

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EMILY SLEE : CIVIL ACTION
 :
 v. :
 :
 ROGER DOUGLAS HELLER, :
 UNIONVILLE-CHADDS FORD SCHOOL DISTRICT, :
 CHARLES GARRIS, EDWARD A. SPANG, :
 JOHN DOE(S), and JANE DOE(S) : NO. 98-5232

MEMORANDUM AND ORDER

HUTTON, J.

March 29, 1999

Presently before the Court are Defendant Roger Heller's Motion for Judgment on the Pleadings and/or Summary Judgment (Docket No. 11), Defendants Unionville-Chadds Ford School District, Charles Garris, and Edward Spang's Motion for Judgment on the Pleadings and/or Summary Judgment (Docket No. 12), Plaintiff Emily Slee's reply (Docket No. 13), and Defendant Roger Heller's sur reply thereto (Docket No. 16). For the reasons stated below, the Defendants' Motions are **GRANTED IN PART AND DENIED IN PART**.

I. BACKGROUND

The Plaintiff, Emily Slee, was born on May 21, 1977. During the 1994-1995 school year, Plaintiff was a seventeen year-old high school student in the Defendant Unionville-Chadds Ford School District ("School District"). Defendant Roger Heller taught at the high school during the school year. The Plaintiff alleges that Heller sexually harassed and touched her without her consent

during the 1994-1995 school year. Plaintiff also alleges that Charles Garris, Superintendent of the School District, Edward Spang, Principal of the high school, and other unnamed parties knew of the harassment and failed to adequately respond to protect her.

On October 2, 1998, Plaintiff filed a complaint. The complaint has five counts: (1) a claim under 42 U.S.C. § 1983 against Heller - Count I; (2) a claim under 42 U.S.C. § 1983 against all Defendants - Count II; (3) a claim under Title IX against the School District - Count III; (4) a claim for attorney's fees and costs under 42 U.S.C. § 1988 against all Defendants - Count IV; and (5) several claims under state law-- negligence, assault, battery, false imprisonment, and intentional infliction of emotional distress-- against all Defendants - Count V. On November 25, 1998, Defendant Heller filed the instant motion for judgment on the pleadings and/or summary judgment. On December 3, 1998, the remaining Defendants filed a motion for judgment on the pleadings and/or summary judgment which simply joined Defendant Heller's motion. Finally, on February 11, 1999, the parties filed a stipulation seeking to stay the discovery period until resolution of the above mentioned motions.

II. STANDARD

A. Judgment on the Pleadings

A motion for judgment on the pleadings under Rule 12(c) of the Federal Rules of Civil Procedure is treated under the same

standard as a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure. See Regalbuto v. City of Phila., 937 F. Supp. 374, 376-77 (E.D. Pa. 1995), aff'd, 91 F.3d 125 (3d Cir.) (table), and cert. denied, 117 S. Ct. 435 (1996); Constitution Bank v. DiMarco, 815 F. Supp. 154, 157 (E.D. Pa. 1993). Consequently, this Court must "accept as true the facts alleged in the complaint and all reasonable inferences that can be drawn from them." Markowitz v. Northeast Land Co., 906 F.2d 100, 103 (3d Cir. 1990). The Court will only dismiss the complaint if "it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations.'" H.J. Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229, 249-50 (1989) (quoting Hishon v. King & Spalding, 467 U.S. 69, 73 (1984)).

B. Summary Judgment

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). The party moving for summary judgment has the initial burden of showing the basis for its motion. See Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). Once the movant adequately supports its motion pursuant to Rule 56(c), the burden shifts to the nonmoving party to go beyond the mere pleadings and present evidence through

affidavits, depositions, or admissions on file to show that there is a genuine issue for trial. See id. at 324. A genuine issue is one in which the evidence is such that a reasonable jury could return a verdict for the nonmoving party. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986).

When deciding a motion for summary judgment, a court must draw all reasonable inferences in the light most favorable to the nonmovant. See Big Apple BMW, Inc. v. BMW of N. Am., Inc., 974 F.2d 1358, 1363 (3d Cir. 1992). Moreover, a court may not consider the credibility or weight of the evidence in deciding a motion for summary judgment, even if the quantity of the moving party's evidence far outweighs that of its opponent. See id. Nonetheless, a party opposing summary judgment must do more than rest upon mere allegations, general denials, or vague statements. See Trap Rock Indus., Inc. v. Local 825, 982 F.2d 884, 890 (3d Cir. 1992).

