

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

BETHEL MINISTRIES, INC.,)

Plaintiff,)

v.)

Case No. 1:19-cv-01853-SAG

DR. KAREN B. SALMON, et al.)

Defendants.)

**PLAINTIFF’S RESPONSE IN OPPOSITION
TO DEFENDANTS’ MOTION TO STAY**

INTRODUCTION

Defendants expelled Bethel Christian Academy from Maryland’s BOOST program for more than two years because a State Board unjustly conflated Bethel’s deeply held religious beliefs with discriminatory behavior. Even though Bethel never violated the law, it continues to suffer irreparable harm as a result of Maryland’s wrongful actions. The school suffers a significant competitive disadvantage against other schools because students from financially vulnerable families cannot afford to forego BOOST’s promise of free tuition. As a result, Bethel’s has lost dozens of former and prospective students to other schools. And each lost student is a lost ministry opportunity—an especially significant harm for this church-run school. The expulsion has not only forced Bethel to make significant budget cuts, but it harms the students and families who have become part of Bethel’s loving community and who have benefitted from its ministry.

Now Defendant wants to stay these proceedings and delay Bethel’s access to justice because the United States Supreme Court granted certiorari in another case that raises religious

liberty claims, *Fulton v. City of Philadelphia*, No. 19-123.¹ But a stay for the purpose of seeing what happens in *Fulton* will likely require Bethel to wait for more than a year for any potential relief. *See* Def.’s Mem. in Supp. of Mot. to Stay at 7, ECF 49-1 (acknowledging that an opinion in *Fulton* could appear “at the end of June, 2021.”). And Defendant would allow Bethel to continue to suffer just for the speculative possibility that the Supreme Court’s opinion might implicate some of the issues here. This Court should reject Defendants’ motion because a stay will exacerbate and prolong the harm that Bethel is suffering, this case’s circumstances significantly differ from those in *Fulton*, and a stay will not significantly serve the purposes of judicial economy.

BACKGROUND

Bethel Christian Academy participated in Maryland’s Broadening Options and Opportunities for Students Today (BOOST) program without incident for two years, providing financially vulnerable students with a loving and excellent educational environment. Compl. at ¶¶ 4–5, ECF 1. BOOST provides state-funded tuition to students from low-income families. *Id.* at ¶ 62. The tuition vouchers belong to the students, who (with their families) decide where to attend school. The state statute that establishes the BOOST program includes a non-discrimination requirement. *Id.* at ¶ 67. And during the years that Bethel participated in BOOST, the statute required BOOST schools to sign assurances that confirmed to the state that the schools did not discriminate on the basis of sexual orientation in admissions. *Id.* at ¶ 67. Bethel never discriminated against a student on the basis of sexual orientation and it never will. *Id.* at ¶ 7. Bethel consequently signed assurances for the two school years that it participated in the program. *Id.* at ¶¶ 87, 178.

¹ *Fulton* asks the Supreme Court to revisit its seminal Free Exercise Clause case, *Employment Division v. Smith*, 494 U.S. 872 (1990).

Without any complaint of discrimination, the State collected participating schools' student handbooks to search for what they deemed discriminatory policies. *Id.* at ¶ 94. Bethel's student handbook openly and transparently articulated the school's religious beliefs on a variety of topics. *Id.* at ¶ 167. It also articulated Bethel's religiously-informed beliefs on the nature of marriage and biological sex. *Id.* at ¶¶ 48, 49, 167. Defendants then asked for clarifications of Bethel's admissions policies and procedures and, in response, Bethel stated multiple times that the school does not discriminate in student admissions. *Id.* at ¶¶ 103, 104, 118; Decl. of Claire Dant in Supp. of Pl.'s Mot. for Prelim. Inj. at ¶ 26–27, ECF 19-3.

