

overbroad (Count II); and (3) the School District violated the Plaintiff parents' due process rights when they disciplined Justin for speech uttered in the Layshock family home. (Count III).

3. On February 20, 2007, both parties filed Motions for Summary Judgment, which were subsequently fully briefed.

4. On July 10, 2007, this Court entered a Memorandum and Order granting Defendants' Motion for Summary Judgment on the constitutional challenge to the District's policies (Count II) and the Plaintiff parents' due process claim (Count III), but granted summary judgment in favor of Plaintiff Justin Layshock on the First Amendment (Count I) claim.

5. By its July 10, 2007 Order, this Court resolved the question of liability on all of the substantive claims (as described above) and dismissed the individually-named Defendants and the individual claims of the Plaintiffs Donald and Cheryl Layshock.

6. The only remaining issues were damages (compensatory) and attorneys' fees. This Court determined that a jury trial would be necessary to decide compensatory damages due to Justin for his First Amendment claim against the School District.

7. The parties have now reached an agreement on the issue of compensatory damages and seek to stipulate to the amount of damages if Plaintiffs prevail in an appeal, with both parties preserving and retaining all appellate rights as to liability.

8. The parties are not making any admissions as to liability or entering into any settlement agreement as to liability, but seek to stipulate to damages contingent on the outcome of appellate review.

9. The parties hereby stipulate that Plaintiff Justin Layshock will receive \$7,500.00 in compensatory damages for his First Amendment claim (Count I) contingent upon favorable

appellate rulings on his behalf. If appellate decisions are unfavorable, Plaintiff Justin Layshock will not be entitled to any monetary relief.

10. The parties further seek to stipulate that Plaintiffs Donald and Cheryl will receive \$2,500.00 in compensatory damages relative to their Due Process claim (Count II) contingent upon favorable appellate rulings on their behalf. If appellate decisions are unfavorable, the Plaintiffs will not be entitled to any monetary relief. (A copy of the proposed Stipulation is attached as Exhibit "A").

11. With the foregoing stipulation as to damages, the parties believe this matter is ripe for entry of final judgment and for appeal. See *Verzilli v. Flexon, Inc.*, 295 F.3d 421, 424-5 (3d Cir. 2002) ("Stipulations dependent on the outcome of an appeal, can, in appropriate settings, be enforced so as to create finality.").

12. Plaintiffs also respectfully ask that this Court hold the filing of a petition for attorney's fees in abeyance, pending the resolution of appeals in this matter. The Defendants do not oppose this request.

WHEREFORE, the parties respectfully ask this Court to enter a stipulation as to damages, with the parties retaining all appellate rights, and enter a final judgment in this matter. Additionally, the parties ask that the Court defer proceedings on attorneys' fees, including the requirement that Plaintiffs file a petition under Fed. R.Civ. P. 54(d), until after appeals have been exhausted.

Respectfully submitted,
REED, SMITH LLP

By: /s/ Kim M. Watterson, Esq.
PA I.D. #63552
435 Sixth Avenue
Pittsburgh, PA 15219-1886
(412) 288-7996

By: /s/ Witold J. Walczak, Esq.
Witold J. Walczak, Esq.
PA I.D. #62976
American Civil Liberties Foundation
of Pennsylvania
313 Atwood Street
Pittsburgh, PA 15213
(412) 681-7864
Attorneys for Plaintiffs

ANDREWS & PRICE

By: /s/ Anthony G. Sanchez, Esq.
Anthony G. Sanchez, Esquire
PA I.D. #55945
1500 Ardmore Boulevard, Ste. 506
Pittsburgh, PA 15221
412-243-9700
Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JUSTIN LAYSHOCK, a minor, by and through	:	CIVIL ACTION
his parents, DONALD LAYSHOCK and	:	
CHERYL LAYSHOCK, individually and on	:	
behalf of their son,	:	No. 2:06-cv-116
	:	
Plaintiffs,	:	Judge Terrence F. McVerry
	:	
vs.	:	
	:	
HERMITAGE SCHOOL DISTRICT; KAREN	:	
IONTA, District Superintendent; ERIC W.	:	
TROSCH, Principal Hickory High School; and	:	
CHRIS GILL, Co-Principal Hickory High	:	
School, all in their official and individual	:	
capacities,	:	
	:	
Defendants.	:	

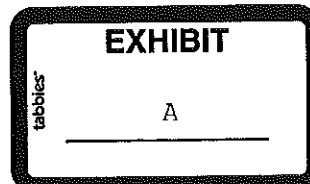
STIPULATION FOR COMPENSATORY DAMAGES

The parties stipulate to compensatory damages as follows:

Plaintiff Justin Layshock will receive \$7,500.00 in compensatory damages for his First Amendment claim (Count I) if he prevails on this issue on appeal. If he does not prevail on appeal, he will not be entitled to any monetary relief.

Plaintiffs Donald and Cheryl Layshock will receive \$2,500.00 in compensatory damages for their due process claim (Count II) if they prevail on this issue on appeal. If they do not prevail, they will not be entitled to any monetary relief.

This stipulation addresses any and all damages available to the Plaintiffs in this matter. The parties are not making any admissions as to liability or entering into any settlement agreement as to liability, but seek to stipulate to damages contingent on the outcome of appellate review. Both parties expressly preserve and retain all appellate rights as to liability. This stipulation as to compensatory damages shall survive any appellate or trial court decisions.



The parties further agree that Plaintiffs' entitlement to attorneys' fees is reserved until after appellate proceedings are concluded, and if Plaintiffs prevail on appeal the amount of the award will be resolved in accordance with proceedings directed by the Court.

Respectfully submitted,
REED, SMITH LLP

By: /s/ Kim M. Watterson, Esq.
PA I.D. #63552
435 Sixth Avenue
Pittsburgh, PA 15219-1886
(412) 288-7996

By: /s/ Witold J. Walczak, Esq.
Witold J. Walczak, Esq.
PA I.D. #62976
American Civil Liberties Foundation
of Pennsylvania
313 Atwood Street
Pittsburgh, PA 15213
(412) 681-7864
Attorneys for Plaintiffs

ANDREWS & PRICE

By: /s/ Anthony G. Sanchez, Esq.
Anthony G. Sanchez, Esquire
PA I.D. #55945
1500 Ardmore Boulevard, Ste. 506
Pittsburgh, PA 15221
412-243-9700
Attorneys for Defendants

