

1 Sloan R. Simmons, SBN 233752

Alyssa R. Bivins, SBN 308331

2 **LOZANO SMITH**

One Capitol Mall, Suite 640

Sacramento, CA 95814

3 Telephone: (916) 329-7433

4 Facsimile: (916) 329-9050

5 Attorneys for Defendants

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT,

6 JORGE A. AGUILAR, CHRISTINE A. BAETA, JESSIE RYAN,

DARREL WOO, MICHAEL MINNICK, LISA MURAWSKI,

7 LETICIA GARCIA, CHRISTINA PRITCHETT, MAI VANG,

and BOARD OF EDUCATION OF SACRAMENTO CITY

8 UNIFIED SCHOOL DISTRICT

9 *Additional Attorneys on Final Page*

10 UNITED STATES DISTRICT COURT

11 FOR THE EASTERN DISTRICT OF CALIFORNIA

12 BLACK PARALLEL SCHOOL BOARD et al.,

13 Plaintiffs,

14 vs.

15 SACRAMENTO CITY UNIFIED SCHOOL

16 DISTRICT et al.,

17 Defendants.

Case No. 2:19-cv-01768-TLN-KJN

**NOTICE OF JOINT MOTION AND JOINT
MOTION FOR STAY OF LITIGATION
PENDING AGREED-UPON STRUCTURED
SETTLEMENT NEGOTIATIONS; AND
ORDER**

Judge: Hon. Troy L. Nunley

Courtroom.: 7

Action Filed: September 5, 2019

LOZANO SMITH
One Capitol Mall, Suite 640, Sacramento, CA 95814
Tel 916-329-7433 Fax 916-329-9050

NOTICE OF JOINT MOTION AND JOINT MOTION

TO THE HONORABLE COURT:

PLEASE TAKE NOTICE THAT Plaintiffs Black Parallel School Board, S.A., K.E., and C.S. (“Plaintiffs”), and Defendants Sacramento City Unified School District, et al., and all of them (the “District”) (collectively herein, “Parties”), through their respective counsel of record, hereby jointly move this Court for a stay of this litigation for seven months so that the parties may engage in agreed-upon structured settlement negotiations, as set forth below.

As the Parties jointly move for the requested stay and agree on the propriety and scope of same, the Parties do not believe argument or appearance is necessary for the Court to consider the requested stay, but are prepared to appear if the Court so orders.

STATEMENT OF FACTS

The Parties hereby stipulate to the following facts:

Plaintiffs filed their Complaint and initiated the instant action on September 5, 2019 (ECF No. 1).

Plaintiffs served the District with its Complaint on September 10, 2019, and filed the related Proof of Service on October 17, 2019 (ECF No. 7).

Shortly after Plaintiffs’ service of the Complaint, the Parties engaged in communications to negotiate a stay of this litigation for a designated period of time to allow the Parties to participate in good faith negotiations toward a potential global resolution of this action, thereby preserving the Parties’ and the Court’s time and resources.

On September 24, 2019, as the Parties’ communications described in paragraph 3 continued to make progress and were ongoing, the Parties stipulated to and the Court granted an extension of time for the District to respond to Plaintiffs’ Complaint to October 22, 2019 (ECF No. 5).

On October 21, 2019, as the Parties’ communications described in paragraph 3 continued to make progress and were ongoing, the Parties stipulated to a second extension of time for the District to respond to Plaintiffs’ Complaint and sought Court-approval of same; the Court granted the extension on October 21, 2019 (ECF Nos. 10, 11).

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LOZANO SMITH
One Capitol Mall, Suite 640, Sacramento, CA 95814
Tel 916-329-7433 Fax 916-329-9050

1 As the Parties' discussions as described in paragraph 3 continued and were fruitful, on
2 November 15, 2019, the Parties stipulated to a third extension of time for the District to respond to
3 Plaintiffs' Complaint and sought Court-approval of same, which the Court ordered and approved on
4 November 15, 2019 (ECF Nos. 22, 23).

5 At the time of the Parties' November 15 stipulation, the Parties anticipated that no further
6 extension of time for the District to respond to the Plaintiffs' Complaint would be necessary and that by
7 or before December 20, 2019, the Parties would reach an agreement as to the stay of this litigation for a
8 designated period of time to allow the Parties to participate in good faith negotiations to seek global
9 resolution of this action, and thereby efficiently preserve the Parties' and the Court's time and resources.

