



USCA DOCKET # (IF KNOWN)

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT CIVIL APPEALS DOCKETING STATEMENT

PLEASE ATTACH ADDITIONAL PAGES IF NECESSARY.

<p>TITLE IN FULL:</p> <p>C.F., a minor, by and through his parents BILL FARNAN and TERESA FARNAN,</p> <p style="text-align: center;">Plaintiffs – Appellants,</p> <p style="text-align: center;">vs.</p> <p>CAPISTRANO UNIFIED SCHOOL DISTRICT; DR. JAMES CORBETT, individually and in his official capacity as an employee of Capistrano Unified School District; and DOES 1 through 20 inclusive,</p> <p style="text-align: center;">Defendants – Appellees.</p> <p>CALIFORNIA TEACHERS ASSOCIATION/NEA; and CAPISTRANO UNIFIED EDUCATION ASSOCIATION,</p> <p style="text-align: center;">Intervenors – Appellees</p>	<p>DISTRICT: C. D. Cal.</p>	<p>JUDGE: James V. Selna</p>	
<p>DISTRICT COURT NUMBER: SACV07-1434 JVS (ANX)</p>		<p>DATE NOTICE OF APPEAL FILED: October 26, 2009</p>	
		<p>IS THIS A CROSS APPEAL? <input type="checkbox"/> YES</p>	
<p>IF THIS MATTER HAS BEEN BEFORE THIS COURT PREVIOUSLY, PLEASE PROVIDE THE DOCKET NUMBER AND CITATION (IF ANY):</p> <p> </p>			

BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW:

Please see Attachment "A"

PRINCIPAL ISSUES PROPOSED TO BE RAISED ON APPEAL:

Please see Attachment "B"

PLEASE IDENTIFY ANY OTHER LEGAL PROCEEDING THAT MAY HAVE A BEARING ON THIS CASE (INCLUDE PENDING DISTRICT COURT POST-JUDGMENT MOTIONS):

None.

DOES THIS APPEAL INVOLVE ANY OF THE FOLLOWING:

Possibility of Settlement

Likelihood that intervening precedent will control outcome of appeal

Likelihood of a motion to expedite or to stay the appeal, or other procedural matters (Specify)

Any other information relevant to the inclusion of this case in the Mediation Program

Possibility parties would stipulate to binding award by Appellate Commissioner in lieu of submission to judges

LOWER COURT INFORMATION

JURISDICTION		DISTRICT COURT DISPOSITION	
FEDERAL	APPELLATE	TYPE OF JUDGMENT/ORDER APPEALED	RELIEF
<input checked="" type="checkbox"/> FEDERAL QUESTION <input type="checkbox"/> DIVERSITY <input type="checkbox"/> OTHER (SPECIFY): 	<input checked="" type="checkbox"/> FINAL DECISION OF DISTRICT COURT <input type="checkbox"/> INTERLOCUTORY DECISION APPEALABLE AS OF RIGHT <input type="checkbox"/> INTERLOCUTORY ORDER CERTIFIED BY DISTRICT JUDGE (SPECIFY): <input type="checkbox"/> OTHER (SPECIFY): 	<input type="checkbox"/> DEFAULT JUDGMENT <input type="checkbox"/> DISMISSAL/JURISDICTION <input type="checkbox"/> DISMISSAL/MERITS <input checked="" type="checkbox"/> SUMMARY JUDGMENT <input checked="" type="checkbox"/> JUDGMENT/COURT DECISION <input type="checkbox"/> JUDGMENT/JURY VERDICT <input type="checkbox"/> DECLARATORY JUDGMENT <input type="checkbox"/> JUDGMENT AS A MATTER OF LAW <input checked="" type="checkbox"/> OTHER (SPECIFY): District Court Orders dated May 1, 2009, July 27, 2009, and September 15, 2009.	<input type="checkbox"/> DAMAGES: SOUGHT \$ _____ AWARDED \$ _____ <input checked="" type="checkbox"/> INJUNCTIONS: <input type="checkbox"/> PRELIMINARY <input checked="" type="checkbox"/> PERMANENT <input type="checkbox"/> GRANTED <input checked="" type="checkbox"/> DENIED <input type="checkbox"/> ATTORNEY FEES: SOUGHT \$ _____ AWARDED \$ _____ <input type="checkbox"/> PENDING <input type="checkbox"/> COSTS: \$ _____