Ultimately, the Maryland State Department of Education and BOOST Board unjustly conflated Bethel's beliefs about marriage and biological sex with discriminatory conduct. Compl. at ¶¶ 102, 112, 134. Defendants kicked Bethel out of the BOOST program for two years (the 2018–19 and 2019–20 school years), kicked Bethel out of the Textbooks and Technology Program, and kicked Bethel out of the Aging Schools Program. *Id.* at ¶¶ 12–13, 147. Defendants informed Bethel that it could potentially participate in the BOOST program if it altered its handbook to remove the “problematic” language—the portions expressing Bethel's religious and moral beliefs about marriage and biological sex. *Id.* at ¶¶ 110, 140–41. But Bethel declined. Months after kicking Bethel out of BOOST, Defendants sent Bethel a letter demanding over \$100,000 of the tuition funds Bethel received for the 2016–17 and 2017–18 school years—even though Bethel never discriminated against any student and the school had loved and served every student who learned there. *Id.* at ¶ 136.

Kicking Bethel out of the BOOST program irreparably damaged the school, its students, and their families. Pl.'s Mem. of Law in Supp. of Mot. for Prelim. Inj. at 15, ECF 19-1. Despite Bethel's best efforts to provide scholarships or financial assistance for its students, Defendants

forced at least 9 students from low income families to find another school because they could no longer use their tuition vouchers at Bethel. Compl. at ¶¶ 144–45; Pl.’s Mem. of Law at 15, 34–35. Bethel has also lost at least 22 prospective students due to its expulsion from BOOST. Pl.’s Mem. of Law at 5. The true total number of students lost because of Bethel’s expulsion from BOOST is likely much higher. Some parents worked multiple jobs in an attempt to avoid moving their child out of Bethel’s loving environment. And the harm to Bethel continues. Bethel suffers because each lost student is a lost ministry opportunity for this church-run school. *Id.* at 5. Defendants also caused Bethel to suffer significant financial damage when they kicked Bethel out of the BOOST, Aging Schools, and the Textbooks and Technology programs. *Id.* at 15. Bethel had to forego hiring teachings, backfilling positions, and updating educational equipment as a result of this harm. *Id.*

After months of unsuccessful attempts to resolve this dispute, Bethel filed suit. *See* Compl. And now, after the Court’s ruling on various motions, the parties are engaged in discovery. In fact, Defendants sent written discovery requests to Bethel the same day it filed its Motion to Stay.

ARGUMENT

Defendants seek a stay in this case because the Supreme Court’s decision to hear *Fulton* next term “may result” in changes to the law that *might* impact this case. *See* Defs.’ Mem. at 1. But in the same breath, Defendants concede that “*Fulton v. City of Philadelphia* may not resolve all factual and legal questions presented by Bethel here[.]” *Id.* Like the inconsistency in its briefing, Defendants’ act of issuing discovery and their inability to meet the requisite standard underscores the need for denial of the motion. *See* Ex. A.

Although stay of proceedings is a power inherent in this Court’s authority, *see Landis v. N. Am. Co.*, 299 U.S. 248, 254–55 (1936), “proper use of this authority ‘calls for the exercise of judgment which must weigh competing interests and maintain an even balance.’” *Williford v.*

Armstrong World Indus., Inc., 715 F.2d 124, 127 (4th Cir. 1983) (citation omitted). “[T]he court must consider the length of the requested stay, the hardship that . . . the movant would face if the motion were denied, the burden a stay would impose on the nonmovant, and whether the stay would promote judicial economy by avoiding duplicative litigation.” *Hunt Valley Baptist Church, Inc. v. Baltimore Cty., Md.*, No. ELH-17-804, 2018 WL 1570256, at *2 (D. Md. Mar. 29, 2018) (internal quotation and citation omitted).

Defendants have not met their burden. “The party seeking a stay must justify it by clear and convincing circumstances outweighing potential harm to the party against whom it is operative.” *Williford*, 715 F.2d at 127–128 (rejecting stay even though it would result in “piecemeal litigation” and “certain . . . claims may need to be relitigated.”). The party moving for a stay “must make out a clear case of hardship or inequity in being required to go forward, if there is even a fair possibility that the stay for which he prays will work damage to some one else.” *Landis*, 299 U.S. at 255. *See Klein v. Adams & Peck*, 436 F.2d 337, 339 (2d Cir. 1971) (“The right to proceed in court should not be denied except under the most extreme circumstances.”). In sum, three reasons demonstrate why Defendants cannot satisfy this high standard.