10 The Parties have reached a final Structured Negotiations Agreement, which has been
11 memorialized in writing. A true and correct copy of the Structured Negotiations Agreement is attached
12 hereto as Exhibit "A" and incorporated by reference.

13 Pursuant to the Structured Negotiations Agreement, the Parties seek this Court's approval of a
14 stay of this litigation to afford the Parties time to complete the activities described in the Structured
15 Negotiations Agreement including, but not limited to, engaging third-party, neutral experts to evaluate
16 the District's programs, policies, and services and then meeting to discuss the potential for global
17 resolution of this action.

18 GOVERNING LAW

19 This Court "has broad discretion to stay proceedings as an incident to its power to control its
20 own docket." *Clinton v. Jones* (1997) 520 U.S. 681, 706-07 (citing *Landis v. N. Am. Co.* (1936) 299
21 U.S. 248). In fact,

22 the power to stay proceedings is incidental to the power inherent in every court to control
23 the disposition of the causes on its docket with economy of time and effort for itself, for
24 counsel, and for litigants. How this can best be done calls for the exercise of judgment,
which must weigh competing interests and maintain an even balance.

25 *Landis*, 299 U.S. at 254-55.

26 Correspondingly, as this very Court has recognized, "[c]ourts have applied their discretionary
27 authority to grant stays because it appeared that settlement discussions between the parties might prove

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1 fruitful.” *Johnson v. Village*, Case No. No. 2:15-cv-02299-TLN-KJN, 2016 WL 1720710, *6 (E.D. Cal.
2 Apr. 29, 2016) (citing *EEOC v. Canadian Indemnity Co.*, 407 F. Supp. 1366, 1368 (C.D. Cal. 1976)).

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4 **REQUEST FOR STAY**

5 As outlined above, the Parties have successfully negotiated over the past several months an
6 agreed-upon structure for settlement discussions between the Parties, in the hope of reaching a global
7 resolution of this matter without the need for protracted litigation. The Parties now jointly move and
8 request that this Court stay this matter for seven months so that the Parties may engage in the activities
9 agreed-upon and outlined in the attached Structured Negotiations Agreement.

10 The Parties believe that a stay is justified because it will: (1) promote judicious use of the
11 Parties’ and Court’s time and resources; and (2) offer the opportunity for speedy resolution and relief
12 without protracted litigation, which is particularly critical where, as here, certain Plaintiffs are children
13 and Defendants are governmental entities or officials. Moreover, given the Parties negotiations to date,
14 the Parties believe that a negotiated global resolution of this matter is viable, if given time to engage in
15 the activities necessary to reach such a resolution. The Parties also agree that these activities would be
16 significantly hindered if the Parties also had to engage in simultaneous motion and discovery practice.

17 This stay will also allow the Court to have continuing oversight over the matter at hand. The
18 Parties agree to keep the Court apprised of their progress by filing joint status reports every 90 days, to
19 be counted from the day the Court grants the requested stay.

20 Pursuant to the terms of the Structured Negotiations Agreement, any Party may withdraw from
21 settlement negotiations with sufficient advance written notice. If that occurs, the Parties will inform the
22 Court so that the Court may lift the stay accordingly.

23 **CONCLUSION**

24 Based upon the foregoing, the Parties’ respectfully move the Court enter an order:

25 (1) Staying this litigation for all purposes for seven months, including temporarily excusing
26 the Parties from complying with this Court’s Initial Pretrial Scheduling Order (ECF No. 4), so that the
27 Parties can focus on and engage in structured settlement negotiations;

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1 (2) Extending the time for Defendants to respond to Plaintiffs' Complaint until 30 days after
2 this stay is lifted upon order of this Court, should negotiations be unsuccessful or terminated by the
3 Parties; and

4 (3) Scheduling a date for the Parties to file a joint status report, or scheduling a status
5 conference, that will permit the Parties to update the Court on the progress of settlement efforts 90 days
6 after the entry of an order granting this joint motion, and then scheduling a further report 90 days after
7 that during the requested stay.

