IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

POWHATAN COUNTY SCHOOL BOARD,

Plaintiff,

v. Civil Action No. 3:24-cv-874

TODD SKINGER

and

KANDISE LUCAS,

Defendants.

DEFENDANT'S PRO SE REPLY MEMORANDUM IN OPPOSITION OF EMERGENCY MOTION FOR PRELIMINARY INJUNCTION, OPPOSITION TO PLAINTIFFS' MOTION (DOC. 77), DEMAND FOR SANCTIONS AND DISMISSAL WITH PREJUDICE, NOTICE OF LEGAL OBJECTIONS, AND RULE 83.1(M) GHOSTWRITING NOTICE

COMES NOW, Defendant Dr. Kandise Lucas, appearing pro se, and respectfully files this consolidated opposition to Plaintiffs' Motion (Doc. 77), along with a demand for sanctions, dismissal with prejudice, notice of legal objections, and ghostwriting declaration pursuant to

Local Civil Rule 83.1(M). This filing is submitted in defense of constitutionally protected civil rights advocacy and in response to the coordinated, racially and retaliatorily motivated litigation tactics undertaken by Plaintiffs and their counsel.

I. INTRODUCTION

Defendant, Dr. Kandise Lucas, respectfully files this opposition to Plaintiffs' filing (Doc. 77), on the basis that it is part of a pattern of coordinated, retaliatory, and racially motivated litigation by Sands Anderson PC, in concert with Powhatan County School Board and Goochland County School Board, aimed at silencing constitutionally protected advocacy on behalf of disabled students and Black families under the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and 42 U.S.C. § 1983.

II. Judicial Animus, Collusion, and Exploitation for Personal and Political Gain

The assertions against Dr. Kandise Lucas by Powhatan County Public Schools, Goochland County Public Schools, and their private counsel, Sands Anderson PC, must be evaluated not as impartial litigation, but as a calculated campaign of retaliation—designed to exploit the longstanding and public animus of Judge Robert E. Payne toward Dr. Lucas for personal, political, and financial gain. This Court's prior adverse statements about Dr. Lucas, particularly in *Henrico County School Board v. Matthews*, No. 3:18-cv-110, 2019 WL 4860936 (E.D. Va. Oct. 2, 2019), have created an appearance of deep-seated bias that violates core principles of due process, judicial impartiality, and constitutional fairness.

As reaffirmed in *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 886–87 (2009), "Due process requires recusal where the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable." The repeated invocation of the *Matthews* decision by Powhatan and Goochland—whose attorneys routinely appear before Judge Payne and benefit from his prior adverse characterizations of Dr. Lucas—demonstrates an improper leveraging of judicial hostility in violation of 28 U.S.C. § 455(a), which mandates disqualification where a judge's impartiality might reasonably be questioned.

Moreover, the repeated filings and strategic timing of near-identical lawsuits by Sands Anderson in this Court—while seeking injunctive and financial penalties against Dr. Lucas—constitute a form of forum shopping designed to ensure these matters are heard before a judge with a documented history of punitive rulings against her. This offends the Code of Conduct for United States Judges, Canon 2, and the Virginia Rules of Professional Conduct (Rules 3.5, 4.4, and 8.4), which prohibit attorneys from exploiting judicial favoritism, prejudicing the impartial administration of justice, or using litigation for improper purposes.

II. Retaliatory Litigation, Obstruction of Due Process, and Ethical Violations

Rather than address the substance of ongoing IDEA and civil rights violations, Powhatan, Goochland, and their counsel are engaged in retaliatory SLAPP-style litigation—filing duplicative complaints against families and Dr. Lucas for exercising protected procedural rights under IDEA (20 U.S.C. § 1415), the Americans with Disabilities Act (ADA, 42 U.S.C. § 12101 et seq.), and Section 504 of the Rehabilitation Act (29 U.S.C. § 794).

