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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

TYLER CHASE HARPER, a minor, by and through his parents RON and CHERYL HARPER, Plaintiffs, v. POWAY UNIFIED SCHOOL DISTRICT; JEFF MANGUM, LINDA VANDERVEEN, PENNY RANFTLE, STEVE MCMILLAN, and ANDY PATAPOW, all individually and in their official capacity as Members of the Board of the Poway Unified School District; DR. DONALD A. PHILLIPS, individually, and in his official capacity as Superintendent of the Poway Unified School District; SCOTT FISHER, individually and in his official capacity as Principal of Poway High School; LYNELL ANTRIM, individually and in her official capacity as Assistant Principal of Poway High School; ED GILES, individually and in his official capacity as Vice Principal of Poway High School; and DAVID LEMASTER individually and in his official capacity as Teacher of Poway High School; and DOES 1 through 20 inclusive, Defendants.	CASE NO. **VERIFIED COMPLAINT AND DEMAND FOR JURY TRIAL** **Nature of Action:** **Civil Rights Suit Under 42 U.S.C. § 1983**

COME NOW Plaintiffs, by and through counsel, to show the Court the following:

I.

INTRODUCTION

1. This is a case to vindicate the First Amendment rights of Plaintiff Chase Harper, a high school student who used a T-shirt message to express his sincerely-held religious beliefs among his public high school classmates in response to an event known as the "Day of Silence." This event was sponsored by his school and its Gay Straight Alliance student club. Because Plaintiff refused to compromise his religious beliefs and his First Amendment rights, he was suspended from school for simply continuing to wear a homemade message on his T-shirt. The arbitrary suspension and unambiguous threat of further punishment by school district personnel have violated his rights to freedom of speech, to the free exercise of his religion, and his right to the equal protection of the law guaranteed to him by the First and Fourteenth Amendments to the United States Constitution.

II.

JURISDICTION AND VENUE

2. This action arises under the First and Fourteenth Amendments to the United States Constitution, and the Civil Rights Act (42 U.S.C. §§ 1983 and 1985) and California Civil Code § 52.1.

3. This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1331 and 1343, this being a suit in equity authorized by law to be brought to redress the deprivation, under color of law, statute, regulation, or custom and usage of the state of California of rights, privileges and immunities secured by the laws and Constitution of the United States; particularly, the First and Fourteenth Amendments of the Constitution of the United States pursuant to 42 U.S.C. § 1983. The Court has supplemental jurisdiction over this case pursuant to 28 U.S.C. § 1367(a).

4. Venue is proper in the Southern District of California under 28 U.S.C. § 1391(b), because a substantial part of the actions or omissions giving rise to this case occurred within the Southern District of California.

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5. This Court is authorized to grant the relief requested under 28 U.S.C. §§ 2201-02 and Rule 65 of the Federal Rules of Civil Procedure for the purpose of determining a question and actual controversy between the parties, to wit: whether the silencing by punishment, physical restraint and intimidation via threat of further punishment constitutes a denial to plaintiff of freedom of religion and speech guaranteed under the First Amendment to the United States Constitution and applicable to the state under the Due Process Clause of the Fourteenth Amendment to the United States Constitution and the laws of the United States.

6. This Court is authorized to grant Plaintiffs' prayer for relief regarding costs, including a reasonable attorney's fees, pursuant to 42 U.S.C. § 1988.

III.

IDENTIFICATION OF THE PARTIES

7. Plaintiff TYLER CHASE HARPER, a minor, is and was at all times relevant to this Complaint a student at Poway High School and a resident of Poway, California.

8. Plaintiffs RON and CHERYL HARPER are the parents of Tyler Chase Harper who presently reside in Poway, San Diego County, California.

9. Defendant POWAY UNIFIED SCHOOL DISTRICT is a public entity established, organized, and authorized under and pursuant to the laws of California, with the authority to sue and be sued in its own name.

