

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

THE PINES CHURCH and MATT)	
GIOIA)	
)	
Plaintiffs)	
)	
v.)	Civil Action No. 1:23-cv-00214-LEW
)	
HERMON SCHOOL DEPARTMENT)	
)	
)	
Defendant)	

**DEFENDANT’S REPOSE TO PLAINTIFFS’ MOTION TO CONVERT JURY TRIAL
TO BENCH TRIAL**

Plaintiffs have moved to convert this case from a jury to a bench trial because they now seek only injunctive¹ and declaratory relief, nominal damages and attorneys fees and costs, they have no right to a jury. ECF Doc. 132, PageID#: 1580. The nature of the relief Plaintiffs seek is new to this case and Plaintiffs’ pivot has created unnecessary work for Defendants and the Court. If this Court grants Plaintiffs’ motion under F.R. Civ. P. 39(a)(2), it should also require Plaintiff to compensate the School Department for expenses it incurred as a result of Plaintiffs’ eleventh-hour request.

A. Factual Background

In their initial and amended complaints, the Plaintiffs alleged claims under 42 U.S.C. § 1983 for violation of their First Amendment rights. They requested injunctive and declaratory relief as well as compensatory and nominal damages. See ECF Doc. 10. PageID#: 75.

¹ Although Plaintiffs state in their motion that they are currently pursuing a request for injunctive relief, the injunctive relief requested in the amended Complaint was that the Court order the School Department to provide Plaintiffs with a lease. The Church has moved to a different location and Plaintiffs no longer want to lease the property so it is unclear what type of an injunction Plaintiffs are requesting now.

After the close of discovery (the first time), Defendant Hermon School Department filed a motion in limine to exclude introduction of evidence of damages which Plaintiffs opposed, arguing, among other things:

But in every case for damages, the extent of those damages is also a relevant consideration. Plaintiffs have alleged economic damages; therefore, damages are at issue.

ECF Do. 85, PageID#: 1031.²

Plaintiffs' intention to pursue a claim for compensatory damages was confirmed in their Final Pretrial Memorandum filed on August 18, 2025, in which they represented "Plaintiffs seek \$50,000 in damages, declaratory relief, and attorneys' fees and costs." ECF Doc. 114, PageID #: 114.

Nor did Plaintiffs give any hint of their wish to trial this case to the Court rather than to a jury at the Final Pretrial Conference held on August 26, 2025, instead actively participating in the discussion of deadlines for matters relating to the jury. At the final pretrial conference, the Court set various deadlines for trial of this case to a jury including a deadline to file supplemental voir dire questions, a deadline to propose additional glossary terms, and a deadline to submit jury instructions. It was only after proposed voir dire questions had been submitted, on the day before proposed jury instructions were due, that Plaintiffs suddenly indicated their intention to withdraw their request for a jury.

B. Discussion

It is beyond dispute that having filed claims against the School Department under 42 U.S.C. § 1983, the Plaintiffs are entitled to trial by jury. As described above, it is also beyond dispute that Plaintiffs have asserted an intention to pursue a claim for damages throughout the course of this

² The School Department's motion was denied just yesterday.

case. The School Department recognizes, of course, that there is a difference between a right and a requirement and that the Plaintiffs, with the consent of the School Department or by order of this Court, could withdraw their request. F.R.Civ. P. 39(a). The problem here is the timing of Plaintiffs' request. They have proceeded for over two years as if this case would be tried to a jury and waited until after the deadlines for jury related filings had passed to indicate otherwise. The delay has caused extra work for the defense and for the Court, and perhaps jeopardizes the date of trial in this case. They have provided no reasonable explanation for this delay and there is none.

In the end, the School Department's primary goal is to ensure that this case is tried as soon as possible. The School Department is thus amenable to either a bench or a jury trial at the convenience of the Court. If the case is converted to a bench trial however, the School Department requests that the Plaintiffs be required to reimburse it for the legal fees expended in preparing supplemental voir dire questions and jury instructions since neither of these would have been necessary if Plaintiffs had made a timely request.

Dated: September 25, 2025

/s/ Melissa A. Hewey

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