I. A Stay of Proceedings for Over a Year Will Severely Harm Bethel, But Defendants Face No Harm in Continuing to Litigate.

“The loss of First Amendment freedoms, even for minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976). This Court stated that the parties needed to develop the factual record to evaluate Bethel’s claims. Op. Denying Pl.’s Mot. for Prelim. Inj. at 17, 20, 23–24, 27. By staying this case, Defendants would prolong the constitutional harm Bethel suffers and effectively enjoin Bethel from vindicating its rights. 11A Wright & Miller, Fed. Prac. & Proc. § 2962 (3d ed. 2019) (“A stay has the same practical effect as an injunction because it prohibits the parties from going forward in the action.”)

Bethel's enrollment has suffered significantly since Defendants' actions. Dant Decl. at ¶ 43, ECF 19-3. As a church-run ministry, each lost student represents a lost ministry opportunity—a lost chance to for Bethel to exercise its religion. Compl. at ¶¶ 1–2. Defendants' actions resulted in the loss of (at least) dozens of former and prospective students. *Supra* at 3. And the school will likely lose more. Dant Decl. at ¶¶ 42–43, ECF 19-3. Bethel now suffers a competitive disadvantage because it is not allowed to participate in BOOST while other schools regularly do so. Bethel must also absorb the costs associated with the lost funding. *Id.* at ¶¶ 36–37. Although the State claims that Defendants will not attempt to collect the clawback of more than \$100,000 for the duration of this litigation, it has not promised it will not pursue the money once this litigation has concluded, and the uncertainty of this liability impacts the school's ability to budget.

What's more, the Supreme Court will not hear *Fulton* until next term.² As Defendants recognize, this means that the parties in this case cannot expect any *Fulton*-related guidance from the Supreme Court until more than a year from now. *See* Defs.' Mem. at 7. Therefore, if this Court were to grant Defendants' motion, it would mean that Bethel would continue to suffer irreparable, financial, and constitutional harm for more than a year while the parties wait to see how *Fulton* comes out. *Doe v. Bayer Corp.*, 367 F.Supp.2d 904, 916 (M.D.N.C. Mar. 25, 2005) (denying stay because “it could be prejudicial to Plaintiffs if they are forced to wait unknown months or years for a resolution of their claims.”); *Int'l Refugee Assistance Project v. Trump*, 323 F. Supp. 3d 726, 735 (D. Md. 2018) (granting stay to wait merely two months for Supreme Court decision where party challenges same executive action against same defendant and where stay would not

² The Court announced that it will delay oral arguments for the current term on March 16, 2020. It is unclear whether these current delays will impact the Court's work in the following term, including its consideration of *Fulton*.

meaningfully prejudice plaintiff).

In contrast to the significant damage a stay will cause Bethel, Defendants fail to articulate any substantial harm they face by proceeding with this litigation. Defendants face nothing procedurally extraordinary and they can only identify the speculative “hardship” of (maybe) having to eventually submit additional briefing. Defs.’ Mem. at 6-7; *Landis*, 299 U.S. at 255 (party moving for a stay “must make out a clear case of hardship or inequity . . . if there is even a fair possibility that the stay for which he prays will work damage to some one else.”). Even if that potential inconvenience came to fruition, Defendants are represented by the State of Maryland’s attorneys and they have the State’s resources to defend their case. *Int’l Refugee Assistance Project*, 323 F. Supp. 3d at 735 (“unlike certain private parties, the Government has the resources to litigate without significant hardship or prejudice.”). This is not a case with overlapping parties, facts, or claims. *Branch Banking & Tr. Co. v. Fishing Vessel TOPLESSS*, No. ELH-12-2364, 2012 WL 6019288, at *5 (D. Md. Nov. 29, 2012) (denying stay where two cases involved same plaintiff and overlapping facts and claims). Nor is this a case where Defendants could be exposed to inconsistent rulings or judgments in other litigation. *Davis v. Biomet Orthopedics, LLC*, No. 12-3738-JKB, 2013 WL 682906, at *2 (D. Md. Feb. 22, 2013) (granting stay where inconsistent rulings possible for defendant in multi-district litigation). Defendants have failed to demonstrate that keeping this case on course will cause them a clear hardship, that a “pressing need” for a stay exists, or that “extreme circumstances” justify delaying Bethel’s right to proceed with its claims. *Hunt Valley Baptist Church, Inc.* 2018 WL 1570256, at *2; *Williford*, 715 F.2d at 127; *Klein*, 436 F.2d at 339.

