

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE**

JOHN H. PEACH, an individual; and  
BILL FRENCH, an individual;

Plaintiffs,

vs.

KNOX COUNTY SCHOOLS a.k.a.  
KNOX COUNTY BOARD OF  
EDUCATION a.k.a. KNOX COUNTY  
SCHOOL DISTRICT a.k.a. KNOX  
COUNTY SCHOOL SYSTEM; JAMES  
P. MCINTYRE, in his individual and  
official capacities; MICHAEL F.  
REYNOLDS, in his individual and  
official capacities; DOES 1-5 in their  
individual and official capacities; and  
DOES 6-10, individuals and unknown  
business entities.

Defendants.

CIVIL ACTION NO. \_\_\_\_\_

**VERIFIED COMPLAINT**

Plaintiffs John H. Peach and Bill French, by and through their undersigned counsel, bring this Complaint against Defendants Knox County Schools a.k.a. Knox County Board of Education a.k.a. Knox County School District a.k.a. Knox County School System, James P. McIntyre and Michael F. Reynolds (hereinafter collectively referred to as “Defendants” or “School District”), their employees, agents, and successors in office, and in support thereof allege the following upon information and belief:

## INTRODUCTION

1. This case seeks to protect and vindicate fundamental constitutional rights. It is a civil rights action brought under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983, challenging Defendants' restriction on Plaintiffs' right to engage in protected speech in a public forum created by Defendants based on the content and viewpoint of Plaintiffs' message.

2. Defendants have created, adopted and enforced an unconstitutional policy that restricts protected speech in a public forum. Defendants' unconstitutional policy of restricting speech by community users of its facilities *stifles, penalizes and curbs* speech deemed too *provocative and challenging*. Acting under color of state law, Defendants implemented its unconstitutional policy by rescinding Plaintiffs' pre-approved application to conduct a "Town Hall Meeting" at Defendants' public high school. Defendants' rescission was based upon "concerns" Defendants' expressed that Plaintiffs' event threatened an unspecified "disruption" of "the educational environment at the school." Defendants' rescission of Plaintiffs' application operated as an unconstitutional prior restraint upon—and a heckler's veto of—Plaintiffs' message and therefore constituted an unlawful speech restriction ("Speech Restriction").

3. Plaintiffs seek a declaration that Defendants violated their clearly established constitutional rights as set forth in this Complaint; a declaration that Defendants' Speech Restriction violates the United States Constitution and 42 U.S.C. § 1983 as set forth in this Complaint; a preliminary and permanent injunction enjoining the enforcement of Defendants' Speech Restriction as set forth in this Complaint; compensatory damages; and nominal damages for the past loss of Plaintiffs' constitutional rights. Plaintiffs also seek an award of reasonable costs

of litigation, including attorneys' fees and expenses, pursuant to 42 U.S.C. § 1988 and other applicable law.

### **JURISDICTION AND VENUE**

4. This action arises under the Constitution and laws of the United States. Jurisdiction is conferred on this court pursuant to 28 U.S.C. §§ 1331 and 1343.

5. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, and by the general legal and equitable powers of this court. Plaintiffs' claim for nominal damages is authorized by 42 U.S.C. § 1983.

6. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this district.

### **PLAINTIFFS**

7. Plaintiff John H. Peach ("Peach") is the director of ACT! for America Knoxville ("ACT! Knoxville"), and he engages in protected speech through ACT's activities, including conducting town hall meetings and presenting featured speakers to address members of the public on issues related to ACT! Knoxville's mission. Plaintiff Peach spent several decades as a Baptist minister prior to retiring. He begins ACT! Knoxville's meetings with prayer.

8. ACT! Knoxville is affiliated with ACT! for America, a 501(c)(4) non-profit issues advocacy organization. ACT! for America's mission is to organize and mobilize a grassroots citizen action network committed to informed and coordinated civic action that will lead to public policies promoting America's national security and the defense of American democratic values against the assault of radical Islam. As an issues advocacy organization, ACT! for America

engages in a wide range of education and advocacy activities. These include influencing legislation and public policy, educating and informing others, and monitoring media coverage of issues. Local chapters are independent chapters that have loosely held affiliation with and may use the name of ACT! for America so long as the local affiliation name is included—such as ACT! for America Knoxville—and the logo.

9. ACT! Knoxville and Plaintiff Peach share the same vision as ACT!’s nationally affiliated parent organization and is dedicated to freedom of speech, freedom of conscience, freedom of religion and individual rights. As part of their shared mission, ACT! Knoxville and Plaintiff Peach:

- 1) promote and implement educational programs that teach and enable citizen participation in the defense of America on the community, city, state, and national level;
- 2) respond to anti-American and anti-Israel media bias and “politically correct” apologists in the media, academia and politics;
- 3) hold elected officials accountable for defending and protecting the United States and its only democratic ally in the Middle East, the State of Israel;
- 4) promote public policies and legislation that defend America and democratic values against those who wish to topple them; and
- 5) partner with like-minded organizations to coordinate effective public relations campaigns to speak out against media bias and religious bigotry wherever it exists.

