

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

CLERK OF CIRCUIT COURT
MAY 15 PM 1:15
FAIRFAX, VA

GRAFTON WILLIAM PETERSON,)
Administrator of the Estate of Erin)
Nicole Peterson, deceased,)

Plaintiff,)

v.)

Case No. CL-2009-5670

JOHN W. THYDEN, Administrator of)
the Estate of Seung-Hui Cho, deceased,)
et al.)

Defendants.)

DEMURRER OF DEFENDANTS NEW RIVER VALLEY COMMUNITY SERVICES BOARD, HARVEY M. BARKER, Ph.D., AND H. LYNN CHENAULT

COME NOW, Defendants, New River Valley Community Services Board, Harvey M. Barker, Ph.D., and H. Lynn Chenault, by counsel, and for their Demurrer state that the Complaint is insufficient at law and ought not be prosecuted for the following reasons:

1. The Complaint fails to allege any facts which establish a duty of these Defendants to control the behavior of a third party.
2. These Defendants cannot be held liable by virtue of the public duty doctrine.
3. These Defendants cannot be held liable by virtue of the doctrine of sovereign immunity.

WHEREFORE, these Defendants pray that the Court sustain their Demurrer, dismiss the Complaint with prejudice, and grant such other relief as the Court may deem appropriate.

NEW RIVER VALLEY COMMUNITY SERVICES
BOARD, HARVEY M. BARKER, Ph.D., and
H. LYNN CHENAULT

By: _____


Counsel

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Community Services Board, Harvey M. Barker, Ph.D.,
and H. Lynn Chenault*

CERTIFICATE OF SERVICE

I hereby certify that I have on this 13th day of May, 2009, served the foregoing by
mailing a true and correct copy of the same to:

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Defendant

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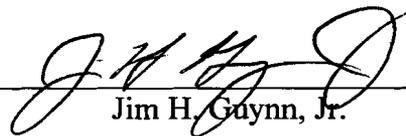
Counsel for Defendants Commonwealth of Virginia,

Wendell R. Flinchum, Virginia Polytechnic Institute and State University,

Charles W. Steger, James A Hyatt, Mark G. McNamee, David R. Ford,

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