

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

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF TN

JOHN DOE and JANE DOE, as the)
Natural Parents and Next Friends of)
Their Minor Child, JAMES DOE,)

Plaintiffs,)

vs.)

THE WILSON COUNTY SCHOOL)
SYSTEM; DR. JIM DUNCAN,)
Individually and as Director of)
Wilson County Schools;)
WENDELL MARLOWE, Principal of)
the Lakeview Elementary School;)
YVONNE SMITH, Assistant Principal)
of Lakeview Elementary School; and)
JANET ADAMSON, Teacher at)
Lakeview Elementary School,)

Defendants.)

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Civil Action No. _____

COMPLAINT

Plaintiffs, John Doe and Jane Doe, individually and as natural parents and next friends of their minor child, James Doe, respectfully represent as follows:

I. SUMMARY OF ACTION

1. This is a civil rights case arising out of unconstitutional religious activities at an elementary public school. This action seeks declaratory and injunction relief and damages for the pattern and practice of the Defendants' endorsement and promotion of the following: 1) Prayer at the Flag Pole event; 2) the National Day of Prayer event; 3) the "Praying Parents" activities; 4) teacher led classroom prayers; 5) Christian theme and overtly religious songs at a Christmas program. Plaintiffs show that these actions by Defendants are in violation of the Establishment Clause of the First Amendment of the United States Constitution as the Defendants are acting under color of law pursuant

to 42 U.S.C. § 1983. 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 John Doe and Jane Doe, both individuals of the full age of majority and who are domiciled in Wilson County, Tennessee, and who are the natural parents and next friends of the minor child, James Doe.

4. Made Defendants are:

- a) The Wilson County School System, the local education agency (LEA) for Wilson County, Tennessee, authorized pursuant to T.C.A. § 49-1-102(c).
- b) Defendant Dr. Jim Duncan is the Director of Wilson County Schools, 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 Wilson County School System and acting under color of law.
- c) Wendell Marlowe is the Principal of Lakeview Elementary School. At all material times, this Defendant was employed by the Wilson County School System and acting under color of law.

d) Yvonne Smith is the Assistant Principal of Lakeview Elementary School.

At all material times, this Defendant was employed by the Wilson County School System and acting under color of law.

e) Defendant Janet Adamson is a Teacher at Lakeview Elementary School. At all material times, this Defendant was employed by the Wilson County School System and acting under color of law.

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

IV. STANDING

6. Plaintiffs John and Jane Doe have standing to pursue this matter.

7. John and Jane Doe are taxpayers in Tennessee.

8. John and Jane Doe are domiciled in Old Hickory, Tennessee, which lies within Wilson County.

9. John and Jane Doe own real property and make their home in Old Hickory, Tennessee. Plaintiffs specifically purchased property in the Old Hickory, Tennessee area because of their desire to have their children attend the Wilson County Public Schools, and in particular the Lakeview Elementary School.

10. John and Jane Doe pay property taxes in Wilson County, and also make purchases in Wilson County, Tennessee, and therefore pay sales taxes levied both by Tennessee and Wilson County.

11. Plaintiffs John and Jane Doe's son, James Doe, attended the kindergarten class at Lakeview Elementary School during the school years 2005 and 2006.

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

13. John and Jane Doe and their son, James Doe, suffered actual injury as they were present to and witnessed the Defendants' illegal actions alleged in this Complaint.

14. John and Jane Doe complained to Defendants Marlowe and Smith regarding the illegal acts alleged in this Complaint during and after the 2005-2006 school year. Defendants Marlowe and Smith indicated that no changes would be made and that the school intended to continue to engage in the unconstitutional behavior.

15. One or more of the Defendants encouraged the Plaintiffs to withdraw their son from Lakeview Elementary School.

16. Because of the Defendants' intent to continue unconstitutional actions and the Plaintiffs fear that their child is being subject to religious proselytizing, the Plaintiffs home schooled their child for the elementary school year of 2006 and 2007.

17. But for the unconstitutional actions of the Defendants, the Plaintiffs would have their son enrolled in classes at Lakeview Elementary School. Therefore the unconstitutional behavior of Defendants are depriving Plaintiffs and their son of a public school education. "Children attending public schools and their parents have a constitutional right to receive a public education in compliance with the Establishment Clause contained in the First Amendment to the United States Constitution." *Doe v. Porter*, 108 F.Supp.2d 904, 908 (E.D. Tenn. 2002).

