

NO. 08-2264

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

KEVIN M. THOMPSON

Plaintiff - Appellant

v.

CITY OF METHUEN, MASSACHUSETTS; DR. JEANNE C. WHITTEN,
individually and in her capacity as Superintendent of Schools in Methuen;
DR. CHARLES P. LITTLEFIELD, individually and in his capacity as
former Superintendent of Schools in Methuen;
MASSACHUSETTS TEACHERS ASSOCIATION,
Local affiliate Methuen Education Association

Defendants - Appellees

REPLY BRIEF OF APPELLANT

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MASSACHUSETTS
NO. 07-12196-DPW, USDC JUSTICE DOUGLAS P. WOODLOCK

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A. REPLY TO MTA'S STATEMENT OF ISSUES

Thompson objects to any "consolidation of the issues", particularly as they are "restated" by the MTA in its brief. The MTA proposes that issue #12 of Thompson's brief be restated to incorporate its own false premise, namely that there is an "absence" of a "cognizable federal claim".

If such a premise were true, then this "issue" would not be before the Court, because it would then justify the District Court's decision to not exercise supplemental jurisdiction.

The MTA further argues in this section that Thompson cannot allege that the arbitrator was illegally influenced by the MTA to rule against him with the false claim that Thompson makes "no such allegation in his complaint or in any other pleading or document docketed with the District Court."

In support of this claim, the MTA cites Barrett ex rel. Estate of Barrett v. U.S., 462 F.3d 20, 40 n.9 (1st Cir. 2006), to allege, "when a matter has not been raised with the District Court, it cannot now be presented on appeal."

Thompson could not have alleged that the arbitrator was illegally influenced in his complaint unless he was clairvoyant since the complaint was filed months before Sandulli "sung the praises" of the arbitrator by

name in federal court and months before the arbitrator defied the facts and law of the arbitration case to rule against Thompson.

But it cannot be disputed that Thompson did make such an allegation in documents docketed with the District Court and contained in his Appendix. Thompson's Memorandum in support of his motion to add the arbitrator as a defendant (Docket #25) does in fact accuse the arbitrator and MTA Attorney Joseph Sandulli of wrongdoing (Appendix, pp. 133-134).

Lastly, the MTA disagrees that Judge Woodlock was required to recuse himself when he became aware of Thompson's misconduct complaint against him. To support their argument, the MTA points out that the misconduct complaint was not served on them and that Thompson did not file a motion for Judge Woodlock's recusal.

Since M.G.L. c. 211C, § 6 requires that misconduct complaints be kept confidential until they are ruled on, Thompson could not legally share his misconduct complaint with the MTA or Methuen. And with a reference to previously cited case law, "Recusal under Section 455 is self-executing; a party need not file affidavits in support of recusal and the judge is obligated to recuse [himself] sua sponte under the stated circumstances." Taylor v. O'Grady, 888 F.2d 1189 (1989).

"Judges do not have discretion to not disqualify themselves. By law, they are bound to follow the law. Should a judge not disqualify himself as required by law, then the judge has given another example of his 'appearance of partiality' which further disqualifies the judge. **None of the orders issued by any judge who has been disqualified by law would be valid.** They are void as a matter of law, and are of no legal force or effect. Should a judge not disqualify himself, then the judge is in violation of the Due Process Clause of the U.S. Constitution." United States v. Sciuto, 521 F.2d 842, 845 (1996) ("The right to a tribunal free from bias or prejudice is based on the Due Process Clause.").

B. REPLY TO MTA'S STATEMENT OF FACTS

To elevate the evidentiary value of the arbitration decision, **which Thompson contends was "bought and paid for" by the MTA**, the MTA cites Watterson v. Page, 987 F. 2d 1, 3 (1st Cir. 1993), where it states, "the court may consider "documents the authenticity of which are not disputed by the parties."

Merriam-Webster's Collegiate Dictionary defines authentic as "worthy of acceptance or belief as conforming to or based on fact." By this definition, there is nothing about the arbitrator's fact-defying and law-defying ruling that is "authentic", which is the reason why Thompson has

filed a complaint for judicial review of this ruling. The fact and law-defying elements to this document are detailed on pages 28-30 and pages 45-53 of Thompson's brief.

If the Arbitration Decision and Award is a document of undisputed authenticity, then so are the rulings from the Division of Unemployment Assistance and its Board of review, which BOTH contradicted the arbitrator's decision and concluded that Thompson's dismissal from his tenured teaching position was without merit (Appendix, pp. 216-223).

