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Attorneys for Plaintiffs

11 **UNITED STATES DISTRICT COURT FOR**
 12 **THE CENTRAL DISTRICT OF CALIFORNIA**
 13
 14 **EASTERN DIVISION**

15 **WENDY GISH**, an individual;
 16 **PATRICK SCALES**, an individual,
 17 **JAMES DEAN MOFFATT**, an
 18 individual; and **BRENDA WOOD**, an
 19 individual,

20 Plaintiffs,
 21 v.

22 **GAVIN NEWSOM**, in his official
 23 capacity as the Governor of California;
 24 **XAVIER BECERRA**, in his official
 25 capacity as the Attorney General of
 26 California; **ERIN GUSTAFSON**, in
 27 her official capacity as the San
 28 Bernardino County Acting Public
 Health Officer; **JOHN MCMAHON**,
 in his official capacity as the San
 Bernardino County Sheriff; **ROBERT**
A. LOVINGGOOD, in his official

Case No.: _____

**VERIFIED COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

1 capacity as a San Bernardino County
 2 Supervisor; **JANICE**
 3 **RUTHERFORD**, in her official
 4 capacity as a San Bernardino County
 5 Supervisor; **DAWN ROWE**, in her
 6 official capacity as a San Bernardino
 7 County Supervisor; **CURT HAGMAN**,
 8 in his official capacity as a San
 9 Bernardino County Supervisor; **JOSIE**
 10 **GONZALES**, in his official capacity as
 11 a San Bernardino County Supervisor;
 12 **CAMERON KAISER**, in his official
 13 capacity as the Riverside County Public
 14 Health Officer; **GEORGE JOHNSON**,
 15 in his official capacity as the Riverside
 16 County Executive Officer and Director
 17 of Emergency Services; **CHAD**
 18 **BIANCO**, in his official capacity as a
 19 Riverside County Sheriff; **KEVIN**
 20 **JEFFRIES**, in his official capacity as a
 21 Riverside County Supervisor; **KAREN**
 22 **SPIEGEL**, in her official capacity as a
 23 Riverside County Supervisor; **CHUCK**
 24 **WASHINGTON**, in his official
 25 capacity as a Riverside County
 26 Supervisor; **V. MANUEL PEREZ**, in
 27 his official capacity as a Riverside
 28 County Supervisor; and **JEFF**
HEWITT, in his official capacity as a
 Riverside County Supervisor,

Defendants.

*Liberty must at all hazards be supported. We have a right to it, derived from our
 Maker. But if we had not, our fathers have earned and bought it for us, at the expense of
 their ease, their estates, their pleasure, and their blood.*

– John Adams, 1765

1 NOW COME the above-named Plaintiffs Wendy Gish, Patrick Scales, James
2 Dean Moffatt, and Brenda Wood, by and through their attorneys, Dhillon Law Group,
3 Inc., as and for claims against the above-named Defendants Gavin Newsom, in his
4 official capacity as Governor of California; Xavier Becerra, in his official capacity as
5 Attorney General of California; Erin Gustafson, in her official capacity as the San
6 Bernardino County Acting Public Health Officer; John McMahon, in his official
7 capacity as the San Bernardino County Sheriff; Robert A. Lovinggood, in his official
8 capacity as a San Bernardino County Supervisor; Janice Rutherford, in her official
9 capacity as a San Bernardino County Supervisor; Dawn Rowe, in her official capacity
10 as a San Bernardino County Supervisor; Curt Hagman, in his official capacity as a San
11 Bernardino County Supervisor; Josie Gonzales, in his official capacity as a San
12 Bernardino County Supervisor; Cameron Kaiser, in his official capacity as the
13 Riverside County Public Health Officer; George Johnson, in his official capacity as the
14 Riverside County Executive Officer and Director of Emergency Services; Chad Bianco,
15 in his official capacity as the Riverside County Sheriff; Kevin Jeffries, in his official
16 capacity as a Riverside County Supervisor; Karen Spiegel, in her official capacity as a
17 Riverside County Supervisor; Chuck Washington, in his official capacity as a Riverside
18 County Supervisor; V. Manuel Perez, in his official capacity as a Riverside County
19 Supervisor; and Jeff Hewitt, in his official capacity as a Riverside County Supervisor,
20 allege and show the Court as follows (this “Complaint”).

21 NATURE OF ACTION

22 1. Defendants, in a gross abuse of their power, have seized the Coronavirus
23 pandemic to expand their authority by unprecedented lengths, depriving Plaintiffs and
24 all other residents of California of fundamental rights protected by the U.S. and
25 California Constitutions, including freedom of religion, speech, and assembly, and due
26 process and equal protection under the law. It is this Court’s duty to defend these
27 constitutional principles, by safeguarding the many rights and liberties of Californians
28 that Defendants so brazenly violate.

1 2. This Action presents facial and as-applied challenges to the Governor of
2 California’s March 19, 2020 Executive Order N-33-20 (the “State Order”) attached here
3 as Exhibit 1; the April 7, 2020 “Order of the Health Officer of the County of San
4 Bernardino for the Control of COVID-19” (the “San Bernardino Order”) attached here
5 as Exhibit 2; and the April 6, 2020 “Amended Order of the Health Officer for the
6 County of Riverside and of the County Executive Officer as Director of Emergency
7 Services” (the “Riverside Order”) attached here as Exhibit 3, which violate the
8 constitutional rights of Plaintiffs and the people of California. The State Order, San
9 Bernardino Order, and Riverside Order may at times be referred to collectively as the
10 “Orders” in this Complaint.¹

11 3. The Orders and Defendants’ enforcement thereof violate (I) the Free
12 Exercise Clause of the First Amendment; (II) the Establishment Clause of the First
13 Amendment; (III) the Free Speech Clause of the First Amendment; (IV) the Freedom of
14 Assembly Clause of the First Amendment; (V) the Vagueness Doctrine enshrined by
15 Due Process of Clause of the Fourteenth Amendment; (VI) substantive rights protected
16 by Due Process of Clause of the Fourteenth Amendment; (VII) the Equal Protection
17 Clause of the Fourteenth Amendment; (VIII) California Constitution Article 1, Section
18 1’s right to liberty; (IX) California Constitution Article 1, Section 2’s right to free
19

20 _____
21 ¹ As of the date of this filing, the State Order, San Bernardino Order, and Riverside
22 Order, respectively, may be accessed online at the following URLs:

23 State Order: <https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf>;

24 San Bernardino Order: [http://wp.sbcounty.gov/dph/wp-](http://wp.sbcounty.gov/dph/wp-content/uploads/sites/7/2020/04/SKM_C45820040714190.pdf)
25 [content/uploads/sites/7/2020/04/SKM_C45820040714190.pdf](http://wp.sbcounty.gov/dph/wp-content/uploads/sites/7/2020/04/SKM_C45820040714190.pdf);

26 Riverside Order:

27 [https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/PHOrders/Riv-](https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/PHOrders/Riv-EOC_20200406_090004.pdf?ver=2020-04-06-102528-423×tamp=1586193935186)
28 [EOC_20200406_090004.pdf?ver=2020-04-06-102528-](https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/PHOrders/Riv-EOC_20200406_090004.pdf?ver=2020-04-06-102528-423×tamp=1586193935186)
[423×tamp=1586193935186.](https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/PHOrders/Riv-EOC_20200406_090004.pdf?ver=2020-04-06-102528-423×tamp=1586193935186)

1 speech; (X) California Constitution Article 1, Section 3's right to assemble freely; (XI)
2 California Constitution Article 1, Section 4's right free exercise and enjoyment of
3 religion.

