

CIVIL COVER SHEET

JS 44 (Rev. 06/17)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
K.S., a minor, by and through his Parents and Natural Guardians, Thomas and Donna Schenk,
(b) County of Residence of First Listed Plaintiff Schuylkill
(c) Attorneys (Firm Name, Address, and Telephone Number) Albert J. Evans, Esquire & Eric M. Prock, Esquire

DEFENDANTS
THE POTTSVILLE AREA SCHOOL DISTRICT
County of Residence of First Listed Defendant Schuylkill
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known) Kevin C. Reid, Esquire

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

IV. NATURE OF SUIT (Place an "X" in One Box Only)
Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC 1983
Brief description of cause:
Violation of Freedom of Expression; Due Process; Equal Protection

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 75,000.00
CHECK YES only if demanded in complaint: JURY DEMAND: X Yes [] No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE 02/21/2019 SIGNATURE OF ATTORNEY OF RECORD /s/ Albert J. Evans, Esquire

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

K.S., a minor, by and through his	:	No.
Parents and Natural Guardians,	:	
THOMAS and DONNA SCHENK,	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
THE POTTSVILLE AREA	:	
SCHOOL DISTRICT,	:	
	:	
Defendant.	:	JURY TRIAL DEMANDED

VERIFIED COMPLAINT

PARTIES

1. K.S. is a seventeen-year-old student at Pottsville Area School District. K.S. lives with his parents in Norwegian Township, Schuylkill County, Pennsylvania.

2. Plaintiff, Thomas Schenk, is K.S.’s father. Mr. Schenk brings this action on behalf of his minor son, K.S.

3. Plaintiff, Donna Schenk, is K.S.’s mother. Ms. Schenk brings this action on behalf of her minor son, K.S.

4. Defendant, Pottsville Area School District (hereinafter “Pottsville”), is a political subdivision of the Commonwealth of Pennsylvania located at 1501 West Laurel Blvd., Pottsville, Schuylkill County, PA 17901.

JURISDICTION AND VENUE

5. This action seeks to vindicate an arbitrary and capricious suspension distributed by Defendant and also vindicate rights protected by the First and Fourteenth Amendments to the U.S. Constitution and is brought under 42 U.S.C. §1983. This Court has jurisdiction over this civil rights action under 28 U.S.C. §§1331 and 1343. This Court also has jurisdiction under 28 U.S.C. §§2201 and 2202 to declare the rights of the parties and to grant all further relief found necessary and proper.

6. Venue is proper in the Middle District of Pennsylvania pursuant to 28 U.S.C. §1391(a) because the Defendant is subject to personal jurisdiction within the Middle District of Pennsylvania and the events that give rise to this action occurred in the Middle District of Pennsylvania.

FACTS

7. K.S. is an eleventh grade student enrolled in the Defendant, Pottsville Area School District (hereinafter “the District”) at the Pottsville Area High School.

8. K.S. has been regularly on the Honor Roll throughout this high school career and has never been subject to significant discipline.

9. K.S. is also a standout member of the football and basketball teams at the District.

10. Sometime before February 5, 2019, the District received an anonymous letter alleging conduct by certain football players in the junior class during the season, which ended on or about November 10, 2018.

11. It is believed and therefore averred that the past practice of the District when receiving an anonymous letter was to ignore the letter and not conduct an investigation.

12. Disregarding its past practices with respect to anonymous letters, the District in this case conducted multiple interviews of each player on the football team regarding conduct in the locker room. K.S. was interviewed and specifically denied any wrongdoings. It is believed and therefore averred that the District was required to perform multiple interviews because initial interviews revealed contradictory information and conduct which would not rise to the level of any rule or regulation violations at Pottsville.

13. On or about February 8, 2019, the District, through the high school principal, contacted K.S.'s parents and requested a meeting to discuss alleged allegations made against K.S.

14. On February 11, 2019, District had a meeting with K.S., Thomas and Donna Schenk. During this meeting the District alleged that K.S. was accused of dancing in the locker room with or without a towel in close proximity to the

alleged victim, a 25-year-old male who is permitted to associate with players on the football team by District coaches and administration.

15. During the meeting, the District admitted that no one alleged that K.S. had made any physical contact with the alleged victim.

16. During the meeting, the District failed to identify the number of occasions that K.S. allegedly danced in close proximity to the alleged victim with or without a towel.

17. K.S. denied the allegations and continues to deny the allegations.

18. On February 12, 2019, Thomas and Donna Schenk, along with K.S., were present at a meeting with the High School Principal, Assistant Principal, and Superintendent.

19. At the aforementioned meeting, K.S. and his parents were advised that the District was imposing a 10-day out-of-school suspension on K.S. for his purported violation of the District's Harassment Policy (Policy 248, hereinafter referred to as "the Policy").

20. A copy of the Policy is attached hereto as **Exhibit A**.

21. During the aforementioned meeting, Thomas and Donna Schenk, on behalf of K.S., requested to see the statements of individuals alleging misconduct by K.S. in order to rebut the allegations.

22. Defendant refused to provide any such statements to Thomas and Donna Schenk or K.S.

23. On February 14, 2019, the District conducted an informal hearing regarding the suspension it gave to K.S. At the informal hearing, the Defendant did not call any witnesses and did not present any statements to K.S. or his parents.

24. During the informal hearing, Thomas and Donna Schenk repeatedly asked to review statements against K.S. and were denied access to the statements.

25. During the informal hearing, K.S., along with his parents, brought forth seven witnesses who testified that K.S. did not harass or engage in any conduct towards the alleged victim in violation of the school's rules or regulations.

26. During the informal hearing, K.S. and his parents have provided the names of an additional eight witnesses to testify at the informal hearing, but for reasons unknown to K.S. and/or his parents, the witnesses were not permitted to testify.

27. It is believed and therefore averred that the alleged 25-year-old "victim" has not corroborated the allegations lodged against K.S.

28. Late in the evening of February 14, 2019, and well after the informal hearing, the District, through the Principal, advised Thomas and Donna Schenk that it was upholding its 10-day out-of-school suspension.

29. The 10-day out-of-school suspension imposed by the District denies K.S. his right to fully participate in the education process by prohibiting him from being able to attend school.

30. The 10-day out-of-school suspension also creates a disciplinary record for K.S., which could very likely affect his ability to gain admission to certain postsecondary institutions of high learning and/or the financial aid/scholarships he will need in order to attend such institutions.

31. The 10-day out-of-school suspension also prohibits K.S. from being able to play high school basketball. At the time of the suspension, the season is at a critical juncture, with playoff games on the horizon that could provide K.S. exposure to college recruiters.

32. On May 13, 2009, the District adopted the unlawful harassment rule contained in the Policy. **See Exhibit A.**

33. As is explicitly clear from the plain words of the Policy, for conduct to meet the definition of “harassment” there must be an effect on the alleged victim’s educational environment, academic performance or learning opportunities.

34. Any allegation against K.S. could not meet the definition of harassment since the alleged victim was not a student in the District.

35. At no time did the District inform K.S. or his parents that any of his alleged conduct affected the educational environment, academic performance or learning opportunities of the alleged victim or any other student of the District.

36. It is believed and therefore averred that the alleged victim never made any allegation of improper conduct against K.S.

37. It is believed and therefore averred the alleged victim is also an associate of the basketball staff and could regularly be seen with K.S. laughing and interacting with K.S. in a friendly manner, even after the conduct that is alleged to have violated the Policy occurred

38. Moreover, the Policy specifically requires the District to investigate allegations, file a report, and provide to the report to the accused, in this case K.S. and his parents.

39. In violation of its own policy, the District has and continues to refuse to provide the findings of the investigation to K.S. and his parents.

40. the Policy further provides that disciplinary action shall be consistent with the student code of conduct, board policies and district procedures. It is believed and therefore averred that issuing a 10-day out-of-school suspension to K.S. violates the student code of conduct, board policies and district procedures.

COUNT I

**K.S., a minor, by and through his father, Thomas Schenk and his mother,
Donna Schenk vs.
Pottsville Area School District
EQUITY**

41. Plaintiff incorporates paragraphs 1 through 40 as though fully set forth at length.

42. The District's action in suspending K.S. for 10 days was arbitrary, capricious and prejudicial to K.S. and the public interest in the following manners:

- (a) There is absolutely no evidence that establishes a violation of the District's Policy by K.S.;
- (b) The District specifically violated the Policy by refusing to disclose the results of its investigation to K.S. which prevented K.S. from being able to respond to the allegations;
- (c) The District refused to accept and hear all the evidence K.S. and his parents were prepared to offer in defense of the allegations;
- (d) The alleged victim never implicated K.S. for any improper conduct and actually would be repeatedly seen interacting with K.S. after the alleged incident in a friendly manner;
- (e) There is no credible evidence that provides any basis for a harassment charge against K.S.

43. As a result of the arbitrary, capricious and prejudicial actions of the District, K.S. has suffered irreparable harm in that he is being improperly denied his education, has been issued an inappropriate punishment which could affect his ability to be admitted to certain colleges and denied the opportunity to participate on the basketball team at a time when he could be recruited by college coaches.

44. K.S. is likely to succeed on the merits of the underlying claim since there is absolutely no evidence that K.S. committed harassment against the alleged victim since the definition of harassment in the Policy requires an adverse educational impact on the victim and the alleged victim in this case was not a student who could have an adverse educational impact.

45. Granting an injunction will not result in a greater harm to the District.

46. The public interest favors granting the injunction to permit K.S. back in school to receive an appropriate education, remove an unwanted discipline which affect K.S.'s admission to college and permit K.S. to play on the basketball team which could provide college opportunities to K.S.

WHEREFORE, in the interest of justice, K.S. and Thomas and Donna Schenk respectfully request this Honorable Court grant an injunction and vacate the suspension, reinstate K.S. to school, remove the suspension from his school record and permit K.S. to play on the basketball team.

COUNT II

**K.S., a minor, by and through is father, Thomas Schenk and his mother,
Donna Schenk vs.**

**Pottsville Area School District
DENIAL OF PROCEDURAL DUE PROCESS**

47. Plaintiff incorporates paragraphs 1 through 46 as though fully set forth at length.

48. K.S. had a right under the United States Constitution to receive due process of law before being suspended from school without legitimate reason. The Due Process Clause is applicable to state actors through the Fourteenth Amendment.

49. K.S. also had a due process right to be free from arbitrary and capricious disciplinary actions.

50. K.S. also had a liberty interest in his reputation that is afforded due process protections.

51. At all times, the District, through its administrators, employees, agents, and board members acted under the color of state law.

52. As such, K.S.'s constitutional claims can be enforced through 42 U.S.C. § 1983.

53. At all relevant times, the District was aware, or should have been aware, that K.S. had the right to be free from school discipline and/or punishment without due process.

54. The due process owed to K.S. involved the opportunity to be heard at a meaningful time and in a meaningful manner.

55. K.S. was denied due process because he was denied access to the evidence against him. More specifically, K.S. was denied the opportunity to meaningfully respond to the allegations against him when the District refused on

numerous occasions to provide him access to the statements it allegedly had against him.

56. K.S. was further denied the opportunity to respond to the allegations in a meaningful manner when he was denied the opportunity to present witnesses that would refute the allegations lodged against him.

57. Moreover, the District denied K.S. procedural due process when it violated its own policy that required it to provide him with the results of the investigation it had allegedly conducted into the allegations. Despite repeated requests for the results of the investigation, the District refused to provide the same. This denied K.S. the opportunity to reasonably respond to the allegations made against him.

