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28
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CALVARY CHAPEL OF UKIAH, a
California Non-Profit Corporation;
CALVARY CHAPEL FORT BRAGG, a
California Non-Profit Corporation; and

Case No. 2:20-cv-01431-KJM-DMC

VERIFIED FIRST AMENDED
COMPLAINT FOR DECLARATORY

1 **RIVER OF LIFE CHURCH**, a California **AND INJUNCTIVE RELIEF**
2 Non-Profit Corporation,

3 Plaintiffs,

4 vs.

5 **GAVIN NEWSOM**, in his official capacity
6 as Governor of California; **SONIA**
7 **ANGELL, M.D.**, in her official capacity as
8 California Public Health Officer; **NOEMI**
9 **DOOHAN, M.D.**, in her official capacity
10 as Public Health Officer, Mendocino
11 County; and **NGOC-PHUONG LUU,**
12 **M.D.**, in her official capacity as Butte
13 County Public Health Officer,

14 Defendants.

15 **INTRODUCTION**

16 1. This Action presents facial and as applied challenges to Defendants GAVIN
17 NEWSOM, SONIA ANGELL, M.D., NOEMI DOOHAN, M.D., and NGOC-PHUONG
18 LUU’s (collectively, “Defendants”) ban on singing and chanting activities (“Worship
19 Ban”) in places of worship while permitting the same activities in other similarly situated
20 indoor uses, and outdoor uses, within the counties where Plaintiffs are located.

21 2. This Worship Ban, and Defendants’ enforcement of it, violate Plaintiffs
22 CALVARY CHAPEL OF UKIAH, CALVARY CHAPEL FORT BRAGG, and RIVER
23 OF LIFE CHURCH’s (collectively, “Plaintiffs”) constitutional rights under the First and
24 Fourteenth Amendments to the United States Constitution.

25 **PARTIES – PLAINTIFFS**

26 3. Plaintiff CALVARY CHAPEL OF UKIAH (“Calvary Ukiah”) is a
27 California non-profit corporation, organized exclusively for religious purposes. Calvary
28 Ukiah is a Christian Church located in Ukiah, Mendocino County, California.

1 4. Plaintiff CALVARY CHAPEL FORT BRAGG (“Calvary Fort Bragg”) is a
2 California non-profit corporation, organized exclusively for religious purposes. Calvary
3 Fort Bragg is located in Fort Bragg, Mendocino County, California.

4 5. Plaintiff RIVER OF LIFE CHURCH (“River of Life”) is a California non-
5 profit corporation, organized exclusively for religious purposes. River of Life is located
6 in Oroville, Butte County, California.

7 **PARTIES – DEFENDANTS**

8 6. Defendant GAVIN NEWSOM (“Newsom”) is the Governor of the State of
9 California and is sued in his official capacity only. The California Constitution vests the
10 “supreme executive power of the State” in the governor, who “shall see that the law is
11 faithfully executed.” Cal. Const. Art. V, § 1.

12 7. On or about March 19, 2020, Governor Newsom issued Executive Order N-
13 33-20, which required Californians to follow the directives issued by the California
14 Public Health Officer.

15 8. Defendant SONIA ANGELL, M.D. (“Dr. Angell”) is the California Public
16 Health Officer. She is sued in her official capacity only. Under the authority of the March
17 19, 2020 Executive Order N-33-20, Dr. Angell created the “COVID-19 INDUSTRY
18 GUIDANCE: Places of Worship and Providers of Religious Services and Cultural
19 Ceremonies” on behalf of the California Department of Public Health (hereinafter,
20 “Worship Guidance”). A true and correct copy of the Worship Guidance dated July 1,
21 2020 is attached hereto as Exhibit A. The Worship Guidance includes the Worship Ban.

22 9. Defendant NOEMI DOOHAN, M.D. (“Dr. Doohan”) is the Public Health
23 Officer for Mendocino County, California. She is sued in her official capacity only. She
24 is responsible for enforcing the Worship Guidance and observing all orders of the State
25 Public Health Officer and all statutes relating to public health, including the Worship
26 Ban.

27 10. Defendant NGOC-PHUONG LUU, M.D. (“Dr. Luu”) is the Public Health
28 Officer for Butte County, California. She is sued in her official capacity only. She is

1 responsible for enforcing the Worship Guidance and observing all orders of the State
2 Public Health Officer and all statutes relating to public health, including the Worship
3 Ban.