4 **JURISDICTION AND VENUE**

5 4. This action arises under 42 U.S.C. § 1983 in relation to Defendants'
6 deprivation of Plaintiffs' constitutional rights to freedom of religion, speech, and
7 assembly, due process, and equal protection rights under the First and Fourteenth
8 Amendments to the U.S. Constitution. Accordingly, this Court has federal question
9 jurisdiction under 28 U.S.C. §§ 1331 and 1343. This Court has authority to award the
10 requested declaratory relief under 28 U.S.C. § 2201; the requested injunctive relief and
11 damages under 28 U.S.C. § 1343(a); and attorneys' fees and costs under 42 U.S.C. §
12 1988.

13 5. The Central District of California is the appropriate venue for this action
14 pursuant to 28 U.S.C. §§ 1391(b)(1) and (2) because it is the District in which
15 Defendants maintain offices, exercise their authority in their official capacities, and will
16 enforce the Orders; and it is the District in which substantially all of the events giving
17 rise to the claims occurred.

18 **PARTIES**

19 6. Plaintiff Wendy Gish is a resident of San Bernardino County, California.
20 She attends Shield of Faith Family Church located in Fontana, California. Gish is a
21 strong believer in the scriptural command found in Hebrew 10:25: "Let us not neglect
22 meeting together, as some have made a habit, but let us encourage one another, and all
23 the more as you see the Day approaching." In fulfillment of her sincerely held religious
24 belief, Gish attends church twice a week, Sundays and Wednesday.

25 7. Plaintiff Patrick Scales is a resident of San Bernardino County, California.
26 He is the head pastor of Shield of Faith Family Church located in Fontana, California.
27 Scales believes that he must serve the needs of his church's parishioners, especially
28 right now in the midst of the COVID-19 crisis. James 5:14 commands believers that "Is

1 any sick among you? Let him call for the elders of the church; and let them pray over
2 him, anointing him with oil in the name of the Lord” Scales desires to keep Shield
3 of Faith Family Church open to help deal with the spiritual and physical needs of its
4 congregants. Scales believes that he can have in-person church services while making
5 every effort to prevent contact between congregants by adhering to social distancing
6 guidance, just as grocery stores, laundromats, and marijuana dispensaries are
7 implementing to keep their customers safe. Congregants in the Shield of Faith Family
8 Church are seated with family units at least six feet apart, and all worshippers wearing
9 masks in the church.

10 8. Plaintiff James Dean Moffatt is a resident of Riverside County. Moffatt is
11 the senior pastor at Church Unlimited located in Indio, California. Moffatt believes that
12 scripture commands him as a pastor to lay hands on people and pray for them, this
13 includes the sick. Moffatt also believes that he is required by scripture to baptize
14 individuals, something that cannot be done at an online service.

15 9. Plaintiff Brenda Wood is a resident of Riverside County. Wood is the
16 senior pastor at Word of Life Ministries International, Inc. located in Riverside,
17 California. Wood desires to hold services in a manner that properly protects her
18 parishioners so that its parishioners may follow Hebrews 10:25 and encourage one
19 another during these troubling times of COVID-19. Wood believes that her parishioners
20 need to connect with other people so as to give them hope and encouragement. Wood
21 believes she can implement proper social distancing measures similar to those practiced
22 by restaurants, auto mechanics, and abortion clinics. Wood also would like to offer
23 drive-in services for parishioners.

24 10. Defendant Gavin Newsom is made a party to this Action in his official
25 capacity as the Governor of California. The California Constitution vests the “supreme
26 executive power of the State” in the Governor, who “shall see that the law is faithfully
27 executed.” Cal. Const. Art. V, § 1. Governor Newsom signed the State Order.

28

1 11. Defendant Xavier Becerra is made a party to this Action in his official
2 capacity as the Attorney General of California. Under California law he is the chief law
3 enforcement officer with supervision over all sheriffs in the state. Cal. Const. Art. V, §
4 13.

5 12. Defendant Erin Gustafson is made a party to this Action in her official
6 capacity as the San Bernardino County Acting Public Health Officer. She signed the
7 San Bernardino Order.

8 13. Defendant John Mahon is made a party to this Action in his official
9 capacity as the San Bernardino County Sheriff. Under California law he has the
10 responsibility to enforce the San Bernardino Order in San Bernardino County. *See* Cal.
11 Gov't. Code § 26601.

12 14. Defendant Robert A. Lovinggood is made a party to this Action in his
13 official capacity as a member of the San Bernardino County Board of Supervisors,
14 which exercises broad legislative, executive, and quasi-judicial authority under
15 California law, including the supervision of the county sheriff and public health
16 officials. *See, e.g.*, Cal. Gov't. Code § 25000, *et seq.*; Cal. Health & Safety Code §
17 101000.

18 15. Defendant Janice Rutherford is made a party to this Action in her official
19 capacity as a member of the San Bernardino County Board of Supervisors, which
20 exercises broad legislative, executive, and quasi-judicial authority under California law,
21 including the supervision of the county sheriff and public health officials. *See, e.g.*, Cal.
22 Gov't. Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

23 16. Defendant Dawn Rowe is made a party to this Action in her official
24 capacity as a member of the San Bernardino County Board of Supervisors, which
25 exercises broad legislative, executive, and quasi-judicial authority under California law,
26 including the supervision of the county sheriff and public health officials. *See, e.g.*, Cal.
27 Gov't. Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

28

1 17. Defendant Curt Hagman is made a party to this Action in his official
2 capacity as a member of the San Bernardino County Board of Supervisors, which
3 exercises broad legislative, executive, and quasi-judicial authority under California law,
4 including the supervision of the county sheriff and public health officials. *See, e.g.*, Cal.
5 Gov't. Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

6 18. Defendant Josie Gonzales is made a party to this Action in his official
7 capacity as a member of the San Bernardino County Board of Supervisors, which
8 exercises broad legislative, executive, and quasi-judicial authority under California law,
9 including the supervision of the county sheriff and public health officials. *See, e.g.*, Cal.
10 Gov't. Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

11 19. Defendant Cameron Kaiser is made a party to this Action in his official
12 capacity as the Riverside County Public Health Officer. He signed the Riverside Order
13 on April 6, 2020.

14 20. Defendant George Johnson is made a party to this Action in his official
15 capacity as the Riverside County Executive Officer and Director of Emergency
16 Services. He also signed the Riverside Order on April 6, 2020.

17 21. Defendant Chad Bianco is made a party to this Action in his official
18 capacity as the Riverside County Sheriff. Under California law he has the responsibility
19 to enforce the Riverside Amend Order in Riverside County. *See* Cal. Gov't. Code §
20 26601.

