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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CODY MICHAEL JOCK, TANNER RILEY JOCK, JAKE
TYLER JOCK, MICHAEL L. JOCK AND COLLEEN
FARWELL as parents and legal guardians of Cody Michael Jock,
Tanner Riley Jock and Jake Tyler Jock, LAYLA WHITE, and
CHARLES WHITE as parent and legal guardian of Layla White,

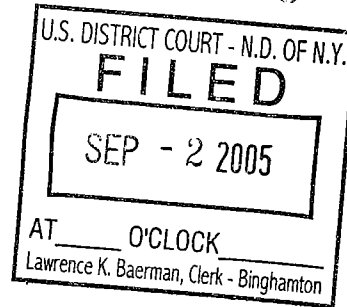
Plaintiffs,

- against -

JAMES RANSOM, KATHLEEN LAUZON, EMILY LAUZON,
BEN KELLY, STACEY ADAMS, DARLENE BROCKWAY,
ROBERT DURANT, MARION ELLIOT, JUDITH STARK,
CORRINA BERO individually and as members of the Salmon
River Central School District Board of Education, THE SALMON
RIVER CENTRAL SCHOOL DISTRICT BOARD OF
EDUCATION, THE SALMON RIVER CENTRAL SCHOOL
DISTRICT, GLENN R. BELLINGER, Superintendent of the
Salmon River Central School District, in his official and individual
capacity, IRVING PAPINEAU, Principal of St. Regis Mohawk
School, JOHN SIMMONS, Principal of Salmon River Central
School, and JOHN AND JANE DOES 1-10,

Defendants.

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7: 05 -CV- 1108
TJM GJD

Case No.

COMPLAINT

Plaintiffs Cody Michael Jock, Tanner Riley Jock, Jake Tyler Jock, and Michael L. Jock and Colleen Farwell as parents and legal guardians of Cody Michael Jock, Tanner Riley Jock and Jake Tyler Jock, Layla White, and Charles White as parent and legal guardian of Layla White, by and on behalf of themselves through their undersigned attorneys, Zeichner Ellman & Krause LLP and Stanley Cohen, Esq., for their Complaint allege as follows:

NATURE OF ACTION

1. This is an action for declaratory and injunctive relief, and for monetary damages incidental thereto. This action is brought by and on behalf of plaintiffs who are Mohawk children and students in the Salmon River Central School District. The Salmon River Central School District is comprised of two schools—the Salmon River Central School and the St. Regis Mohawk School. The St. Regis Mohawk School is located in Akwesasne. The Salmon River Central School sits in the middle of the recognized Mohawk land claim. Akwesasne is pre-treaty ancestral land that is one of the six territories that compromise the Mohawk Nation. By this Complaint, plaintiffs seek redress for the ongoing acts of discrimination perpetuated by the defendants.

2. This action challenges the defendants' improper and incorrect designation of the OHÊN:TON KARIHWATÊHKWEN (literally, "The words that come before important matters," and sometimes referred to as the "Thanksgiving Address") as a "prayer." This action seeks: 1) a declaratory judgment that the OHÊN:TON KARIHWATÊHKWEN (hereafter referenced as "Address") is a non-religious

acknowledgement and expression of Mohawk culture; 2) injunctive relief reinstating the recitation of the Address in the Mohawk language at the beginning and end of each week over the school Public Address (“PA”) system in the Salmon River Central School, before school events at the St. Regis Mohawk School, and at other school events and functions in the District; and 3) damages for violation of the plaintiffs’ civil rights pursuant to 42 U.S.C. § 1983 and the Equal Protection clause of the Fourteenth Amendment of the United States Constitution.

3. The District, Board of Education, School Principals and the District Superintendent, through their discriminatory conduct, have harmed and will continue to harm plaintiffs by refusing to permit the recitations of the Address and generally contributing to dilution and disappearance of the Mohawk culture and way of life.

4. The defendants’ discriminatory and unequal conduct has harmed, and continues to harm plaintiffs. The relief sought is necessary because as set forth below, plaintiffs are the victims of a discriminatory pattern of behavior which seeks to exclude and eliminate Mohawk, and other aboriginal, culture and life from the district schools, while promoting the dominant Euro-American culture. For example, while the students are required and encouraged to recognize Euro-American culture by, among other things, reciting the Pledge of Allegiance, and singing Christmas Carols and Amazing Grace during school hours and at school events, an essential part of Mohawk Culture—the Address—has been banned from the Salmon River Central School District.

PARTIES

5. Colleen Farwell is the parent and legal guardian of Cody Michael Jock, Tanner Riley Jock and Jake Tyler Jock. She is a Native American who lives in Akwesasne.

