

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

FREEDOM FROM RELIGION FOUNDATION, )  
INC., DAN BARKER, ANNIE LAURIE )  
GAYLOR, AND DAVID WILLIAMSON, )  
 )  
Plaintiffs )  
 )  
v. )  
 )  
ORANGE COUNTY SCHOOL BOARD, )  
 )  
Defendant )  
\_\_\_\_\_ )

Civil Action No: \_\_\_\_\_

**COMPLAINT – INJUNCTIVE RELIEF SOUGHT**

**INTRODUCTION**

1. Defendants Orange County School Board created a limited public forum in Orange County public schools. Defendants then permitted an evangelical Christian group to distribute Bibles in that forum. In response, Plaintiffs sought to distribute their own atheist, humanist, and freethought literature. Defendants prohibited most of Plaintiffs’ literature.

2. Prior to the distribution, Defendants censored Plaintiffs’ message, which was critical of the Bible and religion. Defendants prohibited one of Plaintiffs’ books in part because, “[t]he claim that Jesus was not crucified or resurrected is age inappropriate for the maturity levels of many of the students in high school.” *Exhibit A, page 2, ¶ 3*. The

Bible Defendants approved for distribution claims that Jesus was crucified and resurrected. Permitting one viewpoint (the crucifixion and resurrection occurred) and censoring the opposing viewpoint (the crucifixion and resurrection did not occur) is unconstitutional.

3. Defendants' justifications for prohibiting Plaintiffs' literature apply with equal force to the Bible. Though equally objectionable, the *New International Version* Bible, which expresses a Judeo-Christian view of God and religion, was approved and distributed while Plaintiffs' literature expressing an opposing view was prohibited.

4. Plaintiffs seek relief from this illegal viewpoint discrimination and prior restraint including a declaration that the censorship violates the First and Fourteenth Amendments and an injunction against future viewpoint discrimination and prior restraint.

5. Our public schools exist to educate, not to serve as conduits for advertisers, proselytizers, and special interest groups seeking to propagandize a captive audience of young students. Plaintiffs prefer that no dissemination of outside materials, such as Bibles or their own literature, occur in Orange County Public Schools. But since Defendants are allowing distributions, all viewpoints must now be granted fair and equal access.

### **PARTIES**

6. Plaintiff Freedom From Religion Foundation ("FFRF") is a national non-profit IRC 501(c)(3) educational charity and a Wisconsin non-stock corporation. FFRF

defends the constitutional separation between state and church, and educates the public about the views of non-theists. FFRF has more than 19,000 members nationwide, including more than 900 members in Florida, members in Orange County, and a local chapter, the Central Florida Freethought Community (CFFC). FFRF advocates on behalf of its members throughout the United States.

7. Eight members of FFRF participated in the May 2<sup>nd</sup> literature distribution. FFRF sells one and publishes four pieces of literature prohibited by Defendants.

8. Plaintiff Dan Barker is Co-President of FFRF and author of two pieces of literature prohibited by Defendants: *Why Jesus?* and *Dear Believer*.

9. Plaintiff Annie Laurie Gaylor is Co-President of FFRF and author of one piece of literature prohibited by Defendants: *What does the Bible say about Abortion?* Plaintiff Gaylor edited another prohibited noncontract, *An X-Rated book: Sex and Obscenity in the Bible*.

10. Plaintiff David Williamson is a member of FFRF, Organizer of CFFC, and is a resident of Florida. Williamson, on behalf of FFRF and CFFC, sought to distribute atheist and humanist materials in Orange County Public Schools (OCPS).

11. Defendants injured Plaintiffs by prohibiting most of the materials they proposed to distribute.

12. Plaintiffs intend to repeat this distribution every school year.

13. Defendant Orange County School Board is a body politic and corporate entity that was established, organized, and authorized pursuant to Florida state law with the

authority to sue and be sued, and was at all times relevant herein acting within the course and scope of its authority and under color of State law. The Board is responsible for governing OCPS and is the final policymaker for the limited public forum created therein.

14. The Board, through various agents and employees, prohibited Plaintiffs from distributing most of their literature.

### **JURISDICTION & VENUE**

15. This action arises under the First and Fourteenth Amendments to the U.S. Constitution and 42 U.S.C. § 1983. This Court has jurisdiction under Article III of the U.S. Constitution and 28 U.S.C. § 1331.