10. Defendant JEFF MANGUM, at all times relevant herein was a board member of the Poway Unified School District. This defendant is sued both individually and in his official capacity.

11. Defendant LINDA VANDERVEEN at all times relevant herein was a board member of the Poway Unified School District. This defendant is sued both individually and in her official capacity.

12. Defendant PENNY RANFTLE, at all times relevant herein was a board member of the Poway Unified School District. This defendant is sued both individually and in her official capacity.

/ / /

13. Defendant STEVE MCMILLAN, at all times relevant herein was a board member of the Poway Unified School District. This defendant is sued both individually and in his official capacity.

14. Defendant ANDY PATAPOW at all times relevant herein was a board member of the Poway Unified School District. This defendant is sued both individually and in his official capacity.

15. Defendant DR. DONALD A. PHILLIPS is and was at all times relevant herein, the Superintendent of Poway Unified School District. This Defendant is sued both individually and in his official capacity.

16. Defendant SCOTT FISHER is and was at all times relevant herein, the Principal of Poway High School. This Defendant is sued both individually and in his official capacity.

17. Defendant LYNELL ANTRIM is and was at all times relevant herein, an Assistant Principal of Poway High School. This Defendant is sued both individually and in her official capacity.

18. Defendant ED GILES is and was at all times relevant herein, an Assistant Principal of Poway High School. This Defendant is sued both individually and in his official capacity.

19. Defendant DAVID LEMASTER is and was at all times relevant herein, an instructor at Poway High School. This Defendant is sued both individually and in his official capacity.

20. Doe Defendants 1 through 20 are unknown to Plaintiffs at this time but each is to be identified in this case as a resident of the State of California and acting in all particulars material to this case in his or her official capacity and under color of state law.

IV.

STATEMENT OF FACTS

21. Tyler Chase Harper ("Plaintiff") is sixteen years old and currently enrolled as a sophomore at Poway High School ("School") in the Poway Unified School District.

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22. Plaintiff is a Christian with sincerely-held religious beliefs regarding Biblical teachings on homosexual behavior.

23. Plaintiff believes, among other things, that a loving God has and must continue to condemn behavior that is destructive to humankind, the principal object of His love, and that homosexual behavior is immoral, damaging to the practitioners and to human society in general, and is demonstrably contrary to the teachings of the Bible, which he believes is the inspired Word of God.

24. Plaintiff is informed and believes that the true purpose of the programs and events sponsored by Poway High School on April 21, 2004 was to endorse, promote and encourage homosexual activity.

25. Plaintiff's sincerely-held religious beliefs compel him to communicate, out of a sense of compassionate duty, the Biblical condemnation of homosexual behavior to others in his school and his community.

26. In the days and weeks prior to April 21, 2004, Plaintiff became aware that a "Day of Silence" would be observed, endorsed, encouraged, subsidized and promoted at Poway High School on April 21, 2004.

27. Plaintiff is informed and believes that the "Day of Silence" was organized to encourage students and other individuals to refrain from speaking during the school day in order to demonstrate support for individuals engaged in overt homosexual lifestyles and behavior.

28. Plaintiff took one of his T-shirts and placed words on the front of it that read:

"I WILL NOT ACCEPT WHAT GOD HAS CONDEMNED."

29. Plaintiff placed words on the back of the T-shirt that read:

"HOMOSEXUALITY IS SHAMEFUL

"Romans 1:27"

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30. Romans 1:27 is a reference to the Biblical verse which states:

> Likewise also the men, leaving the natural use of the woman, burned in their lust for one another, men with men committing what is shameful, and receiving in themselves the penalty of their error which was due.

The Holy Bible, New King James Version.

31. Plaintiff wore his expressive T-shirt on April 21, 2004, the "Day of Silence," in response to the promotion of that event.

32. Plaintiff Chase Harper also wore an expressive T-shirt on April 22, 2004, in response to the events of the previous day.

