



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

August 12, 2011

**Via Certified Mail**

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

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

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

IDENTITY OF CLAIMANTS

Heather Burgbacher<sup>1</sup>

CLAIMANTS' ATTORNEYS

The claimants are represented by:

Mark Silverstein and Rebecca T. Wallace  
AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF COLORADO  
P.O. Box 18986  
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Mari Newman, Darold Killmer, Lauren Fontana  
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In cooperation with AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF COLORADO  
1543 Champa St., Ste. 400  
Denver, Colorado 80202  
(303) 571-1000

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<sup>1</sup> Ms. Burgbacher may be contacted through her local counsel, listed below.

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#### BASIS OF CLAIM

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

#### NAMES OF PUBLIC EMPLOYEES

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

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

#### NATURE AND EXTENT OF INJURIES, DAMAGES, AND LOSSES

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

MONETARY DAMAGES CLAIMED

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

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

Sincerely,

A handwritten signature in black ink that reads "Rebecca T. Wallace". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Rebecca T. Wallace  
Staff Attorney, ACLU of Colorado

cc: Heather Burgbacher  
Dan Cohen, [dcohen@rmae.org](mailto:dcohen@rmae.org)  
Dina Walton, [dwalton@rmae.org](mailto:dwalton@rmae.org)