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Court Warns Football Hazing and "Horseplay" Can Become Sexual Harassment Under Title IX*Takeaways*

- Coaches should not dismiss sexualized hazing, intimate touching or emasculating behavior as ordinary locker-room horseplay, because same-sex conduct can constitute sexual harassment under Title IX when it is based on sex stereotypes or is inherently sexual.
- Once coaches or athletic administrators learn of potentially sexual harassment, minimizing the conduct or imposing only token discipline can create significant legal exposure if the harassment continues; schools need to take reports seriously and act to prevent recurrence.

By Erica J. Zonder

C.W., a freshman football player at Piedmont High School in Alabama, sued both the School District and head coach for Title IX violations based on sexual harassment by other players, as well as violations of the Equal Protection Clause based on deliberate indifference.

[See HORSEPLAY on page 10](#)**Court Sides With School District in Dispute Over Coach's Collection of Soccer Fees***Takeaways*

- Coaches should strictly follow school policies governing fundraising and the collection of money from athletes and parents, particularly when school and outside-club activities overlap, because prior violations and unclear financial practices can contribute to a finding of probable cause for an investigation or prosecution.
- An eventual acquittal does not necessarily mean that a school or its officials acted improperly in reporting suspected misconduct, because probable cause is evaluated based on the information reasonably available when the investigation and prosecution began.

By Cara H. Wright, J.D.

In 2019, Campbell City School District ("CCSD") Superintendent Matthew L. Bowen ("Superintendent") alleged that Phillip S. Atsas ("Atsas"), a physical-education teacher and soccer coach at CCSD for over 20 years, had been charging parents nonexistent participation fees for their children to play soccer. Atsas was actively involved with multiple soccer programs in the community and coached high school and intramural soccer at CCSD. Atsas also coached youth soccer for Tri-County Soccer Club (TCSC), a private organization/recreational-league soccer team for ages 7 up until high school. CCSD did not charge

[See FEES on page 12](#)

Sick Athletes May Face Significantly Greater Heat-Illness Risk, Study Finds

A new study offers high school coaches and athletic administrators another factor to consider when deciding whether an athlete should participate in strenuous practices: whether the athlete is sick.

Researchers found that participants experiencing symptoms of a respiratory infection immediately before strenuous exercise were significantly more likely to suffer severe exertional heat illness.

The prospective cohort study, published in the September 2026 issue of *Medicine & Science in Sports & Exercise*, followed 807 British military recruits completing a 6.4-mile loaded march. Researchers monitored respiratory symptoms during the three days preceding the exercise and also collected throat swabs, measures of inflammation and body-temperature data.

Forty participants, or about 5%, experienced severe exertional heat illness. Participants reporting respiratory infection symptoms both the day before and the day of the march had approximately four times the likelihood of developing severe exertional heat illness compared with those without such symptoms.

When researchers looked only at participants experiencing symptoms on the day of exercise, the likelihood remained nearly three times greater.

The researchers also found that participants with respiratory symptoms had greater evidence of systemic inflammation and began the march with gastrointestinal temperatures approximately 0.3 degrees Celcius higher. Respiratory infection symptoms were not

associated with an increased likelihood of mild exertional heat illness.

For high school athletic programs, the findings suggest that heat-illness prevention may need to involve more than monitoring temperature, humidity, hydration and acclimatization.

An athlete arriving at practice with symptoms of a respiratory infection could potentially have an additional risk factor that coaches, athletic trainers and other school officials should consider before allowing strenuous participation. The researchers specifically recommended that athletes and others at risk of exertional heat illness avoid strenuous physical activity while experiencing respiratory infection symptoms.

There are important limitations when applying the findings to high school sports. The participants were military recruits rather than high school athletes, and 805 of the 807 participants were male. The study also establishes an association between respiratory infection and severe exertional heat illness rather than proving that respiratory illness causes it.

Still, the findings provide athletic departments with another reason to take an athlete's illness seriously when making participation decisions, particularly during demanding practices. A student reporting respiratory symptoms may warrant additional evaluation rather than being encouraged to simply practice through the illness.

Legal Issues in HIGH SCHOOL ATHLETICS

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Failure to Accommodate Cheerleader's Hearing Disability Exposes School District to Legal Claims

Takeaways

- Coaches and athletic administrators should take medically supported accommodation requests seriously and work with school officials to implement reasonable accommodations rather than simply suggesting that an athlete find another team.
- When an athlete reports disability-related bullying or retaliation, coaches and ADs should address and document the response promptly, because ignoring both the requested accommodation and subsequent harassment can significantly increase the school's legal

By Dr. Rachel S. Silverman

Dekaeda Davis (Davis) is a Cumberland Valley High School (CVHS) student and a former member of the junior varsity cheerleading team. She alleges she faced disability- and sex-based discrimination, bullying, and retaliation while participating in the school's cheerleading program. Defendants include Cumberland Valley School District, Michael Craig, Harold "Bud" Shaffner (member of school board), Gregory Rausch (school board president), Kristi Shaffner (head cheerleading coach), and Bethany Mullin (choreographer and coach). The defendants moved to dismiss Davis's amended complaint and to strike portions of the pleading.

December 2015, Davis was diagnosed with "significant unilateral hearing loss," and the doctor identified specific accommodations that she would need to participate safely in cheerleading. The doctor stated she should be positioned in the middle of the mat, rather than at the front, back, or sides, to ensure she had a clear view of her teammates. Davis's mother informed the cheer coaches of these accommodations. Davis made the junior varsity cheer team in 2020 as a middle schooler. She claims that during the 2020 season and the preceding summer, parents were prevented from checking on the cheerleaders during practice, which increased the risk of injury, reduced performance, and made it difficult for them to learn skills. The coaches had placed Davis in the second-to-last row of the formation, which was not what the doctor had prescribed.

Although Davis's mother had spoken to the coaches about the accommodation, they did not agree to it. They suggested Davis and her mother find another cheer team to join. Therefore, Davis went to Craig, and he told them he would look into it. However, when Davis's mom followed up, he said there was nothing for him to address regarding the complaint that no accommodation was being provided. Davis asserts that her cheer coaches prevented her from participating in cheer competitions in retaliation for her request for reasonable

accommodations for her disability.