Furthermore, if the arbitration did proceed under a Massachusetts statute and not a collective bargaining agreement as alleged by the MTA, then the arbitrator was bound by the "law of the land", not the "law of the shop". Consequently, the arbitrator could not, as it did, arbitrarily ignore the rules of evidence, the rules pertaining to the Employer's burden of proof, and the rules of due process, which specifically include Thompson's right to confront the Employer's witnesses against him and present evidence favorable to his case under the same standards enjoyed by the Employer, who submitted nothing into evidence that was not inadmissible second hand hearsay.

The MTA argues that Thompson's "statutory arbitration" was intended to be exclusive and preclude his federal court litigation.

Thompson's arbitration case was to overturn his wrongful dismissal. Thompson's 42 U.S.C. § 1983 federal court lawsuit was filed on the grounds of First Amendment-defying restraints on his speech, workplace harassment, retaliation, defamation of character, concealment of material facts, and breach of contract.

Moreover, the arbitration award was procured by fraud, corruption, and evident partiality by the arbitrator, who completely disregarded everything contained in Thompson's post hearing briefs (Appendix, pp. 224-277) to rule against him. Consequently, this decision is null and void as a matter of law.

Without repeating the same facts and arguments contained in Thompson's brief, which prove that "Methuen Public Schools" was in a wildly favored position to influence the arbitrator, Thompson will address the most fraudulent claim alleged about Thompson - that his "substantial discipline and ultimate discharge were based upon unprotected disruptive and insubordinate speech articulating his personal complaints."

FACT: Thompson was restrained from discussing his custody case in school - a topic that was not being discussed in school with anyone after the issuance of a March 9, 2004 "warning" and a topic that was not disruptive to

anyone in the school but Thompson, who was falsely accused of violating this prior restraint on several occasions.

FACT: The only school investigation into these complaints concluded that Thompson was innocent of the accusations being made against him - a FACT that did not prevent Superintendent Littlefield from concealing the results of this investigation from a DSS worker and calling the documented results of this investigation a "reprimand" in future paperwork against Thompson.

FACT: The school labeled every unsupported accusation against Thompson as an actual infraction to build a case against him, which is why there are "eleven distinct occasions about his communications with students or teachers" in his personnel file.

FACT: The illegal restraint was issued by Littlefield to restrain speech on topics that would implicate him and to generate a paper trail against Thompson, who had threatened to sue Littlefield for slander and concealment of material facts.

FACT: The "Memorandum of Agreement" was a blatant overreach of the superintendent's authority because the specific topics of conversation that Thompson was restrained from discussing (ie his family issues and

issues related to litigation) had nothing at all to do with the effective operation of the school, his performance as a teacher, or faculty harmony.

FACT: The only thing that the arbitrator required as proof that Thompson was "disruptive" was that someone, such as Littlefield, a subordinate to Littlefield, or one of the school system's attorneys, had written these baseless accusations down on paper.

FACT: It was irrelevant to the arbitrator that the majority of the LIES about Thompson were written by Littlefield; whose character, integrity, and paper trail were not only challenged, but discredited by Thompson at the arbitration hearing and in his post hearing briefs.

FACT: The school did not produce a single first hand witness to testify at any of the three evidentiary hearings, because there was not a single teacher or student at the high school who could corroborate the story that the school and its lawyers had "concocted" without committing perjury.

FACT: The high school principal, Arthur Nicholson, admitted, when questioned by Thompson at a job fair in Lowell about the fraud contained in the school's notice of intent to dismiss him (Appendix, pp. 210-212), that it was the school's attorneys and not Nicholson, who wrote the notice of intent to dismiss Thompson.

FACT: With the exception of the false accusations that were made by the mother of Thompson's son, which were only disruptive to Thompson, there were exactly THREE disruptions in the school environment blamed on Thompson over his nine plus years at the high school.

- (1) Thompson writes a letter on the corruption occurring in his local union's nomination and election process and distributes the letter to his fellow union members via faculty mailboxes (a protected union activity).

Union President Diane Dandreta and her union friends respond to the letter by running around the school to rant and rave to whoever would listen; by stealing the letter from individual faculty mailboxes at the high school; and by falsely accusing Thompson of using school supplies and students to produce and distribute the letter for him.

