

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**GERALD MARSZALEK,**

Plaintiff,

Case No.

v

Hon.

**IMAD FADLALLAH**, individually and  
in his official capacity as Principal of  
Dearborn Fordson High School, and  
**DEARBORN SCHOOLS,**

Defendants.

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**CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.**

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

NOW COMES the Plaintiff, GERALD MARSZALEK, by and through his attorneys,  
CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C. and the THOMAS MORE LAW CENTER  
and states as follows:

## **JURISDICTION AND VENUE**

1. This action presents various Constitutional, statutory, and common law claims, including the First and Fourteenth Amendments to the United States Constitution, the Michigan Constitution of 1963, 42 U.S.C. § 1983, and the Elliot-Larsen Civil Rights Act. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1343. This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

2. Plaintiff's claims for equitable, declaratory, and injunctive relief are authorized pursuant to 28 U.S.C. §§ 2201 and 2202, Rules 57 and 65 of the Federal Rules of Civil Procedure, and the general legal and equitable powers of this Court.

3. Pursuant to 42 U.S.C. § 1983 and other applicable law, this Court is authorized to award nominal, compensatory, and punitive damages against Defendant Fadlallah in his individual capacity, for the past and ongoing violations of Plaintiff's constitutional rights and the harm caused by his actions.

4. This Court is authorized to award reasonable costs of litigation, including attorneys' fees and expenses, pursuant to 42 U.S.C. § 1988, The Elliot-Larsen Civil Rights Act, and other applicable law.

5. Venue is proper in the Eastern District of Michigan pursuant to 28 U.S.C. § 1391 because all Defendants reside within this district and a substantial part of the events or omissions giving rise to Plaintiff's claims occurred within this district.

## **PLAINTIFF**

6. Plaintiff Gerald Marszalek (“Marszalek”) is a retired teacher who served Dearborn Schools for over three decades as an educator and coach. At all relevant times herein Plaintiff Marszalek was a member of a class of protected persons under 42 U.S.C. §1983 and the Elliott-Larsen Civil Rights Act of Michigan, Act 453 of 1976 pursuant to Title VII of the Civil Rights Act of 1964.

## **DEFENDANTS**

7. Defendant Dearborn Schools (“School District”) is located in Dearborn, Michigan. The School District is a public entity established and organized under the laws of Michigan, with the authority to sue and be sued in its own name. The School District is charged with the operation of the public schools within the district, including Dearborn Fordson High School (“Fordson”), and promulgates the policies, practices, and customs in furtherance thereof. At all relevant times herein, the School District was a “person” acting under the color of state law pursuant to 42 U.S.C. § 1983 and an “employer” pursuant to the Elliott-Larsen Civil Rights Act of Michigan.

8. Defendant Imad Fadlallah (“Fadlallah”), at all relevant times herein, was the Principal of Fordson. Defendant Fadlallah is responsible for creating, adopting, and implementing School District policies, practices, and/or customs. At all relevant times herein, for purposes of the Constitutional claims, Defendant Fadlallah was acting in the scope of his employment and under color of State law. Defendant Fadlallah is sued individually and in his official capacity.

## **COMMON ALLEGATIONS**

9. Plaintiff hereby incorporates by reference all above-stated paragraphs.

10. From 1973 to 2008 Plaintiff Marszalek was a legendary high school wrestling coach

at Fordson, earning more than 450 wins and sending numerous wrestlers to various collegiate programs. Plaintiff Marszalek was elected to the Michigan High School Athletic Association Hall of Fame, was awarded the “25 Year Distinguished Service Award” by the National Wrestling Coaches Association, and was named the “Sportsman Of The Year” by the All-American Athletic Association.

11. Plaintiff Marszalek was a beloved figure not only within the wrestling community, but within the Dearborn community at large. In recognition of his distinguished Hall of Fame coaching career, and as a tribute to how beloved Plaintiff Marszalek was in the Dearborn community, the Fordson wrestling room was slated to formally be dedicated the “Jerry Marszalek Wrestling Room” in 2008.

12. In 2005 Plaintiff’s three assistant coaches at Fordson were twenty two year assistant coach Jon Smuk (“Smuk”), assistant coach Ralph Hargraves, and volunteer coach Trey Hancock (“Hancock”). Hancock is also the father of Paul Hancock, a Fordson student and State champion wrestler and an ordained Christian minister active in the East Dearborn community.

13. Defendant Fadlallah is aware that Hancock is a minister and practicing Christian and that Plaintiff Marszalek, Smuk, and Hancock are all friends and fellow practicing Christians.