10. ACT! Knoxville and Plaintiff Peach achieve their objectives through a variety of lawful means, including through the exercise of its right to freedom of speech under the United

States Constitution. ACT! Knoxville and Plaintiff Peach exercise their right to freedom of speech and promote their objectives by, *inter alia*, conducting town hall meetings and presenting featured speakers to address members of the public on issues related to their mission. As ACT! Knoxville's director, Plaintiff Peach engages in speech activities protected by the United States Constitution. As applicable to Plaintiff Peach, the allegations herein derive from the abridgement of his individual constitutional rights.

11. Plaintiff Bill French is an expert on the Koran and Islam, and he engages in protected speech through various activities, including public speaking engagements and public presentations. Plaintiff French holds a PhD in physics and math, NC State University, 1968. He has been a university professor, businessman, and applied physicist. Plaintiff French was a Member of the Technical Staff in solid-state physics at the Sarnoff Princeton Laboratories in the area of integrated circuit structures. During the 1980s energy crisis he founded and operated a company specializing in building energy efficient homes. For eight years, he was a professor at Tennessee State University in the Engineering School.

12. Prior to September 11, 2001, Plaintiff French developed an expertise in religion and its effects on history. On February 21, 2006, Plaintiff French founded the Center for the Study of Political Islam ("CSPI") and serves as its director. The Center's purpose is to educate the world about the political doctrine of Mohammed and his god, Allah. Under the pen name Bill Warner, Plaintiff French has authored a dozen books, including plain English translations of the Koran, a biography of Mohammed and a summary of the political traditions of Mohammed, and developed the first self-study course on Political Islam. On September 12, 2001, Plaintiff French started The Trilogy Project, a program designed to make Islam's three sacred texts, Koran, Sira and Hadith,

understandable to Americans. Plaintiff French has lectured to audiences across the United States, Europe and Canada on Islamic political doctrine. He appears weekly on radio programs on WWTN (Nashville) and WROL (Boston, Mass.). In addition, Plaintiff French writes articles and promotes bulletins chronicling what he refers to as “Political Islam.”

### **DEFENDANTS**

13. Knox County Schools a.k.a. Knox County Board of Education a.k.a. Knox County School District a.k.a. Knox County School System (“School District”) is a public entity established and organized under, and pursuant to, the laws of the State of Tennessee with the authority to sue and be sued in its own name. Farragut High School is a school operated by Defendant School District within the Eastern District of Tennessee. As a governmental agency, Defendant School District is mandated to comply with the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

14. James P. McIntyre, Jr., (“McIntyre”) at all times relevant herein, was the School District’s director of schools/superintendent. Defendant McIntyre is sued both in his individual and official capacities.

15. Michael F. Reynolds, at all times relevant herein, was principal of Farragut High School, a school operated under the authority of Defendant School District, located within its Division 5. Defendant Reynolds is responsible for adopting, implementing, and enforcing School District policies, practices, procedures, and/or customs, including the challenged policy, practice, procedure, and/or custom set forth in this Complaint. Defendant Reynolds is sued both in his individual and official capacities.

16. Plaintiffs do not know the true names and capacities of Defendants DOES 1 through 10, inclusive, and therefore sue these Defendants by such fictitious names. Plaintiffs are informed and believe and thereupon allege that each Defendant so named is responsible in some manner for the injuries and damages suffered by Plaintiffs as are alleged herein. Plaintiffs will amend their complaint to state the names and capacities of Does 1-10, inclusive, when the same have been ascertained.

17. Defendants DOES 1 through 5, inclusive, include School District employees who were acting within the course and scope of their employment and were directly involved in the actions which caused injury and damages to Plaintiffs herein. At all times material hereto, Defendants DOES 1 through 5 sued herein were acting under color of state law.

18. Defendants DOES 6 through 10 include other individuals not acting under color of law but who may have aided and abetted school district employees in conducting acts in violation of common law torts.

## **STATEMENT OF THE FACTS**

### **I. Introduction: “Stealth Jihad” and “Political Islam”**

19. Islam is not merely a religious faith but a political system. That is the argument Plaintiff French has extensively advanced for over a decade through his writings and lectures. The terrorist attacks of September 11, 2001 (“9/11”), earlier terrorist attacks on the World Trade Center (1993), the Khobar Towers (1996), American embassies in Kenya and Tanzania (1998), and the USS Cole (2000), as well as 60 additional attacks in the U.S. since 9/11, including the Boston

Marathon bombings in 2013,<sup>1</sup> anecdotally serve his claim. But Islam, which means *submission*, is also a “jihad,” meaning *struggle*. Much of the attention given to political Islam is focused on *violent* jihad, the struggle to impose Islamic law (“shari’ah”)<sup>2</sup> through violent tactics as evidenced by terrorist attacks against the West and its non-Muslim political systems. *Non-violent* jihad, the expansion of shari’ah through non-violent methods, is less well understood or recognized, particularly in the U.S.

