



Ector County Independent School District Board of Trustees, and Wendell Sollis, in his official capacity as Superintendent of Schools for ECISD, and allege the following:

1. Public schools may constitutionally offer courses about the Bible “when presented objectively as part of a secular program of education.” *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 225 (1963). This action seeks declaratory and injunctive relief pursuant to 42 U.S.C. § 1983 against the Defendants, who have officially authorized and are now offering and teaching in ECISD public high schools a course of instruction on the Bible (the “Bible Course”) that is not presented objectively, but instead actively promotes a particular religious viewpoint to public school students in a manner prohibited by the Establishment Clause of the First Amendment. The Defendants adopted the Bible Course with the primary purpose of advancing religion generally and a specific religious interpretation of the Bible particularly, and the Course has the primary effect of promoting, advancing, and endorsing religion generally and a particular set of religious beliefs specifically. The Bible Course does not adhere to the constitutional standard of objectivity, but instead presents the Bible from a singular religious point of view that might be appropriate for Sunday schools but has no place in public schools.

#### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Venue is proper pursuant to 28 U.S.C. § 1391(b).

#### **PARTIES**

3. Plaintiff Amanda Moreno, a 1991 graduate of Permian High School, resides and pays taxes in Odessa, Texas. She brings this lawsuit as a taxpayer and as a parent of three ECISD students – a daughter who is currently enrolled in the ninth-grade at Crockett Junior High School and who intends to enroll at either Odessa High School or Permian High School for the 2007-2008 school year, and two younger children who are fourth- and second-grade students at

Jordan Elementary School and who intend to attend either Odessa or Permian High School in the future. Ms. Moreno wants her children to have the opportunity to select from a full range of constitutional courses in ECISD. Moreover, she objects to and is offended by the public schools' promoting and giving official imprimatur to religion generally and to particular religious beliefs that she and her children may not share. Ms. Moreno believes that religious education should be the responsibility of parents and religious communities, and not the public schools to which she sends her children. Additionally, she objects, as a taxpayer and a parent, to the Defendants' use of her tax dollars to promote and endorse religion generally and a particular set of religious beliefs specifically by adopting and teaching the Bible Course in ECISD public schools.

4. Plaintiff Adam R. Lujan resides and pays taxes in Odessa, Texas. He brings this lawsuit as a taxpayer and as a parent of three ECISD students – fourth- and second-grade students at Jordan Elementary School who intend to enroll at either Odessa or Permian High School in the future, and a ninth-grade student at Crockett Junior High who intends to enroll at either Odessa High School or Permian High School for the 2007-2008 school year. Mr. Lujan wants his children to have the opportunity to select from a full range of constitutional courses in ECISD. Moreover, he objects to and is offended by the public schools promoting and giving official imprimatur to religion generally and to particular religious beliefs that he and his children may not share. Mr. Lujan believes that religious education should be the responsibility of parents and religious communities, and not the public schools to which he sends his children. Additionally, he objects, as a taxpayer and a parent, to the Defendants' use of his tax dollars to promote and endorse religion generally and a particular set of religious beliefs specifically by adopting and teaching the Bible Course in ECISD public schools.

5. Plaintiff Amado Flores attended both Odessa and Permian High Schools. He currently resides and pays taxes in Odessa, Texas. He brings this lawsuit as a taxpayer and as a parent of a fifth-grade student at Goliad Elementary School who intends to enroll at either Odessa or Permian High School in the future. Mr. Flores wants his child to have the opportunity to select from a full range of constitutional courses in ECISD. Moreover, he objects to and is offended by the public schools promoting and giving official imprimatur to religion generally and to particular religious beliefs that he may not share. Mr. Flores believes that religious education should be the responsibility of parents and religious communities, and not the public schools to which he sends his child. Additionally, he objects, as a taxpayer and a parent, to the Defendants' use of his tax dollars to promote and endorse religion generally and a particular set of religious beliefs specifically by adopting and teaching the Bible Course in ECISD public schools.

