

1 BENJAMIN W. BULL
AZ Bar No. 009940
2 JEREMY D. TEDESCO
AZ Bar No. 023497
3 ALLIANCE DEFENSE FUND
15100 N. 90th Street
4 Scottsdale, AZ 85260
(480) 444-0020; (480) 444-0028 facsimile
5 jtedesco@telladf.org

6 DAVID A. CORTMAN
GA Bar No. 188810
7 ALLIANCE DEFENSE FUND
1000 Hurricane Shoals Rd., Ste D-600
8 Lawrenceville, GA 30043
(770)339-0774; (770)339-6744 facsimile
9 dcortman@telladf.org

10 Attorneys for Plaintiffs

11
12 **UNITED STATES DISTRICT COURT**
DISTRICT OF ARIZONA
13 **PHOENIX DIVISION**

14 Pastor Clyde Reed; and Good News
Community Church,)
15 Plaintiffs,)
16 v.)
17 Town of Gilbert, Arizona; and Adam)
Adams in his official capacity as)
18 Code Compliance Manager,)
19 Defendants.)

CASE NO. CV-07-522-PHX-SRB
AMENDED VERIFIED
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

20
21 **I. INTRODUCTION**

22 1. In March 2007, Plaintiffs filed a Verified Complaint against and moved
23 to preliminarily enjoin the provision of the Town of Gilbert’s Sign Code that
24 discriminates against religious assembly signs by requiring them to be smaller in size,
25 less in number, placed in less favorable locations, and displayed for much less time
26 than political signs, ideological signs, and many other comparable signs. In April
27 2007, the Town of Gilbert and Adam Adams (“Defendants”) assented to a stipulated
28 preliminary injunction that prohibited them from enforcing this provision of the
Town’s Sign Code against the Plaintiffs. After this Court granted the stipulated

1 preliminary injunction in May 2007, the Town set out to amend its Sign Code, and
2 passed such amendment on January 8, 2008.

3 2. Incredibly, the amended Code discriminates against the Plaintiffs'
4 religious signage in the same fundamental way as the original Code.¹ Religious
5 assembly signs are still treated far less favorably than similar noncommercial and
6 commercial signs under the amended Code; the Code still discriminates against signs
7 based on their content; and the Code still favors commercial over noncommercial
8 speech. Accordingly, Plaintiffs file this Amended Complaint challenging the Town's
9 original and amended Codes, and concurrently file a motion for preliminary
10 injunction against the amended Code.

11 3. Prior to its enactment, Plaintiffs' counsel advised Defendants' counsel
12 that the amended Code did not cure the constitutional defects, but Defendants failed
13 to heed this advice and enacted it anyway.

14 4. Nothing short of an order from this Court, ruling that Defendants'
15 unapologetic discriminatory treatment of religious signs violates Plaintiffs' First
16 Amendment rights, will rectify the Defendants astonishing lack of regard for the First
17 Amendment and for the rights of religious institutions to display signs on the same
18 terms as other similar signs.

19 **II. JURISDICTION**

20 5. This action arises under the United States Constitution, particularly the
21 First and Fourteenth Amendments, under federal law, particularly 28 U.S.C. § 2201
22 and 42 U.S.C. §§ 1983 and 1988, and under state law, particularly Ariz. Rev. Stat.
23 §41-1493.

24 6. This Court is vested with original jurisdiction over these federal claims
25

26 ¹ In the context of this Amended Complaint, the term "original Code" refers to
27 the Town's Sign Code as it existed on the day Plaintiffs initiated this lawsuit
28 (attached hereto as Exhibit 1), and the term "amended Code" refers to the Town's
Sign Code as amended on January 8, 2008 (attached hereto as Exhibit 2).

1 by operation of 28 U.S.C. §§ 1331 and 1343; and over the supplemental state law
2 claims under §1367.

3 7. This Court is vested with authority to grant the requested declaratory
4 judgment by operation of 28 U.S.C. §§ 2201, *et seq.*

5 8. This Court is authorized to issue the requested injunctive relief pursuant
6 to 42 U.S.C. §1983 and Rule 65 of the Federal Rules of Civil Procedure.

7 9. This Court is authorized to award any damages pursuant to 28 U.S.C. §
8 1343(4).