- (2) Thompson faxes a letter to the MTA's regional office, requesting an investigation into Methuen's nomination and election process (a protected union activity), and discreetly shares the letter with four people, who keep the content of the letter to themselves.

The MTA forwards this private letter to Dandreta, who illegally passes this letter around the school to rile up her friends, who generate their own disruption in the school setting at Thompson's expense.

- (3) Thompson receives an anonymous harassing note in his faculty mailbox and shares the note and his thoughts on who would write such a note in a private email addressed to 25 teachers.

Dandreta and her union friends find out about the letter and, once again, run around the school during school hours and in front of students to rant and rave to whoever would listen or was forced to listen to them.

Thompson was disciplined for behavior that pales in comparison to the "over the top" reaction from Dandreta and her friends, who did not receive so much as a slap on the wrist for their more significant "hand" in the disruptions.

Moreover, if the Memorandum of Agreement (Appendix, pp. 205-206) has any legal force and effect, then the first two incidents described above could not be referenced to justify Thompson's dismissal because they occurred prior to the June 29, 2006 signing of this agreement.

With regard to the paper trail that the school manufactured to run Thompson out of the school system, referenced by the MTA on pages 7-11 of its brief, Thompson refers the Court to pages 235-247 of his Appendix, where this paper trail is discredited.

Ironically, what the MTA cites as its evidence against Thompson is Thompson's evidence of employer fraud, defamation of character, retaliation, and harassment, which he CAN prove before a jury.

With regard to alleged "clashes with colleagues", which the MTA cites in the arbitrator's decision, Thompson got along quite well with the vast majority of teachers at the high school.

The only thing that the high school principal and school superintendent proved at the arbitration hearing was that Dandreta and her six accomplices put on a tear-filled performance for a clueless, first-year superintendent to dupe her into believing that their malevolent opinion about Thompson represented that of the majority of teachers at the high school.

For the record, Thompson never had a one on one "clash" or "confrontation" with any of these people during his nine years at the high school. **Their irrational hatred toward Thompson was based ENTIRELY on the fact that he sued one of their friends and exposed the corruption in his union's nomination and election process.**

That is the full extent of what these people know about Thompson, his character, and the relationships that he has with other teachers at the high school.

Unfortunately for Thompson, this vocal minority has the ear of the high school and central office administrators in the school system, who believe whatever this group says to them.

Since the MTA resorted to fraud in its brief to portray Thompson in a wildly deceptive light, Thompson has attached four exhibits as an addendum to his reply brief to rebut this provable fraud on the court.

These four items (Addendum, pp. 1-26), which were submitted into evidence at the arbitration hearing as exhibits, provide a more truthful and accurate perspective of Thompson's relationship with teachers and students at the high school and further reveal what the arbitrator had to ignore to accept the school system's unsupported slander of Thompson.

C. REPLY TO MTA'S ARGUMENTS

There is little to state in this section because the MTA simply ignored every argument contained in Thompson's brief to re-allege the law-defying claim that the First Amendment only applies to speech that is a matter of public concern and the additional law-defying claim that prior restraints can

be applied to any topics of speech, regardless of their impact on workplace harmony or efficiency.

The MTA's brief also limits its "First Amendment analysis" to the email, while ignoring all the other First Amendment-defying directives, warnings, and reprimands that Thompson endured over his last three years at the high school.

And since the facts and law do not support the MTA's position, its lawyer resorted to FRAUD to support its arguments, specifically the slanderous claim that Thompson had "inappropriate discussions" about his custody case in school with faculty and students and that Thompson's manner of speech at the high school included "antagonistic, demeaning, loud, and disrespectful outbursts."

Since there is no truth whatsoever to these allegations, Thompson can guarantee, as previously stated, that there is not a single teacher or student at Methuen High School who can substantiate these lies without committing perjury, which is the genuine reason why the school showed up at three evidentiary hearings absent a single first hand witness to testify.

Ironically, the "cited" words and phrases that the MTA uses in its brief to criticize Thompson's complaint and supporting documents (ie. that it "rambles"; that it "needlessly speculates, accuses, and condemns"; and that it

contains "bald assertions, unsupportable conclusions, and opprobrious epithets") is the very definition of the MTA's brief.

