

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

JOHN DOE and JANE DOE, as the Natural)
Parents and Next Friends of Their Minor)
Child, JENNIFER DOE; JAMES and JULIE)
DOE, as the Natural Parents and Next Friends)
of their Minor Child, JAMIE DOE; JACKIE)
DOE; and JESSICA DOE.)

Plaintiffs,)

vs.)

Civil Action No. _____)

THE CHEATHAM COUNTY BOARD OF)
EDUCATION; DIANE WILLIAMS, Interim)
Director of Schools for the Cheatham)
County Board of Education;)
MICHELLE COLLINS, Member,)
Cheatham County Board of Education;)
GREG HORTON, Member, Cheatham)
County Board of Education;)
TAMMIE LAVENDER, Member,)
Cheatham County Board of)
Education; DIANNE PROFFITT,)
Chair, Cheatham County Board of)
Education; CHRIS SPIEGL, Member,)
Cheatham County Board of Education;)
TIM WILLIAMSON, Member, Cheatham)
County Board of Education; TIM RAY,)
Principal, Sycamore High School, and)
ROBIN NORRIS, Principal,)
Cheatham Middle School.)

Defendants.

**VERIFIED COMPLAINT FOR DECLARATORY, INJUNCTIVE RELIEF
AND NOMINAL DAMAGES**

Plaintiffs, John Doe and Jane Doe, husband and wife, individually and as natural parents
and next friends of their minor child, Jennifer Doe; James and Julie Doe, husband and wife,

individually and as natural parents and next friends of their minor child, Jamie Doe; Jessica Doe; and Jackie Doe respectfully represent as follows:

I. SUMMARY OF ACTION

1. This is a civil rights case arising out of unconstitutional religious activities at two public middle schools and a public high school. This action seeks declaratory and injunctive relief and damages for the pattern and practice of the Defendants' endorsement and promotion of religious activities at, but not exclusively, the following: 1) marching band, choir and sporting events and activities; 2) classroom instruction and activities; 3) graduation ceremonies and events. Plaintiffs allege that these actions by Defendants are in violation of the Establishment Clause of the First Amendment of the United States Constitution because the Defendants are acting under color of law contrary to 42 U.S.C. § 1983; and in violation of Article I, Section 3 of the Tennessee Constitution. Plaintiffs ask that these actions be declared unconstitutional and illegal, and that this Court enjoin Defendants from engaging in any further such activity.

II. JURISDICTION

2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4) for causes of action arising under the First and Fourteenth Amendments to the Constitution of the United States of America and 42 U.S.C. § 1983 and §1988 and 28 U.S.C. § 2201 and § 2202.

III. PARTIES

3. The Plaintiffs herein are :

- a) John Doe and Jane Doe, both individuals of the full age of majority and who are domiciled in Cheatham County, Tennessee, and who are the natural parents and next friends of their minor daughter, Jennifer Doe.

- b) James and Julie Doe, both individuals of the full age of majority and who are domiciled in Cheatham County, Tennessee, and who are the natural parents and next friends of their minor daughter, Jamie Doe.
- c) Jackie Doe is an individual of the full age of majority who is domiciled in Cheatham County, Tennessee.
- d) Jessica Doe is an individual of the full age of majority who is domiciled in Cheatham County, Tennessee.

4. Made Defendants are:

- a) The Cheatham County Board of Education the local education agency (LEA) for Cheatham County, Tennessee, authorized pursuant to T.C.A. § 49-1-102(c): and acting under the color of law.
- b) Defendant Diane Williams, the Interim Director of Schools for the Cheatham County Board of Education, whose duties include "seeing that the laws relating to the schools and rules of the state and the local board of education are faithfully executed" pursuant to T.C.A. § 49-2-301 (b)(1)(A). At all material times, this Defendant was employed by the Cheatham County Board of Education and acting under color of law.
- c) Michelle Collins is a member of the Cheatham County Board of Education. At all material times, this Defendant as a member of the