16. Declaratory relief is sought under 28 U.S.C. §§ 2201 and 2202.

17. This Court is the proper venue pursuant to 28 U.S.C. § 1391(b).

### **FACTS & ALLEGATIONS**

18. Defendants created a limited public forum in Orange County public schools.

19. Groups with no relation to OCPS (“outside groups”) are permitted to passively distribute materials in the forum, if Defendants approve those materials first.

20. Defendants explain, “Passive distribution means the approved materials may be placed on one unmanned table for distribution in a location where students normally congregate during non-instructional time.” Representatives of outside groups must not speak to or encourage students to take materials. *Exhibits K and L.*

**21.** On January 16, 2013, an outside group, World Changers of Florida (WCF) used the forum to distribute *New International Version* Bibles to students in eleven of Defendants’ public schools.

**22.** The Bibles distributed by WCF are a specific, evangelical translation “of the Word of God, through which [many] will hear his call to faith in our Lord Jesus Christ and to service in his Kingdom.” Committee on Bible Translation, “A Word about the NIV,” in *Holy Bible, New International Version*, 877 (Biblica, Inc. 2011) (hereinafter “WCF NIV Bible”).

**23.** Defendants did not vet or read the WCF NIV Bible prior to approval.

**24.** Defendants did not object to a single word in the WCF NIV Bible, but approved it fully and without comment for distribution in public schools.

**25.** WCF is an evangelical group that “support[s] the biblical account of Creation, including having Creation theory taught in our public schools” and “speak[s] out against humanistic views contrary to the Biblically [*sic*] based founding fathers’ Constitutional vision.”<sup>1</sup>

**26.** Plaintiffs expressed to Defendants their belief that public schools should not allow literature distributions by outside groups in a January 15, 2013 letter. *Exhibit D*.

Plaintiff Williamson reiterated this opinion to Defendants at their January 29 school board meeting. In the January 15 letter, Plaintiffs encouraged Defendants to adopt a policy that “prohibits outside groups from turning schools into religious battlegrounds

---

<sup>1</sup> World Changers of Florida website, [http://www.worldchangersfl.com/?page\\_id=12](http://www.worldchangersfl.com/?page_id=12) (“About Us” tab, then “Our Objectives”), last accessed May 6, 2013.

while preserving the distribution system for the benefit of the school” and suggested model language. Defendants refused. *Exhibit E*.

**27.** Plaintiffs alternately asked to “arrange for the distribution of FFRF materials in OCPS schools sometime in the next two weeks.” OCPS Counsel granted verbal permission for Plaintiffs’ distribution and confirmed permission in a January 22, 2013 letter. *Exhibit E*.

**28.** The January 22 letter stated that Defendants: “...require the materials to be submitted to us in order to ensure they are not the types of materials we may prohibit from distribution under the Collier County Consent Decree.”

**29.** Defendants have no written policy<sup>2</sup> on distributing of materials by outside groups in their limited public forum, but by practice follow the Collier County Consent Decree.

**30.** The Collier County Consent Decree is an agreement between the District School Board of Collier County and WCF. Neither Plaintiffs nor Defendants are parties to the decree, which has no precedential value. The decree prohibits viewpoint discrimination. *Exhibit F, pp. 2-3*.

**31.** WCF was the first outside group to use the forum.

**32.** On January 29, 2013 Plaintiff Williamson submitted Plaintiffs’ and other secular groups’ desired literature to OCPS counsel John Palmerini for approval.

**33.** The materials included nine “nontracts,” five brochures, eight books, one essay, and one sticker.

---

<sup>2</sup> Defendants’ policy KHC is dedicated to outside groups distributing materials “through pupils,” which neither WCF nor Plaintiffs used. Policy KHC prohibits the distribution of religious literature.

**34.** “Nontracts” are the freethought answer to ubiquitous religious tracts. They are brief, easy to read, 3 1/2 x 4 1/4-inch folded brochures that address many common myths about freethought or religion. Their size requires that they contain significantly less information than a book.

