

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:24-cv-03512-CNS-STV

KRISTEN CROOKSHANKS, as parent and next of friend of a minor on behalf of C.C.;
MINDY SMITH, as parent and next of friend of a minor on behalf of E.S.;
NAACP–COLORADO–MONTANA–WYOMING STATE AREA CONFERENCES; and
THE AUTHORS GUILD,

Plaintiffs,

v.

ELIZABETH SCHOOL DISTRICT,

Defendant.

**Defendant’s Motion to Exclude Statements,
Documents, and Other Proffered Evidence Offered
in Support of Plaintiffs’ Motion for Preliminary Injunction**

Defendant Elizabeth School District (the District) files this motion to exclude statements, documents, and other proffered evidence offered in support of Plaintiffs’ motion for preliminary injunction. The District objects to the admissibility of certain statements, documents, and other proffered evidence under the stated evidentiary rules for purposes of the preliminary-injunction proceedings. The statements, documents, and other proffered evidence are identified below along with the District’s specific objections.

CONFERRAL STATEMENT

Undersigned counsel conferred with lead counsel for Plaintiffs, Craig May, between January 31, 2025 and February 3, 2025. The conferral included multiple emails and a 51-minute phone call discussing the parties’ respective positions and legal authorities. In substance, the District’s position is that (1) most of the supporting material Plaintiffs attached in support of their motion for preliminary injunction is inadmissible for various evidentiary reasons, as outlined below, but (2) those objections could be resolved through

an evidentiary hearing applying the Federal Rules of Evidence. While courts, at times, relax the application of rules of evidence in expedited preliminary-injunction proceedings (e.g., when the proceedings are “conducted under pressured time constraints, on limited evidence[,] and expedited briefing schedules,” *Heideman v. S. Salt Lake City*, 348 F.3d 1182, 1188 (10th Cir. 2003) (citing separately *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981))), Plaintiffs have not requested expedited relief. Thus, the District’s position is that the Court should apply the Federal Rules of Evidence in deciding the motion for preliminary injunction. If the Court sets a hearing on the motion, both sides will have a full opportunity to present live witnesses during the hearing under the same evidentiary rules that would apply to any other evidentiary hearing.

The District therefore asks the Court to exclude the statements, documents, and other proffered evidence identified in the sections and charts below for purposes of deciding Plaintiffs’ motion for preliminary injunction. Plaintiffs oppose the District’s motion.

ARGUMENT

I. **Objections to Statements in the Declaration of CC**

CC’s entire declaration is hearsay and is categorically inadmissible under Fed. R. Evid. 802. The following statements in CC’s declaration are additionally inadmissible on each of the following grounds:

Statement	Objection
¶ 4: “Books help me understand that other people have gone through whatever I’m going through, and knowing that helps with my mental health and anxiety.”	Impermissible opinion testimony. FRE 701.

<p>¶ 8: “I was so devastated by the book removals ... because it was so clear that they were targeting LGBTQ people.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 8: “I loved <i>You Should See Me in a Crown</i> when I read it in middle school, and now Elizabeth Middle School students can’t check it out of their library, probably because the main character is queer and/or Black.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 9: “Instead, the District is restricting access to [books about LGBTQ people who are accepted and proud of who they are] and stigmatizing them.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 15: “Now that the District is removing books that the school board doesn’t like from my school library, browsing the shelves is different.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 15: “I feel like I’m only allowed to look at books that have been pre-approved by people with their own political agenda.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 15: “Now, when I browse, I’ll only be able to find books that fit the school board members’ worldview, and based on the books they’ve removed and labeled as ‘sensitive,’ I don’t think people like me fit into their own worldview.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶16: “The District’s removal of books from my school library prevents me from accessing information about a wide variety of topics and views there.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>

<p>¶ 17: “When I saw books like <i>The Hate U Give</i>, <i>Beloved</i>, and <i>The Bluest Eye</i> on the list of removed books, it looked to me like the District was trying to silence the voices of minorities.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 20: “I also worry that I and others who discuss or learn about the ideas in the removed books will be stigmatized because the District has made clear that there is something wrong with those ideas and viewpoints.”</p>	<p>Lack of personal knowledge and speculative. FRE 602. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 21: “Books are one of the main ways students like me can learn about the world, and by removing books from school libraries, the District is preventing students from becoming as knowledgeable and well-rounded as we could be.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>

II. Objections to Statements in the Declaration of Kristen Crookshanks

Ms. Crookshank’s entire declaration is hearsay and is categorically inadmissible under Fed. R. Evid. 802. The following statements in Ms. Crookshank’s declaration are additionally inadmissible on each of the following grounds:

Statement	Objection
<p>¶ 4: “If I tell C.C. what to think or prevent her from learning about certain topics or views, that will inhibit her personal growth.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 5: “I want C.C. to learn that there are lots of people in the world who don't look, live, or love like she does. Reading helps her understand that.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>

<p>¶ 7: “I learned that the District had changed its book fair vendor from Scholastic to SkyTree Books, which promised a book fair without any LGBTQ content, critical race theory, foul language, explicit content, or dark magic.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Double hearsay. FRE 802.</p>
<p>¶ 9: “C.C. ... was devastated when she learned that the District was removing books from school libraries.”</p>	<p>Double hearsay. FRE 802.</p>
<p>¶ 11: “When I read the list of books that the District removed from school libraries, it was clear to me that the District was targeting books about LGBTQ people and people of color.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 12: “By removing books like <i>#Pride: Championing LGBTQ Rights</i>, <i>The Perks of Being a Wallflower</i>, <i>You Should See Me in a Crown</i>, <i>It’s Your World—If You Don’t Like It Change It</i>, <i>Melissa/George</i>, the District has stigmatized LGBTQ identities and book about those identities, which is particularly harmful to my family, because my daughter identifies as queer.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 14: “I believe in equal rights for people of all races.”</p>	<p>Not relevant. FRE 401.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 15: “C.C. should be able to access books by Toni Morrison, Angie Thomas, and Khaled Hosseini in her school library.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 15: “By removing their books, the District has stigmatized them and their ideas.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Impermissible opinion testimony. FRE 701.</p>

<p>¶ 16: “The stigma is compounded by the books that the District has placed on the Sensitive Topic Book List, many of which also contain characters of color and/or LGBTQ characters.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 22: “Because the District has stigmatized certain books and ideas, I fear I will be labeled as an irresponsible or inadequate parent for allowing C.C. to read books that school board members don’t like.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 15: “C.C. is white, as are most of her classmates.”</p>	<p>Not relevant. FRE 401. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>
<p>¶ 19: “We learn more about each other and the topic of the book by talking about our disagreements and sharing our perspectives.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 20: “C.C. is a mature 16-year-old.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 21: “These books address difficult topics, but they also teach valuable lessons.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 22: “Because the District has stigmatized certain books and ideas, I fear I will be labeled as an irresponsible or inadequate parent for allowing C.C. to read books that school board members don’t like.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>

III. Objections to Statements in the Declaration of Mindy Smith

Ms. Smith’s entire declaration is hearsay and is categorically inadmissible under Fed. R. Evid. 802. The following statements in Ms. Smith’s declaration are additionally inadmissible on each of the following grounds:

Statement	Objection
¶ 4: “E.S. ... will continue to use the Running Creek Elementary school library as he gets older.”	Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.
¶ 5: “I have a younger daughter who is not yet in preschool. I intend for her to attend Running Creek Elementary when she is old enough for preschool, and then Elizabeth Middle School, and then Elizabeth High School.”	Not relevant. FRE 401.
¶ 8: “My husband, who was equally as upset about the removal of books from our child's school library as I was, also filled out the school board's feedback forms. He wrote that he would prefer that our child explore difficult subjects in an educational institution than learn about them from hearsay, whispers, gossip, and their peers, without the hope of open discussion and psychological safety.”	Double hearsay. FRE 802.
¶ 9 : “I do not want E.S. to be deprived of access to books just because his school board—or other parents in our district—disagree with the ideas in those books.”	Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.
¶ 10: By banning books like <i>Melissa</i> (formerly published as <i>George</i>) from my son's school library, the District is sending the message that it is not okay to be transgender—or even to learn about transgender people and experiences.”	Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.
¶ 10: “That creates an unwelcoming and unsafe environment in my son’s school.”	Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.