While on the team, Davis competed in February 2020 and missed a stunt because she lacked the clear line of sight required for her disability. After missing the stunt, her mother found three of her teammates watching a video of her and mocking Davis. Davis's mother tried to tell the girls that encouragement would be better than cruelly mocking Davis for her disability. Another cheer team parent threatened Davis's mother with physical harm in response. Although they reported the incident to the coaches, the coaches were more concerned about Davis riding home from the competition with her mom than about her being on the team bus. Following the lack of accommodation and the harassment and violence from cheer parents, Davis's mother removed her from the CVSD cheer program. Davis's mother argues the coaches encouraged the teammates and parents to bully and harass her daughter into quitting the team. When Davis returned to school for the 9th grade, she continued to be bullied, mocked, and harassed by her former teammates. This caused her to engage in self-harm and eventually switched to attending school virtually.

Davis alleges a long history of unaddressed bullying and discrimination at the school and that the school gives preferential treatment to male students and athletes. She believes if she had been a male athlete, the coaches would have accommodated her disability properly.

The initial lawsuit was filed on June 26, 2025, and Davis filed an amended complaint on September 26, 2025. Defendants filed a motion to dismiss and strike. The amended complaint asserts six claims. Count I asserts a Title II claim under the Americans with Disabilities Act against CVSD. Count II alleges a violation of Section 504 of the Rehabilitation Act against CVSD. Count III asserts a claim under 42 U.S.C. § 1983, alleging a violation of the Equal Protection Clause of the Fourteenth Amendment. Count IV asserts a sex discrimination claim under Title IX. Count V alleges intentional infliction of emotional distress against all Defendants. Lastly, Count VI alleges negligent infliction of emotional distress against all Defendants.

CVSD and Craig argued that all of Davis's claims are time-barred. The court explained CVSD and Craig's statute of limitations affirmative defense is not clearly applicable in this situation. Davis states she was a minor at the time of the events and therefore, the two-year statute of limitations did not apply until she turned eighteen. At the time of the amended complaint, she was eighteen. Therefore, the court would not dismiss her claims on the basis of the statute of limitations.

The court stated Davis adequately showed that CVSD deliberately discriminated against her by failing to provide her with reasonable accommodations in violation of Title II of the ADA and Section 504 of the Rehabilitation Act. She explained

she is disabled due to hearing loss, CVSD received federal financial assistance, and CVSD unlawfully prevented her from participating on the cheerleading team by failing to provide her with reasonable accommodations even though she was otherwise qualified to be on the team. She also explains the “hostile, discriminatory environment” allowed by the Board and others at CVSD led the coaches and teammates to believe they could harass and bully Davis. Davis seeks compensatory damages and attorney’s fees under both claims. The court said Davis’s allegations satisfy the causation standard of both Title II of the ADA and the Rehabilitation Act, and she sufficiently alleged intentional discrimination under a deliberate indifference standard.

CVSD argued that Davis cannot recover emotional distress damages related to the ADA and Rehabilitation Act, but Davis does not seek to recover emotional distress damages in Counts I and II of her amended complaint. She sought compensatory damages for the costs of treating emotional injuries rather than damages for the emotional distress itself. The court declined to issue a decision at this point in the lawsuit without further factual context. Therefore, the court denied CVSD’s motion to dismiss Davis’s Title II of the ADA and Section 504 of the Rehabilitation claims in Counts I and II of the amended complaint.

Davis brought an Equal Protection claim against all Defendants alleging Defendants subjected her to sex-based discrimination by providing preferential treatment to male athletes. The court explained Davis did not sufficiently plead her case on the Equal Protection claim. Her complaint does not provide specific examples of male CVSD athletes or students receiving more favorable treatment than female athletes. She provided an example of a male athlete who hit his teammate, but it does not explain how she is similarly situated to this male athlete. Davis did not show that any male students are disabled, received accommodations, or were protected from disability-related bullying or retaliation. Davis also failed to show any disparate treatment she faced based on her sex. Her claims of harassment, bullying, and a hostile environment are not related to her sex but rather are related to her disability. She failed to demonstrate intentional discrimination based on sex. Therefore, the court granted Defendants’ motions to dismiss Count III of the amended complaint.

Count IV of the amended complaint alleges a Title IX violation. According to the court, Davis’s assertions do not establish that CVSD discriminated against Davis by denying her accommodations because of her sex. Therefore, the court granted CVSD’s motion to dismiss Count IV without prejudice.

Davis also brought Intentional Infliction of Emotional Distress (IIED) and Negligent Infliction of Emotional Distress (NIED) claims against all defendants. Defendants claim they are immune from her state tort claims under the Pennsylvania Political Subdivision Tort Claims Act (PSTCA) and should have high public official immunity. CVSD qualifies as a local

agency because school districts are given broad tort immunity under PSTCA. However, Craig is a CVSD employee and is not immune from Davis’s IIED claim under the PSTCA. Both CVSD and Craig are both immune to Davis’s NIED claim under PSTCA. This claim alleges that Defendants acted negligently by ignoring or participating in the discrimination and bullying. There are nine exceptions to PSTCA immunity for specific negligent acts, but they do not include ignoring or participating in bullying or discrimination. Therefore, CVSD’s PSTCA immunity extends to Craig and Davis’s NIED claim is barred. The court granted CVSD’s motion to dismiss Davis’s IIED and NIED claims (Counts V and VI) and dismissed those claims against CVSD with prejudice. It granted Craig’s motion to dismiss the NIED claim with prejudice. The court denied Craig’s motion to dismiss Davis’s IIED claim against him based on PSTCA immunity.

Harold Shaffner and Rausch are immune to Davis’s IIED and NIED claims because they are high public officials (school board officials). Therefore, the court also granted Harold Shaffner and Rausch’s motion to dismiss Davis’s IIED and NIED claims with prejudice.

The court denied Craig, Kristi Shaffner, and Mullin’s motion to dismiss Davis’s IIED claim (Count V) because Davis has alleged her cheerleading coaches denied her disability accommodations and made competing unsafe for her as well as encouraging her teammates and parents to bully her. She alleges Craig knew about the lack of accommodations and discrimination and did nothing about it. The court found Davis had adequately stated an IIED claim against Craig, Kristi Shaffner, and Mullin.

Davis’s amended complaint does not sufficiently allege an NIED claim against Kristi Shaffner and Mullin. She did not provide enough facts to support that a special relationship existed between her and the coaches, and she does not explain how her NIED claim fits into one of the four categories of NIED claims under Pennsylvania law. The court granted Kristi Shaffner and Mullin’s motion to dismiss Davis’s NIED claim against them without prejudice.

Lastly, the court denied Defendants’ motions to strike without prejudice because it is not clear which allegations or paragraphs Defendants seek to strike from the complaint. The Defendants may choose to file their motion again with more specificity.

