

UNITED STATES DISTRICT COURT  
FOR DISTRICT OF RHODE ISLAND

Plaintiffs, MARGARET ROGERS; :  
MARGARET ROGERS AS PARENT :  
AND NEXT FRIEND OF GWENDOLYN :  
ROGERS; KATHLEEN CHURCH; :  
KATHLEEN CHURCH AS PARENT AND :  
NEXT FRIEND OF KARY CHURCH :  
AND KEITH CHURCH; COLLEEN :  
ARNESON; COLLEEN ARNESON AS :  
PARENT AND NEXT FRIEND OF :  
TAYLA AND KYLE ARNESON; ANA :  
DESAUTEL; ANA DESAUTEL AS :  
PARENT AND NEXT FRIEND OF :  
CASSANDRA DESAUTEL; JOANNE :  
BONOLLO; JOANNE BONOLLO :  
AS PARENT AND NEXT FRIEND OF :  
DESTINY BONOLLO AND ALLISON :  
BONOLLO; AMY BREault ZOLT; :  
AMY BREault ZOLT AS PARENT AND :  
NEXT FRIEND OF ERIK BREault, :  
MAXBREault, AND TYLER BREault :  
LINDA GHAZAL; and LINDA GHAZAL :  
AS PARENT AND NEXT FRIEND OF :  
TABATHA GHAZAL AND ADAM :  
GHAZAL :

VS. :

C.A. NO. :

Defendants, WILLIAM D. MULHOLLAND :  
in his capacity as Superintendent of the :  
Parks and Recreation Division for the :  
City of Pawtucket; JAMES E. DOYLE, in :  
his capacity as Mayor of The City of :  
Pawtucket; and JACK CARNEY, in his :  
Capacity as Director of Public Works :

**VERIFIED COMPLAINT**

## I. JURISDICTION

1. This is a civil action brought under 42 USC §§1983 and 1988 by Plaintiffs to secure injunctive and declaratory relief against preferential allocation of permits for use of publicly owned athletic fields to private, religious schools and against the granting of permits for the use of publicly owned athletic fields in the absolute discretion of an administrative official, in violation of the First, Fifth, and Fourteenth Amendments of the United States Constitution and Article I, Sections 2 and 3 of the Rhode Island Constitution.

2. This court has jurisdiction of the matter in controversy pursuant to 28 USC §1331, 1343, 1367, 2201, and 2202.

## II. PARTIES

### A. PLAINTIFFS

3. Plaintiff Margaret Rogers is now and at all times pertinent hereto has been a resident and taxpayer of the City of Pawtucket, State of Rhode Island, and the United States of America. Plaintiff regularly pays taxes which finance, among other things, the operation of city facilities, including athletic fields owned by the City of Pawtucket. Plaintiff Margaret Rogers is also the parent of Gwendolyn Rogers, who is a student at Tolman High School, a public high school in the City of Pawtucket, and who plays interscholastic sports at Tolman High School. Plaintiff brings this matter on her own behalf and as parent and next friend of her daughter Gwendolyn Rogers.

4. Plaintiff Kathleen Church is now and at all times pertinent hereto has been a resident and taxpayer of the City of Pawtucket, State of Rhode Island, and the United States of America. Plaintiff regularly pays taxes which finance, among other things, the operation of city facilities, including athletic fields owned by the City of Pawtucket. Plaintiff Kathleen Church is also the parent of Kary Church, who is a student at Tolman High School, a public high school in the City of Pawtucket, and who plays interscholastic sports at Tolman High School; and of Keith Church, who attends Jenks Junior High School, a public junior high school in the City of

Pawtucket. Plaintiff brings this matter on her own behalf and as parent and next friend of her children Kary and Keith Church.

