

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

Case Type: Civil - Other

The Echo Newspaper,

Plaintiff,

v.

St. Louis Park Public Schools, Independent
School District #283, and Robert Metz,
individually and as Superintendent of
Independent School District #283,

Defendants.

Court File No. 27-CV-17-656

AMENDED COMPLAINT

JURY TRIAL DEMANDED

Plaintiff St. Louis Park Echo Newspaper (“The Echo”) for its Complaint against the above-named Defendants St. Louis Park Public Schools, Independent School District #283 (“SLPPS”), and Robert Metz, individually and as Superintendent of Independent School District #283 (“Metz”), states and alleges as follows:

INTRODUCTION

1. This is an action relating to an incident involving St. Louis Park High School students shortly after the 2016 presidential election, in which a male student allegedly ripped off a female student’s hijab, a head covering worn in public by some Muslim women, on school property. The incident was recorded by school security cameras.

2. This action seeks to compel compliance with a Request brought pursuant to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, *et seq.*, for the purposes of obtaining access to the security video and other related data.

3. The Echo staff submitted Data Practices Requests to SLPPS on November 15, 2016 and December 5, 2016, and has received only two heavily redacted documents. The Echo has been informed SLPPS is withholding other documents.

4. The Echo has not received a copy of or access to inspect the surveillance video at issue.

5. The Echo, which is a student-run newspaper, needs to review the security footage for the purposes of news coverage. The Echo is seeking the truth about the incident, which involves troubling allegations of race and religious-based bullying. This is an especially important news topic for The Echo and the community, given the continued rumor and speculation surrounding the incident as well as the broader national concern over racial and ethnic tensions in schools following the 2016 presidential election.

6. The Echo has tried to resolve this matter without the need for court involvement, but Defendants have refused to even meet to discuss the matter. The Echo seeks only to enforce its legal right to access and review the security footage – which is more than reasonable, especially since The Echo does not seek actual copies of the security footage – in an effort to fairly and accurately report the facts in the newspaper.

PARTIES

7. Plaintiff The Echo Newspaper is an online and print student-run newspaper that operates in Hennepin County, Minnesota. The Echo is an award-winning newspaper that has published stories since 1916. It is the recipient of the following recent awards: 2016 National Scholastic Press Association Print Pacemaker Finalist, 2016 Columbia Scholastic Press Association Hybrid Crown Finalist, 2015 National Scholastic Press Association Print Pacemaker Award Recipient, 2015 National Scholastic Press Association Online Pacemaker Finalist, and the 2015 Columbia Scholastic Press Association Gold Crown. Further, its coverage of the November 14, 2016 incident involving a freshman student's hijab and the investigation that followed has already received six Best of Student News Organization awards.

8. Defendant St. Louis Park Public Schools, Independent School District #283, is a school district located in Hennepin County, Minnesota.

9. Defendant Robert Metz is Superintendent of Independent School District #283.

JURISDICTION & VENUE

10. This action arises under the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq. This Court's subject matter jurisdiction over actions to compel compliance with the Act is conferred by statute. Minn. Stat. § 13.08, subd. 4(a).

11. This Court has personal jurisdiction over SLPPS and Metz because part of this cause of action arose in Hennepin County.

12. Venue is proper as SLPPS and The Echo operate in Hennepin County.

Minn. Stat. §§ 542.09 and 13.08, subd. 3.

FACTS

The November 14, 2016 Incident

13. On November 14, 2016, a freshman female student at St. Louis Park High School had an encounter with a senior male student at St. Louis Park High School, in the A3 hallway at the school.

14. The freshman student reported to the school that, during the November 14 incident, the senior student pulled off the freshman student's hijab, or the head covering worn in public by some Muslim women.

15. The November 14 incident was recorded by school security cameras.

16. After the incident, the school conducted a "mediation" between the freshman student and the senior student.

17. During the "mediation," the senior student denied pulling off the freshman student's hijab. The senior student, a football player, was allowed to have his football coach present on his behalf.

18. During the "mediation," the freshman student did not have the opportunity to have anyone speak on her behalf, and was not allowed to object to the football coach's presence on the senior student's behalf.

