

# **Bond Case Briefs**

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## **SCHOOLS - FLORIDA**

### **Hatcher ex rel. Hatcher v. DeSoto County School Dist. Bd. of Educ.**

**United States District Court, M.D. Florida, Fort Myers Division - April 5, 2013 - Slip Copy - 2013 WL 1395810**

*Court declines to let high school principal off the hook – either officially or individually – in student’s First Amendment suit.*

High school student filed suit against school district and principal, asserting that they interfered with her First Amendment right to organize and participate in the National Day of Silence and have asserted again this year that she will not be allowed to participate as she proposes.

The principal sought dismissal of the complaint, arguing, *inter alia*, that: 1) the official capacity claim against her is duplicious of the claim against the school district; 2) the individual capacity claim against her for injunctive relief is not available to plaintiff; and 3) the individual capacity claims against her are barred by qualified immunity.

The court agreed that an official capacity claim may be redundant when the entity is also a named defendant. The school board, however, was contesting any liability based on the principal’s conduct, and therefore it remained plausible at this stage of the proceedings that a separate official capacity claim could be maintained against her.

As to the principal’s assertion that the claim for injunctive relief must be dismissed because injunctive relief against a government official in her individual capacity is not appropriate with regard to that defendant’s official duties, the court found that personal liability under 42 U.S.C. § 1983 is available when an official’s allegedly unconstitutional actions are “within the official’s authority and necessary to the performance of governmental functions.” The Court saw no reason why such personal liability cannot be remedied by injunctive relief.

The court also found that the principal was not entitled to qualified immunity, which provides “complete protection for individual public officials performing discretionary functions insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” The complaint alleged facts showing the principal was operating in her discretionary capacity as principal of the high school. The Complaint also alleged facts showing that the principal violated plaintiff’s clearly established First Amendment rights.

Although not at issue in this stage of the proceedings, the court made it abundantly clear that the school district’s policy of forbidding any and all protests on school grounds would be going down in flames.