The court granted in part and denied in part Defendants’ motions to dismiss and denied their motions to strike without prejudice.

References

2026 U.S. Dist. LEXIS 114035 * | 2026 LX 257484 | 2026 WL 1452442

Federal Court Revives ADA Claim of Disabled High School Football Player Seeking Extra Season

Takeaways

- Athletic associations and schools should not assume that a neutral, longstanding eligibility rule ends the inquiry when a student with a disability requests an exception; the ADA may require an individualized assessment of whether modifying the rule would be a reasonable accommodation.
- When a student provides substantial documentation connecting a disability to an eligibility problem, administrators should meaningfully evaluate that information rather than simply applying existing waiver criteria, because failing to conduct an individualized assessment can create potential exposure under the ADA.

By Holt Hackney

A long-running dispute over whether a high school football player who missed a season due to behavioral challenges was entitled to an extra year of eligibility under the Americans with Disabilities Act (ADA) has taken a significant turn in favor of the former student-athlete.

In *D.M. v. Oregon Scholastic Activities Association*, Case No. 6:22-cv-01228, a federal district court in Oregon originally granted summary judgment to the Oregon Scholastic Activities Association (OSAA) in 2024, finding that the student-athlete could not establish that his requested accommodation was reasonable or that his disability caused his ineligibility. Hackney Publications Senior Writer Gary Chester wrote about the 2024 decision, part of which is incorporated into this article.

In August 2025, the Ninth Circuit reversed that 2024 decision, finding genuine issues of material fact as to whether the requested modification was reasonable and whether D.M.'s disabilities caused his ineligibility to play football. The case was returned to the district court, where, on March 19, 2026, U.S. District Judge Mustafa T. Kasubhai denied the OSAA's renewed motion for summary judgment on the remaining issue of deliberate indifference.

The ruling means D.M.'s ADA claim can proceed despite the OSAA's earlier victory.

The Plaintiff Faced Personal Challenges

D.M. was a 17-year-old student about to enter his senior year at Sheldon High School in Eugene, Oregon. He was fortunate enough to have been adopted from an Ethiopian orphanage at age four, but he suffers from depression, PTSD, and other mental health conditions. Playing football was a critical component of the plaintiff's life, providing him with motivation to study hard and a positive social structure where he felt competent.

D.M. played football for three of the four years in which he was eligible and wanted to play one more season. But Oregon's

policy generally restricts a student's eligibility for high school sports to eight semesters, which is consistent with some other states. There are express exceptions to the eight-semester rule and D.M. sought a hardship exemption that would allow him to play in his senior year.

The plaintiff's eight-semester "clock" began when he enrolled as a ninth-grade student at Marist High School in August 2018. The preceding year, D.M. suffered a tragedy when his older brother died by suicide. D.M.'s seventh and eighth-grade years were consolidated to expedite his enrollment at Marist, where another brother was already enrolled. D.M. completed the ninth and tenth grades at Marist but his behavioral conditions produced anti-social conduct, prompting his parents to enroll him at Triumph Academy where he repeated the tenth grade.

For his eleventh-grade year, and fourth year of high school, D.M. enrolled in the Eugene, Oregon school district. When the action was originally decided, D.M. was entering the twelfth grade and his fifth year of high school.

Since D.M. entered the ninth grade in August 2018, his eight semesters of athletic eligibility expired after the 2021-2022 school year. He applied for a hardship waiver of the rule based on his disabilities, but the OSAA denied the request because the waiver applies only to students with individual disabilities under the ADA who have an Individualized Education Plan (IEP).

Did the Plaintiff's PTSD Cause Him to Repeat a Year?

Title II of the ADA (42 U.S.C. § 12132) provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, program, or activities of a public entity or be subjected to discrimination by any such entity.

To prove a claim under this section, a plaintiff must show that: (1) he is a qualified individual with a disability, (2) he was excluded from participation or otherwise discriminated against with regard to a public entity's services, programs, or activities, and (3) such exclusion or discrimination was by reason of his disability.

The ADA, however, does not require public entities to fulfill every accommodation that a disabled person requests; it only mandates reasonable accommodations. The reasonableness of the proposed accommodation depends on the individual circumstances of each case.

There are three circumstances justifying a waiver of the eight-semester rule, including where the student's IEP team has determined that the student was meeting the requirements of the student's IEP but was unable to graduate from high school within eight semesters after entering the ninth grade primarily because of the disability. The other circumstances involve a significant absence from school or a lack of English proficiency.

The plaintiff did not meet any of the criteria for a waiver. He argued that a waiver would constitute a reasonable accommodation, and that a blanket fifth-year waiver should be permissible for any student with an ADA-qualifying disability who can establish a connection between the disability and the need for an additional year of high school.

The OSAA argued that the eight-semester rule promotes academic progression and fair and safe competition among participants. The exceptions “focus on whether the student is able to academically progress (earn credits) and thereby graduate in four years.”

The OSAA Initially Obtains Summary Judgment

The court discussed the IEP requirement, which mandates that professionals evaluate a student to determine whether the student is disabled for the purposes of the Individuals with Disabilities Education Act (IDEA). The plaintiff was considered for an IEP twice, but his IEP team of teachers and administrators decided that he was not a candidate for special education and chose not to implement an IEP. D.M. had a less formal academic success plan throughout high school and this was deemed sufficient to support him in advancing to graduation. D.M. urged the court to require the OSAA to amend its rules to enable students with disabilities as defined by the IDEA and Section 504 of the Rehabilitation Act to request a fifth year of eligibility.

Judge Michael McShane found that it would not be reasonable to disregard the fundamental difference between students who meet the criteria for obtaining an IEP and those who do not. Even if D.M. could show that a waiver of the eight-semester rule was reasonable, McShane found that he was unable to establish a causal connection between his disabilities and his ineligibility under the district’s eligibility policy.

D.M. argued that he would not have required a year-long stay at the Triumph treatment center but for his disabilities, and the ADA required the OSAA to afford him reasonable accommodations not only for his disability but also for his disability-related needs.

McShane disagreed because D.M. was enrolled at Triumph because it was deemed a school “better equipped to address his behavioral, emotional, and mental health concerns.” Simply put, the court found that D.M. did not obtain a waiver permitting him to play football in his senior year because he suffered from an emotional disability as opposed to a learning disability. Had D.M. repeated a grade due to a learning disability that required an IEP, then he would have qualified for a waiver.