33. While the back of the shirt read the same, Plaintiff modified the words on the front of the T-shirt as follows:

"BE ASHAMED"

"OUR SCHOOL EMBRACED WHAT GOD HAS CONDEMNED."

34. On April 22, 2004, during his second class period at the start of his school day, Plaintiff was told by Defendant David LeMaster, his classroom teacher, that he was in violation of the school's dress code and that he must remove the T-shirt or leave class and report directly to the school office.

35. Plaintiff promptly obeyed that direction and met initially with Defendant Lynell Antrim, a Poway High School Vice Principal, who told Plaintiff that his T-shirt was clearly in violation of the school dress code because it had a "homemade" message, as opposed to a printed or more permanent message on the garment.

36. Defendant Lynell Antrim also told Plaintiff the words on the T-shirt were "inflammatory," and she instructed Plaintiff that he must replace the T-shirt.

37. Defendant Lynell Antrim also said that if Plaintiff would agree to change his T-shirt, he could return to class.

38. Plaintiff politely refused to be silenced in this way and was then directed to wait until the principal would be available to discuss the disciplinary action that would follow in his case.

39. Defendant Lynell Antrim then sent Plaintiff to Defendant Scott Fisher's office.

40. Plaintiff was interviewed by Defendant Scott Fischer in the company of an unidentified adult female individual who is believed, and therefore alleged, to be a district official observer from another school within the Poway School District, believed to be the Abraxis Continuation School.

41. During the interview time with Defendant Scott Fischer, Plaintiff was asked repeatedly by Defendant Scott Fischer why he had worn his T-shirt to school on both days, was told by Defendant Scott Fischer that his T-shirt was too "aggressive," and that wearing it would not be tolerated at Poway High School.

42. Defendant Scott Fisher stated that it would not matter whether the T-shirt was homemade or whether it was a pre-manufactured T-shirt as the punishment would be the same because the content was inflammatory.

43. Defendant Scott Fisher ended the discussions by informing Plaintiff that because he had been both courteous and respectful to school authorities his punishment would be mitigated but that still he was going to be suspended from school, that he would remain in an office until the school day was over, and that he would then be required to depart the school grounds by the most direct route.

44. Defendant Scott Fischer stated that Plaintiff was not to leave the small office, in which he was detained, for any reason unless he had an escort.

45. As the day wore on, Plaintiff received his belongings, including his backpack and his lunch, which he had earlier left in his classroom.

46. Except for supervised visits to the toilet room, Plaintiff remained in the school office until the end of the school day.

47. Through the course of the afternoon, various school security personnel visited Plaintiff and engaged him in conversations.

48. One of them, a former coach of Plaintiff, pointedly questioned Plaintiff as to why he would wear such a T-shirt and he encouraged him to question whether it was "worth it."

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49. A Deputy Sheriff came to interrogate Plaintiff while he was detained in this office. At the time, he presented his badge to Plaintiff and at all times during the visit was openly carrying a firearm. The Deputy also took a number of photographs of Plaintiff but did not arrest him. True and correct copies of three of those photographs are attached as Exhibit A.

50. The Deputy informed Plaintiff that he was there to determine if he was a dangerous student, to find out why he wore the particular T-shirt, and to determine if he was going to engage in similar behavior in the future.

51. The Deputy proposed to Plaintiff that as a member of the Christian faith, he should understand that Christianity was based on love not hate, and that Plaintiff should not be offensive to others.

52. The Deputy told Plaintiff that his T-shirt was "inflammatory" and "could encourage uprising and violence against homosexuals."

53. Finally, toward the very end of the school day, Plaintiff was told to collect his things and go to Defendant Ed Giles' office.

54. Plaintiff walked into Defendant Ed Giles' office and closed the door as directed.

55. During a 10-15 minute visit, Plaintiff was told that Defendant Ed Giles knew his family and his youth pastor, and that he, Defendant Ed Giles, was also a Christian believer.

56. Defendant Ed Giles stated that when he came to the school, he had to leave his faith "in the car."

57. Defendant Ed Giles further advised Plaintiff that when he comes to Poway High, if his religious beliefs are offensive, he too must "leave his faith in the car."

58. Plaintiff respectfully told Defendant Ed Giles that he could not do that.

59. Following this final "counseling" session at the end of the day, Plaintiff was told he was free to go home but that he was to proceed immediately and directly off the campus and remain off campus for the rest of the day.

60. Plaintiff was thus not allowed to go to his locker to get his homework.

61. Plaintiff complied with the directions of the school administrators in every particular.

62. Defendants did not notify either of Plaintiff's parents until shortly before the end of the school day.

63. Defendant Ed Giles made the call to Plaintiff Ron Harper informing him that his son had been detained and suspended for the day for wearing the expressive T-shirt.

64. Initially, Mr. Harper was told that the problem was that "homemade shirts were not allowed."

65. Plaintiff Ron Harper stated that he had seen other homemade shirts at the School before and was then told that "only positive community messages were allowed" and that shirts with "negative" messages were not allowed.

66. Plaintiff Ron Harper asked who was responsible for determining whether a message was positive or negative and was told that it was in the Principal's discretion.

67. The following day, Plaintiff Ron Harper went to the School to discuss his son's suspension and was told that Plaintiff Chase Harper had conducted himself honorably and with respect to school administrators at all times.

68. Plaintiff Ron Harper was also informed that there had been no disruptions, altercations or other incidents among students at the school giving rise to his son's suspension.

69. Poway High School has published a student policy handbook that includes a section entitled "Socially Responsible Behavior" (Policy). This Policy, at page 15 of the handbook, states in relevant part:

> C. Dress: School clothing should be neat, clean, and appropriate for school activities and should follow the standards of common decency. The dress code will be enforced at school-sponsored activities. Clothing that violates this standard is unacceptable, and the student in violation will be disciplined appropriately. Examples of unacceptable dress are as follows:
>
> . . . .
>
> 3. Clothing and accessories (including backpacks) that promote or portray:
>
> . . . .
>
> e. Violence or hate behavior including derogatory connotations directed toward sexual identity.

A true and correct copy of this policy is attached as Exhibit B.

70. Defendants, and each of them, wrongfully interpreted and/or applied this Policy to Plaintiff Chase Harper for wearing his homemade T-shirt containing religious expression criticizing homosexual behavior.

71. Poway High School's "Socially Responsible Behavior" policy at Section C.3.e. is, on its face, and as applied in this case, overbroad, impermissibly vague and subject to abuse. This policy effectively grants unbridled discretion to school officials as to its application and it therefore, violates the First and Fourteenth Amendments of the United States Constitution.

72. Since July 29, 1991 the Poway Unified School District has maintained a Board Policy relating to student personnel and their freedom of speech and expression. The Board Policy at Article 5.0, Section 5.6 in relevant part provides as follows:

> Students attending schools within the District have the right to exercise free expression including, but not limited to, the use of bulletin boards, distribution of printed materials or petitions, and wearing buttons, badges, and other insignia. The Board respects students' rights to express ideas and opinions, take stands, and support causes, whether controversial or not, through their speech, their writing, their clothing, and the printed materials they choose to post or distribute.
>
> . . . .
>
> In the exercise of the student rights described above, no student shall distribute materials, wear buttons or displays, or post notices or other materials which:
>
> 1. Are obscene to minors according to current legal definitions.
>
> 2. Are libelous or slanderous according to current legal definitions.
>
> 3. Incite students so as to create a clear and present danger of the imminent commission of unlawful acts on school premises or of the violation of lawful school regulations or of the substantial disruption of the orderly operation of the school.
>
> 4. Express or advocate racial, ethnic, or religious prejudice so as to create a clear and present danger of imminent commission of unlawful acts on school premises or of the violation of lawful school regulations or of the substantial disruption of the orderly operation of the school.

