

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

TANYA BRITTON, JOSEPH CARSON,)
and **PRO-LIFE MISSISSIPPI,** on its)
own behalf and on behalf of its members,)

Plaintiffs,)

v.)

SHIRLENE ANDERSON, individually)
and in her official capacity as Chief of)
Police for the City of Jackson, Mississippi;)
ROSEMARY HARPER, individually and)
in her official capacity as a police officer)
for the City of Jackson, Mississippi,)
JERRY BRISTER, individually and)
in his official capacity as a police officer)
for the City of Jackson, Mississippi,)
LIEUTENANT JESSIE ROBINSON,)
individually, and **PIETER TEEUWISSEN,**)
individually,)

Defendants.)

Case No. 3:06cv374 WHB-JAS

**FIRST AMENDED COMPLAINT FOR CIVIL RIGHTS VIOLATIONS,
DECLARATORY JUDGMENT, INJUNCTIVE RELIEF, AND DAMAGES**

INTRODUCTION

1 This is a civil rights action brought pursuant to 42 U.S.C. § 1983 that challenges the policies, customs, and/or practices of the City of Jackson whereby police continually and systematically infringe upon the free speech rights of citizens by threatening arrest or citation or by actually arresting or citing them under various city and state laws, including a Jackson noise ordinance that was declared unconstitutional and enjoined from further enforcement by this Court in 2004, for conduct protected by the First and Fourteenth

Amendments to the United States Constitution.

2. The unconstitutional policies, customs and/or practices of the City chill and deprive Plaintiffs of their right to free speech, as well as those of third parties not before the Court. Plaintiffs and others have suffered, are suffering, and will continue to suffer irreparable injury to their First Amendment rights absent declaratory and injunctive relief.

3. Plaintiffs seek declaratory judgment that the challenged policies, customs and/or practices are unconstitutional, preliminary and permanent injunctive relief, and damages.

JURISDICTION AND VENUE

4. This court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3),(4) which confer original jurisdiction on federal district courts in suits to redress the deprivation of rights, privileges and immunities as stated in paragraphs 1 and 2 above. The court may address the declaratory relief requested pursuant to 28 U.S.C. §§ 2201 and 2202.

5. Venue is proper in the Southern District of Mississippi, Jackson Division, pursuant to 28 U.S.C. §1391(b), because the claims arose in the district.

IDENTIFICATION OF PARTIES

6. Plaintiff Tanya Britton is a citizen of the United States and a resident of Brandon, Mississippi. Britton is President of Pro-Life Mississippi.

7. Plaintiff Joseph Carson is a citizen of the United States and a resident of Jackson, Mississippi.

8. Plaintiff Pro-Life Mississippi is a non-profit corporation organized and existing under the laws and constitution of the State of Mississippi, and is a corporate entity capable of suing and being sued. Its purpose is to oppose abortion and promote human

life and dignity. It has approximately 4,000 active members and supporters, many of whom were involved in the activities complained of herein.

9. Defendant Shirlene Anderson is Chief of Police for the City of Jackson, Mississippi. She is sued in both her individual and official capacities.

10. Defendant Rosemary Harper is a police officer for the City of Jackson, Mississippi. She is sued in both her individual and official capacities.

11. Defendant Jerry Brister is a police officer for the City of Jackson, Mississippi who acts as the City's special events coordinator. He is sued in both his individual and official capacities.

12. Lt. Jessie Robinson is a police officer for the City of Jackson. He is sued in his individual capacity.

13. Pieter Teeuwissen is an Assistant City Attorney for the City of Jackson. He is sued in his individual capacity.

ALLEGATIONS OF FACT

14. Since 1996, Pro-Life Mississippi has held an annual rally on the public ways of Jackson at or near Jackson Women's Health Organization, 2903 N. State St. during which its members and supporters express their views on abortion, pray, and sing. As part of its ministry and peaceful pro-life advocacy, members of Pro-Life Mississippi offer literature and sidewalk counseling to persons approaching the clinic. This is done in an effort to persuade women not to abort their unborn babies by offering alternatives to abortion, including adoption, advice, and emotional support.

15. For years, dating back to well before 1996, the Jackson Police Department has harassed pro-life demonstrators and street preachers on the public ways of the City by

threatening citation or arrest on trumped up charges such as disturbing the peace, trespass or obstructing traffic. Often, the police have actually cited or arrested demonstrators and street preachers only to have the charges dropped or dismissed before trial. On the rare occasions when these cases have actually gone to trial, the pro-life demonstrators and street preachers have usually been found not guilty.

