

U.S. District Court
U.S. District of Minnesota (DMN)
CIVIL DOCKET FOR CASE #: 0:16-cv-03919-PAM-LIB

Calgaro v. St. Louis County et al
Assigned to: Senior Judge Paul A. Magnuson
Referred to: Magistrate Judge Leo I. Brisbois
Demand: \$75,000
Cause: 42:1983 Civil Rights Act

Date Filed: 11/16/2016
Date Terminated: 05/24/2017
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Anmarie Calgaro

represented by **Erick G Kaardal**
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street
Suite 3100
Mpls, MN 55402
612-465-0927
Fax: 612-341-1076
Email: kaardal@mklaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Matthew F. Heffron
Brown & Brown PC Llo
2027 Dodge Street
Suite 501
Omaha, NE 68102
402-346-5010
Email: mheffron@bblaw.us
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Thomas Brejcha
Thomas More Society
19 S. Lasalle Street
Suite 603
Chicago, IL 60603
312-782-1680
Fax: 312-782-1887
Email: tbrejcha@thomasmoresociety.org
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

V.

Defendant

St. Louis County

represented by **Nick D Campanario**
St. Louis County Attorney's Office
St. Louis County Courthouse
100 North Fifth Avenue West, Room 501
Duluth, MN 55802-1298
(218) 726-2323
Fax: (218) 726-2332
Email: campanarion@stlouiscountymn.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Linnea Mirsch
*individually and in her official capacity
as Interim Director of St. Louis County
Public Health and Human Services*

represented by **Nick D Campanario**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Fairview Health Services
a Minnesota nonprofit corporation

represented by **Joao C.J.G. De Medeiros**
Lind, Jensen, Sullivan & Peterson, P.A.
1300 AT&T Tower
901 Marquette Avenue South
Minneapolis, MN 55402
(612) 333-3637
Fax: (612) 333-1030
Email: joao.medeiros@lindjensen.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Paul C Peterson

Lind Jensen Sullivan & Peterson, PA
901 Marquette Ave. S., Ste. 1300
Mpls, MN 55402
612-333-3637
Fax: 612-333-1030
Email: paul.peterson@lindjensen.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

William L Davidson

Lind Jensen Sullivan & Peterson, PA
901 Marquette Ave. S., Ste. 1300
Mpls, MN 55402
(612) 333-3637
Fax: (612) 333-1030
Email: william.davidson@lindjensen.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

represented by

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Park Nicollet Health Services
a nonprofit corporation

David M Wilk
Larson King, LLP
30 E 7th St Ste 2800
St Paul, MN 55101-4922
651-312-6500
Fax: 651-312-6618
Email: dwilk@larsonking.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stephanie L Chandler
Larson King, LLP
30 East Seventh Street
Suite 2800
Saint Paul, MN 55101
6513126570
Fax: 6513126618
Email: schandler@larsonking.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

St. Louis County School District

represented by **Elizabeth J Vieira**
Rupp, Anderson, Squires & Waldspurger
333 South Seventh Street
Ste 2800
Minneapolis, MN 55402
612-436-4300
Email: liz.vieira@raswlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Trevor S Helmers
Rupp, Anderson, Squires & Waldspurger
333 South Seventh Street
Ste 2800
Minneapolis, MN 55402
612-436-4300
Email: trevor.helmers@raswlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Michael Johnson
*individually and in his official capacity
as Principal of the Cherry School, St.
Louis County School District*

represented by **Elizabeth J Vieira**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Trevor S Helmers
(See above for address)
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Defendant

J.D.K.

TERMINATED: 05/23/2017

represented by **Aaron P. Knoll**

Faegre Baker Daniels,LLP
220 Wells Fargo Center
90 S. Seventh Street
Minneapolis, MN 55402-3901
612-766-7709
Email: aaron.knoll@FaegreBD.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Asaf Orr

National Center for Lesbian Rights
870 Market St.
Suite 370
San Francisco, CA 94102
415-392-6257
Email: aorr@nclrights.org
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Christopher F Stoll

National Center for Lesbian Rights
870 Market St Ste 370
San Francisco, CA 94102
415-392-6257
Email: cstoll@nclrights.org
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Cicely R Miltich

Faegre Baker Daniels LLP
90 S 7th St Ste 2200
Mpls, MN 55402-3901
Email: cicely.miltich@faegrebd.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Emily E Chow

Faegre Baker Daniels LLP
90 S 7th St Ste 2200
Mpls, MN 55402-3901
612-766-7000
Fax: 612-766-1600
Email: emily.chow@FaegreBD.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jun 7 2017 p 4

Martin S Chester

Faegre Baker Daniels LLP
90 S 7th St Ste 2200
Mpls, MN 55402-3901
612-766-7000
Fax: 612-766-1600
Email: martin.chester@FaegreBD.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael A Ponto

Faegre Baker Daniels LLP
90 S 7th St Ste 2200
Mpls, MN 55402-3901
612-766-7000
Fax: 612-766-1600
Email: michael.ponto@FaegreBD.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

E.J.K.

represented by **Aaron P. Knoll**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Asaf Orr

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Christopher F Stoll

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Cicely R Miltich

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Emily E Chow

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Martin S Chester

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael A Ponto
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Email All Attorneys
Email All Attorneys and Additional Recipients

Date Filed	#	Page	Docket Text
11/16/2016	<u>1</u>		COMPLAINT <i>Verified Complaint for Declaratory Relief and Injunction</i> against All Defendants. (Filing fee \$ 400 receipt number AMNDC-5199998.) Filed by Anmarie Calgaro. Filer requests summons issued. (Attachments: # <u>1</u> Exhibit(s) A-C, # <u>2</u> Civil Cover Sheet) (Kaardal, Erick) (Entered: 11/16/2016)
11/16/2016	2		TEXT ONLY ENTRY: CLERK'S NOTICE OF INITIAL CASE ASSIGNMENT. Case assigned to Judge Paul A. Magnuson per Fifth Division Civil Rights List and referred to Magistrate Judge Leo I. Brisbois. Please use case number 16-cv-3919 PAM/LIB. (kt) (Entered: 11/16/2016)
11/16/2016	<u>3</u>		Summons Issued as to Fairview Health Services, J.D.K., Michael Johnson, Linnea Mirsch, Park Nicollet Health Services, St. Louis County, St. Louis County School District. (kt) (Entered: 11/16/2016)
11/28/2016	<u>4</u>		NOTICE of Appearance by Elizabeth J Vieira on behalf of Michael Johnson, St. Louis County School District. (Vieira, Elizabeth) (Entered: 11/28/2016)
11/28/2016	<u>5</u>		AMENDED ORDER: In re dispositive motion practice in cases assigned to Judge Magnuson, signed by The Hon. Paul A. Magnuson on October 1, 2014.(JEP) (Entered: 11/28/2016)
11/28/2016	<u>6</u>		MOTION for Summary Judgment by Anmarie Calgaro. (Kaardal, Erick) (Entered: 11/28/2016)
11/28/2016	<u>7</u>		NOTICE OF HEARING ON MOTION <u>6</u> MOTION for Summary Judgment : Motion Hearing set for 1/26/2017 10:00 AM in Courtroom 7D (STP) before Senior Judge Paul A. Magnuson. (Kaardal, Erick) (Entered: 11/28/2016)
11/29/2016	<u>8</u>		NOTICE of Appearance by Nick D Campanario on behalf of Linnea Mirsch, St. Louis County. (Campanario, Nick) (Entered: 11/29/2016)
11/29/2016	9		NOTICE of Appearance by Michael A Ponto on behalf of J.D.K.. (Ponto, Michael) (Entered: 11/29/2016)
11/29/2016	<u>10</u>		NOTICE of Appearance by Martin S Chester on behalf of J.D.K.. (Chester, Martin) (Entered: 11/29/2016)
11/29/2016	<u>11</u>		NOTICE of Appearance by Emily E Chow on behalf of J.D.K.. (Chow, Emily) (Entered: 11/29/2016)
11/29/2016	<u>12</u>		NOTICE of Appearance by Cicely R Miltich on behalf of J.D.K.. (Miltich, Cicely) (Entered: 11/29/2016)
11/29/2016	<u>13</u>		NOTICE of Appearance by David M Wilk on behalf of Park Nicollet Health Services. (Wilk, David) (Entered: 11/29/2016)

11/29/2016	<u>14</u>	RULE 7.1 DISCLOSURE STATEMENT of Defendant Park Nicollet Health Services. No publicly-held corporation owns 10% or more of Park Nicollet. Park Nicollet is part of the HealthPartners, Inc. family of organizations. HealthPartners has no parent corporation and no publicly-held corporation owns 10% or more of HealthPartners. (Wilk, David) Modified text on 11/30/2016 (ACH). (Entered: 11/29/2016)
11/29/2016	<u>15</u>	MOTION to Dismiss/General by Park Nicollet Health Services. (Wilk, David) (Entered: 11/29/2016)
11/29/2016	<u>16</u>	NOTICE OF HEARING ON MOTION <u>15</u> MOTION to Dismiss/General: Motion Hearing set for 1/26/2017 10:00 AM in Courtroom 7D (STP) before Senior Judge Paul A. Magnuson. (Wilk, David) Modified text on 11/30/2016 (ACH). (Entered: 11/29/2016)
11/30/2016	<u>17</u>	NOTICE of Appearance by Paul C Peterson on behalf of Fairview Health Services. (Peterson, Paul) (Entered: 11/30/2016)
11/30/2016	18	TEXT ONLY ENTRY: Notice re: Non-Admitted Attorney We have received documents listing Joao C. Medeiros as counsel of record. If he or she wishes to be listed as an attorney of record in this case, he or she must be admitted to the bar of the U.S. District Court of Minnesota in accordance with <u>Local Rule 83.5 (a), (b) and (c)</u> or temporarily admitted pro hac vice in accordance with <u>Local Rule 83.5 (d) or (e)</u> . For more admissions information and forms, please see the Attorney Forms Section of the courts website at http://www.mnd.uscourts.gov/FORMS/court_forms.shtml#attorneyforms . (ACH) (Entered: 11/30/2016)
11/30/2016	<u>19</u>	AMENDED NOTICE of Appearance by Paul C Peterson on behalf of Fairview Health Services. (Peterson, Paul) Modified text on 12/1/2016 (ACH). (Entered: 11/30/2016)
11/30/2016	<u>20</u>	SUMMONS Returned Executed by Anmarie Calgaro. Fairview Health Services served on 11/17/2016, answer due 12/8/2016; J.D.K. served on 11/19/2016, answer due 12/12/2016; Michael Johnson served on 11/18/2016, answer due 12/9/2016; Linnea Mirsch served on 11/18/2016, answer due 12/9/2016; Park Nicollet Health Services served on 11/18/2016, answer due 12/9/2016; St. Louis County served on 11/18/2016, answer due 12/9/2016; St. Louis County School District served on 11/18/2016, answer due 12/9/2016. (Kaardal, Erick) (Entered: 11/30/2016)
12/01/2016	<u>21</u>	MOTION for Admission Pro Hac Vice for Attorney Thomas Brejcha. Filing fee \$ 100, receipt number AMNDC-5223148 by Anmarie Calgaro. (Kaardal, Erick) (Entered: 12/01/2016)
12/01/2016	<u>22</u>	MOTION for Admission Pro Hac Vice for Attorney Asaf Orr. Filing fee \$ 100, receipt number AMNDC-5223378 by J.D.K.. (Ponto, Michael) (Entered: 12/01/2016)
12/01/2016	<u>23</u>	MOTION for Admission Pro Hac Vice for Attorney Christopher F. Stoll. Filing fee \$ 100, receipt number AMNDC-5223412 by J.D.K.. (Ponto, Michael) (Entered: 12/01/2016)

12/01/2016	<u>24</u>	MOTION to Dismiss/General Pursuant to F.R.C.P. 12(b)(6) by J.D.K.. (Chester, Martin) (Entered: 12/01/2016)
12/01/2016	<u>25</u>	NOTICE OF HEARING ON MOTION <u>24</u> MOTION to Dismiss/General Pursuant to F.R.C.P. 12(b)(6) : Motion Hearing set for 1/26/2017 10:00 AM in Courtroom 7D (STP) before Senior Judge Paul A. Magnuson. (Chester, Martin) (Entered: 12/01/2016)
12/01/2016	26	TEXT ONLY ENTRY: ORDER granting <u>22</u> Motion for Admission Pro Hac Vice of Attorney Asaf Orr for J.D.K. Approved by Magistrate Judge Leo I. Brisbois on 12/1/16. (MAM) (Entered: 12/01/2016)
12/01/2016	27	TEXT ONLY ENTRY: ORDER granting <u>23</u> Motion for Admission Pro Hac Vice of Attorney Christopher F Stoll for J.D.K. Approved by Magistrate Judge Leo I. Brisbois on 12/1/16. (MAM) (Entered: 12/01/2016)
12/02/2016	<u>28</u>	MOTION to Dismiss for Lack of Jurisdiction by Fairview Health Services. (Peterson, Paul) (Entered: 12/02/2016)
12/02/2016	<u>29</u>	NOTICE OF HEARING ON MOTION <u>28</u> MOTION to Dismiss for Lack of Jurisdiction : Motion Hearing set for 1/26/2017 10:00 AM in Courtroom 7D (STP) before Senior Judge Paul A. Magnuson. (Peterson, Paul) (Entered: 12/02/2016)
12/02/2016	30	TEXT ONLY ENTRY: ORDER granting <u>21</u> Motion for Admission Pro Hac Vice of Attorney Thomas Brejcha for Anmarie Calgaro. Approved by Magistrate Judge Leo I. Brisbois on 12/2/16. (MAM) (Entered: 12/02/2016)
12/09/2016	<u>31</u>	MOTION to Dismiss/General by Michael Johnson, St. Louis County School District. (Vieira, Elizabeth) (Entered: 12/09/2016)
12/09/2016	<u>32</u>	NOTICE OF HEARING ON MOTION <u>31</u> MOTION to Dismiss/General : Motion Hearing set for 1/26/2017 10:00 AM in Courtroom 7D (STP) before Senior Judge Paul A. Magnuson. (Vieira, Elizabeth) (Entered: 12/09/2016)
12/09/2016	<u>33</u>	ANSWER to Complaint by Linnea Mirsch, St. Louis County. (Campanario, Nick) (Entered: 12/09/2016)
12/09/2016	<u>34</u>	MOTION for Judgment on the Pleadings , MOTION for Summary Judgment by Linnea Mirsch, St. Louis County. (Campanario, Nick) (Entered: 12/09/2016)
12/09/2016	<u>35</u>	NOTICE OF HEARING ON MOTION <u>34</u> MOTION for Judgment on the Pleadings MOTION for Summary Judgment : Motion Hearing set for 1/26/2017 10:00 AM in Courtroom 7D (STP) before Senior Judge Paul A. Magnuson. (Campanario, Nick) (Entered: 12/09/2016)
12/15/2016	<u>36</u>	MEMORANDUM in Support re <u>28</u> MOTION to Dismiss for Lack of Jurisdiction Memorandum of Law in Support of Defendant Fairview Health Services' Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) and Fed. R. Civ. P. 12(b)(6) filed by Fairview Health Services. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Peterson, Paul) (Entered: 12/15/2016)
12/15/2016	<u>37</u>	MEMORANDUM in Support re <u>34</u> MOTION for Judgment on the Pleadings MOTION for Summary Judgment filed by Linnea Mirsch, St. Louis County. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance

		Certificate)(Campanario, Nick) (Entered: 12/15/2016)
12/15/2016	<u>38</u>	MOTION for Admission Pro Hac Vice for Attorney Matthew F. Heffron. Filing fee \$ 100, receipt number AMNDC-5244991 by Anmarie Calgaro. (Kaardal, Erick) (Entered: 12/15/2016)
12/15/2016	<u>39</u>	Declaration of Deborah Waldriff in Support of <u>34</u> MOTION for Judgment on the Pleadings MOTION for Summary Judgment filed by Linnea Mirsch, St. Louis County. (Campanario, Nick) (Entered: 12/15/2016)
12/15/2016	<u>40</u>	MEMORANDUM in Support re <u>24</u> MOTION to Dismiss/General Pursuant to F.R.C.P. 12(b)(6) filed by J.D.K.. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Ponto, Michael) (Entered: 12/15/2016)
12/15/2016	<u>41</u>	CERTIFICATE OF SERVICE ON PROPOSED ORDER by J.D.K. re <u>24</u> MOTION to Dismiss/General Pursuant to F.R.C.P. 12(b)(6) (Ponto, Michael) (Entered: 12/15/2016)
12/15/2016	<u>42</u>	MEMORANDUM in Support re <u>15</u> MOTION to Dismiss/General filed by Park Nicollet Health Services. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Wilk, David) (Entered: 12/15/2016)
12/15/2016	<u>43</u>	MEMORANDUM in Support re <u>31</u> MOTION to Dismiss/General filed by Michael Johnson, St. Louis County School District. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Helmets, Trevor) (Entered: 12/15/2016)
12/15/2016	<u>44</u>	Declaration of Elizabeth J. Vieira in Support of <u>43</u> Memorandum in Support of Motion filed by Michael Johnson, St. Louis County School District. (Attachments: # <u>1</u> Exhibit(s) Exhibits A-D)(Helmets, Trevor) (Entered: 12/15/2016)
12/15/2016	<u>45</u>	CERTIFICATE OF SERVICE ON PROPOSED ORDER by Michael Johnson, St. Louis County School District re <u>31</u> MOTION to Dismiss/General (Helmets, Trevor) (Entered: 12/15/2016)
12/15/2016	<u>46</u>	MEMORANDUM in Support re <u>6</u> MOTION for Summary Judgment filed by Anmarie Calgaro. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Kaardal, Erick) (Entered: 12/15/2016)
12/15/2016	<u>47</u>	Declaration of Erick G. Kaardal in Support of <u>6</u> MOTION for Summary Judgment filed by Anmarie Calgaro. (Attachments: # <u>1</u> DOCUMENT FILED IN ERROR/POOR QUALITY. TO BE REFILED. Exhibit(s) A-D)(Kaardal, Erick) Modified text on 12/16/2016 (ACH). (Entered: 12/15/2016)
12/15/2016	<u>48</u>	Declaration of Anmarie Calgaro in Support of <u>6</u> MOTION for Summary Judgment filed by Anmarie Calgaro. (Attachments: # <u>1</u> Exhibit(s) A)(Kaardal, Erick) Exhibit A Restricted per Chambers due to Personal Identifiers: Will refile redacted version. Modified text on 12/16/2016 (ACH). (Entered: 12/15/2016)
12/16/2016	<u>49</u>	CERTIFICATE OF SERVICE ON PROPOSED ORDER by Linnea Mirsch, St. Louis County re <u>34</u> MOTION for Judgment on the Pleadings MOTION for Summary Judgment (Campanario, Nick) (Entered: 12/16/2016)
12/16/2016	<u>50</u>	

		EXHIBIT re <u>47</u> Declaration in Support, <i>Exhibits A–D (rescanned for clarity)</i> by Anmarie Calgaro. (Attachments: # <u>1</u> Exhibit(s) B (rescanned for clarity), # <u>2</u> Exhibit(s) C (rescanned for clarity), # <u>3</u> Exhibit(s) D)(Kaardal, Erick) (Entered: 12/16/2016)
12/16/2016	<u>51</u>	EXHIBIT re <u>48</u> Declaration in Support, <i>Exhibit A (redacted)</i> by Anmarie Calgaro. (Kaardal, Erick) (Entered: 12/16/2016)
12/16/2016	<u>52</u>	CERTIFICATE OF SERVICE ON PROPOSED ORDER by Anmarie Calgaro re <u>6</u> MOTION for Summary Judgment (Kaardal, Erick) (Entered: 12/16/2016)
12/20/2016	<u>53</u>	TEXT ONLY ENTRY: ORDER granting <u>38</u> Motion for Admission Pro Hac Vice of Attorney Matthew F. Heffron for Anmarie Calgaro. Approved by Magistrate Judge Leo I. Brisbois on 12/20/16. (MAM) (Entered: 12/20/2016)
01/05/2017	<u>54</u>	MEMORANDUM in Opposition re <u>6</u> MOTION for Summary Judgment filed by Linnea Mirsch, St. Louis County. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Campanario, Nick) (Entered: 01/05/2017)
01/05/2017	<u>55</u>	MEMORANDUM in Opposition re <u>6</u> MOTION for Summary Judgment filed by Michael Johnson, St. Louis County School District. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Helmets, Trevor) (Entered: 01/05/2017)
01/05/2017	<u>56</u>	Declaration of Scott Hall in Support of <u>55</u> Memorandum in Opposition to Motion filed by Michael Johnson, St. Louis County School District. (Helmets, Trevor) (Entered: 01/05/2017)
01/05/2017	<u>57</u>	Declaration of Steve Sallee in Support of <u>55</u> Memorandum in Opposition to Motion filed by Michael Johnson, St. Louis County School District. (Helmets, Trevor) (Entered: 01/05/2017)
01/05/2017	<u>58</u>	Declaration of Michael Johnson in Support of <u>55</u> Memorandum in Opposition to Motion filed by Michael Johnson, St. Louis County School District. (Helmets, Trevor) (Entered: 01/05/2017)
01/05/2017	<u>59</u>	MEMORANDUM in Opposition re <u>6</u> MOTION for Summary Judgment filed by Fairview Health Services. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Davidson, William) (Entered: 01/05/2017)
01/05/2017	<u>60</u>	DECLARATION of William L. Davidson in Opposition to <u>59</u> Memorandum in Opposition to Motion filed by Fairview Health Services. (Davidson, William) (Entered: 01/05/2017)
01/05/2017	<u>61</u>	DECLARATION of Thomas Fink in Opposition to <u>59</u> Memorandum in Opposition to Motion filed by Fairview Health Services. (Davidson, William) (Entered: 01/05/2017)
01/05/2017	<u>62</u>	MEMORANDUM in Opposition re <u>6</u> MOTION for Summary Judgment filed by J.D.K.. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Ponto, Michael) (Entered: 01/05/2017)
01/05/2017	<u>63</u>	Declaration of E.J.K. in Support of <u>62</u> Memorandum in Opposition to Motion filed by J.D.K.. (Ponto, Michael) (Entered: 01/05/2017)
01/05/2017	<u>64</u>	MEMORANDUM in Opposition re <u>6</u> MOTION for Summary Judgment <i>Defendant Park Nicollet Health Services' Memorandum in Opposition to</i>

			<i>Plaintiff's Motion for Summary Judgment</i> filed by Park Nicollet Health Services. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Wilk, David) (Entered: 01/05/2017)
01/05/2017	<u>65</u>		RESPONSE in Opposition re <u>34</u> MOTION for Judgment on the Pleadings MOTION for Summary Judgment , <u>15</u> MOTION to Dismiss/General , <u>24</u> MOTION to Dismiss/General <i>Pursuant to F.R.C.P. 12(b)(6)</i> , <u>28</u> MOTION to Dismiss for Lack of Jurisdiction , <u>31</u> MOTION to Dismiss/General filed by Anmarie Calgaro. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Kaardal, Erick) (Entered: 01/05/2017)
01/05/2017	<u>66</u>		Declaration of Anmarie Calgaro in Support of <u>65</u> Response in Opposition to Motion, filed by Anmarie Calgaro. (Attachments: # <u>1</u> Exhibit(s) A)(Kaardal, Erick) Modified text on 1/6/2017 (ACH). (Entered: 01/05/2017)
01/05/2017	<u>67</u>		Declaration of Erick G. Kaardal in Support of <u>65</u> Response in Opposition to Motion, filed by Anmarie Calgaro. (Attachments: # <u>1</u> Exhibit(s) A, # <u>2</u> Exhibit(s) B, # <u>3</u> Exhibit(s) C, # <u>4</u> Exhibit(s) D)(Kaardal, Erick) (Entered: 01/05/2017)
01/12/2017	<u>68</u>		REPLY MEMORANDUM of Law in Support of Defendant Fairview Health Services' <u>28</u> Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) and Fed. R. Civ. P. 12(b)(6) filed by Fairview Health Services. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(De Medeiros, Joao) Modified on 1/12/2017 (KNK). Modified on 1/12/2017 (KNK). (Entered: 01/12/2017)
01/12/2017	<u>69</u>		Reply to Response to Motion re <u>34</u> MOTION for Judgment on the Pleadings MOTION for Summary Judgment filed by Linnea Mirsch, St. Louis County. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Campanario, Nick) (Entered: 01/12/2017)
01/12/2017	<u>70</u>		Reply to Response to Motion re <u>31</u> MOTION to Dismiss/General filed by Michael Johnson, St. Louis County School District. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Helmets, Trevor) (Entered: 01/12/2017)
01/12/2017	<u>71</u>		REPLY re <u>24</u> MOTION to Dismiss/General <i>Pursuant to F.R.C.P. 12(b)(6)</i> <i>Reply Memorandum of Law in Support of Motion to Dismiss</i> filed by J.D.K.. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Ponto, Michael) (Entered: 01/12/2017)
01/12/2017	<u>72</u>		REPLY re <u>42</u> Memorandum in Support of Motion <i>Reply in Further Support of Park Nicollet Health Services' Motion to Dismiss</i> filed by Park Nicollet Health Services. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Wilk, David) (Entered: 01/12/2017)
01/12/2017	<u>73</u>		REPLY re <u>46</u> Memorandum in Support of Motion filed by Anmarie Calgaro. (Attachments: # <u>1</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Kaardal, Erick) (Entered: 01/12/2017)
01/12/2017	<u>74</u>		Second Declaration of Anmarie Calgaro in Support of <u>73</u> Reply filed by Anmarie Calgaro. (Kaardal, Erick) (Entered: 01/12/2017)
01/12/2017	<u>75</u>		Second Declaration of Erick G. Kaardal in Support of <u>73</u> Reply filed by Anmarie Calgaro. (Attachments: # <u>1</u> Exhibit(s) E, # <u>2</u> Exhibit(s) F)(Kaardal,

		Erick) (Entered: 01/12/2017)
01/20/2017	76	TEXT ONLY ENTRY: NOTICE to Attorneys: At the Motion Hearing set for 1/26/2017 at 10:00 AM, each side will have 20 minutes total to argue any and all Motions before the Court. This includes any rebuttal time the parties may request. Defendants are responsible for divvying up their 20 minutes to argue each of their respective Motions. (JEP) (Entered: 01/20/2017)
01/26/2017	77	**TEXT ONLY ENTRY** Minute Entry for proceedings held before Senior Judge Paul A. Magnuson: Motion Hearing held on 1/26/2017 re <u>34</u> MOTION for Judgment on the Pleadings MOTION for Summary Judgment filed by Linnea Mirsch, St. Louis County, <u>15</u> MOTION to Dismiss/General filed by Park Nicollet Health Services, <u>24</u> MOTION to Dismiss/General Pursuant to F.R.C.P. 12(b)(6) filed by J.D.K., <u>28</u> MOTION to Dismiss for Lack of Jurisdiction filed by Fairview Health Services, <u>6</u> MOTION for Summary Judgment filed by Anmarie Calgaro, <u>31</u> MOTION to Dismiss/General filed by St. Louis County School District, Michael Johnson, argued, taken under advisement. Present: Erick Kaardal for Plaintiff; Nick Campanario, Paul Peterson, David Wilk, Trevor Helmers, Asaf Orr, and Michael Ponto for Defendants. Court time: 90 min. (Court Reporter Lori Simpson) (JEP) (Entered: 01/26/2017)
02/08/2017	<u>78</u>	ORDER for Settlement Conference: Settlement Conference set for 3/29/2017 10:00 AM in Courtroom 3 (DUL) before Magistrate Judge Leo I. Brisbois. Signed by Magistrate Judge Leo I. Brisbois on 2/8/17. (kt) (Entered: 02/08/2017)
02/10/2017	<u>79</u>	LETTER TO MAGISTRATE JUDGE by Anmarie Calgaro to Magistrate–Judge Leo I. Brisbois. (Kaardal, Erick) (Entered: 02/10/2017)
02/13/2017	<u>80</u>	AMENDED ORDER for Settlement Conference: Settlement Conference set for 3/27/2017 10:00 AM in Courtroom 3 (DUL) before Magistrate Judge Leo I. Brisbois. Signed by Magistrate Judge Leo I. Brisbois on 2/13/17. (kt) (Entered: 02/13/2017)
03/20/2017	<u>81</u>	LETTER TO MAGISTRATE JUDGE by Anmarie Calgaro . (Kaardal, Erick) (Entered: 03/20/2017)
03/22/2017	<u>82</u>	LETTER TO MAGISTRATE JUDGE by J.D.K. (E.J.K.). (Ponto, Michael) (Entered: 03/22/2017)
03/23/2017	<u>83</u>	SECOND AMENDED ORDER For Settlement Conference: Settlement Conference set for 5/9/2017 10:00 AM in Edward J. Devitt Courtroom (STP) before Magistrate Judge Leo I. Brisbois. Signed by Magistrate Judge Leo I. Brisbois on 3/23/17. (kt) (Entered: 03/23/2017)
05/09/2017	<u>84</u>	Minute Entry for proceedings held before Magistrate Judge Leo I. Brisbois: Settlement Conference held on 5/9/2017. (kt) (Entered: 05/09/2017)
05/23/2017	<u>85</u>	MEMORANDUM AND ORDER: IT IS HEREBY ORDERED that: 1. Calgaro's Motion for Summary Judgment <u>6</u> is DENIED; 2. Park Nicollet's Motion to Dismiss <u>15</u> is GRANTED; 3. E.J.K.'s Motion to Dismiss <u>24</u> is GRANTED; 4. Fairview's Motion to Dismiss <u>28</u> is GRANTED; 5. The School District's and Principal Johnson's Motion to Dismiss <u>31</u> is GRANTED; 6. St. Louis County's and Mirsch's Motion for Judgment on the Pleadings and Motion