A true and correct copy of this policy is attached as Exhibit C.

73. Neither Plaintiff's T-shirt message nor any of his behavior while attending school on April 21 and 22, 2004 in any way created a clear and present danger of imminent commission of unlawful acts on school premises or constituted the violation of lawful school regulations or threatened substantial disruption of the orderly operation of the school.

74. Since July 28, 1997 the Poway Unified School District has maintained a Board Policy relating to student personnel and their freedom of speech and expression. The Board Policy at Article 5.0, Section 5.28.1 concerns so-called hate behavior and, in relevant part, provides as follows:

> "In order to foster a supportive environment for a diverse student body, the Poway Unified School District provides guidelines to assist schools in the reduction and/or prevention of hate behavior.

For the purpose of these guidelines the operational definition of hate behavior is as follows:

> A hate behavior is any act or attempted act to cause physical injury, emotional suffering, or property damage through intimidation, harassment, racial/ethnic slurs and bigoted epithets, vandalism, force or the threat of force, motivated all or in part by hostility to the victim's real or perceived gender, race, ethnicity, religion, sexual orientation, or mental or physical challenges.". . .

75. The remainder of Board Policy is a confusing selection of subjective sentence fragments collected under three subtitles: "Hate Behavior Deterrence Guidelines," "Hate Behavior Response Guidelines," and "Examples of Hate Behavior."

76. The purported preventative policy, laced as it is with undefined phrases and jargon, is on its face, vague, subjective, ambiguous, overbroad and inevitably subject to unfettered arbitrary discretion in its application. A true and correct copy of this policy is attached as Exhibit D.

77. Plaintiff is informed and believes and on that basis alleges that Defendants, in this case, rely on Board Policy 5.28.1 to justify their actions against Plaintiff.

78. Board policy 5.28.1 on its face and to the extent of its application against Plaintiff violates his rights under the First and Fourteenth Amendments to the Constitution of the United States.

79. Plaintiff suffered unlawful discrimination, humiliation and punishment at the hands of Poway High School personnel in violation of School Board policy and the Constitution of the United States simply because his High School personnel disapproved of the viewpoint Plaintiff wished to express.

80. Since Defendants, and each of them, have established and are maintaining under color of law of the state of California a policy of denying to Plaintiff Chase Harper the free exercise of his religion, Plaintiff Chase Harper has suffered, is suffering, and will continue to suffer severe and irreparable injury by virtue of Defendants' acts, policies and practices as set forth herein. His fundamental constitutional rights have been violated and will continue to be violated.

81. The acts of Defendants, and each of them, are chilling and deterring Plaintiff's free exercise of rights of speech, religious expression, petition and press. Plaintiff Chase Harper has no plain, adequate, or complete remedy at law to redress the violations of his rights, and this suit for injunction, declaratory judgment, and damages is his only means of securing complete and adequate relief. No other remedy would offer Plaintiff substantial and complete protection from continuation of defendants' unlawful and unconstitutional acts, policies and practices.

V.

STATEMENTS OF LAW

82. Students do not shed their constitutional rights at the schoolhouse gate.

83. Non-disruptive, individual student expression is protected by the First Amendment of the United States Constitution.

84. All alleged acts of Defendants, their officers, agents, servants, employees, or persons acting at their behest or direction, were done and are continuing to be done under the color and pretense of state law, including the statutes, regulations, customs, policies and usages of the State of California.

85. Unless and until the enforcement of Defendants' current policies identified herein and practices are enjoined, plaintiffs will suffer and continue to suffer irreparable harm to their federal constitutional rights.

VI.

