

East Brunswick Public Schools

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August 24, 2006

For Immediate Release from the East Brunswick Public Schools

BOARD OF EDUCATION FILES APPEAL BORDEN V. EAST BRUNSWICK SCHOOL DISTRICT

The East Brunswick Board of Education will appeal the U.S. District Court's decision in the case of *Borden v. East Brunswick School District* to the U.S. Court of Appeals for the Third Circuit. The Board, which sought the advice of outside counsel to aid them in making a decision, was advised that, "the district court failed to recognize both the right and duty of the school district to regulate the conduct of its employees; and it similarly failed to respect the rights of public school students to be free from religious coercion and messages of school endorsement for religion." The July 25, 2006 decision, which allows Coach Borden to participate in team prayer, does not put the rights of the students first, nor does it protect the constitutional rights of every one of the nearly 9,200 students in East Brunswick's very diverse population.

Financial considerations were also a critical factor in the Board of Education's decision to reconsider an appeal. Mr. Riccio, who offered his services to Mr. Borden pro bono, has requested that he be remunerated nearly \$100,000 by the Board for services rendered to his client. Until Mr. Riccio's intent to seek compensation became known, the board had incurred no cost with regards to this legal issue. The Board's insurance broker covered the \$48,000 in legal fees for the Board's attorney, Martin Pachman. By accepting the lower court's position without appealing, the Board would have to pay Mr. Riccio's fees. Should the board accept an offer from outside counsel to appeal the case pro bono, a win at the court of appeals will ensure that the district incurs no costs whatsoever at either stage of litigation.

Until the case is heard and the court of appeals makes a decision, the ruling of the lower court will be followed and Mr. Borden will be permitted to bow his head and take a knee with the team.