		for Summary Judgment <u>34</u> are GRANTED; and 7. Calgaro's Complaint <u>1</u> is DISMISSED with prejudice. LET JUDGMENT BE ENTERED ACCORDINGLY. (Written Opinion) Signed by The Hon. Paul A. Magnuson on 05/23/2017. (LLM) (Entered: 05/23/2017)
05/23/2017	<u>86</u>	JUDGMENT (Attachments: # <u>1</u> Civil Notice – appeal)(ACH) (Entered: 05/23/2017)
06/06/2017	<u>87</u>	NOTICE OF APPEAL TO 8TH CIRCUIT as to <u>85</u> Order on Motion to Dismiss/General,, Order on Motion for Judgment on the Pleadings,, Order on Motion for Summary Judgment,,,,,,,,,,,,, Order on Motion to Dismiss/Lack of Jurisdiction,, by Anmarie Calgaro. Filing fee \$ 505, receipt number AMNDC-5544724. (Kaardal, Erick) (Entered: 06/06/2017)
06/07/2017	<u>88</u>	TRANSMITTAL OF APPEAL LETTER TO U. S. COURT OF APPEALS, 8TH CIRCUIT, Re: Notice of Appeal to 8th Circuit, <u>87</u> . (JDF) (Entered: 06/07/2017)

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Anmarie Calgaro,

Case No. 16-cv-3919 (PAM/LIB)

Plaintiff,

v.

MEMORANDUM AND ORDER

St. Louis County, Linnea Mirsch,
Fairview Health Services,
Park Nicollet Health Services,
St. Louis County School District,
Michael Johnson, and E.J.K.¹,

Defendants.

This matter is before the Court on Plaintiff Anmarie Calgaro's Motion for Summary Judgment, Defendants St. Louis County's and Linnea Mirsch's Motions for Judgment on the Pleadings and Summary Judgment, and Defendants Park Nicollet Health Services', Fairview Health Services', St. Louis County School District's, Michael Johnson's, and E.J.K.'s Motions to Dismiss. For the following reasons, Defendants' Motions are granted and Calgaro's Motion is denied.

BACKGROUND

E.J.K. is a 17-year-old transgender youth who identifies as female. (Compl. (Docket No. 1) ¶¶ 18, 32, 104, Ex. C.) She will turn 18 in less than two months. (Id. ¶ 3.) Calgaro is E.J.K.'s biological mother and has sole physical and joint legal custody of E.J.K. (Id. ¶¶ 3, 44.)

¹ Although referred to as J.D.K. in Calgaro's Complaint, the Court uses the name, initials, and pronouns consistent with E.J.K.'s female gender identity.

Sometime in 2015, E.J.K. moved out of Calgaro's home in St. Louis County, Minnesota and moved in with her biological father in St. Cloud. (Id. ¶¶ 3, 53.) Shortly thereafter, E.J.K. moved out of her father's home and began living with various family and friends. (Id. ¶ 53.) Since moving out of her father's home, E.J.K. has refused to move back in with Calgaro. (Id.) Calgaro claims that she has always offered a home to E.J.K. (Id. ¶ 50.)

E.J.K. currently lives on her own in St. Louis County. (Id. ¶ 18.) She attends the Cherry School in the St. Louis County School District (the "School District") and enrolled herself in post-secondary educational opportunities at a local college. (Id. ¶ 14.) On June 29, 2015, E.J.K. consulted a lawyer with Mid-Minnesota Legal Aid who provided her with a letter that concluded she was legally emancipated under Minnesota law. (Compl. Ex. A.) E.J.K. has never obtained a court order of emancipation. (Id. ¶ 38.)

Sometime before January 15, 2016, Park Nicollet and Fairview began providing E.J.K. with medical treatment for a gender transition to the female gender. (Id. ¶¶ 10, 12, Ex. C.) Calgaro alleges that St. Louis County is providing E.J.K. with general government assistance and paying for these medical services. (Id. ¶¶ 54, 102.) Sometime in 2016, Calgaro requested that Fairview and Park Nicollet provide her with E.J.K.'s medical records, but they refused. (Compl. ¶¶ 113, 114, 118.) Also in 2016, Calgaro requested that the School District allow her to participate in E.J.K.'s educational decisions and to have access to E.J.K.'s educational records, but the School District refused. (Id. ¶¶ 134, 135.)

On November 16, 2016, Calgaro filed this lawsuit against seven Defendants: (1) St. Louis County; (2) Linnea Mirsch, individually and in her official capacity as Interim Director of St. Louis County Public Health and Human Services; (3) Fairview; (4) Park Nicollet; (5) the School District; (6) Michael Johnson, individually and in his official capacity as Principal of the Cherry School (“Principal Johnson”); and (7) E.J.K. (collectively, “Defendants”). Calgaro is suing Defendants under [42 U.S.C. § 1983](#) for allegedly violating her Fourteenth Amendment procedural due process rights. Calgaro alleges that Defendants terminated her constitutionally protected parental rights without due process by determining E.J.K. emancipated without notifying her, providing E.J.K. with medical services and government assistance without Calgaro’s consent, and refusing to provide Calgaro with E.J.K.’s medical, governmental, and educational records.

Twelve days after filing a Complaint, Calgaro filed her Motion for Summary Judgment. Park Nicollet, Fairview, the School District, Principal Johnson, and E.J.K. each subsequently filed Motions to Dismiss. St. Louis County and Mirsch also filed a Motion for Judgment on the Pleadings and a Motion for Summary Judgment.

DISCUSSION

A. Motions to Dismiss and the Motion for Judgment on the Pleadings

To survive a motion to dismiss for failure to state a claim, a complaint “must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” [Ashcroft v. Iqbal](#), [556 U.S. 662, 678](#) (2009) (quoting [Bell Atl. Corp. v. Twombly](#), [550 U.S. 544, 570](#) (2007)); see also [Fed. R. Civ. P. 12\(b\)\(6\)](#). A claim bears facial plausibility when it allows the Court “to draw the reasonable inference that

the defendant is liable for the misconduct alleged.” Id. When evaluating a motion to dismiss, the Court must accept factual allegations as true, Gomez v. Wells Fargo Bank, N.A., 676 F.3d 655, 660 (8th Cir. 2012), but it need not give effect to those that simply assert legal conclusions, McAdams v. McCord, 584 F.3d 1111, 1113 (8th Cir. 2009). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements,” are insufficient to support a claim. Iqbal, 556 U.S. at 678. The same standard that applies to a motion to dismiss under Rule 12(b)(6) applies to a motion for judgment on the pleadings under Rule 12(c). Haney v. Portfolio Recovery Assocs., L.L.C., 837 F.3d 918, 924 (8th Cir. 2016) (per curiam).