14. Defendant Fadlallah is a devout and practicing Muslim.

15. In the fall of 2005, Jeff Stergalas, an employee and agent of Defendant School District, informed Plaintiff Marszalek that “on orders from Principal Fadlallah,” Hancock, “despite five years of loyal service as a volunteer wrestling coach,” was “to be terminated as volunteer wrestling coach at Fordson and not allowed to associate with the team.”

16. Defendant Fadlallah, acting officially as Fordson’s Principal, terminated Hancock’s

volunteer status because of Hancock's Christian beliefs; because he was angry with Hancock, whom he believed had, during a non-school sanctioned and independent summer wrestling camp unaffiliated with Fordson, introduced several Muslim students from Fordson to Christianity; and because he believed that one of the Muslim students had independently chosen to be baptized as a Christian by Hancock.

17. Defendant Fadlallah informed Hancock that he had determined that Hancock had "used your position as a vehicle for transmitting your faith to the students under your supervision." Defendant Fadlallah then threatened Hancock: "Your communication with any of the students must be extremely limited. Please note that I would like to keep this matter under strict confidentiality. If this issue is leaked to the community, I cannot stop the adverse reaction that it will cause."

18. Defendant Fadlallah, a Muslim who was angry that a Christian minister was serving as a volunteer coach at Fordson, despite the fact that Hancock had never proselytized while volunteering at Fordson, terminated Hancock's volunteer status because of his Christian beliefs, which Defendant Fadlallah had deemed inconsistent with his own Muslim beliefs.

19. Subsequently, in full view of students and faculty, Defendant Fadlallah approached the young Fordson student who had chosen to be baptized a Christian at Hancock's summer wrestling camp, punched the student, and advised the student that he had "disgraced his family" by converting to Christianity from Islam. Defendant Fadlallah later chuckled about the incident with another Muslim Fordson parent and opined that "as if it were that easy to stop being a Muslim," or words to that effect.

20. Defendant Fadlallah, upset with Plaintiff Marszalek's Christian beliefs and association with Hancock, informed Plaintiff Marszalek and Boys Athletic Director Jeff Stergalas,

an agent of Defendant School District, that Plaintiff Marszalek would not be allowed to return the following year as Fordson's wrestling coach. Defendant Fadlallah informed Plaintiff Marszalek that any application Plaintiff Marszalek submitted would not be considered and instructed Stergalas to refuse to give Plaintiff Marszalek an application or to accept any application from Plaintiff Marszalek to be Fordson's wrestling coach.

21. Despite Defendants School District's and Fadlallah's policy that Plaintiff Marszalek was not allowed to apply for Fordson's head wrestling coach position, Plaintiff Marszalek, who in accordance with Defendant Fadlallah's orders had been refused a written application by Defendant School District, hand-wrote an application using a pen and paper and turned it in to Defendant School District for consideration. Defendant School District again informed Plaintiff Marszalek that any application he submitted for consideration as Fordson's head wrestling coach would not be considered.

22. Subsequently, Defendant Fadlallah informed Plaintiff Marszalek that he had "changed his mind" and "decided to allow him to continue as Fordson's head wrestling coach," or words to that effect. Defendant Fadlallah then informed Plaintiff Marszalek of his mandate that Hancock, based upon his religious beliefs, was not allowed to enter Fordson and that Plaintiff Marszalek must actively enforce Defendant Fadlallah's policy banning Hancock from Fordson. Defendant Fadlallah then admonished Plaintiff Marszalek that "I am giving you a directive to keep Hancock out of the building. You understand what a directive is, right?" or words to that effect. Defendant Fadlallah did not want Plaintiff Marszalek to associate with Hancock or allow him into Fordson because Hancock is a practicing Christian who holds sincere religious beliefs that Defendant Fadlallah disagrees with.

23. In March 2007, assistant coach Smuk tragically died while coaching for Fordson at the Michigan State Finals wrestling tournament. Even though Smuk died at a school function, Defendant Fadlallah refused to acknowledge his passing, refused to make mention of it to the Fordson wrestling team, Plaintiff Marszalek, or Smuk's widow, and treated Smuk's passing with smug disdain.

24. Defendant Fadlallah's despicable actions related to the death of Smuk and his disdain for his friends and family, including Plaintiff Marszalek, are based upon their Christian beliefs and association with other practicing Christians because they conflict with Defendant Fadlallah's Muslim beliefs.

