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19 UNITED STATES DISTRICT COURT
20 FOR THE EASTERN DISTRICT OF CALIFORNIA

22 CALVARY CHAPEL OF UKIAH, a
23 California Non-Profit Corporation;
24 CALVARY CHAPEL FORT BRAGG,
25 a California Non-Profit Corporation;
and RIVER OF LIFE CHURCH, a
California Non-Profit Corporation,

26 Plaintiffs,

27 vs.

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

**VERIFIED SECOND AMENDED
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

1 GAVIN NEWSOM, in his official
2 capacity as Governor of California;
3 TOMAS ARAGON, M.D., in his
4 official capacity as California Public
5 Health Officer; ANDREW COREN,
6 M.D., in his official capacity as Public
7 Health Officer, Mendocino County; and
8 ROBERT BERNSTEIN, M.D., in his
9 official capacity as Butte County Public
10 Health Officer,

11 Defendants.

12 INTRODUCTION

13 1. This Action presents facial and as applied challenges to Defendants
14 GAVIN NEWSOM, TOMAS ARAGON, M.D., ANDREW COREN, M.D., and
15 ROBERT BERNSTEIN M.D.'s (collectively, "Defendants") ban on singing and
16 chanting activities ("Worship Ban") in places of worship while permitting the same
17 activities in other similarly situated indoor uses, and outdoor uses, within the
18 counties where Plaintiffs are located.

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

23 PARTIES - PLAINTIFFS

24 3. Plaintiff CALVARY CHAPEL OF UKIAH ("Calvary Ukiah") is a
25 California non-profit corporation, organized exclusively for religious purposes.
26 Calvary Ukiah is a Christian Church located in Ukiah, Mendocino County,
27 California.
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1 of the State Public Health Officer and all statutes relating to public health, including
2 the Worship Ban.

3 10. Defendant ROBERT BERNSTEIN, M.D. (“Dr. Bernstein”) is the
4 Public Health Officer for Butte County, California. He is sued in his official capacity
5 only. He is responsible for enforcing the Worship Guidance and observing all orders
6 of the State Public Health Officer and all statutes relating to public health, including
7 the Worship Ban.

8 JURISDICTION AND VENUE

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

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

14 13. This Court has authority to grant the requested declaratory relief under
15 the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, implemented through
16 Rule 57 of the Federal Rules of Civil Procedure. This Court is also authorized to
17 grant injunctive relief and damages under 28 U.S.C. § 1343, pursuant to Rule 65 of
18 the Federal Rules of Civil Procedure, and reasonable attorney’s fees and costs under
19 42 U.S.C. § 1988.

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

1 **FACTUAL BACKGROUND**

2 **I. State And County Orders Regarding Worship Ban**

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

5 16. On or about March 19, 2020, Governor Newsom issued Executive
6 Order N-33-20 (“State Order”), which prohibited all in-person worship services in
7 California for an indefinite period until the threat of the pandemic had subsided as
8 determined exclusively by Governor Newsom. A true and correct copy of this
9 Executive Order is attached as Exhibit B.

10 17. In Early May 2020, Governor Newsom announced his Resilience
11 Roadmap which included four stages. Newsom announced that houses of worship
12 would not be allowed to gather until Stage Three of the Resilience Roadmap, which
13 was “months” away.

14 18. On or about May 25, 2020, Governor Newsom announced changes to
15 his Resilience Roadmap with respect to constitutionally protected activities. This
16 was accomplished by the California Department of Public Health (CDPH) issuing
17 initial guidance for places of worship to support a safe, clean environment for staff
18 and congregants.

19 19. On or about July 1, 2020, the CDPH updated its Worship Guidance to
20 include the Worship Ban. Specifically, the Worship Ban mandates that places of
21 worship “must therefore discontinue singing and chanting.”

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

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

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

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

12 23. On or about July 13, 2020, Governor Newsom issued yet another order
13 governing indoor operations. Under this order, worship services, protests, fitness
14 centers, offices for non-essential actors, personal care services, day camps, hotels,
15 shopping malls, childcare centers, schools, or music, television and film production
16 were permitted in counties not currently on the state’s monitoring list. However,
17 singing and chanting was only banned in places of worship and at protests. Such
18 activities were still permissible for all other indoor activities.

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

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

1 25. On July 13, 2020, the Mendocino County Department of Public Health
2 issued an order which incorporates the Worship Ban. A true and correct copy of this
3 order is attached as Exhibit D.