6. Michael L. Jock is the parent and legal guardian of Cody Michael Jock, Tanner Riley Jock and Jake Tyler Jock. He is a member of the Mohawk Nation.

7. Cody Michael Jock is a fifth grade student at the St. Regis Mohawk School. He is one of approximately 1,562 ethnic Mohawk students within the Salmon River Central School District.

8. Tanner Riley Jock is a fourth grade student at the St. Regis Mohawk School. He is one of approximately 1,562 ethnic Mohawk students within the Salmon River Central School District.

9. Jake Tyler Jock is a second grade student at the St. Regis Mohawk School. He is one of approximately 1,562 ethnic Mohawk students within the Salmon River Central School District.

10. Charles White is the parent and natural guardian of Layla White. He is a member of the Mohawk Nation.

11. Layla White is a twelfth grade student at the Salmon River Central School. She is one of approximately 1,562 ethnic Mohawk students within the Salmon River Central School District.

12. Cody Michael Jock, Tanner Riley Jock, Jake Tyler Jock, Colleen Farwell, Michael L. Jock, Layla White, and Charles White are sometimes referenced collectively as the "Plaintiffs."

13. The Salmon River Central School District Board of Education is responsible for overseeing and approving all policy and procedure within the Salmon River Central School District (hereinafter, the "Board of Education"). It is a legally constituted body of elected representatives and is responsible for setting policy for the Salmon River Central School District (hereinafter, the "District"). Complete and final authority of all District educational matters is vested in the Board of Education.

14. James Ransom is a member of the Board of Education. In that capacity, he is responsible for overseeing and approving all policy and procedure within the District. Acting in his capacity as a board member, he acquiesced and/or participated in the designation of the Address recited at the District as a prayer though he knew it was not a prayer or religious in nature, and is responsible for violating Plaintiffs' constitutional rights.

15. Kathleen Lauzon is a member of the Salmon River Board of Education. In that capacity, she is responsible for overseeing and approving all policy and

procedure within the District. Acting in her capacity as a board member, she acquiesced and/or participated in the designation of the Address recited at the District as a prayer though she knew it was not a prayer or religious in nature, and is responsible for violating Plaintiffs' constitutional rights.

16. Ben Kelly is a member of the Salmon River Board of Education. In that capacity, he is responsible for overseeing and approving all policy and procedure within the District. Acting in his capacity as a board member, he acquiesced and/or participated in the designation of the Address recited at the District as a prayer though he knew it was not a prayer or religious in nature, and is responsible for violating Plaintiffs' constitutional rights.

17. Stacey Adams is a member of the Salmon River Board of Education. In that capacity, she is responsible for overseeing and approving all policy and procedure within the District. Acting in her capacity as a board member, she acquiesced and/or participated in the designation of the Address recited at the District as a prayer though she knew it was not a prayer or religious in nature, and is responsible for violating Plaintiffs' constitutional rights.

18. Darlene Brockway is a member of the Salmon River Board of Education. In that capacity, she is responsible for overseeing and approving all policy and procedure within the District. Acting in her capacity as a board member, she acquiesced and/or participated in the designation of the Address recited at the District as a prayer

though she knew it was not a prayer or religious in nature, and is responsible for violating Plaintiffs' constitutional rights.

19. Robert Durant is a member of the Salmon River Board of Education. In that capacity, he is responsible for overseeing and approving all policy and procedure within the District. Acting in his capacity as a board member, he acquiesced and/or participated in the designation of the Address recited at the District as a prayer though he knew it was not a prayer or religious in nature, and is responsible for violating Plaintiffs' constitutional rights.

20. Marion Elliot is a member of the Salmon River Board of Education. In that capacity, she is responsible for overseeing and approving all policy and procedure within the District. Acting in her capacity as a board member, she acquiesced and/or participated in the designation of the Address recited at the District as a prayer though she knew it was not a prayer or religious in nature, and is responsible for violating Plaintiffs' constitutional rights.

21. Judith Stark is a member of the Salmon River Board of Education. In that capacity, she is responsible for overseeing and approving all policy and procedure within the District. Acting in her capacity as a board member, she acquiesced and/or participated in the designation of the Address recited at the District as a prayer though she knew it was not a prayer or religious in nature, and is responsible for violating Plaintiffs' constitutional rights.

22. Corrina Bero is a member of the Salmon River Board of Education. In that capacity, she is responsible for overseeing and approving all policy and procedure within the District. Acting in her capacity as a board member, she acquiesced and/or participated in the designation of the Address recited at the District as a prayer though she knew it was not a prayer or religious in nature, and is responsible for violating Plaintiffs' constitutional rights.

23. Glenn R. Bellinger is the Superintendent of the District. In his capacity as Superintendent, he is responsible for bringing any areas of policy concern in need of revision or development to the attention of the Board of Education. Bellinger is also responsible for presenting all proposed policies to the Board of Education for consideration prior to enacting the policy, and for establishing any and all rules, regulations and procedures necessary to implement and maintain the Board of Education's policies. Bellinger participated in the knowing and deliberate attempt to limit the inclusion of the Mohawk culture within District schools. Among other things, Bellinger sought to cloak the District's discriminatory action by obtaining a deliberately cursory and incorrect legal opinion designating the Address recited at the District as a "prayer," though he knew the Address was not a prayer or religious in nature.

24. Irving Papineau is the Principal of the St. Regis Mohawk School. In that capacity he is responsible for implementing and enforcing all practices and policies within the St. Regis Mohawk School. Acting in his capacity as Principal, he acquiesced

and actively enforced the ban on the recitation of the Address even though he knew the grounds for such a ban were unjustified.

25. John Simmons is the Principal of the Salmon River Central School. In that capacity he is responsible for implementing and enforcing all practices and policies within the Salmon River Central School. Acting in his capacity as Principal, he acquiesced and actively enforced the ban on recitation of the Address even though he knew the grounds for such a ban were unjustified.

26. John and Jane Does 1-10 are individuals and/or agents of individuals that helped and/or participated in the District's improper designation of the Address as a prayer and its subsequent banning at school events and during the school day. As such, they too are responsible for violating Plaintiffs' constitutional rights.

27. James Ransom, Kathleen Lauzon, Ben Kelly, Stacey Adams, Darlene Brockway, Robert Durant, Marion Elliot, Judith Stark, Corrina Bero, Glenn R. Bellinger, Irving Papineau, John Simmons and John and Jane Does 1-10 are sometimes referenced collectively herein as "Defendants."

JURISDICTION AND VENUE

28. This Court has jurisdiction pursuant to 42 U.S.C. § 1331(c), because this action arises under the Constitution and laws of the United States; and 28 U.S.C. § 1343(a)(3), for deprivation of Plaintiffs' constitutional rights under color of state law.

29. This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367(a), because this action involves claims under New York State common law that relate to the federal claims so as to form part of the same case or controversy.

30. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because (a) Defendants are state and county entities and officials located in this jurisdiction and (b) the events giving rise to this complaint occurred in this jurisdiction.

BACKGROUND AND FACTS

THE MOHAWK NATION

31. As a long recognized sovereign People, the Mohawk Nation governs itself. Among other manifestations of its independence and Statehood, Akwesasne not only maintains its own tribal courts and police, but an independent system of self-licensing and provision enforcement for businesses and quasi-government functions within its own boundaries. In this regard, Akwesasne has a number of governing bodies including a traditional Long House system and a contemporary tribal council that have sovereign immunity from suit.

32. The Mohawk Nation is comprised of six territories, four of which are located in Canada. Akwesasne is one of the Mohawk territories that is part of the Mohawk Nation. It straddles the borders of both the United States and Canada and, as North American Indians, Mohawks have limitless travel on land and water between these

other two nations. The land of Akwesasne is not a “reservation,” which, like so many other homes to North American Indians, is the product of forced re-settlement; to the contrary it is an ancestral homeland that has always been occupied by Mohawks. Unlike reservations throughout North America, Akwesasne has strict restrictions upon alienation of its land. Thus, land located within its borders may not be used, traded or sold to non-Mohawks. Similarly businesses and other corporate or professional entities located within Akwesasne may not be owned or partnered by non-Mohawks.

33. Since their arrival, colonists and those who followed have embraced a routine, systematic, and aggressive policy of cultural deprivation and interference with the traditions and internal affairs of North American Indians. To this day, the dominant Euro-American culture continues to enforce its values and priorities to the detriment if not exclusion of North American Indians and their own unique traditions. In the light of Euro-American dominance, for many Mohawk youth it has become a daily struggle to maintain their cultural identity and tradition. Nowhere is this more painfully or visibly evident than in the area of educational opportunity which continues to discriminatorily favor Euro-American values and priorities to the detriment of Mohawk youth.

34. As early as 1819, and as recently as the late 1950's, various “initiatives” and government-sponsored programs, such as the Civilization Fund Act, were designated to address the “Indian Problem.” Under these programs, non-native run churches and agencies, whose legal goal was to “civilize” North American Indians, were

given the right to force Indian children to attend boarding schools which were little more than military-style boot camps designed to strip Indian youth of their identity, tradition and culture. In these camps, the use of indigenous language and Native names along with the practice of Indian customs and culture, including traditional dress and long hair for males was strictly forbidden and often enforced by physical and emotional assault. Sexual abuse was no less rampant. The long-term effect of these schools with their systematic policies and goals upon Indian youth is undeniable; these practices led to the severe decline in the traditional extended family system of North American Indians and a severe loss in Indian culture and tradition. Communal child rearing practices were virtually destroyed by these and other “initiatives,” leaving Indian children abandoned and disconnected to their traditions or in the “care” of adults unable and ill-equipped to act as parents, let alone parents to Native youth. Aside from significantly contributing to the educational crisis within Indian communities, including those of the Mohawk Nation, the efforts to “civilize” “Indian savages” contributed to very high rates of suicide, alcohol and drug abuse, and other risky behaviors that remain markedly evident among many North American adolescents, including Mohawks.

35. After several hundred years of forced population removal, forced integration, and the deliberate destruction of Mohawk history and identity, much of Mohawk tradition and culture remains under siege today. Among other signs of cultural deprivation, Mohawk has almost disappeared as a spoken, living language as tribal members must learn and speak entirely in English in schools dominated largely by Euro-

American values and identity. Generally, Mohawk youth have not been educated in the tradition and culture of their Nation. The forced absorption of the dominant Euro-American culture has resulted in an educational crisis of tremendous proportions among all the Mohawk territories and Akwesasne in particular. Today, a majority of Mohawk youth do not graduate from high school. Even fewer continue on to college, let alone graduate college. This has contributed directly to a host of problems for Mohawk youth who have had difficulty adapting to the needs of an ever-evolving workforce. Indeed, the unemployment rate in Akwesasne is 50%, well above the national and New York State rate. In other regards, long-term cultural and educational deprivation has placed the youth of Akwesasne as among the most endangered of all their peers in the dominant culture.

36. Because of growing complaints from the parents and teachers of Mohawk students alike, not long ago some educators in the District with the help of social scientists combined to implement creative responses to the failed efforts of the local school system to provide meaningful and culturally sensitive educational opportunities for the Mohawk student body. These efforts evolved from the recognition that new approaches to the educational needs of Indian youth were necessary to facilitate their academic success. The changes were necessary not because Mohawk students had inferior abilities or ambition, but rather, because many of them found it difficult, and often impossible, to flourish in an academic environment that had long suppressed and discriminated against their unique tradition, culture and language. To achieve the constitutional requirement of education for all students in the District, irrespective of race or national origin, it was

determined that the District would have to incorporate the culture, viewpoint and characteristics of Mohawk life into the education of Mohawk students to enhance and equalize their educational opportunity and success.

THE SALMON RIVER CENTRAL SCHOOL DISTRICT

37. The Salmon River Central School District is comprised of two schools—the St. Regis Mohawk School (the “Mohawk School”) and the Salmon River Central School. The Mohawk School is situated in Akwesasne proper and the Salmon River Central School sits in the middle of the recognized Mohawk land claim. The Mohawk School starts with pre-kindergarten and continues through Grade 6—its student body is 100% Mohawk. The Salmon River School starts with pre-kindergarten and continues through twelfth grade—its student body is approximately 75% Mohawk.

38. The total student population within the District is approximately 2,100. Of that number, approximately 1,562 students are ethnic Mohawks.

39. The Mohawk Education Project is a formal partnership between SUNY Potsdam and the Salmon River Central School District. In 2001, in accordance with the Mohawk Education Project, an educational study of the Mohawk student body within the District was conducted by the Mohawk Education Project. The purpose of the study was to identify and support necessary changes in the District’s curriculum and instructional methods to address the problems of increasing high dropout rates and underachievement among Mohawk students. As the study noted, the psychological

wounds of assimilation of American Indians into the Euro-American culture, when combined with the Western model of education, have resulted in the disintegration of traditional culture and the lack of self esteem and identity in young Mohawk students. This has resulted in high drop-out rates for Mohawk students.

40. Upon information and belief, educational underachievement within Akwesasne has not only contributed directly to its high unemployment rates for those who reside in the community, but exacerbated a host of other adverse social disadvantages.

41. Among other things, the study recommended that the District create a curriculum which incorporated and specifically recognized Mohawk culture and tradition. It further suggested the creation of Mohawk language classes. Significantly, in its third primary suggestion, the study recommended that the traditional Mohawk concept of “giving thanks” be incorporated into all areas of the District’s curriculum. The Address is an integral part of the recommendations proposed by the Mohawk Education Project.

THE ADDRESS IN HISTORY AND IN THE DISTRICT SCHOOLS

42. The Address has been a part of Mohawk culture for time immemorial. It is a mainstay of Mohawk tradition. The address is said at the beginning of all gatherings; historically it was recited at the signing of treaties with other nations. Its recitation helps Mohawks to remember and appreciate their place in the natural world. In particular, the address not only focuses on the importance of the land and the way by

which it nurtures and sustains the Mohawk way of life, but the duty of each Mohawk to see to the protection and care of it.

43. While there is no single, uniform recitation of the Address, each speaker of the Address acknowledges the contributions of certain things to the survival and continuation of the Mohawk people in the following general order: The Earth, The Waters, The Fish, The Plants, The Food Plants, The Medicine Herbs, The Animals, The Trees, The Birds, The Four Winds, The Thunderers, The Sun, The Moon, The Stars, The People, The Creator, Opening or Closing Words.

44. The word in the Address that is sometimes translated into English as “creator” has no special religious significance in the Mohawk language. In Mohawk, a person that creates an ordinary item, such as a table, machine, an article of clothing or a song is also referred to as a “creator.” Parents are even referred to as the “creators” of their children.

45. As part of the effort to preserve what remains of Mohawk history and culture, the Mohawk language is taught as a second language in the Salmon River Central School from grades 6 through 12.

46. Students at the Salmon River Central School also can participate in the Mohawk Club, an official club of the Salmon River Central School which has a faculty member advisor. In their own effort to preserve the Mohawk culture and to incorporate it

into the school routine, students in the Mohawk Club sought permission to recite the Address over the Public Announcement System every week in the Mohawk language.

47. Among other things, the reading of the Address presents the cadence and content of the Mohawk language to each student. It introduces the language to Mohawk children in pre-kindergarten, who will not otherwise have the opportunity to learn the language at the Salmon River Central School until they are in the sixth grade. It is also consistent with the educational initiative for Indian students recommended by the Mohawk Education Project, as it incorporates and acknowledges Mohawk culture, history, and tradition as an integral part of the school week.

48. Teaching the Mohawk language to young students is essential to maintaining the existence and vibrancy of the Mohawk culture, tradition and history. This is particularly so because Mohawk unlike most languages is not a written one—it exists only through oral use.

49. In or about the fall of 2002, the Address that would eventually be recited over the Salmon River Central School PA system was drafted by the school's Mohawk Cultural Specialist, Tsuinie Fox. It was drafted by this school employee specifically for a pedagogical purpose, and was greatly reduced in length and otherwise altered to suit its educational use within the District. In this stripped-down form, the Address was presented to Bellinger, who then approved the weekly recitation.

50. As a vehicle of providing students with a traditional and cultural context to enrich their academic experience, the Address which historically is said at the beginning and end of each Mohawk cultural event and traditional gathering, was recited over the school PA system, in Mohawk, on Monday morning and Friday afternoon, the beginning and end of each school week.

51. The version of the Address recited in the District was as follows:

Ohên:ton Karihwatêhkwen

Akwê:kon ênska êntitewahwe?nôn:ni ne onkwa?nikôn:ra
lânon? teiethinonhwaratônnion ne
Onkweshôn:?a,
Iethi?nistêna Ohôntsia,
Kaienthôhsera,
Kahihshôn:?a,
Ohonte?shôn:?a,
Ohneka?shôn:?a,
Kentsionshôn:?a,
Ononhkwa?shôn:?a,
Konfirio,
Okwire?shôn:?a,
Otsi?tenokôn:?a,
Iethihsôthokôn:?a |Ratiwê:ras,
Kaiê:ri Nikawerâ:ke,
Eh Tshitewahtsi:?a Kiohkenêhkha Karâhkwa,
Iethihsôtha Ahshonhênnekha Karâhkwa,
Otsistohkwa?shôn:?a,
Kaiê:ri Nionkwê:take tânon? ne
Shonkwaia?tison tsi akwê:kon rowehnentâ:?on tsi
nahô?tênsion tehshonkwâ:wi ne
taionkwa?nikonhrawên:ie tsi nikarîwes kêntho
teionkwatawên:ie
Ô:nen wakierihwahotôn:ko (Opening)nôn:wa
wenhniserâ:te.
Wa?kierihwahô:ton (Closing) nôn:wa wenhniserâ:te.
Tho niiohtônhak ne onkwa?nikôn:ra. Tho

THE ADDRESS IS NOT A PRAYER

53. The distinction between the Mohawk understanding of the word that is sometimes translated as “creator” and the Euro-American understanding of that term, as well as the assertion that the Address is a religious prayer, underscores the problems two different cultures can have when they meet and try to communicate. Such misunderstandings are surely not new; they occurred from the earliest arrival of the colonists, monks, missionaries and priests, to North America and continued throughout their dealings with North American Indians.

