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 8 Attorney for Plaintiff

9 **IN THE UNITED STATES DISTRICT COURT**  
 10 **FOR THE DISTRICT OF ARIZONA**

11 Sidney Ryan, Jodi Ryan (Mother and  
 12 Natural Guardian of K.R.), and Jeffrey  
 13 Hills (Father and Natural Guardian of  
 14 B.H.), on behalf of themselves and all  
 15 others similarly situated,

16 Plaintiffs,

17 v.

18 Mesa Unified School District and  
 19 Joseph Goodman, in his individual  
 20 capacity,

21 Defendants.  
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No. 2:14-cv-01145-PHX-GMS

**AMENDED COMPLAINT  
 FOR INJUNCTIVE RELIEF;  
 DECLARATORY RELIEF; AND  
 COMPENSATORY DAMAGES**

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1 For their complaint against the Defendants, the Plaintiffs: (1) Sidney  
2 Ryan; (2) Jodi Ryan (Mother and Natural Guardian of K.R.); and (3) Jeffrey Hills  
3 (Father and Natural Guardian of B.H.), allege as follows:  
4

## 5 INTRODUCTION

6 1. This is a civil rights action to protect and vindicate the First, Fifth and  
7 Fourteenth Amendment rights of Plaintiffs, students of Mountain View High  
8 School in Mesa, Arizona. The Plaintiffs seek money damages for themselves;  
9 and for themselves and others similarly situated, declaratory relief, and  
10 injunctive relief, as well as attorney fees and costs. This civil rights action is  
11 brought pursuant to 42 U.S.C. §§ 1983 and 1988.  
12

13  
14 2. The vigilant protection of constitutional freedoms is nowhere more  
15 vital than in the community of American schools. *Shelton v. Tucker*, 364 U.S.  
16 479, 487 (1960). And students in public schools do not “shed their constitutional  
17 rights to freedom of speech or expression at the schoolhouse gate.” *Tinker v.*  
18 *Des Moines Indep. Community School Dist.*, 393 U.S. 503, 506, 89 S.Ct. 733,  
19 736, (1969). Schools are not enclaves immune from the sweep of the First  
20 Amendment, and a danger lurks in allowing a State actor the power to limit  
21 these freedoms. The Plaintiffs in this civil rights action seek to protect and  
22 vindicate their First Amendment rights of freedom of speech.  
23

24  
25 3. A policy of promoting or permitting student-led or student-initiated  
26 prayer at public school sporting events violates the Establishment Clause.  
27  
28

1 *Santa Fe Independent School Dist. v. Doe*, 530 U.S. 290 (2000). Plaintiffs claim  
2 that the Defendants violated and continue to violate the Establishment Clause  
3 by allowing and promoting prayer at the Mountain View High School varsity  
4 girls' softball games. The plaintiffs in this civil rights action seek to protect and  
5 vindicate their First Amendment rights regarding violations of the Establishment  
6 Clause of the First Amendment as related to the impermissible use of student-  
7 led group prayer at extracurricular sports events.  
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10 4. Public schools should seek to create an environment conducive to  
11 learning by all students and not act as vehicles for proselytizing religious belief.  
12 The Mountain View High School allows students to leave and come back to the  
13 locked school campus five days a week for six periods each day to attend  
14 seminary classes directly across the street. The seminary is operated by the  
15 Church of Jesus Christ of Latter-Day Saints ("LDS Church"). While a public-  
16 school accommodation for religious beliefs through a released-time program  
17 can be constitutionally acceptable under proper circumstances, if  
18 implementation of the program nonetheless violates the Establishment Clause  
19 through excessive entanglement, it can be unconstitutional. *Lemon v.*  
20 *Kurtzman*, 403 U.S. 602, 91 S.Ct. 2105 (1971); *Lanner v. Wimmer*, 662 F.2d  
21 1349 (10<sup>th</sup> Cir. 1981). The logistics and administration of the released-time  
22 program at Mountain View High School as related to the LDS Church seminary  
23 involve an excessive entanglement with religion in violation of the First  
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1 Amendment. The Plaintiffs in this civil rights action seek to protect and vindicate  
2 the First Amendment rights of themselves and others regarding this violation of  
3 the Establishment Clause.