5. Plaintiff Colleen Arneson is now and at all times pertinent hereto has been a resident and taxpayer of the City of Pawtucket, State of Rhode Island, and the United States of America. Plaintiff regularly pays taxes which finance, among other things, the operation of city facilities, including athletic fields owned by the City of Pawtucket. Plaintiff Colleen Arneson is also the parent of Tayla Arneson, who is a student at Tolman High School, a public high school in the City of Pawtucket; and Kyle Arneson who attends Jenks Junior High School, a public junior high school in the City of Pawtucket, and who has tried out for interscholastic sports at Jenks Junior High School. Plaintiff brings this matter on her own behalf and as parent and next friend of her children Tayla and Kyle Arneson.

6. Plaintiff Ana Desautel is now and at all times pertinent hereto has been a resident and taxpayer of the City of Pawtucket, State of Rhode Island, and the United States of America. Plaintiff regularly pays taxes which finance, among other things, the operation of city facilities, including athletic fields owned by the City of Pawtucket. Plaintiff Ana Desautel is also the parent of Cassandra Desautel, who is a student at Jacqueline Walsh School, a public high school in the City of Pawtucket, and who plays interscholastic sports at Tolman High School. Plaintiff brings this matter on her own behalf and as parent and next friend of her daughter Cassandra Desautel.

7. Plaintiff Linda Ghazal is now and at all times pertinent hereto has been a resident and taxpayer of the City of Pawtucket, State of Rhode Island, and the United States of America. Plaintiff regularly pays taxes which finance, among other things, the operation of city facilities, including athletic fields owned by the City of Pawtucket. Plaintiff Linda Ghazal is also the parent of Tabatha Ghazal, who is a student at Tolman High School, a public high school in the City of Pawtucket, and who plays interscholastic sports at Tolman High School; and of Adam Ghazal, who attends Goff Junior High School, a public junior high school in the City of Pawtucket, and who plays interscholastic sports at Goff Junior High School. Plaintiff

brings this matter on her own behalf and as parent and next friend of her children Tabatha and Adam Ghazal.

8. Plaintiff Amy Breault Zolt is now and at all times pertinent hereto has been a resident and taxpayer of the City of Pawtucket, State of Rhode Island, and the United States of America. Plaintiff regularly pays taxes which finance, among other things, the operation of city facilities, including athletic fields owned by the City of Pawtucket. Plaintiff Amy Breault Zolt is also the parent of Erik Breault and Max Breault, who are students at Tolman High School, a public high school in the City of Pawtucket; and of Tyler Breault, who attends Jenks Junior High School, a public junior high school in the City of Pawtucket, and who plays interscholastic sports at Jenks Junior High School. Plaintiff brings this matter on her own behalf and as parent and next friend of her children Erik, Max, and Tyler Breault.

9. Plaintiff Joanne Bonollo is now and at all times pertinent hereto has been a resident and taxpayer of the City of Pawtucket, State of Rhode Island, and the United States of America. Plaintiff regularly pays taxes which finance, among other things, the operation of city facilities, including athletic fields owned by the City of Pawtucket. Plaintiff Joanne Bonollo is also the parent of Destiny Bonollo, who is a student at Jacqueline Walsh School, a public high school in the City of Pawtucket and of Allison Bonollo, who is a student at Tolman High School, a public high school in the city of Pawtucket. Plaintiff brings this matter on her own behalf and as parent and next friend of her children Destiny and Allison Bonollo.

#### B. DEFENDANTS

10. Defendant William D. Mulholland is now and at all times pertinent hereto has been employed by the City of Pawtucket as the Superintendent of the Division of Parks and Recreation. In his capacity as Superintendent of the Division of Parks and Recreation, Defendant William D. Mulholland has the authority and does in fact issue permits for the use of athletic fields owned by the City of Pawtucket. Defendant William D. Mulholland is sued herein in his official capacity.

11. Defendant James E. Doyle is now and at all times pertinent hereto has been the elected Mayor of the City of Pawtucket and as such has control and authority over the Division of Parks and Recreation and over the Department of Public Works for the City of Pawtucket. He is sued herein in his official capacity.

12. Defendant Jack Carney is now and at all times pertinent hereto has been employed by the City of Pawtucket as the Director of Public Works. In his capacity as Director of Public Works, Defendant Jack Carney has the authority and does in fact exercise authority over the Parks Division and the Office of Parks and Recreation of the City of Pawtucket. Defendant Jack Carney is sued herein in his official capacity.

13. Defendants herein have, at all times pertinent hereto, been acting under color of state law.

### III. STATEMENT OF FACTS

14. The City of Pawtucket, Rhode Island, through its Department of Public Works, Office of Parks and Recreation, owns, operates, maintains, and issues permits for use of City athletic fields, including but not limited to McKinnon/Alves Soccer Complex, Doreen Ann Tomlinson Field, O'Brien Field, Fairlawn Veteran's Memorial Park, and Pariseau Field. The aforementioned athletic fields are maintained using taxes collected by the City of Pawtucket and paid by residents of the City of Pawtucket, including Plaintiffs. Furthermore, by information and belief, the construction of the McKinnon/Alves Soccer Complex and the rehabilitation of the O'Brien Field were both accomplished by the use of federal funds.

15. The Pawtucket School Department operates three (3) public high schools in the City of Pawtucket, namely, Tolman High School, Shea High School, and Jacqueline Walsh School, as well as three (3) public junior high schools, namely, Goff Junior High School, Jenks Junior High School, and Slater Junior High School. The public high schools and junior high schools in the City of Pawtucket are funded by a combination of funds raised by municipal, state, and federal taxes. At all times pertinent hereto, Plaintiffs have paid and continue to pay taxes to the City of Pawtucket, the State of Rhode Island, and the United States.

16. Both the public high schools and the public junior high schools in the City of Pawtucket are operated by and under the control of the Pawtucket School Department and School Committee and include in their curriculum interscholastic athletic programs.

17. By information and belief, over three hundred (300) public school students participate in the interscholastic athletic programs offered by the public junior high schools in the City of Pawtucket, and over six hundred (600) public school students participate in the interscholastic athletic programs offered by the public high schools in the City of Pawtucket.

18. Certain public high school and public junior high school interscholastic athletic programs require the use of athletic field space, for which the Pawtucket School Department must obtain permission from the City of Pawtucket, and specifically from the Office of Parks and Recreation of the City of Pawtucket, by and through its Superintendent, Defendant William D. Mulholland.

19. The City of Pawtucket, and the Department of Public Works, Division of Parks, Office of Parks and Recreation, has no written policies governing the issuance of permits for city owned athletic fields. The issuance of permits is wholly within the discretion of the Superintendent of the Office of Parks and Recreation of the City of Pawtucket, namely, Defendant William D. Mulholland. The long-standing lack of written policies has enabled and continues to enable Defendants to provide preferential field allocation to religious schools.

20. During the summer of 2009, Defendant William D. Mulholland, acting in his capacity as Superintendent of the City of Pawtucket's Office of Parks and Recreation, requested the athletic directors of Pawtucket's junior and senior high schools to submit a request for permits for the use of the city's athletic fields for public school sponsored interscholastic sports teams. The athletic directors' requests included the use of the O'Brien Field from Monday through Friday, 2:30 p.m. to 5:00 p.m. in the fall of 2009 for the Jenks Junior High School boys' and girls' soccer teams. Their request also included the use of all three fields at the McKinnon/Alves Soccer Complex.

21. By information and belief, in August 2009, Defendant William D. Mulholland denied public school athletic teams at the junior high school levels their requests for permits for the use of O'Brien Field and for the use of one of the three fields at the McKinnon/Alves Soccer Complex, all of which are athletic fields owned, operated, and maintained by the City of Pawtucket by and through its Department of Public Works, Office of Parks and Recreation. Saint Raphael's Academy, a private sectarian high school operated by the Roman Catholic Diocese of Providence, was, however, granted a permit for the exclusive use of O'Brien Field from Monday through Friday, from 2:00 p.m. until dusk, for its school sponsored athletic programs and was also granted a permit for the exclusive use of one of the fields at the McKinnon/Alves Soccer Complex. By information and belief, the permits allowing Saint Raphael's Academy the exclusive use of the aforementioned fields on week-days was issued by Defendant William D. Mulholland in his capacity as Superintendent of the Office of Parks and Recreation for the City of Pawtucket.