4 **JURISDICTION AND VENUE**

5 11. This civil rights action raises federal questions under the United States
6 Constitution, specifically the First and Fourteenth Amendments, and under federal law,
7 particularly 42 U.S.C. § 1983.

8 12. This Court has subject matter jurisdiction over the federal claims pursuant
9 to 28 U.S.C. §§ 1331 and 1343.

10 13. This Court has authority to grant the requested declaratory relief under the
11 Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, implemented through Rule 57
12 of the Federal Rules of Civil Procedure. This Court is also authorized to grant injunctive
13 relief and damages under 28 U.S.C. § 1343, pursuant to Rule 65 of the Federal Rules of
14 Civil Procedure, and reasonable attorney’s fees and costs under 42 U.S.C. § 1988.

15 14. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1)–(2) because all
16 Defendants are situated in this judicial district or reside in the State of California in which
17 this judicial district is located, and a substantial part of the events or omissions giving rise
18 to Plaintiffs’ claims occurred in this district.

19 **FACTUAL BACKGROUND**

20 **A. State and County Orders**

21 15. On or about March 4, 2020, Governor Newsom declared a State Emergency
22 because of the threat of COVID-19.¹

23 16. On or about March 19, 2020, Governor Newsom issued Executive Order N-
24 33-20 (“State Order”), which prohibited all in-person worship services in California for
25 an indefinite period until the threat of the pandemic has subsided as determined
26

27 ¹ As of the date of this filing, the Proclamation of a State of Emergency may be found online at
28 the following URL: <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>.

1 exclusively by Governor Newsom. A true and correct copy of this Executive Order is
2 attached as Exhibit B.

3 17. On or about May 25, 2020, Governor Newsom announced the re-opening of
4 places of worship in California. This was accomplished by the California Department of
5 Public Health issuing initial guidance for places of worship to support a safe, clean
6 environment for staff and congregants.

7 18. On or about July 1, 2020, the California Department of Public Health
8 updated its Worship Guidance to include the Worship Ban. Specifically, the Worship Ban
9 mandates that places of worship “must therefore discontinue singing and chanting.” A
10 true and correct copy of this order is attached as Exhibit A.

11 19. Upon information and belief, at the time the Worship Ban was enacted on
12 July 1, 2020, singing and chanting were still activities permitted at protests, including
13 those taking place indoors.

14 20. On July 6, 2020, the Worship Guidance was updated to ban only *indoor*
15 singing and chanting in places of worship. A true and correct copy of this order is attached
16 as Exhibit C.

17 21. On or about July 11, 2020, a spokeswoman for California’s Office of
18 Emergency Services, Ali Bay, confirmed that the Worship Ban “must be followed,”
19 reiterating that it “has the same authority as all of California Department of Public
20 Health’s other guidance, directives, and orders, which the governor has ordered residents
21 to heed.”²

22 22. On or about July 13, 2020, Governor Newsom issued yet another order
23 governing indoor operations. Under this order, worship services, together with protests,
24 fitness centers, offices for non-essential actors and personal care services, as well as day
25 camps, hotels, shopping malls, childcare centers, schools, or music, television and film
26 production are permitted in counties not currently on the state’s monitoring list. However,

27 ² Don Thompson, *Church Singing Ban Strikes Sour Note With California Pastor* (July 11,
28 2020), <https://www.nbcbayarea.com/news/california/church-singing-ban-strikes-sour-note-with-california-pastor/2324470/>.

1 singing and chanting is only banned in places of worship and at protests. Such activities
2 are still permissible for all other indoor activities. A true and correct copy of this July 13,
3 2020 order is attached as Exhibit C.³

4 23. The July 13, 2020 Order also mandated the closure of the *indoor* operations
5 in all state counties at dine-in restaurants, wineries and tasting rooms, movie theaters,
6 family entertainment centers, and zoos and museums. *Id.*

7 24. On July 13, 2020, the Mendocino County Department of Public Health
8 issued an order which incorporates the Worship Ban. A true and correct copy of this order
9 is attached as Exhibit D.

