

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

A.Z., a minor, by and through her parent
and natural guardian, Nicholas Zinos,

Plaintiff,

v.

NOVA CLASSICAL ACADEMY,

Defendant.

Case No. _____

**VERIFIED COMPLAINT FOR
INJUNCTIVE AND DECLARATORY
RELIEF**

Civil Rights Action (42 U.S.C. § 1983)

**VERIFIED COMPLAINT FOR
INJUNCTIVE AND DECLARATORY RELIEF**

Now comes Plaintiff, A.Z.,¹ by and through her parent and natural guardian, Nicholas Zinos, pursuant to the Federal Rules of Civil Procedure, and for her causes of action against Defendant avers the following:

I. INTRODUCTION

1. This a civil rights action under 42 U.S.C. § 1983, and the First and Fourteenth Amendments, to remedy a violation of the constitutional rights of Plaintiff A.Z., a student at Nova Classical Academy in St. Paul, Minnesota.
2. Plaintiff brings this action challenging Defendant Nova Classical Academy’s (“Academy”) refusal to allow A.Z. to distribute religious, pro-life materials to her friends and classmates at school during non-instructional time.
3. The Academy prohibited A.Z. from distributing these pro-life materials to her

¹ Pursuant to Fed. R. Civ. P. 5.2, A.Z. is identified by her initials, rather than her full name.

classmates pursuant to its policies and practice.

4. The Academy, by policy and practice, permits students to “hang posters, fliers, or notices in the school” as long as they have “prior approval from an Administrator.”
5. Yet there are no written guidelines for the Administrator to follow when deciding which posters, fliers, or notices to approve.
6. Furthermore, according to Executive Director Brian Bloomfield, “the school has parameters in place for political, religious, and controversial speech for students in the School of Rhetoric [High School] only.”
7. Thus, not only does the Academy prohibit student posters, fliers, and notices unless approved without any written guidelines to restrain its unbridled discretion, but it also completely prohibits middle school age students, like A.Z., from engaging in “political, religious, or controversial speech.”
8. As Executive Director Bloomfield further stated, “public schools have every right to prohibit student speech,” and “political activism is limited to students in the School of Rhetoric [the High School] only.”
9. Plaintiff challenges the Academy’s literature distribution policy and practice facially and as applied to A.Z.’s religious, pro-life materials.
10. The Academy’s censorship of A.Z.’s religious, pro-life speech, and the policy and practice on which that censorship was based, violate the First and Fourteenth Amendments to the United States Constitution.

II. JURISDICTION AND VENUE

11. This action arises under the United States Constitution, particularly the First and Fourteenth Amendments, under federal law, particularly 28 U.S.C. §§ 2201, 2202 and 42 U.S.C. §§ 1983 & 1988.
12. This Court possesses original jurisdiction over Plaintiff's claims by operation of 28 U.S.C. §§ 1331 and 1343.
13. This Court is vested with authority to issue the requested declaratory relief under 28 U.S.C. § 2201 and 2202 and Federal Rule of Civil Procedure 57.
14. This Court has authority to award the requested injunctive relief under 28 U.S.C. § 1343(a)(3) and Federal Rule of Civil Procedure 65.
15. This Court is authorized to award nominal damages under 28 U.S.C. § 1343(a)(4).
16. This Court is authorized to award attorneys' fees under 42 U.S.C. § 1988.
17. Venue is proper under 28 U.S.C. § 1391 in the District of Minnesota because the facts underlying this suit arose there and because Defendant is located in the District of Minnesota.

III. IDENTIFICATION OF THE PLAINTIFF

18. A.Z., a minor, is a sixth grade student at the Academy, and at all times relevant to this Complaint, a resident of St. Paul, Minnesota.
19. Nicholas Zinos is A.Z.'s natural parent and guardian, and at all times relevant to this Complaint, is and was a resident of St. Paul, Minnesota.
20. A.Z. is an adherent of the Christian faith and desires to share her religious, pro-life views with her schoolmates.

21. Pursuant to her sincerely held religious beliefs, A.Z. desires to distribute religious, pro-life literature to her schoolmates at the Academy without facing censorship or punishment.
22. A.Z. desires to distribute religious, pro-life materials for the same reason other students desire to distribute their materials—to express their viewpoint on important issues and inform their classmates about issues and causes that may be of interest to them.

