

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No.

JOAN E. FRIEDENBERG,
on behalf of herself and a class of
similarly situated individuals,

Plaintiff,

v.

CLASS ACTION

SCHOOL BOARD OF
PALM BEACH COUNTY,

Defendant.

COMPLAINT

Plaintiff, Joan E. Friedenberg (“Plaintiff” or “Ms. Friedenberg”), sues Defendant, the School Board of Palm Beach County (“the Board,” “School Board” or “Defendant”), on behalf of herself and a class of similarly situated persons, for injunctive and declaratory relief, and alleges as follows:

INTRODUCTION

1. Ms. Friedenberg challenges a School Board policy requiring all job applicants to submit to a suspicionless drug test—whether or not those applicants are applying for safety-sensitive positions. As to those who are not applying for safety-sensitive jobs, this policy violates the Fourth Amendment’s prohibition against unreasonable searches. On behalf of herself and a class of similarly situated individuals, Ms. Friedenberg seeks relief from this unconstitutional policy.

2. Ms. Friedenberg is 65 years old.

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3. Ms. Friedenberg is an experienced, retired educator with a life-long love of teaching. Ms. Friedenberg has applied for several jobs with the Palm Beach County School District, including as a Substitute Teacher, Tutor and Early Childhood Aide.

4. Ms. Friedenberg is well qualified for these positions. She has completed all prerequisites for employment, except one: Ms. Friedenberg has refused to submit to a scheduled suspicionless drug test. To be clear, Ms. Friedenberg would “pass” such a drug test. But she is unwilling to forego her constitutional rights as a condition of employment.

JURISDICTION

5. Plaintiff’s claims arise under the Constitution and laws of the United States. This Court has jurisdiction over these claims under 28 U.S.C. §§ 1331 and 1343(a)(3), and has authority to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201-02, as well as Rules 57 and 65 of the Federal Rules of Civil Procedure. The constitutional rights asserted by Plaintiff are enforceable under 42 U.S.C. § 1983.

PARTIES

6. Ms. Friedenberg is an individual who resides in Boynton Beach, Florida.

7. Defendant is a body corporate pursuant to Fla. Stat. § 1001.40 and is the governing body for the Palm Beach County School District. It is located in Palm Beach County and, at all times material hereto, controlled and operated the public secondary schools at issue within the Palm Beach County School District. The Board also is a person within the meaning of 42 U.S.C. § 1983 and was acting under color of state law at all times relevant to this Complaint.

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FACTS

8. The School Board has two policies regarding drug testing. The first is Policy 3.96, called the “Drug and Alcohol-Free Workplace.”

9. The first and second sentences of Section 8(a) of that policy (the “All-Applicant Policy”) subjects all job applicants to suspicionless drug testing, without regard to whether those applicants are applying for a safety-sensitive position. Specifically, Policy 3.96(8) provides:

Kinds of Testing.-- Random testing of employees shall not be conducted, except for those employees subject to Policy 3.961. To maintain a drug-free work environment, the District will test for the presence of drugs, including alcohol, in the following circumstances:

(a) Pre-Employment Screening.-- Pre-employment screening will be required of all applicants before employment with the District. Any applicant who tests positive in the pre-employment screening for a drug as defined in this Policy will not be hired and is not eligible to re-apply for employment with the District for one year following the confirmed positive test. . . .

10. The Board’s second policy regarding drug testing is Policy 3.961, “Drug-and Alcohol-Free Workplace Policy for Employees Performing Safety Sensitive Functions and Holders of Commercial Drivers Licenses” (the “Safety-Sensitive Policy”). That policy requires suspicionless drug testing of all employees that the Board deems to be in safety-sensitive positions. According to the Safety-Sensitive Policy, safety-sensitive functions typically relate to operation of vehicles. More specifically, the Safety-Sensitive Policy defines safety-sensitive functions as applicable to all of the following:

i. All time waiting at an employer or shipper, plant, terminal, facility, or other property, to be dispatched unless the covered employee has been relieved from duty by the District;

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- ii. All time inspecting equipment or otherwise inspecting, servicing or conditioning any commercial vehicle at any time;
- iii. All time spent at the driving controls of a commercial motor vehicle;
- iv. All time other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeping berth;
- v. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle or in giving or receiving receipts for shipments loaded or unloaded;
- vi. All time repairing, obtaining assistance, or remaining in attendance upon a disabled commercial vehicle.

