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6				
7 8	UNITED STATES DISTRICT COURT			
9	EASTERN DISTRICT OF CALIFORNIA			
10		Case No.		
11	RONALD NOONER, PAMELA NOONER,			
12	Plaintiffs,	COMPLAINT FOR DAMAGES, EQUITABLE, AND INJUNCTIVE RELIEF:		
13	V.	VIOLATIONS OF CIVIL DIGITS LAWS, 40 LLO O		
14	EL DODADO UNIONALIZADA DISTRICT	VIOLATIONS OF CIVIL RIGHTS LAWS; 42 U.S.C. §1983, 1985, et seq.		
15	EL DORADO UNION HIGH SCHOOL DISTRICT; PONDEROSA HIGH SCHOOL BRUIN DEN			
16	FOOTBALL AND CHEER BOOSTER CLUB, a California corporation; CHRISTOPHER MOORE;	JURY TRIAL DEMANDED ON ALL CLAIMS FOR MONETARY DAMAGES		
17	CHRISTOPHER R. HOFFMAN; STEVE VOLMER; JASON TENNER; and DOES 1			
18	through 50, inclusive,			
19	Defendants.			
20	,			
21	Plaintiffs complain and alleges as follows:			
22	PARTIES AND JURISDICTION			
23	Plaintiff RONALD NOONER ("RON") is, and at all relevant times hereto has been, a United			
24	States citizen over the age of 18, and a resident of El Dorado Hills, California. RON is the father of three			
25	boys, Riley Nooner, Devon Nooner, and Jerod Nooner. Riley Nooner is a 2011 graduate of Ponderosa Higl			
26	School in Shingle Springs, California ("Ponderosa"); Devon and Jerod Nooner are currently enrolled a			
27	Folsom High School, in spite of Plaintiffs' multiple and quite reasonable requests that their sons be allowed			
28	-1- COMPLAINT FOR DAMAGES, EQUITABLE, AND INJUNCTIVE RELIEF			
		NOONER V. EL DORADO UNION HIGH SCHOOL DIST., ET AL., CASE NO.		

to transfer from Ponderosa to Oak Ridge High School, which is located a mere four miles from Plaintiffs' El Dorado Hills home.

- 2. Plaintiff PAMELA NOONER ("PAM," and along with RON, "Plaintiffs") is, and at all relevant times hereto has been, a United States citizen over the age of 18, and a resident of El Dorado Hills, California. PAM is married to RON and is the mother of Riley Nooner, Devon Nooner, and Jerod Nooner.
- 3. Defendant EL DORADO UNION HIGH SCHOOL DISTRICT ("EL DORADO UNION") is a taxpayer-funded, public-corporate entity headquartered in the City of Placerville, County of El Dorado, California. EL DORADO UNION is, and at times pertinent to this case has been, a government entity conducting its business under color of state authority and law.
- 4. According to information published on EL DORADO UNION's website, this Defendant is an administrative and governing body responsible for all aspects of the operation of four (4) so-called "comprehensive" El Dorado County high schools: *Ponderosa, El Dorado High School, Oak Ridge High School,* and *Union Mine High School.* In addition, EL DORADO UNION purportedly operates nine (9) so-called "Alternative Schools And District Programs" in and around the city of Placerville, and the towns of Diamond Springs and El Dorado.
- 5. EL DORADO UNION has a five-member Board of Trustees, each of whom is elected by the public and serves a four-year term. This Defendant also has a Superintendent, several Assistant Superintendents, and multiple management-level and policy-making professionals as part of its management and operational structure.
- 6. Defendant PONDEROSA HIGH SCHOOL BRUIN DEN FOOTBALL AND CHEER BOOSTER CLUB ("BRUIN DEN") is a California corporation duly licensed to conduct business in the State of California. Plaintiffs are informed and believe that BRUIN DEN is organized and existing under Section 501(c)(3) of the United States Internal Revenue Code and, thus, is a non-profit and tax-exempt organization.