25. On or about Thanksgiving Day 2007, Defendant Fadlallah verbally attacked Plaintiff Marszalek shouting "I thought I told you to keep Trey Hancock out of Fordson," or words to that effect. Plaintiff Marszalek, unaware that Hancock had been in Fordson, questioned Defendant Fadlallah about the circumstances as well as his authority to ban the parent of a Fordson student from Fordson High School. Defendant Fadlallah then threatened Plaintiff that if he failed to keep Hancock out of Fordson that: "I can get crazy if I have to!" "I get Crazy!" "You don't know how crazy I can get!" Hancock had been in Fordson earlier that day to sign his student son up and pay for his participation in a Fordson "pay to play" sports program.

26. Defendant Fadlallah then expanded his mandate to Plaintiff Marszalek now barring him from mentioning Hancock, or his independent wrestling club "One On One," and that despite Hancock's son currently being an All State wrestler on Fordson's team, Hancock's existence was not to be acknowledged at wrestling meets. Defendant Fadlallah then banned the entire Hancock family from even helping out at school concession stands during events. Defendant Fadlallah issued

his mandates to Plaintiff Marszalek regarding Hancock because as a Muslim, he disagreed with Hancock's Christian beliefs, practices, expressions and associations.

27. During this same time frame, with Defendant Fadlallah's knowledge and approval, Fordson had—and continues to have—a very public policy of allowing student athletes to recite Muslim prayers before, during, and after school-sanctioned athletic events. Despite his objections, sanctioning, and banning what he believes to be Christian religious activity, expression, and practice at *non-school sponsored summer activities*, Defendant Fadlallah promotes, sponsors, facilitates, and fosters Muslim religious activity, expression, and participation, including and prayer at *school-sanctioned events*. Local and national periodicals have written articles substantiating these practices.

28. Defendant Fadlallah, acting under color of State law, promotes Muslim religious activity and expression while prohibiting Christian religious activity and expression, thereby treating similarly situated individuals differently without any legal or rational justification or excuse, thereby discriminating against certain individuals because of their religious beliefs and associations.

29. After the 2007 - 2008 wrestling season concluded, Plaintiff Marszalek was informed by the Boys Athletic Director Chuck Silver ("Silver"), an agent of Defendant School District, that Defendant Fadlallah had decided he would not allow Plaintiff Marszalek to return in any capacity to coach Fordson's wrestling team the following season. Defendant Fadlallah again instructed Silver to refuse to accept any application from Plaintiff Marszalek to be Fordson's wrestling coach. Defendant Fadlallah informed Silver that he wanted Plaintiff Marszalek: "Gone. I want him gone. No appeal."

30. Defendant Fadlallah's actions and termination of Plaintiff Marszalek as Fordson's



wrestling coach were based upon Plaintiff Marszalek's Christian religious beliefs and association with Hancock and other Christians, and were done with the knowledge and approval of Defendant School District.

31. Defendant Fadlallah interfered with Plaintiff's Marszalek's position as Fordson's head wrestling coach and his continued employment as such for Defendant Fadlallah's personal gain and interests and in order to advance Defendant Fadlallah's own personal agenda.

32. Subsequently, Plaintiff Marszalek informed Defendants that he intended to fight for his job at a School Board meeting. Defendants School District and Fadlallah threatened Plaintiff Marszalek that "It's going to get very ugly at the School Board meeting and we will have people there ready to attack your character." Defendant Fadlallah then indicated that he wanted to hear "nothing more" from Plaintiff Marszalek regarding his firing and informed him that "you need to understand that we are divorced." Defendant Fadlallah used the term "divorce" as a symbolically binding religious declaration similar to that used by male Muslims orally seeking to terminate their marriages.

33. Plaintiff Marszalek attended the next regularly recurring School Board meeting to seek redress from the outrageous actions and policies of Defendants School District and Fadlallah. At this meeting Defendants School District and Fadlallah made good on their threats and publicly disseminated false and defamatory impressions about Plaintiff Marszalek thereby destroying his good name in the community and foreclosing any chance he had to practice his profession as Fordson's head wrestling coach.

34. Defendant School District's termination policy, practices, and enforcement of same are unconstitutionally vague because they allow for the punishment of religious beliefs, expression,

and associations based upon subjective assessments made under impermissibly vague standards of determining which beliefs, exercise, expression and associations are acceptable in the judgment of the Defendants School District and Fadlallah.

35. Defendant School District's and Fadlallah's policy and practices are unconstitutionally overbroad because they reach more broadly than reasonably necessary to protect legitimate state interests at the expense of protected individual rights.

