

UNEDITED REALTIME FILE

Press Conference

March 20, 2025
2:00 p.m. – 3:00 p.m. ET

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MIKE LAUX: Do we have everybody on or are we going to wait for a few more folks to come in?

Brittany, do you think we should just begin? I didn't really know what to do with half the people and half the people out. Should I just begin, do you think? Have we given it enough time? I think so.

BRITTANY SHRADER: (Nods head up and down.)

MIKE LAUX: Okay. Can everybody hear me?

I need just one second to get the press release. I'll be right back.

All righty. Are we all set? I think everybody is here?

BRITTANY SHRADER: I'm ready.

MIKE LAUX: Okay. Well, thank you all for coming to this kind of seemingly spur of the moment press conference here for some legislation, some litigation that we're filing, that we filed today, challenging litigation that -- or challenging legislation that's pending. And perhaps even a couple steps along the way, which seeks to implement major changes to the Arkansas School for the Deaf and Arkansas School for the Blind.

By way of introduction, my name is Mike Laux. I'm an actual trial attorney. Many of you esteemed journalists and media people know me from the Little Rock area.

I am joined in this lawsuit with two excellent attorneys from the National Association of the Deaf, NAD. And that is Brittany Shrader and Drake Darrah. Again, two very skilled litigators who specialize in the type of lawsuit that we are bringing.

So we have filed today a lawsuit that is captioned Arkansas Association of the Deaf versus Jacob Oliva and others, which would be the Arkansas School Board members primarily.

As many of you have reported very, very, more than competently reported very well on this kind of ongoing saga regarding the Arkansas School for the Deaf and Arkansas School for the Blind. As a preliminary point, let me just tell you, these are two separate schools with two separate goals, purposes, and visions, with two sets of superintendents, one for each school. These are measures that are codified in the Arkansas constitution and in the Arkansas code.

It's very important that these schools remain separate in terms of their curriculum, their goals, visions, and their administration. We have no opposition to the commingling of these students in common areas or in any other way that helps enrich their social

advancement or their peer-building skills, but in terms of combining these schools in kind of a makeshift consolidation for the purpose of saving money or for the purpose of reducing resources, is something that we and our clients are strongly and fully against. And that's why we've brought this lawsuit.

So back in December of 2023 -- and just by way of kind of background or overview, I should say, I'm going to talk just a little bit about how we got to where we are, and then I'm going to give the floor over to Ms. Shrader who will say a bit about the nuts and bolts of the complaint, and I think that Mr. Darrah will also have some good information to add.

And then we will open it up to any questions, and then we'll close it out.

So anyway, in December, late December of 2023, the state, the Governor's office, the Arkansas Department of Education, as far as we know designed but they certainly published and distributed an online social media survey, one consisting of dozens and dozens of pages and over 100 questions. This survey was intended for what the state calls stakeholders of the Arkansas School for the Deaf and Arkansas School for the Blind. This term "stakeholders" or "shareholders" was never defined, but that's who the designated audience of this particular survey was.

The survey was released on December 23rd, two days before Christmas, a few days after Christmas break for these students, and it closed 2 weeks later, just after the new year, New Year's Eve, New Year's Day, and just prior to the students' arrival back at school. It was only 2 weeks long, even though it asked questions about really significant and long-arranging topics, topics certainly covering if not expressly, certainly implicitly, the notion of combining superintendents into one, the two of them into one, components I think expressly or implicitly of the merging of the schools themselves, not just under one roof, but potentially the curriculums of the schools, and other important subject matter concerning the safety of the school, the unfortunately dilapidated nature of the facilities, and things like that.

So 2 weeks is a very short time. And 2 weeks over Christmas break, not a good time to do this. But let's assume that it was a good faith endeavor by the state, just for the purposes of this press conference.

The major problem with this survey, ladies and gentlemen, is that even though it was for the "stakeholders" of the Arkansas School for the Deaf and Arkansas School for the Blind, it totally lacked what are called auxiliary aids such as American Sign Language, like we have provided in today's press conference; other types of video recognition or imaging for Deaf Arkansans; and any type of assistive communicative devices for blind Arkansans.