<p>¶ 11: “When I look at the other books that the District has removed from our public school libraries, it is clear that the District is trying to prohibit students from learning about LGBTQ+ identities and critically acclaimed literature by and about people of color.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 11: “In removing these books from our District’s school libraries, the school board has stigmatized LGBTQ+ identity and discussions about race and racism.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 12: “The school board has made the stigma even worse with its Sensitive Topic Book List.”</p>	<p>Lack of personal knowledge and speculative. FRE 602.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 12: “But I don’t want to receive those notifications <i>just for books that the school board dislikes.</i>”</p>	<p>Not relevant. FRE 401. Plaintiffs are not requesting a preliminary injunction with respect to the District’s notification system.</p> <p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>
<p>¶ 12: “My child should have unrestricted access to all of the books that were in his school library before the school board started removing the books they didn’t like.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 12: “I don’t want him to think that some books or ideas are bad or wrong just because his school board disagrees with them.”</p>	<p>Assumes facts not in evidence. FRE 201.</p>
<p>¶ 14: “I believe that people of all races should be treated with respect and dignity.”</p>	<p>Not relevant. FRE 401.</p> <p>Impermissible opinion testimony. FRE 701.</p>

<p>¶ 15: “I want my son to learn about race and racism in America. One way to do that is to be exposed to books by and about people of color.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 16: “I want E.S. to have access to books about all kinds of people so that he can develop empathy and learn to understand other people's experiences.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 17: “Having access to all kinds of interesting ideas and information is helpful in encouraging E.S. to develop his reading skills.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 17: “I want him to realize that, the more he reads, the more he will be exposed to interesting ideas and viewpoints that might be different from his own.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 17: “If the available reading materials are restricted to those that his school board agrees with, then E.S. will only be able to learn about a narrow selection of ideas. In other words, he will be less motivated to read if he can only read books his school board likes.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p> <p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 18: “He should be able to check out the book if he finds it interesting or informative, or if he wants to bring it home so that we can read it together.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 19: “He should be able to check out the book if he finds it interesting or informative, or if he wants to bring it home so that we can read it together.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 22: “E.S. often looks at books with other students in his class.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>
<p>¶ 22: “Sharing books is important both to his education and his socialization.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>

<p>¶ 23: “I understand that the school board members, and some parents in our community, will disagree with my decision to allow E.S. to read certain books—they might even view me as an irresponsible parent for declining to censor my child’s reading material.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>
<p>¶ 23: “I believe that growing up with books that express a diversity of views, ideas, and opinions is crucial to developing critical thinking skills, understanding our complex world, and challenging injustice where we see it.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>

IV. Objections to Statements in the Declaration of Portia Prescott

Ms. Prescott’s entire declaration is hearsay and is categorically inadmissible under Fed. R. Evid. 802. The following statements in Ms. Prescott’s declaration are additionally inadmissible on each of the following grounds:

Statement	Objection
<p>¶ 7: “[Parents] have shared that the Elizabeth School District’s removal of books from school libraries has interfered with their children’s ability to access books by and about people of color.”</p>	<p>Double hearsay. FRE 802. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>
<p>¶ 7: “[Parents] have also shared that, by removing Toni Morrison’s <i>The Bluest Eye</i> and <i>Beloved</i>, Angie Thomas’s <i>The Hate U Give</i>, Khaled Hosseini’s <i>The Kite Runner</i>, and Leah Johnson’s <i>You Should See Me in a Crown</i> from school libraries, the District has cast a stigma over celebrated authors of color and their stories.”</p>	<p>Double hearsay. FRE 802. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 7: “Our members have also shared that many of the books that the District removed from school libraries were about LGBTQ rights or LGBTQ characters.”</p>	<p>Double hearsay. FRE 802. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>

<p>¶ 7: “By removing those books, the District is sending the message that there is something wrong with LGBTQ people—including students in Elizabeth schools.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 8: “One NAACP member who has a child at Running Creek Elementary shared her belief that the District’s removal of these books from school libraries stigmatizes the ideas they contain, and that this stigma interferes with her child’s ability to learn and grow.”</p>	<p>Double hearsay. FRE 802. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 8: “Another member who has a child at Elizabeth High School shared that her daughter was devastated when the District removed books from her school library because she read the list of removed books to mean that gay students are not welcome in Elizabeth schools.”</p>	<p>Double hearsay. FRE 802. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>
<p>¶ 8: “Her daughter wants to check out the books that were removed from her school library, but now she cannot, because of the school board’s political agenda.”</p>	<p>Double hearsay. FRE 802. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 9: “Some NAACP members removed their children from Elizabeth schools because of the District’s decision to remove books from their school libraries.”</p>	<p>Double hearsay. FRE 802. Assumes facts not in evidence. FRE 201.</p>
<p>¶ 9: “For example, one member who had a Fifth Grader enrolled in Running Creek Elementary saw the removal of books as yet another manifestation of racism in the District.”</p>	<p>Double hearsay. FRE 802. Assumes facts not in evidence. FRE 201.</p>

<p>¶ 9: “She unenrolled her child in Elizabeth public schools because she wanted her daughter to be educated in a school that values her and doesn’t deprive her of access to books about Black people she can relate to.”</p>	<p>Double hearsay. FRE 802. Assumes facts not in evidence. FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 9: “Another member who had a preschooler enrolled in Running Creek Elementary unenrolled her child because she did not want her daughter subject to the Board’s partisan whims.”</p>	<p>Double hearsay. FRE 802. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 9: “She wants her child to have access a wide variety of books, and she does not want her child to think there is anything wrong with reading about LGBTQ+ people or people of color.”</p>	<p>Double hearsay. FRE 802. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 10: “Elizabeth’s removal of books from Elizabeth’s school libraries harms many of our members because it signals that there is something wrong with books that discuss racism, discrimination, and LGBTQ+ people.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 10: “I was appalled to hear Elizabeth School Board members publicly refer to Beloved as ‘disgusting,’ as were many NAACP members.”</p>	<p>Double hearsay. FRE 802. Assumes facts not in evidence. FRE 201.</p>
<p>¶ 10: “As the District continues to deprive students access to books that they personally find ‘disgusting’ and to determine which other books are so ‘disgusting’ that students should not be able to access them, our members and our members’ children will continue to suffer the consequences.”</p>	<p>Double hearsay. FRE 802. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>

<p>¶ 10: “Students in Elizabeth public schools can no longer go to their school library to explore Toni Morrison’s or Angie Thomas’s perspectives on Black experiences in this country.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>
<p>¶ 10: “They can no longer educate themselves about LGBTQ+ rights or history in their school libraries using books by Leah Johnson, Rebecca Felix, Alex Gino, or Mikki Halpin.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>
<p>¶ 10: “This impacts their education, their personal development, and their well-being.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 11: “While we advocate to educate children about racism and discrimination, the District has targeted these topics for removal from school libraries.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 11: “While we advocate to make schools more equitable and welcoming to people of all races, genders, and sexualities, the District has indicated that stories by and about people of color and LGBTQ people are disgusting and deserve to be removed.”</p>	<p>Double hearsay. FRE 802. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 11: “While we fight to empower young students to explore challenging ideas and develop their critical thinking schools, the District is excising materials that could help them do just that from their school libraries.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>

V. Objections to Statements in the Declaration of Ellen Hopkins

Ms. Hopkins’s entire declaration is hearsay and is categorically inadmissible under Fed. R. Evid. 802. The following statements in Ms. Hopkins’s declaration are additionally inadmissible on each of the following grounds:

Statement	Objection
<p>¶ 8: “Teachers have told me that <i>Crank</i>, and many of my other books, inspire critical conversations in classrooms.”</p>	<p>Double hearsay. FRE 802. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 9: “I have heard from thousands of readers who say <i>Crank</i> helped them turn away from drugs or offered insight into a loved one’s addiction.”</p>	<p>Double hearsay. FRE 802.</p>
<p>¶ 9: “One reader wrote to me: ‘I’m honored to get this opportunity to tell you that <i>Crank</i> saved my life, opened my eyes to the world I was exposing myself to and rapidly getting drowned in. And then, two years later it did the very same for my little brother who found it in my moving boxes and read it thinking it was a teen book about kids doing drugs. He was doing meth the night he read it, with his at the time girlfriend. They quit the very next day. Thank you Ellen, you’ve touched our lives forever and I’ll always be more thankful than you’ll ever know for your books.’”</p>	<p>Double hearsay. FRE 802.</p>
<p>¶ 10: “Publisher’s Weekly’s starred review of the book states: ‘Brief, gutsy confessions reveal a history of sexual abuse and emotional neglect, and it’s not clear that both girls will survive it. Hopkins’s verse is not only lean and sinuous, it also demonstrates a mastery of technique.’”</p>	<p>Double hearsay. FRE 802.</p>
<p>¶ 10: “Kirkus, an industry trusted source for book reviews, also gave it a star, which I understand is only awarded to a small percentage of the thousands of books reviewed each year.”</p>	<p>Double hearsay. FRE 802. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>
<p>¶ 10: “Kirkus wrote ‘Hopkins’s gift with free verse reaches new heights in this portrait of splintered identical twins ... Kaeleigh and Raeanne maintain distinct voices throughout as they wrestle with psychic damage and an astonishing, devastating realization. Sharp and stunning, with a brilliant final page.’”</p>	<p>Double hearsay. FRE 802.</p>

<p>¶ 11: “With <i>Identical</i>, childhood sexual abuse is a pervasive problem.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 11: “Unfortunately, the perpetrator is sometimes a parent, and in those cases the victims are often unaware that it is wrong. And for those who do, many are afraid no one will believe them if they ask for help.”</p>	<p>Impermissible opinion testimony. FRE 701. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>
<p>¶ 11: “A reader once wrote to thank me for ‘not closing the door. Because when you do, people don't believe something's happening behind it.’”</p>	<p>Double hearsay. FRE 802.</p>
<p>¶ 12: “<i>Voya's</i> starred review had this to say: ‘The book is rife with real issues and demanding attention, leaving the reader to realize that when the smoke clears, redemption is always possible ... the character's decisions transcend the page and leave much to be discussed and contemplated among readers.’”</p>	<p>Double hearsay. FRE 802.</p>
<p>¶ 13: “All of my books, including these, offer resources in the back matter for people experiencing the issues I'm writing about.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 15: “Many of my books have provided young adults with the resources they need to navigate the challenges of their teen years.”</p>	<p>Double hearsay. FRE 802. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>
<p>¶ 15: “I have heard from thousands of teens over the years who have said that my books helped them navigate difficult situations and avoid going down dangerous paths.”</p>	<p>Double hearsay. FRE 802.</p>
<p>¶ 15: “My books have resonated with countless readers, offering a mirror for their struggles and a roadmap to understanding the complexities of young adulthood.”</p>	<p>Double hearsay. FRE 802. Impermissible opinion testimony. FRE 701. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>

<p>¶ 16: “I have heard from many teenagers who didn’t think of themselves as ‘readers’ or struggled to finish entire novels until they discovered my books in verse.”</p>	<p>Double hearsay. FRE 802.</p>
<p>¶ 15: “My books help them develop their reading skills and foster an appreciation for language and literature.”</p>	<p>Double hearsay. FRE 802. Impermissible opinion testimony. FRE 701. Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.</p>
<p>¶ 18: “Elizabeth School District’s book ban silences important dialogues by preventing students from encountering my books in the first instance.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 18: “Labeling my books as ‘sensitive’ or inappropriate for students-let alone removing them from school libraries-stigmatizes me, the ideas and viewpoints contained in my work, and the students who read my books.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 19: “Elizabeth’s removal of my books from their high school library limits my ability to reach my intended audience and diminishes the opportunities for open dialogue about difficult subjects.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 19: “Such censorship denies readers—especially young people—the chance to immerse themselves in stories that validate their experiences, broaden their perspectives, and foster empathy.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>

<p>¶ 19: “I fear that other school districts will copy Elizabeth School District and similarly remove my books from their school library shelves because they disagree with the ideas and viewpoints I express in those books.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
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VI. Objections to Statements in the Declaration of Alex Gino

Mr. Gino’s entire declaration is hearsay and is categorically inadmissible under Fed. R. Evid. 802. The following statements in Mr. Gino’s declaration are additionally inadmissible on each of the following grounds:

Statement	Objection
<p>¶ 3: “I believe LGBTQIAP+ people deserve the same rights, respect, and resources as all other people.”</p>	<p>Relevance. FRE 401. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 4: “<i>Melissa</i> offers an authentic portrayal of a child navigating gender identity while addressing themes of courage, self-discovery, acceptance, and friendship.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 7: “Removing books like mine from school libraries silences vital narratives and reinforces stigmas and misunderstandings about the LGBTQIA+ community.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 7: “By removing <i>Melissa</i> from its bookshelves, ESD denies young readers the opportunity to see themselves reflected in the literature and sends the message that there is something bad or wrong with stories about people like them.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>

<p>¶ 7: “Removing <i>Melissa</i> from school libraries denies students access to a story that fosters empathy and inclusivity.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 8: “<i>Melissa</i> is a vital resource for children, educators, and parents seeking to better understand gender diversity.”</p>	<p>Impermissible opinion testimony. FRE 701.</p>
<p>¶ 8: “I have received hundreds of emails and other correspondence from readers who have been impacted positively by <i>Melissa</i>.”</p>	<p>Double hearsay. FRE 802. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 8: “Adults tell me about how <i>Melissa</i> has helped the children in their lives—as well as themselves—learn and grow.”</p>	<p>Double hearsay. FRE 802. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 8: “Many adult LGBTQIAP+ people tell me that my story helps to heal deep, old emotional wounds, and that they wish they had had access to a book like <i>Melissa</i> when they were <i>Melissa</i>’s age (fourth grade).”</p>	<p>Double hearsay. FRE 802. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 8: “I have spoken with adults who have been guided towards compassion for their children and grandchildren through <i>Melissa</i>’s story, and children who have been bolstered by <i>Melissa</i> to tell people who they are.”</p>	<p>Double hearsay. FRE 802.</p>
<p>¶ 8: “I regularly hear that thoughtful conversations about empathy and kindness extend into the weeks after my visit.”</p>	<p>Double hearsay. FRE 802. Impermissible opinion testimony. FRE 701.</p>
<p>¶ 8: “Stories like <i>Melissa</i> help LGBTQIAP+ youth by providing connection and fostering empathy in those who might otherwise cause them physical and/or emotional harm.”</p>	<p>Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.</p>

¶ 9: “Many lack the resources or ability to access my books outside of the school library.”	Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.
¶ 9: “Removing my books from school libraries makes it functionally impossible to reach my audience.”	Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.
¶ 9: “By removing my book from its libraries, ESD is preventing me from communicating my viewpoint with young Americans who attend schools in ESD.”	Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201.
¶ 10: “This drop reflects the harmful impact of book bans across the country.”	Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.
¶ 10: “These are tangible outcomes caused by the recent surge in book bans, including the ban in place in ESD.”	Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.
¶ 10: “The surge in book bans has created a chilling effect, leading schools and school districts to omit my books from their collections due to perceived controversy over the viewpoints and ideas expressed in them.”	Lack of personal knowledge, speculative, and assumes facts not in evidence. FRE 602; FRE 201. Impermissible opinion testimony. FRE 701.