22. By information and belief, the City of Pawtucket received approximately Two Hundred Thousand (\$200,000.00) Dollars in federal money in approximately 2000 in order to refurbish the O'Brien Field.

23. By information and belief, Pawtucket redeveloped the site of the former Newman-Crosby Steel Plant into the McKinnon/Alves Soccer Complex with taxpayer funds, including \$450,000.00 in state open space and recreational bond funds, \$1.2 million dollars from the City of Pawtucket, \$400,000.00 in federal funds through the National Park Service, and \$200,000.00 in federal brownfields cleanup funds through the Environmental Protection Agency.

24. By information and belief, for most of the period before and since the O'Brien Field has been refurbished through the use of public monies, Saint Raphael Academy has enjoyed the exclusive use of said field, particularly on week-day afternoons in the fall season, despite repeated requests by various public school officials for use of O'Brien Field for public school sponsored interscholastic sports, submitted to the City of Pawtucket's Office of Parks and Recreation, by and through Defendant William D. Mulholland.

25. By information and belief, public school officials acting on behalf of Jenks Junior High School, a public junior high school located in the City of Pawtucket, have requested use of the O'Brien Field, which is located in close proximity to Jenks Junior High School, for junior high school soccer team practice and games for at least the last five (5) academic years, including the current academic year. In each and every instance, the City of Pawtucket's Office of Parks and Recreation, acting by and through its Superintendent, Defendant William D. Mulholland, denied the use of O'Brien Field to the Jenks Junior High School soccer team in favor of allowing Saint Raphael Academy exclusive use of said field each and every afternoon during the fall season. Ultimately, in 2008, after legal action was threatened with regard to the preferential treatment of St. Raphael Academy to the detriment of the interscholastic teams of the City of Pawtucket's public high schools and junior high schools, Defendants ultimately withdrew an exclusive permit issued to St. Raphael Academy for use of O'Brien Field every weekday afternoon in the fall in order to accommodate the needs of the interscholastic teams of the public schools in the City of Pawtucket; however, during the current academic year Defendant William D. Mulholland again denied requests by public schools athletic directors for use of O'Brien Field, and instead issued a permit for exclusive use of that field on weekday afternoons in the fall to St. Raphael Academy.

26. By information and belief, during the current academic year, the Pawtucket School Department's public junior high school teams have also been denied the use of Pawtucket- owned Doreen Ann Tomlinson Field for their athletic games.

27. By information and belief, during the current academic year, the Pawtucket School Department's public junior high school teams were denied the use of Pawtucket owned O'Brien Field and one of the three fields located at the McKinnon/Alves Soccer Complex, both of which have been and continue to be reserved exclusively for the use of St. Raphael Academy's and/or Bishop Keough's athletic teams. Bishop Keough is, like St. Raphael Academy, a private sectarian school.

28. As a proximate result of Defendants' refusal to allow the use of the aforementioned fields, the public junior high school and the public high school athletic



programs cannot be fully accommodated because they have been assigned insufficient field space for practice and for games. For example, as recently as last week, the Tolman High School soccer team was unable to practice as planned because no public field was available to them. During the time that the team's practice would normally take place, St. Raphael's Academy had been granted exclusive use of O'Brien Field.

