

IN THE  
SUPREME COURT  
OF THE UNITED STATES OF AMERICA

DOCKET NO. 07-141

WORLDWIDE PEOPLE'S TEMPLE,  
PETITIONER,

v.

LUCILLE RASMUSSEN,  
RESPONDENT.

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ON WRIT OF CERTIORARI  
TO THE  
UNITED STATES COURT OF APPEALS FOR THE AMES CIRCUIT

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JOINT APPENDIX

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## OFF-LIMITS MATERIALS

The following materials are off-limits during the Fall 2007 Ames Moot Court Final Round Competition, and no team member may cite or consult them:

- Any and all court filings, briefs, transcripts of proceedings, audio or video recordings of proceedings, attorney work product, or court records (except reported judicial decisions), or excerpts therefrom included in blogs, law review articles, or other secondary sources, from any case addressing the issues raised in this case.
- Any and all law review articles, bar journal articles, or similar publications that analyze the issues raised in this case and which are not yet publicly available through publication either in print, on Lexis or Westlaw, or on the Internet. In the event that a team or one of its members has already had access to such a publication, disclosure of the title and author of the publication and the circumstances in which it was accessed must be made to the Ames Moot Court Competition Case Writers, Julie Barton, HLS '92 (jbarton@law.harvard.edu) and Meryl Kessler, HLS '93 (mkessler@law.harvard.edu), and to the opposing team. In such circumstances, arrangements will be made to afford the opposing team access to the publication in question, and both teams will be required to treat the publication in question as confidential unless the author or copyright owner of the publication agrees otherwise. Publications by practitioners and students are included in this prohibition; however, no team member is required to disclose his or her own related scholarship.
- If applicable, any studies or surveys beyond those explicitly included in the Record. Nor may any team member use any material external to the record to undermine, support, or elaborate on any studies or surveys referred to in the Record.

Promptly direct any questions about this policy for Off-Limits Materials to Julie Barton and Meryl Kessler.

**UNITED STATES DISTRICT COURT  
DISTRICT OF AMES**

LUCILLE RASMUSSEN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 06-599
	)	JURY TRIAL DEMANDED
WORLDWIDE PEOPLE'S TEMPLE,	)	
	)	
Defendant.	)	
	)	

**COMPLAINT**

This is a civil action based upon the Defendant's violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e *et seq.*, and the Pregnancy Discrimination Act of 1978, 42 U.S.C. § 2000e(k).

**JURISDICTION AND VENUE**

1. Jurisdiction of this court is invoked pursuant to 28 U.S.C. §§ 1343(a)(3) and (4) and 28 U.S.C. § 1331.
2. Venue is proper under 28 U.S.C. §1391(b)(1) and (2) because a substantial part of the events giving rise to Plaintiff's claims occurred within this district.
3. All conditions precedent to maintaining this action have been fulfilled. Plaintiff filed a charge with the Equal Employment Opportunity Commission ("EEOC") on December 20, 2005. On February 6, 2006, Plaintiff sent the EEOC a written request that the EEOC issue a right to sue letter. On February 24, 2006, the Area Director of the EEOC's Ames City, Ames office certified that the charge would not be processed within 180 days from the filing of the charge and issued a Notice of Right to Sue, terminating the EEOC's processing of the charge. A true and correct copy of the Notice of a Right to Sue is attached hereto and marked as Exhibit A.

## **PARTIES**

4. Plaintiff, Lucille Rasmussen, is a female citizen of the United States who resides in the State of Ames.

5. On information and belief, Defendant, the Worldwide People's Temple (the "Temple"), is a religious organization established in or about 1967 with approximately 150,000 members globally. Defendant Temple is an employer for purposes of 42 U.S.C. § 2000e as Defendant has continuously and does now employ more than fifteen (15) employees and is engaged in an industry that affects commerce.

## **FACTUAL ALLEGATIONS**

6. Plaintiff was hired in July 2000 by the Temple as a teacher in the Temple's Sacred Vision Elementary School (the "School") located in Ames City, Ames.

7. On information and belief, the School is wholly owned by the Temple and is operated by a Board of Trustees composed of Temple clergy and lay members.

8. On information and belief, the School educates approximately 220 students in grades K through 6. The curriculum includes a mixture of secular and religious instruction.

9. Plaintiff's primary duty at the School was teaching music at all grade levels. Her responsibilities involved teaching both secular and religious music. The School's music curriculum is based on the elementary school music curriculum developed for the Ames public schools by the Ames Department of Education. Plaintiff was also hired to choose music for and play guitar at the children's daily worship services.

10. At the time that she was hired, Plaintiff signed an annual employment contract ("Contract") and received a copy of the School's Personnel Handbook (the "Handbook"). A true and correct copy of the Contract is attached hereto and marked as Exhibit B. A true and correct copy of relevant sections of the Handbook is attached hereto and marked as Exhibit C. In

pertinent part, the Handbook states that “The Sacred Vision School is an equal opportunity employer and does not discriminate on the basis of race, color, sex, age, military veteran status, national origin, ancestry, marital status, or mental or physical handicap/disability.”

11. Elsewhere, the Handbook also states that “the Sacred Vision School will give priority, in its hiring decisions, to members of the Worldwide People’s Temple.” However, the Principal of the Sacred Vision School “may, in his discretion, hire non-members of the Worldwide People’s Temple for certain teaching and administrative positions.” *See* Exhibit C.

12. Plaintiff is not a member of the Worldwide People’s Temple.

13. On or about April 25, 2005, Plaintiff informed the School Principal, Roger Rheinhold (“Rheinhold”), that she was pregnant.

14. Rheinhold, knowing that Plaintiff was unmarried, asked the Plaintiff if she intended to have the baby. Plaintiff responded that she did.

15. Rheinhold then asked Plaintiff if she intended to marry the baby’s father. Plaintiff responded that she and the baby’s father did not intend to marry. Plaintiff further informed Rheinhold that the baby’s father was another teacher at the school, Andrew Wu. Wu is a member of the Worldwide People’s Temple. When subsequently questioned by Rheinhold, Wu stated his belief that he was the baby’s father.

16. For the remainder of the academic year, which ended on June 25, 2005, Rheinhold harassed Plaintiff because she was pregnant and unmarried. Rheinhold repeatedly reprimanded Plaintiff for wearing clothes that he claimed were too tight across her stomach, suggesting that her pregnancy made tight clothes look “obscene” and that looking at her made him feel “sick.” Rheinhold repeatedly made malicious comments about Plaintiff’s morality to other members of the School staff and to parents. He made pejorative comments to Plaintiff’s colleagues, in her presence, stating that she was obviously a “loose woman,” that she was unprofessional, and that she set a poor example for the School’s children. He also told a group of parents that the School did not condone her dissolute behavior.

17. Plaintiff suffered from extreme morning sickness during the beginning of her pregnancy. After Plaintiff exhausted her sick days, Rheinhold refused to permit her to take personal days off when she was suffering from the effects of this pregnancy-related illness. He also told her that he intended to place a note in her school file indicating that her performance was suffering because of lack of energy and enthusiasm, and that she was having difficulty controlling her classes.

18. On July 12, 2005, Plaintiff received a letter from Rheinhold informing her that the School's Board of Trustees had voted to terminate her position. In pertinent part, the letter stated that "your [Plaintiff's] pregnancy is incontrovertible evidence that you have engaged in sexual relations outside the context of marriage. Everyone who encounters you during your employment here—especially the children in your charge—will be aware of this conduct. In light of the fact that the Board considers such behavior to be both unprofessional and inappropriate, your continued employment here is impossible." A true and correct copy of the letter is attached hereto and marked as Exhibit D.

19. Andrew Wu, the father of Plaintiff's child and an employee of the Sacred Vision School of the Worldwide People's Temple, has remained employed at the School.

20. Because of her termination, Plaintiff did not receive a year-end evaluation for the 2004-2005 academic year. However, in each of the preceding four academic years that she was employed by the School, Plaintiff's performance met and exceeded Defendant's legitimate expectations, as reflected by Plaintiff's excellent performance reviews. A true and correct copy of Plaintiff's most recent review, from the 2003-2004 year, is attached hereto and marked as Exhibit E.

#### **COUNT I – TITLE VII – HOSTILE WORK ENVIRONMENT**

21. Paragraphs one (1) through twenty (20) are incorporated by reference as if fully set out herein.

22. Title VII, 42 U.S.C. § 2000e-2, states in pertinent part that it is unlawful for an employer “to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s...sex ....”

23. Rheinhold’s aforementioned conduct created a hostile work environment for Plaintiff in that she was intimidated, humiliated, and disgusted by Rheinhold’s conduct, and this condition was so pervasive as to alter the conditions of Plaintiff’s employment.

24. Rheinhold’s aforementioned conduct was based on Plaintiff’s gender.

25. Defendant is vicariously liable for the aforementioned conduct of Rheinhold because Rheinhold was the agent, servant, and/or employee of Defendant and, in fact, was in a supervisory position with Defendant at the time of the offensive conduct.

26. In the alternative, Defendant is vicariously liable for the aforementioned conduct of Rheinhold because Defendant failed to have in place and/or failed to implement policies sufficient for advising School employees as to effective procedures for reporting sexual harassment.

27. In the alternative, Defendant is vicariously liable for the aforementioned conduct of Rheinhold because Defendant failed to properly train its School administrators to not engage in harassing conduct based on gender.

28. The aforementioned acts of the Defendant constitute unlawful and intentional discrimination against Plaintiff because of her gender, in violation of Title VII, 42 U.S.C. § 2000e.

29. As a direct and proximate result of the unlawful and intentional acts of Defendant, Plaintiff has suffered emotional distress and other injuries, including, but not limited to, lost and foregone wages and benefits.

30. The conduct by Defendant was outrageous, oppressive, and done with a conscious disregard of the rights of Plaintiff and others. Plaintiff is therefore entitled to punitive damages versus Defendant.



## **COUNT II – TITLE VII – GENDER DISCRIMINATION**

31. Paragraphs one (1) through thirty (30) are incorporated by reference as if fully set out herein.

32. Title VII, 42 U.S.C. § 2000e-2, states in pertinent part that it is unlawful for an employer “to discharge any individual...because of such individual’s...sex.”

33. The aforementioned acts of Defendant—especially termination of Plaintiff’s employment—occurred without just cause and were not taken against similarly situated employees who were not women, as evidenced by Andrew Wu’s continued employment at the School.

34. The aforementioned acts of Defendant—especially termination of Plaintiff’s employment—constitutes unlawful and intentional discrimination against Plaintiff because of her gender, in violation of Title VII, 42 U.S.C. § 2000e.

35. As a direct and proximate result of Defendant’s unlawful and intentional termination of Plaintiff, Plaintiff has suffered injury, including, but not limited to, lost and foregone wages and benefits.

## **COUNT III – PDA – PREGNANCY DISCRIMINATION**

36. Paragraphs one (1) through thirty-five (35) are incorporated by reference as if fully set out herein.

37. The Pregnancy Discrimination Act, 42 U.S.C. § 2000e(k), which amended Title VII, states in pertinent part that “the terms ‘because of sex’ or ‘on the basis of sex’ include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes.”

38. The aforementioned acts of the Defendant were undertaken without just cause and were not taken against similarly situated employees who were not pregnant, as evidenced by Andrew Wu's continued employment at the School.

39. The aforementioned acts of the Defendant constitute unlawful and intentional discrimination against Plaintiff because of her pregnancy, in violation of Title VII, 42 U.S.C. § 2000e(k).

40. As a direct and proximate result of the above unlawful and intentional acts of Defendant, Plaintiff has suffered injury, including, but not limited to, lost and foregone wages and benefits.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Lucille Rasmussen prays for judgment against the Defendant and respectfully request that this Court:

A. Grant Plaintiff actual, consequential, liquidated, punitive and any other damages that the Court may deem appropriate against Defendant;

B. Order Defendant to pay lost, foregone, and future wages to Plaintiff;

C. Grant Plaintiff her attorney's fees, costs, disbursements; and

D. Grant Plaintiff such further relief as the Court deems necessary and proper in the public interest.

#### **JURY TRIAL DEMAND**

Plaintiff requests a jury trial in this action.

LUCILLE RASMUSSEN,

By: Henrietta Chu  
Henrietta Chu, Esq.  
Attorney for the Plaintiff

Dated: March 2, 2006

EXHIBIT A

EEOC Form 161-B (10/96)

U. S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

<p>To:</p> <p>Ms. Lucille Rasmussen 125 Elm Street Ames City, Ames 22222</p> <p><input type="checkbox"/> CONFIDENTIAL (29 CFR § 1601.7(a))</p>	<p>From:</p> <p>Ames District Office 3300 North Central Avenue Suite 690 Ames City, Ames 22222</p>	
Charge No.	EEOC Representative	Telephone No. (813) 228-2310

(See also the additional information attached to this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your suit under Title VII or the ADA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.

More than 180 days have passed since the filing of this charge.

X Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of the charge.

The EEOC is terminating its processing of this charge.

The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.

The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of your charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required). EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit based this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

  
J. D. SMITH, Area Director

February 24, 2006

(Date Mailed)

Enclosure(s)  
Copy of Charge

cc:

To: Equal Opportunity Employment Commission, Ames District  
From: Lucille Rasmussen  
Re: Employment Discrimination Charge against Worldwide People's Temple  
Date: December 20, 2005

Lucille Rasmussen  
125 Elm Street  
Ames City, Ames 22222  
(555) 555-5555

Worldwide People's Temple  
76 Main Street  
Ames City, Ames 22221  
(555) 333-3333  
123 employees

Alleged Violation:

In April 2005, I told Roger Rheinhold, the Principal of the Worldwide People's Temple's Sacred Vision School, that I was pregnant. He asked me if I planned to keep the baby and if I was married and I told him no. From that time, until the end of the school year on June 25, 2005, he harassed, intimidated, and humiliated me throughout the remainder of the school year. He did the following things: he called me a "loose woman"; he told me that my pregnant body disgusted him; he told parents that my behavior was "dissolute." He also refused to allow me personal days off when I was suffering from morning sickness. In a letter dated July 12, 2005, the School fired me because I was pregnant and unmarried. However the School did not fire the father of my child who is also a teacher at the School.

Lucille Rasmussen

Lucille Rasmussen

**EXHIBIT B**

**SACRED VISION SCHOOL**



**THE WORLDWIDE PEOPLE'S TEMPLE**

**Annual Contract of Employment**

1. Details of Parties: This is an agreement between the Sacred Vision School and Lucille Rasmussen.
2. Details of Appointment: Job Title: Full-time Music Teacher/Service Leader
3. Term of Service: This appointment commences on September 1, 2000 and will terminate on August 31, 2001. This agreement is renewable on an annual basis.
4. Place of Work: Sacred Vision School, 1804 Morrissey Avenue, Ames City, Ames, 22222.
5. Hours of Work: The academic year commences on September 6, 2000 and ends on July 22, 2001. As a full-time teacher, you are required to be available for work during this period from 8 a.m. until 5 p.m. daily, excluding weekends and holidays.
6. Holidays: Your entitlement to leave coincides with School closures and public holidays, details of which are contained in the Faculty Handbook.
7. Terms and Conditions of Employment: Your employment is subject to and in accordance with the policies and procedures contained in the Faculty Handbook and any other policies and procedures relating to employment adopted by the Board of Trustees.
8. Character of School: As a teacher in the Sacred Vision School, you are required to have respect for the ethical, moral, and spiritual values of the Worldwide People's Temple.
9. Sick Days and Personal Days: You are entitled to sick days and personal days, as detailed in the Faculty Handbook.
10. Pension: You are entitled to participate in the Teachers' Superannuation Scheme, as detailed in the Faculty Handbook.
11. Salary: Your salary for this employment period will be \$31,500 per annum.

Signed: Roger Rheinhold  
For and on behalf of the Board of Trustees

Signed: Lucille Rasmussen  
Teacher

Dated: July 27, 2000

## EXHIBIT C



### **SACRED VISION SCHOOL**

#### **Faculty Handbook**

Revised July 1998

This handbook is part of the employment agreement for each person who works at the Sacred Vision School, Ames City, Ames. By agreeing to work at the School, each person is affirming that she or he has read and understood the policies and expectations contained in this handbook and will abide by both its letter and spirit. These policies and expectations are evaluated on a regular basis by the Board of Trustees and can be changed to meet the needs of the School. Faculty are encouraged to discuss any part of the handbook with the Principal.

#### ***PURPOSE STATEMENT OF THE SACRED VISION SCHOOL***

The Sacred Vision School strives to be leading educational institutions in the Ames community. The School was founded for the purpose of offering youth a rigorous academic program undergirded by principles of the Worldwide People's Temple. Central to such education is a vitality which comes from being a living expression of a religious life. Temple education seeks to promote a constant search for God in all human situations and to cultivate ethical, moral, and spiritual values.

#### ***EMPLOYMENT PHILOSOPHY***

The quality of the Sacred Vision School is fundamentally a result of the quality of the people who are employed by the School. All faculty are expected to maintain the highest level of professional and personal standards. This is especially important in view of the fact that many students look to their teachers as role models.

The Principal of the School is responsible for recruiting all staff for his School. Wherever possible, the Principal will be aided by a Search Committee appointed by the Principal from the staff and the administration. The Principal or Deputy Principal will always be a part of the Search Committee. The selection process will normally include local advertisement and always be subject to interviews and reference checks.

Applications for work are received at the School. Educational experience, professional accomplishments, life experience, and strength of character are some of the qualities the School seeks in candidates for teaching and administrative positions. The Sacred Vision School is an equal opportunity employer and does not discriminate on the basis of race, color, sex, age,

military veteran status, national origin, ancestry, marital status, or mental or physical handicap/disability.

The decision to hire a person results from a belief that the candidate is the best person to fulfill a particular role within the school. The Sacred Vision School will give priority, in its hiring decisions, to members of the Worldwide People's Temple. However, the Principal of the Sacred Vision School may, in his discretion, hire non-members of the Worldwide People's Temple for certain teaching and administrative positions.

The Board of Trustees is responsible for determining all policies regarding terms of employment, salaries and benefits.

### ***TERMS OF EMPLOYMENT - Teaching Staff***

#### **(1) Hiring and Termination**

The Sacred Vision School employs both full and part-time faculty. A full-time teacher is defined as one who teaches 26 periods per week in grade K-6.

Full-time faculty have 12-month contracts (running from September 1 through August 31) which are renewed annually. Part-time teachers have 10-month contracts.

Contracts are renewed annually based on staffing requirements and regular evaluations of a faculty member's professional and personal contributions to the School. These evaluations are the responsibility of the Principal and are made in consultation with the Deputy Principal(s). Evaluations could involve announced and unannounced visits to a classroom, interviews with the Principal, and inspections of course outlines and lesson plans. Some of the issues that could be involved in the evaluations are: (1) a teacher's knowledge of the subject matter; (2) the creativity of the lesson plans and receptivity to them by students; (3) the balance of class activities; (4) the teacher's expectations of students; (5) the classroom environment; (6) the participation of the students in class activities; (7) discipline; (8) cooperation and effectiveness in implementing School philosophy.

The results of each evaluation will be conveyed to the teacher in a follow-up meeting with the Principal. A formal evaluation noting job performance, including positive and/or negative aspects, will also be placed in a teacher's personal file with a copy given to the teacher.

A faculty member's employment may be terminated before the end of a contract in the following ways:

1. by resignation, if the teacher resigns at the end of a school year (but before the end of the contract year). If the teacher has satisfactorily fulfilled

all his or her teaching duties and other responsibilities, the full year's salary will be paid according to the contract.

2. by resignation, if the teacher leaves during the school year. If a teacher resigns and leaves the School during the school year, a thirty-day notice in writing must be given or one month's salary must be forfeited as compensation to the School for failing to fulfill the contract. All benefits will cease with the last day of work. The teacher may withdraw all monies in the pension plan.

3. by discharge for just cause attributable to the grave misconduct or fault of the teacher as determined by the Principal in consultation with the Board of Trustees. In case of such termination, the teacher's salary will cease on the day of termination. All benefits shall cease on the same day as salary, with the person entitled to collect his or her pension plan monies.

4. by discharge for poor performance following three letters of warning. In case of such termination the teacher will be given a thirty day notice or one month's salary. All benefits shall cease on the same day as salary, with the person entitled to collect his or her pension plan monies.

5. by discharge due to extenuating circumstances such as a financial crisis. In case of such termination, the teacher shall be given a thirty-day notice or one month's salary. All benefits shall cease on the same day as salary, with the person entitled to collect his or her pension plan monies.

[sections omitted]

#### **(8) Sick Leave**

Employees are entitled to six working days of paid sick leave per year. Of these six days a maximum number of two may be taken for family sick leave (i.e. if the employee's child is ill).

Any of the six sick days not used in a given school year shall be carried forward to the next school year. This carry-over of unused sick days may continue for multiple years up to a maximum number of 45 accumulated sick days. No further accumulation of useable sick days will occur beyond the maximum of 45. (Should illness cause an employee to exhaust his or her accumulated sick days, from that point forward the disability pay provisions of Ames law in force at the time would begin to take effect.)

A doctor's sick report may be required for any sick leave or family sick leave of one or more than one day's duration at the discretion of the Principal.

#### **(9) Personal Days**

Employees are entitled to four personal paid leave days per year to meet bona fide needs. Personal leave days must be requested and approved in advance by the school Principal and are not to be deducted from sick days.



To ensure the proper functioning of the Sacred Vision School, permission to use Personal Days will fall within these parameters:

1. One Personal Day will be allowed each semester.
2. Application for use of a Personal Day will be made 2 weeks ahead of the day to be used.
3. Personal Days may not be taken 2 weeks before or 2 weeks after the mid year break, or 2 weeks before or 2 weeks after the summer break, which ends the school year.
4. Application for a Personal Day must be submitted in writing on the Application Form available from the Principal.

(Occasionally, for good cause, the Principal may make an exception to these guidelines.)

[Remaining sections omitted.]

**EXHIBIT D**

**SACRED VISION SCHOOL**



**THE WORLDWIDE PEOPLE'S TEMPLE**

**Roger Rheinhold  
Principal**

July 12, 2005  
Delivered in Hand  
Lucille Rasmussen

Dear Lucille,

This letter is being provided to you at the conclusion of the meeting of the Sacred Vision School's Board of Trustees on July 12, 2005. As you know, you recently disclosed to me your pregnant and unmarried status, a fact I was obligated to share with the Board. Upon consideration, the Board has unanimously voted to relieve you of your duties and terminate your Employment Contract immediately. Your Employment Contract will not be renewed for the following academic year.

It is the view of the Board that your pregnancy is incontrovertible evidence that you have engaged in sexual relations outside the context of marriage. Everyone who encounters you during your employment here—especially the children in your charge—will be aware of this conduct. In light of the fact that the Board considers such behavior to be both unprofessional and inappropriate, your continued employment here is impossible.

Per the policies and procedures in the Faculty Handbook, your salary and benefits will cease immediately. However, you are entitled to collect your pension plan monies.

If you have not already done so, please make arrangements to return any school property. You should also contact my secretary, Roseanne Viscomi, to pick up any personal belongings at a mutually convenient time.

Please do not hesitate to contact me if you have any questions.

Sincerely,

***Roger Rheinhold***

Roger Rheinhold  
Principal



<b>Planning:</b> Plans meaningful and motivating student-centered learning experiences	10 <u>9</u> 8 7 6 5 4 3 2 1
<b>Teaching Strategies:</b> Promotes discussion , thinking and creativity	<u>10</u> 9 8 7 6 5 4 3 2 1
<b>Communication Skills:</b> Communicates effectively with students, parents and staff	109 <u>8</u> 7 6 5 4 3 2 1
<b>Classroom Management:</b> Gains attention, communicates expectations, gives clear direction	<u>10</u> 9 8 7 6 5 4 3 2 1
<b>Instructional Skills:</b> Consistently motivates students for extended periods of time	10 <u>9</u> 8 7 6 5 4 3 2 1
<b>Teacher assessment of Students:</b> Uses assessments that are geared towards multiple intelligences	109 <u>8</u> 7 6 5 4 3 2 1
<b>Technology</b> <b>Supports and drives for enhanced personal and student technological competence</b>	109 8 <u>7</u> 6 5 4 3 2 1

**PERSONAL GOALS**  
Representative Goals

Personal/Student Religious Formation, Content Pedagogy, Student Development, Diverse Learners, Multiple Instructional Strategies, Motivation and Management, Communications and Technology, Planning Assessment, Reflective Practice: Professional Growth, School and Community Involvement

<b>Goals</b> (Completed at beginning of rating period)	<b>Results</b> (Completed at end of rating period)
<ol style="list-style-type: none"> <li>1. Develop more complete lesson plans and review them with other teachers prior to implementing.</li> <li>2. Develop new skills for classroom management.</li> <li>3. Further reinforce Temple's spiritual message through music selections.</li> </ol>	<ol style="list-style-type: none"> <li>1. New lesson plans were more thorough and detailed than in past years.</li> <li>2. Implemented new skills and managed classroom better.</li> <li>3. Chose musical pieces that better reinforced Temple teachings.</li> </ol>

(List three principal/teacher proposed personal goals)

**SELF-ASSESSMENT OF OVERALL PERFORMANCE**

*(Summarize your overall performance against goals for this performance period. Describe key contributions and accomplishments, along with an assessment of performance to listed behaviors and skills.)*

I believe this year was one of great professional and personal growth. My main goals were to be better organized and to better control behavior in my classroom. I believe I have achieved both goals. Additionally, I aimed to expand my musical selections during both classroom and worship time to better reflect the teachings of the Temple. I believe my students are now receiving a much richer experience.

I have been an involved and enthusiastic member of the school community. I regularly stay after school to work with my students and have planned and organized to school-wide concerts this year. I believe that I am a hard worker and that my behavior is always professional.

**Principal's Evaluation of Performance**

*(Summary comments regarding assessment of overall performance should reflect the associate's relative contributions to key educational goals and listed behaviors and skills.)*

Lucille is a valuable member of our school team who has greatly improved the quality of our music program during her time here, and especially this past year. She has worked hard to develop more interesting and consistent classroom plans, and the difference is apparent in her level of teaching this year. She is also better able to handle children's misbehavior in her class this year. As always, she is creative and motivating. The children seem to love her.

Additionally, she is always professional and embodies the values of our school. We are happy to have her on our staff.

**Development Action Plan**

*(Agreement on actions that will be taken to help improve performance to goals and/or listed behaviors and skills.)*

In the 2005-2006 academic year, we hope Lucille will continue to expand her musical choices. We also hope she will devise new ways for the students to work on their music after school hours (a music club?).

**Based on performance to objectives and behaviors, this associate: (check one)**

Exceeds Expectations ◀	Meets Expectations	Unsatisfactory
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Teacher Signature Lucille Rasmussen Date 7/1/2004

Principal Signature Roger Rheinhold Date 7/1/2004

President Signature Vivian Dudley Date 7/1/2004

**UNITED STATES DISTRICT COURT  
DISTRICT OF AMES**

LUCILLE RASMUSSEN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 06-599
	)	
WORLDWIDE PEOPLE'S TEMPLE,	)	
	)	
Defendant.	)	
	)	

**DEFENDANT'S MOTION FOR DISMISSAL**

Pursuant to Fed. R. Civ. P. 12(b)(6), Worldwide People's Temple moves for dismissal of all counts in the above-captioned action. The basis for this motion is that Plaintiff's claims fail as a matter of law because: (1) the EEOC has exclusive jurisdiction over employment discrimination actions for 180 days after the filing of the charge and Plaintiff filed this suit before the 180-day period had expired; and (2) the Worldwide People's Temple is immune from employment discrimination claims pursuant to the common law ministerial exception. The ministerial exception is based on the Free Exercise and Establishment Clauses of the First Amendment to the United States Constitution and exempts religious organization employment decisions affecting ministerial employees from judicial scrutiny.

Dated: March 20, 2006

By: Karen Kuhlman

Karen Kuhlman, Esq.  
Attorney for the Defendant





1998). The plaintiff need not make detailed factual allegations in the complaint, but “a plaintiff’s obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. ---, 127 S.Ct. 1955, 1964-65 (2007). Thus, pursuant to the *Twombly* standard, a complaint must now “raise a right to relief above the speculative level on the assumption that all allegations in the complaint are true.” *Id.* at 1965.

### **Facts**

Plaintiff was hired in July 2000 by the Temple as a teacher in the Temple’s Sacred Vision Elementary School (the “School”) located in Ames City, Ames. The Sacred Vision curriculum includes a mixture of secular and religious instruction and Plaintiff’s primary duty at the School was teaching music at all grade levels. Plaintiff was also hired to choose music for and play guitar at the children’s daily worship services. Plaintiff is not a member of the Worldwide People’s Temple. After teaching at the School for five years, Plaintiff informed the School Principal, Roger Rheinhold (“Rheinhold”), that she was pregnant and that she did not intend to marry the baby’s father, another teacher at the School.

According to the Complaint, for the remainder of the 2004-2005 academic year, Rheinhold harassed Plaintiff because she was pregnant and unmarried. Rheinhold repeatedly reprimanded Plaintiff for wearing clothes that he claimed were too tight across her stomach, and called her pregnant appearance “obscene.” He made negative comments about Plaintiff’s morality to other members of the School staff and to parents. Furthermore, he refused to permit her to take personal days off when she was suffering from extreme morning sickness. After the close of the school year, Plaintiff received a letter from Rheinhold informing her that the School’s Board of Trustees had voted to terminate her position. In the letter, Rheinhold explained that Plaintiff’s pregnancy was

incontrovertible evidence that you have engaged in sexual relations outside the context of marriage. Everyone who encounters you during your employment here—especially the children in your charge—will be aware of this conduct. In light of the fact that the Board considers such behavior to be both unprofessional and inappropriate, your continued employment here is impossible.

Because of her termination, Plaintiff did not receive a year-end evaluation for the 2004-2005 academic year. However, in each of the preceding four academic years that she was employed by the School, Plaintiff received positive performance reviews.

Plaintiff filed a charge with the Equal Employment Opportunity Commission (“EEOC”) on December 20, 2005. Plaintiff then requested in writing that the EEOC issue a right to sue letter. On February 24, 2006, the Area Director of the EEOC’s Ames City, Ames office certified that the charge would not be processed within 180 days from the filing of the charge and issued a Notice of Right to Sue, terminating the EEOC’s processing of the charge. Plaintiff filed this suit on March 2, 2006.

## **Conclusions of Law**

### **I. Early Right to Sue Letter**

Defendant has moved to dismiss this action arguing that 29 C.F.R. §1601.28(a)(2)<sup>1</sup>, the regulation governing the EEOC’s right to sue procedures, contravenes the Congressionally mandated 180-day waiting period for private suits under Title VII. See 42 U.S.C. §2000e-5(f)(1) (1994).<sup>2</sup> According to the Defendant, Section 2000e-5(f) limits the conditions under which a Title VII complainant may sue. Either the EEOC must have dismissed the charge and issued a

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<sup>1</sup> “When a person claiming to be aggrieved requests, in writing, that a notice of right to sue be issued. . . the Commission may issue such notice. . . at any time prior to the expiration of 180 days from the date of filing the charge with the Commission; provided, that the District Director [or other delegated officials] has determined that it is probable that the Commission will be unable to complete its administrative processing of the charge within 180 days from the filing of the charge and has attached a written certificate to that effect.”