18. Plaintiffs have another child who will reach kindergarten age for the school year 2007 and 2008. Plaintiffs intend to enroll their younger child at Lakeview Elementary School, but for the continued unconstitutional actions of the Defendants at that school.

19. Alternatively, Plaintiffs allege taxpayer standing.

20. Under Tennessee's Basic Education Program, Tennessee county school systems are required to contribute to the funding of its school classroom and non-classroom functions.

21. Wilson County Public Schools meet their local funding requirement through a combination of local property and sales taxes.

22. Plaintiffs as property owners in Wilson County pay real property taxes, and that their purchases in Wilson County necessarily cause them to incur and pay sales taxes for the relevant time period.

23. Plaintiffs show that the unconstitutional behavior complained of in this Complaint by the Defendants was furthered and occasioned by disbursement of school funds raised indirectly through taxes paid by Plaintiffs.

24. Plaintiffs show as that such, the expenditure of school funds to advance the unconstitutional activities complained of, necessarily allows your Plaintiffs to have standing as taxpayers to complain of the unconstitutional actions.

V. FACTUAL ALLEGATIONS

25. The Wilson County School System serves over 12,000 students from kindergarten through adult education in Wilson County, Tennessee.

26. The Wilson County School System maintains eight elementary schools, including Lakeview Elementary School, located in Mt. Juliet, Tennessee.

27. The Director of the Wilson County School System is Dr. Jim Duncan. The Principal of the Lakeview Elementary School is Wendell Marlowe and the Assistant Principal is Yvonne Smith.

28. Plaintiffs John and Jane Doe enrolled their child, James Doe, into the kindergarten class of Lakeview Elementary School for the year 2005-2006. James Doe

was assigned to the class of Defendant Janet Adamson. James Doe is of young age and tender sensibilities.

A. "See You at the Pole" Event

29. The Lakeview Elementary School has a flag pole which stands at the entrance of the school. Anyone entering the school through its entrance must necessarily pass the school flag pole in front of the school.

30. On or about September 5, 2005, Lakeview Elementary School promoted, endorsed and held a "See You at the Pole" event.

31. The "See You at the Pole" event occurred just prior to the beginning of the start of school on September 5, 2005.

32. The "See You at the Pole" event was preceded by several signs posted within the school hallways encouraging student attendance.

33. The "See You at the Pole" event began at approximately 6:45 A.M. on September 5, 2005. At approximately this time, Plaintiff Jane Doe brought her minor child, James Doe, to Lakeview Elementary School. Plaintiff Jane Doe walked with her son James Doe into the entrance of the school. Plaintiff Jane Doe and her son witnessed a crowd of approximately a hundred people gathering around the flagpole just outside Lakeview Elementary School.

34. The crowd of people, largely adults and some students, were equipped with a microphone and amplifier which broadcast individual prayers from the group. Plaintiff Jane Doe witnessed and heard individuals reading from the New Testament of the Bible, praying and making references to Jesus Christ and Christian music. Plaintiff Jane Doe witnessed several students in attendance, as were Defendant Wendall Marlowe and Defendant Yvonne Smith.

35. Aside from Plaintiff Jane Doe, other parents arrived and took their children into Lakeview Elementary School at this time.

36. Because of the large gathering of the group, amplified by a broadcast microphone, anyone walking on or near the school grounds at approximately this time witnessed and heard the actions and events of this group.

37. The actions of the group at the "See You at the Pole" event were exclusively religious in nature, and in particular promoted Christian beliefs. There were no references, prayers, songs, or symbols, of any other religious faiths identified or mentioned. There was no secular purpose involved at the "See You at the Pole" event.

38. The "See You at the Pole" actions proselytized and intimidated Jane and James Doe and others entering school into subscribing and adopting the religious and Christian beliefs of the "See You at the Pole" group.

B. "Praying Parents"

39. The Praying Parents is identified on the Lakeview Elementary internet website, and has a separate window that describes the group, its actions and where and when it meets at Lakeview Elementary School. Attached hereto and made a part hereof as **Exhibit 1** is a paper copy of the Lakeview website printout

40. According to the Lakeview Elementary School website:

"Praying Parents' is a group of Lakeview parents who meet once a month to pray for our school, faculty, staff and children. We pray for specific needs as well as for school-related issues. We also try to provide occasional 'treats' for our faculty and staff to remind them that we are praying for them. Praying Parents is not affiliated with any organization, nor do we promote a political agenda. We're just a group of parents who want to make an investment in our children's school through prayer."