III. DISCUSSION

A. Statute of Limitations

The Defendants first argue that the Court should dismiss all of Plaintiff's claim because they are barred by the applicable statute of limitations. The statute of limitations for § 1983 actions is the limitations period for the relevant state's personal injury statute. See Wilson v. Garcia, 471 U.S. 261, 269 (1985). Moreover, the United States Court of Appeals for the Third Circuit in Bougher v. University of Pittsburgh, 882 F.2d 74 (3d Cir. 1989),

held that Pennsylvania's personal injury statute of limitations also applies to Title IX claims. See id. at 77. Thus, all of Plaintiff's claims-- including her state law tort claims-- are governed by Pennsylvania's two-year statute of limitations set forth in 42 Pa. Cons. Stat. Ann. § 5524.\¹

The Defendants argue that the two-year statute of limitations bars all of Plaintiff's claims even though she was only seventeen at the time of the alleged sexual harassment. Pennsylvania identifies infancy as a condition which tolls the running of its personal injury and other statutes of limitations. See 42 Pa. Cons. Stat. Ann. § 5533(b) (West 1994). The statute reads, in pertinent part:

If an individual entitled to bring a civil action is an unemancipated minor at the time the cause of action accrues, the period of minority shall not be deemed a portion of the time period within which the action must be commenced. Such person shall have the same time for commencing an action after attaining majority as is allowed to others by the provisions of this subchapter. As used in this section the term "minor" shall mean any individual who has not yet attained the age of 18.

Id. Defendants nevertheless argue that Plaintiff's claims are barred because she filed her complaint on October 2, 1998, more than three years after she attained majority on May 21, 1995.

While Plaintiff does not contest that she filed her complaint more than three years after she turned eighteen, she

¹ The Plaintiff concedes that all of her claims are governed by Pennsylvania's two-year statute of limitations. See Pl.'s Mem. of Law at 8.

argues that the Court should not dismiss her claims for two reasons. First, Plaintiff maintains that the discovery rule applies to her case and prevents dismissal under the statute of limitations. Second, Plaintiff argues that the Defendants committed fraud which tolled the statute of limitations period.

As the parties have yet to commence discovery, the record is utterly devoid of evidence concerning the application of the discovery rule to Plaintiff's case or fraudulent conduct of Defendants tolling the limitations period. Therefore, the Court reserves judgment on these issues until the record is more complete and denies the Defendants' motions at this time.

B. Interrelation of § 1983 and Title IX

The Defendants next argue that the Court should dismiss Plaintiff's § 1983 claims because, under the Sea Clammers doctrine, Plaintiff's constitutional claims under § 1983 should be "subsumed" within her Title IX claim. In Sea Clammers, the Supreme Court held: "[W]hen 'a state official is alleged to have violated a federal statute which provides its own comprehensive enforcement scheme, the requirements of that enforcement procedure may not be bypassed by bringing suit directly under § 1983.'" Middlesex County Sewerage Auth. v. National Sea Clammers Ass'n, 453 U.S. 1, 20 (1981). The United States Court of Appeals for the Third Circuit held that this doctrine dictates that in a case alleging both Title IX and § 1983 claims, the § 1983 claims are subsumed by

the Title IX claims and precluded. See Williams v. School Dist. of Bethlehem, 998 F.2d 168, 176 (3d Cir. 1993); Pfeiffer v. Marion Center Area Sch. Dist., 917 F.2d 779, 789 (3d Cir. 1990).

The Court agrees with the Defendants' Sea Clammers argument in part. The Court finds that the § 1983 claim against the School District is subsumed by the Title IX claim. While Plaintiff maintains that she did not file a § 1983 claim against the School District, this is simply not the case. See Pl.'s Compl. at ¶ 31 (demanding judgment under the § 1983 claim against School District). Moreover, the Court finds that the Plaintiff's § 1983 claims against Heller, Garris, and Spang in their official capacities are subsumed by her Title IX claim because these claims are, in effect, claims against the School District. See Kentucky v. Graham, 473 U.S. 159, 165 (1985) (finding that official-capacity suits "'generally represent only another way of pleading an action against an entity of which an officer is an agent'" (quoting Monell v. New York City Dept. of Social Servs., 436 U.S. 658, 690, n.55 (1978))). Therefore, the Court dismisses Counts I and II to the extent these counts state a § 1983 claim against the School District, Heller in his official capacity, Garris in his official capacity, and Spang in his official capacity.