1. Emancipation

Throughout her 229-paragraph Complaint, Calgaro repeatedly alleges that Defendants “determined [E.J.K.] emancipated.” (See, e.g., Compl. ¶ 138.) This allegation is distracting for two reasons. First, Defendants legally cannot emancipate E.J.K. In Minnesota, emancipation is an act of the parent and need not be in writing or in express words. In re Fiihr, 184 N.W.2d 22, 25 (Minn. 1971) (citation omitted). “Whether a child has been emancipated must be determined largely upon the peculiar facts and circumstances of each case and is ordinarily a question for the jury.” Id. Calgaro does not dispute this. (See Compl. ¶ 40 (“Minnesota courts recognize that [E.J.K.] as a minor child is not emancipated until a state court decides the minor child [E.J.K.] is emancipated.”).) Calgaro also admits that E.J.K. has not obtained a court order of emancipation. (Id. ¶ 38.) Defendants therefore did not emancipate E.J.K. and Calgaro continues to have sole physical and joint legal custody of E.J.K. Second, even

assuming Defendants determined E.J.K. emancipated—as the Court must do at this stage of the litigation—Defendants’ emancipation determinations did not terminate Calgaro’s parental rights. Only a court order can do so. Absent that, Calgaro’s parental rights over E.J.K. remain intact. The Court will therefore not further entertain Calgaro’s characterization of Defendants’ actions as “determining E.J.K. emancipated,” except when necessary to address one of Calgaro’s claims against St. Louis County.

2. Fairview and Park Nicollet

To state a claim under § 1983, Calgaro must establish that Fairview and Park Nicollet deprived her of a right secured by the Constitution or laws of the United States and that the deprivation was committed under color of state law. Am. Mfrs. Mut. Ins. Co. v. Sullivan, 526 U.S. 40, 49 (1999). Calgaro alleges that Fairview and Park Nicollet deprived her of her constitutionally protected parental rights without due process by providing E.J.K. with medical services without Calgaro’s consent and refusing to provide Calgaro with E.J.K.’s medical records. (Compl. ¶¶ 11, 13, 188, 197.) Fairview and Park Nicollet argue that they cannot be held liable under § 1983 because they did not act under color of state law. Fairview and Park Nicollet are correct.

“Section 1983 secures most constitutional rights from infringement by governments, not private parties.” Crumpley-Patterson v. Trinity Lutheran Hosp., 388 F.3d 588, 590 (8th Cir. 2004) (citation omitted). But private parties may be held liable when they act under color of state law. Id. (citation omitted). A private party acts under color of state law when they are a “willful participant in joint activity with the state.”

Magee v. Trustees of Hamline Univ., Minn., [747 F.3d 532, 536](#) (8th Cir. 2014) (quotations and citation omitted).

Fairview and Park Nicollet did not willfully participate in any joint activity with the state. Fairview and Park Nicollet are private, non-profit corporations that provide medical services to the public. Merely because they are extensively regulated by the state and receive state funding does not mean that they willfully participate in joint activity with the state. See Alexander v. Pathfinder, Inc., [189 F.3d 735, 740](#) (8th Cir. 1999). Likewise, merely because Fairview and Park Nicollet provided E.J.K. with medical services under Minn. Stat. § 144.341 does not mean they willfully participated in joint activity with the state. See Sullivan, [526 U.S. at 52](#) (“Action taken by private entities with the mere approval or acquiescence of the State is not state action.”). Because Fairview and Park Nicollet did not willfully participate in joint activity with the state, they did not act under color of state law. Calgaro therefore fails to state a claim against Fairview and Park Nicollet upon which relief can be granted.

3. The School District

Calgaro alleges that the School District deprived her of her constitutionally protected parental rights by not allowing Calgaro to participate in E.J.K.’s educational decisions and denying her access to E.J.K.’s educational records. (Compl. ¶¶ 14, 76, 134-38.) The School District argues that Calgaro has failed to plausibly allege that the execution of a School District policy or custom caused the deprivation of Calgaro’s parental rights. The School District is correct.

Local governmental bodies like the School District “may not be sued under § 1983 for an injury inflicted solely by its employees or agents.” Monell v. Dep’t of Soc. Servs. of City of N.Y., 436 U.S. 658, 694 (1978). It is only when “execution of a government’s policy or custom . . . inflicts the injury that the government as an entity is responsible under § 1983.” Id.

Calgaro fails to provide any facts that the School District executed a policy or custom that deprived Calgaro of her parental rights without due process. Instead, Calgaro merely states in conclusory fashion that “[t]he School District’s policies, customs, practices, or procedures (or lack of procedures), acting under the color of state law, were the moving force behind the constitutional violations.” (Compl. ¶ 15.) But the “mere invocation of the words ‘policies’ and ‘customs’ is insufficient to plead a Monell claim.” Rickmyer v. Browne, 995 F. Supp. 2d 989, 1030 (D. Minn. 2014) (Nelson, J.). Calgaro therefore fails to state a claim against the School District upon which relief can be granted.

4. Principal Johnson

Calgaro alleges that Principal Johnson also deprived her of her constitutionally protected parental rights by not allowing Calgaro to participate in E.J.K.’s educational decisions and denying her access to E.J.K.’s educational records. (Compl. ¶¶ 76, 136, 137.) Principal Johnson argues that he is entitled to qualified immunity. Principal Johnson is correct.

Qualified immunity applies unless the government official’s conduct “violated a clearly established constitutional right.” Pearson v. Callahan, 555 U.S. 223, 232 (2009).

The purpose of qualified immunity is to “give government officials breathing room to make reasonable but mistaken judgments about open legal questions.” Ashcroft v. al-Kidd, 563 U.S. 731, 743 (2011).

The Eighth Circuit has explicitly left open the question “whether and to what extent the fundamental liberty interest in the custody, care, and management of one’s children mandates parental access to school records.” Schmidt v. Des Moines Pub. Sch., 655 F.3d 811, 819 (8th Cir. 2011). The only other circuit to have ruled on this issue has held that a noncustodial parent does not have a protected liberty interest in receiving their children’s school records. Crowley v. McKinney, 400 F.3d 965, 968-71 (7th Cir. 2005). Because this existing precedent does not place the constitutional question “beyond debate,” Principal Johnson is entitled to qualified immunity. Ashcroft, 563 U.S. at 741.

5. St. Louis County

Calgaro alleges that St. Louis County deprived her of her constitutionally protected parental rights without due process by refusing to provide Calgaro with E.J.K.’s governmental records, providing E.J.K. with general government assistance without Calgaro’s consent, and providing E.J.K. with medical assistance without Calgaro’s consent. St. Louis County has moved for judgment on the pleadings regarding the general government assistance and governmental records claims. St. Louis County argues that Calgaro has failed to allege that a St. Louis County policy or custom deprived her of her parental rights without due process. St. Louis County is correct, but not exactly for the reasons it argues.