11. Thus, under the Board's policies, two categories of persons are subject to blanket, suspicionless drug testing: (1) any applicant for employment with the Palm Beach County School District (pursuant to the All-Applicant Policy), and (2) employees performing safety-sensitive functions (pursuant to the Safety-Sensitive Policy).

12. The All-Applicant Policy Violates the Fourth Amendment to the United States Constitution.¹

13. Plaintiff's attorneys have written to Defendant in an effort to persuade Defendant to amend its unconstitutional drug-testing policy. *See* Exhibit A (letter dated Nov. 12, 2015). However, Defendant has refused to amend its unconstitutional policy. *See* Exhibit B (e-mail from Shawntoyia Bernard dated November 1, 2016, referencing series of communications between counsel for Plaintiff and Defendant).

¹ Defendant's criteria for safety-sensitive jobs, as excerpted above (*see supra* paragraph 10), are unconstitutionally broad. Nonetheless, Plaintiff is not challenging the Safety-Sensitive Policy in this action. Plaintiff also does not challenge those portions of Policy 3.96 that call for *suspicion-based* testing of employees and volunteers.

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**THE FOURTH AMENDMENT PROHIBITS
UNREASONABLE GOVERNMENT SEARCHES**

14. The Fourth Amendment to the United States Constitution commands that “[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures, shall not be violated[.]”

15. Under well-settled law, the drug-testing regime mandated by Defendant is a governmental search that must comply with the Fourth Amendment. *See Skinner v. Ry. Labor Execs.’ Ass’n*, 489 U.S. 602, 617 (1989) (the personal intrusions involved in urinalysis “must be deemed searches under the Fourth Amendment”).

16. The Supreme Court of the United States has held that suspicionless drug-testing by the government is an unreasonable search that violates the Fourth Amendment, except under certain jealously guarded circumstances, such as those involving employees in safety-sensitive positions where there is a concrete danger of real harm. *Compare Chandler v. Miller*, 520 U.S. 305, 318-20 (1997) (striking down mandatory drug-testing of applicants for public office), *with Skinner*, 489 U.S. at 628 (permitting drug-testing of train conductors).

17. Teachers, including Plaintiff, and many other employees of Defendant are not considered safety-sensitive workers for purposes of the Fourth Amendment. *See, e.g., United Teachers of New Orleans v. Orleans Par. Sch. Bd.*, 142 F.3d 853, 857 (5th Cir. 1998) (“The two parish school boards have offered no legal justification for insisting upon drug testing urine without a showing of individualized suspicion of wrongdoing in a given case, certainly nothing beyond the ordinary needs of law enforcement.”); *Am. Fed’n of Teachers-W. Virginia, AFL-CIO v. Kanawha Cty. Bd. of Educ.*, 592 F. Supp. 2d 883, 902-04 (S.D.W.Va. 2009) (striking down drug testing of teachers because teachers

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do not perform duties that are so “fraught with such risks of injury to others that even a momentary lapse of attention can have disastrous consequences”); *see also, e.g., Wenzel v. Bankhead*, 351 F. Supp. 2d 1316, 1325 (N.D. Fla. 2004) (ruling that the mere possibility of harm was not enough to justify the drug testing of a planner in Florida’s Department of Juvenile Justice: “There must be, instead, a concrete risk of real harm.”).

18. The constitutional prohibition against across-the-board, suspicionless testing applies to job applicants as well as current employees. *Baron v. City of Hollywood*, 93 F. Supp. 2d 1337 (S.D. Fla. 2000) (ruling that City’s desire to foster public integrity was an insufficient rationale for drug testing all job applicants). *See generally Chandler*, 520 U.S. 305 (holding that drug-testing policy that applied to applicants for political office was unconstitutional).

THE ALL-APPLICANT POLICY VIOLATES THE FOURTH AMENDMENT

19. Defendant’s All-Applicant Policy violates the Fourth Amendment to the U.S. Constitution because it commands suspicionless searches of all applicants, without limiting the searches in any way to those applying for safety-sensitive positions that entail a concrete danger of real and broad-based harm.

DEFENDANT IS VIOLATING PLAINTIFF’S CONSTITUTIONAL RIGHTS

20. Ms. Friedenbergl is a qualified applicant for the jobs for which she has applied.

21. On December 18, 2016, Plaintiff ordered transcripts to be sent to Defendant, completed the “Applicant Security Check” form, and sent the form to Defendant by U.S. Mail.

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22. On December 25, 2016, Ms. Friedenbergr submitted five online applications to Defendant to work as a tutor.

23. On January 8, 2017, Ms. Friedenbergr submitted an online application to be a childhood aide, and on January 9, 2017, she submitted an online application to be a substitute teacher.

24. For all these applications, Ms. Friedenbergr was required to check a box agreeing to be drug-tested. She checked the box because if she did not do so, she would not be hired.

25. On January 27, 2017, Ms. Friedenbergr received an E-mail from Edith Brown (from the Palm Beach County School District) asking Plaintiff to call to make an appointment to come in for an interview. Plaintiff later called and spoke with Ms. Brown. Ms. Brown explained on the phone that the purpose of the meeting was to go over all of Plaintiff's paperwork to ensure everything was complete.

26. Ms. Brown also suggested that Plaintiff take the "How to be a Substitute Teacher" class, even if she could prove she had classroom experience in the last five years (which she does). Plaintiff agreed to take the class—and did take the class—on February 4, 2017, at Wellington High School. She paid \$25 to complete the class.

27. At Plaintiff's interview, held on Tuesday, February 21, 2017, Plaintiff was told that the only two things she needed to complete prior to being hired was to get fingerprinted and to take—and pass—a drug test. Plaintiff immediately fulfilled the fingerprinting requirement. Defendant informed Plaintiff that she must complete the required drug testing at an approved facility before her new employee orientation, on Monday February 27, 2017, at 9 a.m.

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CLASS ACTION ALLEGATION

28. Plaintiff brings this action on behalf of herself and a class of similarly situated individuals pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(1) and/or (b)(2). Subject to amendment upon the discovery of further facts or for other permissible reasons, the Class is defined as follows: All job applicants for non-safety-sensitive positions with the Palm Beach County School District. Excluded from the class are Defendant's counsel, Plaintiff's counsel, counsel's immediate family members, and the jurists (and their staff) who are assigned to this matter.

29. The members of the class are so numerous that their individual joinder would be impracticable. The precise number of class members is unknown to the named Plaintiff; however, upon information and belief, the class consists of at least hundreds of individuals over the course of a relatively short period of time. It would be impracticable and a waste of judicial resources for each of the class members to be individually represented in separate actions.

30. Common questions of law and fact exist. These common legal and factual questions include, but are not limited to, the following:

- Whether drug testing of bodily fluids is a "search" for purposes of the Fourth Amendment.
- Whether all applicants for non-safety-sensitive positions can be subjected to such a search under the Fourth Amendment.
- Whether, in the absence of a demonstrated special need, such suspicionless drug-testing violates the Fourth Amendment.

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31. Plaintiff's claims are typical of the claims of the class. Plaintiff and all class members are threatened with the same injury (*i.e.*, the prospect of having to submit to an unconstitutional search of their bodily fluids). Plaintiff's claims arise from the same practices and course of conduct that give rise to the claims of the class members, and Plaintiff's claims are based on the same legal theories as the claims of the class members.

32. Plaintiff will fully and adequately assert and protect the interest of the class she seeks to represent. Plaintiff has retained counsel experienced in class actions and complex constitutional litigation, including multiple successful lawsuits that have resulted in striking down public employers' drug-testing policies.

33. Prosecuting separate actions by individual class members would create a risk of inconsistent or varying adjudications that could establish incompatible standards of conduct for Defendant. Moreover, individual adjudication regarding the conduct complained of herein would, as a practical matter, be dispositive of the interest of the class members who would not be parties to the individual actions. These individual actions would also substantially impair or impede the absent individuals' ability to protect their interests.

