

No. \_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES

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STEVEN IVEY - PETIONER

VS.

RICHARD CORCORAN,  
FLORIDA DEPARTMENT OF EDUCATION, et.al. - RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO  
FLORIDA SUPREME COURT

PETIONER APPENDIX

STEVEN IVEY

PO BOX 238353

COCOA, FL, 32923

407 - 457- 2928

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D18-941

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STEVEN IVEY,

Appellant,

v.

RICHARD CORCORAN,

Appellee.

---

On appeal from the Circuit Court for Leon County.  
Charles W. Dodson, Judge.

August 30, 2019

PER CURIAM.

AFFIRMED.

RAY, C.J., BILBREY, J., and SHARRIT, MICHAEL S., ASSOCIATE  
JUDGE, concur.

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*Not final until disposition of any timely and  
authorized motion under Fla. R. App. P. 9.330 or  
9.331.*

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APP. A  
51

Steven Ivey, pro se, Appellant.

Jason D. Borntreger, Office of the General Counsel, Florida  
Department of Education, Tallahassee, for Appellee.

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IN THE CIRCUIT COURT OF THE  
SECOND JUDICIAL CIRCUIT, IN AND  
FOR LEON COUNTY, FLORIDA

STEVEN IVEY,

Plaintiff,

v.

Case No. 2014 CA 2493

PAM STEWART, Commissioner of Education,  
and the DEPARTMENT OF EDUCATION,

Defendants.

**ORDER DISMISSING AMENDED COMPLAINT**

THIS CAUSE comes before the Court upon Defendants' Renewed Motion to Dismiss. Despite having scheduled a hearing for 10:30 a.m. on January 30, 2018, per Defendants' Notice of Hearing, and despite issuing an order granting Plaintiff's Motion to Appear Telephonically at said hearing, Plaintiff made neither personal nor telephonic appearance during the allotted hearing time. Counsel for Defendants appeared personally, although no oral argument was taken. Accordingly, having considered written arguments submitted by both Plaintiff and Defendants, and being otherwise fully advised in the premises, it is hereby:

**ORDERED AND ADJUDGED** that Defendants' Renewed Motion to Dismiss is **GRANTED**, as Plaintiff's Complaint and Amendment to Complaint fail to state a viable cause of action. Accordingly, Plaintiff's Complaint and Amendment are dismissed with prejudice.

*The clerk is instructed to close this file.*

DONE AND ORDERED in Tallahassee, Florida, this 6<sup>th</sup> day of February,

2018.

  
Charles Dodson  
Circuit Judge

Copies furnished to all parties via E-Portal and U.S. Mail:

Steven Ivey  
Post Office Box 721665  
7611 S, OBT  
Orlando, FL 32872  
[ivcysteven@hotmail.com](mailto:ivcysteven@hotmail.com)  
[ivystv@yahoo.com](mailto:ivystv@yahoo.com)

Jason D. Borntreger, Esq.  
Office of the General Counsel  
Florida Department of Education  
325 West Gaines Street, Suite 1244  
Tallahassee, FL 32399-0400  
[jason.borntreger@fldoe.org](mailto:jason.borntreger@fldoe.org)

# Supreme Court of Florida

THURSDAY, OCTOBER 17, 2019

CASE NO.: SC19-1782

Lower Tribunal No(s):

1D18-941; 372014CA002493XXXXXX

STEVEN IVEY

vs. RICHARD CORCORAN

Petitioner(s)

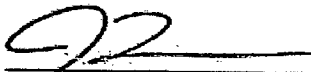
Respondent(s)

This case is hereby dismissed. This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to an authority that is not a case pending review in, or reversed or quashed by, this Court. *See Wells v. State*, 132 So. 3d 1110 (Fla. 2014); *Jackson v. State*, 926 So. 2d 1262 (Fla. 2006); *Gandy v. State*, 846 So. 2d 1141 (Fla. 2003); *Stallworth v. Moore*, 827 So. 2d 974 (Fla. 2002); *Harrison v. Hyster Co.*, 515 So. 2d 1279 (Fla. 1987); *Dodi Publ'g Co. v. Editorial Am. S.A.*, 385 So. 2d 1369 (Fla. 1980); *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980).

No motion for rehearing or reinstatement will be entertained by the Court.

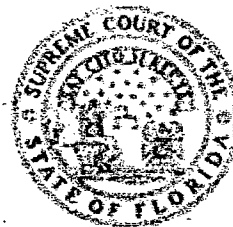
A True Copy

Test:



John A. Tomasino

Clerk, Supreme Court



td

Served:

JASON D. BORNTREGER

STEVEN IVEY

HON. CHARLES WILLIAM DODSON, JUDGE

HON. GWEN MARSHALL, CLERK

HON. KRISTINA SAMUELS, CLERK

APP. C  
55

DOE.LetHear.11.30.17

Steven Ivey  
PO Box 721665  
Orlando, FL, 32872

Jason D. Borntreger  
Office of the General Counsel  
FL Dept. of Education  
325 West Gaines St., Ste. 1244  
Tallahassee, FL, 32399

Nov 11, 2017

Dear 2nd Circuit Court/ J. Borntreger,

The plaintiff is giving notice that the defendants have not sent to him any "Motion" that needs to have a hearing, thus, there is no present need to schedule a hearing.

The plaintiff has made a request for documentation or records covering the funds received through the federal program the plaintiff and others participated in through the Agency for Workforce Innovations, AMI, during 2009 to 2010.

Sincerely,

Steven Ivey

Certificate of Service

Office of the Clerk  
Second Circuit Court of FL  
Leon County Courthouse  
Civil Division/Room 365-C  
301 S. Monroe St.  
Tallahassee, FL, 32301 and,

Jason D. Borntreger  
Office of the General Counsel  
FL Dept. of Education  
325 West Gaines St., Ste. 1244  
Tallahassee, FL, 32399

\_\_\_\_\_  
Date

\_\_\_\_\_  
Steven Ivey, Plaintiff

APP. 11  
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**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
IN AND FOR LEON COUNTY, FLORIDA**

STEVEN IVEY,

Plaintiff,

v.

Civil Action No. 2014-CA-002493

PAM STEWART, Commissioner of Education,  
and the DEPARTMENT OF EDUCATION,

Defendants.