- 7. Plaintiffs are informed and believe and based thereon allege that Defendant CHRISTOPHER MOORE ("MOORE") is an EL DORADO UNION employee who, during much of the relevant timeframe for this action, was the Principal at Ponderosa. Plaintiffs further allege that as a primary aspect of MOORE's responsibilities while serving as Ponderosa's Principal, he was responsible for oversight of Ponderosa's teaching and athletic coaching staff, employee management and discipline, and student safety and welfare. For purposes of this action under 42 U.S.C. §§1983 and 1985, MOORE is being sued in his individual capacity acting under color of law.
- 8. Plaintiffs are informed and believe and based thereon allege that Defendant CHRISTOPHER R. HOFFMAN ("HOFFMAN") is EL DORADO UNION's Superintendent, and that his duties include, *inter alia*, district and individual school oversight, policy conception, drafting, and implementation, student safety issues, and the hiring and firing of EL DORADO UNION employees. For purposes of this action under 42 U.S.C. §§1983 and 1985, HOFFMAN is being sued in his individual capacity acting under color of law.
- 9. Plaintiffs are informed and believe and based thereon allege that Defendant STEVE VOLMER ("VOLMER") is EL DORADO UNION's Assistant Superintendent, and that as part of his job duties, VOLMER consults with, conspires with, takes direction from, and does the bidding of Defendant HOFFMAN as it relates to the discharge of his official EL DORADO UNION job duties. VOLMER's job duties, according to EL DORADO UNION's website include, *inter alia*, taking responsibility for child safety and welfare, dispensing necessary information to parents, drafting and implementing district policies, and oversight of EL DORADO UNION's numerous and varied athletic departments and athletic department personnel. For purposes of this action under 42 U.S.C. §§1983 and 1985, VOLMER is being sued in his individual capacity acting under color of law.
- 10. Plaintiffs are informed and believe and based thereon allege that Defendant JASON TENNER ("TENNER") is an employee of EL DORADO UNION who was hired to teach classes and coach

varsity football at Ponderosa. Plaintiffs are informed and believe and based thereon allege that TENNER consults with, conspires with, takes direction from, and does the bidding of Defendants MOORE, HOFFMAN and VOLMER as it relates to the discharge of his official EL DORADO UNION job duties as teacher and football coach at Ponderosa. For purposes of this action under 42 U.S.C. §§1983 and 1985, TENNER is being sued in his individual capacity acting under color of law.

- 11. Plaintiffs are informed and believe and based thereon allege that EL DORADO UNION's obligation to the families who reside within its boundaries and to the children who attend one of its tax-payer funded high schools is to create a safe environment for the children, to promote an atmosphere whether in the classroom or on the athletic fields of equity, fairness, and most importantly, safety.
- 12. Plaintiffs bring this action against these Defendants in light of Defendants' repeated, unjustified, and dangerous refusals to act, failures to act in the best interests of Plaintiffs' minor children, and for the autocratic and arbitrary stewardship of the taxpayer-funded district by its key representatives including, but not limited to, Defendants MOORE, HOFFMAN, VOLMER, and TENNER.
- This Court has jurisdiction over the subject matter pursuant to 42 U.S.C. §§1983, 28 U.S.C.
 §§ 1331 and 1367.
- 14. This Court has venue over this action in that Defendants reside in and conducted their principal place of business within the territorial boundaries of this judicial district.
- 15. This Court has jurisdiction over Defendants in that they are individuals and government agencies that, at all times relevant hereto, caused Plaintiffs and their minor children to be discriminated against, harassed, retaliated against, singled out, humiliated, and targeted for unfair and/or unlawful treatment in violation of Plaintiffs' Constitutional rights, and operated under color of state authority, within this judicial district.
- 16. Plaintiffs do not know the true names and capacities of Defendants sued herein as DOES 1 through 50, and therefore sue these Defendants by fictitious names. Plaintiffs will amend their Complaint to

state the true names and capacities when ascertained. Plaintiffs are informed and believe and based thereon allege that each of the fictitiously named Defendants is responsible in some manner for the occurrences and damages alleged herein, and that Plaintiffs' damages as hereinafter set forth were proximately caused by said Defendants.