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

7 27. On or about August 28, 2020, California Department of Public Health
8 (CDPH) issued a Statewide Public Health Officer Order announcing an updated
9 framework, known as the Blueprint for a Safer Economy (“Blueprint”). The
10 Blueprint relies on a set of Four Tiers (or risk levels) which is “based on indicators
11 of disease burden including per capita and percent of positive COVID-19 tests and
12 proportion of testing and other covid-19 response efforts addressing the most
13 impacted populations within a county. For each progressive Tier, this framework
14 will permit a broader range of reopening guided by risk-based criteria for each Tier
15 as well as the sectors, business establishments or activities within the Tiers as
16 necessary.”

17 28. Under the Blueprint, “all local health jurisdictions in the state may
18 reopen specified sectors according to their respective county’s Tier . . . Conversely,
19 a local health jurisdiction must also close sectors according to their respective
20 county’s Tier consistent with the timeline and procedures set forth in California’s
21 Plan.”³

22 29. On December 3, 2020, the CDPH issued yet another order entitled the
23 Regional Stay at Home Order (“Regional Order”), which completely forbade indoor
24 religious gatherings but allowed critical infrastructure sectors to remain open.

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27 ³ *Id.*
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1 30. On January 25, 2021, the CDPH lifted the Regional Order, at which
2 time Mendocino County and Butte County were assigned to Tier One
3 (“Widespread”) of the Blueprint. 31.

4 31. On March 9, 2021, Butte County moved to Tier Two (“Substantial) of
5 the Blueprint.

6 32. On March 12, 2021, Mendocino County moved to Tier Two of the
7 Blueprint.

8 33. On March 30, 2021, Butte County moved to Tier Three (“Moderate”) and
9 remains in Tier Three.

10 34. On April 7, 2021, Mendocino County qualified for Tier Three and
11 remains in Tier Three.

12 35. On information and belief, at all relevant times, Mendocino County and
13 Butte County have followed the State’s guidance, including the Worship Ban.

14 **II. Singing And Chanting Not Banned In Secular Gatherings**

15 36. The singing and chanting ban discriminates against, and is primarily
16 applicable to, places of worship.

17 37 On or about July 1, 2020, at the time the Defendants announced the new
18 Worship Ban prohibiting singing and chanting in places of worship, all protests,
19 dine-in restaurants/bars/wineries, casinos, family entertainment centers, day camps,
20 hotels, shopping malls, childcare centers, schools, or music, television and film
21 production remained open and were not subject to the ban on singing or chanting.

22 38. Upon information and belief, several days later, on or after July 6,
23 2020—and following the State Defendants’ amendment to the Worship Ban on July
24 6, 2020 clarifying that the ban on singing and chanting applied to indoor services
25 held at places of worship—the State quietly updated the Q&A section of its COVID-
26 19 website under the question, “Can I engage in Political Protest Gatherings?” The
27 Q&A section now includes a statement that indoor protests are permitted “as long as
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1 . . . singing and chanting activities are discontinued.” A true and correct copy of a
2 screenshot from the Q&A section is attached as Exhibit E.

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

10 40. On July 15, 2020, at the time of the filing of the Complaint in this case,
11 all Plaintiffs were located in counties not on the state monitoring list and, therefore,
12 were in locations where indoor religious services were permitted. Nevertheless,
13 those services were limited by the indoor Worship Ban.

14 41. On or about July 25, 2020, Butte County was placed on the state’s
15 monitoring list,⁴ and places of worship in the county, together with several other
16 indoor establishments, were forced to cease indoor operations pursuant to Governor
17 Newsom’s order of July 13, 2020.

18 42. On July 24, 2020, after this lawsuit was filed, the Mendocino County
19 Department of Public Health issued a revised order electing to pre-emptively apply
20 and enforce the more severe indoor restrictions California established for counties
21 on the state monitoring list, notwithstanding the fact that Mendocino County had not
22 been placed on the state’s monitoring list. A true and correct copy of Mendocino
23 County’s web page describing the action taken on July 24, 2020 is attached as
24 Exhibit F.

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27 ⁴ As of the date of this filing, Butte County’s COVID-19 information may be found
28 online at the following URL <https://www.buttecounty.net/publichealth>

1 43. Mendocino County's self-imposed restrictions included a ban on the
2 indoor activities of gyms and fitness centers; places of worship and cultural
3 ceremonies, like weddings and funerals; offices for non-essential sectors; personal
4 care services, like nail salons, body waxing and tattoo parlors; hair salons and
5 barbershops; and indoor shopping malls.