10 25. According to the Mendocino County order, failure to comply with it
11 “constitutes an imminent threat to public health and menace to public health, constitutes
12 a public nuisance, and is punishable by fine, imprisonment, or both.” *Id.*

13 26. Butte County Department of Public Health’s website directs residents to
14 abide by various State guidance and orders and has provided no indication that it will
15 depart from the state’s guidance and orders including the Worship Ban.⁴

16 **B. Singing and Chanting Not Restricted in Secular Gatherings**

17 27. The singing and chanting ban discriminates against, and is primarily
18 applicable to, places of worship.

19 28. On or about July 1, 2020, at the time Defendants announced the new
20 Worship Ban prohibiting singing and chanting in places of worship, all protests, dine-in
21 restaurants/bars/wineries, casinos, family entertainment centers, day camps, hotels,
22 shopping malls, childcare centers, schools, or music, television and film production
23 remained open and were not subject to the ban on singing or chanting.⁵

24 _____
25 ³ As of the date of this filing, Governor Newsom’s July 13, 2020 order may also be found
26 online at the following URL: <https://covid19.ca.gov/roadmap-counties/>.

27 ⁴ Butte County Public Health Department, <https://www.buttecounty.net/publichealth>

28 ⁵ As of the date of this filing, the California guidance for each listed category, respectively, may
be assessed online at the following URLs:

Restaurants/bars/wineries: <https://files.covid19.ca.gov/pdf/guidance-restaurants-bars.pdf>

1 29. Upon information and belief, on or after July 6, 2020—and following
2 Governor Newsom’s amendment to the Worship Ban on July 6, 2020 clarifying that the
3 ban on singing and chanting applied to indoor services held at places of worship—the
4 State updated the Q&A section of its COVID-19 website under the question, “Can I
5 engage in Political Protest Gatherings?” The Q&A section now includes a statement that
6 indoor protests are permitted “as long as . . . singing and chanting activities are
7 discontinued.” A true and correct copy of a screenshot from the Q&A section is attached
8 as Exhibit E.

9 30. This same Q&A section, while identifying three conditions for indoor
10 protests – *i.e.* limiting attendance, physical distancing and discontinuing singing and
11 chanting – only threatens enforcement when adequate physical distancing is not
12 maintained: “Failure to maintain adequate physical distancing may result in an order to
13 disperse or other enforcement action.” *Id.* No state enforcement action, however, is
14 threatened in the Q&A section if protestors engage in singing and/or chanting activities.

15 31. Following Governor Newsom’s order issued on or about July 13, 2020,
16 worship services, together with protests, fitness centers, offices for non-essential actors
17 and personal care services, as well as day camps, hotels, shopping malls, childcare
18 centers, schools, and music, television and film production are permitted to remain open
19 in counties not currently on the state’s monitoring list.

20
21
22 Casinos: <https://files.covid19.ca.gov/pdf/guidance-casinos.pdf>

23 Family entertainment centers: <https://files.covid19.ca.gov/pdf/guidance-family-entertainment.pdf>

24 Day camps: <https://files.covid19.ca.gov/pdf/guidance-daycamps.pdf>

25 Hotels: <https://files.covid19.ca.gov/pdf/guidance-hotels.pdf>

26 Shopping malls: <https://files.covid19.ca.gov/pdf/guidance-shopping-centers.pdf>

27 Childcare centers: <https://files.covid19.ca.gov/pdf/guidance-childcare--en.pdf>

28 Schools: <https://files.covid19.ca.gov/pdf/guidance-schools.pdf>

Music, TV and film production: per <https://covid19.ca.gov/industry-guidance/#top>, music, TV
and film production is only subject to “Office and Workspace” guidelines:

<https://files.covid19.ca.gov/pdf/guidance-office-workspaces.pdf>.

1 32. On July 15, 2020, at the time of the filing of the Complaint in this case, all
2 Plaintiffs were located in counties not on the state monitoring list and, therefore, were in
3 locations where indoor religious services were permitted, but those services were unduly
4 and unconstitutionally limited by the indoor Worship Ban.

5 33. On or about July 25, 2020, Butte County was placed on the state's
6 monitoring list⁶ and places of worship there, together with several other indoor
7 establishments within Butte County, were forced to cease indoor operations pursuant to
8 Governor Newsom's order of July 13, 2020.