16. In 2006, Pro-Life Mississippi coordinated its annual event with a national event sponsored by Operation Save America, a national pro-life ministry. The event took place on the public ways of Jackson during the period July 15-21, 2006.

17. Plaintiff Tanya Britton (“Britton”) is a Christian who possesses the firm belief that abortion is morally wrong and sinful. She believes it is her duty to God to publicly oppose abortion.

18. Plaintiff Joseph Carson (“Carson”) is a Christian who believes it is his duty to God to openly proclaim the good news of Jesus Christ. He fulfills this duty through open-air preaching of the gospel of Jesus Christ on the public ways.

Events of December 12, 2005

19. On or about December 12, 2005, Carson and another gentleman were engaged in un-amplified street preaching on the public streets of downtown Jackson when they were approached by several Jackson police officers. The officers stated that Carson and his associate were being too loud and in violation of the City’s noise ordinance. The officers then said they needed a permit.

20. The officers further told Carson that without a permit he could not remain on the street corner and that, if he continued to preach without a permit, he would be arrested.

21. The officers then said Carson had to let Officer Brister know of his plans before

“you do anything, before anything goes on in the city.”

22. Carson and his associate then went to the Jackson Police Department to inquire about a permit. They were referred to Defendant Officer Jerry Brister (“Brister”). Brister showed them Jackson Code of Ordinances §§ 54-86 through 54-91 (regulating noise) and told them they needed a permit.

23. Sections 54-86 through 54-91 of the Jackson Code were declared unconstitutional and enjoined from further enforcement by consent judgment entered on August 4, 2004 in *Baldwin v. City of Jackson*, 3:04 CV 545 BN.

24. Notwithstanding the laws having been declared unconstitutional, Brister told Carson that the City would not issue a permit under the defunct ordinances allowing him to stand on City sidewalks and preach, but if Carson “wanted to go to a park” and talk to people that would probably be “okay”.

25. Brister then said “no one has any right to create unnecessary noise.”

Events of February 27, 2006

26. On Monday, February 27, 2006, several pro-life demonstrators were present at the Jackson Woman’s Health Organization located at 2903 North State Street in Jackson. Among those at the clinic that day was Rev. Philip “Flip” Benham of Operation Save America.

27. During the late morning/early afternoon hours, Rev. Benham and others were on the sidewalk on State Street holding pro-life signs. Rev. Benham was also engaged in publicly proclaiming the gospel of Jesus Christ to a small group of individuals gathered on the other side of the street in opposition to the pro-life demonstrators.

28. The police were summoned, and soon three police officers arrived, one young

man and two women, one of whom was Defendant Rosemary Harper.

29. The officers threatened Rev. Benham with arrest, telling him he was “disturbing the peace” by his preaching. Rev. Benham attempted to explain to the officers that he was merely exercising his First Amendment rights to express himself and exercise his religion.

30. Harriet Ashley, another pro-life demonstrator who had been some distance away when the dispute first arose, came over to join in the conversation and try to assist. When Officer Harper learned that Mrs. Ashley sided with Rev. Benham, Harper threatened her with arrest, too.

31. The officers then summoned a superior officer, upon information and belief, Sergeant Otis.

32. When the superior officer arrived and was told by Officer Harper that Rev. Benham was disturbing the police, the superior officer immediately told the officers to arrest them all, without any other question, comment or discussion, and without hearing from the pro-life demonstrators at all.

33. In fact, Sgt. Otis approached Rev. Benham and told him to “keep his mouth shut” and that “anyone who opened their mouth would be arrested” for disorderly conduct. Rev. Benham and the others reluctantly obeyed, and Otis left shortly thereafter.

34. Rev. Benham then ceased preaching in order to avoid arrest. A short time later, Rev. Benham crossed the street in an effort to speak to the small group without having to raise his voice. Officer Harper and another officer rushed over, grabbed Rev. Benham and escorted him back to the near side of the street, telling him he was “trespassing” on the sidewalk and again threatening to arrest him.

35. At the same time Rev. Benham was on the State Street side of the clinic, Tanya Britton was located on the Fondren Street side, handing out literature and sidewalk counseling (speaking to women and others approaching the clinic to enter).