36. Defendant School District's termination policy and practices grant unbridled discretion to Defendants School District and Fadlallah and school officials in the censorship of religious beliefs, expression, and associations because they provide no guidelines or standards for their enforcement or the application of their terms, permitting enforcement by Defendants School District and Fadlallah based upon subjective determinations as to which religious beliefs, expression, and associations are acceptable and which are not.

37. Defendants School District's and Fadlallah's actions have had a chilling effect and placed a substantial burden on Plaintiff Marszalek's rights to freely exercise his religion, express himself, and expressive association in violation of the United States and Michigan Constitutions. Thereby, Defendants School District and Fadlallah have restricted Plaintiff's religious exercise, expression, and expressive association in violation of the United States and Michigan Constitutions.

38. Since Plaintiff Marszalek's retirement as a full-time teacher, he has remained an active member of the Dearborn Federation of Teachers union and all other applicable employment unions related to his employment with Defendant School District.

39. The Union contract applicable to coaching positions at Fordson, School District and Fadlallah, and Plaintiff Marszalek at the time of his firing by Defendant School District and

Fadlallah, provides:

#### ARTICLE XXXV EXTRA PAY SCHEDULE ACTIVITIES

Extra pay positions must be posted and applied for annually. Extra pay positions will be posted in the base building first, for a period of 5 working days. Any union member currently holding an extra pay position will be considered a member of the base building for posting purposes. If the position cannot be properly filled from the base building, it will be posted in all buildings. Ten school days shall be allowed for applications from union members. Candidates other than union members are to be considered only when the assignment cannot be properly filled by a union member. Whenever possible, such assignments shall be made by May 15 of the current school year. Union members may be assigned multiple extra pay assignments as long as the activities do not overlap and that all qualifications/criteria listed in the extra pay postings are followed. Copies of all extra pay duties, criteria, and required number of participants associated with each extra pay assignment will be on file at all schools.

Extra compensation shall be paid for at the rates indicated below for such of the following assignments as are made that are below the regular teaching load and/or day. The percentage rate shown shall be applied to the average contract salary to be paid P12 union members for the previous school year in which the activity was conducted. However, the parties agree that there will be no diminution in the dollar amounts paid during the previous school year. As needs arise, new classifications for Extra Pay Schedule Activities may be added during the term of the Agreement by the Board. The rates of compensation for these new classifications will be established by the Board after negotiating with the Union and 1 added to the Extra Pay Schedule.

Senior High School Classification % Rate % Rate % Rate: ... Wrestling Head Coach 9.50%.

Exhibit 1.

40. The head wrestling coach position at Fordson is an “Article XXXV Extra Pay Schedule Activity” and Defendants School District and Fadlallah must fill that position in accordance with the terms of the applicable union contract.

41. Pursuant to the union contract, Defendants School District and Fadlallah were

required to consider Plaintiff Marszalek, a union member who had most recently been holding the extra pay position of head wrestling coach at Fordson, to be a member of the Fordson building for hiring priority and posting purposes for the head wrestling coach's position at Fordson. Defendants School District and Fadlallah did not comply with this requirement in relation to Plaintiff Marszalek or in filling the Fordson head wrestling coach position.

42. Extra pay positions within Fordson must be posted and applied for annually. Defendants School District and Fadlallah did not comply with this requirement in relation to Plaintiff Marszalek or in filling the Fordson head wrestling coach's position.

43. Extra pay positions must be posted in the base building first, Fordson in this instance, for a period of 5 working days. Defendants School District and Fadlallah did not comply with this requirement in relation to Plaintiff Marszalek or in filling the Fordson head wrestling coach's position.

44. Any union member currently holding an extra pay position must be considered a member of the base building. Plaintiff Marszalek meets this requirement yet Defendants School District and Fadlallah did not comply with it in relation to Plaintiff Marszalek or in filling the Fordson head wrestling coach's position for the 2008 - 2009 wrestling season.

45. If the extra pay position cannot be properly filled from the base building, it will be posted in all buildings. Ten school days shall be allowed for applications from union members. Defendants School District and Fadlallah did not comply with either of these requirements in relation to Plaintiff Marszalek or in filling the Fordson head wrestling coach's position for the 2008 - 2009 wrestling season.

46. Defendants School District and Fadlallah orally informed Plaintiff Marszalek that he

was terminated from his position as Fordson's head wrestling coach, that they would not accept any application from him to fill said position, and that they had decided to appoint the assistant Fordson wrestling coach, Ralph Hargraves, as the head wrestling coach in place of Plaintiff Marszalek for the 2008 - 2009 wrestling season.