20. One approach to greatly expanding shari’ah in the West is through silencing debate about the radical elements of Islam. One strategy used by the 57 member states of the Organization of Islamic Cooperation (“OIC”)<sup>3</sup> is to persuade international organizations, the United Nations (“U.N.”), the European Union, the U.S., the sovereign states and their political subdivisions to enact laws and policies punishing any speech critical of any aspect of Islam, including the radical elements thereof, and labeling such criticism as “hate speech” against religion.<sup>4</sup> “Hate speech” includes mere criticism of Islam. In 1990, the OIC rejected the U.N.’s Universal Declaration of Human Rights of 1948 and replaced it with the Cairo Declaration on Human Rights in Islam. The

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<sup>1</sup> Zuckerman, Bucci, Carafano, *60 Terrorist Plots Since 9/11: Continued Lessons in Domestic Counterterrorism*, The Heritage Foundation, found at <http://www.heritage.org/research/reports/2013/07/60-terrorist-plots-since-911-continued-lessons-in-domestic-counterterrorism>.

<sup>2</sup> “Shari’ah” is sometimes capitalized and differently spelled. Plaintiffs shall adopt the lower case “shari’ah” spelling, unless quoting from a document.

<sup>3</sup> The OIC, based in Jeddah, Saudi Arabia, was founded in 1969 by 30 Islamic states and now counts 57 member states, making it the second largest international organization after the United Nations. See OIC official website:

[http://www.oic-oci.org/oicv2/page/?p\\_id=52&p\\_ref=26&lan=en](http://www.oic-oci.org/oicv2/page/?p_id=52&p_ref=26&lan=en).

<sup>4</sup> See, e.g., Ayaan Hirsi Ali, “In Holland, Free Speech on Trial,” *Wall Street Journal*, October 11, 2010, <http://online.wsj.com/news/articles/SB10001424052748704657304575539872944767984>.

radical Cairo Declaration<sup>5</sup> does not recognize freedom of religion or freedom of speech for non-Muslims. Article 22 provides:

- a) Everyone shall have the right to express his opinion freely in such manner *as would not be contrary to the principles of the Shari'ah*.
- b) Everyone shall have the right to advocate what is right, and propagate what is good, and warn against what is wrong and evil *according to the norms of Islamic Shari'ah*.
- c) Information is a vital necessity to society. It may not be exploited or misused in such a way *as may violate sanctities and the dignity of Prophets*, undermine moral and ethical Values or disintegrate, corrupt or harm society or weaken its faith.
- d) It is not permitted to excite *nationalistic or doctrinal hatred* or to do anything that may be an incitement to any form of racial discrimination.

(Emphasis added.)

21. Accordingly, criticism of Islam—blasphemy—in any form is a violation of a Muslim’s human rights and is therefore impermissible under shari’ah. The U.S. Supreme Court, however, has held blasphemy laws to be unconstitutional. *See, e.g., Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495 (1952).

22. To silence critics, radical organizations such as the Council on American-Islamic Relations (“CAIR”) pressure private and public entities to prevent criticism of Islam and its beliefs, practices, initiatives and agendas in their venues. Speakers who criticize radical Islam, shari’ah, or any aspect of the religion are accused of engaging in “hate-speech” and are called “bigots,” “Islamophobes,” and other derogatory terms meant to suggest religious intolerance. Such accusations imply victimization and operate as a heckler’s veto. This was the tactic CAIR and a

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<sup>5</sup> <http://www1.umn.edu/humanrts/instate/cairodeclaration.html>

local Muslim cleric used to persuade Defendants to cancel Plaintiffs' Town Hall Meeting, as more fully explained below.

**II. The School District Has Adopted A Community Use Policy  
For Use Of Its Facilities By Third Parties.**

23. The State of Tennessee authorizes local school boards to adopt regulations governing the use of school facilities. In particular, Tenn. Code Ann. § 49-2-210 provides that “Board policies may include guidelines for the participation of school personnel and others, including teachers, students, parents of students and *other persons in the local community.*” (Emphasis added.) In July 1995, the School District Board enacted a community use policy, which was revised in April 2012. Pursuant to the revised policy, “school buildings and grounds or portions thereof may be used for auxiliary, educational, recreational, cultural, and such other purposes as promote the welfare of the community and the educational goals of the Board.”

24. The School District has adopted a “Community Use of School Facilities” policy (“Community Use Policy”) of permitting private groups to use their school property after hours for meetings and other events. A true and accurate copy of the policy is attached to the Complaint as Exhibit 1 and incorporated herein.<sup>6</sup>

25. Use of School District facilities by community groups and groups not associated directly with the school system is administered through the Maintenance & Operations Department.

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<sup>6</sup> Obtained at <http://www.knoxschools.org/Page/4874> on July 14, 2014.

