

Michael Newdow, *pro hac vice*
PO Box 233345
Sacramento, CA 95823
(916)427-6669

Rosanna T. Fox, NH SBN: 17693
12 Eldorado Circle
Nashua, NH 03062
(603) 318-8479

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Civil Action No. 07-cv-356-SM

THE FREEDOM FROM RELIGION FOUNDATION;
JAN DOE AND PAT DOE, PARENTS; DOECHILD-1, DOECHILD-2 and
DOECHILD-3, MINOR CHILDREN;

Plaintiffs,

v.

THE HANOVER SCHOOL DISTRICT (“HSD”);
THE DRESDEN SCHOOL DISTRICT (“DSD”);

Defendants.

and

MURIEL CYRUS, *et al.*;
THE UNITED STATES OF AMERICA;
THE STATE OF NEW HAMPSHIRE;

Defendants-Intervenors.

PLAINTIFFS’ MOTION FOR LEAVE TO SUBMIT
FIRST AMENDED COMPLAINT

INTRODUCTION

Pursuant to Fed. R. Civ. P. 15(a) and Local Rule 15.1, Plaintiffs respectfully move for leave to submit a First Amended Complaint. Exhibit A.

Defendants Hanover School District (“HSD”) and Dresden School District (“DSD”) have consented to this motion. Document 49 (November 3, 2008).

The Defendants/Intervenors Muriel Cyrus, *et al.*, The United States of America, and The State Of New Hampshire have each consented to this motion and the filing of the amended complaint subject to the stipulation, agreed to by Plaintiffs, that the previously filed motions to dismiss, objections and replies are applicable *mutatis mutandis* to the amended complaint, and, with the Court’s approval, need not be filed again for the Court to consider them. The parties have agreed that Defendants will have twenty days from the date of the order granting this motion to amend to file any supplement to their motions to dismiss, which will be limited to the new matters identified in this motion. Any response by Plaintiffs to the respective supplements to the motions to dismiss will likewise be limited to the new matters.

NEW FACTUAL ALLEGATIONS, LEGAL CLAIMS OR PARTIES

I. New Factual Allegations

A. That Jan and Pat Doe are members of the Freedom from Religion

Foundation (“FFRF”) has been clarified. FAC ¶ 6.

B. DoeChild-1 is now attending a middle school jointly administered by

Defendant Hanover School District (“HSD”) and Dresden School

District (“DSD”), and will be attending seventh grade solely under

DSD’s control starting September 2009. FAC ¶ 9.

C. Historical information regarding the addition of “under God” to the

Pledge of Allegiance has been added. ¶¶ 19-35.

II. New Legal Claims

There is only one new legal claim. It is that given in Count VIII, which specifies a violation of Jan Doe’s and Pat Doe’s parental rights (and the associated family relationship rights of the DoeChildren) under state law (now explicitly stated as being in addition to the violations of the federal rights of parenthood/family relationships).

III. New Parties

There are no new parties.

SAU #70 has been dropped as a defendant.

Muriel Cyrus *et al.*, The United States of America, and the State of New Hampshire, already granted status of Intervenor-Defendants, are now captioned in the case heading.

**EXPLANATION AS TO WHY THESE CHANGES WERE NOT
INCLUDED IN THE ORIGINAL FILING**

- I. **Does' Membership in FFRF.** The Original Complaint was ambiguous as to Jan Doe's and Pat Doe's membership in FFRF. *See* Document 44 (Order, August 7, 2008), at 3 (n.2).
- II. **Discrete Counts.** The claims were not concisely set out in discrete counts due to counsel's inexperience.
- III. **Historical Information.** Because the Congress of the United States of America and the United States of America have been dismissed as defendants, Document 44 (Order, August 7, 2008), it was felt important to place in the Complaint a short accounting of the historical facts related to their involvement in the addition of "under God" to the Pledge.
- IV. **New Legal Claim.** The need to more clearly define the violations of parental rights (as a result of the conversion of the legal claims from narrative form to discrete counts) has resulted in the "addition" of the state parental rights claim.

- V. DoeChild-1 in Middle School.** DoeChild-1's attendance in a middle school jointly administered by Defendants HSD and DSD has occurred due to the passage of time since the filing of the original Complaint.
- VI. Dropping of SAU #70.** The relationships between and among the School Administrative Unit #70 ("SAU #70"), HSD and DSD are somewhat confusing. Discussion of these relationships with the School District Defendants' counsel has resulted in a better understanding, which has led to SAU #70 being dropped as a defendant.
- VII. Intervenor-Defendants.** Endorsed Orders granting the motions to intervene submitted by The United States of America (Document 15), the State of New Hampshire (Document 12), and Muriel Cyrus *et al.* (Document 21) were issued on January 27, 2008. Thus, those parties are now captioned accordingly in the case heading.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant leave for them to submit the attached First Amended Complaint.

Respectfully submitted,

/s/ - Michael Newdow

Michael Newdow, *pro hac vice*
PO Box 233345
Sacramento, CA 95823

(916)427-6669

/s/ - Rosanna T. Fox

Rosanna T. Fox, NH SBN: 17693
12 Eldorado Circle
Nashua, NH 03062

(603) 318-8479

November 6, 2008

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Civil Action No. 07-cv-356-SM

CERTIFICATION

I hereby certify that a copy of the foregoing PLAINTIFFS' MOTION FOR LEAVE TO SUBMIT FIRST AMENDED COMPLAINT (with its attached PLAINTIFFS' FIRST AMENDED COMPLAINT) was filed via the Court's CM/ECF filing system on this 6th day of November, 2008. It is expected that both documents will be served electronically to all counsel of record by operation of CM/ECF.

/s/ - Michael Newdow

November 6, 2008

Michael Newdow, *pro hac vice*
PO Box 233345
Sacramento, CA 95823

(916)427-6669