Cheatham County Board of Education was acting under color of law.

d) Greg Horton is a member of the Cheatham County Board of Education. At all material times, this Defendant as a member of the Cheatham County Board of Education was acting under color of law.

e) Tammie Lavender is a member of the Cheatham County Board of Education. At all material times, this Defendant as a member of the Cheatham County Board of Education was acting under color of law.

f) Dianne Proffitt is chair of the Cheatham County Board of Education. At all material times, this Defendant as chair of the Cheatham County Board of Education was acting under color of law.

g) Chris Spigel is a member of the Cheatham County Board of Education. At all material times, this Defendant as a member of the Cheatham County Board of Education was acting under color of law.

h) Tim Williamson is a member of the Cheatham County Board of Education. At all material times, this Defendant as a member of the Cheatham County Board of Education was acting under color of law.

- i) Defendant Tim Ray is the principal of Sycamore High School and employed by the Cheatham County Board of Education. At all material times, this Defendant as an employee of the Cheatham County Board of Education was acting under color of law.
- j) Defendant Robin Norris is the principal of Cheatham Middle School and employed by the Cheatham County Board of Education. At all material times, this Defendant as an employee of the Cheatham County Board of Education was acting under color of law.
- k) All individual defendants are sued in their official capacity and in their individual capacities.

5. Upon Plaintiffs' information and belief all individually named Defendants are of the full age of majority and reside in Cheatham County, Tennessee.

IV. STANDING

6. All listed Doe Plaintiffs have standing to pursue this matter.

7. John Doe, Jane Doe, James Doe, Julie Doe, Jessica Doe and Jackie Doe are citizens and taxpayers in Tennessee. Plaintiffs are all domiciled in Cheatham County, Tennessee

8. John and Jane Doe and James and Julie Doe own real property and make their homes in Ashland City. Plaintiffs specifically purchased property in Ashland City because of their desire to have their children attend the Cheatham County Public schools.

9. John Doe, Jane Doe, James Doe, Julie Doe, Jessica Doe and Jackie Doe are taxpayers in Cheatham County, make purchases in Cheatham County, and pay sales tax slated by both the state and Cheatham County for public education.

10. Plaintiffs John and Jane Doe's child, Jennifer Doe, attended Sycamore Middle School, and began attending Sycamore High School in the fall of 2007. Jennifer Doe plans to continue attending Sycamore High School until her graduation in May 2011.

11. Plaintiffs James and Julie Doe's child, Jamie Doe, has attended Cheatham Middle School from August 2009 until the present time and plans to continue attending the Cheatham County Public Schools until her graduation from Cheatham High School.

12. Plaintiff Jessica Doe attended Sycamore Middle School from 2001-2005 and Sycamore High School from 2005-2009.

13. Plaintiff Jackie Doe attended Sycamore Middle School from 2001-2005 and was enrolled in Sycamore High School from 2005-2009.

14. The Does collectively have suffered actual and palpable injury as they were present and witnessed the Defendants' illegal actions that constitute governmental intrusion upon a family's private religious belief.

15. The Defendants' actions alleged in this Complaint were, and continue to be, highly offensive to Plaintiffs.

16. The plaintiffs complained to the Defendants Tim Ray, Diane Williams and the Cheatham County School Board regarding many of the illegal acts alleged in this Complaint during the 2008/2009 and 2009/2010 school years. Defendants assured the plaintiffs that changes would be made, thereby ceasing the unconstitutional activity as stated herein such. To date, no changes have occurred.