II. Defendants Overstate Fulton’s Potential Impact on Bethel’s claims.

There is no certainty that *Fulton* will provide guidance sufficient to completely resolve this dispute. Moreover, Bethel has raised numerous other claims, in addition to Free Exercise. Delaying this case because it *might* implicate one claim delays Bethel’s access to justice for its other claims.

First, the facts and circumstances present in *Fulton* significantly differ from this case. Unlike *Fulton*, Bethel complied with the law at issue. Compl. at ¶ 7. In *Fulton*, Catholic Social Services stated that its religious beliefs would not allow it to comply with the City’s policy. Pet. for Cert. at 6. Here, Bethel never violated Maryland’s law because it never discriminated in admissions. Compl. at ¶ 7. The BOOST board kicked Bethel out of the program because it unjustly conflated Bethel’s religious beliefs with the act of discrimination. *Id.* at ¶ 8. What’s more, in *Fulton*, plaintiffs challenge the City’s ability to use its rules to keep Catholic Charities from providing foster care services altogether. Pet. for Cert. at 9–16. The *Fulton* case involves factual issues specific to the City’s contractual agreements with its foster care providers and questions about how to properly interpret the City’s code with respect to government contracts. *Id.* at 14–15. There is no guarantee that the Court will revisit *Smith* or change the standard for Free Exercise claims. The Court may resolve *Fulton* with an opinion limited to that case’s particular facts.³ Pet. for Cert. at 19.

Second, even if the Supreme Court’s *Fulton* opinion addresses the Free Exercise issues in that case, it does not justify a stay here. Bethel’s Free Exercise claims are also based on established precedent from *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520 (1993), *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, 138 S. Ct. 1719 (2018), and *Trinity Lutheran Church of Columbia v. Comer*, 137 S. Ct. 2012 (2017). These precedents provide substantial and clear guidance for this Court to weigh Bethel’s claims. And a more robust factual record developed in discovery, which Defendants are apparently intent on pursuing, will allow the

³ Petitioners presented three questions to the Court, which granted *Certiorari* on February 24, 2020. See <https://www.supremecourt.gov/docket/docketfiles/html/qp/19-00123qp.pdf>.

Court to fully adjudicate the merits of Bethel's claims.

Third, Bethel has more than a Free Exercise claim. Bethel's complaint articulates claims based on Defendants' violation of Bethel's Free Speech rights, Fourteenth Amendment Due Process rights for vagueness, parental rights under the Fourteenth Amendment, Fourteenth Amendment Equal Protection rights, and a violation of the First Amendment's Establishment Clause. *See* Compl. at ¶¶ 197–297. Staying these proceedings on the idea that a case before the U.S. Supreme Court next term *might* yield a helpful opinion as to only one theory of recovery delays Bethel's access to justice for violation of Bethel's other rights.

III. A Stay Will Not Meaningfully Serve Judicial Economy.

Third, granting a stay in this case will not meaningfully serve judicial economy. In its order denying Plaintiffs' Motion for Preliminary Injunction, the Court expressed a desire for this case to move forward to discovery. And this Court articulated which types of evidence are needed to substantiate Bethel's claims. *See* Op. at 17 (stating that discovery may help Bethel demonstrate targeting); *id.* at 20 (noting that the factual record is not yet sufficiently developed to confirm defendant's religious hostility); *id.* at 23–24 (factual development required to confirm Bethel's speech claims); *id.* at 27 (articulating evidence that could prove viewpoint discrimination). Defendants agree with this principle too. On the day the Motion to Stay was filed, Defendants sent written discovery to Plaintiffs. *See* Ex. A.

