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9 On behalf of ACLU FOUNDATION OF OREGON

10 Attorneys for Plaintiffs

11 (Additional counsel listed on following page)

12 UNITED STATES DISTRICT COURT

13 DISTRICT OF OREGON

14 ASHLEY BELLUM, by her next friend RICK)
15 BELLUM; STEPHANIE FRANKLIN, by her)
16 next friend, BARBARA FRANKLIN;)
17 KRYSTIN JANTZER, by her next friend)
18 GARY JANTZER; KATHERINE RICHARD,)
19 by her next friend JEFF RICHARD;)
20 KARYNE SANDER, by her next friend)
21 CYNTHIA SANDER; and BRIN TAMBLIN,)
22 by her next friend, LAURA ANN TAMBLIN;)
23 Individually and on behalf of all those)
24 similarly situated,)

25 Plaintiffs,)

26 vs.)

27 CITY OF GRANTS PASS; WILLIAM)
28 PETERSON, Grants Pass City Manager;)
MARTIN SEYBOLD, Director of Field)
Operations, City of Grants Pass; RICHARD)
OLSON, Recreation Manager, City of Grants)
Pass; in Their Official and Individual)
Capacities, and Their Successors,)

Defendants.)

CASE NO.

**COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

[CLASS ACTION; CIVIL RIGHTS
VIOLATIONS]

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1 **JURISDICTION AND VENUE**

2 1. This is an action for injunctive and declaratory relief for violations of plaintiffs’ rights
3 under the United States Constitution, as well as rights guaranteed under the Constitution and laws
4 of Oregon. Plaintiffs seek redress for the violation of their federal constitutional and statutory rights
5 under color of state law pursuant to, inter alia, 42 U.S.C. § 1983. The defendants’ policies and
6 practices amount to unlawful gender discrimination and denial of equal access to public facilities on
7 the basis of gender, entitling plaintiffs to relief under the Equal Protection Clause of the Fourteenth
8 Amendment to the United States Constitution, and to relief under the Equal Privileges and
9 Immunities Clause of the Oregon Constitution, Article I, Section 20, and the Oregon Public
10 Accommodation Act, O.R.S. §659A.403. Jurisdiction is conferred on this Court pursuant to 28
11 U.S.C. §§ 1331 and 1343(a)(3) and (4). Plaintiffs invoke this Court’s jurisdiction over their state
12 law claims pursuant to 28 U.S.C. § 1367(a).

13 2. Declaratory relief is authorized pursuant to 28 U.S.C. § 2201 and 28 U.S.C. § 2202
14 for the purpose of determining a question of actual controversy between the parties as hereinafter
15 more fully appears. There is a present and actual controversy between the parties to this action. A
16 declaration that actions taken by the defendants in denying equal and adequate access to city-owned
17 and operated recreational facilities to plaintiffs violate the federal and state constitutions and the state
18 law is warranted. Plaintiffs further seek a preliminary and permanent injunction against future
19 violations of plaintiffs' constitutional and statutory rights.

20 3. Venue is proper because the alleged wrongs occurred within the District of Oregon.
21 All plaintiffs reside in the City of Grants Pass and defendants are located within the District of
22 Oregon's Southern Division.

23 **INTRODUCTION**

24 4. This case seeks to redress the denial of equal and adequate access to publicly-owned
25 and operated recreational facilities by the City of Grants Pass (the “City”) to girls who desire to
26 participate in a competitive community softball program through their neighborhood public parks.
27 Individual plaintiffs and the proposed plaintiff class are members of the Grants Pass Blaze ASA
28 Girls Fastpitch Softball organization (the “Blaze” or “ASA Blaze”), a non-profit, competitive

1 community softball league organized pursuant to the requirements of the national Amateur Softball
2 Association (“ASA”). As of the 2002 season, the ASA Blaze league consists of approximately sixty-
3 five (65) girls ranging in age from 8 to 18 years, who, because of their gender, are being and have
4 been denied equal and adequate access to City-owned athletic facilities made available to selective
5 boys’ baseball leagues. The ASA Blaze was organized as a competitive, tournament level softball
6 league intended to prepare and enhance the skills of players for future scholastic, inter-collegiate and
7 professional competition. The ASA Blaze is a selective fastpitch softball league that requires its
8 members to try-out prior to the start of the softball season.

9 5. The ASA Blaze was founded in 1997 in the City of Grants Pass. It is the only girls’
10 selective community fast pitch softball program operating in the City, and it utilizes the City’s public
11 park facilities. The ASA Blaze is not affiliated with any scholastic softball program sponsored or
12 otherwise operated by the Grants Pass Unified School District.

13 6. Riverside West All Sports Park (“ASP”), built in phases with municipal and
14 community support commencing in 1990, is the City’s premier athletic facility for youth sports
15 programs. It contains fields adequate for baseball and softball, as well as facilities for various other
16 competitive and individual sports such as soccer, horseshoes and cycling. Two of the dedicated field
17 facilities located in ASP are utilized exclusively by selective boys’ baseball leagues – the American
18 Legion and Babe Ruth programs -- for games and practices.

19 7. The American Legion league is a selective, competitive-level boy’s baseball league.
20 It contains a single team, the Grants Pass Nuggets, consisting of fifteen members ranging in ages 16
21 to 18. American Legion engages in regional and state competition outside of Grants Pass. The
22 Babe Ruth league is a selective, competitive-level baseball league consisting of nine teams and
23 approximately 70 to 80 boys ranging in ages 13 to 15.

24 8. In addition to the two dedicated baseball fields, All Sports Park contains a shared field
25 area, consisting of four diamonds utilized by various scholastic, youth and adult programs, including
26 the Little League program and the ASA Blaze.

27 9. The Little League organization operates a 700-member youth baseball program that
28 includes T-ball divisions for younger players and softball divisions starting at age nine. The Little

1 League organization is recreational in nature. As such, Little League differs from the selective,
2 competitive-level baseball and softball programs that require members to try out and to engage in
3 national and regional competition. Little League has been granted de facto control of the four shared
4 fields, a concession facility and related amenities at ASP.

5 10. For several seasons, the ASA Blaze has been granted access to one or two fields,
6 during limited days and hours, at the ASP shared field area. One of the ASP fields made available
7 to the ASA Blaze is inadequate for competitive fastpitch softball, insofar as it lacks the appropriate
8 ASA-regulated outfield dimensions. The ASA shared fields utilized by the Blaze members lack the
9 abundant and exclusive amenities made available to selective boys' baseball leagues at ASP.

10 11. The selective boys' baseball programs, American Legion and Babe Ruth, have had
11 continuous and exclusive access to state-of-the-art fields at ASP since the park's inception. These
12 facilities have numerous amenities, including: ample covered bleachers; fully-fenced dug-outs;
13 bullpens; regulation-appropriate outfield dimensions; smooth and well-maintained infield and
14 outfield areas; exclusive fee-generating concession facilities; changing facilities for team members;
15 permanent outfield fencing suitable for corporate sponsorship; functioning electronic scoreboards;
16 well-maintained restrooms; permanent batting cages; a dedicated parking lot; an announcer during
17 games; and game coverage in the local newspaper and radio. Because the American Legion and
18 Babe Ruth leagues have exclusive access to dedicated "home" fields, they are able to schedule games
19 and practices, at their sole convenience, without being required to share such fields with any other
20 youth or adult users. Because these leagues, amounting to approximately ten teams, are dramatically
21 smaller in number than the 200 teams required to share the remaining four ASP fields, the American
22 Legion and Babe Ruth fields are not utilized to their full capacity.

23 12. The ASA Blaze never has been permitted to use the American Legion or Babe Ruth
24 boys' baseball fields for either practice or games.

25 13. The City's Riverside Park ("Riverside"), an outlying facility separate from the ASP,
26 has been made available to some of the Blaze league divisions for practices and games during prior
27 seasons, including the 2001 softball season. Like the shared ASP fields made available to the ASA
28

1 Blaze on a limited basis, the Riverside field lacks the abundant field amenities made available to
2 selective boys' baseball leagues in their dedicated fields.

3 14. ASA Blaze representatives have made persistent public requests to City officials,
4 including the City's Recreation Manager, for equal and adequate access to City-owned playing fields
5 at All Sports Park. When the ASA Blaze has sought permission from City officials for equal access
6 to City-owned recreational facilities, such as those historically and exclusively made available to the
7 selective boys' baseball leagues at ASP, Blaze members have been denied the same access and
8 comparable quality of fields consistently granted to the American Legion and Babe Ruth boys'
9 baseball leagues.

10 15. On a persistent and ongoing basis, defendants City of Grants Pass, its recreational
11 field officials and its agents, have discriminated against plaintiffs by refusing to grant them equal and
12 adequate access to public recreational facilities, including refusing to make available public playing
13 fields of quality comparable to those made available abundantly and exclusively to the selective local
14 boys' baseball leagues. This is so despite persistent written and oral requests by ASA Blaze
15 representatives seeking equal accommodation and attempts to engage in discussions with City
16 officials toward that purpose. These requests and attempts have not been met with any
17 corresponding written response. Indeed, the City has failed to grant the ASA Blaze equal and
18 adequate access to field use at ASP, a public sports facility historically created for the benefit of, and
19 utilized almost exclusively by, selective boys' baseball leagues.