9 10. This Court is authorized to award attorneys' fees pursuant to 42 U.S.C.
10 § 1988 and pursuant to Ariz. Rev. Stat. §41-1493.01(D).

11 **III. VENUE**

12 11. Venue is proper in the United States District Court for the District of
13 Arizona under 28 U.S.C. § 1391(b), in that the events giving rise to the claim
14 occurred within the district.

15 **IV. IDENTIFICATION OF PLAINTIFFS**

16 12. Plaintiff Clyde Reed is the Pastor of Good News Community Church and
17 is a citizen and resident of the District.

18 13. Good News Presbyterian Church, the named party in the original
19 complaint filed in this case, recently changed its name to Good News Community
20 Church ("the Church"). The Church is an unincorporated association and is also
21 located in the District.

22 14. Good News Community Church is a group of like-minded persons who
23 have come together around a set of common Christian beliefs and purposes, and seeks
24 to promote those purposes through the Church.

25 15. Pastor Reed is charged with the responsibility of representing the Church
26 in its day to day activities, including through preaching of the Word of God and
27 meeting together for worship and fellowship on Sundays and on other days of the
28 week.

1 **V. IDENTIFICATION OF DEFENDANTS**

2 16. The Town of Gilbert is a body politic which is able to sue and be sued
3 in its corporate name.

4 17. The Town has adopted the original and amended Town of Gilbert Land
5 Development Code (“Code”) sections that discriminate against religious signage.

6 18. The Town, through its Code Compliance Department, has enforced the
7 original Code sections against the Plaintiffs.

8 19. Defendant Adam Adams is the Code Compliance Manager of the Town’s
9 Code Compliance Department and is sued in his official capacity.

10 20. Defendant Adams enforced the original Code against the Plaintiffs in
11 February 2007 when he informed the Church that it would be cited if it violated the
12 terms of the original Code regarding religious assembly signs.

13 21. The Town acquiesces in, sanctions, and supports the actions of
14 Defendant Adams in the enforcement of the original Code against Plaintiffs.

15 22. The amended Code, and specifically amended section 4.402P, applies
16 to Plaintiffs’ religious signs.

17 23. The Town, Defendant Adams, and its enforcement officials intend on
18 enforcing the terms of the amended Code against Plaintiffs' religious signs.

19 **VI. STATEMENT OF FACTS**

20 **The Defendants’ Original and Amended Sign Codes**

21 24. The Defendants’ original and amended Sign Codes were adopted to
22 serve the Town’s interests in safety and aesthetics. (Ex. 1, § 4.401A; Ex. 2, p. 1.)

23 25. Defendants’ Sign Code, both the original and amended versions,
24 discriminate against certain signage based on the content of the sign.

25 26. Under the original and amended Codes, Ideological Signs may be
26 limitless in number, are allowed without a permit, may be placed in all zoning
27 districts, may be up to 20 square feet in area and 6 feet in height, and have no
28 duration limit. (Ex. 1, at 4, § 4.402J.)

1 27. The amended code makes no changes to the Ideological Sign Provision.

2 28. Similarly, under the original and amended Codes, Political Signs are
3 allowed without a permit, may be placed on property zoned for residential use, non-
4 residential use, undeveloped Town property, and Town rights-of-way, may be up to
5 32 square feet in area and 6 feet in height, and only require that they be removed 10
6 days following an election, with no time constraint on when they can be posted prior
7 to an election. (Ex. 1, at 4, § 4.402I.)

8 29. The amended Code makes no changes to the Political Sign provision.

9 30. Under the original Code, Religious Assembly Temporary Directional
10 Signs are not permitted in the public right-of-way, may not exceed 6 square feet in
11 area nor 3 feet in height, no more than 4 signs may be placed on any property, a
12 permit is required, and they shall not be displayed earlier than 2 hours before and 1
13 hour after the religious service. (Ex. 1, at 8, § 4.402P; Ex. 5 (requiring permit).)

14 31. The amended Code makes the following changes to the former Religious
15 Assembly Directional Signs provision:

- 16 a. changes the name of the provision to “Temporary Directional
17 Signs Relating To A Qualifying Event”;
- 18 b. permits non-profit organizations to display signs relating to a
19 qualifying event, in addition to religious assemblies;
- 20 c. increased the height of such signs to 6 feet, but maintained the 6
21 square feet in area requirement;
- 22 d. allows signs to be displayed for 12 hours before a qualifying
23 event, but maintained the requirement that such signs be taken
24 down within 1 hour of the event ending; and
- 25 e. clarifies that 4 signs per property are permitted for qualifying
26 events. (Ex. 2, at 2-3, § 4.402P.)

27 32. The original and amended Codes also permit Weekend Directional
28 Residential Signs, which advertise the sale of new homes. A total of 15 signs are

1 permitted for each recorded subdivision plat, they may be placed on Town rights-of-
2 way and each sign may be placed beginning 6 p.m. on Friday and ending at 8 a.m. on
3 the following Monday. (Ex. 1, at 17-18, § 4.405B(2).)

4 33. The amended Code makes no changes to the Weekend Directional
5 Residential Signs provision.

6 34. Lastly, the original and amended Codes permit Homeowners Association
7 Facilities Temporary Signs for 30 days prior to each event and requires such signs to
8 be removed within 48 hours of completion of the event. (Ex. 1, at 21, § 4.406C(3).)

9 35. The amended Code makes no changes to the Homeowners Facilities
10 Temporary Signs provision.

11 36. All signs permitted under the Town's Codes may contain a non-
12 commercial message. (Ex. 1, at 11, § 4.402V.)

13 37. The amended Code also makes some modifications to the Town's
14 Glossary of Terms for its Sign Code. (Ex. 2, at 3.)

15 38. Among other changes, the following entry has been added to the
16 Glossary of Terms:

17 *Temporary directional signs relating to a qualifying event.* Temporary
18 directional signs relating to a qualifying event means a temporary sign
19 intended to direct pedestrians, motorists, and other passersby to a
20 "qualifying event." A "qualifying event" is any assembly, gathering,
21 activity, or meeting sponsored, arranged, or promoted by a religious,
22 charitable, community service, educational, or other similar non-profit
23 organization.

24 (Ex. 2, at 3.)

25 39. A true and accurate copy of the Town's Glossary of Terms is attached
26 as Exhibit 3.

27 40. This action is brought to challenge the Town's original and amended
28 Code provisions that deny equal treatment to Plaintiffs' religious signs.

The Church's Religious Beliefs

41. The Church currently averages around 45 attendees a week, and some

1 weeks exceeds 50.

2 42. The Church, its members and leaders, and Pastor Reed are Christians
3 who hold sincere religious beliefs that they must meet together with like-minded
4 individuals, teach and preach the Gospel, sing religious songs, pray for their
5 community, and encourage others whenever possible.

6 43. Plaintiffs believe in what is commonly referred to as the Great
7 Commission.

8 44. The Bible commands believers in Matthew 28:19-20 to “go and make
9 disciples of all nations, baptizing them in the name of the Father and of the Son and
10 of the Holy Spirit, and teaching them to obey everything I have commanded you.”

11 45. Plaintiffs believe that they should carry out this command by reaching
12 out to the community to meet together on a regular basis.

13 46. Plaintiffs follow this Biblical directive by displaying signs announcing
14 their services as an invitation for those in the community to attend.

15 47. Plaintiffs’ services are open to the public and Plaintiffs seek to
16 encourage new people from the community to attend.

17 48. A primary way in which the community may learn about Plaintiffs’
18 services is through the signs that are placed announcing the time and location of the
19 services.

20 49. The more Church signs that are permitted to be displayed, the longer
21 such signs are permitted to be displayed, the larger such signs are permitted to be, and
22 the more prominent location they are permitted to be located, the more people will
23 receive the invitation.

24 **The Enforcement of the Original Code Against the Church**

25 50. Due to its small size, the church is limited financially in what it can
26 afford to do to invite others to its meetings.

27 51. One effective, yet inexpensive means of reaching others is to display
28 signs letting the community know where and when it is meeting.

1 52. The Church has been meeting at Coronado Elementary School for close
2 to five years.

3 53. For a time, the Church was placing about 17 signs in the areas
4 surrounding the Church.

5 54. These signs were placed early in the day each Saturday and removed
6 following the services on Sunday mid-day.

7 55. On September 17, 2005, however, the Church was cited by the Town's
8 Code Compliance Department for exceeding the time limitation of 2 hours before and
9 1 hour after the service (with a notation on the citation that the date of service was
10 missing from the sign). A true and accurate copy of this notice of violation is
11 attached as Exhibit 4.

12 56. Earlier in the same year, on July 14, the Church received a citation from
13 the Town's Code Compliance Department stating that its signs were in violation of
14 the Code because they were placed more than 2 hours before its Church services. A
15 true and accurate copy of this notice of violation is attached as Exhibit 5.

16 57. The penalties for violating the original (and amended) Code range from
17 a notice of violation to substantial fines and time in jail.

18 58. After receiving these citations, the Church reduced the number of signs
19 and the amount of time they placed the signs.

20 59. More visitors attended the services when all signs were being placed and
21 when they were being placed earlier on Saturdays.

22 60. In February 2007, the Church contacted the Code Compliance
23 Department to inquire as to whether the limitations found in the Code would be
24 enforced against the Church if violated.

25 61. The Church was told by the Code Compliance Manager that there is no
26 leniency under the Code, and that the Church would be cited if it was determined that
27 it had violated any of the applicable provisions in the Code.

28 62. Among other things, this meant the Church would be cited for a violation

1 of the Code if it put up signs displaying the time and place of its meetings more than
2 2 hours before those meetings.

3 63. Also, the Church would be cited for a violation of the Code if it placed
4 more than 4 signs displaying the time and place of its meetings.

5 64. Based on their fear that the Code would be enforced against them, and
6 because they were censoring their speech based on such fear of enforcement, the
7 Plaintiffs filed a Civil Rights lawsuit challenging the Town's discriminatory Code in
8 March 2007.

9 65. After Plaintiffs filed a motion for preliminary injunction, the Defendants
10 agreed to a stipulated preliminary injunction against enforcement of § 4.402P of the
11 original Code.

12 66. This Court issued a stipulated preliminary injunction in May, 2007,
13 prohibiting enforcement of § 4.402P against Plaintiffs' signs, and shortly thereafter
14 the City began the process of amending its Sign Code.

15 **The Ongoing Discriminatory Treatment of Plaintiffs' Religious Signs Under the**
16 **Amended Code**

17 67. In August, 2007, counsel for Defendants and counsel for Plaintiffs had
18 a lengthy telephonic conference to discuss the proposed amendments to the Sign
19 Code.

20 68. The amendments discussed during this conference are substantially the
21 same as those adopted by the Town on January 8, 2008. The only difference is that
22 the amended code discussed in August 2007 contained minor revisions to the
23 Ideological Sign Provision that were not part of the code adopted on January 8, 2008.

24 69. Counsel for Plaintiffs unequivocally stated during this conference that
25 the proposed amendments would not settle Plaintiffs' lawsuit, because the amended
26 Code would still suffer from the same constitutional infirmities as the original Code.

27 70. Counsel for Defendants stated that Churches are privileged to be able to
28 place any temporary signs, and that the Town could prohibit such religious assembly

1 signs altogether.

2 71. On December 5, 2007, the Town of Gilbert Planning Commission held
3 a public meeting at which the proposed amendments to the Sign Code were discussed.

4 72. Attached hereto as exhibit 6 is a true and accurate transcription of the
5 portion of this meeting dealing with the amended Code.

6 73. During the December 5, 2007 meeting, and in response to a question
7 from a Planning Commission member regarding whether the amended § 4.402P
8 applied to signs placed by Home Owners Associations, the Town attorney stated that
9 “[t]emporary signs for HOAs are treated elsewhere within the codes, they would not
10 fall within this.” (Ex. 6, at 3.)

11 74. At the same meeting, the Town attorney explained to the Planning
12 Commission that “the code treats many different kinds of temporary signs
13 differently.” (Ex. 6, at 3.)

14 75. The amended Code’s different treatment of temporary signs is based on
15 the content of the message on the sign.

16 76. The Town Council passed the amended Code on January 8, 2008, and
17 pursuant to the “emergency clause” in the amended Code (Ex. 2, at 4, § IV), the Code
18 went into effect immediately.

19 77. Because the Defendants threatened to enforce the original Code against
20 the Plaintiffs’ signs, and because Defendant Adams told Pastor Reed that the Church
21 would receive no leniency for any violations of the original Code, the Church
22 understands that the Town’s amended Code will be enforced against them if they
23 display signs that in any way violate the provisions of the amended Code.

24 78. The Church has a continuing desire to reach out to the community
25 through additional signs that may be placed in Town rights-of-way and for longer
26 periods of time, but cannot place such signs due to the discriminatory treatment of
27 Plaintiffs’ religious signs under the amended Code, and due to their fear of
28 enforcement of the amended Code against their signs.

1 79. The Church's speech is being squelched and it is being limited in the number
2 of citizens it reaches with its invitation message due to the amended Code.

3 **VII. ALLEGATIONS OF LAW**

4 80. All acts of the Defendants, their officers, agents, servants, employees,
5 or persons acting at their behest or direction, were done and are continuing to be done
6 under the color and pretense of state law.

7 81. Plaintiffs have no adequate or speedy remedy at law to correct or redress
8 the deprivations of their federal and state rights by Defendants.

9 82. Unless and until the enforcement of the original and amended Codes is
10 enjoined, the Plaintiffs will suffer and continue to suffer irreparable injury to their
11 rights.

12 **VIII. CAUSES OF ACTION**

13 **1. First Cause of Action: Violation of the Free Speech Clause of the**
14 **First Amendment**

15 83. Plaintiffs reallege all matters set forth in the preceding paragraphs and
16 incorporate them herein.

17 84. Plaintiffs' signs are speech that is protected by the First Amendment.

18 85. Defendants' original and amended Codes impermissibly regulate and
19 restrict speech in the form of signs based on the content of that speech.

20 86. Signs that are ideological or political are permitted to a much greater
21 extent than are Plaintiffs' religious signs.

22 87. Also, residential weekend directional signs are permitted to a much
23 greater extent than Plaintiffs' religious signs.

24 88. Because such discrimination is based on the content of the signs, it is
25 subject to strict scrutiny: it must further a compelling government interest and be
26 narrowly tailored.

27 89. Defendants can proffer no interest, let alone one that is compelling, that
28 justifies discriminating against Plaintiffs' religious signs.

1 90. Whatever interests Defendants cite, they apply equally to signs that are
2 permitted to a greater extent than Plaintiffs' religious signs.

3 91. Further, limiting Plaintiffs' religious signs in the manner authorized by
4 the original and amended Codes is not narrowly tailored to justify whatever interest
5 Defendants may create.

6 92. Moreover, Defendants' original and amended Codes treat commercial
7 speech more favorably than noncommercial speech.

8 93. The original and amended Codes allow weekend residential signs for the
9 purposes of home sales for a longer period of time than Plaintiffs' religious signs.

10 94. The original and amended Codes impose an unconstitutional prior
11 restraint because they vest Town officials with the unbridled discretion to permit or
12 refuse protected speech without any guidelines or criteria.

13 95. The original and amended Codes are overbroad because they sweep
14 within their ambit protected First Amendment speech.

15 96. The overbreadth of the original and amended Codes chill protected
16 speech by discouraging individuals and groups from placing signs for the purpose of
17 engaging in protected speech based on the religious nature of the sign.

18 97. Defendants' original and amended Codes on their face and as applied
19 violate Plaintiffs' rights of Free Speech as guaranteed by the First Amendment to the
20 United States Constitution as incorporated and applied to state action under the
21 Fourteenth Amendment.

22 WHEREFORE, Plaintiffs respectfully pray that this Court grant the equitable
23 and legal relief set forth hereinafter in the prayer for relief.

24 **2. Second Cause of Action: Violation of the Equal Protection Clause**
25 **of the Fourteenth Amendment.**

26 98. Plaintiffs reallege all matters set forth in the preceding paragraphs and
27 incorporate them herein.

28 99. The original and amended Codes allow groups and individuals similarly

1 situated to religious assemblies, like Plaintiff, greater access to Town property.

2 100. The original and amended Codes allow groups and individuals similarly
3 situated to religious assemblies, like Plaintiff, to display signs for greater time
4 periods.

5 101. The original and amended Codes allow groups and individuals similarly
6 situated to religious assemblies, like Plaintiff, to display larger signs.

7 102. The original and amended Codes allow groups and individuals similarly
8 situated to religious assemblies, like Plaintiff, to display a greater number of signs

9 103. The Codes do not extend those same rights to religious assemblies, like
10 Plaintiff.

11 104. Defendants can offer no compelling interest to justify their
12 discriminatory treatment of certain religious speech and activities while allowing
13 similar secular speech and activities.