IV. IDENTIFICATION OF THE DEFENDANT

23. Defendant Academy is organized under the laws of the State of Minnesota and may sue and be sued. Minn. Stat. Ann. § 124D.10 (“The board of directors of a charter school may sue and be sued.”).
24. The Academy is charged, *inter alia*, with the administration, operation, and supervision of the public charter school of the same name.
25. The Academy is charged with the formulation, adoption, implementation, and enforcement of Academy policies, including the policies challenged herein.
26. The Academy is responsible for the enforcement of its policies by its employees.
27. The Academy is responsible for the enactment, enforcement, and existence of policies and practices related to student expression and student distribution of nonschool literature.
28. The Academy prohibited A.Z. from distributing religious, pro-life materials during non-instructional time pursuant to its policies and practice.
29. The Academy is responsible for the implementation and application by the

Executive Director and charter school officials of its policies and practices pertaining to distribution of written materials by students.

30. The Academy has delegated to the Executive Director and charter school officials final authority as to the approval and denial of the distribution of written materials by students, and the Executive Director exercised that authority in denying A.Z.'s religious pro-life materials.

V. ALLEGATIONS OF FACT

**THE ACADEMY'S POLICIES AND PRACTICE
REGARDING STUDENT EXPRESSION ON CAMPUS**

31. The Academy operates a public charter school located in St. Paul, Minnesota.
32. The Academy is divided into three Schools: The School of Grammar for grades K-5, the School of Logic for grades 6-8, and the School of Rhetoric for grades 9-12.
33. All students at the Academy are located in the same building and share several common areas, including a cafeteria, gymnasium, lobby, and hallways.
34. The Academy is the official policy maker for the school and as such has enacted the literature distribution policies challenged herein.
35. According to the 2012-2013 Nova Classical Academy Student-Parent Handbook:

POSTERS AND NOTICES

Students and parents wishing to hang posters, fliers, or notices in the school, must have prior approval from an Administrator.

36. Pursuant to the Academy's policies and practices, students are permitted to distribute flyers and information materials during non-instructional time at school.
37. Students distribute literature and materials with various types of secular messages

including personal notes, birthday party invitations, etc., during non-instructional times.

THE DENIAL OF A.Z.'S PRO-LIFE MATERIALS

38. Students at the Academy, including those in the elementary and middle school grades, are regularly exposed to materials discussing pregnancy, pro-life issues, and even the murder of babies during the Holocaust.
39. The science textbook used by A.Z. and her friends in their 5th grade biology class contained information and lessons about pregnancy and the stages of fetal development in the womb.
40. Seventh grade students in the middle school were required to attend a presentation on drugs, alcohol, and date rape as part of the Academy's curriculum requirements.
41. Students in the middle school also read Night by Elie Wiesel as part of the literature curriculum. The novel, which describes the horrors faced by prisoners in the German concentration camps at Auschwitz and Buchenwald, includes descriptions of infants being thrown into the air and used as target practice for machine gunners.
42. During the previous year, a group of students in the School of Rhetoric had formed a pro-life student club that discussed and promoted pro-life issues at the Academy.
43. A.Z., her friends, and all of her middle school classmates have been exposed to ideas about birth, fetal development, and pro-life issues while at the Academy.

44. On Wednesday, February 27, 2013, one of A.Z.'s friends printed off several pieces of pro-life literature and brought them to school.
45. A.Z. and her friends intended to decorate their notebooks with the materials and to hand them out to any of their friends and classmates that may be interested in the pro-life materials.
46. During their free time while at lunch, A.Z. and her friends were sharing the materials among themselves and using them to decorate their planners, book covers, pencils, etc.
47. A.Z. and her friends also approached some of their friends at lunch and gave the pro-life materials to other classmates that expressed interest in the materials and wanted copies of them.
48. By the end of lunch, most of the pro-life materials were gone, having been willingly accepted by other students.
49. In the short break between lunch and the start of class, A.Z. and her friends were approached by a male classmate who asked A.Z.'s friend if he could have one of the pro-life flyers.
50. A.Z.'s friend gave the boy one of the flyers as he had requested.
51. The flyer stated:

~~save the baby seals~~
~~save the baby whales~~
save the baby humans
STOP ABORTION