26. The School District provides its school facilities for community use without limitation to groups expressing political and social issues covering a broad spectrum of political views and ideas. Pursuant to the Community Use Policy, the School District accepts all types of groups, including, without limitation, the Boy Scouts, the Cedar Bluff Farragut Optimist Club, the Hardin Valley campus of Cokesbury Church, and a Muslim Community of Knoxville youth group. By policy and practice, Knox has created a limited public forum for events dealing with public, political and religious issues.

27. The Community Use Policy states:

Knox County Schools reserves the right to either cancel an event or offer a substitute facility to an applicant at any time. Knox County Schools will not be responsible for any applicant costs due to such cancellation or change of venue.

**III. Plaintiff Peach Applied For Use Of High School  
Facilities For Plaintiffs' Speech Activities.**

28. Pursuant to the Community Use Policy, on or about December 15, 2013, ACT! Knoxville's agent, Marianne McGill ("McGill"), a member and volunteer of Act!, submitted an online application to Farragut High School, located at 11237 Kingston Pike, Knoxville, TN 37934, for permission to use its facilities to conduct a "Town Hall Meeting" (hereinafter referred to as "the Event"). The Event was to have featured Plaintiff Peach as moderator and two speakers, Plaintiff French and Matt Bonner, a missionary with Crescent Project, a Christian ministry.

29. According to its website,<sup>7</sup> Crescent Project's mission is "to inspire, equip and serve the Church to reach Muslims with the Gospel of Christ for the Glory of God." It asserts:

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<sup>7</sup> <https://www.crescentproject.org/index.cfm/PageID/1480/index.html>

It is our vision to see a day when fear is replaced with love and millions of Christians are actively sharing the truth of Christ with millions of Muslims for the glory of God. We do this through prayer, training, local outreach, and short-term trips.

30. As part of its mission, Crescent Project operates a local outreach program “as a means of sharing the Hope of Christ with Muslims. We are dedicated to establishing growing groups of Christians committed to sharing Christ’s love with the Muslims around them. Our staff act as mentors to the leaders of these groups, and provide ongoing training and resources to help them flourish.”

**IV. The School District Approved the Application To  
Use Facilities for Plaintiff’s Speech Activities.**

31. On November 4, 2013, Kristi Eidemiller, Facilities Use Coordinator within the School District’s Maintenance & Operations Department, wrote to McGill thanking her for her online request for facility use. A true and accurate copy of the letter is attached to the Complaint as Exhibit 2 and incorporated herein. Eidemiller informed McGill of new Policies and Procedures regarding facility use and specified that school facilities may not be used for private profit. Eidemiller further advised that proof of valid insurance was required prior to final approval of any application, that the School District must be listed as Certificate Holder, the insurance must have a rider listing the School District as an “additional insured” party, that the minimum liability coverage must be listed as \$1,000,000, and the minimum property damage coverage must be listed as \$100,000.

32. Plaintiff Peach promptly complied with the requirement by purchasing a comprehensive general liability policy through Shafer Insurance Agency at a cost of \$351.00.

Plaintiff Peach's insurance broker provided the School District with an additional insured endorsement certificate.

33. On or about December 19, 2013, a representative of ACT! Knoxville received an e-mail generated by the School District's automated response system acknowledging the request for use of the facilities by Plaintiffs and indicating it was awaiting approval. A true and accurate copy of the e-mail is attached to the Complaint as Exhibit 3 and incorporated herein. The School District sent an additional e-mail regarding payment of a custodial fee and a security fee. A true and accurate copy of the e-mail is attached to the Complaint as Exhibit 4 and incorporated herein. The e-mail identified Farragut High Auditorium as the reserved location of the event, April 24, 2014 as the date of the event, and 5:00-9:00 p.m. as the time of the event.

#### **V. Plaintiffs Advertised The Event.**

34. On or about March 24, 2014, Plaintiff Peach distributed a press release to the editor of Farragut Press, the local newspaper, announcing the event. The release stated:

International speaker and author, Dr. Bill Warner, will be featured at the Town Hall – Farragut, to be held at Farragut High School at 6:30 p.m., Thursday, April 24. He will explain Sharia law and its implication for non-Muslims. Sharia is derived from the Koran and other documents sacred to Islam and stands as a threat to the Constitution as the primary law of America.

Dr. Warner is the founding director of the Center for the Study of Political Islam (CSPI). He has produced a dozen books, including a simplified and abridged version of the Koran, a biography of Mohammed and a summary of the political traditions of Mohammed. He also developed the first self-study course on political Islam. As one who speaks nationally and internationally about Islamic political doctrine, he also writes articles and produces news bulletins that record the suffering of the victims caused by political Islam.