17. Plaintiffs are informed and believe, and based thereon allege that each of the Defendants herein were, at all times relevant hereto, the agents, representatives, servants and employees of the remaining Defendants, and were acting at least in part within the course and scope of such relationship, and that the wrongful acts alleged herein were committed by such Defendants, and each of them.

PLAINTIFFS SEEK INJUNCTIVE RELIEF

18. Plaintiffs seek, as part of this action against EL DORADO UNION, preliminary and permanent injunctive relief that will allow RON and PAM to enroll their minor sons Devon and Jerod Nooner at Oak Ridge High School in El Dorado Hills, and to prevent EL DORADO UNION from transferring the boys out of Oak Ridge to any other high school under EL DORADO UNION's control.

FACTUAL BACKGROUND

- 19. For several years, RON, PAM, and their sons Riley and Devon have had difficulties with EL DORADO UNION and its employee, Defendant TENNER, Ponderosa High School's varsity football coach, ranging from minor to very serious and disturbing.
- 20. Plaintiffs are informed and believe and based thereon allege that the aforementioned problems with Defendants EL DORADO UNION and TENNER stem from RON's extensive background and experience coaching youth football, and also from PAM's time spent volunteering with the BRUIN DEN and attempting to get those involved with BRUIN DEN to conduct the corporation's finances lawfully and ethically.
 - 21. A small sample of TENNER's actions toward RON, PAM, and their boys is:

- a. TENNER telling Riley Nooner during his senior year (2010-2011 school year) "You are a self-centered kid and you don't give God damn about anybody else! I am sick and fucking tired of hearing about how hard you workout on Sunday! Fuck your Dad! I am sick and tired of seeing you guys working out here at Pondo... I don't want to see you working out with your father, again. The next time I see or hear about you guys working out. I will kick you off the team. You are a fat lazy bastard and you don't try to workout with the team (this said while poking Riley in the chest) Fuck you! Fuck your Dad! Fuck your family!" He then said to Riley, "I hope I made you fucking mad."
- During Riley's junior year (2009-2010), TENNER continually told Riley that Riley was "self-centered," a "show off," and "uncoachable," unfair comments that greatly affected Riley and caused emotional distress.
- c. Also during Riley's junior year, during the last game of the football season against Oak Ridge High School, Riley suffered partially-torn ligaments in his left knee. An MRI revealed a possible tear in Riley's meniscus, and he had arthroscopic surgery performed on his left knee after wrestling season ended. A week passed before Riley was able to go to school, and he had been told by the orthopedic surgeon to use crutches to walk. The surgeon told Riley stop using the crutches when he was able to walk without pain in his knee. TENNER repeatedly told Riley to get off of the crutches and insisted that "real men can walk without crutches and take the pain." After Riley told TENNER that he was following the orthopedic surgeon's directions, TENNER routinely asked Riley why he was still on crutches whenever TENNER saw him.
- d. During wrestling season, TENNER, who was an assistant wrestling coach, told Riley that Riley should not be wrestling with a brace on even though Tenner was told by RON that an orthopedic surgeon had recommended that Riley use the brace to minimize any additional damage to Riley's knee that occurred in football. TENNER continually chastised Riley about how "uncoachable" Riley was and that Riley wrestled "the same way" he played football. TENNER constantly told Riley that Riley would not come close to going to sections, would not amount to anything, and Riley was still "Self-Centered."
- e. After Riley's sophomore year at Ponderosa (2008-2009 school year), he underwent surgery on his back to remove a three-inch vascular mass.
 Riley and RON told TENNER about the surgery and Riley's limitations on

not being able to push or pull. TENNER repeatedly yelled at Riley to "suck it up, be a man, and actually work out like everyone else." Riley did as he told to do since he was there for summer practice. One of TENNER's assistant coaches told Riley that Riley "should be doing everything since the coach had eye surgery in the past and his surgery didn't keep him from doing everything. The coach proceeded to have Riley do "up downs" with the team even though Riley told TENNER and his assistant coach that the doctor restricted him from doing them.

