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14 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF ARIZONA**

16 John Doe; and Rev. David Felten,

17 Plaintiffs,

18 v.

19 Heritage Academy, Inc.; Heritage Academy
20 Laveen, Inc.; Heritage Academy Queen Creek,
21 Inc.; Heritage Academy Gilbert, Inc.; Heritage
22 Academy Mesa, Inc.; Heritage Academy East
23 Mesa, Inc.; Heritage Academy CMO, LLC;
24 Heritage Academy IP, LLC; Earl Taylor Jr.,
25 individually and in his official capacity as
26 president, a director, principal, and a teacher at
27 Heritage Academy; Wade Melchin, in his
28 official capacity as a member of the governing
bodies of Heritage Academy; Gary Helmbold,
in his official capacity as a member of the
governing bodies of Heritage Academy; Marie
Renard, in her official capacity as a member of
the governing bodies of Heritage Academy;
Sheree Liddiard, in her official capacity as a
member of the governing bodies of Heritage

No.

COMPLAINT

1 Academy; Kathleen Lopez, in her official
2 capacity as a member of the governing bodies
3 of Heritage Academy; Spencer Bowers, in his
4 official capacity as a member of the governing
5 bodies of Heritage Academy; Michael Lawter,
6 in his official capacity as a member of the
7 governing bodies of Heritage Academy; Jared
8 Taylor, in his official capacity as a member of
9 the governing bodies of Heritage Academy;
10 Kimberly Ellsworth, in her official capacity as
11 a member of the governing bodies of Heritage
12 Academy; Kyle Leybas, in his official capacity
13 as a member of the governing bodies of
14 Heritage Academy; Amy Hale, in her official
15 capacity as a member of the governing bodies
16 of Heritage Academy; Diane Douglas, in her
17 official capacity as Superintendent of Public
18 Instruction and as a member of the Arizona
19 State Board for Charter Schools and the
20 Arizona Board of Education; Kathy Sensemen,
21 in her official capacity as a member of the
22 Arizona State Board for Charter Schools;
23 Freddy Mendoza, in his official capacity as a
24 member of the Arizona State Board for Charter
25 Schools; Carol Crockett, in her official capacity
26 as a member of the Arizona State Board for
27 Charter Schools; Janna Day, in her official
28 capacity as a member of the Arizona State
Board for Charter Schools; Aracely Espinoza,
in her official capacity as a member of the
Arizona State Board for Charter Schools; Jake
Logan, in his official capacity as a member of
the Arizona State Board for Charter Schools;
Matthew Mason, in his official capacity as a
member of the Arizona State Board for Charter
Schools; Greta Mayans, in her official capacity
as a member of the Arizona State Board for
Charter Schools; Erik Twist, in his official
capacity as a member of the Arizona State
Board for Charter Schools; and Craig C.
Brown, in his official capacity as Director
of the Arizona Department of Administration,

Defendants.

Nature of This Action

1. This action arises from Arizona public charter school Heritage Academy's violation of the First Amendment by providing religious education to its students. This

1 religious instruction is particularly rampant in the school’s mandatory American
2 Government class, in which the school’s founder and principal, Earl Taylor Jr., teaches
3 all students twenty-eight religious and religiously based principles that Taylor instructs
4 are required for sound government.

5 2. For example, the first of these principles is that: “The only reliable basis for
6 sound government and just human relations is Natural Law.” The required class textbook
7 explains this principle by teaching that, “[t]o the Founders, the only reasonable approach
8 to government, justice, and human relations is in terms of the laws which the Supreme
9 Creator has already established.” National Center for Constitutional Studies, *Proclaim*
10 *Liberty Throughout all the Land* (2013) (Ex. A), at 15, 18. Another required reading
11 instructs that natural law is “a code of ‘right reason’ from the Creator himself” that
12 “cannot be altered” or “repealed.” W. Cleon Skousen, *A Miracle that Changed the*
13 *World: The 5000 Year Leap* (2013) (Ex. B), at 40.

14 3. Heritage Academy’s required readings further teach all students that:
15 “Without religion the government of a free people cannot be maintained” (the fourth
16 principle); “All things were created by God, therefore upon Him all mankind are equally
17 dependent, and to Him they are equally responsible” (the fifth principle); and “To protect
18 man’s rights, God has revealed certain principles of divine law” (the ninth principle).
19 *Proclaim Liberty* (Ex. A), at 15.

20 4. In class, Taylor teaches the students that the Ten Commandments—
21 including those that mandate worship of God—must be obeyed in order to attain
22 happiness; that socialism violates God’s laws; and that true patriots believe in the
23 “universal religion of all mankind,” the tenets of which, as described by Taylor and his
24 instructional materials, incorporate the beliefs of some Christian denominations.

25 5. In a transparent attempt to proselytize the school’s religious views,
26 Heritage Academy students are further taught that they are duty-bound to implement and
27 instruct others about these religious and religiously based principles in order to restore
28 the United States to “freedom, prosperity, and peace.” *Proclaim Liberty* (Ex. A), at 3.

1 6. Additionally, as part of the American Government course and as required
2 reading for all students at Heritage Academy, Taylor assigns religious textbooks that are
3 published by a nonprofit organization that he himself runs; he requires students to
4 espouse his religious beliefs on graded work; and he requires students to memorize the
5 twenty-eight principles, to recite each of the twenty-eight principles in front of the class,
6 and to share what they learned in class with five people who do not attend or work at
7 Heritage Academy or live with the Heritage Academy student.

8 7. Providing a free public education to every child is one of the state’s most
9 important and essential functions. Public education prepares our children for civic
10 participation, employment, and life as independent adults whose goals and personal
11 convictions reflect the diversity and cultural richness of the American people.

12 8. The First Amendment protects our vital public-school system by mandating
13 that public-school officials not instruct our children on religious matters; choices about
14 the religious upbringing of children are instead constitutionally committed to parents. As
15 the U.S. Supreme Court has explained, “[f]amilies entrust public schools with the
16 education of their children, but condition their trust on the understanding that the
17 classroom will not purposely be used to advance religious views that may conflict with
18 the private beliefs of the student and his or her family.” *Edwards v. Aguillard*, 482 U.S.
19 578, 584 (1987).

20 9. By teaching religious beliefs in a public charter school, which is subject to
21 the U.S. Constitution just like all other public schools, Heritage Academy has violated the
22 First Amendment.

23 10. As a matter of law, and as a matter of the constitutionally required respect
24 for the religious liberty of all Americans, no public-school student should be so
25 compelled to learn and practice the preferred faith of a school official; no parents should
26 have their rights to determine the religious upbringing of their children so usurped.

1 **I. JURISDICTION AND VENUE**

2 11. Under 28 U.S.C. §§ 1331 and 1343, this Court has jurisdiction over
3 Plaintiffs’ claims arising under the First and Fourteenth Amendments to the U.S.
4 Constitution, 42 U.S.C. § 1983, and the Declaratory Judgment Act, 28 U.S.C. §§ 2210–
5 2201.

6 12. This Court has supplemental jurisdiction over Plaintiffs’ claims arising
7 under the Arizona Constitution. *See* 28 U.S.C. § 1367.

