

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
IN TACOMA

JOSEPH A. KENNEDY,)	
)	
Plaintiff,)	No. CV16-5694RSL-TLF
)	
v.)	
)	
BREMERTON SCHOOL DISTRICT,)	
)	
Defendant.)	

TRANSCRIPT OF PROCEEDINGS

February 23, 2023

BEFORE THE HONORABLE THERESA L. FRICKE
UNITED STATES MAGISTRATE COURT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

For the Plaintiff:

**Jeffrey Helsdon
THE HELSDON LAW FIRM**

**Bradley Hubbard
GIBSON DUNN & CRUTCHER**

**Andrew Lawrence
CLEMENT & MURPHY**

**Anthony Ferate
FERATE**

**Brian Sasser
FIRST LIBERTY INSTITUTE**

For the Defendant:

**Michael Tierney
TIERNEY & CORREA**

**Susannah Carr
GORDON TILDEN THOMAS CORDELL**

**Proceedings stenographically reported and transcript
produced with computer-aided technology**

03:22:47PM

03:22:47PM 1 **THE CLERK:** Good afternoon. United States
03:22:48PM 2 **District Court for the Western District of Washington is**
03:22:50PM 3 **now in session, the Honorable Theresa L. Fricke presiding.**
03:22:55PM 4 **THE COURT:** This is Joseph A. Kennedy, plaintiff,
03:22:58PM 5 **versus Bremerton School District, defendant, case**
03:23:01PM 6 **No. 16-5694RSL. Would the parties please introduce**
03:23:07PM 7 **yourselves for the record, starting with plaintiffs's**
03:23:12PM 8 **counsel?**
03:23:14PM 9 **MR. HELSDON:** Good afternoon, your Honor. Jeff
03:23:16PM 10 **Helsdon.**
03:23:19PM 11 **MR. SASSER:** This is Hiram Sasser.
03:23:22PM 12 **MR. FERATE:** Good afternoon, your Honor. This is
03:23:22PM 13 **A.J. Ferate.**
03:23:26PM 14 **MR. LAWRENCE:** Good afternoon. This is Andrew
03:23:28PM 15 **Lawrence.**
03:23:30PM 16 **MR. HUBBARD:** Good afternoon. This is Bradley
03:23:34PM 17 **Hubbard.**
03:23:36PM 18 **MR. KENNEDY:** This is Joe Kennedy.
03:23:47PM 19 **THE COURT:** And for the defense?
03:23:50PM 20 **MR. TIERNEY:** Good afternoon. This is Michael
03:23:53PM 21 **Tierney for the Bremerton School District.**
03:24:00PM 22 **MS. CARR:** Susannah Carr for the Bremerton School
03:24:05PM 23 **District.**
03:24:12PM 24 **MR. TIERNEY:** Do you want the non-attorneys to
03:24:15PM 25 **identify themselves?**

Barry L. Fanning, RMR, CRR - Official Court Reporter

(253) 882-3833 Barry_Fanning@WAWD.uscourts.gov

1717 Pacific Ave - Tacoma, WA 98402

03:24:17PM 1 THE COURT: Yes, whoever is on the call from the
03:24:21PM 2 Bremerton School District.

03:24:22PM 3 MS. COLOSKY: Donna Colosky, interim
03:24:31PM 4 superintendent of Bremerton School District.

03:24:33PM 5 THE COURT: I will ask our court reporter to
03:24:36PM 6 introduce yourself for the record and confirm whether you
03:24:38PM 7 were able to hear everyone.

03:24:38PM 8 COURT REPORTER: This is Barry Fanning, court
03:25:08PM 9 reporter. Yes, I can hear everyone just fine.

03:25:08PM 10 THE COURT: This case has been referred to my
03:25:13PM 11 court from the Honorable Robert S. Lasnik. Judge Lasnik
03:25:21PM 12 had ordered on November 10th, 2022, at Docket 116, relief
03:25:33PM 13 was granted for declaratory and injunctive relief, and
03:25:37PM 14 also that the plaintiff is entitled to recover reasonable
03:25:44PM 15 attorney fees and costs under 42, United States Code,
03:25:50PM 16 Section 1988(b), as well as 42, United States Code,
03:25:55PM 17 Sections 2000(e) through 5(k).

03:26:00PM 18 The parties convened to address all of the various
03:26:05PM 19 issues as part of the settlement conference, and the Court
03:26:09PM 20 is happy to announce that the parties have achieved a
03:26:12PM 21 settlement.

03:26:15PM 22 The essential terms of the settlement are as follows:
03:26:20PM 23 After I make the statement for the record about the
03:26:22PM 24 essential terms, I will be asking the lead attorneys for
03:26:26PM 25 each party to confirm that I have accurately stated the

Barry L. Fanning, RMR, CRR - Official Court Reporter

(253) 882-3833 Barry_Fanning@WAWD.uscourts.gov

1717 Pacific Ave - Tacoma, WA 98402

03:26:31PM 1 essential terms.