21 22. Defendant Kevin Jeffries is made a party to this Action in his official
22 capacity as a member of the Riverside County Board of Supervisors, which exercises
23 broad legislative, executive, and quasi-judicial authority under California law, including
24 the supervision of the county sheriff and public health officials. *See, e.g.*, Cal. Gov't.
25 Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

26 23. Defendant Karen Spiegel is made a party to this Action in her official
27 capacity as a member of the Riverside County Board of Supervisors, which exercises
28 broad legislative, executive, and quasi-judicial authority under California law, including

1 the supervision of the county sheriff and public health officials. *See, e.g.*, Cal. Gov't.
2 Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

3 24. Defendant Chuck Washington is made a party to this Action in his official
4 capacity as a member of the Riverside County Board of Supervisors, which exercises
5 broad legislative, executive, and quasi-judicial authority under California law, including
6 the supervision of the county sheriff and public health officials. *See, e.g.*, Cal. Gov't.
7 Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

8 25. Defendant V. Manuel Perez is made a party to this Action in his official
9 capacity as a member of the Riverside County Board of Supervisors, which exercises
10 broad legislative, executive, and quasi-judicial authority under California law, including
11 the supervision of the county sheriff and public health officials. *See, e.g.*, Cal. Gov't.
12 Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

13 26. Defendant Jeff Hewitt is made a party to this Action in his official capacity
14 as a member of the Riverside County Board of Supervisors, which exercises broad
15 legislative, executive, and quasi-judicial authority under California law, including the
16 supervision of the county sheriff and public health officials. *See, e.g.*, Cal. Gov't. Code
17 § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

18 27. Each and every Defendant acted under color of state law with respect to all
19 acts or omissions herein alleged.

20 FACTUAL ALLEGATIONS

21 28. On or about March 13, 2020, President Donald J. Trump proclaimed a
22 National State of Emergency as a result of the threat of the emergence of a novel
23 coronavirus, COVID-19.²

24 29. Since the initial outbreak of COVID-19 in the United States in February
25 and March 2020, the federal government's projections of the anticipated national death
26

27 ² As of the date of this filing, the Proclamation of a National Emergency can be found
28 online at: <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

1 toll related to the virus has decreased substantially, by an order of magnitude. Despite
2 such revisions, Defendants have increasingly restricted—where not outright banned—
3 Plaintiffs’ engagement in constitutionally-protected activities.³

4 **FACTUAL ALLEGATIONS AS TO THE STATE OF CALIFORNIA**

5 30. On or about March 4, 2020, California Governor Gavin Newsom
6 proclaimed a State of Emergency as a result of the threat of COVID-19.⁴

7 31. On or about March 19, 2020, California Governor Newsom issued
8 Executive Order N-33-20 in which he ordered “all residents are directed to immediately
9 heed the current State public health directives.”

10 32. The state public health directive requires “all individuals living in the State
11 of California to stay home or at their place of residence except as needed to maintain
12 continuity of operations of the federal critical infrastructure sectors ...”.⁵

13 33. On or about March 22, 2020, the California Public Health Officer
14 designated a list of “Essential Critical Infrastructure Workers.”⁶ Included on the list of
15 the “essential workforce” are “faith based services that are provided through streaming
16 or other technology.”

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20 ³ See, e.g.,

21 [https://www.usatoday.com/story/news/investigations/2020/04/09/coronavirus-deaths-u-
22 s-could-closer-60-k-new-model-shows/5122467002/](https://www.usatoday.com/story/news/investigations/2020/04/09/coronavirus-deaths-u-s-could-closer-60-k-new-model-shows/5122467002/)

23 ⁴ As of the date of this filing, the Proclamation of a State of Emergency can be found
24 online at: [https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-
25 SOE-Proclamation.pdf](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf).

26 ⁵The State Public Health Directive was included in the text of Executive Order N-33-
27 20.

28 ⁶ As of the date of this filing, the list of Essential Critical Infrastructure Workers can be
found online at: <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>.

1 34. Accordingly, this list prohibits all religious leaders from conducting in-
2 person and out-of-home religious services, regardless of the measures taken to reduce or
3 eliminate the risk of the virus spreading. Meanwhile, the list deems the continuity of
4 services provided by coffee baristas, burger flippers, and laundromat technicians to be
5 so necessary for society that these activities are permitted to continue under the State
6 Order, despite the existence of the very same risk Defendants rely on to stymie the
7 exercise of fundamental rights.

8 35. The public health directive provides that its directives “shall stay in effect
9 until further notice.” Ex. 1.

10 **FACTUAL ALLEGATIONS AS TO SAN BERNADINO COUNTY**

11 36. On or about April 7, 2020, defendant Dr. Erin Gustafson signed the San
12 Bernardino Order.⁷

13 37. The San Bernardino Order “allow[s] faith based services that are provided
14 through streaming or other technology, while individuals remain in their homes, but
15 does not allow individuals to leave their home for driving parades or drive-up services,
16 or for picking up non-essential items.” Ex. 2, § 2.

17 38. The San Bernardino Order requires all residents to “wear face coverings,
18 such as scarves (dense fabric, without holes), bandanas, neck gaiters, or other fabric
19 face coverings when they leave their homes or places of residence for essential
20 activities.” Ex. 2, § 4.

21 39. The San Bernardino Order states that any violation “is a crime punishable
22 by fine, imprisonment, or both.” Ex. 2.

23 40. The Order states that it will remain in effect “until rescinded.” Ex. 2.

24 41. The San Bernardino Order is signed by Defendant Dr. Erin Gustafson.

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27 ⁷ As of the date of this filing, the San Bernardino Order may be accessed online at the
28 following URLs: [http://wp.sbcounty.gov/dph/wp-
content/uploads/sites/7/2020/04/SKM_C45820040714190.pdf](http://wp.sbcounty.gov/dph/wp-content/uploads/sites/7/2020/04/SKM_C45820040714190.pdf).

1 42. Dr. Erin Gustafson is not an elected official but is the Acting Public Health
2 Officer of San Bernardino. The San Bernardino Board of Supervisors have not appointed
3 a Public Health Officer pursuant to Cal. Health & Safety Code §101000.

4 43. On April 8, 2020, San Bernardino County released a document on their
5 website titled “Clarification of religious services and face-covering order” (hereinafter
6 Clarification”). A copy of the Clarification is attached here as Exhibit 4.⁸

7 44. The Clarification is not signed by the Public Health Officer.

8 45. The Clarification does not revoke the San Bernardino Order.

9 46. The Clarification states “[o]n the subject of enforcement, the public is
10 advised that although violation of a health order is a violation of the California Health
11 and Safety Code, the County does not expect law enforcement to broadly impose
12 citations on violators.”

13 47. The Clarification does not revoke law enforcement authority to criminally
14 charge any individual who violates the San Bernardino Order.

15 48. Defendants have granted law enforcement unfettered discretion when
16 deciding whether or not to enforce the San Bernardino Order.

17 49. The Clarification states that the “specific reference to drive-in religious
18 service so close to major religious observances taking place during the next four days,
19 for which organizations had already conducted considerable planning and incurred
20 expenses, are clarified as follows: Organizations that have planned such services for the
21 coming weekend should proceed with those services if they choose to do so and make
22 every effort to prevent contact between congregants.”