Like the School District, St. Louis County “may not be sued under § 1983 for an injury inflicted solely by its employees or agents.” Monell, 436 U.S. at 694. It is only when “execution of a government’s policy or custom . . . inflicts the injury that the government as an entity is responsible under § 1983.” Id. Furthermore, when a municipality is acting under compulsion of state or federal law, “it is the policy contained in that state or federal law, rather than anything devised or adopted by the municipality, that is responsible for the injury.” Bethesda Lutheran Homes & Servs., Inc. v. Leean, 154 F.3d 716, 718 (7th Cir. 1998). Although the Eighth Circuit has not decided whether to adopt this common-sense limitation on municipal liability under § 1983, see Slaven v. Engstrom, 710 F.3d 772, 781 n.4 (8th Cir. 2013), every circuit to have ruled on this issue has done so. See Vives v. City of New York, 524 F.3d 346, 353 (2d Cir. 2008) (collecting and analyzing cases).

St. Louis County provided E.J.K. with general government assistance under Minn. Stat. § 256D.03, which provides that every county “shall provide general assistance to persons residing within its jurisdiction who meet the need requirements of sections 256D.01 to 256D.21.” Minn. Stat. § 256D.03, subd. 1. St. Louis County argues that because it is required to provide general government assistance to E.J.K. under this statute, it is the policy of the state of Minnesota, rather than St. Louis County, that allegedly deprived Calgaro of her constitutionally protected parental rights without due process. But the state does not require St. Louis County to provide E.J.K. with general assistance.

Minn. Stat. 256D.03 requires St. Louis County to provide E.J.K. with general government assistance if she meets the need requirements of sections 256D.01 to 256D.21. E.J.K. meets those need requirements if she does not have adequate income and is “a child under the age of 18 who is not living with a parent, stepparent, or legal custodian, and only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal custodian” Minn. Stat. § 256D.05, subd. 1(a)(10). For purposes of this clause:

‘legally emancipated’ means a person under the age of 18 years who: (i) has been married; (ii) is on active duty in the uniformed services of the United States; (iii) has been emancipated by a court of competent jurisdiction; or (iv) is otherwise considered emancipated under Minnesota law, and for whom county social services has not determined that a social services case plan is necessary, for reasons other than the child has failed or refuses to cooperate with the county agency in developing the plan.

Id. As previously discussed, E.J.K. has not been emancipated by a Minnesota court. And the other three ways E.J.K. could be considered legally emancipated under the statute are likewise inapplicable. Thus, it is not the policy contained in the state law that is responsible for the alleged constitutional deprivation, rather it is St. Louis County’s decision to provide E.J.K. with general government assistance, although not required to do so, that allegedly deprived Calgaro of her constitutionally protected parental rights without due process.

This technicality, however, does not save Calgaro’s general assistance claim against St. Louis County. Calgaro still fails to allege any specific facts that St. Louis County has a policy or custom that provides non-emancipated minors with general government assistance in contradiction of state law. For example, Calgaro does not

allege that St. Louis County has ever provided general government assistance to a non-emancipated minor before doing so with E.J.K. Nor does Calgareo allege that St. Louis County has ever provided any individual with government assistance in contradiction with state law. Instead, Calgareo once again merely alleges in conclusory fashion that “St. Louis County’s policies, customs, practices, or procedures (or lack of procedures), acting under the color of state law, were the moving force behind the constitutional violations asserted in this Complaint.” (Compl. ¶ 5.) Such a conclusory allegation is insufficient to support Calgareo’s general government assistance claim against St. Louis County. See Rickmyer, 995 F. Supp. 2d at 1030. Calgareo’s claim concerning St. Louis County’s refusal to provide her with E.J.K.’s governmental records fails for the same reason.

6. Mirsch

Calgareo fails to state a claim against Mirsch upon which relief can be granted because Calgareo fails to allege that Mirsch was personally involved in depriving Calgareo of her parental rights without due process. To establish Mirsch’s personal liability under § 1983, Calgareo must allege “specific facts of personal involvement in, or direct responsibility for, a deprivation of [her] constitutional rights.” Clemmons v. Armontrout, 477 F.3d 962, 967 (8th Cir. 2007) (quotations and citation omitted). Calgareo utterly fails to do this.

Calgareo mentions Mirsch only twice in her Complaint. (Compl. ¶¶ 8-9.) Calgareo alleges that Mirsch is the interim director of the St. Louis County Health and Human Services Department and that she is the final decision- and policy-maker in the department. (Id. ¶ 8.) Calgareo also alleges that Mirsch is an agent, representative, or

employee of the department, and as such is acting under color of state law. (Id. ¶ 9.) These two general allegations do not come close to alleging specific facts of Mirsch's personal involvement in, or direct responsibility for, a deprivation of Calgaro's constitutional rights. Calgaro therefore fails to state a claim against Mirsch upon which relief can be granted.

7. E.J.K.

Calgaro stops short of making the absurd argument that E.J.K. deprived Calgaro of her parental rights without due process while acting under color of state law. Calgaro merely argues that E.J.K. is a required party who must be joined in the action because E.J.K. "claims an interest relating to the subject of the action and is so situated that disposing of the action may as a practical matter impair or impede the person's ability to protect the interest." Fed. R. Civ. P. 19(a)(1)(B)(i). Although E.J.K. likely is a required party under Rule 19, because Calgaro's claims against all other Defendants fail, any claims she might raise against E.J.K. are likewise dismissed.

B. Motions for Summary Judgment

Summary judgment should be granted "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). The moving party bears "the initial responsibility of informing the . . . court of the basis for its motion, and identifying those portions of the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, which it believes demonstrate the absence of a genuine issue of material fact." Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986) (internal quotations

omitted). Where the moving party makes such a showing, the burden shifts to the nonmoving party, who must demonstrate the existence of specific facts in the record that create a genuine issue for trial. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 256 (1986). A party opposing a properly supported motion for summary judgment may not rest upon mere allegations or denials and must do more than simply show that there is some metaphysical doubt as to the material facts. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986).

1. St. Louis County

St. Louis County moved for summary judgment on Calgaro's allegation concerning government assistance of medical payments because the state of Minnesota, not St. Louis County, provided E.J.K. with that assistance. (See Waldriff Decl. (Docket No. 39) ¶¶ 6-7.) Calgaro does not dispute this. In fact, Calgaro utterly fails to respond to St. Louis County's Motion for Summary Judgment. (See generally Pl.'s Opp'n Memo. (Docket No. 65).) This allegation is therefore deemed abandoned and summary judgment is appropriate. See Truong v. Hassan, No. 13cv2947, 2015 WL 2341979, at *7 (D. Minn. May 14, 2015) (Montgomery, J.) (considering state-law claims abandoned after plaintiff failed to respond in his opposition memorandum to defendant's summary judgment motion).

2. Calgaro

Because her claims are meritless, Calgaro is not entitled to summary judgment.

CONCLUSION

Calgaro has failed to plausibly allege any § 1983 claims against Defendants.

Accordingly, **IT IS HEREBY ORDERED that:**

1. Calgaro's Motion for Summary Judgment (Docket No. 6) is **DENIED**;
2. Park Nicollet's Motion to Dismiss (Docket No. 15) is **GRANTED**;
3. E.J.K.'s Motion to Dismiss (Docket No. 24) is **GRANTED**;
4. Fairview's Motion to Dismiss (Docket No. 28) is **GRANTED**;
5. The School District's and Principal Johnson's Motion to Dismiss (Docket No. 31) is **GRANTED**;
6. St. Louis County's and Mirsch's Motion for Judgment on the Pleadings and Motion for Summary Judgment (Docket No. 34) are **GRANTED**; and
7. Calgaro's Complaint (Docket No. 1) is **DISMISSED with prejudice**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: May 23, 2017

s/ Paul A. Magnuson

Paul A. Magnuson
United States District Court Judge

UNITED STATES DISTRICT COURT

District of Minnesota

Anmarie Calgaro,

JUDGMENT IN A CIVIL CASE

Plaintiff,

v.