54. Significantly, there is no word in the Mohawk language for prayer. It is a common misconception that “wateharonaiéh” is the Mohawk word for prayer. In fact that word means “he laid down his song.” The source of this longstanding misconception is two-fold. Mohawks observed missionaries chanting prayers. Having no concept of a deity, when Mohawks observed this chanting and were asked the Mohawk word for this activity, they assumed that the missionaries were singing and described it literally. Similarly, the missionaries mistakenly presumed that the Mohawks understood the context of the chanting and that there was a word in the Mohawk language for communing with a “god.” In fact, there is none.

55. Another miscue was the belief that North American Indians worshiped many gods—a misunderstanding of the use of the Indian word, “spirit.” “Spirit” in Mohawk does not mean the ghost of an ancestor or a prophet etc.—there is nothing holy attached to this term. In the Mohawk culture, everything that is important to

the survival of the people is said to have a “spirit.” Thus the trees have a spirit, the sun, earth, fish and air all have a spirit. But they are not prayed *to*—the spirit of anything is recognized for its literal importance in providing for the life of the Mohawk. Consequently, when North American Indians were observed by missionaries giving thanks, their actions were presumed to be religious in nature and to be providing thanks to a “GOD,” because of the religious beliefs of the observers. In fact, North American Indians were simply acknowledging the importance of the laws of nature—the things they relied on for survival. This was not then, nor is it today, a religious practice at all.

56. Strong evidence that the Address is a purely cultural custom and not religious in nature is provided by the fact that it is recited by nearly all individuals throughout the Mohawk Nation, irrespective of the fact that most Mohawks in Akwesasne are Christian, or celebrate Christianity in some form.

**THE SINGLE COMPLAINT FROM A NON-INDIAN
ACTIVIST AND THE SUBSEQUENT PRETEXTUAL
DESIGNATION OF THE ADDRESS AS A PRAYER**

57. For more than two years, the Address was recited in Mohawk over the Salmon River School PA system at the beginning and end of each week. Upon information and belief, this was done without complaint from any student or parent. Upon information and belief, in December 2004, a single “activist” made a single complaint to Bellinger. Upon information and belief, this activist is not Mohawk and does not speak or understand the Mohawk language.

58. Based on this complaint, Superintendent Bellinger determined to rid the District of the Address. Upon information and belief, in an attempt to justify a discriminatory decision already made, Bellinger sought a cursory legal opinion from the law firm of Ferrara, Fiorenza, Larrison Bartlett and Rietz, P.C. (the "Firm"). He received such a cursory letter from the Firm dated April 12, 2005 (the "Letter").

59. Upon information and belief, the Letter was a sham, a mere pretext employed by Defendants in order to accomplish and to justify an end which they knew to be illegal, in an improper effort to satisfy the political demands of a single, but influential, member of the District who was unhappy with the Address. In obtaining and relying upon the Letter, Defendants sought to find a lawful basis to excuse an illegal and discriminatory act. The Defendants knew that removing the Address would discriminate against Plaintiffs and all other Mohawk students in the District.

60. The pretextual nature of the Letter is readily apparent. The Firm came to the conclusion that the Address was a prayer relying upon nothing more than Webster's Random House College Dictionary and various non-authoritative websites. Indeed, the sources cited in the Letter are far from authoritative. As one example of the Firm's transparent effort to designate the Address as a prayer without any expert or authoritative support for that conclusion, the Firm relied upon the commercial website of Kanatiyosh (an individual known only by the name). Far from being a reliable, expert source for cultural or historical information, Kanatiyosh's website is primarily dedicated to the promotion and sale of her own artwork, and little else. In this regard it is believed that

upon learning that her general, subjective description of the Address was misrepresented and misused by Defendants as evidence that the Address was a prayer, Kanatiyosh removed all reference to the Address from her website.

61. Significantly, the Firm did not seek out any experts on North American Indian culture. And, after the Firm forwarded the Letter, neither the Board of Education nor the Superintendent sought advice from any appropriate experts on Indian culture. Equally significant is the Defendants' and the Firm's complete failure to seek any input from Mohawks within the community regarding the Address.

62. Upon information and belief, very little time and very little effort went into the research and drafting of the letter, and it was written with a conclusion already in mind. In this regard, the Firm never thought to obtain, and in fact never looked at, the version of the Address recited over the Salmon River Central School PA system. Upon information and belief, the Firm failed to have the specific Address that was recited over the PA system translated or examined prior to designating it a prayer.

