

FILED

MAY 09 2024

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

VALERIE BUNKER,

Plaintiff,

v.

THE KEY SCHOOL, INCORPORATED, *et*
al.,

Defendants.

GREGORY HILTON, CLERK
SUPREME COURT OF MARYLAND

Case No. MJM-23-2662

Misc. No. 2,
September Term, 2024

ORDER

Pursuant to the Maryland Uniform Certification of Questions Act, Md. Code Ann., Cts. & Jud. Proc. §§ 12-601, *et seq.*, and Maryland Rule 8-305, it is ORDERED that:

1. The United States District Court for the District of Maryland CERTIFIES the following question to the Supreme Court of Maryland:

Does the Maryland Child Victims Act of 2023 (Md. Code Ann., Cts. & Jud. Proc. § 5-117) constitute an impermissible abrogation of a vested right in violation of Article 24 of the Maryland Declaration of Rights and/or Article III, Section 40 of the Maryland Constitution?

2. The answer to the above question would be determinative of an issue in the instant case, and, currently, no controlling appellate decision supplies such an answer.
3. In accordance with Md. Code Ann., Cts. & Jud. Proc. § 12-604, “The Supreme Court of Maryland . . . may reformulate a question of law certified to it.”
4. In accordance with Md. Code Ann., Cts. & Jud. Proc. § 12-606, the facts below are “relevant to the question” and show “fully the nature of the controversy out of which the question arose”:

- a. Plaintiff Valerie Bunker, a resident of Oregon, brings this action against The Key School, Incorporated and The Key School Building Finance Corporation (collectively, the “Key School” or “Defendants”). Compl. (ECF No. 1), ¶¶ 2, 4.
- b. Plaintiff attended the Key School, a private school in Annapolis, Maryland, for high school from 1973 through 1977. *Id.*
- c. Plaintiff’s claims arise from the Key School’s alleged failure to protect Plaintiff from sexual and emotional abuse committed by Key School teachers while Plaintiff was in high school. *See generally id.*
- d. Plaintiff filed her Complaint in this Court on October 1, 2023, under diversity jurisdiction pursuant to 28 U.S.C. § 1332(a). *Id.* ¶ 24.
- e. The Maryland Child Victims Act of 2023 (the “CVA”) took effect on October 1, 2023, the date this action was filed. Md. Stat. Ann., Cts. & Jud. Proc. § 5-117.
- f. The parties contest the constitutionality of the CVA. Defendants contend that the CVA violates Article 24 of the Maryland Declaration of Rights and Article III, § 40 of the Maryland Constitution by attempting to repeal Md. Code Ann., Cts. & Jud. Proc. § 5-117(d) (2017) (amended 2023) (hereinafter, “§ 5-117(d) (2017)”). *See* Defendants’ Memorandum in Support of Motion to Dismiss (ECF No. 20-1) at 6–7. According to Defendants, § 5-117(d) (2017) was a statute of repose that conferred upon non-perpetrator defendants a substantive right against liability for “abuse claims that were not brought within 20 years after the plaintiffs reaching the age of majority.” *Id.* at 6. Defendants argue that their substantive right could not be withdrawn once vested. *Id.* at 7. Plaintiff contends that § 5-117(d) (2017) was a statute of limitations rather than a statute of repose and, therefore, does not create

a vested right. *See* Plaintiff's Memorandum in Opposition to Defendants' Motion to Dismiss (ECF No. 21-1) at 5–6.

5. Defendants shall be treated as the Appellants in the certification procedure. Plaintiff shall be treated as the Appellee.
6. Plaintiff and Defendants are each ORDERED to provide a check to the Clerk of this Court payable to the Clerk of the Supreme Court of Maryland in the amount of \$30.50 for their respective halves of the filing fee for docketing regular appeals, pursuant to Maryland Rule 8-305(b), within seven (7) days of the date this Order is docketed.
7. Upon receipt of the filing fee referenced above, the Clerk of this Court SHALL transmit to the Supreme Court of Maryland, under the official seal of this Court, the original and seven copies of this Order, and seven copies of all other docket entries in this case, together with the filing fee.
8. The Clerk of this Court SHALL fulfill any request, upon notification, from the Clerk of Court for the Supreme Court of Maryland for all or part of the record in this matter.
9. In accordance with 28 U.S.C. § 2403 and Fed. R. Civ. P. 5.1(b), the Clerk of this Court SHALL send a copy of this Order to the Attorney General of Maryland, 200 St. Paul Place, Baltimore, MD 21202, and via email to civil_service@oag.state.md.us.
10. Defendants' Motion to Stay (ECF No. 12) is GRANTED. This case shall be STAYED pending the Supreme Court of Maryland's answer to the certified question.
11. The names and addresses of counsel of record are as follows:
 - a. For Plaintiff Valerie Bunker:
 - Elisha Nicole Hawk
Jenner Law, P.C.
3600 Clipper Mill Road, Suite 240
Baltimore, MD 21211

410-413-2155
Fax: 410-982-0122
Email: ehawk@jennerlawfirm.com

- Mark E. Rollison
The Joel Beiber Firm
1 Olympic Place, Suite 900
Towson, MD 21204
804-358-2200
Fax: 804-358-2262
Email: mrollison@joelbieber.com
- Andrew David Freeman
Brown Goldstein and Levy LLP
120 E Baltimore Street, Suite 2500
Baltimore, MD 21202-6701
410-962-1030
Fax: 410-385-0869
Email: adf@browngold.com
- Anthony J May
Brown, Goldstein & Levy, LLP
120 East Baltimore Street, Suite 1700
Baltimore, MD 21202
410-962-1030
Fax: 410-385-0869
Email: amay@browngold.com
- Kelly N. Stevenson
The Joel Bieber Firm
50 South 16th Street, Suite 1700
Philadelphia, PA 19102
804-800-8000
Fax: 804-358-2262
Email: kstevenson@joelbieber.com
- Melissa F. Hague
The Joel Bieber Firm
6806 Paragon Place, Suite 100
Richmond, VA 23230
804-800-8000
Email: mhague@joelbieber.com