Discovery will provide Plaintiffs an opportunity to gather additional evidence of Defendants' hostility toward Bethel's religious beliefs. It will also confirm that Bethel does not discriminate in admissions, that it never violated the BOOST law, and that it was unjustly expelled from the BOOST program. This is the only dispute involving Bethel, Defendants, and Maryland's BOOST law. Irrespective of *Fulton*, the factual record must be developed in order to resolve this case. And the issues in this case are clear in light of the Supreme Court's precedents in *Lukumi*,

Trinity Lutheran, and *Masterpiece Cakeshop*. Therefore, the resolution of *Fulton* is unlikely to require duplicative discovery. Defendants admit as much, stating “*Fulton v. City of Philadelphia* may not resolve all factual and legal questions presented by Bethel here[.]” Defs.’ Mem. at 1. Therefore, Defendants fail to demonstrate that putting Bethel’s claims on hold for more than a year will help the Court meaningfully conserve judicial resources.

CONCLUSION

Defendants failed to meet their high burden of demonstrating a pressing need to stay this case. A stay will severely harm Bethel, but not Defendants. Defendants only mention a speculative benefit that might be derived from waiting more than a year. And a stay in this case will not significantly further the interests of judicial economy. Therefore, this Court should deny Defendants’ motion.

Dated this 20th day of March, 2020.

Respectfully submitted,

/s/ John R. Garza

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MD Fed. Dist. Court # 01921
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Counsel for Plaintiffs

**Admitted Pro Hac Vice*

Exhibit A

From: [Rice, Sarah](#)
To: [David Cortman](#); [Gregory S. Baylor](#); jgarza@garzanet.com; [Paul Schmitt](#); [Ryan Tucker](#)
Cc: [Scott, Robert](#)
Subject: Bethel Ministries
Date: Friday, March 6, 2020 5:39:08 PM
Attachments: [2020-03-06 Defendants" First Set of Requests for Production of Documents.pdf](#)
[2020-03-06 Defendants" First Set of Rogs.pdf](#)

EXTERNAL

Counsel,

I have attached discovery requests that have also been mailed to your offices today.

Best,

Sarah W. Rice
Assistant Attorney General
Office of the Attorney General
200 St. Paul Place, 20th Floor
Baltimore, Maryland 21202
(410) 576-7847

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

BETHEL MINISTRIES, INC.,

*

Plaintiffs,

*

v.

*

No. 1:19-cv-01853-ELH

DR. KAREN B. SALMON, *et al.*,

*

Defendants.

*

* * * * *

DEFENDANTS' FIRST SET OF INTERROGATORIES TO PLAINTIFF

Under Rule 33 of the Federal Rules of Civil Procedure, the Defendants propound this First Set of Interrogatories to all plaintiffs. You are required to respond to each interrogatory in writing and under oath, within 30 days, in accordance with the Federal Rules of Civil Procedure and the Instructions and Definitions set forth below.

DEFINITIONS

1. Except where specific terms are otherwise defined below, Defendants incorporate by reference the Uniform Definitions for Use in Discovery Requests contained in Appendix D of the Local Rules of the District of Maryland.

2. "Complaint" means any complaint you have filed in this matter or any complaint you file in this matter in the future.

3. "Including" means "including, but not limited to."

4. "You" and "your" include the person to whom these interrogatories are addressed, and all of that person's agents, representatives, and attorneys.

INSTRUCTIONS

1. Defendants incorporate by reference the Uniform Instructions for Use in Discovery Requests contained in Appendix D of the Local Rules of Maryland.
2. Except where otherwise indicated, each Interrogatory covers the time period January 1, 2015 to August 8, 2018 (the “Relevant Time Period”).

INTERROGATORIES

INTERROGATORY NO. 1:

Identify all persons who are likely to have personal knowledge of any fact alleged in the pleadings, and state the subject matter of the personal knowledge possessed by each such person. (Standard Interrogatory No. 1)

INTERROGATORY NO. 2:

Identify all people who have expressed interest in attending Bethel Christian Academy who ultimately did not enroll during the Relevant Time Period.

