

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

SHEILA BEAL, as parent and next friend  
of her minor daughter, AMBER NEELY;  
RICK and LYNN MALONEY, as parents  
and next friend of their minor daughter,  
ALLISON MALONEY; RICK and LYNN  
MALONEY as parents and next friend of  
their minor daughter, KATIE MALONEY;  
CHARLES EMMETT, as Parent and  
Next Friend of his minor daughter,  
VALERIE KAY EMMETT; and on  
on behalf of all others similarly  
situated,

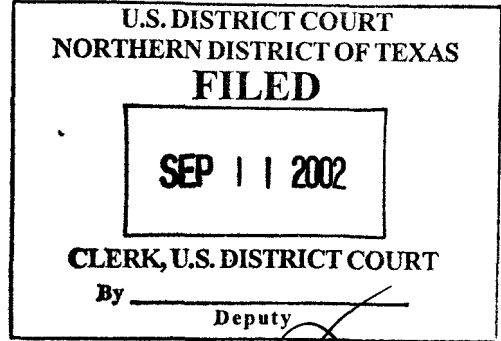
Plaintiffs,

v.

MIDLOTHIAN INDEPENDENT SCHOOL  
DISTRICT # 070908 OF ELLIS COUNTY,  
TEXAS; MOLLY HELMLINGER, in her  
official capacity as Superintendent; and  
Does 1 through 50,

Defendants.

CIVIL ACTION NO. 3:01CV746-L



CONSENT DECREE

This Consent Decree is entered by the Court based on an agreement between the Plaintiffs, SHEILA BEAL as parent and next friend of her minor daughter, AMBER NEELY; RICK and LYNN MALONEY, as parents and next friend of their minor daughter, ALLISON MALONEY; RICK and LYNN MALONEY as parents and next friend of their minor daughter, KATIE MALONEY; CHARLES V. EMMETT, as parent and next friend of his minor daughter, VALERIE KAY EMMETT, individually and in their capacity as representatives

CONSENT DECREE

of a class of individuals described as "all current and future female students enrolled in the Midlothian Independent School District who participate or are deterred from participation in interscholastic and/or school sponsored athletics as a result of unequal treatment and/or the distribution of benefits," (the "Class") and the Defendants, Midlothian Independent School District #070908 of Ellis County, Texas, and DR. MOLLY HELMLINGER, in her official capacity as Superintendent.

WHEREAS, Plaintiffs have sued the School District with respect to their claims that the School District has violated Title IX of the Education Amendments of 1972 and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and have contended that the School District has denied female students equal treatment and benefits that should accompany equal participation opportunities;

WHEREAS, the Defendants have denied the Plaintiffs' allegations and maintain that nothing in this Consent Decree constitutes an admission by the School District that action required on its part is not already in effect or that the School District is not already in compliance with applicable law;

WHEREAS, the parties to this Consent Decree agree that the School District is bound by the requirements of Title IX of the Education Amendments of 1972 and the parties have jointly agreed, through their designated representatives, that the interests of the parties are best served by reaching agreement regarding the manner in which the District will comply with Title IX;

WHEREAS, Plaintiffs and the School District desire to avoid the uncertainty, time and expense of maintaining and defending a lawsuit;

WHEREAS, this Consent Decree represents the Plaintiffs' and the School District's mutual desire for the District to achieve or maintain compliance with Title IX and its implementing regulations, and the School District, by this Consent Decree, agrees to comply with the general mandates of Title IX and its regulations.<sup>1</sup>

NOW THEREFORE, intending to be legally bound hereby, the parties agree to settle this matter as set forth below.

1. The School District shall continue to encourage participation in school-sponsored sports. These efforts shall include: notifying female and male students of sports offered; insuring that interested female and male students have information available regarding scheduled try-outs for school sports; and publicly announcing the School District's support for female and male athletics.

2. The School District agrees to maintain a policy of commitment to providing transportation for female athletes for practice and competition that will be equivalent to that provided to male athletes.

3. The School District agrees to maintain a system for accounting for revenues and expenditures for male and female sports. A revenue and expenditure report shall be available from the School District, upon written request, within sixty (60) working days following the closure of the District's fiscal year, which shall show for each sport the amount expended and any revenues received with respect to the sport. An individual requesting copies of this information shall pay the District's customary charge for public records. An individual may also choose to inspect the records by appointment without

---

<sup>1</sup> Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, *et seq.* (1988); OCR Regulations "Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefitting from Federal Financial Assistance." 34 C.F.R. § 106 (1994).

copying the records. Sources of revenues and expenditures include but will not be limited to general fund revenues, booster club donations, and all other third party donations or payments.

