

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

SELINA SOULE, a minor, by Bianca
Stanescu, her mother, et al.,

Plaintiffs,

v.

CONNECTICUT ASSOCIATION OF
SCHOOLS d/b/a CONNECTICUT
INTERSCHOLASTIC ATHLETIC
CONFERENCE, et al.,

Defendants.

Case No.: 3:20-cv-00201-RNC

**PLAINTIFFS' MOTION TO
DISQUALIFY**

May 8, 2020

Plaintiffs Selina Soule, Chelsea Mitchell, Alanna Smith, and Ashley Nicoletti, by and through counsel, submit the following motion to disqualify:

1. During a telephonic hearing on April 16, 2020, the Court ordered Plaintiffs' counsel not to refer to intervenors as "males" but instead as "transgender females." (*See* Exhibit A to the accompanying Memorandum, Tr. 26, 29). The Court stated that Plaintiffs would not "surrender any legitimate interest or position if you refer to them as transgender females" (Tr. 26) and declared that the Order was "consistent with science, common practice and perhaps human decency" (Tr. 29).

2. The Court made these statements and entered its Order *sua sponte* without motion or argument of counsel.

3. 28 U.S.C. § 455(a) provides: “Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.”

4. The Court’s Order that Plaintiffs’ counsel not refer to intervenors as “male” but instead as “transgender females” rejects the gravamen of Plaintiffs’ lawsuit. Factually and legally, Plaintiffs’ claim centers on the objective reality of biological sex as the operable category under Title IX, and contends that allowing male athletes to take victories and opportunities away from female athletes in competitions designated for girls deprives Plaintiffs and others of the rights guaranteed them by Title IX.

5. Plaintiffs’ counsel have the right and professional responsibility to communicate clearly and accurately about their case and to present their arguments in a manner consistent with their legal theories and the dispositive facts.

6. The Court’s Order and its accompanying statements have left the ineradicable impression that the Court has prejudged matters at the very center of Plaintiffs’ case. The Court’s Order and its statements were unjustified and inconsistent with the appearance of impartiality.

Therefore, and for the reasons set forth in the accompanying Memorandum of Law, Plaintiffs move the Court to disqualify itself from further proceedings in this case.

Respectfully submitted this 8th day of May, 2020.

By: s/Roger G. Brooks

Roger G. Brooks
CT Fed. Bar No. PHV10498
Jeffrey A. Shafer
CT Fed. Bar No. PHV10495
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, Arizona 85260
Telephone: (480) 444-0020

Fax: (480) 444-0028
Email: rbrooks@ADFlegal.org
Email: jshafer@ADFlegal.org

Kristen K. Waggoner
CT Fed. Bar No. PHV10500
Christiana M. Holcomb
CT Fed. Bar No. PHV10493
Alliance Defending Freedom
440 First St. NW, Suite 600
Washington, D.C. 20001
Telephone: (202) 393-8690
Fax: (202) 347-3622
Email: kwaggoner@ADFlegal.org
Email: cholcomb@ADFlegal.org

Howard M. Wood III
CT Bar No. 68780, CT Fed. Bar No. 08758
James H. Howard
CT Bar No 309198, CT Fed. Bar No 07418
Fiorentino, Howard & Petrone, P.C.
773 Main Street
Manchester, CT 06040
Telephone: (860) 643-1136
Fax: (860) 643-5773
Email: howard.wood@pflaw.com
Email: james.howard@pflaw.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2020, a copy of the foregoing Motion to Disqualify was filed electronically with the Clerk of Court. Service on all parties will be accomplished by operation of the court's electronic filing system.

s/Roger G. Brooks
Attorney for Plaintiffs