

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

JOHN ROE, individually and as next)
friend to his daughter JANE ROE,)

Plaintiffs,)

v.)

TANGIPAHOA PARISH SCHOOL BOARD;)
ANN SMITH, individually and in her official)
capacity as member of Tangipahoa Parish School)
Board; ROBERT POTTS, individually and in)
his official capacity as member of Tangipahoa)
Parish School Board; LEONARD GENCO,)
individually and in his official capacity as member)
of Tangipahoa Parish School Board; AL LINK,)
individually and in his official capacity as member)
of Tangipahoa Parish School Board; DANNY)
RIDGEL, individually and in his official capacity)
as member of Tangipahoa Parish School Board;)
ROBERT CAVES, individually and in his official)
capacity as member of Tangipahoa Parish School)
Board; ERIC DANGERFIELD, individually and)
in his official capacity as member of Tangipahoa)
Parish School Board; SANDRA BAILEY-)
SIMMONS, individually and in her official)
capacity as member of Tangipahoa Parish School)
Board; ROSE DOMINGUEZ, individually and in)
her official capacity as member of Tangipahoa)
Parish School Board; LOUIS JOSEPH,)
Superintendent, Tangipahoa Parish School System;)
and ANDRE PELLERIN, Principal, Loranger)
Middle School)

Defendants.)

Case No.:

Judge:

Magistrate:

COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF
UNDER 42 USC § 1983

COMPLAINT

INTRODUCTION

1. This suit is a challenge to Defendants' improper injection of religious activity into a public school. The Plaintiffs seek declaratory and injunctive relief, declaring that the Defendants' policy and practice of distributing, permitting and/or acquiescing in the distribution of Gideon Bibles to Tangipahoa Parish public school students is a violation of the Establishment Clause of the First Amendment to the United States Constitution, which is made applicable to the States through the Fourteenth Amendment, and enjoining, restraining and prohibiting the Defendants from continuing said policy and practice.

JURISDICTION AND VENUE

2. This Court has original jurisdiction pursuant to 28 U.S.C. § 1331 over Plaintiffs' cause of action arising under the First and Fourteenth Amendments to the Constitution of the United States, 42 U.S.C. § 1983, and pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. This Court has supplemental jurisdiction respective to all claims, actions and causes of action pursuant to the Constitution and laws of the state of Louisiana.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because all Defendants reside in this District, and because the events or omissions giving rise to the claims at issue occurred in this District.

PARTIES

4. Plaintiff John Roe is of the Catholic faith. He is a resident and taxpayer of Tangipahoa Parish. John Roe's daughter, Plaintiff Jane Roe, attends Loranger Middle

School, and will attend Tangipahoa Parish public schools for some time to come¹.

Plaintiff John Roe has other children in the school system as well.

5. Tangipahoa Parish School District is a public school system in Tangipahoa Parish, Louisiana. Defendant Tangipahoa Parish School Board, hereinafter “Board,” is an entity that has the ultimate responsibility for the control, operation and maintenance of the school system, as well as final policymaking authority for the schools within that system.

6. Defendants, Ann Smith, Robert Potts, Leonard Genco, Al Link, Danny Ridgel, Robert Caves, Eric Dangerfield, Sandra Bailey-Simmons and Rose Dominguez, are members of the Tangipahoa Parish School Board. As members of the school board, these Defendants are responsible the administration and operation of schools within the school system, as well as are final policymakers for the schools within the Tangipahoa Parish school system. They are sued in their individual and official capacities.

7. Defendant, Louis Joseph, is Superintendent of Tangipahoa Parish school system. As such, he is responsible for the day-to-day operation of schools within the school system. He is sued in his individual and official capacity.

8. Defendant, Andre Pellerin, is principal of Loranger Middle School. As such, he is responsible for the day-to-day operation of Loranger Middle School. He is sued in his individual and official capacity.