20 16. In particular, the ASA Blaze made numerous specific written and oral requests for
21 equal and adequate field access in advance of the 2002 Spring/Summer softball season. ASA Blaze
22 representatives conducted face-to-face meetings with City representatives as early as August 2001.
23 Although City representatives have acknowledged that the selective boys' baseball leagues, American
24 Legion and Babe Ruth, are granted exclusive use of and control over city-owned baseball fields, they
25 have failed to provide any equal and adequate field accommodation to the ASA Blaze league.

26 17. ASA Blaze representatives made a written request for the City's provision of equal
27 and adequate field facilities in September 2001, stating: "We believe that if the city intends to
28 continue to permit exclusive control of the ASP facilities by boys-only athletic programs, then it

1 must make comparable facilities available to girls at the ASP.” (See Letter to Ulys J. Stapleton from
2 James R. Dole, dated September 28, 2001, attached hereto as Exhibit 1.) The City never issued a
3 written response to this request. The ASA Blaze made a second, written request to discuss the issue
4 of equal and adequate field allocation on January 16, 2002, in advance of a January 23, 2002, field
5 scheduling meeting (“the January 23 meeting”) organized by the City. (See Letter to Dick Olson,
6 Grants Pass Recreation Manager, from James R. Dole, dated January 16, 2002, attached hereto as
7 Exhibit 2.) The City did not issue a written response in advance of the scheduling meeting. Instead,
8 the City held the January 23 scheduling meeting and issued a letter on February 12, 2002, informing
9 the ASA Blaze that it would be granted two to four hours a week, per team, on the shared ASA fields
10 for its use during the 2002 season. (See Letter to Clay Rounsaville from Dick Olson, Recreation
11 Manager, dated February 12, 2002, attached hereto as Exhibit 3.) This availability amounts to almost
12 half of the field space allocated to the ASA Blaze during the 2001 season and is nowhere near the
13 full-time, exclusive access to dedicated fields made available to the American Legion and Babe Ruth
14 leagues. Moreover, the City failed to respond to the ASA Blaze's requests that it be provided equal
15 and adequate access to the field facilities made available exclusively to the selective boys' baseball
16 leagues.

17 18. The ASA Blaze league has made continuous and ongoing attempts to negotiate with
18 City representatives for equal and adequate access to playing field space up to the commencement
19 of the 2002 softball season. Such efforts have been futile. As of March 27, 2002, City
20 representatives confirmed that the ASA Blaze would have only minimal access to the shared ASP
21 fields of inferior quality, that lack the numerous field amenities made available exclusively to
22 selective boys' baseball leagues at ASP. Moreover, the City failed to provide the ASA Blaze with
23 any access to utilize the American Legion or Babe Ruth fields for practice or play.

24 19. The American Legion and Babe Ruth leagues were not required to participate in the
25 ASA field scheduling process discussed during the January 23 meeting. These two selective boys'
26 baseball leagues were once again granted exclusive use of their “home” fields at ASP during the
27 2002 Spring/Summer season. Thus, these fields will remain available to the American Legion and
28 Babe Ruth leagues, respectively, twenty-four hours a day, seven days a week. In fact, however, the

1 single American Legion team only uses its field for approximately one-half of its games, amounting
2 to about two dozen a year, and Babe Ruth only uses its field to house its home games, while
3 practicing elsewhere; the remainder of the time these fields lie open and unused.

4 20. As a result of the City's discriminatory allocation of public field space to the ASA
5 Blaze, its members are relegated to playing softball at ASP in crowded conditions, during limited
6 days and hours, and primarily on fields not suitable to competitive fastpitch softball requirements.
7 The ASA Blaze's limited access to the ASP fields occurs simultaneously with, and side-by-side to,
8 thriving competitive boy's baseball leagues, granted exclusive access to state-of-the-art field facilities
9 at ASP. Crowded and inadequate playing conditions increase the girls' risk of injury and prevent
10 them from maximizing their athletic skills in order to prepare them for future competition and the
11 breadth of educational and professional opportunities that flow from such athletic participation.
12 Such conditions further deprive the ASA Blaze from valuable, income-generating opportunities
13 available to the selective boys' baseball leagues, such as exclusive concession sales and corporate
14 advertisements on dedicated outfield fencing. Moreover, being limited to inferior fields at
15 undesirable times brands female ASA Blaze members as less important and unworthy of enjoying
16 and benefitting from the City's public athletic facilities. By contrast, the City has granted the
17 selective boys' baseball leagues exclusive and continuous access to their own "home" fields with
18 abundant amenities not available to ASA Blaze members.

19 21. The gender-based discrimination against the ASA Blaze by defendants City of Grants
20 Pass and senior City officials is symptomatic of the historic denial of equal opportunities in athletics
21 to girls. The Blaze girls, who desire to play selective, competitive-level softball on an equal basis
22 to the boys' selective baseball leagues within the City, but are precluded from doing so due to the
23 denial of equal and adequate access to recreational facilities in the City's premier public park, rely
24 on the opportunity to participate in a competitive, tournament-level league as a logical stepping stone
25 to improving their skills for high school competition, competing and excelling in college softball
26 programs, attaining access to educational scholarships, and possibly even competing on a
27 professional team or on a women's Olympic softball team. Such opportunities in softball are as
28 valuable to girls as those that historically have been available to male baseball players.

1 22. In addition, it is well established that equal opportunity to participate in girls' athletics
2 contributes to girls' and young women's health -- including their physical and psychological well-
3 being and their self-esteem -- as well as educational, personal and professional accomplishment in
4 later life.

5 23. There can be no justification for defendants' denial of equal access to City-owned
6 facilities to the ASA Blaze girls as is provided to comparable selective boys' baseball leagues, and
7 the consequential denial of educational and professional opportunities to these young athletes, simply
8 because they are female.

9 24. As such, plaintiffs seek to temporarily and permanently enjoin defendants' persistent
10 and discriminatory denial of equal and adequate access to public recreational facilities to ASA Blaze
11 members on the basis that such denial serves to perpetuate gender-based stereotypes that historically
12 have denied women equal protection of the laws. As the United States Supreme Court consistently
13 has recognized, the denial of equal opportunity or differential treatment based on gender must not
14 rely on overbroad generalizations about the different talents, capacities, or preferences of males and
15 females.

16 25. Moreover, by providing selective boys' baseball leagues access to athletic fields and
17 facilities of much higher quality than those provided to plaintiffs' selective girls' softball league,
18 defendants have violated plaintiffs' rights under the Equal Privileges and Immunities Clause of the
19 Oregon Constitution. The Oregon Supreme Court has interpreted the Oregon Constitution more
20 broadly than the United States Supreme Court has interpreted the United States Constitution,
21 adopting a more demanding level of scrutiny to gender-based classifications challenged under the
22 Equal Privileges and Immunities Clause. Such gender classifications, reflecting stereotypical
23 assumptions about personal characteristics or social roles that are based solely on individuals' gender,
24 are inherently suspect and impermissible under the Oregon Constitution.

25 26. Finally, by providing accommodations, advantages, facilities, and privileges of much
26 higher quality to the selective boys' baseball leagues than to the ASA Blaze, the City has
27 discriminated against plaintiffs on the basis of gender in violation of the Oregon Public
28 Accommodation Act.

1 27. Plaintiffs therefore bring this action to end defendants’ ongoing and systemic
 2 violations of the basic civil rights of girls who participate, or desire to participate, in a competitive-
 3 level community softball program in the City of Grants Pass utilizing City-owned facilities. These
 4 violations are symptomatic of pervasive, systemic and longstanding practices and policies of
 5 defendants that deny girls equal opportunity to participate in sports programs and enjoy the breadth
 6 of educational, health and professional benefits that flow from such participation.

7 28. By denying the ASA Blaze treatment equal to that provided to similarly situated boys’
 8 athletic programs, despite plaintiffs' persistent requests for such accommodation, defendants promote
 9 systemic, longstanding and discriminatory gender-based government policies and practices for which
 10 there is no compelling need and no exceedingly persuasive justification. In addition, the gender-
 11 based government policies and practices complained of herein fail to serve an important or, indeed,
 12 any legitimate government objective and are not substantially related to any purported objective.
 13 Indeed, there can be no justification for such gender-based classifications insofar as they are not
 14 based on any specific biological differences between males and females and thus are inherently
 15 suspect. Instead, defendants’ acts and omissions foster unjustified and unreasonable fixed notions
 16 concerning the roles and abilities of males and females that relegate women and girls to inferior
 17 status and second-class citizenship. Finally, the defendants’ policies and practices rely on over-broad
 18 generalizations about the different talents, capacities, or preferences of males and females, and are
 19 based on judgments about males and females that perpetuate gender-based stereotypes that
 20 historically have denied women and girls equal protection of the laws, equal privileges and
 21 immunities and equal public accommodations.

22 PARTIES

23 Plaintiffs

24 29. Plaintiffs are individuals who are girls and are members of the Grants Pass Blaze
 25 ASA Fastpitch Softball organization, a non-profit, competitive-level selective softball league
 26 operating in the City of Grants Pass. The ASA Blaze consists of approximately sixty-five (65) girls,
 27 ranging in ages 8 to 18, who compete in local and regional games and tournaments governed under
 28 the rules of the Amateur Softball Association. Plaintiffs participate, or would participate given the

1 opportunity to do so, in this competitive-level community softball league on City-owned athletic
2 facilities within the City of Grants Pass.