Lastly, with a reference to the MTA's request that this Court blindly accept the fact-defying findings from the corrupt and/or incompetent arbitrator assigned to the wrongful dismissal case, it should be noted that a motion to dismiss is reviewed by the Court of Appeals *de novo* taking the facts in the light most favorable to Thompson. In Re Citigroup, Inc., 535 F.3d 45, 52 (1st Cir. 2008); Curran v. Cousins, 509 F.3d 36, 43 (1st Cir. 2007). Those facts include the FACT that the school's case against Thompson is built on a foundation of FRAUD, which Thompson can prove at trial if allowed his constitutionally-prescribed right to be heard before a jury of his peers.

D. REPLY TO METHUEN'S STATEMENT OF FACTS

Methuen writes in its Statement of Facts that Union President Diane Dandreta "denies" illegally passing Thompson's private MTA-addressed letter around the school - a denial that can be proven to be fraud at trial by Dandreta's friend, Ann Marie Krusell, who could not have possibly gained access to this letter from anyone but Dandreta to threaten Thompson with a lawsuit.

And contrary to Superintendent Littlefield's claims otherwise, Thompson was not suspended because of the content of this private MTA letter, he was suspended because of the disruption generated by Dandreta and her union friends.

The reference to Dandreta's impact on Thompson's custody case, which was mentioned on the last two pages of this eight-page letter and included to prevent Dandreta from deceiving the MTA with misinformation, was only the "pretext" excuse to suspend Thompson because it can hardly be disputed that the topic of Thompson's custody case had nothing at all to do with the Dandreta-generated disruption.

Methuen fraudulently states on page 7 of its Statement of Facts that Thompson discussed his custody proceedings in school "on or about May 12, 2006". Thompson's custody proceedings were not discussed or even mentioned in his classroom. Well aware of what Thompson could and could not discuss, the discussion with his students on or about that day was exclusive to the First Amendment-defying "ban" of his book.

Methuen's reference to Thompson's interview on the Tucker Carlson show is grossly unfair and irrelevant because Thompson was on the show to talk about the banning of his book, not the harassment that he was enduring at his school.

If Thompson had the time to elaborate on the topic of why his job was in jeopardy, he would have explained that he was being run out of the school system by the school superintendent and his accomplices, who were creatively interpreting every word out of Thompson's mouth as a discussion of his custody case to generate a bogus paper trail against him.

Moreover, it should be noted that all of the incidents that the school alleged to justify Thompson's dismissal, with the exception of the email, were prohibited by the Memorandum of Agreement, which "wiped the slate clean" up through June 29, 2006.

Either the school system's Memorandum of Agreement has legal force and effect or it does not. If it does, then the agreement itself protects Thompson from the baseless paper trail that had been generated against him prior to its signing. If it does not, then the school cannot fire Thompson for a directive that has no legal force or effect.

The First Amendment was also not the only constitutional right denied to Thompson. Other rights denied to Thompson and conveyed in court documents filed by Thompson were his Fourth Amendment right to privacy (as it pertained to his email and his MTA-addressed letter) and his Fourteenth Amendment rights to due process and equal protection (specifically Thompson's right to be heard, to present evidence favorable to

his case, to confront the Employer's false witnesses against him, to an impartial enforcement of "evidence admissibility" standards, and to a presumption of innocence until proven guilty).

With regard to Methuen's reference to its paper trail against Thompson, it should be noted that Thompson responded to every baseless reprimand that he ever received and very few of these written responses are in his personnel file as required by law. Fortunately, Thompson saved copies, which he intended to submit into evidence at trial.

Two of these "missing" written responses addressed the baseless reprimands that were generated by the former principal of the high school, Ellen Parker, and a former assistant principal, Dan O'Connell.

It should be noted that Parker's false accusations were made five years before Thompson's dismissal, two full months after the alleged "incident", and less than two months from the date that she left Methuen High School for another job.

It should also be noted that neither of these two administrators EVER stepped foot in Thompson's classroom during their time at Methuen High School to know what was going on there. Consequently, their opinion of Thompson is nothing more than misguided hearsay and gossip.

E. REPLY TO METHUEN'S ARGUMENTS

As communicated previously by the MTA, Methuen is sticking to the false premise that the First Amendment only applies to speech that is a matter of public concern without addressing the arguments that Thompson presented in his brief to rebut this claim. And like the MTA, Methuen is limiting its argument to its final act of retaliation against Thompson - his wrongful dismissal. On page 14 of its brief, Methuen alleges, "Thompson is merely attempting to constitutionalize his justified termination from the School's employment."