17. Alternatively, Plaintiffs allege taxpayer standing.
18. Under Tennessee's Basic Education Program, T.C.A. §49-1-301, *et seq.* Tennessee county school systems are required to contribute to the funding of its school classroom and non-classroom functions.
19. Cheatham County Public Schools meet their local funding requirement through a combination of local property taxes and sales taxes.
20. Plaintiffs show that the unconstitutional behavior complained of in this Complaint by the Defendants was furthered and occasioned by an indirect disbursement of school funds raised indirectly through taxes paid by Plaintiffs.
21. Plaintiffs show that as such, the expenditure of school funds to advance the unconstitutional activities complained of necessarily allows Plaintiffs to have standing as taxpayers to complain of the unconstitutional actions.
22. Throughout the School District, school officials have persistently and pervasively used their official positions to promote their religious beliefs. Specifically, for at least the past five years, school officials have cultivated well-established policies, practices, and customs authorizing, sponsoring, or supporting (1) prayer at school events, led by invited clergy, school officials, parents or students; (2) school officials' promotion of their personal religious views and proselytizing of students in class and during extracurricular activities; and (3) the distribution of Christian Bibles to students during instructional time in the classroom.
23. Students, such as the Plaintiffs, are a captive audience for school officials' religious displays and activities, and therefore, are subjected to unconstitutional religious coercion.

24. In accordance with District-wide policy, practice, and custom, school officials frequently sponsor or approve prayer during various school events and activities, including graduations, award programs, sports, and extracurricular activities.

V. Facts

25. In accordance with District-wide policy, practice, and custom, school officials promote their personal religious beliefs, as well as proselytize to students in class and during extracurricular activities.

26. School officials provide the sound system through which prayers are delivered at school events, including at graduation, awards ceremonies, in addition to selecting and making available the venue for the presentation of these religious messages.

27. School principals, including Defendant Ray and Defendant Norris, have final control over the content and design of school events and activities.

28. School officials have final control over whether to include various "invocations" and other religious messages at school events and activities.

29. School officials often require student speakers to produce for advance review a copy of speeches, including "invocations," that the students intend to offer at a school event. School officials have authority to edit or demand that a student make changes to the proposed speech as well as to prohibit the student from making the speech altogether. School officials review the content of these proposed speeches during official working hours in the course of their employment.

30. For example, Defendant Ray has required students to produce a copy of a speech or prayer that the student intended to deliver at a school function so that Ray or his designee (in

past years this designee was school guidance counselor Joy Daniel¹) could review it and approve the speech or require edits prior to that event.

31. In accordance with District-wide policy, practice, and custom, school officials promote their personal religious beliefs, as well as proselytize to students in class and during extracurricular activities. Until June 2009, six faculty members of Sycamore High School had various biblical passages and religious references on their staff (district provided) website profiles. It was only after Plaintiffs demanded, through counsel, that the religious references be removed that they ultimately were taken down.

32. On information and belief, Sycamore High faculty invite students or outside leaders to lead prayers before or during various school events (e.g., football games) and other school activities (e.g. band, choir, and other clubs).

A. Band, Choir and Sporting Events and Activities

33. The pattern and practice of Sycamore High School band, choir and sports instructors of endorsing Christianity at a variety of events infringes on the religious freedom of the students in these public schools and violates the First Amendment to the Constitution.

34. Specifically, on or about August 2009, Mr. Jordan Tupper, the band instructor and a teacher at Sycamore High School was leading the marching band in a practice for their upcoming football halftime performance, when he stopped and said something to the effect of "and this is where Reverend R will give his prayer."^{2,3}

¹ Joy Daniel, former guidance counselor at Sycamore High School, still works for the Cheatham County Schools, but she now works at Central High School.

² The names of students, presumed to be minors, referenced in this complaint are identified by their initials only.

³ SR, who is a student band leader, is often called "Reverend R" because he leads the band in prayer.

35. On information and belief, at every home football game in 2008 and 2009, the band instructor, Mr. Tupper, prior to the halftime performance, when the band would huddle, would announce "go ahead" or "now Reverend R will lead a prayer." Mr. Tupper then would typically advise that if a student did not wish to participate, they could feel free to walk away from the prayer.