6. Plaintiff David Newman resides and pays taxes in Odessa, Texas. He brings this lawsuit as a taxpayer and as a parent of a ninth-grade student at Bowie Junior High School who currently takes courses at Odessa High School and who has registered for courses as a tenth-grade student at Odessa High School for the 2007-2008 school year. Mr. Newman wants his child to have the opportunity to select from a full range of constitutional courses in ECISD. Moreover, he objects to and is offended by the public schools promoting and giving official imprimatur to religion generally and to particular religious beliefs that he and his daughter may not share. Mr. Newman believes that religious education should be the responsibility of parents and religious communities, and not the public schools to which he sends his child. Additionally, he objects, as a taxpayer and a parent, to the Defendants' use of his tax dollars to promote and

endorse religion generally and a particular set of religious beliefs specifically by adopting and teaching the Bible Course in ECISD public schools.

7. Plaintiff Roland Spickermann resides and pays taxes in Odessa, Texas. He brings this lawsuit as a taxpayer and as a parent of two ECISD students – a third-grader and a student in kindergarten at Reagan Elementary who intend to enroll at either Odessa or Permian High School in the future. Mr. Spickermann wants his children to have the opportunity to select from a full range of constitutional courses in ECISD. Moreover, he objects to the public schools promoting and giving official imprimatur to religion generally and to particular religious beliefs that he may not share. Mr. Spickermann believes that religious education should be the responsibility of parents and religious communities, and not the public schools to which he sends his children. Additionally, he objects, as a taxpayer and a parent, to the Defendants' use of his tax dollars to promote and endorse religion generally and a particular set of religious beliefs specifically by adopting and teaching the Bible Course in ECISD public schools.

8. Plaintiff Karen Pieper Hildebrand resides and pays taxes in Odessa, Texas. She graduated from Permian High School in 1976. All three of Ms. Hildebrand's sons also attended Permian High School; the youngest graduated in 2006. She brings this lawsuit as a taxpayer who objects to the Defendants' use of her tax dollars to promote and endorse religion generally and a particular set of religious beliefs specifically by adopting and teaching the Bible Course in ECISD public schools.

9. Plaintiff Douglas C. Hildebrand, husband of Plaintiff Karen Pieper Hildebrand, resides and pays taxes in Odessa, Texas. All three of Mr. Hildebrand's sons attended Permian High School; the youngest graduated in 2006. Mr. Hildebrand brings this lawsuit as a taxpayer who objects to the Defendants' use of his tax dollars to promote and endorse religion generally

and a particular set of religious beliefs specifically by adopting and teaching the Bible Course in ECISD public schools.

10. Plaintiff Lori White is a taxpayer who resides in Odessa, Texas. She graduated from Permian High School in 1979. Her son graduated from Permian High School in 2006. Mrs. White brings this lawsuit as a taxpayer who objects to the Defendants' use of her tax dollars to promote and endorse religion generally and a particular set of religious beliefs specifically by adopting and teaching the Bible Course in ECISD public schools.

11. Defendant Ector County Independent School District (the "District") is a political subdivision of the State of Texas and is responsible for providing public education to the children within its jurisdiction and for administering the laws and policies that govern schools within its jurisdiction.

12. Defendant Ector County Independent School District Board of Trustees (the "School Board" or "Board") is the policy-making body for the District. The Board approves textbooks and curricula for the District.

13. Defendants Renda Berryhill, L.V. Foreman III, Carol Gregg, Randy Rives, and Doyle W. Woodall are and have at all relevant times been members of the School Board. Defendants Ray Beaty and Donna C. Smith are and have been members of the School Board since May 2006. All individual Defendant School Board members are sued in their official capacities.

14. Defendant Wendell Sollis is and has at all relevant times been the ECISD Superintendent, and as such is responsible for implementing the policies of the School Board. Defendant Sollis is sued in his official capacity.

### **STATEMENT OF FACTS**

15. On December 20, 2005, at the culmination of a course selection process improperly designed to promote religious instruction in ECISD public schools, the School Board voted to adopt a Bible course curriculum created by a private organization called the National Council on Bible Curriculum in Public Schools ("NCBCPS"). The ECISD Bible Course – both as designed by NCBCPS and as implemented by Defendants in two ECISD high schools during the 2006-2007 school year – is not educationally objective, but instead promotes and endorses religion generally and a particular religious interpretation of the Bible specifically.

#### **The National Council on Bible Curriculum in Public Schools**

16. The NCBCPS is a private organization based in Greensboro, North Carolina. In August 2005, the NCBCPS published a version of its Bible curriculum entitled *The Bible in History and Literature* (hereafter "NCBCPS curriculum").

17. The NCBCPS curriculum does not teach the Bible in an "objective" manner, as required by the Constitution. The curriculum reveals no serious and objective awareness of either scholarly or alternative religious interpretations of the Bible (particularly of Judaism, Orthodox Christianity, Mainline Protestantism, and Roman Catholicism). It recommends the King James translation of the Bible – a Protestant version – and promotes a particular religious interpretation of the Bible and American history that ignores or dismisses dissenting viewpoints without discussion or analysis. Instead, the NCBCPS curriculum presents its own particular viewpoints and conclusions regarding important issues of biblical interpretation and authorship as though they were the only possible correct viewpoints. The curriculum does not reflect the research of current and reputable biblical scholars.

18. Although the NCBCPS suggests to the public that its curriculum is neutral, academically sound, and constitutional, its more candid statements reveal the contrary. Indeed,



the NCBCPS prominently features on its website a statement from one of its board members, urging people to contact NCBCPS as a “first step to get God back in your public school.”

**Defendants’ Impermissible Purpose in Adopting the NCBCPS Curriculum**

19. NCBCPS representatives began working with the Defendants in early 2005 to implement a course that would teach the Bible from a particular religious viewpoint in the ECISD public high schools using the NCBCPS curriculum as the basis for the course.

20. On March 29, 2005, Mike Johnson – an NCBCPS Board Member and Senior Legal Counsel for the Alliance Defense Fund, an organization that describes itself as a “servant organization that provides the resources that will keep the door open for the spread of the Gospel” – appeared at an official Board meeting and urged the Board to implement a Bible curriculum in the ECISD public schools. Ector County residents later presented a petition – apparently created by NCBCPS and prominently featuring the organization’s name – supporting adoption of a course teaching the Bible.

21. On the same day that NCBCPS appeared at the Board meeting, Defendant Foreman told a local newspaper that he thought a Bible Course “would be a great thing[.] What in the world is that going to hurt? The kids, who are religious and do go to church, the added information could help.” Defendant Woodall agreed, stating, “This is America, it’s a Christian nation.”

22. By official policy, Defendants must follow specific procedures to create a new course in ECISD and to select curricular materials for that course. However, on information and belief, the Board and ECISD school officials manipulated established policy and rigged the process to select the NCBCPS curriculum.



23. After receiving Board authorization to review Bible curriculum options for the 2006-2007 school year, Superintendent Sollis recommended, and the Board of Trustees subsequently approved, the creation of a Bible Curriculum Committee (the "Committee") to select materials for use in an ECISD Bible Course. On information and belief, before the Committee was formed, ECISD officials had already decided to use the NCBCPS curriculum and the King James Version of the Bible as the materials for the course.

24. The Bible Curriculum Committee was originally charged with recommending one curriculum for adoption in ECISD public schools. Pursuant to that mandate, the Committee reviewed and heard public comment on two primary curricular options. After considering these two alternatives, the Committee overwhelmingly endorsed one curriculum – the Bible Literacy Project's *The Bible and Its Influence* – as the best curriculum for the ECISD public schools.

25. On information and belief, Superintendent Sollis changed the charge of the Committee before it could officially convey its decision to the Board. Over the objection of some of the Committee's members, Sollis instructed the Committee that it should offer not one (as originally planned), but two curricular options to him. Having seriously considered only two curricula, the Committee necessarily was forced to present both NCBCPS's and Bible Literacy Project's curricula to Sollis. Defendant Sollis then submitted only the NCBCPS curriculum to the School Board for approval.

26. On December 20, 2005, the Board convened to vote on Sollis's recommendation. As was the case throughout the course selection process, some supporters of the Bible Course made clear their wish to use the public schools to promote their particular religious beliefs. As one person told the Board, "Our country is going to the devil because we don't have God in our

schools.” By a 4-2 vote, the Board voted to adopt the NCBCPS curriculum for use in ECISD public schools.

27. After the Board adopted the NCBCPS curriculum, the ECISD Director of Curriculum and Instruction, Shannon Baker, exclaimed in an email: “YES, WE ARE USING NCBCPS :) :)! HA! Take that you dang heathens!”