47. Defendants School District and Fadlallah informed Plaintiff Marszalek that he was fired and no longer allowed to be Fordson's head wrestling coach because of his association with Hancock and his inability to enforce Defendant Fadlallah's nonsensical edict that Plaintiff Marszalek was to ensure that Hancock did not enter Fordson.

48. Defendant Fadlallah, aware that Plaintiff Marszalek had, despite his orders barring him from doing so, previously submitted a hand-written application for consideration as Fordson's wrestling coach, took pro-active measures to ensure that Plaintiff Marszalek was not allowed to apply for the Fordson wrestling coach's position. Defendant Fadlallah sought out all Athletic Directors from Defendant School District and instructed them that Plaintiff Marszalek was prohibited from applying for or selection as Fordson's wrestling coach. The Athletic Directors protested, citing Plaintiff Marszalek's three decades of service, and informed Defendant Fadlallah that Plaintiff Marszalek "is retiring after this year and just wants one more year," or words to that effect. Defendant Fadlallah shouted "No! I don't care! I want him gone!" or words to that effect.

49. Hargraves, who replaced Plaintiff Marszalek as Fordson's head wrestling coach—despite having never requested the position and having never submitted any formal application or paperwork to be considered for it—was named by Defendant School District and Fadlallah as the Fordson's head wrestling coach for the 2008 - 2009 season in Plaintiff Marszalek's place.

50. Defendants School District's and Fadlallah's treatment of Plaintiff Marszalek and their refusal to consider him as Fordson's head wrestling coach stands in stark contrast with their treatment and hiring of Hargraves for the same position and constitutes disparate treatment of similarly situated individuals. Defendants School District's and Fadlallah's actions violated Equal Protection, Due Process, and other applicable law.

51. Defendants School District's and Fadlallah's actions terminating Plaintiff Marszalek's employment as Fordson's head wrestling coach and their actions in refusing to consider him for re-hiring into that position were done without Due Process of law.

52. Defendants School District's and Fadlallah's actions, treatment, and firing of Plaintiff were done in retaliation for his religious beliefs, expression, and his association with individuals of his own choosing.

53. Defendants School District's and Fadlallah's firing, refusal to re-hire, and refusal to consider Plaintiff Marszalek for employment as Fordson's head wrestling coach and hiring of Hargraves to fill that position were in violation of the applicable law because the position was not posted appropriately prior to Defendant School District's hiring of Hargraves in Plaintiff Marszalek's place, because Plaintiff Marszalek was not properly considered for the position, because Plaintiff Marszalek was barred from being allowed to even apply for the position, and because Plaintiff Marszalek and Hargraves were treated differently in the application process.

54. Following Plaintiff Marszalek's termination as Fordson's head wrestling coach by Defendants School District and Fadlallah, he sought support from his Union President, Defendant Kevin Harris. Plaintiff Marszalek informed Defendant Harris that he wanted his job back, that he was fired in violation of his Union contract, and that he wanted to file an appropriate grievance with

the Union based upon his firing against Defendants School District and Fadlallah.

55. Defendant Harris informed Plaintiff Marszalek that “there was nothing he could do about his firing or his treatment by Defendants School District and Fadlallah,” or words to that effect. Shortly thereafter, Defendant Harris, despite lacking the requisite credentials, was selected by Defendant School District to serve in an administration position within Defendant School District and stepped down from his position as Union President.

56. At a May 12, 2008 Dearborn School Board meeting, Plaintiff Marszalek requested a formal inquiry into Defendants School District’s and Fadlallah’s actions regarding his termination and failure to be re-hired as Fordson’s head wrestling coach. Defendant School District failed to honor Plaintiff Marszalek’s request and conducted no formal inquiry or hearing into his termination. Subsequently, following dissemination of television and newspaper coverage of Plaintiff Marszalek’s unlawful termination and treatment, the Dearborn Fordson High School Board of Directors privately contacted Plaintiff Marszalek and advised him to retain an attorney.

57. Defendant Fadlallah, since assuming duties as Fordson’s principal in 2005, has systematically weeded out Christian teachers, coaches, and employees, and has terminated, demoted, or reassigned them because of their Christian beliefs, expressions, and associations. Defendant Fadlallah acts in this manner because Christian beliefs are inconsistent with his personal Muslim beliefs.

58. Defendant Fadlallah has publicly stated “he sees Dearborn Fordson High School as a Muslim school, both in students and faculty, and is working to that end,” or words to that effect.

59. Defendant School District’s and Fadlallah’s actions have devastated and ruined Plaintiff Marszalek’s life. Plaintiff Marszalek’s life, and that of his loving wife of 40 years, was

Fordson wrestling, and his ouster by Defendants School District and Fadlallah, as well as the statements they subsequently disseminated about him, have forced him into a life of reclusive anxiety and humiliation.