**35.** Plaintiffs voluntarily rescinded three books.

**36.** Plaintiffs rescinded the books under pressure by Defendants, who were delaying approval.

**37.** Defendants prohibited four of Plaintiffs’ five remaining books leaving one partial book and several small pamphlets. Even though 11 of 20 submitted materials were approved, the substantial majority of Plaintiffs’ message was forbidden.

**38.** The full literature list and approval result appears below:

**Nontracts:**

- |   |                                |
|---|--------------------------------|
| a. Why Jesus? <sup>3</sup>                                      | <b>Prohibited</b>              |
| b. Dear Believer <sup>4</sup>                                   | <b>Prohibited</b>              |
| c. An X-Rated Book: Sex and Obscenity in the Bible <sup>5</sup> | <b>Prohibited</b>              |
| d. What Does The Bible Say About Abortion? <sup>6</sup>         | <b>Prohibited</b>              |
| e. Why Women Need Freedom From Religion                         | Approved, solicitation removed |
| f. What Is A Freethinker?                                       | Approved, solicitation removed |
| g. What’s Wrong With The Ten Commandments?                      | Approved                       |
| h. What They Said About Religion                                | Approved                       |
| i. Ten Common Myths About Atheists                              | Approved                       |

**Brochures:**

- |  |                                |
|--|--------------------------------|
| j. Secular Student Alliance                    | Approved, solicitation removed |
| k. What is an Atheist?                         | Approved                       |
| l. Nontheistic Students in Your School         | Approved                       |
| m. I’m A Humanist/Humanist of Year wallet card | Approved                       |
| n. Don’t Believe in God? You May be a Humanist | Approved                       |

**Essay:**

- |  |                   |
|--|-------------------|
| o. <i>The Truth</i> – Robert Green Ingersoll | <b>Prohibited</b> |
|--|-------------------|

**Books:**

- |  |                      |
|--|----------------------|
| p. Letter To A Christian Nation – Sam Harris       | <b>Prohibited</b>    |
| q. Why I Am Not A Muslim – Ibn Warraq              | <b>Prohibited</b>    |
| r. Jesus Is Dead – Robert Price                    | <b>Prohibited</b>    |
| s. What On Earth Is An Atheist – Madalyn M. O’Hair | <b>Prohibited</b>    |
| t. God Is Not Great – Christopher Hitchens         | Plaintiffs rescinded |
| u. The God Delusion – Richard Dawkins              | Plaintiffs rescinded |
| v. Why I Am Not A Christian – Bertrand Russell     | Plaintiffs rescinded |
| w. The Age Of Reason, Pt. III – Thomas Paine       | Approved             |

**Sticker:**

- |                     |                         |
|---------------------|-------------------------|
| x. Good without God | All stickers prohibited |
|---------------------|-------------------------|

---

<sup>3</sup> Text of nontract is Exhibit G.

<sup>4</sup> Text of nontract is Exhibit H.

<sup>5</sup> Text of nontract is Exhibit I.

<sup>6</sup> Text of nontract is Exhibit J.



39. Defendants eventually approved a distribution date of May 2, 2013 for literature surviving the approval process. Out of seven books and one partial book, only the partial book survived the approval process.

40. On April 22, less than two weeks before the May 2 distribution, Defendants censored all but one of the books and four of the nine noncontracts. Defendants forbade the Ingersoll essay on April 25. *Exhibits A and B*.

41. Plaintiff protested this censorship in an April 23 letter. *Exhibit C*. Defendants maintained that the censorship was valid in their April 25 letter. *Exhibit B*.

42. Defendants approved WCF NIV Bibles for distribution that contained content virtually identical to Plaintiffs', but a message contrary to Plaintiffs' message. "When the government targets not subject matter, but particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant." *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 829, 115 S. Ct. 2510, 2516, 132 L. Ed. 2d 700 (1995).

43. For instance, Defendants prohibited the *Why Jesus?* noncontract alleging it "will cause a substantial disruption because it argues that Jesus did not promote equality and social justice, was not compassionate, was not reliable and was not a good example." *Exhibit A*.