#### **Content of the Bible Course in ECISD Public Schools**

28. Defendants have offered the Bible Course in two ECISD high schools, Odessa High School and Permian High School, throughout the 2006-2007 school year. On information and belief, Defendants intend to offer the Bible Course during the 2007-2008 school year at both high schools.

29. ECISD has denied public access, including access by both parents and the media, to the Bible Course classes. Neither copies of the NCBCPS curriculum nor any supplementary Course materials have been made widely available to members of the community, other than in settings strictly controlled by ECISD or when the District has been required to do so by formal open records requests.

30. Defendants’ initial effort to keep the content of the Course secret is not surprising, given the myriad constitutional flaws pervading the Bible Course. As described more fully below, the ECISD Bible Course – in its use of the NCBCPS curriculum and as implemented in Odessa and Permian High Schools – fails the legal requirements of religious neutrality and objectivity in at least four fundamental ways. The examples set forth here serve only to illustrate the Course’s constitutional deficiencies, and are by no means a comprehensive or exhaustive list.

31. *First*, the Course presents the Bible from the perspective of Christianity in general and a particular interpretation of Protestant Christianity specifically.

32. For example, curricular materials frequently instruct students that the New Testament fulfills prophecies contained in the Hebrew Bible (what the Course typically refers to by the Christian term “Old Testament”). Documents in the Course’s New Testament curriculum state as a fact, for instance, that “[t]he Scriptures of the New Testament show how God’s Old Covenant is fulfilled in Jesus Christ.” Similarly, certain ECISD Course materials state the “significance” of the Gospel of Matthew as follows: “First, it clearly establishes that Jesus Christ is the Messiah that was prophesized [sic] throughout the Old Testament. Second, it proves that Jesus was the Son of God, whom He claimed to be through living a sinless and perfect life.” Similarly, in the Old Testament unit taught at one of the ECISD high schools, a family tree delineating the “descendants of Noah” marks the “Ancestor[s] of Jesus” in red, and a slideshow on “How We Got the Bible” states that the “New Testament (New Covenant) is: [p]romised in Jeremiah 31:31-32.” Along the same lines, the NCBCPS Curriculum text approvingly cites Dr. Frank T. Seekins’s book *Hebrew Word Pictures: How Does the Hebrew Alphabet Reveal Prophetic Truths*, and then uses a picture depicting the Hebrew letter T (or “tav”) as representing a crucifix depicting Jesus Christ on the cross – a position completely at odds with that of any major Hebrew language or biblical scholar. These examples from the ECISD Bible Course, and the many more like them, present the Bible from a particular Christian theological perspective that varies dramatically from Judaism, other forms of Christianity, and other non-Christian religions.

33. The Bible Course also takes sides in longstanding theological debates among various denominations of Christianity. For example, the NCBCPS curriculum – as adopted and implemented in ECISD high schools – advances a viewpoint typically associated with Protestantism by dismissing the so-called “Apocryphal” (Deuterocanonical) books of the Bible,

describing them as “anonymous” and stating that “nothing has been firmly established as to their authorship or precise dates of origin.” The Course does not, however, equally subject its favored books of the Bible with such dismissive language, even when the same assertions would be equally accurate from an objective scholarly viewpoint. By way of further example, in a lesson purporting to teach interpretive literary form, Course materials characterize Roman Catholic beliefs in the transformation of communion bread and wine into the body and blood of Christ as “warped” thinking brought on by “mysticism.” The NCBCPS curriculum further recommends that students look to John Foxe’s *Foxe’s Book of Martyrs* “to discuss the impact of persecution on the development of the Christian church.” Foxe’s book is a non-objective and highly polemical anti-Catholic text written during the sixteenth century wars of religion between Protestants and Catholics.

34. **Second**, the Course teaches the Bible as literal, historical truth.