29. Plaintiffs, Margaret Rogers, Kathleen Church, Colleen Arneson, Ana Desautel, Joanne Bonollo, Amy Breault Zolt, and Linda Ghazal, object to the arbitrary decisions by Defendant William D. Mulholland, in his capacity as Superintendent of the Division of Parks and Recreation of the City of Pawtucket, to reject the applications filed on behalf of various public schools to use O'Brien Field, all three fields at the McKinnon/Alves Soccer Complex, and the Doreen Ann Tomlinson Field for interscholastic sports in favor of granting the exclusive use of said fields at certain times and on week-day afternoons to private, sectarian schools. Plaintiffs are the parents of children who are public school students and who have suffered and/or are likely to suffer harm as a result of Defendants' actions and policies relating to the granting of permits for the use of athletic fields owned and operated by the City of Pawtucket and required for interscholastic athletics operated by the public schools in the City of Pawtucket.

30. Municipal tax funds are currently used to operate and maintain the athletic fields owned by the City of Pawtucket, including but not limited to the O'Brien Field, the McKinnon/Alves Soccer Complex, and the Doreen Ann Tomlinson Field.

31. Plaintiffs, Margaret Rogers, Kathleen Church, Colleen Arneson, Ana Desautel, Joanne Bonollo, Amy Breault Zolt, and Linda Ghazal, are opposed to the expenditure of their tax funds in a manner that allows preferential and exclusive allocation of publicly financed and maintained athletic fields for sectarian schools over public schools.

32. Plaintiffs have no adequate remedy at law and have suffered and will continue to suffer irreparable harm by the arbitrary policies of Defendants to allow and/or authorize preferential use and permitting of the City of Pawtucket's athletic fields to private, sectarian school students.

#### IV. FIRST CAUSE OF ACTION

33. Plaintiffs, Margaret Rogers, Kathleen Church, Colleen Arneson, Ana Desautel, Joanne Bonollo, Amy Breault Zolt, and Linda Ghazal, hereby incorporate paragraphs one (1) through thirty two (32) above as if fully set forth herein, and for their first cause of action allege that the actions of Defendants described therein violate the Establishment Clause of the First Amendment of the United States Constitution, applicable to the City of Pawtucket through the Fourteenth Amendment of the United States Constitution.

#### V. SECOND CAUSE OF ACTION

34. Plaintiffs, Margaret Rogers, Kathleen Church, Colleen Arneson, Ana Desautel, Joanne Bonollo, Amy Breault Zolt, and Linda Ghazal, hereby incorporate paragraphs one (1) through thirty three (33) above as if fully set forth herein, and for their second cause of action allege that the actions of Defendants described therein violate Article I, Section 3 of the Rhode Island Constitution.

#### IV THIRD CAUSE OF ACTION

35. Plaintiffs, Margaret Rogers, Kathleen Church, Colleen Arneson, Ana Desautel, Joanne Bonollo, Amy Breault Zolt, and Linda Ghazal, hereby incorporate paragraphs one (1) through thirty-four (34) above as if fully set forth herein, and for their third cause of action allege that the vesting of absolute authority in Defendant William D. Mulholland to issue permits for use of city-owned athletic fields without objective, non-discriminatory standards or policies violates the due process and equal protection clauses of the Fifth and Fourteenth Amendments of the United States Constitution.

#### V. FOURTH CAUSE OF ACTION

36. Plaintiffs, Margaret Rogers, Kathleen Church, Colleen Arneson, Ana Desautel, Joanne Bonollo, Amy Breault Zolt, and Linda Ghazal, hereby incorporate paragraphs one (1) through thirty-five (35) above as if fully set forth herein, and for their fourth cause of action

allege that the vesting of absolute authority in Defendant William D. Mulholland to issue permits for use of city-owned athletic fields without objective, non-discriminatory standards or policies violates the due process and equal protection clauses of Article I, Section 2 of the Rhode Island Constitution.

