

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

**TWO RIVERS PUBLIC CHARTER SCHOOL,
INC., et al.,**

Plaintiffs,

v.

ROBERT WEILER, JR., et al.,
3203 Maygreen Ave
Forestville, MD 20747
(301) 310-2798
weilerrobertjr@gmail.com

Defendants.

Case No.: 2015 CA 009512 B

Judge: Judge Jeanette J Clark

Next Event: Initial Conference

March 11, 2016

**DEFENDANT ROBERT WEILER, JR.'S
MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

Defendant Robert Weiler, Jr., pro se, moves the Court for entry of an order dismissing Plaintiffs' Complaint, with prejudice, on the grounds that:

1. Plaintiffs lack standing to bring this suit, therefore, this Court lacks Subject Matter Jurisdiction to hear it.
2. Plaintiffs fail to state a claim upon which relief can be granted.

ORAL HEARING REQUESTED

Weiler requests an oral hearing on this motion.

RULE 12-I(a) CERTIFICATE

Prior to filing this motion, and in accordance with SCR Civil 12-I(a), I conferred with counsel for the Plaintiffs, and was unable to obtain consent for the relief requested herein.

A proposed order and points and authorities follow.

DATED February 06, 2016

Respectfully Submitted,

/s/ Robert Weiler, Jr.

Robert Weiler, Jr., pro se
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Certification of Service

I certify that a true and correct copy of the forgoing was filed through the Court's authorized eFiling system, which will provide a courtesy copy to Chambers and effect eService upon the following parties or counsel of record:

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Attorney for Defendant Ruby Nicdao

And

Matthew D. Staver; Liberty Counsel
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Attorney for Defendant Larry Cirignano

DATED February 06, 2016

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**TWO RIVERS PUBLIC CHARTER
SCHOOL, *et al.*,**

Plaintiffs,

v.

ROBERT WEILER, JR., *et al.*,

Defendants.

Civil Action No. 2015 CA 009512 B

**Civil II, Calendar No. 7
Judge Jeanette J. Clark**

**Next Court Event:
Initial Conference
March 11, 2016, 9:30 AM**

**[PROPOSED] ORDER GRANTING
DEFENDANT ROBERT WEILER, JR.'S
MOTION TO DISMISS PLAINTIFFS' COMPLAINT**

This case is before the Court on Defendant Robert Weiler, Jr.'s Motion to Dismiss Plaintiffs' Complaint. The Court, having considered the motion and all papers filed in support and in opposition, having heard the argument of counsel, and being otherwise fully advised, it is hereby,

ORDERED:

1. The motion is **GRANTED**.
2. Plaintiffs' Complaint is dismissed in its entirety, with prejudice.

DONE AND ORDERED in Washington, DC this ____ day of _____, 2016.

JEANETTE J. CLARK
SUPERIOR COURT JUDGE

Copies to:

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Defendant, pro se

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Civil Action No. 2015 CA 009512 B

**Civil II, Calendar No. 7
Judge Jeanette J. Clark**

**Next Court Event:
Initial Conference
March 11, 2016, 9:30 AM**

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT
ROBERT WEILER, JR.'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT**

Defendant Robert Weiler, Jr. ("Weiler"), pursuant to SCR Civil 12-I(e), submits this memorandum of points and authorities in support of his Motion to Dismiss Plaintiffs' Complaint under SCR Civil 12(b)(1) and (6).

PRELIMINARY STATEMENT

Weiler, pursuant to SCR Civil 12(b)(1), moves for dismissal of Plaintiffs' Complaint because Plaintiffs lack standing to bring this suit, and therefore, this Court lacks jurisdiction to hear Plaintiffs' claims. In support of this ground for dismissal, Weiler incorporates herein by this reference the Memorandums of Points and Authorities in Support of Defendant Ruby Nicdao's, and Defendant Larry Cirignano's Motions to Dismiss Plaintiffs' Complaint for Lack of Subject Matter Jurisdiction, filed January 29, 2016 and February 05, 2016, respectively, and in their entirety. Because the standing analysis focuses on the nature and status of Plaintiffs, and not the conduct of any Defendant, the Nicdao and Cirignano Memorandums support Weiler's instant motion to dismiss with equal force and effect.

Pursuant to SCR Civil 12(b)(6), Weiler also moves for dismissal of Plaintiffs' Complaint for failure to state a claim upon which relief can be granted. In support of this ground for dismissal, Weiler incorporates herein by this reference his Memorandum of Points and Authorities in Support of Defendant Robert Weiler, Jr.'s Special Motion to Dismiss Plaintiffs' Complaint filed February 04, 2016, in its entirety. Whereas the Weiler Memorandum demonstrates that Plaintiffs cannot show a likelihood of success on the merits of their claims, it is precisely because Plaintiffs fail to state a claim upon which relief can be granted that they are unable to succeed on the merits.

Set forth below are supplemental points and authorities in support of Weiler's Motion to Dismiss Plaintiffs' Complaint.

ARGUMENT

As demonstrated in the Nicdao Jurisdiction Memorandum, Plaintiffs cannot establish standing to assert claims on behalf of students or parents. (Nicdao Jurisdiction Mem. at 5-10.) "It is no small matter for an organization to assert the right to sue, not on behalf of itself, but on behalf of others. . . . [S]uch a right requires the representational relationship to be a strong one, in order to ensure the fidelity of the organization to those for whom it claims to speak." *Friends of Tilden Park, Inc. v. D.C.*, 806 A.2d 1201, 1209 (D.C. 2002). Utterly failing to identify any source of authority, Plaintiffs presume to speak for *every* student and parent on their rolls in seeking to judicially blot out constitutionally protected expression on public ways, *outside* their school buildings. Founding such a right to sue on the mere fact of enrollment would render any associational or third-party standing analysis a meaningless exercise.¹

¹ Though not referring to the third-party standing doctrine by name, the Nicdao Jurisdiction Memorandum disposes of any such basis for Plaintiffs' purported standing in the course of its associational standing analysis. Citing to *Smith v. Jefferson County Board of School Commissioners*, 641 F.3d 197 (6th Cir. 2011), the memorandum correctly argues that "Plaintiffs are unable to establish that the students and parents cannot assert these claims on their own behalf."

CONCLUSION

For all of the foregoing reasons, the Weiler Motion should be granted, and Plaintiffs' claims dismissed, with prejudice, as to Weiler.

DATED this February 5, 2016

Respectfully submitted:

/s/ Robert Weiler, Jr
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(Nicdao Jurisdiction Mem. at 9.) Such failure by Plaintiffs eliminates the doctrine of third-party standing from consideration. *See Riverside Hosp. v. D.C. Dept. of Health*, 944 A.2d 1098, 1105 (“[T]he litigant must demonstrate ‘some hindrance to the third party’s ability to protect his or her own interests.’” (quoting *Powers v. Ohio*, 499 U.S. 400, 411 (1991))).

CERTIFICATE OF SERVICE

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DATED this February 06, 2016

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