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Attorneys for Plaintiffs
Haley Videckis and Layana White

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

HALEY VIDECKIS and LAYANA WHITE, individuals,

Plaintiffs,

v.

PEPPERDINE UNIVERSITY, a corporation doing business in California,

Defendant.

CASE NO. 2:15-CV-00298-DDP (JCx)

PLAINTIFFS' OPPOSITION TO DEFENDANT PEPPERDINE UNIVERSITY'S MOTION TO AMEND JUDGMENT OR IN THE ALTERNATIVE RECONSIDER ORDER

Date: October 30, 2017
Time: 10:00 a.m.
Crtrm.: 9C

[Assigned to Hon. Dean D. Pregerson]

Expert Cut-Off: June 23, 2017
Pre-Trial Conf.: July 10, 2017
Trial Date: Julv 18. 2017

I. INTRODUCTION

Plaintiffs respectfully asks that the Court deny Defendant Pepperdine's (hereafter "Pepperdine") Motion for Reconsideration of this Court's September 11, 2017 Order Re Costs. (Dkt. 252). None of the grounds asserted by Pepperdine has merit. Pepperdine does not even attempt to feign compliance with the standard for reconsideration set forth by Local Rule 7-18 or Rule 59(e) of the Federal Rules of Civil Procedure, but instead repeats the same arguments it made in its Motion for Attorney's Fees (Dkt. 256). Pepperdine makes no new arguments, presents no new evidence and cites no new law that would warrant a reconsideration of the Court's detailed and reasoned Order. Pepperdine essentially disregards the Court's presence and observation of all seventeen days of trial, assessment of the evidence presented and conclusions on the credibility of the witnesses who testified. All these factors weigh in the Court's detailed order that the Parties bear their own costs. Pepperdine's motion is without adequate factual or legal basis and should be denied.[1]

---

[1] Pepperdine's motion should also be denied because Pepperdine failed to comply with Local Rule 7-3, as noted by its failure to include a statement of compliance in its Notice of Motion. L.R. 7-3 requires counsel contemplating filing any motion to contact opposing counsel to "thoroughly discuss, preferably in person, the substance of the contemplated motion and any potential resolution." L.R. 7-3; *see also Alcatel-Lucent USA, Inc. v. Dugdale Communications, Inc.*, No. CV 09-2140PSG(JCx), 2009 WL 3346784, at * 4 (C.D. Cal. Oct. 13, 2009) ("The meet and confer requirements of Local Rule 7-3 are in place for a reason, and counsel is warned that nothing short of strict compliance with the local rules will be expected in this Court. Thus, the motion is also denied for failure to comply with Local Rule 7-3.") There was no discussion of Pepperdine's motion, other than counsel stating that she had been instructed to file a motion to amend the judgment allowing for costs and seeking fees. Rather, Pepperdine only indicated that it would forego the motions if an agreement was reached on a mutual release of claims and post-trial motions. (*See* Declaration of Rob Dickerson, at ¶2, Exh. 1). Pepperdine then refused to agree that such an agreement extended to include release of claims for malicious prosecution. (*See* Declaration of Jayesh Patel at ¶2-3, Exh. 1).

II. ARGUMENT

A. The Court's Ruling Should Stand

Motions for reconsideration in the Central District are governed by Local Rule 7-18, which states: "A motion for reconsideration of the decision on any motion may be made only on the grounds of (a) a material difference in fact or law from that presented to the Court before such decision that in the exercise of reasonable diligence could not have been known to the party moving for reconsideration at the time of such decision, or (b) the emergence of new material facts or a change of law occurring after the time of such decision, or (c) a manifest showing of a failure to consider material facts presented to the Court before such decision. No motion for reconsideration shall in any manner repeat any oral or written argument made in support of or in opposition to the original motion." L.R. 7-18; *see Daghlian v. Devry Univ. Inc*., 582 F. Supp. 2d 1231, 1250-51 (C.D. Cal. 2007). Motions for reconsideration are disfavored and rarely granted. *Brown v. U.S.*, No. CV 09-8168 ABC, CR 03-847 ABC, 2011 WL 333380, at *1 (C.D. Cal. Jan. 31, 2011) (citation omitted).

