

IN THE CIRCUIT COURT OF YIG COUNTY MISSOURI

Brian Johnson,)	
)	
Plaintiff)	
)	
)	
)	Cause No. 10CC - 00001
vs.)	
)	Division 1
)	
)	
Valley View R-VI)	
School District,)	
)	
)	
Defendant)	

STATEMENT OF THE CASE

Plaintiff Brian Johnson (“Johnson”) is a 28 year old male who is a former employed high school teacher with the Valley View R-VI School District (“District”), which is located in YIG County, Missouri. Johnson is suing the District in one count, claiming that he was terminated in retaliation for reporting illegal conduct on the part of District employees to the Missouri Department of Elementary and Secondary Education (“DESE”). His claim arises under Missouri common law - the tort of retaliatory discharge in violation of the public policy of the State of Missouri.

Johnson was employed by the District beginning on August 1, 2008, teaching American History and American Government at P.W. Hermann High School, one of two high schools in the District. On February 10, 2010, Johnson learned that one of his students, John Bender (“Bender”), had written derogatory comments about him on a blogspot he established, www.valleyviewstudent.blogspot.com. Johnson immediately reported what he learned to his principal, Richard Vernon (“Vernon”). Johnson wanted Bender expelled. Vernon advised Johnson he would investigate and get back to him.

On that same day, the posting was removed from the blogspot. However, it had apparently made its way around school, because students and teachers were talking about it. Bender was absent from his 5th hour American Government class with Johnson that day.

The next day, however, Bender showed up to class. Johnson had not heard back from Vernon about the investigation and expulsion, so, after class, Johnson contacted Vernon. Vernon advised Johnson that he had called Bender and his parents in for a conference after school on the 10th. Bender apologized for the blog posting, and told Vernon he had removed the posting. Bender’s parents told Vernon that they had grounded Bender, and

were requiring him to attend a class in truthful journalism at the local community college. Vernon advised that under the circumstances he had decided not to impose any discipline on Bender.

Johnson was quite upset over Vernon's decision. On February 12, 2010, he sent a letter to the DESE, explaining the situation and alleging that the District's failure to take disciplinary action against Bender violated the U.S. Constitution and Missouri law. Johnson provided a copy of the letter he sent to Vernon. Johnson also posted the letter in his classroom.

On February 15, 2010, Johnson sent an e-mail to all of his students in all of his classes with a school account surveymonkey.com survey concerning the blog spot. He requested his students to respond to the survey. On that same day, Vernon appeared in Johnson's classroom and placed Johnson on administrative leave.

On February 22, 2010, the District terminated Johnson's employment.

Johnson is seeking damages for lost wages and emotional distress based on retaliatory discharge.

Witnesses for the Plaintiff

Brian Johnson
Claire Standish (Fellow Teacher)

Witnesses for the Defendant

Richard Vernon
John Bender

Deposition of Plaintiff Brian Johnson

August 11, 2010

Comes now Brian Johnson, and having been first duly sworn upon his oath, states as follows:

My name is Brian Johnson. I live at 222 Prince Drive, Yig City, Missouri. I am single. My father lives with me. I am 28 years old, having a date of birth of January 2, 1982.

I began working for the Valley View R-VI school district (“District”) August 1, 2008. This was my first full-time teaching job. I did not grow up in Yig City. I grew up in Kansas City, Missouri, which is 2 hours from Yig City. I graduated from the University of Missouri – Columbia with a bachelor’s degree in Education in May of 2005. I then attended law school at MU and obtained my J.D. in May of 2008. With the job market the way it is, I couldn’t find a job as a lawyer. As such, I decided to teach high school. I have continued to look for work as a lawyer, but have not been able to find a job as a lawyer. I also have tried to find a teaching job, but haven’t been able to find a teaching job either. I am sure that my termination from my job with the District is the reason I can’t find a position. I have been drawing unemployment since leaving the District.

Though I certainly want to pursue the legal profession, I did very much enjoy teaching at P.W. Hermann High School. I taught 3 hours of American History to 10th graders, and 2 hours of American Government to Seniors. I taught a total of approximately 125 students each semester I taught. I did receive an annual evaluation in May of 2009. My review was excellent. Principal Vernon gave me my review. I received a review of “Exceeds Expectations” in all areas. I did not receive an evaluation in 2010, as I was terminated prior to the end of the school year.