36. Mr. Tupper's practice is generally to step away from the huddle (roughly seven feet) until the prayer is concluded.

37. On October 2, 2009, student band member, AP, led the prayer because SR was unavailable.

38. On October 23, 2009, Mr. Tupper again directed SR to lead a prayer. SR asked the students to take their "shakos" (band hats) off for the prayer. When students complained because they were being forced to remove their hats, Mr. Tupper intervened and instructed the students that they did not need to remove their hats if it would interfere with their hair styles. Immediately thereafter SR led them all in prayer.

39. On May 2, 2009, the Band Banquet/Awards Ceremony was held at Christ Presbyterian Church in Nashville at 6pm. At 6:30pm, in accordance with the program, Mr. Tupper, the Band director, introduced a parent, Tim Thompson, as the parent who would give the invocation. Mr. Thompson, with Mr. Tupper's approval, led the attendees (parents, students and faculty) in sectarian prayer over a microphone which concluded with "in Jesus' name we pray, Amen."

40. On or about December 2007, the Sycamore High School choir performed a concert where the students sang Christmas and other seasonal songs. During the program, prior to the performance of the more religious songs, the choir director, Maggie Mason, announced to

the crowd of faculty, parents, students and families something similar to “we all know the reason we are here tonight, even if we are not allowed to say it.”

41. On May 7, 2009, the school held a band and choir concert at the United Methodist Church in Ashland City.

42. On December 19, 2008, the Band held a “Christmas Concert.” At this event, students were asked to read the lyrics to Christmas songs or to read an introduction to the song before the band played the music (no lyrical accompaniment). Jessica Doe was selected to read a particularly religious lyric, but another student, JH, objected to her reading this lyric because the student felt it inappropriate that such a lyric be read by a non-Christian student. The band director reassigned Jessica Doe a non-religious lyric to read.

B. Gideon’s Bible Distribution

43. Beginning at least as early as 2001, there has been a pattern and practice of the endorsement of religion by the Cheatham County Public Schools in that, year after year, the District has allowed members of Gideons International into the classrooms to proselytize and distribute Bibles to public school students.

44. On October 22, 2009, two men entered classroom of Jamie Doe at Cheatham Middle School and spoke at length about their religious beliefs and otherwise proselytize to the students ultimately culminating in the distribution of New Testament Bibles to the children. The Bibles were stacked on a table in the classroom and the children were instructed to line up and take a Bible if they wanted one. On information and belief, every child took a Bible. Fifth grade teacher, Ms. Williams, instructed each student to write their names in their Bibles.

45. During the fall semester of 2001, plaintiffs Jessica Doe and Jackie Doe attended Sycamore Middle School. On information and belief, Jackie Doe and Jessica Doe both received

Bibles from people who entered their classrooms to distribute Bibles to students during instructional time.

46. During the fall semester of 2003, Jennifer Doe attended Sycamore Middle School. On information and belief, she received a Bible from people who entered her classroom to distribute Bibles to students during instructional time.

C. Classroom Instruction

47. As of today's date, a cross (approximated twelve - eighteen inches in length) is on display in the classroom of Sycamore High School teacher, Joseph Jones. The cross is displayed next to the white board which is used for student instruction and is clearly visible to Sycamore High School students.

48. On or about January 26, 2009, Ms. Jennifer Binkley, an English teacher at Sycamore High School, instructed her class, which included Jennifer Doe, to write an entry in their classroom journal detailing everything they know about the biblical story of "the Creation." After completing the journal assignment the children in this class, including Jennifer Doe, were assigned to read the biblical stories of the Creation as part of their assignments for English Class. On information and belief, these assignments were in no way related to the general curriculum of the class.

49. During the 2005-2006 school year, Jessica Doe, was instructed in her World History class at Sycamore High School, that an acceptable alternative theory to evolution is "intelligent design." On information and belief, this discussion and instruction was in no way related to the general curriculum of the class.