4. The School District agrees to maintain a policy of commitment to providing for off-season training to all female sports on a basis equivalent to that provided to male sports.

5. The School District agrees to maintain a policy to publish to students, as a part of the Student Handbook, its commitment to equal treatment to male and female student athletes. This information shall be published annually, whether in the Student Handbook or an alternate publication designed to reach students and their parents. The District shall publish in the Student Handbook the grievance procedure with which a student and/or parent must comply to report possible breach of the consent decree and as a prerequisite to any other legal remedy. The District shall list the District's Title IX Compliance Officer, his or her address, telephone number, and availability of a copy of the grievance procedure.

6. The School District agrees to maintain a policy of commitment to providing coach to athlete ratios for female sports which are equivalent to those ratios for male sports. Any variations of this policy shall be based on gender neutral factors.

7. The School District agrees to maintain a policy of commitment to avoid cancellation of games for gender reasons and providing that games are cancelled for female sports on a basis equivalent to the cancellation of games for male sports and shall follow the State UIL District guidelines regarding same.

8. The School District shall agree to maintain a policy of commitment to provide summer camps to female sports on the same basis as male sports. If a coach cannot conduct such a camp, the School District shall direct the Athletic Director to arrange for another qualified coach to handle the summer camp.

9. The School District agrees to maintain a policy to provide trainers for female athletes on a basis equivalent to those provided to male athletes. The School District shall arrange for student trainers to participate in all sports on a gender neutral basis.

10. For facilities constructed from January 1, 2002 forward, the School District shall provide comparable athletic facilities for male and female athletes. Facilities shall be available to student-athletes on a gender-neutral basis. School District shall ensure that female and male athletes have equivalent locker room facilities in terms of size, access, amenities, quality and exclusivity of use, both in-season and off-season.

11. By or before one year following execution of this Consent Decree, the School District shall create a locker room facility on the Middle School Building property to be used by the High School softball team. The locker room shall be designated as the Lady Panthers' Locker Room and shall be publicized as such. The School District shall provide the softball team the same access to this locker room, throughout the year, as the baseball team has to its locker room. In addition, the School District shall provide this locker room, and lockers, of a size, quality, and number that are at least equivalent to that supplied to the baseball program.

12. The School District shall designate a girls' softball field for Midlothian High School which is comparable to the boys' baseball field on or adjoining the High School or Middle School property which specifically includes the Midlothian Sports Complex. The

School District shall maintain a policy that the softball team has access to and exclusivity of use of the softball field throughout MISD softball season. The School District shall maintain a policy that the softball team has use of the softball field that is at least equivalent to the boys' baseball teams' use of the baseball field throughout the year. The School District shall maintain a policy of monitoring the City of Midlothian's maintenance of the softball field, and to the extent necessary, shall provide maintenance of the softball field so as to keep the condition of the softball field in a condition of comparable quality to the baseball field when used by MISD teams. As long as the above provisions are met, this does not require the School District to construct a field on campus.

13. In regard to the softball and baseball competition fields, the School District shall provide comparable facilities for male and female athletes, in terms of both access and quality. For example and by illustration, in regard to the softball field, by or before one year following execution of this Consent Decree (to the extent not already provided), the School District shall provide the following features, either by itself through action sought from the City of Midlothian, or in participation with the City:

- a) "Grandstand" type bleachers sufficient to accommodate all spectators at softball games and that is ADA compliant.
- b) A press box that is aesthetically pleasing and fits within the design of the bleachers, and is equivalent in effect to that at the boys' baseball field. Prior to construction, the School District shall present to counsel for Plaintiffs a proposed plan for same for prompt review and input, which review and input could cause delay in completion of the press box beyond the one-year

deadline. It is understood by the parties that this provision does not require a press box that is precisely equivalent to that at the baseball field.

- c) A scoreboard equivalent to that provided at the baseball field.
- d) A permanent outfield fence set at dimensions that do not violate UIL guidelines. This fence and backstop shall have windscreen and protective top rail equivalent to that supplied at the baseball field.
- e) A public address system that will produce sound equivalent to the sound produced at the baseball field.
- f) Handicap parking that complies with ADA requirements.
- g) Cinder block dugouts equivalent in all features to those provided at the baseball field, with a canvas sign promoting the softball team to be placed on home softball dugout.
- h) Two outdoor batting cages for use at the softball field.
- i) Bullpens, at the softball field, equivalent to those at the baseball field.
- j) A pitching machine for the use of the softball team.
- k) Infield dirt material of quality at least as good as that of the baseball field.