What Methuen fails to acknowledge is that Thompson submitted to Superintendent Whitten his grounds for a workplace harassment lawsuit, including the references to Methuen's First Amendment-defying actions against Thompson, a month *before* the incident that Methuen cited as its pretext reason to fire Thompson from his tenured teaching position.

What Methuen "merely attempted to do" was beat Thompson to the punch by firing him before he could file *his* lawsuit, which he informed Whitten he would be filing at the conclusion of their unproductive December 20, 2006 meeting in her office.

Methuen argues, "Thompson is unable to demonstrate that the public's interest in his comments on which he spoke outweighed the School's interest in the performance of its public education services.

Since the actual disruptions in the school setting were caused by Thompson's enemies in the school, since the prohibited topics of speech (ie. his custody case and litigation matters) were not being "discussed" in the school, and since the prohibited topics of speech were of no interest to anyone at the school to warrant a prior restraint; Thompson contends that he is very capable of demonstrating, before an honorable Court, that his speech on the protected topics of union corruption and workplace harassment do warrant constitutional protection and outweigh the School's unaffected public education services.

Thompson is also capable of PROVING, before an honorable and impartial jury, that the School's case against Thompson is wholly without merit and built on a paper trail of fraud.

On page 15 of its brief, Methuen cites Estate of Bennett v. Wainwright, 548 F.3d 155, 162 (1st Cir. 2008) to allege, "On appeal, a Court will 'reject unsupported conclusions or interpretations of law.'"

Unlike Methuen, the MTA, and the arbitrator, who concluded that Thompson was "disruptive", "demeaning", "antagonistic", and "insubordi-

nate" based entirely on the fact that the former superintendent and his accomplices wrote these words down on paper to slander Thompson, Thompson has the exhibits AND the first hand witnesses to support *his* conclusions and rebut the Defendants' fraud.

And unlike Methuen, the MTA, and U.S. District Court Judge Douglas P. Woodlock, Thompson did not creatively interpret the unambiguous words of the First Amendment to allege that it only applies to speech that is a matter of public concern.

If the First Amendment only applies to speech that is a matter of public concern and if the government has the authority to issue prior restraints on whatever arbitrary topics it so chooses to censor thoughts and ideas, then this is not the country of the founding fathers, but the country of Hitler and Nazi Germany.

Furthermore, as asserted in Thompson's Complaint and creatively interpreted otherwise by the Defendants; union corruption, school system corruption, and workplace harassment in a public school setting are ALL matters of public concern.

Even if the premise is accepted that the First Amendment **ONLY** applies to speech on matters of public concern, Thompson's case still must

prevail over a motion to dismiss if ANY of these topics qualify as matters of public concern.

When it comes to pro se litigants, "the court is under a duty to examine the complaint to determine if the allegations provide for relief on any possible theory. If there is any possible theory that would entitle the Plaintiff to relief, even one that the Plaintiff has not thought of, the court cannot dismiss this case." Bonner v. Circuit Court of St. Louis, 526 F.2d 1331, 1334 (8th Cir. 1975) (quoting Bramlet v. Wilson, 495 F.2d 714, 716 (8th Cir. 1974).

On page 23 of its brief, Methuen alleges, "school staff spent their time during the workday on January 11, 2007 reading Thompson's e-mail message and reacting to the message, instead of working... In fact, by initiating this personal e-mail to a group of coworkers to resolve a personal vendetta, Thompson disrupted the School's educational environment, by forwarding inappropriate comments in his capacity as a teacher at the school."

What is significant to note about this statement is that Thompson "reacted" to the harassing note in his faculty mailbox with a discreet email, which could be read or deleted by anyone who received the message at

whatever time was convenient for them and with minimal intrusion on that teacher's day.

On the other hand, Thompson's enemies "reacted" by running around the school during school hours and in front of students to rant and rave to whoever would listen or was forced to listen to their nonsense.

The school system responded by firing Thompson, while Thompson's enemies did not receive a consequence of any kind for a disruption that THEY generated, NOT Thompson.

F. CONCLUSION

It should be noted that Thompson brought his complaints of workplace harassment to the school's administration, including the high school principal and the school's superintendents, on numerous occasions over three years. The school's response to these complaints was to do nothing and hope that the problems would just go away by ignoring them and ordering Thompson to not talk about them.

If the court is inclined to believe that the truth must lie somewhere between the two versions that have been communicated in these briefs, then the Court would be wrong. The truth is exactly what was communicated by Thompson in his brief, in his reply brief, in his arbitration briefs, and in the

statements pasted into *this* document's addendum to rebut the LIES alleged about Thompson and his relationship at the school with others.