FIRST CAUSE OF ACTION

Violation Of Freedom Of Speech Under

The First Amendment To The United States Constitution

86. Plaintiffs re-allege and incorporate herein by reference all preceding paragraphs.

87. Religious speech is protected speech under the First Amendment.

88. The Policies, including but not necessarily limited to School Board Policy Section 5.28.1 and Poway High School student handbook at page 15 (collectively hereinafter referred to as the "Policies") and Defendants' enforcement thereof:

a. are vague and overbroad;

b. single out religious speech for discriminatory treatment;

c. discriminate against speech because of its content;

d. discriminate against speech on the basis of the speaker's viewpoint;

e. restrain constitutionally protected speech in advance of its expression, with virtually no guidelines or standards to guide the discretion of School officials charged with enforcing the policy;

f. chill the free speech and free exercise of religion of Plaintiff Chase Harper and other students, and

g. allow the exercise of unbridled discretion.

89. Defendants have no compelling reason that would justify their censorship of Plaintiff's T-shirt and its religious message.

90. Defendants' Policies and the enforcement thereof thus violate the Free Speech Clause of the First Amendment to the United States Constitution, made applicable to the states through the Fourteenth Amendment.

WHEREFORE, Plaintiffs respectfully pray the Court grant the equitable and legal relief set forth in the prayer for relief.

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VII.

SECOND CAUSE OF ACTION

Violation Of The Free Exercise Clause Of The First Amendment To The United States Constitution

91. Plaintiffs re-allege and incorporate herein by reference all preceding paragraphs.

92. Plaintiff Chase Harper has sincerely-held religious beliefs which compel him to express his opposition to homosexual behavior.

93. Plaintiff's sincerely-held religious belief is based upon Biblical precepts and a Christian worldview.

94. A facially-neutral policy may violate the Free Exercise Clause when it is implicated in connection with another constitutional right such as the freedom of speech.

95. The Policies and Defendants' enforcement thereof substantially burden religious expression that is critical of homosexual behavior.

96. Defendants have no compelling reason that would justify their censorship of religious expression that is critical of homosexual behavior.

97. The Policies and Defendants' enforcement thereof therefore violate the Free Exercise Clause of the First Amendment to the United States Constitution, made applicable to the states under the Fourteenth Amendment.

WHEREFORE, Plaintiffs respectfully pray the Court grant the equitable and legal relief set forth in the prayer for relief.

VIII.

THIRD CAUSE OF ACTION

Violation Of The Equal Protection Clause Of The Fourteenth Amendment To The United States Constitution

98. Plaintiffs re-allege and incorporate herein by reference all preceding paragraphs.

99. Under the Policies, Defendants have allowed other students to wear homemade T-shirts, while suspending Plaintiff Chase Harper for wearing his homemade T-shirt.

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100. Defendants' enforcement of the Policies treats Plaintiff Chase Harper differently than other similarly-situated students, based on the content and viewpoint of his expression.

101. Defendants have no compelling reason that would justify their disparate treatment of Plaintiff Chase Harper.

102. The Policies and Defendants' enforcement thereof therefore violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiffs respectfully pray the Court grant the equitable and legal relief set forth in the prayer for relief.

IX.

FOURTH CAUSE OF ACTION

Violation Of The Due Process Clause Of The Fourteenth Amendment To The United States Constitution

103. Plaintiffs re-allege and incorporate herein by reference all preceding paragraphs.

104. The Policies are vague and lack sufficient objective standards to curtail the discretion of school officials, which allows Defendants to enforce the policies in an ad hoc and discriminatory manner.

105. Defendants have no compelling reason that would justify their censorship of the religious expression on Plaintiff Chase Harper's T-shirt.

106. The Policies and Defendants' enforcement thereof therefore violate the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiffs respectfully pray the Court grant the equitable and legal relief set forth hereinafter in the prayer for relief.

X.

FIFTH CAUSE OF ACTION

Violation Of The Establishment Clause Of The First Amendment To The United States Constitution

107. Plaintiffs re-allege and incorporate herein by reference all preceding paragraphs.

108. The Policies and Defendants' enforcement thereof is hostile toward religion.

109. The Policies and Defendants' enforcement thereof treats Plaintiff Chase Harper as a second-class citizen of the School community because of his protected religious expression.

