

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

BETHEL MINISTRIES, INC.,

*

Plaintiff,

*

v.

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No. 1:19-cv-01853-SAG

DR. KAREN B. SALMON, ET AL.,

*

Defendants.

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REPORT PURSUANT TO INITIAL SCHEDULING ORDER

Pursuant to the Court's January 31, 2020 Initial Scheduling Order, the parties have conferred and report the following:

1) **Deposition Hours:** The parties could not agree on deposition hours, but submit the following positions:

Plaintiff's Position: Plaintiff proposes that each side follow Fed. R. Civ. P. 30(a)(2)(A) and limit the number of depositions to 10, with each one lasting no more than 7 hours each in accordance with Fed. R. Civ. P. 30(d)(1). This 70-hour total would include depositions of experts, non-parties, and 30(b)(6) witnesses.

The requested time is reasonable considering that possible deponents include Matthew Gallagher and other members of the seven-person BOOST advisory board (ECF No. 41 at 3-7, 19, 21; ECF No. 1 at 4, 11-16); Donna Gunning, Monica Kearns, and a representative of the Maryland State Department of Education (ECF No. 41 at 3-6, 10, 17, 21; ECF No. 1 at 10-14); a representative of the Maryland Parent Teacher Association (ECF No. 41 at 4, 24; ECF No. 22-1; ECF No. 1 at 11); other schools associated with the

BOOST program (ECF No. 41 at 20, 27; ECF No. 1 at 11); and other witnesses identified through the course of discovery.

Deposition testimony is needed on a number of areas, including but not limited to, the origins of Defendants' investigation into school handbooks (ECF No. 41 at 24), Defendants' communications with and actions taken in response to the Maryland Parent Teacher Association's recommendations (ECF No. 41 at 24), Defendants' attempts to verify Bethel's compliance with the nondiscrimination requirement (ECF No. 41 at 24), Defendants' investigations of other schools that agreed to change their handbook language (ECF No. 41 at 24), Defendants' treatment of nonreligious schools with respect to enforcement of the nondiscrimination provision (ECF No. 41 at 27), and the various communications between each of these parties and non-parties to the lawsuit. To be clear, Plaintiff does not anticipate using all of its proposed time but does not want to waive the right to do so based on what is disclosed in discovery.

Defendants' Position: Defendants believe that 15 hours of depositions of fact witnesses per side is sufficient and that 70 hours sought by plaintiff is excessive and unwarranted. Any need for discovery of further facts in this case is narrow because the defendants have made multiple recorded statements directly relevant to the decisions at issue in the complaint, ECF 1. All parties relied on these statements in earlier phases of this case. *E.g.*, ECF 16-1, 17, 18. Plaintiff's explanation of its need for deposition testimony illustrates the necessity of a reasonable hours cap in this case. Plaintiff has listed numerous non-parties, including other school participants and organizations of

limited resources, whose knowledge is of remote relevance or is duplicative of the documentary evidence or testimony of other fact witnesses.

2) **Magistrate judge:** There is not unanimous consent to proceed before a magistrate judge.

3) **Early Dispute Resolution:** The parties do not request an early settlement/ADR conference.

4) **Electronically Stored Information:** The parties conducted their initial conference regarding electronically stored information on February 10, 2020.

5) **Initial Disclosures:**

Plaintiff's Position: Plaintiff understands the Court has stated Rule 26(a)(1) disclosures need not be made. However, because Plaintiff believes the parties would benefit from the exchange of such information, it requests that the parties be ordered to produce Rule 26(a)(1) disclosures within 2 weeks of the signing of any revision to the Scheduling Order.

Defendants' Position: Defendants object to the inclusion of any statement regarding initial disclosures in this report. Requests for modifications to the Court's January 31, 2020 Order under Rule 26(a)(1)(A) must be made by motion. Defendants do not join in or consent to any modification of the January 31, 2020 Order regarding initial disclosures.

Respectfully submitted this 14th day of February, 2020.

By: /s/ John R. Garza

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(by permission of Sarah W. Rice)

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CERTIFICATE OF SERVICE

I certify that on this 14th day of February, 2020, the foregoing was served by CM/ECF on all registered CMF users.

By: /s/ John R. Garza

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