41. The Praying Parents meet monthly at the Lakeview Elementary School cafeteria at approximately 7:15 A.M. at the time the school day begins.

42. The Defendants promote and endorse the actions of the Praying Parents on the Lakeview Elementary School internet website at <http://www.wcschools.com/les/> and in the school's monthly newsletter and encourage participation. A representative copy of the newsletter advertisement is attached hereto and made a part hereof as **Exhibit 2**.

43. Plaintiff Jane Doe shows that in November 2005 she was present at Lakeview Elementary School to volunteer for a Thanksgiving event in her child's classroom. While she was in the classroom, Jennifer Walker of the Praying Parents came into the classroom and distributed cards to inform students that the Praying Parents had prayed for them.

44. Upon information and belief, Jennifer Walker and the other members of the Praying Parents regularly walk throughout the school and into classrooms while in session and hand out cards, notes and other treats to promote Christian prayer worship and to encourage involvement with the praying parents.

45. On several occasions one or more Praying Parents fliers were given to James Doe while in school at Lakeview Elementary to bring to his parents, which he did.

46. Upon information and belief, the Praying Parents fliers are regularly given to Lakeview Elementary students, during school session and/or fliers are put in the student folders.

47. The Praying Parents' fliers promote their religious actions at Lakeview Elementary School.

48. Plaintiffs further show that on a current copy of the Praying Parents' website (a copy attached as **Exhibit 1**) there are references to the current activities of the Praying Parents in organizing the "See You at the Pole" event which is scheduled to

occur September 27, 2006, and also a National Day of Prayer described more fully below.

49. As the Praying Parents' website indicates, the purpose of the Praying Parents is that "when Lakeview parents pray together for our school, our teachers, and our children on a regular basis, we are standing in the gap and covering them with an extra measure of protection and peace."

50. Plaintiffs show that the activity of the Praying Parents is exclusively sectarian in nature, and in particular promote certain Christian beliefs to the exclusion of other Christian interpretations or other faiths.

51. Plaintiffs show that the activities of the Praying Parents have no secular purpose whatsoever.

52. The Praying Parents proselytize the youthful students of the Lakeview Elementary School and their access to children during class exercises with coercive pressure to subscribe to the religious beliefs of the Praying Parents.

C. "National Day of Prayer"

53. On or about May 4, 2006, Lakeview Elementary School promoted, endorsed and hosted a "National Day of Prayer."

54. Lakeview Elementary School issued fliers to its students to promote and encourage student participation in the event. "Come be a part of this national event at Lakeview! Kids – wear red, white, or blue dress code shirts!" Attached hereto and made a part hereof as **Exhibit 3** is a copy of the flier given to James Doe while he attended Lakeview Elementary School.

55. Lakeview Elementary School also promoted the event through its monthly newsletter and encouraged student participation. Attached hereto and made a part hereof as **Exhibit 4** is a representative copy of the April 2006 newsletter issued to school

parents and received by John and Jane Doe promoting the "National Day of Prayer" to be held of May 4, 2006 at the Lakeview Elementary cafeteria.

56. Preceding the May 4, 2006 "National Day of Prayer" event, Lakeview Elementary School, through the encouragement or acquiescence of Defendant Wendall Marlowe and Yvonne Smith, sponsored a competition in which students were encouraged to draft and draw posters promoting the "National Day of Prayer" event, and in particular Christianity.

57. Lakeview Elementary School students made posters to promote the "National Day of Prayer" covered the hallways of Lakeview Elementary School in the days and weeks preceding the "National Day of Prayer" event.

58. Plaintiffs and their son witnessed the student-made posters hanging in the halls of Lakeview Elementary School. The content of the posters were exclusively sectarian, and in particular promoted Christianity to the exclusion of any other religious faiths. The student-made posters were not secular in nature.

59. Plaintiffs show that the "National Day of Prayer" occurred in the Lakeview Elementary School cafeteria just prior to the start of school.

60. Plaintiffs show that after the "National Day of Prayer" event, students who participated in the event wore stickers, which bore the words "I prayed."

61. Plaintiffs show that additional peer pressure for student involvement in the event occurred by students calling themselves "prayer buddies" who participated in the "National Day of Prayer" event.

62. Those students, including James Doe, not having "prayer buddies" or not wearing "I Prayed" stickers were disfavored and isolated.

63. Plaintiffs show that during class, in which James Doe was required to attend, after the "National Day of Pray" event, and on the day of the event, Defendant

Janet Adamson played a religious CD. The content of the CD played during class was exclusively sectarian, and in particular promoted Christianity to the exclusion of any other religious faiths. The CD played by Defendant Adamson to the kindergarten class on that day was not secular in nature.