The claim that Dr. Lucas "never prevailed" is both factually false and legally irrelevant. Under IDEA, parents and advocates are guaranteed the right to file complaints as new or continuing

violations arise (20 U.S.C. § 1415(b)(6)), especially when school districts fail to comply with prior orders or to implement Individualized Education Programs (IEPs). It is neither frivolous nor abusive to pursue ongoing remedies in defense of a child's Free Appropriate Public Education (FAPE).

Federal courts—including the Fourth Circuit—have reaffirmed that an advocate's or parent's right to file under IDEA is not contingent on the outcome, stating that:

> "An IDEA plaintiff is not required to succeed in order to vindicate the right to due process."
>
> (*G ex rel. RG v. Fayette County Public Schools*, 755 F. Supp. 2d 927, 937 (E.D. Ky. 2010)).

The burden placed on school officials stems not from advocacy, but from the school's persistent noncompliance with federal law. Moreover, the failure by Sands Anderson attorneys to disclose exculpatory medical records, their misrepresentation of facts before hearing officers, and their abuse of litigation as a tool of intimidation violate the Virginia Rules of Professional Conduct:

- Rule 3.3 – *Candor Toward the Tribunal*
- Rule 4.1 – *Truthfulness in Statements to Others*
- Rule 8.4(d) – *Conduct Prejudicial to the Administration of Justice*

III. Mischaracterization of "Scorched Earth" Strategy and Protected Advocacy

The repeated use of the phrase "scorched earth strategy" is an inflammatory and defamatory characterization intended to delegitimize Dr. Lucas's advocacy—conduct which is not only constitutionally protected, but which is carried out in strict adherence to her professional and ethical obligations as a credentialed special education expert.

Such rhetoric is a thinly veiled attempt to distract from the documented failures of school divisions to comply with federal and state special education law. Dr. Lucas's advocacy has consistently centered on exposing systemic noncompliance, racial disparities, and violations of due process.

This Court must recognize that such language—particularly in legal pleadings—is designed to chill free speech and intimidate those advocating for disabled and minority children. The First Amendment protects the right to petition the government for redress, and the courts have made it clear that advocates, particularly those acting under IDEA, are entitled to zealous representation of their clients. See:

- *Beeman v. Anthem Prescription Mgmt.*, 315 F.3d 263, 267 (4th Cir. 2002)

- *North Carolina Right to Life, Inc. v. Bartlett*, 168 F.3d 705, 712 (4th Cir. 1999)

Furthermore, claims that Dr. Lucas is responsible for students being removed from school are egregiously false. In multiple cases, including that of H.S., licensed medical professionals ordered homebound instruction or recommended removal due to unsafe conditions, trauma, or unaddressed disability needs. It is the school districts—by refusing to comply with medical

directives and retaliating against families—that are the true cause of educational interruptions, not the advocate seeking to protect the child's well-being.

IV. Unauthorized Practice of Special Education and False Credentialing

Sands Anderson attorneys and Superintendent Beth Teigen have exceeded their lawful authority and engaged in the unauthorized practice of special education, by issuing recommendations, procedural decisions, and clinical determinations outside the scope of their legal and professional licensure. Neither Sands Anderson nor Teigen is licensed, endorsed, or certified to deliver, oversee, or supervise special education programming, services, or evaluations.

In stark contrast, Dr. Kandise Lucas possesses extensive credentials and licensure, including:

- Doctor of Philosophy (Ph.D.) in Education Law, focus: Special Education
- Master of Science in Special Education (MSEd)
- Bachelor of Arts (BA), Biology
- Licensed Registered Behavior Technician (RBT)
- Qualified Mental Health Professional – Child (QMHP-C)
- Family Functional Therapist (FFT)

- Virginia Licensed and Endorsed Special Education Teacher and Administrator

- Endorsed in K–12 Special Education, Supervision, and Trauma-Informed Intervention

Dr. Lucas is fully licensed, certified, and endorsed not only to provide but also to supervise special education programs and personnel under state and federal law. Any attempts by unlicensed individuals or firms such as Sands Anderson or Superintendent Teigen to substitute their opinions or override the recommendations of licensed clinicians and educators constitute fraud, malpractice, and unauthorized practice, in violation of Virginia licensure regulations and federal IDEA provisions.