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

8 45. On August 3, 2020, the Mendocino County Department of Public
9 Health issued a revised order which still incorporates the more severe indoor
10 restrictions, even though Mendocino County was still not on the state's monitoring
11 list. This order restricted outdoor worship, outdoor funerals or memorials, and
12 outdoor protests to a maximum of 100 persons. A true and correct copy of this order
13 is attached as Exhibit H.

14 46. Upon information and belief, at no time has a complete ban on singing
15 and chanting indoors been published in a formal guidance document except as it
16 relates to places of worship.

17 47. From July 1, 2020 and through February 21, 2021, all singing and
18 chanting by performers and/or congregants was prohibited at all indoor places of
19 worship irrespective of the Tier or risk level (i.e. widespread, substantial, moderate,
20 or minimal).

21 48. Since February 22, 2021 and to the present date, Californians are still
22 prohibited from singing and chanting as congregants at all indoor places of worship.

23 ***A. Political Protests***

24 49. Despite the ongoing and even increasing restrictions on the protected
25 First Amendment rights to freely assemble and engage in religious exercise as it
26 relates to places of worship, Governor Newsom remained unwavering in his support
27 of massive protests in California.
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1 50. On or about May 30, 2020, Governor Newsom tweeted that “millions
2 of people are lifting their voices in anger -- rightfully outraged at the systemic racism
3 that persists in America.” A true and correct copy of Newsom’s relevant tweets are
4 attached as Exhibit I.

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

11 52. On or about June 1, 2020, Governor Newsom stated the following
12 during a press conference: “For those of you out there protesting, I want you to know
13 that you matter. To those who want to express themselves... God bless you. Keep
14 doing it. Your rage is real.”⁵

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

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

22 55. On or about July 2, 2020, following implementation of the Worship
23 Ban, when asked to explain the extent to which social justice protestors should heed
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26 ⁵ Hannah Wiley, “*Your rage is real*,” *Gavin Newsom Tells California Protesters*
27 (Published 2:55 p.m. PST, July 1, 2020), [https://www.sacbee.com/news/politics-
28 government/capitol-alert/article243173056.html](https://www.sacbee.com/news/politics-government/capitol-alert/article243173056.html).

1 his mandate to avoid large crowds and gatherings, Governor Newsom explained “we
2 have a Constitution, we have a right to free speech,” and further stated that “we are
3 all dealing with a moment in our nation’s history that is profound and pronounced .
4 . . . Do what you think is best. . . .”⁶

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

12 ***B. Day Camps, Childcare Centers and Schools***

13 57. At no time since implementation of the Worship Ban has singing and
14 chanting been banned in day camps and childcare centers.

15 58. At no time since implementation of the Worship Ban has singing and
16 chanting been expressly prohibited in K-12 schools as it has for places of worship.
17 K-12 Schools Industry Guidance – from August 2020 to January 14, 2021 – simply
18 cautioned that “activities that involve singing must only take place outdoors.”

19 59. On January 14, 2021, K-12 Schools Industry Guidance was updated and
20 the language was further softened to read “Outdoor singing and band practice are
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23 ⁶ Eric Ting, *Gavin Newsom asked to reconcile support for protests with new warnings on*
24 *gatherings* (Published 1:50 p.m. PDT, July 2, 2020),
25 <https://www.sfgate.com/politics/article/Gavin-Newsom-protests-coronavirus-July-Fourth-ask-15383112.php>.

26 ⁷ Cheri Mossburg, *Recent protests have contributed to California’s coronavirus case*
27 *increase, state official says* (Published 4:48 p.m. ET, June 26, 2020),
28 https://edition.cnn.com/world/live-news/coronavirus-pandemic-06-26-20-intl/h_b3a9aa753b4c05ea71479065f58bf534.

1 permitted, provided that precautions such as physical distancing and mask wearing
2 are implemented to the maximum extent possible.”

3 **C. Restaurants and Wineries**

4 60. Beginning as early as November 24, 2020, “singing, shouting playing
5 a wind instrument, or engaging in similar activities” indoors by performers were
6 permitted at wineries and tasting rooms during moderate and minimal risk levels.
7 During this same time, singing and chanting – even by performers – was prohibited
8 in places of worship irrespective of the risk level. Unlike the most recent restrictions
9 placed on places of worship on February 22, 2021, pursuant to this guidance, there
10 was and is no limit on the number of performers beginning in November 2020 and
11 up to the date this Second Amended Complaint was prepared.

12 61. According to the November 24, 2020 restaurant guidance, beginning as
13 early as November 24, 2020, singing, chanting and other “live performances” by
14 performers were permitted indoors at all restaurants if the risk level was below
15 widespread. During this same time, singing and chanting – even by performers –
16 was prohibited in places of worship. Other than the overall capacity limits for
17 restaurants, there is no limit on the number of performers in restaurants.

18 **D. Music, Television and Film Production**

19 62. There is no formal State guidance for music, film and TV production
20 (except for “back-office staff and management”) and the industry is permitted to
21 operate “subject to approval by county public health officers. To reduce the risk of
22 COVID-19 transmission, productions, cast, crew and other industry workers must
23 abide by safety protocols agreed by labor and management, which may be further
24 enhanced by county public health officers.”⁸

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27 ⁸ [Search - Coronavirus COVID-19 Response \(ca.gov\)](#)
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1 63. Indeed, while until very recently places of worship remained under a
2 complete ban on singing and chanting at any and all indoor services, as early as
3 October 2020, the entertainment industry, with California’s blessing, was filming in-
4 person singing competitions across the State. During these indoor singing
5 competitions, cast and crew members were permitted to sing and chant and they did
6 so without wearing masks. *See* When was American Idol 2021 filmed?
7 (thesun.co.uk)

8 **III. Updated Worship Ban**

9 64. On February 5, 2021, the Supreme Court issued a decision in *South Bay*
10 *United Pentecostal Church v. Newsom*, No. 20A136 (20–746) (U.S. Feb. 5, 2021).
11 The court held that “Respondents are enjoined from enforcing the Blueprint’s Tier
12 1 prohibition on indoor worship services. . . . [R]espondents are not enjoined from
13 imposing a 25% capacity limitation on indoor worship services in Tier One. The
14 application is denied with respect to the prohibition on singing and chanting during
15 indoor services. This order is without prejudice to the applicants presenting new
16 evidence to the District Court that the State is not applying the percentage capacity
17 limitations or the prohibition on singing and chanting in a generally applicable
18 manner.”

19 65. It was unclear to the Supreme Court whether California had banned all
20 indoor singing or chanting in TV or film productions. A majority of the Justices in
21 *South Bay*—Thomas, Alito, Gorsuch, Kavanaugh, and Barrett—emphasized that the
22 worship ban would be subject to strict scrutiny, and likely unconstitutional, if in fact
23 California permits indoor singing or chanting in film or TV productions.

24 66. In the present case, it is quite clear that the entertainment industry has
25 not been and is not subject to a singing or chanting ban, and that it is permitted to
26 develop its own standards and “self-regulate” COVID-19 protocols.

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1 67. As Justices Thomas and Gorsuch, joined by Justice Alito, accurately
2 noted in *South Bay Pentecostal Church*, “[i]t seems California’s powerful
3 entertainment industry has won an exemption” since “the record suggests that music,
4 film, and television studios are permitted to sing indoors. . . [N]othing in today’s
5 order precludes future relief on this claim.” (Statement of Gorsuch, J).

6 68. Indeed, as Justices Thomas and Gorsuch, joined by Justice Alito also
7 noted, Defendants have been “playing favorites during a pandemic, expending
8 considerable effort to protect lucrative industries (casinos in Nevada; movie studios
9 in California) while denying similar largesse to its faithful. . . . [I]f Hollywood may
10 host a studio audience or film a singing competition while not a single soul may
11 enter California’s churches, synagogues, and mosques, something has gone
12 seriously awry.” (Statement of Gorsuch, J).

13 69 On or about February 22, 2021, and only following the Supreme
14 Court’s decision in *South Bay Pentecostal Church*, California was forced to update
15 its guidance for places of worship, a true and correct copy which is attached hereto
16 as Exhibit K. Pursuant to the update, however, congregants are still banned from
17 singing and chanting; “performers” are permitted to sing, chant, play a wind
18 instrument or engage in similar activities indoors with restrictions and dependent
19 upon the risk level.

