

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Southern Division**

JENNIFER ELLER,

Plaintiff,

v.

PRINCE GEORGE'S COUNTY PUBLIC
SCHOOLS, et al.,

Defendants.

Case No. 18-cv-03649

POST-DISCOVERY JOINT STATUS REPORT

Pursuant to the Court's Scheduling Order (ECF No. 23), as modified on February 13, 2020 (ECF No. 53), on March 16, 2020 (ECF No. 61), on April 13, 2020 (ECF No. 63), on May 20, 2020 (ECF No. 65), and most recently on June 19, 2020 (ECF No. 69), Plaintiff Jennifer Eller, by and through her counsel, and Defendants Prince George's County Public Schools ("PGCPS"), Prince George's County Public Schools Board of Education, and Monica Goldson (collectively, "Defendants"), by and through their counsel, hereby submit this Post-Discovery Joint Status Report.

1. Whether discovery has been completed.

Plaintiff's Position:

The deadline for all discovery to be completed in this action was most recently set for July 16, for the limited purpose of allowing Defendants to comply with their document production obligations (Doc. No. 69, calling for Defendants to complete their production by July 16, 2020, and for the completion of all discovery and the submission of this Status Report by August 13, 2020). Plaintiff has satisfied all her discovery obligations. Defendants claim to have concluded

their process of providing discovery — although, as detailed in Plaintiff’s forthcoming Motion for Sanctions, Defendants have committed a number of substantial discovery transgressions, and Plaintiff is seeking appropriate redress for their various infractions.

Defendants’ Position:

Discovery has been completed.

2. Whether any motions are pending.

Plaintiff’s Position:

On August 12, 2020, Plaintiff filed a Notice that she intends to file a Motion for Sanctions, seeking redress from the Court for Defendants’ spoliation of evidence (through their failure to implement a document hold/document preservation procedure at any time from the beginning of this dispute through to the present), their repeated failure to produce properly prepare witnesses pursuant to Fed. R. Civ. P. 30(b)(6), and their haphazard and plainly inadequate identification, review, and production of pertinent documents. The Court has granted Plaintiff leave to file that motion and set a briefing schedule; Plaintiff will file the motion on August 21, 2020.

Defendants’ Position:

There are no motions pending other than Plaintiff’s Motion for Sanctions as set forth above.

3. Whether any party intends to file a dispositive pretrial motion.

Plaintiff’s Position:

Plaintiff is contemplating filing a dispositive pretrial motion.

Defendants’ Position:

Defendants intend to file a motion for summary judgment as to all counts of the First Amended Complaint.

4. Whether the case is to be a jury trial or a non-jury trial and the anticipated length of trial.

Plaintiff's Position:

Plaintiff believes this case should be decided through a non-jury trial as this would permit a more expeditious resolution of the case, and given the years-long timeline of events involved, the expert testimony pertaining to Plaintiff's post-traumatic stress disorder, and the fact that Plaintiff's primary requested relief is equitable. Plaintiff anticipates approximately 3-4 days to conduct a trial.

Defendants' Position:

Defendants have demanded a jury trial (ECF No. 22). Defendants anticipate the length of the jury trial to be ten (10) days.

5. A certification that the parties have met to conduct serious settlement negotiations, to include the date, time, and place of all settlement meetings and the names of all persons participating.

Plaintiff's Position:

The parties met for an informal settlement conference at the D.C. offices of Arnold & Porter Kaye Scholer LLP on March 21, 2019. At that conference, Plaintiff provided Defendants with an initial settlement demand. The following were present at the settlement conference: Ms. Eller; Paul Pompeo and Michael Rodríguez of Arnold & Porter, counsel for Plaintiff; Omar Gonzalez-Pagan of Lambda Legal, counsel for Plaintiff; and James E. McCollum, Jr. and Amit K. Sharma of McCollum & Associates, LLC, counsel for defendants. They were joined by telephone by Shana Battle and Amana Simmons of PGCPs. The parties held a follow-up call to discuss settlement on April 1, 2019. Thereafter, Plaintiff sent communications following up on these discussions on August 2, 2019 and October 7, 2019. To date, Defendants have not formally responded to those communications.

Plaintiff subsequently renewed her call for settlement discussions in a letter sent to Defendants on June 26, 2020. As of August 4, 2020, Plaintiff had received no response from Defendants to this letter. During a telephone call on August 4, 2020, Defendants communicated that they were willing to engage in a settlement discussion as part of a mediation session with a Magistrate Judge (*see* Item 6 below).

Defendants' Position:

The parties have met to conduct settlement negotiations as outlined by Plaintiff above.

- 6. Whether the parties would agree to have the case referred to a Magistrate Judge for a mediation session, either before or after the resolution of any dispositive pretrial motion.**

Plaintiff's Position:

Plaintiff is amenable to having her case referred to a Magistrate Judge for a mediation session, either before or after the resolution of any dispositive pretrial motion. Plaintiff would object to any stay pending a settlement conference.

Defendants' Position:

Defendants are amenable to a settlement conference before a United States Magistrate Judge and would request that this matter be stayed pending the outcome of the settlement conference.

- 7. Whether all parties consent, pursuant to 28 U.S.C. § 636(c), to have a United States Magistrate Judge conduct all further proceedings in this case, either before or after the resolution of any dispositive pretrial motion, including trial (jury or non-jury) and entry of final judgment.**

The parties do not consent to have a United States Magistrate Judge conduct all further proceedings in this case pursuant to 28 U.S.C. § 636(c).

8. Any other matter that the parties believe should be brought to the Court's attention.

Plaintiff's Position:

As noted above, the Court has granted Plaintiff leave to file a motion for sanctions based upon Defendants' spoliation of evidence, their failure to prepare Fed. R. Civ. P. 30(b)(6) witnesses properly, and their extensive document production failures. Plaintiff respectfully requests that the briefing on this motion be completed and the motion addressed expeditiously, as the requested relief includes a number of evidentiary rulings and adverse evidentiary inferences, which will determine the scope of issues to be decided at trial.

Defendants' Position:

None.

Dated this 13th of August, 2020.

Respectfully submitted,

FOR PLAINTIFF:

/s/ Elliott C. Mogul

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