---

**DEFENDANTS' RENEWED MOTION TO DISMISS, OR, IN THE ALTERNATIVE,  
MOTION FOR A MORE DEFINITE STATEMENT**

Defendants, Pam Stewart, Commissioner of Education, and the Department of Education, hereby submit this, their renewed motion to dismiss or, in the alternative, motion for a more definite statement, and in support thereof, state as follows:

1. Plaintiff's initial Complaint alleges that several instructors at Mid Florida Tech, a school operated by the Orange County Public School District, discriminated against Plaintiff. While not expressly stated, it appears that Plaintiff is alleging a violation of the Florida Civil Rights Act, Part I of Chapter 760, Florida Statutes (2012).

2. Paragraph 21 of the Complaint alleges that the Orange County Public School System is "... under the jurisdiction of the Florida Department of Education..." and therefore, the Plaintiff apparently believes, the Defendants have some responsibility for the alleged discrimination. However, the Commissioner of Education and the Department of Education do not control the employees of the Orange County Public School District, and have no authority to oversee the District's supervision of District employees.



3. The Orange County Public School District controls the public schools located within the district. The District is created by the Florida Constitution, Art. IX, §4(a), Fla. Const., which provides that the school board "... shall operate, control and supervise all free public schools within the school district...." Art. IX, §4(b), Fla. Const.

The responsibility for the actual operation and administration of all schools needed within the districts in conformity with rules and minimum standards prescribed by the state, and also the responsibility for the provision of any desirable and practicable opportunities authorized by law beyond those required by the state, are delegated by law to the school officials of the respective districts. §1001.30, Fla. Stat. (2012).

The district school system includes all public schools in that district. §1001.31, Fla. Stat. (2012). "Except as otherwise provided by law, all public schools conducted within the district shall be under the direction and control of the district school board with the district school superintendent as executive officer." §1001.33, Fla. Stat. (2012). The district school board provides for the establishment, organization and operation of the schools of the district, including career schools. §1001.42(4)(h), Fla. Stat. (2012).

4. The Orange County Public School District controls the employees of the District. A district school board has the power to adopt rules governing personnel matters. §1012.23, Fla. Stat. (2012). A district school board has the power and duty "... to provide for the appointment, compensation, promotion, suspension, and dismissal of employees." §1001.42(5)(a) and §1012.22(1), Fla. Stat. (2012).

5. In contrast, Defendants have no authority to appoint, compensate, promote, suspend or dismiss the employees of the Orange County Public School District. Defendants are only authorized to provide technical assistance to school districts for "... the development of policies, procedures, and training related to employment practices and standards of ethical conduct for instructional personnel and school administrators...." §1001.10(4), Fla. Stat. (2012).

None of the statutes conferring powers and duties on the Commissioner of Education, the Department of Education, or the State Board of Education provide the Defendants with the power to control instructors employed by the Orange County Public School District. §§1001.01 - .11 and .23, Fla. Stat. (2012). On a statutory level, Defendants have no relationship to this case.

6. In his Amendment to Complaint, Plaintiff appears to allege that Defendants did not provide the Florida Department of Highway Safety and Motor Vehicles the appropriate funds used to pay for Plaintiff's education program at Mid Florida Tech. Plaintiff alleges that Defendants have failed to comply with public information requests regarding the distribution of federal funds, and that Plaintiff has suffered retaliation for reporting the funds misallocation.

7. Although Plaintiff's amended claims are indeed new, they fail to specify facts which link Defendants to this action, let alone a legal basis upon which to mount a claim. Even taking Plaintiff's Amendment as a supplement to Plaintiff's initial Complaint, Plaintiff fails to express in coherent terms how Defendants have wronged him; the Amendment contributes no facts of substance, and fails to cite a single law, rule or legal theory which entitles Plaintiff to redress. Although Plaintiff's Amendment does attempt to raise new issues, it suffers from the same lack of legal and factual support as Plaintiff's initial Complaint. Unless Plaintiff can identify and clearly express the facts and legal rights at issue, Defendants are unable to substantively defend themselves, and Plaintiff's action is improper for this or any court.

WHEREFORE, the Defendants respectfully request that the Court enter an order dismissing the above styled action for failure to state a cause of action.

## MOTION FOR A MORE DEFINITE STATEMENT

Although Plaintiff has again failed to enter a pleading which would entitle him to relief, in the alternative to a dismissal of the above-styled action, Defendants move that the Court require the Plaintiff to file a more definite statement of his complaint. The Complaint is vague and ambiguous in that it is not clear what law, rule or legal theory Plaintiff is relying upon; it is not clear why the Plaintiff believes the Defendants are responsible for the alleged discrimination; it is not clear why Plaintiff believes Defendants misappropriated funds, or which funds Plaintiff believes were misappropriated.

Respectfully submitted,

s/ Jason Borntreger

Jason D. Borntreger, Esq.  
Office of the General Counsel  
Florida Department of Education  
325 West Gaines Street, Suite 1244  
Tallahassee, FL 32399-0400  
(850) 245-9531  
jason.borntreger@fldoe.org

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been furnished by electronic and postal mail to the following party this 15<sup>th</sup> day of December, 2016:

Steven Ivey  
Post Office Box 721665  
7611 S. OBT  
Orlando, FL 32872

s/ Jason Borntreger

Jason D. Borntreger, Esq.

DOE.ReplDism.01.23.18  
SECOND JUDICIAL CIRCUIT COURT OF FLORIDA  
LEON COUNTY

STEVEN IVEY,

CASE NO: 2014-CA-2493

Plaintiff,

CIVIL DIVISION

vs.

PAM STEWART, DEPT. OF EDUCATION, et. al.,

Defendants.

PLAINTIFF'S REPLY TO DEFENDANTS' 'MOTION TO DIMISS....ALTERNATIVE  
.... DEFINITE STATEMENT' and "MOTION FOR MORE DEFINITIVE STATEMENT"

The plaintiff, Ivey, for the January 30, 2018 hearing at 10:30 provides the following response and support for denial of defendants' dismissal request.

I. Facts

1. Since the defendants are moving for dismissal they bare the burden to show there is no genuine issues of the complaint that is unresolved, thereby, for any of the claims, and that all such issues have been fully vetted.
2. The defendants receive federal funds in yearly pratice and for the federal employment program administred by Florida Agency for Workforce Innovations, AWI, that Ivey participated in, thus, putting the complaint under the authority of the defendants.
3. The federal funds in question could not have been given to any state for any program unless that state met the federal education guidelines to receive such funds as per federal educational regulations.
4. The defendants made no compliance to Florida Statutes production request of public information concerning the federal educaction/works program funds and fee distribution.