INTERROGATORY NO. 3:

Identify all students who have been disciplined by Bethel Christian Academy during the Relevant Time Period, including all students who have been expelled.

INTERROGATORY NO. 4:

State whether, and if the answer is yes under what circumstances, you would deny admissions to or expel a student who expressed characteristics (including use of pronouns, dress, grooming, bathroom usage, or sex-stereotypical speech or behavior) of a gender other than the student’s gender as assigned at birth.

INTERROGATORY NO. 5:

State all facts supporting paragraph 47 of the complaint, including a full description of how Bethel Christian Academy determined that it has not denied an applicant admission to Bethel based on the sexual orientation of the applicant.

INTERROGATORY NO. 6:

State all facts and identify all documents supporting paragraph 53 of the complaint, including all facts supporting the statement that Bethel Christian Academy's conduct policy prohibits any communication of a sexual nature.

INTERROGATORY NO. 7:

State all facts and identify all documents supporting paragraph 52 of the complaint, including all facts supporting the statement that Bethel Christian Academy's conduct policy prohibits "physical contact or public affection."

INTERROGATORY NO. 8:

State all facts supporting your contention in paragraph 92 of the complaint that "MSDE began investigating the policy language of BOOST schools in the fall of 2017."

INTERROGATORY NO. 12:

State all facts supporting your contention in paragraph 93 of the complaint that "this action was not prompted by any allegation of discrimination in student admissions that would violate the BOOST nondiscrimination requirement."

INTERROGATORY NO. 13:

State all facts and provide all calculations supporting your contention in paragraph 142 of the complaint that “Bethel would be in serious financial constraints if forced to pay \$102,600 to MSDE.”

INTERROGATORY NO. 14:

Identify the six students referenced in paragraph 145 of the complaint.

INTERROGATORY NO. 15:

Identify the two students referenced in paragraph 142 of the complaint.

INTERROGATORY NO. 16:

Describe by category and location all documents, electronically stored information and tangible things that you may use to support your claims in this case.

INTERROGATORY NO. 17:

If you contend that any defendant has made any admission and/or declaration against interest relating to any claims or defenses involved in this lawsuit, identify the person making each such admission or declaration, the substance of each such admission or declaration, the date of each such admission or declaration and identify all documents relating to each such admission or declaration.

INTERROGATORY NO. 18:

Identify and describe all communications you had with anyone, other than your attorneys, concerning any of the matters described in the Complaint, including in your answer the parties to each communication, the subject matter of each communication and the date and time of each communication.

INTERROGATORY NO. 19:

Identify every person you expect to call as a witness in this action, and for each individual state with specificity the subject matter of their testimony.

BRIAN E. FROSH
Attorney General of Maryland

/s/ Sarah W. Rice

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ROBERT A. SCOTT (NO. 24613)
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410-576-7847
(410) 576-6955 (facsimile)

March 6, 2020

Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that on March 6, 2020, a copy of the foregoing First Set of Requests for Production of Documents was sent via email and first-class mail, postage prepaid to the following:

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/s/ Sarah W. Rice
Sarah W. Rice

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

BETHEL MINISTRIES, INC., *

Plaintiff, *

v. *

No. 1:19-cv-01853-ELH

DR. KAREN B. SALMON, *et al.*, *

Defendants. *

* * * * *

**DEFENDANTS’ FIRST SET OF REQUESTS FOR PRODUCTION OF
DOCUMENTS**

Under Rule 34 of the Federal Rules of Civil Procedure, the Defendants propound this First Set of Requests for Documents to plaintiff, and request that plaintiff respond to this request within thirty (30) days, in accordance with the Federal Rules of Civil Procedure and the Instructions and Definitions set forth below.

DEFINITIONS

1. Except where specific terms are otherwise defined below, Defendants incorporate by reference the Uniform Definitions for Use in Discovery Requests contained in Appendix D of the Local Rules of the District of Maryland.

2. “Complaint” means any complaint you have filed in this matter or any complaint you file in this matter in the future.

3. “Including” means “including, but not limited to.”

