

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

TANDRA CONYEARS, *et al.*

PLAINTIFFS

v.

No. 2:11-cv-111-DPM

BRINKLEY SCHOOL DISTRICT, *et al.*

DEFENDANTS

ORDER

The motion to dismiss for failure to prosecute, *No. 52*, is granted in part and denied in part. This old case needs to be adjudicated. Discovery closed right before Christmas. Dispositive motions were due by 13 January 2014, and none were filed. This case is set first out for trial on 3 March 2014. The Court has continued the trial date and deadlines twice, at the mutual request of counsel and for various good reasons, such as health-related issues. Twenty-nine Plaintiffs have failed to respond to written discovery and appear for their depositions. Defendants can't be expected to try the case against them without the benefit of discovery.

Ten Plaintiffs responded to written discovery but failed to appear for their depositions.* The Court reopens discovery for approximately two weeks to allow these Plaintiffs to be deposed. If any of these Plaintiffs does not appear for deposition by 14 February 2014, then his or her claims will be dismissed without prejudice.

The case will go forward on behalf of approximately thirty Plaintiffs in any event. All parent-Plaintiffs in the case make identical constitutional claims about the operation of the Brinkley School District. Those claims will necessarily be addressed and resolved in the upcoming trial. No plaintiff seeks individual-specific relief. There is no basis, of course, to dismiss the case as to the Plaintiffs who have participated in discovery. And while dismissal is an extreme sanction, given all the material circumstances, the Court concludes that dismissal without prejudice is the proper step at this point for the completely non-responsive Plaintiffs. *Givens v. A.H. Robins Co., Inc.*, 751 F.2d 261, 263 (8th Cir. 1984).

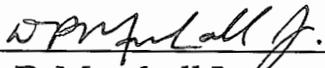
* Discovery shall be reopened as to Tracy Gilmore, Pam Rogers, Dekeisha Chambers, Crystal James, Sheila Devine, Keshia Smith, Derrick Smith, Marnette Mormon, Cleo Scott, and Gwen McGoy. Scott's nonappearance is understandable and excusable because he was in the hospital.

All claims by the following Plaintiffs – Timothy Miller, Sheneairr Coger, Tammy Ray, Eula Couch, Doris Calahan, Mark Devine, Mary Knotts, Carl Burnett, Denetra Brown, Nicole Carroll, Dizzle Webb, Dana Wright, Andrea Young, Derek Young, Blonz Armstrong, Tameka McGuire, Lue Ella Wilbon, Berniece Parker, Annadell Halliburton, Evelyn Dixon, Erica Anthony, Viola Miller, Carletha White, Summer White, Charity White, Cody Lovejoy, Tommy Roberts, Stephanie Green, and Crystal Moncrief – are dismissed without prejudice. FED. R. CIV. P. 41(b).

* * *

Four Plaintiffs move to dismiss their claims voluntarily, and their motions, *No* 53 & 55, are granted. Defendants' motion to dismiss, *No* 52, is granted in part and denied in part.

So Ordered.



D.P. Marshall Jr.
United States District Judge



29 January 2014