1. The Court Properly Considered Material Facts Presented to It Prior To Issuing Its Order

None of the factors that would merit a reconsideration of the Court's September 11, 2017 Order re Costs (Dkt. 252) are present here. Pepperdine does not even attempt to argue that there are new material facts or a change of law following the Court's decision 25 days ago that would warrant reconsideration. Pepperdine motion is therefore based on a claimed "failure [by the Court] to consider material facts presented" to it. Pepperdine engages in the exact chilling conduct to which the Court was sensitive, pressing that on the question of recovery of costs to Pepperdine seeks to "effectively put plaintiffs to their proof on the issue," despite the Court's own conclusion that no such "test" was necessary (See Dkt. 252 at p. 3). This argument not only discounts the Court's well-reasoned Order, it also disrespects the Court's own

views after witnessing the entirety of the trial in this matter. The Court observed as serial "Pepperdine" witnesses took the stand recanting prior sworn testimony, admitting to a "culture problem" on campus, and acknowledging financial incentives provided by Pepperdine to them after the lawsuit was filed by Plaintiffs. Pepperdine's claim that it should be heard on the issue of costs is a direct attack on the Court's authority and ability to consider the material facts it had observed during trial before issuing its Order.

2. The Court Properly Considered and Rejected the Factors that Would Allow Pepperdine to be Awarded Its Costs

The Court already considered and rejected all the arguments Pepperdine makes in its motion, finding that: 1) the issues raised in this matter were of substantial public import; 2) the legal and factual issues in the case were close and difficult; 3) granting costs would have a chilling effect on future civil rights actions; and 4) that the economic disparity between the parties tips in favor of denying costs. (Dkt. 252).

Specifically, the Court found that the legal claims Plaintiffs bought under Title IX were relatively novel and unsettled in this circuit, and the factual issued raised were numerous and complex. (Dkt. 252 at p. 3). Moreover, the Court is aware of all the evidence with regard to the Plaintiffs' financial position, not the surmise offered by Pepperdine without any supporting facts. The Court correctly observed the economic disparity between the parties and Pepperdine is merely exercising its superior financial resources to exact some punitive agenda against Plaintiffs. For the Court, the balance tipped in favor of denying costs to Pepperdine. (Dkt. 252 at p. 4).

Pepperdine's only arguments in support of reconsideration, as also stated in its motion for fees, are that: 1) the jury returned a verdict within 4 hours; 2) Plaintiffs were the only two percipient witnesses that offered testimony on their behalf; and 3) there is no evidence that Plaintiff lack financial resources because they made over $100,000 in one year between leaving Pepperdine and beginning school at USC and

because Plaintiff Haley Videckis may have a trust account following her father's death.

Even if these skewed facts were persuasive, they are not sufficient for the Court to grant reconsideration. First, Pepperdine's speculation as to the jury's motives is not sufficient, since the Court was aware of all the events and timeframes leading to the verdict, having been involved at each step; there is no "new" fact here. The case was given to the jury on a Friday afternoon, after Pepperdine was admonished multiple times during the course of the three-week proceeding for its unreasonably time-consuming and pedantic deposition-style examination of witnesses. Second, though quite reluctantly, Pepperdine's own personnel made admissions about the problem with culture and atmosphere at Pepperdine with regard to the LGBTQ community. (*See* e.g. Daily Trial Transcript, T. Jones Jolivet Testimony, July 25, 2017, 102:10-15; Daily Trial Transcript, M. Davis Testimony, August 7, 2017, 150:6-12).

