

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

FILED MAR 9 2006 U.S. DISTRICT COURT EASTERN DISTRICT OF MO

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
GORDON LEE BAUM and COUNCIL OF CONSERVATIVE CITIZENS, a not-for-profit corporation,
(b) County of Residence of First Listed Plaintiff St. Charles, MO
(c) Attorney's (Firm Name, Address, and Telephone Number)
Robert Herman, Schwartz, Herman & Davidson, 621 North Skinker Blvd., St. Louis, MO 63130, Ph: 314/862-0200

DEFENDANTS
MAPLEWOOD CITY LIBRARY, CITY OF EASTERN DISTRICT CITY PUBLIC LIBRARY, VALLEY PARK COMMUNITY LIBRARY,
County of Residence of First Listed Defendant St. Louis, MO
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
Attorneys (If Known) 06CV00453CDP

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation
PTF DEF
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, PROPERTY RIGHTS, OTHER STATUTES. Includes checkboxes for various legal categories like insurance, personal injury, real estate, etc.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C., Sec. 1983, 1st and 14th Amendments
Brief description of cause:
Declaratory Judgment/Injunctive Relief for Denial of 1st Amendment Rights

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE 03/10/2006 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE



FILED  
MAR 13 2006  
U. S. DISTRICT COURT  
EASTERN DISTRICT OF MO

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

GORDON LEE BAUM and COUNCIL )  
OF CONSERVATIVE CITIZENS, a )  
not-for-profit corporation, )  
 )  
Plaintiffs, )

4 06CV00453CDP

vs. )

Cause No. \_\_\_\_\_

MAPLEWOOD CITY LIBRARY, a )  
municipal corporation, CITY OF )  
UNIVERSITY CITY PUBLIC LIBRARY, )  
a municipal corporation, VALLEY PARK )  
COMMUNITY LIBRARY, a municipal )  
corporation, and FESTUS CITY )  
LIBRARY, a municipal corporation, )  
 )  
Defendants. )

**COMPLAINT – DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF  
PURSUANT TO 42 U.S.C. § 1983 AND THE FIRST AND FOURTEENTH  
AMENDMENTS TO THE UNITED STATES CONSTITUTION**

COME NOW Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens,  
and for their cause of action, state to the Court as follows:

**JURISDICTION, VENUE AND FACTS COMMON TO ALL COUNTS**

1. This Court has federal question jurisdiction over the instant matter pursuant  
to 28 U.S.C., § 1331, 42 U.S.C., § 1983, and the First and Fourteenth Amendments to the  
United States Constitution.

2. The Council of Conservative Citizens is a Missouri not-for-profit  
corporation, with its principal place of business located in the County of St. Charles,

State of Missouri, within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division. The Council of Conservative Citizens is a social and political advocacy organization.

3. Gordon Lee Baum is the Chief Executive Officer of the Council of Conservative Citizens.

4. Maplewood City Library is a municipal corporation located within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division.

5. City of University City Public Library is a municipal corporation operating within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division.

6. Valley Park Community Library is a municipal corporation operating within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division.

7. Festus City Library is a municipal corporation operating within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division.

8. Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library offer the availability of internet terminals to their patrons. These terminals are designed to be used directly by the patron and without the intermediary of a library official.

9. Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library have installed specialized software on the internet terminals, which purpose is to block patrons' access to certain classes of internet sites specified by the library through the activation of various options offered by the software.

10. Maplewood City Library, City of University City Public Library, Valley Park Community Library, and Festus City Library have activated the software filter option which blocks a patron's access to sites that the library and/or the software publisher have designated as "hate speech".

11. The Council of Conservative Citizens maintains an internet site and/or webpage at the address designated as [www.cofcc.org](http://www.cofcc.org).

12. The internet website of the Council of Conservative Citizens contains social and political advocacy speech protected by the First Amendment to the United States Constitution.

13. The internet website of the Council of Conservative Citizens does not contain any pornography or sexually oriented images.

14. The "hate speech" software filter, as it is employed in Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library, blocks a patron's access to the webpage site of the Council of Conservative Citizens.

15. The "hate speech" software filter, as it is employed in Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library, does not block internet sites which are critical of the policies and advocacy of the Council of Conservative Citizens.

16. On or about May 26, 2005, Gordon Lee Baum, on behalf of the Council of Conservative Citizens, wrote to Maplewood City Library demanding that the library remove its webpage from the list of blocked "hate speech" internet sites and allow free and unfettered access to its webpage and/or internet site. *See, Exhibit 1*, attached hereto and incorporated by reference herein.

17. Thereafter, Terrence Donnelly, Director of Maplewood City Library, acknowledged that the Council of Conservative Citizens' website was blocked because it came within the category of "hate and discrimination," and refused to unblock the internet site and make it available to all citizens without the necessity of asking that the internet site be unblocked. *See, Exhibit 2*, attached hereto and incorporated by reference herein.

18. On or about November 13, 2005, Gordon Lee Baum, acting on behalf of the Council of Conservative Citizens, wrote the City of University City Public Library demanding that access to the website of Council of Conservative Citizens be unblocked. *See, Exhibit 3*, attached hereto and incorporated by reference herein.

19. On or about November 13, 2005, Gordon Lee Baum, acting on behalf of the Council of Conservative Citizens, wrote the Valley Park Community Library demanding

that access to the website of Council of Conservative Citizens be unblocked. *See*, **Exhibit 4**, attached hereto and incorporated by reference herein.

20. On or about July 13, 2005, Gordon Lee Baum, acting on behalf of the Council of Conservative Citizens, wrote the Festus City Library demanding that access to the website of Council of Conservative Citizens be unblocked. *See*, **Exhibit 5**, attached hereto and incorporated by reference herein.

### **COUNT I – DECLARATORY JUDGMENT**

**COME NOW** Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, and for Count I of their cause of action, state to the Court as follows:

1. The “hate speech” software filter, as it is employed in Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library, discriminates against speech of the Council of Conservative Citizens on the basis of the content and viewpoint of the speech contained in its website.

2. Such viewpoint discrimination is inconsistent with the protections of the First and Fourteenth Amendments to the United States Constitution and violates the First and Fourteenth Amendments of both the Council of Conservative Citizens, as the speaker, and Gordon Lee Baum, as the receiver of such information.

**WHEREFORE**, Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, pray this Court for a Declaratory Judgment that the actions of Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library in the utilization of software filters to block patrons’ access to the

website of the Council of Conservative Citizens on the alleged basis that it constitutes "hate speech," violates the First and Fourteenth Amendments to the United States Constitution, for their costs in this matter, and for attorneys' fees pursuant to 42 U.S.C., § 1988.

## COUNT II – PRELIMINARY INJUNCTION

**COME NOW** Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, and for Count II of their cause of action, state to the Court as follows:

1. Both Gordon Lee Baum and the Council of Conservative Citizens have suffered and will continue to suffer immediate, and irreparable harm by the continued denial of their rights under the First and Fourteenth Amendments to the United States Constitution.
2. Governmental censorship of the Council of Conservative Citizens' speech on the basis of its content and viewpoint is well-established as a violation of the First and Fourteenth Amendments to the United States Constitution, and therefore Plaintiffs are likely to prevail on the merits of this matter.
3. Plaintiff's have no adequate remedy at law with which to correct the deprivation of their Constitutional rights pursuant to the First and Fourteenth Amendments to the United States Constitution.

**WHEREFORE**, Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, pray this Court issue a preliminary injunction immediately enjoining Maplewood City Library, City of University City Public Library, Valley Park