A reading of these statements alone will reveal just how far the Defendants have strayed from the truth to slander Thompson and exactly what the credible witnesses will be communicating at the trial as testimony.

Thompson does not deny that a paper trail was generated against him. What he denies is that there is any truth to the unsupported allegations contained in these documents. The fact is that Thompson cannot lose this case before an impartial and competent jury. Thompson knows it and the Defendants know it.

If the Court is reviewing this case in the most favorable light to Thompson and taking all facts alleged by Thompson as true, (See Steckman v. Hart Brewing Company, Inc., 143 F.3d, 1293, 1295 (9th Cir. 1998)), then the Court must overturn the U.S. District Court's dismissal of this case and allow truth and justice to prevail before a constitutionally-prescribed jury of Thompson's peers.

G. CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because this brief contains 4,674 words.

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word with 14 point font in Times New Roman.

Dated: January 30, 2009

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CERTIFICATE OF SERVICE

I, Kevin Thompson, hereby certify that a true copy of the reply brief was mailed, postage prepaid, to David C. Jenkins, legal counsel for Littlefield, Whitten, and the City of Methuen, at Kopelman and Paige, PC, 101 Arch Street, Boston, MA 02110 and Joseph G. Sandulli, legal counsel for the MTA, at Sandulli Grace, PC, One State Street, Suite 200, Boston, MA 02109 on January 30, 2009.

Kevin M. Thompson

ADDENDUM TO THE BRIEF

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EMAIL RESPONSES TO UNION "WHISTLEBLOWER" LETTER

Below is a condensed version of the email responses that Thompson received in response to his letter pertaining to the corruption in the Methuen union's nomination and election process. The responses have been edited to remove the identity of the author:

- (1) *Thank you for trying to put a stop to this tyranny! You have my support. Best of luck!*
- (2) *Bravo! Thank you for putting into words what many of us have known. My Old team partner - Jack Hough - was the one who ran against Diane and we all watched in horror as the election was fixed. The "tactics" that go on with that "group" are unbelievable! It is definitely time for a change.*
- (3) *We are being told there is NO election today. How can we vote for you?*
- (4) *Thought you would be interested in the following response to my "voting" question. Thank you for your letter - you put into writing what we all know.*
- (5) *Kevin,
I don't know if we've met, but thanks for the info. Tough stuff - took some guts. Anyone willing to send a letter like that has my vote. I hope it works out for you.*

(6) *Interesting letter, not only was I unaware of the nominating period, I wasn't even aware that we had an election on April 13th. Is there a recall process allowed within the union rules, if so is it a viable solution to the current situation?*

(7) *Hi Kevin,*

I don't know you but just finished reading your letter about the fiasco of nominations. It is very sad. Thanks for sharing and I hope that things will be resolved to your satisfaction. I have two young children at home and I'm not ready to throw myself into any political arena but it is NEVER okay for injustice to occur. Thanks again for communicating the information for us to digest.

EMAIL RESPONSES TO BELL SCHEDULE PROPOSAL

Below are some of the responses to Thompson's proposed changes to the school's bell schedule, edited to remove identifying information. The original emails have been saved and can be provided at the Court's request:

(1) *Hi Kevin-*

I really like this schedule that you just sent out. Just wanted to put my 2 cents in. Thanks for all the hard work.

(2) *This schedule makes way too much sense. Let's take it off the table.*

(3) *Good morning, Kevin. If I'm reading this correctly, this schedule removes the long block and simplifies the rotation. It still allows students to select 7 courses per semester? My only suggestion would be to start at 7:30 and finish at 2:00.*

(4) *Kevin,*

Thank you for taking the time to put a new schedule together. Some concerns not listed - not enough blocks to have a duty and a prep and 6 blocks limits flexibility.

(After responding to these concerns in detail, the same teacher wrote back)

Kevin,

My apologies. I misread the schedule. I did not look close enough. Nice job.

STUDENT FEEDBACK

Below is the student petition, which was generated shortly after Thompson was suspended and signed by 70 students. Thompson was informed that only two of his students declined to sign it.