The court distinguished D.M.’s situation from *Washington v. Indiana High School Athletic Association*, 181 F.3d 840 (7th Cir. 1999), where a school district did not waive the eight-semester rule for a student whose learning disability caused him to fail at school and drop out. The Seventh Circuit found that the district had violated the ADA because but for the

learning disability the student would have otherwise been eligible to play sports.

The Ninth Circuit Reverses

That was not the end of the case.

D.M. appealed the summary-judgment ruling, and on Aug. 19, 2025, the Ninth Circuit reversed and remanded. The appellate court concluded that genuine issues of material fact remained as to two issues central to D.M.’s ADA claim: whether his requested modification of the eight-semester rule was reasonable and whether his disabilities caused his ineligibility to play football.

The Ninth Circuit therefore rejected the conclusion that those issues could be resolved against D.M. as a matter of law at the summary-judgment stage.

The appellate court did not decide whether the OSAA had been deliberately indifferent to D.M.’s federally protected rights, an issue relevant to his ability to recover monetary damages. Instead, it left that question for the district court to consider on remand.

Following the remand and reassignment of the case from McShane to Kasubhai, the OSAA renewed its summary-judgment motion on that narrower issue.

Court Finds Deliberate Indifference Issue Is for a Jury

To recover monetary damages under Title II of the ADA or the Rehabilitation Act, a plaintiff must establish intentional discrimination. Under Ninth Circuit precedent, that requirement can be satisfied through deliberate indifference, which requires knowledge that harm to a federally protected right is substantially likely and a failure to act upon that likelihood.

Kasubhai found sufficient evidence for a jury to potentially conclude that the OSAA was deliberately indifferent.

D.M. had notified the OSAA of his need for an accommodation and provided supporting materials that included a psychological assessment, his Section 504 Evaluation Report and Accommodation Plan, and statements from D.M., his mother and his therapist.

There was also evidence from which a jury could find that the OSAA knew denying the requested waiver was substantially likely to harm a federally protected right. D.M. had repeatedly argued that the association’s reliance on whether a student had an IEP under the IDEA was inconsistent with its obligations under the ADA.

The OSAA pointed to the longstanding nature of its eight-semester rule and prior judicial approval of the rule. But Kasubhai noted that disability law has evolved, including the U.S. Supreme Court’s decision in *PGA Tour, Inc. v. Martin*, which emphasized the need to consider an individual’s particular circumstances when determining whether an accommodation is reasonable.

The judge also found a factual dispute over whether the OSAA failed to act after being alerted to the potential

infringement of D.M.'s rights. Although the OSAA emphasized the multiple opportunities D.M. had to present his arguments, the process itself was not dispositive.

A jury could find that the association's strict reliance on its existing waiver criteria, despite being advised of their potential legal deficiencies, amounted to a failure to conduct the individualized inquiry required under disability law.

Kasubhai therefore denied the OSAA's renewed motion for summary judgment on March 19, allowing the deliberate-indifference issue to proceed.

The Takeaway

The latest decisions substantially change the implications of the case from those presented by the district court's original 2024 ruling.

The Ninth Circuit's reversal demonstrates that an athletic association cannot necessarily defeat an ADA accommodation claim merely by pointing to a neutral, longstanding eligibility rule or to a student's failure to satisfy existing waiver criteria.

When a student contends that a disability caused the circumstances resulting in ineligibility, the ADA may require a fact-specific inquiry into whether modifying the rule would constitute a reasonable accommodation.

The March 2026 decision goes one step further. An association that receives substantial information about a student's disability and is specifically alerted that its eligibility criteria may conflict with the ADA potentially exposes itself to monetary damages if it simply continues to apply those criteria without conducting an individualized assessment.

The case does not establish that D.M. was entitled to a fifth season of football or that the OSAA ultimately violated the ADA. Those issues remain unresolved. But what began as a case reflecting judicial reluctance to disturb the eligibility policies of voluntary educational associations now carries a different message: adherence to established eligibility rules does not necessarily insulate an athletic association from its independent obligation to consider reasonable accommodations under the ADA.

Federal Judge Rules Virginia Can Keep Homeschoolers Off Public-School Teams

Takeaways

- Athletic directors should recognize that homeschooled students do not have a federal constitutional right to participate on public-school sports teams, and eligibility policies excluding them may survive an Equal Protection challenge when supported by legitimate administrative, academic and competitive concerns.
- Schools and athletic associations should be prepared to articulate legitimate reasons for eligibility rules—such as consistent academic standards, verification of eligibility, competitive fairness and administrative oversight—because those rationales can be critical when the rules are challenged in court.

By Robert J. Romano, JD, LL.M., St. John's University, Senior Writer

Chief Judge Elizabeth K. Dillon of the U.S. District Court for the Western District of Virginia, Roanoke Division, issued a decision in the case of *Palmer v. Virginia High School League, Inc.*, denying a preliminary injunction sought by the family of a homeschooled ninth-grade distance runner who was barred from competing in public-school track and cross country. Within her On May 27, 2026, opinion, Chief Judge Dillon addressed whether the state of Virginia's policy excluding homeschooled students from participating in Virginia High School League (VHSL) athletics violates the Equal Protection Clause of the

Fourteenth Amendment together with Virginia's religious liberty protections. Although the Court ultimately denied the plaintiffs' preliminary injunction, the opinion does however provide a detailed legal analysis of the equal protection doctrine, educational policy, and the limits of constitutional protections for extracurricular activities.

By way of background, the plaintiffs, Daniel and Stacie Palmer, homeschool their child, S.P., primarily because of their religious beliefs. Their position being that homeschooling allows them to integrate biblical instruction and Christian discipleship throughout their child's education. S.P., a ninth-grade student with a strong interest in competitive track and cross-country running, wanted to participate on the athletic teams of the local public high school. However, VHSL regulations prohibit homeschooled students from participating in interscholastic athletics sponsored by member public schools. As a result, S.P. was ineligible to compete.

As a result of being denied access to competition, being red-blooded Americans, the Palmers filed suit against both the Virginia High School League and the Roanoke County School Board in the U.S. District Court for the Western District of Virginia, Roanoke Division. Their complaint asserted three separate causes of action: 1) That excluding homeschooled students from public school athletics is a violation of the Equal Protection Clause under 42 U.S.C. § 1983, 2) that VHSL's policy infringed Article I, Section 16 of the Virginia Constitution, which protects religious liberty and 3) that said policy is a violation of

the Virginia Religious Freedom Restoration Act (VRFRA). Concurrently, they sought a preliminary injunction that would permit S.P. to compete while the litigation proceeded.