63. Further, though the weekly recitation of the Address was very important to the large Mohawk community within the District, upon information and belief, the agenda of the Board of Education meeting(s) seeking to bar the recitation of the Address was not made public.

64. Upon information and belief, had Defendants advised the community that the fate of the Address's recitation was at stake, a majority of Mohawk

parents, students and other community members would have attended the meeting(s) and could have provided insight into the value of the Address as a pedagogical vehicle to reinforce Mohawk history and culture, and that it is not an article of religious faith.

65. Upon information and belief, it was the conscious aim of Defendants to keep the existence of these Board Meetings secret in order to prevent the broader Mohawk community from participating in the discussion about the Address, and in order to stifle any debate over the Defendants' plan to remove the Address from the District.

66. Upon information and belief, if an open, full and proper investigation had been conducted by the Firm and the District, it would have established that the Address is not a prayer and that it is not a religious practice or a manifestation of religious faith.

67. After receiving the Letter, Defendants banned the recitation of the Address during the school day and at all school events within the District, at both the Salmon River Central School and the Mohawk School. The ban took effect on or about May 16, 2005. The ban was intended by Defendants to further, and did in fact further, the District's discriminatory policy of promoting the dominant Euro-American culture while limiting and diminishing the expression of the Native American and Mohawk culture.

68. As a result of Defendants' actions, two large student protests, each consisting of more than 130 students, were held at the Salmon River Central School. The protests ended in the suspension of approximately eleven students.

69. By outlawing the public recitation of the Address, Defendants are discriminating against Plaintiffs, and against all Mohawk students in the District.

70. As evidenced by the strong student reaction, Mohawk students recognize Defendants' actions as unequal treatment. Defendants' actions have disenfranchised and continue to disenfranchise Plaintiffs and all similarly situated members of the student body.

71. This discriminatory act of the Defendants is not new or unique; it is representative of other illegal steps previously taken against Mohawks in the community that have caused great injury, to Mohawk culture, identity, and tradition. These discriminatory actions have not only contributed directly to educational underachievement, but have been the root cause of other social problems confronting Mohawk youth today including alcohol and drug abuse, high unemployment rates and unwanted teen pregnancy. The effects of such discrimination on Mohawk students are immediate and long-lasting. If the Address is not instituted in the beginning of the 2005-2006 school year, it will cause immediate and irrevocable harm to Plaintiffs and to the Mohawk student population of the District.

72. For these reasons, Plaintiffs seek injunctive relief reinstating the recitation of the Address at all school events within both schools in the District, and on Monday mornings and Friday afternoons in the Salmon River Central School, as of September 6, 2005, the first day of the 2005-2006 school year, or as soon thereafter as possible. This injunctive relief will restore the status quo as it existed prior to May 16, 2005.

MODES OF EXPRESSION OF EUROPEAN CULTURE IN THE SCHOOL DISTRICT

73. The District's policies and practices include not just the intentional suppression of Mohawk history and culture, but the promotion and exaltation of Euro-American history and culture in its stead. The District's policies and practices also underscore that the District's purported justification for barring the Address is mere pretext.

74. Defendants' intentional and systematic policy of race-based discrimination against Mohawk students in favor of Euro-American students and their dominant culture and tradition include the following examples:

(a) Defendants require that the Mohawk students stand each morning during the recitation of the Pledge of Allegiance. The failure to do so has in the past resulted in punitive sanctions, including the suspension of Mohawk students who do not comply;

(b) Defendants require the National Anthem to be sung at all school hockey games;

(c) Defendants arrange for a visit from Saint Nicholas (a/k/a Santa Claus) on Christmas, and a Christmas tree is placed on school grounds during the Christmas holiday;

(d) The school system is in recess for the American (U.S.) version of the Thanksgiving holiday and the “American Thanksgiving” is celebrated in various ways each year by the District;

(e) Defendants require Christmas Carols to be sung at the Christmas concert—in contrast, the Address was removed from the Spring concert;

(f) Although Defendants banned the Address from recitation at the Mohawk School’s 2005 Spring Concert because it was “religious in nature,” at the same concert Defendants permitted two students to sing Amazing Grace;

(g) Under the imprimatur of Defendants, every Monday morning, students in the Mohawk School are released for one period to receive Catholic religious instruction;

(h) Mohawk students are prohibited from wearing traditional dress upon their graduation at the Salmon River Central School—but students, including

Mohawk students, are required to wear caps and gowns, a tradition derived from the dress of church clergy in European religious ceremonies;

(i) Defendants have banned the Address from being recited at graduation at the Mohawk School;

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF (Request for Declaratory Judgment)

75. Plaintiffs incorporate by reference the averments of each preceding paragraph of the Complaint as though the same were here set forth.

