

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.

Civil Action No. 2:21-cv-00316
Hon. Joseph R. Goodwin, District Judge

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.

DEFENDANT STATE OF WEST VIRGINIA'S
MOTION FOR SUMMARY JUDGMENT

NOW COMES Defendant, State of West Virginia (the “State”), by counsel, and, respectfully moves this Court for an order under Rule 56 of the Federal Rules of Civil Procedure granting summary judgment, in the State’s favor against the named Plaintiff. As further explained in the attached Memorandum in Support of this Motion the State of West Virginia is entitled to summary judgment because “there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law.” *Evans v. Techs. Applications & Serv. Co.*, 80 F.3d 954, 958 (4th Cir. 1996) (citing Fed.R.Civ.P. 56(c)).

This Motion is made on the grounds specified in this Motion and the accompanying Memorandum of Law, the exhibits attached to the Memorandum of Law, all matters of which the Court may take judicial notice, and on such other and further oral or documentary evidence as may be presented to the Court at or before the hearing on this Motion. The State of West Virginia is entitled to summary judgement on both of Plaintiff's causes of action.

Respectfully submitted,

By counsel,
PATRICK MORRISEY
West Virginia Attorney General

/s/ Curtis R. A. Capehart
Douglas P. Buffington II (WV Bar # 8157)
Chief Deputy Attorney General
Curtis R.A. Capehart (WV Bar # 9876)
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Counsel for Plaintiff, STATE OF WEST VIRGINIA

DATE: April 21, 2022

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CHARLESTON DIVISION**

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

v.

CIVIL ACTION NO. 2:21-cv-00316

Judge Joseph R. Goodwin

**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
BOARD OF EDUCATION, et al.,**

Defendants.

and LAINY ARMISTEAD,

Intervenor Defendant.

CERTIFICATE OF SERVICE

I hereby certify that, on this 21st day of April, I electronically filed the foregoing “Defendant State of West Virginia’s Motion for Summary Judgment” with the Clerk of Court and all parties using the CM/ECF System.

/s/ Curtis R. A. Capehart

Curtis R. A. Capehart