Third, Pepperdine makes specious, venal speculations regarding Plaintiffs' financial status without *any* credible evidence. What the record actually reflects is that Plaintiffs are no longer employed and are students, and only took employment to be able to afford to pay for the tuition that Pepperdine denied them by its treatment. Despite Pepperdine's underhanded attempt to show Plaintiff Layana White is financially well off because she drives a BMW, Ms. testified that she purchased her used car for $5,000 and received financial aid to pay for her tuition at USC. There is no evidence of any financial well-being or worth, and certainly nothing that puts these students in any financial position co-equal to Pepperdine's resources.

B. Pepperdine Does Not Meet the Standard for Reconsideration Under the Federal Rules of Civil Procedure

Pepperdine does not so much as pretend to meet the standard for reconsideration. Reconsideration is "an 'extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources.'" *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000) (citation omitted). "Under Rule

59(e), a motion for reconsideration should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law." *389 Orange St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999) (citing *School Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993)).

Pepperdine does not argue that there are highly unusual circumstances in this case that would warrant a grant of its motion for reconsideration. Pepperdine has not presented any newly discovered evidence and has instead regurgitated arguments made in support of its motion for fees. Pepperdine also doesn't argue that there is an intervening change in the controlling law that would warrant a reconsideration of the Court's September 11, 2017 Order. Instead, without any support, Pepperdine hints that the Court's well-reasoned Order was somehow error, essentially an abuse of discretion, without citing to any actual evidence as to why the Court's discretion was somehow misapplied. As stated above, the Court was present for the duration of the trial and was capable of making its own observations of what actually occurred prior to issuing its Order, without Pepperdine's skewed and unsupported view of the case.

C. <u>As the Court Has Previously Concluded, Factors Weigh Against Awarding Costs</u>

The Court's decision regarding costs is consistent with legal standards which allow the Court to exercise discretion on whether or not costs are awarded. Supreme Court cases interpreting Rule 54(d) make clear, this Court has the discretion to decline to tax costs in favor of the prevailing party. *Farmer v. Arabian American Oil Co.*, 379 U.S. 227 (1964). Acceptable bases for denying costs include, but are not limited to all the factors cited in the Court's existing order: "1) the substantial public importance of the case, 2) the closeness and difficulty of the issues in the case, 3) the chilling effect on future similar actions, 4) the plaintiff's limited financial resources, and 5) the economic disparity between the parties." *Draper v. Rosario*, 836 F.3d 1072, 1087 (9th Cir. 2016).

Pepperdine argues that the five factors should be examined in light of the nature of the evidence submitted by Plaintiffs and the jury's prompt decision after a short deliberation on a Friday evening following a three and a half week trial.

1. Pepperdine Ignores Recanted Testimony and Key Admissions By Its Own Witnesses Underscoring The Closeness And Difficulty Of The Case

Without citing to the record, Pepperdine summarily contends that Plaintiffs were fully mistaken on their claims that they were harassed and discriminated against based on their sexual orientation, because "uniformly all of the basketball players who were on their team..." testified that no such thing occurred. That belies the actual record. What Pepperdine deliberately ignores is the sheer number of "teammates" who recanted their testimony or committed perjury:

- Kelsey Brockway testified at trial that her deposition testimony admitting she feared losing her scholarship if she spoke out against Pepperdine was false. (Daily Trial Transcript, K. Brockway Testimony, August 2, 2017, 76:4-21).
- Ms. Brockway also testified that she lied during her deposition when she stated that Pepperdine was not an environment where one could be openly gay and that after "[her] year of reflection," during which she had ongoing contact with Pepperdine's counsel, she'd come to the conclusion it was "okay to be gay at Pepperdine" notwithstanding her prior sworn statements to the contrary. (Daily Trial Transcript, K. Brockway Testimony, August 2, 2017, 95:4-96:24).
- Whitney Williams stated that "after thinking more about it," she had not been truthful during her deposition when she'd testified that Coach Ryan Weisenberg used the term "lesbianism." (Daily Trial Transcript, W. Williams Testimony, July 31, 2017, 50:1-52:19).

