

JS-6

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10

11 A.P., a minor, by and through his
12 guardian ad litem, C.P.,

13 Plaintiff,

14 v.

15 GLENDALE UNIFIED SCHOOL
16 DISTRICT, AND DOES 1-10
17 inclusive,

18 Defendants.

CASE NO. CV 16-1404-GW(FFMx)
[Assigned to the Hon. George H. Wu]

JUDGMENT

DATE: APRIL 17, 2017
TIME: 8:30 A.M.
CTRM: 10

19 Defendant GLENDALE UNIFIED SCHOOL DISTRICT's (the "School
20 District") Motion for Summary Judgment/Partial Summary Judgment as to
21 Plaintiff's, A.P., claims under the Americans with Disabilities Act, Section 504 of
22 the Rehabilitation Act, the Unruh Civil Rights Act, Article I, Section 7(A) of the
23 California Constitution, Article IX, Section 1 and 5 of the California Constitution,
24 and Negligence was heard on March 20, 2017. Surisa Rivers, Esq., appeared for
25 Plaintiff, A.P. Nancy Doumanian, Esq., appeared for Defendant.


26 After considering the moving, opposition, and reply briefs, the evidence
27 submitted by the parties and the arguments presented by the parties' respective
28 counsel, this Court finds that:

1. That there are no triable issues of material fact and that Defendant is entitled to Partial Summary Judgment as a matter of law because the August 13, 2015 Settlement Agreement entered into by Plaintiff and the School District expressly waives and releases all the allegations, claims, and causes of action raised in Plaintiff's Complaint other than the state law claims which are the Third and Sixth cause of action.
2. On March 22, 2017, the Court issued a Minute Order requesting briefing on the following issue: whether the Court should exercise its discretion to maintain jurisdiction over the two remaining state law claims, or whether it should instead invoke 28 U.S.C. Section 1367(c)(3) to decline continuing supplemental jurisdiction and dismiss those claims without prejudice, allowing Plaintiff to refile them in state court? Attached hereto as **Exhibit "A"** is a true and correct copy of the Court's Order granting this motion and the Court's request for additional briefing on Supplemental Jurisdiction.
3. On April 17, 2017, the Court issued a final Order declining to exercise its discretion to maintain supplemental jurisdiction and dismissing the remaining state law claims without prejudice. Attached as **Exhibit "B"** is a true and correct copy of the Court's Ruling on this subject.

4. The Court therefor Orders that Judgment be entered against Plaintiff A.P., and in favor of Defendant Glendale Unified School District. Defendant shall be entitled to recover its costs and attorney's fees where permitted by statute.

GOOD CAUSE APPEARING THEREFOR, IT IS SO ORDERED.

DATED: April 20, 2017



GEORGE H. WU, U.S. DISTRICT JUDGE

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, the undersigned, am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 2626 Foothill Boulevard, Suite 250, La Crescenta, CA 91214.

On **April 20, 2017**, I served the foregoing document, described as **[PROPOSED] JUDGMENT** in this action by:

☒ Submitting an electronic version of the document to ECF (Electronic Case Filing).

☐ and by placing ☐ the original of the document ☒ true copies of the document in separate sealed envelopes to the following addresses:

Surisa Rivers, Esq.
Sarah Gross, Esq.
Surisa Rivers Law Office
2529 Foothill Blvd. Suite 202
La Crescenta, CA 91214
Tel: (818) 330-7012
Fax: (213) 402-6077

Attorneys for Plaintiff,
A.P. by and through his guardian ad
litem, C.P

Email: surisa@riverslawoffice.org

Email: sarah@riverslawoffice.org

☐ **BY U.S. MAIL** - I deposited said envelopes in the mail at Los Angeles, California. The envelopes were mailed with fully prepaid postage affixed thereon. I am readily familiar with Doumanian & Associates' practice of collection and processing correspondence for mailing. Under that practice, documents are deposited with the U.S. Postal Service on the same day stated in this proof of service in the ordinary course of business. I am aware that, on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one (1) day after the date stated in this proof of service.

☒ **FEDERAL** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

☒ Executed on **April 20, 2017**, at La Crescenta, California.

