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FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

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KEOUA H. S. KAUIHI, SR. and
LAVON S. P. SILVEIRA, individually and as
Guardians Ad Litem for their minor son K. H.
S. K., Jr.,

Plaintiffs,

vs.

BLANE GAISON, in his capacity as Executive
Director of the Interscholastic League of
Honolulu; the INTERSCHOLASTIC
LEAGUE OF HONOLULU; JOHN DOES
1-20; JANE DOES 1-20; and DOE ENTITIES
1-10,

Defendants.

CIVIL NO. 18-1-1064-07 DEO
(Other Civil Action)

VERIFIED COMPLAINT FOR
DECLATORY AND INJUNCTIVE RELIEF;
VERIFICATION OF KEOUA H. S. KAUIHI,
Sr.; SUMMONS

VERIFIED COMPLAINT FOR DECLATORY AND INJUNCTIVE RELIEF

Plaintiffs KEOUA H. S. KAUIHI, Sr. and LVON S. P. SILVEIRA, by and through their
attorney, allege as follows:

Introduction

1. This is an action for declaratory and injunctive relief arising from the Defendants' arbitrary, discriminatory, and capricious refusal to permit Plaintiffs' minor son, K. H. S. K., Jr., to participate in regularly organized football competition at St. Louis School where K. H. S. K., Jr. is enrolled as a member of the 12th grade (senior) class.

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Parties

2. Plaintiffs KEOUA H. S. KAUIHI, Sr., and LAVON L. P. SILVEIRA (hereinafter "Plaintiffs"), are and have been citizens and residents of Kaneohe, Hawai'i, at all times pertinent hereto.

3. Plaintiffs are the natural and legal parents of K. H. S. K., Jr., who attends St. Louis School.

4. Plaintiffs are informed and believe, and thereupon allege that Defendant BLANE GAISON (hereinafter "Defendant Gaison") is and has been employed by the Interscholastic League of Honolulu as the Executive Director and is and has been a resident of the City and County of Honolulu, State of Hawai'i at all times pertinent hereto. Defendant Gaison is sued herein in his official capacity.

5. Plaintiffs are informed and believe, and therefore allege, that Defendant INTERSCHOLASTIC LEAGUE OF HONOLULU (hereinafter "Defendant ILH") is and has been an unincorporated association comprised of all private high schools on the Island of O'ahu, State of Hawai'i, engaged in and assigned responsibility for the regulation and oversight of all high school athletic competitions involving ILH high schools on the island of O'ahu at all times pertinent hereto.

6. Defendants JOHN DOES 1-20, and/or JANE DOES 1-20 and DOE ENTITIES 1-10 (hereinafter "Doe Defendants") are associates, co-actors, partners, officers, employees, agents, and/or representatives of the named Defendants whose true names and capacities are as yet unknown to Plaintiffs and their attorney despite due diligence and inquiry and who acted herein with or behalf of the named Defendants as set forth below. The true names and capacities of the Doe Defendants will be substituted as they become known.

Factual Allegations

7. The minor child began at Damien Memorial School in the summer of 2013, his seventh grade year. He participated in football, soccer and track and field. K. H. S. K., Jr. enrolled at Damien Memorial School because his father was an alumnus

8. K. H. S. K., Jr. continued to participate in sports in his eighth grade year, football,

track and field, and started wrestling.

9. In his ninth grade year, K. H. S. K., Jr., was a linebacker in football and did so well he was awarded the Offensive Most Valuable Player of the year. He won fifth place in the ILH Championships for wrestling, and added hurdles to his track and field skills.

10. During the summer, K. H. S. K. Jr. and twelve other students from Damien and twenty-three other boys from different schools participated in a trip sponsored by the Hawai'i Athletes in Action Foundation (hereinafter "HAIA"), an annual "I Have A Dream" college campus tours in Utah and Oregon. HAIA provides individuals with the tools, knowledge, and support to obtain a college scholarship or a full ride whilst staying on track with the NCAA eligibility requirements.