9 34. On July 24, 2020, after this lawsuit was filed, the Mendocino County
10 Department of Public Health issued a revised order electing to pre-emptively apply and
11 enforce the more severe indoor restrictions California established for counties on the state
12 monitoring list, notwithstanding the fact that Mendocino County had not been placed,
13 and has not subsequently been placed as of the time of filing the First Amended
14 Complaint, on the state's monitoring list. A true and correct copy of Mendocino County's
15 web page describing the action taken on July 24, 2020 is attached as Exhibit F.

16 35. Mendocino County's self-imposed restrictions include a ban on the indoor
17 activities of gyms and fitness centers; places of worship and cultural ceremonies, like
18 weddings and funerals; offices for non-essential sectors; personal care services, like nail
19 salons, body waxing and tattoo parlors; hair salons and barbershops; indoor shopping
20 malls. *Id.*

21 36. On July 29, 2020, the State updated its Worship Guidance. A true and correct
22 copy of the updated Worship Guidance is attached as Exhibit G.⁷

23 37. On August 3, 2020, the Mendocino County Department of Public Health
24 issued a revised order which still incorporates the more severe indoor restrictions, even
25 though Mendocino County was still not on the state's monitoring list. This order restricted

26 _____
27 ⁶ As of the date of this filing, Butte County's COVID-19 information may be found online at
the following URL <https://www.buttecounty.net/publichealth>

28 ⁷ As of the date of this filing, the Worship Guidance may also be found online at the following
URL: <https://files.covid19.ca.gov/pdf/guidance-places-of-worship--en.pdf>

1 outdoor worship, outdoor funerals or memorials, and outdoor protests to a maximum of
2 100 persons. A true and correct copy of this order is attached as Exhibit H.

3 38. Despite the ongoing and even increasing restrictions on the protected First
4 Amendment rights to freely assemble and engage in religious exercise as it relates to
5 places of worship, Governor Newsom has been unwavering in his support of massive
6 protests in California.

7 39. On or about May 30, 2020, Governor Newsom tweeted that “millions of
8 people are lifting their voices in anger -- rightfully outraged at the systemic racism that
9 persists in America.” A true and correct copy of Newsom’s relevant tweets are attached
10 as Exhibit I.

11 40. On or about May 30, 2020, Governor Newsom also issued a written
12 statement explaining the following: “I want to thank all those who helped protect human
13 life last night and today – from community members who exercised their right to protest
14 peacefully and encouraged others to do the same, to the law enforcement officers who
15 faced what were, at times, challenging conditions.” A true and correct copy of this
16 statement is attached as Exhibit J.

17 41. On or about June 1, 2020, Governor Newsom stated the following during a
18 press conference: “For those of you out there protesting, I want you to know that you
19 matter. To those who want to express themselves... God bless you. Keep doing it. Your
20 rage is real.”⁸

21 42. On or about June 5, 2020, Governor Newsom tweeted that “protestors have
22 the right to protest peacefully,” showing further support of mass protests. A true and
23 correct copy of this statement is attached as Exhibit I.

24 43. On or about June 19, 2020, Governor Newsom promoted, by retweeting
25 pictures, the gathering of hundreds of people to paint Black Lives Matter street art in front
26 of City Hall. A true and correct copy of this statement is attached as Exhibit I.

27 ⁸ Hannah Wiley, “*Your rage is real*,” *Gavin Newsom Tells California Protesters* (Published
28 2:55 p.m. PST, July 1, 2020), [https://www.sacbee.com/news/politics-government/capitol-
alert/article243173056.html](https://www.sacbee.com/news/politics-government/capitol-alert/article243173056.html).

1 44. On or about July 2, 2020, following implementation of the Worship Ban,
2 when asked to explain the extent to which social justice protestors should heed his
3 mandate to avoid large crowds and gatherings, Governor Newsom explained “we have a
4 Constitution, we have a right to free speech,” and further stated that “we are all dealing
5 with a moment in our nation’s history that is profound and pronounced . . . Do what you
6 think is best. . . .”⁹

7 45. On or about June 26, 2020, at a news conference, Dr. Angell admitted that
8 people who attended large protests have been affected by COVID: “We don’t have exact
9 numbers, but we do know from speaking to our counties that it is a contributor. Of course,
10 it is difficult to tease out exactly because at the same time, the people were going out for
11 these protests, we were also seeing increased movement for other reasons.” However, Dr.
12 Angell did not ban chanting at these mass protests.¹⁰

13 **C. The Religious Beliefs and Practices of Calvary Ukiah, Calvary Fort Bragg, and**
14 **River of Life**

15 46. Plaintiffs are evangelical Christian churches committed to the teachings of
16 the Bible.

17 47. Plaintiffs believe the Bible is God’s Word to all people and was written by
18 human authors under the supernatural guidance of the Holy Spirit. Plaintiffs believe that,
19 because the Bible was inspired by God, the Bible is truth without error and is completely
20 relevant to our daily lives.

21 48. According to their sincerely held religious beliefs and the commands of the
22 Bible, Plaintiffs hold weekly worship services that consist of various forms of worship
23 including singing, prayer, recitation of scripture, and a sermon preached by the pastor.

24 ⁹ Eric Ting, *Gavin Newsom asked to reconcile support for protests with new warnings on*
25 *gatherings* (Published 1:50 p.m. PDT, July 2, 2020),
26 <https://www.sfgate.com/politics/article/Gavin-Newsom-protests-coronavirus-July-Fourth-ask-15383112.php>.

27 ¹⁰ Cheri Mossburg, *Recent protests have contributed to California’s coronavirus case increase,*
28 *state official says* (Published 4:48 p.m. ET, June 26, 2020), https://edition.cnn.com/world/live-news/coronavirus-pandemic-06-26-20-intl/h_b3a9aa753b4c05ea71479065f58bf534.

1 49. Singing and praying aloud as a body of Christ is an integral part of worship
2 for believers and Plaintiffs. The book of Ephesians in the Bible commands that Plaintiffs
3 “[b]e imitators of God,” and “live a life of love, just as Christ loved us . . . be filled with
4 the Holy Spirit. Speak to one another with psalms, hymns and spiritual songs. Sing and
5 make music in your heart to the Lord, always giving thanks to God the Father for
6 everything.” Ephesians 5:1-2, 18-20.

7 50. The Psalms in the Bible emphasize the importance of singing and worship.
8 Psalm 89:1 says, “I will sing of the Lord’s great love forever; with my mouth I will make
9 your faithfulness known through all generations.” Psalms 9:1 says, I will give thanks to
10 you, Lord, with all my heart . . . I will be glad and rejoice in you; I will sing the praises
11 of your name, O Most High.” Psalm 95 speaks of the importance and necessity of singing
12 together, as a body of Christ: “Come, let us sing for joy to the Lord; let us shout aloud to
13 the Rock of our salvation. Let us come before him with thanksgiving and extol him with
14 music and song.”

15 51. According to their sincerely held religious beliefs, Calvary Ukiah holds
16 weekly worship services, which include singing and chanting, every Sunday at 10:00
17 A.M. at its sanctuary.

18 52. According to their sincerely held religious beliefs, Calvary Fort Bragg holds
19 weekly worship services, which include singing and chanting, every Sunday at 10:00
20 A.M. and 6:30 P.M. and every Wednesday at 7:00 P.M.

21 53. According to their sincerely held religious beliefs, River of Life holds
22 weekly worship services, which include singing and chanting, every Sunday at 10:00
23 A.M.

24 54. To prohibit group singing and chanting is to effectively prohibit corporate
25 Christian worship, which substantially and unduly burdens Plaintiffs’ religious speech
26 and exercise.

27 ///

28 ///

FIRST CAUSE OF ACTION

**THE WORSHIP BAN VIOLATES PLAINTIFFS' RIGHT TO FREE EXERCISE
OF RELIGION UNDER THE FIRST AMENDMENT TO THE U.S.
CONSTITUTION**

(By all Plaintiffs against Newsom & Dr. Angell;

By Calvary Ukiah and Calvary Fort Bragg against Dr. Doohan;

By River of Life against Dr. Luu)

55. Plaintiffs incorporate by reference the allegations in paragraphs 1 through 54, as if fully set forth herein.

56. The Free Exercise Clause of the First Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment, prohibits Defendants from abridging Plaintiffs' right to free exercise of religion.

57. Plaintiffs have sincerely held religious beliefs, rooted in religious text, that singing and chanting are integral and required forms of worship.

58. The Worship Ban, and Defendants' enforcement of it, on its face and as applied, prohibits all signing and chanting in places of worship, even if Plaintiffs follow Center for Disease Control and Prevention and state guidelines for social distancing and mask wearing etc. This is a violation of Plaintiffs' right to the free exercise of religion.