36. Officer Harper told Britton that her unwelcome expressive activities constituted “disturbing the peace.” When Britton asked for the basis of Harper’s charge, Harper replied, “Because I said so.”

37. Harper then told Britton she would be arrested if she did not cease sidewalk counseling, notwithstanding that Britton had engaged in the same type of sidewalk counseling in Jackson for several years without incident.

38. Shortly thereafter, a supervising officer arrived on the scene and said, “Arrest them. Arrest them all.” Harper then said to Britton, “I am going to get you today.” When Britton asked what Harper would be “getting” her for, Harper replied, “I am going to get you for something.”

39. Britton then continued to counsel women and distribute literature despite Harper’s threat of arrest.

40. Periodically throughout the time pro-life demonstrators were present at the clinic that day, Officer Harper would pull out her handcuffs, jingling them while staring at the pro-life demonstrators. At one point she told Britton, “I am going to get you today.”

41. A few minutes later, as Britton was speaking with two individuals in a car after they had voluntarily stopped to listen, Harper and one other officer approached and stood behind Britton.

42. When the car pulled away, Harper grabbed Britton’s arm, violently jerked it behind her and said, “I’ve got you now, you bitch.”

43. Harper then placed Britton in handcuffs, charging her with obstructing traffic. When Britton informed Harper that the handcuffs were too tight, Harper replied, “you haven’t got hurt yet.” Harper then forced Britton to sit in the back of the unventilated police cruiser. While in the cruiser, Britton’s wrists became numb and her shoulder began to spasm.

44. Harper then drove Britton to an intake center. While en route, Harper told Britton that she knew her family and that Britton “should be ashamed” of herself for being outside the clinic engaging in pro-life activity.

45. At the intake center, Britton was shackled and placed her in a windowless room for a long period of time. Britton was then taken to Raymond Detention Center in Raymond, Mississippi.

46. Britton was not released until approximately 9:00 p.m. that night. Britton sustained several injuries and bruises as a result of Harper’s abusive treatment, and missed work the rest of the week due to the injuries inflicted by Harper.

47. Despite repeated efforts by Britton’s attorneys urging the City to drop the charges against her and to address the lawless behavior of the Jackson Police Department against pro-life demonstrators, Britton’s case was called for trial on June 19, 2006.

48. In preparation for her defense, Britton had five subpoenas issued. On the day of her trial, Britton, her attorneys, and the five witnesses in her defense dutifully reported to court and waited for their case to be called.

49. After waiting the entire afternoon, and patiently listening as case after case was called and dispensed with, Britton was finally summoned by the prosecuting attorney. By then the formerly crowded courtroom was virtually empty, as it was now after 5:00

p.m.

50. The prosecuting attorney moved for a continuance, stating that the arresting officer, Harper, was not available and that he did not even have the case file.

51. When Britton's counsel objected, the court dismissed the charges over the objection of the prosecution.

Events of May 26, 2006

52. On the evening of May 26, 2006, Carson and others went to a sidewalk on the public ways of Jackson adjacent to a club called "The Carter" to street preach and display gospel signs. Because the area was noisy, Carson used a small sound amplifier.

53. Upon arriving, Carson and his associates were approached by unknown persons affiliated with the club and told that the sidewalk was private property. Carson then went back home to retrieve a video camera.

54. When Carson returned a short time later, employees of the club told them that the sidewalk was private property. When Carson disagreed, the owner of the club took one of Carson's signs and violently threw it to the ground. The club owner then grabbed the Carson's video camera and took it into the club.

55. Carson then called the police. Coincidentally, apparently in response to someone else's call, another officer arrived and told Carson police had received a complaint about a loudspeaker. The officer, whose Badge No. is 1405, told Carson he needed a permit to operate a loudspeaker.

56. When Carson inquired which ordinance required a permit, the officer said he was "just following orders" and did not cite to a specific ordinance.

57. This police officer further informed Carson that he would not accept a complaint

against the club owner for the taking of the video camera, and told Carson he could not press charges.

Events of July 14-21, 2006

58. When Operation Save America and Plaintiff Pro-Life Mississippi gathered for their annual event on Friday, July 14, 2006, a group of about twelve (12) of them gathered on the public sidewalk in Jackson and began to express themselves to passersby. No less than seven (7) police cruisers descended upon them and ordered them to cease their expressive activities on the pretense that they needed a special events permit even to gather on the sidewalk. The protesters reluctantly complied and left the public way.