5. Under Florida state statutes for public information request it is a state misdemeanor for non-compliance for such request under the prescribed time limit.

6. Taking federal funds means that the distribution and management of those funds fails on the state agency that took those funds and receives benefits from such funds; state laws and regulations can not trump those federal standards.

7. In any question as to the compliance to the proper distribution and application of any federal funds can result in the federal authorities 'clawing back' all funds distributed, not just those in any particular areas of funding for an agency.

8. The defendants did not conduct a proper investigation into the complaint which means,

a. no files have been generated for making a more definitive complaint and for court review;

b. with no such file it throws the burden on the court for an undue over-burdensome discovery period; and

c. the defendants willfully caused intentional over-burden on Ivey to file a more specific complaint and for efficiency of the court so as to avoid a "vague and or ambiguous" complaint and extensive court actions to mediate.

9. The defendants did not properly resolve the Rights violation as sent to the defendants by Sandra Lambert, Director of FL DMV.

10. Sandra Lambert before working for FL DMV held various positions in the FL Dept. of Education thus, held knowledge of the Civil Rights complaint process. The defendants have not resolved why Lambert saw FL. Dept. of Education as the proper venue for the complaint.

11. As the state education authority, the defendants, cite that they do have

jurisdiction over the cliams because of their use of paragraph 3 of the 'Motion to Dismiss' dated Dec. 15, 2016 and paragraph 5 with citing 1001.10(4) Fla. Stat. (2012).

12. Ivey has done his due deligence prior to filing the complaint. Even more so, such can be seen by the related complaints with the FL DMV and FL AWI filed in Florida 9th Circuit Court.

13. The defendants's counsel did not proceed in the hearing protocol for the January 30, 2018, therefore, attempting to damage Ivey in stating to the court that ivey did not fdully cooperate in scheduling. This was done by the defendants not taking the approved hearing date of the multiple choices that Ivey selected best for him but instead chose their own.

## II. Questions and Unresolved Issues

1. Who for the state sets the "rules and minimum standards prescribed by the state", as per paragraph 3 of the 'Motion to Dismiss' dated Dec. 15, 2016?

2. What are those "rules and minimum standards prescribed by the state" referred to in paragraph 3 of the 'Motion to Dismiss' dated Dec. 15, 2016?

3. Since Sandra Lambert, FL DMV, had worked prevciously for the Dept. of Education then why did she forward the Civil Rights complaint to the defendants, FL Dept. of Education, if such does not have proper jurisdiction over the complaint?

4. For the state in taking the federal funds, what is the distribution chain?

5. Does the claim of the defendants that they are not directly responsile for Mid Florida Tech, MFT, of OCPS comply with federal standards which would usurp state regulations as per the regulations that determined who could receive the

federal funds?

6. Who give approval and state certification to any school system or district in Florida?

7. What is the Civil Rights procedure invoked by the complaint?

8. Is there misuse of statute 1001.10(4), Fla Stat. (2012) definition in the passage " .... and standards of ethical conduct for personnel and administrators...." and application to the present case?

9. There is a conflict within the argument of the defendants paragraph 5, PP. 2-3 in that 1001.10(4) Fla. Stat. (2012) because of the contradiction with the further citing of 1001.01 -.11 and .23 Fla. Stat. (2012) for disnissal support.

10. Was the state statute only written in such a way to allow the FL Dept. of Education to take federal funds but avoid any accountability or responsibility under the federal employment/education program(s)?

### III. Argument

The defendants' arguments are to narrow for the entirety of the complaint issues. This is particularly true of the newer issues of the misallocation of the federal funds to pay for employment training in the FL Dept. of Education systems. This is in part due to the fact that the defendants did not conduct a proper investigation to resolve 'all' claims, thus, having resolve of any present claims that the defendants come now to say is the fault of Ivey for vagness and ambiguity. There is no resulting investigation file that Ivey and the court can reference. Why would a litigant not follow the present path for relief when a former FL Dept. of Education employee, Sandra Lambert,

Director of FL DMV, forward the complaint to the FL Dept. of Education? The defendants are attempting to usurp due process by over-burdening Ivey past his exercising of due diligence. Ivey has more than met his duty.

Since the defendants have not conducted any investigation or given explanation as to the distribution of federal funds in question, how can Ivey be held to that standard for the purpose of avoiding a dismissal on his claims. The defendants have committed a misdemeanor for failing to supply public information request for funds and fee distribution records. Because the federal authorities can 'claw back' the funds in question there is the circumstance that the defendants are diminishing correction of fraud or giving support for such so that no funds could be 'clawed back.' For state oversight authority there is a need to resolve some contradiction as to what level, county or higher state function? Can the defendants at the higher state level be constitutionally sound if they ignore accountability or write themselves off as unaccountable for what a county level does when at all levels each is benefiting from federal programs and funds? For federal regulations in the acceptance of federal funds there can be no such break. For example under federal statutes of conspiracy 42 @ 1983 there does not have to be a formal connection or agreement between those of the violation but only that all involved worked towards the same common end and some benefit to each. What the defendants are stating is that they can not be accountable for what the county does when under the guise of education they both take the federal funds, meaning that the Florida statutes usurp those of federal regulations. Such is improper. It is improper to use such an unresolved circumstance as part of a granting a dismissal. Once any issue such



as fraud has been raised then the counterpart of discrimination takes additional roles as being intimidation and retaliation for such reporting. This has happened to Ivey. Therefore, at some level the defendants have jurisdiction over the claims and are accountable.

What the defendants would have to show is that they are not responsible in any way at any level for Rights violations and employment discrimination as given in the complaint even though they say they are for ..." standards of ethical conduct for instructional personnel and administrators..." as per 1001.10(4) Fla. Stat. (2012) when reviewing any educational facility. The claims of Ivey fall into this arena. The issues reveal during discovery with related case Ivey v. Kynoch, FL DMV, no. 2010-ca-010751-0, of fraud specifically raise an ethical concern on the treatment of Ivey processing the claims. The defendants are practicing an unfounded policy of wanting authority but yet to not have any authority. This points to either a misinterpretation of of the referenced statute or that the statute is wrong. The language of it appears ambiguous with the defendants capitalizing on such to twist it to their desired end. Was this statute written so as to allow the highest office in the education system to then not have any corrective control because they now want to turn a blind eye so as to benefit the state from proper review and resolve of misallocated federal funds? This is what Ivey is stating as a claim. Being left as the defendants describe their role is to have double cost to the taxpayer for the education administration and review of any instructor and/or administrator as that of the state level and that of the county level. To this citizens are left to have to pay two for the 'supposed' separate entities to

just to take no corrective control or any educational entity having any such last non-judicial review before an agrieved party is left only to turn to the judicial system for relief. This points back to throwing the burden on the agrieved party and the courts as described above. Thereofre, with not needing 'two' then the citizens can cut one and the results to an agrieved party and the courts would be then same, so why pay double? This wouold not be the intended end use and result of the referenced statute.

