

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No.

JOSHUA FRUECHTING, an individual

Plaintiff,

v.

WOODLAND PARK SCHOOL DISTRICT;

KEN WITT, in his individual capacity and in his official capacity as Superintendent of  
Woodland Park School District;

Defendants

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**COMPLAINT**

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Plaintiff, Joshua Fruechting (“Plaintiff” or “Mr. Fruechting”), who appears as an individual, by and through counsel, Kishinevsky & Raykin, Attorneys at Law, hereby files this action against Woodland Park School District and Superintendent Ken Witt (“Witt” or “Superintendent”), seeking relief, including appropriate damages, costs, and injunctive relief, and states on information and belief as follows.

**I. NATURE OF THE ACTION**

1. Joshua Fruechting is the dedicated father of G.F., a minor enrolled at Summit Elementary (“Summit”) within the Woodland Park School District (“the District”).

2. Mr. Fruechting is an outspoken advocate for his son, who is significantly disabled and requires accommodations and services through both the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12131, *et seq.*, and the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1400, *et seq.*

3. Mr. Fruechting himself is a disabled veteran and suffers from ongoing symptoms and manifestations caused by several brain injuries.

4. Mr. Fruechting's disability causes him to be overly verbose. He communicates highly intelligently, but in a volume that can be substantial.

5. Since the beginning of the 2024-2025 school year, Mr. Fruechting has consistently advocated for his son to receive sufficient services and accommodations. While some of the communications are conducted verbally, they are primarily conducted via email.

6. In mid-January 2025, Mr. Fruechting sent such an email (approximately two pages long) to the District and several of its representatives.

7. In response, the District declared that Mr. Fruechting constituted a "legitimate" safety concern for school and staff safety, and revoked Mr. Fruechting's access to his son's school.

8. This case is about an emboldened, infamous, extremist, and increasingly retaliatory school district that responds to criticism through retaliation in violation of the U.S. Constitution.

9. Joshua Fruechting brings this action to vindicate his constitutional right to speak and advocate for his son and the rights of disabled children and to be free from retaliation for engaging in activity protected by the First Amendment.

## **II. PARTIES, JURISDICTION, AND VENUE**

10. Joshua Fruechting is a resident of Teller County, Colorado.

11. Defendant Woodland Park School District is a school district in Teller County, Colorado.

12. At all times relevant to this lawsuit, Defendant Ken Witt was the Superintendent of Woodland Park School District.

13. On information and belief, Defendant Witt is a resident of Colorado.

14. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Federal question jurisdiction arises under the Constitution and laws of the United States of America, including, but not limited to the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

15. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1367. Supplemental jurisdiction arises because the state law claims brought herein arise out of identical facts and issues as those brought under federal law. The state law claims are part of the same case or controversy as the federal law claims, vesting supplemental jurisdiction in this Court.

16. The wrongful acts alleged by the Plaintiff occurred in whole or in part in Teller County, Colorado.

17. Venue is proper in this Court under 28 U.S.C. 1391(b)(1) and (2).

### **III. FACTUAL ALLEGATIONS**

18. Mr. Fruechting is an adult citizen and resident of the State of Colorado and the county of the United States of America.

19. Mr. Fruechting is a citizen of the United States subject to the protections of the Fourteenth Amendment to the U.S. Constitution, including the incorporation of the First Amendment to the states.

20. Mr. Fruechting is disabled within the meaning of the ADA. His disabilities impair major life activities such as speaking, communicating, and working.

21. Mr. Fruechting's son, G.F., is also disabled within the meaning of the ADA and IDEA.

22. G.F. has been diagnosed with Adjustment disorder, neurodivergence, and complex trauma. He currently receives special education services through the IDEA under the disability categories of developmental delay and other health impairment.

23. Woodland Park School District (the “District”) is a public, local, municipality subject to the U.S. and Colorado state constitutions and laws.

24. The District is a governmental entity subject to the requirements and prohibitions of the First Amendment to the U.S. Constitution.

25. The District is a public entity that receives federal funding, subjecting it to the requirements and prohibitions of the ADA.

26. During the 2024-2025 school year, G.F. was in fourth grade.

27. Mr. Fruechting is divorced from G.F.’s mother, Cheyenne Fruechting. Mr. Fruechting has primary custody of G.F.

28. Ms. Fruechting has repeatedly disparaged Mr. Fruechting to G.F. and has victimized and abused G.F. including through threats to kill him should he fail to report false allegations against Mr. Fruechting and his mother Nancy Fruechting, and threatened him with “kid jail” if he ever disclosed the same.

29. Because of Ms. Fruechting’s history of false allegations and inability to put the best interests of the child before her own Mr. Fruechting has been awarded primary custody of G.F., with shared academic decision making.

30. As a result of his treatment by his mother, G.F. is severely traumatized and suffers from many triggers that cause outbursts, meltdowns, and other behavioral manifestations of his disabilities.

31. Specifically, G.F. is extremely sensitive to adults who try to force him to say something negative about his father, and extremely sensitive to being pressured to do any non-preferred activity.

32. For these reasons, Mr. Fruechting is fiercely protective of G.F. and staunchly advocates for his needs.

33. Since the beginning of the 2024-2025 school year, Mr. Fruechting has managed his own mental and physical health, as well G.F.'s disability manifestations. These factors, in addition to others such as weather and Mr. Fruechting's financial standing, resulted in a series of late arrivals for G.F. at school.

34. G.F. struggles significantly with transitions, especially with transitions to a non-preferred activity. Specifically, G.F. struggles with getting ready for and arriving at school, and getting out of the vehicle upon arrival at school.

35. Difficulty with transitions and behavioral outbursts in relation to transitions are common symptoms of Adjustment disorder and neurodivergence. G.F. displays them both.

36. To manage G.F.'s difficulty and outbursts, G.F. is the subject of a Behavioral Intervention Plan ("BIP") and Crisis Intervention Plan ("CIP") that provide steps for managing transitions, such as advance notice, ability to take breaks whenever needed, access to quiet spaces, and additional time during transitions.

37. Following the steps in G.F.'s BIP and CIP, when G.F. becomes dysregulated before attending school, Mr. Fruechting commonly sits with him in their car and provides him additional space and time to adapt to the transition.

38. However, despite full knowledge of G.F.'s disabilities and their manifestations, the School and District have repeatedly marked G.F. as unexcused because of these delays.

39. Prior to the 2024-2025 academic year, the School accommodated these delays. However, in 2023, the District conducted a meeting to discuss mental health services.

40. At the meeting, District Superintendent Ken Witt (“Witt” or “Superintendent”), stated that, under his leadership, the District would prioritize academic performance rather than students’ mental health.

41. During the meeting, Defendant Witt also engaged in the following conversation:<sup>1</sup>

[EMPLOYEE]: . . . we had a murder-suicide

WITT: I am aware of it.

[EMPLOYEE]: Those kids, those children, you know they’re in our room . . .

WITT: Did you have a social worker at the school?

[EMPLOYEE]: Yes.

[ADDITIONAL EMPLOYEES]: She’s right there.

WITT: And the murder-suicide still occurred?

42. At that point, the general outcry to Defendant Witt’s statements renders audio of the meeting unintelligible and some District employees left the meeting.

43. Defendant Witt’s statements are representative of the District’s new attitude and policy towards mental health, including the mental health needs of those with mental or intellectual disabilities.

44. Controversy has long followed Defendant Witt, who was previously recalled by public vote from his leadership role at Jefferson County Public Schools due to controversial educational and management decisions.

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<sup>1</sup> NBC NEWS, *Woodland Park superintendent: Prioritize academic performance over mental health services*, May 3, 2023, available at <https://www.nbcnews.com/video/woodland-park-superintendent-prioritize-academic-performance-over-mental-health-services-172512837841>.

45. Defendant Witt continued this path when he joined the District in 2022 over substantial protest.<sup>2</sup>

46. Defendant Witt's controversies now extend to multiple cases in this Court against the District and Mr. Witt personally and in his official capacity. *See* Civil Action Nos. 1:23-cv-01947-GPG-MDB, 1:23-cv-01971-DDD-MDB.

47. Civil Action No. 1:23-cv-01947-GPG-MDB, similarly alleges violations of the First Amendment by the District and Defendant Witt, committed under his leadership.

48. On information and belief, Defendant Witt's distaste and ridicule for children's mental health is the direct cause of the District's new refusal to acknowledge G.F.'s disability needs and accommodations, and for its new tactic of punishing G.F. and Mr. Fruechting for delayed arrivals caused by G.F.'s disability manifestations.

49. This District has a documented history of attempting to silence its opposition and responding to criticism with retaliation, in violation of the U.S. Constitution.

50. In January 2022, the District's Board of Education ("BOE") held an improperly noticed public meeting to discuss and unanimously approve a memorandum of understanding with a charter school. The memorandum was described as "Board Housekeeping" on the public meeting agenda. The BOE then rubber-stamped approval of the memorandum of understanding at two subsequent meetings.

51. A local community member then filed suit against the District, alleging violations of the Colorado Open Meetings Law.<sup>3</sup> On April 26, 2022, the district court issued an injunction,

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<sup>2</sup> *See, e.g.,* Pikes Peak Courier, *Woodland Park school board unanimously selects Kenneth Witt as interim superintendent*, December 21, 2022, available at [https://gazette.com/pikespeakcourier/woodland-park-school-board-unanimously-selects-kenneth-witt-as-interim-superintendent/article\\_20a5966c-81b7-11ed-8a11-8fc7de6768f0.html](https://gazette.com/pikespeakcourier/woodland-park-school-board-unanimously-selects-kenneth-witt-as-interim-superintendent/article_20a5966c-81b7-11ed-8a11-8fc7de6768f0.html).

<sup>3</sup> *O'Connell v. Woodland Park School District*, REPORTERS COMM. (October 24, 2022), <https://www.rcfp.org/briefs-comments/oconnell-v-woodland-park-school-district/>

requiring the BOE to comply with the Colorado Open Meetings Law.

52. On June 14, 2023, the District banned a former employee from all District property and events for over a year after kicking him out of a school board meeting for making a sarcastic comment. The American Civil Liberties Union filed suit on the employee's behalf, alleging that the ban violated the employee's First Amendment rights.<sup>4</sup> After the suit, the District was forced to reverse itself.

53. In August 2023, the Woodland Park Education Association filed a federal lawsuit against the District and the BOE, challenging the District's policy that prohibited employees from speaking to the press or posting on social media about district matters without superintendent's prior approval.<sup>5</sup>

54. Following mediation, the District agreed to amend the policy to strike prohibitions on teachers and strike a statement that the violations of these policies was insubordination.

55. Issues surrounding G.F.'s attendance continued to proliferate throughout the fall and winter of 2024-2025.

56. On January 25, 2025, Mr. Fruechting sent an email to the District and School advocating for G.F.'s rights.

57. In school on January 27, Principal Rexford isolated G.F. and, in violation of his IEP, interrogated him about his father's beliefs and actions, and attempted to force him to say that his absences and delays were not due to his disabilities, but his father's ineptitude.

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<sup>4</sup> *ACLU Sues Woodland Park School District Over Unlawful Banishment of Critic from Board Meetings*, ACLU COLO. (Aug. 3, 2023), <https://www.aclu-co.org/en/press-releases/aclu-sues-woodland-park-school-district-over-unlawful-banishment-critic-board>.

<sup>5</sup> Brundin, Jenny, *Woodland Park teachers win their fight to restore First Amendment rights after policy ban*, CPR NEWS (Nov. 1, 2023), <https://www.cpr.org/2023/11/01/woodland-park-teachers-win-first-amendment-rights/>.



58. Because Principal Rexford failed to follow G.F.'s IEP, he became increasingly dysregulated, forcing the School to call Mr. Fruechting to come to school to calm G.F. down and take him home.

59. Once G.F. calmed down that afternoon, he disclosed the events of the day, including Principal Rexford's actions.

60. That evening, Mr. Fruechting sent the following email to District and School staff:

I'm asking for the district to immediately and swiftly act to resolve this disturbing escalation, illegal retaliation, and abusive harm to the child, and remove Principal Katie from any contact with [G.F.], or interacting/discussing him or me in any official capacity to prevent further abuse of the child, as well as the continued and expanding gross and willful violations of Federal and CO law as well as district policy. The continued inaction by the District regarding has taken the issue from one of failure to accommodate and disability discrimination, to one of retaliation and abuse of the child as a result of this inaction.

If the district is unable or unwilling to do so, I'm asking the OCR or State board to step in on a forthwith emergent basis to resolve the same and protect the child from further harm from Principal Katie Rexford.

Given Katie's current conduct and response, I believe it is very likely that she will respond to this report with further retaliation and abuse of power and trusted position to further harm the child and/or me as a result.

I formally reported this to the CO4Kids abuse line this evening, and am again adding the OCR and state board as this has now escalated into retaliation and abuse of the child in response to reporting the initial ADA, IDEA, and 504 issues.

This is now the second time I have had to CC the OCR and state board, now not only for failure to accommodate and disability discrimination of a child on an IEP, but now for abuse of the child and retaliation and coercion of the child for me making such report. It is deeply concerning that instead of taking accountability to the district attempting to protect the child, they have allowed unrestricted access by katie to the child, which she used to coerce, intimidate, retaliate, and abuse the child, willfully and intentionally ignoring all provisions of his IEP to do so. I am deeply

concerned at this level of escalation, and the continued lack of action allowing this to escalate by district leadership.

**Issue 1:** Intentional abuse by Katie Rexford to [G.F.] as a method of retaliation and coercion for the pending legal issues she is facing for her unlawful failure to accommodate, disability discrimination, and multiple violations of Colorado Education Law, District policy, as well as false reporting.

**Issue 2: Violation of 28 CFS 35.134, Sec 504, ADA, IDEA, and CO law,** Retaliation and coercion and abuse of child for parental reporting of disability discrimination and failure to accommodate and continued and escalated discrimination. Continued and escalated disability discrimination and willful and intentional violation of Child's IEP causing harm to the child.

**Issue 3:** Willful misrepresentation and false reporting of issues at school trying to coach and force the child to say things that are untrue about the home environment in order to retaliate further, causing an unsafe environment in the school.

**Issue 4:** Unlawful school interrogation and unlawful investigation with no parent present pursuant to CRS 22-33-106.3, knowingly and willfully attempting to coerce responses from the child.

#### **Triggering Event/Disclosures of abuse by Child**

[G.F] made disclosures after school today, of Katie Rexford's unlawful, unethical, and blatant retaliation and abuse of [G.F] today that was directly responsible for the behavior of the child.

There have been no interventions like this needed this year, demonstrating that Katie's intentional and willful abuse of [G.F] caused severe emotional harm to the child, a criminal act.

I am asking that immediately Katie be prohibited from any direct contact with [G.F.], especially without Ms. Eustace or another mental health professional present.

Katie's actions come in direct retaliation of knowing that I have raised disability discrimination and failure to accommodate complaints under the ADA and that there was already the potential of litigation by counsel on these issues and her numerous other violations of Colorado law and unlawful threats and behaviors in violation of CO and Federal law. Pursuant to

[G.F.] disclosed several troubling things in a sincere and very clear manner.

1. Pursuant to [G.F.]’s IEP he is not to be pressured to do or say things, and is to be given space during crisis or BIP interventions as this leads to escalations.

2. [G.F.]'s behavior in the email below was misconstrued and demonstrates a clear lack of understanding of neurodivergent children. [G.F.] raised the issue asking why a class on active listening was being held in the library...a logically abnormal place for such instruction (and if he had been asked he could have provided an explanation of the confusion of why in a place it was supposed to be quiet for reading, that active listening was being taught, which was his basis, and again if I had said stupid, that could have been corrected, and then understood from where a neurodivergent child's overly logical rationalizations are coming from, and that they can be at times more abrupt than others but that rude intent was not present) and said that it was silly, which was taken by the individual to be an insult, when pursuant to his IEP, it could have been explained that sometimes instruction takes place in unusual places, and could have even joked it was a little funny, but that that's where they were holding it and moved on....this extra little explanation function is CLEARLY outlined on his IEP as a method to prevent escalation. However, this is where Katie took the opportunity to abuse [G.F].

3. At the point where Katie entered the classroom, [G.F.] was not escalated. However, Instead of asking him about the incident, or trying to talk him through it in that environment, Katie took this opportunity to try to coerce, intimidate, and force the child into saying things that would benefit her legally against the pending issues she is facing for failure to accommodate, disability discrimination, and other issues that have been reported (the school had an obligation to remove her from contact with him to prevent this type of retaliation and abuse from occurring and failed).

4. Rather than trying to identify the cause of the issue as described above, or ANYTHING related to the issue, Katie started interrogating him about ATTENDANCE ISSUES and started trying to coerce the child to say he wasn't sick or upset, and tried to coerce and intimidate the child into making false statements that would help her legal standing regarding the acts of discrimination.

5. [G.F.] repeatedly refused and Katie kept pressing trying to force him to make disclosures about unrelated issues for her own personal agenda, ignoring the harm to the child.

6. [G.F.] disclosed this initially as Katie "egging him on" to make him more upset, and he said that he repeatedly asked her to stop and leave him alone (which is EXACTLY what his IEP says she should have done, especially when it was initially not an escalated situation). Obviously [G.F.] knows nothing of the legal issues Katie is facing or the unlawful acts she has committed and continues to commit, only knew she was trying to pressure and coerce him into false disclosures and discussing things he did not want to that had nothing to do with the incident at hand.

7. Katie willfully and intentionally ignored [G.F.]'s IEP in order to coerce and intimidate and try to force him to answer questions for her own personal agenda, in complete and willful disregard to the harm caused to [G.F.], which his IEP clearly outlines is harmful to him.

8. Katie then created a false report and disclosure to try to cover up her manipulation and coercion of the child and her attempts to retaliate.

9. Even absent the disability, retaliation, and IEP issues, Katie's actions and interrogation of the minor child is unlawful pursuant to CRS 22-33-106.3. Katie conducted an unlawful disciplinary investigation with no parent present, nor was I notified of such, and interrogated and attempted to coerce disclosures of such, which had nothing to do with the issue or intervention.

10. Katie's actions are not only intentionally negligent, but willfully and intentionally harmed the child and caused substantial impairment of the child's intellectual or psychological functioning or development or a substantial risk of impairment of the child's intellectual or psychological functioning or development. I would ask for any contact between herself and [G.F.] immediately stop, and that she be prohibited from discussing [G.F.] or myself in any official capacity, to anyone at this juncture to prevent further harm to [G.F.]. Thank you.

61. Mr. Fruechting's email is provided in its entirety because therein he stated only his concerns about the legal conduct of the School, its principal, and the District, as related to himself, G.F., and other children with disabilities.

62. Asserting that a public employee or agency failed to comply with the ADA or IDEA, is not a threat to any such person or entity.

63. Asserting that a public employee or agency is engaging in retaliation is also not a threat to any such person or entity.

64. Requesting restrictions on Principal Rexford's contact with G.F. is also not a threat.

65. *Nothing* in this email, nor in any of Mr. Fruechting's communications with the School or District, constitutes a threat to the safety or wellbeing of any District staff, student, or other employee.

66. Nevertheless, on January 29, 2025, Brad Miller, attorney for the District, emailed Mr. Fruechting the following:

Mr. Fruechting,

I am legal counsel for Woodland Park School District. I have carefully reviewed your claims and the facts in the situations you have described. I now write to advise you of the following:

1) The District takes seriously any and all claims of abuse. After diligent review of the record, I am responding to you that there is no evidence that your statements are grounded in fact. Quite conversely, your allegations are without merit and are potentially defamatory. The staff engagement with your child in the situations you described were incredibly appropriate, kind, and restrained. No interrogation, intimidation, or negligent actions occurred. More to the point, your statements regarding a "false report" or "intentionally negligent" and other similar elevated and aggressive claims are not only unfair, but create a reasonable apprehension that you are not approaching this situation in a fair or even-handed manner.

2) From a purely factual standpoint, Ms Rexford has consistently provided exceptional support and service for your student. The District steadfastly supports her work in this regard. Thus, there will be no efforts made to stop or restrain her contact with the student as may be warranted for school purposes and in support of your student in the educational environment.

3) With regard to communications, you have escalated the dialogue to a point where there is a legitimate reason to be concerned for school and staff safety. Therefore, please be advised that pursuant to CRS 18-9-109 and the Claire Davis Safety Act, I write to advise you that your privilege to be on school grounds is hereby revoked. To the extent that you have educational purposes for being at the school or at any district facility, that only may be done with prior written consent from the building administrator and subject to escort. Further, all communications with you in connection with any complaints, allegations, or conflict issues will be conducted through my office. All staff are instructed to forward your communications to my attention and not to respond to you directly.

I am hopeful that you will reconsider your approach here and that we can mend the relationship to a point where you again will be afforded the option to engage with the school, but for now that is not a possibility given the heightened and threatening communications you have issued.

67. Mr. Miller only included two recipients on this email, Mr. Fruechting and Defendant Witt.

68. As discussed above, Defendant Witt is the Superintendent of the District and under his leadership, the District has rejected mental health and disability supports for children.

69. On information and belief, Defendant Witt authorized or ratified Mr. Miller to take action on behalf of the District to deny Mr. Fruechting access to District property.

70. Defendant Witt, as superintendent, is the final policymaker for the District.

71. Mr. Miller's email directly cites C.R.S. § 18-9-109, which defines a "credible threat" as "a threat or physical action that would cause a reasonable person to be in fear of bodily injury with a deadly weapon or death." C.R.S. § 18-9-109(b).

72. Nothing in Mr. Fruechting's email threatened any kind of bodily injury. As an email, it also provides no basis for such a fear based on "physical action." *Ibid*.

73. Mr. Miller's email also invokes the "Claire Davis Safety Act."

74. The Claire Davis School Safety Act is codified in C.R.S. § 24-10-106.3. The Act establishes a duty of care for "school districts and charter schools and their employees." C.R.S. § 24-10-106.3(3). It also waives sovereign immunity for breaches of that duty of care. *Id.*, at (4).

75. The Act specifically addresses incidences of violence that occur at school. *See id.*, at (2) (defining "Crime of violence" and "Incident of school violence"). Nothing in the act applies to safety concerns related to parents, nor does it provide any grounds for denying a parent of an enrolled child access to their child's school.

76. After receiving Mr. Miller's trespass notice on January 29, 2025, Mr. Fruechting obtained legal counsel.

77. Mr. Miller emailed Mr. Fruechting's counsel on January 30, 2025, and stated the following:

Hi [COUNSEL],

It is great to have you involved here. Let me know what concerns you may have in this situation.

Our position is that we are not able to acquiesce to demands [Mr. Fruechting] was making to bar a staff member from working with his child. And, his presentation, both personally and in writing was elevated to a degree that our staff legitimately was fearful and intimidated. I did ask (when he called me yesterday) that if he were to want to improve the tenor, it would be very helpful for him to issue an apology to the particular staff member.

78. In response, on February 4, 2025, Mr. Fruechting's counsel Raykin emailed Mr. Miller the following:

[MR. MILLER],

I see nothing in the communication that you have forwarded to me that is remotely inappropriate or necessitates an apology by my client. He has a special needs child, and he has every right to advocate for his child. If he had concerns about abuse and/or neglect, he has every right to raise those concerns -- and everyone who works in that building is a mandatory reporter and has a responsibility to look into those concerns.

What I need now is an explanation for why -- exactly -- my client's campus privileges have been revoked based on CRS 18-9-109. That statute is not just a blanket shield against parents.

I have two big questions.

1. What specific aspects of that statute are you claiming that Mr. Fruechting violated?
2. What specific conduct has he engaged in violating those aspects?

I need answers to both of these questions before the week is out.

We're currently suing your client in federal court due to its First Amendment violations, and I know that there was another matter in which your client had to

change its position because of ACLU involvement based on First Amendment violations from the District. This appears to be a pattern.

If this revocation of campus privileges is illegitimate, we're going to file suit against your client again.

This also is a demand for you and your client to preserve all evidence related to this matter.

79. As of the time of filing, neither Mr. Miller nor the District has responded to counsel Raykin's questions.

80. As of the time of filing, the District continues to deny Mr. Fruechting access to his son's School.

81. The District continues to require Mr. Fruechting to seek "prior written consent" and submit to an "escort" should he have any "educational purpose[]" for being at the school or any district facility."

82. Moreover, the District continues to restrict Mr. Fruechting from communicating with any District staff.

83. The Defendants' actions are retaliation for Mr. Fruechting's attempts to advocate for his son.

84. The Defendants' actions were directly caused by Defendant Witt's rejection of student mental health supports.

85. Prior to Defendant Witt's rejection of mental health supports, G.F.'s behaviors and delayed attendance were addressed according to his disability services and accommodations.

86. Since Defendant Witt's rejection of mental health supports, the District has punished G.F. for his disabilities and retaliated against Mr. Fruechting for advocating for his son.

87. The Defendants willfully retaliated against Mr. Fruechting for his exercise of his First Amendment rights, which has become part and parcel of Defendant Witt's tenure as superintendent.



#### **IV. CLAIMS**

##### **FIRST CLAIM FOR RELIEF**

##### **42 U.S.C. § 1983 FOR VIOLATION OF CONSTITUTIONAL RIGHTS – FREE SPEECH/EXPRESSION**

88. Plaintiff reincorporates and realleges all other paragraphs as if fully set forth herein

89. 42 U.S.C. § 1983 provides that: “Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress...”

90. Plaintiff is a citizen of the United States and Defendants are persons for the persons of 42 U.S.C. § 1983.

91. Woodland Park School District is a public school district in Colorado.

92. At all times relevant to this suit, Woodland Park School District was acting under the color of state law.

93. At all times relevant to this suit, Brad Miller was acting as attorney and representative of Woodland Park School District.

94. As Superintendent of Woodland Park School District, Defendant Witt is a final policymaker for the District.

95. On information and belief, as Superintendent, Defendant Witt was responsible for empowering Mr. Miller to issue the directive and ratified his decision to violate the Plaintiff's rights.