34. Defendant has acted and has refused to act on grounds that apply generally to the class, such that final injunctive relief is appropriate for the class as a whole.

DECLARATORY AND INJUNCTIVE RELIEF

35. As to Plaintiff's claim for declaratory relief, an actual and immediate controversy has arisen and now exists between Plaintiff and Defendant, which parties have genuine and opposing interests and which interests are direct and substantial. There

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is a bona fide dispute between the parties; Plaintiff raises a justiciable question as to the existence or non-existence of some right, status, immunity, power or privilege, or as to some fact upon which the existence of such right, status, immunity, power or privilege does or may depend; Plaintiff is in doubt as to her right, status, immunity, power or privilege; and there is a bona fide, actual, present need for the declaration. Plaintiff is thus entitled to a declaratory judgment, as well as such other and further relief as may follow from the entry of such a declaratory judgment.

36. As to Plaintiff's claim for injunctive relief, Plaintiff has no adequate remedy at law. Defendant has failed, and continues to fail, to comply with the United States Constitution for a least the reasons set forth herein. Unless enjoined by the Court, Defendant will continue to infringe Plaintiff's and the other class members' constitutionally protected rights and will continue to inflict irreparable injury. This threat of injury to Plaintiff and the other class members from continuing violations requires preliminary and permanent injunctive relief.

CLAIM FOR RELIEF

VIOLATION OF FOURTH AMENDMENT TO U.S. CONSTITUTION

37. Plaintiff realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

38. The right to be free from unreasonable searches and seizures, protected by the Fourth Amendment to the U.S. Constitution, is clearly established. A drug test of bodily fluids is a search, and is unreasonable under the circumstances.

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39. By its policies, practices, and customs of searching prospective employees' bodily fluids, Defendant has violated and continues to threaten to violate the Fourth Amendment rights of Plaintiff and all class members.

REQUEST FOR SPEEDY HEARING

40. Plaintiff respectfully asks the Court to order a speedy hearing of this action under Rule 57 of the Federal Rules of Civil Procedure.

RELIEF REQUESTED

41. The Plaintiff demands judgment:

- 1) Enjoining Defendant from implementing the drug-testing regime against non-safety-sensitive prospective employees, as mandated by the All Applicant Policy, during the pendency of this action;
- 2) Quashing Defendant's All-Applicant Policy, applied to non-safety-sensitive prospective employees, because it violates the right to be free from unreasonable searches under the Fourth Amendment to the United States Constitution;
- 3) Declaring that Defendant's All-Applicant Policy, applied to non-safety-sensitive prospective employees, violates the right to be free from unreasonable searches under the Fourth Amendment to the United States Constitution;
- 4) Awarding Plaintiff attorneys' fees and costs, as provided in 42 U.S.C. § 1988.
- 5) Issuing such other and further relief as this Court deems just and proper.

Dated this 22nd day of February, 2017.

Respectfully submitted,

s/James K. Green
James K. Green, Esq.
Florida Bar No: 229466
jkg@jameskgreenlaw.com
Nancy A. Udell, Esq.
Florida Bar No: 125478

COMPLAINT

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nancy.udell@gmail.com
JAMES K. GREEN, P.A.
Suite 1650, Esperantè
222 Lakeview Ave.
West Palm Beach, FL 33401
(561) 659-2029 (telephone)
(561) 655-1357 (facsimile)

Adam B. Wolf, Esq.
awolf@wolflegal.com
4 Embarcadero Center
Suite 1400
San Francisco, CA 94111
(415) 766-3545 (telephone)
(415) 402-0058 (facsimile)
(Application to appear *pro hac vice* pending)

**COOPERATING ATTORNEYS FOR
THE AMERICAN CIVIL LIBERTIES
UNION OF FLORIDA AND
ATTORNEYS FOR PLAINTIFF**

JAMES K. GREEN, P.A.
LAWYERS

JAMES K. GREEN
NINA M. ZOLLO
ANNE F. O'BERRY
JOHN F. PAULY, OF COUNSEL

SUITE 1650, ESPERANTE'
222 LAKEVIEW AVENUE
WEST PALM BEACH, FLORIDA 33401
561.659.2029
FACSIMILE 561.655.1357

November 12, 2015

Mr. Chuck Shaw, Chairman
Palm Beach County School Board
3300 Forest Hill Blvd., C-316
West Palm Beach, FL 33406

Dear Mr. Shaw:

I am writing this letter on behalf of the Palm Beach County Chapter of the ACLU.

