

STANDARD FORM NO. 616  
SERIAL 007

Cause Number 08-05-04388 -CV

William Martin Wise,	§	In the District Court
	§	
Plaintiff,	§	
	§	
v.	§	of Montgomery County, Texas
	§	
New Caney Independent School District,	§	
	§	
Defendant	§	<u>221st</u> Judicial District

**William Martin Wise's Original Petition, Application for Temporary Restraining Order, Application for Temporary Injunction Pendente Lite, and Application for Permanent Injunction**

To the Honorable District Judge:

William Martin Wise, Plaintiff, files this Original Petition, Application for Temporary Restraining Order, Application for Temporary Injunction *Pendente Lite*, and Application for Permanent Injunction, and complains of Defendant New Caney Independent School District:

**Introduction**

1. "It is a prized American privilege to speak one's mind, although not always with perfect good taste, on all public institutions." *Bridges v. State of California*, 314 U.S. 252, 270 (1941) (Black, J., majority opinion). Not surprisingly, both the Texas Constitution, article I, section 8, and the United States Constitution, Amendment I, as applicable through the states under Amendment XIV, provide for free speech, particularly in the political context. Unfortunately, Defendant New Caney Independent School District is a public institution that seems to

disagree when the political speech concerns criticism of its expenditure of tax dollars. This suit is for injunctive relief against New Caney Independent School District to prevent it from imposing a prior restraint on political speech with respect to inappropriate tax dollar expenditures. Plaintiff intends to conduct discovery under Level 2 of Rule 190.

**Parties and Venue**

2. William Martin Wise ("Mr. Wise") is a natural person who resides in Montgomery County, Texas. His Texas Drivers License Number is [REDACTED] and the last four digits of his social security number are [REDACTED].
3. Defendant New Caney Independent School District (the "District") is an independent school district with its principal place of business in New Caney, Montgomery County, Texas. Defendant may be served with the citation and petition by serving its superintendent, Richard Cowan, at 21580 Loop 494, New Caney, Montgomery County, Texas 77357, pursuant to section 17.024(e) of the Texas Civil Practice and Remedies Code.
4. Venue is proper in Montgomery County, because Montgomery County is where all or a substantial part of the events giving rise to the claim occurred under the analysis of section 15.002(a)(1) of the Texas Civil Practice and Remedies Code.

Facts

5. On April 22, 2008, Mr. Wise attempted to make a citizen comment at the District's Board meeting, on the subject of inappropriate tax money expenditures by the Superintendent of the District and by the District's Public Information Officer on restaurant and hotel expenses that violated District policy.
6. When Mr. Wise appeared for the meeting he was forced to disclose to the Public Information Officer the subject matter about which he would speaking. He informed the District that he would be speaking on bus driver discipline and inappropriate expenditures of tax money. The District attempted to narrow the subject matter of his comments to bus drivers and bus driver discipline on his information sheet.
7. During the appropriate time for citizen comments, Mr. Wise then began a citizen comment about improper credit card expenses by the District's Superintendent, Richard Cowan, and the District's Public Information Officer, Cindee Reynolds. The Board's President Gene Gregory interrupted the citizen comment and informed Mr. Wise that he would not be allowed to speak on the subject matter of inappropriate tax money expenditures.
8. When Mr. Wise attempted to continue his citizen comment in a peaceful and orderly manner, Mr. Gregory had the District's police officers forcibly remove

Mr. Wise from the building.

9. The District has informed Mr. Wise that the District will not permit Mr. Wise to speak at Board meetings in the future, particularly with respect to matters related to inappropriate tax money expenditures.
10. The District restricted Mr. Wise's movement as he was escorted out of the District's facilities without any legal authority.

#### Grounds for Injunctive Relief

10. In the First Amendment area, the very existence of a censorial power, regardless of how or whether it is exercised is unacceptable. *Kramer v. Price*, 712 F.2d 174, 177 (5<sup>th</sup> Cir. 1983).
11. The loss of First Amendment rights, even for minimal periods, is irreparable injury justifying injunctive relief under both federal and state law. *DFW Vending, Inc., v. Jefferson Cty.*, 991 F.Supp. 578, 597 (E.D. Tex. 1998); *Southwestern Newspapers Corp. v. Curtis*, 584 S.W.2d 362, 368 (Tex.Civ.App.-Amarillo 1979, no writ).

Count One

Application for Temporary Restraining Order, Application for Temporary Injunction  
Pendente Lite and Application for Permanent Injunction to Restrain

Violation of the Constitutional Rights of William Martin Wise Under the First  
Amendment to the Constitution of the United States as Made Applicable Through the  
Fourteenth Amendment and Under the Texas Constitution, Article I, Section 8

12. Mr. Wise incorporates paragraphs 1 through 11 herein by reference as though set forth at length.
13. The District's prior restraint of free political speech has irreparably harmed Mr. Wise's right to free speech under the United States Constitution and under the Texas Constitution. Mr. Wise has a probable right of recovery against the District. The District's brazen violation of the Constitution has caused and continues to threaten to cause Mr. Wise irreparable and immediate harm as a matter of law for which Mr. Wise has no adequate remedy at law, to wit: prior restraint on protected core political free speech.
14. Therefore, the Court should issue a temporary restraining order, temporary injunction *pendente lite* and a permanent injunction against the District, its employees, its agents, and those acting in concert with it to cease, desist, and refrain from preventing Mr. Wise from speaking about inappropriate tax money expenditures during citizen comments at its Board meetings in an orderly and peaceful manner for a period of five (5) minutes, in accordance with the

guidelines of the District.

### Count Two

#### False Imprisonment


15. Mr. Wise incorporates paragraphs 1 through 14 herein by reference as though set forth at length.
16. The District falsely imprisoned Mr. Wise in their effort to remove any possibility of political speech that was critical of the District.
17. The District's wrongful conduct proximately caused Mr. Wise actual damages far in excess of this Court's minimum jurisdictional amount.
18. The District's conduct was so malicious, perfidious, flagitious, egregious, willful, and wanton as to justify the imposition of exemplary damages far in excess of this Court's minimum jurisdictional amount.

William Martin Wise prays that the Court cite Defendant New Caney Independent School District to appear and answer herein and, upon hearing, award William Martin Wise and against Defendant New Caney Independent School District:

1. A temporary restraining order, a temporary injunction *pendente lite*, and permanent injunction as set forth in paragraphs 14, *supra*;
2. Actual and exemplary damages far in excess of this Court's minimum jurisdictional amount;

3. Costs of Court; and
4. Such other and further relief to which William Martin Wise may show himself entitled.

Respectfully submitted,

  
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