The U.S. District Court first addressed the plaintiff's state-law religious liberty claims. Rather than ruling the merits, however, Judge Dillon addressed whether to retain the Virginia constitutional and statutory claims under 28 U.S.C. § 1367. Leaning heavily on the Supreme Court of Virginia's 2023 decision in *Vlaming v. West Point School Board*, the court found the state-law claims raised novel, unresolved questions of Virginia law that substantially predominated over the federal claim. Therefore, in lieu of deciding those questions, Judge Dillon dismissed both Virginia claims without prejudice, allowing the plaintiffs to pursue them in Virginia state courts if they chose to do so. This procedural decision illustrates the federal judiciary's longstanding practice of allowing state courts to resolve novel questions of state constitutional and statutory law whenever possible.

Regarding the plaintiffs' Equal Protection cause of action, the plaintiff's argued that the VHSL policy irrationally discriminated against homeschooled students by denying them access to public school athletics despite their otherwise comparable abilities and qualifications. They maintained that the exclusion lacked a rational relationship to any legitimate governmental objective and unfairly penalized families who choose homeschooling.

The U.S. District Court, however, determined that homeschooled students do not constitute a suspect or quasi-suspect class under Equal Protection jurisprudence. In addition, participation in interscholastic athletics is not recognized as a fundamental constitutional right. Because neither heightened scrutiny nor strict scrutiny applied, the challenged policy was evaluated under the highly deferential rational basis standard, wherein governmental action is constitutional so long as it bears a rational relationship to any legitimate governmental interest, even if reasonable observers might disagree with the wisdom of the policy.

Applying this standard of review, Judge Dillon found that the defendants had identified several legitimate governmental objectives supporting the exclusion of homeschooled students from VHSL athletics, i.e. maintaining consistent academic eligibility standards, ensuring administrative efficiency, promoting fairness in athletic competition, preserving uniform oversight of student-athletes, and avoiding difficulties associated with verifying compliance with educational and eligibility requirements outside the public school system. The Court also noted that Roanoke County Public Schools receive roughly \$8,500 to \$9,000 per enrolled student from the state, funds that support the district's athletic budget of over \$2.4 million annually. The County does not receive matching funds for homeschooled students.

The Court also emphasized that rational basis review does



not require the government to adopt the best or most narrowly tailored policy, it only requires a reasonable belief that the policy advances legitimate objectives. In finalizing its decision, the Court noted its history of upholding VHSL eligibility rules against Equal Protection challenges, together with the extraordinary nature of preliminary injunctive relief, and determined that the plaintiffs had not shown a likelihood of success on the merits, therefore denied their motion.

Although this case leaves homeschooled families in Virginia without an immediate remedy, it does not foreclose relief. The Virginia constitutional and VRFRA claims survive, unresolved, in state court where heightened protections could ultimately produce a different outcome. We will have to wait patiently and see.

Mandating Mouthguards in High School Contact Sports, A Legal Analysis

Takeaways

- Athletic directors should consider whether mouthguards are appropriate beyond the sports in which they are already required, particularly where dental and facial injuries are foreseeable and the protective measure is inexpensive and readily available.
- Whatever mouthguard policy a school adopts, coaches should consistently enforce it during both practices and competition, because having a safety rule on paper provides little protection if athletes are routinely permitted to ignore it.

By Kathy Ansarinia, D.D.S., Fellow, Academy of General Dentistry, Santa Clara School of Law

I. Introduction/Background

High school sports are expected to be one of the most positive parts of a student's high school experience. At the same time, contact sports like basketball, soccer, water polo, volleyball and baseball carry obvious risks. Some of those risks are unavoidable, but others are preventable. A broken tooth or jaw injury is not just painful but can lead to long-term dental treatment and temporomandibular joint (TMJ) issues further down the line. A tooth that takes a hit on impact may be asymptomatic for years and then presents problems at a later age, leading to root canal, crown or eventual tooth loss.

The same issues apply to the TMJ; injuries upon impact may appear asymptomatic at first but later may cause irreversible joint issues and potential pain needing aggressive treatments like surgery in the future. These types of injuries are preventable with a simple protective device: the mouthguard. The American Dental Association recommends mouthguard wear for any sport involving potential contact with players or equipment. (Click on [Link](#) for reference.) Once courts begin viewing whether these injuries are foreseeable, they can hold coaches and schools more effectively accountable for their athletes' regular wear and use. Schools have a duty to take reasonable steps to prevent predictable harm, namely mandating mouthguard wear by all athletes who participate in impact sports, not just a select few.

Issue Statement: Whether high schools should mandate mouthguards for athletes participating in all contact sports as a reasonable and legally defensible way to satisfy their duty of care and reduce liability exposure for foreseeable injuries.

High schools should mandate mouthguards in all contact sports. While student athletes assume a certain inherent risk of sports,

schools and coaches still owe a duty of reasonable care, and courts evaluate school liability through negligence and supervision doctrines. A mouthguard mandate is a practical and inexpensive solution that is consistent with evolving safety standards and reduces preventable harm.

II. Analysis

A. Schools Have Legal Authority to Require Safety Equipment

Schools have broad authority to set rules for athletics. Since playing sports at school is not a guaranteed right, schools can require steps such as physical exams, helmets, or pads before allowing students to play. Mouthguards could easily be implemented (as they already are in football, hockey, wrestling, and lacrosse) in the same manner. This will not alter the nature of the sport but will only serve to protect the students while they play.

B. Negligence and Foreseeability

Courts must look at whether there is a duty of care to the student by the school. In a negligence claim, the plaintiff must show duty of care, breach, causation and damages. Schools usually do show reasonable care toward students. However, in relation to foreseeability, there is certainly an obvious risk in contact sports that students may suffer from facial and/or dental injuries. Therefore, if a student is involved in a contact sport, then it is foreseeable that they may get hit in the face and get injured. Mouthguards can be an easy way to prevent this foreseeable occurrence. Schools must, therefore, take reasonable steps to prevent foreseeable injury.

C. Assumption of Risk is Not a Defense for Negligence

Although the students (and parents) assume the risk of playing a contact sport and they are aware of the potential for injury, this does not fully absolve schools ignoring safety measures. Courts have made it clear that preventing avoidable injuries is still the responsibility of the school.

D. Coaching and Supervision Liability

Coaches play a huge role in ensuring that students follow safety rules. The students must abide by the coach's directives or they cannot play. Courts may focus on supervision or lack thereof when injuries occur. In *Kahn v. E. Side Union High Sch. Dist.*, 3, 41 Cal. 4th 990, 997 (2003), negligent supervision was a key factor in the ruling. ("The doctrine of assumption of the risk did not apply where swim instructor made plaintiff dive into shallow pool, causing her a broken neck"). While the case did not involve mouthguards specifically, it shows that schools and coaches can be held accountable if they fail to enforce safety guidelines.