It has come to our attention that Policy 3.96(1)c of the Palm Beach County School Board requires suspicionless drug testing of all employees and job applicants. The ACLU believes, and courts have affirmed, that this is a violation of most employees' and applicants' Fourth Amendment right against unreasonable search and seizure. In our opinion, such drug testing can only be required of occupants of, or applicants for, positions that are safety sensitive or that involve equipment the operation of which might reasonably be argued to be impaired by drug usage.

You may be aware that the ACLU of Florida recently brought one suit against the State of Florida and one against the City of Key West in which we were successful in striking down blanket suspicionless drug testing of employees or job applicants as violating Fourth Amendment rights.

We hope in light of this that the Palm Beach County School Board will reconsider Policy 3.96 so as to bring it into conformity with court interpretations of citizens' Fourth Amendment rights.

Please advise within 45 days as to whether a reformulation of this policy has commenced or, instead, will not be initiated?

Sincerely,

/s/ James K. Green

cc: JulieAnne Rico, Esq.

Exh. A

From: Shawntoyia Bernard [<mailto:shawntoyia.bernard@palmbeachschools.org>]

Sent: Tuesday, November 01, 2016 5:19 PM

To: James K. Green <jkg@jameskgreenlaw.com>; Sean Fahey <sean.fahey@palmbeachschools.org>

Cc: JulieAnn Rico <julieann.rico@palmbeachschools.org>

Subject: Fwd: FW: pre-employment drug testing policy

Jim,

In January, Ms. Rico wrote you that a reformulation of Policy 3.96 would be proposed to the School Board. She advised, however, that the process might be lengthy. She also stated that I, Shawn Bernard, would update you with details of the proposed changes to Policy 3.96 once they were ready to go before the School Board for review.

After you asked for an update in May and advised us of a potential complainant, Sean Fahey and I set up a phone conference with you in June. During our conversation in June, we advised that the revisions to the Policy were still being formulated. We also advised that we would let you know when we had more information about a specific date a proposed revised Policy would go before the Board.

Because the policy revision process moves slowly and you indicated there was a potential complainant, we discussed with you whether we could provide additional information that the potential complainant might want to know about how the Policy would be revised. You indicated that the potential complainant had previously been a teacher in a different state. Accordingly, we shared that the recommended revisions to Policy 3.96 did not include eliminating suspicionless drug testing for applicants for school site positions, including teachers. We advised you of our position that suspicionless drug testing of applicants for teaching positions and other positions where the employees work regularly with children is permissible. If memory serves, we also mentioned two cases as support for our position, *Knox County Education Association v. Knox County Board of Education*, 158 F.3d 361 (6th Cir. 1998) and *Aubrey v. School Board of Lafayette Parish*, 148 F.3d 559 (5th Cir. 1998), and you indicated your familiarity with those cases.

At this time, I have no additional updates to provide you with respect to the Policy. As previously stated, there are no recommended revisions to the Policy with respect to the suspicionless testing of teachers or other employees who work regularly at school sites. I am happy to set up another telephone conference if you would like to discuss this further.

----- Forwarded message -----

From: James K. Green <jkg@jameskgreenlaw.com>

Date: Tue, Nov 1, 2016 at 1:26 PM

Subject: FW: pre-employment drug testing policy

To: "julieann.rico@palmbeachschools.org" <julieann.rico@palmbeachschools.org>

Julie Ann,

I've emailed you several times since May but with no response. Please advise by 11 a.m. tomorrow.

Jim

James K. Green, Esq.

JAMES K. GREEN, P.A.