3 30. Plaintiff **Ashley Bellum** is sixteen (16) years old and is a member of the ASA Blaze
4 softball league. She plays the positions of outfield and third base in the league's 16 and Under
5 division. Ms. Bellum is in her sixth season playing girls' softball with the ASA Blaze. She is also
6 a member of the Grants Pass High School's varsity softball team. Ms. Bellum would like to play
7 softball at the primary local sports park, ASP, under adequate conditions equal to those enjoyed by
8 selective boys' baseball leagues. She would like to do so without the need to travel to outlying City
9 fields for games and practices, or outside the City to participate in competitive tournaments. Ms.
10 Bellum will continue to compete in softball team sports until she completes high school in two years
11 and hopes to obtain an athletic scholarship to play college softball. For Ms. Bellum, softball is a
12 significant part of her life that builds skills and self-confidence. Ms. Bellum, a minor, is proceeding
13 in this action by her next friend, her father Rick Bellum.

14 31. Plaintiff **Stephanie Franklin** is seventeen (17) years old and is a member of the ASA
15 Blaze softball league. She plays the positions of outfield and second base in the league's 18 and
16 Under division. Ms. Franklin is in her fifth season playing girls' softball with the ASA Blaze. She
17 is also a member of the Grants Pass High School's varsity softball team. Ms. Franklin would like
18 to play softball at the primary local sports park, ASP, under adequate conditions equal to those
19 enjoyed by selective boys' baseball leagues. She would like to do so without the need to travel to
20 outlying City fields for games and practices, or outside the City to participate in competitive
21 tournaments. Ms. Franklin will continue to compete in softball team sports until she completes high
22 school in 2002, and hopes to obtain an athletic scholarship to play college softball. For Ms. Franklin,
23 softball is a significant part of her life that builds character, teamwork and responsibility. Ms.
24 Franklin, a minor, is proceeding in this action by her next friend, her mother Barbara Franklin.

25 32. Plaintiff **Krystin Jantzer** is nine (9) years old and is a member of the ASA Blaze
26 softball league. She plays the positions of pitcher and second base in the league's 10 and Under
27 division. Ms. Jantzer is in her second season playing girls' softball with the ASA Blaze. Ms. Jantzer
28 would like to play softball at the primary local sports park, ASP, under adequate conditions equal

1 to those enjoyed by selective boys' baseball leagues. She would like to play softball without the need
2 to travel to outlying elementary school fields for practices, or outside the City to participate in
3 competitive tournaments. Ms. Jantzer will continue to compete in softball team sports through the
4 ASA Blaze and hopes to compete on the high school softball team when she is old enough. For Ms.
5 Jantzer, softball is a significant part of her life that brings her many challenges and teaches her new
6 skills. Ms. Jantzer, a minor, is proceeding in this action by her next friend, her father, Gary Jantzer.

7 33. Plaintiff **Katherine Richard** is seventeen (17) years old and is a member of the ASA
8 Blaze softball league. During the 2001 softball season, she played the position of catcher in the
9 league's 16 and Under division. Ms. Richard will be playing in the league's 18 and Under division
10 during the 2002 season. Ms. Richard is in her fifth season playing girls' softball with the ASA
11 Blaze. She is also a member of the Grants Pass High School's varsity softball team. Ms. Richard
12 would like to play softball at the primary local sports park, ASP, under adequate conditions equal
13 to those enjoyed by selective boys' baseball leagues. She would like to do so without the need to
14 travel to outlying City fields for games and practices, and outside the City to participate in
15 competitive tournaments. Ms. Richard will continue to compete in softball team sports until she
16 graduates from high school in 2002 and hopes to obtain an athletic scholarship to play college
17 softball. Thereafter, Ms. Richard hopes to continue her involvement with softball by serving as a
18 professional girls' softball coach or playing on a community softball team. Playing softball is an
19 important part of Ms. Richard's life. Participating in softball has increased her self-confidence and
20 provided her the opportunity to form important bonds with her fellow team members. Ms. Richard
21 believes that softball is an important activity for girls because it provides them with many positive
22 opportunities. Ms. Richard, a minor, is proceeding in this action by her next friend, her father Jeff
23 Richard.

24 34. Plaintiff **Karyne Sander** is sixteen (16) years old and is a member of the ASA Blaze
25 softball league. She plays the positions of first base, second base and catcher in the league's 16 and
26 Under division. Ms. Sander is in her fifth season playing girls' softball with the ASA Blaze. She
27 is also a member of the Grants Pass High School's varsity softball team. Ms. Sander would like to
28 play softball at the primary local sports park, ASP, under adequate conditions equal to those enjoyed

1 by selective boys' baseball leagues. She would like to do so without the need to travel to outlying
2 City fields for games and practices, and outside the City to participate in competitive tournaments.
3 Ms. Sander will continue to compete in softball team sports until she graduates from high school in
4 2004, and hopes to obtain an athletic scholarship to play college softball. Thereafter, Ms. Sander
5 hopes to continue her involvement with softball by serving as a professional girls' softball coach.
6 Ms. Sander values softball because it improves her problem-solving skills and work ethic. Ms.
7 Sander believes that softball teaches her important life lessons, such as resourcefulness and
8 teamwork, that will benefit her in all aspects of her everyday life. Ms. Sander, a minor, is proceeding
9 in this action by her next friend, her mother Cynthia Sander.

10 35. Plaintiff **Brin Tamblin** is seventeen (17) years old and is a member of the ASA Blaze
11 softball league. She plays the position of shortstop in the league's 18 and Under division. Ms.
12 Tamblin is in her sixth season playing girls' softball with the ASA Blaze. She is also a member of
13 the Grants Pass High School's varsity softball team. Ms. Tamblin would like to play softball at the
14 primary local sports park, ASP, under adequate conditions equal to those enjoyed by selective boys'
15 baseball leagues. She would like to do so without the need to travel to outlying City fields for games
16 and practices, and outside the City to participate in competitive tournaments. Ms. Tamblin will
17 continue to compete in softball team sports until she graduates from high school in 2002, and hopes
18 to obtain an athletic scholarship to play college softball. Her dream is to play softball for the United
19 States Olympic team. For Ms. Tamblin, softball is a significant part of her life and is an important
20 avenue to obtaining a college scholarship. Ms. Tamblin, a minor, is proceeding in this action by her
21 next friend, her mother, Laura Ann Tamblin.

22 Defendants

23 36. The **City of Grants Pass** ("City") is the legal and political entity responsible for the
24 actions of the City Manager and the City's recreation officials, complained of herein, under the laws
25 of Oregon and the Charter of the City of Grants Pass, with all powers specified and necessarily
26 implied by the laws of the State of Oregon and exercised by a duly elected City Council and its
27 agents and officers. All of the unlawful acts, omissions and procedures complained of herein were
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1 committed by the agents and employees of defendant City. At all times relevant herein, the agents
2 and employees of the defendant City were acting under color of law.

3 37. Defendant **William Peterson** is the Grants Pass City Manager and the individual
4 responsible for enforcing the City's policies and practices, including those relating to the use of
5 public facilities owned and operated by the City, such as Riverside West All Sports Park. At all
6 times relevant to these proceedings, he resided in the District of Oregon. He is sued in his official
7 and individual capacities.

8 38. Defendant **Martin Seybold** is Director of Field Operations for the City of Grants Pass
9 and the individual responsible for establishing and enforcing policies and practices relating to the
10 use of public facilities owned and operated by the City, including the City's public recreational
11 facilities such as those at Riverside West All Sports Park. At all times relevant to these proceedings,
12 he resided in the District of Oregon. He is sued in his official and individual capacities.

13 39. Defendant **Richard Olson** is the City's Recreation Manager and the individual
14 responsible for enforcing policies and practices relating to the use of public recreational facilities
15 owned and operated by the City, including those at Riverside West All Sports Park. At all times
16 relevant to these proceedings, he resided in the District of Oregon. He is sued in his official and
17 individual capacities.

18 CLASS ACTION ALLEGATIONS

19 40. Definition. The named individual plaintiffs bring this action on behalf of themselves
20 and the plaintiff class pursuant to Fed. R. Civ. P. Rules 23(a) and (b)(2). The class consists of all
21 present, potential and future members of the ASA Blaze Girls Fastpitch Softball league who
22 participate, or desire to participate, in a selective, competitive-level community softball program
23 utilizing City-owned or operated recreational facilities of equal quality, and under equal conditions,
24 to the facilities made available to similarly situated selective boys' baseball leagues.

25 41. Numerosity. The size of the class is indefinite, and includes over sixty-five (65)
26 present female members of the ASA Blaze. In addition, an indefinite number of future and potential
27 ASA Blaze members who are girls will be the victims of discrimination based on their gender so
28 long as the City's current policies regarding field allocation continue.

1 42. Adequacy of Representation. The named plaintiffs will represent fairly and
2 adequately the interests of the class defined above. Plaintiffs' attorneys are experienced civil rights
3 counsel who have litigated cases, including class actions, involving similar issues and claims.

4 43. Common Questions of Law and Fact. Common questions of law and fact affecting
5 the class are involved, including but not limited to actions and omissions by defendants City Of
6 Grants Pass and senior City officials, who have denied the plaintiff class equal and adequate access
7 to public facilities on the basis of gender, in particular athletic fields and related amenities owned
8 and administered by the City at Riverside West All Sports Park.

9 44. Typicality of the Claims of Class Representatives. The claims of the named plaintiffs
10 are typical of the claims of the class as a whole. The named plaintiffs are members of the class
11 defined herein and have suffered, and will continue to suffer, discriminatory denial of equal and
12 adequate access to public recreational facilities and other rights due to the discriminatory municipal
13 policies and practices complained of in this action. All named plaintiffs allege that they and the
14 members of the class they seek to represent have been, are and will be subject to discrimination
15 based on gender due to the discriminatory system complained of in this action.

16 45. Injunctive and Declaratory Relief. The defendants have acted or refused to act on
17 grounds generally applicable to the class, thereby making appropriate preliminary and permanent
18 injunctive relief and corresponding declaratory relief with respect to the class as a whole.

19 **GENERAL ALLEGATIONS**

20 **COMMON TO ALL CLAIMS**

21 The Benefits of Girls' Participation in Sports

22 46. Research indicates that participation in athletics is a vital avenue for the social and
23 personal development of psychologically and physically strong children and young adults. It
24 increases self-esteem in all children and young adults, including girls and young women, and
25 contributes to educational, personal, and professional accomplishment in later life.

26 47. Girls' participation in sports helps to eradicate the stereotype that girls should not
27 enjoy the full breadth of life's activities. When girls are denied equal participation in athletics
28 programs, those stereotypes are strongly reinforced in the minds and bodies of the girls, of boys, and

1 of the public in general, thus limiting the participation of women in all areas -- mentally, physically,
2 emotionally, professionally, civically, and athletically.

3 48. Research indicates that there are myriad benefits for girls who are given the
4 opportunity to develop athletic skills and participate in competitive sports. Girls who participate in
5 athletics throughout their lives have been shown to be happier, healthier, more active, and more
6 successful in their personal and professional pursuits.

7 49. Experts have found that participation in sports can have tremendous health and
8 psychological benefits. Sports are a cultural resource that builds girls' confidence, self-esteem, and
9 social recognition within the school and community in a safe and positive environment. Female
10 athletes are more likely to receive better grades, graduate from high school and avoid social risks
11 such as pregnancy, drug use, and eating disorders.

12 50. Sports participation has numerous social benefits as well. When girls are excluded
13 from sports programs and competitions they are denied the skills that boys derive from teamwork,
14 goal-setting, and dedication. Athletic participation not only develops these practical skills but also
15 fosters self-reliance, integrity, and a positive self-image.

16 51. When girls are given unequal resources and facilities they are forced to play in
17 environments that may be detrimental to their health, safety, and psychological well-being. Being
18 relegated to play sports in unequal and inadequate facilities effectively makes girls feel as though
19 they are second-rate themselves. This perpetuation of gender inequality sends the message that girls
20 are not only inferior athletes but unworthy of equal access to the same facilities, programs,
21 opportunities and positive reinforcement that historically have been available to males.

22 The Unique Benefits of Softball for Girls

23 52. Softball is an official National Collegiate Athletic Association ("NCAA") women's
24 sport, as well as an Olympic sport. Softball provides girls with distinct advantages that are clearly
25 distinguished from any flowing from play in a baseball league. Softball offers girls the opportunity
26 to seek and be offered a college scholarship and a spot on an Olympic team. Becoming an
27 accomplished and experienced softball player thus provides girls with a chance to finance their
28

1 college education, play in college on a national level, and compete on an international level in the
2 Olympics. Such opportunities are not available to girls or young women in the sport of baseball.

3 53. Baseball is considered a premier boys' and men's sport, and generally is viewed as
4 the traditional, "all-American" pastime. Baseball historically has provided boys and young men with
5 opportunities to play and compete in municipal leagues within their communities, in high school and
6 college athletics, internationally on an Olympic team, and in lucrative careers in professional and
7 semi-professional leagues. Baseball historically has provided boys and young men with the
8 opportunity to earn college scholarships, which in turn place collegiate athletes in venues with the
9 potential for high visibility and recruitment by professional teams.

10 54. If girls play baseball, they will have little chance to qualify for college athletic
11 scholarships in baseball and will not have access to valuable softball scholarships at the college
12 level, or develop the necessary skills to compete on the Olympic or professional level. There are
13 opportunities for women to participate in professional softball as a career, such as participating in
14 the professional softball league for women, the Women's Pro Softball League. There are no
15 professional softball leagues for males.

16 Defendants' Denial of Equal Access to Public Facilities

17 55. The defendants, through their actions and omissions, have engaged and continue to
18 engage in gender-based discrimination against girls who desire to play competitive-level softball in
19 the City's principal sports park and to attain equal and adequate access to the City's recreational
20 facilities, including those girls who are members of the ASA Blaze league. The defendants'
21 discriminatory policies and practices have denied ASA Blaze members equal and adequate access
22 to City-owned recreational facilities made available abundantly and exclusively to selective boys'
23 baseball leagues. Through their acts and omissions, set forth more fully in the paragraphs that
24 follow, defendants have served to perpetuate gender-based stereotypes that historically have
25 discriminated against women and branded them as inferior, second-class citizens.

26 The City's Allocation of Public Playing Fields at Riverside West All Sports Park

27 56. The City of Grants Pass operates four public parks throughout the local community
28 that contain softball and baseball fields shared by youth and adult users. Only one of these facilities,

1 the All Sports Park, contains a regulation-length playing field at all suitable for the team sport of
2 fastpitch softball.

3 57. Riverside West All Sports Park, completed in phases commencing in 1990, is the
4 City's premier athletic facility for youth sports. It contains fields adequate for baseball and softball,
5 as well as facilities for various other competitive and individual sports such as soccer, horseshoes
6 and cycling. Two of the field facilities located in ASP are controlled exclusively by selective boys'
7 baseball leagues – the American Legion and Babe Ruth programs -- for games and practices. ASP
8 also contains a shared field area, consisting of four diamonds utilized by the Little League program
9 and shared among various scholastic, youth, and adult users, including the ASA Blaze.
10 Approximately 200 teams are expected to utilize the ASP shared fields during the 2002
11 Spring/Summer season.

12 58. The ASA Blaze is the only independent, selective and competitive-level girls' fast
13 pitch softball organization in Grants Pass that utilizes the City's public recreational facilities. For
14 the past several seasons, the ASA Blaze typically has had access to one or two of the four shared
15 ASP diamonds on a Sunday, or during other limited times, that are less desired by other sports
16 programs.

17 59. The City's Riverside Park, an outlying facility separate from the ASP, has been made
18 available to some of the Blaze league teams for practices and games during prior seasons, including
19 the 2001 softball season. The City denied the Blaze such use for its 2002 season.

20 60. The selective boys' baseball programs have had continuous and exclusive access to
21 their home fields at ASP, and to all related field amenities, including ample covered bleachers;
22 adequate dug-outs; bullpens; regulation-appropriate outfield dimensions; smooth and well-
23 maintained infield and outfield areas; exclusive fee-generating concession facilities; changing
24 facilities for team members; permanent outfield fencing suitable for corporate sponsorship;
25 permanent, surrounding fencing suitable for charging admission to the general public; functioning
26 electronic scoreboards; well-maintained restrooms; permanent batting cages; a dedicated parking lot;
27 an announcer during games; and game coverage in the local newspaper and radio.

1 61. The ASA Blaze never has been permitted to use the American Legion or Babe Ruth
2 boys' baseball fields for either practice or games.

3 The Grants Pass Blaze ASA Girls' Fastpitch Softball League

4 62. The Grants Pass Blaze ASA Girls' Fastpitch Softball league was organized in or about
5 1997. Approximately sixty-five (65) girls, whose ages range from 8 to 18 years, participate annually
6 in the team sport of softball through the ASA Blaze league. The Blaze teams participate in
7 tournament level fastpitch softball and compete with ASA-sponsored teams from other cities and
8 states. The ASA Blaze typically competes in approximately twenty (20) to twenty-five (25)
9 tournaments and plays one-hundred fifty (150) to two-hundred (200) league games each year. The
10 league's five divisions are: "10 and Under," "12 and Under," "14 and Under," "16 and Under" and
11 "18 and Under."

12 63. The ASA Blaze is an unincorporated association governed under the requirements
13 of the national Amateur Softball Association. The league's goals and purposes are to enhance girls'
14 skills in competitive level softball and to help build strong teams for the future.

15 64. In contrast to recreational youth softball programs like Little League that are intended
16 to permit all interested community youth to participate, the ASA Blaze requires potential members
17 to try-out prior to the start of each season, and to engage in ongoing and escalating competition
18 ranging from inter-league games to regional, state, and national tournaments. The selective and
19 competitive nature of the ASA Blaze is intended to provide its members with the highest level of
20 athletic skills in order to prepare girls for futurescholastic, inter-collegiate, professional and possibly
21 Olympic softball competition, and the myriad benefits that flow to girls and young women engaged
22 in competitive sports.

23 65. The ASA Blaze is not a school-affiliated league, and receives no funding from the
24 Grants Pass Unified School District.

25 66. The ASA Blaze's Spring/Summer softball season normally extends from
26 approximately April through July or August of each year. The season includes league-competition
27 games leading to State, Regional, and National tournaments.

28 ////

1 The Grants Pass Boys' Selective Baseball Leagues

2 67. The American Legion league is a selective baseball program for boys ages 16 to 18
3 that engages in local, regional, and state competitions. The American Legion program is comprised
4 of a single team, the Grants Pass Nuggets, consisting of approximately fifteen (15) boys. The league
5 plays approximately fifty (50) games per year, about two dozen of these at its home field. The
6 American Legion league is considered to be the most prestigious selective boys' baseball league in
7 Grants Pass. As discussed further below, the City has provided the American Legion league with
8 a state-of-the-art, dedicated “home” field at ASP with numerous amenities not available to the ASA
9 Blaze.