I knew John Bender prior to February 10, 2010. He was in my 5th hour American Government class. Though we weren’t far into the semester, he was doing well in my class. However, he had a bad attitude. Class seemed to bore him. I had not previously had him as a student, though I certainly knew of him and his family. John’s family owns the town of Yig City, basically. They own the local bank, Yig City National Bank.

On the morning of February 10, 2010, I arrived at school at approximately 7:30 a.m. When I unlocked the door and entered my office, there was an envelope on the floor that had apparently been placed under the door. It was a white envelope addressed to “Mr. Johnson.” It contained a print-out from a blog spot, www.valleyviewstudent.blogspot.com. I recognize Exhibit A as the print-out I received. I sat down at my desk and read the blog. It was extremely upsetting. It was definitely defamatory. It accused me of being on the Registered Sex Offender List of the State of Missouri. I am not on the list. I have never been accused of any felony or misdemeanor, much less convicted of any crime. It is true that my father, whose name is also Brian Johnson, is a registered sex offender. And, it is true that the list shows his address as 222 Prince Drive, Yig City, Missouri. However, anyone looking at the list carefully could see

that he is not the same person. The web site shows his picture, and lists his date of birth - 5/10/55.

After reading the blog posting, I made a copy at the copy machine and headed to Principal Richard Vernon's office. I thought I had a good relationship with him. Apparently it is more important to side with rich parents than to support your teachers. Anyway, I showed him the posting. He read it. He asked me if it was true. I couldn't believe he would ask such a thing. However, I responded calmly, and told him it was absolutely not true. I told him I wanted to see Bender expelled. Bender needed to learn a big lesson - that you can't defame a teacher. It is wrong, harmful, and was going to undoubtedly stir up everyone at school.

I knew it was Bender, by the way, because everyone knew about the blogspot and that it was Bender's blogspot. He used it to routinely make derogatory comments about staff. He just got away with it. I wasn't about to let him get away with it when it was about me.

Principal Vernon told me he would investigate and keep me posted. I left his office assuming that justice would be done.

That day and all of the remaining days there were just horrible. Teachers would cut off conversations when I came into the break room. Students would stand in groups in the halls and the lunchroom when I would pass by and snicker. No one told me they read the posting or that they believed the posting. However, I heard that it caused so much traffic on the web that the school's internet had to be shut down. I had no conversations with anyone - teachers or students, about the posting. It was posted at 9:00 p.m. on February 9, 2010. I checked it repeatedly on February 10, 2010. It was gone by 3:00 p.m. on February 10, 2010. There were no comments listed on the blogspot.

I was just completely humiliated. I couldn't sleep. And yes, I was mortified that people were going to find out that my father is a Registered Sex Offender. The whole thing just brought up all the stuff I went through as a child when my father was convicted of attempted sexual assault of his girlfriend. It happened when I was 14 years old.

Bender didn't show up for his class on February 10, 2010 so I thought he had been suspended. I didn't hear anything from Vernon. The next day, February 11, 2010, Bender showed up for class. I was completely perplexed. Class went okay. I just ignored him. He ignored me. Since I hadn't heard from Vernon, I went to see him after class. I was upset. I went straight into his office and asked him what had happened with Bender. I told him Bender showed up to class. I didn't bother to close the door to his office. He told me to calm down, to sit down, and he closed his office door.

Vernon explained that he decided not to take disciplinary action against Bender. He said he called in Bender and his parents for a conference after school on the 10th. According to Vernon, Bender was very apologetic. His parents were very apologetic. They supposedly told him that they felt the conduct was unacceptable, and that they were

taking their own disciplinary action against their son. They didn't feel it was necessary for the District to take action. They explained that the blogging had occurred on a home computer, with no connection to the school. Vernon claimed that the law regarding disciplining students for off campus speech was murky. I told him that was ridiculous. The school operations were completely disrupted. He was not supporting me. I left his office.

I decided to make a complaint to the DESE. I know the law regarding the first amendment and protected speech by students. I took a school law class in law school. Schools have not only the right, but the duty, to discipline students for defaming teachers. I didn't do any legal research before writing and sending the letter to DESE. I didn't need to, because I am sure I am right.