If this was a survey about a new highway or if it was a survey about whether, you know, Rodney Parham Street should be widened or whether UALR should tenure its

professors, regardless of the type of message, when the State communicates to its citizens, it has a duty to communicate to all of them. But here, they didn't. This is even more egregious because these are not rank and file issues but directly pertain to the group excluded by the survey.

And while we wish we could say that this was just an oversight, a harmless accidental oversight by the State, we fear that it is instead a designed tactic used to eliminate the voices of these folks who have a real stake in what happens, and instead to use these inaccurate, incomplete survey results to justify political maneuvering and decisions that are already been made and preordained.

The survey was meant as a cover to lend legitimacy to maneuvers that the State was looking to engage in regardless of the survey, and these maneuvers are destined to put in place features and laws and regulations that decidedly cut against the very community that they purportedly, publicly, are telling us that they are assisting.

So our complaint is not just -- so we're filing not just a complaint, but we're also filing a motion for preliminary injunction, and so we're filing the complaint under the Americans with Disabilities Act, Title II in particular, and also the Rehabilitation Act of 1973, Section 504 in particular. These are very similar federal statutes, both of which provide protections for Americans with disabilities. And being clinically Deaf, hard of hearing, deafblind, or blind, or visually impaired, these check the boxes for recognized disabilities.

So these cherished and productive citizens of our state deserve the accommodations that the federal law mandates they have, so that they can be on equal footing with the rest of the citizens and vice versa.

Now, this is a little bit later, or I should say this press release that you all received is kind of coming, this conference is kind of coming right on the heels of it, and right on the heels of the complaint we filed. And during kind of a hot mic moment, you might have heard me say "I don't quite know what to do here." The reason I said that is because we just learned that the legislature, which had heard of our complaint pending, as recently as last night, perhaps even earlier, we learned just minutes before we began today that apparently House Bill 1810 had passed or had cleared some hurdle or had gotten over some preliminary hurdle. We are still kind of reading the tape on that one, and you all might be in a better position to know the status of that than we, but this is certainly a race against the clock here. And even if this bill has been passed and it has cleared all obstacles to becoming official legislation, there is still the matter of implementing that legislation.

So while we had hoped that we would get this complaint filed -- and it may well have been filed; I'm just waiting to hear back from my assistant. It may well have been filed against this measure. While it's a bit befuddling, it really doesn't change much at all what we seek in this lawsuit.

And so, that is the complaint.

What about the preliminary injunction motion? Well, we're filing that today as well, if we haven't already. I think we have. And what that does, just like in the LEARNS Act case, it says to the court, things are moving at a breakneck pace. Our clients have not been able to express themselves in a way that's compliant with the federal law. And, hey, if it turns out that this is what the true stakeholders' desire of their future in the schools, both for the blind and the Deaf, well, then, so be it. But they deserve to be heard. They deserve to register their complaints, they're agreements, their opinions, their thoughts, their concerns, and they were given that right.

So our injunction, regardless of House Bill 1810, will seek to temporarily enjoin or to halt or to pause the implementation of that bill or of that law, or if it's not yet cleared all the hurdles, we seek to halt that bill from becoming a law. But either way, we are asking the court to tell the State to, A, disregard the survey results that they are purportedly relying on for these measures, number one. Number two, republish the survey with auxiliary aids that are compliant with federal law so that our clients and all of their constituents, again, the many, many Deaf and blind folks in this state who deserve a seat at the table just like everyone else. We're asking that the State reissue that survey with auxiliary aids for not such a short period of time, and also during a time frame that is not disadvantageous to folks like students trying to go home for Christmas from their dormitory classrooms and coming back from various parts of the state.

So a lot of what I've discussed or have mentioned just now is in the press release that you all received. And so that being said, I'm going to turn it over to Brittany Shrader, a very accomplished lawyer with NAD. She'll tell you more than I did and hopefully we can get you out of here real quick. But please go ahead.

BRITTANY SHRADER: Thank you, Mike.