110. The Policies allow district officials to approve one religious message over another and irreligion over religion.

111. Defendants therefore violate the Establishment Clause of the First Amendment to the United States Constitution as incorporated and applied to the states under the Fourteenth Amendment.

WHEREFORE, Plaintiffs respectfully pray the Court grant the equitable and legal relief set forth hereinafter in the prayer for relief.

XI.

SIXTH CAUSE OF ACTION

Violation Of Civil Rights Guaranteed by California Civil Code § 52.1

112. Plaintiffs re-allege and incorporate herein by reference all preceding paragraphs.

113. Defendants, and each of them, interfered or attempted to interfere with Plaintiff's constitutional rights by the use of threats, intimidation and/or coercion, in that defendants threatened expulsion, suspension and/or other discipline and engaged in intimidation and coercive tactics to compel Plaintiff to forgo his constitutional rights.

114. In fact, Plaintiff was suspended from classroom instruction, detained in a small office for most of the school day, interrogated by a deputy sheriff, "counseled" by numerous school district officials, and, in the end, told to "leave his faith in the car."

115. As a direct and proximate result of the conduct of Defendants, and each of them, Plaintiff has suffered and will continue to suffer from the deprivation of Plaintiff's constitutional liberties.

116. Defendants' violation of Plaintiff's rights as guaranteed by Civil Code § 52.1 entitles Plaintiff to compensatory and punitive damages, a $25,000 civil penalty, attorney fees, and injunctive relief, all of which are provided for in Civil Code §§ 52.1(b) and 52, and are requested below.

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117. In doing the acts alleged in this complaint, Defendants knew or should have known that their actions were likely to injure Plaintiff. Plaintiff is informed and believes, and therefore alleges, that Defendants intended to cause injury to Plaintiff and acted with a willful and conscious disregard of Plaintiff's rights as secured by Civil Code § 52.1, thus entitling Plaintiff to recover punitive damages pursuant to Civil Code § 52(b)(1).

118. Pursuant to Civil Code § 52.1, Plaintiff is entitled to bring an action for damages and injunctive relief, as set forth in Civil Code § 52.

WHEREFORE, Plaintiffs respectfully pray the Court grant the equitable and legal relief set forth hereinafter in the prayer for relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

A. That this Court issue Preliminary and Permanent Injunctions enjoining Defendants, Defendants' agents, employees, and all persons in active concert or participation with them from violating Plaintiff Chase Harper's constitutional rights by selectively banning religious expression in school;

B. That this Court render a Declaratory Judgment declaring that Defendants' Policies, including but not necessarily limited to School Board Policy Section 5.28.1 and Poway High School student handbook at page 15, and Defendants' practice of selectively banning religious expression violates the First and Fourteenth Amendments to the United States Constitution;

C. Adjudge, decree, and declare the rights and other legal relations with the subject matter here in controversy, in order that such declaration shall have the force and effect of final judgment;

D. Retain jurisdiction of this matter for the purpose of enforcing this Court's order;

E. Grant to Plaintiffs an award of nominal damages in an amount deemed appropriate by this Court;

F. Grant punitive damages pursuant to Civil Code § 52(b)(1) and a statutory civil penalty of $25,000 pursuant to Civil Code § 52(b)(2);

G. Grant to Plaintiffs reasonable costs and expenses of this action, including attorneys' fees, in accordance with 42 U.S.C. § 1988 and California Civil Code § 52(b)(3); and

H. Grant such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby respectfully request a jury trial.

Dated this 29th day of May 2004

Respectfully submitted,

ALLIANCE DEFENSE FUND

By: _____
ROBERT H. TYLER
Attorneys for Plaintiffs

VERIFICATION

We, the undersigned, citizens of the United States and residents of the State of California, have read the foregoing Verified Complaint and declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Dated this _____ day of May, 2004

_____
Tyler Chase Harper

_____
Ron Harper