WHEREFORE, Plaintiffs pray that this Honorable Court grant them the following relief:

1. Declare that Defendants' actions in granting exclusive, preferential allocation of use of athletic fields owned and operated by the City of Pawtucket violate the Establishment Clause of the First Amendment of the United States Constitution, applicable to the City of Pawtucket through the Fourteenth Amendment of the United States Constitution.
2. Declare that Defendants' actions in granting exclusive, preferential allocation of use of athletic fields owned and operated by the City of Pawtucket violate Article I, Section 3 of the Rhode Island Constitution.
3. Declare that the vesting of authority in a City official to issue permits for use of City-owned athletic fields without objective, non-discriminatory standards or policies violates the due process and equal protection clauses of the Fifth and Fourteenth Amendments of the United States Constitution.
4. Declare that the vesting of authority in a City official to issue permits for use of City-owned athletic fields without objective, non-discriminatory standards or policies violates the due process and equal protection clauses of Article I, Section 2 of the Rhode Island Constitution.
5. Permanently restrain and enjoin Defendants, and all persons acting by or through them, from granting exclusive or preferential allocation of use of athletic fields owned and operated by the City of Pawtucket to private, sectarian schools.
6. Grant Plaintiffs reasonable attorney's fees and costs for the prosecution of this matter.
7. Grant Plaintiffs such other and further relief as the Court deems just and the circumstances of the case require.

VERIFICATION OF COMPLAINT

I, Margaret Rogers, upon oath, depose and state that I have read the within Verified Complaint and believe that the allegations contained therein to be true and correct to the best of my belief.

\_\_\_\_\_  
Margaret Rogers

STATE OF RHODE ISLAND  
\_\_\_\_\_, SC.

Subscribed and sworn to before me in \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

I, Kathleen Church, upon oath, depose and state that I have read the within Verified Complaint and believe that the allegations contained therein to be true and correct to the best of my belief.

\_\_\_\_\_  
Kathleen Church

STATE OF RHODE ISLAND  
\_\_\_\_\_, SC.

Subscribed and sworn to before me in \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

I, Colleen Arneson, upon oath, depose and state that I have read the within Verified Complaint and believe that the allegations contained therein to be true and correct to the best of my belief.

\_\_\_\_\_  
Colleen Arneson

STATE OF RHODE ISLAND  
\_\_\_\_\_, SC.

Subscribed and sworn to before me in \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public  
My Commission Expires:\_\_\_\_\_

I, Ana Desautel, upon oath, depose and state that I have read the within Verified Complaint and believe that the allegations contained therein to be true and correct to the best of my belief.

\_\_\_\_\_  
Ana Desautel

STATE OF RHODE ISLAND  
\_\_\_\_\_, SC.

Subscribed and sworn to before me in \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public  
My Commission Expires:\_\_\_\_\_

I, Joanne Bonollo, upon oath, depose and state that I have read the within Verified Complaint and believe that the allegations contained therein to be true and correct to the best of my belief.

\_\_\_\_\_  
Joanne Bonollo

STATE OF RHODE ISLAND  
\_\_\_\_\_, SC.

Subscribed and sworn to before me in \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public  
My Commission Expires:\_\_\_\_\_

I, Amy Breault Zolt, upon oath, depose and state that I have read the within Verified Complaint and believe that the allegations contained therein to be true and correct to the best of my belief.

\_\_\_\_\_  
Amy Breault Zolt

STATE OF RHODE ISLAND  
\_\_\_\_\_, SC.

Subscribed and sworn to before me in \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public  
My Commission Expires:\_\_\_\_\_

I, Linda Ghazal, upon oath, depose and state that I have read the within Verified Complaint and believe that the allegations contained therein to be true and correct to the best of my belief.

\_\_\_\_\_  
Linda Ghazal

STATE OF RHODE ISLAND  
\_\_\_\_\_, SC.

Subscribed and sworn to before me in \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public

My Commission Expires:\_\_\_\_\_

Plaintiffs,  
By and through their Attorney,

\_\_\_\_\_  
Sandra A. Lanni, Esquire, #2147  
Cooperating Attorney for RI Affiliate, ACLU  
100 Jefferson Boulevard, Ste. 225  
Warwick, RI 02888  
(401) 737-4300 Telephone  
(401) 737-6201 Telefax

SANDRA A. LANNI WILL BE TRIAL COUNSEL IN THIS MATTER.