58. As a direct and proximate result of the denial of his due process rights, K.S. was suspended from school and suffered reputational harm thereby.

59. As a direct and proximate result of the suspension, K.S. was denied the opportunity to fully participate in the public education process, a right guaranteed to him by the Commonwealth of Pennsylvania.

60. As a direct and proximate result of the suspension, K.S. has a permanent record of school disciplinary action against him, which is likely to affect his ability to pursue post-high school education and secure the financial assistance he needs to make that pursuit.

61. As a direct and proximate result of the suspension, K.S. was denied the opportunity to participate in extracurricular activities such as the high school basketball team, which is likely to affect his ability to pursue post-high school education and secure the financial assistance he needs to make that pursuit.

62. Upon information and belief, the District selectively and capriciously applied rules and policies to K.S. and selectively and capriciously disciplined him.

63. As a direct and proximate result of the District's actions, rumors about the false allegations and the suspension spread through the community. This has resulted in substantial pain and suffering, mental stress, anxiety, humiliation, embarrassment and loss of reputation to K.S.

64. The damages and injuries suffered by K.S. were directly, legally, proximately, and substantially caused by the actions and conduct of the District.

65. The District should have known that the aforementioned conduct violated K.S.'s due process rights and was otherwise inconsistent with the student code of conduct, board policies and district procedures.

66. The conduct of the District was in reckless indifference to the rights of K.S. and therefore warrants the imposition of punitive damages.

WHEREFORE, in the interest of justice, Plaintiff K.S., by and through his Parents, respectfully request this Honorable Court enter judgment in K.S.'s favor and against the Defendant, the Pottsville Area School District, and: (i) award him

compensatory damages in an amount to be proven at trial; (ii) award him reasonable attorney's fees and costs; (iii) award him punitive damages; (iv) enter an injunction immediately reversing the suspension, reinstating K.S. to school and allowing him to participate in extracurricular activities including sports; (v) remove any record of discipline from K.S.'s school file and expunge any reference of discipline of K.S. related to this incident; and (vi) grant all other relief that this Court deems equitable and just.

COUNT III

**K.S., a minor, by and through is father, Thomas Schenk and his mother,
Donna Schenk vs.**

Pottsville Area School District

42 U.S.C. §1983 FIRST AMENDMENT VIOLATION

67. Plaintiff incorporates paragraphs 1 through 66 as though fully set forth at length.

68. The First Amendment of the United States Constitution guarantees K.S. the freedom of expression. The First Amendment is applicable to state actors through the Fourteenth Amendment.

69. At all times, the District, through its administrators, employees, agents, and board members acted under the color of state law.

70. As such, K.S.'s constitutional claims can be enforced through 42 U.S.C. § 1983.

71. At all relevant times, the District knew or should have known that K.S. had a First Amendment right of freedom of expression and that it could not discipline him for legitimately exercising that right.

72. The reason for K.S.'s suspension was that he was allegedly dancing in the boy's locker room with or without a towel in close proximity to the alleged victim, a 25-year-old male who is permitted to associate with players on the football team by District coaches and administration.

73. Although K.S. denies the allegations, even if they were true, K.S. has a constitutionally protected right to express himself through dancing.

74. There was no legitimate reason permitting the District to curtail K.S.'s First Amendment rights to freedom of expression.

75. There was no legally cognizable reason permitting the District to curtail K.S.'s First Amendment rights to freedom of expression.

76. The District's suspension of K.S. for exercising his First Amendment rights violates the Constitution.

77. As a direct and proximate result of the denial of his First Amendment right, K.S. was suspended from school and suffered reputational harm thereby.

78. As a direct and proximate result of the suspension, K.S. was denied the opportunity to fully participate in the public education process, a right guaranteed to him by the Commonwealth of Pennsylvania.

79. As a direct and proximate result of the suspension, K.S. has a permanent record of school disciplinary action against him, which is likely to affect his ability to pursue post-high school education and secure the financial assistance he needs to make that pursuit.