60. Plaintiff Marszalek, a Hall of Fame coach with thirty-five years of service to Fordson, was unceremoniously terminated from his position by Defendants School District and Fadlallah because he is a Christian, because of his expression, and because of his associations. Defendant School District's and Fadlallah's outrageous actions outlined herein constitute an affront to justice and Plaintiff Marszalek must be vindicated.

**FIRST CLAIM FOR RELIEF**  
**Free Exercise—First Amendment**  
**(42 U.S.C. § 1983)**

**(Defendant School District and Defendant Fadlallah)**

61. Plaintiff Marszalek hereby incorporates by reference all above-stated paragraphs.

62. By reason of the aforementioned policy, practice, custom, acts and omissions, engaged in under color of State law, Defendants School District and Fadlallah have deprived Plaintiff Marszalek of his right to religious exercise in violation of the Free Exercise Clause of the First Amendment as applied to the States and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

63. Defendants School District and Fadlallah further violated Plaintiff Marszalek's right to religious exercise by targeting Plaintiff Marszalek for discriminatory and arbitrary enforcement of its policies, practices, and customs on account of Plaintiff Marszalek's religious practices.

64. As a direct and proximate result of Defendants School District's and Fadllah's violation of the Free Exercise Clause of the First Amendment, Plaintiff Marszalek has suffered



irreparable harm, including the loss of his constitutional rights, entitling him to declaratory and injunctive relief and damages.

**SECOND CLAIM FOR RELIEF**  
**Freedom of Speech—First Amendment**  
**(42 U.S.C. § 1983)**  
**(Defendant School District and Defendant Fadlallah)**

65. Plaintiff Marszalek hereby incorporates by reference all above-stated paragraphs.

66. By reason of the aforementioned policy, practice, custom, acts and omissions, engaged in under color of State law, Defendants School District and Fadlallah have deprived Plaintiff Marszalek of his right to religious expression in violation of the Free Speech Clause of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

67. As a direct and proximate result of Defendants School District's and Fadlallah's violation of the First Amendment, Plaintiff has suffered irreparable harm, including the loss of his constitutional rights, entitling him to declaratory and injunctive relief and damages.

**THIRD CLAIM FOR RELIEF**  
**Freedom of Expressive Association—First Amendment**  
**(42 U.S.C. § 1983)**  
**(Defendant School District and Defendant Fadlallah)**

68. Plaintiff Marszalek hereby incorporates by reference all above-stated paragraphs.

69. By reason of the aforementioned policy, practice, custom, acts and omissions, engaged in under color of state law, Defendants School District and Fadlallah have deprived Plaintiff Marszalek of his right to expressive association guaranteed by the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States

Constitution and 42 U.S.C. § 1983.

70. As a direct and proximate result of Defendants School District's and Fadlallah's violation of the First Amendment, Plaintiff Marszalek has suffered irreparable harm, including the loss of his constitutional rights, entitling him to declaratory and injunctive relief and damages.

**FOURTH CLAIM FOR RELIEF**  
**Equal Protection—Fourteenth Amendment**  
**(42 U.S.C. § 1983)**  
**(Defendant School District and Defendant Fadlallah)**

71. Plaintiff Marszalek hereby incorporates by reference all above-stated paragraphs.

72. By reason of the aforementioned policy, practice, custom, acts and omissions, engaged in under color of state law, Defendants School District and Fadlallah have deprived Plaintiff Marszalek of the equal protection of the law guaranteed under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983 by discriminating against Plaintiff Marszalek in the application of their acts, policies, practices, customs, and omissions on account of Plaintiff Marszalek's exercise of his religion, his expression, and his associations, thereby treating Plaintiff Marszalek on less than equal terms. Defendants School District and Fadlallah targeted Plaintiff for discriminatory and arbitrary enforcement of their laws on account of Plaintiff Marszalek's religion, expression, and associations, thereby infringing upon Plaintiff Marszalek's fundamental rights. Defendants School District and Fadlallah have treated Plaintiff Marszalek differently than other similarly situated individuals based upon his religion, expression, and association, thereby infringing on Plaintiff Marszalek's fundamental rights.

73. As a direct and proximate result of Defendants School District's and Fadlallah's violation of the Equal Protection Clause of the Fourteenth Amendment, Plaintiff Marszalek has

suffered irreparable harm, including the loss of his constitutional rights, entitling him to declaratory and injunctive relief and damages.

