

FILED
MAR 18 1983

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ARTHUR G. JOHNSON, Clerk
By /s/ Mellanie Drake Deputy

OLIVER BROWN, et al.,)	
)	Plaintiffs,
and)	
)	
CHARLES and KIMBERLY SMITH, minor)	
children, by their mother and next)	
friend, LINDA BROWN SMITH, et al.,)	No. T-316
)	
)	Intervening
)	Plaintiffs,
vs.)	
)	
BOARD OF EDUCATION OF TOPEKA,)	
SHAWNEE COUNTY, KANSAS,)	
et al.:)	
)	Defendants.
)	

PROTECTIVE ORDER PURSUANT TO STIPULATION

NOW on this 18th day of March, 1983, comes on for consideration the stipulation of intervening plaintiffs and Unified School District No. 501 for a protective order regarding access to School District records for the purpose of "intervening plaintiffs' deriving answers to subparts p, q & r of plaintiff-intervenors' Interrogatory No. 9 of the First Set for the ten year period prior to the 1950-51 school year.

Whereas, the review and compilation of information sought by Interrogatory No. 9 [p, q & r] of Intervening Plaintiffs' Interrogatories--First Set is burdensome; and, to the extent that the answers may be derived from records within the possession of

Unified School District No. 501 to Interrogatory No. 9 [p, q & r], the burden of deriving or ascertaining the answers to said interrogatory is substantially the same for the intervening plaintiffs as for Unified School District No. 501;

Whereas, discovery of the information sought by Interrogatory No. 9 [p, q & r] of Intervening Plaintiffs' Interrogatories-- First Set for the above-described period will necessarily involve production and inspection of personnel records of faculty members of the Topeka Public Schools, and such personnel files may contain confidential and personal information;

Whereas, the parties to this stipulation agree that such confidential and personal information regarding faculty members should be protected from any use which might cause injury to said faculty members and Unified School District No. 501;

Whereas, the parties to this stipulation have agreed, to expedite intervening plaintiffs' review of faculty personnel files, that such information gained by their inspection shall be treated as confidential;

THEREFORE, pursuant to stipulation by and between the parties, by and through their respective undersigned attorneys, it is hereby ORDERED:

1. Unified School District No. 501 shall produce at its Administrative Offices located at 624 West 24th Street, Topeka, Kansas, for inspection the microfilmed personnel files in its possession of faculty members of Topeka Public Schools and/or

Unified School District No. 501 from which intervening plaintiffs may derive or ascertain answers to Interrogatory No. 9 [p, q & r] of Intervening Plaintiffs' Interrogatories--First Set for the ten year period prior to the 1950-51 school year.

2. All information obtained by intervening plaintiffs from inspection of documents produced by Unified School District No. 501, to permit intervening plaintiffs to derive or ascertain answers to Interrogatory No. 9 [p, q & r] of Intervening Plaintiffs' Interrogatories--First Set, shall be used by counsel for the intervening plaintiffs only in connection with the preparation for trial or in the trial of this case.

3. The personnel files of members of the faculty of Topeka Public Schools and/or Unified School District No. 501 may contain confidential information. To avoid any unnecessary intrusion upon the rights of privacy of faculty members, such records shall not be given, shown, made available, discussed or otherwise communicated in any way to anyone other than:

(a) the attorneys for the intervening plaintiffs to this litigation, and the employees of such attorneys to whom it is necessary that the material be shown for purposes of the litigation;

(b) persons employed by intervening plaintiffs or their attorneys in this action to assist in the preparation of this case for trial, such as independent consultants, statisticians, or other technical experts.

4. To further insure against the unnecessary disclosure of confidential or personal information regarding faculty members, only the following information may be derived by intervening plaintiffs or those authorized to act on their behalf from the personnel records:

"[F]or each school year in existence and for each school year during the school years from [1940-41 to and including 1949-50], the following:

- p. Faculty assignment to the school by:
 - 1. Total faculty
 - 2. White faculty
 - 3. Black faculty
 - 4. Other minority

- q. Years of teaching experience of the faculty of the school by:
 - 1. Average years
 - 2. Norm of years

- r. Level of educational development of the faculty of the school by:
 - 1. Average years of education
 - 2. Norm of years of education"

No summaries, memoranda, notes, or other documents shall be made from the personnel records of faculty members by intervening plaintiffs, their experts, consultants, or other representatives assisting them, except such data as is necessary to compile the answers sought by Interrogatory No. 9 [p, q & r] for the ten year period prior to the 1950-51 school year.

5. Counsel for the intervening plaintiffs and their experts, consultants and other representatives assisting such counsel shall not disclose, make available or communicate such information to any other person except those designated by counsel and then only to the extent that such disclosure is necessary for preparation for trial or in the trial of this case.

6. (a) Each person referred to in paragraphs 3(a) & (b) above to whom personnel records of faculty members are to be shown, made available, discussed or

otherwise communicated in any way, shall agree, in writing in the form annexed hereto as "Exhibit A", to be bound by the terms of this Protective Order and the same shall be filed with the Clerk of the United States District Court for the District of Kansas where such forms shall be maintained in a sealed envelope.

(b) Attorneys for the intervening plaintiffs shall maintain a list of the names, positions and addresses of all persons employed by the intervening plaintiffs to whom personnel records of the faculty are disclosed by them and shall within one week deliver such list to the attorneys for Unified School District No. 501 upon written demand therefor.

7. At the conclusion of the above-entitled action, all notes, memoranda, summaries or other documents created as a result of inspection of personnel files of faculty members by anyone on behalf of intervening plaintiffs and within the possession, custody or control of intervening plaintiffs relating to said documents shall be destroyed.