After 9/11, Dr. Warner decided to make information pertaining to Islam available for the average person. *He will explain how to accommodate the Muslim citizen's right to freedom of religion and the Muslim's obligations as a good American citizen.*

Also speaking at the Town Hall – Farragut will be Matt Bonner, the Southeastern Regional Director of the Crescent Project. *He will discuss building positive relationships with Muslims through Christian outreach.*

The event is being sponsored by ACT! for America - Knoxville Chapter and will be hosted by her director, John H. Peach. After both speakers finish, there will be a panel discussion, in which the audience is invited to participate in a question and answer session. *There is an open invitation for everyone to participate in this meeting.*

(Emphasis added.) A true and accurate copy of the press release is attached to the Complaint as Exhibit 5 and incorporated herein. The release identified Plaintiff Peach as the media contact. Plaintiff Peach also distributed a flyer that stated: “Hear ye, Hear ye. You are invited to a Town Hall Meeting, Learn what Sharia Law is and how it affects your life.” A true and accurate copy of the flyer is attached to the Complaint as Exhibit 6 and incorporated herein. The flyer additionally identified Plaintiff French by his pen name, Dr. Bill Warner, as the featured speaker, and described him as the founder and director of CSPI. It additionally stated that Plaintiff French (1) is the author of a dozen books; (2) that he developed the first self-study course on “*Political Islam*” (emphasis added); (3) that he is an international speaker on Islamic *political* doctrine; and that he (4) documents the suffering of the victims caused by “*Political Islam.*” In short, the flyer’s description of Plaintiff French and the topic of his lecture made no mention of Islam as a religion or its spiritual tenets and did not suggest Plaintiff French would be critical of Muslims or the Islamic faith.

35. The flyer additionally identified Matt Bonner as a panelist at the event. Bonner was described in the flyer as the “Southeast Regional Director of The Crescent Project, a national ministry focused on reaching Muslims for Christ.” The description of Bonner neither stated nor implied that he planned to criticize Muslims or their faith.

## **VI. A Muslim Cleric Requested Cancellation Of Plaintiffs' Event.**

36. On or about April 8, 2014, Defendant Reynolds received an e-mail from AbdelRahman Murphy ("Murphy") requesting cancellation of the Event. A true and accurate copy of the e-mail is attached to the Complaint as Exhibit 7 and incorporated herein. Murphy identified himself as the director of Roots Program,<sup>8</sup> a youth minister with The Muslim Community of Knoxville<sup>9</sup> and a Muslim chaplain at the University of Tennessee, Knoxville. Murphy's letter falsely characterized ACT! Knoxville as an organization with a history of engaging in hate-speech.

37. The flyer attached to Murphy's letter stated: "You Are Invited To A TOWN HALL MEETING. Learn what Sharia Law is and how it affects your life." The flyer identified Plaintiff French as founder and director for the Center of Political Islam by his pen name, Dr. Bill Warner. It identified Matt Bonner as southeast regional director of the Crescent Project, "a national ministry focused on reaching Muslims for Christ." The flyer stated that the evening would include short presentations followed by a Q&A. The flyer made no reference to "anti-Muslim" sentiments or any derogatory statements about Muslims or Islam as a religion.

38. On or about April 9, 2014, Russ Oaks, chief of staff for the School District, emailed Defendant Reynolds to share a statement that was to be submitted to the Farragut Press, a local community news weekly. A true and accurate copy of the e-mail is attached to the Complaint as Exhibit 8 and incorporated herein. The e-mail acknowledged that Defendants provide a "limited public forum" and cannot engage in viewpoint discrimination. Oaks' e-mail stated:

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<sup>8</sup> Roots describes itself on its website (<http://www.rootsprogram.com/>) as a Muslim community faith outreach program.

<sup>9</sup> <http://www.muslimknoxville.org/>

Michael - just wanted to share the statement below. We used this as part of our response to the Farragut Press today concerning the event on the 24th.

‘The event scheduled to take place at Farragut High School on April 24th has no connection to Farragut High School or the Knox County Schools. This is an event hosted by an organization in the community that has scheduled the use of the facility under the terms and conditions of the Board of Education policy on community use of school facilities. *Since the Knox County Schools provides a limited public forum, it is generally prohibited by law from engaging in viewpoint discrimination against any law abiding group seeking to use its facilities.*’

(Emphasis added.)

## **VII. CAIR Requested Cancellation Of Plaintiffs’ Speech Event.**

39. A news release dated April 11, 2014, posted on CAIR’s website,<sup>10</sup> indicating it was distributed via the PRNewswire-USNewswire services, states that CAIR National Communications Director Ibrahim Hooper sent a letter to Farragut High School the day before, April 10. Hooper’s letter, which is quoted in the news release, vilifies Plaintiff French, Bonner and ACT! for America. Hooper wrote:

I wish to bring to your attention our concerns about a program scheduled for April 24 at Farragut High School in which two anti-Muslim speakers are to appear to discuss ‘Sharia Law.’

‘Bill Warner’ (Bill French) is identified by the Southern Poverty Law Center (SPLC) as a member of the “anti-Muslim inner circle.”

[Reference to website link omitted.]

He will appear with Matt Bonner, the southeast regional director of the Crescent Project - a group whose mission is to ‘reach Muslims with the Gospel of Christ.’

Note the anti-Muslim bigotry they both expressed at a previous event. [Reference to website link omitted.]

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<sup>10</sup> <https://www.cair.com/press-center/press-releases/12446-cair-welcomes-cancellation-of-anti-muslim-event-in-tenn-school.html>.