96. Plaintiff engaged in free speech on a matter of public concern when he advocated for his child's disability rights and the rights of other disabled children.

97. Defendants infringed Plaintiff's right to free speech and free expression through their actions described herein, including by prohibiting Plaintiff from visiting his children.

98. Defendants' actions described herein violate clearly established law, including but not limited to *N.Y. Times Co. v. Sullivan*, 376 U.S. 254 (1964), *United Mine Workers v. Ill. State Bar Ass'n*, 389 U.S. 217 (1967), *Worrell v. Henry*, 219 F.3d 1197 (10th Cir. 2000), *McCook v. Springer Sch. Dist.*, 44 F. App'x 896, 903 (10th Cir. 2002), *Carroll v. Pfeffer*, 262 F.3d 847 (8th Cir. 2001), *Mendocino Env'tl. Ctr. v. Mendocino Cnty.*, 192 F.3d 1283 (9th Cir. 1999), *Bloch v. Ribar*, 156 F.3d 673 (6th Cir. 1998).

99. Defendants' application of policy and prohibition on visitation chills Plaintiff's speech and expression.

100. Defendants' application of the policy of prohibiting Plaintiff from visiting his son was the moving force behind the violation of Plaintiff's First Amendment right to free speech and expression.

101. As a result of Defendants' actions described herein, Plaintiff has suffered damages, including but not limited to emotional distress.

**SECOND CLAIM FOR RELIEF  
42 U.S.C. § 1983 FOR VIOLATION OF CONSTITUTIONAL RIGHTS – FIRST  
AMENDMENT RETALIATION**

102. Plaintiff reincorporates and realleges all other paragraphs as if fully set forth herein

103. 42 U.S.C. § 1983 provides that: “Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress...”

104. Plaintiff is a citizen of the United States and Defendants are persons for the persons of 42 U.S.C. § 1983.

105. Woodland Park School District is a public school district in Colorado.

106. At all times relevant to this suit, Woodland Park School District was acting under the color of state law.

107. At all times relevant to this suit, Brad Miller was acting as attorney and representative of Woodland Park School District.

108. As Superintendent of Woodland Park School District, Defendant Witt is a final policymaker for the District.

109. On information and belief, as Superintendent, Defendant Witt was responsible for empowering Mr. Miller to issue the directive and ratified his decision to violate the Plaintiff's rights.

110. Plaintiff engaged in protected activity by voicing his concerns about the discriminatory and punitive nature of the Defendants' actions any by advocating for his son to receive the accommodations and serves he is entitled to under federal law.

111. Defendants were aware of Plaintiff's protected activity.

112. As a result of Plaintiff's protected activity, Defendants prohibited Plaintiff from all visitation.

113. Defendants' prohibition on Plaintiff's ability to visit his son or otherwise communicate with his son's teachers is sufficient to chill a person of ordinary firmness from engaging in protected activity.

114. Defendants' actions described herein violate clearly established law, including but not limited to *Worrell v. Henry*, 219 F.3d 1197 (10th Cir. 2000).

115. As a result of Defendants' actions described herein, Plaintiff has suffered damages, including but not limited to emotional distress.

**THIRD CLAIM FOR RELIEF**  
**42 U.S.C. § 1983 FOR VIOLATION OF CONSTITUTIONAL RIGHTS – FIRST**  
**AMENDMENT RETALIATION**  
**MUNICIPAL LIABILITY**

116. Plaintiff reincorporates and realleges all other paragraphs as if fully set forth herein

117. 42 U.S.C. § 1983 provides that: "Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress..."

118. To state a claim for municipal liability under 42 U.S.C. § 1983, a plaintiff must "must allege facts showing that an official policy was the moving force behind the injury alleged." *Alcala v. Ortega*, No. 2:22-cv-755 WJ/JHR, 2024 U.S. Dist. LEXIS 3248, at \*2-3 (D.N.M. Jan. 5, 2024).

119. “A sufficient *Monell* claim requires proof of: (1) an official policy or custom, (2) causation, and (3) deliberate indifference.” *Id.* at \*3.

120. Plaintiff is a citizen of the United States and Defendants are persons for the persons of 42 U.S.C. § 1983.

121. Woodland Park School District is a public school district in Colorado.

122. At all times relevant to this suit, Woodland Park School District was acting under the color of state law.

123. As Superintendent of Woodland Park School District, Defendant Witt is a final policymaker for the District.

124. On information and belief, as Superintendent, Defendant Witt was responsible for empowering Mr. Miller to issue the directive and ratified his decision to violate the Plaintiff’s rights.

