

ENTERED

September 05, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

BELEN GONZALES, *et al*,

Plaintiffs,

VS.

MATHIS INDEPENDENT SCHOOL
DISTRICT,

Defendant.

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CIVIL ACTION NO. 2:18-CV-043

ORDER

On this date, this case was called for hearing on Plaintiffs’ Motion for Entry of Preliminary Injunction (D.E. 33). As an initial matter, Defendant Mathis Independent School District (MISD) challenged the Court’s jurisdiction to proceed, arguing that Plaintiffs had knowledge of the MISD decision from which their claims arise more than 60 days prior to filing suit. If that is the case, then Plaintiffs would have been required to give MISD notice pursuant to certified mail, return receipt requested, which Plaintiffs admit that they did not do.

After reviewing the evidence, it appears that any MISD decision applicable to D.G. was made no sooner than December 1, 2017. On that date, while D.G. was participating in an extra-curricular activity, he was handed a letter stating, “*At this time* [D.G.] will not be allowed to participate in UIL extracurricular activities” Plaintiffs’ Exhibit 2E (emphasis added). Plaintiffs filed suit in state court on January 9, 2018 (D.E. 1-4), the 39th day after D.G. received notice. Therefore, D.G.’s claims clearly fall within the exception to the certified mail requirement. Tex. Civ. Prac. & Rem. Code

§ 110.006(b). The Court DENIES MISD's challenge to the Court's jurisdiction and its claim of immunity as to D.G.'s claims. The Court further GRANTS D.G.'s request for a preliminary injunction and a detailed order will follow.

With respect to C.G., it appears that the final MISD decision that triggered his claim was made by letter dated November 7, 2017. Plaintiffs' Exhibit 2D. Again, the lawsuit was filed on January 9, 2018, which was 63 days after the date of the letter. However, the record does not contain any evidence regarding how that letter was transmitted to Plaintiffs and when it was actually received by them. The Court GRANTS LEAVE to the parties to provide evidence on, and to brief any issue affecting, the manner in which the letter was delivered and/or any legal presumptions regarding receipt, such as the amount of time it takes for receipt after a piece of mail is placed in the custody of the United States Postal Service or any other similar issue relevant to this matter.

Any brief, not to exceed five (5) pages, may be filed on or before **September 10, 2019**.

ORDERED this 5th day of September, 2019.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE