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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CAROL HOOD AS GUARDIAN AD LITEM
OF ZACHARY HOOD, A MINOR AND:
CAROL HOOD INDIVIDUALLY,

Case No.
1:96cv02768

Plaintiffs,

Hon. Joseph H. Rodriguez

vs.

GRACE OLIVA, GAIL PRATT, PATRICK
JOHNSON, AND MEDFORD TOWNSHIP:
BOARD OF EDUCATION,

FIRST AMENDED COMPLAINT

Defendants.

PARTIES

1. Carol Hood is an individual and resides at 1 Camp Drive, Lumberton Township, Burlington County, New Jersey.

2. Carol Hood is the natural mother and next of kin of Zachary Hood, a minor who is 12 years old. Carol Hood holds no interest contrary to Zachary, consents to act on his behalf in these proceedings and brings this action both on his behalf as guardian ad litem and on her own behalf.

3. Zachary Hood is an infant born on September 26, 1989. Prior to February 23, 1996, Zachary was a student at the

Haines Elementary School, Medford, New Jersey. Zachary is presently a student at another New Jersey public school.

4. Defendant Grace Oliva is an individual employed by Defendant Medford Township Board of Education as a First Grade Teacher at Haines Elementary School.

5. At the time of the events described in this complaint, Defendant Gail Pratt was an individual employed by Defendant Medford Township Board of Education as the Principal of Haines Elementary School.

6. At the time of the events described in the complaint, Defendant Patrick Johnson was an individual employed by Defendant Medford Township Board of Education as Superintendent of Schools.

7. Defendant Medford Township Board of Education is a public entity which owns and operates the public schools of Medford, Burlington County, New Jersey.

JURISDICTION AND VENUE

8. This action arises under the First Amendment to the Constitution of the United States, U.S.C. Title 42, Section 1983 and U.S.C. Title 28, Section 1343 as hereinafter more fully appears.

9. Venue is based upon U.S.C. Title 28, Section 1391(b) as hereinafter more fully appears.

FIRST COUNT

10. In September 1994, Zachary commenced kindergarten at

the Haines Elementary School in Medford New Jersey.

11. Shortly before the 1994 Thanksgiving Holiday, the students of Zachary's class were requested to create posters for display in the school's hallway setting forth that which they were "thankful for." Zachary was motivated by his faith to express his thankfulness for Jesus and desired to express his religious viewpoint in completing the poster assignment. Zachary completed a poster stating that he was thankful for Jesus. A copy of the poster is attached hereto as Exhibit A.

12. Zachary's poster along with those of his classmates were subsequently placed on display in the school hallway outside of his classroom by Zachary's teacher. Subsequently, one or more employees of Defendant, Medford Township Board of Education, removed Zachary's poster because of its religious theme. This removal was pursuant to a policy, custom, or practice of Defendant Medford Township Board of Education. The allegations set forth in this paragraph are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

13. Defendant Gail Pratt participated in and/or knew about and acquiesced in the decision to remove Zachary's poster because of its religious theme. At all times in her decisions concerning the removal of Zachary's poster, Defendant Pratt acted pursuant to an established policy, custom, or practice of Defendant Medford Township Board of Education. The allegations set forth in this paragraph are likely to have evidentiary support after a

reasonable opportunity for further investigation or discovery.

14. In addition Defendant Gail Pratt was a high level decision maker invested by Defendant Medford Township Board of Education and applicable statutes, regulations, and enactments with the authority to establish final policy as to certain aspects of the operation of the Haines Elementary School.

15. Both Zachary and Carol Hood were made aware of the removal of the poster because of its religious theme.

16. In September 1995, Zachary commenced first grade at the Haines Elementary School in a class taught by Defendant Grace Oliva. Defendant Oliva subsequently established a procedure wherein students who reached a certain degree of proficiency in reading would be rewarded by being allowed to bring in from home a book of their own choosing which they could read to the class.

17. On February 8, 1996, Zachary was informed by Defendant Oliva that he had reached the requisite degree of reading proficiency and that as a result thereof, he could select a book from home and read it to the class. The only condition on the selection was that it would be reviewed first by Defendant Oliva to insure that its length and/or complexity were appropriate for the first grade.

18. As a result of the foregoing, Zachary on February 9, 1996, brought to school a book entitled the "Beginners Bible," which is a book containing 95 children's stories based upon the Bible. Although Zachary originally intended to request that he be

allowed to read the story "Money in a Fish" to the class, he eventually requested to read the story "A Big Family" to the class. Copies of said stories from the "Beginners Bible" are attached hereto as Exhibit B.