The petition stated:

We, the undersigned, hereby request Mr. Thompson's return as a physics teacher. His indefinite suspension is unacceptable; physics is a very intensive course that moves at a quick pace through each of the topics. Any delays may cause an inadequate completion of the course. Mr. Thompson's teaching ability cannot be questioned. His 20+ years of experience in this most difficult of subjects shows through in his teaching methods in a cognitive, succinct manner, with elaboration when necessary. He is always available for extra help and his dedication to education is apparent.

While the reason for his suspension is largely unknown, it is highly speculative that it has nothing to do with his teaching ability. Which means we can draw a single conclusion: Mr. Thompson should return to his normal teaching position because the reasons for his suspension (as far as we know) are not endangering our education in anyway, but rather the suspension itself is a detriment to our education.

[Let it be known that this petition is in no way affiliated with Mr. Thompson; the petition is a conscious act of the student body in an effort to pursue education, i.e., he has not told us to do this.]

Below are some of the letters that Thompson received from individual students after his suspension:

- (1) *I just wanted to let you know that there are many of us (your present and former students) who were upset to hear what happened. It may not mean much but your class was the first science class I'd taken (ever!) where I seriously felt like I understood what was going on, and I wanted to thank you for that before I graduated. Whatever happens, you are a great teacher, you taught me a lot about a subject I initially found difficult, and I wish you the best of luck with your present situation. Thanks again, and best of luck.*

- (2) *It is complete bull shit that you are not in the class teaching us, and it is a joke, that you get in trouble for the most ridiculous things, yet the science department head is arrested in a prostitution sting, and nothing is done. This whole situation is just ridiculous, I remember thinking in the beginning of the school year that physics was going to be hard, and it wasn't at all, I can't even count the number of times I have told Mr. Harb how amazing of a teacher you are, and how clear you make physics for me, and as a friend anyone who knows you as a teacher can genuinely see how much you truly care about your classes, and for anyone who knows you on a personal note, it is very easy to see how much you love your son. Talk to you soon.*

- (3) *Our class is doing bad as a whole and I remember a time when we were doing good as a whole. I mean talking to you and hearing that heat is one of the easiest topics, yet I don't seem to understand it at all*

because we have an inadequate sub. We have a sub who isn't doing a good job with us at all, yet gets upset when we don't understand. What hurts the most is we were led to believe that you were the one who had chosen to not come back, which was kind of hurtful, because we all knew how much you truly cared about helping us as a class. However, I have now found out that you were not the one who denied coming back. It's not fair to us that due to personal problems within the teacher's circle, we are being denied an education in a very rigorous course. Physics is a class a lot of seniors need for our majors and without proper instruction we are going to be lost. Anything you need I am here.

- (4) *First off, I just want to say that this message I am sending I want to remain confidential. Overall, I know you might feel like you're alone or have very few supporters. But in fact, there are many students that support and care for your cause. Although sometimes we get lost in what you're trying to teach us or you give us half credit on the hw, we still like you as a person. Fighting against an entire school system is going to be tough and you're up for a long, tough battle. All I can say is just always keep in mind your son and he can be your drive for fighting when the going gets tough. I'm sure when he grows up and he finds out the battle you're going through, he will admire you greatly.*

Below is just a sample of the feedback that Thompson has received over his years of teaching from his students, which was also submitted into evidence at

the arbitration hearing to rebut the school's slanderous claim that Thompson has a poor "rapport" with his students. It has been edited to remove identifying information, which is available at the Court's request:

(1) *Thank you for all your support and wonderful advice. I finally made it and I'm happy to say that you were a perfect role model and a great friend to me. Thank you for everything.*

(2) *Mr. Thompson,*
I wanted to thank you for encouraging me to take AP Physics. I knew that I wanted to study some field of science in college, however, I was always unsure of the specifics. After the 1st term of your class this year, it has become clear to me that physics will be my major/central study. Your letter will help in this college application process and I appreciate your time and effort as a role model.

(3) *Dear Mr. Thompson,*
I want to thank you for being such an outstanding teacher. You've spent countless hours outside of school helping me to understand the confusing and complex study of physics. You've also brought laughter, understanding, and encouragement into my education and my life. Most of all, knowing that you sincerely love teaching has made me realize that I want to teach someday also, and I intend to bring the same amount of passion and joy that you have shown as well.

(4) *(From a parent)*

Hi

I wanted to thank you for nominating Tim for his achievement in Physics. He loves the subject and your class, so much so that he is considering majoring in Physics and Education in college... We'll have to wait and see...but thank you again.