I recognize a copy of the letter I wrote to DESE as Exhibit B. I did copy Vernon on the letter. I did post a copy of the letter in my classroom on the Bulletin Board. I also created a survey using the District's survey monkey account to send to my students. I recognize Exhibit C as a copy of the survey questions. My purpose in sending the survey was to, first, see whether the students thought less of me as a result of the posting, and second, to show Vernon that the students expected the District to take action to discipline students for conduct in violation of the Internet Usage policy of the District. I did ask the students whether they would support me in my lawsuit against Bender. I don't think there is anything wrong with doing that. I recognize Exhibit D as the Internet Usage Policy. I recognize Exhibit E as the District's Code of Ethics. I did not consider my survey to be a conflict of interest.

I never received the results of the survey. I was placed on Administrative Leave by the District on the same day I sent out the survey to all my students, which I believe was on February 17, 2010. On February 22, 2010, Vernon called me in and terminated my employment. He told me I was terminated for my handling of the situation with Bender. He did not elaborate. I knew it was because I complained to DESE. I am sure the complaint put pressure on the District.

I did also file a lawsuit against Bender for defamation. That lawsuit was settled. The terms are confidential, so I can't disclose them.

I have not been able to find a job. I have applied for 10 teaching positions. I haven't been told why I haven't been hired, but I am sure it is because I was terminated by the District. I have also applied for all lawyer positions in the Western half of Missouri, without success. Again, no one has told me so, but I know that getting fired by the District is the reason. I am not currently working at any job.

I have suffered from depression as a result of my termination. I am only seeking "garden variety" emotional distress damages, so I am not waiving my physician-patient privilege and will not disclose what, if any, treatment I have had for emotional distress.

DEPOSITION OF CLAIRE STANDISH

August 13, 2010

My name is Claire Standish. I am 30 years old. I am a teacher at P.W. Hermann High School in Yig City, Missouri. I have been teaching there since August after graduating from the University of Missouri- Columbia in 2003. I grew up in Yig City. I am single.

I consider Brian Johnson to be a very good friend of mine. I have known him since he moved to Yig City in 2008. I met him during the teacher orientation meetings in early August of that year. I do socialize with Brian. We go to dinner from time to time and we go out with other teachers to happy hour or the movies. We are not dating and have never dated.

What happened to Brian in February of 2010 at work was just horrible. I wouldn't wish it on my worst enemy. John Bender was completely out of line. He is just a spoiled rich kid. He was smart enough, but showed complete disrespect to his teachers. I teach biology and had him in class in 10th grade. He cared more about his blogspot than anything at school. It is true that in 2009, he accused me in his blogspot of having an affair with another female teacher at P.W. Hermann, Allison Reynolds. It was very upsetting to me and to Allison, and it was a complete lie. We went to his parents, and he removed the blog posting. It did cause quite a stir at school, but eventually it passed.

Brian did talk to me on February 10, 2010 and showed me a copy of the blog posting. I encouraged him to not let it drop if he didn't get satisfaction from Principal Vernon. Clearly his parents weren't controlling his conduct if he was still using the blogspot to spread malicious lies about teachers. He should have been expelled or at least suspended. Instead, Brian lost his job.

I did express my upset about Brian's termination from employment to the District School Board at a March 2, 2010 meeting. I also supported Brian by writing a letter to DESE dated February 20, 2010. I recognize Exhibit F as a copy of my letter of support. I have not been disciplined or fired by the District.

DEPOSITION OF RICHARD VERNON

August 3, 2010

My name is Richard Vernon. I am 42 years old. I am currently the Principal of P.W. Hermann High School which is in Yig City, Missouri. It is part of the Valley View R-VI School District. I have a bachelor's degree in Education and a Master's Degree in Education and Administration from the University of Missouri - Kansas City. I have been the Principal at P.W. Hermann since 2004. Before that, I was the Vice-Principal. I have worked in the District since graduating from UMKC. I grew up in Yig City.

I do know the Bender family. They are very supportive in terms of time and money of the District. I do know their only child, John. John is a very bright and talented young man. He is to my knowledge currently beginning college at Washington University in St. Louis studying pre-med. He wants to be a pediatric neurosurgeon. He did have some behavior issues in high school. In my view his issues were the result of boredom. He was just not challenged in high school.