59. The Worship Ban, on its face and as applied, targets Plaintiffs' sincerely held religious beliefs and practices.

60. The Worship Ban, on its face and as applied, impermissibly burdens Plaintiffs' sincerely held religious beliefs, compels Plaintiffs to either change those beliefs or to act in contradiction to them, and forces Plaintiffs to choose between the teachings and requirements of their sincerely held religious beliefs or the mandates in Defendants' Worship Ban.

61. The Worship Ban, on its face and as applied, places Plaintiffs in an irresolvable conflict between compliance with the orders and adherence to their sincerely held religious beliefs.

1 62. The Worship Ban, on its face and as applied, puts substantial pressure on
2 Plaintiffs to violate their sincerely held religious beliefs by ignoring the fundamental
3 teachings and tenets of their religious texts, including those tenets requiring singing and
4 chanting.

5 63. The Worship Ban, on its face and as applied, is neither neutral nor generally
6 applicable, but rather specifically and discriminatorily targets places of worship.

7 64. The Worship Ban, on its face and as applied, imposes a substantial burden
8 on Plaintiffs' sincerely held religious beliefs as they are prevented from practicing the
9 teachings of their religious texts.

10 65. Defendants lack a compelling, legitimate, and rational interest in banning
11 singing and chanting only in places of worship while allowing the same at similar secular
12 gatherings and secular businesses.

13 66. Even if the Worship Ban were supported by a compelling interest, which it
14 is not, the ban does not employ the least restrictive means to accomplish the government's
15 purported interest and is not narrowly tailored to that interest. Other less restrictive means
16 are available, such as requiring social distancing and the wearing of masks.

17 67. The Worship Ban fails to accommodate Plaintiffs' sincerely held religious
18 beliefs. Instead, the Worship Ban intentionally aims to frustrate Plaintiffs' practices.

19 68. The Worship Ban specifically targets Plaintiffs' sincerely held religious
20 beliefs, and the Worship Ban sets up a system of individualized exemptions that permit
21 other similarly situated businesses or gatherings to sing and chant while prohibiting
22 places of worship from singing and chanting in the counties where Plaintiffs are located.

23 69. The Worship Ban, on its face and as applied, constitutes a religious
24 gerrymander. *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 534,
25 (1993).

26 70. The Worship Ban, on its face and as applied, has caused, is causing, and will
27 continue to cause Plaintiffs immediate and irreparable harm, and actual and undue
28 hardship.

1 71. Plaintiffs have no adequate remedy at law to correct the continuing
2 deprivation of their constitutional rights.

3 72. WHEREFORE, Plaintiffs respectfully pray for the relief against Defendants
4 as set forth in the prayer for relief.

5 **SECOND CAUSE OF ACTION**

6 **THE WORSHIP BAN VIOLATES THE ESTABLISHMENT CLAUSE OF THE**
7 **FIRST AMENDMENT OF THE U.S. CONSTITUTION**

8 **(By all Plaintiffs against Newsom & Dr. Angell;**

9 **By Calvary Ukiah and Calvary Fort Bragg against Dr. Doohan;**

10 **By River of Life against Dr. Luu)**

11 73. Plaintiffs incorporate by reference the allegations in paragraphs 1 through
12 54 above, as if fully set forth herein.

13 74. The Worship Ban, and Defendants' enforcement of it, violates the First
14 Amendment, both facially and as applied to Plaintiffs.

15 75. The Establishment Clause of the "First Amendment mandates governmental
16 neutrality between religion and religion, and between religion and nonreligion."
17 *McCreary Cty. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005) (citing
18 *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968)). The Establishment Clause applies to the
19 states through the Due Process Clause of the Fourteenth Amendment. *Everson v. Board*
20 *of Ed. of Ewing*, 330 U.S. 1 (1947).

21 76. The Worship Ban advances no secular purpose, especially where Center for
22 Disease Control and Prevention and California guidelines for social distancing are being
23 followed.

24 77. Defendants have made numerous exceptions to the Worship Ban, permitting
25 similarly situated secular activities and allowing other secular businesses and gatherings
26 to engage in singing and chanting.

