

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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NIKITA PETTIES, <u>et al.</u> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 95-0148 (PLF)
)	
THE DISTRICT OF COLUMBIA, <u>et al.</u> ,)	
)	
Defendants.)	
_____)	

MEMORANDUM OPINION AND ORDER

This matter is before the Court on defendants’ motion to vacate the preliminary injunction and payment orders [Docket #1615] and the defendants’ motion for a decision on the motion to vacate [Docket #1803]. The Court will grant the defendants’ motion for a decision on the motion to vacate, but will deny the motion to vacate without prejudice.

Defendants have moved to vacate the preliminary injunction entered in this case on March 17, 1995, with respect to payments to private providers of special education and related services, as well as all subsequent payment orders. They rely in large part on the Supreme Court’s decision in Horne v. Flores, 129 S. Ct. 2579 (2009), and argue that the preliminary injunction and payment orders have “outlived their usefulness.” Plaintiffs disagree, arguing that the injunction and the payment orders continue to serve essential salutary functions in guaranteeing that private providers continue to be paid accurately and timely. The plaintiffs also point out that this case is moving toward a final resolution, and it would be disruptive to dismantle its essential underpinnings when final resolution of the case by mutual agreement may

be imminent. Defendants do not disagree that a final resolution of the case may occur in the not too distant future and have so represented at a number of recent status conferences.

The Court agrees with plaintiffs that it would be disruptive to the status quo and counter-productive to the goal of finally resolving this case in short order to abruptly set aside the preliminary injunction and all subsequent payment orders. In addition, the Court is convinced that the defendants have overstated both the relevance and the significance of the Supreme Court's decision in Horne v. Flores. See Evans v. Fenty, 701 F. Supp. 2d 126 (D.D.C. 2010); LaShawn v. Fenty, 701 F. Supp. 2d 84 (D.D.C. 2010) (both referencing the District's "exceedingly broad" reading of Horne). Accordingly, it is hereby

ORDERED that defendants' motion for a decision on defendants' motion to vacate the preliminary injunction and payment orders [Docket #1803] is GRANTED; and it is

FURTHER ORDERED that defendants' motion to vacate the preliminary injunction and payment orders [Docket #1615] is DENIED without prejudice.

SO ORDERED.

/s/ _____
PAUL L. FRIEDMAN
United States District Judge

DATE: September 30, 2010