50. On or about the week of September 28 – October 2, 2009, Mr. Doug Worsley, who teaches Advanced Placement U.S. History at Sycamore High School, distributed a handout

during morning announcements for the students to read. At the conclusion of the announcements, he read the handout aloud in a very agitated and angry tone. The handout decries the American Civil Liberties Union and any notion that Separation of Church and State exists in this country. The handout lists and Mr. Worsley emphasized 15 facts which support the theory that the U.S. was founded as a "Christian nation," and that the intent of the Founders of the Constitution was to keep the U.S. a Christian nation. On information and belief, this discussion, assignment and lecture was not related to the general curriculum of the class nor was it relevant to the lessons that were taught in the class that week.

D. 2009 Graduation Ceremony and Activities

51. On or about May 26, 2009, leading up to the graduation ceremony for the Sycamore High School Class of 2009, the students were led through a rehearsal of the graduation ceremony. During this rehearsal, the administration alluded to the fact that the Fellowship of Christian Athletes' Christian Student of the Year, JS, would be called to the podium to deliver the invocation during the graduation ceremony.

52. On or about May 26, 2009, high school seniors were invited to a graduation luncheon, where Student Government President KW, stood up and announced to the graduating class that JS was going to lead them all in prayer and that if any student had a problem with their leading the room in prayer, they could feel free to leave. On information and belief, Joy Daniel was present during this offered prayer.

53. As early as May 26, 2009, Defendants were put on notice that Sycamore High School's 2009 graduation ceremony planned to contain an impermissible prayer when an email was sent to the Director of Schools and the Sycamore High School administration and staff

members complaining about the pattern of the endorsement of religion at the school and the planned graduation prayer.

54. Later, by telephone on May 28, 2009, the School Board and then Director Lynn Seifert,⁴ through their attorney, were also made aware that Sycamore High's graduation ceremony planned to contain an impermissible school sanctioned prayer. At that time, the School Board and the Director of Schools, through their attorney, were made aware that the School District had a clear and persistent pattern of endorsing and favoring particular religious beliefs. Plaintiffs demanded that the School Board take remedial action to end these unconstitutional practices.

55. On May 28, 2009, Plaintiffs were assured by the attorney for the Cheatham County Schools and the Director of Schools, Ms. Seifert, that no graduation prayer would be offered. In reliance on that representation, Plaintiffs did not file a legal challenge to such action in federal court.

56. Despite this fact, the graduation ceremony occurred on May 29, 2009, and included a sectarian prayer. The graduation ceremony was scheduled to begin at 1:00 p.m. At approximately 1:05 p.m., with the graduating class lined up in the hallway and families, faculty and students seated in the auditorium, KW, the Student Government President, took the stage and welcomed the audience. She then introduced JS, the Fellowship of Christian Athletes' Christian Student of the Year. JS, as the FCA's Christian student of the year, as is customary at Sycamore High School, was scheduled to lead the scheduled invocation prior to Plaintiffs' intervention.

⁴ The Director Lynn Seifert, at that time, was writing a weekly Biblical Commentary article for the *Interstate 24 Exchange*.

57. KW then announced that despite the fact the district told them they could not lead a prayer at the microphone, JS was taking the stage to lead them all in prayer. JS then led the entire audience in a sectarian prayer. At no time did any person, faculty member or otherwise, try to stop JS from leading this prayer. This prayer was allowed to continue despite the fact that the Board and Administration of the school were on notice that such school sponsored prayer, whether endorsed explicitly or implicitly would be a violation of the Constitution.

58. On information and belief, Tim Ray, Lynn Seifert and many other school faculty members were present and observed this conduct and did nothing to stop it. After the prayer concluded, the National Anthem played and the graduating class processional entered the auditorium.

59. On June 1, 2009, plaintiffs' counsel sent a request under the Tennessee Open Records Act to Director of Schools, Lynn Seifert requesting:

1. "Any and all records relating to any planned, proposed, or discovered prayer at a public school within the district in the last five years.
2. Any records relating to the Sycamore High School graduation prayer issue brought to your attention by ACLU-TN on Thursday, May 28, 2009, including any letters, memos, emails or notes that were drafted and/or circulated relating to a prayer at Sycamore High School's graduation ceremony.
3. A copy of the program handed out at Sycamore High School's graduation and every other high school's graduation for the past 5 years, including previous drafts, revisions or notes associated with previous drafts."