V. PATTERN OF SLAPP SUITS AND CONSPIRACY AGAINST RIGHTS

The filing at issue is a strategic lawsuit against public participation (SLAPP) designed to burden, intimidate, and silence Dr. Lucas from continuing her legally protected advocacy on behalf of families asserting their rights under federal disability and civil rights laws. Sands Anderson PC has, over a period of years, engaged in a documented pattern of SLAPP actions targeting Lucas and the families she represents — specifically those who are Black, low-income, and whose children are entitled to IDEA protections.

This pattern constitutes a violation of:

- 18 U.S.C. § 241 – Conspiracy Against Rights

- 18 U.S.C. § 242 – Deprivation of Rights Under Color of Law

These entities and individuals — acting under color of law — have conspired to retaliate against Dr. Lucas for exercising rights secured by the Constitution and laws of the United States.

VI. RACIALLY AND RETALIATORY MOTIVATED RETALIATION

The retaliatory abuse has been consistently racialized in tone and substance. Dr. Lucas, a Black woman and civil rights advocate, has been subjected to:

- Courtroom character assassination
- Misrepresentation of her advocacy as "vexatious"
- Degradation using racist tropes portraying her as unprofessional, combative, and unfit

Judicial and administrative actors involved, including Judge Robert Payne, have tolerated and at times reinforced these stereotypes to discredit and dehumanize Dr. Lucas.

Phrases such as "scorched earth," "vexatiousness," and "interference" are racially coded language — used not against white male attorneys, but directed at a Black woman defending disabled Black children's rights.

VII. DENIAL OF EQUAL PROTECTION AND FIRST AMENDMENT RIGHTS

This action violates Dr. Lucas's rights under:

- First Amendment: Retaliation against her free speech and advocacy on behalf of vulnerable children

- Equal Protection Clause of the Fourteenth Amendment: Targeting a Black advocate for conduct that would not elicit the same scrutiny if committed by white attorneys

- Americans with Disabilities Act & IDEA: Denying families access to advocacy and procedural safeguards by attacking their representative

Such conduct not only chills constitutional rights but obstructs federally mandated protections for students with disabilities and their guardians.

VIII. ABUSE OF PROCESS, DEFAMATION, FRAUD UPON THE COURT, PERJURY, AND FRIVOLOUS LITIGATION BY TEIGEN, FRANKLIN-MURRAY, GREEN, AND MAUGHAN

The motion submitted by Sands Anderson attorneys Matthew D. Green and Laura Maughan is an abuse of legal process and a frivolous pleading under:

- Virginia Code § 8.01-271.1

- Federal Rules of Civil Procedure, Rule 11

This filing continues a pattern of civil RICO violations under 18 U.S.C. § 1962, wherein Sands Anderson uses legal filings as racketeering acts to:

- Suppress whistleblowers
- Intimidate Black families
- Extract unjust settlements
- Retaliate against civil rights advocacy

Moreover, the claims made by Superintendent Beth Teigen, Assistant Director Sarah Franklin Murray, and legal counsel from Sands Anderson, accusing Dr. Kandise Lucas and Ms. Skinger of "keeping students out of school," are categorically false, defamatory, and made with reckless disregard for the truth. These statements—whether made under oath or in written declarations—constitute a malicious misrepresentation of the facts and serve no legitimate educational purpose. Instead, they are part of a retaliatory and strategic campaign to intimidate and silence parent advocates and undermine students' rights under the Individuals with Disabilities Education Act (IDEA).

- **Students Were Not "Kept Out of School" by Advocates or Parents—They Were Placed on Medically Necessary Homebound Instruction**

Each student named below was placed on homebound instruction or medical leave by qualified medical professionals due to physical, emotional, or psychological conditions that rendered in-person attendance unsafe or impossible:

Student	No. of Due Process Complaints	No. of Due Process Hearings	Medical Placement

A.H.	10	2 Hearings Held	Placed on medical leave by Dr. Ayers (Nov 2021), pending private placement.
H.S.	17	1 Hearing Held	Placed on medical homebound by Dr. Talibi (Feb 5, 2024).
Ca.G.	10	2 Hearings Held	Placed on medical homebound by Dr. Khawaja, NP Holston, and Therapist Sherrod (March 2023).
Cr.G.	10	No Hearings Held	Placed on medical homebound instruction (March 2023), pending private day placement.

