

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ASHTON WHITAKER, a minor, by his
mother and next friend,
MELISSA WHITAKER,

Plaintiff,

Civ. Action No. 2:16-cv-00943

KENOSHA UNIFIED SCHOOL DISTRICT
NO. 1 BOARD OF EDUCATION and SUE
SAVAGLIO-JARVIS, in her official capacity as
Superintendent of the Kenosha Unified School District
No. 1,

Defendants.

**NOTICE OF APPEAL TO UNITED STATES COURT
OF APPEALS FOR THE SEVENTH CIRCUIT**

Kenosha Unified School District No. 1 Board of Education and Dr. Sue Savaglio-Jarvis, the Defendants, appeal to the United States Court of Appeals for the Seventh Circuit from the order granting a temporary injunction and the order denying Defendant's motion to dismiss, issued by the District Court for the Eastern District of Wisconsin on September 22 and September 21, 2016, respectively.

1. On September 22, 2016 the Court, the Honorable Pamela Pepper entered an order granting Plaintiff's request for a temporary injunction, prohibiting Defendants from: denying Plaintiff (whose birth certificate lists gender as "female") access to the boy's restrooms within Kenosha Unified School District No. 1; enforcing any policy, written or unwritten, against the Plaintiff that would prevent Plaintiff from using the boys restroom while on school premises or attending school-sponsored events; disciplining the Plaintiff for using the boys restroom during any time that Plaintiff is on the school premises or attending school-sponsored events; and, monitoring or surveilling in any way Plaintiff's restroom use.
2. The District Court's Order granting the injunction relied extensively upon the Court's legal conclusions reached in denying the motion to dismiss on September 21, 2016. In denying the motion to dismiss the Court concluded that Plaintiff's status as being transgender affords relief under Title IX and the Equal Protection Clause. It was this conclusion that allowed the Court to find that Plaintiff has a reasonable probability of success on the merits in analyzing the injunction. Thus, the Order denying the motion to dismiss is inextricably bound to the injunction, and this Court therefore has limited jurisdiction to review the Order denying the motion to dismiss, as well as the

injunction, to the extent necessary.

The parties to the order appealed from and the names and addresses of their respective attorneys are as follows:

Plaintiff Ashton Whitaker, a minor, by his mother and next friend, Melissa Whitaker, by:

Joseph J. Wardenski
Michael Allen
RELMAN, DANE & COLFAX PLLC
1225 19th Street, NW, Suite 600
Washington, DC 20036
Phone: (202) 728-1888
Fax: (202) 728-0848
jwardenski@relmanlaw.com
mallen@relmanlaw.com

Ilona M. Turner
Alison Pennington
Sasha J. Buchert
Shawn Thomas Meerkamper
TRANSGENDER LAW CENTER
1629 Telegraph Avenue, Suite 400
Oakland, CA 94612
Phone: (415) 865-0176
Fax: (877) 847-1278
ilona@transgenderlawcenter.org
alison@transgenderlawcenter.org
sasha@transgenderlawcenter.org
shawn@transgenderlawcenter.org

Robert (Rock) Theine Pledl
PLEDL & COHN, S.C.
1110 N. Old World Third Street, Suite 215
Milwaukee, WI 53203
Phone: (414) 225-8999
Fax: (414) 225-8987
rtp@pledcohn.com

AND,

Defendants, Kenosha Unified School District
No. 1 Board of Education and Dr. Sue
Savaglio-Jarvis, by:

Ronald S. Stadler
Aaron J. Graf
Jonathan E. Sacks
731 North Jackson Street, Suite 900
Milwaukee, Wisconsin 53202-4697
telephone: 414-271-2424
facsimile: 414-271-8678
rstadler@mzmilw.com
agraf@mzmilw.com
jsacks@mzmilw.com

Dated this 23rd day of September, 2016.

MALLERY & ZIMMERMAN, S.C.
Attorneys for Defendants

By: s/Ronald S. Stadler
Ronald S. Stadler
State Bar No. 1017450
Aaron J. Graf
State Bar No. 1068924
Jonathan E. Sacks
State Bar No. 1103204

731 North Jackson Street, Suite 900
Milwaukee, Wisconsin 53202-4697
telephone: 414-271-2424
facsimile: 414-271-8678
e-mail: rstadler@mzmilw.com
agraf@mzmilw.com
jsacks@mzmilw.com