The NAD is really excited to be involved in this litigation. This is a really important issue, and often Deaf people face hurdles to participation, but this is really significant. This isn't just participation in the political process. This directly impacts our community. In particular, the students here have a right to have an education that meets their communication needs. The educational needs of Deaf children and the educational needs of blind children differ significantly, particularly in terms of language. Teaching reading and writing require different access points. And one of the particularly marked points that I think maybe Mike didn't mention that we noticed in this proposed bill that they are trying to rush through, proposed on Monday evening and rushing to a hearing today on Thursday, about this very big change to the code and constitution of the state of Arkansas, is that they are dropping or purporting to drop the requirement that a Deaf signer be a member of the Board of Education for the School for the Deaf.

This is significant. One of the tenets of disability rights advocacy is "nothing about us without us." There needs to be Deaf participation on the board. There needs to be

representation. Deaf people know what works best in the education of Deaf children. And without a required Deaf representative on the board, we're essentially handing the reins over to a bunch of people who may have very limited access or experience to working with Deaf people and certainly don't have lived experience of what it's like to experience the world through the lens of a person with deafness.

This is one of the reasons that we have felt this was very important to kind of get out to you all as quickly as possible, and we appreciate you joining us kind of at the last minute today. We know this announcement came a little bit late for you all.

And I want to emphasize that this survey, it sounds, it might sound to a lot of people as insignificant, one survey that people couldn't answer. But this survey, it talked about the education of children in both the Deaf and the blind communities. Our constituents in the Arkansas Association of the Deaf, many of them have told us, if I could have understood the survey, if I could have participated, if I could have filled out this questionnaire, these forms, I would have said I didn't want the schools to be merged. I would have said why it's important to have a Deaf person on the board. I would have said why there need to be two different superintendents for these schools. But I couldn't say any of those things because I couldn't access the questions. I couldn't fill out the survey. There was no way for me to respond in a fulsome manner.

So that's really what this case is about. It's about making sure that Deaf people have the same ability to participate in the political process, to participate in these types of questions and answers that really impact their community. And that community, Mike talked about, not just one, it's their school, but it's their everyday living. It's their community, our community, everyone's community.

So Deaf people's voice is important, and it needs to be heard.

I'm going to turn it over to Drake to talk a little bit more about the case, but we're very excited to be involved in this litigation and to be working with Mike.

DRAKE DARRAH: Thank you, Brittany.

My name is Drake, and I'm very happy to be here today. And thank you for the opportunity for being involved with this matter. This case is very special to us because we typically represent individuals within the community, but this case is on behalf of the state Association of the Deaf there in Arkansas, form yearly called the Arkansas Association of the Deaf, which is an affiliate chapter of NAD.

So as Mike and my colleagues Brittany in particular, have already described at length, this is a very important case for us. And I would just like to emphasize that as well to add my plus one two that. What we are hearing from the folks in the state and about their ability to share these opinions and the barriers that they are experiencing is quite poignant. And this affects the Deaf, the deafblind, those folks with low vision. And it

doesn't make a lot of sense for our population to experience these barriers with a state that seems to demonstrate such a lack of care on that regard. Indeed they're not representative of the Deaf population here in the state, and that's one of the reasons that we're asking for them to stop this process and reconsider it. Our preliminary injunction is intended to achieve that goal to ensure that these stakeholders have an opportunity to have their perspectives seen and heard. And this is a critical case to put the state on notice, the government of Arkansas on notice, that this is a discriminatory practice that needs to stop and that we are watching and we will see them in court about the issues of Deaf and deafblind people in our community.

So that's why we're here today, to protect the rights of our stakeholder community.

BRITTANY SHRADER: Mike, we don't have your audio.

MIKE LAUX: Thank you very much, Drake. Very well put. Very, very well put. I couldn't be more thrilled to engage in this kind of tough fight. I couldn't be more thrilled to have these attorneys with me from the NAD. I can't really credit them enough for the great work that they've done. We've all been in this together, but obviously the vision and the goal and the mission statement of the NAD is really the driving force here in what we're trying to do. And it's one obviously mirrored by the AAD, the Arkansas chapter or branch.