I would never let a family's support interfere with necessary disciplinary action of a student. I am aware of the blogspot posting regarding Brian Johnson. It was, in my view, completely inappropriate. However, the U.S. Constitution 1st amendment protects a student's freedom of speech. I have been to several seminars on the subject of discipline regarding student speech. My understanding of the law is that if the speech occurs on campus, we can discipline. If it is threatening, we can discipline. If it is simply derogatory or something we disagree with, and occurs outside of school, there is nothing we can do. It is protected free speech.

I took action when I learned about the posting. I immediately called John's father at the bank. I asked that he, his wife, and John come to my office for a conference at 2:30 p.m. on February 10, 2010. Mr. Bender asked what it was about and I told him. He said they would be there. When they arrived, John immediately apologized and told me the posting had been removed. Mr. and Mrs. Bender assured me they had disciplined John for his conduct, and advised they were having him attend a class on responsible journalism at the local Community College. I was satisfied that this was sufficient punishment. Mr. and Mrs. Bender never threatened to withdraw support for the District in our meeting. It is true that we are in the middle of a big capital campaign for a new gymnasium and that the Benders are contributing \$500,000.00 toward the campaign. I had not yet secured that donation on February 10, 2010 but had met with the Benders about the donation.

I did learn about Brian's complaint to DESE prior to his termination. However, it had nothing to do with his termination from employment. I made the decision to terminate Brian based on his violation of the Conflict of Interest Policy of the District. His use of surveymonkey.com to gain support for his position in a lawsuit against a student was completely unacceptable. Putting students who are risking a class grade in the middle of a dispute with administration and a student was completely inappropriate. It is true that I did not go into this specifically with Brian when I communicated the termination

decision. I learned about the survey five (5) days before I terminated his employment. I had already met with the School Board in closed session to recommend termination prior to learning about the survey. However, the School Board had not made a decision. I forwarded the information regarding the survey to the School Board members by e-mail and polled them, receiving authority by e-mail to terminate. I didn't keep copies of those e-mails, my mistake. I don't know what happened to them. But, they can be retrieved from the hard drive if Brian wants to satisfy himself that is what happened.

DEPOSITION OF JOHN BENDER

August 13, 2010

My name is John Bender. I am 18 years old. I am single. I live at 5683 Waterman in St. Louis, Missouri. I am starting my freshman year at Washington University in St. Louis. School starts August 30, 2010. I live in an apartment. I have a roommate. His name is Emilio Clark.

During high school, I did start a blog - www.valleyviewstudent.blogspot.com. I started the blog my sophomore year. I never worked on it during school time and I never used school computers to work on it. To the extent I would e-mail updates to friends, I would only use their home e-mail addresses - never school e-mail addresses. I started the blog for fun, and to question and challenge the teachers and school administrators when I didn't agree with actions they took. For example, I challenged a school policy in 2009 that instituted no junk food in the cafeteria or in school vending machines. I challenged a drug testing policy that was implemented for athletes. By my senior year, I had 250 followers. P.W. Hermann High School has a total of 400 students in 4 grades - 9-12.

I did write a blog article about Claire Standish, my 10th grade biology teacher, during my Junior year in school. I reported that she was having an affair with another teacher, Allison Reynolds. I had heard this from other students, thought it was newsworthy, and wrote it. Ms. Standish did contact my parents, and I took the posting down. I don't have personal knowledge one way or the other as to whether it was true. Other than taking it down, I didn't face any discipline from my parents or from the District.

On February 9, 2010, I did post a blog about my American Government teacher, Brian Johnson, being a Registered Sex Offender. Mr. Johnson had been bugging me all semester to participate in class. He had these stupid games where he would make us act out the Continental Congress, stuff like that. I hated those games. I just happened to be searching the Missouri State Highway Patrol Registered Sex Offender list and came across his name and address. I thought it was newsworthy so I wrote about it. I didn't check the date of birth or carefully look at the photograph before writing the article. I did send out an e-mail blast to my followers about the article. While I didn't have any comments to the article on my blogspot, I did receive probably 500 e-mails about it over the next day, some while I was at school.