52. There were no disruptions caused by A.Z.'s pro-life materials, nor by her distribution of them to her friends and classmates that expressed interest in receiving the materials.
53. On Friday, March 1, 2013, A.Z. and her friends were called to the office of Mrs. Miranda Morton, the director for grades 6-12.
54. Mrs. Morton had the copy of the pro-life flyer that A.Z.'s friend had given to their male classmate.
55. Mrs. Morton told A.Z. and her friends that some people find pro-life flyers offensive and that the girls could not pass them out anymore.
56. The girls asked whether they could give them to students who asked for one.
57. Mrs. Morton responded that even if a student requested it, the girls could not hand them out.
58. When asked if the girls could put them on their planners, books, and binders, Mrs. Morton said they could do that, but they could not post them on the hallway walls or put them on tables for people to take.
59. Finally, Mrs. Morton told them that they could not even hand out the pro-life materials before or after school.
60. Following this meeting, A.Z.'s father contacted Mrs. Morton via e-mail to ask about the restrictions placed on their daughter's speech.
61. Citing the case of *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969), Mr. Zinos explained in his e-mail that:

[T]he law of the land is quite clear about the broad protections afforded

students at public schools when it comes to free speech. Not only are they allowed to speak their mind freely about controversial topics, but they are also allowed to circulate petitions, hand our [sic] flyers, newspapers etc.

62. Mr. Zinos further described how “being called into the office before her peers without having done any wrong, and then being told in your office that they could no longer do what they had been doing, was unfair and perhaps a humiliating experience for my daughter and for the others involved.”
63. Mrs. Morton forward the e-mail to Mr. Bloomfield, who responded:

Good morning Nick,

Thank you for your note. I am going to recycle a response I sent to a Board member on this topic a few weeks back. You are correct in citing *Tinker (1969)*, but you have not taken into account the effects *Hazelwood (1988)* had in limiting *Tinker*. The following note reflects accurately the state of limited freedom of speech for students in a public school, which is not an open forum. My note has been vetted by our lawyers as well.

In short, there are places for students to express their thoughts and opinions whatever they are which are forums for free speech (seminars, school newspaper), but not everywhere and anytime within the walls of a school. **Further, the school has parameters in place for political, religious, and controversial speech for students in the School of Rhetoric only, put in place last year sure to [sic] parent concerns about younger students being exposed to such ideas and the goals of the classical *trivium*.**

...

With that as background, there are two cases which most directly speak to your question. The first is *Tinker v. Des Moines Independent Community School District (1969)* which supported freedom of speech for students within a school even if the administration has an “undifferentiated fear or apprehension of disturbance.” The court decided that such thought from the administration “is not enough to overcome the right to freedom of expression.” In this case students were wearing armbands to protest the Vietnam War. The court’s ruling said that schools could not prohibit freedom of speech of students unless there was a manifest danger to others through serious disruption.

That precedent changed, however, with *Hazelwood School District et al. v. Kuhlmeier et al* (1988), which we tend to refer to as *Hazelwood*. It states, briefly, that schools (the case was a student newspaper) are not forums for student expression. That means that students have limited free speech in a school or a school-related enterprise. **The school has a right to censor students without violating their free speech.** Justice White wrote, in the majority opinion, that, “a school need not tolerate student speech that is inconsistent with its basic educational mission, even though the government could not censor similar speech outside the school. ... (Judicial action to protect students' rights is justified) only when the decision to censor a school-sponsored publication, theatrical production or other vehicle of student expression has no valid educational purpose” (I’m pulling this quote from the wikipedia summary of the case).

In short, public schools have every right to prohibit student speech.

...

The conversation that Mrs. Morton had with students this week supports the schools legal right to censor certain types of speech as well as school policy which dictates that such political activism is limited to students in the School of Rhetoric only. At school, our focus is learning. If your daughter wishes to form an official extracurricular club about the pro-life movement when she is a freshman, Nova will fully support that endeavor (just as we had a pro-life club last year).

(emphasis added).

64. According to Mr. Bloomfield, the Academy has the “right to prohibit student speech” and to “censor certain types of speech.”
65. As a result, A.Z. was prohibited from distributing any more religious, pro-life materials to her classmates during non-instructional time.
66. A.Z. is a Christian who desires to share her faith, beliefs, and pro-life viewpoint with other students.
67. A.Z.’s sincerely held religious beliefs compel her to share her faith, beliefs, and

pro-life viewpoint with her friends and classmates at school.

68. One way A.Z. accomplishes this goal at school is by advocating on behalf of the pro-life movement through the distribution of written materials.
69. Both now and in the future, A.Z. immediately desires to engage in pro-life speech during non-instructional time through the distribution of other similar pro-life literature absent fear of reprisal and without facing punishment or being prohibited from doing so.

VI. ALLEGATIONS OF LAW

70. All of the acts of the Academy, its board, officers, agents, employees, and servants were executed and are continuing to be executed by the Academy under the color and pretense of the policies, statutes, ordinances, regulations, customs, and usages of the State of Minnesota.
71. A.Z. is suffering irreparable harm from the conduct of the Academy.
72. A.Z. has no adequate or speedy remedy at law to correct or redress the deprivation of her rights by the Board.
73. Unless the Academy's literature distribution policy and practice are enjoined, A.Z. will continue to suffer irreparable injury.

FIRST CAUSE OF ACTION: VIOLATION OF THE FREE SPEECH CLAUSE OF THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

74. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 73 of this Complaint.
75. The First Amendment's Freedom of Speech Clause, incorporated and made

applicable to the states by the Fourteenth Amendment to the United States Constitution, prohibits censorship of religious, pro-life expression.

76. The Academy's literature distribution policy and practice permit students to "hang posters, fliers, or notices in the school" as long as they have "prior approval from an Administrator."
77. The Academy also permits the distribution of written materials by students covering a wide range of topics including birthday invitations and other non-school events.
78. In contrast, the Academy's literature distribution policy and practice prohibit A.Z. from distributing pro-life materials to her friends and classmates at school through student-to-student distribution.
79. According to Executive Director Brian Bloomfield, "the school has parameters in place for political, religious, and controversial speech for students in the School of Rhetoric [High School] only," and "political activism is limited to students in the School of Rhetoric [High School] only."
80. A.Z.'s distribution of her pro-life materials did not and will not materially and substantially interfere with the orderly conduct of educational activity within the school.
81. Nor are A.Z.'s First Amendment rights postponed until she enters high school.
82. Because A.Z. was prohibited from distributing pro-life materials to her classmates despite the lack of any express prohibition in the Academy's literature distribution policy, it is apparent that the Academy grants unbridled discretion to Academy

officials to ban any written materials—including “political, religious, and controversial speech,” “political activism,” and speech that “is inconsistent with [the school’s] basic educational mission”—based solely upon the whims of the Academy officials.

83. This unequal treatment of A.Z.’s religious, pro-life expression pursuant to the Academy’s literature distribution policy and practice is a content-based restriction in an otherwise open forum.
84. The Academy permits students to hand out flyers and posters in the school and to distribute materials, including, among other things, notes and invitations to off-campus birthday parties.
85. But the Academy’s literature distribution policy and practice discriminate against A.Z.’s religious, pro-life viewpoint by prohibiting her from distributing pro-life materials to her friends and classmates during non-instructional time.
86. This denial of A.Z.’s religious, pro-life materials while permitting secular posters, flyers, and materials from other students constitutes viewpoint discrimination, which is unconstitutional in any type of forum.
87. The Academy’s literature distribution policy and practice additionally impose an unconstitutional prior restraint because they vest Academy officials with unbridled discretion to permit or refuse protected religious and pro-life speech by students.
88. The Academy’s literature distribution policy and practice give unbridled discretion to Academy officials to decide what written material a student is permitted to distribute and to ban any other speech—including “political, religious, and

controversial speech,” “political activism,” and speech that “is inconsistent with [the Academy’s] basic educational mission”—at the whim of the officials.

89. The Academy’s literature distribution policy and practice are additionally overbroad because they sweep within their ambit protected First Amendment expression.
90. The overbreadth of the Academy’s literature distribution policy and practice chill the speech of Plaintiff and third party students who might seek to engage in private religious and pro-life expression through the distribution of written materials during non-instructional time.
91. The Academy’s literature distribution policy and practice chill, deter, and restrict A.Z. from freely expressing her religious and pro-life beliefs.
92. The Academy’s literature distribution policy and practice, as interpreted and applied by Academy officials to prohibit religious and pro-life speech, are not the least restrictive means necessary to serve any compelling interest which the Academy seeks thereby to secure.
93. The Academy’s literature distribution policy and practice are not reasonably related to any legitimate pedagogical concerns.
94. Censoring students’ religious, pro-life speech *per se* is not and cannot be a legitimate pedagogical concern.
95. The Academy’s literature distribution policy and practice, facially and as applied, accordingly violate A.Z.’s right to Free Speech as guaranteed by the First Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the Prayer for Relief.