44. *Why Jesus?* asks questions such as "Was Jesus peaceable and compassionate?," and "What were his views on equality and social justice?" It answers these questions with 49 Bible quotes and concludes by noting, "Although other verses can be cited that

portray Jesus in a different light, they do not erase the disturbing side of his character.”

*Exhibit G.* The Christian viewpoint presented in the WCF NIV Bible was permitted in schools; the Plaintiffs’ critical, freethought viewpoint was prohibited. Both relied on the content of the Bible.

45. Defendants suppressed another noncontract, *Dear Believer*, alleging it “will cause a substantial disruption” because it “asserts that God is hateful, arrogant, sexist and cruel.”<sup>7</sup> *Exhibit A.*

46. *Dear Believer* makes this assertion citing ten examples from the Bible. *Exhibit H.* The noncontract expresses a viewpoint on the same topic as the WCF NIV Bible — the nature of the biblical god — but reaches a skeptical or critical conclusion. Plaintiffs’ viewpoint was censored; the evangelical Christian biblical viewpoint was not.

47. In addition to claiming that some of Plaintiffs’ literature will likely cause a “disruption,” Defendants claimed that some was “age inappropriate.”

48. The most blatant abuse of this rationale to muzzle a particular viewpoint was permitting the WCF NIV Bible while censoring Robert Price’s book, *Jesus is Dead*, because the “claim that Jesus was not crucified or resurrected is age inappropriate.” Defendants do not object to the content (the crucifixion and resurrection), but to Plaintiffs’ “*claim*” that neither occurred.

49. Defendants censored *Letter to a Christian Nation*, a New York Times bestseller written by Sam Harris, for several reasons, including:

---

<sup>7</sup> The actual quote is “the God of the Bible, a hateful, arrogant, sexist, cruel being who can’t tolerate criticism.” Ironically, this criticism of that god was censored.

“On page 94, when describing the religious rituals of many ancient societies, the book described the sacrifice of virgins, killing and eating of children in order to ensure the future fertility of mothers, feeding infants to sharks, and the burning of widows so they can follow their husbands into the next world. These concepts are not appropriate for the age and maturity of high school students.”

**50.** The concepts that Defendants claim are age inappropriate — human sacrifice, cannibalizing children, feeding children to animals, and burning people to death — all appear in the WCF NIV Bible (as Harris points out three paragraphs later).

**51.** The Book of Judges describes how Jephthah sacrificed his “virgin” daughter to the “LORD” in return for helping him “devastate” twenty Ammonite towns. 11:29-40.<sup>8</sup> Human sacrifice is common in the Bible. *See* Exodus 22:29-30; 1 Kings 13:1-2; 2 Kings 3:27; 2 Kings 23:20; Numbers 31:40; Deuteronomy 13:13-18; in Genesis 22:1-10 (God demands that Abraham sacrifice Isaac); and, of course, the sacrifice of Jesus in the New Testament.

**52.** Cannibalism of children frequently appears in the district-approved Bible: “You will eat the flesh of your sons and the flesh of your daughters.” Leviticus 26:29. “...you will eat the fruit of the womb, the flesh of the sons and daughters ...” Deuteronomy 28:53. *See also* Deuteronomy 28:57; Isaiah 9:20, 49:26; Jeremiah 19:9; Ezekiel 5:10; 2 Kings 6:28-29; Lamentations 4:10; Revelation 17:16.

**53.** The Bible does not record any instances of feeding children to sharks,<sup>9</sup> but the biblical deity does feed children to bears. Elijah, a balding biblical prophet, “called

---

<sup>8</sup> All Bible quotes in this Complaint are from the *New International Version* Bible, the same version distributed in the OCPS limited public forum by WCF.

<sup>9</sup> The biblical deity does direct a huge fish to eat Jonah, but no digestion occurs: “Now the LORD provided a huge fish to swallow Jonah, and Jonah was in the belly of the fish three days and three nights.” Jonah 1:17.

down a curse ... in the name of the Lord” on children who mocked his receding hairline and “two bears came out of the woods and mauled forty-two of the boys.” 2 Kings 2:24.

