintendent Dr. Rick Holliday (whose retirement is effective this week), and as-of-yet unnamed administrators and staff.

Related — [Deep dive: New Hanover schools face a class-action lawsuit, what does that mean?](#)

Some, but not all, of the claims in the lawsuit pertain to criminal behavior to which Kelly pled guilty last month. The suit claims damages for physical and psychological injuries from Kelly's actions, but from the alleged mishandling of evidence of Kelly's misconduct by administrators and the board. The suit alleges, [as Port City Daily recently reported](#), that Holliday and others were contacted about Kelly – and other teachers – as far back as 1999.

Last Thursday, Board Chairwoman Lisa Estep issued a brief statement on the lawsuit:

“While it is not appropriate to comment specifically on pending litigation, the Board takes all allegations of this nature seriously. The Board will file a response to the Complaint at the appropriate time. The Board expresses sympathy for any student who may have been harmed by Michael Kelly.”

The lawsuit asks the court to allow a class action filing, provided all the plaintiffs have a ‘commonality’ of complaint — in other words, if approved by a judge, the suit would cover all victims who met certain criteria.

The six current plaintiffs have all chosen to use pseudonyms; one of the plaintiffs, who is still a minor, is being represented by his mother and *Gaurdian ad litem* (legal representative), whose initials are used in the filing.

(Editor's note: As we believe neither the plaintiffs, their attorneys, or the school district wish for any of the victims' real names to be publicized against their wishes, we have relied on their pseudonyms below).

Allegations

The amended complaint includes the claims of the suit's three original plaintiffs:

John Doe 1 – Incidents occurred at Isaac Bear from 2014 to 2017, during which Kelly used the boys' student bathroom instead of the facility bathroom; while there, on at least one occasion, Kelly allegedly placed his genitals against the student's back while the student was standing at a urinal. Kelly also exposed the student to inappropriate sexual conversations and pornographic images, including images of his own genitals and those of former students.

John Doe 2 – Incidents occurred at Isaac Bear and UNCW from 2006 to 2010, during which the student recalls Kelly exposing himself – as well as pornographic images and videos of Kelly and others – on numerous occasions, “some 100 times during the four years” the student was at Isaac Bear.

The student also recalls that Kelly would show some students how to defeat the filters installed on laptops loaned to Isaac Bear students; the filters would ordinarily prevent access of pornographic or other inappropriate material. The student recalls that Kelly borrowed the student’s laptop, and returned it “a couple of weeks later with the computer having been ‘scrubbed’ of its browsing history, cache files, and other content-related data.”

John Doe 3 – Incidents occurred at Isaac Bear as common areas and the chemistry lab at UCNW; incidents took place between 2006 and 2010, during which the student recalled similarly inappropriate conduct by Kelly, who exposed himself – in person and via electronic images and videos – and also assaulted the student by grabbing the student’s genitals.

The amended complaint also includes three new plaintiffs, including one making claims that occurred up until the date of Kelly’s arrest:

John Doe 4 – This behavior occurred at Isaac Bear from 2014 up until Kelly’s arrest in 2018. Kelly discussed inappropriate sexual topics with the student and showed him pornographic images, including images of his own genitals and possibly images of other students.

John Doe 5 – Incidents took place at Isaac Bear over from 2010 to 2014, including one event of involving the school’s internet security. During this 2012 incident, the student recalls that Kelly attempted to access an “internet porn site” that housed a specific video he wanted to show the student. According to the victim, the school’s internet filter blocked access to the website, but Kelly used his credentials to override the filter.

John Doe 6 – Incidents took place from 2015 until Kelly’s arrest. During the 2016-2017 school year, Kelly propositioned the student into allowing Kelly to “perform a sex act” on the student while being filmed. Kelly’s own face was concealed using a toboggan. Kelly kept the camera, and is believed to have later shared the video to others without the student’s consent.

Send comments and tips to Benjamin Schachtman at ben@localvoicemedia.com, [@pcdben](https://twitter.com/pcdben) on Twitter, and (910) 538-2001

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