64. Plaintiffs further show that the Praying Parents current website indicates its intention with the cooperation of Lakeview Elementary School and the Defendants to hold another "National Day of Prayer" on May 3, 2007. *See Exhibit 2.*

D. Christmas Program

65. Lakeview Elementary School promoted, endorsed and held a Christmas program specifically for the kindergarten class, of which James Doe was a member in the school year 2005-2006.

66. The Lakeview Elementary School Christmas program was scheduled and occurred on December 8, 2005.

67. The Lakeview Elementary School Christmas program occurred on the school premises.

68. Defendants Wendall Marlowe, Yvonne Smith and Janet Adamson were present and attended the Christmas program on December 8, 2005.

69. The Lakeview Elementary School promoted the Christmas event in its monthly newsletter sent to Lakeview Elementary parents and received by the Plaintiffs. Attached hereto and made a part hereof as **Exhibit 5** is a copy of a representative sample of the page promoting the event.

70. Plaintiffs were assured that the program would be entirely secular.

71. Plaintiffs attended and videotaped the event in the evening hours of December 8, 2005.

72. The Christmas program on December 8, 2005, included all members of the Lakeview Elementary School kindergarten, including James Doe, and was attended by Defendants Wendall Marlowe, Yvonne Smith, and Janet Adamson.

73. The Christmas program was highlighted by a student recreation of the story entitled *T'was the Night Before Christmas*.

74. Plaintiffs show that the kindergarten students sang several Christmas carols.

75. Plaintiffs have no objection and were not offended by the Christmas Program until its conclusion.

76. At the conclusion of the program, several kindergarten students role-played a nativity scene of the birth of Jesus.

77. During the nativity scene and with the encouragement of the Defendants and other teachers at the Lakeview Elementary School, all in attendance were asked to join in singing "Away In a Manger" and "Joy To the World" which are exclusively Christian in nature celebrating the birth of Jesus Christ. Attached hereto and made a part hereof as **Exhibit 6** is a copy of the program of the December 8, 2005 Christmas event. Plaintiffs show that the words of the two songs sung at the end of the program were the only songs sung that evening for which the words to the songs were provided in the program.

78. Plaintiffs show that only the Christian view point of Christmas was recognized and celebrated at this program, and no other religious celebrations, such as Hanukah or Kwanzaa were identified and/or mentioned.

E. Classroom Prayers

79. At the conclusion of the 2005-2006 school year, Plaintiffs were given a DVD that included a collage of the videotaped events that occurred during the previous school year.

80. At minute 54 of the DVD, there is an image of the classroom with children dressed as Native Americans around tables holding lit candles. Each child is asked to state what he is thankful for, several which indicated they are thankful for God. At the conclusion of this, a female voice (appearing to be a teacher) said **"Let's sing our song, please"** at which time all of the children began singing in unison the following: **"Thank you God for the world so sweet, thank you for the things we eat, thank you for the birds that sing, thank you God for everything."**

81. Later in the video at approximately 58 minutes there is a scene taken from Defendant Janet Adamson's class of which James Doe is a member. Defendant Adamson is dressed in a pilgrim costume surrounded by students. After all students light a candle Defendant Adamson leads the students singing the following blessing: **"For health and strength and daily food, we give the thanks O' God. Amen. Amen."**

82. There was no educational or secular purpose for the prayers described in the previous two paragraphs.

83. Plaintiffs show that the newsletters issued by Lakeview Elementary School promote the Christian celebrations such as Christmas and Easter.

84. Plaintiffs further show that Lakeview Elementary School with the encouragement and/or acquiescence of Defendants Jim Duncan, Wendall Marlowe, Yvonne Smith and Janet Adamson encourage sectarian beliefs, and in particular Christianity.

85. Plaintiffs show that the Lakeview Elementary School newsletter issued by Lakeview Elementary School and received by them contains a section on what particular students are thankful, and there are many references to God.

86. Plaintiffs voiced their objections to the overtly religious and Christian events promoted by Lakeview Elementary School to Defendants Jim Duncan, Wendall Marlowe, Yvonne Smith, and Janet Adamson.

87. Plaintiffs scheduled a meeting on May 18, 2006 to discuss their objections. At the appointment time Defendant Wendall Marlowe did not appear, but Plaintiffs met with Defendant Yvonne Smith. They explained their objections to the sectarian events, the praying, and the exclusive references to Christianity that occurred during the previous school year.