76. This is a petition for a Declaratory Judgment brought pursuant to 28 U.S.C. § 2201, the declaratory judgment being sought for the purpose of determining a question in actual controversy between the parties—i.e. that the Address is a non-religious expression of Mohawk culture.

77. In an attempt to create a purportedly legitimate excuse for limiting the expression of the Mohawk culture within the District, Defendants obtained a legal opinion letter from the Firm incorrectly designating the Address as a prayer.

78. Defendants have used the Letter to justify their discriminatory actions. On May 16, 2005, Defendants banned the recitation of the Address from all

district schools during the school day and at all school events, on the purported basis that such recitation was an improper exercise of religion.

79. Plaintiffs now seek judicial review determining that the Address is not a prayer, but is a non-religious expression of Mohawk culture, and that its recitation is not an exercise of religion, but a celebration and recognition of Mohawk history and culture.

80. As described above, the controversy between the parties is real.

81. A judgment of this Court in this action will serve a useful purpose in clarifying and settling the legal dispute between the parties.

82. A judgment of this Court in this action will determine, terminate and afford relief from uncertainty, insecurity, and the controversy giving rise to this action.

**SECOND CLAIM FOR RELIEF
(Request for Injunctive Relief)**

83. Plaintiffs incorporate by reference the averments of each preceding paragraph of the Complaint as though the same were here set forth.

84. On May 16, 2005, the Defendants banned the recitation of the Address at all schools in the District during the school day and at all school events by incorrectly classifying it as a prayer.

85. Such classification was wrong in that it was based on a purported legal opinion which, among other things, did not take into account the Mohawk understanding of their own history and culture. The classification of the Address as a prayer was a pretext, made solely for the purpose of justifying the District's unconstitutional discrimination against the Mohawk student body.

86. In fact, the Address is not a prayer. Long before and after the creation of the Address, the Mohawks and other Native American Nations did not have a concept for God.

87. In short, the Address is a fundamental and irreplaceable part of Mohawk history, tradition and culture and not an expression of religion or the exercise of a religious tenet or religious preference. Given the systematic and historical attack upon Mohawk culture, tradition and language, the Address is essential to providing Mohawk students with equal educational opportunities, and is essential to the maintenance and continuance of the Mohawk way of life.

88. Plaintiffs will suffer irreparable harm should the District continue to ban the recitation of the Address during the school day and at all school events. As such, injunctive relief to restore the previous status quo is appropriate.

THIRD CLAIM FOR RELIEF
(Violation of The Fourteenth Amendment to
the U.S. Constitution and 42 U.S.C. § 1983)

89. Plaintiffs incorporate by reference the averments of each preceding paragraph of the Complaint as though the same were here set forth.

90. The Defendants have violated the Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1983, by denying equal protection of the laws to Plaintiffs on the basis of race and national origin by engaging in patterns of discrimination against the Plaintiffs.

91. Defendants' actions, practices, and policies intentionally subject Plaintiffs to discriminatory, unequal, and harmful conditions based on their race and national origin as compared to similarly situated non-Mohawk students within the District.

92. As set forth more fully above, Defendants have created policies that promote the dominant Euro-American culture while limiting and diminishing the expression of the Native American and Mohawk culture.

93. Defendants' discriminatory actions were taken under the color of state law.

94. As more fully described above, Plaintiffs have been and continue to be harmed as a result of Defendants' discriminatory conduct in an amount to be fully determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests that this Court:

A. Enter an Order Declaring that the Address is not a prayer but rather a non-religious expression of Mohawk culture.

B. Enter an order reinstating the status quo as it existed prior to May 16, 2005, by reinstating the recitation of the Address over the PA system at the Salmon River Central School at the beginning and end of each week, before school events at the Mohawk School, and at other school functions and events within the District.

C. Award monetary damages incidental to injunctive and declaratory relief to each member of the Class.

D. Award such damages, including any punitive, exemplary, or treble damages as permitted by law, as will fully compensate the Plaintiffs for the injuries they have suffered as a result of Defendants' discriminatory and unconstitutional conduct.

E. Award Plaintiffs their reasonable costs, including reasonable attorney's fees and expenses in bringing this action, together with pre-judgment and post-judgment interest as provided by law.

F. Grant such other, further and different relief as may be just and

proper.

Dated: New York, New York
September __, 2005



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