

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

KIMBERLY A. HIVELY,)	
)	
Plaintiff,)	
)	
vs.)	CASUE NO.: 3:14-CV-1791-JD-MGG
)	
IVY TECH COMMUNITY COLLEGE,)	
)	
Defendant.)	

DEFENDANT’S STATUS REPORT

Pursuant to the Court’s Order of May 23, 2017, Defendant Ivy Tech Community College of Indiana (“Ivy Tech”) provides the following status report.

Nature of the Case & Procedural History

This is a lawsuit brought against Ivy Tech by its former employee, Kimberly Hively (“Hively”). Hively filed this lawsuit in August 2014, alleging that she had been “denied fulltime employment and promotions based on sexual orientation” in violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. 1981. Ivy Tech immediately moved to dismiss the case as sexual orientation was not a characteristic protected by either Title VII or Section 1981. The District Court agreed and dismissed the matter in March 2015.

Hively then appealed the dismissal of her Title VII claim to the Seventh Circuit Court of Appeals. A three-judge panel of the Seventh Circuit affirmed the dismissal in August 2016. Hively then sought and was granted rehearing en banc in October 2016. On April 4, 2017, the full Seventh Circuit reversed and remanded the District Court’s decision and held that “a person who alleges that she experienced employment discrimination on the basis of her sexual orientation has put forth a case of sex discrimination for Title VII purposes.”

Ivy Tech adamantly denies having discriminated against Hively due to her sexual orientation and has had policies forbidding as much throughout the relevant time. While Hively's claim is now recognized under Title VII, Ivy Tech intends to prove it is meritless just as in any other case of alleged discrimination.

Current Status & Proposed Schedule

Ivy Tech has been properly served with the Complaint and it remains the sole defendant in this case. No discovery of any kind has occurred thus far. As such, Ivy Tech intends to serve written discovery upon Hively as well as several third parties and then intends to depose Hively and possibly others. Ivy Tech anticipates that discovery will take approximately seven months. Ivy Tech does not believe that any unusual limitations need to be placed on discovery at this time.

This case was previously before the Court for more than six months and there was no attempt to amend the pleadings. Ivy Tech is unaware of any basis for amending the pleadings at this time. If the Court chooses to set a deadline to amend, Ivy Tech would propose allowing 30 days in which to do so.

No motions are currently pending. Ivy Tech will almost certainly file a motion for summary judgment, with contemporaneous briefing, following the close of discovery. A reasonable deadline for such a dispositive motion would be 45 days after the close of discovery.

No aspects of the case have been stipulated or settled. Ivy Tech is open to mediation, but would like to engage in some discovery beforehand. A reasonable mediation deadline would be within 30 days after the close of discovery.

Ivy Tech has considered litigating this matter under the Court's Consent Procedure.

Respectfully submitted,

s/ Adam L. Bartrom

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ATTORNEYS FOR DEFENDANT
IVY TECH COMMUNITY COLLEGE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above and foregoing document has been served this 25th day of May 2017, by depositing a copy of the same in the United States mail, first-class postage prepaid and properly addressed to Plaintiff and her counsel at the following addresses:

Ms. Kimberly Hively
1112 S. 25th Street
South Bend, IN 46615

Gregory R. Nevins
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
730 Peach Street NE, Suite 640
Atlanta, Georgia 30308

s/ Adam L. Bartrom

Adam L. Bartrom