

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

GAVIN GRIMM,)	
)	
Plaintiff,)	
)	
v.)	Civil Case No. 4:15-cv-54
)	
GLOUCESTER COUNTY SCHOOL)	
BOARD,)	
)	
Defendant.)	
)	

JOINT POSITION STATEMENT

Pursuant to this Court’s order dated August 4, 2017, the parties respectfully submit this joint position statement.

On August 11, 2017, the parties filed a stipulation of voluntary dismissal of Plaintiff’s interlocutory appeal from the denial of a preliminary injunction before the Fourth Circuit. ECF No. 249 (4th Cir.). That stipulation noted that “[t]he dismissal of this appeal from the denial of a preliminary injunction does not affect either party’s right to appeal any final judgment entered by the district court.” If the Fourth Circuit enters an order dismissing the appeal, then there will be no need for additional fact-finding to determine whether the motion for preliminary injunction has become moot.

Also on August 11, 2017, Plaintiff filed a motion to file an Amended Complaint. ECF No. 90. Defendant has consented to that motion. This Court has jurisdiction to act on that motion because “an appeal from an interlocutory order respecting a request for [preliminary] injunctive relief does not defeat the district court's power to proceed further with the case.” *Hunter v. Redmer*, No. 15-2047, 2015 WL 8479211, at *2 (D. Md. Dec. 10, 2015); *see* Wright & Miller,

Interlocutory Injunction Appeals—Trial Court Action Pending Appeal, 16A Federal Practice & Procedure § 3921.2 (3d ed. 2012). If the motion to file an Amended Complaint is granted, Defendant intends to file a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6).

The parties suggest the following schedule for briefing the motions:

Within 21 days from the docketing of the Amended Complaint, Defendant shall file a responsive pleading or motion.

Within 14 days from the filing of a motion to dismiss, Plaintiff shall file a memorandum in opposition.

Within 6 days from the filing of Plaintiff's opposition, Defendant shall file its reply.

The parties further suggest that the page limits in support of the motion to dismiss, and in opposition to that motion, be extended to 45 pages.

Dated August 18, 2017

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION
OF VIRGINIA FOUNDATION, INC.

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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of August, 2017, I filed the foregoing joint position statement with the Clerk of the Court using the CM/ECF system, which will automatically serve electronic copies upon all counsel of record.

_____/s/_____
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