20 70. Pursuant to the updated Worship Ban, “performers” are defined as
21 “workers or volunteers who are providing vocal, instrumental, or other music for a
22 service or ceremony but sit or stand separately from the visitors or congregants.”

23 71. Pursuant to the updated Worship Ban, “performers singing, chanting,
24 playing a wind instrument, or engaging in similar activities indoors must wear face
25 coverings at all times,” regardless of the threat level (i.e. widespread, substantial,
26 moderate and minimal).

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1 72. Pursuant to the updated Worship Ban, and unlike at restaurants and
2 wineries, performers in places of worship are limited in number depending upon the
3 risk level.

4 73. Pursuant to the updated Worship Ban, Defendants continue to enforce
5 a discriminatory regulation whereby a chorister can sing unmasked in a Hollywood
6 studio, but cannot sing unmasked in a church.

7 74. Pursuant to the updated Worship Ban, Defendants continue to enforce
8 a discriminatory policy whereby a chorister can sing in a Hollywood studio, but that
9 same chorister is prohibited from singing in church as a congregant.

10 75. The music, film and TV industry are still permitted to negotiate
11 COVID-19 regulations and to work with county public health officers to resume
12 activities while places of worship are subject to specific regulations and prohibitions.

13 76. Defendants have not and cannot clearly demonstrate that “nothing short
14 of the measures it has taken will reduce the community spread of COVID-19 at
15 indoor religious gatherings to the same extent as do the restrictions the State enforces
16 with respect to other activities it classifies as essential.” (Statement of Alito, J.)

17 77. The CDC has explained that since COVID-19 spreads mainly between
18 people who are in close contact with one another, wearing masks, physical
19 distancing, limiting attendance, and good ventilation are highly effective means of
20 limiting the spread of COVID-19 at indoor events.

21 78. The CDC does not recommend that singing and chanting be eliminated
22 at indoor worship services, or otherwise suggest that a ban on all singing and
23 chanting at such services is necessary or advisable.

24 79. Medical and scientific studies and articles, including those that
25 Defendants have relied upon as a justification for their ban on congregational singing
26 and chanting, illustrate that safety measures such as wearing masks, physical
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1 distancing, and attendance limitations are highly effective at preventing the spread
2 of COVID-19.

3 80. California is the only state that has forbidden congregants from singing
4 and chanting during indoor worship services, which further illustrates that
5 Defendants' ban is neither necessary nor narrowly tailored.

6 81. Defendants have discriminated against houses of worship by imposing
7 more stringent standards upon them; Defendants have permitted numerous secular
8 activities that pose an equal or greater risk of spreading COVID-19 as a worship
9 service that includes some congregational singing or chanting, while holding houses
10 of worship to an impossible "eliminate all risk" standard.

11 **IV. The Religious Beliefs and Practices of Calvary Ukiah, Calvary Fort**
12 **Bragg, and River of Life**

13 82. Plaintiffs are evangelical Christian churches committed to the teachings
14 of the Bible.

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

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

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

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

11 87. According to their sincerely held religious beliefs, Calvary Ukiah holds
12 weekly worship services, which include singing and chanting, every Sunday at 10:00
13 A.M. at its sanctuary.

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

17 89. According to their sincerely held religious beliefs, River of Life holds
18 weekly worship services, which include singing and chanting, every Sunday at 10:00
19 A.M.

20 90. To prohibit group singing and chanting is to effectively prohibit
21 corporate Christian worship, which substantially and unduly burdens Plaintiffs’
22 religious speech and exercise.

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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. Aragon; By Calvary Ukiah and Calvary Fort Bragg against Dr. Coren; By River of Life against Dr. Bernstein)

91. Plaintiffs incorporate by reference the allegations in paragraphs 1 through 90, as if fully set forth herein.

92. 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.

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

94. The Worship Ban⁹, 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.

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

⁹ For all causes of action and the prayer for relief, the Worship Ban, refers to the ban and restrictions on singing and chanting first implemented in the Worship Guidance issued on July 1, 2020, as well as all updated versions of the Worship Ban implemented at later dates and referred to throughout this Second Verified Amended Complaint.

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

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

9 98 The Worship Ban, on its face and as applied, puts substantial pressure
10 on Plaintiffs to violate their sincerely held religious beliefs by ignoring the
11 fundamental teachings and tenets of their religious texts, including those tenets
12 requiring singing and chanting.

13 99. The Worship Ban, on its face and as applied, is neither neutral nor
14 generally applicable, but rather specifically and discriminatorily targets places of
15 worship.

