

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

Rachel and Rebecca Baiman, John Davis, and)	
Jonah and Maya Cabral, by their Fathers)	
and next Friends, individually and on behalf)	Case No.
of all other people similarly situated,)	
)	Judge
Plaintiffs,)	
)	
v.)	
)	
Oak Park Elementary School District 97,)	
John C. Fagan, Dan Burke, Adekunle)	
Onayemi, Marcia Frank, Sharon Patchak-)	
Layman, Carolyn Newberry Schwartz,)	
Michelle Harton and Bob Walsh,)	
)	
Defendants.)	

CLASS ACTION COMPLAINT

Plaintiffs, Rachel and Rebecca Baiman, John Davis, and Jonah and Maya Cabral, by their Fathers and next Friends, individually, and on behalf of all others similarly situated, by their attorneys, Buehler Reed & Williams, complain of Defendants Oak Park Elementary School District 97, John C. Fagan, Dan Burke, Adekunle Onayemi, Marcia Frank, Sharon Patchak-Layman, Carolyn Newberry Schwartz, Michelle Harton and Bob Walsh, as follows:

NATURE OF THE CASE

1. Plaintiffs are all minors and residents of Oak Park Illinois, all of whom attend school in the Oak Park Elementary School District 97. District 97 serves the Oak Park community by providing elementary school education to thousands of students in eight schools serving Kindergarten through Fifth Grade students and in two middle schools for Sixth through Eighth grade students. Plaintiffs bring this action because District 97, its Board, and its

Superintendent have recently implemented wireless local area network technology in the classrooms. Specifically, the Defendants have installed wireless networks in each of the school buildings under its jurisdiction. In so doing, the Defendants have ignored the substantial body of evidence that high frequency electro-magnetic radiation poses substantial and serious health risks, particularly to growing children. The Defendants have thereby breached their duties of care to the children of District 97.

2. Venue is proper in this Court pursuant to 735 ILCS 5/101. All of the Defendants are residents of this county, and all of the acts giving rise to this cause of action occurred in this county.

PARTIES

3. Plaintiffs are all minor children enrolled in the District 97 School System and they are all residents of Oak Park, Illinois.

a. Plaintiff Rachel Baiman is an Eighth grade student at Julian Middle School. Her Sister, Plaintiff Rebecca Baiman is a student at Beye School.

b. Plaintiff John Davis is a student at Hatch grade School.

c. Plaintiffs Maya and Jonah Cabral are students at Lincoln grade School.

4. Defendant, Oak Park Elementary School District 97, is a school district serving the Village of Oak Park's public school children. District 97's main offices are located at 970 West Madison Street, Oak Park, Illinois.

5. Defendant, John C. Fagan, is the District 97 Superintendent. Dr. Fagan is and has been the District 97 Superintendent at all times relevant to this suit.

6. Defendant Adekunle Onayemi is, and at all relevant times has been, President of the District 97 School Board.

7. Defendants, Dan Burke, Marcia Frank, Sharon Patchak-Layman, Carolyn Newberry Schwartz, Michelle Harton, and Bob Walsh, are, and at all relevant times have been, the remaining members of the District 97 Board.

CLASS ACTION ALLEGATIONS

8. The class which the named Plaintiffs represent (the “Class”) consists of all children currently attending District 97 schools. This includes children in kindergarten through eighth grade and extends to ten separate schools.

9. The class of persons affected by the Defendants’ actions consists of at least a few thousand persons and is so numerous that joinder of all members of the class is impracticable.

10. There are questions of both fact and law common to the class, and those common questions predominate over any questions affecting only individual members of the class.

Among the common questions are the following:

i) Whether Defendants failed to exercise ordinary care in determining to install wireless local area networks in the classrooms of District 97;

ii) Whether, by such conduct, Defendants have breached the duty of care they owe to the children of District 97;

iii) Whether, by such conduct, Defendants have exposed the children of District 97 to unreasonably dangerous health risks caused by constant exposure to high frequency electromagnetic radiation; and

iv) Whether Plaintiffs and the Class are entitled to injunctive relief.

11. Plaintiffs and their attorneys will fairly and adequately protect the interests of the Class in that the named Plaintiffs, like all other members of the Class, have been and will be,

subjected to the same health risks from prolonged exposure to low level high frequency electromagnetic radiation, and have therefore been adversely affected by such action in a like manner as all other members of the Class. Plaintiffs have retained attorneys who are experienced in class action litigation and are committed to prosecuting this action.

12. A class action is the most fair, just and convenient manner in which to adjudicate the claims arising out of Defendant's conduct. Should individual actions be brought, or be required to be brought by each individual class member, a multiplicity of lawsuits would result and cause undue hardship and expense for the Court and the litigants.