E. Missing or Optional Equipment Cases

The case of **Sonetti v. Huntington Beach Union High Sch. Dist.*, No. G049198, 2014 WL 4924018 (Cal. Ct. App. Oct. 1, 2014), is an example of how the courts view negligence cases regarding foreseeability of harm. Here, a high school football player was injured in a practice drill during which protective gear, including helmets and mouthguard, was not worn. In this case, the injury was foreseeable and the 3 necessary equipment was not worn. The court held that there was enough evidence to show a jury whether the school and coaches were negligent in this matter.

*Note: This is an unpublished case, but noteworthy for this paper. By contrast in another case, *Walker v. Commack Sch. Dist.*, 31 A.D.3d 752, 753 (N.Y. App. Div. 2d Dep't 2006), the court granted summary judgment to the school, finding that the plaintiff did not prove that mouthguards were a recognized standard of practice for that activity (floor hockey) at the time. Courts evaluate mouthguard negligence claims on a case-by-case basis, however this needs to change in our modern society. All athletes in contact sports should be mandated to wear mouthguards, with no exceptions. Additionally, schools, coaches, and possibly even parents should be held accountable if the athlete is not wearing them while playing.

III. Recommendations And Solutions

A. Adopt a Written District-Wide Policy

Schools should adopt a consistent and enforceable written, district-wide mouthguard policy for all contact sports, requiring athletes to wear them regardless of during practice or games. A district-wide approach avoids confusion between schools or teams and prevents coaches from making inconsistent decisions. A written policy would also show that the school took risk prevention seriously and that the school recognized the risk and took steps to address it.

B. Make Enforcement A Priority

Coaches and team staff should ensure that mouthguards are worn by athletes prior to practices and games, just as they do helmets, pads, or other team outfits. If an athlete does not have one, they should not be allowed to play. This approach allows the schools to show that they took reasonable steps to address a foreseeable risk of injury. It will also further protect the schools from any potential liability due to negligent supervision if consistent enforcement of mouthguard wear is conducted.

C. Provide Free or Affordable Mouthguards

All students should have access to mouthguards, regardless of their family's financial situation. The school should provide basic mouthguards for any athlete who needs one. If a student prefers a custom-fitted one and can afford it, they can purchase one through their dentist.

Conclusion

Contact sports will always involve some level of risk, however, certain foreseeable injuries can be prevented by simple and effective safety measures. Mandating mouth-guards in sports where orofacial injuries are foreseeable and common can align with reasonable standards of care and may reduce exposure to negligence claims. Society, including the courts, must evolve and become better informed about the serious harms associated with not wearing a mouthguard under modern medical understanding

Horseplay

Continued from page 1

Background

C.W. was a freshman football player at Piedmont High, where Steve Smith was the head coach and athletic director. C.W. was 15 years old and weighed around 130 pounds. He was subjected to "bullying from the beginning" including being forced to look at another boy's genitals with the goal of being able to call C.W. gay for looking (p. 3). He also had his nipple twisted, and there was an attempted "keying" (or at least a loud discussion about intent to do this, along with keys in the hand of another student). C.W. was then beaten up trying to escape (Wiessner, 2026). Keying was a "long-standing practice" at the school, and was practiced often enough that it was "known" to Smith and the coaching staff. There had been a past incident (2020) that led to students being charged with assault for keying (p. 3). C.W.'s mother reported the incident to the police, and C.W. was subsequently called into the principal's office with Coach Smith, who told him he was "taking it too seriously." Afterwards, C.W. faced more incidents, including having his butt slapped, and being called a "pussy" among other things. Smith met with the team, and made comments that included "soft people look for reasons to be mad" (p. 5), and he "seemed" to encourage this kind of behavior (Kyle, 2026). The involved students only faced minor discipline, and C.W. transferred to another school.

District Court

The district court granted motions to dismiss by both the School District and Smith. C.W.'s amended complaint clarified that the harassment was sex-based because the bullying was intended to emasculate him (per the district court, C.W. had not initially pleaded that he was bullied because he was male or that Smith knew about the bullying – Smith also requested qualified immunity). The district court ruled that the harassment was more likely explained by "anti-freshman bias" and therefore it was not covered by Title IX, and further that C.W. did not meet any scenarios used in Title VII cases to identify same sex sexual harassment (p. 6). The district court further rejected the Equal Protection claim due to the failure to identify a comparator treated better than him because of sex, and lastly that while Smith was indifferent to the bullying on his team generally, C.W.

did not satisfy that Smith “knew of and acquiesced in” the bullying. The district court also ruled that Smith was entitled to qualified immunity because “he had violated no constitutional right.” (p. 6). C.W. appealed.

Eleventh Circuit Analysis

C.W. Plausibly Pleaded that the District Violated Title IX

Per the court, in order for a student to prevail against a school district on a claim of deliberate indifference to sexual harassment, the student must satisfy a four part test: 1) school must receive Title IX funding; 2) an “appropriate person” must have actual knowledge of the harassment; 3) the recipient must act with deliberate indifference to known acts of harassment, and the harassment must be sex-based, and 4) the harassment must be so severe, pervasive, and objectively offensive that it effectively bars the victim for access to their education opportunity (*Davis v. Monroe*, 1999). The School District argued that C.W. failed to allege sexual harassment that actually violates Title IX (p. 8.), therefore disputing the third and fourth elements.

C.W. offered two theories to support his claim of sexual harassment: a) the harassing conduct was based on his failure to conform to sex stereotypes, and b) the harassing conduct itself was inherently sexual. The court concluded that he stated a claim under both.

1. Sex Stereotypes

The court distinguished this case from their previously decided *Adams v. St. Johns* (2022) (a separate bathroom case that was triggered by “biological sex”), as it did not depend on how students act or identify (p. 9). C.W. alleges he was young, lightweight, subject to verbal slurs such as “pussy,” and the coach suggesting he was soft – all supporting an inference that he did not conform to stereotypes of masculinity associated with the football team (p. 10) and were emasculatory given their social context (see *Oncale*, 1998, and below).