The Court, however, also disagrees with the Defendants' Sea Clammers argument in part. Defendants contend that the Plaintiff's § 1983 claims against Heller, Garris, and Spang in

their personal capacity should also be dismissed because "Plaintiff may not enlarge the relief available under Title IX by bringing an action under § 1983 against an individual defendant." Def. Heller's Mem. of Law at 7. The Defendants concede that they found no case to support such an argument. See id. Indeed, there is case law in this district to the contrary. See Miller v. Kentosh, No. CIV.A.97-6541, 1998 WL 355520, at *3 (E.D. Pa. June 29, 1998) (dismissing the plaintiff's § 1983 claims against school administrators in their official capacity under Sea Clammers doctrine, but allowing the § 1983 claims against school administrators in individual capacity). Therefore, the Court denies the Defendants' motions to the extent that Counts I and II state a § 1983 claim against Heller, Garris, and Spang in their personal capacities.

C. Plaintiff's § 1988 Claim

Defendants further asks this Court to dismiss Count III which seeks an award of attorney's fees and costs under 42 U.S.C. § 1988. Under § 1988, the Court may award reasonable attorney's fees and costs to any prevailing party in a proceeding to enforce § 1983 and Title IX. See 42. U.S.C. § 1988 (1994). Because the Court does not dismiss the § 1983 claim entirely or the Title IX claim at this stage, it will not dismiss the § 1988 claim.

D. Plaintiff's State Law Claims

Defendants argue that any remaining state law claims should be dismissed if the Court dismisses all of the Plaintiff's federal law claims. See Angst v. Mack Trucks, Inc., 969 F.2d 1530, 1535 (3d Cir. 1992). Because this Court denied Defendants' motions to dismiss as to some of Plaintiff's federal law claims, the Court retains supplemental jurisdiction over Plaintiff's pendent state law claims pursuant to 28 U.S.C. § 1367. Therefore, the Court denies Defendants' motions to dismiss Plaintiff's state law claims for lack of jurisdiction.

E. Stipulation to Stay Proceedings

Finally, the parties filed a Stipulation and Requested Order to Stay Proceedings Pending Resolution of Dispositive Motions and Issuance of Scheduling Order with the Court. In this stipulation, the parties seek to stay the discovery period until resolution of the motions above. Because the Court ruled on these motions, it denies the requested relief in the stipulation as moot.

An appropriate Order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EMILY SLEE : CIVIL ACTION
 :
 v. :
 :
 ROGER DOUGLAS HELLER, :
 UNIONVILLE-CHADDS FORD SCHOOL DISTRICT, :
 CHARLES GARRIS, EDWARD A. SPANG, :
 JOHN DOE(S), and JANE DOE(S) : NO. 98-5232

O R D E R

AND NOW, this 29th day of March, 1999, upon consideration of the Defendant Roger Heller's Motion for Judgment on the Pleadings and/or Summary Judgment and Defendants Unionville-Chadds For School District, Charles Garris, Edward Spang's Motion for Judgment on the Pleadings and/or Summary Judgment, IT IS HEREBY ORDERED that the Defendants' Motions are **GRANTED IN PART AND DENIED IN PART.**

IT IS FURTHER ORDERED that:

(1) Count I of Plaintiff's Complaint is **DISMISSED WITH PREJUDICE** to the extent that this count states a § 1983 claim against Defendant Roger Heller in his official capacity;

(2) Count II of Plaintiff's Complaint is **DISMISSED WITH PREJUDICE** to the extent that this count states a § 1983 claim against Defendant Unionville Chadds-Ford School District, Defendant Roger Heller in his official capacity, Defendant Charles Garris in

his official capacity, and Defendant Edward Spang in his official capacity; and

(3) The relief sought in the parties Stipulation and Requested Order to Stay Proceedings Pending Resolution of Dispositive Motions and Issuance of Scheduling Order is **DENIED AS MOOT.**

BY THE COURT:

HERBERT J. HUTTON, J.