- Bria Richardson testified that though she'd indicated during her Title IX interview in October of 2014 that Coach Weisenberg used the term "lesbianism," she could no longer be sure that he'd used that term because it had "been brought up so much over [the] three-year span" of the litigation—retroactively changing contemporaneous statements that she made before the three years of litigation had even commenced. (Daily Transcript, B. Richardson Testimony, August 2, 2017, 202:18-203:15).

Pepperdine also ignores key admissions by its Dean of Student Affairs Mark Davis, and former Title IX Coordinator Tabatha Jones Jolivet. The witnesses admitted that there was a culture problem at Pepperdine for the LGBTQ community. (*See* Daily Trial Transcript, T. Jones Jolivet Testimony, July 25, 2017, 102:10-15; Daily Trial Transcript, M. Davis Testimony, August 7, 2017, 150:6-12). Furthermore, Ms. Jones Jolivet admitted that following her Title IX investigation, that she did not find sufficient evidence to conclude "in one direction or the other" whether or not discrimination and harassment occurred. (*See* Daily Trial Transcript, T. Jones Jolivet Testimony, July 25, 2017, 154:15-155:15).

2. Pepperdine's Post-Filing Relationships With Witnesses Presented Legitimate Issues of Credibility

Pepperdine offers the absurd proposition that Plaintiffs did not have evidence to support their claims except their own testimony. Pepperdine choicely ignores the issues upon which the jury was required to make credibility determinations, like the examples above, and studiously disregards the admissions and perjury committed by some of the so-called "Pepperdine" witnesses. After this litigation commenced, nearly every single basketball player who testified admitted that she either obtained or was offered a job by Pepperdine (Bria Richardson, Allie Green), provided a scholarship to graduate school at Pepperdine (Bria Richardson, Whitney Williams), or received help obtaining externships (Whitney Williams), a fact that was confirmed by

Pepperdine. (*See* Trial Exhibit 373 at 18-21). Pepperdine even made sure to employ Ms. Williams' mother. These scholarships and job offers raised a question of credibility for the jury to determine, whether or not they were made in order to ensure that these witnesses walked the line and supported Pepperdine's version of events. Pepperdine's plan was so effective that witnesses who offered favorable testimony during their depositions recanted their testimony during the trial, stating that after some reflection and conversations with Pepperdine's counsel[2], what they previously testified to under oath was not truthful. (*See, e.g.* Daily Trial Transcript, K. Brockway Testimony, August 2, 2017, 76:4-21; Daily Trial Transcript, W. Williams Testimony, July 31, 2017, 50:1-52:19).

D. Plaintiffs Are Entitled to Sanctions

Plaintiffs ask that the Court sanction Pepperdine for bringing this frivolous and baseless motion. Pursuant to 28 U.S.C. § 1927, "[a]ny attorney . . . who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct." 28 U.S.C. § 1927. The Ninth Circuit has opined that a finding of "recklessness" is sufficient to justify the imposition of sanctions under § 1927. *See B.K.B v. Maui Police Dept.*, 276 F.3d 1091, 1107 (9th Cir. 2002) (citing *Fink v. Gomez*, 239 F.3d 989, 993 (9th Cir. 2001)). Courts also have the inherent power to sanction conduct as they are vested "with the power to impose silence, response, and decorum, in their presence, and submission to their lawful mandates." *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43-45 (1991). "[C]onduct that is 'tantamount to bad faith' is sanctionable" pursuant to this power. *See B.K.B.*, 276 F.3d

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[2] As stated more fully in Plaintiff's Objections to Defendant's Application to Tax Costs, Pepperdine's in-house and outside counsel learned about the intent by witnesses to change their testimony months before trial, but intentionally failed to make any such disclosure to Plaintiffs' counsel.