2. Inherently Sexual Harassment

Harassment that is inherently sexual in nature is prohibited under Title IX, even if not motivated by sexual desire. And further, same sex sexual harassment is already actionable under Title VII, per the Supreme Court’s decision in *Oncale*. The court here “see(s) no reason to depart from our Title VII jurisprudence” (p. 12). And when considering social context (per *Davis* quoting *Oncale* – children may regularly interact in a manner that would be unacceptable among adults), this court holds that a factfinder could infer that the alleged conduct goes beyond simple teasing or rough-housing. Physical acts of offensive touching, particularly in areas of the body linked to sexuality, amount to sexual harassment (p. 13) – the actions here are beyond horseplay.

Regarding C.W.’s allegation of severe, pervasive, and

objectively offensive harassment, the court looked to the “surrounding circumstances” and found that his complaint “permits the inference” that the harassment satisfies the threshold required (p. 16). As noted, the conduct primarily happened in the first two weeks of school, there were multiple incidents that involved direct contact with intimate body parts (see *Redd v. NY Div of Parole*, 2012), and it forced C.W. to leave the football program and ultimately transfer to another school. The harassment denied him access to the education opportunities at Piedmont High School (p. 17). While the School District argued that none of the incidents involved a sexual assault, the court here disagreed as C.W. alleged an attempted sexual assault (also see *Hill v. Cundiff*, 2015, holding a jury could find severe and pervasive harassment where a sexual assault was the culmination of two weeks of harassment).

C.W. Plausibly Pleaded that Smith Is Liable Under Section 1983

Per the court, to prove deliberate indifference under Section 1983, a student must prove that the individual defendant actually knew of and acquiesced in discriminatory conduct. C.W.’s claims Smith’s “inadequate response” was a violation of the Equal Protection Clause, while Smith argued that he escapes liability under qualified immunity.

Per the court, when an administrator receives a report of sexual assault, doing nothing is a deliberately indifferent response (p. 20). Here, Smith’s response was to attend a team meeting where he claimed C.W. was soft (see above) and further told the players he was speaking in code. The court determined that a jury could “reasonably infer” that Smith intended to convey, and the players understood, that he did not consider the assault to be a problem and he would “not take steps to prevent future harassment” (p. 21). C.W. continued to be harassed after the meeting, the “meager” punishment was “hardly even a deterrent,” Smith was aware that keying was an endemic practice in the football program, and failing to address it points to a “pervasive practice... of ignoring the bullying” (p. 21). Per *Hill*, a reasonable school official would not have believed that doing nothing was “lawful in light of the clearly established principle that deliberate indifference to sexual harassment is an equal protection violation” and therefore Smith was not entitled to qualified immunity (p. 23).

Conclusion

In June 2026, the Eleventh Circuit vacated and remanded the order dismissing C.W.’s complaint.

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Fees

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participation fees for high school or intramural soccer. TCSC charged participation fees. Atsas did not want to bother with parents paying TCSC directly, so Atsas collected the fees from parents and then remitted payment to TCSC.

Atsas's Prior Disciplinary History

At CCSD, in 2014, Atsas admitted to engaging in unauthorized fundraising activities for the intramural-soccer program at CCSD. CCSD formally disciplined Atsas by suspending him without pay for ten days and barring him from coaching for a period of time. The Superintendent told Atsas he could no longer handle money from students or their parents.

Before the 2017 high school soccer season, Atsas was again informed by CCSD that he was not allowed to handle money. Despite this, Atsas arranged for Campbell High School soccer players to participate in pre-season camps at TCSC in July 2017 without CCSD's approval. Rather than asking CCSD, students, or their parents to pay TCSC directly, Atsas organized a fundraiser that raised \$3,700 to cover the camps' costs. A few weeks after the high school soccer players completed the camps at TCSC, TCSC sent CCSD a \$4,000 invoice. CCSD had no record of why it received the invoice but paid it upon learning that Atsas organized the camps. Around the same time, CCSD learned that Atsas and his assistant coaches had asked local businesses to donate funds to cover the camps' cost. After the 2017 high school soccer season, Atsas was again instructed that he was not allowed to handle money.

In the 2019 high school soccer season, Atsas fielded at least one player who was ineligible and was disciplined. Atsas entered settlement negotiations in September 2019 regarding the ineligible player. Atsas and his representatives considered CCSD's settlement proposal (some terms of which included permanently stripping Atsas of coaching duties) but ultimately rejected the settlement. Sometime that fall, at a Board of Education meeting, Atsas's issues with playing ineligible players came up, as well as Atsas's history of past and recent deception. This prompted certain Board members to reference Atsas's 2014 fundraising issues, which, in turn, caused a Board Member to remark that he thought his daughter paid Mr. Atsas money for students to participate in soccer.

Parent Allegations

For clarification of the issues, some Board Members conferred, and it was confirmed that some individuals had paid Atsas for soccer participation. Statements were collected from those individuals that paid Atsas for soccer participation. The witness statements led the Superintendent of CCSD to conclude that Atsas had taken money from parents for school-sponsored events offered by the District at no cost and that the money was never deposited with the District. This was documented in a

memorandum, which included multiple statements from parents that paid Atsas for a TCSC preseason camp. The memorandum also documented that there was no payment history to CCSD from or on behalf of the multiple parents and that those parents paid for 2017 & 2019 soccer camps and other activities. The memorandum further noted that because Atsas had been disciplined previously and received clear directives to cease handling money, potential criminal acts may have been committed by Atsas.

Criminal Charges

On November 19, 2019, the facts were relayed to a school resource officer along with the memorandum. After a brief review of Atsas's financial records, it was alleged that Atsas may have stolen money from the soccer program and kept the money for his own personal gain. However, multiple witnesses mentioned TCSC, but the school resource officer never looked into it and didn't think it was necessary to find out if money was paid for activities at TCSC. Atsas's lawyer offered to provide copies of checks that Atsas had paid to TCSC to cover league fees; however, the checks were never reviewed.

On November 27, 2019, Atsas was charged with six counts of felony theft in office and six counts of misdemeanor theft by deception—one felony and misdemeanor charge for each parent that provided a statement. Atsas was arrested and spent fourteen hours in jail. While the charges against Atsas were pending, the Superintendent's memorandum was released to the media in response to a public records request. Less than a month later, the state voluntarily dismissed all six felony counts. About two months after that, Atsas went to trial on the remaining misdemeanor counts. The state dismissed four misdemeanor counts during trial, and the jury found Atsas not guilty of the final two misdemeanor counts. After the criminal case against Atsas collapsed, CCSD began its internal investigation to decide the future employment status of Atsas regarding fielding an ineligible player in 2019.