27 78. The Worship Ban has the primary effect of inhibiting religious activity.
28

1 79. Defendants have failed to avoid excessive government entanglement with
2 religion. Defendants permit only some forms of religious observance, such as silent
3 prayer and at-home religious activities.

4 80. There is no historical precedent in the United States for inhibiting religious
5 practices on terms more restrictive than those imposed on identical secular activities, as
6 Defendants do now.

7 81. The Worship Ban is impermissibly hostile toward religion.

8 82. The Worship Ban invades Plaintiffs' constitutional right to autonomy and
9 against unlawful governmental invasion or direction of religious practices.

10 83. The Worship Ban, on its face and as applied, has caused, is causing, and will
11 continue to cause Plaintiffs immediate and irreparable harm, and actual and undue
12 hardship.

13 84. Plaintiffs have no adequate remedy at law to correct the continuing
14 deprivation of their constitutional rights.

15 85. WHEREFORE, Plaintiffs respectfully pray for the relief against Defendants
16 as set forth in the prayer for relief.

17 **THIRD CAUSE OF ACTION**

18 **THE WORSHIP BAN VIOLATES PLAINTIFFS' RIGHT TO FREEDOM OF**
19 **SPEECH UNDER THE FIRST AMENDMENT TO THE U.S. CONSTITUTION**

20 **(By all Plaintiffs against Newsom & Dr. Angell;**

21 **By Calvary Ukiah and Calvary Fort Bragg against Dr. Doohan;**

22 **By River of Life against Dr. Luu)**

23 86. Plaintiffs incorporate by reference the allegations in paragraphs 1 through
24 54 above, as if fully set forth herein.

25 87. The Worship Ban, and Defendants' enforcement of it, violates the right to
26 Freedom of Speech under the First Amendment, both facially and as applied to Plaintiffs.

27 88. Plaintiffs engage in protected speech at their respective places of worship
28 through singing religious songs and hymns and chanting prayers and religious text.

1 89. Defendants' imposition of the Worship Ban is unreasonable and has a
2 chilling effect on protected speech by banning singing and chanting in places of worship
3 even where Center for Disease Control and Prevention and California guidelines for
4 social distancing are being followed, under threat of criminal penalty, including fines and
5 imprisonment.

6 90. The Worship Ban is unconstitutionally overbroad, and therefore void as a
7 matter of law, both on its face and as applied.

8 91. The Worship Ban, on its face and as applied, singles out religious worship
9 and other religious speech for disfavored treatment.

10 92. The Worship Ban, on its face and as applied, has caused, is causing, and will
11 continue to cause Plaintiffs' immediate and irreparable harm, and actual and undue
12 hardship.

13 93. Plaintiffs have no adequate remedy at law to correct the continuing
14 deprivation of their constitutional rights.

15 94. WHEREFORE, Plaintiffs respectfully pray for the relief against Defendants
16 as set forth in the prayer for relief.

17 **FOURTH CAUSE OF ACTION**

18 **THE WORSHIP BAN VIOLATES PLAINTIFFS' RIGHT TO EQUAL**
19 **PROTECTION UNDER THE FOURTEENTH AMENDMENT TO THE U.S.**
20 **CONSTITUTION**

21 **(By all Plaintiffs against Newsom & Dr. Angell;**

22 **By Calvary Ukiah and Calvary Fort Bragg against Dr. Doohan;**

23 **By River of Life against Dr. Luu)**

24 95. Plaintiffs incorporate by reference the allegations in paragraphs 1 through
25 54 above, as if fully set forth herein.

26 96. The Worship Ban, and Defendants' enforcement of it, violates the
27 Fourteenth Amendment, both facially and as applied to Plaintiffs.
28

1 97. The Fourteenth Amendment to the Constitution provides that “[n]o State
2 shall . . . deny to any person within its jurisdiction the equal protection of the laws.” Equal
3 protection requires the state to govern impartially, not draw arbitrary distinctions between
4 individuals based solely on differences that are irrelevant to a legitimate governmental
5 interest.

6 98. The Worship Ban intentionally and arbitrarily bans singing and chanting in
7 places of worship. Singing and chanting is not, however, restricted at similarly situated
8 indoor establishments in the counties where Plaintiffs are located.

9 99. Defendants have given preferential treatment for favored singing and
10 chanting at protests, while banning disfavored singing and chanting at worship services.

