

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

DARRIN HARDY; JULIE HARDY; BENJAMIN LYNCH, SR.;
SUE WALLACE; JOHN WALLACE; RON TEAGUE;
KATHY TEAGUE; KAREN MEARS;
MARK DRAPER; JENNIFER DRAPER;
RHONDA RICHARDSON; and KAREN WEST

PLAINTIFFS

v.

Civ. No. 08-6094

MALVERN SCHOOL DISTRICT;
DIANE TATUM, BRENDA GULLETT,
ALICE WILLIAMS MAHONY, DR. BEN MAYS,
SAMUEL LEDBETTER, JIM COOPER, and
SHERRY BURROW, members of the
Arkansas State Board of Education;
DR. NACCAMAN WILLIAMS, Vice Chair of
the Arkansas State Board of Education;
and RANDY LAWSON, Chair of the
Arkansas State Board of Education

DEFENDANTS

Judgment

For the reasons set forth in the Memorandum Opinion, filed contemporaneously herewith, Defendant Malvern School District's Motion for Summary Judgment and Judgment on the Pleadings (dkt. 101) is **GRANTED**, and the claims against the Malvern School District are **DISMISSED WITH PREJUDICE**. The Court cannot reach the merits of the Motion for Summary Judgment by the members of the Arkansas State Board of Education (dkt. 104) or Plaintiffs' Motion for Summary Judgment (dkt. 107) because Plaintiffs have not proceeded in a manner consistent with the doctrine of *Ex parte Young*. Based on this determination, the members of the Arkansas State Board of Education are **DISMISSED WITHOUT PREJUDICE**. To the extent the

Motion for Summary Judgment by the members of the Arkansas State Board of Education (dkt. 104) or Plaintiffs' Motion for Summary Judgment (dkt. 107) addresses the merits of the constitutionality of the race-based transfer restriction in the Arkansas Public School Choice Act, the motions are **DENIED AS MOOT**. Each party is responsible for its own fees and costs. **The parties have thirty days from entry of this judgment on the docket in which to appeal.**

IT IS SO ORDERED this 16th day of March 2010.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge