



C. Ray Drew, Executive Director * Mark Silverstein, Legal Director

August 12, 2011

Via Certified Mail

Rocky Mountain Academy of Evergreen Board of Directors
2959 Royale Elk Way
Evergreen, CO 80439

Ellen G. Wakeman
Jefferson County Attorney
100 Jefferson County Parkway, Suite 5500
Golden, Colorado 80419

NOTIFICATION PURSUANT TO C.R.S. § 24-10-109

IDENTITY OF CLAIMANTS

Heather Burgbacher¹

CLAIMANTS' ATTORNEYS

The claimants are represented by:

Mark Silverstein and Rebecca T. Wallace
AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF COLORADO
P.O. Box 18986
Denver, Colorado 80218
(303) 777-5482
msilver2@att.net
rtwallace@aclu-co.org

Mari Newman, Darold Killmer, Lauren Fontana
KILLMER, LANE & NEWMAN LLP
In cooperation with AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF COLORADO
1543 Champa St., Ste. 400
Denver, Colorado 80202
(303) 571-1000

¹ Ms. Burgbacher may be contacted through her local counsel, listed below.

mnewman@kln-law.com
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Galen Sherwin
ACLU WOMEN'S RIGHTS PROJECT
125 Broad St, 18th Floor
New York, NY 10004
(212) 519-7819
gsherwin@aclu.org

BASIS OF CLAIM

On February 18, 2011, after almost five years of excellent performance as a teacher at the Rocky Mountain Academy of Evergreen (RMAE), Heather Burgbacher was informed by RMAE Director Dan Cohen that her contract would not be renewed because she had caused a conflict by standing up for her right to express breast milk at work. This occurred only a few months after Mr. Cohen and RMAE Human Resources Manager Dina Walton had denied Ms. Burgbacher reasonable accommodation for her need to express breast milk at work. Specifically, Ms. Walton informed Ms. Burgbacher that the school could not accommodate her need for twenty minutes of class coverage three times each week in order to pump her breasts, and told Ms. Burgbacher that she should spend her Thanksgiving break rearranging her breastfeeding schedule and considering switching her child from breastmilk to formula. Mr. Cohen and Ms. Walton's treatment of Ms. Burgbacher violates Colorado's 2008 Workplace Accommodations for Nursing Mothers Act, as well as other Colorado state laws.

NAMES OF PUBLIC EMPLOYEES

RMAE Director Dan Cohen
2959 Royale Elk Way
Evergreen, CO 80439

RMAE Business/Human Resources Manager Dina Walton
2959 Royale Elk Way
Evergreen, CO 80439

NATURE AND EXTENT OF INJURIES, DAMAGES, AND LOSSES

The injuries suffered by Ms. Burgbacher include loss or impairment of ability to breastfeed her child, emotional distress, mental anguish, and other expenses incurred by Ms. Burgbacher as a result of RMAE's, Mr. Cohen and Ms. Walton's failure to accommodate and decision to terminate Ms. Burgbacher's employment. Ms. Burgbacher may bring tort claims for *inter alia* violation of Colorado's 2008 Workplace Accommodations for Nursing Mothers Act, wrongful discharge in violation of public policy, and intentional interference with contract and/or prospective business advantage. Actual and compensatory will be sought. Other damages may be sought as discovery and investigation proceeds in this matter.

MONETARY DAMAGES CLAIMED

Claimants will seek the maximum amount of monetary damages permitted by law.

Please contact me or Mari Newman if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Rebecca T. Wallace". The signature is written in a cursive style and is followed by a long horizontal flourish line.

Rebecca T. Wallace
Staff Attorney, ACLU of Colorado

cc: Heather Burgbacher
Dan Cohen, dcohen@rmae.org
Dina Walton, dwalton@rmae.org