The April 24 event in your school is sponsored by ACT! for America, *another anti-Muslim hate group*.

\* \* \*

I therefore respectfully request that you review district policies to determine whether you high school is an appropriate venue for a potentially hate-filled program.

40. The press release identified Crescent Project’s mission of “reach[ing] Muslims with the Gospel of Christ,” but then referred to Matt Bonner’s “anti-Muslim bigotry,” without explaining the intrinsic contradiction of the assertion. Neither the press release, Hooper’s letter nor the links to videos explained or clarified the basis of CAIR’s false attribution of bigotry to Plaintiffs.

**VIII. Defendants Speculated Plaintiffs’ Speech Would Disrupt The School Environment.**

41. On or about April 10, 2014 — after both Murphy’s e-mail and Ibrahim’s letter were received by Defendants — Defendant Reynolds responded to Oaks’ e-mail from the prior day. A true and accurate copy of the e-mail is attached to the Complaint as Exhibit 9 and incorporated herein. The e-mail stated:

Given the concerns that we have about *the backlash this event could create* for our students, faculty and school community, or any Muslim students or staff or any our students of Middle Eastern decent, and for all the students and staff of Knox County Schools, could we not change the venue of this event to a non-school site. If this event has to occur, could it not be moved to the Sarah Simpson building or a non-school site for the safety of our students and staff?

(Emphasis added.)

42. A short time later, Oaks responded by email: “What are the backlash concerns? Has anyone made a threat?” A true and accurate copy of the e-mail is attached to the Complaint as Exhibit 10 and incorporated herein.

43. Defendant Reynolds replied shortly thereafter:

*We have not heard of any threats yet, but people have not heard the strong anti-Islamic message that this event will convey.*

(Emphasis added.) A true and accurate copy of the e-mail is attached to the Complaint as Exhibit 11 and incorporated herein.

44. Sometime that day, Defendant Reynolds wrote a letter to Defendant McIntyre requesting the Event be cancelled or relocated. A true and accurate copy of the letter is attached to the Complaint as Exhibit 12 and incorporated herein. Reynolds stated, in pertinent part:

While we have many concerns about this event taking place at Farragut High, the most immediate concern involves the disruption to the educational process, especially considering that April 24th is a school day. *Based on what we have learned about this event*, we feel it will serve as a public forum for harassment and bullying practices that contradict the open-minded, academic discussion we seek to teach and foster at Farragut High School.

(Emphasis added.)

45. The letter gave no explanation for how an after-hours event would disrupt the “educational process,” failed to set forth specific facts justifying the concern, and failed to detail in any particular way how the Event would serve as a forum for “harassment and bullying practices” inconsistent with the school’s “open-minded, academic discussion we seek to teach and foster.”

46. Defendant Reynolds further wrote:

Groups promoting hate rather than tolerance do not contribute to the enhancement of learning for all of our students in Knox County.

Defendant Reynolds did not specify a factual basis for the implication that Plaintiffs promoted “hate,” nor what he meant by the term “tolerance.” Defendant Reynolds did not specify the means or manner in which Plaintiffs’ message would be a distraction to the educational process or school activities.

47. Defendant Reynolds further wrote:

[P]roviding a platform to individuals *who actively seek to disparage others* runs counter to our educational goals and sends an unspoken message to our students and their families that religious and political discrimination is tolerated.

(Emphasis added.). Defendant Reynolds did not specify any instance in which Plaintiffs actively sought to disparage anyone.

48. Defendant Reynolds added:

Regardless of personal convictions regarding Islam, *little positive press or educational benefit will be derived from this event.... We fear that this event, held at but not sponsored by Farragut High School, will polarize our community and student body because it will be deemed ours by association. The public will make false assumptions about our faculty, staff and school climate, threatening the tolerance and respect that our young people exhibit.*

(Emphasis added.) Defendant Reynolds did not explain the basis for his belief that the event would polarize “the community,” threaten “tolerance and respect” or identify any facts to show that he was in possession of knowledge concerning events having an adverse impact on the school or the community occurring sometime in the future.

49. Defendant Reynolds continued to explain his concerns in exaggerated terms, mimicking the false accusations made by Murphy and Hooper that Plaintiffs were “anti-Muslim”:

Although the event is described as a town hall forum, only an anti-Muslim perspective will be presented. The potential retaliation of opposing groups could pose future security threats

to our facility or jeopardize the personal safety of our students, who are our first priority at FHS. ACT! for America's own web site describes itself as "a citizen action network that aggressively promotes and implements educational programs that teach and enable citizens participation in the defense of America." Should that tone be reflected in the April 24 event, we are concerned about the potential backlash against some of our students and staff. For example, the ACT! website includes images of 9/11 that still stir strong emotions among people of this country, state, and community by allowing this event occur at a KCS school.

\* \* \*

This group, one which is not representative of our school culture or community, or even the culture of Knox County Schools would change that.... If groups like these come into our school, our students will not feel safe.