SECOND CAUSE OF ACTION: VIOLATION OF THE FREE EXERCISE CLAUSE OF THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

96. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 73 of this Complaint.
97. The Academy's literature distribution policy and practice, by expressly targeting A.Z.'s private religious expression for special disabilities, violate her constitutional right to the free exercise of religion.
98. A.Z. desires to distribute religious and pro-life materials to her classmates at school during non-instructional time on the basis of her sincerely held religious beliefs.
99. The Academy's literature distribution policy and practice explicitly exclude—and thus discriminate against—religious, pro-life expression.
100. The Academy's literature distribution policy and practice substantially burden A.Z.'s free exercise of religion by conditioning her ability to speak on foregoing her free exercise rights.
101. The Academy's literature distribution policy and practice force A.Z. to choose between engaging in religious speech and being censored, or foregoing the free exercise of religion to be able to speak without censorship or punishment.
102. The Academy's literature distribution policy and practice substantially burden A.Z.'s free exercise of religion by denying her the right to engage in private

religious, pro-life speech.

103. The Academy's literature distribution policy and practice constitute the imposition of special disabilities on A.Z. due to her religion and her intent to engage in private religious, pro-life expression.
104. The Academy's literature distribution policy and practice of banning A.Z.'s religious, pro-life materials selectively imposes a burden on expression based on the religious nature of the expression by singling out her expression for discriminatory treatment.
105. The Academy's interpretation and application of its literature distribution policy chill A.Z.'s freedom of religious expression and exercise, both of which are fundamental rights guaranteed to A.Z. by the First Amendment.
106. These special disabilities placed on A.Z. are neither neutral nor of general applicability.
107. The Academy's literature distribution policy and practice are not neutral because they target religious speech and permit Academy officials to arbitrarily decide what speech is permitted under the policies and practice and what speech is not.
108. The Academy's literature distribution policy and practice are likewise not generally applicable because they grant the Academy officials unbridled discretion, enforced via a policy of individualized assessment, to censor A.Z.'s religious, pro-life materials while permitting other students to distribute written materials.
109. The Academy's literature distribution policy and practice cannot be justified by a

compelling governmental interest and are not narrowly tailored to advance any such interest.

110. The Academy's literature distribution policy and practice, facially and as applied, constitutes an excessive burden on A.Z's rights to freedom of exercise of her religion and have violated the Free Exercise Clause of the First Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the Prayer for Relief.

THIRD CAUSE OF ACTION: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

111. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 73 of this Complaint.
112. The Due Process Clause of the Fourteenth Amendment prohibits the government from censoring speech pursuant to vague standards that grant unbridled discretion.
113. The arbitrary determination by district officials of what is and is not forbidden speech violates this norm.
114. Students of common intelligence must therefore guess as to whether their expression will be of the type that Academy officials ban at school—including “religious,” “political,” or “controversial” expression, “political activism,” or speech that “is inconsistent with its basic educational mission.”
115. The Academy's literature distribution policy and practice are vague and allow for unbridled discretion in determining which student speech satisfies its literature

distribution policy and practice.

116. The Academy's literature distribution policy and practice allow Academy officials to act with complete unbridled discretion when deciding if written material a student desires to distribute is prohibited.
117. The discretion given to Academy officials pursuant to the Academy's literature distribution policy and practice leaves censorship of student speech to the whim of Academy officials.
118. As Executive Director Bloomfield stated, "public schools have every right to prohibit student speech."
119. The Academy's literature distribution policy and practice, facially and as applied, accordingly violate A.Z.'s rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the Prayer for Relief.

**FOURTH CAUSE OF ACTION: VIOLATION OF THE ESTABLISHMENT
CLAUSE OF THE FIRST AMENDMENT TO THE UNITED STATES
CONSTITUTION**

120. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 73 of this Complaint.
121. The Academy's literature distribution policy and practice embody hostility toward religious expression and require excessive entanglement with religion, both forbidden under the First Amendment's Establishment Clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States

Constitution.