14 105. The original and amended Codes facially and as applied violate
15 Plaintiffs' rights under the Equal Protection Clause of the Fourteenth Amendment to
16 the United States Constitution

17 WHEREFORE, Plaintiffs respectfully pray that the Court grant the equitable
18 and legal relief set forth hereinafter in the prayer for relief.

19 **3. Third Cause of Action: Violation of the Free Exercise Clause of the**
20 **First Amendment**

21 106. Plaintiffs reallege all matters set forth in the preceding paragraphs and
22 incorporate them herein.

23 107. Plaintiffs hold religious beliefs that they must reach out to the
24 community and invite them to their religious services where they offer Biblical
25 guidance on how to face contemporary issues.

26 108. Plaintiffs also communicate their faith to others in public places through
27 invitations to gather together with like-minded individuals for fellowship and
28 receiving religious instruction as an exercise of their sincerely-held religious beliefs.

1 109. The original and amended Codes penalize the exercise of religion by
2 subjecting it to greater restrictions that are not applicable to any other activities.

3 110. The original and amended Codes expressly discriminate against religion.

4 111. The original and amended Codes impose an excessive burden on
5 religious exercise that is not generally applicable.

6 112. The original and amended Codes burden religious exercise to a greater
7 extent than non-religious exercise.

8 113. Defendants have interpreted and applied their original Code to disqualify
9 Plaintiffs from equal treatment solely because of the religious nature of Plaintiffs'
10 activities and the religious content and viewpoint of Plaintiffs' speech.

11 114. The Defendants' amended Code similarly disqualifies Plaintiffs from
12 equal treatment based solely on the religious nature, content, and viewpoint of their
13 signs and activities.

14 115. Defendants' interpretation and application of the original Code impose
15 an excessive burden on Plaintiffs' rights to the free exercise of religion.

16 116. The Defendants' amended Code similarly imposes an excessive burden
17 on Plaintiffs' rights to the free exercise of religion.

18 117. Both the original and amended Codes, and Defendants' enforcement of
19 the original Code against the Plaintiffs, violate several constitutional rights of
20 Plaintiffs, including freedom of speech, free exercise, and equal protection, and
21 therefore give rise to a hybrid claim.

22 118. No compelling government interest exists which could justify the
23 original and amended Codes discriminatory treatment of Plaintiffs' religious signs,
24 or Defendants' discriminatory enforcement of the original Code against Plaintiffs.

25 119. The original and amended Codes unequal treatment of Plaintiffs'
26 religious signs, and the Defendants enforcement of the original Code prohibiting
27 equal treatment of Plaintiffs' religious signs, are not the least restrictive means to
28 serve any legitimate interest which Defendants seek thereby to secure.

1 120. The original and amended Codes discriminatory treatment of Plaintiffs’
2 religious signs, and Defendants’ interpretation and enforcement of the original Code
3 against Plaintiffs, chill Plaintiffs’ freedom of religious discussion and exercise, which
4 are fundamental rights guaranteed Plaintiffs by the First Amendment.

5 121. The original and amended Codes facially and as applied thus violate
6 Plaintiffs’ rights under the Free Exercise Clause of the First Amendment to the United
7 States Constitution as incorporated and applied to state action under the Fourteenth
8 Amendment.

9 WHEREFORE, Plaintiffs respectfully pray that the Court grant the equitable
10 and legal relief set forth hereinafter in the prayer for relief.

11 **4. Fourth Cause of Action: Violation of the Arizona Religious Freedom**
12 **Restoration Act**

13 122. Plaintiffs reallege all matters set forth in the preceding paragraphs and
14 incorporate them herein.

15 123. The Arizona Religious Freedom Restoration Act, Ariz. Rev. Stat. §41-
16 1493.01, states that government shall not substantially burden a person’s exercise of
17 religion unless it demonstrates a compelling government interest that is furthered by
18 the least restrictive means.

19 124. Plaintiffs hold religious beliefs that they must reach out to the
20 community and invite them to services offering Biblical guidance on how to face
21 contemporary issues.

22 125. Plaintiffs also communicate their faith to others in public places by
23 inviting them to gather together with like-minded individuals for fellowship and
24 receiving religious instruction as an exercise of their sincerely-held religious beliefs.