VII. Objection to Exhibit 9

Statement	Objection
Email from D. Snowberger to M. Powell, dated August 5, 2024, and remainder of email thread.	Inadmissible hearsay. FRE 802.

VIII. Objection to Exhibit 10

Statement	Objection
Email from H. Booth to [redacted], dated August 19, 2024, and remainder of email thread.	Inadmissible hearsay. FRE 802.

IX. Objection to Exhibit 11

Statement	Objection
Email from H. Booth to [redacted], dated August 19, 2024, and remainder of email thread.	Inadmissible hearsay. FRE 802.

X. Objection to Exhibit 12

Statement	Objection
Email from M. Powell to H. Booth, dated September 8, 2024, and remainder of email thread.	Inadmissible hearsay. FRE 802.

XI. Objections to Exhibit 13

Statement	Objection
Book Review Form for Laura [redacted] (<i>#Pride</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Ken [redacted] (<i>#Pride: Championing LGBTQ Rights</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Lyra [redacted] (<i>Burned</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for David [redacted] (<i>George</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Matt [redacted] (<i>George</i>).	Inadmissible hearsay. FRE 802.

Book Review Form for Maryrose [redacted] (<i>It's Your World</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for David [redacted] (<i>The Bluest Eye</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Mayrose [redacted] (<i>The Hate U Give</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Ken [redacted] (<i>The Hate You Give</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Maryrose [redacted] (<i>You Should See Me in a Crown</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Shelly [redacted] (<i>You Should See Me in a Crown</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Tracy [redacted] (<i>You Should See Me in a Crown</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Laura [redacted] (<i>The Kite Runner</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Mindy [redacted] (<i>Thirteen Reasons Why, The Kite Runner, and Speak</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Wendy [redacted]	Inadmissible hearsay. FRE 802.
Book Review Form for Kathy [redacted] (<i>Be-loved</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Kathy [redacted] (<i>Looking for Alaska</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Kathy [redacted] (<i>Crank</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Maryrose [redacted] (<i>The Hate You Give</i>).	Inadmissible hearsay. FRE 802.
Book Review Form for Mindy [redacted] (<i>You Should See Me in a Crown</i>).	Inadmissible hearsay. FRE 802.

Book Review Form for Kathy [redacted].	Inadmissible hearsay. FRE 802.
Book Review Form for Christine [redacted].	Inadmissible hearsay. FRE 802.
Book Review Form for Janey [redacted].	Inadmissible hearsay. FRE 802.
Book Review Form for Mindy [redacted] (<i>Identical, Fallout, Glass, Burned, Crank, Smoke</i>).	Inadmissible hearsay. FRE 802.

XII. Objection to Exhibit 14

Statement	Objection
Email from M. Powell to [redacted], dated September 8, 2024.	Inadmissible hearsay. FRE 802.

XIII. Objection to Exhibit 15

Statement	Objection
Email from D. Snowberger to J. Maher, dated August 19, 2024.	Inadmissible hearsay. FRE 802.

XIV. Objection to Exhibit 16

Statement	Objection
Email from R. Olsen to D. Snowberger and M. Seefried, dated September 5, 2024, and remainder of email thread.	Inadmissible hearsay. FRE 802.

XV. Objection to Exhibit 17

Statement	Objection
Email from M. Seefried to K. Moore, dated September 11, 2024.	Inadmissible hearsay. FRE 802.

XVI. Objection to Exhibit 18

Statement	Objection
Email from K. Moore to P. Slade, dated September 10, 2024.	Inadmissible hearsay. FRE 802.

CONCLUSION

The District asks the Court to exclude the statements, documents, and other proffered evidence identified above, and attached to Plaintiffs' motion for preliminary injunction, as inadmissible under the Federal Rules of Evidence. The Court should disregard this proffered evidence in ruling on Plaintiffs' motion for preliminary injunction.

Dated: February 7, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on February 7, 2025, the foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following email addresses:

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s/ Kelly Callender

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