

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

DORENE MCSHEA,

Plaintiff,

v.

Case No: 2:14-cv-127-FtM-38CM

THE SCHOOL BOARD OF  
COLLIER COUNTY, JOHN  
ROBERT GARDNER, YOLANDA  
FLORES, KAMELA PATTON,  
ROXY MORA, DAVID STUMP, and  
DEBORAH TERRY,

Defendants.

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**ORDER**

This matter comes before the Court upon review of Defendants' Motion for Section 57.105 Attorney's Fees and Costs (Doc. 3) filed in state court on August 26, 2013. This matter was removed to this Court by the Defendants from the Twentieth Judicial Circuit of Florida ("state court") on March 6, 2014. The instant Motion, which was pending before the state court at the time of removal, was included with the Notice of Removal. Doc. 1. No response to the Motion is before the Court.

The Motion requests attorney's fees and costs be awarded to Defendants against Plaintiff, Dorene McShea, and her attorney, pursuant to Fla. Stat. § 57.105, on the grounds that Plaintiff's Amended Complaint is without merit.<sup>1</sup> The Court

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<sup>1</sup> As amended, the statute authorizes "an award of attorney's fees when a claim, pleading or other filing-as opposed to the entire case-is without merit." Section 57.105(1) "add[s] a separate liability for attorneys who in bad faith fail to exercise their screening function and prevent the assertion of entirely frivolous cases through counsel.

notes that since the filing of the instant Motion, Plaintiff filed a Second Amended Complaint (Doc. 2) on February 21, 2014, which prompted Defendants to remove this matter to this Court. Thus, the Court finds that the instant Motion is now moot.

ACCORDINGLY, it is hereby

**ORDERED:**

Defendants Motion for Section 57.105 Attorney's Fees and Costs (Doc. 3) is **DENIED as moot** due to the filing of Plaintiff's Second Amended Complaint.

**DONE and ORDERED** in Fort Myers, Florida on this 22nd day of March, 2014.

  
CAROL MIRANDO  
United States Magistrate Judge

Copies:  
Counsel of record