59. On Saturday, July 15, 2006, Defendants once again forced Plaintiffs to shut down their expressive activities. On this occasion, Lt. Jessie Robinson, the ranking JPD officer, ordered a group of Plaintiffs to take down their sound system outside the abortion clinic.

60. Lt. Robinson informed them that they would be in violation of the City sound ordinance if they did not. The sound ordinance was declared unconstitutional in 2004.

61. Again, on Sunday, July 16, 2006, Defendants confiscated Plaintiffs' constitutionally protected signs, which were peacefully being displayed on the public sidewalk. Once again, Defendants claimed that Plaintiffs were required to obtain a permit, either under the special events ordinance or the sign ordinance, Code §§ 102-26 et seq., before even displaying signs.

62. On that same day, Sunday, July 16, Phillip Carnaggio, an 80 year old man, was arrested without warning for holding a small sign on the public ways. At no time did Mr. Carnaggio obstruct traffic, either vehicular or pedestrian. The citation he was issued failed to indicate the nature of his violation, stating only, "Violation of City."

63. Also on Sunday, July 16, one of the Plaintiffs, Adam Tennant, was attacked by numerous pro-abortion counter-protestors, while in his vehicle in the parking lot of the Universalist Unitarian Church of Jackson.

64. The attack, which caused significant damage to his vehicle and which placed Mr. Tennant in imminent fear of his life, took place under full view of several police officers and the Assistant City Attorney, Pieter Teeuwissen. Despite the obvious violation of the law and of the rights of Mr. Tennant, neither the police nor Mr. Teeuwissen took any measures either to stop the assault or to investigate the crime.

65. In fact, when Mr. Tennant said that he wanted to press charges, the police responded that they were not sure they could do anything, but that they would “take” Mr. Tennant for trespassing.

66. Mr. Tennant’s repeated requests that the police dust his windshield, which had plainly visible fingerprints of one of the criminals left on it, were refused.

67. Mr. Tennant also proceeded to point out the perpetrators to the police. Nevertheless, they continued to refuse to take any action against them.

68. Also on Sunday, July 16, the police arrested several pro-life protestors, including Calvin Zastrow, Dr. Patrick Johnston, and Ronald Brock, because they did not have a special events permit, even though the protestors were on the public rights of way and engaged in the exercise of their First Amendment rights.

69. Mr. Brock was stopped for driving his truck through a residential neighborhood and told that he was in violation of the special events ordinance and needed a permit. The truck contained signs and pro-life messages.

70. When Mr. Brock asked for a copy of the ordinance, and insisted that no law could

rightfully prohibit his activities, Lt. Robinson of the JPD told Mr. Brock that he could obtain a copy of the law inside a police truck parked nearby. Lt. Robinson was lying, and intended to coax Mr. Brock into the truck in order to arrest him.

71. Mr. Brock, relying on the representations of Lt. Robinson, followed him and several other officers into the truck. He was immediately arrested, booked and released.

72. When Mr. Brock confronted Lt. Robinson with his deceit and said, “You lied to me,” Lt. Robinson replied, “Yep.” After Mr. Brock drove away, he was stopped yet again, and threatened that if he came back his truck would be seized and impounded.

73. On Monday morning, July 17, 2006, when Plaintiffs peacefully took up positions on the public sidewalks with their signs, several pro-life demonstrators were arrested, and others were forced to shut down their expressive activities on the public ways of the City. In addition, Plaintiffs’ signs were confiscated.

74. When Plaintiffs asked that their signs be returned, they were refused, and told the signs were “evidence.”

75. Despite the assertion that the signs were to be used as evidence, when several of the Plaintiffs obtained discovery from the City in defense of their municipal court proceedings, the City failed to list the signs as evidence.

76. Rev. Ed Martin, who carries a large wooden cross as part of his pro-life ministry, was arrested and charged with violating the City sign ordinance, even though he did not have a sign.

77. Other pro-life protestors were arrested simply because they were on the wrong side of the street, across from the State Street abortion clinic. They were told that because someone had obtained a permit to be on the near side of the street, in front of the

clinic, that therefore they were not allowed to be on the opposite side of the street.

78. Only minutes after the pro-life protestors were arrested, several pro-abortion protestors took up the very spot where the pro-lifers had been, held signs and yelled derogatory comments at the pro-life protestors. The police, standing nearby, did nothing, despite the fact that the pro-abortion protestors did not have a permit to be there, either.

