

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**CHRISTA SCHULTZ and DANNY
SCHULTZ, both Individually and as
Parents and Guardians of Minor Child
C.S.,; TREVOR SCHULTZ, Individually,
and PAT DOE, Individually,**

Plaintiffs,

vs.

**MEDINA VALLEY INDEPENDENT
SCHOOL DISTRICT,**

Defendant.

CIVIL ACTION NO. SA-11-CA-422-FB

ORDER ON PENDING MOTIONS

This case involves allegations of Government (Medina Valley Independent School District) using its power to promote and use tax dollars for the establishment of particular religious beliefs. The District defends by alleging the actions of Government agents and employees are the exercise of free expression. Both sides invoke the First Amendment to the United States Constitution. The issue is joined.

Before the Court are 738 pages concerning the following matters:

1. Motion to Dismiss for Lack of Jurisdiction by Medina Valley ISD (docket no. 44);
2. Motion to Amend Complaint by Plaintiffs (docket no. 55); and
3. Motion for Leave to Permit Plaintiff Doe to Proceed Anonymously by Plaintiffs (docket no. 56).

The Court first notes there are at any given time about 250 felony defendants to whom the Court is required to give precedence and about 200 pending civil cases, most of which are older than this matter. Administrative duties over seven divisions spread over 90,000 square miles and about

800 Court employees also take considerable time. Other than that, there is not much for the Court to do.

Meanwhile, the parties are spending what appears to be inordinate amounts of money and time which could be better spent on educating students. That of course would require the parties, with the assistance of counsel, to find some reasonable compromise. Or as the modern urban philosopher Rodney King once said, “[C]an we all get along?”¹

The Court will first address Plaintiffs’ Motion to Amend Complaint (docket no. 44). Federal Rule of Civil Procedure 15(a) provides that “[t]he court should freely give leave [to amend a party’s pleading] when justice so requires.” Fed. R. Civ. P. 15(a)(2). Denial of leave to amend may be warranted for undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies, undue prejudice to the opposing party, or futility of a proposed amendment.” Rosenblatt v. United Way, 607 F.3d 413, 419 (5th Cir. 2010). There has been no undue delay, bad faith or dilatory motive on plaintiffs’ part, repeated failure to cure, undue prejudice to defendant, and the proposed amendment is not futile.

As a practical matter, denying the motion for leave to amend would simply result in the filing of a second case which in turn would likely be consolidated with this case.

Accordingly, the Motion to Amend Complaint (docket no. 55) is GRANTED. Plaintiffs’ Unopposed Motion for Leave to File “Motion for Leave to File First Amended Complaint” under Seal (docket no. 54) and Plaintiffs’ Motion for Leave to File “Reply Brief in Support of Motion for Leave to File First Amended Complaint” under Seal (docket no. 68) are also GRANTED.

¹ David O. Sears, *Urban Rioting in Los Angeles: A Comparison of 1965 with 1992*, in *MULTICULTURALISM IN THE UNITED STATES: CURRENT ISSUES, CONTEMPORARY VOICES* 81 (Peter Kivisto and Georganne Rundblad eds., 2000) (quoting Rodney King).

Because Defendant's Motion to Dismiss is based on the original complaint which has now been superceded, the Motion to Dismiss (docket no. 44), Plaintiffs' Motion for Leave to File Response to Defendant's Motion to Dismiss Under Seal (docket no. 52), Defendant's Objections to and Motion to Strike Plaintiffs' Evidence in Support of Plaintiffs' Response in Opposition to Defendant's Motion to Dismiss (docket no. 58), and Plaintiffs' Motion for Leave to File "Opposition to Defendant's Motion to Strike" Under Seal (docket no. 67) are now moot and are DENIED as being moot.

To the extent defendant has raised the issue of the inadmissibility of some statements in the various pleadings, it is premature to raise those evidentiary matters. They will be addressed at trial or by motions in limine.

Turning to the Plaintiffs' Motion for Leave to Permit Plaintiff Pat Doe to Proceed Anonymously (docket no. 56), the Court finds it sadly unfortunate that youngsters fear the people within their own community and some of the adults responsible for their education. Plaintiffs' pleadings on the issue of anonymity for proposed plaintiff Pat Doe document a pattern of harassment, threats and intimidation of those who disagree with the majority view in the school district community.

This case, like all cases, is a search for the truth. That search is conducted within a framework of the rule of law which provides a level playing field where each side has a fair opportunity to confront those who make allegations and raise defenses. At some point then, plaintiff Doe's identity will have to be disclosed so that defendant can defend itself.

In the interim, however, and in the hope that the evaluation of plaintiff Doe's claims could help the parties find common ground and giving deference to plaintiff Doe's fears, the Court will

temporarily allow plaintiff Doe to proceed anonymously. Accordingly, the Plaintiffs' Motion for Leave to Permit Plaintiff Pat Doe to Proceed Anonymously (docket no. 56) is GRANTED in PART and DENIED in PART.

The denial in part is based on the Court's unwillingness to allow plaintiff Doe to remain anonymous for more than a brief time. Presumably, plaintiff Doe will be deposed soon by defense counsel under similar circumstances used in the deposition of plaintiff, and former student, Schultz.

Accordingly, plaintiff Doe has until December 20, 2012, to decide if she/he wishes to proceed as a plaintiff without anonymity. Plaintiff's Motion for Leave to File Under Seal "Reply in Support of Motion to Allow Plaintiff Pat Doe to Proceed Anonymously" (docket no. 69) is GRANTED.

It is so ORDERED.

SIGNED this 2nd day of November, 2011.



FRED BIERY
CHIEF UNITED STATES DISTRICT JUDGE