Case Number: 16-cv-3919 (PAM/LIB)

St. Louis County,
Linnea Mirsch, individually and in her
official capacity as Interim Director of
St. Louis County Public Health and
Human Services,
Fairview Health Services, a Minnesota
nonprofit corporation,
Park Nicollet Health Services, a
nonprofit corporation,
St. Louis County School District,
Michael Johnson, individually and in his
official capacity as Principal of the
Cherry School, St. Louis County School
District,
E.J.K.,

Defendant(s).

Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED THAT:

1. Calgaro's Motion for Summary Judgment (Docket No. 6) is DENIED;
2. Park Nicollet's Motion to Dismiss (Docket No. 15) is GRANTED;
3. E.J.K.'s Motion to Dismiss (Docket No. 24) is GRANTED;
4. Fairview's Motion to Dismiss (Docket No. 28) is GRANTED;
5. The School District's and Principal Johnson's Motion to Dismiss (Docket No. 31)

is GRANTED;

6. St. Louis County's and Mirsch's Motion for Judgment on the Pleadings and Motion for Summary Judgment (Docket No. 34) are GRANTED; and
7. Calgaro's Complaint (Docket No. 1) is DISMISSED with prejudice.

Date: 5/23/2017

RICHARD D. SLETTEN, CLERK

s/Amy Halverson

(By) Amy Halverson, Deputy Clerk



UNITED STATES DISTRICT COURT District of Minnesota

Warren E. Burger
Federal
Building and U.S.
Courthouse
316 North Robert Street,
Suite 100
St. Paul, MN 55101
(651) 848-1100

U.S. Courthouse
300 South Fourth Street
Suite 202
Minneapolis, MN 55415
(612) 664-5000

Gerald W. Heaney
Federal Building and
U.S. Courthouse
and Customhouse
515 West First Street,
Suite 417
Duluth, MN 55802
(218) 529-3500

Edward J. Devitt U.S.
Courthouse and Federal
Building
118 South Mill Street,
Suite 212
Fergus Falls, MN 56537
(218) 739-5758

CIVIL NOTICE

The appeal filing fee is \$505.00. If you are indigent, you can apply for leave to proceed in forma pauperis, ("IFP").

The purpose of this notice is to summarize the time limits for filing with the District Court Clerk's Office a Notice of Appeal to the Eighth Circuit Court of Appeals or the Federal Circuit Court of Appeals (when applicable) from a final decision of the District Court in a civil case.

This is a summary only. For specific information on the time limits for filing a Notice of Appeal, review the applicable federal civil and appellate procedure rules and statutes.

Rule 4(a) of the Federal Rules of Appellate Procedure (Fed. R. App. P.) requires that a Notice of Appeal be filed within:

1. Thirty days (60 days if the United States is a party) after the date of "entry of the judgment or order appealed from;" or
2. Thirty days (60 days if the United States is a party) after the date of entry of an order denying a timely motion for a new trial under [Fed. R. Civ. P. 59](#); or
3. Thirty days (60 days if the United States is a party) after the date of entry of an order granting or denying a timely motion for judgment under [Fed. R. Civ. P. 50\(b\)](#), to amend or make additional findings of fact under [Fed. R. Civ. P. 52\(b\)](#), and/or to alter or amend the judgment under [Fed. R. Civ. P. 59](#); or
4. Fourteen days after the date on which a previously timely Notice of Appeal was filed.

If a Notice of Appeal is not timely filed, a party in a civil case can move the District Court pursuant to [Fed. R. App. P. 4\(a\)\(5\)](#) to extend the time for filing a Notice of Appeal. This motion must be filed no later than 30 days after the period for filing a Notice of Appeal expires. If the motion is filed after the period for filing a Notice of Appeal expires, the party bringing the motion must give the opposing parties notice of it. The District Court may grant the motion, but only if excusable neglect or good cause is shown for failing to file a timely Notice of Appeal.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
16-CV-3919 PAM/LIB

Anmarie Calgaro,

Plaintiff/Appellant,

vs.

St. Louis County; Linnea Mirsch, individually and in her official capacity as Interim Director of St. Louis County Public Health and Human Services; Fairview Health Services, a Minnesota nonprofit corporation; Park Nicollet Health Services, a nonprofit corporation; St. Louis County School District; and Michael Johnson, individually and in his official capacity as Principal of the Cherry School, St. Louis County School District,

Defendants/Respondents.

NOTICE OF APPEAL

Notice is given to all named Defendants in the instant matter that the Plaintiff Anmarie Calgaro appeal to the United States Court of Appeals for the Eighth Circuit from the final judgment entered on May 23, 2017. The judgment adjudicated all claims as to all parties.

Dated: June 6, 2017

/s/Erick G. Kaardal
Erick G. Kaardal, 229647
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, Minnesota 55402
Telephone: 612-341-1074
Facsimile: 612-341-1076
Email: kaardal@mklaw.com
Attorneys for Plaintiff



UNITED STATES DISTRICT COURT District of Minnesota

Richard D. Sletten, Clerk
Tricia M. Pepin, Chief Deputy Clerk

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Fergus Falls, MN 56537
(218) 739-5758

TRANSMITTAL OF APPEAL

Date: June 7, 2017

To: U.S. COURT OF APPEALS, 8TH CIRCUIT

From: J. Dunbar Fannemel, U.S. District Court-Minnesota

In Re: District Court Case No.: 16-cv-3919 PAM/LIB
Eighth Circuit Case No.: Unassigned
Case Title: Calgaro v. St. Louis County et al

The statutory filing fee has:

been paid, receipt number: AMNDC-5544724

not been paid as of Add date

IFP is is not pending

been waived because:

Application for IFP granted

USA filed appeal

Length of Trial: Enter the number of days days

Was a court reporter utilized? Yes No

If yes, please identify the court reporter:

Name: Lori Simpson

Address: 316 North Robert Street
St. Paul, MN 55101

Phone: 651-848-1225

Original file(s) consisting of Enter # file(s) and Enter # expandables.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
16-CV-3919 PAM/LIB

Anmarie Calgaro,

Plaintiff/Appellant,

vs.

St. Louis County; Linnea Mirsch, individually and in her official capacity as Interim Director of St. Louis County Public Health and Human Services; Fairview Health Services, a Minnesota nonprofit corporation; Park Nicollet Health Services, a nonprofit corporation; St. Louis County School District; and Michael Johnson, individually and in his official capacity as Principal of the Cherry School, St. Louis County School District, and E.J.K.,

Defendants/Respondents.

AMENDED NOTICE OF APPEAL

Notice is given to all named Defendants in the instant matter that the Plaintiff Anmarie Calgaro appeal to the United States Court of Appeals for the Eighth Circuit from the final judgment entered on May 23, 2017. The judgment adjudicated all claims as to all parties.

Dated: June 9, 2017

/s/Erick G. Kaardal
Erick G. Kaardal, 229647
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, Minnesota 55402
Telephone: 612-341-1074
Facsimile: 612-341-1076
Email: kaardal@mklaw.com
Attorneys for Plaintiff