10 68. The Babe Ruth league is a selective, competitive-level baseball league for boys
11 between the ages of 13 to 15. Approximately 70 to 90 boys play in the Babe Ruth league. As
12 discussed further below, the City has provided the Babe Ruth league with a state-of-the-art,
13 dedicated “home” field at ASP with numerous amenities not available to the ASA Blaze.

14 The Disparities in Field Access and Quality of Field Facilities

15 Fields Made Available to ASA Blaze Girls' Softball League

16 69. The ASA Blaze softball league does not have an exclusive “home” field. Each
17 season, the ASA is relegated to competing with several youth and adult baseball and softball users
18 for public field time in which it can hold practices and games.

19 70. The ASA league requests a permit for the use of City Parks, including ASP, at the
20 start of each Spring/Summer softball season. For several years since the ASA Blaze's inception, the
21 City has provided the league a permit for use of one or two of the four shared diamonds at ASP, and
22 the field at Riverside Park during limited times. Field schedules have changed throughout the
23 softball season.

24 71. The fields available to ASA Blaze members – both at ASP and Riverside – are shared
25 among several youth and adult users.

26 72. The City has provided de facto control over the scheduling of the four shared ASP
27 fields to the Little League organization.

1 73. During the 2001 season, some of the younger ASA Blaze teams had access to field
2 number two at ASP only on Sundays. Sunday is considered to be the least desirable day for youth
3 sports programs because the players' families typically set aside that day for family activities and
4 religious observances.

5 74. ASP Field number two is inadequate for fastpitch softball insofar as its outfield fence
6 does not meet the required ASA dimensions, and thus prevents the ASA Blaze from playing on fields
7 that are of the required caliber for high-level tournament competition with other ASA fastpitch
8 softball teams. It also lacks the many amenities available to the boys' selective baseball leagues,
9 American Legion and Babe Ruth.

10 75. The ASA Blaze only had access to field number one for four hours on Sunday during
11 the 2001 season. ASP field number one, the only regulation-sized fastpitch softball field, is the most
12 desirable of the four shared fields. (See photograph of ASP field #1 (color photocopy), attached
13 hereto as Exhibit 4.) It is well-maintained by the primary user, the Grants Pass High School girls'
14 varsity softball team, while the school year is in session. However, this field, too, lacks the many
15 amenities available to the boys' selective baseball leagues, American Legion and Babe Ruth.

16 76. In past seasons, ASA Blaze members have been required to request field use at the
17 ASP shared fields through the Little League organization. On some occasions, Little League teams
18 and other users have continued to play on the fields to which the ASA Blaze had access past their
19 scheduled time. This has forced ASA Blaze teams to start their games up to one hour behind
20 schedule. ASA Blaze softball players frequently have been displaced from the shared ASP fields
21 before they were able to finish their practices or games.

22 77. The ASA Blaze's older girls' divisions -- 18 and Under and 16 and Under -- did not
23 have access to the shared ASP fields during the 2001 season for practice or games. These ASA
24 divisions were forced to hold practices and games at Riverside Park during the 2001 season. The
25 ASA players had limited access to the single diamond at Riverside field, and generally held one
26 practice and one game per week. They attempted to play "double-header" games whenever the field
27 space was available.

1 78. ASA Blaze divisions assigned to Riverside Park have been provided the least
2 desirable times of day for practice and games. During the summer, ASA Blaze players have been
3 provided field access for practice during the remaining time slots that have not been provided to
4 other youth or adult programs. The ASA teams typically practice during early morning hours or
5 between 2:00 p.m. and 5:00 p.m., at the peak of the heat. The heat affects players' ability to remain
6 alert and energized, and thus prevents them from fully developing their competitive softball skills.
7 When school is in session, the ASA Blaze league is provided practice time between 6:00 p.m. and
8 10:00 p.m. in the evenings. On many occasions, practices begin during later evening hours, yet must
9 be completed by 10:00 p.m., because the City requires park lights to be shut off. These hours are
10 inconvenient to ASA Blaze players' families, insofar as they disrupt traditional meal times, and
11 further interrupt the girls' ability to conduct school work following their practice.

12 79. The ASA Blaze's older division teams have played at the shared ASP fields only
13 during their annual Boatnick softball tournament held on Memorial Day weekend.

14 80. The ASA Blaze does not have access to a concession stand at either the ASP or
15 Riverside Park fields. Instead, ASA Blaze family members and spectators must patronize the
16 concession facility adjacent to the shared field area at ASP. (See photograph of concession stand
17 at ASP shared fields (color photocopy) attached hereto as Exhibit 5.) The City has granted the Little
18 League program exclusive control of this concession facility, although these fields are shared by
19 various users. The ASA Blaze has had limited access to the ASP concession facility only during its
20 annual weekend Boatnick tournament. In past seasons, the ASA Blaze was required to coordinate
21 its use of the concession facility during the Boatnick tournament weekend with Little League and
22 turn over approximately 60% of its proceeds. Last season, the ASA purchased its own supplies and
23 was able to keep more, but not all, of the proceeds. The ASA Blaze does not get any portion of the
24 proceeds from the concession stand at any time that it utilizes the ASP shared fields during the
25 regular softball season. The lack of these proceeds impairs the Blaze members' ability to raise funds
26 necessary for the league to travel out of state to compete in national tournaments and other activities.

1 81. The fields available to the ASA Blaze at ASP and Riverside lack many amenities
2 available to the American Legion and Babe Ruth boys' baseball leagues at ASP. Amenities to which
3 the ASA Blaze members are denied include the following:

4 (a) The ASA Blaze league never has been provided access to the batting cages
5 or pitching machines located at ASP that are available to the selective boys' baseball leagues,
6 American Legion and Babe Ruth. When ASA Blaze players have made specific requests to utilize
7 these facilities, they have been denied such use by the selective boys' baseball leagues.

8 (b) The ASA Blaze does not have access to a batting cage at either the Riverside
9 or ASP fields. As a result, in order to conduct hitting practice, the league must take its pitching
10 machine, stored at ASP, to Grants Pass High School four to five times a week. This requires one of
11 the coaches to drive the pitching machine to the high school for the league. The ASA Blaze
12 members assemble the pitching machine in portable batting cages stored at the high school
13 gymnasium. In so doing, the Blaze members must connect the pitching machine to the wall, drop
14 the batting cage nets that hang from the ceiling, and assemble them at the appropriate distance from
15 the machine.

16 (c) The ASA league does not have access to a permanent storage facility to hold
17 its equipment at either the ASP or Riverside fields. Instead, the league must store its equipment in
18 a small, portable storage shed that is maintained in the outfield area of the ASP fields. (See
19 photograph of ASA Blaze storage shed (color photocopy) attached hereto as Exhibit 6.) The ASA
20 Blaze's storage shed does not provide enough room to hold all of the league's equipment. As a result,
21 ASA Blaze members must stuff their largest and heaviest items into the shed -- such as maintenance
22 equipment and the pitching machine -- and carry much of their equipment themselves to and from
23 practices and games. The limited size and temporary nature of its storage shed further prevents the
24 ASA Blaze from purchasing new or additional equipment.

25 (d) The lack of a permanent storage facility requires those ASA Blaze members
26 who practice and play at Riverside field to arrive for their practices and games earlier in order to
27 travel to ASP, retrieve and transport their equipment to Riverside field.

28

1 (e) For several seasons, the ASA Blaze has been required to dismantle and
2 remove its storage shed from ASP at the end of the softball season. The storage shed, because of its
3 temporary nature, also has been subject to vandalism on the ASP field.

4 (f) The shared ASP fields made available to the ASA Blaze are in poor condition.
5 The outfield at ASP field number one contains holes and dips. These uneven field conditions subject
6 ASA Blaze players to being hit in the face or to twisting their ankles while trying to field ground
7 balls that bounce off the field.

8 (g) The chain link fence and gates framing the shared ASP fields made available
9 to the ASA Blaze are in disrepair.

10 (h) The backstop boards at the shared ASP fields made available to the ASA
11 Blaze are broken and splintered. ASA Blaze members have run directly into large splinters at ASA
12 field number one's backstop.

13 (i) The ASA Blaze is not provided access to the scoreboards located at the shared
14 ASP fields. Such scoreboards are controlled by the Little League organization.

15 (j) The dugout areas at the shared ASP fields made available to the ASA Blaze
16 often are filled with trash. The wooden bleachers are splintered and contain peeling paint. (See
17 photograph of ASP field bleachers (color photocopy) attached hereto as Exhibit 7.)

18 (k) The shared ASP fields do not have dedicated, or otherwise sufficient, parking
19 to accommodate players and spectators.

20 (l) ASA Blaze members do not have access to changing rooms at the shared ASP
21 fields.

22 (m) The outfield fencing at Riverside Park is inadequate for the ASA Blaze insofar
23 as it is not the appropriate regulation distance for fastpitch softball. The outfield fence currently in
24 place thus is too low and fails to catch fly-balls, requiring ASA Blaze players to retrieve stray
25 softballs from the adjacent road. As a result, ASA Blaze members have been required to draw an
26 outfield chalk "line" to mark the correct distance.

27 (n) The Riverside Park field is sandy and often is filled with water. The infield
28 area is raised on a slope. The entire field area is marked with holes and uneven playing surfaces.

1 The Riverside field is not well-maintained; sometimes it is not mowed at all and is full of weeds.
2 The field typically is filled with bark chips, rocks and glass that ASA Blaze members are required
3 to remove. Pets get onto the field and leave waste.

4 (o) The ASA Blaze is not given access to the electronic scoreboard at Riverside
5 Park. As a result, ASA Blaze coaches and spectators must assist the Blaze teams by keeping score
6 manually.

7 (p) The Riverside Park field contains two sets of uncovered bleachers on each
8 side, with five rows each. These bleachers are unsteady and made of fiberglass.

9 (q) The field at Riverside Park lacks dug-out areas for ASA Blaze members and
10 their equipment. Instead, each team is provided a bench with front fencing but without any
11 protective back or top fencing.

12 (r) The backstop at Riverside field is positioned incorrectly and contains a pole
13 in the center.

14 (s) The restrooms at Riverside field are not cleaned or well-maintained. They
15 lack mirrors and paper products. The water is either too hot or too cold and the stalls have no locks.
16 ASA Blaze members and their supporters are deterred from using the restrooms at Riverside Park.

17 (t) ASA Blaze players and spectators share access to a small parking lot adjacent
18 to the Riverside field. This lot is insufficient to accommodate ASA Blaze members, their coaches,
19 families and spectators during games.

20 82. The younger Blaze teams utilize local elementary school grounds for practice. These
21 fields consist of a grassy area with a backstop, but otherwise do not have any field markings for
22 bases, or an outfield. None of the elementary school fields contain outfield fencing. These fields
23 are poorly maintained and typically contain holes, rocks and granite that create safety risks for
24 younger Blaze members.

25 83. None of the fields to which the ASA Blaze members have access provide an area for
26 players to change, an announcer during games, and clean, well-maintained restrooms available to
27 spectators. These amenities are widely available to the selective boys' baseball leagues at ASP.

1 84. ASA Blaze members and supporters expend valuable time and resources prior to and
2 throughout the softball season maintaining the ASP and Riverside fields. On designated weekends,
3 they remove rocks and pull weeds; “chalk” lines on the field; and drag the infields to remove grass.
4 The ASA Blaze is required to conduct ongoing maintenance of its fields due to the numerous number
5 of users from both youth and adult leagues.

6 Exclusive and Priority Fields Available to Boys' Baseball Leagues

7 85. For nearly a dozen years, the American Legion and Babe Ruth boys' baseball leagues
8 have been provided with exclusive access to quality, City-owned fields at ASP.

9 The American Legion Field

10 86. The American Legion baseball field, also known as the Agnew-Lytle Field, is an
11 exclusive, dedicated stadium for the 15-member Grants Pass Nuggets. It sits on 5.17 acres of land
12 in Riverside West All Sports Park. The field's perimeter is surrounded by a nine-foot fence closed
13 to the general public. (See Photograph of American Legion Field (color photocopy), attached hereto
14 as Exhibit 8.) The American Legion field's amenities include the following:

15 (a) It contains an outfield wall suitable for corporate sponsorship funds that are
16 paid to the American Legion. The wall is covered with permanent corporate advertisements,
17 estimated to cost thousands of dollars each, money that goes directly to the American Legion to be
18 used by the league. (See Photograph of American Legion Field (color photocopy), attached hereto
19 as Exhibit 9.)

20 (b) The field contains a covered grandstand area consisting of twenty-five rows
21 of aluminum bleachers and stadium-sized seats with backs suitable to accommodate 400 spectators.
22 (See Photograph of American Legion Field (color photocopy), attached hereto as Exhibit 10.)

23 (c) The field is equipped with fully-fenced backstops and dugouts for team
24 members.

25 (d) The field contains a bullpen area that enables players to warm-up prior to and
26 during games.

27 (e) A two-story building is located on the field's east side adjacent to the
28 bleachers. This structure contains concession sales for spectators, public restrooms, and private

1 changing areas for baseball players. An announcer's booth with a public address system is located
2 at the top of the building. (See Photograph of American Legion field (color photocopy), attached
3 hereto as Exhibit 11.)

4 (f) The field is surrounded by stadium lights, enabling the American Legion
5 baseball team to conduct evening baseball games. The lighting system is estimated to have cost the
6 City \$68,000 to install.

7 (g) A functioning electronic scoreboard displaying the American Legion team's
8 name and showing the score throughout the games, is located on the outfield wall.

9 (h) The field is adequately groomed and consistently maintained by the City. The
10 American Legion field has access to the City's dragging equipment.

11 (i) Two sets of batting cages are located adjacent to the principal field area, yet
12 within the outfield wall. These cages have offered the American Legion league exclusive hitting
13 practice without the need to travel to outlying facilities.

14 (j) A large parking lot dedicated exclusively to spectators attending American
15 Legion games is located adjacent to the field area. This lot is not available to other leagues.

16 87. The American Legion league charges \$3.00 admission for games. This money is kept
17 entirely by American Legion and is available for the league for its own use.

18 88. The American Legion field historically has been available for the American Legion
19 baseball league's exclusive use.

20 89. The American Legion baseball league does not have to compete with other youth or
21 adult leagues for field space at ASP. It was not required to participate in the field scheduling
22 meeting for ASP users prior to the start of the 2002 season and it never has had to request field use
23 at the City's ASP facility. Instead, it may use its designated, exclusive field whenever it likes for
24 practices or games. When the American Legion is not using its field, no other league may use it and
25 the field lies empty and unused.

26 90. The American Legion baseball players are not required to conduct any field
27 maintenance.

1 91. The American Legion baseball games are broadcast on a local radio station, KAJO-
2 AM..

3 92. The American Legion league draws revenue from several sources, including
4 concession sales, a public entrance fee and corporate sponsorship.

5 93. The American Legion baseball games are covered in detail in the local newspaper's
6 sports section. Feature stories recounting the league's competition often appear on the section's front
7 page.

8 94. No girls' softball program, including the ASA Blaze, has been permitted to use the
9 American Legion field, or any of its related facilities such as the batting cages, concession area,
10 changing rooms or parking lot, for practice or games.

11 The Babe Ruth Field

12 95. The Babe Ruth league has access to a dedicated baseball field, for its exclusive use,
13 at ASP. The Babe Ruth facility has several field amenities, including the following:

14 (a) It contains a permanent outfield fence suitable for corporate advertisements.
15 (See Photograph of Babe Ruth field (color photocopy), attached hereto as Exhibit 12.)

16 (b) The field contains well-maintained bleachers.

17 (c) The field is equipped with fully-fenced backstops and dugouts for team
18 members.

19 (d) The field contains a functioning electronic scoreboard on its outfield wall.

20 (e) The field is adequately groomed and consistently maintained by the City. The
21 Babe Ruth league has access to the City's dragging equipment.

22 (f) A large parking lot dedicated exclusively to spectators attending American
23 Legion games is located adjacent to the field area. This lot is not available to other leagues.

24 The Significance of Softball for ASA Blaze Members

25 96. The sport of softball, and participating in a community softball league, is a significant
26 aspect of the ASA Blaze members' lives.

27 97. Despite their unequal access and inadequate field conditions, ASA Blaze players
28 recognize that playing softball builds their self-confidence and helps them develop positive qualities

1 that will benefit them later in life. It teaches them teamwork, responsibility, a positive work ethic,
2 and the opportunity to raise their voices and be heard. It enables them to interact consistently with
3 coaches and other adults and learn how to navigate the rigors of competitive sport. Playing softball
4 and competing in tournaments provides ASA Blaze members with a window to the world beyond
5 their own community.

6 98. Participating in a community softball league promotes close bonds among ASA Blaze
7 team members who share the experience of competitive team sports for years. The players and their
8 coaches become an extended family and frequently travel together to tournament competitions in
9 outlying cities and counties.

10 99. ASA Blaze members expect to continue playing softball after the 2002 season. The
11 older Blaze members hope to receive enough recognition from college scouts to apply for an athletic
12 scholarship and play inter-collegiate softball. ASA Blaze members believe they are entitled to have
13 an equal opportunity to compete in a selective girls' softball league and have access to college
14 scholarships. Many ASA Blaze members cannot afford to attend college otherwise.

15 100. Some ASA Blaze members plan to pursue professional softball coaching careers.
16 Others hope to compete for the U.S. Olympics women's softball team, and expect to continue to be
17 involved with softball throughout their personal and professional lives.

18 101. The younger ASA Blaze members hope to gain enough skills to compete when they
19 reach high school. They look to the league's older members as role models, and learn from their
20 playing skills. It is difficult for the younger and older divisions to watch each other's games and lend
21 support without access to a single field on which all ASA Blaze teams could play.

22 The City's Role in Sponsoring and Facilitating Baseball Field Development at ASP

23 102. The All Sports Park was developed, in part, to replace existing baseball fields in the
24 City that were eliminated in order to construct a public bridge. The previously-existing fields were
25 utilized by the American Legion, Babe Ruth and Little League baseball programs. They included
26 regulation-sized fields and T-ball fields for the youngest players.

27 103. The City contributed funds and land for the ASP's development in conjunction with
28 a non-profit organization that coordinated community support and private fundraising.

1 104. The City purchased land to construct the American Legion field and its adjacent
2 parking facility.

3 105. The City owns the ASP property and continues to contribute to the ASP's ongoing
4 maintenance needs.

5 The Blaze Softball League's Repeated Efforts Through the 2002 Season to Seek Equal and
6 Adequate Access to Playing Fields and The City's Failure to Address and Respond to
7 Gender-Based Field Disparities

8 106. For several seasons, ASA Blaze representatives have made numerous requests to City
9 officials, including the City's Recreation Manager and the City Attorney, for equal and adequate
10 access to City-owned playing fields at the Riverside West All Sports Park.

11 107. Whenever the ASA Blaze has sought to obtain permission from City officials for
12 equal access to City-owned recreational facilities, such as those historically and exclusively made
13 available to the selective boys' baseball leagues at ASP, Blaze members have been denied the same
14 access and comparable quality of fields consistently granted to the American Legion and Babe Ruth
15 boys' baseball leagues.

16 108. In particular, ASA Blaze representatives made numerous specific written and oral
17 requests for equal and adequate field access in advance of the 2002 Spring/Summer softball season.
18 Such requests yielded inadequate responses, if any.

19 109. ASA Blaze representatives conducted face-to-face meetings with City and
20 Department representatives as early as August 2001.

21 110. In September 2001, ASA Blaze representatives made a written request for the City's
22 facilitation of equal and adequate field facilities, stating: "We believe that if the city intends to
23 continue to permit exclusive control of the ASP facilities by boys-only athletic programs, then it
24 must make comparable facilities available to girls at the ASP." (See Letter to Ulys J. Stapleton from
25 James R. Dole, dated September 28, 2001, attached hereto as Exhibit 1.) The City never issued a
26 written response to this request.

27 111. On January 16, 2002, the ASA Blaze made a second, written request to discuss the
28 issue of equal and adequate field allocation in advance of a January 23, 2002, field scheduling

1 meeting organized by the City. (See Letter to Dick Olson from James R. Dole, dated January 16,
2 2002, attached hereto as Exhibit 2.) The City did not issue a written response in advance of the
3 scheduling meeting, nor did it respond to the ASA Blaze's request to postpone the January meeting
4 for further discussion prior to the season's scheduling process.

5 112. On January 23, 2002, the City held a scheduling meeting for athletic programs that
6 would be requesting to use the shared ASP fields during the Spring/Summer 2002 season. This was
7 the first time that the City has ever held a scheduling meeting with ASP field users.

8 113. ASA Blaze representatives attended the January 23 meeting and raised, once again,
9 their proposal and request for equal and adequate field space at ASP during the 2002 softball season.

10 114. The American Legion and Babe Ruth selective boys' baseball leagues were not
11 required to participate in the ASA field scheduling process discussed during the January 23 meeting,
12 but instead were guaranteed unfettered access to their respective "home" fields for use at any times
13 that they desired.

14 115. On February 12, 2002, ASP's Recreation Manager issued a letter on behalf of the City
15 informing the ASA Blaze that it would be granted two to four hours a week, per team, on the shared
16 ASP fields for its use during the 2002 season. (See Letter to Clay Rounsaville from Dick Olson,
17 Recreation Manager, dated February 12, 2002, attached hereto as Exhibit 3.) This availability
18 amounts to almost half of the field space allocated to the ASA Blaze during the 2001 season.
19 Moreover, the City's February 12 letter failed to respond to the ASA Blaze's requests that it be
20 provided equal and adequate access to the field facilities made available exclusively to the selective
21 boys' baseball leagues.

22 116. Upon being given such a limited weekday time on the shared ASP fields – and no
23 time at all on the American Legion and Babe Ruth fields – for the 2002 Spring/Summer softball
24 season, the ASA Blaze representatives renewed their attempts to be provided additional amount of
25 field time at ASP during the weekend. The ASA Blaze offered to exchange some of its weekday
26 time for additional field time on Sundays. The City did not respond with a definitive answer.

27 117. Just days prior to the start of the 2002 Spring/Summer softball season, ASA Blaze
28 representatives received a memorandum from the City concerning the "Use of ASP Field #1 & #2."

1 (See Memorandum from Dick Olson, GP Parks & Recreation, to ASA Girls Fastpitch, dated March
2 27, 2002, attached hereto as Exhibit 13.) The City informed the ASA Blaze that it would provide
3 the league with access to field number two on Sundays only “as needed for games and tournaments
4 when played simultaneously with games on field #1.”

5 118. The two selective boys' baseball leagues were once again granted exclusive use of
6 their “home” fields at ASP during the 2002 Spring/Summer season.

7 119. The ASA Blaze league has made continuous and ongoing attempts to negotiate with
8 City representatives for equal and adequate access to playing field space up to the commencement
9 of the 2002 Spring/Summer softball season. All such efforts have been futile. As of March 27,
10 2002, City representatives confirmed that the ASA Blaze would have only minimal access to the
11 shared ASA fields of inferior quality, that lack the numerous field amenities made available
12 exclusively to selective boys' baseball leagues at ASP. Moreover, the City failed to provide the ASA
13 Blaze with any access to the American Legion or Babe Ruth fields for practice or play.

14 The Effect of the City's Gender-Based Field Allocation Policy

15 120. Being forced to play during limited times, and under inferior field conditions at both
16 ASP and Riverside fields curtails the ASA Blaze girls' ability to develop essential athletic skills on
17 an equal basis to selective boys' baseball leagues, which have ample field time and space. The
18 development of such skills at an early age is a critical factor in preparing girls for athletic
19 competition in high school, college and beyond, and thereby allowing girls to benefit from the
20 breadth of personal, educational and professional opportunities that flow from such participation.

21 121. As a result of the ASA Blaze league's need to schedule games tightly for its five
22 softball divisions during its limited hours on two fields, ASA Blaze girls are forced to play in
23 crowded conditions. This overcrowding in and around the playing field area increases girls' risk of
24 injury.

25 122. ASA Blaze members, particularly the younger players, have been injured on the fields
26 that they are provided. Some have tripped on rocks and in holes, hit their faces and chipped their
27 front teeth. These hazardous field conditions have contributed to ASA Blaze members' reluctance
28 to play competitively out of concern that they will injure themselves.

1 123. The ASA Blaze league increased its enrollment by one team for the 2002 season.
2 Because it has limited access to public playing field space, however, the Blaze league has been
3 forced to curtail its recruitment and enrollment of new members and therefore stunt its future growth.

4 124. The lack of a dedicated “home” softball field prevents ASA Blaze members from
5 installing a permanent outfield fence where they would have the opportunity to display corporate
6 sponsors' names. The inability to recruit corporate sponsors deprives the ASA Blaze from a valuable
7 revenue source. It further denies ASA Blaze members from the sense of pride associated with
8 having access to a home field.

9 125. The lack of a dedicated concession stand for ASA Blaze supporters and spectators,
10 as is available to selective boys' baseball leagues at ASP, deprives the ASA Blaze league from a
11 valuable benefit stream and deters some members of the community from attending Blaze games.

12 126. The denial of proceeds from concession sales and corporate advertising revenue
13 further prevents the ASA Blaze softball league from raising sufficient funds to travel to the national
14 “college exposure” tournament, typically held in Colorado. This, in turn, denies the ASA Blaze the
15 competition and exposure provided to selective softball players at a national ASA-sponsored
16 championship. Such proceeds could also be used to facilitate ASA Blaze members' local and
17 regional tournament costs.

18 127. The lack of a dedicated softball field denies the ASA Blaze the opportunity to host
19 prestigious statewide and regional tournaments as are conducted in other Oregon cities with premier,
20 city-operated softball fields.

21 128. The City has denied or failed to respond to ASA Blaze softball players' requests to
22 host a regional or state tournament at the existing ASP fields. The ASA Blaze specifically requested
23 the use of the ASP shared fields in order to host a state tournament in 2002. The City failed to
24 respond to the ASA Blaze request until long after the deadline for responding to the ASA
25 association's invitation to host a state tournament had passed. The inability to host a competitive
26 softball tournament deprives the ASA Blaze league from valuable and broad exposure to college
27 athletic scouts who frequent such events. The ASA Blaze members are thus prevented from hosting
28

1 such athletic scouts in their hometown during tournaments as is the practice of other ASA softball
2 leagues with dedicated fields appropriate for tournament-level competition.

3 129. The lack of field-generated proceeds and funds forces the ASA Blaze players to spend
4 a significant amount of time fundraising, rather than honing their softball skills. The ASA members
5 thus sell an assortment of items, including suckers, stickers, and garden supplies. They sponsor car
6 washes that last up to six hours in one day.

7 130. The ASA Blaze players expend much of their time and energy to maintain the fields
8 to which they are provided access, yet are provided none of the many benefits that the selective
9 American Legion and Babe Ruth baseball leagues enjoy. Instead, these competitive boys' baseball
10 leagues are provided access to exclusive, high quality facilities and enjoy the benefits of a home field
11 while generating vast attention and prestige in the eyes of the community. The selective boys'
12 baseball games are broadcast on the local radio and covered in detail in the local newspaper.

13 131. ASA Blaze softball players have been taunted by baseball players and other
14 community members because they are required to contribute to field upkeep and conduct consistent
15 fundraising. By contrast, the selective boys' baseball leagues provided fields at ASP have no field
16 maintenance duties, enjoy abundant concession sales and permanent corporate sponsorship on their
17 home fields.

18 132. ASA Blaze softball players have been told that softball is not as serious, or as
19 important, as baseball because the softball facilities to which they are relegated are inferior to those
20 provided to the comparable competitive boys' baseball leagues – American Legion and Babe Ruth.
21 Spectators prefer to watch a sports competition in a quality field with abundant and comfortable
22 amenities. The perception that the ASA Blaze softball league is of lesser quality than the selective
23 boys' baseball leagues deprives Blaze members of potential supporters who have never seen the level
24 of their athletic competition.