8 13. Venue is proper in this District under 28 U.S.C. § 1391(b) because all
9 Defendants reside in Arizona and the events or omissions giving rise to Plaintiffs’ claims
10 occurred in Arizona.

11 **II. PARTIES**

12 **A. Overview of Arizona Public-Charter-School System**

13 14. Charter schools are public schools that are funded with state tax dollars but
14 operate outside the traditional administrative structure of local school districts. *See* Ariz.
15 Rev. Stat. § 15-181(A).

16 15. All Arizona charter schools must be sponsored by one of several statutorily
17 identified governmental entities, each of which has oversight responsibility over the
18 charter schools that it sponsors. Ariz. Rev. Stat. § 15-183(A), (C), (R).

19 16. All Arizona charter schools must obey the provisions of their charters or
20 risk losing state funding. Ariz. Rev. Stat. § 15-183(I)(3).

21 17. A charter school’s charter must “[e]nsure compliance with federal, state and
22 local rules, regulations and statutes relating to . . . civil rights.” Ariz. Rev. Stat. § 15-
23 183(E)(1).

24 18. Under the statutorily mandated requirements for a charter, a charter-school
25 operator must “[e]nsure that [the charter school] is nonsectarian in its programs,
26 admissions policies and employment practices and all other operations.” Ariz. Rev. Stat.
27 § 15-183(E)(2).

28

1 policies, procedures, and curriculum, although an array of separately incorporated entities
2 act as the incorporators and charter holders of the various campuses.

3 26. Defendant Heritage Academy, Inc., is an Arizona nonprofit corporation and
4 the charter holder for and legal operator of Heritage Academy (Mesa Campus). Heritage
5 Academy (Mesa) is a public charter school for grades 7-12 that is sponsored by the
6 Arizona State Board for Charter Schools.

7 27. Defendant Heritage Academy, Inc., is the sole incorporator of Defendants
8 Heritage Academy East Mesa, Inc.; Heritage Academy Mesa, Inc.; and Heritage
9 Academy Gilbert, Inc.

10 28. Defendant Heritage Academy, Inc., is the sole member of Defendants
11 Heritage Academy IP, LLC, and Heritage Academy CMO, LLC.

12 29. Defendant Heritage Academy Queen Creek, Inc., is an Arizona nonprofit
13 corporation and the charter holder for and legal operator of Heritage Academy (Gateway
14 Campus). Heritage Academy (Gateway) is a public charter school for grades 7-12 that is
15 sponsored by the Arizona State Board for Charter Schools.

16 30. Defendant Heritage Academy Laveen, Inc., is an Arizona nonprofit
17 corporation and the charter holder for and legal operator of Heritage Academy (Laveen
18 Campus). Heritage Academy (Laveen) is a public charter school for grades 7-12 that is
19 sponsored by the Arizona State Board for Charter Schools.

20 31. Taking all three campuses together, more than 1100 students attend
21 Heritage Academy.

22 32. Defendant Earl Taylor Jr. is the founder and president of Heritage
23 Academy, Inc., and a director of Heritage Academy East Mesa, Inc.; Heritage Academy
24 Mesa, Inc.; Heritage Academy Gilbert, Inc.; Heritage Academy Queen Creek, Inc.; and
25 Heritage Academy Laveen, Inc.

26 33. Taylor is also the principal of Heritage Academy and serves as an instructor
27 at multiple campuses.

28

1 Academy, which includes ensuring that Heritage Academy complies with the U.S.
2 Constitution. Ariz. Rev. Stat. § 15-183(A), (C), (R).

3 44. Defendant Diane Douglas is the Superintendent of Public Instruction and in
4 that capacity is also, by statute, a member of the Arizona State Board for Charter Schools
5 and the Arizona Board of Education. She is sued in her official capacity.

6 45. Defendant Kathy Senseman is President of the Arizona State Board for
7 Charter Schools, and is sued in her official capacity.

8 46. Defendant Freddy Mendoza is Vice President of the Arizona State Board
9 for Charter Schools, and is sued in his official capacity.

10 47. Defendants Carol Crockett, Janna Day, Aracely Espinoza, Jake Logan,
11 Matthew Mason, Greta Mayans, and Erik Twist are members of the Arizona State Board
12 for Charter Schools, and are sued in their official capacities.

13 48. Defendant Craig C. Brown is the Director of the Arizona Department of
14 Administration, and is sued in his official capacity for the limited purpose of seeking
15 injunctive relief relating to the improper disbursement of state tax dollars to Heritage
16 Academy.

17 **C. Plaintiffs**

18 49. Plaintiff John Doe is an Arizona taxpayer and the parent of at least one
19 child currently attending Heritage Academy. As a parent, Doe believes that it is his
20 responsibility—not the state’s—to provide for his child or children’s religious education.
21 Doe objects to and is offended by Heritage Academy’s and Defendant Taylor’s
22 instruction that exposes Doe’s child or children, and all Heritage students, to religious
23 beliefs and that directs the students to express those beliefs in graded assignments. Doe
24 believes that, through this religious instruction, Taylor and Heritage Academy have
25 elevated some religious beliefs over other religious beliefs and religion over nonreligion,
26 and have usurped and violated his constitutional rights as a parent. Doe also objects to,
27 and is injured by, Heritage Academy’s use of his tax dollars to provide religious
28 instruction to public-school students.

1 *World: The 5000 Year Leap*, and *The Making of America*. Excerpts from *Leap* are
2 attached as Exhibit B. Excerpts from *Making of America* are attached as Exhibit C.

3 58. Before the 2015-2016 academic year, Defendant Taylor assigned *Leap* and
4 *Making of America* as mandatory textbooks for the American Government class.

5 59. *Leap* and *Making of America* are currently listed as “High School Required
6 Classical Reading” in the Heritage Academy Course Catalog.¹

7 60. *Leap* and *Making of America* are also listed as part of the Heritage
8 Academy “Classical Studies” for “Honors Recognition” program described in the student
9 handbook.²

10 61. Skousen, the author of *Leap* and *Making of America*, was a writer and
11 political activist who founded NCCS in 1971.³

12 62. Skousen was closely associated with the John Birch Society and once
13 accused President Eisenhower of being a Communist agent.

14 63. Skousen was also a professor at Brigham Young University and a Mormon
15 theologian who was eventually shunned by the Church of Jesus Christ of Latter-day
16 Saints (i.e., the official Mormon church).⁴

18 ¹ *Heritage Academy Course Catalog 2016-2017*, HERITAGE ACADEMY, 19,
19 <http://tinyurl.com/HeritageAcademy16-17>.

20 ² *Heritage Academy Scholar/Parent Handbook 2016-2017*, HERITAGE ACADEMY, 11-16,
21 <http://tinyurl.com/HeritageAcademyStudentHandbook>.

22 ³ *Flooding the Nation with Principles of Liberty*, NATIONAL CENTER FOR
23 CONSTITUTIONAL STUDIES, [https://nccs.net/2007-03-flooding-the-nation-with-principles-
24 of-liberty](https://nccs.net/2007-03-flooding-the-nation-with-principles-of-liberty).

