

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ZOLA H., *et al.*,

Plaintiffs,

v.

Case No. 12-14073

RICK SNYDER, *et al.*,

Defendants.

**ORDER SETTING BRIEFING SCHEDULE, AND
DENYING PENDING MOTIONS WITHOUT PREJUDICE**

On May 1, 2014, the court held a telephonic status conference and the parties informed the court that they were currently pursuing settlement of all pending claims. Accordingly, the court suspended formal proceedings, and allowed the parties approximately two months to continue their settlement discussions. On July 1, 2014, the court held a follow-up telephonic status conference with the parties to ascertain the status of their settlement negotiations.

Plaintiffs' counsel informed the court that four of the eight Plaintiff families have settled their claims with Defendants. Two of the remaining families are still negotiating the terms of their settlement, but the parties expect that settlement will be reached in due course.

Plaintiff Families C and F are not currently engaged in settlement negotiations with Defendants. As to Family C, Plaintiffs' counsel informed the court that he intends to seek leave to dismiss Family C's claims without prejudice. Defendants oppose this request and plan to seek dismissal of Family C's claims with prejudice. Either way, it

appears that Family C's claims will soon be dismissed. The court will set a briefing schedule for these anticipated motions below.

This leaves Family F. The court currently has supplemental jurisdiction over Family F's state-law claims pursuant to 28 U.S.C. § 1367. However, the court anticipates that within approximately the next sixty days, all Plaintiffs with federal claims will be dismissed from this lawsuit, at which point the court will decline to exercise supplemental jurisdiction over Family F's remaining state law claims. See § 1367(c)(3); *Musson Theatrical, Inc. v. Fed. Express Corp.*, 89 F.3d 1244, 1254–55 (6th Cir. 1996) (“When all federal claims are dismissed before trial, the balance of considerations usually will point to dismissing the state law claims . . .”). If, as predicted, all federal claims are settled or dismissed, the court will be strongly inclined to dismiss without prejudice any state-law claims. In the event Family F is not prepared to stipulate to such dismissal, it should be prepared to answer an order to show cause why the state-law claims should not be dismissed. Accordingly,

IT IS ORDERED that the parties are DIRECTED to appear for a telephonic status conference on **July 30, 2014, at 10:00 a.m.**

IT IS FURTHER ORDERED that Plaintiffs' counsel will file a motion seeking dismissal without prejudice of Family C's claims by **August 1, 2014**. Defendants will file their response seeking dismissal with prejudice by **August 22, 2014**. Plaintiffs may file an optional reply by **September 5, 2014**. The court's normal page limitations for dispositive motions will apply. See E.D. Mich. Local R. 7.1(d)(3).

In light of the above-developments, it appears clear that the pending motions to dismiss are at least out-dated and, more likely, moot. Thus, IT IS FURTHER ORDERED that Defendants' motions to dismiss (Dkts. ## 73, 74, 76, 77) and motion for summary judgment (Dkt. # 75) are DENIED WITHOUT PREJUDICE.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: July 10, 2014

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, July 10, 2014, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522