60. On July 1, 2009, a story appeared in the *Ashland City Times* and the *Tennessean* describing the Open Records request submitted by Plaintiffs' counsel.

61. In response to ACLU-TN's request, the district provided programs from previous graduation ceremonies throughout the district which clearly demonstrated the inclusion of an

invocation or "inspirational moment" led by a Christian minister at Cheatham County Adult Education Center and Sycamore High School every year dating back to at least 2005.

62. On information and belief, in responding to a June 2009 public-records request, Diane Williams reviewed numerous printed programs evincing impermissible prayer at school events and other Establishment Clause violations. School Board members also had actual knowledge of these practices because they personally attended many of the school events at which prayer took place, including graduation ceremonies. Moreover, given that these practices were so common, flagrant, persistent, and widespread throughout the School District, any responsible School Board member would and should be aware of these customs and practices. Thus, the School Board has constructive knowledge of the policies, custom, and practice, alleged herein.

63. Between May 27, 2009, and October, 2009, the School Board met at least seven times. However, it failed to address the School District's systemic violations of the Establishment Clause.

64. Defendants have used School District employee time to plan and participate in school prayer at various school functions, review student speeches, and plan and participate in graduation ceremonies. On information and belief, the School District has incurred the cost of printing numerous graduation programs.

65. Plaintiffs' legal counsel requested on August 12, 2009, that the School Board cease these constitutional violations, once again putting the School Board on notice of School District's unlawful policy, customs, and practices.

66. Though the School Board was placed on actual notice over six months ago and had constructive notice before then, it has failed to investigate these constitutional violations and

refused to take action correcting the abridgement of students' Establishment Clause rights and preventing school officials from promoting their personal religious beliefs.

67. In the face of concrete and undeniable practices, the School Board has instead stood by and remained deliberately indifferent to the constitutional violations. The use of state funds to advance school officials' religious beliefs as described above will continue absent the issuance of an injunction by this Court.

68. The School Board has failed to proscribe by policy the clear and persistent pattern of endorsing particular religious beliefs at school events or to direct the superintendent to issue an administrative directive to cease such practices.

COUNT I: ESTABLISHMENT CLAUSE VIOLATION
(42 U.S.C. §1983)

69. Plaintiffs re-allege and re-aver all of the allegations contained in the previous paragraphs.

70. Defendants have deprived, and are continuing to deprive, Plaintiffs of their rights under the Establishment Clause of the United States Constitution.

71. By Defendants' conduct alleged *supra*, which has the primary purpose and effect of promoting and advancing religion, Defendants violated, and are continuing to violate, Plaintiffs' rights under the Establishment Clause, contrary to the First and Fourteenth Amendments. The policies, practices, and customs established by the School Board, Defendant Williams, Defendant Ray, Defendant Norris and /or other school officials are the cause in fact of the constitutional violations.

72. Defendants' conduct also coercively exposes Plaintiffs and other students to religious exercises sponsored by school officials. Defendants have forced a decision on the

Plaintiffs: either forgo attending future school events, including graduation, or attend the events subject to prayers and religious ceremonies that are inconsistent with the Plaintiffs' consciences.

73. The history of graduation prayer at Sycamore High School makes it virtually certain that a prayer will, in fact, be given at this year's graduation ceremony as well as at Jennifer Doe's graduation, absent intervention by this Court, and that the Plaintiffs would suffer injury as a result of the Defendants' unconstitutional practices. The same is true for numerous other school events that are part of Plaintiffs' overall education and are being overshadowed by school officials' religious beliefs.

74. A reasonable, objective student, parent, or other observer aware of this conduct would conclude that the Defendants have endorsed and continue to endorse religion in the public schools of Cheatham County.

