

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NEW YORK CITY DEPARTMENT OF
EDUCATION,

Defendant.

JOHN FLANAGAN,

Plaintiff,

vs.

NEW YORK CITY DEPARTMENT OF
EDUCATION, MINERVA ZANCA,
Principal of Pan American International High
School, CHATZY PRESTON, JUAN S.
MENDEZ, Superintendent of Queens High
Schools, and JOHN DOE,

Defendants.

LISA-ERIKA JAMES, HEATHER
HIGHTOWER,

Plaintiffs,

vs.

NEW YORK CITY DEPARTMENT OF
EDUCATION, MINERVA ZANCA, JUAN
S. MENDEZ, Superintendent of Queens High
Schools,

Defendants.

MEMO ENDORSED

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: 1-27-2020

No. 16 Civ. 4291 (LAK)(RWL)

No. 13 Civ. 8456 (LAK)(RWL)

No. 16 Civ. 4844 (LAK)(RWL)

ANTHONY RICCARDO,

Plaintiff,

vs.

NEW YORK CITY DEPARTMENT OF
EDUCATION, MINERVA ZANCA,
Principal of Pan American International High
School, JUAN S. MENDEZ, Superintendent
of Queens High Schools,

Defendants.

No. 16 Civ. 4891 (LAK)(RWL)

**STIPULATION AND ORDER OF SETTLEMENT AND DISMISSAL OF CLAIMS
RELATING TO JOHN FLANAGAN**

WHEREAS, the United States of America commenced an action on June 9, 2016, asserting claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, as amended (“Title VII”), against the New York City Department of Education (the “DOE”), including on behalf of John Flanagan, under docket number 16 Civ. 4291 (the “United States Action”);

WHEREAS, John Flanagan commenced an action in New York State Supreme Court on October 15, 2013, asserting claims under 42 U.S.C. § 1983, *et seq.*, the New York State and New York City Human Rights Laws, Executive Law Section 290, *et seq.* and Section 8-107 of the Administrative Code of the City of New York, respectively under index number 101395/2013 against DOE, Minerva Zanca (“Zanca”), Chatzy Preston (“Preston”) and Juan S. Mendez (“Mendez”),

WHEREAS, on November 2, 2013, the case was removed to the United States District Court for the Southern District of New York under docket number 13 Civ. 8456, and Flanagan filed an amended complaint on April 25, 2014 (the “Flanagan Action”);

WHEREAS, the United States, with Mr. Flanagan’s consent, moved to intervene in the Flanagan Action, the DOE did not oppose, the Court granted the motion, and consolidated the United States Action and the Flanagan Action, along with two other actions, all under docket number 16 Civ. 4291, *see* ECF Nos. 9, 18, 21 (16 Civ. 04291);

WHEREAS, the United States Action and the Flanagan Action allege that the DOE discriminated against Flanagan because of his race and retaliated against Flanagan for engaging in protected activity;

WHEREAS, the DOE answered the complaint in the United States Action on July 21, 2016, and the DOE, Zanca, Preston, and Mendez answered the amended complaint in the Flanagan Action on May 09, 2014, in which they denied all liability arising out of the allegations in the United States’ complaint and Flanagan’s amended complaint; and

WHEREAS, the United States, Flanagan, the DOE, Zanca, Preston, and Mendez (collectively, “the parties”) have reached agreement that it is in the parties’ best interests, and the United States believes that it is in the public interest, to resolve the United States’ claim on behalf of Flanagan, individually, and the Flanagan Action on mutually agreeable terms and without further litigation. Accordingly, the parties agree to the entry of this Stipulation and Order of Settlement and Dismissal of Claims Relating to John Flanagan (the “Flanagan Stipulation”) without trial or adjudication of any issues of fact or law raised by the claims brought by Flanagan or the claim brought on behalf of Flangan, individually, by the United States.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the parties above, as represented by the below, the following:

