

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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PASTOR JAMES ROEMKE, and )  
CAROLENA ROEMKE, a minor, by and through )  
her Guardian PASTOR JAMES ROEMKE )  
and EVA ROEMKE, a minor, by and through )  
her Guardian PASTOR JAMES ROEMKE )

*Plaintiffs,*

vs.

Case No.

KENOSHA UNIFIED SCHOOL DISTRICT )  
BOARD OF EDUCATION, )  
and, )  
DR. BETHANY ORMSETH, in her individual and )  
official capacity as superintendent for the Kenosha )  
Unified School District Board of Education, )  
and, )  
YOLANDA ADAMS, in her individual and official )  
capacity as president of Kenosha Unified School )  
District Board of Education )

*Defendants.*

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**COMPLAINT**

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**INTRODUCTION**

1. This case presents a legal challenge to the mandatory mask requirement adopted by a public school system in Wisconsin. Because they refused to wear a mask in school due to religious reasons, two minor students have been sent home or threatened to be sent home numerous times during 2021 and 2022 school years.

2. This is an action for injunctive relief, declaratory relief, and damages pursuant to Wisconsin Constitution, Wisconsin General Statutes, and 42 U.S.C. § 1983 brought to redress the unconstitutional deprivation of plaintiffs' rights to freedom of religion under the First Amendment of the United States Constitution as applied to the states through the Fourteenth Amendment, two minor children's parent's right to direct his children's upbringing under due process of law required by the Fifth and Fourteenth Amendments of the United States Constitution, free of conscience and religious liberty under Article I, Section 18 of the Wisconsin Constitution, and Article X, Section 3 of the Wisconsin Constitution which guarantee every child of the state an opportunity to receive a sound basic education in public school.

#### **JURISDICTION AND VENUE**

3. This Court is vested with original jurisdiction over this action pursuant to 28 U.S.C. §1331 for Plaintiff's claims arising under U.S. Constitution, 42 U.S.C. § 1983, based on Defendant's continued violations of U.S. Constitution, 42 U.S.C. § 1983, and supplemental jurisdiction over Plaintiff's state law claims under Wisconsin Constitution and Wisconsin Statutes.

4. The Eastern District of Wisconsin is the proper venue for this action because Plaintiff's claims arose within the geographical boundaries of the Eastern District of Wisconsin within the meaning of 28 U.S.C. §1391(b).

#### **PARTIES**

5. Plaintiff Pastor James Roemke, hereinafter referred to as "Pastor Roemke" is a long-time resident of Kenosha County, Wisconsin.

6. Plaintiff Carolena Roemke, by and through her legal guardian Pastor James Roemke, hereinafter cited as “Lena” is a minor child, born on February 28, 2008, who has resided with her parents Pastor James Roemke and Lesa Roemke all her life. Lena is the daughter of Plaintiff Pastor James Roemke.

7. Plaintiff Eva Roemke, by and through her legal guardian Pastor James Roemke, hereinafter cited as “Eva” is a minor child, born on June 3, 2010, who has resided with her parents Pastor James Roemke and Lesa Roemke all her life. Eva is the daughter of Plaintiff Pastor James Roemke.

8. Defendant Kenosha Unified School District Board of Education is a duly authorized school board that administers the public education for the city of Kenosha, village of Pleasant Prairie, and town and village of Somers in southeastern Wisconsin, specifically eastern Kenosha County. A unified school district is a body corporate with the power to sue and be sued. Wis. Stat. § 120.44 (1). The Kenosha Unified School District of Education shall hereinafter be referred to as “KUSD”.

9. Defendant Dr. Bethany Ormseth and at all relevant times was the Superintendent for KUSD. Defendant Ormseth is being sued in her individual and official capacity. Defendant Ormseth will hereinafter be referred to as “Superintendent”.

10. Defendant Yolanda Adams is and at all relevant times was The President of KUSD. Defendant Adams is being sued in her individual and official capacity. Hereafter Defendant Adams shall be referred to as “President”.

### **STATEMENTS OF FACTS**

11. Plaintiff Pastor James Roemke is a long-time resident of Kenosha County, Wisconsin.

12. According to Defendant KUSD mask requirement update on March 31, 2021, mask wearing, physical distancing and other safety measures apply to all students in Defendant KUSD buildings.

13. On September 7, 2021, Pastor Roemke submitted two religious exemption forms to Defendant KUSD for his children Lena and Eva. In the forms, Pastor Roemke attested that his children and him have a genuine and sincerely held religious belief which prohibits them from wearing a mask while at school. The exemption request is primary based on Pastor Roemke's belief that the universal mask mandate for all the KUSD schools violates the Fourth Commandment – Honor your father and your mother. Pastor Roemke believes that according to the Bible, parents are always the best advocates for their children's needs and should have the final say regarding safety and wellness for their children. Pastor Roemke and his wife think that mandatory masking contradicts such religious belief and practice.

14. On September 9, 2021, Defendant KUSD rejected Pastor Roemke's religious exemption requests for his children.

15. Defendant KUSD sent Lena home during school hours numerous times in year 2021 and 2022 for her failure to wear a mask due to her religious belief and upbringing.

16. Defendant KUSD threatened to send Eva home during school hours numerous times in year 2021 and 2022 for her failure to wear a mask due to her religious belief and upbringing.

17. Lena and Eva could not receive sound and basic education at home due to working parents and limited education resources.

18. Plaintiffs' family cannot afford private schools that are regulated by the State of Wisconsin for Lena and Eva because of the extraordinary cost.

**FIRST CLAIM**

19. Defendant KUSD, acting under color of state law deprived Plaintiffs of rights guaranteed by the Free Exercise Clause of the First Amendment as applied through the Fourteenth Amendment to the Constitution of the United States in violation of 42 U.S.C. § 1983 by sending Lena home and threatening to send Eva home during school hours because of their failure to wear a mask for religious grounds.

**SECOND CLAIM**

20. Defendant Superintendent and Defendant President, in their individual and official capacities, acting under the color of state law, deprived Plaintiffs of rights guaranteed by the Free Exercise Clause of the First Amendment as applied through the Fourteenth Amendment of the Constitution of the United States in violation of 42 U.S.C. § 1983 by sending Lena home and threatening to send Eva home during school hours because of their failure to wear a mask for religious grounds. Defendants Superintendent and President knew or should have known that they were violating clearly established law or policy.

**THIRD CLAIM**

21. All Defendants deprived Lena and Eva of the right to receive a sound, basic education in a public school in violation of Article. I, Section 1 and Article X, Section 3 of the Wisconsin Constitution by sending Lena home and threatening to send Eva home during school hours because of their failure to wear a mask for religious grounds.

**FOURTH CLAIM**

22. Defendant KUSD, under the color of state law, enacted a policy unconstitutional on its face because it mandates the wearing of masks by all students without including a procedure and exceptions for students for religious grounds as required by the First Amendment in violation of 42 U.S.C. § 1983.

**FIFTH CLAIM**

23. Defendant KUSD, Defendant Superintendent and Defendant President, in their official capacities, under the color of state law, deprived Plaintiff Pastor Roemke's right to direct the upbringing of one's children under the Due Process Clause of the Fifth Amendment in violation of 42 U.S.C. § 1983 by mandating the wearing of masks by all students without a procedure and exceptions for students for religious grounds and by sending Lena home and threatening to send Eva home during school hours because of their failure to wear a mask for religious grounds.

**SIXTH CLAIM**

24. Defendant KUSD, Defendant Superintendent and Defendant President, in their official capacities, under the color of state law, by sending Lena home and threatening to send Eva home during school hours because of their failure to wear a mask for religious grounds, violated Plaintiffs' freedom of religion guaranteed by Article I, Section 18 of the Wisconsin Constitution.

**SEVENTH CLAIM**

25. Defendant KUSD, Defendant Superintendent and Defendant President, in their official capacities, under the color of state law, deprived Plaintiff Pastor Roemke's right to

direct the upbringing of one's children under the substantive due process of the Fourteenth Amendment in violation of 42 U.S.C. § 1983 by mandating the wearing of masks by all students without a procedure and exceptions for students for religious grounds and by sending Lena home and threatening to send Eva home during school hours because of their failure to wear a mask for religious grounds.

**WHEREFORE**, Plaintiff demands judgement against Defendant and requests the following relief:

1. Declare that Defendants' school policy requirement of mandatory mask wearing without a procedure and exceptions for students for religious grounds is unconstitutional.
2. Grant a permanent injunction prohibiting Defendants from sending Lena and Eva home during school hours for their failure to wear a mask for religious grounds.
3. Grant attorney fees to counsel for Plaintiffs pursuant to 42 U.S.C. § 1983.
4. Grant other relief deemed just and proper

Respectfully submitted this 20th day of January 2022.

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