88. On or about May 19, 2006, the Plaintiffs received a telephone call from Defendant Yvonne Smith, who indicated that Lakeview Elementary School would not take any action regarding the objections and concerns of the Plaintiffs, and that the sectarian events to which the Plaintiffs had complained and objected to in the previous school year, would continue. Defendant Smith stated that the activities to which Plaintiffs objected had occurred at the school for several years. Defendant Smith told Plaintiffs that "they [Lakeview] have a reputation as a religious school."

89. On July 12, 2006, Plaintiffs sent by Federal Express a typewritten letter to Defendant Wendall Marlowe, which described and reiterated their concerns and objections earlier told to Defendant Yvonne Smith. Plaintiffs sent a copy of this letter to Defendant Jim Duncan.

90. Plaintiffs show that on or about August 2, 2006, they had a personal meeting with Defendant Wendall Marlowe in which they reiterated their concerns and

objections regarding the sectarian events which occurred during the previous school year. Defendant Marlowe stated no changes would be made.

91. The response of Defendants Dr. Jim Duncan, Wendell Marlowe, Yvonne Smith and Janet Adamson to the objections and concerns of the Plaintiffs demonstrate that the unconstitutional actions complained of by the Plaintiffs constitute a pattern and practice of the Wilson County School System through Lakeview Elementary School.

FIRST CAUSE OF ACTION

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

93. 42 U.S.C. § 1983 prohibits Defendants from depriving Plaintiffs of "rights, privileges and immunities secured by the constitutional laws" in the United States.

94. The Establishment Clause of the First Amendment to the United States Constitution provides that a state" shall make no law respecting an establishment of religion." The First Amendment to the United States Constitution is made applicable to local public schools through the Fourteenth Amendment to the United States Constitution.

95. The Establishment Clause to the First Amendment to the United States Constitution forbids the enactment of any law or practice "respecting an establishment of religion." The United States Supreme Court in *The People of Illinois, ex rel. v. McCollum v. Board of Education of School District No. 71*, 333 U.S. 203, 68 S.Ct. 461, 92 L.Ed. 649 (1948), stated that due to the Establishment Clause, "neither a state, nor the federal government can, openly or secretly, participate in the affairs of any religious organizations or groups, and vice versa." 333 U.S. at 210-211, 68 S.Ct. 461.

96. The Establishment Clause requires “government neutrality with respect to religion.” *See Feishefressor v. Directors of School District 200*, 15 F.3d 680, 608 (7th Cir. 1994).

97. With regard to elementary school settings, alleged violations of the Establishment Clause of the First Amendment to the United States Constitution present “heightened concerns for Courts.” *Id.* at 686.

98. Alleged violations of the Establishment Clause in an elementary school setting present heightened concerns for Courts because the United States Supreme Court has noted “educating the young for citizenship is [the] reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth the discount important principles of our government as mere platitudes.” *See Wallace v. Jaffree*, 472 U.S. 38, at p. 61, fn. 51, 105 S.Ct. 2479, 86 L.Ed. 29 (1985).

99. The Defendants’ actions that include, but are not limited to, the “See You at the Pole,” the Praying Parents, the “National Day of Prayer,” the Christmas program, and the class praying have the purpose and effect of endorsing and perpetuating religion and in particular one narrow view of Christianity to the exclusions of other interpretations and religious beliefs.

100. The Defendants’ actions demonstrate not only the Defendants’ endorsement of religious beliefs over non-religious, but the endorsement of one particular view of Christianity over other faiths and other religious beliefs.

101. The Defendants’ actions are designed to, and have the effect of showing favoritism toward religion, and in particular Christianity, in violation of the Establishment Clause of the First and Fourteenth Amendments to the United States Constitution.

102. The Defendants' actions foster excessive government entanglement with religion.

103. Plaintiffs show that the events complained of occurred on the premises of Lakeview Elementary School, employing equipment and materials paid for by school funding, and issued, endorsed, facilitated and sponsored by employees of the school, including but not limited to the named Defendants. Under these circumstances, the message clearly conveyed was that the Lakeview Elementary School, through the Defendants, endorsed and perpetuated certain Christian beliefs as favored and that non-adherents are disapproved in violation of *School District of the City of Grand Rapids v. Ball*, 473 U.S. 373, 390, 105 S.Ct. 3248, 87 L.Ed.2d 267 (1985).