¹ John Roe and Jane Roe seek to proceed under a pseudonym because they are challenging governmental activity and are required to disclose intimate information about the raising of children. *Doe v. Stegall*, 653 F.2d 180, 186 (5th Cir. 1981). In addition, use of a pseudonym is warranted in this case to shield Roe and his minor children from possible risk of violence stemming from their unpopular beliefs. *Id.* at 185-186; *see also, Bell v. Little Axe Ind. Sch. Dist. No. 70*, 776 F.2d 1391, 1398 (10th Cir. 1985). The use of a pseudonym is appropriate in cases challenging actions of public schools that endorse religion. *See, e.g., Doe v. Madison Sch. Dist. No. 321*, 147 F.3d 832, 834, fn. 1 (9th Cir. 1998); *Santa Fe Ind. Sch. Dist. v. Doe*, 530 U.S. 290 (2000).

FACTUAL ALLEGATIONS

9. Plaintiff Jane Roe attends Loranger Middle School, a public school in the Tangipahoa Parish School System.
10. On Wednesday, May 9, 2007, Jane Roe was attending school as usual.
11. At one point during the school day, Jane Roe's teacher told the class that they were going to get their Bibles.
12. The Bibles were being handed out by two men in front of the school office. *See P-1.* Upon handing the Bible to the students, the men said "God bless you."
13. Jane Roe's entire class was brought to the area to get a Bible. Upon arriving in front of the office, Jane Roe saw that the entire Fifth Grade was gathered to receive a Bible.
14. She also was conscious that all of her peers and teachers were around her, as she got her copy of the Bible. She accepted the Bible out of coercion and fear that she would have been criticized, ridiculed and ostracized by her peers and/or school officials.
15. Jane Roe's teacher said that they get Bibles every year.
16. Upon information and belief, the men distributing the Bibles were from Gideons International.
17. The May 9, 2007, distribution of Bibles took place during class time and during regular school hours.
18. Attendance at Loranger Middle School during regular school hours is compulsory for elementary-aged children residing within the Parish who are not enrolled in private school or home schooled.
19. The Defendants granted Gideons International access to schoolchildren for the purpose of distributing Bibles.

20. Defendants have a long history of attempting to inject religion into the public school, as evidenced by previous litigation, including: *Freiler v. Tangipahoa Parish School Board*, *Roe v. Tangipahoa Parish High School*, *Doe v. Tangipahoa Parish School Board*, and *Thompson v. Tangipahoa Parish School Board*.

CAUSE OF ACTION

21. The actions of the Defendants, as set forth in the preceding paragraphs, which are fully incorporated herein, entitle Plaintiffs to relief under 42 U.S.C. § 1983 because Defendants, acting under color of law, subjected Plaintiffs to a deprivation of their rights under the Establishment Clause of the First Amendment to the Constitution of the United States, as applied to the states by the Fourteenth Amendment.

22. Plaintiff has a constitutional right to direct the religious upbringing of his children pursuant to *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), and its progeny. Plaintiff has a constitutional right to send his children to a public school without their being consistently subjected to religious indoctrination, as had occurred in the immediate case.

23. Plaintiff's children have been and will be coerced by the actions of Defendants in facilitating the distribution of Bibles during school hours.

24. Defendants' actions have the effect of giving the appearance of the endorsement of religion. The actions have no secular purpose, and excessively entangle the government with religion.

25. Defendants' actions have a coercive effect upon young, impressionable elementary school children, particularly Plaintiff's children. The "government may not coerce anyone to support or participate in religion or its exercise, or otherwise act in a

way which establishes a [state] religion or religious faith, or tends to do so.” *See Lee v. Weisman*, 505 U.S. 577 (1992).

26. Defendants’ actions were taken under color of law.

27. Defendants’ actions were taken in bad faith, with the intent to cause Plaintiffs harm, or, in the alternative, with knowing or reckless state of mind with regard to whether they would cause Plaintiffs harm. At a minimum, Defendants knew of the constitutional violation and failed to correct it. The law surrounding this practice is clearly established, and yet Defendants continue to act in violation of law.

28. Because Defendants’ actions have violated the Plaintiffs’ federal constitutional rights and were taken under color of law, each of the Defendants is liable for remedy under 42 U.S.C. § 1983.