1. This Court has jurisdiction over the United States Action pursuant to 42 U.S.C. § 2000e-6(b) and 28 U.S.C. § 1331 & 1345, and over the Flanagan Action pursuant to 42 U.S.C. § 2000e and 42 U.S.C. §1981. The parties agree that venue is appropriate pursuant to 28 U.S.C. § 1391(b)(1)-(2).
2. The United States has authority to initiate legal proceedings to enforce Title VII through litigation. 42 U.S.C. § 2000e-6(a).
3. The above-captioned action pertaining to docket number 13 Civ. 8456, and Flanagan only, is hereby dismissed with prejudice as against DOE, Zanca, Preston, and Mendez, and without costs, expenses, or fees in excess of the amounts specified in Paragraph 4 below. Nothing herein affects any claims brought by Lisa-Erika James. The above-captioned action pertaining to docket number 16 Civ. 4291 is hereby dismissed with prejudice only with respect to the Second Claim for Relief (Discrimination Against Flanagan) and the Third Claim for Relief (Retaliation Against Flanagan). Nothing herein affects the United States' remaining claims for relief, including its First Claim for Relief (Pattern or Practice of Discrimination).
4. In full satisfaction of all claims that were or could have been raised in the Flanagan Action against the DOE, Zanca, Preston and Mendez, and in the United States Action on behalf of Flanagan, individually, against the DOE, the City of New York hereby agrees to pay Flanagan the total sum of five-hundred thousand dollars and no cents ("\$500,000.00"), including claims for costs, expenses and attorneys' fees.
5. In consideration for the actions set forth in Paragraph 4 above, Flanagan agrees to the dismissal with prejudice of all claims against the DOE, Zanca, Preston, and Mendez

and to release the DOE, Zanca, Preston, and Mendez, their successors or assigns, and all present or former officials, employees, representatives, or agents of the DOE, and their successors or assigns (collectively, the "Released Parties"), from any and all liability, claims, demands, causes of action, obligations, damages, and grievances whatsoever of every kind and nature, at law or in equity, whether joint or several, whether known or unknown, and whether or not discoverable, which Flanagan has or may have against any of the Released Parties based on any act, omission, event or occurrence occurring from the beginning of the world up through and including the date that Flanagan executes the General Release referred to in Paragraph 6, including, without limitation, any and all claims which were or could have been alleged by Flanagan in the Flanagan Action arising out of the events alleged in the complaint or amended complaint therein, including all claims for attorneys' fees and costs.

6. Flanagan shall execute and deliver to the attorney for the DOE, Zanca, Preston, and Mendez all documents necessary to effect the settlement, including, but not limited to, a General Release, an Affidavit Concerning Liens, and both Flanagan and Flanagan's counsel shall each execute a City of New York Substitute Form W-9.

7. Nothing contained herein shall be deemed to be an admission by the DOE, Zanca, Preston, or Mendez, of liability or of the truth of any of the allegations set forth in the Flanagan Action or the United States Action, or an admission by the DOE, Zanca, Preston, or Mendez that they have in any matter or way violated Flanagan's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules, or regulations of the United States, the State of New York, the City of New York, the New York City Department of Education, or any other rules, regulations, or bylaws of any department or subdivision of the City of New York or the New York City Department of Education.

8. This Flanagan Stipulation shall not be admissible in, nor is it related to, any other litigation, proceeding, or settlement negotiation, or any further proceedings in these related matters (16 Civ. 4291, 16 Civ. 4844, or 16 Civ. 4891) except that it shall be admissible in a proceeding to enforce the terms of this Stipulation.

9. Nothing contained in this Flanagan Stipulation, including the fact of the settlement of Flanagan's claims, shall be deemed to constitute a policy or practice of the City of New York or the DOE for any purpose whatsoever.

10. This Flanagan Stipulation, and any other document executed by Flanagan and/or the DOE, Zanca, Preston, and Mendez hereto in furtherance of the purposes of this Flanagan Stipulation, shall be governed by, interpreted and enforced in accordance with the laws of the State of New York.

11. This Flanagan Stipulation constitutes the entire agreement between the parties. No other statement, promise, or agreement, either written or oral, made by any party or agents of any party, that is not contained in this written Flanagan Stipulation shall be enforceable.

12. The individuals signing this Flanagan Stipulation on behalf of the DOE, Zanca, Preston, Mendez, and Flanagan represent and warrant that they are authorized to execute this Stipulation. The United States signatories represent that they are signing this Stipulation in their official capacities and are authorized to execute this Stipulation.

Dated: New York, New York
January 21, 2020

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Dated: New York, New York
January 24, 2020

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MARILYN L SUTHERLAND
Notary Public, State of New York
No. 01SU6219725
Qualified in Onondaga County
Commission Expires Mar. 29, 2022

Marilyn L. Sutherland

The Clerk shall close 13-cv-8456

SO ORDERED

LEWIS A. KAPLAN, USDI

1/27/2020