23 50. The Clarification, which is not signed by any individual and is simply a
24 document posted online, directly contradicts the written San Bernardino Order that
25
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27 _____
28 ⁸ As of the date of this filing, the San Bernardino Clarification can be found online at:
<http://wp.sbcounty.gov/cao/countywire/?p=5862>.

1 makes it a crime for churches to have drive-in religious services and for parishioners to
2 attend such services.

3 51. Plaintiff Patrick Scales' church, Shield of Faith Family Church, Inc., is
4 located in San Bernardino County.

5 52. Plaintiff Scales desires to hold in-person religious services for those
6 congregants who desire to attend church.

7 53. Plaintiff Scales believes that he can hold such religious services and
8 abiding by social distancing tips recommended by the CDC by keeping congregants at
9 least six feet apart, and provide for the wearing of masks and gloves.

10 54. Plaintiff Scales believes that religious services are essential for the spiritual
11 health of the congregation so that the congregants can exhort one another during these
12 difficult times.

13 55. Plaintiff Scales recognizes that most of his congregants will stay at home
14 but he wants to be available for those who are healthy and feel that in-person church
15 service can be safely attended.

16 56. Plaintiff Wendy Gish attends Shield of Faith Family Church and would
17 attend an in-person church service should it be made available to her.

18 57. Plaintiff Gish regularly attends church services and believes that she has a
19 scriptural command to "not neglect meeting together."

20 58. To her knowledge, Plaintiff Gish has never had or contracted said
21 coronavirus; she has never been at any time exposed to the danger of contracting it and
22 has never been in close proximity to any locality where said coronavirus has or have
23 existed.

24 59. As a result of not being able to attend in-person church, Plaintiff Gish has
25 been deprived of the opportunity for important cultural, social, and religious activities,
26 including speech activities pertaining to the coronavirus outbreak and the government's
27 response.

28

1 60. As of April 11, 2020, San Bernardino County has eight hundred ten (810)
2 coronavirus cases and twenty-five (25) COVID-19 associated deaths, according to
3 information posted on the county’s website.⁹

4 61. The United States Census estimates that as of July 1, 2019, San Bernardino
5 County’s population is 2,180,085 people.¹⁰

6 **FACTUAL ALLEGATIONS AS TO RIVERSIDE COUNTY**

7 62. On or about April 6, 2020, defendants Dr. Cameron Kaiser and George
8 Johnson signed the Riverside Order.¹¹

9 63. The Riverside Order prohibits “[a]ll public or private gatherings . . .
10 including, but not limited to an auditorium, . . . church, . . . or any other indoor or
11 outdoor space used for any non-essential purpose including, but not limited to . . .
12 church” Ex. 3, § 1(a).

13 64. Exempted from its prohibition on public or private gatherings are
14 numerous services, industries, and activities, including: “courts of law, medical
15 providers . . . daycare and child care . . . [and] necessary shopping at fuel stations, stores
16 or malls,” provided that a “state and federal guidelines for infection control” are
17 observed. Ex. 3, § 1(b).

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20 ⁹ Per San Bernardino County Department of Public Health’s web page visited on April
21 11, 2020 <http://wp.sbcounty.gov/dph/coronavirus/>.

22 ¹⁰ United States Census Bureau quick facts for San Bernardino County can be found
23 online at:
24 [https://www.census.gov/quickfacts/fact/table/sanbernardinocalifornia/PST04521](https://www.census.gov/quickfacts/fact/table/sanbernardinocalifornia/PST045219)
25 [9](https://www.census.gov/quickfacts/fact/table/sanbernardinocalifornia/PST045219).

26 ¹¹ As of the date of this filing, the Riverside Order may be accessed online at the
27 following URLs:
28 https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/PHOrders/Riv-EOC_20200406_090004.pdf?ver=2020-04-06-102528-423×tamp=1586193935186.

1 65. The Riverside Order provides that “[a]ll essential business that remain in
2 operation . . . shall follow the Social Distancing and Infection Control Guidelines
3 published by the [Center for Disease Control] and California Department of Public
4 Health . . . or the facility shall be closed.” Ex. 3, § 1(c).

5 66. The Riverside Order mandates that all people wear face coverings. Ex. 3, §
6 1(d).

7 67. The Riverside Order expressly states that any violation “is a crime
8 publishable by fine, imprisonment, or both.” Ex. 3, § 11.

9 68. The Riverside Order is signed by Defendant Dr. Cameron Kaiser.

10 69. The Riverside Order is also signed by Defendant George Johnson as County
11 Executive Officer and Director of Emergency Services.

12 70. Dr. Cameron Kaiser is not an elected official but is appointed by the
13 Riverside County Board of Supervisors. *See* Cal. Health & Safety Code §101000.

14 71. On April 10, 2020, Riverside County issued a press release in which they
15 stated that “Drive-up church services that practice proper social distancing will be
16 allowed this weekend in Riverside County, although the order to prohibit such activities
17 will remain after Easter Sunday.”¹²

18 72. The April 10th clarification was issued by Defendant George Johnson.

19 73. Plaintiff James Dean Moffatt’s church, “Church Unlimited” is located in
20 Riverside County.

21 74. Plaintiff James Dean Moffatt, upon learning about the coronavirus,
22 immediately had his church building cleaned and disinfected.

23 75. Plaintiff Moffatt ensured that sanitizing materials were available to each
24 person who entered his church and encouraged family units to sit at least six feet apart.

25
26 _____
27 ¹² As of the date of this filing, the Riverside County News Release can be found online
28 at:

https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/News/April_10.pdf?ver=2020-04-11-105351-463×tamp=1586627749323.

1 76. Plaintiff Moffatt encouraged anyone who was uncomfortable with
2 gathering during coronavirus to stay at home.

3 77. Plaintiff Moffatt encouraged anyone who was sick to stay at home.

4 78. On April 9, 2020, Plaintiff Moffatt was fined \$1,000 for violating the
5 Riverside Order for holding a church service on April 5, 2020, Palm Sunday.

6 79. To his knowledge, Plaintiff Moffatt has never had or contracted the
7 coronavirus; he has never been at any time exposed to the danger of contracting it; and
8 has never been in close proximity to any locality where said coronavirus has or have
9 existed.

10 80. But for the Riverside Order and Defendants' enforcement thereof, Plaintiff
11 Moffatt would continue to hold in-person religious services in Riverside County, while
12 taking the same social distancing precautions taken by "essential businesses" that
13 Defendants continue to allow to operate in the county, despite any prevalence of
14 COVID-19. Plaintiff Moffatt believes that it is important for Christians to come
15 together, remember, and celebrate all that Jesus has done for this world.

16 81. As a result of not being able to conduct an in-person church service,
17 Plaintiff Moffatt has been deprived of the opportunity for important cultural, socials,
18 and religious activities, including speech activities pertaining to the coronavirus
19 outbreak and the government's response.

20 82. Plaintiff Brenda Wood's church, Word of Life Ministries International Inc.
21 is located in Riverside County.

22 83. Word of Life Ministries International Inc. has approximately 20-30 regular
23 attendees.