25 ⁴ See Ryan Lenz, *Tea Party Patriots, Among Many, Pushing Distorted U.S. History*,
26 SOUTHERN POVERTY LAW CENTER (June 9, 2011), <http://tinyurl.com/SPLCarticle>; Sean
27 Wilentz, *Confounding Fathers: The Tea Party’s Cold War Roots*, THE NEW YORKER
28 (Oct. 18, 2010), <http://tinyurl.com/NewYorker2010Article>; Tim Murphy, *How W. Cleon
Skousen Whitewashed American History*, MOTHER JONES (2010),
<http://tinyurl.com/MotherJones2010Article>; Krissah Thompson, *Conservative class on
Founding Fathers’ answers to current woes gains popularity*, Washington Post (June 5,
2010), <http://tinyurl.com/WaPo2010Article>; Alexander Zaitchik, *Meet the Man who
Changed Glenn Beck’s Life*, SALON (Sep. 16, 2009), [http://www.salon.com/2009/09/16/
beck_skousen/](http://www.salon.com/2009/09/16/beck_skousen/).

1 64. The Heritage course catalog informs parents, regarding the books like *Leap*
2 and *Making of America* that are on Heritage’s required-classical-reading list, that “[m]any
3 of these selections can be read during the summer, in preparation for school. We
4 encourage parents to involve their children in summer reading of some of these books to
5 increase their reading skills, to better prepare for school studies, and to lighten the load
6 during the school year.”⁵

7 65. During the 2015-2016 school year, Defendant Taylor distributed free copies
8 of *Making of America* to the students in his American Government classes.

9 66. During the 2015-2016 school year, Taylor frequently referred to *Making of*
10 *America* while teaching the American Government class.

11 67. *Leap* is routinely cited as authority by students writing for the Heritage
12 Academy student journal, *Independence*.

13 68. *Leap* and *Making of America* therefore remain supplemental required
14 readings for Heritage Academy students.

15 69. *Proclaim Liberty*, *Leap*, and *Making of America* advance religious beliefs.

16 70. *Proclaim Liberty*, *Leap*, and *Making of America* repeatedly cite Bible
17 verses as authoritative sources for history or political philosophy. *See, e.g., Proclaim*
18 *Liberty* (Ex. A), at 30-31, 76-79; *Leap* (Ex. B), at 15-17, 42-43, 58, 169, 170, 283, 293;
19 *Making of America* (Ex. C), at 48-50.

20 71. *Proclaim Liberty*, *Leap*, and *Making of America* describe as historical fact
21 Bible stories about the ancient Israelites’ escape from slavery in Egypt and establishment
22 of their own government while wandering in the Sinai wilderness. *See Proclaim Liberty*
23 (Ex. A), at 76-79; *Leap* (Ex. B), at 15-17; *Making of America* (Ex. C), at 48-50. The texts
24 cite Bible verses as historical support for these stories. *Id.*

25
26
27 _____
28 ⁵ *Heritage Academy Course Catalog 2016-2017*, HERITAGE ACADEMY, 19,
<http://tinyurl.com/HeritageAcademy16-17>.

1 72. When teaching Heritage Academy’s American Government class, Taylor
2 describes Bible stories about Moses, ancient Israel, and the divine source of Old
3 Testament law as historical fact.

4 73. *Proclaim Liberty*’s Preface states: “[The NCCS] gratefully acknowledge[s],
5 as [the Founders] did, that America and its Constitution were established by the hand of
6 God; and thus we advocate morality and religious principles as the essential foundation
7 of human happiness and freedom.” *Proclaim Liberty* (Ex. A), at 3.

8 74. *Proclaim Liberty* is constructed around and advocates for twenty-eight
9 “Principles of Liberty,” all of which have been copied word-for-word from *Leap*.
10 *Proclaim Liberty* (Ex. A), at 15; *Leap* (Ex. B), at xiii.

11 75. *Proclaim Liberty* asserts that these twenty-eight principles are an “ancient”
12 “success formula” used by the Founders of the United States to create a system of
13 governance that uniquely led to “freedom, prosperity, and peace.” *Proclaim Liberty* (Ex.
14 A), at 3.

15 76. *Proclaim Liberty* tells students that they should learn and apply these
16 principles today, saying: “The Founders laid the foundation for us; we must preserve it.
17 To do so, we must to [sic] know their success formula well. . . . [The NCCS] believe[s]
18 that as we learn and implement the sound principles taught by our Founding Fathers,
19 America’s divine stewardship as a beacon of liberty to all mankind will yet be fulfilled.
20 Our program is a positive, constructive campaign of education to help our country get
21 back on its constitutional track.” *Proclaim Liberty* (Ex. A), at 3; *see also Proclaim*
22 *Liberty* (Ex. A), at 59.

23 77. *Proclaim Liberty* asserts that its twenty-eight principles derive from the
24 Christian God and the Christian Bible. *See Proclaim Liberty* (Ex. A), at 7, 19, 76-79.

25 78. Like *Proclaim Liberty*, *Leap* asserts that these twenty-eight principles are
26 “eternally true” and must be followed in order to attain “[h]uman happiness.” *Leap*
27 (Ex. B), at 5-6.

28

1 which it can never depart, and without which it would cease to be.” *Proclaim Liberty*
2 (Ex. A), at 19.

3 87. As additional support for the first principle, *Proclaim Liberty* quotes
4 Blackstone for the proposition that the “‘law of nature’” is the “‘will of [man’s] Maker’”
5 and “‘is binding over all the globe in all countries, and at all times: no human laws are of
6 any validity, if contrary to this’” *Proclaim Liberty* (Ex. A), at 19.

7 88. *Proclaim Liberty* explains that natural law may be identified through
8 “scientific investigation” or divine “revelation.” *Proclaim Liberty* (Ex. A), at 19
9 (quoting Blackstone, *Commentaries on the Laws of England*, Vol. 1, Sec. II).

10 89. When explaining the first principle (“The only reliable basis for sound
11 government and just human relations is Natural Law.”), *Leap* (which is on the required-
12 reading list for Heritage students) describes natural law as “a code of ‘right reason’ from
13 the Creator himself” that “cannot be altered” or “repealed.” *Leap* (Ex. B), at 40.

14 90. *Leap* states that even “pagan[s]” can discover natural law by “reason[ing]
15 their way . . . to . . . the brilliant intelligence of a supreme Designer with an ongoing
16 interest in both human and cosmic affairs.” *Leap* (Ex. B), at 39.

17 91. Like *Proclaim Liberty*, *Leap* also applauds Cicero, the Roman consul and
18 orator, for his “compelling honesty” in believing in natural law. *Leap* argues that Cicero
19 rightly recognized that “the only intelligent approach to government, justice, and human
20 relations is in terms of the laws which the Supreme Creator has already established”—
21 i.e., natural law. *Leap* (Ex. B), at 39.

22 92. *Leap* quotes the Bible to demonstrate that the “Creator” and giver of natural
23 law is the God of the Christian Bible. *Leap* (Ex. B), at 42-43.