79. Later that week, the police officers removed their name tags and covered their badge numbers when dealing with the pro-life protestors. When asked to identify themselves, they refused, stating that they were under orders not to reveal their identities.

80. Upon information and belief, all of these actions were undertaken at the specific direction of Chief Anderson.

81. Also later during the week of July 17, 2006, when as few as two pro-life protestors attempted to hold signs on the public sidewalks in the City they were ordered to remove them on penalty of arrest. The officers issuing these orders cited either or both of the special events ordinance or the sign ordinance.

82. All Plaintiffs desire and intend to exercise their First Amendment rights to free speech, free association, and free assembly but are chilled and deprived in the exercise of those rights by the actions of police as set forth herein. The unconstitutional actions of Defendants continue to this day against peaceful citizens seeking only to exercise their First Amendment rights.

83. Plaintiffs have no plain, adequate, or complete remedy at law to redress the chill on their free speech rights, and this suit for injunction and declaratory judgment are their only means of securing complete and adequate relief. No other remedies would offer Plaintiffs substantial and complete protection from Defendants' unlawful acts, policies,

customs, and practices.

Actions of Chief Anderson and Assistant City Attorney Teeuwissen

84. Counsel for Plaintiffs wrote City Attorney Sara O'Reilly Evans, Assistant City Attorney Pieter Teeuwissen, and Chief Anderson on several occasions between March 2 and July 15, 2006, complaining about the treatment of pro-life demonstrators, informing them as to the law governing First Amendment rights, and alerting them of constitutional violations by the JPD.

85. In response, Mr. Teeuwissen assured counsel that the City would respect the First Amendment rights of the Plaintiffs. In fact, upon information and belief, Mr. Teeuwissen and Chief Anderson devised a policy or plan and then instructed officers of the JPD in ways to *infringe* the First Amendment rights of the Plaintiffs.

86. To that end, Chief Anderson and Mr. Teeuwissen organized a meeting on or about July 12, 2006, at the Jackson Police Training Academy, specifically to instruct JPD officers on how to deal with pro-life protestors at the upcoming national event of Operation Save America and Pro-Life Mississippi.

87. The session was co-sponsored by Planned Parenthood of America, National Abortion Federation of America, among others, and was attended by virtually all JPD officers.

88. When Plaintiffs learned of the meeting and tried to attend, they were rebuffed.

89. Upon information and belief, at the training session JPD officers were instructed in how to arrest and cite pro-life protestors on the slightest pretext, including use of the unconstitutional sound ordinance, claims of obstructing traffic (vehicular or pedestrian) even when no such traffic was present, and a zero-tolerance policy for any pro-life

activity outside the narrow confines of the locations for which a special events permit had been obtained.

90. Defendants' unlawful seizure and retention of Plaintiffs' signs was, upon information and belief, directed specifically by Defendants Teeuwissen and Anderson, and intended to inhibit Plaintiffs' continued exercise of their First Amendment rights.

92. Many of the arrests and unlawful activities detailed above took place in the presence and under the direct supervision of Defendant Teeuwissen.

ALLEGATIONS OF LAW

92. All of the acts of Defendants, their officers, agents, servants, and employees, as alleged herein, were conducted under color and pretense of the ordinances, statutes, regulations, customs, practices, and usages of the City of Jackson and/or State of Mississippi, unless otherwise specified.

93. Defendants' repeated use of inapplicable or stricken laws to stifle the First Amendment rights of Plaintiffs constitutes policies, practices, customs, and usages sufficient to impose municipal liability.

94. The unlawful actions of police as alleged herein were taken or ratified by final policy makers for the City of Jackson, and thus constitutes policies, practices, customs, and usages sufficient to impose municipal liability.

95. The continued enforcement of the Jackson noise ordinance, §§ 54-86 through 54-91, after it was declared unconstitutional and enjoined from further enforcement by this Court, constitutes an unlawful policy, practice, custom, or usage sufficient to impose municipal liability.

96. The continued enforcement of the Jackson noise ordinance, §§ 54-86 through 54-

91, after it was declared unconstitutional and enjoined from further enforcement by this Court, demonstrates a lack of adequate training amounting to deliberate indifference to the constitutional rights of Plaintiffs, and constitutes a policy, practice, custom, or usage sufficient to impose municipal liability.