24 84. Plaintiff Brenda Wood believes Scripture commands her to provide
25 opportunities for the believers to obey Hebrews 10:25 where the believers meet together
26 and encourage one another.

27 85. Plaintiff Brenda Wood held a drive-up church service on Easter Sunday.
28

1 86. The drive-up church service provided appropriate social distancing, with
2 everyone wearing masks and staying in their vehicles. The restrooms were not made
3 available. Each car was parked at least six feet from other vehicles.

4 87. During the service, Plaintiff Brenda Wood used a portable sound
5 amplification system. The congregants had to roll down their windows in order to listen.

6 88. During the service, communion was served by an individual wearing a
7 mask and gloves and the elements were pre-packaged. The person serving communion
8 used tongs to remove the communion cups from the pre-packaged box.

9 89. At this time, Plaintiff Brenda Wood has postponed all baptisms at her
10 church.

11 90. Plaintiff Brenda Wood would like to hold drive-up church services every
12 Sunday following safe social distancing practices until the state of emergency has been
13 lifted.

14 91. As of April 11, 2020, Riverside County has one thousand four hundred
15 thirty-one (1,431) coronavirus cases and forty-one (41) coronavirus associated deaths,
16 according to information posted on the county's website.¹³

17 92. The United States Census estimates that as of July 1, 2019, Riverside
18 County's population is 2,470,546 people.¹⁴

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26 ¹³ Per Riverside County Department of Public Health's web page visited on April 11,
27 2020 <https://rivcoph.org/coronavirus>.

28 ¹⁴ United States Census Bureau quick facts for Riverside County can be found online at:
<https://www.census.gov/quickfacts/fact/table/riversidecountycalifornia/PST045219>.

1 **CLAIMS**

2 **FIRST CLAIM FOR RELIEF**

3 **Free Exercise Clause of First Amendment to U.S. Constitution**

4 **(42 U.S.C. § 1983)**

5 *(By all Plaintiffs against all Defendants)*

6 93. Plaintiffs incorporate by reference the allegations in the preceding
7 paragraphs, as if fully set forth herein.

8 94. The Orders and Defendants' enforcement thereof violate the First
9 Amendment, both facially and as-applied to Plaintiffs. The First Amendment of the
10 Constitution protects the "free exercise" of religion. Fundamental to this protection is
11 the right to gather and worship. *See W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624,
12 638 (1943) ("The very purpose of a Bill of Rights was to withdraw certain subjects
13 from the vicissitudes of political controversy, to place them beyond the reach of
14 majorities and officials and to establish them as legal principles to be applied by the
15 courts ... [such as the] freedom of worship and assembly."). The Free Exercise Clause
16 applies to the states through the Due Process Clause of the Fourteenth Amendment.
17 *Cantwell v. Connecticut*, 310 U.S. 296 (1940).

18 95. As the Supreme Court has noted, "a law burdening religious practice that is
19 not neutral or not of general application must undergo the most rigorous of scrutiny."
20 *Church of the Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520, 546 (1993). "A law is
21 not generally applicable if its prohibitions substantially underinclude non-religiously
22 motivated conduct that might endanger the same governmental interest that the law is
23 designed to protect." *Stormans, Inc. v. Wiesman*, 794 F.3d 1064, 1079 (9th Cir. 2015)
24 (citing *Lukumi*, 508 U.S. at 542–46). "In other words, if a law pursues the government's
25 interest 'only against conduct motivated by religious belief,' but fails to include in its
26 prohibitions substantial, comparable secular conduct that would similarly threaten the
27 government's interest, then the law is not generally applicable." *Id.*

28

1 96. The Orders are neither neutral nor of general application. Defendants’
2 restrictions have specifically and explicitly targeted religious and “faith-based” services
3 and are thus not neutral on their face. Defendants have prohibited certain public and
4 private gatherings deemed “non-essential,” including out-of-home religious services,
5 while exempting a laundry list of industries and services purportedly “essential” to the
6 government’s various interests, including medical cannabis dispensaries and other
7 medical providers, courts, public utilities, daycare and childcare, and “necessary”
8 shopping. Further, several Defendants have granted *ad hoc* exemptions to the Orders for
9 particular religious gatherings of particular faiths – i.e., Christians permitted to
10 celebrate Easter, but no other gatherings, and other faiths given no exemptions.

11 97. In addition to relegating all faith activities to a second-class status (at best),
12 Defendants have threatened criminal penalties for holding in person services, and have
13 thus substantially burdened Plaintiffs’ religious exercise by forcing them to choose
14 between their sincerely held religious beliefs and their desire to follow secular rules, in
15 many cases imposed by unelected officials.

16 98. Laws and government actions that burden religious practice and are either
17 not neutral or not generally applicable must satisfy a compelling governmental interest
18 and be narrowly tailored to achieve that end.

19 99. Defendants’ mandates are not “narrowly tailored” to further any
20 compelling governmental interest. Defendants have granted numerous special
21 exemptions to their bans on public gatherings and conduct, including for purportedly
22 “essential” businesses and activities, provided that social distancing practices are
23 observed; and even for out-of-home religious services during Easter, an important day
24 of religious significance for Christians. Since these gatherings may be permitted, there
25 can be no doubt that Defendants may, and therefore must, permit Plaintiffs to engage in
26 equivalent religious activities and services provided that Plaintiffs also adhere to the
27 social distancing guidelines currently in place.

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1 The Establishment Clause applies to the states through the Due Process Clause of the
2 Fourteenth Amendment. *Everson v. Board of Ed. of Ewing*, 330 U.S. 1 (1947).

3 106. Defendants have not and do not act with a clearly secular purpose in
4 adopting and enforcing the Orders. Defendants have made several exceptions to their
5 Orders, including certain religious activities during Easter, a day significant to
6 Christians, without exempting those same activities when occurring on days both before
7 and after Easter, or on days significant to other faiths. It is not for Defendants to
8 determine which faiths, and on which days of religious significance to those faiths,
9 religious services may take place.

10 107. The Orders and Defendants' *ad hoc* enforcement thereof have the primary
11 effect of inhibiting religious activity.

12 108. Defendants have failed to avoid excessive government entanglement with
13 religion. Defendants permit only some forms of religious observance, such as live-
14 streamed, at-home religious activities, and, as to the Riverside Order only, in-person
15 services during Easter weekend.

16 109. There is no historical precedence in the United States for inhibiting
17 religious practices on terms more restrictive than those imposed on identical secular
18 activities, as Defendants do now.

19 110. Plaintiffs have no adequate remedy at law and will suffer serious and
20 irreparable harm to their constitutional rights unless Defendants are enjoined from
21 implementing and enforcing the Orders.

22 111. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to
23 declaratory relief and temporary, preliminary, and permanent injunctive relief
24 invalidating and restraining enforcement of the Orders.

25 112. Plaintiffs found it necessary to engage the services of private counsel to
26 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of
27 attorneys' fees pursuant to 42 U.S.C. § 1988.

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1 **THIRD CLAIM FOR RELIEF**

2 **Free Speech Clause of First Amendment to U.S. Constitution**

3 **(42 U.S.C. § 1983)**

4 *(By all Plaintiffs against all Defendants)*

5 113. Plaintiffs incorporate by reference the allegations in the preceding
6 paragraphs, as if fully set forth herein.

7 114. The Orders and Defendants' enforcement thereof violate the First
8 Amendment, both facially and as-applied to Plaintiffs.

9 115. Under Defendants' Orders, public gatherings and church services are
10 prohibited.

11 116. Plaintiffs engage in protected speech through worship, religious
12 discussions, singing hymnals, and praying with their congregation.

13 117. Defendants' imposition of the Orders is unreasonable and has a chilling
14 effect on protected speech by outright banning in-person church services at the pain of
15 criminal penalty. Furthermore, several of the Defendants have granted *ad hoc*
16 exemptions to the Orders for Easter, but not any other Sunday or day of religious
17 significance to other faiths. Additionally, a representative of Riverside County has
18 stated that Sheriffs are not expected to enforce every violation, but failed to provide any
19 guidance as to what violations would be prioritized, leaving it up to the Sheriffs'
20 unfettered discretion to decide which violations to enforce. Such a lack of standards
21 along with a grant of such discretion renders the Orders unconstitutional both facially
22 and as they are applied.

23 118. The Orders are unconstitutionally overbroad, and therefore void as a matter
24 of law, both on their faces, and as it is applied.

25 119. Plaintiffs have no adequate remedy at law and will suffer serious and
26 irreparable harm to their constitutional rights unless Defendants are enjoined from
27 implementing and enforcing the Orders.

28 120. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to

1 declaratory relief and temporary, preliminary, and permanent injunctive relief
2 invalidating and restraining enforcement of the Orders.

3 121. Plaintiffs found it necessary to engage the services of private counsel to
4 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of
5 attorneys' fees pursuant to 42 U.S.C. § 1988.

6 **FOURTH CLAIM FOR RELIEF**

7 **Violation of First Amendment Freedom of Assembly Clause**

8 **(42 U.S.C. § 1983)**

9 *(By all Plaintiffs against all Defendants)*

10 122. Plaintiffs incorporate by reference the allegations in the preceding
11 paragraphs, as if fully set forth herein.

12 123. The Orders and Defendants' enforcement thereof violate the First
13 Amendment, both facially and as-applied to Plaintiffs. The First Amendment of the
14 Constitution protects the "right of the people peaceably to assemble." The Freedom of
15 Assembly Clause was incorporated against the states in *De Jonge v. Oregon*, 299 U.S.
16 353 (1937).

17 124. "The right of free speech, the right to teach, and the right of assembly are,
18 of course, fundamental rights." *Whitney v. California*, 274 U.S. 357, 373 (1927). When
19 a government practice restricts fundamental rights, it is subject to "strict scrutiny" and
20 can be justified only if it furthers a compelling government purpose and, even then,
21 only if no less restrictive alternative is available. *See, e.g., San Antonio Indep. Sch. Dist.*
22 *v. Rodriguez*, 411 U.S. 1, 16-17 (1973); *Dunn v. Blumstein*, 405 U.S. 330 (1972).

23 125. By denying Plaintiff Brenda Wood the ability to conduct services via a
24 drive-in church service that complies with the CDC guidelines for social distancing,
25 Defendants are in violation of the Freedom of Assembly Clause. Defendants cannot
26 meet the no-less-restrictive-alternative test. The CDC's social distancing guidelines are
27 appropriate to limit the spread of COVID-19. Imposing more restrictive requirements
28 that target churches and their drive-in services while at the same time allowing

1 restaurants, coffee shops, marijuana dispensaries to operate drive-ups is not the least
2 restrictive means of achieving Defendants’ public safety goals.

3 126. By denying Plaintiff Patrick Scales from Shield of Faith Family Church
4 and Plaintiff James Moffatt of Church Unlimited the ability to assemble via an in-
5 person church service that complies with the CDC guidelines for social distancing,
6 Defendants are in violation of the Freedom of Assembly Clause. Defendants cannot
7 meet the no-less restrictive-alternative test. The CDC’s social distancing guidelines are
8 appropriate to limit the spread of COVID-19. Imposing more restrictive requirements
9 that target churches and their in-person services while allowing grocery stores,
10 laundromats, and marijuana dispensaries is not the least restrictive means of achieving
11 Defendants’ public safety goals.

12 127. Requiring Plaintiffs to abstain from religious gatherings, despite
13 substantial modifications to satisfy the public health interests at stake, violates
14 Plaintiffs’ Constitutional right to peaceably assemble.

15 128. Plaintiffs have no adequate remedy at law and will suffer serious and
16 irreparable harm to their constitutional rights unless Defendants are enjoined from
17 implementing and enforcing the Orders.

18 129. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to
19 declaratory relief and temporary, preliminary, and permanent injunctive relief
20 invalidating and restraining enforcement of the Orders.

21 130. Plaintiffs found it necessary to engage the services of private counsel to
22 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of
23 attorneys’ fees pursuant to 42 U.S.C. § 1988.

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1 **FIFTH CLAIM FOR RELIEF**

2 **Due Process Clause of Fourteenth Amendment to U.S. Constitution**

3 **(42 U.S.C. § 1983)**

4 *(By all Plaintiffs against all Defendants)*

5 131. Plaintiffs incorporate by reference the allegations in the preceding
6 paragraphs, as if fully set forth herein.

7 132. The Orders and Defendants' enforcement thereof violate the Due Process
8 Clause of the Fourteenth Amendment, both facially and as-applied to Plaintiffs.

9 133. A regulation is constitutionally void on its face when, as matter of due
10 process, it is so vague that persons "of common intelligence must necessarily guess at
11 its meaning and differ as to its application" *Connally v. General Const. Co.*, 269 U.S.
12 385, 391 (1926); *People ex rel. Gallo v. Acuna*, 14 Cal.4th 1090, 1115 (1997). The void
13 for vagueness doctrine is designed to prevent arbitrary and discriminatory enforcement.
14 The problem with a vague regulation is that it "impermissibly delegates basic policy
15 matters to policemen, judges, and juries for resolution on an ad hoc and subjective
16 basis...." *Grayned v. City of Rockford*, 408 U.S. 104, 108–109 (1972).

17 134. Defendants' Orders are void for vagueness. In conjunction with issuing the
18 Orders, including for the following reasons:

19 a. The State Order provides that individuals are ordered to "heed" State
20 public health directives. The word "heed" is defined by Webster's Dictionary to mean
21 "to give consideration or attention to" —not specifically to adhere to those directives.
22 Yet, the State Order is widely reported in the media and cited by local and state
23 officials, including the San Bernardino and Riverside Orders, as compelling compliance
24 with State public health directives to shelter in place unless conducting essential
25 business. The State Order also includes the text of the public health directive, which
26 includes language that ostensibly "order[s]" compliance, creating further ambiguity as
27 to whether Plaintiffs must comply with, or merely heed, the public health directive.

28

1 Accordingly, the State Order is vague as to what precisely is being ordered, and what
2 actions may result in criminal penalties, fines, or imprisonment.