WHEREFORE Plaintiffs respectfully request that this Court enter its Judgment against Defendants granting the following relief:

A. Declaratory judgment finding that Defendants’ actions in facilitating and condoning the distribution of Bibles on school property during school hours violates the Establishment Clause of the First Amendment of the Constitution of the United States as applied to the state through the Fourteenth Amendment;

B. Preliminary and permanent injunctions preventing and restraining Defendants from further endorsement of religion;

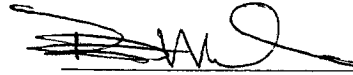
C. Compensatory damages, to compensate Plaintiffs for their injuries, in an amount that will be shown at trial;

D. Punitive damages, as Defendants have acted, and continue to act, in bad faith;

E. Nominal damages;

- F. An award of costs and attorneys' fees pursuant to 42 U.S.C. § 1988; and
- G. Such other and further relief as is just and proper under the circumstances.

Respectfully Submitted,



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Foundation of Louisiana

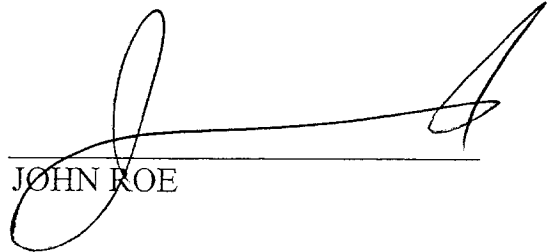


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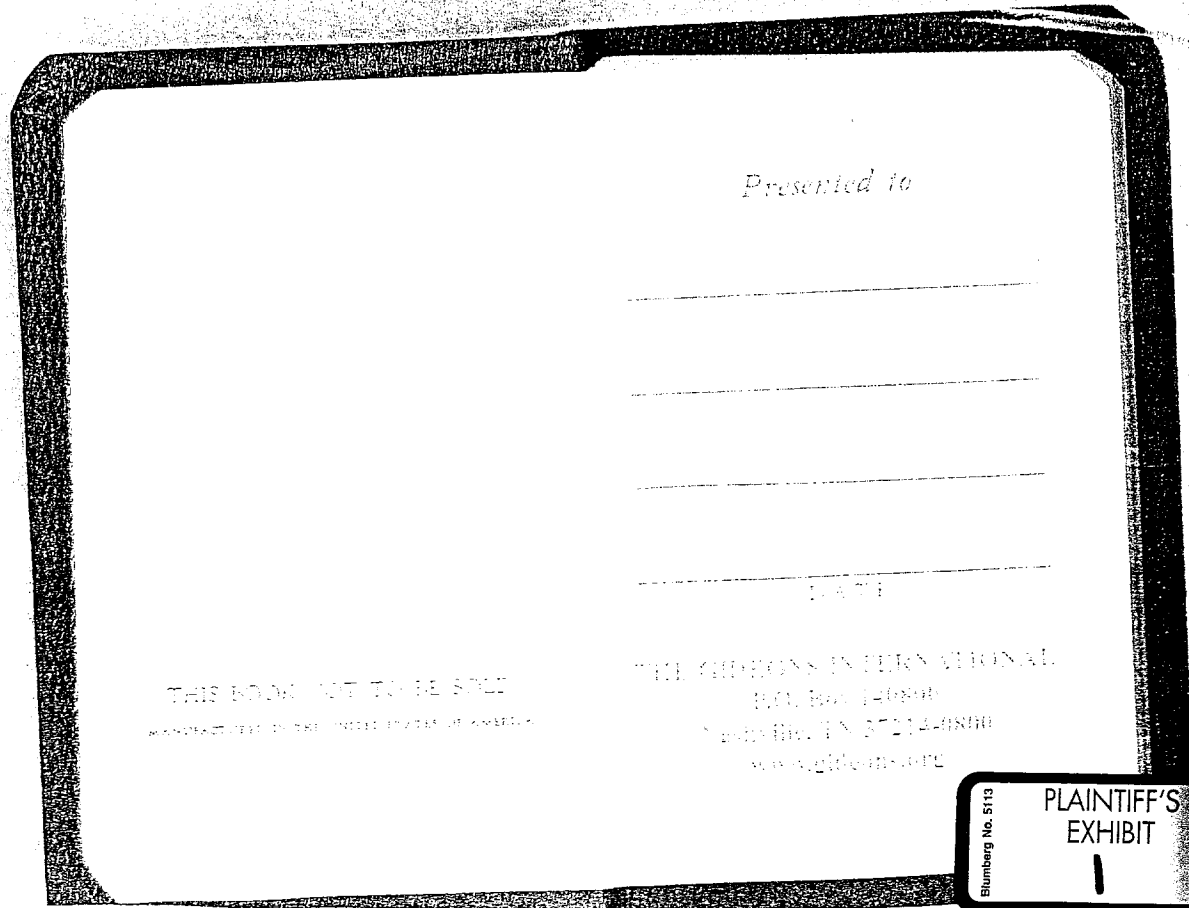
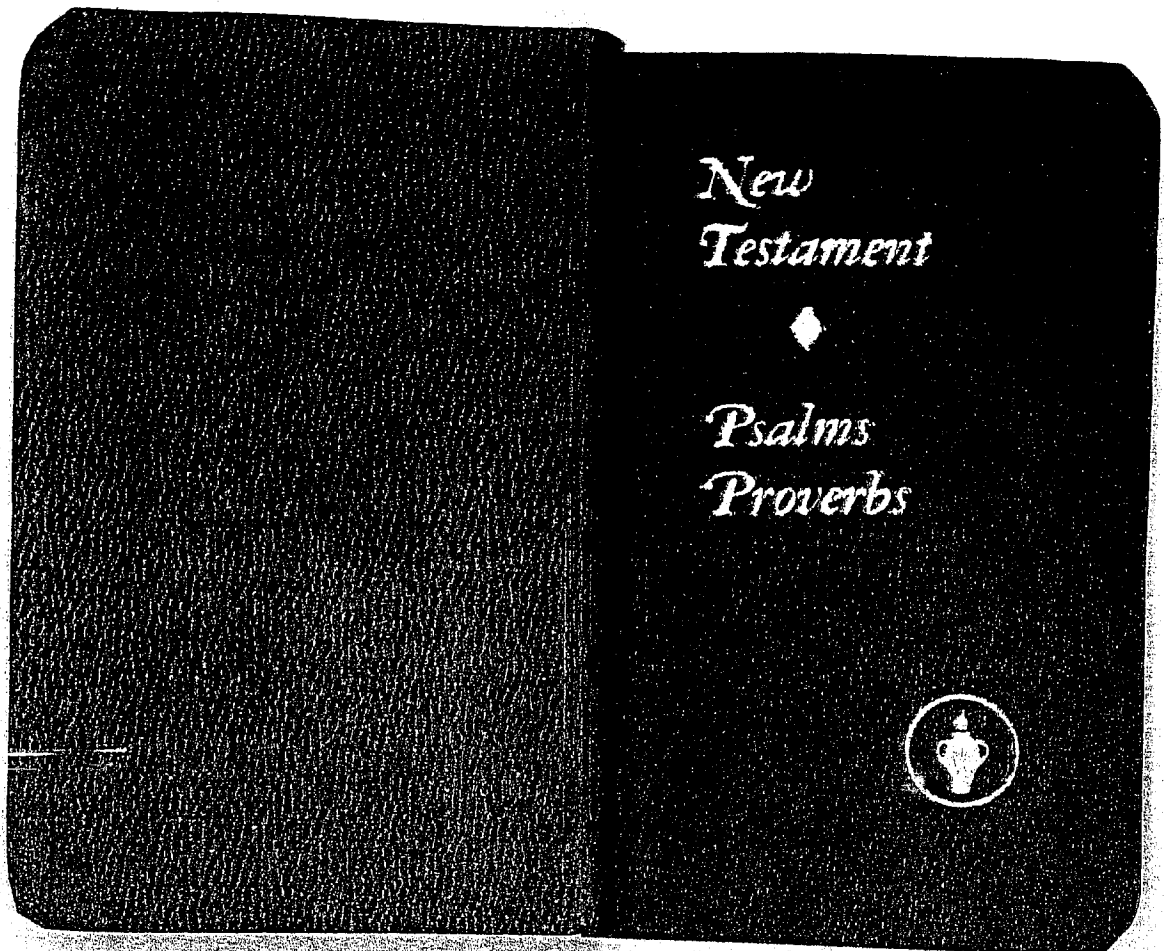
Staff Attorney for the American Civil
Liberties Union Foundation of
Louisiana

VERIFICATION

I, JOHN ROE, do hereby affirm that I have read the foregoing Complaint and further affirm that the facts contained herein are true to the best of my information and belief.



JOHN ROE



Blumberg No. 5113
PLAINTIFF'S
EXHIBIT
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