11 100. Strict scrutiny under the Equal Protection Clause applies where, as here, the
12 classification impinges on a fundamental right, including the right to practice religion
13 freely and the right to free speech.

14 101. Strict scrutiny applies to the Worship Ban because it mandates that Plaintiffs
15 refrain from singing and chanting in places of worship, impinging on their fundamental
16 rights to freedom of religion and speech. The Worship Ban does not permit Plaintiffs to
17 exercise these rights, even while conforming to Center for Disease Control and
18 Prevention and California guidelines for social distancing.

19 102. The Worship Ban is not “narrowly tailored” to further any compelling
20 governmental interest. Defendants allow singing and chanting at many secular locations.
21 Since singing and chanting are allowed at various secular gatherings. Defendants must
22 permit Plaintiffs to engage in equivalent constitutionally-protected speech and activities.

23 103. Plaintiffs have no adequate remedy at law to correct the continuing
24 deprivation of their constitutional rights.

25 104. WHEREFORE, Plaintiffs respectfully pray for the relief against Defendants
26 as set forth in the prayer for relief.

27 ///

28 ///

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

A. That this Court issue a Temporary Restraining Order, Preliminary Injunction, and a Permanent Injunction enjoining Defendants, Defendants' officers, agents, employees, attorneys, and all other persons acting in concert or participation with them, from enforcing the Worship Ban and the County Orders enforcing the Worship Ban;

B. That this Court render a Declaratory Judgment declaring that the Worship Ban, on its face and as applied, is unconstitutional under the First and Fourteenth Amendments to the United States Constitution;

C. That this Court award Plaintiffs nominal damages against the County Defendants for the violation of Plaintiffs' constitutional rights;

D. That this Court adjudge, decree, and declare the rights and other legal relations within the subject matter here in controversy so that such declaration shall have the full force and effect of final judgment;

E. That this Court retain jurisdiction over the matter for the purposes of enforcing this Court's order;

F. That this Court declare Plaintiffs are a prevailing party and award Plaintiffs the reasonable costs and expenses of this action, including reasonable attorney's fees in accordance with 42 U.S.C. §1988; and

G. That this Court grant such other and further relief as this Court deems equitable and just under the circumstances.

Respectfully submitted,

TYLER & BURSCH, LLP

Dated: August 5, 2020

/s/ Robert H. Tyler, Esq.

Robert H. Tyler

Attorney for Plaintiffs

AMERICAN CENTER FOR LAW &
JUSTICE

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4 Dated: August 5, 2020

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21 * Pro hac vice application forthcoming

22
23 NATIONAL CENTER FOR LAW &
24 POLICY

25 Dated: August 5, 2020

/s/ Dean R. Broyles, Esq.
Dean R. Broyles
Attorney for Plaintiffs

VERIFICATION OF COMPLAINT

On behalf of CALVARY CHAPEL OF UKIAH, I, Pastor Les Boek, declare as follows:

1. I am a party to this action.
2. I have read the foregoing complaint and know of the contents thereof.
3. Based on my own knowledge, the contents of paragraphs 3, 46-51, 54- of the foregoing complaint are true and correct.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 5, 2020, at Ukiah, California.

/s/ Les Boek *
Pastor Les Boek
Calvary Chapel Ukiah

*original signature retained by attorney Robert Tyler

VERIFICATION OF COMPLAINT

On behalf of CALVARY CHAPEL FORT BRAGG, I, Kevin Green, declare as follows:

1. I am a party to this action.
2. I have read the foregoing complaint and know of the contents thereof.
3. Based on my own knowledge, the contents of paragraphs 4, 46-50, 52, 54 of the foregoing complaint are true and correct.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 5, 2020, at Fort Bragg, California.

/s/ Kevin Green*

Kevin Green

Calvary Chapel Fort Bragg

*original signature retained by attorney Robert Tyler

VERIFICATION OF COMPLAINT

On behalf of RIVER OF LIFE CHURCH, I, Pastor Scott Thomson, declare as follows:

1. I am a party to this action.
2. I have read the foregoing complaint and know of the contents thereof.
3. Based on my own knowledge, the contents of paragraphs 5, 46-50, 53- 54 of the foregoing complaint are true and correct.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 5, 2020, at Oroville, California.

/s/ Scott Thomson*

Pastor Scott Thomson
River of Life Church

*original signature retained by attorney Robert Tyler