1108 (quoting *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 767 (1980). A party that "knowingly or recklessly raises a frivolous argument, or argues a meritorious claim for the purpose of harassing an opponent" acts in bad faith. *Primus Auto. Fin. Serv., Inc. v. Batarse*, 115 F.3d 644, 648-49 (9th Cir. 1997).

Pepperdine's motion is knowingly frivolous and brought in bad faith in order to harass Plaintiffs. First, Pepperdine does not even attempt to argue any of the factors warranting reconsideration of the Court's Order apply here. Pepperdine's motion is made for no other purpose than to harass Plaintiffs and to chill future litigation by aggrieved students. Pepperdine admits as much in its motion, stating that an award of costs "would incentivize potential plaintiffs to actually make their claims prior to litigation so that the claims can be resolved promptly and to their benefit." (Dkt. 255, p. 5). In other words, an award of costs would discourage students whose civil rights have been violated from filing lawsuits in the future.

Second, Pepperdine's conduct prior to filing its motion for reconsideration is also confirmation of its improper motives and gamesmanship. Pepperdine's counsel, Paula Victor, contacted Plaintiff's counsel on or about September 21, 2017, stating that she had been instructed to file a motion to amend the judgment allowing for costs, but that Pepperdine would not file the motion if the parties agreed to a mutual release of all claims related to this action, including post-trial motions or an appeal. (Declaration of Rob Dickerson, at ¶2, Exh. 1). A copy of a release was thereafter sent by Pepperdine's counsel to Plaintiffs. When Plaintiffs requested that the release be clarified that it included any claims for malicious prosecution, Pepperdine balked, choosing instead to proceed with these baseless applications and motions. (Declaration of Jayesh Patel, at ¶¶2-3, Exh. 1). In rejecting that clarifying language, which is consistent with the law on malicious prosecution, (*See. e.g., Joseph v. Ashman*, 2002 WL 533201, Cal. App. 4 Dist., Apr. 10, 2002), Pepperdine clearly demonstrates an agenda that is not a legitimate application based on good faith grounds.

III. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that Pepperdine's motion for reconsideration is denied and that Pepperdine is ordered to pay the attorneys' fees Plaintiffs have incurred in opposing Pepperdine's frivolous motion.

Dated: October 6, 2017

Respectfully submitted,

ZUBER LAWLER & DEL DUCA LLP
JAYESH PATEL
ROBERT W. DICKERSON
AGNES M. SULLIVAN
MEREDITH A. SMITH

By: */S/ Jayesh Patel*
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Attorneys for Plaintiffs
Haley Videckis and Layana White

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

HALEY VIDECKIS and LAYANA WHITE, individuals,

Plaintiffs,

v.

PEPPERDINE UNIVERSITY, a corporation doing business in California,

Defendant.

CASE NO. 2:15-CV-00298-DDP (JCx)
[Assigned to Hon. Dean D. Pregerson, Courtroom 9C]

DECLARATION OF JAYESH PATEL IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANT PEPPERDINE UNIVERSITY'S MOTION TO AMEND JUDGMENT OR IN THE ALTERNATIVE RECONSIDER ORDER

(Filed Currently with Opposition to Motion To Amend Judgment)

Date: October 30, 2017
Time: 10:00 A.M.
Place: Courtroom 9C

DECLARATION OF JAYESH PATEL

I, Jayesh Patel, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am a partner with Zuber Lawler & Del Duca LLP, attorneys of record for Plaintiffs Haley Videckis and Layana White. I have personal knowledge of the facts stated herein, and if called to testify, I could competently do so.

2. Following conversations my colleague Rob Dickerson and I had with Pepperdine's counsel Paula Tripp Victor, Ms. Victor sent a draft copy of a proposed settlement agreement and release. I responded to Ms. Victor's email asking that a phrase be included to clarify that the release included claims for malicious prosecution. Attached hereto as **Exhibit 1** is a true and correct copy of the September 23-24, 2017 e-mail exchange regarding the mutual walkaway proposal.