03:26:32PM 2 The amount of attorneys' fees that was agreed upon is
03:26:38PM 3 in the amount of \$1,775,000. The amount will be paid with
03:26:50PM 4 an initial payment of \$500,000, that will be split into a
03:26:57PM 5 first payment of \$300,000, that would be due within
03:27:03PM 6 30 days of the date that the school board approves the
03:27:07PM 7 settlement. Then, there would be another \$200,000 of that
03:27:15PM 8 \$500,000 initial payment due 30 days after the first
03:27:22PM 9 payment of \$300,000.

03:27:25PM 10 The parties have agreed that the settlement agreement
03:27:30PM 11 would be presented at the March 16th school board meeting
03:27:36PM 12 for the board's approval.

03:27:39PM 13 After that initial \$500,000 payment, as I said would
03:27:46PM 14 be split into two parts, then the balance of the total
03:27:51PM 15 amount would be paid in eight payments quarterly,
03:27:58PM 16 beginning after the payment of \$200,000, and every three
03:28:07PM 17 months thereafter.

03:28:09PM 18 There would also be a stipulated order presented to
03:28:13PM 19 Judge Lasnik. That would be an order dismissing with
03:28:18PM 20 prejudice all remaining claims, and that the plaintiff is
03:28:21PM 21 releasing the defendants from remaining claims.

03:28:25PM 22 Those are the essential terms of the agreement for
03:28:32PM 23 this \$1,775,000 settlement as to attorneys' fees.

03:28:40PM 24 At this point, I will ask first the lead attorneys
03:28:46PM 25 for plaintiff, which would be, I believe, Mr. Sasser and

—Barry L. Fanning, RMR, CRR - Official Court Reporter—

(253) 882-3833 Barry_Fanning@WAWD.uscourts.gov

1717 Pacific Ave - Tacoma, WA 98402

03:28:57PM 1 Mr. Helsdon. Can you confirm those are the essential
03:29:01PM 2 terms of the parties settlement?

03:29:03PM 3 MR. SASSER: Your Honor, this is Hiram Sasser. I
03:29:06PM 4 just wanted to add the phrase "in equal installments," as
03:29:14PM 5 to the amounts -- the quarterly payments. They would be
03:29:17PM 6 in amounts that are equal to each other, equal
03:29:20PM 7 installments. But, otherwise, it's good with me.

03:29:26PM 8 THE COURT: All right. And then I will ask the
03:29:28PM 9 same question of Mr. Tierney and Ms. Carr, who were the
03:29:34PM 10 lead attorneys in the settlement negotiations on behalf of
03:29:40PM 11 the defendant.

03:29:41PM 12 With the friendly amendment that Mr. Sasser has
03:29:44PM 13 offered about equal payments for the quarterly amounts, is
03:29:49PM 14 this an accurate statement of what the parties have agreed
03:29:52PM 15 to in their settlement agreement?

03:29:54PM 16 MR. TIERNEY: Yes, your Honor. This is Michael
03:29:56PM 17 Tierney. That is an accurate statement of the terms. I
03:30:05PM 18 would add just one thing, that is just sort of implied,
03:30:09PM 19 the parties are going to draft a settlement agreement -- a
03:30:12PM 20 written settlement agreement and execute it for
03:30:15PM 21 presentation to the school board that contains these terms
03:30:20PM 22 and whatever other terms are necessary to tie things up.

03:30:26PM 23 THE COURT: Very well. I think that is what the
03:30:30PM 24 parties have agreed to. Mr. Sasser, you are also in
03:30:33PM 25 agreement that the party will be reducing this to writing,

03:30:37PM 1 correct?

03:30:38PM 2 MR. SASSER: Yes, your Honor.

03:30:39PM 3 THE COURT: All right. With that, the Court will
03:30:44PM 4 commend the parties, and I will state my appreciation for
03:30:48PM 5 the work that all of you have put into this case from
03:30:51PM 6 start to finish, and for the patience and good faith and
03:30:57PM 7 collaborative environment of the settlement negotiations.
03:31:00PM 8 I appreciate all of you.

03:31:02PM 9 The Court then will close this hearing, and I would
03:31:08PM 10 expect that the parties will be in touch with one another
03:31:11PM 11 to prepare the written settlement agreement, the proposed
03:31:15PM 12 stipulated order for Judge Lasnik, and that this case will
03:31:20PM 13 go forward in accordance with everything the parties have
03:31:26PM 14 agreed to.

03:31:26PM 15 Thank you, everyone. The Court is now in recess.

03:31:29PM 16 MR. TIERNEY: Thank you, your Honor.

03:31:34PM 17 MS. CARR: Thank you, your Honor.

18 (Proceedings concluded.)

19

20

21

22

23

24

25