- f. TENNER disregarding Devon Nooner's physician orders, following a knee injury, and pressuring Devon to get back onto the football field instead of being "weak."
- g. TENNER screaming in an obscenity-laced tirade in Devon's face that he had no business asking his coach what he (Devon) could do to earn more playing time.
- h. TENNER repeatedly and arbitrarily moving Devon from position-to-position with promises of Varsity-level playing time, only to deny Devon consistent playing time which he had earned, and, ultimately, demote him down to Junior Varsity, which had a strong and deleterious effect upon Devon's emotional well-being.
- 22. RON, PAM, and their boys found these actions highly offensive and damaging, both emotionally and physically, not only to Riley and Devon, but also to their younger brother Jerod, since Jerod is also athletic and plans to follow in his dad's and brothers' footsteps and play football and wrestle.
- 23. RON and PAM repeatedly voiced their concerns about TENNER not only to TENNER directly, but later to MOORE (whom EL DORADO UNION has since promoted) and ultimately to Defendants VOLMER, HOFFMAN, and EL DORADO UNION'S Board of Trustees.
- 24. For much of the time Riley Nooner was dealing with TENNER and suffering as a result of his boorish, nasty, and injurious actions, PAM a tax auditor with the State of California was volunteering her time with the BRUIN DEN in an effort to improve fundraising for the Ponderosa football and cheer teams

and also to help ensure that BRUIN DEN was run in accordance with Federal guidelines for non-profit, taxexempt corporate entities.

- 25. Not long after she began volunteering with BRUIN DEN (in fact, as of today's date, PAM is still erroneously listed on the California Secretary of State's website as the agent for service of process for BRUIN DEN), PAM became aware of, and greatly alarmed by, a number of dubious, if not outright illegal financial dealings being conducted by BRUIN DEN members.
- 26. PAM, fearing for her job with the State of California if it were discovered that she was a party to BRUIN DEN's shady accounting and money-management practices, complained to Ponderosa's then-Principal about these illicit activities and sought Ponderosa and EL DORADO UNION's assistance in cracking down on BRUIN DEN members whose actions routinely violated Internal Revenue Code Section 501(c), all to no avail.
- 27. Plaintiffs are informed and believe and based thereon allege that, at all times relevant to this action, there existed a unity of knowledge, action, purpose, and intent between BRUIN DEN, EL DORADO UNION, and the remaining Defendants such that EL DORADO UNION not only knew of BRUIN DEN's unlawful financial practices but allowed them to continue by fostering a climate of lax management, and ignoring concerned parents like PAM, who brought these serious issues to Defendants' attention.
- 28. After dealing with TENNER, Ponderosa's do-nothing Principal MOORE, and the BRUIN DEN for years, and seeing their boys' physical and emotional health, as well as their high school experiences suffer from it, RON and PAM followed EL DORADO UNION's policies and requested an intradistrict transfer for their sons Devon and Jerod.

EL DORADO UNION'S GUIDELINES RE: TRANSFERS

29. Plaintiffs are informed and believe and based thereon allege that, at all times relevant to their claims, EL DORADO UNION had published, written guidelines which purported to establish and dictate

the bases upon which EL DORADO UNION must allow intradistrict high school transfers, such as those RON and PAM requested repeatedly for Devon and Jerod.

- 30. At all times relevant to this lawsuit, Plaintiffs' situation with their minor sons Devon and Jerod directly implicated and involved their boys' physical health, emotional well-being, and thus, amply met or exceeded the EL DORADO UNION guidelines for intradistrict transfers such that RON and PAM should have been able to enroll Devon and Jerod at Oak Ridge High School upon their first application.
- 31. Plaintiffs are informed and believe and based thereon allege that EL DORADO UNION, acting in concert with its employees and/or managing agents MOORE, HOFFMAN, VOLMER, and TENNER coordinated and combined their respective efforts to thwart Plaintiffs' reasonable and justified transfer requests for their boys Devon and Jerod.
- 32. Plaintiffs are informed and believe and based thereon allege that the illicit, retaliatory, and punitive actions of Defendants (as described in Paragraph 31 and elsewhere herein) were the direct result and coordinated response to Plaintiffs' repeated complaints to TENNER, MOORE, HOFFMAN, VOLMER, and EL DORADO UNION's Board of Trustees about the treatment their children endured, as well as PAM's complaints about the multifarious financial and management issues within the BRUIN DEN.