On February 10, 2010 I was at school. My dad sent me a text message to come home right away. So, I left school and went home. He and my mom were there and they were very upset with me. They confronted me about the posting. I admitted to it. They told me it was false. We got on the Registered Sex Offender list website and I looked more closely. I could see that the Brian Johnson on the list, while having the same address, was much older than Mr. Johnson. I immediately took down the posting. I didn't send out a correction. I just didn't think about sending out a correction or an e-mail telling my followers that I had been wrong. I was grounded for a month. My car and cell phone privileges were taken away. I also had to take a class on responsible journalism at the YIG County Community College.

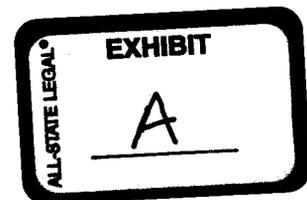
www.valleyviewstudent.blogspot.com

Posting

The internet is amazing, dudes. It is just unbelievable what dirt you can dig up on our teachers with just a little googling. Look what I found out today. **P.W. Hermann High School Teacher Brian Johnson is A REGISTERED SEX OFFENDER!** That's right. He who holds himself out to be Mr. fun games in history has a checkered past.

Just looking out for you.....

February 9, 2010



Brian Johnson
222 Prince Avenue
Yig City, Missouri 64606

February 12, 2010

Chris L. Mcastro
Commissioner of Education
Department of Elementary and Secondary Education
205 Jefferson Street
PO Box 480
Jefferson City, MO 65102

Dear Commissioner Mcastro:

I write to make a formal complaint against the Valley View R-VI School District (“District”), P.W. Hermann High School, and its Principal Richard Vernon.

The basis of my complaint concerns the failure to take disciplinary action against a student who, on a blog website, falsely accused me of being on the Missouri Registered Sex Offender List. Specifically, on February 9, 2010, a senior at P.W. Hermann, John Bender, posted this accusation on his blog, www.valleyviewstudent.blogspot.com. A copy of the posting is attached as Exhibit A.

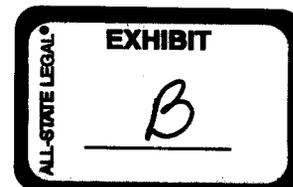
I brought this posting to the attention of Principal Vernon on February 10, 2010. On February 11, 2010, I learned that Principal Vernon made the decision to take no disciplinary action against the student.

This decision violates the District’s responsibility to discipline students for violation of school policies. Specifically, the District has an Internet Acceptable Use Policy. A copy is attached as Exhibit D. The District’s failure violates Missouri law, and specifically §160.261 R.S.Mo.

Please investigate and take action requiring the District to discipline John Bender for his malicious defamation of me.

Sincerely,


Brian Johnson



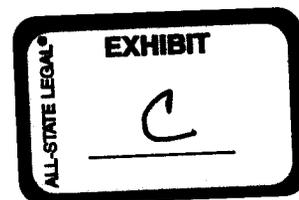
Survey Questions

1. Did you read the February 9, 2010 blog posting on www.valleyviewstudent.blogspot.com?

2. Did you hear about the February 9, 2010 blog posting on www.valleyviewstudent.blogspot.com?

3. Did you believe what you read or heard regarding February 9, 2010 blog posting on www.valleyviewstudent.blogspot.com?

4. Would you be willing to sign an Affidavit in support of Mr. Johnson is a lawsuit against John Bender?



Valley View R-VI School District Acceptable Internet Use Policy

The District considers technology an educational tool and as such provides Internet access to students, teachers, and administrators. However, with access to the Internet, there is material available that may not have educational value.

Use of the District's Internet access is a privilege and not a right. Inappropriate use of the Internet is subject to serious disciplinary action, and can even lead to criminal action in the worst case.

Students will receive access to an Internet account and a password, provided they have received training and instruction on the proper use of the Internet. Passwords and account codes should not be shared with others.

Students may only conduct electronic network-based activities which are classroom related.

Students who use the Internet to harass, intimidate, bully, or make malicious comments about any student, teacher, staff member, or Administrator will be disciplined under this policy.