Defendant Reynolds did not specify the basis of his assertion that student safety would be compromised.

#### **IX. The School District Rescinded Its Agreement Approving Plaintiffs' Use Of School Facilities.**

50. The next day, April 11, 2014, Defendant McIntyre sent a letter to McGill, ACT! Knoxville's agent, rescinding the agreement for the Event. A true and accurate copy of the letter is attached to the Complaint as Exhibit 13 and incorporated herein. McIntyre wrote:

*The administration at Farragut High School has expressed concerns to me about the disruption your event scheduled for April 24th is causing to the educational environment at the school.*

The primary purpose of our school facilities is to provide a safe, healthy and comfortable learning environment for our students. When other uses of the facility begin to impinge on or interfere with the administration's ability to provide a suitable educational atmosphere, it is necessary for us to reconsider that use.

(Emphasis added.) Defendant McIntyre did not identify facts supporting the assertion that Plaintiffs' event had already disrupted the educational environment of the school. Nor did Defendant McIntyre identify facts supporting the assertion that Plaintiffs' event impinged upon or

had interfered with the administration's ability to provide a suitable educational atmosphere, it is necessary for us to reconsider that use.

51. On April 11, 2014, the day after the news interview, a news reporter notified Plaintiff Peach of Defendants' cancellation of the event. Plaintiff Peach was never contacted directly by a representative of the School District to discuss the obloquy Defendants and others had directed at Plaintiffs and their activities.

52. Plaintiffs desire to conduct after-hours public events at Defendants' facilities in the future but feel they will be prevented from such use of Defendants' facilities. Unless enjoined and restrained by this court, Defendants will continue to refuse to allow Plaintiffs access to Defendants' facilities for the presentation of events, including events discussing shari'ah and Islam.

**FIRST CLAIM FOR RELIEF**  
(Freedom of Speech—First Amendment)

53. Plaintiffs hereby incorporate by reference all preceding paragraphs in the complaint.

54. Plaintiffs' message constitutes political and religious expression. Defendants' rescission of Plaintiffs' application for use of a public high school facility for the purpose of conducting a "town hall" meeting and to engage in protected speech constituted an unlawful Speech Restriction.

55. Defendants created, adopted, and enforced the Speech Restriction under color of state law and thereby deprived Plaintiffs of their right to engage in protected speech in a public forum in violation of the Free Speech Clause of the First Amendment as applied to the states and

their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

56. By adopting a Community Use Policy under which Defendants could exercise unbridled discretion and exclude certain forms of political and/or religious messages they subjectively deem unfit for and incompatible with the Defendants' educational mission, Defendants have engaged in viewpoint discrimination in violation of the First Amendment to the United States Constitution, thereby harming Plaintiffs and the speakers and participants at Plaintiffs' speech event.

57. The Community Use Policy and/or practice of the School District is vague, indefinite and overbroad, without any guiding standards for officials applying or enforcing the policy and/or practice to determine what political and/or religious messages are appropriate and so violates the First Amendment to the United States Constitution.

58. By virtue of Defendants' policy, practice, custom, acts, and omissions, engaged in under color of state law, Plaintiffs were deprived of the use of a public facility without regard to their constitutional rights, including their right under the First Amendment to speak in a public forum.

59. Defendants' Speech Restriction, facially and as applied to Plaintiffs' speech, is content- and viewpoint-based in violation of the Free Speech Clause of the First Amendment.

60. Defendants' Speech Restriction operates as a prior restraint on Plaintiffs' speech; therefore, it comes to this court bearing a heavy presumption against its constitutional validity.

61. Defendants' Speech Restriction, facially and as applied to Plaintiffs' speech, is unreasonable and an effort to suppress expression merely because public officials oppose the

speaker's view on the basis of misinformation, false assertions and labeling, undifferentiated fear or apprehension of disturbance and other factors.

62. Defendants' Speech Restriction was motivated by a discriminatory animus towards Plaintiffs and the viewpoints they express concerning shari'ah.

63. Defendants' Speech Restriction, facially and as applied to Plaintiffs' speech, offends the First Amendment by granting a public official unbridled discretion such that the official's decision to limit speech is not constrained by objective criteria, but may rest on ambiguous and subjective reasons.

64. Defendants' Speech Restriction operates as an unconstitutional prior restraint on protected speech and as a heckler's veto

65. Plaintiffs are entitled to relief under 42 U.S.C. § 1983 for the deprivation of rights caused by the Defendants.

**SECOND CLAIM FOR RELIEF**  
(Equal Protection—Fourteenth Amendment)

66. Plaintiffs hereby incorporate by reference all preceding paragraphs in the complaint.

67. By virtue of Defendants' policy, practice, custom, acts, and omissions, engaged in under color of state law, Plaintiffs were deprived of the use of a public facility without regard to their constitutional rights, including their right under the Fourteenth Amendment to have equal access to a public forum. Defendants created, adopted, and enforced its Speech Restriction under color of state law. Defendants have unconstitutionally deprived Plaintiffs of the equal protection of the law guaranteed under the Fourteenth Amendment to the United States Constitution and 42

U.S.C. § 1983, in that Defendants are preventing Plaintiffs from expressing a message in a public forum based on the content and viewpoint of the message, thereby denying the use of this forum to those whose views Defendant finds unacceptable.

