

**STATE OF RHODE ISLAND,  
PROVIDENCE, SC.**

**SUPERIOR COURT**

**NATIONAL EDUCATION ASSOCIATION  
OF RHODE ISLAND, and NATIONAL  
EDUCATION ASSOCIATION – SOUTH  
KINGSTOWN,**

*Plaintiffs,*

**vs.**

**SOUTH KINGSTOWN SCHOOL  
COMMITTEE, by and through its  
Members, Christie Fish, Kate McMahon  
Macinanti, Melissa Boyd, Michelle  
Brousseau and Paula Whitford, SOUTH  
KINGSTOWN SCHOOL DEPARTMENT,  
By and through its Acting Interim  
Superintendent Ginamarie Massiello,  
NICOLE SOLAS, and JOHN DOE  
HARTMAN,**

**C.A. No. PC21-05116**

*Defendants.*

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**PARENTS' MOTION FOR LIMITED DISCOVERY**

Defendants Nicole Solas and Adam Hartman (“Parents”), pursuant to R.I. Gen. Laws § 9-33-2(b), hereby move for limited discovery to assess whether an award of damages is appropriate under R.I. Gen. Laws § 9-33-2(d) in an action that Plaintiffs brought for the purpose of inhibiting Parents’ statutory and constitutional right to access public information.

The Rhode Island General Assembly enacted the Anti-SLAPP statute to encourage “full participation by persons and organizations and robust discussion of issues of public concern.” R.I. Gen. Laws § 9-33-1. The law’s purpose is “to secure the vital role of open discourse on matters of public importance.” *Hometown Props., Inc. v. Fleming*, 680 A.2d 56, 62 (R.I. 1996). Under the anti-SLAPP statute, “immunity *will* apply as a bar to any

civil claim ... directed at petition or free speech” as defined in the statute. R.I. Gen. Laws § 9-33-2(a) (emphasis added).

Parents have filed, concurrently with this motion for limited discovery, a motion for partial summary judgment pursuant to R.I. Gen. Laws § 9-33-2(b). Under that statute:

The court shall stay all discovery proceedings in the action upon the filing of a motion asserting the immunity established by this section; provided, however, that the court, on motion and after a hearing and for good cause shown, may order that specified discovery be conducted. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion.

Should the Court establish that Parents are immune from the suit that Plaintiffs filed against them, good cause exists for also granting limited discovery to determine whether—as Parents contend—this case was brought to harass Parents, or to inhibit their statutory and constitutional rights, as well as to determine the appropriate amount of an award for damages available under the Anti-SLAPP statute. Under R.I. Gen. Laws § 9-33-2(d):

The court shall award compensatory damages and may award punitive damages upon a showing by the prevailing party that the responding party’s claims, counterclaims, or cross-claims were frivolous or were brought with an intent to harass the party or otherwise inhibit the party’s exercise of its right to petition or free speech under the United States or Rhode Island constitution.

As set forth in the Parents’ Motion for Summary Judgment, the Plaintiffs’ lawsuit against Parents has, as a matter of law, “inhibit[ed] [Parents’] exercise of [their] right to petition or free speech.” *Id.* Plaintiffs’ claims are also frivolous because Plaintiffs lack standing to seek a preemptive declaration to prevent a public body from processing public records requests—a legal proposition that has been made abundantly clear through

nearly three decades of unbroken Supreme Court precedent. *See In re New England Gas Co.*, 842 A.2d 545, 547 (R.I. 2004) (“APRA provides a remedy only to those people who are denied access to public records; *it does not provide a remedy to prevent public agencies from disclosing records.*”) (emphasis added); *Pontbriand v. Sundlun*, 699 A.2d 856, 867 (R.I. 1997) (“APRA does not contemplate ‘reverse-FOIA’ suits” and “affords no right to prevent the release of private information.”); *R.I. Fed’n of Teachers v. Sundlun*, 595 A.2d 799, 800 (R.I. 1991) (APRA “only provides a remedy for those persons or entities that are denied access to public records.”). Because Plaintiffs have no standing, as has been affirmed time and again by the Rhode Island Supreme Court, this action is frivolous as a matter of law, and damages should be awarded under R.I. Gen. Laws § 9-33-2(d).

This action may also have been brought to “harass” Parents “or otherwise inhibit [Parents’] exercise of [their] right to petition or free speech.” *Id.* On these questions, additional, limited discovery is necessary. Specifically, when the School Committee receives dozens of public records requests from multiple members of the public, including requests that also presumably seek information “of a personal nature,” Compl. ¶ 65, or information “about union-related activities,” *id.* ¶ 66, why were only these Parents, and no other members of the public, named as Defendants in this case? The Plaintiffs allege that “[f]ollowing Solas’ requests, the School Department received additional requests from other individuals and entities,” *id.* ¶ 19, but none of those “other individuals and entities” are named as Defendants, as Parents are here.

Based on the foregoing, limited discovery should be permitted under R.I. Gen. Laws § 9-33-2(b) only to ascertain the reasons this case was brought as well as why Parents, and no others, were targeted by Plaintiffs' lawsuit. This discovery will determine the appropriate damages for Plaintiffs' violation of the anti-SLAPP statute under R.I. Gen. Laws § 9-33-2(d).

Defendants,  
Nicole Solas and Adam Hartman  
By her Attorneys



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## CERTIFICATE OF SERVICE

I, Giovanni D. Cicione, hereby certify that a true copy of the within was sent This 19th day of August, 2021 by electronic mail and first class mail, postage prepaid to:

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