**54.** The Bible mandates burning people to death: “If a man marries both a woman and her mother, it is wicked. Both he and they must be burned in the fire...” Leviticus 20:14. Also, “If a priest’s daughter defiles herself by becoming a prostitute, she disgraces her father; she must be burned in the fire.” Leviticus 21:9. According to the Bible, the biblical deity burns people to death himself: “And fire came out from the LORD and consumed the 250 men ...” Numbers 16:35 *See also* Deuteronomy 32:22; *Numbers* 11:1; Psalm 21:9; Leviticus 10:1-2; Jeremiah 49:2; Isaiah 24:6, 33:12, 47:13-14; Ezekiel 15:6-7; 2 Kings 1:10, 12.

**55.** The WCF NIV Bible contains equally, if not more objectionable concepts than those to which Defendants objected to in Harris’s book. Defendants approved the WCF NIV Bible, but not *Letter to a Christian Nation*.

**56.** Defendants prohibited another book, *What on Earth is an Atheist?*, for its alleged disruptive capacity in part because “the District’s administration will not permit the distribution of materials insulting religions.” *Exhibit A, page 2 ¶ 4*.

**57.** Again, the WCF NIV Bible contains identical content, but from a different viewpoint. Not only does the Bible insult other religions and nonbelief (“The fool says in his heart, ‘There is no God.’ They are corrupt, their deeds are vile; there is no one who does good.” Psalm 14:1; “...many deceivers, who do not acknowledge Jesus Christ as coming in the flesh, have gone out into the world. Any such person is the deceiver

and the antichrist.” 2 John 1:7), it actually orders readers to murder people of other religions or no religion, especially family members:

If your very own brother, or your son or daughter, or the wife you love, or your closest friend secretly entices you, saying, “Let us go and worship other gods” (gods that neither you nor your ancestors have known, gods of the peoples around you, whether near or far, from one end of the land to the other), do not yield to them or listen to them. Show them no pity. Do not spare them or shield them. You must certainly put them to death. Your hand must be the first in putting them to death, and then the hands of all the people. Stone them to death, because they tried to turn you away from the LORD your God, who brought you out of Egypt, out of the land of slavery. Then all Israel will hear and be afraid, and no one among you will do such an evil thing again. Deuteronomy 13:6-11.

**58.** The WCF NIV Bible insults those not believing in the Judeo-Christian God and calls for their execution, yet Defendants permitted its distribution. *What on Earth is an Atheist?* does not call for the execution of Christians, it merely “discusses what it views to be the shortcomings of the Mormon Church and the Roman Catholic Church,” yet Defendants prohibited its distribution. *Exhibit A, page 2 ¶ 4.*

**59.** Defendants’ letters actually concede discrimination against Plaintiffs’ message:

“... could lead to a substantial disruption at school by those students who believe life begins at conception.” *Exhibit A, page 2 ¶ 2B.*

“...likely to cause a substantial disruption at the school, especially if read by those students who believe that God condemns abortion.” *Exhibit A, page 2 ¶ 2D.*

“... cause a substantial disruption to those students who practice the Islamic faith.” *Exhibit A, page 3 ¶ 5A.*

“The District’s Administration believes such statements read by students who are Protestants or Catholics will cause a substantial disruption in schools...” *Exhibit B, page 3-4.*

**60.** Government cannot prohibit minority speech because the majority might become disruptive: “The whole theory of viewpoint neutrality is that minority views are treated with the same respect as are majority views. Access to a public forum, for instance, does not depend upon majoritarian consent.” *Bd. of Regents of Univ. of Wisconsin Sys. v. Southworth*, 529 U.S. 217, 235, 120 S. Ct. 1346, 1357, 146 L. Ed. 2d 193 (2000).

**61.** The subject matter of the WCF NIV Bible and Plaintiffs’ literature is strikingly similar. But the *message* Plaintiffs’ literature conveys opposes the WCF NIV Bible’s message. The chief difference is the message; the message is what Defendants find objectionable.

**62.** “It is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys.” *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 828, 115 S.Ct. 2510, 132 L.Ed.2d 700 (1995).

**63.** Two other factors show Defendants’ discrimination against Plaintiffs.

**64.** First, WCF put up interactive whiteboards,<sup>10</sup> had volunteers staffing the tables to talk with students,<sup>11</sup> and passed out invitations to worship at the Orlando Wesleyan Church.<sup>12</sup> Some schools provided material assistance, in the form of transportation for the WCF NIV Bibles, to WCF<sup>13</sup> while forcing Plaintiffs’ volunteers to wait for over an hour to be escorted through campus.

