

IN THE UNITES STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DISTRICT

MELANIE NIXON, individually)	
and as parent and next friend of the minor child)	
A.N.,)	
)	
PLAINTIFFS,)	
)	
V.)	No. 1:12-cv-01125
)	JURY DEMAND
HARDIN COUNTY BOARD OF)	
EDUCATION, JOHN THOMAS, Director of)	
Schools; STEPHEN HAFFLY, Principal)	
of Hardin County Middle School; and)	
STACEY STRICKLIN, Assistant Principal)	
of Hardin County Middle School, all in their)	
official and individual capacities,)	
)	
DEFENDANTS.)	

ORDER

On referral for determination is the motion of Defendants to strike and to exclude testimony [D.E. 23]. Plaintiffs oppose this Motion [D.E. 27].

Relevant Background

Plaintiff Melanie Nixon is the parent of a fourteen-year old minor child, A.N. who was enrolled in the eighth grade at Hardin County Middle School. This suit is brought against the Hardin County Board of Education, Director of Schools John Thomas, Hardin County Middle School Principal Stephen Haffly and Assistant Middle School Principal Stacey Stricklin pursuant to 42 U.S.C. §1983 and various state claims.

The allegations underlying this lawsuit concern a standing rivalry between A.N. and a seventh-grade girl, K.N., whose mother is Wendi Nix, a seventh-grade teacher at this school. The Complaint describes this as a rivalry between these young girls, consisting of “bickering, gossiping and competing over the same boyfriends.” It is further alleged that the bullying by K.N. and at least one other young girl, caused A.N. to seek help from the administration, but nothing was done. Through social media, these girls continued their rivalry online through postings until October 21, 2011. That day, as school started, Plaintiff A.N. was detained and escorted to the office of Assistant Principal Stricklin by the school resource officer. Again, according to the Complaint, she was questioned in an accusatory fashion without alerting her parent. Ultimately, A.N. was suspended from school, placed in alternative school for 45 days, removed from the cheerleading squad and the National Junior Honor Society and additionally, banned from attending or participating from any events of the Hardin County School System until 2012.

Issue and Determination

The contested motion concerns Defendants’ effort to strike and exclude all testimony of three expert witnesses for the Plaintiff: Dr. Robert W. Kennon of Jackson, Tennessee, and Mr. Paul Alexander, M.S.S.W., and Kathy Twitty of Savannah, Tennessee. The Defendants complain that Plaintiff provided these three names as medical experts at the very last day to complete discovery, August 31, 2013, leaving them with no time to depose the experts, as well as no time to secure their own experts as needed.

A review of the docket reflects the original scheduling order [D.E. 11] established the deadline for Plaintiff's expert witness disclosure as February 8, 2013, the Defendants' expert disclosure by March 8, 2013 and depositions of experts by April 8, 2013.

Significant to the issue before the Magistrate Judge is that this scheduling order was jointly amended April 5, 2013 "to extend the discovery deadline" to August 31, 2013 [D.E. 17]. It does not specifically define or limit what discovery. To this Court, the word "discovery" is encompassing and means all discovery. Thus, the Court considers the Plaintiff's disclosure of these three witnesses as timely, yet barely.

The trial date was reset by Chief Judge Breen for January 21, 2014, and Defendants have a pending motion for summary judgment. In light of these dates, this Magistrate Judge, at a hearing on October 29, 2013, determined that Plaintiffs shall provide to Defendants full discovery concerning their three witnesses Dr. Kennon, Alexander, and Twitty within the week ending November 5th; that Defendants shall have the following week to depose these witnesses; Defendants shall have the following week to determine if they require expert witnesses and if so, whom. Thereafter, the parties shall work together to provide full discovery of the expert(s) of Defendants and to complete any depositions of the expert(s) on or before December 6, 2013.

Parties are reminded of their obligation to ADR consistent with L.R.16.2.

IT IS SO ORDERED this 29th day of October, 2013.

s/Edward G. Bryant
EDWARD G. BRYANT
UNITED STATES MAGISTRATE JUDGE