3. Pepperdine refused to clarify the language in the mutual release to specify that the release of claims included a release for malicious prosecution, a phrase I regarded as superfluous given the law governing this area. Pepperdine instead chose to proceed with its application for costs, motion for fees and motion for reconsideration.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 6th day of October, 2017, at Los Angeles, California.

/S/ Jayesh Patel
Jayesh Patel

EXHIBIT 1

Jayesh Patel

From: Jayesh Patel
Sent: Sunday, September 24, 2017 11:02 AM
To: 'Paula Tripp Victor'; Robert W. Dickerson
Cc: David R. Hunt
Subject: RE: Videckis Settlement Agreement

Guys,

As you can imagine, our somewhat unsophisticated clients would like the phrase "including but not limited to claims for malicious prosecution" added to paragraph 3.1 (the release provision). While we, as lawyers, all understand that it is superfluous, I have been unsuccessful in conveying that concept to them. Would you be so kind as to add that phrase, and we will be able to secure signatures promptly. Thanks.

Jayesh

From: Paula Tripp Victor [mailto:PTV@amclaw.com]
Sent: Saturday, September 23, 2017 3:28 PM
To: Jayesh Patel <jpatel@zuberlaw.com>; Robert W. Dickerson <RDickerson@zuberlaw.com>
Cc: David R. Hunt <drh@amclaw.com>
Subject: Videckis Settlement Agreement

Jayesh and Rob,

Please see the attached and let me know if it is acceptable to you.

Thank you.

Paula

Paula Tripp Victor
Anderson McPharlin & Conners
707 Wilshire Blvd Ste 4000
Los Angeles, CA 90017-3623

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Attorneys for Plaintiffs
Haley Videckis and Layana White

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

HALEY VIDECKIS and LAYANA WHITE, individuals,

Plaintiffs,

v.

PEPPERDINE UNIVERSITY, a corporation doing business in California,

Defendant.

CASE NO. 2:15-CV-00298-DDP (JCx)
[Assigned to Hon. Dean D. Pregerson, Courtroom 9C]

DECLARATION OF ROB DICKERSON IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANT PEPPERDINE UNIVERSITY'S MOTION TO AMEND JUDGMENT OR IN THE ALTERNATIVE RECONSIDER ORDER

(Filed Currently with Opposition to Motion To Amend Judgment)

Date: October 30, 2017
Time: 10:00 A.M.
Place: Courtroom 9C

DECLARATION OF ROB DICKERSON

I, Rob Dickerson, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am a partner with Zuber Lawler & Del Duca LLP, attorneys of record for Plaintiffs Haley Videckis and Layana White. I have personal knowledge of the facts stated herein, and if called to testify, I could competently do so.

2. Attached hereto as **Exhibit 1** is a true and correct copy of an e-mail exchange dated September 21, 2017 between counsel regarding a mutual walkaway proposal.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 6th day of October, 2017, at Los Angeles, California.

/S/ Rob Dickerson
Rob Dickerson

EXHIBIT 1

-----Original Message-----
From: Robert W. Dickerson
Sent: Wednesday, October 04, 2017 5:33 PM
To: Meredith Smith <MSmith@zuberlaw.com>; Agnes Sullivan <asullivan@zuberlaw.com>; Jayesh Patel <jpatel@zuberlaw.com>
Subject: FW: Walk-away proposal

Robert W. Dickerson
Partner
Zuber Lawler & Del Duca LLP
777 S. Figueroa St., 37th Floor
Los Angeles, CA 90017
USA
Office: +1 (213) 596-5620
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Fax: +1 (213) 596-5621
rdickerson@zuberlaw.com
www.zuberlaw.com