---

<sup>10</sup> The boards read “WHAT IS YOUR BIGGEST QUESTION ABOUT THE BIBLE? Don’t be shy... Take a marker and write your thoughts below. Also, feel free to pick up a Free Bible!” Exhibit M.

<sup>11</sup> Exhibit N.

<sup>12</sup> Exhibit O.

<sup>13</sup> Exhibit P.

**65.** Defendants allowed WCF an active distribution and enforced the passive distribution rules against Plaintiffs. Plaintiffs attempted to pass out a pizza party invitation similar to the Wesleyan invitation but were censored at several schools.

**66.** Second, Defendants continually delayed Plaintiffs' distribution efforts and blamed delays on the Plaintiffs:

[I]t may help expedite matters if the number of materials to be reviewed is reduced. World Changers only had one book for distribution. If you could identify the 2-3 books you would most prefer to be distributed, we could concentrate our review on those. Let me know which ones you want to select for distribution. *Email from John Palmerini, OCPS Counsel, to Andrew Seidel, FFRF Attorney (Feb. 19, 2013, 12:54 CST) (on file with recipient).*

Plaintiffs agreed to withdraw three books but pointed out the unfairness of this request:

We've removed some of the more controversial books. We are now down from 8 to 5. Thomas Paine's the Age of Reason should be a shoe-in, taking the number of books you need to review down to 4. Even so, it is not the number of books that is relevant to the review process, but the volume. The average Bible contains about 780,000 words and a typical book (printed in normal font size and not on onion skin paper) has about 400 words per page. So a Bible, printed as our books are printed, would be about 1,950 pages. Our books total 1,184 pages (excluding Thomas Paine ...). Moreover, there are actually 66 books in Bible (give or take depending on your particular religion). Either way you look at it, the Bible is more massive than all the materials we are asking to distribute put together. *Email from Andrew Seidel to John Palmerini (Feb. 19, 2013, 15:33 CST) (on file with author).*

**67.** Defendants prohibited all four of the books Plaintiffs' submitted for review in the above email. Plaintiff was left with Part III of Thomas Paine's Age of Reason and several small pamphlets. Even though 11 of 20 submitted materials were approved, the substantial majority of Plaintiffs' message was forbidden.

68. Plaintiffs challenge the distribution practice as applied to their literature.

**COUNT I: VIOLATION OF FREEDOM OF SPEECH UNDER THE FIRST  
AMENDMENT TO THE UNITED STATES CONSTITUTION**

**(Viewpoint Discrimination and Prior Restraint)**

69. Plaintiffs incorporate and adopt each and every allegation in the preceding paragraphs numbered 1 through 68.

70. Defendants have created an open forum for outside groups to distribute literature, including religious literature, in Orange County Public Schools.

71. Plaintiffs wished to exercise their full freedom of speech within the constraints of the Defendants' forum by distributing their own message through their own literature. Defendants prohibited the most significant portion of Plaintiffs' message.

72. Defendants approved WCF NIV Bibles that contained virtually identical subject matter, but a message contrary to Plaintiffs' message.

73. Defendants censored much of Plaintiffs' literature because its message is nonreligious and critical of religion. This unequal treatment amounts to viewpoint discrimination and violates the First and Fourteenth Amendments.

74. "Prior restraint" describes "administrative and judicial orders forbidding certain communications when issued in advance of the time that such communications are to occur." *Alexander v. U.S.*, 509 U.S. 544, 550, 113 S.Ct. 2766, 2771 (1993).

75. Any prior restraint of speech must overcome a heavy presumption against its constitutional validity. *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 70, 83 S.Ct. 631,



639 (1963); *New York Times Co. v. United States*, 403 U.S. 713, 714, 91 S.Ct. 2140, 2141 (1971).

76. Defendants' practice and actions chill, deter, and restrict Plaintiffs from freely expressing their nonreligious convictions in the May 2 distribution and future distributions.

77. Defendants' lack a compelling state interest, a substantial state interest, or a rational basis for their prior restraint of Plaintiffs' speech.