SUBSTANTIVE ALLEGATIONS

13. District 97 operates a ten school system in Oak Park serving thousands of children from Kindergarten through Eighth Grade. Plaintiffs are Oak Park school children who attend public school in District 97 in Oak Park, Illinois.

14. Some time prior to the filing of this Complaint (a time well known to Defendants but presently unknown to Plaintiffs), District 97, acting through its Board and Superintendent, made the decision to implement wireless local area network technology ("LAN") in each of the District 97 classrooms. Some time later, when the decision to implement wireless technology became widely known to the public, District 97 passed a "Resolution On Wireless Technology". (Exhibit 1.) This "cutting edge" technology has the ostensible advantage of allowing students to access the local school computer network anywhere in the classroom without requiring that the students plug into a "docking station."

15. District 97 however failed to adequately examine and assess the potential health risks that wireless LANs pose to humans, particularly children who are still growing.

16. In fact, there is a substantial and growing body of scientific literature studying and outlining the serious health risks that exposure to low intensity, but high radio frequency (“RF”) radiation poses to human beings, particularly children. For example, responsible scientists have reported that prolonged exposure to low intensity RF radiation can break down DNA strands, cause chromosome aberrations and break down the blood-brain barrier, thereby permitting toxic proteins to invade the brain. And, these occur at radiation levels below what a child would be exposed to by sitting in front of a computer on a wireless network.

17. Other researchers have observed other potential health risks that they believe are traceable to exposure to low intensity RF radiation at levels that are at or below the levels that children would experience by using wireless LANs in a classroom. In fact, at present, the lawyers for the Plaintiffs and their clients have collected more than 400 scientific articles, summaries and references outlining health risks from low intensity RF radiation exposure, all or most of which have been researched and written after 1995. By way of example only, attached as Exhibit 2 is a listing and a summary of thirty-one articles, all of which deal with the potential health risks from prolonged exposure to low intensity RF radiation, i.e., radiation given off by, among other things, wireless LANs.

18. Plaintiffs asked repeatedly that they be given an opportunity to invite an expert witness to present and explain these materials so that Defendants could make an informed decision on whether to install wireless LANs. Defendants repeatedly refused. Plaintiffs repeatedly asked Defendants to disclose the individuals they allegedly consulted with to determine that the wireless LANs were safe for prolonged use around children. Again, Defendants refused to do so.

19. Defendants have stated publicly that they have examined the current, prevailing government regulations relating to safety of wireless technology and the system installed in District 97 poses no health risks to humans. This statement is false. The only U.S. standards that relate in any way to radiation exposure were developed by the F.C.C. before 1993 and relate only to thermal radiation. The radiation that Plaintiffs object to here is non-thermal and the federal government has not promulgated any standards relating to this.

20. The state of scientific uncertainty is further reflected by the fact that different nations have different exposure standards. A summary of some of these standards for over twenty nations is attached hereto as Exhibit 3.

COUNT I

NEGLIGENCE

21. Plaintiffs repeat and reallege paragraphs 1-20 as though fully set forth herein.

22. School districts have an affirmative duty to exercise reasonable care to ensure the health and safety of the children of their district. This duty includes the duty to furnish equipment that promotes and ensures the safety and health of the children of their district.

23. By installing wireless LANs, with all of the potential health hazards that they pose, and by ignoring all of the scientific and medical literature outlining the potential health risks, Defendants failed to exercise reasonable care to protect the safety and health of Plaintiffs and the Class.

24. Defendants have thereby breached their duty of care to Plaintiffs and the Class.

25. At all times relevant, Plaintiffs and the Class have exercised ordinary care for their own safety.

26. Plaintiffs and the Class are threatened with irreparable harm by Defendants' conduct in that they have been exposed to grave health risks, many of which lead to permanent injury, disease and death. Plaintiffs and the Class therefore have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and the Class respectfully pray that this Court:

A. Certify this action as a class action with the named Plaintiffs as class representatives and their attorneys as class counsel on behalf of a Class of all persons described above;

B. Enter judgment against Defendants for the threatened immediate, irreparable harm to Plaintiffs and the Class by reason of the acts alleged and enjoin the Defendants from further operating the wireless LANs until they can establish that the LANs pose no health or safety risks to Plaintiffs and the Class; and

C. Order such other and further relief as this Court may deem fit to grant in fashioning a remedy for the named Plaintiffs and the Class they represent.

Respectfully submitted,

Rachel and Rebecca Baiman, John Davis, and Jonah
and Maya Cabral by their Fathers and next Friends,
individually and on behalf of all other people
similarly situated, Plaintiffs,

By: _____
One of their Attorneys

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