80. As a direct and proximate result of the suspension, K.S. was denied the opportunity to participate in extracurricular activities such as the high school basketball team, which is likely to affect his ability to pursue post-high school education and secure the financial assistance he needs to make that pursuit.

81. Upon information and belief, the District selectively and capriciously applied rules and policies to K.S. and selectively and capriciously disciplined him.

82. As a direct and proximate result of the District's actions, rumors about the false allegations and the suspension spread through the community. This has resulted in substantial pain and suffering, mental stress, anxiety, humiliation, embarrassment and loss of reputation to K.S.

83. The damages and injuries suffered by K.S. were directly, legally, proximately, and substantially caused by the actions and conduct of the District.

84. The District should have known that the aforementioned conduct violated K.S.'s First Amendment rights.

85. The conduct of the District was in reckless indifference to the rights of K.S. and therefore warrants the imposition of punitive damages.

WHEREFORE, in the interest of justice, Plaintiff K.S., by and through his Parents, respectfully request this Honorable Court enter judgment in K.S.'s favor and against the Defendant, the Pottsville Area School District, and: (i) award him compensatory damages in an amount to be proven at trial; (ii) award him reasonable attorney's fees and costs; (iii) award him punitive damages; (iv) enter an injunction immediately reversing the suspension, reinstating K.S. to school and allowing him to participate in extracurricular activities including sports; (v) remove any record of discipline from K.S.'s school file and expunge any reference of discipline of K.S. related to this incident; and (vi) grant all other relief that this Court deems equitable and just.

COUNT IV

**K.S., a minor, by and through is father, Thomas Schenk and his mother,
Donna Schenk vs.**

**Pottsville Area School District
EQUAL PROTECTION 42 U.S.C. §1983**

86. Plaintiff incorporates paragraphs 1 through 85 as though fully set forth at length.

87. At all relevant times, K.S. had a right under the United States Constitution to receive equal protection of the law.

88. At all relevant times, the District, through its administrators, employees, agents, and board members, acted under the color of state law.

89. As such, K.S.'s constitutional claims can be enforced through 42 U.S.C. § 1983.

90. At all relevant times, the District was aware, or should have been aware, that K.S. was protected by the Equal Protection Clause.

91. The Equal Protection Clause requires that all similarly situated people be treated the same.

92. The District had a policy of essentially ignoring anonymous complaints.

93. The District deviated from this policy when it investigated and punished K.S. premised entirely on an anonymous complaint.

94. In doing so, the District treated K.S. differently from other, similarly situated students who had previously had anonymous complaints lodged about them.

95. Furthermore, it is believed and therefore averred that the District permitted other, similarly situated students access to all the disciplinary evidence against them. As mentioned above, the District did not furnish the purported witness statements to K.S. despite numerous requests to do so. In this regard, the District treated K.S. substantially differently than similarly situated students.

96. Additionally, it is believed and therefore averred that the District permitted other, similarly situated students the opportunity to present all

exculpatory evidence in their favor. As mentioned above, the District prevented a multitude of K.S.'s witnesses from testifying, and in doing so treated him substantially differently than similarly situated students.

97. Moreover, as mentioned above, it is clear that the alleged conduct does not qualify as harassment under Policy 248. Nonetheless, the District suspended K.S. pursuant to Policy 248. In doing so, it treated him substantially different than similarly situated students who also did not violate Policy 248.

98. Furthermore, it is believed and therefore averred that the District had meted out less severe punishment to students who had committed acts more egregious than those alleged to have been committed by K.S. In doing so, the District treated K.S. substantially worse than those similarly situated students.

99. In treating K.S. different than similarly situated students and in denying him equal protection of the law, it is believed and therefore averred that the District harbored improper motives.

100. Upon information and belief, the District intentionally treated K.S. differently from other, similarly situated students.