Janna Delgado
(Type or Print Name)

(Signature of Declarant)

EXHIBIT “A”

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 16-1404-GW(FFMx)	Date	March 22, 2017
Title	<i>A.P. v. Glendale Unified School District</i>		

Present: The Honorable GEORGE H. WU, UNITED STATES DISTRICT JUDGE

Javier Gonzalez

None Present

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None Present

None Present

**PROCEEDINGS (IN CHAMBERS): ORDER CONFIRMING TENTATIVE RULING AND
REQUESTING SUPPLEMENTAL
JURISDICTIONAL BRIEFING**

With the following further comments, the Court confirms the tentative ruling issued on March 20, 2017 – as to the motion for partial summary judgment filed by defendant Glendale Unified School District (“Defendant”) – and adopts it as the Court’s final ruling. As counsel for plaintiff A.P., a minor, by and through his guardian *ad litem*, C.P. (“Plaintiff”) referenced at the 3/20/17 oral argument, the Court sustained objections to Plaintiff’s evidentiary submissions filed in connection with the *earlier* summary judgment motion in this case. The Court did so in part because consideration of that evidence was unnecessary due to the fact that Defendant could not prevail on that motion. *See* Docket No. 44, at pg. 3 of 7 n.1 (“Future consideration of the issue of the release may or may not make appropriate consideration of some of the evidentiary material the Court has presently excluded from its consideration (primarily, at the present time) on relevance grounds.”). Nowhere did the Court indicate that it was not prepared to consider appropriate extrinsic evidence on the contract interpretation issue underlying these motions.

In the end, however, as noted in the tentative ruling issued today, Plaintiff’s goal (in part) is to have the Court consider extrinsic evidence that would, in the end (in Plaintiff’s view), result in a conflict with the release terms in the settlement agreement already clearly stating that Plaintiff was releasing claims under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. For reasons already delineated in the tentative ruling (*see* pages 7-9 of 10, therein), under applicable law, the Court could not discount that clear and specific language no matter the result of the Court’s analysis of extrinsic evidence. As a result, the Court will confirm the tentative ruling issued today as its final ruling on the pending motion for partial summary judgment.

Initials of Preparer JG

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 16-1404-GW(FFMx)	Date	March 22, 2017
Title	<i>A.P. v. Glendale Unified School District</i>		

However, the Court invites further briefing on the question of jurisdiction. Two things are clear: 1) the Court presently has jurisdiction by way of supplemental jurisdiction, 28 U.S.C. § 1367(a); and 2) the Court may not *remand* this matter to state court, because it was not originally *filed* in state court. The only question is whether the Court should exercise its discretion to maintain jurisdiction over the two remaining state law claims, or whether it should instead invoke 28 U.S.C. § 1367(c)(3) to decline continuing supplemental jurisdiction and dismiss those claims without prejudice, allowing Plaintiff to re-file them in state court. Taking into consideration the factors employed in a court's decision whether to maintain supplemental jurisdiction over state-law claims once all federal claims are resolved, the parties should provide their views in briefs of no more than 7 pages due March 29, 2017. If the Court requires responsive briefing from the parties beyond those initial briefs, it will indicate that to the parties following its review of the initial briefs.

Initials of Preparer JG

EXHIBIT “B”

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 16-1404-GW(FFMx) Date April 17, 2017
Title *A.P. v. Glendale Unified School District*

Present: The Honorable GEORGE H. WU, UNITED STATES DISTRICT JUDGE

Javier Gonzalez	None Present	
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:	
None Present	None Present	

PROCEEDINGS: IN CHAMBERS - RULING ON DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT OF THE FIRST, SECOND, THIRD, FOURTH AND FIFTH CLAIMS AND CAUSES OF ACTION IN PLAINTIFF'S COMPLAINT [45]

On March 22, 2017, this Court granted Defendant's motion for partial summary judgment as to Plaintiffs' first, second, fourth and fifth causes of action. *See* Docket Nos. 65, 66. Additionally, the Court asked for further briefing on the issue of whether it should exercise supplemental jurisdiction over the remaining two state claims under 28 U.S.C. § 1367(a). *See* Docket No. 66.

Now having reviewed the parties' submissions in regards to that issue (*see* Docket Nos. 67, 68), the Court declines to exercise its discretion as to those causes of action and dismisses them without prejudice. It is the Court's understanding that Plaintiffs have already filed an action in state court (*see* Los Angeles County Superior Court Case No. BC6551816) which covers (or can cover) their remaining state court claims.

In light of the above, Defendant is to prepare a proposed Judgment (within the next five business days) which includes the above rulings.

Initials of Preparer JG