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The Esquith Class Action Against the Los Angeles Unified School District: Class Treatment Not Proper Where Individualized Questions Predominate

There are a number of media [outlets](#) reporting a class action filed this week by a teacher named Rafe Esquith on behalf of himself and 2,000 teachers in the Los Angeles Unified School District. As one [paper](#) is reporting, the gist of the class action is based on allegations of the District “employing an ‘investigative hit squad’ to drum up false charges against older, well-paid teachers in an effort to avoid paying their retirement benefits.” A copy of the intent to file a class action complaint can be located [here](#). The class action lawsuit by Esquith follows an earlier individual [lawsuit](#) by this teacher alleging claims for defamation and employment retaliatory conduct against the School District and others. Without getting into the substantive merits of Esquith’s legal claims against the Los Angeles Unified School District, it is significant to highlight not only the procedural fallibility of such proposed class action lawsuit, but the absurdity in opting to seek class treatment for such claims, where the proposed class allegations are facially individualized and therefore remain clearly deficient throughout.

The procedural guidelines and jurisprudence regarding class certification is well established, where Fed. R. Civ. Pro. No. 23(a) set forth that, “a class may only be certified if: (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.” See also Vinole v. Countrywide Home Loans, Inc., 571 F.3d 935 (9th Cir. 2009). Additionally, under Rule 23(b)(3), a class may be certified if the district court “finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.” Id. citing to (8 Fed. R. Civ. P. 23(b)(3)).

In Plaintiff’s document entitled “Claim against the Los Angeles Unified School District” and Class Action Claims (pg. 15) dated June 22, 2015, Plaintiffs sets forth nearly 14 pages of individualized allegations, facts, circumstances and/or prohibited conduct, forming the basis of

Plaintiff's legal claims against the School District. Herein lies the achilles heel for Mr. Esquith's efforts to seek class certification and treatment for this particular case against the School District, where based on his own assertions and allegations, establishes a clear course of individualized questions of law and facts that are specific to him and him alone. If Mr. Esquith's narrative describing facts and allegations against the District are indicative of what other teachers and prospective class members may or may not have experienced, then it is certain that the Court will be hard-pressed to determine that class treatment here is procedurally proper where questions of law or fact common to class members do not predominate, rather it is the questions affecting individuals members that predominates wherein class treatment is not proper in this case.

About Us

Robert N. Wilkey, Esq. is the Principal Attorney of Wilkey Legal Consultants, LLC ("WLC") located in Exton, PA, with over a decade of class action, mass tort, and complex civil litigation experience. Mr. Wilkey holds a BA/MPP from Brigham Young University and a JD from the University of Iowa College of Law, and currently provides regulatory, legal, and consultation and litigation services to corporations, industry, non-profits, school districts, and government entities.

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Robert N. Wilkey, Esq., MPP, Wilkey Legal Consultants, LLC
Eagleview Office Plaza 600 Eagleview Blvd., Suite 300, Exton, PA 19341
www.robertwilkey.com
Toll Free Number: (888) 598-1112
Facsimile: (484) 698-7961
For General Inquiries Email us at: info@robertwilkey.com