

Schools, family at odds on resolution offer

By Ray Lamont Staff Writer | Posted: Monday, October 19, 2015 2:58 pm

The city has offered to cover alternative transportation costs for the family of a 5-year-old special-needs student who was left on a school bus for two hours or more in sub-freezing temperatures last January.

But the proposed "resolution" agreement sent from the city to the family also included a provision that would have, if signed, stopped the family from seeking any further damages. The lawyers representing the girl and her parents say the family should not be "coerced" into signing away its legal claims, according to documents obtained by the Times.

The case dates to the Jan. 15, 2015 incident in which school transportation and other officials lost track of the girl as she rode her regular bus to East Gloucester Elementary School.

The episode led to the suspension and eventual ouster of both the bus driver, Linda Burke, and bus monitor, Joycelynn Rowe, confirmed schools transportation director Kathy Verga last spring. It also came less than two weeks before then-East Gloucester Principal Carol Bratt submitted her plans for retirement.

Bratt's retirement was effective at the end of the school year in June, and school officials chose Amy Pasquarello as the new principal in September. Superintendent of Schools Richard Safier reiterated Monday that Bratt's announcement and departure were "entirely unrelated" to the bus incident.

In a July 14 document mailed to the family -- not to attorney Joseph Orlando Jr., who is representing the girl and her parents, or the law firm headed by Orlando's father, Joseph Sr. -- the Gloucester School Department offers a potential settlement agreement that would call for reimbursing the family \$679.80.

That would be 45 cents per mile over 103 days to cover the girl's transportation to and from school and to cover the same costs over a five-week period for summer programs as well -- up to 36 miles per day.

But the offer also stipulated the proposed agreement would constitute "full settlement of any and all claims which (the girl and her) parents have asserted or may assert against the district."

That was the initial response to Joseph Orlando Jr.'s notice of intent to file a suit claiming an estimated \$1 million in damages.

In his own response, which he sent Aug. 24 to interim mayor Sefatia Romeo Theken, Orlando Jr. -- who is also running for an at-large seat on the City Council on Nov. 3 -- decried the city's

response and said the quit-claim component "could only be construed as an attempt at coercing the plaintiff into waiving her legal rights."

The names of the victim and her parents were redacted from all copies of legal documents on the case provided to the Times.

In the same letter, Orlando Jr. also noted that, if a proper response was not received from the city within 30 days, "we will file suit against the city of Gloucester and the Gloucester public school system seeking treble damages." That refers to a legal term that allows a court to triple monetary damages awarded to a prevailing plaintiff.

Eight days later, however, Charles J. Payson, the city's chief legal counsel, responded that the city believes the case would not be eligible for "treble" damages and neither does the statute apply to municipalities.

Payson's letter also urged the younger Orlando to "consult with your client" regarding the quit-claim offer. Meanwhile, he would speak with Safier about dropping that provision from any agreement.

Safier declined any further comment on the case Monday, but the elder Orlando said he doesn't view the city's actions as being a proper response to the family's and his firm's notice of intent -- it amounts to "a blatant act of bad faith."

"Every party to every litigation has the obligation to act in good faith toward the other parties, and this contract is not an honest or legitimate attempt at settlement," he said.

Orlando Jr., meanwhile, defended his steps toward potentially filing a lawsuit against the city at a time he's running for a City Council seat.

"I am proud to stand with this little girl, who was harmed by acts of negligence and deceit," he said in an email to the Times. "As an attorney, I represent and advocate for people. Gloucester parents have the right to expect that, when they put their child on the school bus, that their child will be safe."

"As a city councilor, I will represent and advocate for the people of this city in City Hall. Any city councilor who does not hold the employees of this city accountable to the people they represent is not doing his/her job," he wrote.

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