-----Original Message-----
From: Robert W. Dickerson
Sent: Friday, September 22, 2017 5:27 PM
To: Paula Tripp Victor <PTV@amclaw.com>
Subject: Re: Walk-away proposal

Ok

Sent from my iPhone. Excuse brevity, typos and auto-correct anomalies

Robert Dickerson
213.610.1676
213.596.5650

> On Sep 22, 2017, at 5:15 PM, Paula Tripp Victor <PTV@amclaw.com> wrote:
>
> Rob,

>
> Just got off the phone with my client. I will get you a draft proposed agreement by tomorrow morning<x-apple-data-detectors://0> which will include a mutual release of all claims relating to the instant litigation such that our respective clients agree to pursue nothing further in this litigation including not filing post-trial motions and appeals and both sides agreeing to bear their own costs and attorneys fees. This agreement would also need to be confidential with a liquidated damages provision for breach.
>
> Sent from my iPhone
>
> On Sep 22, 2017, at 12:05 PM, Robert W. Dickerson <RDickerson@zuberlaw.com<mailto:RDickerson@zuberlaw.com>> wrote:
>
> Paula: subject to seeing and agreeing to the terms of the written agreement, our clients are amenable to the walk-away, mutual general release proposal.
> If you get Pepperdine's OK, please send us a draft. If Pepperdine isn't OK with it, let us know that asap as well.
> Thx. Rob
>
> Robert W. Dickerson
> Partner
> Zuber Lawler & Del Duca LLP
> 777 S. Figueroa St., 37th Floor
> Los Angeles, CA 90017
> USA
> Office: +1 (213) 596-5620
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> Cell: +1 (213) 610-1676
> Fax: +1 (213) 596-5621
> rdickerson@zuberlaw.com<mailto:rdickerson@zuberlaw.com>
> http://www.zuberlaw.com
>
>
> -----Original Message-----
> From: Paula Tripp Victor [mailto:PTV@amclaw.com]
> Sent: Friday, September 22, 2017 11:36 AM
> To: Robert W. Dickerson
> <RDickerson@zuberlaw.com<mailto:RDickerson@zuberlaw.com>>
> Cc: David R. Hunt <drh@amclaw.com<mailto:drh@amclaw.com>>; Jeremy M.
> Schneider <jms@amclaw.com<mailto:jms@amclaw.com>>
> Subject: Re: telcon
>
> That was the intent of my proposal but client has not agreed to that yet. I don't think I can get them to agree without a commitment from your clients to waive appeal and any other post-trial remedies. In other words, this case will be over in its entirety. Since my client has not agreed to anything as of now, it's hard to be very specific but that is what I will try to sell.
>
> Sent from my iPhone
>
> On Sep 22, 2017, at 9:48 AM, Robert W. Dickerson <RDickerson@zuberlaw.com<mailto:RDickerson@zuberlaw.com>> wrote:
>

> Paula: we are waiting to hear back from our clients.
> In the interim, I want to confirm that the proposal would be a complete walk-away with mutual releases of all claims, leaving the Judgment intact as it now stands.
> I assumed that's what you meant by "walk-away" but wanted to confirm.
> r
>
>
> Robert W. Dickerson
> Partner
> Zuber Lawler & Del Duca LLP
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> Los Angeles, CA 90017
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> Office: +1 (213) 596-5620
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> Fax: +1 (213) 596-5621
> rdickerson@zuberlaw.com<mailto:rdickerson@zuberlaw.com>
> http://www.zuberlaw.com
>
>
> -----Original Message-----
> From: Paula Tripp Victor [mailto:PTV@amclaw.com]
> Sent: Thursday, September 21, 2017 8:52 PM
> To: Robert W. Dickerson
> <RDickerson@zuberlaw.com<mailto:RDickerson@zuberlaw.com>>; Jayesh
> Patel <jpatel@zuberlaw.com<mailto:jpatel@zuberlaw.com>>
> Cc: David R. Hunt <drh@amclaw.com<mailto:drh@amclaw.com>>; Jeremy M.
> Schneider <jms@amclaw.com<mailto:jms@amclaw.com>>
> Subject: Re: telcon
>
> Rob and Jay,
>
> I need to make it clear that my client has not authorized any specific proposal or offer. What I told Jay was that I have been instructed to prepare two motions: A motion for attorneys fees to the prevailing party under the Title IX and Education Code claims and a motion to amend the judgment allowing for our ordinary costs. Those costs are approximately $75,000.
>
> My thought was that if your clients are willing to agree they will not file any post-trial motions and an appeal, I will contact my client to see if it is willing to forego filing these motions and have all parties walk away now. Of course, since we need to file by Monday, I will need to talk to my client no later than this weekend so the quicker you can get back to me, the better.
>
> Let me know if you need something more or any clarification.
>
> Paula
>
>
> Sent from my iPhone
>