From the defendants' "Motion for Dismissal...." starting in paragraph 3 as it leads into paragraph 5 there is the practice of 'putting the cart before the horse.' This generates a contradiction within the argument of the defendants with paragraph 5, PP. 2-3 in that 1001.10(4) Fla. Stat. (2012) because of the conflict with the further citing of 1001.01 -.11 and .23 Fla. Stat. (2012) for disnissal support. The statute is being taken out of its intended order for the distribution of structure for the educational system. On the first presentation of the statute the defendants are citing some universal control only to then cite an interpretation as to not having control. Once again there is the policy of having 'all' authority but then having no authority. This is a means of avoiding accountability and responsibility by manipulating the statue to only mean that which is most beneficial to the defendants and not its intended purpose. The defendants are describing themselves as a 'ghost' educational entity.

There is conflict between the distribution of authority within the education system as described by the defendants. There is then confict between the distribution of the federal funds as to who is untimatley

responsible for any wrongdoing. The defendants did not resolve how they can be separated from MFT/OCPS even though they took the federal funds which binds them to any other system level. The regulations for accepting federal funds does not strictly apply to a particular program. The federal regulations would apply universally to all federal funds taken. It can not be assumed that the avoidance of correcting one area of distribution automatically means that there is not wrongdoing in other distributed areas. This demonstrates unresolved conflicts.

Under such conditions there should have been and still should be an audit to sort through the fault and accountability. Ivey has requested such information with the defendants in noncompliance so as to commit a state misdemeanor. Under federal statutes in reporting claims covering the misallocation of the federal funds such as the Whistle-blowers Act, (as revised in 2010), Ivey having come this far in a complaint process for reporting the funds violations is already considered having been discriminated against. Should the defendants continue on their present argument an appropriate option for Ivey would be to move claims to a federal venue.

#### IV. Conclusion

In requesting dismissal, the defendants have the burden to resolve 'all' claims and issues to ensure their part of proper due process is preserved. There exist various conflicts in the defendants handling of the complaint and in seeking proper dismissal that have gone unresolved. Because Ivey can move some of the claims into federal court there is the demonstration that the complaint is not going away. The defendants at some level have the responsibility to conduct and

make a judgement as to the actions of MFT/OCPS; an investigation report. Do the defendants want to be left to answer a question by many as to why or what they could not or should have done to prevent further litigation as the oversight authority when they now claim they have no responsibility? Who would they suggest in the state to fix the problems, the FL Department of Game and Fishing? The referenced statutes by the defendants where not generated to give 'carte blanc' to MFT/OCPS for being unaccountable.

The defendants are using ambiguity as the means and direction to mislead the court for dismissal. Ivey need only one questionable issues that is unresolved by the defendants for the complaint to survive dismissal, though there are various issues even that at the level of federal circumstances. Therefore, though in part or any combination of the above the defendants 'Motion for Dismissal' should be denied and "Motion for More Definited Statement' should be suspended pending a proper investigation by the defendants.

Certificate of Service

Office of the Clerk  
Second Circuit Court of FL  
Leon County Courthouse  
Civil Division/Room 365-C  
301 S. Monroe St.  
Tallahassee, FL, 32301 and,

Jason D. Borntreger  
Office of the General Counsel  
FL Dept. of Education  
325 West Gaines St., Ste. 1244  
Tallahassee, FL, 32399

\_\_\_\_\_  
Date

\_\_\_\_\_  
Steven Ivey, Plaintiff

DOE.HearRep.02.12.18  
Steven Ivey  
PO Box 721665  
Orlando, FL, 32872

Judge Charles Dodson  
Second Circuit Court of FL  
Leon County Courthouse  
Civil Division/Room 365-C  
301 S. Monroe St.  
Tallahassee, FL, 32301

Jason D. Borntreger  
Office of the General Counsel  
FL Dept. of Education  
325 West Gaines St., Ste. 1244  
Tallahassee, FL, 32399

FEB 12, 2018

RE: Ivey v. Stewart, CASE NO: 2014-CA-2493

Dear 2nd Circuit Court/Judge Dodson/FL Dept. of Education/Borntreger,

For the January 30, 2018 hearing it needs to be noted that I never, even before this case was moved from 9th Circuit to 2nd Circuit, stated that I would receive documentation via an email. Niehter the defendants nor the court has complied with this situation with me. All documents have to be mailed I do not have a dedicated internet service or any type of I-phone.

I sent my 'Motion to Appear telephonically' to the court in the first week of January 2018. This allowed for more than sufficient time for the court to order on the 'Motion' prior to the January 30, 2018 hearing. I checked the mail on January 29, 2018 for a ruling on the 'Motion' but did not receive any such order. Therefore, I did not receive the instructions to call to the court prior to the hearing. Thus, FL Rules of Civil Procedure were not followed. Proper due process was not follow even though the dated January 25, 2018 'Order' on the 'Motion' did reach me after the hearing date. To date I have not received any 'Order' resulting from the hearing if there was one.

The defendants have regularly failed to follow with contacting via post mailings. This is just one example of the defendants not doing their proper prescribe course of procedure in the claims and for court action.

Within depositions of Darren Oaks and Ted Price taken by FL DMV counsel, Daryl Manning, in related case Ivey v. Kynoch, case no. 2010-CA-010751-0, there is perjury in Price and Oaks citing the events of my claims. This perjury was done to avoid not only my claims

APP. G  
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but the actions of them, Mid Florida Tech; Orange County Public Schools, and the Florida Department of Education/Stewart for extorting federal employment funds; failure to distribute those funds properly; and the failure to conduct a proper investigation. This would have been part of the hearing of January 30, 2018. This represents a new issue as not known to me at the time of the initial filing of the claims with this case and the related cases, thus, an issue the defendants need to investigate. With this letter there are being given notice of such and I will inform the federal authorities of the issue.

