

2019 WL 3408892

Only the Westlaw citation is currently available.  
United States District Court, E.D. Arkansas, Western  
Division.

LITTLE ROCK SCHOOL DISTRICT, et al.,  
Plaintiffs

v.

PULASKI COUNTY SPECIAL SCHOOL  
DISTRICT, Jacksonville/North Pulaski School  
District, et al., Defendants  
Emily McClendon, Tamara Eackles, Valerie  
Stallings, and Tiffany Ellis, Intervenor

No. 4:82-cv-866-DPM

|  
Signed 07/26/2019

#### **Attorneys and Law Firms**

John W. Walker, John W. Walker, P.A., Little Rock, AR,  
for Plaintiffs.

M. Samuel Jones, III, Mitchell, Williams, Selig, Gates &  
Woodyard, P.L.L.C., Little Rock, AR, for Defendant  
Pulaski County Special School District.

Patrick Darrow Wilson, Wright, Lindsey & Jennings,  
Scott P. Richardson, McDaniel, Richardson, & Calhoun,  
PLLC, Little Rock, AR, for Defendant Jacksonville/  
North Pulaski School District.

Colin R. Jorgensen, KaTina Rena Hodge, Patrick E.  
Hollingsworth, Rosalyn L. Middleton, Arkansas Attorney  
General's Office, Little Rock, AR, for Defendant  
Arkansas Department of Education.

John W. Walker, John W. Walker, P.A., Little Rock, AR,  
for Defendants Pulaski County Board of Education, Cecil  
Bailey, Thomas Broughton, Martin Zoldessy.

Christopher J. Heller, Friday, Eldredge & Clark, LLP,  
Little Rock, AR, for Defendants Patricia Gee, George  
Cannon, Katherine Mitchell, W.D. Hamilton.

#### **ORDER**

D.P. Marshall Jr., United States District Judge

\*1 There are three pending issues about the Jacksonville  
North Pulaski School District.

#### **• Facilities Compliance**

The Court appreciates JNPSD's first compliance report,  
*No. 5500*, on implementation of its modified 2018 master  
facilities plan. Any objection by Intervenor is due by 28  
August 2019.

#### **• Second Sub-Class Representative**

JNPSD's objections to Linda Morgan's service as a  
second sub-class representative on JNPSD issues are  
overruled. Morgan has been involved at Dupree  
Elementary with her grandson. He lives with her.  
Morgan's focus has been on classroom and discipline  
issues, which is understandable. The Court believes that  
she, working with Tiffany Ellis, can and will stand up for  
JNPSD's non-white students, parents, and others acting as  
parents. Discipline and student achievement remain under  
the Court's supervision. These are key issues. Morgan can  
learn about the staffing-incentives, facilities, and  
monitoring issues. She is an educated person with a  
willingness to serve. The Court concludes that she is  
sufficiently engaged and experienced to adequately  
represent the sub-class with Ellis at this point. *FED. R.*  
*CIV. P. 23(a)(4); Rattray v. Woodbury County, Iowa*, 614  
F.3d 831, 835 (8th Cir. 2010). The Court therefore  
appoints Linda Morgan as the second JNPSD sub-class  
representative.

#### **• Attorney's Fees**

All material things considered, Intervenor's motion for

attorney's fees and expenses is partly granted and partly denied. 42 U.S.C. § 1988(b); *Hensley v. Eckerhart*, 461 U.S. 424 (1983); *Association for Retarded Citizens of North Dakota v. Schafer*, 83 F.3d 1008, 1010-12 (8th Cir. 1996); *Jenkins v. State of Missouri*, 127 F.3d 709, 716-19 (8th Cir. 1997). The \$4,313.80 sought for depositions, copies, mileage, and monthly meeting expenses is not opposed. It's awarded in full. Intervenor's seek approximately \$270,000 for the work of their lawyers, paralegal, and monitors between June 2017 and October 2018. The Court concludes that \$138,900 is a reasonable fee for all necessary work during this period. Here is the Court's thinking.