97. The failure of the City to provide its police with adequate training in the areas of First Amendment rights, use and identification of traditional public fora, and use of sound amplification amounts to deliberate indifference to the constitutional rights of Plaintiffs, and constitutes a policy, custom, or practice of the City of Jackson sufficient to impose municipal liability.

98. The repeated enforcement of the Jackson noise ordinance after it was declared unconstitutional and enjoined by this Court constituted contempt of court.

99. Public streets and sidewalks are traditional public fora for purposes of speech and other expressive activities protected by the First and Fourteenth Amendments to the United States Constitution.

100. The actions taken by Defendants as alleged herein were extreme and in reckless disregard of the rights of Plaintiffs.

101. The special events ordinance, Code §§ 14-176 et seq., is unconstitutional on its face, as it purports to reach peaceful expressive conduct by a few individuals on a public sidewalk. Further, even if the special events ordinance did reach Plaintiffs' activities, it contains an express exclusion for activities such as Plaintiffs', which are "restricted to marching on sidewalks, and crossing streets only at pedestrian crosswalks in accordance with traffic regulations and controls." § 14-180(3).

102. The special events ordinance is unconstitutional as applied against the actions of

Plaintiffs.

103. The sign ordinance, Code §§ 102-26 et seq., is unconstitutional on its face and as applied against the actions of Plaintiffs.

104. Plaintiffs have suffered, are suffering, and will continue to suffer, irreparable injury to their First and Fourteenth Amendment rights by the existence and threatened enforcement of the challenged policies, customs, and practices of the City absent declaratory and injunctive relief.

105. Third parties not before the Court are chilled in their rights to free speech by the existence of the challenged policies, customs, and/or practices as alleged herein.

**FIRST CAUSE OF ACTION - 42 U.S.C. § 1983
(Free Speech/Free Press/Free Exercise of Religion)
Noise/Sound Ordinance**

106. Paragraphs 1 through 105 above are incorporated herein by reference as though pleaded in full.

107. The City's unlawful enforcement of the stricken noise/sound ordinance hinders and deprives Plaintiffs of their ability to effectively communicate their pro-life message.

108. The City's unlawful enforcement of the stricken noise ordinance was willful and intentional.

109. The City's unlawful and unreasonable use of trespass and obstructing traffic laws hinders and deprives Plaintiffs of their ability to effectively communicate their pro-life message.

110. The actions of Defendants in hindering and depriving Plaintiffs of their ability to effectively communicate their message are unconstitutional abridgements of Plaintiffs' affirmative rights to freedom of speech, free press, and the free exercise of religion,

secured by the First and Fourteenth Amendments to the United States Constitution.

111. As a direct and proximate result of Defendants' actions, policies, customs, and practices, customs as alleged herein, Plaintiffs are chilled and deprived of their constitutional rights. Plaintiffs have suffered, are suffering, and will continue to suffer, irreparable harm as a direct result of Defendants' conduct.

WHEREFORE, Plaintiffs pray for relief against Defendants as hereinafter set forth in the prayer for relief.

**SECOND CAUSE OF ACTION - 42 U.S.C. § 1983
(Free Speech-Illegal Retaliation)**

112. Paragraphs 1 through 105 above are incorporated herein by reference as though pleaded in full.

113. Defendants' harassment, arrests, and threats of arrest were directed at Plaintiffs while Plaintiffs were engaged in constitutionally-protected speech activities. Such threats of arrest and harassment constituted unlawful retaliation for Plaintiffs' exercise of constitutionally protected rights. The retaliation violated Plaintiffs' affirmative rights to freedom of speech secured by the First and Fourteenth Amendments to the United States Constitution.

114. As a direct and proximate result of Defendants' actions in retaliating against Plaintiffs for the assertion and/or exercise of their constitutional rights, Plaintiffs were deprived of their rights to free speech. Plaintiffs have suffered, are suffering, and will continue to suffer, irreparable harm as a direct result of Defendants' conduct.

WHEREFORE, Plaintiffs respectfully pray for relief against Defendants as hereinafter set forth in the prayer for relief.

**THIRD CAUSE OF ACTION - 42 U.S.C. § 1983
(Peaceable Assembly)**

115. Paragraphs 1 through 105 above are incorporated herein by reference as though pleaded in full.

116. The public streets dedicated to pedestrian and vehicular traffic in Jackson are traditional public fora for speech.

117. The right to peaceably assemble includes and protects the right of Plaintiffs, as members of the body politic, to engage in peaceful advocacy in support of, or in opposition to, matters of public concern, such as the practice of abortion.