24 93. According to *Leap*, God-given natural law includes “the concept of habeas
25 corpus,” “the right to contract,” “laws protecting the family and the institution of
26 marriage,” “the concept of justice by reparation,” and “the right to bear arms.” *Leap*
27 (Ex. B), at 46-47.

28

1 points of fundamental religious belief” should be taught in public schools. *Proclaim*
2 *Liberty* (Ex. A), at 22-23.

3 104. According to *Proclaim Liberty*, these five “truths” are: (1) “There exists a
4 [Creator] who made all things, and mankind should recognize and worship Him”; (2)
5 “[t]he Creator has revealed a moral [code] of behavior for happy living which
6 distinguishes right from wrong”; (3) “[t]he Creator holds mankind responsible for the
7 way they [treat] each other”; (4) “[a]ll mankind [lives] beyond this life”; and (5) “[i]n the
8 next life mankind is [judged] for its conduct in this one.” *Proclaim Liberty* (Ex. A), at 23;
9 *see also Proclaim Liberty* (Ex. A), at 170.

10 105. *Leap* says that these “five points of fundamental religious belief” “run
11 through practically all of the Founders’ writings” and constitute the “religion of
12 America.” *Leap* (Ex. B), at 78.

13 106. *Leap* states that the Founders “built the whole Constitutional framework”
14 on these five religious “truths.” *Leap* (Ex. B), at 92.

15 107. *Leap* contends that these five “religious precepts” were the “heart and soul
16 of the entire American political philosophy” and were borrowed from “John Locke, Sir
17 William Blackstone, and other great thinkers of the day, who took them directly from the
18 Bible.” *Leap* (Ex. B), at 92.

19 108. When teaching the fourth principle at Heritage Academy, Defendant Taylor
20 has told students that all “sound” religions subscribe to these five “truths,” and that
21 teaching these “truths” in public school does not constitute teaching the sectarian doctrine
22 of any particular church because these “truths” are part of the “universal religion of all
23 mankind.”

24 109. Taylor has also taught in class that teaching these “truths” in public
25 schools, especially by teaching the Bible in public-school classes, would reduce the rates
26 of crime and teen pregnancy.

Fifth Principle

1
2 110. The fifth principle is: “All things were created by God, therefore upon Him
3 all mankind are equally dependent, and to Him they are equally responsible.” *Proclaim*
4 *Liberty* (Ex. A), at 24.

5 111. When explaining the fifth principle, *Leap* argues that there must be a
6 Creator because the “mind . . . will not accept the proposition that the forces of nature,
7 churning about among themselves, would ever produce a watch, or even a lead pencil, let
8 alone the marvelous intricacies of the human eye” *Leap* (Ex. B), at 95-96.

9 112. That contention is a well-known argument by creationists for the existence
10 of God that is based on the watchmaker analogy of the Rev. William Paley in *Natural*
11 *Theology: Or, Evidences of the Existence and Attributes of the Deity*, a work of Christian
12 apologetics originally published in 1802. According to Paley, one who found a watch
13 lying in a field, and had never seen a watch before, would examine the watch and infer
14 from its complexity and construction from many parts that there must have been a
15 watchmaker. Paley argued by analogy that, in the same way, one should infer from the
16 complexities of, for example, the human eye that there must have been an intelligent
17 being that created the eye—and that this creator is God. *See, e.g., Kitzmiller v. Dover*
18 *Area Sch. Dist.*, 400 F. Supp. 2d 707, 718, 741-42 (M.D. Pa. 2005) (finding that
19 arguments for “intelligent design” are “merely a restatement of the Reverend William
20 Paley’s argument”—a religious doctrine that cannot lawfully be taught in public schools).

21 113. *Leap* also explains at length the Creator’s attributes, calling God a
22 “cognitive” being with “a sense of compassion and love,” “a fine sense of right and
23 wrong,” “a sense of indignation or even anger with those who violate the laws of ‘right’
24 action,” “a strong sense of ‘justice,’” “a sense of humor,” and an appreciation of “beauty
25 through color, form, and contrasts.” *Leap* (Ex. B), at 97.

26 114. When *Leap* describes and attributes behavior to a Creator, it presents as fact
27 religious beliefs that are particular to a Christian or Judeo-Christian understanding of
28 God. *See Leap* (Ex. B), at 97, 133-34, 170.

1 115. *Proclaim Liberty* and *Leap* contend that none of the Founders were Deists.
2 *See Proclaim Liberty* (Ex. A), at 24; *Leap* (Ex. B), at 99.

3 116. Taylor also told Heritage students during his American Government class
4 that the Founders—including Benjamin Franklin and Thomas Jefferson in particular—
5 were not deists.

6 117. In actuality, several Founders were deists. *See* Matthew Stewart, *Nature’s*
7 *God: The Heretical Origins of the American Republic* 31-34 (2014).

8 118. To defend the fifth principle, *Leap* asserts that the Founders adopted “In
9 God we trust” as the motto of the United States. *Leap* (Ex. B), at 100.

10 119. In actuality, “In God we trust” was not adopted as the national motto until
11 1956. *See* Pub. L. No. 84-140, 69 Stat. 290.

12 120. When explaining the fifth principle, *Leap* states that John Locke (the 17th-
13 century English philosopher) believed that atheists had simply “never dealt with the issue
14 of the Creator’s existence” and were necessarily “irrational.” *Leap* (Ex. B), at 96.

15 121. When teaching the fifth principle at Heritage Academy, Defendant Taylor
16 told students that Locke said that anyone who does not believe in God is “irrational.”

17 122. Later during the same lesson, Taylor defined “irrational” as “not talking to
18 [one’s] brain.” He then invited the students to “talk to our brain” in a “great experiment.”

19 123. Taylor’s “great experiment” was to direct the students to have the following
20 conversation with their “brain[s]”: “Brain, after all the eons of time, all the melting, and
21 churning, and freezing, and convulsing of nature, throughout all the universe, throughout
22 all everything . . . after all that, all of a sudden popped out a watch. Still talking to your
23 brain? . . . What is your brain saying to you? . . . ‘Does not compute. Illogical’ . . . Is that
24 what your brain is telling you? ‘Won’t buy it.’ . . . I ask you, why isn’t your brain buying
25 this? . . . Your brain knows that this watch is a product of high-precision engineering and
26 intelligent design.”

27 124. That thought experiment is, once again, a creationist argument for the
28 existence of God, based on the Rev. William Paley’s *Natural Theology*, that the U.S.

1 District Court for the Middle District of Pennsylvania held cannot lawfully be taught in a
2 public school. *See Kitzmiller*, 400 F. Supp. 2d at 741-42.

3 125. To support his argument in favor of creationism, Taylor also explained to
4 the students what he describes as Locke’s argument for God’s existence—namely, that
5 because “something” (e.g., a person) exists, and something cannot come from nothing,
6 there must be a great “something” that brought everything into existence. *See also*
7 *Proclaim Liberty* (Ex. A), at 24.