So those are the stakes. I was a bit taken aback to learn that this legislation had gotten really just kind of slammed through this morning. We're still kind of -- I'm still trying to figure out exactly procedurally how that went. I'm a little bit dismayed because we had reached out to legislators to let them know that this was coming, to let them know in case they didn't already that their constituents who really count have grave misgivings about this. And to have that, then, legislation come through maybe 12 hours later was a little bit disconcerting.

But as I said before, that's not dispositive at all of this lawsuit or what it seeks to accomplish.

So I'm sure you have at least a few questions. I don't know who -- there is a process for asking the questions that hopefully you all saw in the press release. Brittany, do we have somebody who is kind of monitoring that and can let people in and whatnot?

Okay. If you all want to ask a question if you have any or anything like that, please let us know.

BRITTANY SHRADER: Mike, I see a question from an Austin Bailey in the chat: Where can we access the filings?

MIKE LAUX: Hey, Austin. Good to see you, as always, or to hear from you.

We are in the process -- I think it's been filed. It was filed maybe about an hour ago, maybe 2 hours ago. It takes a little bit of time for it to kick up.

After this press conference, I can email embargoed nonfiled identical copy. But the moment that we have the file stamped copy, we can follow with that. So it will be ready any minute now basically is the answer.

BRITTANY SHRADER: Daniel Breen asked: You said you're asking a judge to block a bill from becoming a law. Is that not a separation of powers issue?

MIKE LAUX: Daniel, good to see you too and all the good work that you do.

I mean, it has separation of powers themes, but of course a judge can deem any law to be unconstitutional. A judge can deem any law, you know, given the criteria, to be not of the constitutional muster. So while it does, while this matter does implicate various powers within the three branches of government, state or federal, the judge certainly is not precluded from enjoining a law that is not on all fours as they say, constitutionally, or if there was some type of a due process or some type of a federal issue in its implementation or in its passing.

That might be above my pay grade. Maybe Brittany has something to add to that.

BRITTANY SHRADER: I just wanted to add that our lawsuit seeks to enjoin the Arkansas Department of Education from moving forward with their plans that they combine the schools, that they go forward with this construction of a new building in which they intend to house the schools, and all of the plans that they have made in conjunction with and in reliance on this survey until such time when they can reissue the survey in an accessible manner and get accurate results. And that is certainly something that is within a federal judge's power to do.

I see some other questions popping up in the chat. We have, again from Austin Bailey: Have you been in contact with lawmakers willing to help you?

MIKE LAUX: Well, the Vice President of the Arkansas Association of the Deaf has been in contact with several lawmakers over the course of several months. That is going to be, that fact is going to be reflected in the papers that we filed today. The chronology of attempts made to kind of get the point across that this is not a -- this survey was not one that was accessible by the community.

As I said earlier, we sent, the Vice President, Jeff Prail, he's the Vice President of the AAD, and he had reached out to a number of legislators, lawmakers, trying to garner -- really not even garner their support as much as make them aware of these factors that we're not sure they were aware of.

So but to answer your question directly, we have been in contact with lawmakers, but no one has articulated yet a willingness to help. But I don't know if they knew that this was a real urgent, urgent situation until maybe yesterday. So no, but we do expect to have these communications after the filing.

BRITTANY SHRADER: And just to add to that, I just do want to remind, I'm sure many people recall the multiple of lawmakers have been on record saying that they don't wish to do anything that's going to impact the schools for the Deaf and the for the blind without input from the stakeholders and the Deaf and blind communities. We have been repeatedly reaching out to them to tell them that the Arkansas Association for the Deaf who represents the Arkansas Deaf community wants to be involved in these discussions, wants to have a voice, and that voice has been silenced up until this point.

So we're hopeful that through this litigation, we can make some headway there to have participation and contribution by the Deaf community before any final decisions can be made.

And I see some additional questions in the chat. I see from Lena Miano: I understand that the Arkansas Association of the Deaf has previously communicated to the State Department of Education that the survey was inaccessible. Can you speak to this and what the response from the state or the department has been up until this point?