118. The harassment, arrests, and threats of arrest as set forth herein were unconstitutional abridgments of Plaintiffs' right to free assembly as guaranteed by the First and Fourteenth Amendments to the United States Constitution.

119. As a direct and proximate result of Defendants' actions, policies, practices, and customs as alleged herein, Plaintiffs are chilled and deprived of their rights to peaceable assembly. Plaintiffs have suffered, are suffering, and will continue to suffer, irreparable harm as a direct result of Defendant's conduct.

WHEREFORE, Plaintiffs respectfully pray for relief against Defendants as hereinafter set forth in the prayer for relief.

**FOURTH CAUSE OF ACTION - 42 U.S.C. § 1983
(Free Speech/Free Press/Free Exercise of Religion/Freedom of Assembly)
Special Events Ordinance**

120. Paragraphs 1-105 above are incorporated herein by reference as though pleaded in full.

121. The Jackson special events ordinance, Code §§ 14-176 et seq., on its face and as applied, is an unconstitutional abridgement of Plaintiffs' affirmative rights to freedom of

speech, free press, the free exercise of religion, and the freedom of assembly under the First and Fourteenth Amendments to the United States Constitution.

122. The special events ordinance is a substantially overbroad restriction on free speech, reaching as few as one or two citizens peaceably exercising their First Amendment rights.

123. The special events ordinance is an impermissible prior restraint on constitutionally protected expressive activities, including peaceable assembly, hand-to-hand distribution of literature, oral speech, silent prayer, and political protest on public streets and sidewalks.

124. The special events ordinance is not a narrowly tailored time, place, and manner regulation on speech; it does not serve significant governmental interests; and it does not leave open ample alternative channels of communication.

125. The special events ordinance fails to define key terms with sufficient specificity, fails to provide for prompt judicial review in the event a permit is erroneously denied, fails to allow for spontaneous events, imposes an unconstitutional restraint by virtue of the inordinate advance notice and application requirements, and in general invites arbitrary and discriminatory enforcement.

126. As a direct and proximate result of Defendants' actions, policies, practices, and customs as alleged herein, Plaintiffs are chilled and deprived of their constitutional rights. Plaintiffs have suffered, are suffering, and will continue to suffer, irreparable harm as a direct result of Defendants' conduct.

WHEREFORE, Plaintiffs respectfully pray for relief against Defendant as hereinafter set forth in the prayer for relief.

**FIFTH CAUSE OF ACTION - 42 U.S.C. § 1983
(Free Speech/Free Press/Free Exercise of Religion)
Sign Ordinance**

127. Paragraphs 1 through 105 above are incorporated herein by reference as though pleaded in full.

128. The Jackson sign ordinance, Code §§ 102-26 et seq., is unconstitutional both on its face and as applied.

129. The Jackson sign ordinance is a content-based, vague and overbroad prior restraint on constitutionally protected expressive activities, including free speech, free press and the free exercise of religion on the public streets and sidewalks.

130. The Jackson sign ordinance arbitrarily and capriciously exempts certain types of signs from its ambit, such as temporary residential signs, while subjecting other equally harmless signs, such as Plaintiffs' pro-life signs, to its prohibitions and restrictions.

131. The Jackson sign ordinance unconstitutionally favors certain types of commercial speech over non-commercial speech such as that of Plaintiffs.

132. As a direct and proximate result of Defendants' actions, policies, practices, and customs as alleged herein, Plaintiffs are chilled and deprived of their constitutional rights. Plaintiffs have suffered, are suffering, and will continue to suffer, irreparable harm as a direct result of Defendants' conduct.

WHEREFORE, Plaintiffs respectfully pray for relief against Defendant as hereinafter set forth in the prayer for relief.

**SIXTH CAUSE OF ACTION - 42 U.S.C. § 1983
(Equal Protection)**

133. Paragraphs 1 through 105 above are incorporated herein by reference as though pleaded in full.

134. Plaintiffs have been singled out for harsh and excessive treatment under the laws and policies of Defendants, while others engaged in virtually identical activities, such as the pro-abortion protestors, have been allowed to conduct their activities without fear of punishment or reprisal by Defendants, and even to disrupt with impunity the permitted activities of Plaintiffs.