101. There was no rational basis for treating K.S. differently from other, similarly situated students.

102. The conduct of the District violates K.S.'s equal protection rights.

103. As a result of the District's violation of K.S.'s equal protection rights, K.S. suffered the harms and losses more fully described above.

104. The damages and injuries suffered by K.S. were directly, legally, proximately, and substantially caused by the actions and conduct of the District.

105. The District should have known that the aforementioned conduct violated K.S.'s equal protection rights.

106. The conduct of the District was in reckless indifference to the rights of K.S. and therefore warrants the imposition of punitive damages.

WHEREFORE, in the interest of justice, Plaintiff K.S., by and through his Parents, respectfully request this Honorable Court enter judgment in K.S.'s favor and against the Defendant, the Pottsville Area School District, and: (i) award him compensatory damages in an amount to be proven at trial; (ii) award him reasonable attorney's fees and costs; (iii) award him punitive damages; (iv) enter an injunction immediately reversing the suspension, reinstating K.S. to school and allowing him to participate in extracurricular activities including sports; (v) remove any record of discipline from K.S.'s school file and expunge any reference of discipline of K.S. related to this incident; and (vi) grant all other relief that this Court deems equitable and just.

COUNT V

**K.S., a minor, by and through is father, Thomas Schenk and his mother,
Donna Schenk vs.
Pottsville Area School District
OVERBREADTH AND VAGUENESS**

107. Plaintiff incorporates paragraphs 1 through 106 as though fully set forth at length.

108. The Policy is unconstitutionally vague in that, on its face and as interpreted, it does not adequately put students on notice of the conduct that its proscribes.

109. The Policy is unconstitutionally overbroad in that, on its face and as interpreted, it punishes conduct that is otherwise protected by federally secured rights.

WHEREFORE, in the interest of justice, Plaintiff K.S., by and through his Parents, respectfully request this Honorable Court enter judgment in K.S.'s favor and against the Defendant, the Pottsville Area School District, and: (i) award him compensatory damages in an amount to be proven at trial; (ii) award him reasonable attorney's fees and costs; (iii) award him punitive damages; (iv) enter an injunction immediately reversing the suspension, reinstating K.S. to school and allowing him to participate in extracurricular activities including sports; (v) remove any record of discipline from K.S.'s school file and expunge any reference

of discipline of K.S. related to this incident; and (vi) grant all other relief that this Court deems equitable and just.

Respectfully submitted,

FANELLI, EVANS & PATEL, P.C.

By: /s/ Albert J. Evans
ALBERT J. EVANS, ESQUIRE
Attorney I.D. #68872
ERIC M. PROCK, ESQUIRE
Attorney I.D. #208315
No. 1 Mahantongo Street
Pottsville, PA 17901
(570) 622-2455
Attorney for Plaintiff

VERIFICATION

I, K.S., hereby affirm under the penalties of perjury:

1. I am a minor (under eighteen years old).
2. My parents are Thomas Schenk and Donna Schenk.
3. I am a Plaintiff in this lawsuit.
4. I have read the factual allegations in the foregoing Complaint.
5. The factual allegations are, to the best of my knowledge and belief, true and correct.

K.S.
K.S.

VERIFICATION

I, THOMAS SCHENK, hereby affirm under the penalties of perjury:

1. I am over the age of 18 and competent to testify.
2. I am the parent of K.S., the minor Plaintiff identified in the foregoing Complaint.
3. I have read the factual allegations in the foregoing Complaint.
4. The factual allegations are, to the best of my knowledge and belief, true and correct.



THOMAS SCHENK

VERIFICATION

I, DONNA SCHENK, hereby affirm under the penalties of perjury:

1. I am over the age of 18 and competent to testify.
2. I am the parent of K.S., the minor Plaintiff identified in the foregoing Complaint.
3. I have read the factual allegations in the foregoing Complaint.
4. The factual allegations are, to the best of my knowledge and belief, true and correct.



DONNA SCHENK