8 126. Taylor told Heritage students in his American Government class about a
9 battle that occurred in the mid-18th-century, during the French and Indian War.
10 According to Taylor, the French Navy was sent to attack the British colonies’ ports. The
11 colonists’ only defense, Taylor said, was “the defense they had always relied on”: “You
12 establish a day of fasting and prayer, come together in that spirit, and ask God to
13 intervene.” Taylor explained that the colonists met together in Boston’s Old South
14 Church to pray for God’s intervention. During that meeting, Taylor said, the sky
15 darkened, the windows rattled, the church bell rang, and the Rev. Thomas Prince, the
16 church’s pastor, prayed in response: “Oh God we hear thee, we hear thee, thou hast
17 answered our prayers, thou hast sunk those frigates to the bottom of the sea, oh God.” A
18 week later, according to Taylor, the colonists learned that on that same day, a storm had
19 destroyed the French Navy.

20 127. Taylor assured the students that this story of divine intervention was true,
21 declaring: “this is in the history,” and “that’s one of dozens of stories I could tell you,
22 folks, that are not taught anymore in school but it’s in the history. That’s what’s
23 happening today. We are not teaching American history the way it really happened.
24 That’s all we’re asking. Just teach it the way it happened.”

25 **Sixth Principle**

26 128. When explaining the sixth principle (“All men are created equal.”), *Leap*
27 purports to describe the experiences of minorities in the United States. *Leap* (Ex. B), at
28 103.

1 129. *Leap* states that “every ethnic group in the American society was once a
2 minority” that had to “cross[] the culture gap” in order to be “treated completely as
3 equals.” *Leap* (Ex. B), at 106-07.

4 130. According to *Leap*, “crossing the culture gap” involves “learning the
5 English language—with an American dialect more or less; attaining the general norm of
6 education . . . ; becoming economically independent—which often means getting out of
7 the ghetto; and becoming recognized as a social asset to the community” *Leap* (Ex.
8 B), at 106.

9 131. *Leap* praises certain minority groups for reacting to hostile and overt
10 discrimination with patience and patriotism; and the book attributes their eventual
11 assimilation to a lack of “bitter[ness].” *Leap* (Ex. B), at 107-09.

12 132. *Leap* says that “[m]any early political leaders . . . were fearful the blacks
13 might never achieve complete adjustment because of the slavery culture in which the first
14 few generations were raised.” *Leap* (Ex. B), at 108.

15 133. *Leap* further says: “Providing equality for the blacks has never been
16 approached with any degree of consensus. Some felt that with education and job
17 opportunities the blacks could leap the culture gap just as other minorities had done.
18 Others felt they should be made the beneficiaries of substantial government gratuities.
19 Experience soon demonstrated, however, that government gratuities are as corrupting and
20 debilitating to blacks as they are to the Indians” *Leap* (Ex. B), at 109.

21 134. *Leap* then devotes several pages to the story of Eldridge Cleaver. *Leap* (Ex.
22 B), at 109-111.

23 135. According to *Leap*, Cleaver was a leader of the Black Panthers in the 1960s
24 and “had been trained in Marxist philosophy and tactics.” *Leap* (Ex. B), at 109.

25 136. *Leap* says that, as a member of the Black Panthers, Cleaver sought “to
26 destroy the whole economic and social structure of the United States so that blacks could
27 enjoy equal rights under an American Communist regime.” *Id.*

28

1 “divine law”: “every person must be willing to work for the things he desires from life
2 and not covet and scheme to get the things which belong to his neighbor.” *Leap* (Ex. B),
3 at 132-33.

4 144. *Leap* also says that the “Creator has imposed on every human being of
5 normal mental capacity” “[t]he duty to become economically self-sufficient.” *Leap* (Ex.
6 B), at 134-35.

7 **Eighth Principle**

8 145. *Leap* explains the eighth principle (“Men are endowed by their Creator with
9 certain unalienable rights.”) by saying, “no one . . . can TAKE [God-given rights] from us
10 without being subject to God’s justice. This is what makes certain rights
11 UNALIENABLE. . . . That is why they are called *natural* rights.” *Leap* (Ex. B), at 124.

12 146. *Leap* also quotes French philosopher Frederic Bastiat to demonstrate that
13 the unalienable rights to life, liberty, and property come from God. *See Leap* (Ex. B), at
14 128-29.⁶

15 **Ninth Principle**

16 147. *Proclaim Liberty*’s ninth principle is: “To protect man’s rights, God has
17 revealed certain principles of divine law.” *Proclaim Liberty* (Ex. A), at 30.

18 148. When explaining the ninth principle, *Proclaim Liberty* tells students that
19 they must obey “divine law” in order to live a good life, calling it a “divine pattern of law
20 for human happiness.” *Proclaim Liberty* (Ex. A), at 30.

21 149. *Proclaim Liberty* also asserts that our unalienable rights “could not remain
22 unalienable unless they were protected” by divine law, and that “[a]n analysis of the
23 essential elements of God’s code of Divine Law reveals that it is designed to promote,
24 preserve, and protect man’s unalienable rights.” *Proclaim Liberty* (Ex. A), at 30.

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27 ⁶ In fact, Bastiat was not born until 1801, and hence his writings could not have
28 influenced the ideas that went into the framing of the Declaration of Independence, the
Constitution, or the Bill of Rights.

1 150. *Leap* elaborates on the ninth principle by saying, “Rights, though endowed
2 by God as unalienable prerogatives, could not remain unalienable unless they were
3 protected as enforceable rights under a code of divinely proclaimed law.” *Leap* (Ex. B),
4 at 131.

5 151. *Leap* also says that the “Creator” has, through “divine law,” imposed
6 “unalienable duties” “on every human being of normal mental capacity.” *Leap* (Ex. B), at
7 133-34. These “unalienable duties” are “an inherent part of Natural Law” and include
8 “[t]he duty to honor the supremacy of the Creator and his laws.” *Leap* (Ex. B), at 134.

9 152. *Proclaim Liberty* and *Leap* both identify the Ten Commandments as an
10 example of this divine law. *See Proclaim Liberty* (Ex. A), at 30-31; *Leap* (Ex. B), at 133.

11 153. *Proclaim Liberty* also includes a paraphrased version of the Ten
12 Commandments. *Proclaim Liberty* (Ex. A), at 30-31.

13 154. *Proclaim Liberty*’s restatement of the Ten Commandments includes the
14 following mandates: 1) individuals should “recogni[ze] God’s [supremacy] over all
15 things;” 2) “man is specifically forbidden to attribute God’s power to [false] gods;” 3)
16 “the name of God is to be held in reverence and every [oath] taken in the name of God is
17 to be carried out with the utmost fidelity lest the name of God be taken in vain;” and 4)
18 “one day each week [should] be set aside for the [study] of God’s law; . . . it is also to be
19 a day of worship and the personal renewing of one’s commitment to obey God’s law for
20 happy living.” *Proclaim Liberty* (Ex. A), at 30-31; *see also Leap* (Ex. B), at 132.

21 155. *Proclaim Liberty* then adds that “[t]here are many additional laws set forth
22 in the Bible which clarify and define these principles.” *Proclaim Liberty* (Ex. A), at 31;
23 *see also Leap* (Ex. B), at 133.

