

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

ENDORSED
FILED
San Francisco County Superior Court

JUN 1 2001

GORDON PARK-LI, Clerk

BY: MANUELITA ECHEVERRIA
Deputy Clerk

Case No. 312236

[CLASS ACTION]

ELIEZER WILLIAMS, a minor, by Sweetie Williams, his guardian ad litem; et al., each individually and on behalf of all others similarly situated,

Plaintiffs,

v.

STATE OF CALIFORNIA; DELAINE EASTIN, State Superintendent of Public Instruction; STATE DEPARTMENT OF EDUCATION; STATE BOARD OF EDUCATION,

Defendants.

~~[Proposed]~~ ORDER GRANTING MOTION OF FRESNO UNIFIED SCHOOL DISTRICT & SAN FRANCISCO UNIFIED SCHOOL DISTRICT & MOTION OF PLAINTIFFS TO SEVER AND STAY PROCEEDINGS

STATE OF CALIFORNIA,

Cross-Complainant,

v.

SAN FRANCISCO UNIFIED SCHOOL DISTRICT, a school district, et al.

Cross-Defendants.

Hearing Date: April 11, 2001
Time: 8:30 a.m.
Department: 16, Hall of Justice
Judge: Hon. Peter J. Busch

Date Action Filed: May 17, 2000

The motion of Cross-Defendants, Fresno Unified School District and San Francisco Unified School District, as joined by several of the other district Cross-Defendants,¹ and the motion of Plaintiffs' Eliezer Williams et al., both seeking an order pursuant to *California Code of Civil Procedure* ("C.C.P.") § 1048(b) for a separate trial of the Cross-Complaint of Defendant State of California from trial of Plaintiffs' action and for a stay of all proceedings on the Cross-Complaint pending resolution of Plaintiffs' First Amended Complaint, were heard on April 11,

¹ Those school districts include Los Angeles Unified, Pajaro Valley Unified, Merced City Elementary, Ravenswood City Elementary, West Contra Costa Unified, Long Beach Unified, Lynwood Unified, Oakland Unified, and Visalia Unified.

1 2001 at 8:30 a.m., in Department 16, Hall of Justice of the Superior Court, in and for the City and
2 County of San Francisco. the Hon. Peter J. Busch presiding. Fresno Unified and San Francisco
3 Unified were represented by Peter Sturges of Miller, Brown & Dannis; the joining Cross-
4 Defendants were represented by their counsel who appeared on the record; Plaintiffs were
5 represented by John Affeldt of Public Advocates, Inc.; and Defendant State of California was
6 represented by John Daum of O'Melveny & Meyers. Also present, though not participating in the
7 motion were Deputy Attorney General Thomas Yanger, representing Defendants State Board of
8 Education, Superintendent of Public Instruction Delaine Eastin, and the California Department of
9 Education; Eugene Hill of Olsen, Hagel, Waters & Fisburn LLP and Abhas Hajela of the
10 California School Boards Association, representing Intervenor California School Boards
11 Association; and Judd Jordan of Lozano Smith and Fredric Woocher of Strumwasser & Woocher
12 LLP, representing Intervenor Los Angeles Unified School District.² The Court has considered the
13 papers and the argument of counsel.
14

15 The Court finds pursuant to C.C.P. § 1048(b) that a separate trial of the Cross-Complaint
16 of Defendant State of California should be ordered and that all proceedings under the Cross-
17 Complaint, including discovery and trial, should be stayed pending resolution of Plaintiffs'
18 complaint. The Cross-Complaint raises separate and distinct issues and seeks relief different in
19 kind, quality, and scope from Plaintiffs' First Amended Complaint. To the extent there is any risk
20 of overlap between the First Amended Complaint and the Cross-Complaint of some issues for
21 discovery and trial, that risk is highly conditional. Given that the Cross-Complaint is pled as
22 entirely contingent on the outcome of the underlying action, the Court finds that proceeding on
23 the Cross-Complaint only after resolution of Plaintiffs' case is appropriate. Finally, a separate
24 trial and stay of Defendant's Cross-Complaint will permit the Court to resolve Plaintiffs' case in
25 an efficient and economical manner and will preserve judicial resources should proceeding on the
26

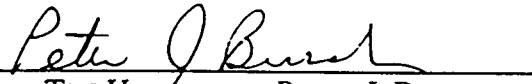
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28 ² The latter participated by joining the motion of Fresno and San Francisco Unified.

1 Cross-Complaint, or some portion of it, become unnecessary after resolution of the underlying
2 case.

3 Therefore, for good cause showing,

4 IT IS HEREBY ORDERED that the districts' and the Plaintiffs' motions are GRANTED.
5 Pursuant to C.C.P. § 1048(b), the trial of the Cross-Complaint of Defendant State of California
6 shall be separate from the trial of Plaintiffs' First Amended Complaint and all proceedings on the
7 Cross-Complaint shall be stayed pending resolution of Plaintiffs' First Amended Complaint.
8

9 Dated: May 31, 2001.

10 
11 THE HONORABLE PETER J. BUSCH
12 Judge of the Superior Court

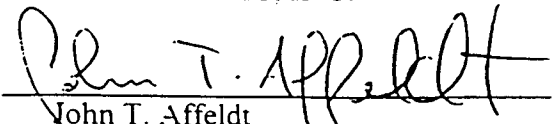
12 Respectfully submitted on:
13 May 30, 2001 by:

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By: 
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