3 b. The San Bernardino Order does not exempt any particular religious
4 holidays, yet San Bernardino has explicitly exempted compliance during Easter
5 weekend. County officials have also stated that it “does not expect law enforcement to
6 broadly impose citations on violators” and that “the expectation is that law enforcement
7 will rely upon community members to use good judgment, common sense, and act in
8 the best interest of their own health and the health of their loved ones and the
9 community at large.”

10 c. The Riverside County Order states that “non-essential personnel . . . are
11 prohibited from entry into any hospital or long-term care facility,” ostensibly banning
12 “non-essential” people from seeking medical care. Yet, the Order states that “visitors”
13 may be permitted access to hospitals under certain conditions. No reasonable person can
14 make sense of what conduct is permitted under the Order

15 135. As a result of these ambiguities, no reasonable person could understand
16 what conduct violates the Order and might subject that person to criminal penalties.

17 136. Plaintiffs have no adequate remedy at law and will suffer serious and
18 irreparable harm to their constitutional rights unless Defendants are enjoined from
19 implementing and enforcing the Orders.

20 137. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to
21 declaratory relief and temporary, preliminary, and permanent injunctive relief
22 invalidating and restraining enforcement of the Orders.

23 138. Plaintiffs found it necessary to engage the services of private counsel to
24 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of
25 attorneys’ fees pursuant to 42 U.S.C. § 1988.

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1 **SIXTH CLAIM FOR RELIEF**

2 **Due Process Clause of Fourteenth Amendment to U.S. Constitution**

3 **(42 U.S.C. § 1983)**

4 *(By all Plaintiffs against all Defendants)*

5 139. Plaintiffs incorporate by reference the allegations in the preceding
6 paragraphs, as if fully set forth herein.

7 140. The Orders and Defendants' enforcement thereof violate Plaintiffs'
8 substantive due process rights secured by the Fourteenth Amendment to the U.S.
9 Constitution. Under the Due Process Clause of the Fourteenth Amendment, no State
10 shall "deprive any person of life, liberty, or property, without due process of law." The
11 fundamental liberties protected by this Clause include most of the rights enumerated in
12 the Bill of Rights. *See Duncan v. Louisiana*, 391 U.S. 145, 147–149 (1968). In addition,
13 these liberties extend to certain personal choices central to individual dignity and
14 autonomy, including intimate choices that define personal identity and beliefs. *See, e.g.,*
15 *Eisenstadt v. Baird*, 405 U.S. 438, 453 (1972); *Griswold v. Connecticut*, 381 U.S. 479,
16 484–486 (1965).

17 141. Plaintiffs' rights to freedom of religion, assembly, speech, and travel are
18 fundamental rights protected by the U.S. Constitution. *See, e.g., Aptheker v. Secretary*
19 *of State*, 378 U.S. 500, 520 (1964); *Kent v. Dulles*, 357 U.S. 116, 127 (1958).

20 142. When a government practice restricts fundamental rights such as the right
21 to practice religion freely, assemble peacefully, speak, and travel, it is subject to "strict
22 scrutiny" and can be justified only if it furthers a compelling government purpose, and,
23 even then, only if no less restrictive alternative is available. *See, e.g. Memorial Hospital*
24 *v. Maricopa County*, 415 U.S. 250, 257-258 (1974); *Dunn v. Blumstein*, 405 U.S. 330,
25 339-341 (1972); *Shapiro v. Thompson*, 394 U.S. 618, 89 (1969), *Maher v. Roe*, 432
26 U.S. 464, 488 (1977).

27 143. Strict scrutiny applies to Plaintiffs' claims because both the Riverside
28 Order and the San Bernardino Order mandate that Plaintiffs stay at home, impinging on

1 their fundamental rights to freedom of religion, assembly, speech, and travel. These
2 Orders do not permit Plaintiffs to exercise these rights, even while conforming to the
3 CDC guidelines for social distancing, unless Defendants deem them “essential” or as
4 participating in “essential” activities.

5 144. Defendants’ mandates are not “narrowly tailored” to further any
6 compelling governmental interest. Defendants’ have granted numerous special
7 exemptions to their bans on public gatherings, including for purportedly “essential”
8 businesses and activities, provided that social distancing practices are observed; and
9 even for out-of-home religious services during Easter, an important day of religious
10 significance for Christians. Since these gatherings can be permitted, there can be no
11 doubt that Defendants may, and therefore must, permit Plaintiffs to engage in
12 equivalent constitutionally-protected activities provided that Plaintiffs also adhere to the
13 social distancing guidelines.

14 145. Plaintiffs have no adequate remedy at law and will suffer serious and
15 irreparable harm to their constitutional rights unless Defendants are enjoined from
16 implementing and enforcing the Orders.

17 146. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to
18 declaratory relief and temporary, preliminary, and permanent injunctive relief
19 invalidating and restraining enforcement of the Orders.

20 147. Plaintiffs found it necessary to engage the services of private counsel to
21 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of
22 attorneys’ fees pursuant to 42 U.S.C. § 1988.

23 **SEVENTH CLAIM FOR RELIEF**

24 **Equal Protection Clause of Fourteenth Amendment to U.S. Constitution**

25 **(42 U.S.C. § 1983)**

26 *(By all Plaintiffs against all Defendants)*

27 148. Plaintiffs incorporate by reference the allegations in the preceding
28 paragraphs, as if fully set forth herein.

1 149. The Orders and Defendants’ enforcement thereof violate the Fourteenth
2 Amendment, both facially and as-applied to Plaintiffs. The Fourteenth Amendment of
3 the Constitution provides that “[n]o State shall . . . deny to any person within its
4 jurisdiction the equal protection of the laws.” Equal protection requires the state to
5 govern impartially—not draw arbitrary distinctions between individuals based solely on
6 differences that are irrelevant to a legitimate governmental objection.

7 150. Defendants intentionally and arbitrarily categorize individuals and conduct
8 as either “essential” or “non-essential.” Those persons classified as “essential,” or as
9 participating in essential services, are permitted to go about their business and activities
10 provided certain social distancing practices are employed. Those classified as “non-
11 essential,” or as engaging in non-essential activities, are required to stay in their
12 residence, unless it becomes necessary for them to leave for one of the enumerated
13 “essential” activities.

14 151. Strict scrutiny under the Equal Protection Clause applies where, as here,
15 the classification impinges on a fundamental right, including the right to practice
16 religion freely, to right to free speech and assembly, and the right to travel, among
17 others.

18 152. Defendants cannot satisfy strict scrutiny, because their arbitrary
19 classifications are not narrowly tailored measures that further compelling government
20 interests, for the reasons stated above.

21 153. Plaintiffs have no adequate remedy at law and will suffer serious and
22 irreparable harm to their constitutional rights unless Defendants are enjoined from
23 implementing and enforcing the Orders.

24 154. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to
25 declaratory relief and temporary, preliminary, and permanent injunctive relief
26 invalidating and restraining enforcement of the Orders.

27 155. Plaintiffs found it necessary to engage the services of private counsel to
28 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of

1 attorneys' fees pursuant to 42 U.S.C. § 1988.

2 **EIGHTH CLAIM FOR RELIEF**

3 **Right to Liberty**

4 **(Cal. Const. Art. 1, § 1)**

5 *(By all Plaintiffs against all Defendants)*

6 156. Plaintiffs incorporate by reference the allegations in the preceding
7 paragraphs, as if fully set forth herein.