19. The security video footage of the incident was not viewed or shown during the "mediation."

20. The senior student was not punished for the November 14 incident.

The Minnesota Government Data Practices Act And Plaintiff's Data Practices Act Requests

21. On November 15, 2016, pursuant to the Minnesota Government Data Practices Act, the Echo staff requested from SLPPS “access to and a copy of Security footage from St. Louis Park High School in the A3 hallway on November 14th ... during the school day” (“the Request”). A true and correct copy of the Request is attached hereto as Exhibit A.

22. The Echo is now seeking only to view the security footage, and is not seeking to obtain copies of the footage and thus the footage will not be publically disseminated.

23. Subsequently on December 5, 2016, The Echo staff submitted to SLPPS a further request for “all emails between administrative workers relating to and concerning the November 14 incident in which a student allegedly pulled off a student’s hijab and the emails relating to and concerning the investigation of the incident.” A true and correct copy of that second request is attached hereto as Exhibit B.

24. The Minnesota Government Data Practices Act is Minnesota’s state freedom of information law. It requires that government entities, like SLPPS, provide the public with access to inspect all “data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media or conditions of use.” Minn. Stat. § 13.03, subd. 1.

25. Further, “[u]pon request to a responsible authority or designee, a person shall be permitted to inspect and copy public government data at reasonable times and places[.]” Minn. Stat. § 13.03, subd. 3.

26. Government records are presumed open—indeed, [t]he Act “establishes a presumption that government data are public and are accessible by the public for both inspection and copying unless there is federal law, a state statute, or a temporary classification of data that provides that certain data are not public.” Minn. Stat. § 13.01, subd. 3.

27. Government entities must also “keep records containing government data in such an arrangement and condition as to make them easily accessible for convenient use.” Minn. Stat. § 13.03, subd. 1.

28. Indeed, the Act contains a promptness provision, which states: “The responsible authority in every government entity shall establish procedures, consistent with this chapter, to insure that requests for government data are received and complied with in an appropriate and prompt manner.” Minn. Stat. § 13.03, subd. 2(a).

29. A court’s determination of a government entity’s obligations under the Act should be expedited and public. Minn. Stat. § 13.08, subd. 4.

Plaintiff Is Entitled to Access the Security Footage and Related Data

30. The Echo is seeking the security footage from the November 14 incident, and related data, for the purposes of news coverage of a newsworthy, local event.

31. The November 14 incident is especially newsworthy, given a number of events manifesting religious, ethnic and racial discrimination and harassment following

the November 2016 election around the country. *See, e.g.*, Southern Poverty Law Center, “Ten Days After: Harassment and Intimidation in the Aftermath of the Election,” November 29, 2016 (available at <https://www.splcenter.org/20161129/ten-days-after-harassment-and-intimidation-aftermath-election>).

32. St. Louis Park High School Principal Scott Meyers has also indicated publically and in a phone message to parents that the presidential election has been a cause of recent racial tension within the school.

33. The Echo also seeks to report on the truth of the November 14 incident, given the continued rumor and speculation surrounding the incident. For example, after the November 14 incident, St. Louis Park High School Principal Scott Meyers said students expressed confusion about the existence of security footage. Mr. Meyers stated: “I have not viewed (footage of the investigation) recently. I know at one point there was confusion about where it happened, so I think that’s where people are saying, ‘is there footage or not?’” Principal Meyers has also indicated that social media has contributed to rumors and misinformation regarding the November 14 incident.

34. The Echo staff believes that access to the November 14 footage will not only show there is in fact footage, but will show whether one student pulled the hijab off another student. The Echo believes this because, among other things, other students observed this public event as it occurred.

35. Indeed, as reported by The Echo on November 16, 2016, the student who was the victim of the alleged harassment stated: “I have two eyewitnesses who saw it

directly happen but you still have to go towards the camera to get the truth . . . you won't believe what my friends say, you're not giving me the benefit of the doubt,"

36. The security footage is not private educational data. St. Louis Park High School is public property. The A3 hallway at St. Louis Park High School is in view of the public. The incident, therefore, occurred in view of the public and was not private.

37. Given a number of events manifesting religious, ethnic and racial discrimination and harassment following the November 2016 election around the country, The Echo sought to report on the incident as a newsworthy, local event.

SLPPS responds to The Echo

38. On December 22, 2016, an attorney for SLPPS sent a letter responding to the Request, stating that "[e]nclosed with this correspondence are emails that are responsive to your request." A true and correct copy of this letter and its attachments are attached hereto as Exhibit C.

39. The emails disclosed pursuant to the Request in Exhibit C include one email from Metz to Scott Meyers, Principal of St. Louis Park High School, and Kari Schwietering, Assistant Principal of St. Louis Park High School, dated November 22, 2016. With the exception of the greeting and signature, the entire email is redacted.

40. The second email disclosed to The Echo in Exhibit C is a December 1, 2016 email from Schwietering to Metz and carbon-copying one redacted recipient and Meyers. The entire content of this email is redacted.

41. The surveillance video was not provided to The Echo for inspection or copying at this time.

SLPPS refuses to further discuss its response with The Echo

42. Following SLPPS's response to The Echo's requests, counsel for The Echo requested to meet with counsel for SLPPS to work out an amicable solution by way of a December 5, 2016, letter.

43. Counsel for SLPPS responded on December 6, 2016, confirming SLPPS received the letter and directing future correspondence to counsel.

44. Because SLPPS did not substantively respond to The Echo's requests and its counsel's December 5, 2016 letter, counsel for Plaintiff responded by email to counsel for SLPPS on December 9, 2016, requesting a meeting and seeking to confirm the subject surveillance video had not been destroyed.

45. Counsel for SLPPS responded by letter on December 14, 2016, refusing to provide any further information or meet with counsel for The Echo.

46. Counsel for SLPPS also indicated that SLPPS would under no circumstances provide The Echo with access to the subject surveillance video.

47. Counsel for The Echo spoke with counsel for SLPPS on January 18, 2017, and SLPPS maintained its position that it would not provide access to the video.

48. The Echo has received no further response from SLPPS.

COUNT I

Violation of the Minnesota Government Data Practices Act

Minn. Stat. § 13.01, et seq.

49. The Echo restates and realleges the preceding paragraphs of the Amended Complaint as if fully set forth herein.

50. The Request was properly made under the Minnesota Government Data Practices Act.

51. Data responsive to the Request, a surveillance video, includes government data.

52. The Minnesota Government Data Practices Act governs SLPPS's response to the Request.

53. SLPPS and Metz have not provided data responsive to the Request "in an appropriate and prompt manner."

54. SLPPS and Metz's refusal to provide responsive data violates the Minnesota Government Data Practices Act.

55. The surveillance video, as video depicting an event that occurred in a public place in public view, is not properly classified as educational data pursuant to Minn. Stat. § 13.32.

56. SLPPS and Metz have improperly withheld data responsive to the Request.

57. The Echo has been harmed as a result of SLPPS's violation.

58. The Echo is entitled to an immediate injunction preventing SLPPS's continued violation of the Act. Minn. Stat. § 13.08, subd. 2.

COUNT II
Declaratory Judgment

59. The Echo restates and realleges the preceding paragraphs of the Complaint as if fully set forth herein.

60. The Echo is entitled to a declaratory judgment pursuant to Minn. Stat. §§ 555.01 and 555.02 that SLPPS and Metz must provide The Echo with access to the government data responsive to Request within three (3) days.

DEMAND FOR JURY TRIAL

The Echo hereby demands a jury trial for all claims so triable.

WHEREFORE, The Echo respectfully requests the following from this Court:

1. Declaratory and injunctive relief against SLPPS;
2. An award of compensatory damages in an amount to be determined at trial;
3. Assessment of a civil penalty under Minn. Stat. § 13.08, subd. 4;
4. Fees, costs, and disbursements, including reasonable attorneys' fees under Minn. Stat. § 13.08, subd. 1 and other applicable law; and,
5. Any and all further and appropriate relief that is just or equitable under the circumstances.

Dated: January 20, 2017

ROBINS KAPLAN LLP

By: *s/Christopher A. Seidl*

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ACKNOWLEDGMENT

The undersigned hereby acknowledges that pursuant to Minn. Stat. § 549.211 costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find that the undersigned acted in bad faith; asserted a claim or defense that is frivolous and that is costly to the other party; asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass; or committed a fraud upon the Court.

Dated: January 20, 2017

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