Behaviors that will result in revocation of Internet access or other disciplinary action, up to and including expulsion, include, but are not limited to, the following:

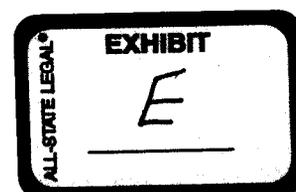
- damage to system hardware or software;
- placement of unlawful information, computer viruses, or other harmful programs on the system;
- entry into restricted information or network files in violation of password/account code restrictions;
- violation of other user's right to privacy;
- unauthorized review, removal, damage, or alteration of District property;
- obtaining, downloading, or viewing material that is obscene, offensive, pornographic, abusive, destructive, or otherwise offensive;
- using obscene, profane, lewd, vulgar, rude, inflammatory, threatening or disrespectful language;
- posting information that could cause damage or harm to others or the District;
- engaging in personal attacks including those considered prejudicial or discriminatory;
- revealing personal information, including addresses and telephone numbers;



YIG COUNTY R-VI SCHOOL DISTRICT

CODE OF ETHICS POLICY

The School Board has adopted the National Education Association Code of Ethics Policy as its Code of Ethics. A copy is attached.



Code of Ethics National Education Association

Preamble

The educator, believing in the worth and dignity of each human being, recognizes the supreme importance of the pursuit of truth, devotion to excellence, and the nurture of democratic principles. Essential to these goals is the protection of freedom to learn and to teach and the guarantee of equal educational opportunity for all. The educator accepts the responsibility to adhere to the highest ethical standards.

The educator recognizes the magnitude of the responsibility inherent in the teaching process. The desire for the respect and confidence of one's colleagues, of students, of parents, and of the members of the community provides the incentive to attain and maintain the highest possible degree of ethical conduct. The Code of Ethics of the Education Profession indicates the aspiration of all educators and provides standards by which to judge conduct.

PRINCIPLE I

Commitment to the Student

The educator strives to help each student realize his or her potential as a worthy and effective member of society. The educator therefore works to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals.

In fulfillment of the obligation to the student, the educator:

- Shall not unreasonably restrain the student from the independent action in the pursuit of learning.
- Shall not unreasonably deny the student access to varying points of view.
- Shall not deliberately suppress or distort subject matter relevant to the student's progress.
- Shall make reasonable effort to protect the student from conditions harmful to learning or to health and safety.
- Shall not intentionally expose the student to embarrassment or disparagement.
- Shall not on the basis of race, color, creed, sex, national origin, marital status, political or religious beliefs, family, social or cultural background, or sexual orientation, unfairly:
 - a. Exclude any student from participation in any program
 - b. Deny benefits to any student
 - c. Grant any advantage to any student.

- Shall not use professional relationships with students for private advantage.
- Shall not disclose information about students obtained in the course of professional service, unless disclosure serves a compelling professional purpose or is required by law.

PRINCIPLE 11

Commitment to the Profession

The education profession is vested by the public with a trust and responsibility requiring the highest ideals of professional service. In the belief that the quality of the services of the education profession directly influences the nation and its citizens, the educator shall: exert every effort to raise professional standards, promote a climate that encourages the exercise of professional judgment, achieve conditions which attract persons worthy of the trust to careers in education and assist in preventing the practice of the profession by unqualified persons.

In fulfillment of the obligation to the profession, the educator:

9. Shall not in any application for a professional position deliberately make a false statement or fail to disclose a material fact related to competency and qualifications.
10. Shall not misrepresent his/her professional qualifications.
11. Shall not assist any entry into the profession of a person known to be unqualified in respect to character, education, or other relevant attribute.
12. Shall not knowingly make a false statement concerning the qualifications of a candidate for a professional position.
13. Shall not assist a non-educator in the unauthorized practice of teaching.
14. Shall not disclose information about colleagues obtained in the course of professional service unless disclosure serves a compelling professional purpose or is required by law.
15. Shall not knowingly make false or malicious statements about a colleague.
16. Shall not accept any gratuity, gift, or favor that might impair or appear to influence professional decisions or action.

Claire Standish
1222 Juniper Lane
Yig City, Missouri 64606

February 18, 2010

Chris L. Mcastro
Commissioner of Education
Department of Elementary and Secondary Education
205 Jefferson Street
PO Box 480
Jefferson City, MO 65102

Dear Commissioner Mcastro:

Please let this letter serve as my letter in support of Brian Johnson's formal complaint against the Valley View R-VI School District ("District"). The District needs to enforce its policies to stop improper internet usage by its students.

Thank you for your consideration.

Sincerely,

Claire Standish

Claire Standish