<sup>2</sup> “If a charge filed with the Commission. . . is dismissed “by the Commission, or if within one hundred and eighty days from the filing of such charge. . . the Commission has not filed a civil action under this section. . . or the Commission has not entered into a conciliation agreement to which the person aggrieved is a party, the Commission shall so notify the person aggrieved and within ninety days after the giving of such notice a civil action may be brought against the respondent named in the charge. . . by the person claiming to be aggrieved. . . .”

right to sue letter, or 180 days must have elapsed without informal resolution through conciliation or an EEOC lawsuit. These two statutory options do not contemplate a suit within the 180-day period after filing by the Plaintiff and therefore the regulation is unlawful. Plaintiff counters that the statute does not explicitly limit EEOC action to those two conditions. Plaintiff argues that Congress meant that the 180-day time period be considered the outside limit on agency action, rather than a threshold to it.

This is a matter of first impression for this Circuit, and is the subject of a circuit split among our sister circuit courts. The Ninth, Tenth, and Eleventh Circuits have held that the early right to sue regulation is aligned with the Congressional intent behind the 180-day provision. *See Brown v. Puget Sound Elec. Apprenticeship & Training Trust*, 732 F.2d 726 (9<sup>th</sup> Cir. 1984); *Walker v. United Parcel Service*, 240 F.3d 1268 (10<sup>th</sup> Cir, 2001); *Sims v. Trus Joist MacMillan*, 22 F.3d 1059 (11<sup>th</sup> Cir. 1994). In contrast, another circuit has found that the EEOC’s power to authorize private suits before the 180-day period has expired undercuts its statutory duty to investigate every charge and to encourage informal resolution of those charges during the 180-days. *See Martini v. Federal Nat’l Mortgage Assn.*, 178 F.3d 1336 (D.C. Cir. 1999).

We agree with the Plaintiff that the EEOC regulation allowing the issuance of a right to sue letter before the end of the statutory 180-day period is lawful. Congress intended, through the complex interrelationship of state and federal agencies and courts, to provide claimants with employment discrimination claims with a number of possible procedural avenues. The EEOC regulation allowing early right to sue letters simply provides another way in which allegedly injured parties can have their complaints redressed.

## **II. The Ministerial Exception**

Defendant’s second ground for dismissal is that the present case is barred by the religion clauses of the First Amendment. Generally, religious organizations have the “power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.” *Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 116 (1952). Congress specifically

recognized the conflict between employment discrimination laws and the First Amendment when it provided in Section 702 of Title VII that the statute does not apply “to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.” 42 U.S.C. §2000e-1. However, courts have consistently held that “Title VII does not confer upon religious organizations a license to make... [hiring] decisions on the basis of race, sex, or national origin.” *Rayburn v. Gen. Conference of Seventh-Day Adventists*, 772 F.2d 1164, 1166 (4<sup>th</sup> Cir. 1985); *see also Cline v. Catholic Diocese of Toledo*, 206 F.3d 651, 658 (6<sup>th</sup> Cir. 2000).

Defendant argues that its decisions regarding Plaintiff’s employment are protected from judicial scrutiny under the common law “ministerial exception” to Title VII, which, based on the religious protections of the First Amendment, bars legal challenges to a religious organization’s employment decisions regarding “ministers.” This issue is also a matter of first impression in the Ames Circuit, as our courts have not previously had the opportunity to assess the validity of the “ministerial exception” or define its scope.

Although the courts widely agree on the existence of such an exception, they disagree about its scope. The Fourth, Fifth, Seventh, and D.C. Circuits have articulated that exception generously, essentially ruling that no employment discrimination claim may ever be brought by a minister and also defining the category of minister broadly to include any lay employee whose function relates to the propagation of the church's religious message. *See, e.g., EEOC v. Roman Catholic Diocese*, 213 F.3d 795 (4<sup>th</sup> Cir. 2000); *Rayburn*, 772 F.2d 1164 (4<sup>th</sup> Cir. 1985); *Starkman v. Evans*, 198 F.3d 173 (5<sup>th</sup> Cir. 1999); *Alicea-Hernandez v. Catholic Bishop of Chi.*, 320 F.3d 698 (7<sup>th</sup> Cir. 2003); *EEOC v. Catholic Univ. of Am.*, 83 F.3d 455 (D.C. Cir. 1996).

By contrast, the Second, Third, and Eighth Circuits have taken a narrower and more nuanced approach to the issue, holding that whether an employment discrimination complaint may proceed against a religious organization focuses primarily not on whether the employee had

religious duties, but on whether the courts will have to resolve the validity of a religious reason proffered by the employer for the adverse employment decision. *See DeMarco v. Holy Cross High Sch.*, 4 F.3d 166 (2d Cir. 1993); *Geary v. Visitation of the Blessed Virgin Mary Parish Sch.*, 7 F.3d 324 (3d Cir. 1993); *Weissman v. Congregation Shaare Emeth*, 38 F.3d 1038 (8th Cir. 1994).

Finally, the Ninth Circuit has applied the ministerial exception in some cases to bar claims under Title VII, but has held that even ministers may bring some kinds of employment discrimination claims (in particular, sexual harassment and retaliation claims, including those involving constructive discharge), albeit not claims based on the actual termination of their employment as such. *Compare Elvig v. Calvin Presbyterian Church*, 375 F.3d 951, 964-965 (9th Cir. 2004); *Bollard v. California Province of Soc'y of Jesus*, 196 F.3d 940, 944-947 (9th Cir. 1999) with *Werft v. Desert Sw. Annual Conference of the United Methodist Church*, 377 F.3d 1099, 1103- 1104 (9th Cir. 2004) (per curiam).

We agree that in “determining whether an employee is considered a minister for purposes of applying this exception [we] ...do not look to ordination but instead to the function of the position.” *Alicea-Hernandez*, 320 F.3d at 703; *see also Roman Catholic Diocese*, 213 F.3d at 801. Here, Plaintiff, a non-member of the Worldwide People’s Temple, held a music teaching position and was responsible for playing guitar at the children’s worship service at a religious school. Although “[m]usic is a vital means of expressing and celebrating those beliefs which a religious community holds most sacred,” *id.* at 802, Plaintiff’s main responsibility was to teach music classes that followed the secular curriculum created by the Ames Department of Education. She did not propagate the Temple’s religious message and therefore cannot be said to have performed any ministerial functions.

### **III. Conclusion**

We find that the EEOC regulation allowing early right to sue letters is valid and that therefore Plaintiff’s Title VII claims are lawfully before this court. The court further concludes

that Plaintiff's teaching and other responsibilities were not integral to the spiritual and pastoral mission of the Worldwide People's Temple, and therefore do not fall within the contours of the ministerial exception. For these reasons, her claims of employment discrimination based on the School's employment decisions may be adjudicated by this court. Defendant's Motion to Dismiss is DENIED.

This court is of the opinion that this case involves two controlling questions of law as to which there is substantial ground for difference of opinion. Furthermore, an immediate appeal from the order may materially advance the ultimate termination of the litigation.

**SO ORDERED**

Dated: July 10, 2006

*Eileen Cole*  
Eileen Cole  
United States District Judge

**UNITED STATES COURT OF APPEALS  
FOR THE AMES CIRCUIT**

WORLDWIDE PEOPLE'S TEMPLE,	)	
	)	
Defendant-Appellant,	)	
	)	
v.	)	Civ. No. 06-952
	)	
LUCILLE RASMUSSEN,	)	
	)	
Plaintiff-Appellee.	)	
	)	

**APPLICATION FOR LEAVE TO FILE INTERLOCUTORY APPEAL**

Pursuant to 28 U.S.C. §1292(b), the Worldwide People's Temple, Defendant in the above-captioned matter, hereby applies to the United States Court of Appeals for the Ames Circuit for leave to file an interlocutory appeal from a Decision and Order ("the Order") on Defendant's Motion to Dismiss entered in this action on July 10, 2006. The District Judge, in the Order, has stated that she believes that this action involves two controlling questions of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the Order may materially advance the ultimate termination of the litigation.

The grounds for appeal are that the District Court erred in finding that 1) 29 C.F.R. § 1601.28(a)(2) validly authorizes the Equal Employment Opportunity Commission to issue a right to sue letter in fewer than 180 days from the charge in a Title VII case and 2) Plaintiff's employment discrimination claims are not barred by the "ministerial exception" to Title VII.

Dated: July 14, 2006

By: Karen Kuhlman

Karen Kuhlman, Esq.  
Attorney for the Defendant

**UNITED STATES COURT OF APPEALS  
FOR THE AMES CIRCUIT**

WORLDWIDE PEOPLE’S TEMPLE,	)	
	)	
Defendant-Appellant,	)	
	)	
v.	)	Civ. No. 06-952
	)	
LUCILLE RASMUSSEN,	)	
	)	
Plaintiff-Appellee.	)	
	)	

**DECISION ON APPEAL**

Appellant Worldwide People’s Temple has filed an interlocutory appeal, pursuant to 28 U.S.C. §1292(b), from the District Court’s denial of the Temple’s 12(b)(6) motion to dismiss in the above-captioned matter. This Court permitted the appeal and ordered the proceedings in the District Court stayed until the resolution of the matter on appeal.

For the reasons stated in the District Court’s Decision and Order we affirm.

Katharine White  
Katharine White  
Judge  
United States Courts of Appeal for the Ames Circuit

DATED: November 18, 2006



**IN THE SUPREME COURT  
OF THE UNITED STATES OF AMERICA**

WORLDWIDE PEOPLE’S TEMPLE,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civ. No. 07-141
	)	
LUCILLE RASMUSSEN ,	)	
	)	
Respondent.	)	
	)	

**ORDER GRANTING PETITION FOR WRIT OF CERTIORARI**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE THAT the Petition for Writ of Certiorari to the Ames Circuit in the above-captioned matter is hereby granted. Review is limited to the following two questions:

1. Does 29 C.F.R. § 1601.28(a)(2) validly authorize the Equal Employment Opportunity Commission to issue a right to sue letter in fewer than 180 days from the charge in a Title VII case?
2. Does a “ministerial exception” create immunity for a religious organization from employment discrimination claims brought by a music teacher/service leader against the organization?

The parties are directed to timely submit their briefs in accordance with the schedule they have received.

IT IS SO ORDERED.

DATED: April 15, 2007