MIKE LAUX: I can, or you can, Brittany. It's up to you.

BRITTANY SHRADER: I guess that's some of what I was just speaking to. As many of you are probably aware, the Arkansas Association of the Deaf has repeatedly reached out to the department to let them know that the survey was inaccessible, and not only that, but to suggest alternatives for accessibility that would allow participation by the Deaf community. One of those alternatives being a kind of open house forum where the Deaf community could be there and ask and respond to questions from lawmakers and provide their input in that manner so that it could be done through direct communication and American Sign Language, in a language that the community members could access, as opposed to a survey that was fraught with complicated and vague written English that was not accessible to many of the community members.

As for the response from the department, many of the requests were initially, there was initial response and then kind of radio silence. And Mike, I don't know if you have anything to add to that.

MIKE LAUX: Yeah, I would say that the response is basically like this. And I'm pointing in opposite directions in kind of a fruitless, pointless way.

Mr. Prail, Jeff Prail reached out to many of these folks and wasn't able to get a copy of the survey. The state wouldn't even acknowledge they published the survey. They

initially blamed another advocacy group called Arkansas Hands and Voice. Turned out that they disavowed any involvement in drafting this thing or creating it.

So at every turn, Mr. Prail and the AAD met a brick wall, and a lot of passing the buck. And frankly indefensible FOIA response delays I might add also.

So the State is resistant to listening to the voices of the true stakeholders. They just kind of want to put their head down and steam roll through this plan the same way that they want to steam roll the physical buildings at the schools of the Deaf and of the blind.

So we expect unfortunately probably some pretty strong resistance to what we've filed, but, you know, that's just the way it goes.

BRITTANY SHRADER: I see another question from Alex from the Daily Moth. Actually two questions. The first is, can you describe if the survey on December 23rd had questions and answers in English, what did the survey look like.

And I can respond to that a little bit, Mike.

So yes, the survey was quite dense. It was in an online format only. We struggled, as Mike mentioned, to even get a copy of it. And we're fairly certain that we do not have the complete survey. It appears that the survey had different options depending on how you responded to the first question, which was are you a parent or a student or a educator at the school or are you a community member.

And it seemed that the questions then differed depending on which answer you selected for that.

The only questions and answers that we seem to have I believe are the ones for the community members, which were some 50 plus pages of questions, in English, many of which were multiple choice responses, none of which had any ASL translations, many of which were very vague, lacking context, none of which had any sort of audio descriptions for people with low vision.

And the questions themselves in terms of the substance varied from the conditions of the buildings, the education and communication between the educators and the parents, whether or not community members would prefer to essentially close down the schools altogether in favor of offering resources locally in neighborhood schools.

So the questions covered a wide range of topics, all of them in English, over 100 questions in total, I believe, that we counted. Is that right, Mike?

MIKE LAUX: Yes. And I would add to that that in addition to the multiple choice questions, many, many of the questions sections would end with a box for comments, where people who had thoughts or concerns related to the questions that were asked

would have an opportunity to really voice or to communicate their feelings on these very significant topics for Arkansas' Deaf and blind students.

So it really robbed our clients and their constituents of the opportunity to make their feelings known and to elaborate to the extent that they felt necessary their feelings on the state of things, the future, and any plans that would be affecting their kids or their community.

BRITTANY SHRADER: Right.

MIKE LAUX: I'll just tell you, reading through the survey, I mean, it wasn't even well drafted. It was confusing and it was -- it just seemed incomplete and kind of vague. You read a question and you're kind of like, is that referring to the prior question or the next question?

So even without the gaping failures with the auxiliary aids, it was just a difficult read.

BRITTANY SHRADER: For those responses that allowed for a narrative, there was not the option for a person to submit an ASL video to explain their narrative response or a way for a Deaf sign language user to convey that that response in their native language and have someone then put that into English if that was what the people receiving the survey needed, but there was no option for that. The only way that responses were permitted was if the person could write those responses out in written English, which prevented a lot of people from giving fulsome responses.

MIKE LAUX: Do you want to talk for a minute and maybe clear up the misconception that ASL is just English with the hands?

BRITTANY SHRADER: Yes. And I will allow the interpreters to switch.

So a lot of -- and this is a lot of what we do as attorneys at the NAD is education. Education of the community, the hearing community about Deaf culture, Deaf language, communication access, education of the courts and judges, juries, defendants. There is a huge misconception that American Sign Language is just English on the hands. ASL is its own language with its own distinct grammatical structure, its own syntax. It is not - a lot of people I think think, oh, why don't you just speak and sign at the same time. Language suffers when you try to do that. You're trying to use two different languages simultaneously. It's impossible.

One or both of the languages suffer.

ASL doesn't have any written component to it. So English is not just the written form of ASL. It is a completely different language. And this goes to education of Deaf children. Deaf children, if their primary language is American Sign Language, are learning a different language when they're learning to read and write English. Hearing children are

fluent in English when they learn to read and write. They already have that language and that lexicon to refer to when they're decoding the words. That's the major step that hearing children have when they learn to read is learning to decode the sounds, and once they've learned to decode, they already have the lexicon to know what that decoded language means.

There's an additional step for Deaf children who don't have English as their primary language and that's why it's really important to have Deaf people involved in the discussion about how to educate Deaf children. Eliminating the position of a Deaf person on the board is just a recipe for neglect in education of Deaf children.

And I do see we have some other questions popping up. I see the second question from Alex from the Daily Moth: Can you comment on the broader topics of states potentially having more control over their schools with the dismantling of the Department of Education? Would the federal DoE, had it not been dismantled, been able to intervene in a situation like this?

MIKE LAUX: I'm going to give that one to you, Brittany. Are you talking about the bigger implications?

I mean, I guess I can jump in real quick. You really kind of put your finger on the pulse here, Dan. Yeah, this is obviously part of a bigger picture. I mean, this lawsuit is very, very similar in many respects to the LEARNS Act litigation we're doing regarding AP African-American studies. It's basically opening up previously sacred areas of law and administration and allowing political interests to control them, not just their future and their pathway but the allocation of resources to them. And the things that make them unique and the things that make them work.

So there is a coast-to-coast assault on educational institutions on equality, on diversity, equity, and inclusion. This is all part of a swath of assaults. I don't think it's too strong to say. On children's right to learn. And on the sacred relationship between teacher and student. It's getting political hands into the mix that do not have the interests of the constituents, the students, the staff, the teachers, the faculty. It doesn't have those interests in mind.

And Brittany, you've done so much good work, you and Drake have done so much good work, across the country, in both primary schools, high schools, secondary education, higher education. You can speak to this certainly.

BRITTANY SHRADER: I think that the dismantling of the Department of Education and some of the positions that are statutorily required and have been since vacated and eliminated is another really important hot button issue that we are really interested in talking about. Probably we don't have a lot of time to get into that today as I do see that we're inching up on the time that we need to close.

But Alex, certainly if that's something you're interested in talking more about, the NAD is definitely looking into some of those issues and interested in talking about that in the future.

Did I miss any questions? I think that I addressed them all. Please feel free to reach out to us if you have additional questions.

Thank you all so much for making time today to be here and to hear about this important work.

I see some people in the comments asking for contact information. Mike, is it possible for you to share that with people, kind of in a easy way?

MIKE LAUX: Absolutely. And I just got word from my assistant that she has a copy, a file stamped copy of the complaint and of the motion. So I'll have her scan that to me probably get it sooner than the courts, and I will circulate that to everybody on the press release email list. I'll put contact information for everybody. But it will also be on the final pages of the pleadings, so you'll see a contact information for myself, for Brittany, and for Drake. Or at least for Brittany and myself. I think Drake also will be in the email. I'm not sure if he's on the caption or not, or on the signature block.

So thank you. Like Brittany said, thank you so very much. If you have any questions, please, you know, you can contact me or her or Brittany, me, or Drake whenever you like.

If there's no more questions, I think that's it. We will get a file stamped copy out to all of you as soon as possible.

All right. I think that's it. Thank you. I guess you can sinus out whenever you're ready, Brittany. Or whomever.