(5) *Dear Mr. Thompson,*

Thanks so much for all that you have done for me at Methuen High! I really appreciate you taking the time to write me a recommendation! You've made physics challenging and enjoyable and it is an honor to be on your Wall of Fame!

(6) *Hey, I just wanted to let you know that all the 'stuff' you taught us in physics over the past two years is helping me A LOT in my first required Engineering class. Only about half the people in the class have had physics and many of them end up coming to me to help them with problems we are assigned because they don't even know things like $F=ma$! I don't have actual physics until next semester because I'm required to take chemistry first (although I'd much rather be doing physics). But anyways, I just wanted to say how much I appreciate what you have taught me, and hope things are going well for you this year.*

(7) *i am guessing at ur e-mail, so i hope i'm right. i'd like to thank you for teaching me so well for the two years i took physics with you. i am fairly certain that i wouldn't have gotten a 5 on the exam if you hadn't*

been so great at teaching. have a good school year. i hope i got ur email right.

(8) *Mr. Thompson,*

Thank you for writing me a recommendation letter for college. You have always been one of my favorite teachers. I have known you Freshman year and am glad that I had you as a teacher twice. Thanks for everything, and most of all thank you for being you. Polish Pride!

(9) *Mr. Thompson,*

I can't believe I'm a senior now. It seems like yesterday I was a freshman in your Science topics class! I've learned a lot then, and now, Physics! Thank you very much for taking your time to write me a recommendation letter. I will miss you.

(10) *Dear Mr. Thompson,*

This letter is sent to express the appreciation of all of your students regarding the tenacious effort you have put forth in introducing the science of physics. As a current student of yours, I, as do all of your pupils, feel compelled to express gratitude for your concerns for us and for your ability to educate us in the field of science. I find your class quite enjoyable in many aspects. One is the clear and simple dialogue you utilize to explain complex concepts of physics. Not only does this allow students to quickly comprehend these topics, but it also introduces a relaxed and pleasant atmosphere. Another excellent aspect of your class is your efficient use of examples and your concise

responses to questions. In addition, the use of lab experiments and oral reports provides a refreshing alternative to classroom routine. All of these make your class enjoyable yet challenging. I thank you for your dedication and enthusiasm.

(11) *Dear Kevin,*

Hope you don't mind us calling you that. This is your beloved Honors Physics class. We all just want to thank you very much for being a great and understanding teacher to us this year. You really put in a lot of extra time and effort for us to really learn physics. We all wish you a very bright, successful future and whenever you feel low, think of all of us who will always be behind you!

(12) *Mr. Thompson.*

Hello. It's been really nice to having (sic) your classes. I had math for last year, and physics for this year. I think you are one of the nicest teachers that I never got (sic). I still remember when you signed physics H. for me. You worried about lack of my English but I think I'm well done (sic) with your help. Thanks for everything and I always enjoyed your classes. Bye.

(13) *Mr. Thompson,*

I have really enjoyed being in your class, this year and last. Remember me in your study hall? You are my favorite teacher. Your teaching methods are really awesome. You made physics really fun and easy to understand. Explaining the stuff on the board helps me understand more than reading about it in a book. I'm really glad that

you didn't give us books because I already had enough books from my other classes and it probably would have given my back a problem. You are one of the most caring teachers that I have ever known. You really want us to understand the stuff and you make a great effort in helping us learn it. I'm so glad I was put in your Physics class because some other teacher probably would not have been as patient and understanding and so interesting. A lot of teachers are so boring and give lectures or ask us to read in a book and take a test, but you are totally different, you created games, like that baseball game thing to help us study for the test. Now that was fun! I loved listening to your stories. Every day I always looked forward to going to 3rd period because it's my favorite class. You are a really cool teacher and you can really relate to us. Most teachers talk down to us but you talk to us at our level and I think you are a terrific teacher. I feel that you have given me a great gift, the gift of knowledge. In the beginning of this school year, I knew nothing about physics and now I feel like I'm physics literate. I wish you the best of luck!

(14) *Dear Mr. Thompson*

I hope you never forget me, because I'm sure I'll never forget a great teacher like you!

TEACHER EVALUATIONS/LETTERS OF RECOMMENDATION

On the pages that follow are Thompson's teacher evaluations at Methuen High School and three letters of recommendation, which were written by his department head (Joe Harb), a parent (Charleen DeBenedetto), and a student (Steven King) as part of a NASA Educator Astronaut application packet. All of these documents were submitted into evidence at the arbitration hearing.