8. The provisions of any protective order entered into in this action insofar as it restricts the communication and use of the documents produced thereunder shall, without written permission of Unified School District No. 501 or further order of the Court, continue to be binding at the conclusion of this action.

9. Nothing in this Order shall bar or otherwise restrict any attorney herein from rendering advice to his client with

respect to this case and, in the course thereof, referring or relying upon information obtained from inspection of the personnel files of faculty members.

10. It is agreed that any information being made a part of the record in the trial of this suit and not otherwise restricted by the Court shall be as a matter of record not subject to the proscriptions of this Order.

11. This Order shall not apply to any information secured in any other part of the discovery process unless otherwise restricted by the Court or the agreement of the parties.

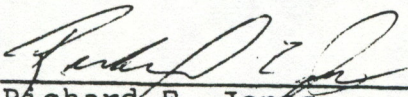
12. Any party may apply on any grounds at any time to the Court for a modification of or an exception to this Order.

IT IS SO ORDERED.

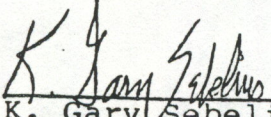
Dated this 18th day of March, 1983, at Topeka, Kansas.

/s/ Richard D. Rogers
UNITED STATES DISTRICT JUDGE

STIPULATED AND AGREED:



Richard E. Jones
JONES AND JONES
605 S.E. Quincy, Suite 1
Topeka, Kansas 66603 (913)235-3961
On Behalf of Attorneys
for Intervening Plaintiffs



K. Gary Sebelius
EIDSON, LEWIS, PORTER & HAYNES
1300 Merchants National Bank Bldg.
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Attorneys for Unified
School District No. 501

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

OLIVER BROWN, et al.,)
)
) Plaintiffs,)
)
) and)
)
) CHARLES and KIMBERLY SMITH, minor)
) children, by their mother and next)
) friend, LINDA BROWN SMITH, et al.,) No. T-316
)
) Intervening)
) Plaintiffs,)
)
) vs.)
)
) BOARD OF EDUCATION OF TOPEKA,)
) SHAWNEE COUNTY, KANSAS,)
) et al.,)
) Defendants.)
)

Agreement concerning material covered by the
Protective Order Pursuant to Stipulation entered
in the United States District Court for the
District of Kansas on _____, 1983

The undersigned hereby acknowledges having read the
Protective Order Pursuant to Stipulation, dated _____,
1983, and entered in the United States District Court for the
District of Kansas in the above-entitled action, understands the
terms thereof, and agrees to be bound by that Order and by such
other orders as may be made by this Court.

[name]
[address]
[telephone number]

Date: _____

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ARTHUR G. JOHNSON, Clerk
By /s/ Mellanie Drake Deputy

OLIVER BROWN, et al.,
Plaintiffs,
and
CHARLES and KIMBERLY SMITH, minor
children, by their mother and next
friend, LINDA BROWN SMITH, et al.,
Intervening
Plaintiffs,
vs.
BOARD OF EDUCATION OF TOPEKA,
SHAWNEE COUNTY, KANSAS,
et al.,
Defendants.

No. T-316

ORDER

On December 3, 1982, a hearing was held for the purpose of weighing the relevance and the burdensomeness of compelling Unified School District No. 501 to answer previously propounded interrogatories of the intervening plaintiffs seeking information for the ten year period prior to the 1950-51 school year. Richard E. Jones and John Dubin appeared as attorneys on behalf of the intervening plaintiffs. Charles N. Henson and K. Gary Sebelius appeared as attorneys on behalf of Unified School District No. 501. Based upon agreement of the parties which has been reached regarding resolution of intervening plaintiffs'

motion to compel answers to the first set of interrogatories for the 1940-1950 time period, the Court enters the following orders:

1. To the extent that such information can be obtained from its records, Unified School District No. 501 shall answer by June 1, 1983, the following interrogatories of intervening plaintiffs' first set: Nos. 9 [a-o, s-t], 10, 11, 18, 19, 20, 21, 24, 25, and 26-28.

2. Unified School District No. 501 shall not be required to answer Interrogatory No. 5 of intervening plaintiffs' first set of interrogatories.

3. In lieu of attempting to answer Interrogatory Nos. 12, 13, and 14 of intervening plaintiffs' first set, Unified School District No. 501 shall provide to intervening plaintiffs copies of those audit records in its possession for the ten year period prior to the 1950-51 school year, it being understood that the audit records were the same type of document from which Unified School District No. 501 prepared its answers to Interrogatory Nos. 12, 13, and 14, beginning with the 1950-51 school year.

4. Although not made the subject of intervening plaintiffs' motion to compel, the parties agree that to the extent such information can be obtained from its records, Unified School District No. 501 shall answer by June 1, 1983, Interrogatory No. 32 of the first set as it relates to the ten year period prior to the 1950-51 school year.

5. The resolution of whether Unified School District No. 501 shall be compelled to answer Interrogatory No. 9, subparts

p, q & r, for the ten year period prior to the 1950-51 school year shall be made the subject of a separate order.

IT IS SO ORDERED.

Dated at Topeka, Kansas, March 18, 1983.

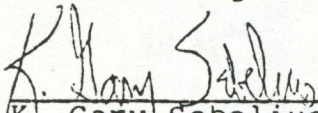
/s/ Richard D. Rogers

Richard D. Rogers
United States District Judge

Approved:



Richard E. Jones
of Jones and Jones
605 S.E. Quincy, Suite 1
Topeka, Kansas 66603 913/235-3961
One of the Attorneys for
Intervening Plaintiffs



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Attorneys for Unified School
District No. 501