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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

SPECIALIST DUSTIN CHALKER, and
MILITARY RELIGIOUS FREEDOM
FOUNDATION,

Plaintiffs,

vs.

ROBERT GATES, SECRETARY,
UNITED STATES DEPARTMENT OF DEFENSE,

Defendant.

Case No. 08-CV-2467 KHV/JPO

COMPLAINT FOR INJUNCTIVE RELIEF

I. Introduction

1. This a constitutional common law/Bivens action whereby the plaintiffs seek to vindicate rights guaranteed by the Establishment Clause of the First Amendment and Article VI of the Constitution of the United States. The legal issue raised herein is whether the plaintiff, a member of the United States Army, may be required to attend military functions and/or formations that include sectarian Christian prayers.

II. Parties

2. Plaintiff Military Religious Freedom Foundation (MRFF) is a not-for-profit public interest organization that advocates, *inter alia*, that the military recognize and defend the rights of individuals to be free of compulsory religious practices. MRFF has supporters and members that include Plaintiff Dustin Chalker.

3. Plaintiff Specialist Dustin Chalker is an active duty member of the United States Army currently posted at Fort Riley, Kansas. Plaintiff Chalker is a resident of Geary County, Kansas.

4. Defendant Robert Gates is secretary of the United States Department of Defense and has responsibilities for the acts of his subordinates including members of the United States Army.

III. Jurisdiction

5. This case involves rights under the Constitution of the United States and jurisdiction is thereby vested in this court by 28 U.S.C. § 1331.

IV. Venue

6. Venue in this District Court is proper under 28 U.S.C. § 1391(e)(3).

V. Facts

7. Plaintiff Chalker is attached to a unit that is posted at Fort Riley, Kansas. Plaintiff Chalker has served in the United States Army since February 11, 2002. His active duty experience includes a deployment to Iraq. While deployed, plaintiff Chalker was awarded the Combat Medic Badge and the Purple Heart.

8. On May 16, 2008, plaintiff Chalker was required by his chain of command to attend a function described as a barbeque where a Christian sectarian prayer was delivered.

9. On February 7, 2008, plaintiff Chalker was required by his chain of command to attend a change of command ceremony at Fort Riley, Kansas. The change of command ceremony began and ended with a sectarian Christian prayer delivered by the battalion chaplain. Plaintiff has been required by his chain of command to attend other change of command ceremonies that included Christian sectarian prayers.

10. On December 5, 2007, plaintiff Chalker was required by his chain of command to attend a formation upon returning from Iraq where a Christian Sectarian prayer was delivered.

11. Plaintiff Chalker is an atheist and as such does not voluntarily participate in religious services, ceremonies or rituals that are conducted either on and around Fort Riley other military installations to which he is assigned. Plaintiff Chalker has sought relief from mandatory attendance at the subject functions/formations through his chain of command and the equal opportunity process. Neither have yielded satisfactory results.

12. Plaintiff Chalker's status as an atheist has not caused diminished performance of his duties or the effectiveness of his or others' response to military command.

13. The requirement for plaintiff Dustin Chalker to attend military functions and formations where sectarian Christian

prayers are delivered is evidence of a pattern and practice of constitutionally impermissible promotions of religious beliefs within the Department of Defense and the United States Army. Evidence of such patterns and practices include, but is not limited to:

a) **Mandatory Attendance at U.S.A.F. Base Commander's Sectarian Call.** During March, 2008, a program approved by Lt. Gen. Rod Bishop was presented at a commander's call at RAF Lakenheath, England. This commander's call was a mandatory function for an estimated 1,000 service members. The Powerpoint version presentation was emailed to an estimated 4,000-5,000 service members.

The "Spiritual Fitness" part of the presentation, given by Air Force Chaplain Capt. Christian Biscotti, was titled "A New Approach to Suicide Prevention: Developing Purpose-Driven Airmen." This presentation is just one example of the recent shift (since 2005) to basing suicide prevention programs on Christian teachings, the most often used being Rick Warren's "The Purpose Driven Life".

In some cases, including the Lakenheath presentation, creationism is also incorporated. One chart in the Lakenheath presentation, for example, presents "3 Levels of Purpose". For Category I, the "Purpose" is "God Given", the "Ideology" is "Religious," the "Motivation" is "The Love of God," and the example of a person who had this ideology is George Washington. The Category II "Purpose" is "Man Given," with "Philanthropy" as the ideology, "The Love of Man" as the motivation, with Karl Marx as the example. Category III is "Self Given" for purpose, "Humanism" for ideology, "The Love of Self" for motivation, and Charles Darwin as the example. The slide ends with Category I is the most beneficial, because if you love God (in a majority of world religions), you'll love man and yourself."

Another slide titled "Contrasting Theories of Hope, Ultimate Theories Explaining Our Existence," has two columns, the first titled "Chance," and the second "Design," comparing Charles Darwin, creationism, and religion are also part of a chart comparing the former Soviet Union to the United States, concluding that "Naturalism/Evolution/Atheism" leads to

people being "in bondage" and having "no hope," while theism leads to "People of Freedom" and "People of hope/destiny." After several more slides like these, the presentation continues with a slide titled "Christian's Message," and a slide with an image of a man looking upwards with his hands outstretched and the caption "Please open up both of your hands to receive this powerful tool."

Thirty-four of the slides in the Lakenheath Powerpoint are taken up by Chaplan Biscotti's presentation. Only five slides are given to a presentation on financial information for Air Force personnel, and only six to Lt. Gen. Bishop's presentation on the base's mission and unit readiness.

b) **Religious Book Endorsements and Official Military Emblems on Religious Books.** *Under Orders: A Spiritual Handbook for Military Personnel*, a book by Army chaplain Lt. Col. William McCoy that not only promotes Christianity but insinuates that non-atheists are deficient human beings, and that a soldier's lack of spirituality or religion can result in the failure of their unit, carries endorsements from Gen. David Petraeus and Maj. Gen. Mark Hertling, Commander, Multinational Division North, Iraq, on its cover. Gen. Petraeus's endorsement is: "Under Orders should be in every rucksack for those moments when Soldiers need spiritual energy, and Maj. Gen. Hertling's is: "Chaplain Bill McCoy's work is inspirational--it guides soldiers as they struggle with the questions surrounding their service and their faith...a great book for soldiers to read several times throughout their careers, because while the questions he poses will always remain the same, the answers will change with age, experience, and in a deepening conviction." In addition to the endorsements of these prominent officers, *Under Orders* also received a prestigious organizational U.S. military endorsement from the Command and General Staff College (CGSC) at Fort Leavenworth by being awarded the college's Golden Pen Award."

So Help Me God, sold in the military PXs, sports all five official U.S. military branch seals on its cover. The official U.S. military seals also appear on a number of Bibles and other Christian books, including the Holman Military Bibles. The Holman Bibles, a different of which is printed for each branch of the service, contain extraneous material promoting the Officers' Christian Fellowship (OCF), an organization of over 14,000 officers with chapters on virtually every U.S. military installation worldwide. The OCF's stated mission is to "create a spiritually transformed U.S. military, with Ambassadors for Christ in uniform, empowered by the Holy Spirit."

c) **Military Chapels in Iraq and Afghanistan.** Military chapel regulations prohibit the display of the symbols of any particular religion during times when religious services are not in progress. These regulations are ignored on U.S. military bases in Iraq and Afghanistan where numerous chapels have large crosses permanently affixed to their doors and walls, Christian stained glass windows, and other Christian displays that are not, or cannot be, removed when these buildings are used for services of other faiths or for non-religious purposes.

A photo on the Bagram Air Base website, for example, shows Lt. Gen. Roger Brady, Deputy Chief of Staff for Manpower and Personnel, addressing the Airmen of the 455th Air Expeditionary Wing at an all call in the Enduring Faith Chapel, Bagram Airfield, Afghanistan. Behind Lt. Gen. Brady at this mandatory briefing is an open Bible on the altar and a large cross on the wall.

d) **"Free Day Away" Program at Fort Leonard Wood, MO.** An "Event Description" basic training schedule from Fort Leonard Wood, last modified in April, 2008, describes "Free Day Away", a program attended by all trainees during their fifth week of training, as follows:

"Soldiers spend the day away from Fort Leonard Wood and training in the town of Lebanon. Free Day Away is designed as a stress relief that helps soldiers return to training re-motivated and rejuvenated."

Omitted from this event description is that this day is actually spent at the Tabernacle Baptist Church, and includes a mandatory fundamentalist religious service. All facilities that the trainees are permitted to go to during this free time (a bowling alley, a convenience store, etc.) are owned by the church. Numerous soldiers have reported that they document they were unaware that this part of their "training" was run by a church service once they were there were not permitted to.

In a promotional fund-raising video for the Free Day Away program, part of which was filed at Fort Leonard Wood and part at the church, basic trainees are interviewed in uniform endorsing the program, in violation of the regulation prohibiting endorsement of a non-federal entity while in uniform.

e) **Army Officer Record Brief (ORB) and Air Force Single Unit Retrieval Format (SURF).** The ORB and the SURF are forms whose primary purpose is to provide information on the career, education, and special skills of officers. This information contained in these forms is used for job placement, award nominations, applications to military training programs and colleges, etc. The religion of an officer should not be a factor in the career decisions that these forms are used for, yet the Army ORB now contains a block for the officer's religion, and the Air Force's SURF, a new electronic format implemented within the past year, also lists the officer's religion.

f) **Campus Crusade for Christ Military Ministry.** Campus Crusade for Christ (CCC) Military Ministry is a parachurch ministry active at all of the largest U.S. military training installations, the service academies, and on ROTC campuses.

At Fort Jackson, the largest Army basic training installation, trainees attending CCC's "God's Basic Training" Bible studies are taught that "when you join the military, you've really joined the ministry." Fort Jackson is not the only place this is taught. Videos, such as one from CCC's Valor ROTC ministry, contains similar language.

A Valor ministry video titled "God and the Military," originally released in 1997 by Nelson and Hudson Publishing, was re-released on DVD in 2005 for distribution by CCC's Military Ministry, and is currently included in the Military Ministry's "Chaplain's Boxes."

The speaker at the event was Tommy Nelson, Pastor, Denton Bible Church, Denton, TX. Nelson's audience for the filing consisted of Texas A&M cadets and an assortment of officers from the various branches of the military, ranging in rank from Lieutenant to Colonel, all appearing in uniform.

Nelson's presentation opens with the following: "I, number of years ago, was speaking at the University of North Texas--it happens to be my alma mater, up in Denton, Texas--and I was speaking to an ROTC group up there and when I stepped in I said, "It's good to be speaking to all you men and women who are in the ministry," and they all kind of looked at me, and I think they wondered if maybe I had found the wrong room, or if they were in the wrong room, and I assured them that I was speaking to men and women in the ministry, these there were going to be future officers."

The stated mission of CCC's ministries for enlisted personnel is: "Evangelize and Disciple All Enlisted Members of the U.S. Military. Utilize Ministry at each basic training center and beyond. Transform our culture through the U.S. Military."

CCC states the following reason for targeting of basic training installations: "Young recruits are under great pressure as they enter the military at their initial training gateways. The demands of drill instructions push recruits and cadets to the edge. This is why they are most open to the 'good news.' We target specific locations, like Lackland AFB and Fort Jackson, where large numbers of military members transition early in their career. These sites are excellent locations to pursue our strategic goals."

CCC also frequently states their goal of turning the U.S. military into a force of "government-paid missionaries for Christ." MRFF has compiled numerous examples, such as the two that follow, of the use of this phrase by CCC, and one instance by an Army chaplain speaking, in uniform, at the Dallas Theological Seminary, a school attended by many future military chaplains.

From CCC's Valor ROTC ministry, which has recently entered into a partnership with the with the Officer's Christian Fellowship (OCF): "The Valor ROTC cadet and midshipman ministry reaches our future military leaders at their initial entry points on college campuses, helps them grow in their faith, then sends them to their first duty assignments throughout the world as "government-paid missionaries for Christ.'"

In a CCC promotional video filmed at the U.S. Air Force Academy video for the academy's "Cru" (short for crusade) program, which featured three Academy cadets and two chaplains, all in uniform, Scott Blum, CCC's director at the academy at the time of the filming, stated that by the time the cadets leave the academy, they are "government-paid missionaries."

g) **National Day of Prayer and Military Flyovers at Religious Events.** All of the following events were listed on the 2008 National Day of Prayer (NDP) Task Force website, meaning that their coordinators, some military and some civilian, agreed to the Task Force's "Statement of Belief" and policy, which prohibits non-Christian involvement in NDP events. In addition to about a dozen NDP Task Force approved events that took place on military installations, there was

widespread military participation in church and community NDP Task Force events.

Military flyovers were scheduled for two NDP events in Washington state, one at the Calvary Chapel South ball field in Kent, WA, and the other at the Skagit County event in Mount Vernon, WA, provided by Whidbey Island Naval Station. Neither of these flyovers appears on the official eligible event lists put out by the various branches of the military. Other examples of military participation in 2008 NDP events, include the following: At the State Capitol NDP Prayer Rally in Tallahassee, FL, there was a display of military vehicles in the Capitol Courtyard. Marine Color guards appeared at the NDP Celebration in Bakersfield, CA and the Concert of Prayer in Wheeling, WB. The Niagara Falls Air Reserve Base Honor Guard was at the "Call to the Wall" in Wheatfield, NY. The Luke Air Force Base Honor Guard appeared at the NDP Noon Rally at the Phoenix, AZ. The Fort Huachuca Select Honor Guard appeared at the NDP Service in Pentagon, AZ.

h) **Flag Dipping at Annapolis.** The practice of dipping the American flag before the altar at the U.S. Naval Academy Chapel during the 11 a.m. Sunday Protestant service was stopped in October, 2007, by the academy's superintendent, Vice Adm. Jeffrey L. Fowler, who considered it inappropriate. Vice Adm. Flower later reinstated the practice despite that it violates Title 4, Chapter 1, Section 8, of the U.S. Code, which states that the American flag "should not be dipped to any person or thing."

i) **Participation by Military Personnel in Religious Entertainment Productions and Events.** In July, 2008, the Trinity Broadcasting Network (TBN) re-aired a Christian Fourth of July concert special starring Christian pop star Carmen. This was the third airing of this concert special since it was produced in 2003. The special, Carmen's "Red, White, and Blue Spectacular," features pre-taped interview segments and footage of uniformed, active duty military personnel, as well as the participation of uniformed military personnel in the concert itself. MRFF considers roughly twenty minutes of this two-hour special to be in violation of military regulations, the U.S. Code, and the U.S. Constitution.

On June 20, 2008, plaintiff MRFF sent a letter to Secretary of Defense Robert M. Gates demanding an investigation by the DoD Inspector General into the military participation in this special. MRFF cited sever specific segments of the special in this letter, including the opening number of the concert, "People of God." During the performance of this song, a

military color guard, comprised of two American flags, along with the flags of the various branches of the military carried by members of their respective branches, enters via the aisles and proceeds of the stage, one American flag and two branch flags on each side. Both American flags are then dipped towards the center of the stage, in violation of Title 4, Chapter 1, Section 8, of the U.S. Code.

In his interview in the TBN concert special with Lt. Gen. Robert L. Van Antwerp (a major general at the time of the filming), appears in uniform. This interview, along with footage of basic trainees, was filed at Fort Leonard Wood, the base that Lt. Gen. Van Antwerp commanded at the time. In the interview, Lt. Gen. Van Antwerp, introduced as past president of the Officers' Christian Fellowship (OCF), paraphrased the OCF mission, to "create a spiritually transformed U.S. military, with Ambassadors for Christ in uniform, empowered by the Holy Spirit."

In addition to the other violations specific to the concert special, Lt. Gen. Van Antwerp's endorsement of the OCF in his interview violated the same military regulations determined by the DoD Inspector General to have been violated by the U.S. military officers who appeared in the 2004 Campus Crusade for Christ Christian Embassy promotional video, i.e., JER Section 2635.702(b), "Appearance of governmental sanction"; JER Section 3-300.a. on personal participation in non-federal entities; DoD Directive (DoDD) 1334.1, "Wearing of the Uniform"; Army Regulation (AR) 670-1, "Wear and Appearance of Army Uniforms and Insignia." (See July 20, 2007, DoD Inspector General's report, "Alleged Misconduct by DoD Officials Concerning Christian Embassy.")

Lt. Gen. Van Antwerp, who makes regular appearances at prayer breakfasts and OCF ROTC retreats, has also appeared at large scale events such as the 2003 "Mission San Diego" Billy Graham Crusade, at which he gave his Christian testimony, in uniform, before a crowd of tens of thousands. This event was also broadcast via the Armed Forces Network (AFN) to military personnel all over the world.

The Navigators, a para-church ministry active on many U.S. military bases, holds Summer Missions Programs in conjunction with Spirit West Coast, the largest Christian music festival in California. There are violations regarding military participation in these Christian music festivals, put on by an organization called Operation Worship, including that active duty military personnel are issued actual TDY (temporary duty) orders, arranged by the Navigators, to work at the festivals as volunteers.

j. **The Army "Strong Bonds" Program.** The present U.S. Government funded Strong Bonds program replaced a decade old, proven program called Building Strong and Ready Families (BSRF), which was a collaboration between the Army Public Health Nurses and the Chaplain Corps. Strong Bonds is now an evangelistic Christian program operating under the guise of a pre-deployment and post-deployment family wellness and marriage training program. Strong Bonds eliminated the public health nurses and health education aspects that were a large part of BSRF, created a program run entirely by chaplains who facilitate almost exclusively of Christian religious retreats. These retreats are typically held at ski lodges, beach resorts, and other attractive vacation spots.

The materials authorized by the Army for Strong Bonds are not religious. However, these authorized materials are only required to be used for a minimal number of the training hours, leaving the remaining mandatory training hours open for other materials selected by the chaplains. In some cases, the authorized material are completely eliminated, and the retreats are overtly Christian. In other cases, the Prevention and Relationship Enhancement Program (PREP), a secular program on the list of materials authorized for Strong Bonds, is being replaced by chaplains with CPREP, the Christian version of this program.

At a "Strong Bond" program in Orlando, Florida from February 29, 2008, to March 2, 2008, the following material was distributed to attendees:

1) A camouflage box, titled, "Every Soldier's Battle Kit," and imprinted with the name, New Life Ministries, their phone number, website (<http://www.newlife.com/>), and phrase, "Fighting the battle within." The box contained:

* A Bible, titled, "The Life Recovery Bible;" and four volumes by Shannon Ethridge (website <http://www.shannonethridge.com/>)

* "Every Woman, Every Day," (365 Christian readings and sermons about "sexual purity");

* "Every Woman's Battle," (a book of Christian sermons, and Bible verses to "Discover God's plan for sexual and emotional fulfillment.");

* "Every Woman's Battle Promise Book," (a "daily devotional" of Bible verses to support the reader in a quest for "sexual integrity");

2) "The Five Love Languages," by Pastor Gary Chapman (<http://www.garychapman.org/bio.htm>). "The Five Love Languages" formed the core of the Saturday portion of the Strong Bonds training. The theme of Love Languages is that couples have different communication styles and need to learn each other's style to improve their relationship. The book contains references to Jesus and Bible verses.

* During Strong Bonds, videos were shown of Gary Chapman in which he quoted Bible verses and encouraged the audience to "Love your partner like Jesus loved the church." Chaplain Johnson and Chaplain Kirk repeated that same expression multiple times during Strong Bonds. The Love Languages website, <http://www.fivelovelanguages.com/> describes Gary Chapman as "the leading author in biblical marriage counseling" and states that Chapman's message is that "to enjoy the marriage you have always wanted, we have to be the person Jesus has always wanted us to be."

3) "The Thrill of the Chaste," by Dawn Eden. The author is described on the back cover as "Jewish-born" and throughout the book as a "former agnostic Jew." The book describes in detail how she led a highly promiscuous and drug abusing lifestyle until she had a "born again experience" and "realized for the first time ... that [Jesus] as truly God's son." The book is filled (almost every page) with Bible verses and with the author proselytizing Christianity. Chaplain Johnson recommended the book multiple times during the training.

DoD contracts also show frequent hiring of Christian entertainers and speakers for Strong Bonds retreats.

In March, 2007, for example, Fort Wainwright contracted, at a cost of \$38,269, an organization called Unlimited Potential, Inc., to provide "social services" for a Strong Bonds retreat. Unlimited Potential, Inc., is an evangelical baseball ministry with a military ministry whose mission is: "To assist commanders and chaplains in providing religious support to military service members and their families by sharing the life-changing Gospel of Jesus Christ through the medium of baseball..." and "to use our God-given abilities in baseball to reach those who do not have a personal relationship with Jesus Christ, and to also encourage and challenge those who do." This same ministry has been "Serving Christ Through Baseball" at a number of other Army bases in the United States, including Fort Bragg, Fort Benning, and Fort Drum, as well as many bases overseas.

k) **Anti-Muslim Presentations at U.S. Military Academies, Colleges and Bases.** Anti-Muslim activists, whose credibility as experts in their fields has long been questioned by both the academics and terrorism experts, have been invited to lecture on the subject of terrorism at U.S. Military academies and colleges.