> On Sep 21, 2017, at 1:43 PM, Robert W. Dickerson <RDickerson@zuberlaw.com<mailto:RDickerson@zuberlaw.com>> wrote:
>
> Paula: to help speed things along at our end, if you can send to Jay and me a draft of the proposal you made to Jay, that would be great.
> Doesn't have to be fancy or with all boilerplate, just the main points.
> Thx rob
>
> Robert W. Dickerson
> Partner
> Zuber Lawler & Del Duca LLP
> 777 S. Figueroa St., 37th Floor
> Los Angeles, CA 90017
> USA
> Office: +1 (213) 596-5620
> Direct: +1 (213) 596-5650
> Cell: +1 (213) 610-1676
> Fax: +1 (213) 596-5621
> rdickerson@zuberlaw.com<mailto:rdickerson@zuberlaw.com>
> http://www.zuberlaw.com
>
>
> -----Original Message-----
> From: Paula Tripp Victor [mailto:PTV@amclaw.com]
> Sent: Thursday, September 21, 2017 12:31 PM
> To: Robert W. Dickerson
> <RDickerson@zuberlaw.com<mailto:RDickerson@zuberlaw.com>>
> Subject: Re: telcon
>
> Will do. Thanks.
>
> Sent from my iPhone
>
> On Sep 21, 2017, at 12:22 PM, Robert W. Dickerson <RDickerson@zuberlaw.com<mailto:RDickerson@zuberlaw.com>> wrote:
>
> Yes. Call me at 213-596-5650.
>
> Sent from my iPhone. Excuse brevity, typos and auto-correct anomalies
>
> Robert Dickerson
> 213.610.1676
> 213.596.5650
>
> On Sep 21, 2017, at 12:18 PM, Paula Tripp Victor <PTV@amclaw.com<mailto:PTV@amclaw.com>> wrote:
>
> Can probably talk in about an hour. Does that work?
>
> Sent from my iPhone
>

> On Sep 21, 2017, at 12:16 PM, Robert W. Dickerson <RDickerson@zuberlaw.com<mailto:RDickerson@zuberlaw.com><mailto:RDickerson@zuberlaw.com>> wrote:
>
> HI Paula:
>
> Jay is just now getting on an airplane in NY, so I asked if I would speak with you on the topics you've been recently discussing with him.
> Let me know if there is a good time for telcon today, and if so, what time works for you.
> Best, rob
>
> Robert W. Dickerson
> Partner
> Zuber Lawler & Del Duca LLP
> 777 S. Figueroa St., 37th Floor
> Los Angeles, CA 90017
> USA
> Office: +1 (213) 596-5620
> Direct: +1 (213) 596-5650
> Cell: +1 (213) 610-1676
> Fax: +1 (213) 596-5621
> rdickerson@zuberlaw.com<mailto:rdickerson@zuberlaw.com><mailto:rdicker
> son@zuberlaw.com> http://www.zuberlaw.com<http://www.zuberlaw.com/>
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>
>