

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RILEY FRANZ, and JEFFREY FRANZ
and BRANDI FRANZ, as NEXT FRIEND
for ISABELLA FRANZ, a Minor,

Plaintiffs,

Hon. Mark A. Goldsmith
Magistrate Anthony P. Patti
No. 21-12871

v

OXFORD COMMUNITY SCHOOLS,
NICHOLAS EJAK and SHAWN HOPKINS,

Defendants.

Geoffrey N. Fieger (P30441)
James J. Harrington (P65351)
Robert G. Kamenec (P35283)
Milica Filipovic (P80189)
Fieger, Fieger, Kenney & Harrington, P.C.
Attorneys for Plaintiffs
19390 West Ten Mile Road
Southfield, MI 48075
(248) 355-5555
g.fieger@fiegerlaw.com
j.harrington@fiegerlaw.com
r.kamenec@fiegerlaw.com
m.filipovic@fiegerlaw.com

Timothy J. Mullins (P28021)
Kenneth B. Chapie (P66148)
John L. Miller (P71913)
Annabel F. Shea (P83750)
Giarmarco, Mullins & Horton, P.C.
Attorneys for Defendants
101 W. Big Beaver Road, 10th Floor
Troy, MI 48084-5280
(248) 457-7020
tmullins@gmhlaw.com
kchapie@gmhlaw.com
jmiller@gmhlaw.com
ashea@gmhlaw.com

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Defendants, SHAWN HOPKINS and
NICHOLAS EJAK, hereby appeal to the U.S. Court of Appeals for the Sixth Circuit

from the attached Opinion and Order granting in part and denying in part Defendants' motion for judgment on the pleadings entered on May 12, 2023 (ECF No. 142, PageID.2219-2245, Exhibit A).

Defendants Shawn Hopkins and Nicholas Ejak appeal the District Court's denial of their assertions of qualified immunity as to Plaintiffs' §1983 Substantive Due Process Claims brought under the state created danger theory. The District Court's denial of qualified immunity as to Plaintiffs' claims against Hopkins and Ejak constitutes an appealable final order. 28 U.S.C. § 1291; *Mitchell v. Forsyth*, 472 US 511, 530 (1985); *Martin v. City of Broadview Hts*, 712 F3d 951, 957 (6th Cir 2013).

This appeal of the denial of qualified and absolute immunity does not involve disputed facts on this issue, but rather, presents the purely legal question of whether the District Court mistakenly held that Hopkins and Ejak's actions violated Plaintiffs' clearly established constitutional rights. Accordingly, the U.S. Court of Appeals for the Sixth Circuit has jurisdiction. *See generally, Mitchell v. Forsyth*, 472 US 511, 530 (1985); *Estate of Carter v. City of Detroit*, 408 F.3d 305 (6th Cir 2005).

s/TIMOTHY J. MULLINS
GIARMARCO, MULLINS & HORTON, PC
Attorney for Defendants
101 W. Big Beaver Road, 10th Floor
Troy, MI 48084-5280
(248) 457-7020
tmullins@gmhlaw.com
P28021

DATED: June 1, 2023

CERTIFICATE OF ELECTRONIC SERVICE

TIMOTHY J. MULLINS states that on June 1, 2023, he did serve a copy of the **Notice of Appeal** via the United States District Court electronic transmission.

/s/TIMOTHY J. MULLINS
GIARMARCO, MULLINS & HORTON, PC
Attorney for Defendants
101 W. Big Beaver Road, 10th Floor
Troy, MI 48084-5280
(248) 457-7020
tmullins@gmhlaw.com
P28021