

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

B.P.J. by her next friend and mother, HEATHER JACKSON,

Plaintiff,

v.

WEST VIRGINIA STATE BOARD OF EDUCATION, HARRISON COUNTY BOARD OF EDUCATION, WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION, W. CLAYTON BURCH in his official capacity as State Superintendent, DORA STUTLER in her official capacity as Harrison County Superintendent, and THE STATE OF WEST VIRGINIA,

Defendants,

and

LAINY ARMISTEAD,

Defendant-Intervenor.

Civil Action No. 2:21-cv-00316

Hon. Joseph R. Goodwin

**PLAINTIFF'S MOTION TO
EXPEDITE DETERMINATION OF
PLAINTIFF'S MOTION FOR
PROTECTIVE ORDER
REGARDING VIRTUAL
DEPOSITIONS IN LIGHT OF
COVID-19 PANDEMIC**

Plaintiff B.P.J. by her next friend and mother, Heather Jackson, respectfully moves this Court to expedite briefing and consideration of Plaintiff's Motion for Protective Order Regarding Virtual Depositions in Light of COVID-19 Pandemic. Plaintiff requests that this Court decide the motion no later than Friday, January 14, 2022. In support of this request, Plaintiff states as follows:

1. On January 6, 2022, immediately prior to the instant filing, Plaintiff moved this Court for a protective order requiring the depositions of Plaintiff, Plaintiff's mother, and Plaintiff's father noticed by Defendants for January 19, 20, and 21, 2022, to proceed virtually (*i.e.*, via videoconference and a remote court reporting service, such as Veritext Virtual), in order to avoid the undue risk of COVID-19 transmission.

2. Because these three depositions are scheduled to occur approximately two weeks from today, Plaintiff respectfully requests that the Court set an expedited briefing schedule on the Motion for Protective Order and issue a decision on the Motion no later than January 14, 2022.

3. A decision by January 14, 2022 is necessary to enable the parties to make appropriate arrangements in response to the Court's determination. Specifically, should the Court grant the Motion, a decision by January 14 will afford the parties adequate time to meet and confer to confirm the technology and protocols for a virtual deposition. And should the Court deny the Motion, it will afford Plaintiff's counsel, all but one of whom is located out of state, time to either make arrangements to travel to the depositions, as they normally would, endangering both themselves and all individuals involved in the proceeding, or to reconfigure their defense strategy to account for the prejudice that will accrue to Plaintiff from having nearly all her attorneys participating remotely, including the attorneys who have been working most closely with Plaintiff and her parents in preparation and who are planning to defend the depositions.

4. The parties have been actively discussing the underlying substance of Plaintiff's Motion for Protective Order via multiple email and phone exchanges since mid-December, so no Defendant will be prejudiced by having to respond to Plaintiff's Motion on an expedited basis.

Accordingly, Plaintiff respectfully requests that the Court issue an expedited briefing schedule on Plaintiff's Motion for Protective Order Regarding Virtual Depositions in Light of COVID-19 Pandemic.

Dated: January 6, 2022

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Respectfully submitted,
/s/ Loree Stark

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CERTIFICATE OF SERVICE

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I, Loree Stark, do hereby certify that on this 6th day of January, 2022, I electronically filed a true and exact copy of the *Plaintiff's Motion to Expedite Determination of Plaintiff's Motion for Protective Order Regarding Virtual Depositions in Light of COVID-19 Pandemic* with the Clerk of Court and all parties using the CM/ECF System.

/s/ Loree Stark

West Virginia Bar No. 12936

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[Proposed] Order Granting Plaintiff's Motion to Expedite Determination of Plaintiff's Motion for Protective Order

[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION TO EXPEDITE DETERMINATION OF PLAINTIFF'S MOTION FOR PROTECTIVE ORDER

Plaintiff B.P.J. by her next friend and mother, Heather Jackson, through counsel, filed a Motion to Expedite Determination of Plaintiff's Motion for Protective Order Regarding Virtual Depositions in Light of COVID-19 Pandemic on January 6, 2022 ("Motion") in the above-captioned matter. After reviewing the pleadings and for good cause shown, it is ORDERED that Plaintiff's Motion be and hereby is GRANTED.

IT IS SO ORDERED.

ORDERED: _____, 2022

/s/

United States District Judge