Suite 1650, Esperantè

222 Lakeview Ave.

West Palm Beach, FL 33401

Telephone: [561-659-2029](tel:561-659-2029)

Facsimile: [561-655-1357](tel:561-655-1357)

Email: jkg@jameskgreenlaw.com

jameskgreenlaw.com

From: James K. Green

Sent: Saturday, May 28, 2016 6:34 PM

Exh. B

To: julieann.rico@palmbeachschools.org

Subject: pre-employment drug testing policy

Julie Ann,

Where are we on this? I got a letter a couple of months ago saying that the School Board was revising its policy, but have heard nothing since.

We have a potential complainant who is getting anxious.

Thanks,

Jim

James K. Green, Esq.
JAMES K. GREEN, P.A.
Suite 1650, Esperantè
222 Lakeview Ave.
West Palm Beach, FL 33401
Telephone: [561-659-2029](tel:561-659-2029)
Facsimile: [561-655-1357](tel:561-655-1357)
Email: jkg@jameskgreenlaw.com
jameskgreenlaw.com

 Please consider the environment before printing this e-mail.

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U.S. Treasury Regulation Circular 230 requires us to advise you that written communications issued by us are not intended to be and cannot be relied upon to avoid penalties that may be imposed by the Internal Revenue Service.

JulieAnn Rico, B.C.S.

Board Certified Education Attorney

General Counsel to the School Board

[\(561\) 434-8751](tel:561-434-8751)



EDUCATION LAW

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.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS JOAN E. FRIEDENBERG, on behalf of herself and a class of similarly situated individuals DEFENDANTS SCHOOL BOARD OF PALM BEACH COUNTY

(b) County of Residence of First Listed Plaintiff Palm Beach (EXCEPT IN U.S. PLAINTIFF CASES) County of Residence of First Listed Defendant Palm Beach (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) James K. Green, Esq., Nancy Udell, Esq., James K. Green, P.A., 222 Lakeview Ave., Ste.1650, West Palm Beach, FL 33401 (561) 659-2029 Attorneys (If Known) Julie Ann Rico, Esq., School Board of Palm Beach County, 3300 Forest Hill Blvd. C323, West Palm Beach, FL 33406

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Grid for Basis of Jurisdiction and Citizenship of Principal Parties with checkboxes for U.S. Government Plaintiff/Defendant, Federal Question, Diversity, Citizen of This/Another State, Foreign Country, PTF/DEF, and Incorporated/Principal Place of Business.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large grid for Nature of Suit with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, 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 Re-filed (See VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation Transfer 7 Appeal to District Judge from Magistrate Judgment 8 Multidistrict Litigation - Direct File 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S) (See instructions): a) Re-filed Case YES NO b) Related Cases YES NO JUDGE: DOCKET NUMBER:

VII. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. Sections 1331 & 11343(a); 28 U.S.C. Sections 2201-02; 42 U.S.C. Section 1983 (see attached) LENGTH OF TRIAL via 2 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE DATE February 2, 2017 SIGNATURE OF ATTORNEY OF RECORD s/ James K. Green

FOR OFFICE USE ONLY RECEIPT # AMOUNT IFP JUDGE MAG JUDGE

Friedenberg v. School Board of Palm Beach County

Continuation of Civil Cover Sheet:

VII. Cause of Action

Brief Statement of Cause:

42 U.S.C. § 1983 challenge under 4th Amendment to Palm Beach County School Board policy requiring suspicionless drug testing of all applicants for employment, including non-safety sensitive positions.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

JOAN E. FRIEDENBERG, on behalf of herself and a class of similarly situated individuals,

Plaintiff(s)

v.

SCHOOL BOARD OF PALM BEACH COUNTY

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

CHUCK SHAW, CHAIRMAN
SCHOOL BOARD OF PALM BEACH COUNTY
3300 FOREST HILL BOULEVARD, C-316
WEST PALM BEACH, FL 33406

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

James K. Green, Esq.
JAMES K. GREEN, P.A.
222 Lakeview Ave., Ste. 1650
West Palm Beach, FL 33401

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [School Board of Palm Beach County Sued Over Drug Test Requirement](#)