4  
5 5. The School District has rules and procedures regarding due process  
6 that the students are entitled to utilize if the school makes a charge of ‘bullying’  
7 due to the attendant stigmata of such an allegation. Due process rules and  
8 regulations in the public school environment stem from the requirements of the  
9 Fifth Amendment, made applicable to the states through the Fourteenth  
10 Amendment. Charges of ‘bullying’ by students close to graduating high school  
11 and who may be attending college, playing college sports, or entering the work-  
12 force immediately, results in a stigmata that can follow the student beyond high  
13 school. As such, notice and an opportunity to be heard are critical when  
14 potentially jeopardizing the reputation of that student, which reputation is a  
15 protected liberty interest. Since the Plaintiffs’ individual reputations also are a  
16 protected liberty interest, and hence a fundamental right under the Fifth  
17 Amendment, that fundamental right was violated by the Defendants’ actions.  
18 Accordingly, the Plaintiffs procedural and substantive due process rights  
19 secured by the Fifth and Fourteenth Amendments were violated.

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23  
24 **JURISDICTION and VENUE**

25 6. This Court has original jurisdiction over these federal claims pursuant  
26 to 28 U.S.C. §§ 1331 and 1343.  
27  
28



1 Arizona 85213, and is a minor, and as such is represented by her Father and  
2 Natural Guardian, Jeffrey Hills.

3 15. Mesa Unified School District (“the School District”) is a public school  
4 district in the County of Maricopa, State of Arizona.

5  
6 16. Joseph Goodman is a teacher at the Mountain View High School,  
7 and was and still is the coach of the varsity girls softball team (“the Team”),  
8 known as the Mountain View Toros. Joseph Goodman is sued in his individual  
9 capacity.  
10

11 **FACTS**

12 17. Sidney Ryan, K.R., and B.H., were all selected to play on the  
13 Mountain View High School varsity girls softball team (“the team”) for the 2014  
14 season.  
15

16 18. During the season in 2013, as well as in 2014, certain students who  
17 played on the team were appointed ‘prayer leaders’ to lead a group prayer at  
18 the beginning of each game.  
19

20 19. Joseph Goodman was the coach for both the 2013 and 2014  
21 seasons.  
22

23 20. In 2014, Sidney Ryan, a team captain, announced that there would  
24 not be any ‘team prayer.’  
25

26 21. K.R. and B.H. supported the intention not to have ‘team prayer.’  
27  
28

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1           22. The Plaintiffs were identified by other members of the LDS Church as  
2 being responsible for dispensing with the use of ‘team prayer.’

3           23. Joseph Goodman, a member of the LDS Church, and a proponent of  
4 ‘team prayer’ became aware of the Plaintiffs’ involvement and participation with  
5 extinguishing the use of ‘team prayer.’  
6

7           24. Terry Richardson, a member of LDS Church, is the father of another  
8 team player, C.R., and became aware of the extinguishment of ‘team prayer’ by  
9 Sidney Ryan, with the support of her teammates K.R. and B.H.  
10

11           25. Terry Richardson, along with another parent, Kelly Roberts (also an  
12 LDS Church member) expected that ‘team prayer’ would be part of the activities  
13 of the team prior to the games.  
14

15           26. The expectation that there would be ‘team prayer’ was communicated  
16 to Joseph Goodman by LDS parents.  
17

18           27. On or about March 1, 2014, the team played several games against  
19 other public schools in Tucson.

20           28. During the tournament, contemporary hip-hop and other popular  
21 music liked by teenage girls was played and used as expressive speech to get  
22 ‘in the zone’ performing at the competitive varsity school level.  
23

24           29. The music, a form of expressive student speech, was deemed  
25 objectionable by C.R., the daughter of Terry Richardson, because the music  
26 offended her religious sensitivities.  
27  
28

1 30. During the tournament, Terry Richardson and/or other LDS Church  
2 members, at the direct or indirect request of Joseph Goodman, followed the  
3 expressive speech of Plaintiff, B.H., made on the social media site, Twitter.  
4

5 31. Social media postings made by B.H. were reported by certain LDS  
6 Church members to Joseph Goodman at his direction and request.

7 32. The social media postings were generic, and not directed to any  
8 particular students, and were not disruptive to any school purpose.  
9

10 33. Upon returning from the games on Saturday March 1, 2014, there  
11 was a meeting between parents who are members of the LDS Church and  
12 Joseph Goodman.  
13

14 34. The parents of Plaintiffs nor other non-LDS parents were not made  
15 aware of this meeting.  
16

17 35. Shortly thereafter, the Plaintiffs were dismissed from the team upon  
18 the grounds of not respecting religious views of others, and for off-campus  
19 speech usage that did not disrupt the normal school atmosphere.