The only request or suggestion at this point would be the possibility of a reconsideration of, if any negative 'Order' for me from the hearing was made, or the court to 'ua sponte' take the issue up to correct the failure of proper notice to me. Otherwise, I will file an appeal for this case and, also, file a case against the defendants in the appropriate federal district court for those claims falling within federal jurisdiction. My attempts have been with the present defendants, and the other defendants in the related case with FL DMV and FL Agency for Workforce Innovations to avoid excessive litigation so as to show in the future cases that I am not filing meritless or frivolous cases, as was the efforts of the defendants in the related FL DMV case of listing all previous court actions of myself (both of you were sent this case listing with my reply).

Certificate of Service

Judge C. Dodson  
Second Circuit Court of FL  
Leon County Courthouse  
Civil Division/Room 365-C  
301 S. Monroe St.  
Tallahassee, FL, 32301 and,

Jason D. Borntreger  
Office of the General Counsel  
FL Dept. of Education  
325 West Gaines St., Ste. 1244  
Tallahassee, FL, 32399

\_\_\_\_\_  
Date

\_\_\_\_\_  
Steven Ivey, Plaintiff

**IN THE CIRCUIT COURT, NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA**

**STEVEN IVEY,**

**Plaintiff,**

**vs.**

**Case No.: 2010-CA-10751-O**

**SANDRA LAMBERT,  
DARREN OAKS, TED PRICE,  
OFFICE OF MOTOR VEHICLES, et al.,**

**Defendants.**

**DEFENDANT, SANDRA LAMBERT'S ANSWERS TO  
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

1. Please provide your full name, any former name by which you have been known, any name used by you including pseudonyms, your birth date, your place of birth, present address, marital status, and social security number.

**Response: Sandra Close Lambert.**

2. List your employment history that leads to your present job. You may attach your resume to satisfy this request.

**Response: See attachments A & B.**

3. For the position you held during the time the plaintiff filed the initial complaint with the DMV what job experience or other previous experience, even non-work related, (i.e. job, lateral contact, first hand knowledge etc.), did you have that relates directly to the job function, therefore, the subject matter of the claims in the complaint? Explain. (Example: If you were a nurse and the claims relate to first aid treatment, you would list, taking care of a sick family member, volunteering at a hospital; an Army soldier wherein you treated injuries, etc. (Explain in some detail the extent of what you did in these roles.)

**Response: No experience of discrimination with student/instructor.**

Verification

STATE OF

Florida

COUNTY OF

Leon

BEFORE ME, the undersigned authority, personally appeared Sandra Lambert who, after being duly sworn, deposes and says that the foregoing answers to interrogatories are true and correct.

Sandra Lambert  
Sandra Lambert, Defendant

Sworn to or affirmed and signed before me on this 7 day of September 2012.

Judy L. Williams  
Notary Public  
(Print, type, or stamp commissioned name of notary or deputy clerk.)



**Leon County Schools**

1969-1976      Elementary School Teacher

**Education**

Florida State University, Bachelor of Science, Education, *Cum Laude*, 1968 University of Miami and Florida State University graduate work in education and public administration.

1 IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT,  
2 IN AND FOR ORANGE COUNTY, FLORIDA

3  
4 STEVEN IVEY,

5 Plaintiff,

6 vs.

CASE NO: 2010-CA-10751-0

7  
8 SANDRA LAMBERT, DARREN  
OAKS, TED PRICE, OFFICE  
9 OF MOTOR VEHICLES, et al.,

10 Defendants.  
11  
12

13 DEPOSITION OF:

14 DERREN OAKES

15 Taken by: Daryl M. Manning, Esquire

16 Date: June 4, 2012

17 Time: 10:04 a.m.

18 Location: Office of the Attorney General  
135 West Central Boulevard  
19 Suite 1000  
Orlando, Florida

20 Reported By: Cynthia R. Green, Court Reporter  
21 Notary Public, State of Florida  
22  
23  
24  
25

ORIGINAL

1 pounds or less.

2 Q. Now, are you aware of an individual that  
3 was a student in one of your courses by the name of  
4 Steven Ivey?

5 A. Yes, sir.

6 Q. And when do you recall first having any  
7 contact with Mr. Ivey?

8 A. Well, referring to my notes, he started the  
9 course on January the 8th of 2009.

10 Q. And you were an instructor at the school  
11 during that time?

12 A. Yes, I was.

13 Q. And Mr. Ivey would have enrolled in which  
14 course?

15 A. He was enrolled in the Class A course,  
16 Course No. I490205, Section No. 06A and 06P.

17 THE REPORTER: Is that B or P?

18 THE WITNESS: P as in P.M.

19 THE REPORTER: Thank you.

20 BY MR. MANNING:

21 Q. Talk with me a little about the course --  
22 the price that individual students would pay to  
23 enroll in the course. Do you know that?

24 A. Yes, sir. Here again referring to my notes  
25 or his admission to class slip, he would have paid

1 approximately \$891.50 for the -- excuse me just a  
2 minute and let me look at this before I say that.  
3 They're splitting them up, A and P -- \$891.50 for  
4 the A portion, which is the A.M. portion of the  
5 class, and also \$891.50 for the 06P, which is the  
6 P.M. portion of the class. And this covers his lab  
7 fees and his tuition fees.

8 And then there is some additional charges  
9 that he would have paid before entering the class  
10 and then an additional charge to pay for his license  
11 upon completing the CDL testing during the class.

12 And I also noted here that his was  
13 deferred, so I believe he was sponsored by an  
14 agency.

15 Q. And do you have any idea that name of that  
16 agency?

17 A. The code A1 on his -- referring back to my  
18 notes, the code A1, I believe, is Central Florida  
19 Workforce Education.

20 Q. Can you go through in general the course  
21 curriculum, the -- I don't need each class in each  
22 day, but give a general understanding or explanation  
23 of what a student would go through upon signing up  
24 for the Class A course.

25 A. The Class A course is broke down basically

1 the general population.

2 Q. Okay. I'm going to back you up into when  
3 we started talking about your amount of time that  
4 you've been with the school and you've been working  
5 as an instructor.

6 What training do you have and -- what  
7 training and expertise do you have allowing you to  
8 be an instructor for these courses?

9 A. When I started with Mid Florida Tech in  
10 December of 1988, I verified close to ten years of  
11 driving experience. And you had to have at least  
12 six years of driving experience to become a  
13 vocational teacher.

