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MEGAN DONOVAN and JOSEPH RAMELLI

SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

MEGAN DONOVAN and JOSEPH
RAMELLI,

Plaintiffs,

v.

POWAY UNIFIED SCHOOL
DISTRICT, by and through its Board of
Education; DONALD A. PHILLIPS,
Superintendent; SCOTT FISHER,
Principal; ED GILES, Assistant
Principal; and DOES 1-25, inclusive;

Defendants.

CASE NO.: GIC 823157

PLAINTIFFS' MEMORANDUM
REGARDING EVIDENTIARY ISSUES
(McGRAW AND SAGO)

I/C/J: Hon. Steven R. Denton
Trial Date: 5/5/05
Time: 9:00 a.m.
Dept.: 48

Plaintiffs Megan Donovan and Joseph Ramelli submit the following Memorandum to address evidentiary issues related to the potential testimony of two witnesses in this case, Joseph Sago and his mother, Debbie McGraw. Their potential testimony was the subject of a Motion in Limine by Defendants that was denied by this court.

Joseph Sago was a student who also suffered harassment at Poway High School and who, with his mother, made numerous written and verbal complaints to school officials regarding that harassment.

Plaintiffs have no interest in litigating Mr. Sago's complaints as part of this trial. However, Defendants themselves have raised a report related to Mr. Sago and Mrs. McGraw's complaints as evidence that Poway High School was a safe place for gay

1 students in the testimony of Defendant Scott Fisher and Superintendent Ann Guinn.

2 The testimony of Defendant Fisher and Ms. Guinn misleads the jury to believe
3 that the school has been somehow predetermined to be safe as a matter of law. By
4 having laid claim to information asserting that Poway High School was safe at the time
5 of the investigation of Mr. Sago's complaints, Defendants cannot then keep the Plaintiffs
6 from challenging that assumption.

7 Debbie McGraw is the mother of Joseph Sago. Joseph Sago was a student at
8 Poway High in the relevant period for this litigation in the 2000-2001 school year.
9 Joseph Ramelli and Megan Donovan were both students at Poway High School at that
10 time. In fact, Joseph Ramelli was acquainted with Joseph Sago and a percipient witness
11 to at least one event related to the harassment Mr. Sago received.

12 In 2000-2001, Debbie McGraw submitted orally and in writing multiple
13 complaints reporting incidents of hate speech, food being thrown at Joe Sago and his
14 being shoved on campus, especially in the hallways. In August, 2000, Joseph Ramelli
15 and Megan Donovan's freshman year, Joseph Sago returned to Poway High School for
16 his junior year. At that time, based on Mrs. McGraw's and Mr. Sago's complaints, school
17 officials placed him in specific classes "away from specified students" and in the presence
18 of "accepting and proactive teachers".

19 After August, 2000, Mrs. McGraw and her son continued to report ongoing
20 harassment to school officials including Mr. Fisher. In December, 2000, Poway High
21 School officials recommended to Joseph Sago and his mother that he 1) accept a "campus
22 friend" to accompany him during transitions and breaks at school and; 2) that he
23 transfer to the Abraxus Continuation School. It was also later suggested that to remedy
24 some of the harassment that Joseph Sago leave his classes early for lunch late to avoid
25 crowds of students. It was also suggested that he spend time in a particular classroom
26 with a sympathetic teacher and at the Wellness Center to avoid harassment.

27 Otherwise Joseph Sago's and his mother's reports were met with the response
28 that because Joseph Sago could not identify assailants and harassers that nothing could

1 be done with those complaints. Plaintiffs will present testimony of Mr. Sago's and his
2 mother's experiences in their reports to Poway High School officials. This information
3 will be presented for multiple reasons:

4 1) To demonstrate actual notice of unlawful harassment based on sexual
5 orientation to officials at Poway High School and Poway Unified School District.

6 2) To demonstrate that officials at Poway High School and Poway Unified School
7 District failed to take measures to institute systemic changes to protect lesbian and gay
8 students, including Plaintiffs, at Poway High School.

9 3) To show that Defendants engaged in a pattern of behavior and practice
10 virtually identical to the treatment received by the Plaintiffs.

11 4) That the events of 2000-2001 covered a period of time in which both Megan
12 Donovan and Joseph Ramelli were students at Poway High School and that Joseph
13 Ramelli had knowledge of Joseph Sago's circumstances.

14 5) That Defendant Fisher was involved in the response to Mrs. McGraw's and Mr.
15 Sago's complaints. Traci Barker-Ball, Pam Higgins, Tom Pack and other faculty and
16 staff were involved in these complaints and addressing them. Many of these individuals
17 were heavily involved in the complaints received from Joseph Ramelli and Megan
18 Donovan and their mothers.

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27 Plaintiffs believe that this information is relevant and admissible to illustrate the
28 above-mentioned issues. It is neither cumulative nor is any potential prejudice

1 outweighed by its probative value. It should not be barred by Evidence Code Section
2 350 or 352.

3 Dated: _____, 2005.

Respectfully submitted,

4 ROSENSTEIN, WILSON & DEAN, P.L.C.

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6 By:

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9 Attorneys for Plaintiffs
10 Joseph Ramelli and Megan Donovan
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