20 36. The dismissal of the Plaintiffs was claimed to be 'bullying' by the  
21 School District when the Plaintiffs asked for evidence and proof of not  
22 respecting religious views and for using improper expressive speech during off-  
23 campus events.  
24

25 37. The School District did not provide any evidence of 'bullying' or  
26 improper direct speech or expressive speech.  
27  
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1 38. The Plaintiffs in fact were penalized for not conducting 'team prayer'  
2 in accordance with the directive of Joseph Goodman, acting for himself and at  
3 the behest of certain parents that were part of the LDS Church.

4  
5 39. The Plaintiffs in fact were penalized because the parents of certain  
6 LDS students on the team complained to Joseph Goodman about the speech  
7 and expressive speech of the Plaintiffs, which actual and expressive speech  
8 events were perfectly acceptable and within the bounds of a secular society  
9 and that of a public school system.

10  
11 40. The Establishment Clause provides a right of freedom from religion  
12 in the public school system, whether during academic sessions, or, during  
13 extra-curricular activities.

14  
15 41. By Defendants treating Plaintiffs in the foregoing manner, dismissing  
16 them from the Team for not conducting 'team prayer,' for utilizing certain  
17 speech and expressive speech through pop music, social media, and  
18 otherwise, the First and Fourteenth Amendment rights of the Plaintiffs were  
19 violated.

20  
21  
22 42. The LDS Church operates a seminary across the street from  
23 Mountain View High School.

24  
25 43. The LDS Church has a policy and practice of setting up seminary  
26 buildings directly across from other public schools in the Mesa Public School  
27 District.

28

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1 44. LDS Church students participate in a released-time program through  
2 the school district, involving students being released from the school five days a  
3 week for six periods of the day, and then re-admitted to the school.

4 45. Accordingly, the released-time for the LDS Church seminary program  
5 is in effect simply another class that is taken with the imprimatur of the School  
6 District, rather than a program where students are released early from school.

7 46. The Mountain View High School is a 'locked-campus,' during the  
8 school day for student safety, except for seniors during their lunch periods.

9 47. The LDS Church seminary students often are locked outside of the  
10 gate after attending seminary.

11 48. When LDS Church seminary students are locked outside the gate,  
12 public school personnel have to be called upon to open the gate to let the LDS  
13 Church seminary students back onto the public school property to resume their  
14 regular classes, albeit being late.

15 49. Some non-seminary students say they are going to seminary when in  
16 fact they are not, using it as an excuse to leave the school property on a 'frolic  
17 and detour' during normal school hours.

18 50. When LDS Church seminary students are tardy in getting to class  
19 after seminary, there is a pattern and practice of excusing the lateness.

20 51. When non-seminary students are tardy, there is a pattern and  
21 practice of not excusing the lateness.

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1 52. Personnel of the LDS Church also have a key to the gate, and are  
2 thus allowed by the School District to open the gate of the public school for  
3 purposes of allowing seminary students back onto campus.

4  
5 53. The School District does not adequately keep track of the students  
6 that leave campus, and then re-enter the campus for purposes of attending  
7 seminary.

8  
9 **CAUSES OF ACTION**

10 **COUNT I - 42 U.S.C. § 1983 – Establishment Clause Violation - Prayer**

11 54. Plaintiffs reallege and incorporate by reference all allegations set  
12 forth in each of the preceding paragraphs of the Complaint.

13  
14 55. The First Amendment of the United States Constitution provides as  
15 follows: "Congress shall make no law respecting an establishment of religion, or  
16 prohibiting the free exercise thereof; or abridging the freedom of speech, or of  
17 the press; or the right of the people peaceably to assemble, and to petition the  
18 government for a redress of grievances."

19  
20 56. The "establishment of religion" clause of the First Amendment means  
21 that the government cannot indirectly endorse or prefer one religion over  
22 another, and in the words of Jefferson, the clause against establishment of  
23 religion by law was intended to erect 'a wall of separation between church and  
24 State,' which must be kept high and impregnable, with the Courts not approving  
25 the slightest breach. *Everson v. Board of Education*, 330 U.S. 1 (1947).  
26  
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28

1 Allowing any coercion for participation in religious activities strikes at the core of  
2 the Establishment Clause of the First Amendment. *Inouwe v. Kenna*, 504 F.3d  
3 705, 712 (9<sup>th</sup> Cir. 2007).