16 100. The Worship Ban, on its face and as applied, imposes a substantial
17 burden on Plaintiffs sincerely held religious beliefs as they are prevented from
18 practicing the teachings of their religious texts.

19 101. Defendants lack a compelling, legitimate, and rational interest in
20 banning singing and chanting only in places of worship while allowing the same at
21 similar secular gatherings and secular businesses.

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

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1 103. The Worship Ban fails to accommodate Plaintiffs sincerely held
2 religious beliefs. Instead, the Worship Ban intentionally aims to frustrate Plaintiffs'
3 practices.

4 104. The Worship Ban specifically targets Plaintiffs sincerely held religious
5 beliefs, and the Worship Ban sets up a system of individualized exemptions that
6 permit other similarly situated businesses or gatherings to sing and chant while
7 prohibiting places of worship from singing and chanting in the counties where
8 Plaintiffs are located.

9 105. The Worship Ban, on its face and as applied, constitutes a religious
10 gerrymander. *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 534,
11 (1993).

12 106 The Worship Ban, on its face and as applied, has caused, is causing,
13 and will continue to cause Plaintiffs immediate and irreparable harm, and actual and
14 undue hardship.

15 107. Plaintiffs have no adequate remedy at law to correct the continuing
16 deprivation of their constitutional rights.

17 108. WHEREFORE, Plaintiffs respectfully pray for the relief against
18 Defendants as set forth in the prayer for relief.

19 **SECOND CAUSE OF ACTION**

20 **THE WORSHIP BAN VIOLATES THE ESTABLISHMENT CLAUSE OF**

21 **THE FIRST AMENDMENT OF THE U.S. CONSTITUTION**

22 **(By all Plaintiffs against Newsom & Dr. Aragon; By Calvary Ukiah and**

23 **Calvary Fort Bragg against Dr. Coren; By River of Life against Dr.**

24 **Bernstein)**

25 109. Plaintiffs incorporate by reference the allegations in paragraphs 1
26 through 90 above, as if fully set forth herein.

1 110. The Worship Ban, and Defendants’ enforcement of it, violates the First
2 Amendment, both facially and as applied to Plaintiffs.

3 111. The Establishment Clause of the “First Amendment mandates
4 governmental neutrality between religion and religion, and between religion and
5 nonreligion.” *McCreary Cty. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860
6 (2005) (citing *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968)). The Establishment
7 Clause applies to the states through the Due Process Clause of the Fourteenth
8 Amendment. *Everson v. Board of Ed. of Ewing*, 330 U.S. 1 (1947).

9 112. The Worship Ban advances no secular purpose, especially where
10 Center for Disease Control and Prevention and California guidelines for social
11 distancing are being followed.

12 113. Defendants have made numerous exceptions to the Worship Ban,
13 permitting similarly situated secular activities and allowing other secular businesses
14 and gatherings to engage in singing and chanting.

15 114. The Worship Ban has the primary effect of inhibiting religious activity.

16 115. Defendants have failed to avoid excessive government entanglement
17 with religion. Defendants permit only some forms of religious observance, such as
18 silent prayer and at-home religious activities.

19 116. There is no historical precedent in the United States for inhibiting
20 religious practices on terms more restrictive than those imposed on identical secular
21 activities, as Defendants do now.

22 117. The Worship Ban is impermissibly hostile toward religion.

23 118. The Worship Ban invades Plaintiffs’ constitutional right to autonomy
24 and against unlawful governmental invasion or direction of religious practices.

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

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

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

5 **THIRD CAUSE OF ACTION**

6 **THE WORSHIP BAN VIOLATES PLAINTIFFS' RIGHT TO FREEDOM**
7 **OF SPEECH UNDER THE FIRST AMENDMENT TO THE U.S.**
8 **CONSTITUTION**

9 **(By all Plaintiffs against Newsom & Dr. Aragon; By Calvary Ukiah and**
10 **Calvary Fort Bragg against Dr. Coren; By River of Life against Dr.**
11 **Bernstein)**

12 122. Plaintiffs incorporate by reference the allegations in paragraphs 1
13 through 90 above, as if fully set forth herein.

14 123. The Worship Ban, and Defendants' enforcement of it, violates the right
15 to Freedom of Speech under the First Amendment, both facially and as applied to
16 Plaintiffs.