24 156. *Proclaim Liberty* states that the “system of criminal justice . . . prescribed
25 by divine law and practiced in ancient times” by the Israelites “includes a remarkable
26 system for the dispensing of criminal justice.” *Proclaim Liberty* (Ex. A), at 31. It further
27 states that “[a]mong modern nations there is no system of criminal justice as efficient and
28 equitable” as that outlined in the Old Testament. *Proclaim Liberty* (Ex. A), at 31.

1 and therefore when he voted in political elections, he not only cast a ballot for himself,
2 but also for his wife and children.” *Leap* (Ex. B), at 282.

3 171. *Leap* cites the Bible to support its views about traditional gender roles. *See*
4 *Leap* (Ex. B), at 283.

5 172. Elsewhere, *Leap* names “unnatural sexual practices” as an “ingredient[] of
6 insanity which ha[s] shattered twenty mighty civilizations in the past” (*Leap* (Ex. B), at
7 4) and approvingly cites the Anglo-Saxon criminal code for, among other things, making
8 homosexuality a capital offense (*Leap* (Ex. B), at 14).

9 173. *Leap* also asserts that “the Creator has imposed on every human being of
10 normal mental capacity” “[t]he duty to maintain the integrity of the family structure” and
11 “[t]he duty to perpetuate the race.” *Leap* (Ex. B), at 134-35.

12 174. *Leap* further argues that government should not interfere with
13 “[l]egitimate” family relations and argues that “the strength and stability of the family is
14 of such vital importance to the culture that any action by the government to debilitate or
15 cause dislocation in the normal trilateral structure of the family [that is, a father, mother,
16 and children] becomes, not merely a threat to the family involved, but a menace to the
17 very foundation of society itself.” *Leap* (Ex. B), at 287-88.

18 **Other Class Requirements**

19 175. The students in Taylor’s American Government class must memorize
20 *Proclaim Liberty*’s twenty-eight principles and recite them in their entirety for the class.

21 176. The students in Taylor’s class must also prepare a “principles notebook.”
22 For each of the twenty-eight principles, students must find an article regarding a current
23 event, paste it in their notebooks, and then explain whether the event is consistent or
24 inconsistent with one of the principles. Satisfactory completion of the notebook
25 contributes to the student’s final grade.

26 177. To receive high marks for the notebook, students must apply these religious
27 principles to modern events in ways that are consistent with Taylor’s own beliefs.

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C. NCCS Website

187. Heritage Academy’s official website links to the website for Defendant Taylor’s organization, the National Center for Constitutional Studies.

188. Heritage Academy lists the NCCS website on a page labeled “Study Resources” “For Scholars,” “scholars” being the term that the school uses for its students. The NCCS website is the first link on a list of resources that includes the Library of Congress and the U.S. Government Publishing Office. *Study Resources*, HERITAGE ACADEMY, <http://tinyurl.com/HASStudyResources>. A copy of this webpage is attached as Exhibit D.

189. The NCCS website contains dozens of articles, most written by Taylor, that advocate for religious beliefs and quote Bible verses.

190. Many of these articles repeat and typically expand on the religious beliefs advanced by *Proclaim Liberty*, *Leap*, and *Making of America*. See, e.g., Earl Taylor Jr., *The Law of Nature and of Nature’s God*, NATIONAL CENTER FOR CONSTITUTIONAL STUDIES (2015), <http://tinyurl.com/NCCS022015>; Earl Taylor Jr., *America’s Dependence on and Accountability to the Creator*, NATIONAL CENTER FOR CONSTITUTIONAL STUDIES (2015), <http://tinyurl.com/NCCS062015>; Earl Taylor Jr., *Parallel Concepts between the U.S. Constitution & the Bible*, NATIONAL CENTER FOR CONSTITUTIONAL STUDIES (2014), <http://tinyurl.com/NCCS012014>; Earl Taylor Jr., *Parallel Concepts between the U.S. Constitution & the Bible (Continued)*, NATIONAL CENTER FOR CONSTITUTIONAL STUDIES (2014), <http://tinyurl.com/NCCS1220142>; Earl Taylor Jr., *Marriage and Family: The Stabilizing Foundation of Civilizations*, NATIONAL CENTER FOR CONSTITUTIONAL STUDIES (2014), <http://tinyurl.com/NCCS072014>; Earl Taylor Jr., *Biblical Basis for the Principles in the 5000 Year Leap*, NATIONAL CENTER FOR CONSTITUTIONAL STUDIES (2013), <http://tinyurl.com/NCCS102013>; Earl Taylor Jr., *Biblical Basis for the Principles in the 5000 Year Leap (Continued)*, NATIONAL CENTER FOR CONSTITUTIONAL STUDIES (2013), <http://tinyurl.com/NCCS112013>. These articles are attached as Exhibits E through K.

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D. Other Religious Instruction at Heritage Academy

191. A science teacher at Heritage Academy apologized to students for providing required instruction on evolution and told students that they did not need to believe the instruction on evolution that they received.

192. A history teacher at Heritage Academy responded to a student presentation on Charles Darwin by speaking for several minutes about how evolution is wrong.

193. A sign posted in one of the Heritage Academy science classrooms during the 2015-2016 school year states: “To study science is to learn the handy work [sic] of God.” The sign attributes the quotation to Copernicus.

194. Heritage Academy instructors frequently refer to God or Bible stories during class time.

195. For example, a physics teacher told students that the teacher was taught about the mechanics of the universe in college but not about “the Mechanic.”

196. The same physics teacher repeatedly referred to figures from the Bible, such as David or Noah, speaking of the Bible as historically accurate.

197. A Latin teacher, in an attempt to teach students that people behaved the same way in the past as they do today, told students that today we give birthday presents in the same way that the wise men gave birthday presents to Jesus.

198. Defendant Taylor told students that they will lead a happier life if they obey their church leaders.

199. Heritage Academy has a “Classical Studies” program, in which, with a faculty mentor, students read books that Heritage has identified as “classics” and receive honors recognition.¹¹

200. Several of the books that Heritage has listed as “classics” for this program are religious.

¹¹ *Heritage Academy Scholar/Parent Handbook 2016-2017*, HERITAGE ACADEMY, 11-16, <http://tinyurl.com/HeritageAcademyStudentHandbook>.

1 201. For example, in the category of “philosophy,” Heritage lists several
2 theological works by C.S. Lewis, including *Mere Christianity*, *The Weight of Glory*, and
3 *The Screwtape Letters*.

4 202. In the “history” category, the list includes several works by Skousen,
5 including the previously mentioned *Making of America* and *Leap*, as well as *The Majesty*
6 *of God’s Law: It’s Coming to America*.

7 203. *The Majesty of God’s Law* is an explicitly religious book that explains
8 Skousen’s views about God’s plans for the United States. Excerpts from this book are
9 attached as Exhibit L.

10 **E. History of Complaints About Heritage Academy’s**
11 **Unconstitutional Religious Instruction**

12 204. In 2000, the Arizona State Board for Charter Schools received a written
13 complaint from the parent of a Heritage Academy student.

14 205. The 2000 complaint stated that the “atmosphere” at Heritage Academy was
15 antagonistic to students who do not share the same faith as the majority of the teachers
16 and students.