First, the Intervenor's are prevailing parties in the case in general. It's their place to monitor the remedy embodied in Plan 2000 and defend it. The facilities and staffing issues tried in February 2018 were new in the sense that JNPSD is new, but old in a deeper sense: they're about what Plan 2000 requires, the obligations JNPSD inherited. So the question is the reasonableness and necessity of the work done.

Second, success, and the lack of it, are important considerations. Intervenor's persuaded the Court that all the District's elementary schools must be replaced sooner than JNPSD proposed and before any expansions of the new high school and new middle school. This was Intervenor's fallback position. They did not persuade the Court with their main contention, which was that all the elementary schools had to be replaced immediately. The Court has commended JNPSD's promises—during closing argument—that the District would prioritize the new elementary schools over other projects, plus accelerate planning and construction. The Court again commends the District on these important commitments. But, they came only at the end of the trial, after Intervenor's full court press and pointed inquiries from the Court.

\*2 Intervenor's did not succeed overall on the staffing issues. JNPSD's good faith was apparent. There was only one slice where more needs to be done; the record did not otherwise support the Intervenor's position. And the Court agrees with JNPSD that several staffing-related issues could have been stipulated. The fee must be

John Walker - 160 hours

Austin Porter - 60 hours

reduced to reflect these circumstances.

Third, monitoring. It's needed, of course. But JNPSD is right about excessive time in several areas. Seventy dollars per hour is a generous rate. And remember that we're talking about a sixteen-month period. A reduction in overall hours is appropriate. An example. The Donaldson Scholars program is a pillar of PCSSD's and JNPSD's efforts to become unitary in student achievement. *No. 5018 & No. 5021*. The various ways the program helps get students into college, and prepares them to succeed there, are important. Helping keep the students in college is another bridge, though of course a related one. The Court rejects JNPSD's argument that funding this program ended all the Districts' obligations. Because it is all about student achievement, some monitoring here is good. A reduction for excessive time is necessary, though. The record shows that the monitors have been deeply engaged, actually helping administer all parts of the program. In their revised request, Intervenor's helpfully eliminated time already compensated by the program itself. The monitors' remaining efforts are commendable, but only partly compensable.

Fourth, the class representative issues. These were needlessly contentious. Compare the PCSSD substitutions. As JNPSD says, Intervenor's should have addressed this issue *sua sponte* much sooner; but JNPSD over-litigated the point. Intervenor's are entitled to some, but not all, of their related fees.

Fifth, the monthly meetings. To economize, only Mr. Walker and Ms. Springer need to attend on behalf of Joshua. Information from and to other monitors should flow through her. The Court has reduced the claimed time accordingly.

Last, hourly rates. The ones requested are too high for this work in this market. And the Court has therefore reduced them.

Here are the specifics. The Court awards:

x \$350 = \$56,000

x \$300 = \$18,000

**Little Rock School District v. Pulaski County Special..., Not Reported in Fed....**

---

|                 |   |           |   |       |   |                 |
|-----------------|---|-----------|---|-------|---|-----------------|
| Robert Pressman | - | 80 hours  | x | \$300 | = | \$24,000        |
| Joy Springer    | - | 325 hours | x | \$100 | = | \$32,500        |
| Charles Bolden  | - | 70 hours  | x | \$70  | = | \$4,900         |
| Marva Smith     | - | 50 hours  | x | \$70  | = | \$3,500         |
| Total           |   |           |   |       | = | <hr/> \$138,900 |

\* \* \*

The motion for attorney's fees and expenses, *No. 5461*, is partly granted and partly denied. JNPSD owes Intervenor's counsel \$143,213.80. The Court directs the Clerk to add Linda Morgan to the docket as an intervenor plaintiff. Any objection to the facilities report due by August 28th.

---

So Ordered.

**All Citations**

Not Reported in Fed. Supp., 2019 WL 3408892

---