4. "Relating to" means concerning, constituting, evidencing, describing, effecting, relating to, referring to, pertaining to, or about, either directly or indirectly, or being in any way logically or factually connected with the specified subject matter. Any request for documents "relating to" any subject matter includes a request for documents reflecting communication about that subject matter.

5. "You" and "your" include the party to whom these requests are addressed, and all of that party's agents, representatives, and attorneys.

INSTRUCTIONS

1. Defendants incorporate by reference the Uniform Instructions for Use in Discovery Requests contained in Appendix D of the Local Rules of Maryland.

2. Identify the specific request or requests for production to which the documents you produce are responsive.

3. To the extent provided by the Federal Rules of Civil Procedure, the requests are intended to be continuing in nature. You are requested to supplement your responses to the requests if new or additional information responsive to the requests becomes available.

4. No part of any document request should be left unanswered merely because an objection is interposed to another part of the document request. If a partial or incomplete production is provided, state that the answer is partial or incomplete and explain why.

5. All Documents produced should be Bates numbered sequentially, with a unique number on each page, and with a prefix identifying the party producing the Document.

6. If production of any requested document(s) is objected to on the grounds that production is unduly burdensome, describe the burden or expense of the proposed discovery.

7. Except where otherwise indicated, each Document request covers the time period January 1, 2015 through August 8, 2018.

8. The documents identified below should be produced to Sarah W. Rice, Office of the Attorney General, 200 St. Paul Place, 20th Floor Baltimore, Maryland 21202.

REQUESTS

1. All documents concerning any decision by Bethel Christian Academy to not admit a student.

2. All documents concerning the reasons a student was not admitted to Bethel Christian Academy.

3. All documents (including, but not limited to, correspondence, notes, memoranda, and journal entries) which relate to, describe, summarize, or memorialize any communication between you and any prospective parent or student concerning admission to Bethel Christian Academy.

4. All documents concerning the discipline of a student of Bethel Christian Academy, including but not limited to records relating to counseling provided to students, reasons for imposing discipline, and level of discipline imposed.

5. All documents (including, but not limited to, correspondence, notes, memoranda, and journal entries) which relate to, describe, summarize, or memorialize any

communication between you and the State, Maryland State Department of Education, and/or the BOOST Advisory Board.

6. All documents provided to members of the public inquiring into admissions to Bethel Christian Academy.

7. All documents concerning your admissions process for the 2016-2017 and 2017-2018 school years, including any documents memorializing or related to your admissions policy.

8. The documents referred to in your Answers to Interrogatories. (Standard Document Request 1)

9. All statements (as that term is used in Fed. R. Civ. P. 26(b)(3)(C)) which were previously made by any of the defendants and any of the defendants' present or former directors, officers, or employees, concerning the action or its subject matter. (Standard Document Request 2)

10. All documents (including, but not limited to, fee agreements, reports, and correspondence) provided to, received from, or prepared by each witness identified by you in connection with the disclosures required by Fed. R. Civ. P. 26(a)(2)(A). (Standard Document Request 4)

11. All documents received from or provided to any other party to this action or received from any third-party since the filing of the Complaint, whether provided informally or in response to a formal request. (Standard Document Request 9)

12. All documents referred to in the Complaint and other pleadings, as the word "pleadings" is defined in Fed. R. Civ. P. 7(a).

13. All documents identified, reviewed, or considered by you in responding to any defendant's interrogatories in this case. (Standard Document Request 10)

14. All documents you intend to introduce as exhibits at any hearing or trial in this matter in support of the allegations in the Complaint.

15. All documents, electronically stored information and tangible things that you have in your possession, custody or control and may use to support your claims in this case.

16. All documents which constitute, refer to, relate to or pertain to communications you had with any person or entity, other than your attorneys, concerning any of the matters described in the Complaint.

BRIAN E. FROSH
Attorney General of Maryland

/s/ Sarah W. Rice

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ROBERT A. SCOTT (NO. 24613)
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(410) 576-6955 (facsimile)

March 6, 2020

Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that on March 6, 2020, a copy of the foregoing First Set of Requests for Production of Documents was sent via email and first-class mail, postage prepaid to the following:

John R. Garza
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