19. When Defendant Oliva reviewed Zachary's choice of story, she advised Zachary that he could not read the requested story to the class because of its religious content. Thereafter, other students who had brought stories of a non-religious nature to class, were allowed to read their choice of story to the class, while Zachary was limited to reading his story solely to Defendant Oliva.

20. Subsequently, Carol Hood contacted Defendant Oliva regarding the foregoing occurrences. At that time, Defendant Oliva advised Carol Hood that she could not allow Zachary to read the "Bible" in class since it might influence the other students.

21. As a result of the foregoing response, Carol Hood contacted Defendant Gail Pratt, Principal of the Haines Elementary School. At that time, Defendant Pratt advised Carol Hood that the proposed reading of the "Beginners Bible" was the equivalent of "praying" and that it might upset Muslim, Hindu or Jewish students and that in the past she had experienced problems with Jews. Defendant Pratt further advised Carol Hood that there was no place in public school for the reading of the Bible and that "maybe you should consider taking your child out of public school, since you don't appear to be public school material." Finally, Defendant

Pratt asserted that her position was fully supported by various legal authorities.

22. Subsequent to the foregoing, Carol Hood attempted to resolve the foregoing events by having a personal meeting with Defendant Oliva, and in furtherance of said attempt, made a specific appointment to meet with her. On the date and time scheduled for that appointment, Carol Hood appeared, however the Defendant Oliva did not appear.

23. Carol Hood also through her legal representative made formal demand upon Defendant Patrick Johnson, Superintendent of Schools and Defendant Medford Township Board of Education that prior to February 23, 1996, Zachary be allowed to read the story which he proposed to his class, that Defendant Grace Oliva apologize to Zachary in the front of the class, and that Defendant Gail Pratt apologize to Carol Hood for her conduct. Defendants Grace Oliva, Gail Pratt, Patrick Johnson and Medford Township Board of Education failed to respond to these demands.

24. On February 23, 1996, Zachary withdrew from the Haines Elementary School due to the fact that his family moved to another Burlington County Community. Zachary is presently a student in the public schools of that community.

25. As a result of the aforesaid acts of Defendants Grace Oliva, Gail Pratt, Patrick Johnson and Medford Township Board of Education, Zachary was denied his rights of Freedom of Expression and Free Exercise as guaranteed by the First Amendment

of the Constitution of the United States.

26. The aforesaid violations of the constitutional rights of Zachary were performed by public officials under color of state law and therefore Zachary is entitled to redress under U.S.C. Title 42, Section 1983.

27. As a result of the aforesaid acts of Defendants, Grace Oliva, Gail Pratt, Patrick Johnson, and the Medford Township Board of Education, the Plaintiffs have sustained severe emotional distress and anguish and have otherwise been damaged.

28. The aforesaid acts of Defendants, Grace Oliva, Gail Pratt, Patrick Johnson, and the Medford Township Board of Education were done willfully and intentionally with intent to harm the Plaintiffs and/or with reckless disregard of the Plaintiffs' rights.

SECOND COUNT

29. Paragraphs 1 through 28 are incorporated by reference as if set forth fully herein.

30. Regardless of whether Defendant Gail Pratt's actions, as alleged in paragraphs 1 through 28, were taken pursuant to an established custom, practice, or policy of Defendant Medford Township Board of Education, Defendant Gail Pratt is liable in her individual capacity. The aforesaid actions of Defendant Gail Pratt, taken under color of state law, violated Plaintiffs' clearly established First Amendment rights under the Constitution of the

United States of which a reasonable public official in her position should have been aware.

30. As a result of the aforesaid acts of Defendant Gail Pratt, the Plaintiffs have sustained severe emotional distress and anguish and have otherwise been damaged.

32. The aforesaid acts of Defendant Gail Pratt were done willfully and intentionally with intent to harm the Plaintiffs and/or with reckless disregard of the Plaintiffs' rights.

REQUEST FOR RELIEF

WHEREFORE, Carol Hood, as guardian ad litem of Zachary Hood a minor, and Carol Hood in her own right herewith demands judgment against Defendants Grace Oliva, Gail Pratt, Patrick Johnson, and the Medford Township Board of Education for compensatory damages, punitive damages, interest, attorneys fees and costs of suit.

JURY DEMAND

Plaintiffs herewith demand a jury trial as to all issues triable by jury.

QUINLAN, DUNNE & DAILY, P.A.

By: _____

**F. Michael Daily, Jr.
Attorney for the Plaintiffs**