

UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

KRISTEN FRY,

Plaintiff,

v.

SCHOOL DISTRICT NO. 1 d/b/a DENVER
PUBLIC SCHOOLS, AUON'TAI
ANDERSON, HASHIM COATES, SCOTT
ESSERMAN, XOCHITL GAYTAN,
MICHELLE QUATTLEBAUM, and
MIDIAN SHOFNER.

Defendants.

No. 24-cv-02284-SBP

**FIRST AMENDED COMPLAINT
JURY TRIAL DEMANDED**

INTRODUCTION

1. In this case, a group of local public school district officials, along with their co-conspirators and agents, retaliated against an everyday American citizen because she dared to dip her toe into local politics by speaking at a school board meeting in opposition to defendants' mismanagement of the public schools.

2. While plaintiff Kristen Fry was not the only one targeted for retaliation by defendants—they tried several times to silence dissent by smearing concerned parent groups, intimidating and insulting public speakers, and even by illegally firing an outstanding middle school principal for his speech in opposition to their policies—the treatment that she received was among the harshest of all the victims.

3. To make an example out of Ms. Fry and to deter other parents and citizens who might join the fight against them, defendants knew they had to up the ante. So, beginning in August 2023, defendants brought the hammer down on Ms. Fry: falsely accusing her of committing a hate crime assault during a public school board meeting, and pursuing criminal charges against her for months, only stopping when late-disclosed video evidence proved their claims were demonstrably false.

4. Kristen Fry did not commit a hate crime; she did not assault anybody; she did not touch anybody; she didn't even raise her voice or act impolitely toward anybody; all she did was attempt to exercise her most fundamental rights as an American citizen to speak freely on important public issues and to participate in democracy. For that, she was subjected to illegal retaliation by defendants.

5. In the process of silencing Ms. Fry and violating her First Amendment rights, defendants committed a number of other outrageous and wrongful acts, including repeatedly broadcasting defamatory accusations against her via the internet, on podcasts, and at school board meetings.

6. Ms. Fry brings the instant lawsuit not only to vindicate her rights and reclaim her reputation, but also to undo the *public* damage defendants intended and achieved when they put a target on her back. By making an example out of Ms. Fry, defendants sent a message to other members of the community that they could be next if they did not get on board with defendants' policies.

PARTIES

7. Kristen Fry is a United States citizen and resident of Denver, Colorado. She is a parent/stepparent to three children in the Denver Public Schools system. Until defendants targeted her with a retaliatory campaign of defamation and false criminal accusations, she was actively involved in citizen-led efforts to change school board policy, including by testifying at a public board meeting and participating in online group messaging boards. Following defendants' conduct, Ms. Fry has been deterred from attending board meetings and participating in the democratic process around public school policy. She remains fearful of further retaliation.

8. Defendant School District No. 1 d/b/a Denver Public Schools ("DPS" or the "District") is a duly organized school district in the State of Colorado. DPS is governed by elected officials on the DPS Board of Education ("BOE"). The members of the BOE are the highest policy-making officials in DPS and their decisions constitute the official policies of DPS. DPS is not an arm of the State of Colorado.

9. Defendant Auon'tai Anderson was a member of the BOE from November 2019 to November 2023. During that period, Mr. Anderson served as BOE Vice President.

10. Defendant Scott Esserman has been a member of the BOE since November 2021. From November 2021 to November 2023, he was the BOE

Treasurer. In November 2023, he stepped down from the role of Treasurer but continues to serve as a member of the Board.

11. Defendant Xochitl Gaytan has been a member of the BOE since November 2021. From November 2021 to November 2023, she was President of the BOE. In November 2023, she stepped down from the role of President but continues to serve as a member of the Board.

12. Defendant Michelle Quattlebaum has been a member of the BOE since November 2021. From November 2021 to November 2023, she was the BOE Secretary. In November 2023, she stepped down from the role of Secretary but continues to serve as a member of the Board.

13. In this complaint, defendants Anderson, Esserman, Gaytan, and Quattlebaum are referred to as the “BOE defendants.”

14. Defendant Hashim Coates is a paid consultant who has been a long-time agent of and joint actor with the BOE defendants. Among other things, Mr. Coates runs a political consulting firm known as HTC Solutions. Mr. Coates and his firm worked in concert with each of the BOE defendants during their political campaigns, and in their subsequent governance of DPS. In September 2022, Mr. Anderson boasted on behalf of Mr. Coates that “HTC Solutions has been involved in helping elect all SEVEN of the [then-]current School Board Directors!” Mr. Coates was particularly closely involved in the campaigns of defendants Anderson and Esserman. He ran both campaigns.

15. Mr. Anderson was also a paid consultant to Mr. Esserman's campaign and Ms. Quattlebaum's campaign, even though Mr. Anderson, at the time, was already an elected member of the BOE.

16. Defendant MiDian Shofner (previously MiDian Holmes) is a former appointee to the BOE who currently runs a political consulting firm known as 8PM Consulting for Humanity. Like Mr. Coates, Ms. Shofner has been a long-time agent of and joint participant with the BOE defendants. As Mr. Esserman has put it, Ms. Shofner was a "partner" in developing the BOE policy changes at issue here. She has been a vocal and aggressive proponent of the work that she and her co-defendants have done and, as discussed below, has actively participated in the joint campaign to suppress opposition to defendants' policies, including by repeating and spreading defamatory statements that Ms. Fry committed a hate crime during a public comment session of the BOE.

17. For their part, Messrs. Anderson and Esserman have worked to benefit Mr. Coates and Ms. Shofner in a number of ways. Among other things, Mr. Esserman acted as a principal executive on and financial contributor to Mr. Coates' own campaign for elective office in 2024. Mr. Anderson has caused the BOE to officially issue a proclamation "celebrat[ing] and honor[ing]" Mr. Coates and Ms. Shofner in the lead up to Mr. Coates' political campaign.

18. On information and belief, Mr. Anderson, Mr. Coates, Mr. Esserman, and Ms. Shofner regularly conferred in private in various combinations to set DPS

policy, and to develop strategies to suppress dissenting voices, including Ms. Fry's. Mr. Anderson, Mr. Coates, Mr. Esserman and Ms. Shofner also conferred in private to develop a specific strategy (outlined further below) to retaliate against a middle school principal for his public speech, under the guise of an "investigation" into alleged misconduct. Mr. Anderson, Mr. Coates, Mr. Esserman, and Ms. Shofner jointly implemented their strategies against Ms. Fry and the middle school principal. The other BOE defendants agreed to, ratified, and condoned the conduct by Mr. Anderson, Mr. Coates, Mr. Esserman, and Ms. Shofner (and engaged in their own independent misconduct as well).

19. Further links between the BOE defendants, Mr. Coates and Ms. Shofner, as well as defendants' joint participation in the events at issue in this lawsuit, are further detailed below.

20. All defendants were acting under color of state law at all times relevant hereto. All defendants are "persons" for purposes of 42 U.S.C. § 1983.

JURISDICTION AND VENUE

21. Plaintiff brings this action pursuant to 42 U.S.C. §§ 1983 & 1988 for deprivations of her rights secured by the First and Fourteenth Amendments to the United States Constitution. Plaintiff also brings claims under Colorado state law for defamation, abuse of process, and malicious prosecution.

22. This Court has jurisdiction over this complaint under 28 U.S.C. § 1343, which provides for original jurisdiction for suits brought pursuant to 42 U.S.C.

§§ 1983 & 1988. The Court also has jurisdiction under 28 U.S.C. § 1331, because this matter arises under the Constitution and laws of the United States. The Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a), because the same transactions and occurrences that form the basis of the federal claims also form the basis of the state law claims.

23. Venue is appropriate in this district under 28 U.S.C. § 1391(b)(2), because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this district. On information and belief, venue is also appropriate in this district pursuant to 28 U.S.C. § 1391(b)(1), because all defendants are residents of the state of Colorado and of this district.

STATEMENT OF FACTS

Defendants Are Responsible for Failed and Harmful Educational Policies

24. In the period leading up to 2022-23 school year, the BOE defendants pursued a number of significant changes to DPS policy that had severe consequences for the educational and safety environment in DPS schools.

25. Among other things, in an initiative spearheaded by Mr. Anderson, and supported by the other defendants, DPS removed public safety officers from district schools because of purported racial inequities in disciplinary enforcement. DPS further replaced clear behavioral and accountability rules with what are sometimes termed "restorative justice" principles that often have the effect of leaving students (especially low-income students) vulnerable to disruptive and even

criminal behavior by their classmates. For example, under the new rules, schools were required to allow potentially violent students, including students facing criminal charges such as robbery and attempted murder, to attend in person, even where against the advice of law enforcement authorities.

26. Over time, these policies proved to be a disaster.

27. For one thing, the policies led to a degradation of the learning environment, as disciplinary enforcement was curtailed. Every time that a student is allowed to interrupt class or start a disturbance or fight in the hallways without consequence, other students are distracted and denied an opportunity to learn. Defendants' misguided policies increased disorder and resulted in massive learning loss up to and including the 2022-23 school year.

28. But even worse, defendants' policies led to spasms of violence that no student or staff member should have to endure. These violent episodes culminated with two highly-publicized shootings at Denver's East High School in early 2023, one involving the killing of a student, reportedly by other students, and the other involving a student (who had previously been expelled from school for possessing a semi-automatic rifle) shooting and critically injuring two school administrators who had been forced to conduct untrained "pat downs" due to the lack of safety officers on campus.

29. According to news reports, upwards of 800 students in the DPS system have been evaluated for their potential to engage in violence and/or for a "safety

plan” such as the one implemented by the untrained East High staff who were shot in March 2023.

Parents, Staff and Other Citizens Begin to Speak Out in Opposition to Defendants’ Dangerous Mismanagement of the Public Schools

30. On March 24, 2023, two days after the second East High School tragedy, Kurt Dennis, the then-principal of DPS’ McAuliffe International School (“McAuliffe”), gave an interview to a television news reporter exposing that a middle school student who had been charged with attempted murder for shooting a liquor store clerk, and who police had unequivocally recommended *not* be allowed to attend school in person, was nevertheless required by defendants to be allowed to attend McAuliffe in person.

31. Mr. Dennis also shared that, like the staff members who had been shot at East High, he and other untrained McAuliffe administrators were required to perform daily “pat downs” of the student. Mr. Dennis was rightly concerned about the possibility of harm to students or staff.

32. Around the same time Mr. Dennis was exercising his right to comment on this important public issue, parents and other citizens began to engage politically.

33. Among other things, they set up organizations including the “Parent Safety Advocacy Group” (“PSAG”), “DPS Resign/Recall” (“DPS Resign”), and a Facebook McAuliffe Parents Group (“FB Group”). Plaintiff joined these groups and participated in their activities through the summer of 2023.

34. As an example of their public advocacy, beginning in April 2023, PSAG held multiple press conferences to discuss the East High School tragedies, defendants' links to those tragedies, and urgent changes needed to improve DPS school security. Ms. Fry was visibly present at some of those press conferences. PSAG's activities and the broader controversy were extensively covered by local press outlets in Denver.

35. In addition, a number of parents, including Plaintiff, volunteered to help with security at McAuliffe.

36. Defendants were aware of the activities of PSAG, DPS Resign and the FB Group. All of these groups were publicly involved in resisting defendants' failed policies and in advocating on behalf of Mr. Dennis, including by engaging in direct advocacy face to face with defendants. The groups' internet-based activities were also known to defendants. Indeed, defendant Coates and defendant Anderson made public statements online and via broadcast media on multiple occasions specifically targeting these groups and their members—including Ms. Fry—as detailed further below.

**Defendants Embark on a Campaign to Retaliate Against Anyone
Questioning their Policies**

37. The events at East High School, Mr. Dennis' public revelations, and the activities of PSAG, DPS Resign, and others should have been an opportunity for defendants to engage in sober reflection and reconsideration of their policies. Instead, they almost immediately circled the wagons and began a campaign of

retaliating against anyone who raised questions.

Defendants Retaliate Against Mr. Dennis and Smear His Supporters

38. Defendants' first target was Mr. Dennis.

39. Two weeks after he spoke with the press, DPS retaliated by initiating proceedings to terminate his employment. The moves against Mr. Dennis became public on July 3, 2023, when the DPS Superintendent formally recommended his termination. The pretextual reason stated for Mr. Dennis' termination was that he had allegedly violated the privacy interests of the McAuliffe student charged with attempted murder (he had not).

40. On July 12, 2023, members of the community rallied in support of Mr. Dennis at McAuliffe, expressing public outrage at his termination, and over the broader policy failures of the BOE. The rally and other parent-led push back was extensively covered in local media.

41. In an attempt to erode public support for Mr. Dennis, defendants staged a number of so-called "town halls" or "listening sessions" from mid-July through August 2023. While billed as opportunities for public input, the meetings were instead manipulated by defendants as a way to bully and browbeat opposition.

42. The first such "town hall" occurred at Manual High School on July 15, 2023. Ms. Shofner moderated and directed the event, which was attended by Mr. Coates, Mr. Esserman, Ms. Quattlebaum, and Mr. Anderson. From the outset, defendants were hostile to parents and others who had questions or concerns about

DPS' policies. Ms. Fry attended the first town hall, and was dismayed at defendants' treatment of parents. As a highly principled and idealistic person, Ms. Fry believed that the solution to defendants' acrimony lay in more and better communication.

43. To that end, Ms. Fry introduced herself to Mr. Anderson after the meeting. She sought to inform him that, despite their differences of opinion, she believed they shared a commitment to serving the best interests of DPS students. She sought to lower the temperature and to re-start a more constructive dialogue.

44. But Ms. Fry's belief in defendants' good faith was misplaced. Rather than leading to more effective collaboration, her attempt to reach out to defendants only raised her profile in their view, and, on information and belief, made her a more prominent target for retaliation.

45. The next "town hall" on August 1, 2023, was again hosted by Ms. Shofner and featured Mr. Coates, Mr. Esserman, Mr. Anderson and Ms. Quattlebaum.

46. As before, defendants primarily used the meeting to go after their opponents and to impugn their character. For example, Mr. Coates denounced those concerned about security and the retaliation against Mr. Dennis as bigoted "white parents."

47. He further alleged that parents such as Ms. Fry, who had volunteered to address security concerns at McAuliffe in the wake of the East High School

tragedies, engaged in racial profiling and “targeting black and brown students.”

These claims were patently false.

48. Defendants Shofner, Anderson, Quattlebaum and Esserman acquiesced in Mr. Coates’ retaliatory bullying of parents like Ms. Fry.

49. Following the meeting, Ms. Fry, still holding out hope that defendants would engage in good faith dialogue, attempted to talk to Mr. Coates. Mr. Coates did not reciprocate. Rather, he shouted at and loudly accused Ms. Fry of racism and “doing that white girl thing” by disagreeing with him. Ms. Fry was deeply disturbed by this treatment, and left the event in tears.

Defendants Accelerate their Campaigns Against Mr. Dennis and Against Parents

50. Meanwhile, recognizing that public sentiment remained strongly in support of Mr. Dennis and against his termination, defendants Anderson, Coates, Esserman and Shofner decided jointly on a new strategy to change the public discourse and further silence dissent.

51. To that end, on August 2, 2023, (long after defendants had already decided to terminate Mr. Dennis for his speech) defendants Coates, Esserman and Anderson began an unofficial “investigation” into the use by McAuliffe school psychologists and administrators of a room to help students with emotional or psychological issues de-escalate during a crisis.

52. Defendants Anderson and Esserman gave defendant Coates key responsibility for the so-called “investigation,” as well as physical access to DPS

facilities, all despite Mr. Coates' lack of a formal employment relationship with DPS.

53. Although de-escalation rooms, which are common in public schools, are a helpful and humane response to sometimes dangerous emotional disturbances, each of the individual defendants publicly framed the one at McAuliffe as an "incarceration room" that was used exclusively to lock up "students of color." These assertions, repeated multiple times in press conferences and in other public statements, were patently untrue, and were in furtherance of defendants' retaliation against Mr. Dennis (which was itself part of defendants' broader campaign to suppress dissent).

54. In what would become a pattern of defendants' campaign, Mr. Anderson even went so far as to make a false report to the police accusing Mr. Dennis of criminal conduct against students by placing them into the de-escalation room. Mr. Coates would later use the same tactic against Ms. Fry.

55. Through the bulk of August 2023, defendants staged more public "town halls," now with the added baggage of the false "incarceration room" accusations against Mr. Dennis. As before, defendant Coates repeatedly smeared parents as "racist," with the approval of the BOE defendants.

56. Around the same time, Mr. Coates posted a multi-paragraph rant on social media accusing two specific parents who participated in these public meetings of being "white racists." Mr. Coates further posted the parents' personal identifying

information—commonly referred to as “doxing”—which exposed them to potential violence. Mr. Anderson commented on and implicitly adopted Mr. Coates’ posts shortly thereafter. The following day, Mr. Anderson falsely referred to one of the parents in a public post as a member of the “klan.” Partly as a result of defendants’ attacks against them, the family moved out of Denver entirely.

The August 21, 2023 Public Comment Session – Defendants Single Out Ms. Fry for Harsh Retaliation as an Example to Others

57. Defendants’ pattern of retaliation reached a new high on August 21, 2023, at the final public comment session prior to August 24, 2023, the date on which the BOE was scheduled to ratify Mr. Dennis’ termination. PSAG, DPS Resign, and other groups and individuals attended the public comment session in large numbers to give public testimony in opposition to defendants’ policies and in opposition to Mr. Dennis’ termination. Ms. Fry was among the individuals scheduled to give public remarks.

58. Notably, several teachers who desired to speak in support of Mr. Dennis were so afraid of retaliation by defendants, that they asked a group of McAuliffe students to read their anonymous statements into the record.

59. In a display that would be incomprehensible in any other context, but that fit perfectly with defendants’ long-term campaign to quash dissent, defendants Anderson and Gaytan responded by creating a new “rule” on the spot (which was supposedly a new “interpretation” of an old rule) to prohibit these middle school students from reading their teachers’ statements.

60. And more generally, defendants continued as they had before, attempting to bully and intimidate anyone who spoke in opposition to their policies. First, Ms. Shofner and Mr. Coates, who were sitting adjacent to each other and mere inches from the speaker's podium, repeatedly interrupted comments by parents, staff, and students (some of whom were ten, eleven and twelve years old) with "coughing," laughter, or loud derogatory statements such as "white supremacist" or "racist."

61. Defendants Anderson, Esserman, Gaytan and Quattlebaum could, of course, hear defendants Shofner's and Coates' repeated interruptions. Yet, they did nothing about the misconduct.

62. Senior DPS staff were also aware of the misconduct. Not only could they hear the interruptions, but prior to the time she was slated to speak, Ms. Fry made a point of speaking with two officials from the DPS Superintendent's office and a security guard, to point out the disruption and to ask that the Board make an announcement reiterating that such conduct was not allowed during public meetings. DPS staff left the room, presumably to carry the request to Board members. However, no admonition against disruption was forthcoming from the Board.

63. On information and belief, all of the defendants had previously agreed to the campaign of interruption and public bullying undertaken by defendants Shofner and Coates.

64. Indeed, following the meeting, at least two other parents who were present independently and separately sent emails to the Board expressing concern over its failure to prevent defendants Shofner and Coates from bullying speakers and disrupting the meeting. The Board has never responded to those parents' concerns.

65. In any event, the worst was yet to come at the August 21, 2023 meeting. After almost two hours of public comment, virtually all of which was critical of defendants' policies and treatment of Mr. Dennis, Ms. Fry's turn to speak came up.

66. Defendants Coates and Shofner had been waiting for Ms. Fry (who they knew both from prior "town halls" and from the fact that she reported their misconduct to DPS personnel earlier during the meeting) and intended to make a public example of her.

67. As Ms. Fry stood in line for her turn to approach the podium, Mr. Coates interrupted the speaker before her with loud laughing and vigorous head shaking. Justifiably disturbed and concerned that the BOE defendants were encouraging this misconduct through their silence, Ms. Fry took a step or two, slightly leaned in the direction of Mr. Coates and Ms. Shofner and said, "please be respectful of the speakers."

68. Mr. Coates seized on this perfectly reasonable and polite entreaty. Immediately after Ms. Fry asked him to be respectful, Mr. Coates turned around in

his seat and shouted for everyone in the room to hear, “did you just call me n***er?!”¹

69. Although cynically phrased as a “question,” Mr. Coates’ utterance had the obvious purpose and effect of asserting a specific factual allegation: that Ms. Fry had used a racial epithet against him. The accusation was utterly false. Ms. Fry did not use any racial epithets and, indeed, said nothing even remotely disrespectful.

70. But even worse, Mr. Coates also later asserted that, while using the epithet, Ms. Fry assaulted him, grabbing him roughly by the shoulder. This accusation, too, was utterly false.

71. Although video evidence would eventually be uncovered showing beyond any doubt that Mr. Coates’ accusations were false, at the time, the existence of such evidence was uncertain.

72. But even without the video evidence, Mr. Coates knew that his accusations were false. Ms. Shofner, who was sitting immediately adjacent to Mr. Coates and acting in concert with him, also knew with certainty that his accusations were false. While defendants Anderson, Esserman, Gaytan and Quattlebaum were seated a few feet away at the front of the room, they were not far enough away to pretend they did not also know that the accusations were false.

¹ Because mention of the word in question can cause strong reactions, this complaint refers to it with the string of letters and symbols “n***er.” Mr. Coates, however, used the full word.

73. In any event, although she was shaken and confused by Mr. Coates' sudden and inexplicable accusation against her, Ms. Fry gave her planned public comments. Mr. Coates interrupted her several times with sighs and other noises, forcing her to interrupt her own comments to again ask Mr. Coates to be respectful of the speakers.

74. The public comment session eventually adjourned.

Defendants Repeatedly Broadcast and Amplify Defamatory and Outrageous Accusations Against Ms. Fry

75. Over the two days following the public comment session, Mr. Coates took to the internet to repeat his false accusations against Ms. Fry. Among other things, he explicitly accused her by name in written public posts of calling him a “dumb n***er” while “assaulting” him. He attached a picture of her to his inflammatory and false allegations.

76. In addition, on August 23, 2023, defendants Coates, Shofner, and Anderson appeared on a popular video podcast, known as the “Brother Jeff Show” that covers social and political issues in the Denver area. During the broadcast, each defendant repeated and amplified defamatory and retaliatory statements concerning Ms. Fry.

77. First, Mr. Coates made the following statement:

“I was assaulted at the DPS board meeting . . . [I was] sitting down . . . minding my . . . own business . . . and all of a sudden I feel this pain on my right shoulder, like somebody grabs my shoulder. So I turn, I'm like, ‘what the hell? Like who’s grabbing me like this?’ And I look and I recognize the face and it’s the face of Kristen Fry. And so she whispers

‘dumb n***er,’ and then backs up and I just said, ‘did you just call me a n***er?’ And so she goes to this theatrics of ‘Oh no,’ right. So I don’t make a big deal about it at the time because not the first time a racist has ever called me a n***er.”

78. Mr. Coates repeated his false allegations several more times, including by stating that Ms. Fry was a “white lady coming to assault me.”

79. These statements were false and defamatory and defendants Coates, Shofner and Anderson all knew they were false and defamatory.

80. For her part, during the Brother Jeff broadcast, Ms. Shofner engaged in her own retaliation against Ms. Fry, explicitly stating that, “I was there” and that Mr. Coates suffered an “unwarranted touch” by Ms. Fry.

81. Ms. Shofner further described Ms. Fry’s alleged assault against Mr. Coates as demonstrating that “even in 2023, racism is still very real[,] harmful and hurtful.” Ms. Shofner stated that Ms. Fry was motivated by “an effort to ensure that black people that are in their beautiful black skin do not feel safe. They don’t feel protected.” Ms. Shofner stated that Ms. Fry “do[es] not think that black lives matter.”

82. Mr. Anderson, who sat immediately adjacent to Mr. Coates on camera for the entire broadcast also stated, referring to Ms. Fry, that “in that . . . [school board] meeting . . . that bad ass adult came up and assaulted Hashim.”

83. Defendants’ lies about Ms. Fry stoked potentially dangerous reactions from the broadcast viewership. Among other things, in the publicly-available comment section, viewers wrote, “who is Kristen Fry?” and “sounds like a racial

hate crime occurred,” and “[b]ring your folding chair,” the latter in reference to a violent episode earlier that month in which a folding chair was used as a weapon in a race-related brawl in Alabama.

84. During this time period, the defamatory accusations against Ms. Fry were becoming known to wide swaths of the Denver community. Ms. Fry even received an unprompted message from a friend warning her that she “just got a text from a friend saying ur going around calling people the N word . . . Giving u a heads up that ur reputation is going in that direction.”

85. Around the same time, on August 22, 2023, Mr. Coates wrote an e-mail to the BOE defendants and other DPS leadership entitled, “Unacceptable incident at DPS Board Meeting Requires Immediate Action.” In the e-mail, Mr. Coates repeated his false and defamatory accusations against Ms. Fry, writing:

“During the [August 21, 2023] meeting, as I was seated and engaged in conversation with MiDian Holmes[-Shofner], I experienced a jarring intrusion. A sudden unwelcome grip on my shoulder caught me off guard, and as I turned, the shock deepened. In a whisper, the utterance of a vile racial slur, ‘You dumb n***er’ escaped from Kristen Fry’s lips. The audacity of this moment was amplified by the familiarity of Ms. Fry’s face, a recognition from past public gatherings that only intensified the impact of her venomous words.”

86. The next morning, defendant Gaytan wrote back, copying all, that she “agree[d] with you in that these vile, racist epithets should not be uttered or have any part in our meetings,” and that what she called a “racist verbal attack by Kristen Fry [was] unconscionable.”

87. On information and belief, Ms. Gaytan knew that Mr. Coates' accusations were false. Indeed, defendant Ms. Gaytan was mere feet away from Ms. Fry and Mr. Coates during the relevant period, and must have known the accusations were false.

88. Moreover, neither defendant Gaytan, nor any other BOE defendant, made any effort whatsoever to inquire with Ms. Fry or anyone else to confirm or deny the truth of Mr. Coates' accusations.

89. On August 24, 2023, the Board of Education held a public meeting, which was also broadcast on the internet, during which it was to take a vote on whether or not to ratify Mr. Dennis's termination. Before it did so, however, the Board took the opportunity to publicly shame and rebuke Ms. Fry for an alleged "racist" incident that, in fact, never took place.

90. At the outset of the meeting, defendant Gaytan referred to Mr. Coates' e-mail and stated that it conveyed an "incident [involving] someone that identifies as white using a racial epithet against [a] black individual." Defendant Gaytan and the rest of the BOE defendants then each shared their "reactions" to the alleged incident. The statements were shocking. Among other things, Mr. Anderson described an incident that never happened as "unspeakable racism at our board meeting." Defendant Esserman said that Ms. Fry's alleged conduct was "thoroughly and completely unacceptable." Defendant Quattlebaum asserted that the alleged incident "cause[d] trauma."

91. Although the BOE Defendants did not use Ms. Fry's name during this public scolding, given that Mr. Coates had loudly accused Ms. Fry of calling him a "n***er" for all to hear during the August 21, 2023 meeting, which was attended by scores of community members, not to mention that in the following days Mr. Coates, Mr. Anderson and Ms. Shofner had repeated these falsehoods on a popular local show and that Mr. Coates had been plastering allegations against Ms. Fry all over social media and the internet, reasonable observers in the community would have understood quite clearly that the person being referred to by defendant Gaytan was Ms. Fry.

92. Indeed, members of the community did, in fact, understand that the BOE Defendants were referring to Ms. Fry. During the meeting, Ms. Fry and her family received multiple messages from parents and others alerting them that the BOE defendants were specifically targeting Ms. Fry in their public comments.

93. It bears repeating that all of these statements were made in the complete absence of any effort by the BOE defendants to confirm the truth or falsity of Mr. Coates' allegations against Ms. Fry. Moreover, given that the BOE defendants were present at the August 21, 2023 meeting and only a dozen or so feet away, they knew the allegations were false.

94. All told, the seriatim statements by the BOE defendants took up approximately ten minutes of valuable public Board of Education time, all giving credence to an alleged racist incident that, in fact, never took place at all.

95. After attacking Ms. Fry for the first ten minutes of the meeting, the BOE defendants then ratified the retaliatory termination of Mr. Dennis by a vote of six to one.²

With the Other Defendants’ Help, Mr. Coates Pursues False Criminal Charges Against Ms. Fry and Continues His Campaign of Retaliatory Defamation for Months

96. Not satisfied with merely dragging Ms. Fry’s reputation through the mud, on August 24, 2023, Mr. Coates filed a false police report against her.

97. Mr. Coates’ signed criminal declaration states:

“On 8/21 I was assaulted while attending a DPS board meeting. I was seated . . . while in conversation I feel pressure on my left shoulder. I immediately turn to see who is touch [sic] me in such a way. I saw that it was Kristen Fry (who I have had other encounters with at DPS related events. She then states ‘you dumb n***er.’ In shock I ask her immediately, ‘did you call me a n****r”

98. Mr. Coates further wrote in reference to a picture of Ms. Fry, “[t]his is the woman who grabbed me on my shoulder & called me a n***er. I know her as Kristen Fry.”

99. Also on August 24, 2023, Ms. Shofner falsely stated to a police investigator that she “was sitting next to Mr. Coates during the meeting and witnessed [the] incident, [during which] she saw Ms. Fry grab Mr. Coates on the shoulder.”

² On September 5, 2023, Mr. Dennis brought suit in this District pursuant to 42 U.S.C. § 1983 alleging violations of the First and Fourteenth Amendments arising out of his termination. *Dennis v. School Dist. No. 1 d/b/a/ Denver Public Schools, et al.*, 23-cv-02257-JLK (D. Colo.). That matter is currently pending.

100. Pursuant to these false statements, on August 26, 2023, Ms. Fry was served with a criminal citation for disturbing the peace. Ms. Fry was forced to hire defense counsel to respond to the criminal charges against her, ultimately paying tens of thousands of dollars in fees and costs.

101. Around the same time, in an effort to prove that the allegations against her were false, Ms. Fry submitted a request under the Colorado Open Records Act (“CORA”) to DPS seeking video footage, including security camera footage, from the August 21, 2023 meeting. DPS denied the request, claiming that the video footage was exempt from CORA as a “criminal justice record.” DPS did not provide any further explanation.

102. This response was unfounded and unlawful. DPS had a legal duty to produce the footage in response to Ms. Fry’s CORA request, but failed to do so. On information and belief, the BOE defendants denied the CORA request knowing that the video footage would exonerate Ms. Fry and disprove the allegations against her. On information and belief, the BOE defendants withheld the video footage as part of their campaign of retaliation against Ms. Fry.³

³ As noted below, months later, after she had already been subjected to a wrenching criminal prosecution, DPS was forced to finally produce the video footage pursuant to a subpoena served by Ms. Fry’s criminal defense counsel. The video exonerated Ms. Fry. *See infra* ¶¶ 115-18.

103. In any event, on September 21, 2023, Mr. Coates contacted the Denver City Attorney's office to indicate that he was upset that Ms. Fry was "not charged with assault." He demanded to meet prior to Ms. Fry's arraignment.

104. On September 22, 2023, Mr. Coates met with the City Attorney's office. During the meeting, he repeated the same false and defamatory accusations against Ms. Fry, but also added, ominously that "there [was] a violent history . . . between himself and [Ms. Fry] that he believes [Ms. Fry] is escalating."

105. In or around September 25, 2023, defendants Esserman, Quattlebaum and Anderson agreed to corroborate Mr. Coates' false account of the August 21, 2023 alleged assault. Mr. Coates called the police investigator that day to provide contact information for defendants Esserman, Quattlebaum and Anderson. It is unclear whether the police investigator ever reached out to these defendants.

106. In any event, Mr. Coates' efforts to cause prosecutorial authorities to charge Ms. Fry with something more serious than disturbing the peace bore fruit. At a criminal court appearance on September 26, 2023, Ms. Fry was served with a new misdemeanor criminal charge of "Harassment Strike/Shove," as well as a hate crime sentencing enhancement for "ethnic intimidation."

107. Moreover, pursuant to an application by Mr. Coates, the court issued a restraining order against Ms. Fry requiring her to keep away from Mr. Coates. Incredibly, on the form he provided to the court, Mr. Coates listed the DPS Board of Education meeting location as his address, ensuring that Ms. Fry would be

prevented from attending BOE meetings and underscoring that what defendants' conduct was really about was retaliation against Ms. Fry for her speech and political activity, in an effort to suppress opposition to their policies.

108. The restraining order not only prevented Ms. Fry from attending formal BOE meetings, but also from participating in other public events such as candidate forums for the November 2023 BOE election. Mr. Coates worked closely with virtually every member of the Board, including by running several of their electoral campaigns. Since Ms. Fry was not allowed to be in a room where Mr. Coates was present and since Mr. Coates attended essentially every public event concerning the BOE, Ms. Fry was broadly prohibited from participating in the democratic process around public school policy and leadership.

109. On October 6, 2023, representatives from the Denver District Attorney's office interviewed Mr. Coates. He again stated falsely that during the school board meeting he was "standing and Kristen [Fry] grabbed his shoulder [and] called him a 'dumb n***er'."

110. On October 23, 2023, third party Robert Giron, who is an activist and associate of defendants Coates and Shofner, gave a false statement to representatives of the DA's office that during the August 21, 2023 meeting, he "saw a white female walk up and put her arm around Hashim's shoulder and she leaned in to speak in his ear." Mr. Giron also said he heard Ms. Fry say "n****er" though he was unsure whether she also said "stupid." Of course, as with defendants'

statements, this statement is unequivocally false, as shown beyond any doubt by subsequently-uncovered video evidence. On information and belief, Mr. Coates and Ms. Shofner intentionally procured the false statement from Mr. Giron.

111. To add insult to injury, on October 23, 2023, DPS revoked Ms. Fry's ability to act as a parent volunteer at her children's and other schools. The basis for this action was purportedly the criminal charge against her. In reality, this was a further act of retaliation against Ms. Fry for publicly opposing defendants' policies and actions.

112. As the criminal prosecution continued apace, defendants Coates and Anderson also continued their campaign of public defamation against Ms. Fry. On November 13, 2023, at a Board of Education public comment session, Mr. Coates repeated his false allegation that on August 21, 2023, "I [was] assaulted and . . . called a dumb or a stupid n***er by one of the McAuliffe parents."

113. On November 22, 2023, in social media posts, Mr. Anderson repeated the following defamatory statements:

"Kristen Fry . . . assaulted [sic] Hashim Coates at our August Board meeting and called him a dumb n*gger and now has a 1000 foot restraining order."

114. Mr. Anderson further stated that the DPS Resign group was "The Klan."

Ms. Fry Is Vindicated by Late-Disclosed Video Evidence

115. On December 1, 2023, the DPS General Counsel’s office produced surveillance videos of the August 21, 2023 board meeting in response to a subpoena issued by Ms. Fry’s criminal defense attorney. The videos unquestionably reveal that the accusations leveled against Ms. Fry were false.

116. In the video, Ms. Fry is seen waiting in line for her chance at the podium. A few moments before she is to speak, she takes a step or two and leans slightly in the direction of Mr. Coates and Ms. Shofner. This is when she stated, “please be respectful of the speakers.” As is plain from the video, Ms. Fry does not at any point get any closer than feet away from defendants Coates and Shofner. She does not touch anyone. Nor does she put her arm around anyone’s shoulder or grab anyone in any way. In short, the video confirms that defendants’ accusations were false and made with knowledge of their falsity.

117. Of course, none of this was a surprise to Ms. Fry. She knew all along that she was the victim of a campaign of lies. But the disclosure of the video evidence made all the difference on the ground.

118. In the face of this new evidence, the charges against Ms. Fry were dropped and, on January 10, 2024, the criminal case was dismissed, and the restraining order vacated.

Ms. Fry and Others Suffer Harm Because of Defendants' Misconduct

119. Ms. Fry is exceedingly fortunate that video evidence eventually came to light proving that defendants' allegations were false and defamatory, and that they had abused the criminal process. If the video footage had not been produced, she might be a convicted criminal today.

120. But even though termination of the false criminal proceeding is a relief in some respects, in others, heavy and permanent damage has been done.

121. First, Ms. Fry suffered irreparable harm as a result of defendants' retaliation against her for exercising her right to free speech. The "loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

122. Further, Ms. Fry's reputation has been shattered—she was placed under investigation and then subjected to criminal prosecution for a hate crime that she did not commit. It is hard to imagine a more effective way to damage a person's good name. Even more, defendants repeatedly broadcast falsehoods about Ms. Fry and demeaned her character. The retaliation was so intense that members of Ms. Fry's community warned her that her reputation was plummeting.

123. Moreover, Ms. Fry has suffered pecuniary harm as a direct result of defendants' unlawful actions. These include, but are not limited to, amounts Ms. Fry was required to expend on legal costs and fees defending herself against false

criminal charges and lost future earnings capacity given the serious damage to her reputation inflicted by defendants.

124. Ms. Fry has also been made to suffer emotionally due to defendants' outrageous conduct. Indeed, during this ordeal, she suffered symptoms such as repeated nightmares, lack of sleep, and uncontrollable anxiety as she found herself trapped in a Kafkaesque scenario where even the most unfounded accusations against her were being taken seriously, putting her at risk of criminal conviction and potential incarceration. Other than a single speeding ticket, Ms. Fry has never before had any contact with the criminal justice system. Given her complete innocence of the alleged racial assault against Mr. Coates, the fact that, for a time, it appeared she might actually be convicted was a waking nightmare. Ms. Fry was prescribed anti-anxiety and sleeping medication to deal with the intense mental anguish caused by her mistreatment at defendants' hands.

125. Ms. Fry's family suffered too. Her children attend DPS schools, and were bewildered and ashamed that their mother/stepmother had been publicly accused of a racist assault, for which she faced criminal prosecution for months. Defendants are responsible for that harm, too.

126. Defendants also caused *public* harm. As they intended, other members of the community saw how harshly defendants treated Ms. Fry after she took a public stand against their policies. Especially against the broader background of retaliation against Mr. Dennis and the repeated public smearing of parent groups

as “racist,” this was an especially potent message. Ms. Fry is personally aware of one community member who had previously planned to speak publicly in opposition to defendants’ policies, but who decided not to risk it after she heard of Ms. Fry’s story. Assuredly there were others as well.

127. The amount of damages suffered by Ms. Fry due to defendants’ misconduct is to be determined at trial.

128. An award of compensatory damages would not be sufficient to deter defendants from further acts of retaliation against Ms. Fry or against other members of the community who vocally oppose their policies. Indeed, the retaliation against Ms. Fry is not an isolated event. Defendants have retaliated against DPS staff and members of the community who spoke out in opposition to their policies, resulting in multiple lawsuits filed in this court. *See, e.g., Dennis v. School Dist. No. 1 d/b/a/ Denver Public Schools*, 23-cv-02257-JLK (D. Colo.); *Pryor v. School Dist. No. 1 d/b/a Denver Public Schools*, 22-cv-02886-JLK (D. Colo.) (alleged retaliation against community member for vocal opposition to DPS policy, including through campaign of defamation, and seeking an order of protection banning him from BOE meetings) (preliminary injunction aff’d by *Pryor v. School Dist. No. 1 d/b/a Denver Public Schools*, No. 23-1000 (10th Cir. Apr. 30. 2024)); *Chen v. School Dist. No. 1 d/b/a Denver Public Schools*, 23-cv-02514-JLK (D. Colo.) (alleged retaliation by defendant Anderson silencing parent’s political speech). Moreover, in 2018, defendant Anderson was found to have violated DPS policies

against retaliation. For these reasons, an award of punitive damages is appropriate and necessary to deter further violations by defendants.

CAUSES OF ACTION

FIRST CLAIM FOR RELIEF 42 U.S.C. § 1983 – FIRST AMENDMENT VIOLATION AGAINST ALL DEFENDANTS

129. Plaintiff realleges and incorporates by reference the allegations set forth above as if fully set forth herein.

130. Plaintiff's activities were protected by the First Amendment guarantees of free speech, freedom of assembly, and freedom to petition the government.

131. Each defendant was aware of plaintiff's protected speech and activity.

132. Defendants engaged in a conspiracy to retaliate against plaintiff for her speech and other protected activities.

133. Defendants' collective objective was to suppress political disagreement with their educational and safety policy choices. To do that, defendants agreed, both expressly and implicitly, to mistreat Ms. Fry as an example to her and to others to deter their speech and activities in opposition to defendants' policies.

134. Defendants agreed, both expressly and implicitly that the mistreatment of Ms. Fry would take multiple forms, including

- a. creating a false narrative that Ms. Fry committed a hate crime assault during a public school board meeting;

- b. creating a false narrative that Ms. Fry used a racial epithet during a public school board meeting;
- c. broadcasting false claims that Ms. Fry was a “racist” or “white supremacist;”
- d. filing knowingly false police reports accusing Ms. Fry of crimes she did not commit; and
- e. agreeing to give and giving false testimony in support of the false criminal prosecution.

135. In furtherance of the conspiracy, defendants took a number of adverse actions against plaintiff, including, without limitation:

- a. Publishing false claims that plaintiff used a racial slur against Mr. Coates (defendants Anderson, Coates, Esserman, Gaytan and Quattlebaum);
- b. Publishing false claims that plaintiff assaulted Mr. Coates (defendants Anderson, Coates and Shofner);
- c. Initiating and pursuing false criminal charges against plaintiff (defendant Coates);
- d. Agreeing to provide and/or providing false testimony in support of the false criminal prosecution (defendants Anderson, Esserman, Shofner and Quattlebaum);
- e. Withholding exculpatory video evidence showing that the criminal charges were false (all BOE defendants);
- f. Labeling plaintiff a “racist” (all defendants);
- g. Stripping plaintiff of her ability to act as a parent volunteer in public schools (all BOE defendants);
- h. Preventing plaintiff from attending public board meetings and broadly participating in electoral activities concerning public school policy and leadership during the pendency of the criminal proceedings (defendant Coates and all BOE defendants).

136. Each of these actions would deter a person of ordinary firmness from exercising her First Amendment rights.

137. Plaintiff was in fact deterred from exercising her First Amendment rights.

138. Defendants also served their broader objective of suppressing dissent by taking unlawful actions against persons other than Ms. Fry. Without limitation, those actions included: all defendants participating in the retaliatory termination of Mr. Dennis; defendants Coates, Esserman and Anderson engaging in a false “investigation” into the use of a so-called “interrogation room”; defendant Coates abusing and doxing parents who had raised concerns about defendants’ policies and defendant Anderson affirming and adopting defendant Coates’ conduct resulting in the family moving out of the City of Denver; defendants Coates and Shofner repeatedly interrupting and intimidating members of the community attempting to engage in the democratic process around school policy; defendants Anderson and Gaytan creating a false “rule” to suppress students from giving public comments at a board of education meeting.

139. The BOE defendants were acting as members of the Denver Public Schools Board of Education. Accordingly, they acted under color of law.

140. Defendants Coates and Shofner acted pursuant to a conspiracy with the BOE defendants. Accordingly, they acted under color of law.

141. Defendant DPS caused the deprivation of plaintiff's First Amendment rights because the BOE defendants are the final decision makers of DPS and their decisions and actions are the decisions and actions of DPS.

**SECOND CLAIM FOR RELIEF
DEFAMATION
AGAINST DEFENDANTS ANDERSON AND COATES**

142. Plaintiff realleges and incorporates by reference the allegations set forth above as if fully set forth herein.

143. Ms. Fry is neither a public official nor a public figure. Defendants Anderson and Coates intentionally caused the publication of false and unprivileged oral and written statements about Ms. Fry. Their false statements have been seen, read, or heard by thousands of individuals via the internet, during in person meetings of the Board of Education, on video podcasts, in emails, and via other channels of communication.

144. The defamatory meaning of defendants Anderson and Coates' false statements are apparent from the face of their publication, refer to Ms. Fry, and are understood to be about Ms. Fry. These statements were defamatory *per se* as they inherently injured Ms. Fry's reputation, imputed a crime, and disparaged her character and conduct. On their face, they falsely asserted Ms. Fry engaged in an assault; used a racial epithet; and engaged in unwanted touching. Defendants Anderson and Coates falsely alleged Ms. Fry committed a criminal offense. Defendants Anderson and Coates falsely alleged Ms. Fry used a racial epithet.

Defendants Anderson and Coates falsely alleged Ms. Fry is a racist. Defendants' false statements have subjected Ms. Fry to scorn, outrage, and threats from her community. Their false statements have harmed Ms. Fry's reputation by lowering her in the estimation of at least a substantial and respectable minority of the community.

145. Defendants Anderson and Coates published their false statements both negligently and with actual malice. Defendants Anderson and Coates knew or had reason to know that their statements were false and published their statements with knowledge or reckless disregard of their falsity. Defendants Anderson and Coates failed to contact and question obvious available sources for corroboration; disregarded reliable sources refuting their claims; had no credible bases for the false allegations made; fabricated specific allegations; and published their allegations in a manner calculated to create a false inference. Their allegations were inherently improbable, derived from unreliable sources, and are unsupported by evidence.

146. As a direct and proximate result of defendants Anderson and Coates' conduct, Ms. Fry has suffered significant actual and special damages including, without limitation, harm to her reputation, emotional distress, overwhelming stress and anxiety, lost earnings, and other pecuniary loss.

147. Plaintiff has satisfied all applicable pre-suit requirements under the Colorado Governmental Immunity Act ("CGIA"), if any. Because defendant Coates is not a "public employee" as that term is used in the CGIA, that statute does not

apply to the claims against him. In the alternative, if Mr. Coates is deemed a “public employee,” plaintiff has satisfied all pre-suit requirements as to him. *See* Exhibit A. As to defendant Anderson: plaintiff satisfied all pre-suit requirements by filing a notice of claim on May 10, 2024. A copy of the notice of claim is attached hereto as Exhibit A. More than ninety days have passed since plaintiff filed the notice of claim. Accordingly, pursuant to C.R.S. § 20-10-109(6), plaintiff has satisfied all pre-suit requirements, if any.

**THIRD CLAIM FOR RELIEF
ABUSE OF PROCESS
AGAINST DEFENDANT COATES**

148. Plaintiff realleges and incorporates by reference the allegations set forth above as if fully set forth herein.

149. Defendant Coates initiated and pursued baseless criminal proceedings against plaintiff.

150. Defendant Coates acted with an ulterior purpose. Specifically, defendant Coates sought to use the criminal proceedings to deter plaintiff and other members of the community from vocally opposing defendants’ policies and management of the public schools.

151. Defendant Coates’ use of process was willful and was not proper in the regular course of proceedings.

152. As a direct and proximate cause of defendant Coates’ abuse of process, plaintiff suffered actual and special damages, including, without limitation,

emotional distress, overwhelming stress and anxiety, lost earnings, and other pecuniary loss.

153. As set forth *supra* in ¶ 147, plaintiff has satisfied all pre-suit requirements, if any, applicable to this cause of action.

**FOURTH CLAIM FOR RELIEF
MALICIOUS PROSECUTION
AGAINST DEFENDANT COATES**

154. Plaintiff realleges and incorporates by reference the allegations set forth above as if fully set forth herein.

155. Defendant Coates initiated and pursued criminal proceedings against plaintiff.

156. Defendant Coates' statements bringing about the criminal proceedings were made without probable cause and were motivated by malice against plaintiff.

157. The criminal case was terminated in plaintiff's favor.

158. As a direct and proximate cause of defendant Coates' abuse of process, plaintiff suffered actual and special damages, including, without limitation, emotional distress, overwhelming stress and anxiety, lost earnings, and other pecuniary loss.

159. As set forth *supra* in ¶ 147, plaintiff has satisfied all pre-suit requirements, if any, applicable to this cause of action.

DEMAND FOR RETRACTION

160. Plaintiff demands that defendants Anderson and Coates immediately and publicly retract all defamatory statements regarding plaintiff.

RELIEF REQUESTED

Plaintiff respectfully requests that this Court:

A. Enter a declaratory judgment that defendants violated Plaintiff's First Amendment rights by retaliating against her for her protected activity;

B. Enter preliminary and permanent injunctions requiring defendants Anderson and Coates to publish corrections to any and all defamatory publications made about plaintiff;

C. Enter preliminary and permanent injunctions prohibiting defendants from retaliating against plaintiff or any other member of the public for their protected activity;

D. Enter preliminary and permanent injunctions requiring defendants to publicly apologize and to take other reasonable affirmative steps to restore plaintiff's reputation, to the extent feasible;

E. Award Plaintiff equitable relief in the form of an order requiring that all criminal records related to the matters at issue in this complaint be permanently and irrevocably purged;

F. Retain jurisdiction of this matter for the purpose of enforcing the Court's orders;

G. Enter an award of actual and special damages in an amount to be proven at trial;

H. Enter an award of punitive damages;

I. Enter an award of attorneys' fees and costs of suit pursuant to 42 U.S.C. § 1988 and Fed. R. Civ. P. 54; and

J. Order such other and further relief as the Court may deem just, proper and necessary under the circumstances.

JURY DEMAND

Plaintiff requests a trial by jury on all issues and claims so triable.

DATED this 10th day of September 2024.

Respectfully submitted,

/s/ James Kerwin
James Kerwin, CO Bar #57545
Robert Welsh, CO Bar #60143
MOUNTAIN STATES LEGAL
FOUNDATION
2596 S. Lewis Way
Lakewood, Colorado 80227
Tele: (303) 292-2021
Fax: (877) 349-7074
jkerwin@mslegal.org
rwelsh@mslegal.org

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of September 2024, I caused true and correct copies of this FIRST AMENDED COMPLAINT to be served via the U.S. Postal Service as follows:

Jonathan P. Fero
Semple, Farrington, Everall & Case, P.C.
1120 Lincoln St. Ste. 1308,
Denver, CO 80203
*Attorneys for Defendants School District No. 1 d/b/a Denver Public Schools,
Auon'tai Anderson, Scott Esserman, Xochitl Gaytan, and Michelle Quattlebaum*

Hashim Coates
15700 E Alameda Pkwy Apt 306,
Aurora, CO 80017

MiDian Shofner
2900 Welton St. Suite 200
Denver, CO 80205

/s/ James Kerwin
James Kerwin, CO Bar #57545