25 133. The absence of a permanent home field prevents all ASA Blaze members from
26 playing in one location and thus supporting each other. A dedicated softball field would also provide
27 the league's younger members with the opportunity to see the older girls play, and to look to them
28 as role models.

1 134. Being relegated to play on inferior fields for limited hours, while comparable,
2 selective boys' baseball programs have wide access to public playing fields at the same park, brands
3 the ASA Blaze girls as inferior and “unworthy” to participate in sports programs on an equal basis
4 with boys. Experts have found that such discriminatory allocation of public facilities to girls has a
5 negative impact on their well-being and self-esteem.

6 135. The unequal access to public playing fields makes ASA Blaze softball players feel
7 inadequate and unworthy to share public resources.

8 136. The inferior field conditions utilized by the ASA Blaze, when compared to those
9 enjoyed by thriving selective boys' baseball leagues at ASP, relegates female softball players to
10 second-class, inferior status.

11 137. There is no justification for any member of the ASA Blaze league to be denied equal
12 and adequate access to the City's public playing facilities provided to selective male baseball leagues.

13 138. There is no justification for the City to provide ample facilities, services and
14 convenient schedules, solely to selective boys' baseball leagues, including those that are operated at
15 ASP, while denying the comparable use of such facilities to selective girls' sports leagues, such as
16 the ASA Blaze.

17 **CLAIMS FOR RELIEF**

18 **FIRST CAUSE OF ACTION**

19 **42 U.S.C. § 1983; Fourteenth Amendment to The U.S. Constitution**
20 **(Denial of Equal Protection of The Laws: Gender Discrimination)**
21 **(By All Plaintiffs Against All Defendants)**

22 139. Plaintiffs and the proposed plaintiff class restate and incorporate by reference, as
23 though fully set forth herein, the allegations contained in paragraphs 1 through 138 above.

24 _____ 140. Plaintiffs and the proposed plaintiff class are adversely affected by the denial of equal
25 and adequate access to public athletic facilities, including the availability of public playing fields of
26 comparable quality made available abundantly and exclusively to similarly situated male athletes,
27 as a direct result of defendants' gender-based policies and practices described above.

28 141. Defendants' acts and omissions foster unjustified and unreasonable fixed notions
concerning the roles and abilities of males and females that relegate women and girls to inferior
status and second-class citizenship. Moreover, defendants' policies and practices rely on over-broad

1 generalizations about the different talents, capacities, or preferences of males and females, and are
2 based on judgments about males and females that perpetuate gender-based stereotypes that
3 historically have denied women and girls equal protection of the laws.

4 142. By denying plaintiffs equal treatment provided to similarly situated male athletes,
5 despite plaintiffs' persistent requests for such equal and adequate accommodation, defendants
6 promote systemic, longstanding and discriminatory gender-based government policies and practices
7 for which there is no compelling need and no exceedingly persuasive justification. Moreover, the
8 gender-based government policies and practices complained of herein fail to serve an important or,
9 indeed, any legitimate government objective and are not substantially related to any purported
10 objective.

11 143. Because defendants' gender-based policies and practices described above promote the
12 unjustified differential treatment of plaintiffs, and unjustifiably deny plaintiffs equal opportunities,
13 they violate the Fourteenth Amendment to the United States Constitution.

14 **SECOND CAUSE OF ACTION**
15 **Oregon Constitution, Article I, Sec. 20**
16 **(Denial of Equal Privileges and Immunities)**
17 **(By All Plaintiffs Against All Defendants)**

18 144. Plaintiffs and the proposed plaintiff class restate and incorporate by reference, as
19 though fully set forth herein, the allegations contained in paragraphs 1 through 143 above.

20 145. Defendants' gender-based policies and practices provide similarly situated male
21 athletes exclusive access to athletic fields and related facilities of much higher quality than those
22 provided to plaintiffs. Such gender-based classifications, reflecting stereotypical assumptions about
23 personal characteristics or social roles that are based solely on individuals' gender, foster unjustified
24 and unreasonable fixed notions concerning the roles and abilities of males and females that relegate
25 women and girls to inferior status and second-class citizenship.

26 146. There can be no justification for the gender-based classifications described above
27 insofar as they are not based on any specific biological differences between males and females. As
28 such, they are inherently suspect and impermissible.

1 147. Because defendants' gender-based classifications described above unjustifiably deny
2 plaintiffs equal opportunities provided to comparable male athletes, they violate plaintiffs' rights
3 under the Equal Privileges and Immunities Clause of the Oregon Constitution, Article I, Section 20.

4 **THIRD CAUSE OF ACTION**
5 **Violation of The Oregon Public Accommodation Act**
6 **Oregon Revised Statutes § 659A.403**
7 **(Gender Discrimination)**
8 **(By All Plaintiffs Against All Defendants)**

9 148. Plaintiffs and the proposed plaintiff class restate and incorporate by reference, as
10 though fully set forth herein, the allegations contained in paragraphs 1 to 147 above.

11 149. Plaintiffs and the proposed plaintiff class each are of the female sex under the
12 meaning of O.R.S. §659A.403.

13 150. Defendants' recreational facilities, including those that plaintiffs have sought and
14 requested to use on an equal and adequate basis to those provided to comparable male athletes,
15 constitute a "place of public accommodation" under the meaning of O.R.S. §659A.400(1).

16 151. By providing comparable male athletes exclusive use of public recreational facilities
17 of much higher quality than those provided to plaintiffs, defendants have denied and continue to
18 deny plaintiffs full and equal accommodations, advantages, privileges, and services, on the basis of
19 gender.

20 152. Defendants' acts and omissions, resulting in denial of equal access and unequal
21 treatment of plaintiffs on the basis of gender, violate the Oregon Public Accommodation Act.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, plaintiffs, on behalf of themselves and the proposed plaintiff class,
24 respectfully seek judgment and relief against defendants as follows:

25 **Preliminary Injunctive Relief**

26 1. For injunctive relief that defendants City of Grants Pass, its City Manager, its Director
27 of Field Operations, its Recreation Manager, and its agents, employees, and all persons in active
28 concert or participation with them, including any successors and assigns, be preliminarily enjoined
from implementing the discriminatory system complained of herein during the Spring/Summer 2002
softball season, and specifically from:

1 A. failing or refusing to provide plaintiffs access to public recreational facilities
2 on basis equal to that provided to selective boys' baseball leagues in the City's parks during the 2002
3 Spring/Summer softball season, specifically the exclusive access provided to American Legion and
4 Babe Ruth boys' baseball leagues in the City's Riverside West All Sports Park; and

5 B. failing or refusing to provide plaintiffs access to public recreational facilities
6 and related amenities that are equal in scope, quality and convenience to those provided to selective
7 boys' baseball leagues in the City's parks during the 2002 Spring/Summer softball season,
8 specifically those exclusive recreational facilities and related field amenities provided to the
9 American Legion and Babe Ruth boys' baseball leagues in the City's Riverside West All Sports Park.

10 Permanent Injunctive Relief

11 2. For injunctive relief that defendants City of Grants Pass, its City Manager, its
12 Director of Field Operations, its Recreation Manager, and its agents, employees, and all persons in
13 active concert or participation with them, including any successors and assigns, be permanently
14 enjoined from implementing the discriminatory system complained of herein, and specifically from:

15 A. failing or refusing to provide plaintiffs with exclusive and permanent access
16 to public recreational facilities dedicated to the sport of softball, on an equal basis with such
17 exclusive and permanent access to public recreational facilities dedicated to the sport of baseball that
18 are provided to selective boys' baseball leagues in the City's parks, specifically the exclusive and
19 permanent recreational facilities provided to American Legion and Babe Ruth boys' baseball leagues
20 in the City's Riverside West All Sports Park; and

21 B. failing or refusing to provide plaintiffs access to public recreational facilities
22 and related amenities dedicated to the sport of softball, that are equal in scope, quality and
23 convenience to public recreational facilities dedicated to the sport of baseball that are provided to
24 selective boys' baseball leagues in the City's parks, specifically those public recreational facilities
25 and related field amenities provided to the American Legion and Babe Ruth boys' baseball leagues
26 in the City's Riverside West All Sports Park.

27 Declaratory Relief

28 3. For a declaration and judgment that defendants' discriminatory policies and practices
violate plaintiffs' rights to equal protection of the laws under the Fourteenth Amendment to the

1 United States Constitution; deny plaintiffs equal privileges and immunities in violation of Article
2 I, Section 20 of the Oregon Constitution; and deny plaintiffs full and equal accommodations,
3 advantages, privileges and services on the basis of gender, in violation of §659A.403 of the Oregon
4 Public Accommodation Act.

5 Further Relief

6 4. For an order certifying the proposed plaintiff class.

7 5. For reasonable attorneys' fees and costs pursuant to 42 U.S.C. §1988 and any other
8 applicable federal and Oregon state laws.

9 6. For such other and further relief as this Court deems just and proper.

10 Respectfully submitted this 4th day of April, 2002.

11 SCHULTZ, SALISBURY, CAUBLE & DOLE

12
13
14 _____
15 James R. Dole
16 On Behalf of ACLU of Oregon
17 OSB No. 89227
18 Of Attorneys for Plaintiffs

19
20 _____
21 Rocio L. Cordoba
22 ACLU Foundation of Southern California
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24
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