**FIFTH CLAIM FOR RELIEF**  
**Due Process—Fourteenth Amendment**  
**(42 U.S.C § 1983)**  
**(Defendant School District and Defendant Fadlallah)**

74. Plaintiff Marszalek hereby incorporates by reference all above-stated paragraphs

75. As a direct and proximate result of the aforementioned acts, policies, practices, customs, and omissions, engaged in under the color of State law, Defendants School District and Fadlallah have violated Plaintiff Marszalek's clearly established Due Process rights guaranteed under the Fourteenth Amendment to the United States Constitution as applied to the states and their political subdivisions under the Fourteenth Amendment, and 42 U.S.C. § 1983, in that Defendants School District's and Fadlallah's policies are vague, overbroad, and lack sufficient standards and safeguards to curtail the discretion of school officials, thereby allowing Defendants School District and Fadlallah unbridled discretion to enforce said policies in an *ad hoc* and discriminatory manner.

76. Defendants School District and Fadlallah, municipal actors, caused in fact to be publicly disseminated false, defamatory, and stigmatizing information about Plaintiff Marszalek, absent notice and an opportunity to be heard, in violation of his liberty interests in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

77. As a direct and proximate result of Defendants School District's and Fadlallah's violation of the Due Process Clause of the Fourteenth Amendment, Plaintiff Marszalek has suffered irreparable harm, including the loss of his constitutional rights, entitling him to declaratory and injunctive relief and damages

**SIXTH CLAIM FOR RELIEF**  
**Religious Discrimination/Equal Protection—Michigan Constitution**  
**(Mich. Const. 1963, Art. 1, Sec. 2)**  
**(Defendant School District and Defendant Fadlallah)**

78. Plaintiff Marszalek hereby incorporates by reference all above-stated paragraphs.

79. By reason of the aforementioned policy, practice, custom, acts and omissions, engaged in under color of state law, Defendants School District and Fadlallah have discriminated against Plaintiff Marszalek on account of his religion and have denied Plaintiff Marszalek the equal protection of the laws on account of his religion and religious practices in violation of Article 1, Section 2 of the Michigan Constitution.

80. As a direct and proximate result of Defendants School District's and Fadlallah's violation of the Michigan Constitution, Plaintiff Marszalek has suffered irreparable harm, including the loss of his constitutional rights, entitling him to declaratory and injunctive relief and damages.

**SEVENTH CLAIM FOR RELIEF**  
**Free Exercise—Michigan Constitution**  
**(Mich. Const. 1963, Art. 1, Sec. 4)**  
**(Defendant School District and Defendant Fadlallah)**

81. Plaintiff Marszalek hereby incorporates by reference all above-stated paragraphs.

82. By reason of the aforementioned policy, practice, custom, acts and omissions, engaged in under color of state law, Defendant School District and Fadlallah have deprived Plaintiff Marszalek of his right to the free exercise of religion in violation of Article 1, Section 4 of the Michigan Constitution.

83. As a direct and proximate result of Defendants School District's and Fadlallah's violation of the Michigan Constitution, Plaintiff Marszalek has suffered irreparable harm, including the loss of his constitutional rights, entitling him to declaratory and injunctive relief and damages.

**EIGHTH CLAIM FOR RELIEF**  
**Elliot-Larsen Civil Rights Act**  
**(MCL 37.2101 et seq.)**  
**(Defendant School District and Defendant Fadlallah)**

84. Plaintiff Marszalek hereby incorporates by reference all above-stated paragraphs.

85. At all relevant times, Plaintiff Marszalek and Defendants School District and Fadlallah were covered by and within the meaning of the Michigan Elliot-Larsen Civil Rights Act, MCL 37.2101 et seq.

86. Plaintiff Marszalek's religious beliefs, expressions, and associations were factors that made a difference in Defendant School District's and Fadlallah's decision to subject him to wrongful and discriminatory treatment as described herein.

87. Defendant School District, through its agents, representatives, and employees, specifically including but not limited to Defendant Fadlallah, were predisposed to discriminate on the basis of religion, expression, and free association and acted in accordance with that predisposition.

88. Had Plaintiff Marszalek been a Muslim or not associated with Christians he would not have been treated in the manner described above, and would have been considered, hired, or continued to be employed as Fordson's head wrestling coach.

89. Defendant School District, through its agents, representatives, and employees, specifically including but not limited to Defendant Fadlallah, treated Plaintiff Marszalek differently from similarly situated Muslim employees and those not associated with Christians, based on unlawful consideration of religion, expression, and free associations.

90. Defendant School District's and Fadlallah's actions were intentional, with reckless indifference and in disregard of Plaintiff Marszalek's rights and sensibilities.