25 126. The original and amended Codes penalize the exercise of religion by
26 subjecting it to greater restrictions that are not applicable to any other activities.

27 127. The original and amended Codes expressly discriminate against religion.

28 128. The original and amended Codes impose an excessive burden on

1 religious exercise that is not generally applicable.

2 129. Plaintiffs are severely limited in the exercise of their religion, including
3 reaching out to others, based on the terms of Defendants' original and amended
4 Codes.

5 130. Defendants have interpreted and applied their original Code to disqualify
6 Plaintiffs from equal treatment solely because of the religious nature of Plaintiffs'
7 activities and the religious content and viewpoint of Plaintiffs' speech.

8 131. Defendants' amended Code similarly disqualifies Plaintiffs from equal
9 treatment solely because of the religious nature, content, and viewpoint of Plaintiffs'
10 speech.

11 132. Defendants' interpretation and application of the original Code imposes
12 an excessive burden on Plaintiffs' rights to the free exercise of religion.

13 133. Defendants' amended Code similarly imposes an excessive burden on
14 Plaintiffs' free exercise rights.

15 134. No compelling government interest exists which could justify the
16 original and amended Codes discriminatory treatment of Plaintiffs' religious signs,
17 or Defendants' discriminatory enforcement of the original Code against Plaintiffs.

18 135. The original and amended Codes discriminatory treatment of Plaintiffs'
19 religious signs, and the Defendants enforcement of the original Code prohibiting
20 equal treatment of Plaintiffs' religious signs, are not the least restrictive means to
21 serve any legitimate interest which Defendants seek thereby to secure.

22 136. Whatever interest Defendants seek to further by limiting Plaintiffs'
23 religious signs, all other signage impacts those same interests in the same manner.

24 137. Defendants' interpretation and enforcement of the original and amended
25 Codes chill Plaintiffs' freedom of religious discussion and exercise, which are
26 fundamental rights guaranteed Plaintiffs by Arizona Law.

27 138. The original and amended Codes facially and as applied thus violate
28 Plaintiffs' rights under the Arizona Religious Freedom Restoration Act.

1 Respectfully submitted this 10th day of January, 2008.

2 **THE ALLIANCE DEFENSE FUND**

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4 s/Jeremy D. Tedesco
Benjamin W. Bull
AZ Bar No. 009940
5 bbull@telladf.org
Jeremy D. Tedesco
6 AZ Bar No. 023497
jtedesco@telladf.org
7 15100 N. 90th Street
Scottsdale, AZ
8 (480) 444-0020
(480) 444-0028 facsimile

David A. Cortman
GA Bar No. 188810
dcortman@telladf.org
1000 Hurricane Shoals Rd., Ste D-600
Lawrenceville, GA 30043
(770) 339-0774
(770) 339-6744 facsimile

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VERIFICATION OF AMENDED COMPLAINT

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I, Clyde Reed, a citizen of the United States and a resident of the District, have read the foregoing Amended Verified Complaint for Injunctive and Declaratory Relief, and declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the factual allegations set forth herein are true and correct.

Executed this the 8th day of January, 2008.

Clyde Reed
Clyde Reed, individually and on behalf
of Good News Community Church

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on January 10, 2008, I electronically lodged the foregoing proposed Amended Verified Complaint For Declaratory and Injunctive Relief with the Clerk of the Court using the CM/ECF system. Pursuant to LRCiv. 15.1(c), should the Court grant Plaintiffs' motion to amend, the Clerk of Court will file this lodged pleading using the CM/ECF system which will send notification to:

Kim S. Alvarado
Grasso Law Firm, P.C.
Jackson Plaza
4600 South Mill Avenue, Suite 125
Tempe, AZ 85282

Attorneys for Plaintiffs

Benjamin W. Bull
AZ Bar No. 009940
bbull@telladf.org
Jeremy D. Tedesco
AZ Bar No. 023497
jtedesco@telladf.org
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Lawrenceville, GA 30043
(770) 339-0774
(770) 339-6744 facsimile

Attorneys for Defendants

By: /s/Jeremy D. Tedesco
Jeremy D. Tedesco
AZ Bar # 023497
Alliance Defense Fund
15100 N. 90th Street
Scottsdale, Arizona 85260
Phone (480) 444-0020
Fax (480) 444-0028
jtedesco@telladf.org