14. The School District shall maintain a policy of commitment to providing transportation for softball players to and from the high school to the softball field/locker room site.

15. The School District shall provide softball players equivalent scheduled use both as to time and convenience (on a rotating schedule as needed) of the indoor hitting facility as compared to the baseball players.

16. The School District shall maintain a policy to provide equipment, supplies, and uniforms for students and coaches who participate in school sponsored sports in a gender neutral manner. This provision shall include the quantity, quality, and replacement and/or repair of said equipment, supplies and uniforms.

17. The School District shall maintain a policy to provide a weight room schedule for use of the weight room(s) without regard to gender, and it shall provide equal allocation of time for usage of the weight room facilities for girls athletic teams as compared to boys' athletic teams. The District shall make provisions so that coaches of female and male teams receive special instruction regarding the value of strength and conditioning, proper weight lifting techniques for female and male athletes, and the use of the weight room to enhance athletic skills and training. The School District shall provide the weight room with dumb bell weights in the following ranges: 5, 8, 10 and 15 pounds.

18. The School District shall promote and publicize female sports and shall encourage individual female team coaches to utilize available opportunities to publicize female sports involvement and accomplishments. This means that the School District shall give equivalent attention to the female teams in connection with school announcements, advertisements, assemblies, sports banquets, signage, and school publications such as the yearbook. At the beginning of each semester, a pep rally will be held that will give recognition to all school sports on a gender neutral basis. To the extent that the School District or any of its employees contact the media regarding the results of school-sponsored athletic competition, School District and its employees shall equitably provide such assistance and information for the sports of both genders. In instances where media guides, programs, competitive schedules and other information are prepared,



School District shall provide such items for the teams of both genders in a similar format and comparable size.

19. The School District shall maintain a policy of selecting coaches for all teams (male and female) using comparable criteria and with the same motivation to attract qualified and skilled coaches. Plaintiffs acknowledge that not all sports, teams or schools are able to attract equally qualified coaches. However, the School District shall utilize a gender-neutral system for attracting coaches for all of its teams and in determining the ratio of student athletes to coaches, acknowledging the importance of assigning experienced and qualified coaches in a gender-neutral manner, and doing so in a manner which does not treat female and male sports differently because of the gender of the team members.

20. It is understood and acknowledged by the parties hereto that the School District relies on the contributions of time, money, equipment and supplies that come from individual donors, organizations such as booster clubs, businesses, parents and others. The School District desires to retain the enormous benefits provided by private as well as public donors. However, the School District shall maintain a policy to not permit any infusion of non-school monetary or non-monetary contributions to result in programs which are unequal. School District acknowledges that it has a responsibility to monitor contributions and the effect contributions have on school-sponsored sports. School District recognizes that it has the responsibility to ensure that boys' and girls' sports are supported equitably, including through the proceeds of concessions, and that all sports are funded on a gender-neutral basis.

21. As part of this Consent Decree, School District agrees that the School District and any of its administrators, officials or school board members, shall maintain a policy to treat the student Plaintiffs in the same manner as any other student enrolled at Midlothian I.S.D.

22. Plaintiffs, as well as all class members and their parents, shall as a prerequisite to any other legal remedy comply with the School District's grievance procedure to report possible breach of this Consent Decree.

23. In connection with this Consent Decree, School District agrees to pay the reasonable attorney's fees and costs connected with the instant action, to Ray Yasser and Samuel J. Schiller. The amount to be as determined by agreement of the parties or by the Court, within 30 days of such determination or agreement. The School District agrees that the amount due is the lodestar of reasonable hours multiplied by a reasonable hourly rate as agreed by the parties or as determined by the Court. In the event the parties are not able to reach agreement on the amount of fees and the issue is referred to the court, the Court will determine the reasonable attorney's fees. No other fees, costs or monetary damages of any kind or type will be due from Defendants to Plaintiffs or Plaintiffs' counsel in this case.

24. (a) This Consent Decree is approved by and entered as an Order and Judgment of the Court and shall be subject to the full enforcement powers of the Court. The parties agree not to object to the Courts' authority to enforce the terms of this Consent Decree

(b) The Plaintiffs and Defendants agree to fully release and by this instrument do hereby release each other, their own attorneys, each other's attorneys, their

insurers, employees, trustees, assigns and successors, of any and all claims, liabilities, or actions which either presently have or have had against the other existing as of the date of execution of this Consent Decree, except for the Plaintiffs' claim for attorney fees and costs related to this action. Nothing in this Consent Decree shall be construed to constitute or evidence an admission of liability or wrongdoing of any kind by Defendants, which is expressly denied.

