

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
LYNCHBURG DIVISION

NEIL J. MELLEEN & PAUL S. KNICK,	)	CIVIL ACTION NO. 6:01CV00026
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
JOSIAH BUNTING, III,	)	<u>AMENDED ORDER</u>
in his individual capacity and	)	
in his official capacity as Superintendent,	)	
Virginia Military Institute	)	
	)	
Defendant.	)	JUDGE NORMAN K. MOON

This matter comes before the Court on Plaintiffs’ motion to amend or alter the judgment. The Order in this matter stated that, “Because Defendant is entitled to the defense of qualified immunity, Defendant’s motion to dismiss with prejudice Plaintiffs’ claims for monetary damages related to the federal causes of action is GRANTED.” The Order did not address the issue of attorney’s fees, which has yet to be briefed by the parties.

However, the Memorandum Opinion, explaining the reasoning behind the Order, inadvertently and incorrectly stated on page thirty-five, “Plaintiffs claims for damages, costs and attorney’s fees must therefore be dismissed.” As the Order makes clear, and as the Memorandum Opinion restates one page later, the qualified good-faith immunity defense only entitles Defendant to an affirmative defense on Plaintiffs’ claims for monetary damages.

Because of the inadvertent error in the Memorandum Opinion, Plaintiffs’ motion is hereby GRANTED. The language on page thirty-five of the Memorandum Opinion, denying Plaintiffs’ claims for costs and attorney’s fees, is hereby STRICKEN. Plaintiffs may file a petition for

reasonable attorney's fees and costs against Defendant in his official capacity within thirty days of the entry of this Order.

In addition, the Court notes that on page five of the Memorandum Opinion, Plaintiffs are referred to as "third-year cadets." The Court notes that while Plaintiffs were third-year cadets when the suit was originally filed eight months ago, they are now seniors, set to graduate this May.

The Clerk of the Court is hereby directed to send a certified copy of this Memorandum Opinion to all counsel of record.

ENTERED: \_\_\_\_\_  
U.S. District Judge

\_\_\_\_\_  
Date