35. As described in Course materials and letters sent to parents, the ECISD Bible Course is taught as a “history class with primary emphasis on the text of the King James Version of the Bible as *a historical document*.” For example, the Bible Course – drawing directly from the NCBCPS curriculum – treats the story of the creation, the life of Noah and his ark, and the lives of Abraham, Sarah, Joseph, and Moses as conveyed in the King James Version, all at face value as if they were accurate historical statements. The NCBCPS materials refer to “Hebrew history” as “recorded in” various books of the Bible, from the “Creation” and “Fall of Man,” through the “receiving of the Law” by Moses and “Joshua’s work in capturing Jericho,” to the kingdom of Solomon. For Course exams, students are told to mark various statements as true or false, including: “Jesus was resurrected on a Sunday”; “During his prayer, Jesus sweated drops of blood”; “Judas was paid to show the Jewish officials where Jesus was”; “When Jesus dies, the

sun goes black”; “Jesus ascended to heaven on the Mount of Olives.” The answer key indicates that the correct response to all of the above is “True” – suggesting that the biblical text should be taken at face value for the accuracy of the subjects discussed therein. The Bible Course accepts as historical fact the premise that virtually all of the books within the Bible – particularly the “five books of Moses” and the Gospels – were written by the authors identified with them according to religious tradition, ignoring abundant and longstanding scholarly debate on these issues.

36. *Third*, the Course uses the Bible to inculcate religious life lessons.

37. In many instances, the Bible Course, implementing the NCBCPS curriculum, advocates particular religious viewpoints to guide the lives of students. For example, the NCBCPS curriculum recommends that students read Paul’s admonitions and then “Discuss what implications this message has for adherents of the Christian faith, and how they are to view and interact with civil government.” Similarly, students are instructed that “The Bible is inspired by God.” They are asked to “[e]valuate the selected biblical stories and summarize what the Bible implies that God was trying to communicate,” and are tested on their understanding of the Proverbs with the question: “If you keep all the Lord’s teachings in your heart, what will happen to your life?”

38. During the first two weeks of the Bible Course, students at Permian High School are asked to memorize Psalm 1:1-6. Provided here in the King James Version, this passage states:

1: Blessed is the man that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful.  
2: But his delight is in the law of the LORD; and in his law doth he meditate day and night.

3: And he shall be like a tree planted by the rivers of water, that bringeth forth his fruit in his season; his leaf also shall not wither; and whatsoever he doeth shall prosper.

4: The ungodly are not so: but are like the chaff which the wind driveth away.

5: Therefore the ungodly shall not stand in the judgment, nor sinners in the congregation of the righteous.

6: For the LORD knoweth the way of the righteous: but the way of the ungodly shall perish.

Students then spend class time, with the entire class as well as in small groups, discussing how the Psalm may “affect their individual daily lives.”

39. Similarly, the “Supplemental Book and Materials List” for the Course features religious materials such as *Halley’s Bible Handbook*, lauded on its back cover as a book that “in one edition after another, has aided the sincere Bible student to find his way more deeply into the blessed and saving knowledge of our Lord and Savior, Jesus Christ.”

40. *Fourth*, the Course presents a religious interpretation of American history that does not comport with objective scholarly standards.

41. For example, the Bible Course as taught at Permian High School relies on resources from WallBuilders, an organization whose self-described mission includes “educating the nation concerning the Godly foundation of our country” and “providing information to federal, state, and local officials as they develop public policies which reflect Biblical values.” The NCBCPS curriculum, for example, recommends a showing of the WallBuilders’ video production, “Foundations of American Government,” which concludes that “[e]very moral measurement shows the same statistical departure: No religious principles, no morality.” A federal district court in Mississippi enjoined a school district from showing a similar WallBuilders video, “America’s Godly Heritage,” in history classes. *See Herdahl v. Pontotoc County Sch. Dist.*, 933 F. Supp. 582, 599 (N.D. Miss 1996). Both the video – which Bible Course students at Permian High School watch within the first few days of class – and the

Course curriculum itself include many supposed “quotations” of the Founding Fathers, even though WallBuilders’ founder and president, David Barton, acknowledges that several are “unconfirmed.” Their inclusion in the Curriculum without providing balanced historical evidence is not “objective,” but is designed to promote a specific religious interpretation of American history.

42. The Bible Course repeatedly advocates a one-sided and unchallenged view of the role of religion in America. The clear message to students is that America’s Constitution and laws were intended to promote particular religious values, and should be interpreted from a specific religious perspective. The Course repeatedly offers quotations (both accurate and spurious) that seemingly justify its religious-political viewpoint, while it disregards or dismisses other perspectives. Accurate sources showing alternative viewpoints are simply ignored, and erroneous factual statements and conclusions go unacknowledged. On the whole, the Bible Course’s skewed, selective, and factually flawed treatment of American history further reveals that the operating principle of the Course is not neutrality or objectivity, as constitutionally required, but rather the dogmatic promotion of a particular religious viewpoint.