11. On this trip, the HAIA team visited Utah State, Brigham Young University and the University of Utah. They also visited at Oregon University and Oregon State. HAIA alumni Marcus Mariota personally gave them a tour of his former campus.

12. When the boys returned to Hawai'i, the Damien boys were excited to share their experiences with their friends at Damien. The coaching staff at Damien rejected their offer. To add insult to injury, one of the coaches began to swear and yell at the boys.

13. Plaintiffs, along with other parents, requested a meeting with the head of school and the athletic director. The parents were informed the coach was let go and nothing happened to the head coach who witnessed the entire event and instructed the boys not to tell anyone what happened.

14. In K. H. S. K., Jr.'s tenth grade year, he again participated in the HAIA trip and once again played in the All-Poly Sports Football Camp, a full pads contact experience. Many NCAA football coaches come to this event each year to watch the players and possibly offer scholarships. The HAIA team also went to the University of Southern California, where they played in the Rising Stars Football Camp, as well as the University of California- Los Angeles.

15. When the Damien boys returned to campus, the head coach began screaming at the boys, saying "That trip was a waste of money. What the f**k did this trip teach you all? All you f**kers have to pay for this, after practice you all have to run." While the HAIA boys did what the head coach demanded, the rest of the team and all the coaches stood there, watching

and mocking the boys who struggled.

16. During the school year, the head coach called K. H. S.K, Jr. a racial slur and kept saying “You’re never going [to be] good at football, why do you even try?”

17. In the eleventh grade, K. H. S. K., Jr. participated in spring ball, pass league football, along with HAIA in the summer. The head coach kept up with his negative comments, saying “[Y]ou should have stayed on defense; you suck as a running back. Why you went as a running back? You should have stayed as a linebacker.” When K.H.S.K., Jr. would ask for help on a play, the head coach would tell him “Go figure that shit out yourself! You should know what the f**k to do by now!”

18. Not only the head coach would make these remarks, but the Offensive Coordinator as well as the running back coach would continually harass the student. This resulted in K. H. S. K., Jr. suffering from anxiety, stress and depression.

19. During the school year, K. H. S. K., Jr. participated in the Pylon 7 on 7 Tournament with Team Tagiamanu All-Stars in Las Vegas. He also got invited to the Nike Opening Regional Combine in Santa Ana, California. When he returned home, comments like “Sorry, eh, Nike Combine. You know that doesn’t mean you are going to get a scholarship, right?” He would ignore the comments but could not help feeling that everyone was against him.

20. On or around January, 2018, the team had a football meeting so K.H.S.K., Jr. went to the sign up paper and the head coach blew air at him while walking away. The student felt terrible as he felt the head coach made him feel unwanted and intimidated.

21. On or around February, 2018, K. H. S. K., Jr was hanging out with his friends when the head coach walked in, said hello and shook everyone’s hand but the student. The head coach just looked at K. H. S. K., Jr., with a smirk on his face, blew air, which made K. H. S. K., Jr. really uncomfortable. After school the student walked up to the head coach who pretended he did not see the student and went on his phone to avoid speaking to the student. After K. H.S.K., Jr.’s wrestling practice, the head coach spoke to everyone on the team except K. H. S. K., Jr. and walked right past him without saying anything.

22. Plaintiffs then decided that enough was enough and made the decision to withdraw their son from Damien. Plaintiffs were very reluctant inasmuch as Plaintiff –Father

was an alumnus of Damien but their son continued to be a victim of bullying and harassment.

23. Plaintiffs made many attempts to resolve the situation with the Athletic Director and called the head of school many, many times requesting appointments. There was no response.

24. Because Plaintiffs' son was suffering, Plaintiffs felt they had no choice but to transfer their son to St. Louis School. K. H. S. K., Jr. was enrolled as of March 19, 2018.

25. K. H. S. K., Jr. was invited to compete in the Polynesian Bowl National Combine and Showcase in Las Vegas in April, 2018 and met the top running back from Bishop Gorman, the national high school football champion.