14 Through that, went through normal courses  
15 to get my state of Florida teaching certificate,  
16 took additional courses to get my advanced degree  
17 for the state of Florida or specialist degree for  
18 the state of Florida on my teaching certificate. I  
19 am also -- went through the training to be a CDL,  
20 which is commercial driver's license, third-party  
21 examiner, which allowed me to give the CDL test for  
22 Mid Florida Tech. I also went through the training  
23 to be a CDL third-party tester trainer, which  
24 allowed me to train other CDL third-party testers  
25 for the state of Florida that would enable them to

**CERTIFICATE OF OATH**

STATE OF FLORIDA

ss:

COUNTY OF ORANGE

I, the undersigned authority, certify that  
**DERREN OAKES** personally appeared before me and was  
duly sworn.

WITNESS my hand and official seal this 13th  
day of June, 2012.

*Cynthia R. Green*  
\_\_\_\_\_  
CYNTHIA R. GREEN, Court Reporter  
Notary Public, State of Florida

Notary Commission #EE 203636  
Commission Expires: 06/01/16

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT,  
IN AND FOR ORANGE COUNTY, FLORIDA

STEVEN IVEY,

Plaintiff,

vs.

CASE NO: 2010-CA-10751-0

SANDRA LAMBERT, DARREN  
OAKS, TED PRICE, OFFICE  
OF MOTOR VEHICLES, et al.,

Defendants.

DEPOSITION OF:

TESRO PRICE

Taken by: Daryl M. Manning, Esquire

Date: June 4, 2012

Time: 11:37 a.m.

Location: Office of the Attorney General  
135 West Central Boulevard  
Suite 1000  
Orlando, Florida

Reported By: Cynthia R. Green, Court Reporter  
Notary Public, State of Florida

ORIGINAL

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1 Q. And you're involved in both of those?

2 A. That is correct.

3 Q. Okay. And are there other instructors that  
4 work there with you?

5 A. Yes, sir.

6 Q. Okay. And those individuals are?

7 A. Derren Oakes, Martin Witt, and  
8 Marvin Cowart and Keith Pence.

9 Q. And so what is your background in terms of  
10 experience or certifications or any licenses that  
11 deal with this area of CDL?

12 A. Well, prior to being employed at Orange  
13 County Public Schools, I had both over the road and  
14 local truck driving and bus experience, which met  
15 the criteria -- or one of the criterias to become an  
16 instructor at Orange County Public Schools, Mid  
17 Florida Tech.

18 And at that point in time, I had to obtain  
19 my Orange County -- Orange County District teaching  
20 certificate, which involved the -- just the  
21 teacher's exam, taking various classes at the  
22 University of Central Florida, and to obtain my  
23 teaching certificate.

24 As far as employment, you said? I'm sorry.

25 Q. I wanted to see what type of either



1 **CERTIFICATE OF OATH**

2

3 **STATE OF FLORIDA**

4 **ss:**

5 **COUNTY OF ORANGE**

6

7 I, the undersigned authority, certify that

8 **TESRO PRICE** personally appeared before me and was

9 duly sworn.

10 **WITNESS** my hand and official seal this 13th

11 day of June, 2012.

12

13 *Cynthia R. Green*

14 CYNTHIA R. GREEN, Court Reporter

15 Notary Public, State of Florida

16 Notary Commission #EE 203636

17 Commission Expires: 06/01/16

18

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25

Executive Director

2800 Apalachee Parkway  
Tallahassee, Florida 32399-0500  
www.flhsmv.gov



Charlie Crist  
Governor

Bill McCollum  
Attorney General

Alex Sink  
Chief Financial Officer

Charles H. Bronson  
Commissioner of Agriculture

May 29, 2009

Mr. Steven Ivey  
7611 South Orange Blossom Trail, #278  
Orlando, Florida 32809

Dear Mr. Ivey:


1 Thank you for your letter dated May 12, 2009, regarding your experiences at Mid-Florida  
2 Technical Institute.

3 The testing you allege was improperly and unfairly administered was not the state CDL  
4 skills testing we accept for licensing purposes. Rather, they were similar tests used in Mid-  
5 Florida's Commercial Motor Vehicle Training Program to determine when they consider  
6 students ready for their state licensing test. This is not a matter in which we can intervene, as our  
7 authority to oversee third party testing is limited to how they conduct the actual licensing test.  
8 The applicable statutes and contractual agreements specify the types of applicants that may be  
9 tested for licensing purposes but do not require testers to provide this service to any particular  
10 individual. We have sent a copy of your letter to the Florida Department of Education to  
11 determine whether they or another agency has regulatory authority.

12 Please note that Mid-Florida's decision not to administer the skills test we accept for  
13 purposes of obtaining a CDL does not preclude you from taking the test. You may take this test  
14 at a state-operated site at no charge and with no training or testing prerequisites except those you  
15 have already completed to get your CDL Learner's Permit. A list of state CDL sites may be  
16 found at [http://www.flhsmv.gov/ddl/cdlsites\\_state.html](http://www.flhsmv.gov/ddl/cdlsites_state.html). You may choose to take your CDL  
17 skills test with another third party tester. Go to <http://www.flhsmv.gov/ddl/cdlsites.html>, to  
18 locate another third party tester.

19 If you have any further questions, please do not hesitate to contact Skip Hood at  
20 [skiphood@flhsmv.gov](mailto:skiphood@flhsmv.gov).

Sincerely,

  
SANDRA C. LAMBERT, Director  
Division of Driver Licenses

SCL/sh

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RECEIVED 1/4/2019 3:00 PM, Kristina Samuels, First District Court of Appeal

**IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT OF FLORIDA**

**STEVEN IVEY,**

Appellant,

v.

**Case No.: 1D18-0941**

**L.T. No.: 2014-CA-2493**

**PAM STEWART, AS COMMISSIONER  
OF EDUCATION,**

Appellee.

---

**ON APPEAL FROM THE  
SECOND JUDICIAL CIRCUIT IN AND FOR LEON COUNTY, FLORIDA**

---

**ANSWER BRIEF OF APPELLEE**

---

Jason D. Borntreger, Esq.  
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## **PRELIMINARY STATEMENT**

This is an appeal from an Order of Dismissal issued by the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida ("Second Circuit"). The Second Circuit issued the order on February 6, 2018, therein dismissing Appellant's Complaint and Amendment to Complaint for failure to state a cause of action.

Appellant, Steven Ivey, was the Plaintiff in the lower proceeding, and will be referred to as "Appellant" or "Mr. Ivey". Appellee, Pam Stewart, in her role as Florida Commissioner of Education, was the Defendant in the lower proceeding, and will be referred to as "Appellee" or "Commissioner Stewart". The Florida Department of Education will be referred to as "FDOE" or "the Department".