17 124. Plaintiffs engage in protected speech at their respective places of
18 worship through singing religious songs and hymns and chanting prayers and
19 religious text.

20 125. Defendants' imposition of the Worship Ban is unreasonable and has a
21 chilling effect on protected speech by banning singing and chanting in places of
22 worship even where Center for Disease Control and Prevention and California
23 guidelines for social distancing are being followed, under threat of criminal penalty,
24 including fines and imprisonment.

25 126. There is no need, or scientifically defensible basis, for the Worship Ban
26 in light of the numerous less restrictive ways that the spread of COVID-19 can be
27 mitigated, as evidenced by the lack of any analogous ban in any other state.
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1 127. The Worship Ban is unconstitutionally overbroad, and therefore void
2 as a matter of law, both on its face and as applied.

3 128. The Worship Ban, on its face and as applied, singles out religious
4 worship and other religious speech for disfavored treatment.

5 129. The Worship Ban, on its face and as applied, has caused, is causing,
6 and will continue to cause Plaintiffs' immediate and irreparable harm, and actual and
7 undue hardship.

8 130. Plaintiffs have no adequate remedy at law to correct the continuing
9 deprivation of their constitutional rights.

10 131. WHEREFORE, Plaintiffs respectfully pray for the relief against
11 Defendants as set forth in the prayer for relief.

12 **FOURTH CAUSE OF ACTION**

13 **THE WORSHIP BAN VIOLATES PLAINTIFFS' RIGHT TO EQUAL**
14 **PROTECTION UNDER THE FOURTEENTH AMENDMENT TO THE U.S.**
15 **CONSTITUTION**

16 **(By all Plaintiffs against Newsom & Dr. Aragon; By Calvary Ukiah and**
17 **Calvary Fort Bragg against Dr. Coren; By River of Life against Dr.**
18 **Bernstein)**

19 132. Plaintiffs incorporate by reference the allegations in paragraphs 1
20 through 90 above, as if fully set forth herein.

21 133. The Worship Ban, and Defendants' enforcement of it, violates the
22 Fourteenth Amendment, both facially and as applied to Plaintiffs.

23 134. The Fourteenth Amendment to the Constitution provides that "[n]o
24 State shall . . . deny to any person within its jurisdiction the equal protection of the
25 laws." Equal protection requires the state to govern impartially, not draw arbitrary
26 distinctions between individuals based solely on differences that are irrelevant to a
27 legitimate governmental interest.

1 135. The Worship Ban intentionally and arbitrarily bans singing and
2 chanting in places of worship. Singing and chanting is not, however, restricted in the
3 same manner at similarly situated indoor establishments in the counties where
4 Plaintiffs are located.

5 136. Defendants have given preferential treatment for favored singing and
6 chanting at protests, while banning disfavored singing and chanting at worship
7 services.

8 137. Strict scrutiny under the Equal Protection Clause applies where, as here,
9 the classification impinges on a fundamental right, including the right to practice
10 religion freely and the right to free speech.

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

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

21 140. Plaintiffs have no adequate remedy at law to correct the continuing
22 deprivation of their constitutional rights.

23 141. WHEREFORE, Plaintiffs respectfully pray for the relief against
24 Defendants as set forth in the prayer for relief.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiffs pray for relief as follows:
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AMERICAN CENTER FOR LAW &
JUSTICE

Dated: April 22, 2021

/s/ Abigail Southerland, Esq.
Abigail Southerland

Edward L. White III (adm. phv)
Erik M. Zimmerman (adm. phv)



NATIONAL CENTER FOR LAW &
POLICY

Dated: April 22, 2021

/s/ Dean R. Broyles, Esq.
Dean R. Broyles

Attorneys for Plaintiffs

VERIFICATION

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, 82-86, and 90 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 April 14, 2021, at Ukiah, California.

s/ Pastor Les Boek

Pastor Les Boek
Calvary Chapel Ukiah
**Original signature retained by Robert
Tyler, Esq.*

VERIFICATION

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, 82-86, 88, and 90 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 April 13, 2021, at Fort Bragg, California.

s/ Kevin Green

Kevin Green
Calvary Chapel Fort Bragg
**Original signature retained by Robert
Tyler, Esq.*

VERIFICATION

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, 82-86, and 89-90 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 April 13, 2021, at Oroville, California.

s/ Scott Thomson
Scott Thomson
River of Life Church
**Original signature retained by Robert
Tyler, Esq.*