Each of these placements was based on physician-documented necessity and consistent with both Virginia Department of Education policy and IDEA regulations (34 C.F.R. §§ 300.115 and 300.116).

- **Declarations by Teigen, Murray, and Sands Anderson Are False and Made Without Regard for Truth**

Despite being in possession of this medical documentation—some of which was submitted in formal due process proceedings—Superintendent Teigen, Sarah Franklin Murray, and their counsel falsely stated or implied that these children were "withheld from education" or "kept out of school" by their parent advocates. These claims were made under penalty of perjury in federal court filings and administrative records, despite:

- The existence of binding medical directives by licensed healthcare professionals;

- A complete lack of judicial findings or hearings substantiating any such claim;

- The fact that the advocates and parents had agreed to consolidate due process complaints, with the express purpose of accelerating services and reducing burden on the school division—not obstructing access to education.

No Adjudication Found Any Wrongdoing by Parents or Advocates

At no point did the Division convene disciplinary or legal proceedings against the parents or Dr. Lucas for educational neglect or unauthorized withdrawal of students. Moreover:

- Only 5 hearings were ever held across 47 due process complaints;

- The Virginia Department of Education (VDOE) and appointed hearing officers were aware of the consolidated complaint strategy and raised no procedural objections;
- There is no documentation or due process finding that Lucas or Skinger kept any student out of school.

The Allegation Constitutes Defamation and Malicious Abuse of Process

The accusation that a parent or advocate has unlawfully prevented a child from accessing education—without factual basis—is tantamount to accusing them of educational neglect, a potential criminal offense under Virginia law. Making such accusations in sworn filings and court records:

- Violates Rule 3.3 (Candor Toward the Tribunal) and Rule 4.1 (Truthfulness in Statements to Others) of the Virginia Rules of Professional Conduct;

- Constitutes defamation per se, as the statements falsely attribute criminal behavior;

- Reflects malicious intent and a pattern of Strategic Lawsuits Against Public Participation (SLAPP) intended to chill protected advocacy under the First Amendment and IDEA (20 U.S.C. § 1415(b)(1), § 1415(i)(3)(B)).

IX. Federal Court Has No Authority to Declare IDEA Complaints "Frivolous" Without Prior Determination by a Hearing Officer

1. No Administrative Hearing Officer Found Complaints to Be Frivolous, Harassing, Improper, or Repetitive

Pursuant to the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., parents and advocates of students with disabilities are expressly authorized to file due process complaints alleging violations of a Free Appropriate Public Education (FAPE). None of the due process complaints filed by Hailey Skinger, Alexander Halvorson, Carter Gunn (via Minister Sims), or Dr. Kandise Lucas, in her role as authorized educational advocate, have been found by a **Virginia administrative hearing officer** to be:

- Frivolous

- Harassing
- Improper
- Repetitive

In fact, several complaints **resulted in hearings** and/or findings of merit or compelled corrective action (including medical homebound determinations, orders of compensatory education, or movement toward appropriate placements), which by definition disqualifies them from being categorized as meritless or abusive.

2. Federal Courts Lack Jurisdiction to Preempt Administrative Findings Absent Exhaustion or Specific Statutory Authority

The federal court lacks the legal authority to retroactively label complaints filed under the IDEA as "frivolous" when no such finding was made in the administrative process. This runs afoul of:

- **20 U.S.C. § 1415(f)(3)(B)** – which permits a hearing officer to determine whether a complaint should be dismissed as "insufficient."
- **34 C.F.R. § 300.532(j)** – which outlines how hearing officers may dismiss or deny complaints.

- **Virginia Special Education Regulations** (8VAC20-81-210) – which give exclusive authority to administrative hearing officers to decide the merits of complaints and dismissals.

