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22 Attorneys for Plaintiffs

23 **IN THE UNITED STATES DISTRICT COURT**
24 **FOR THE DISTRICT OF ARIZONA**
25 **PHOENIX DIVISION**

26 First Baptist Church of Maricopa, an
27 Arizona nonprofit organization; and
28 Jimmy L. Johnson, Pastor,

Plaintiffs,

v.

Maricopa Unified School District No.
20,

Defendant.

Case No. 08-cv-1363-GMS

Honorable G. Murray Snow

**PLAINTIFFS' NOTICE OF
VOLUNTARY DISMISSAL**

1 Come now the Plaintiffs, by and through counsel, and pursuant to Federal Rule of
2 Civil Procedure 41(a)(1) file this voluntary dismissal, stating as follows:

3 1. On July 24, 2008, Plaintiffs filed a Complaint in this case challenging Defendant’s
4 denial of their right to distribute religious literature under the same terms and conditions
5 as other nonprofit organizations are permitted to distribute literature at schools within
6 Maricopa County Unified School District No. 20 (“MUSD”).

7 2. At that time, MUSD policy permitted nonprofit organizations to distribute
8 literature within the schools promoting their cultural, recreational, artistic, and
9 educational opportunities for students, and activities where students are provided
10 instruction and practice regarding a wide range of subject matters.

11 3. MUSD’s policies, however, expressly prohibited the distribution of literature that
12 promoted religious activities, or that contained religious content.

13 4. Specifically, MUSD policy prohibited the distribution of: “[a]ny material that
14 promotes a particular religious belief or any religious tract materials”; [n]on-school
15 promotional literature soliciting for or promoting participation in . . . religion”; and
16 materials submitted by “any organization or program defined as . . . sectarian in nature.”

17 5. Pursuant to these policies, MUSD denied the Plaintiffs’ request to distribute a
18 flyer promoting First Baptist Church of Maricopa’s AWANA program, which is an after-
19 school Bible study aimed at high school age students.

20 6. Shortly after Plaintiffs filed their Complaint, MUSD’s counsel notified Plaintiffs’
21 counsel that the AWANA flyers would be immediately distributed in the same manner as
22 other flyers approved for distribution.

23 7. In addition, MUSD agreed to, and did on December 17, 2008, change its literature
24 distribution policies so that they no longer expressly discriminate against religious speech
25 and speakers, but instead grants them equal access to MUSD’s literature distribution
26 forum.

27 8. MUSD has also paid Plaintiffs’ attorneys’ fees pursuant to 42 U.S.C. § 1988.
28

1 Based on the above actions of the Defendant, Plaintiffs hereby voluntarily dismiss
2 this action with prejudice.

3 Respectfully submitted this the 30th day of December, 2008.

4
5 **THE ALLIANCE DEFENSE FUND**

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CERTIFICATE OF SERVICE

I hereby certify that on December 30, 2008, I electronically filed the foregoing paper with the Clerk of Court using the ECF system which will send notification of such filing to the following:

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