4  
5 57. "Perhaps in the early days of the Republic [the] words [of the  
6 Establishment Clause] were understood to protect only the diversity within  
7 Christianity, but today they are recognized as guaranteeing religious liberty and  
8 equality to the infidel, the atheist, or the adherent of a non-Christian faith such  
9 as Islam or Judaism." (internal marks omitted); *Wallace v. Jaffree*, 472 U.S. 38  
10 52-53, 105 S.Ct. 2479, 2487-88, 86 L.Ed.2d 29 (1985).

11  
12 58. "[T]he [Supreme] Court has unambiguously concluded that the  
13 individual freedom of conscience protected by the First Amendment embraces  
14 the right to select any religious faith or none at all." (footnote omitted); *Torcaso*  
15 *v. Watkins*, 367 U.S. 488, 495, 81 S.Ct. 1680, 1683-84, 6 L.Ed.2d 982 (1961).

16  
17 59. The Fourteenth Amendment, Section 1, of the United States  
18 Constitution provides as follows: "All persons born or naturalized in the United  
19 States, and subject to the jurisdiction thereof, are citizens of the United States  
20 and of the state wherein they reside. No state shall make or enforce any law  
21 which shall abridge the privileges or immunities of citizens of the United States;  
22 nor shall any state deprive any person of life, liberty, or property, without due  
23 process of law; nor deny to any person within its jurisdiction the equal  
24 protection of the laws."  
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1           60. The denial of constitutional rights is irreparable injury *per se*.

2           61. The acts of the Defendant, Joseph Goodman, were made with a  
3 reckless indifference to Plaintiffs' clearly established federal constitutional  
4 rights, warranting an award of punitive damages.  
5

6           62. The actions of the Defendant, Joseph Goodman, were based upon  
7 the Plaintiffs not being members of the LDS Church and who did not accede to  
8 having and allowing student-led group 'team prayer.'  
9

10           63. A reasonable educator in the position of Defendant, Joseph  
11 Goodman, would know and should have known that they were violating clearly  
12 established constitutional rights of Plaintiffs and others under the First and  
13 Fourteenth Amendments, and accordingly they are liable to Plaintiffs under 42  
14 U.S.C. § 1983.  
15

16           64. As a direct and proximate result of the actions of Defendant, Joseph  
17 Goodman, Plaintiffs suffered emotional upset and anguish.  
18

19           65. As a direct and proximate result of the actions and conduct of  
20 Defendant, Joseph Goodman, rights of Plaintiffs and others secured by the First  
21 and Fourteenth Amendments by virtue of the 'team prayer' and the Plaintiffs'  
22 treatment as a result thereto resulted in a deprivation of Plaintiffs' fundamental  
23 constitutional rights secured by the First Amendment.  
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**COUNT II - 42 U.S.C. § 1983 – Establishment Clause Violation – Released-Time for the LDS Church Seminary Program**

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66. Public schools exist to educate, not to proselytize, either directly or indirectly.

67. Students in public schools are a captive audience, and any endorsement of religion, either directly or indirectly, is coercive and invasive.

68. "The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another. "*Larson v. Valente*, 456 U.S. 228, 244, 102 S.Ct. 1673, 1683, 72 L.Ed.2d 33 (1982).

69. The operation of released-time for the LDS Church seminary program through and with the imprimatur of the School District, including the logistics in implementation and lack of accountability of the students regarding attendance, is a violation of the Establishment Clause.

70. The operation of released time program for the LDS Church seminary program is a violation of the Establishment Clause because taxpayers squander the use of classrooms and other fixed costs so the LDS Church can operate its seminary training program, inculcating students who are required to be at school pursuant to mandatory state laws.

71. As a direct and proximate result of the violation of the First and Fourteenth Amendment rights of Plaintiff and others similarly situated by the Defendant, Mesa Unified School District, Plaintiffs and other students similarly situated are entitled to injunctive and declaratory relief.