Notably, none of these complaints were dismissed as insufficient under § 1415(b)(7)(B), nor were they dismissed under procedural grounds for impropriety or harassment. Instead, the parties mutually agreed to consolidate some of the complaints to **streamline administrative proceedings and expedite student relief**, which is both lawful and encouraged under:

- **34 C.F.R. § 300.514(c)** – which respects administrative determinations unless reversed on appeal.

The federal court's sua sponte decision to label these complaints as abusive, without administrative exhaustion or any supporting hearing officer rulings, violates:

- **20 U.S.C. § 1415(i)(2)(A)** – which limits judicial review to the record established at the administrative level.

- **Honig v. Doe, 484 U.S. 305 (1988)** – affirming that judicial interference with IDEA remedies must honor exhaustion and deference to educational administrative processes.

- **Gonzalez v. Thomas, 547 U.S. 183 (2006)** – reinforcing that federal courts may not rule on issues not first decided by the administrative body of primary jurisdiction.

3. False Accusations of Abuse of Process or Harassment Are Sanctionable and Chill Protected Rights

Sands Anderson, Superintendent Beth Teigen, and Assistant Director Sarah Franklin Murray made statements under penalty of perjury in federal filings (e.g., in *3:24-cv-874*) accusing the complainants of improperly keeping students out of school and abusing due process protections. These statements are:

- Demonstrably false, as shown in medical documentation and administrative rulings.
- Unsupported by any hearing officer or VDOE complaint investigator findings.
- Made with reckless disregard for the truth and intended to defame and retaliate against those asserting their rights.

Such conduct violates:

- **42 U.S.C. § 12203(a)** – ADA anti-retaliation provision.
- **29 U.S.C. § 794 (Section 504)** – for retaliatory conduct against individuals advocating for disability rights.
- **18 U.S.C. § 241 and § 242** – for conspiracy and deprivation of rights under color of law.

It also creates the basis for a **SLAPP claim**, especially given that Sands Anderson initiated or encouraged litigation and counterclaims intended to silence protected speech and advocacy, without legal justification.

Because no hearing officer deemed any of the referenced IDEA complaints to be frivolous, improper, or abusive, the federal court is **legally barred** from reaching that conclusion independently. It is a violation of IDEA's administrative exhaustion doctrine and controlling Supreme Court precedent. Any statements or actions taken to accuse these complainants of abuse of process must be considered **defamatory, retaliatory, and sanctionable**, and should be subject to both professional discipline and civil remedy.

IX. REQUESTED RELIEF

WHEREFORE, Defendant Dr. Lucas respectfully requests that the Court:

RECONSIDER AND REVERSE DECISION REGARDING Plaintiffs' Motion (Doc. 77) in its entirety;

DISMISS this action WITH PREJUDICE as retaliatory, racially motivated, and legally unsupported;

SANCTION Plaintiffs and/or their counsel under Rule 11 and Virginia Code § 8.01-271.1;

REFER Sands Anderson PC, and Powhatan and Goochland County officials to the U.S. Attorney's Office and DOJ Civil Rights Division for investigation under 18 U.S.C. §§ 241, 242, and 1961 et seq.;

ENJOIN further SLAPP filings targeting Dr. Lucas or the families she represents, unless first screened for constitutional compliance.

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of April 2025, I filed the foregoing via the Court's CM/ECF system and/or mailed a copy by U.S. Mail to all counsel of record and pro se parties as listed on the service list.

Respectfully submitted,
Dr. Kandise Lucas
Pro Se Defendant
Signature: _____ Date: 4/22/25

RULE 83.1(M) GHOSTWRITING DECLARATION

Pursuant to Local Civil Rule 83.1(M), I declare that this filing was ***not*** prepared with the assistance of a non-lawyer or legal professional providing limited-scope assistance. That individual is not counsel of record and has not entered an appearance in this case. I, Dr. Kandise Lucas, remain solely responsible for the content of this filing.

Signed,

Dr. Kandise Lucas
Pro Se Defendant April 18. 2025