

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

DR. KEITH F. BELL,)	
)	
Plaintiff,)	
)	Case No. 22-2135-TC-TJJ
v.)	
)	
BOARD OF EDUCATION, BASEHOR-)	
LINWOOD UNIFIED SCHOOL DISTRICT)	
NO. 458, et al.,)	
)	
Defendants.)	

DEFENDANTS’ MOTION TO DISMISS

Defendants Board of Education, Basehor-Linwood Unified School District No. 458 (“U.S.D. 458”), Susan Mayberry (“Mayberry”) and Scott Russell (“Russell”), by and through undersigned counsel, hereby request that the Court dismiss Plaintiff’s Complaint (ECF No. 1) for insufficient service of process pursuant to Fed. R. Civ. P. 12(b)(5) and/or for failure to state a claim upon which relief may be granted pursuant to Fed. R. Civ. P. 12(b)(6). In addition, Defendants seek recover of their reasonable attorneys’ fees under 17 U.S.C. § 505 as well as Fed. R. Civ. P. 11(c) as the Complaint was not filed in good faith and was objectively unreasonable under prevailing principles of copyright law.¹ Defendants incorporate by reference the arguments and authorities set forth in their accompanying memorandum in support filed contemporaneously herewith.

¹ In filing this motion, Defendants expressly do not waive any affirmative defenses available them in this action including those enumerated in Fed.R.Civ.P. 8, 9 & 12. To the extent necessary to preserve any such defenses, Defendants raise the same herein.

WHEREFORE, Defendants respectfully request that Plaintiff's claims against them be dismissed and that Defendants be granted costs, including reasonable attorneys' fees, incurred in defending against the claims asserted against them by Plaintiff in this action.

Respectfully submitted,

McANANY, VAN CLEAVE & PHILLIPS, P.A.
10 E. Cambridge Circle Drive, 300
Kansas City, Kansas 66103
Telephone: (913) 371-3838
Facsimile: (913) 371-4722
E-mail: ggoheen@mvplaw.com
tsavely@mvplaw.com

By: /s/ Gregory P. Goheen
Gregory P. Goheen #16291
Terri L. Savely #12766

Attorneys for Defendants Board of Education of Basehor-Linwood Unified School District No, 458, Leavenworth County, Kansas, Susan Mayberry and Scott Russell

CERTIFICATE OF SERVICE

I hereby certify that on the 21th day of June, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

Keith F. Bell
3101 Mistyglenn Circle
Austin, TX 78746
Plaintiff, *pro se*

/s/ Gregory P. Goheen