8 157. In California, “[a]ll people are by nature free and independent and have
9 inalienable rights. Among these are enjoying and defending life and liberty, acquiring,
10 possessing, and protecting property, and pursuing and obtaining safety, happiness, and
11 privacy. Cal. Const. Art. 1, §1.

12 158. California courts have held that Public Health Officials’ authority over the
13 rights of personal liberty is limited. Before exercising their full powers to quarantine,
14 there must be “reasonable grounds [] to support the belief that the person so held is
15 infected.” *Ex parte Martin*, 83 Cal. App. 2d 164 (1948). Public Health Officials must be
16 able to show “probable cause to believe the person so held has an infectious disease ...”
17 *Id.*

18 159. California courts found that Public Health Officials could not quarantine
19 12 blocks of San Francisco Chinatown because of nine (9) deaths due to bubonic
20 plague. *See Jew Ho v. Williamson*, 103 F. 10 (C.C. Cal. 1900), and *Wong Wai v.*
21 *Williamson*, 103 F. 1 (C.C. Cal. 1900).

22 160. The court found it “purely arbitrary, unreasonable, unwarranted, wrongful,
23 and oppressive interference with the personal liberty of complainant” who had “never
24 had or contracted said bubonic plague; that he has never been at any time exposed to the
25 danger of contracting it, and has never been in any locality where said bubonic plague,
26 or any germs of bacteria thereof, has or have existed”. *Jew Ho*, 103 F. 10 (C.C. Cal.
27 1900).

28

1 161. California courts have found that “a mere suspicion [of a contagious
2 disease], unsupported by facts giving rise to reasonable or probable cause, will afford
3 no justification at all *for depriving persons of their liberty* and subjecting them to virtual
4 imprisonment under a purported order of quarantine.” *Ex parte Arta*, 52 Cal. App. 380,
5 383 (1921) (emphasis added).

6 162. In *Jew Ho v. Williamson*, 103 F. 10 (C.C. Cal. 1900), and *Wong Wai v.*
7 *Williamson*, 103 F. 1 (CC Cal. 1900), the California courts found that there were more
8 than 15,000 people living in the twelve blocks of San Francisco Chinatown who were to
9 be quarantined. The courts found it unreasonable to shut down the ability of over
10 15,000 people to make a living because of nine deaths. This was one death for every
11 1,666 inhabitants of Chinatown.

12 163. As of July 1, 2020, San Bernardino and Riverside Counties have a
13 combined population of 4,650,631 individuals and as of April 11, 2020, San Bernardino
14 and Riverside Counties have a total of 66 coronavirus deaths. That is one death for
15 every 70,464 inhabitants.

16 164. Plaintiffs have never had or contracted said coronavirus; they have never
17 been at any time exposed to the danger of contracting it, and have never been in any
18 locality where said coronavirus, or any germs of bacteria thereof, has or have existed.

19 165. Requiring Plaintiffs to abstain from all religious gatherings, despite
20 substantial modifications to satisfy the public health interests at stake, violates their
21 California Constitutional liberty rights.

22 166. Plaintiffs have no adequate remedy at law and will suffer serious and
23 irreparable harm to their constitutional rights unless Defendants are enjoined from
24 implementing and enforcing the Orders.

25 167. Plaintiffs have found it necessary to engage the services of private counsel
26 to vindicate their rights under the law. Plaintiffs are therefore entitled to an award of
27 attorney fees and costs pursuant to California Code of Civil Procedure Section 1021.5.
28

NINTH CLAIM FOR RELIEF

Freedom of Speech

(Cal. Const. Art. 1, § 2)

(By all Plaintiffs against all Defendants)

168. Plaintiffs incorporate by reference the allegations in the preceding paragraphs, as if fully set forth herein.

169. In California “[e]very person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.” Cal. Const. Art. 1, §2.

170. “The California Supreme Court has recognized that the California Constitution is ‘more protective, definitive and inclusive of rights to expression and speech’ than the First Amendment to the United States Constitution.” *Rosenbaum v. City and County of San Francisco*, 484 F.3d 1142, 1167 (9th Cir. 2007).

171. For the reasons stated in Plaintiffs’ Third Claim for Relief, requiring Plaintiffs to abstain from its religious gatherings, despite substantial modifications to satisfy the public health interests at stake, violates Plaintiffs’ liberty of speech rights under the California Constitution as well.

172. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm to their constitutional rights unless Defendants are enjoined from implementing and enforcing the Orders.

173. Plaintiffs have found it necessary to engage the services of private counsel to vindicate their rights under the law. Plaintiffs are therefore entitled to an award of attorney fees and costs pursuant to California Code of Civil Procedure Section 1021.5.

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1 181. “In general, the religion clauses of the California Constitution are read
2 more broadly than their counterparts in the federal Constitution.” *Carpenter v. City and*
3 *County of San Francisco*, 93 F.3d 627, 629 (9th Cir. 1996).

4 182. For the reasons stated in Plaintiffs’ First Claim for Relief, requiring
5 Plaintiffs to abstain from its religious gatherings, despite substantial modifications to
6 satisfy the public health interests at stake, violates Plaintiffs’ free exercise rights under
7 the California Constitution as well.

8 183. Plaintiffs have no adequate remedy at law and will suffer serious and
9 irreparable harm to their constitutional rights unless Defendants are enjoined from
10 implementing and enforcing the Orders.

11 184. Plaintiffs have found it necessary to engage the services of private counsel
12 to vindicate their rights under the law. Plaintiffs are therefore entitled to an award of
13 attorney fees and costs pursuant to California Code of Civil Procedure Section 1021.5.

14 **WHEREFORE**, Plaintiffs respectfully request that this Court enter judgment
15 against Defendants as follows:

16 A. An order and judgment declaring that the Orders, facially and as-applied to
17 Plaintiffs, violate the First and Fourteenth Amendments to the U.S. Constitution and
18 Article 1, Sections 1, 2, and 4 of the California Constitution;

19 B. An order temporarily, preliminarily, and permanently enjoining and
20 prohibiting Defendants from enforcing the Orders;

21 C. For attorneys’ fees and costs;

22 D. Such other and further relief as the Court deems appropriate and just.

23
24 Date: April 13, 2020

DHILLON LAW GROUP INC.

25
26 By: /s/ Harmeet K. Dhillon

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Attorneys for Plaintiffs

VERIFICATION OF COMPLAINT

I, the undersigned, declare as follows:

1. I am a plaintiff in this matter.
2. I have read the foregoing complaint and know the contents thereof.
3. The same is true of my own knowledge, except as to those matters which

are therein state on information and belief, and, as to those matters, I believe it to be true.

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

Date: 4/13/2020

DocuSigned by:

A024BDD8DB0147C...

Wendy Gish

Date: 4/13/2020

DocuSigned by:

14CC0A02B3DB44E...

Patrick Scales

Date: 4/13/2020

DocuSigned by:

80DF07D3F1C5490...

James Dean Moffatt

Date: 4/13/2020

DocuSigned by:

CD23BCCA9F72418...

Brenda Wood