104. The Defendants, acting individually and/or in concert with one another, have repeatedly endorsed, authorized and/or acquiesced in the delivery of religious actions in violation of the Establishment Clause of the First and Fourteenth Amendments to the United States Constitution.

105. Plaintiffs show that they have been harmed by the Defendants' actions. Plaintiffs John and Jane Doe, individually and on behalf of and including their minor child James Doe, have been afraid and reluctant to voice their objections other than what has been alleged in this Complaint, fearful of public ostracism and retaliation.

106. The Does have been injured by the Defendants' conduct. John and Jane Doe have had to take James Doe out of Lakeview Elementary and home school him. The Defendants' actions have forced John and Jane Doe to bear the additional financial burden of home schooling their child.

107. John and Jane Doe have suffered and will suffer irreparable injury through the unconstitutional establishment of religion as described above, and that have not adequate remedy at law.

DECLARATORY JUDGMENT

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

109. Plaintiffs are entitled to declaratory judgment pursuant to 28 U.S.C. § 2201 and in accordance with the Federal Rules of Civil Procedure 57 that the Defendants actions are in violation of the Establishment Clause of the First and Fourteenth Amendments to the United States Constitution.

INJUNCTIVE RELIEF

110. 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 delivery of: 1) "See You at the Pole;" 2) Praying Parents activities; 3) the "National Day of Prayer;" 4) Christmas program with Christian themes and songs; and 5) classroom prayers.

111. Plaintiffs seek 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) "See You at the Pole;" 2) Praying Parents activities; 3) the "National Day of Prayer;" 4) Christian themes and songs at the Christmas program; 5) classroom prayers.

DAMAGES

112. As a result of the Defendants violations of the Plaintiffs constitutional rights, Plaintiffs have suffered, and shall continue to suffer, damages, which include but are not limited to mental anguish and emotional distress.

113. But for the unconstitutional actions of the Defendants, James Doe would be enrolled in Lakeview Elementary School. Because of the unconstitutional actions of

Defendants, Plaintiffs John and Jane Doe have been forced to home school their son, James Doe, which necessarily caused them to incur additional expenses and loss of income by Jane Doe, who was forced to give up employment in order to home school James Doe.

114. Plaintiffs suffer the constitutional injury of their child being deprived of a public education of a school of their choosing.

ATTORNEY'S FEES

115. Plaintiffs request and are entitled to an award of attorney's fees and litigation related costs pursuant to 42 U.S.C. § 1988.

116. John and Jane Doe, ask that they be allowed to pursue this action anonymously, as they fear community reprisals and attacks, and ostracism, and because their minor child, James Doe, remains of tender years and sensibilities.

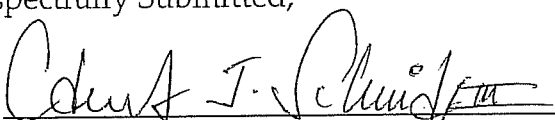
REQUEST FOR RELIEF

WHEREFORE, Plaintiffs John and Jane Doe, individually and on behalf of their minor child, James Doe, respectfully request that after all of these proceedings are had that there be judgment rendered herein in their favor and against the Defendants, The Wilson County School System, Dr. Jim Duncan, Individually and as Director of the Wilson County School System, Wendell Marlowe, Yvonne Smith and Janet Adamson, awarding the following:

- A. Declaring as unconstitutional the action of the Defendants, which promote, endorse and establish religious activities, and prayer at the Lakeview Elementary School that include, but are not limited to, the "See You at the Pole" event, the Praying Parents activities, the "National Day of Prayer" event, the Christian themes and songs at the Christmas program, and classroom prayers;

- B. Enjoining the Defendants and their successors, employees, and agents, from permitting, authorizing, encouraging, and acquiescing in the delivering of: 1) the "See You at the Pole" event; 2) Praying Parents activities; 3) the "National Day of Prayer" event; 4) the Christian themes and songs at the Christmas program; and 5) classroom prayers;
- C. Awarding compensatory or nominal damages in favor of the Plaintiffs for the past unconstitutional practices of the Defendants where there resulted emotional distress, the additional pecuniary costs of home schooling their son, James Doe, and the loss of income suffered by Jane Doe as a result of her necessity of home schooling her child;
- D. Awarding Plaintiffs their attorneys fees in the case pursuant to 42 U.S.C. § 1988;
- E. Awarding Plaintiffs litigation related costs;
- F. Awarding any other relief as this Court deems just and proper.

Respectfully Submitted,

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