

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STACY BAILEY,	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO. 3:18-CV-01161-L
MANSFIELD INDEPENDENT	§	
SCHOOL DISTRICT and	§	
DR. JIM VASZAUSKAS,	§	
	§	
Defendants.	§	

JOINT STATUS REPORT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE SAM A. LINDSAY:

COME NOW, the parties to the above action, who conferred on December 6, 2019 pursuant to the Court's November 22, 2019, Order Requiring Attorney Conference and Status Report. Plaintiff and Defendants hereby submit their Joint Status Report, and respectfully show the Court as follows:

(1) A brief statement of the nature of the case, including the contentions of the parties.

Plaintiff's contentions:

Plaintiff is a longtime teacher who asserts she was suspended and transferred because of her sexual orientation and not given the opportunity to address any allegations Defendants made against her. Plaintiff seeks all remedies for constitutional violations as provided by 42 U.S.C. § 1983 and declaratory relief for violations of the Texas Constitution.

Defendants' contentions:

Defendants deny taking any actions against Plaintiff because of her sexual orientation and deny discriminating against Plaintiff under 42 U.S.C. § 1983, or the Texas Constitution.

Defendants further deny that Plaintiff was not given an opportunity to address any allegations which had been made against her by parents or students of the District. Defendants assert that Defendant Dr. Jim Vaszauskas is entitled to qualified immunity, and should be dismissed from this action.

(2) Any challenge to jurisdiction or venue.

Defendants have challenged jurisdiction against Defendant Vaszauskas by virtue of qualified immunity. That issue is on appeal. Defendants further assert that Plaintiff has failed to state a cause of action against the Defendants.

(3) Any pending or contemplated motions and proposed time limits for filing motions.

Defendants will file a Motion to Stay the proceedings until the conclusion of the Interlocutory Appeal filed by Defendant Dr. Jim Vaszauskas.

The parties both contemplate filing dispositive motions. Subject to the Court's ruling on Defendants' Motion to Stay, the proposed deadline July 20, 2020.

The parties may ask the Court for Protective Orders. It is anticipated that a Protective Order may be needed concerning Plaintiff's counseling records and personnel files. It is also anticipated that a Protective Order may be needed to protect the confidentiality of student information under the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g.

The parties believe that any such motions will be filed prior to July 20, 2020, if the trial date is set as contemplated by the dates in this report.

(4) Any matters which require a conference with the court.

No such matters are known at this time.

(5) Likelihood that other parties will be joined and that the deadline for adding parties and amendment of pleadings.

The parties do not believe that any other parties will need to be added.

Deadline for adding parties February 28, 2020.

Deadline for amending pleadings June 5, 2020.

(6) (a) An estimate of time needed for discovery, with reasons, (b) a specification of the discovery contemplated, and (c) limitations, if any, that should be placed on discovery. If these matters are specifically addressed in the proposed discovery plan, the parties need not address them here.

Subject to the Court's ruling on Defendants' Motion to Stay, the parties believe discovery could be completed by June 6, 2020. Should the Court deny Defendants' Motion, the dates discussed with Plaintiff's counsel would be reasonable, although resolution of the Interlocutory Appeal may require a request to the Court at a later date to extend discovery further.

Plaintiff anticipates conducting discovery including depositions, interrogatories, and request for production regarding Plaintiff's employment history, facts and circumstances around Defendants' suspension of Plaintiff, other employees of Defendant Mansfield Independent School District who feel that they been discriminated against because of their sexual orientation, similarly situated employees to the Plaintiff who engaged in activities without consequence for which Plaintiff was disciplined, Plaintiff's damages, and other related issues to Plaintiff's claims.

As to the discovery contemplated, counsel for Plaintiff has proposed doing a Federal Rule of Civil Procedure 30(b)(6) deposition of a representative of Defendant Mansfield Independent School District. Because the Superintendent, Dr. Jim Vaszauskas, would be the most logical representative of the District for such a deposition, Defendants believe that deposition would require discovery regarding individual claims against Defendant Vaszauskas at a time when his Interlocutory Appeal is still pending. Defendants believe that this proposed deposition therefore

should be stayed until the resolution of the Appeal, or in the alternative, that no discovery should be conducted regarding allegations against Defendant Dr. Jim Vaszauskas until after his appeal has been concluded.

In accordance with the Court's hold in *Harris v. City of Balch Springs*, 33 F.Supp.3d 730, 731-34 (N.D. Tex. 2014), Plaintiff asserts that a stay of discovery is not appropriate.

Defendants believe that it is likely that depositions, interrogatories, and requests for production will be needed from the parties to the lawsuit. Possible depositions include counselors or doctors regarding Plaintiff's mental anguish claims; other teachers, beside the Plaintiff, who believe the District has, or has not, discriminated against Plaintiff or other employees of the District on the basis of sexual orientation; and witnesses regarding statements made by Plaintiff in her classroom which led to the District's investigation against Plaintiff.

(7) A statement that counsel have read the Dondi decision, 121 F.R.D. 284 (N.D. Texas 1988), and that counsel have read and are familiar with the district's Civil Justice Expense and Delay Reduction Plan as amended in May 2002.

The parties have read the Dondi decision and have read the district's Civil Justice Expense and Delay Reduction Plan.

(8) Requested trial date, estimate length of trial, and whether jury has been demanded.

Plaintiff demanded a jury trial in this case.

Subject to the Court's ruling on Defendants' Motion to Stay, and the conclusion of Defendant Dr. Jim Vaszauskas' Interlocutory Appeal, the parties request trial in December 2020. Trial should last no more than 4 days.

In the event that the Fifth Circuit Court of Appeals has not rendered a decision regarding the Interlocutory Appeal of Dr. Jim Vaszauskas by the December 2020 trial date which was

discussed in the scheduling conference, Defendants would ask the Court to set the trial date after resolution of the Interlocutory Appeal.

- (9) **Whether the parties will consent to trial (Jury or non-jury) before a United States Magistrate Judge Renee Harris Toliver per 28 U.S.C.A. § 636(c). The parties are to simply state that they consent or do not consent to trial before the magistrate judge. The court does not wish to know the identity of the party refusing to consent. See Fed. R. Civ. P. 73(b).**

The parties will not consent to trial to Magistrate Judge Renee Harris Toliver.

- (10) **Prospects of settlement, and status of any settlement negotiations.**

The parties are exploring resolution.

- (11) **Whether the parties will agree to mediation or to other alternative dispute resolution, and when it would be most effective (before discovery, after limited discovery, at the close of discovery).**

The parties are discussing the possibility of early mediation. Two prospective mediators are agreeable to both parties. The parties will attempt to schedule mediation in the near future.

The parties agree mediation would be most productive before discovery.

- (12) **Any other matters relevant to the status and disposition of this case.**

The parties have agreed that Defendants will file their answer by January 17, 2020.

Dated this 20th day of December, 2019

Respectfully submitted,

/s/ JASON C.N. SMITH
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