78. Accordingly, Defendants' practice and actions violate Plaintiffs' right to free speech guaranteed by the First and Fourteenth Amendments to the U.S. Constitution.

79. Defendants' violation of Plaintiffs' right to free speech has caused, and will continue to cause Plaintiffs to suffer undue and actual hardship and irreparable injury. Plaintiffs have no adequate remedy at law to correct the continuing deprivations of its most cherished constitutional liberties. As a direct and proximate result of Defendants' continuing violations of Plaintiffs' rights, Plaintiffs have suffered in the past, and will continue to suffer in the future, direct and consequential damages, including but not limited to, the loss of the ability to exercise their constitutional rights.

**COUNT II: VIOLATION OF EQUAL PROTECTION UNDER THE  
FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION**

80. Plaintiffs incorporate and adopt each and every allegation in the preceding paragraphs numbered 1 through 79.

**81.** The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution requires that the government treat similarly situated persons and groups equally.

**82.** Defendants denied Plaintiffs equal access to the forum as compared to similarly situated organizations such as World Changers of Florida.

**83.** Defendants' actions discriminated against Plaintiffs' message.

**84.** Defendants' distribution practice and actions violate fundamental rights held by Plaintiffs, including its right to free speech.

**85.** When government regulations and actions, such as Defendants' practice and actions challenged herein, infringe on fundamental rights, discriminatory intent is presumed.

**86.** Defendants lack a compelling state interest, a substantial state interest, or a rational basis for their disparate treatment of Plaintiffs.

**87.** Defendants' censorship of Plaintiffs literature is not narrowly tailored to meet any legitimate government objective.

**88.** Defendants' violation of Plaintiffs' right to equal protection has caused, and will continue to cause Plaintiffs to suffer undue and actual hardship and irreparable injury. Plaintiffs have no adequate remedy at law to correct the continuing deprivations of its most cherished constitutional liberties. As a direct and proximate result of Defendants' continuing violations of Plaintiffs' rights, Plaintiffs have suffered in the past, and will

continue to suffer in the future, direct and consequential damages, including but not limited to, the loss of the ability to exercise their constitutional rights.

**REQUEST FOR RELIEF**

**89.** An actual controversy exists between the parties as to whether Defendants' censorship of Plaintiffs' literature violates the Free Speech Clause and the Equal Protection Clause. Plaintiffs respectfully request the following relief:

**A.** A declaratory judgment that Defendants violated Plaintiffs' rights protected by the First and Fourteenth Amendments to the United States Constitution, including free speech and equal protection.

**B.** A declaratory judgment that distributing Bibles in public schools precludes Defendants from prohibiting Plaintiffs' requested literature.

**C.** A permanent injunction ordering Defendants to refrain from prohibiting Plaintiffs' literature.

**D.** Nominal damages for past violations of Plaintiffs' constitutional rights.

**E.** An order awarding them the costs of this action including attorneys' fees under 42 U.S.C. §1988.

F. Such other relief as this Court deems just and proper.

Dated June 11, 2013

JERRY H. JEFFERY  
TRIAL COUNSEL

---

**Jerry H. Jeffrey**  
**Florida Bar No. 188050**  
**Attorney at Law**  
**P.O. Box 947537**  
**Maitland, FL 32794**  
**Telephone (407) 645-5558**  
**Facsimile (407) 645-0009**

**ATTORNEY FOR PLAINTIFFS**

**Steven M. Brady, Esquire**  
**FBN: 749516**  
**The Brady Law Firm, P.A.**  
**7380 W. Sand Lake Road**  
**Suite 500**  
**Orlando, FL 32819**  
**Telephone: 321-300-5290**  
**Email: [steven@bradylaw.us](mailto:steven@bradylaw.us)**

**CO-COUNSEL FOR PLAINTIFFS**

**Andrew L. Seidel**  
**WI Bar Number: 1089025**  
**Freedom From Religion Foundation**  
**PO Box 750**  
**Madison, WI 53701**  
**Email: [aseidel@ffrf.org](mailto:aseidel@ffrf.org)**  
***Pro Hoc Vice* (motion pending)**

**CO-COUNSEL FOR PLAINTIFFS**