8 Dated: December 19, 2019

Respectfully Submitted,

LOZANO SMITH

/s/ Sloan R. Simmons
SLOAN R. SIMMONS
ALYSSA R. BIVINS
Attorneys for Defendants
SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT, JORGE A. AGUILAR, CHRISTINE
A. BAETA, JESSIE RYAN, DARREL WOO,
MICHAEL MINNICK, LISA MURAWSKI,
LETICIA GARCIA, CHRISTINA PRITCHETT,
MAI VANG, and BOARD OF EDUCATION OF
SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT

18 Dated: December 19, 2019

Respectfully submitted

**EQUAL JUSTICE SOCIETY
DISABILITY RIGHTS CALIFORNIA
NATIONAL CENTER FOR YOUTH LAW
WESTERN CENTER ON LAW AND
POVERTY**

/s/ Mona Tawatao (as authorized on 12/19/19)
MONA TAWATAO
Attorney for Plaintiffs
BLACK PARALLEL SCHOOL BOARD, S.A., by
and through his Next Friend, AMY A., K.E., by and
through his Next Friend, JENNIFER E., and C.S.,
by and through his General Guardian, SAMUEL S.

LOZANO SMITH
One Capitol Mall, Suite 640, Sacramento, CA 95814
Tel 916-329-7433 Fax 916-329-9050

LIST OF ADDITIONAL ATTORNEYS:

EVA PATERSON (SBN: 67081)
MONA TAWATAO (SBN: 128779)
Equal Justice Society
1939 Harrison Street, Suite 818
Oakland, California 94612
Telephone: (415) 288-8700
Facsimile: (510) 338-3030
Email: mtawatao@equaljusticesociety.org

CARLY J. MUNSON (SBN: 254598)
BRIDGET CLAYCOMB (SBN: 312001)
LAUREN LYSTRUP (SBN: 326849)
Disability Rights California
1831 K Street
Sacramento, California 95811
Telephone: (916) 504-5800
Facsimile: (916) 504-5801
Email: carly.munson@disabilityrightsca.org
bridget.claycomb@disabilityrightsca.org
lauren.lystrup@disabilityrightsca.org

MICHAEL HARRIS (SBN: 118234)
National Center for Youth Law
405 14th Street, Floor 15
Oakland, California 94612
Telephone: (510) 835-8098
Facsimile: (410) 835-8099
Email: mharris@youthlaw.org

ANTIONETTE DOZIER (SBN: 244437)
RICHARD ROTHSCHILD (SBN: 67356)
Western Center on Law and Poverty
3701 Wilshire Boulevard, Suite 208
Los Angeles, California 90010
Telephone: (213) 487-7211
Facsimile: (213) 487-0242
Email: adozier@wclp.org
rrothschild@wclp.org

Attorneys for Plaintiffs

LOZANO SMITH
One Capitol Mall, Suite 640, Sacramento, CA 95814
Tel 916-329-7433 Fax 916-329-9050

ORDER

Pursuant to the foregoing Joint Motion of the Parties, and GOOD CAUSE APPEARING
THEREFORE, IT IS HEREBY ORDERED that:

(1) This action is temporarily stayed for seven months for all purposes to enable the Parties to focus on and engage in early settlement efforts;

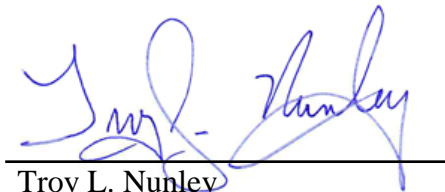
(2) While this stay is in effect, the Parties are excused from complying with this Court’s Initial Pretrial Scheduling Order (ECF No. 4);

(3) While this stay is in effect, the Defendants are not required to file a responsive pleading until 30 days after any stay in this action is lifted; and

(4) The Parties shall file an initial status report no later than (90 days from the date of this order), and file a subsequent status report on (90 days after that) so long as this stay remains in effect unless otherwise ordered by the Court.

IT IS SO ORDERED.

Dated: December 20, 2019


Troy L. Nunley
United States District Judge

LOZANO SMITH
One Capitol Mall, Suite 640, Sacramento, CA 95814
Tel 916-329-7433 Fax 916-329-9050

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