**COUNT III - 42 U.S.C. § 1983 - Violation of Free Speech**

1  
2 72. Plaintiffs reallege and incorporate by reference all allegations set  
3 forth in each of the preceding paragraphs of the Complaint.  
4

5 73. Plaintiffs and other students similarly situated in the School District  
6 have a right under the First Amendment to be free from speech and expressive  
7 speech constraints when off campus that do not materially and substantially  
8 disrupt the normal work and discipline of the school's functions and activities.  
9

10 74. The Defendants took adverse action and penalized the Plaintiffs by  
11 removing them from the team because of off-campus speech that was neither  
12 disruptive to normal school functions nor other students.  
13

14 75. Defendants penalized the Plaintiffs by restricting their expressive  
15 speech so that it would conform with the predilections of the LDS Church.  
16

17 76. The actions of Defendants were motivated at least in part by the  
18 Plaintiffs exercise of their speech and expressive speech rights protected by the  
19 First Amendment.  
20

21 77. Any prior restraint or as-applied restriction of expressive student  
22 speech off-campus that is not disruptive to the school community is  
23 unconstitutional.  
24

25 78. As a direct and proximate result of the actions of Defendant, Joseph  
26 Goodman, acting in his individual capacity, the Plaintiffs had their First and  
27  
28

1 Fourteenth Amendment rights violated, as related to speech and expressive  
2 speech.

3 79. As a direct and proximate result of the actions of Defendant, the  
4 School District, the Plaintiffs had their First and Fourteenth Amendment rights  
5 violated.  
6

7 **COUNT IV - 42 U.S.C. § 1983 – Fifth and Fourteenth**  
8 **Amendment Violations**

9 80. Plaintiffs reallege and incorporate by reference all allegations set  
10 forth in each of the preceding paragraphs of the Complaint.  
11

12 81. Dismissal and adverse actions can invoke a liberty interest in  
13 reputation if the dismissal is for dishonesty, moral turpitude, or other reasons  
14 bearing such stigmata as might foreclose other opportunities.  
15

16 82. The School District has rules and procedures that are supposed to be  
17 utilized in the event that a student is to be removed from any class or the Team  
18 if there were issues related to improper speech or expressive speech that could  
19 be deemed ‘bullying.’  
20

21 83. These rules exist to comply with the requirements of the Fifth  
22 Amendment’s requirements of due process, made applicable to the states  
23 through the Fourteenth Amendment.  
24

25 84. The Defendant, Mesa Unified School District, did not comply with its  
26 own rules to comply with the Plaintiffs due process rights.  
27  
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1 85. As a direct and proximate result of the School District's actions, the  
2 Fifth and Fourteenth Amendment procedural due process rights of the Plaintiffs  
3 were violated.

4 86. As a direct and proximate result of the School District's actions, the  
5 Plaintiffs' Fifth and Fourteenth Amendment substantive constitutional right in  
6 their reputations, a protected liberty interest, were violated.  
7

8 87. As a direct and proximate result of the actions of Defendant, Joseph  
9 Goodman, acting in his individual capacity, the Plaintiffs' Fifth and Fourteenth  
10 Amendment substantive constitutional rights in their reputations, a protected  
11 liberty interest, were violated.  
12

13 **REQUESTS FOR RELIEF**

14 **WHEREFORE**, Plaintiffs respectfully requests the Court to:  
15

- 16 A. Issue a Judgment on Counts I and IV awarding compensatory and  
17 punitive damages to Plaintiffs against Defendant, Joseph  
18 Goodman, in his individual capacity, for violation the rights of  
19 Plaintiffs secured by the First, Fifth and Fourteenth Amendments;  
20  
21 B. Issue a Declaratory Judgment on Counts I, II and III that the  
22 Defendants, Joseph Goodman, and Mesa Unified School District  
23 violated the rights of Plaintiffs and others similarly situated that are  
24 secured by the First and Fourteenth Amendments;  
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- 1 C. Issue a Declaratory Judgment on Count IV that the Defendant,  
2 Mesa Unified School District, violated the rights of Plaintiffs  
3 secured by the Fifth and Fourteenth Amendments;  
4  
5 D. Issue an Injunction against all Defendants to prevent any continued  
6 violation of the rights of Plaintiffs and others similarly situated  
7 secured by the First and Fourteenth Amendments as referable to  
8 the Establishment Clause;  
9  
10 E. Appoint a Monitor to Oversee the Mesa Unified School District for a  
11 period of (3) three years to ensure compliance with the  
12 Establishment Clause as related to its released-time program and  
13 its relationship with the seminary program of the LDS Church;  
14  
15 F. An award of reasonable attorney's fees, costs and disbursements,  
16 pursuant to 28 U.S.C. § 1988; and  
17  
18 G. Such other and further relief as this Court may deem just and  
19 proper under the circumstances.

20 Dated this 16<sup>th</sup> of June, 2014.

21  
22 **Law Office | Robert Evan Trop PLLC**

23 By: s/ Robert E. Trop  
24 Robert E. Trop