Resolution of 2019 Ineligible Player Incident

In June 2020, CCSD and Atsas agreed to a four-day suspension without pay and a two-year coaching ban for the ineligible-player incident. CCSD also agreed to purge two previous disciplinary actions from Atsas's record to give him a clean slate.

Civil Lawsuit

Atsas subsequently filed a lawsuit against CCSD, asserting false-arrest, illegal-seizure, and malicious-prosecution claims pursuant to 42 U.S.C. § 1983, a municipal-liability claim against the City pursuant to *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978), and false-imprisonment, malicious-prosecution, abuse-of-process, and defamation claims under state law. Following discovery, the City and CCSD defendants moved for summary judgment on all Atsas's claims, with the individual defendants invoking qualified

immunity as to Atsas's § 1983 claims. The district court granted the defendants' summary-judgment motions in full.

Analysis

On appeal, Atsas raised three claims of error. The court reviewed *de novo* the district court's grant of summary judgment. Summary judgment was AFFIRMED.

Malicious-Prosecution

For a malicious-prosecution claim, the plaintiff must prove that:

1. the defendant made, influenced, or participated in the decision to prosecute the plaintiff;
2. there was no probable cause for the prosecution;
3. as a consequence of the legal proceedings, the plaintiff suffered a deprivation of liberty apart from the initial arrest; and
4. the criminal proceeding was resolved in the plaintiff's favor. (*France v. Lucas*, 836 F.3d 612, 625 (6th Cir. 2016)).

For this case, the court focused on the probable-cause element. To satisfy the probable-cause element, Atsas must demonstrate that one charge against him lacked probable cause. *Chiaverini v. City of Napoleon*, 602 U.S. 556, 564, 144 S. Ct. 1745, 219 L. Ed. 2d 262 (2024). In this case, the District Court

equated the false-arrest and malicious-prosecution probable-cause analyses.

The Appellate Court concluded that probable cause supported the two felony and two misdemeanor counts. There was probable cause to believe that Atsas had leveraged his role as the head of CCSD's intramural-soccer program to wrongfully obtain money from some parents at some point in time. Specifically, in the years leading up to 2019, Atsas had engaged in fundraising improprieties with respect to the intramural-soccer program and, despite instructions to the contrary, attempted to fundraise behind CCSD's back for CCSD-related soccer programming at TCSC. In this case, the court received statements from parents that they had paid Atsas for school-sponsored soccer. As a result, based on the evidence gathered during the initial investigation, there existed a substantial chance that Atsas had wrongfully obtained money from parents as the head of CCSD's intramural-soccer program. Atsas averred that the parents had, in actuality, paid him registration fees for private, youth recreational soccer at TCSC. The court noted that although this may be true, what matters for the probable-cause analysis is whether CCSD or the school resource officer were aware of information that rebutted the "presumption of reliability and veracity" that investigators are entitled to assign to eyewitness statements. *Ahlers v. Schebil*, 188 F.3d 365, 370 (6th Cir. 1999).

Atsas again argued that the parents' references to TCSC, his lawyer's offer to provide copies of checks that Atsas paid to



TCSC, and CCSD's and the school resource officer's failure to investigate defeat probable cause. Atsas argued that the failure to investigate whether the payments were for private, youth soccer at TCSC, that there was no effort to ascertain what TCSC meant, and that the school resource officer's decision to turn down information about Atsas's payment to TCSC cast significant doubt on the existence of probable cause. Importantly, one parent did not mention TCSC whatsoever, and while another parent did, she specified that her children played soccer at TCSC through CCSD. The court noted the specificity of the parents' statements, coupled with the background knowledge of Atsas's prior fundraising issues, supplied probable cause for the charges. The District Court's grant of summary judgment to CCSD and the school resource officer on Atsas's malicious-prosecution claim was affirmed.

Monell Liability

In order to hold a municipality liable, a plaintiff must demonstrate that they were deprived of a federal right by "a municipal policy or custom." *Franklin v. Franklin County*, 115 F.4th 461, 470 (6th Cir. 2024) (quoting *Burgess v. Fischer*, 735 F.3d 462, 478 (6th Cir. 2013)). Both of the *Monell* claims hinge on the existence of CCSD and the school resource officer—not on a "constitutional violation committed by a municipality qua municipality, even in the absence of a showing of a constitutional violation by any one individual officer." *Grote v. Kenton County*, 85 F.4th 397, 414 (6th Cir. 2023). Because the malicious-prosecution claim failed, the *Monell* claims must fail as well, and the court affirmed the District Court's grant of summary judgment.

Abuse of Process

Last, the court addressed Atsas's state-law abuse-of-process claim against CCSD. A defendant is liable for abuse of process if they:

- initiated a legal proceeding "in proper form and with probable cause";
- subsequently "pervert[ed]" the proceeding "to attempt to accomplish an ulterior purpose for which [the proceeding] was not designed"; and
- cause "direct damage" to the plaintiff "from the wrongful use of process."

Yaklevich v. Kemp, Schaeffer & Rowe Co., 68 Ohio St. 3d 294, 1994-Ohio-503, 626 N.E.2d 115, 116 (Ohio 1994). To establish the second element, a "plaintiff must identify both an act committed during the process that was not proper in the normal conduct of the proceeding and the defendant's ulterior motive." *Cox v. Oliver*, 2016-Ohio-4575, 66 N.E.3d 1101, 1105 (Ohio Ct. App. 2016) (quoting *Palivoda v. Felix*, No. 2010-A-0017, 2011-Ohio-5231, 2011 WL 4790982, at *8 (Ohio Ct. App. 2011) (Wright, J., concurring)). "Therefore, there is no liability for abuse of process where the defendant has done

nothing more than carry out the process to its authorized conclusion, even though with bad intentions." *Yaklevich*, 626 N.E.2d at 118 n.2 (citation modified); see also *Hershey v. Edelman*, 187 Ohio App. 3d 400, 2010-Ohio-1992, 932 N.E.2d 386, 395 (Ohio Ct. App. 2010).

Here, Atsas maintained that CCSD and the superintendent helped commence the criminal proceedings against him with the goal of forcing him to accept a last-chance agreement and losing his employment notwithstanding union protections. In support, Atsas pointed to the October 2019 email CCSD's counsel sent to his lawyer, the CCSD Superintendent memorandum, its release to the media pursuant to a public records request, and the Superintendent's post-trial statement to the media. None of these actions, however, took place "during the process" at issue, which was Atsas's criminal case. The court affirmed the District Court's grant of summary judgment to CCSD and the Superintendent on this claim.

Conclusion

For the foregoing reasons, summary judgment was AFFIRMED.

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