17 206. The 2000 complaint further stated that the literature teacher at Heritage
18 Academy told students that “women who bear their 7th child will have a ‘higher place in
19 heaven’”; that an individual will “use drugs, alcohol, and tobacco products because he
20 enjoys rock music”; and that enjoyment of rock music means that a student “need[s] to be
21 included in [the teacher’s] prayers.”

22 207. In 2003, the Arizona State Board for Charter Schools received a written
23 complaint from the parent of a Heritage Academy student.

24 208. The 2003 complaint stated that Heritage Academy was using curricular
25 materials published by a publisher of Christian educational materials.

26 209. According to the 2003 complaint, the titles of several Heritage Academy
27 textbooks at the time included the phrase “in a Christian perspective.”
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1 210. The 2003 complaint further stated that a history book used at Heritage
2 Academy was “with out [sic] a doubt pro-Christian,” “severely lacking in what normally
3 would be taught in an American History book,” included “only one paragraph on slavery,
4 which simply stated that many slaves had kind masters who took care of them,” and had
5 “page after page of information on Christian missionaries.”

6 211. The 2003 complaint ended by saying: “I am a strong Christian, but I believe
7 that religion belongs in the home and church because I respect that others may not share
8 my beliefs. I hope that this letter can result in a change that will allow Heritage Academy
9 to continue with all that makes it a wonderful place to learn, but that the leaders of the
10 school may look closely at what they are teaching and put it more in harmony with the
11 purpose of a state funded school. School is not a place for preaching religion and extreme
12 political views.”

13 212. In 2004, the Arizona State Board for Charter Schools received a written
14 complaint from the parent of a Heritage Academy student.

15 213. The 2004 complaint stated that Heritage Academy was using a textbook
16 called “World History and Culture . . . in Christian Perspective,” written by George
17 Thompson and Jerry Combee and published by Pensacola Christian College.

18 214. According to the 2004 complaint, that textbook was written from a
19 “Christian perspective.”

20 215. The 2004 complaint further stated that the parent had not known that
21 Heritage Academy gave religious instruction to its students, that the parent had
22 complained to Heritage Academy’s administration without obtaining any change to the
23 school’s practices, and that the parent thereafter removed her child from the school.

24 216. The Arizona State Board for Charter Schools did not take action to stop the
25 religious instruction provided by Heritage Academy despite the 2000, 2003, and 2004
26 complaints.

27 217. On December 4, 2013, Plaintiffs’ counsel, Americans United for Separation
28 of Church and State, wrote to the Arizona State Board for Charter Schools and Heritage

1 Academy, complaining that Heritage Academy was violating the Establishment Clause
2 by providing religious instruction to its students. A copy of this letter is attached as
3 Exhibit M.

4 218. On April 3, 2014, the Board responded to Americans United, stating that
5 the complaint letter had “been reviewed in accordance with ASBCS policies and
6 procedures and the complaint is now closed.”

7 219. The Board’s response included a letter from Defendant Taylor to the Board
8 dated December 19, 2013, in which Taylor denied any wrongdoing.

9 220. No other explanation for the Board’s inaction was provided.

10 221. The Board’s April 2014 letter and Taylor’s December 2013 letter are
11 attached as Exhibit N.

12 222. On June 24, 2014, Americans United again wrote to the Board and
13 Defendant Taylor, explaining in detail how Heritage Academy’s use of the textbooks
14 *Leap* and *Making of America* violate the Establishment Clause. The letter asked the
15 Board to ensure that Heritage Academy cease to provide religious instruction to its
16 students. The letter (without accompanying exhibits), is attached as Exhibit O.

17 223. Also on June 24, 2014, Americans United submitted a public-records
18 request to the Board and Heritage Academy. That request is attached as Exhibit P.

19 224. Heritage Academy provided an incomplete response to the public-records
20 request on or about September 4, 2014.

21 225. The Board failed to respond either to the June 2014 letter or to the public-
22 records request.

23 226. On August 28, 2015, Americans United wrote a final demand letter to the
24 Board and Defendant Taylor, asking that Heritage Academy cease giving religious
25 instruction to its students. Neither the Board nor Defendant Taylor responded to this
26 letter. The letter (without exhibits) is attached as Exhibit Q.

27 227. The Board again took no action to stop Heritage Academy’s giving
28 religious instruction to students.

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F. Heritage Academy’s Receipt of Public Funding

228. As a public charter school, Heritage Academy does not charge tuition for students who are in-state residents. Rather, Heritage Academy is a public school that is supported by taxpayer dollars. *See* Ariz. Rev. Stat. § 15-185(B).

229. Heritage Academy receives public funding as a direct result of the actions of the Arizona State Board for Charter Schools and the Superintendent of Public Instruction, and specifically through payment from the Arizona Department of Administration.

IV. CLAIMS FOR RELIEF

A. Count I: Violations of the Establishment Clause of the First Amendment to the U.S. Constitution

230. The actions of Defendants set forth in paragraphs 1 through 229, fully incorporated here, entitle Plaintiffs to relief under 42 U.S.C. § 1983 because Defendants, acting under color of law, have subjected and will continue to subject Plaintiffs to deprivations of their rights under the Establishment Clause of the First Amendment to the U.S. Constitution, as applied to the states by the Fourteenth Amendment.

231. The religious instruction given at Heritage Academy violates the Establishment Clause, including in the following ways:

a. The religious instruction at Heritage Academy has an unconstitutional religious purpose.

b. Heritage Academy and its principal, Defendant Taylor, are advancing religious beliefs and mandates by instructing students that they should obey and implement laws given by God in order to lead a happy life and have a prosperous country.

c. The purpose and effect of Heritage Academy’s religious instruction are to advance and endorse specific religious viewpoints and beliefs, namely, the beliefs of Defendant Taylor, his organization (the NCCS), and W. Cleon Skousen (the author of many of the textbooks).

1 d. The religious instruction at Heritage Academy promotes religious
2 views to which Plaintiffs and other Heritage students and their families may not
3 subscribe. The religious instruction therefore violates the rights of Plaintiff Doe and other
4 parents to make decisions about the instruction with respect to religion that their children
5 will receive.

6 e. The actions of Heritage Academy’s governing bodies, teachers, and
7 principal convey a governmental message that students should subscribe to the religious
8 views embodied in and advanced by Heritage Academy’s teachings.

9 f. The religious instruction at Heritage Academy results in excessive
10 entanglement of government with religion, coerced religious instruction, and
11 endorsement by the state of religion over nonreligion and of a particular religion and
12 religious viewpoint over others.

13 g. Heritage Academy’s principal, Defendant Taylor, impermissibly
14 coerces Heritage students to study, recite, take tests about, practice religious beliefs and
15 doctrines, and proselytize those doctrines as course requirements for a required class that
16 Heritage students must pass in order to graduate high school.

17 h. The students’ course grades, ability to pass the American
18 Government and Healing of America classes, ability to graduate, and ability to attain a
19 favorable record and obtain recommendations for college applications all depend on
20 students’ compliance with Heritage Academy’s religious requirements.

21 i. The Heritage Academy Defendants expend public tax dollars on
22 religion, religious instruction, and religious instructional materials.