FIRST CAUSE OF ACTION

(Retaliation For Exercise Of First Amendment Rights)

- 33. Plaintiffs re-allege and incorporate by reference Paragraphs 1 through 32 of this Complaint as though fully set forth herein.
- 34. In doing the acts complained of herein, Defendants and DOES 1 through 50, individually and/or while acting in concert with one another, did act under color of state law to deprive RON, PAM, and their minor children of their Constitutionally protected rights, including, but not limited to, the right to be free from retaliation for engaging in free speech and/or petitioning for redress to the government or, as in this

case, from the instrumentality of local government tasked with management of EL DORADO UNION. These rights are guarantees under the First Amendment to the United States Constitution.

- 35. In acting as complained of herein, Defendants violated Plaintiffs' First Amendment rights to be free from retaliation for lawfully petitioning the government for redress of complaints and/or grievances, and to be free from retaliation for engaging in free speech. Defendants' actions and failures as alleged above constitute a custom, pattern, and practice within EL DORADO UNION's insular, autocratic supervisory hierarchy wherein the Civil Rights of tax-paying parents such as RON and PAM, as set forth at 42 U.S.C. §1983 and elsewhere, are violated in reaction and response to legitimate citizen complaints.
- 36. As a direct and proximate result of Defendants' acts, Plaintiffs have suffered compensatory damages, loss of earnings, loss of dignity, great humiliation, and emotional injuries manifesting in physical illness and mental anguish.
- 37. Defendants' actions have caused and continue to cause Plaintiffs to incur legal expenses and attorneys fees. Plaintiffs are presently unaware of the precise amount of such expenses and fees, and pray leave of court to amend this Complaint when those amounts are more fully known.

SECOND CAUSE OF ACTION

(Conspiracy To Violate Plaintiffs' Civil Rights – 42 U.S.C. §1985)

- 38. Plaintiffs re-allege and incorporate by reference Paragraphs 1 through 37 of this Complaint as though fully set forth herein.
- 39. Pursuant to 42 U.S.C. §1985(3), liability shall arise "If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws..."

- 40. In acting as complained of herein, Defendants actively conspired to, and did in fact, violate Plaintiffs' First Amendment rights to be free from retaliation for lawfully petitioning the government for redress of complaints and/or grievances, and to be free from retaliation for engaging in free speech. Defendants' actions and failures as alleged above constitute a custom, pattern, and practice within EL DORADO UNION's insular, autocratic supervisory hierarchy wherein the Civil Rights of tax-paying parents such as RON and PAM, as set forth at 42 U.S.C. §1983 and elsewhere, are violated in reaction and response to legitimate citizen complaints.
- 41. As a direct and proximate result of Defendants' acts, Plaintiffs have suffered compensatory damages, loss of earnings, loss of dignity, great humiliation, and emotional injuries manifesting in physical illness and mental anguish.
- 42. Defendants' actions have caused and continue to cause Plaintiffs to incur legal expenses and attorneys fees. Plaintiffs are presently unaware of the precise amount of such expenses and fees, and pray leave of court to amend this Complaint when those amounts are more fully known.

PRAYER FOR RELIEF

Wherefore, Plaintiffs pray for judgment against Defendants, and each of them as follows:

- 1. For general damages in an amount according to proof;
- 2. For special damages in an amount according to proof;
- 3. For prejudgment interest in an amount according to proof;
- 4. For equitable and/or injunctive relief according to proof;
- 5. For reasonable attorney's fees and cost of suit therein;
- 6. For punitive or exemplary damages against the individual defendants only; and,
- 7. For such other and further relief as the court may deem proper.

1	8. Plaintiffs hereby demand a trial by jury.	
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3	Dated: September 6, 2011	WATTS LAW OFFICES
4	Batoa: Coptombol 6, 2011	WIIII DE EUR OFFICED
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6		/s/ Douglas E. Watts
7		By: Douglas E. Watts, Esq.
8		Attorneys for Plaintiffs
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