#### **CAUSE OF ACTION**

43. Plaintiffs reincorporate by reference the allegations of paragraphs 1-42.

44. Defendants adopted and are currently offering the Bible Course with a manifest, predominant purpose of advancing religion generally and a particular interpretation of one form of Protestant Christianity specifically.

45. The Bible Course offers instruction and indoctrination in a particular religious interpretation of the Bible and American history, rather than objective education about religion and American history. The Defendants’ authorization, offering, and teaching of the Bible Course in ECISD’s high schools has, and will continue to have, the primary effect of promoting and



advancing religion generally and a particular interpretation of one form of Protestant Christianity specifically.

46. The Defendants' authorization, offering, and teaching of the Bible Course impermissibly conveys a message of endorsement of religion generally and a particular interpretation of one form of Protestant Christianity specifically.

47. Defendants have injured and are continuing to injure ECISD students, including the Plaintiffs' minor children, by offering an unconstitutional Bible Course in the District's high schools and depriving them of a full range of constitutional courses from which to choose.

48. Defendants have unconstitutionally spent, and are continuing to spend, public tax dollars in the authorization, offering, and teaching of the Bible Course in ECISD's high schools. Such expenditures include but are not limited to payment to NCBCPS for the Bible Course curriculum, funds for supplemental resources and materials, and salary payments to the course instructors.

49. Defendants acted under color of state law at all relevant times and for all relevant acts alleged herein, and the individual Defendants acted at all relevant times within the scope of their employment.

50. Defendants' conduct in officially authorizing, offering, and teaching the Bible Course violates the First Amendment of the U.S. Constitution, applicable to the Defendants through the Fourteenth Amendment to the U.S. Constitution, and proximately causes injury to Plaintiffs as taxpayers and parents.

**RELIEF REQUESTED**

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor and:

- a. Declare that the Defendants' authorization, offering, and teaching of the Bible Course is unconstitutional;
- b. Permanently enjoin the Defendants from offering or teaching the Bible Course;
- c. Permanently enjoin the Defendants from offering any Bible, religion, or other course, including any course using the NCBCPS curriculum, that promotes particular theological interpretations of the Bible rather than objective and neutral instruction for students;
- d. Award Plaintiffs the costs of this action, including attorneys' fees, pursuant to 42 U.S.C. § 1988; and
- e. Award such other and further relief as this Court deems just and proper.

Respectfully submitted,

By: 

David A. Handzo

D.C. Bar No. 384023 (motion for admission pro hac vice pending)

Craig A. Cowie

D.C. Bar No. 491707 (motion for admission pro hac vice pending)

Michelle A. Groman\*

Mass. Bar No. 666852 (motion for admission pro hac vice pending)

JENNER & BLOCK LLP

601 13th Street, N.W.

Washington, D.C. 20005

Phone: (202) 639-6000

Fax: (202) 639-6066

\*Admitted in Massachusetts only; currently practicing under the supervision of attorneys admitted to the D.C. Bar

William R. Stoughton  
Texas Bar No. 00788781  
JENNER & BLOCK LLP  
1717 Main Street  
Suite 3150  
Dallas, Texas 75201-4647  
Phone: (214) 746-5700  
Fax: (214) 746-5757

Judith E. Schaeffer  
D.C. Bar Number 273177 (motion  
for admission pro hac vice pending)  
PEOPLE FOR THE AMERICAN  
WAY FOUNDATION  
2000 M Street, N.W.  
Suite 400  
Washington, D.C. 20036  
Phone: (202) 467-4999  
Fax: (202) 293-2672

Daniel Mach  
D.C. Bar No. 461652 (motion for admission pro  
hac vice pending)  
T. Jeremy Gunn  
D.C. Bar No. 417222 (motion for admission pro  
hac vice pending)  
Lane Dilg  
Texas Bar No. 24053178 (motion for admission  
pro hac vice pending)  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
915 15th St., NW  
Washington, D.C. 20005  
Phone: (202) 675-2330  
Fax: (202) 546-0738

Lisa Graybill  
Texas Bar No. 24054454  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION OF TEXAS  
1210 Rosewood Avenue  
Austin, Texas 78702  
Phone: (512) 478-7300  
Fax: (512) 478-7303

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