75. Unless restrained by this Court, Defendants will continue to subject Plaintiffs to coercive advancement of school officials' religious beliefs. Plaintiffs have been and will continue to be irreparably harmed by the Defendants' denial of Plaintiffs' fundamental constitutional right to be free from government endorsement of particular religious beliefs.

76. Plaintiffs have no adequate remedy at law for the denial of their fundamental constitutional rights.

77. In depriving the Plaintiffs of these rights, Defendants acted under color of state law. This deprivation under color of state law is actionable under and may be redressed by 42 U.S.C. §1983.

COUNT II: ARTICLE I, SECTION 3 OF THE TENNESSEE CONSTITUTION

78. Plaintiffs re-allege and incorporate by reference all of the preceding paragraphs in this Complaint. Article 1, Section 3 of the Tennessee Constitution provides:

“That all men have a natural and infeasible right to worship Almighty God according to the dictates of their own conscience; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any minister against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious establishment or mode of worship.”

79. Defendants have used School District employee time to plan and participate in school prayer at various school functions, review student speeches, and plan and participate in graduation ceremonies. On information and belief, the School District has incurred the cost of printing numerous graduation programs.

80. If Defendants had not used state tax funds (or resources funded by the state) to support the District-wide prayer, those tax funds (or resources) could have been used to advance the secular education of School District students or the amount of taxes paid by Plaintiffs might have been returned or decreased.

81. The use of state funds to advance school officials' religious beliefs as described above will continue absent the issuance of an injunction by this Court.

82. Unless allowed to proceed in anonymity, Plaintiffs allege that they will be subject to ridicule and a hostile environment as more fully stated in their declarations filed under seal herewith.

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request the following relief:

- A. That the Plaintiffs be allowed to proceed in anonymity.
- B. Plaintiffs have suffered, and will continue to suffer, immediate and irreparable harm, in any event the Defendants are allowed to continue permitting, authorizing, encouraging, and acquiescing in the manner described in the Complaint.

C. Plaintiffs will seek a temporary restraining order, a preliminary and, in due course, a permanent injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure, which enjoins all Defendants, their successors, employees and agents from permitting, authorizing, encouraging, and acquiescing in delivering of: 1) Marching band events and activities; 2) classroom instruction and activities; 3) graduation ceremonies and events that support any individual's religious beliefs; and 4) and other related religious activities. An order directing Defendants to providing a copy of the written injunction to all School District officials, staff, faculty, and other School District employees and agents.

D. An order permanently enjoining Defendants and its officers, agents, affiliates, subsidiaries, servants, employees, successors, and all other persons or entities in active concert or privity or participation with them, from taking retaliatory action against Plaintiffs for bringing this lawsuit;

E. Entry of judgment for each of the Plaintiffs for nominal damages of \$1;

F. An award to Plaintiffs of reasonable attorneys' fees and costs incurred in connection with this action from the Defendants pursuant to 42 U.S.C. §1988;

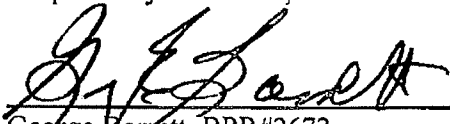
G. An order retaining the Court's jurisdiction of this matter to enforce the terms of the Court's orders; and

H. Such further and different relief as is just and proper or that is necessary to make the Plaintiffs whole.

Dated: November 16, 2009

Respectfully submitted,

By:



George Barrett, BPR#2672

Douglas S. Johnston, Jr., BPR# 5782

BARRETT JOHNSTON & PARSLEY

217 Second Avenue North

Nashville, TN 37201

Phone: (615) 244-2202

Fax: (615) 252-3798

gbarrett@barrettjohnston.com

djohnston@barrettjohnston.com

Tricia Herzfeld

Staff Attorney

ACLU Foundation of Tennessee

P.O. Box 120160

Nashville, Tennessee 37212

Phone: (615) 320-7142

Fax: (615) 320-7260

tricia@aclu-tn.org

Attorneys for Plaintiffs