CERTIFICATION OF COUNSEL

I CERTIFY THAT:

- COPIES OF ORDER/JUDGMENT APPEALED FROM ARE ATTACHED.
- A CURRENT SERVICE LIST OR REPRESENTATION STATEMENT WITH TELEPHONE AND FAX NUMBERS IS ATTACHED (SEE 9TH CIR. RULE 3-2).
- A COPY OF THIS CIVIL APPEALS DOCKETING STATEMENT WAS SERVED IN COMPLIANCE WITH FRAP 25.
- I UNDERSTAND THAT FAILURE TO COMPLY WITH THESE FILING REQUIREMENTS MAY RESULT IN SANCTIONS, INCLUDING DISMISSAL OF THIS APPEAL.

 s/Jennifer L. Monk
Signature

 October 26, 2009
Date

COUNSEL WHO COMPLETED THIS FORM

NAME	Jennifer L. Monk		
FIRM	ADVOCATES FOR FAITH AND FREEDOM		
ADDRESS	24910 Las Brisas Road, Suite 110		
CITY	Murrieta	STATE	California
		ZIP CODE	92562
E-MAIL	jmonk@faith-freedom.com		
	TELEPHONE (951) 304-7583		
FAX	(951) 600-4996		

****THIS DOCUMENT SHOULD BE FILED IN DISTRICT COURT WITH THE NOTICE OF APPEAL. ****
****IF FILED LATE, IT SHOULD BE FILED DIRECTLY WITH THE U.S. COURT OF APPEALS.****

Attachment "A"

This action challenged Defendant Corbett's statements in the classroom arguing that Defendants' conduct and Dr. Corbett's statements conveyed a governmental message that was hostile toward religion and favors irreligion over religion. The parties filed cross-motions for summary judgment. The district court granted the motion for summary judgment brought by Plaintiffs against Defendant Corbett with regard to the "Peloza Statement" only and granted Defendants/Union Intervenors motion for summary judgment with respect to all other statements and with respect to Defendant Capistrano Unified School District's liability. After the district court ruled on the merits of this case, the parties briefed the issue of whether Plaintiffs were entitled to injunctive and declaratory relief as well as several other issues. The district court denied Plaintiffs' request for injunctive and declaratory relief against Defendants. Defendants subsequently brought a motion to amend the scheduling order and their answer to raise the defense of qualified immunity as well as a motion for a determination that Defendant Corbett was entitled to qualified immunity. The district court granted Defendants' motion to amend the scheduling order and to file an amended answer to assert a qualified immunity defense on Defendant Corbett's behalf, and also granted the motion for qualified immunity in Defendant Corbett's favor. Plaintiffs now appeal.

Attachment "B"

The district court erred in its ruling by ordering:

1. That statements made by Defendant Corbett that were introduced into evidence by Plaintiffs in support of Plaintiffs' Motion for Summary Judgment were not in violation of the Establishment Clause;
2. That Capistrano Unified School District was dismissed and found not liable;
3. That Plaintiffs were not entitled to a declaratory judgment;
4. That Plaintiffs were not entitled to a permanent injunction;
5. That the scheduling order could be amended to permit Defendants to amend their Answer;
6. That Defendants were allowed to amend their answer in order to assert the affirmative defense of qualified immunity;
7. That Defendant Corbett was entitled to qualified immunity;
8. That Plaintiffs were not entitled to nominal damages.

TABLE OF ATTACHED RULINGS

- EXHIBIT A. FINAL ORDER RE MOTIONS FOR SUMMARY JUDGMENT OR SUMMARY ADJUDICATION DATED MAY 1, 2009.
- EXHIBIT B. ORDER RE MOTION FOR LEAVE TO FILE AN AMENDED ANSWER, MOTION FOR A DETERMINATION RE QUALIFIED IMMUNITY, AND SUPPLEMENTAL BRIEFING DATED JULY 27, 2009.
- EXHIBIT C. ORDER RE MOTION TO AMEND SCHEDULING ORDER AND FOR LEAVE TO FILE AN AMENDED ANSWER AND MOTION FOR A DETERMINATION RE QUALIFIED IMMUNITY DATED SEPTEMBER 15, 2009.
- EXHIBIT D. JUDGMENT DATED SEPTEMBER 24, 2009.