23 232. Plaintiffs are harmed, intimidated, and distressed by the Heritage Academy
24 Defendants’ endorsement and promotion of religious views, which Plaintiffs believe
25 should not be taught in public schools, and by the use of Plaintiffs’ tax dollars to fund
26 that endorsement and promotion of religious views.

27 233. The Defendant members of the Arizona State Board for Charter Schools
28 and the Superintendent of Public Instruction have violated and continue to violate the

1 Establishment Clause by failing to exercise their oversight authority to ensure that
2 Heritage Academy complies with the constitutional requirement that public education be
3 nonreligious. The Board members and the Superintendent have failed to enforce this
4 constitutional requirement both during their statutorily mandated five-year reviews of
5 each Heritage Academy campus and in response to multiple complaints during a fifteen-
6 year period about religious instruction at Heritage Academy.

7 234. The Superintendent of Public Instruction and the Director of the
8 Department of Administration have violated and continue to violate the Establishment
9 Clause by disbursing or causing to be disbursed public funds to Heritage Academy, with
10 the result that public tax dollars are directly funding religious instruction and the
11 purchase of religious instructional materials.

12 235. Plaintiffs are injured by the failure of oversight and by the payment of
13 public funds to Heritage Academy both because Plaintiff Doe's minor children are
14 subject to unwanted religious instruction and because Plaintiffs, as taxpayers, are having
15 their tax dollars unlawfully spent to promote and support religion and religious
16 instruction.

17 236. As a result of these violations of Plaintiffs' rights under the Establishment
18 Clause, Plaintiffs are entitled to declaratory and injunctive relief and the other remedies
19 listed below, including an injunction against the certification of an apportionment by the
20 Superintendent of Public Instruction for Heritage Academy and an injunction against the
21 payment of public money by the Director of the Department of Administration to
22 Heritage Academy or any Heritage Academy campus because the public funds are used
23 to provide religious instruction and to purchase religious instructional materials.

24 **B. Count II: Violations of the Arizona Constitution**

25 237. The actions of Defendants set forth in paragraphs 1 through 236, fully
26 incorporated here, entitle Plaintiffs to relief under Ariz. Const. art. II, § 12 and Ariz.
27 Const. art. IX, § 10.

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1 238. The religious instruction at Heritage Academy violates the Arizona
2 Constitution for all the reasons that it violates the federal Establishment Clause, including
3 that the religious instruction has a religious purpose; has a religious effect; entangles
4 government with religion; advances and endorses a particular faith; endorses religion
5 over nonreligion; and coerces students to receive religious instruction, provide religiously
6 based responses to assignments and tests, practice religion, and engage in proselytizing.

7 239. In addition, the Heritage Academy Defendants' expenditure of public tax
8 dollars on religion, religious instruction, and religious instructional materials violates the
9 Arizona Constitution.

10 240. Plaintiffs are harmed, intimidated, and distressed by the Heritage Academy
11 Defendants' endorsement and promotion of religious views, which Plaintiffs believe
12 should not be taught in public schools, and by the use of Plaintiffs' tax dollars to fund
13 that endorsement and promotion of religious views.

14 241. The Defendant members of the Arizona State Board for Charter Schools
15 and the Superintendent of Public Instruction have violated and continue to violate the
16 Arizona Constitution by failing to exercise their oversight authority to ensure that
17 Heritage Academy complies with the state constitutional requirement that public
18 education be nonreligious. The Board members and the Superintendent have failed to
19 enforce this constitutional requirement both during their statutorily mandated five-year
20 reviews of each Heritage Academy campus and in response to multiple complaints during
21 a fifteen-year period about religious instruction at Heritage Academy.

22 242. The Superintendent of Public Instruction and the Director of the
23 Department of Administration have violated and continue to violate the Arizona
24 Constitution by disbursing or causing to be disbursed public funds to Heritage Academy,
25 with the result that public tax dollars are directly funding religious instruction and the
26 purchase of religious instructional materials and to provide aid to a sectarian school.

27 243. Plaintiffs are injured by the failure of oversight and by the payment of
28 public funds to Heritage Academy both because Plaintiff Doe's minor children are

1 subjected to unwanted religious instruction and because Plaintiffs, as taxpayers, are
2 having their tax dollars unlawfully spent to promote and support religion and religious
3 instruction.

4 244. As a result of these violations of Plaintiffs' rights under the Arizona
5 Constitution, Plaintiffs are entitled to declaratory and injunctive relief and the other
6 remedies listed below, including an injunction against the certification of an
7 apportionment by the Superintendent of Public Instruction for Heritage Academy and an
8 injunction against the payment of public money by the Director of the Department of
9 Administration to Heritage Academy or any Heritage Academy campus because the
10 public funds are used to provide religious instruction and to purchase religious
11 instructional materials and constitute aid in support of a sectarian public charter school.

12 **V. PRAYER FOR RELIEF**

13 WHEREFORE, in light of the foregoing, Plaintiffs respectfully request the following:

14 a. A declaratory judgment, under 28 U.S.C. §§ 2201 and 2202 and 42
15 U.S.C. § 1983, declaring that the religious instruction at Heritage Academy violates the
16 Establishment Clause of the First Amendment to the U.S. Constitution and art. II, § 12,
17 and art. IX, § 10, of the Arizona Constitution;

18 b. An injunction, in accordance with Federal Rule of Civil Procedure
19 65, prohibiting the Heritage Academy Defendants from providing religious instruction or
20 using religious instructional materials at Heritage Academy;

21 c. An injunction prohibiting the Heritage Academy Defendants from
22 accepting or expending public funds for religious instruction, religious instructional
23 materials, or religion in any way;

24 d. An injunction against the members of the Arizona State Board for
25 Charter Schools requiring the Board to ensure that the public charter schools that it
26 sponsors comply with the Establishment Clause and the Arizona Constitution, including
27 by revoking or refusing to renew the charters of offending schools;

28

1 e. An injunction against the Superintendent of Public Instruction, in her
2 official capacity, prohibiting her from certifying any apportionment of public funds to
3 Heritage Academy if, and for as long as, Heritage Academy provides religious instruction
4 to its students or employs religious instructional materials in violation of the U.S. and
5 Arizona Constitutions;

6 f. An injunction against the Director of the Department of
7 Administration, in his official capacity, prohibiting him from providing state funding to
8 Heritage Academy if, and for as long as, Heritage Academy provides religious instruction
9 to its students or employs religious instructional materials in violation of the U.S. and
10 Arizona Constitutions;

11 g. Nominal damages against all Heritage Academy Defendants for
12 violating Plaintiffs' rights under the First and Fourteenth Amendments to the U.S.
13 Constitution and the Arizona Constitution;

14 h. An order awarding Plaintiffs their attorneys' fees and costs incurred
15 in this litigation, pursuant to 42 U.S.C. § 1988, the private attorney general doctrine, and
16 other applicable law; and

17 i. Any other relief that the Court deems just and proper.

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Respectfully submitted this 7th day of September, 2016.

COPPERSMITH BROCKELMAN PLC

By s/ Roopali H. Desai
Roopali H. Desai
Keith Beauchamp
D. Andrew Gaona

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