68. Defendants' Speech Restriction was motivated by a discriminatory animus towards Plaintiffs and the viewpoints they express about shari'ah.

69. As a direct and proximate result of Defendants' violation of the Equal Protection Clause of the Fourteenth Amendment, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and nominal damages.

**THIRD CLAIM FOR RELIEF**  
(Due Process—Fourteenth Amendment)

70. Plaintiffs hereby incorporate by reference all preceding paragraphs in the complaint.

71. By virtue of Defendants' policy, practice, custom, acts, and omissions, engaged in under color of state law, Plaintiffs were deprived of the use of a public facility without regard to their constitutional rights, including their right under the Fourteenth Amendment to be afforded due process under the law. Defendants created, adopted, and enforced its Speech Restriction under color of state law. Defendants have unconstitutionally deprived Plaintiffs of the equal protection of the law guaranteed under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983, in that Defendants are preventing Plaintiffs from expressing a message in a public forum based on the content and viewpoint of the message, thereby denying the use of this forum to those whose views Defendant finds unacceptable. Defendants have unconstitutionally deprived

Plaintiffs of the due process of law guaranteed under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

72. It is a basic principle of due process that a regulation is void for vagueness if its prohibitions are not clearly defined.

73. Defendants' Speech Restriction, facially and as applied to Plaintiffs' speech, offends the Fourteenth Amendment's guarantee of due process by granting a public official unbridled discretion such that the official's decision to limit speech is not constrained by objective criteria, but may rest on ambiguous and subjective reasons.

74. Defendants' Speech Restriction, facially and as applied to Plaintiffs' speech, is unconstitutionally vague in violation of the Fourteenth Amendment.

75. As a direct and proximate result of Defendants' violation of the Due Process Clause of the Fourteenth Amendment, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and nominal damages.

**FOURTH CLAIM FOR RELIEF**  
(Establishment Clause—First Amendment)

76. Plaintiffs hereby incorporate by reference all preceding paragraphs in the complaint.

77. By virtue of the aforementioned policy, practice, custom, acts, and omissions, engaged in under color of state law, Defendants have violated the Establishment Clause of the First Amendment to the United States Constitution as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

78. Defendants' policy, practice, and/or custom of prohibiting Plaintiffs from using Defendants' facilities for the purpose of censoring Plaintiffs' religious message lacks a valid secular purpose, has the primary effect of inhibiting religion, and creates an excessive entanglement with religion in violation of the United States Constitution.

79. Defendants' policy, practice, and/or custom of prohibiting Plaintiffs from using Defendants' facilities for the purpose of censoring Plaintiffs' religious message conveys an impermissible, government-sponsored message of disapproval of and hostility toward Plaintiffs' Christian beliefs, the Christian religion and our nation's Christian religious heritage. As a result, Defendants' Speech Restriction sends a clear message to Plaintiffs that they are outsiders and not full members of the political community. As a further result, Defendants' Speech Restriction sends an accompanying message that those who disfavor Plaintiffs' Christian beliefs, the Christian religion and our nation's Christian heritage are insiders and thus favored members of the political community in violation of the United States Constitution.

80. As a direct and proximate result of Defendants' violation of the Establishment Clause of the First Amendment, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and nominal damages.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment against Defendants and provide Plaintiffs with the following relief:

- A. That this Court enter a judgment declaring Defendants violated 42 U.S.C. § 1983;

B. That this Court declare that Defendant violated the First and Fourteenth Amendments to the United States Constitution as set forth in this Complaint;

C. That this Court issue an injunction preliminarily and permanently:

1. ordering Defendants to permit Plaintiffs to utilize Defendants' facilities after-hours; and
2. abrogating Defendants' Speech Restriction, as set forth in this Complaint;

D. That this Court award Plaintiffs nominal damages for the past loss of their constitutional rights as set forth in this Complaint;

E. That this Court award Plaintiffs compensatory damages according to proof;

F. That this Court award Plaintiffs their reasonable attorney fees, costs, and expenses pursuant to 42 U.S.C. § 1988 and other applicable law; and

G. That this Court grant such other and further relief as this court should find just and proper.

**VERIFICATION OF COMPLAINT**

I, John Peach, a citizen of the United States and a resident of Knoxville, Tennessee, hereby declare that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged therein are true and correct.

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John H. Peach

**VERIFICATION OF COMPLAINT**

I, Bill French, a citizen of the United States and a resident of Nashville, Tennessee, hereby declare that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged therein are true and correct.

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Bill French

Respectively submitted this 4th day of August, 2014,

By:

/s William J. Becker, Jr.

William J. Becker, Jr.\*

CA Bar No. 134545

CO Bar No. 32412

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Bill French

\* Motion for admission *pro hac vice* filed  
Concurrently