135. The actions of Defendants as set forth above constitute an unconstitutional violation of Plaintiffs rights under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

136. As a direct and proximate result of Defendants' actions, policies, practices, and customs as alleged herein, Plaintiffs are chilled and deprived of their constitutional rights. Plaintiffs have suffered, are suffering, and will continue to suffer, irreparable harm as a direct result of Defendants' conduct.

WHEREFORE, Plaintiffs respectfully pray for relief against Defendant as hereinafter set forth in the prayer for relief.

**SEVENTH CAUSE OF ACTION - 42 U.S.C. § 1983
(Free Speech/Free Press/Free Exercise of Religion)
Seizure of Signs**

137. Paragraphs 1 through 105 above are incorporated herein by reference as though pleaded in full.

138. Defendants' seizure and retention of Plaintiffs' signs was an unconstitutional infringement of Plaintiffs' rights to free speech, free press and the free exercise of their religion as guaranteed by the First and Fourteenth Amendments to the United States Constitution.

139. Defendants' continued refusal to return Plaintiffs' signs on the claim that they

constitute evidence of a crime is a pretext designed to deprive Plaintiffs of their ability to use the signs in the exercise of their First Amendment rights.

140. As a direct and proximate result of Defendants' actions, policies, practices, and customs as alleged herein, Plaintiffs are chilled and deprived of their constitutional rights. Plaintiffs have suffered, are suffering, and will continue to suffer, irreparable harm as a direct result of Defendants' conduct.

WHEREFORE, Plaintiffs respectfully pray for relief against Defendant as hereinafter set forth in the prayer for relief.

EIGHTH CAUSE OF ACTION - 42 U.S.C. § 1983
(Fourth Amendment)
Seizure of Signs

141. Paragraphs 1 through 105 above are incorporated herein by reference as though pleaded in full.

142. Defendants' seizure and retention of Plaintiffs' signs was an unconstitutional infringement of Plaintiffs' rights against unreasonable seizures as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution.

143. Defendants' continued refusal to return Plaintiffs' signs on the claim that they constitute evidence of a crime is a pretext designed to deprive Plaintiffs of their property.

144. As a direct and proximate result of Defendants' actions, policies, practices, and customs as alleged herein, Plaintiffs are chilled and deprived of their constitutional rights. Plaintiffs have suffered, are suffering, and will continue to suffer, irreparable harm as a direct result of Defendants' conduct.

WHEREFORE, Plaintiffs respectfully pray for relief against Defendant as hereinafter set forth in the prayer for relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that the Court:

- a. Assume jurisdiction over this action;
- b. Declare that Defendants' actions as alleged herein were unconstitutional;
- c. Declare the Jackson special events ordinance, Code §§ 14-176 et seq., unconstitutional both on its face and as applied against Plaintiffs;
- d. Declare the Jackson sign, Code §§ 102-26 et seq., unconstitutional both on its face and as applied against Plaintiffs;
- e. Enter preliminary and permanent injunctions enjoining Defendants from threatening or using the enjoined noise ordinance and/or breach of the peace and/or disorderly conduct laws to inhibit or suppress Plaintiffs' peaceful expressive activities;
- f. Enter preliminary and permanent injunctions enjoining Defendants from threatening or using the special events ordinance to inhibit or suppress peaceful expressive activities;
- g. Enter preliminary and permanent injunctions enjoining Defendants from threatening or using the sign ordinance to inhibit or suppress peaceful expressive activities;
- h. Award Plaintiffs nominal damages against all Defendants for the violation of their civil and constitutional rights;
- i. Award Plaintiffs compensatory damages for the seizure and retention of their signs;
- j. Award Plaintiffs punitive damages against Defendants Anderson, Harper, Brister, Robinson, and Teeuwissen for the violation of their civil and constitutional

rights;

k. Declare Defendants in contempt of court for their willful disregard of this Court's order declaring the City sound ordinance unconstitutional;

l. Order Defendants to return Plaintiffs' signs to them;

Award Plaintiffs their costs of litigation, including reasonable attorneys' fees and expenses, pursuant to 42 U.S.C. § 1988; and

m. Grant such other and further relief as this Court deems necessary and proper.

Respectfully submitted,

/s/Stephen M. Crampton

Stephen M. Crampton, MS Bar #9952
Michael J. DePrimo, MS Bar # 10813
AMERICAN FAMILY ASSOCIATION
CENTER FOR LAW & POLICY
P.O. Drawer 2440/100 Parkgate Drive
Tupelo, MS 38803
(662) 680-3886

Attorneys for all Plaintiffs