Citations will be made to the record on appeal as "R." followed by the page number. Appellants' Amended Initial Brief will be referred to as "AIB." followed by the page number.

## **STATEMENT OF THE CASE AND FACTS**

On or about January 29, 2013, Appellant filed a civil action in the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida. Therein, Appellant named Appellee, Commissioner Stewart, as Defendant. (R. 9-22.)

Appellant's Complaint alleges that instructors and administrators at Mid Florida Tech, a school operated by the Orange County Public School District, unlawfully discriminated against Appellant in the provision of his commercial driver license course. (R. 9-16.) Additionally, Appellant's Complaint alleges that employees of the Orange County School District engaged in behavior that discouraged Appellant from pursuing a claim against Mid Florida Tech. (R. 16-18.) Appellant's Complaint also contends that Appellant referred his various concerns to the Department, which took no action. (R. 18, 20, 21.)

On or about March 29, 2013, Appellee filed its Motion to Transfer Venue, Motions to Dismiss, and Motion for a More Definite Statement. (R. 52-55.) After hearing the motions, on or about September 10, 2014, the Circuit Court of the Ninth Judicial Circuit issued its Order Transferring Venue and Denying Plaintiff's Motion for Default. Although silent on Appellee's Motions to Dismiss and Motion for a More Definite Statement, the Order found that venue was properly located in Leon County, Florida, and ordered the action transferred to the Second Circuit. (R. 5.)



After transfer of the action, the Second Circuit heard Appellee's still-pending Motions to Dismiss and Motion for a More Definite Statement. On or about November 10, 2016, the Second Circuit issued its Order Dismissing Complaint. Therein, the Honorable Charles Dodson ordered Appellant's Complaint dismissed, without prejudice, for failure to state a cause of action. Additionally, the Order provided Appellant an additional 20 days to file an amended pleading. (R. 87.)

On or about November 30, 2016, Appellant filed his Amendment to Complaint. Appellant's Amendment appears to allege that Appellee failed to provide the Florida Department of Highway Safety and Motor Vehicles with federal funds to pay for Appellant's aforementioned commercial driver license course. Appellant's Amendment also appears to allege that Appellee failed to provide information regarding distribution of said funds, and that Appellant has suffered retaliation for reporting the funds misallocation. (R. 88-91.)

On or about December 15, 2016, Appellee filed its Renewed Motion to Dismiss or, in the Alternative, Motion for a More Definite Statement. (R. 94-97.) After a hearing on the motions, on or about February 6, 2018, the Second Circuit issued its Order Dismissing Amended Complaint. Therein, the Honorable Charles Dodson ordered Appellant's Complaint and Amendment to Complaint dismissed, with prejudice, for failure to state a cause of action. (R. 112.)

On or about March 5, 2018, Appellant filed his Notice of Appeal. (R. 114.)

## **SUMMARY OF ARGUMENT**

The Second Circuit acted properly in dismissing Appellant's Complaint and Amendment to Complaint. Even construing the coherent portions of Appellant's pleadings as true, Appellant's Complaint and Amendment to Complaint are legally insufficient to state a cause of action, and are of a nature in which Appellant could not prove any set of facts whatsoever to support a claim of redress against Appellee.

Regarding Appellant's pleadings generally, Appellant has consistently failed to set forth a legal cause of action or a statement of the facts showing entitlement to relief. Florida law provides that a complaint is subject to dismissal when it is unclear what legal theory and ultimate facts support a further decision or judgment by the trial court, and a complaint which is so vague, indefinite and ambiguous as to wholly fail to state a cause of action is subject to dismissal. Accordingly, the Second Circuit properly dismissed Appellant's action.

Regarding Appellant's claims of discrimination, Appellant wrongly believes that Mid Florida Tech falls under the purview and jurisdiction of Appellee, thereby attributing some liability thereto. However, by operation of law, Appellee has no authority to appoint, compensate, promote, suspend, dismiss or otherwise control the employees of the Orange County School District. In reality, Appellee bears no relationship to the factual claims underlying Appellant's pleadings, and, to that end, the Second Circuit properly dismissed Appellant's action.

## **ARGUMENT**

### **Issue I**

**The Second Circuit correctly dismissed Appellant's Complaint and Amendment to Complaint for failure to state a cause of action.**

#### **Standard of Review:**

Whether a complaint is sufficient to state a cause of action is an issue of law, and appellate review of such a determination is subject to the *de-novo* standard of review. Siegle v. Progressive Consumers Ins. Co., 819 So. 2d 732, 734 (Fla. 2002) (citing W.R. Townsend Contracting, Inc. v. Jensen Civil Const., Inc., 728 So. 2d 297, 300 (Fla. 1st DCA 1999)). The reviewing court must accept as true all well-pled allegations in the complaint, and must draw all reasonable inferences in favor of the pleading party. W.R. Townsend at 300 (citing Response Oncology, Inc. v. MetraHealth Ins. Co., 978 F. Supp. 1052, 1058 (S.D. Fla. 1997)). However, the reviewing court need not accept internally inconsistent factual claims, conclusory allegations, unwarranted deductions or mere legal conclusions made by a party. Id.

#### **Argument:**

Florida law provides that the defense of failure to state a cause of action may be made by motion. Fla. R. Civ. P. 1.140(b)(6). The test for a motion to dismiss for failure to state a cause of action is whether the pleader could prove any set of facts whatsoever in support of the claim. Rocks v. McLaughlin Eng'g Co., 49 So. 3d 823, 826 (Fla. 4th DCA 2010). A motion to dismiss is designed to test the legal

sufficiency of a complaint and, in so doing, all well pleaded allegations of the complaint must be construed as true. Felder v. State, Dept. of Mgmt. Services, Div. of Ret., 993 So. 2d 1031, 1034 (Fla. 1st DCA 2008).

Having thoroughly read Appellant's Initial Brief and Amended Initial Brief, the precise nature of this appeal is unclear. Although Appellant does not identify a specific contention regarding the Second Circuit's Order of Dismissal, Appellant appears to reargue the merits of the underlying action, and appears to improperly introduce new matters on appeal. Unable to determine the specific thrust of Appellant's appeal, this section will focus on the reasons why the Second Circuit acted properly in dismissing Appellant's Complaint and Amendment to Complaint.