125. Defendant Witt operates an official policy of disregarding and minimizing children’s mental health concerns.

126. Defendant Witt’s policy has led to multiple public controversies regarding his leadership.

127. Defendant Witt’s disregard and disdain for mental health services has led to the District’s official embrace of an academics-only focus.

128. The District’s academics-only focus fails to acknowledge or serve disabled children.

129. The District’s academics-only focus penalizes children and their parents for manifestations of disability.

130. The District's academics-only policy is the causal force of the growing tension between Plaintiff and the Defendants.

131. The District's academics-only policy is the policy the Plaintiff challenged.

132. To defend the District's academics-only policy and to retaliate against the Plaintiff, the District denied the Plaintiff any access to District property.

133. The District's retaliatory actions were made through official channels such as through Mr. Miller, outside counsel.

134. Mr. Miller's direct involvement as outside counsel shows that the Defendant's retaliatory action was taken pursuant to official policy.

135. Defendants were aware that Plaintiff was protected by and speaking under the First Amendment.

136. As a result of his invocation of the First Amendment, the Defendants denied Plaintiff access to District property.

137. Defendants' actions described herein violate clearly established law, including but not limited to *Worrell v. Henry*, 219 F.3d 1197 (10th Cir. 2000).

138. As a result the actions described herein, Plaintiff has suffered damages, including but not limited to emotional distress.

#### **CLAIM FOR DECLARATORY AND INJUNCTIVE RELIEF**

139. Plaintiff reincorporates and realleges all other paragraphs as if fully set forth herein.

140. Pursuant to Fed. R. Civ. P. 57 and 28 U.S.C. § 2201, Plaintiff requests the court declare the rights and legal relations of the parties. 136. Plaintiff seeks a declaratory judgment that:

141. Defendants' actions prohibiting Plaintiff from visiting Columbine violated Plaintiff's First Amendment rights.

142. Plaintiff further seeks preliminary and permanent injunctive relief.

143. Plaintiff seeks a permanent injunction barring Defendants.

144. Plaintiff seeks an injunction:

- a. barring Defendants from enforcing the policy prohibiting Plaintiff from visiting District Property.

### **REQUEST FOR RELIEF**

137. Plaintiff reincorporates and realleges all other paragraphs as if fully set forth herein.

138. Plaintiff requests that the court enter judgment in his favor and against Defendants as follows:

- a. Awarding Plaintiff nominal damages for violation of her constitutional rights;
- b. Awarding Plaintiff compensatory damages, including for emotional upset, stress, and anxiety in an amount to be established at trial;
- c. Awarding Plaintiff costs and attorney fees;
- d. Preliminarily and Permanently enjoining Defendants as described above;
- e. Awarding Plaintiff punitive damages;
- f. Awarding the Plaintiff any additional and further relief that the court finds equitable, appropriate, or just.

**PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE**

Respectfully submitted this 2/13/2025.

Kishinevsky and Raykin, LLC  
By: s/Conor O'Donnell  
Igor Raykin  
Conor O'Donnell  
2581 S. Parker Rd., Ste. 150  
(720) 863-4256  
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[conor@coloradolawteam.com](mailto:conor@coloradolawteam.com)



**CERTIFICATE OF SERVICE**

I certify that on 2/13/2025, a true and correct copy of the foregoing \_\_\_\_\_  
was filed via the Court's CM/ECF system and served upon the following:

JS 44 (Rev. 11/15) District of Colorado Form

## CIVIL COVER SHEET

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

**I. (a) PLAINTIFFS**

JOSHUA FRUECHTING, an individual

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Igor Raykin, Conor O'Donnell

Kishinevsky &amp; Raykin, Attorneys at Law

2851 S. Parker Rd., Suite 150, Aurora CO 80014. 720.748.8888

**DEFENDANTS**

WOODLAND PARK SCHOOL DISTRICT; Ken Witt, in his individual capacity and in his official capacity as superintendent of Woodland KEN WITT, in his individual capacity and in his official capacity as Sup

County of Residence of First Listed Defendant \_\_\_\_\_

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 U.S.C. § 1983Brief description of cause:  
Freedom of SpeechAP Docket ☐**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE  
07/29/2024SIGNATURE OF ATTORNEY OF RECORD  
Igor Raykin

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.  
Original Proceedings. (1) Cases which originate in the United States district courts.  
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service; OR "AP Docket."
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.