26. In June, 2018, K. H. S. K., Jr. again participated in the HAIA Foundation College Tour and visited several colleges. The teams that have shown definite interest in K. H. S. K., Jr., are the University of Utah, Idaho State University, Dixie State University, Colorado Mesa University, Southern Virginia University, Eastern New Mexico University and the University of Nevada at Las Vegas.

27. Plaintiffs are informed and believe, and thereupon allege, that St. Louis School applied to the ILH requesting a waiver or exemption for K. H. S. K., Jr. to enable him to play football and wrestling for 2018 through 2019.

28. Blane Gaison, Executive Director of the ILH denied the exemption request because of "a standing league and state policy regarding transfer students."

29. Plaintiffs are informed and believe, and thereupon allege that as a direct and proximate result of the ILH's refusal to grant a waiver or exemption for K. H. S. K., Jr., he cannot now practice or participate in any football or wrestling activities at St. Louis School for the 2018-2019 school year.

30. As a direct and proximate result of the foregoing, K.H.S.K., Jr.'s rights to obtain all the benefits of his high school education has been denied in an arbitrary, capricious and discriminatory manner.

31. As a direct and proximate result of the foregoing, K. H. S. K., Jr. will suffer harm due to his inability to enjoy and benefit from important high school activities that are regularly and generally available to all high school students.

32. As a direct and proximate result of the foregoing, K. H. S. K., Jr. will suffer irreparable harm to his prospects and opportunities to obtain admission and scholarship assistance to colleges and to qualify for and participate in football and wrestling activities as part of his higher educational opportunities.

33. As a direct and proximate result of the foregoing, K. H. S.K., Jr., is suffering and will continue to suffer extreme emotional distress, anxiety, worry and depression.

34. Plaintiffs have exhausted their remedies and have no recourse other than to seek the aid and assistance of this Court to obtain appropriate and necessary relief.

First Cause of Action

35. Plaintiffs hereby incorporate all of the allegations contained in Paragraphs 1-34, above.

36. The Defendants' actions and omissions as set forth above have violated and will continue to violate Plaintiffs' rights to equal protection of law guaranteed by applicable provisions of Article 1 of the Constitution of the State of Hawai'i and the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

Second Cause of Action

37. Plaintiffs hereby incorporate all of the allegations contained in Paragraphs 1-36 above.

38. The ILH's applicable rules on their face, are impermissibly vague, ambiguous, and overbroad in violation of applicable provisions of Article 1 of the Constitution of The State of Hawai'i and the Fifth and Fourteenth Amendments to the United States Constitution.

39. The Defendants' actions and omissions constitute an impermissible interpretation and application of the Defendants' own rules, regulations, procedures and practices thereby directly, proximately and impermissible excluding K. H. S. K., Jr. from high school activities in which he is entitled to participate.

WHEREFORE, Plaintiffs pray for relief as follows:

1. The entry of a judgment declaring Defendants' refusal to allow K. H. S. K. Jr. to participate in 2018-2019 football and wrestling activities as a member of St. Louis School was arbitrary and capricious and that he is entitled to the waiver and/or exemption previously

requested.

2. The entry of a preliminary and permanent injunction restraining the Defendants, their agents, employees and successors in interest from continuing to withhold permission for K. H. S. K., Jr. to participate in 2018-2019 football and wrestling activities as a member of St. Louis School.

3. The entry of a preliminary and permanent injunction restraining the Defendants, their agents, employees and successors in interest from interfering with the free and equal exercise of rights guaranteed to K. H. S. K., Jr.

4. Reimbursement of Plaintiffs' costs and expenses herein, including reasonable provision for their attorney's fees; and

5. For such further and additional relief as the Court deems appropriate and just.

DATED: Honolulu, Hawai'i 05 July 2018



MARRIONNETTE L. S. ANDREWS

Attorney for Plaintiffs
KEOUA H. S. KAUI, Sr. and LAVON L. P. SILVEIRA