91. As a direct and proximate result of Defendants School District's and Fadlallah's unlawful actions, Plaintiff Marszalek has sustained injuries and damages including but not limited to loss of earnings and earning capacity, loss of career opportunities, humiliation and embarrassment, mental anguish and emotional distress, loss of professional reputation, and loss of the ordinary pleasures of everyday life, including the right to pursue gainful occupation of choice.

92. Plaintiff Marszalek's religious beliefs, expression, and associations were factors that made a difference in Defendants decision to refuse to consider, hire, or continue to employ Plaintiff as Fordson's head wrestling coach.

**NINTH CLAIM FOR RELIEF**  
**Tortious Interference with an Advantageous Business Relationship or Expectancy**  
**(Defendant Fadlallah)**

93. Plaintiff Marszalek hereby incorporates by reference all above-stated paragraphs.

94. Plaintiff Marszalek, whose business is as an educator and coach, had been employed continuously as Fordson's head wrestling coach for over 35 years and expected to continue in that position through completion of the 2008 - 2009 wrestling season.

95. Defendant Fadlallah, Fordson's Principal, demanded that Defendant School District, with who Plaintiff Marszalek had a business expectancy, refuse to consider Plaintiff Marszalek for continued employment as Fordson's head wrestling coach because of Plaintiff Marszalek's: (1) inability to foreclose Trey Hancock's ingress and egress at Fordson pursuant to Defendant Fadlallah's nonsensical edict; (2) his personal associations; (3) his expression; and (4) his Christian religious beliefs.

96. Plaintiff Marszalek's business expectancy with Defendant School District to serve as Fordson's head wrestling coach had a reasonable likelihood of future economic benefit for Plaintiff Marszalek.

97. Defendant Fadlallah knew of the business relationship and expectancy between Plaintiff Marszalek and Defendant School District.

98. By his conduct described herein, Defendant Fadlallah intentionally and improperly interfered with the business relationship and expectancy between Plaintiff Marszalek and Defendant School District.

99. Defendant Fadlallah's conduct described herein was intended to, and did, interfere with Plaintiff Marszalek's business relationship and expectancy, causing their breach, disruption, and termination.

100. As a direct and proximate result of Defendant Fadlallah's wrongful conduct, Plaintiff Marszalek has suffered substantial economic injury, loss of goodwill, harm to his reputation, loss of esteem and standing in the community, and loss of business opportunities.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs ask this Court:

A) to enter judgment declaring that Defendants School District and Fadlallah have violated the United States Constitution as set forth in this Complaint;

B) to enter judgment declaring that Defendants School District and Fadlallah have violated the Michigan Constitution of 1963 as set forth in this Complaint;

C) to enter judgment declaring that Defendant School District's and Fadlallah's policies applied to Plaintiff Marszalek as outlined herein are unconstitutional on their face and unconstitutional as applied to Plaintiff Marszalek;

D) to enjoin Defendant School District, their employees, agents, and successors in office, including but not limited to Defendant Fadlallah, from formulating, adopting, implementing, and/or enforcing or threatening to enforce any act, policy, custom, law, and/or decision having the effect of unlawfully preventing Plaintiff Marszalek from exercising his constitutional rights to freely exercise his religion, freedom of speech, and freedom of expressive association guaranteed under the United States and Michigan Constitutions;

E) to award all appropriate damages, including nominal and compensatory damages, against all Defendants and punitive damages against Defendant Fadlallah in his individual capacity pursuant to applicable law.

F) order that Defendant School District purge and clear Plaintiff Marszalek's employment record and any related records of any negative or unfavorable information related in any way to any matter set forth herein;

G) order that Defendant School District re-instate or re-hire Plaintiff Marszalek as Fordson's head wrestling coach;

H) order that Defendants School District and Fadlallah pay Plaintiff Marszalek full back pay;

I) order that Defendants School District and Fadlallah pay Plaintiff Marszalek full front pay as well as provide him any applicable employment benefits for a reasonable period of time until



Plaintiff Marszalek is either re-instated to his former position or awarded monetary damages in lieu of re-instatement;

J) retain jurisdiction of this matter for the purpose of enforcing this Court's orders;

K) to award Plaintiff Marszalek his reasonable attorneys' fees, costs and expenses pursuant to 42 U.S.C. § 1988 and other applicable law; and

L) to grant such other and further relief as this Court should find just and proper.

### **DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury of all issues triable of right by a jury.

Respectfully Submitted,

s/Brandon M. Bolling  
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Dated: July 27, 2009