122. The Academy's literature distribution policy and practice of banning A.Z.'s religious, pro-life expression evinces discriminatory suppression of private speech that is not neutral, but rather is hostile toward religion.
123. The Academy, pursuant to its literature distribution policy and practice of suppressing private religious, pro-life expression, sends the message to students that religious, pro-life speakers such as A.Z. are second-class citizens, outsiders, and not full members of the academic community.
124. The Academy sends the message that Christians like A.Z. are outsiders by excluding religious, pro-life points of view and written materials while concurrently permitting all other points of view and written materials.
125. The Academy's literature distribution policy and practice compel Academy officials to classify private student speech according to its perceived religious-versus-nonreligious nature.
126. Drawing this distinction necessarily requires Academy officials to inquire into the significance of words and practices to different religious faiths.
127. Such inquiries by Academy officials entangle them with religion in a manner forbidden by the First Amendment.
128. Entanglement problems exist because Academy officials must attempt to discern which private student expression is too "religious" in nature to be permitted.
129. Academy officials must make theological interpretations in order to conclude that some student speech is "religious," while other student speech is not.

130. The Academy denied A.Z. the right to distribute her religious, pro-life materials, an action that represents the antithesis of neutrality.
131. No compelling state interest exists to justify the censorship of A.Z.'s religious, pro-life expression.
132. The Academy's literature distribution policy and practice, facially and as applied, therefore violate the Establishment Clause of the First Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the Prayer for Relief.

FIFTH CAUSE OF ACTION: VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

133. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 73 of this Complaint.
134. The Equal Protection Clause of the Fourteenth Amendment requires that the government treat similarly situated persons and groups equally.
135. Pursuant to its literature distribution policy and practice, the Academy has allowed other similarly situated students to distribute written materials containing secular expression during non-instructional time.
136. The Academy has treated A.Z. disparately when compared to similarly situated students, by banning only A.Z.'s religious, pro-life expression.
137. By discriminating against the content and viewpoint of A.Z.'s speech, the Academy is treating A.Z.'s religious, pro-life speech differently than other similar

situated public school students.

138. The Academy's literature distribution policy and practice violate various fundamental rights of A.Z., such as rights of free speech and free exercise of religion.
139. When government regulations, like the Academy's literature distribution policy and practice challenged herein, infringe on fundamental rights, discriminatory intent is presumed.
140. The Academy's literature distribution policy and practice have also been applied to intentionally discriminate against A.Z.'s rights of free speech and free exercise of religion.
141. The Academy lacks a rational or compelling state interest for such disparate treatment of A.Z.
142. The Academy's literature distribution policy and practice are not narrowly tailored as applied to A.Z because her speech does not implicate any of the interests the Academy might have.
143. The Academy's literature distribution policy and practice, facially and as applied, thus violate A.Z's right to equal protection of the laws as guaranteed by the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the Prayer for Relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for judgment as follows:

- a. That this Court issue a Preliminary and Permanent Injunction, restraining the Academy, its officers, agents, employees, and all other persons acting in active concert with it, from enforcing the Academy's literature distribution policy and practice that violate A.Z.'s constitutional rights by banning religious, pro-life expression, and allowing A.Z.'s literature distribution;
- b. That this Court render a Declaratory Judgment, declaring as unconstitutional facially and as-applied the Academy's literature distribution policy and practice that ban religious, pro-life expression in violation of the First and Fourteenth Amendments to the United States Constitution;
- c. That this Court adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy, in order that such declarations shall have the force and effect of final judgment;
- d. That this Court retain jurisdiction of this matter for the purpose of enforcing any Orders;
- e. That the Court award A.Z.'s costs and expenses of this action, including a reasonable attorneys' fees award, in accordance with 42 U.S.C. § 1988;
- f. That this Court award nominal damages for the violation of A.Z.'s constitutional rights;
- g. That this Court issue the requested injunctive relief without a condition of bond or other security being required of A.Z.; and
- h. That the Court grant such other and further relief as the Court deems equitable and just in the circumstances.

Dated this 24th day of April, 2013.

s/ Stanley N. Zahorsky

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**Application for Admission Pro Hac Vice
Pending*

VERIFICATION

I, Nicholas Zinos, a citizen of the United States and a resident of the State of Minnesota, have read the foregoing Verified Complaint for Declaratory and Injunctive Relief and declare under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed this 22nd day of April, 2013.

s/ Nicholas Zinos
Nicholas Zinos