In February, 2008, a group calling itself the "3 ex-Terrorists" appeared at the U.S. Air Force Academy's 50th Annual Academy Assembly, on the topic "Dismantling Terrorism: Developing Actionable Solutions for Today's Plague of Violence." The three members of this group, Walid Shoebat, Zachariah Anani, and Kamal Saleem, all claim to have been Islamic terrorists before converting to evangelical Christianity. Attendance was mandatory for some cadets. The presentations were virulently anti-Muslim screeds during which Christianity is promoted.

In June, 2007, Brigitte Gabriel, author of *Because They Hate*, delivered a lecture at the Joint Forces Staff College (JFSC). During this lecture, which was part of the JFSC's Islam elective, Gabriel said, among other things, that American Muslims should not be allowed to hold public office because the Koran tells them to lie, making their oaths of office meaningless, and that American Muslims "are good at nothing but complaining about every single thing." She also instructed the students to call the F.B.I. if they saw a mosque being built in their community, and included derogatory comments such as referring to Dearborn, Michigan as "Dearbornism" because of the city's large Muslim community. One of the students subjected to these insulting comments was a Muslim American who had been serving in the U.S. Army for sixteen years.

Both Brigitte Gabriel and Walid Shoebat appeared in the 2005 anti-Muslim documentary *Obsession: Radical Islam's War Against the West*. This documentary, currently being redistributed via DVDs inserted in major newspapers to millions of voters in "swing" states, has been used by the Department of the Navy, and has also been shown at U.S. Army training events. The documentary has been endorsed by Jeffrey H. Norwitz, Professor, U.S. Naval War College.

l) Constitutionally impermissible support for religious organizations within the military, and those organized by and comprised of members of the military, such as Officers Christian Fellowship and CREDO Spiritual Fitness Divisions, and Military Ministry;

m) Constitutionally impermissible support for private religious organizations that are granted access to military installations, some of which are under D.O.D. contract. These organizations include Military Ministry, Cadence Ministries, Malachi Ministries and Military Community Youth Ministries;

n) Constitutionally impermissible support for official endorsement of private religious organizations by members of the military and/or the Department of Defense. Endorsed organizations include: Christian Embassy, Operation Straight Up, and H.O.P.E. Ministries International;

o) Constitutionally impermissible support for blatant displays of religious symbolism on military garb, fighter aircraft and squadron buildings by the U.S. Air Force 523rd Fighter Squadron;

p) Constitutionally impermissible support for placement of a biblical quotation above the door of the Air and Space Basic Course classroom at Maxwell Air Force Base;

q) Constitutionally impermissible support for illegal use of official military e-mail accounts to send e-mails containing religious rhetoric;

VI. Causes of Action

13. The requirement of the plaintiff Chalker to attend military functions and formations where sectarian Christian prayers are delivered was and is contrary to clearly establish law and has the effect of denying plaintiff Chalker his constitutional right to be free of sectarian religious practices as guaranteed by the Establishment Clause of the First Amendment. U.S. CONST. Amendment I.

14. Plaintiff Chalker, as an active duty member of the United States Army, has been constructively required by the mandatory attendance at functions/festivities to submit to a religious test as a qualification for his duty as a soldier in the

United States Army. Such a test violates plaintiff Chalker's rights under Article 6, Clause 3, of the United States Constitution. U.S. CONST., Article VI, cl. 3.

VII. Remedies

15. Plaintiffs seek an injunction prohibiting the United States Department of Defense and its civilian and military personnel from interfering with the rights of plaintiff Chalker and those similarly situated to be free of compulsory religious practices and to be free of imposition of a religious test.

16. The injunctive relief would specifically prohibit mandatory attendance by plaintiff Chalker and those similarly situated at military functions/formations that include a sectarian prayer.

WHEREFORE, plaintiffs seek injunctive relief as specified above and such other relief as this Court deems appropriate under the circumstances.

Respectfully submitted,

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DESIGNATION OF PLACE OF TRIAL

Plaintiffs designate Kansas City, Kansas as the place of trial of this action.

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