

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

██████████ ██████████,
- Plaintiff

v.

CIVIL NO. 3:04CV925 (TPS)

NEW FAIRFIELD SCHOOL DISTRICT,
- Defendant

RULING ON PLAINTIFF'S MOTION TO COMPEL

In this third¹ motion to compel plaintiff seeks three pieces of relief. The motion, in all respects, (Dkt. #63) is **GRANTED**.

A. Amended Response to Interrogatory 3

Plaintiff seeks an order compelling the defendant to supplement their answer to plaintiff's interrogatory 3 to describe what is being referred to as the "Sag ██████████ complaint." The court has already addressed the relevance of the Sag ██████████ complaint in its ruling on plaintiff's second motion to compel (see Dkt. #60). In its memorandum in opposition to the current motion, defendant asserts

¹ Despite the fact that plaintiff has captioned her motion "First Motion to Compel" she has filed two previous motions to compel on September 16, 2005 (Dkt. #33) and March 30, 2006 (Dkt. #49).

"[t]he plaintiff was notified that no documentation exists concerning the alleged Saglibene complaint and she now seeks this court to issue an order concerning an alleged incident of which it has no record. Simply put, the defendant cannot file an answer to an interrogatory concerning an alleged inappropriate touching for which it has no record."

However, in a letter dated August 2, 2006 defendant's counsel asserted

"[w]ith respect to your request that we amend our response to Interrogatory Number 3, we do not think our current information warrants an amendment[.] The communication that came to us regarding the Sag [REDACTED] student and Mr. Suchy is that the event did not involve an improper touching as alleged in the e-mail²."

The defendant's two responses leave a vague picture as to what information, outside of the email, the defendant has with regard to the Saglibene complaint. If the defendant possesses additional information, it should be provided to the plaintiff and the answer to interrogatory 3 should be amended.

The fact that defendant believes that the Sag [REDACTED] complaint did not involve physical touching is immaterial. Judge Squatrito's ruling on plaintiff's first motion to compel held that plaintiff was entitled to discovery on complaints made by other students against other teachers that were similar to the complaints logged by the plaintiff. (Dkt. #39). Plaintiff's complaint alleges both

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The reference to the email relates to an email received by plaintiff's counsel from the father of Ms. Sag [REDACTED]. The email is discussed in more detail in the court's previous ruling (see Dkt. #60).

verbal and physical sexual harassment.

Plaintiff's motion to compel on this point is hereby **GRANTED**. If the defendant possesses information regarding the Saglibene complaint exclusive of the email it is **ORDERED** to amend interrogatory 3 and, in accordance with interrogatory 3, provide the plaintiff with the additional information.

B. Student Identification Information

In response to the court's June 19, 2006 order on plaintiff's second motion to compel, defendant produced a document containing the following language from the defendant's Title IX coordinator Thomas [REDACTED]:

[Student 8] was here this morning, 9/21/99, complaining about the language and actions of a teacher. She complained that [Employee #5's] actions as referring to her a (sic) "sexy" and coming up behind her and rubbing her shoulders on the soccer field were uninvited and unwanted. She complained to me about these actions.

Plaintiff now seeks an order compelling the defendant to provide the name, address and phone number for "Student 8" and her parents. Defendant sites as an impediment to providing this information Judge Squatrito's order dated October 26, 2005 on plaintiff's first motion to compel. In that order Judge Squatrito held

Through her discovery requests, plaintiff seeks information about complaints by other students against all teachers, not just the teacher accused of misconduct in this case...Plaintiff's discovery requests could lead to the discovery of admissible evidence regarding the adequacy of the District's response to her complaint. The District's response to other complaints against other teachers could provide an objective basis for comparison

to the District's response to plaintiff's complaints...**Because only the District's response is relevant, pseudonyms may be used to shield the identities of both the complainants and the District employees accused of misconduct.**

(Dkt. #39) (emphasis added). The undersigned finds that Judge Squatrito's ruling presumed that the information contained in the defendant's files combined with the deposition testimony of the District's administrators would provide the plaintiff with sufficient information about the nature of the complaints and the District's responses to these complaints without the need to depose the complaining students. In the present situation, defendant concedes that it has no further documentation regarding Student 8's complaint, nor do any administrators recall the event. Thus, the plaintiff will be unable to learn anything more regarding the nature of the complaint or the District's response unless she is able to depose Student 8. In order to depose her, plaintiff needs her identification information.

Therefore, plaintiff's motion to compel on this point is also **GRANTED**. Defendant is ordered to provide the name, address and telephone number of Student 8 and her parents to the defendant **within 20 day hereof**. To comply with 34 CFR 99.31(9)(ii) the defendant is further **ORDERED** to inform Student I's parents of this court's order **within five days hereof**.

C. Request to Extend Temporal Scope of Discovery

Plaintiff has already been permitted to obtain discovery on

similar complaints of harassment by other students regarding other teachers dating back to one year prior to plaintiff entering New Fairfield High School. Plaintiff now seeks to extend the temporal scope of discovery one more year, to the time when Dr. Matusiak began working at the District. The court is willing to extend the scope of discovery this far, but no further. The defendant is **ORDERED** to comply with plaintiff's interrogatory number 3 and document request number 8 for the 1998-1999 school year **within twenty days hereto.**

Conclusion

For the reasons set forth herein, plaintiff's Motion to Compel (Dkt. #63) is **GRANTED**. The undersigned has already granted a motion for extension of time in this case which would extend relevant dates in this case based on the timing of this ruling. In light of this order (Dkt. #67) the court issues the following scheduling order:

- Discovery shall conclude **by November 20, 2006**
- Dispositive motions shall be filed **by December 20, 2006**
- If no dispositive motions are filed, the parties shall file a Joint-Trial Memorandum **by January 20, 2006**
- If dispositive motions are filed, the parties shall file a Joint-Trial Memorandum **thirty days after a ruling on the motion**

This case is before the undersigned pursuant to 28 U.S.C. § 636(c) and D. Conn. Magis. R. 73(A)(1). This is a discovery ruling and order.

IT IS SO ORDERED.

Dated at Hartford, Connecticut this 20th day of October, 2006.

/s/ Thomas P. Smith
Thomas P. Smith
United States Magistrate Judge