25. The parties shall enter a Stipulation for Dismissal With Prejudice, which shall dismiss all claims against all Defendants, and which shall be filed in this matter within five calendar days of the final disposition of all issues, including the issue of attorney fees.

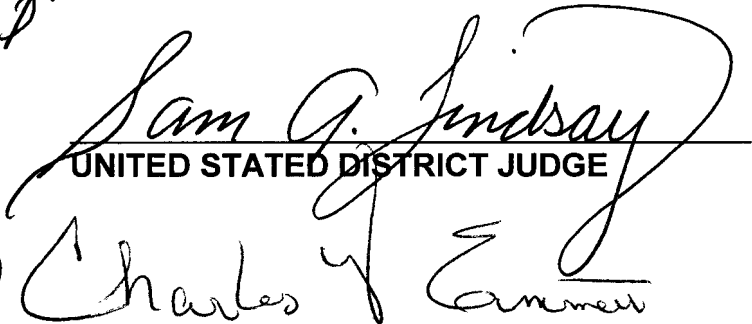
26. This Consent Decree shall be binding on the successors, insurers, assigns, and transferees of the Defendants and the Plaintiffs.

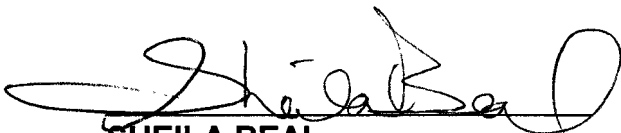
27. This Consent Decree contains the complete description of the terms between the parties. All material representations, understandings and promises of the parties are contained in this Consent Decree.

28. Any modifications to this Consent Decree must be set forth in writing and signed by the designated representatives of the Defendants and the Plaintiffs.

29. The parties acknowledge that each has been represented by legal counsel, of their choice, at all times material to this action and that they have had a full opportunity to consult with legal counsel throughout the legal proceedings occasioned by Plaintiffs' lawsuit.

Signed this 10th day of September, 2002.

  
UNITED STATES DISTRICT JUDGE



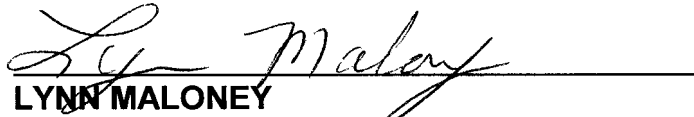
**SHEILA BEAL**  
Individually, and As Parent and  
Next Friend of AMBER NEELY



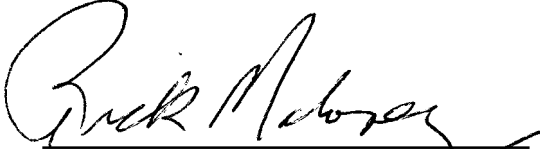
**CHARLES V. EMMETT**  
Individually, and As Parent and  
Next Friend of VALERIE KAY EMMETT



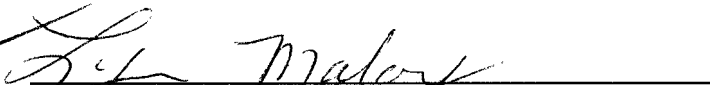
**RICK MALONEY**  
Individually, and as Parent and  
Next Friend of ALLISON MALONEY



**LYNN MALONEY**  
Individually, and as Parent and  
Next Friend of ALLISON MALONEY



**RICK MALONEY**  
Individually, and as Parent and  
Next Friend of KATIE MALONEY



**LYNN MALONEY**  
Individually, and as Parent and  
Next Friend of KATIE MALONEY

**SCHILLER LAW FIRM**

By:  \_\_\_\_\_

**SAMUEL J. SCHILLER**  
**Oklahoma Bar Association #016067**  
**RAY YASSER**  
**Oklahoma Bar Association #009944**  
Suite 200  
4113 Cumby Road  
Cookeville, TN 38501  
931-528-5050  
931-528-5051 (Facsimile)

**ATTORNEYS FOR PLAINTIFFS**

MIDLOTHIAN INDEPENDENT  
SCHOOL DISTRICT #070908 OF  
ELLIS, COUNTY, TEXAS

By: Molly Helmlinger  
MOLLY HELMLINGER  
Superintendent of Schools

APPROVED BY:

D. Bradley Kizzia  
D. BRADLEY KIZZIA  
State Bar No. 11547550  
NICOLE W. STAMMEL  
State Bar No. 24004995  
STRASBURGER & PRICE, L.L.P.  
901 Main Street, Suite 4300  
Dallas, Texas 75202  
214-651-4300  
214-651-4330 (Facsimile)

**ATTORNEYS FOR DEFENDANTS**