**A. Appellant fails to express a legal theory upon which to recover**

The primary purpose of tort law is that wronged persons should be compensated for their injuries, and that those responsible for the wrong should bear the cost of their tortious conduct. Jews For Jesus, Inc. v. Rapp, 997 So. 2d 1098, 1105 (Fla. 2008). Speaking generally, the basic elements necessary to state any tort claim are duty, breach of duty, causation between the breach of the duty and the injury, and actual damage. 55 Fla. Jur 2d Torts § 2. See also Clay Elec. Co-op., Inc. v. Johnson, 873 So. 2d 1182, 1185 (Fla. 2003). Liability for a tort arises from the violation of a duty or duties expressed or implied by law. Woodbury v. Tampa Waterworks Co., 49 So. 556, 562 (Fla. 1909).

A pleading which sets forth a claim for relief must state a cause of action and shall contain a short and plain statement of the ultimate facts showing that the pleader is entitled to relief. Fla. R. Civ. P. 1.110(b). Florida law provides that a complaint is subject to dismissal when it is unclear what legal theory and ultimate facts support a further decision or judgment by the trial court. Golden v. Jones, 194 So. 3d 1060, 1063 (Fla. 4th DCA 2016). Although a motion to dismiss for failure to state a cause of action does not reach the defect of vagueness, a complaint which is so vague, indefinite and ambiguous as to wholly fail to state a cause of action is subject to dismissal. Frisch v. Kelly, 137 So. 2d 252, 253 (Fla. 1st DCA 1962).

Appellant's Complaint alleges that instructors and administrators at Mid Florida Tech, a school operated by the Orange County Public School District, unlawfully discriminated against Appellant in the provision of his commercial driver license course. Additionally, Appellant's Complaint alleges that employees of the Orange County School District engaged in behavior that discouraged Appellant from pursuing a claim against Mid Florida Tech. Appellant's Complaint also contends that Appellant referred his concerns to the Florida Department of Education, which took no action. Although it does *mention* Appellee, at no point does Appellant's Complaint specify a factual or legal basis for pursuit of a claim against Appellee.

In his Amendment to Complaint, Appellant appears to allege that Appellee did not provide the Florida Department of Highway Safety and Motor Vehicles the

appropriate funds used to pay for Appellant's education program at Mid Florida Tech. Appellant's Amendment alleges that Appellee has failed to comply with public information requests regarding the distribution of federal funds, and that Appellant has suffered retaliation for reporting the funds misallocation. Again, although the pleading does *mention* Appellee, at no point does Appellant's Amendment specify a factual or legal basis for pursuit of a claim against Appellee

In both Appellant's Complaint and Amended Complaint – even in considering the Amendment as a supplement to the Complaint – Appellant fails to articulate facts which conclusively link Appellee to this action, let alone establish a legal basis upon which to mount a claim. Put plainly, Appellant's pleadings fail to express in coherent terms how Appellee has wronged him, and fail to cite a single law, rule or legal theory which would entitle Appellee to redress. Although Appellant's Amendment does attempt to raise new issues, it suffers from the same lack of legal and factual support as Appellant's Complaint. As Appellant has been unable to identify and clearly express the facts and legal rights at issue, Appellee cannot substantively defend herself, and the Second Circuit rightfully dismissed Appellant's action.

**B. By law, Appellee has no authority over MFT or OCSD employees**

Appellant's Complaint erroneously alleges that Mid Florida Tech and the Orange County School District are under the jurisdiction of the Florida Department of Education. To this end, Appellant believes that Appellee bears responsibility for

alleged wrongdoing. However, by operation of statute and constitutional provision, Appellee does not control the employees of the Orange County School District, and has no authority to oversee the District's supervision of District employees.

The Orange County School District is created by the Florida Constitution, which provides that the board "... shall operate, control and supervise all free public schools within the school district...." Art. IX, §4(b), Fla. Const. Pursuant to statute, the Orange County School District is the only party responsible for the operation and administration of public schools located within the district:

The responsibility for the actual operation and administration of all schools needed within the districts in conformity with rules and minimum standards prescribed by the state, and also the responsibility for the provision of any desirable and practicable opportunities authorized by law beyond those required by the state, are delegated by law to the school officials of the respective districts.

§1001.30, Fla. Stat. (2018).

The district school system includes all public schools, classes and courses of instruction in that district. §1001.31, Fla. Stat. (2018). "Except as otherwise provided by law, all public schools conducted within the district shall be under the direction and control of the district school board with the district school superintendent as executive officer." §1001.33, Fla. Stat. (2018). The district school board provides for the establishment, organization and operation of the schools of the district, including career schools. §1001.42(4)(h), Fla. Stat. (2018).

The Orange County School District controls the employees of the District, and has the power and duty "... designate positions to be filled, prescribe qualifications for those positions, and provide for the appointment, compensation, promotion, suspension, and dismissal of employees." §1001.42(5)(a) and §1012.22(1), Fla. Stat. (2018). Additionally, the Orange County School District has the power to adopt rules governing personnel matters. §1012.23, Fla. Stat. (2018). Accordingly, the Orange County School District bears sole responsibility for the actions of its employees.

In contrast, Appellee has no authority to appoint, compensate, promote, suspend or dismiss the employees of the Orange County School District. Appellee is only authorized to provide technical assistance to school districts for "... the development of policies, procedures, and training related to employment practices and standards of ethical conduct for instructional personnel and school administrators...." §1001.10(4), Fla. Stat. (2018). None of the statutes conferring powers and duties onto Appellee provide her with the power to control employees of the Orange County School District. §§1001.01 - .11 and .23, Fla. Stat. (2018). By operation of law, Appellee has no relationship to the facts underlying Appellant's pleadings, and, as a result, Appellant's action was properly dismissed.



### CONCLUSION

WHEREFORE, Appellant has failed state a viable cause of action in his Complaint and Amendment, and the Second Circuit appropriately dismissed the action. As such, the Appellee requests that the Second Circuit's decision be affirmed.

Respectfully submitted,

s/ Jason Borntreger

Jason D. Borntreger, FBN # 101731  
Office of the General Counsel  
Florida Department of Education  
325 West Gaines Street, Suite 1244  
Tallahassee, FL 32399-0400  
Telephone: (850) 245-0442  
jason.borntreger@fldoe.org

### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been furnished by electronic and postal mail to the following parties on this 4<sup>th</sup> day

of January, 2019:

Steven Ivey  
Post Office Box 721665  
Orlando, Florida 32872  
iveysteven@hotmail.com  
ivystv@yahoo.com

s/ Jason Borntreger

Jason D. Borntreger, FBN # 101731