

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**KAY STALEY; SCOTT WEITZENHOFFER;
WILFRED LYON; STACIE GONZALEZ;
KRISTIN AMES; and FREEDOM FROM RELIGION
FOUNDATION, INC.,**

Plaintiffs,

v.

Case No: 4: 11-CV-02585

TEXAS GOVERNOR RICK PERRY,

Defendant.

DECLARATION OF ANNIE LAURIE GAYLOR

I, Annie Laurie Gaylor, do hereby declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury, that the following facts set forth below are true and correct to the best of my knowledge:

1. I am a co-president of the Freedom From Religion Foundation, Inc. ("FFRF"). I make this Declaration in support of the plaintiffs' Motion for a Preliminary Injunction.

2. The Freedom From Religion Foundation is a non-profit membership organization that advocates for the separation of state and church and educates on matters of non-theism.

FFRF is the nation's largest membership association of freethinkers (atheists, agnostics, etc.).

3. FFRF has approximately 16,667 members, including members in every state of the United States, and more than 700 members in Texas, who are opposed to governmental establishment and endorsement of religion in violation of the Establishment Clause of the First Amendment to the United States Constitution. Most of FFRF's members are atheists, agnostics or non-believers.

4. FFRF's purposes are to promote the fundamental constitutional principle of separation of state and church to educate on matters relating to non-theism.

5. FFRF supports the private freedom of religion guaranteed to all citizens, but FFRF is opposed to sponsorship and promotion of religion by government officials, which is prohibited by the Establishment Clause of the First Amendment.

6. FFRF is a non-profit organization that competes ideologically with churches and religious organizations, such as the American Family Association, an organization that advocates and promotes an evangelical Christian agenda that is hostile to non-believers, non-Christians, and other protected groups, including gays and lesbians.

7. The individual plaintiffs in this case are members of FFRF residing in the metropolitan area of Houston, Texas.

8. FFRF has received multiple complaints by Texas citizens, including FFRF members, about the prayer rally sponsored by Governor Perry with the American Family Association.

9. The complaints received by FFRF include objections by members to unsolicited recorded calls promoting prayer and the prayer rally by Governor Perry. We have also received complaints about videotaped messages and interviews by Governor Perry in which the Governor urges Texas citizens to pray to Jesus and to attend the Christian-based prayer rally that he has organized for August 6, 2011, at Reliant Stadium in Houston.

10. I also have personally seen and heard video and audio invitations by the Governor to attend the Christian-themed prayer rally that he is hosting with the American Family Association.

11. Governor Perry, in fact, has released a video invitation to the prayer rally in which he encourages people to pray and fast "like Jesus did" for the nation's problems, to ask for

forgiveness, and "to make plans to be part of something even bigger than Texas." The full transcript of the invitation is as follows:

This is Governor Rick Perry and I'm inviting you to join your fellow Americans for a day of prayer and fasting on behalf of our nation. As an elected leader, I am all too aware of government's limitations when it comes to fixing things that are spiritual in nature. That's where prayer comes in, and we need it more than ever. With the economy in trouble, communities in crisis and people adrift in a sea of moral relativism, we need God's help. That's why I'm calling on Americans to pray and fast like Jesus did and as God called the Israelite to do in the Book of Joel, I sincerely hope you will join me in Houston on August the sixth and take your place in Reliant Stadium with praying people asking God's forgiveness, his wisdom and provision for our state and nation. To learn more, visit TheResponseUSA.com then make plans to be part of something even bigger than Texas. (See Ex. 1.)

12. Governor Perry also participated in a radio broadcast on American Family Association radio, on July 14, 2011. (See Ex. 2, constituting a transcript of the AFA Radio Show). During the interview, Governor Perry acknowledged the Christian emphasis of the August 6th prayer rally:

I can't wait till the sixth of August rolls around and we fill up Reliant Stadium with people who are Christ-loving and realize that, you know, our country's gotten off track. And just like back in the days of old, God is the same God we had from the days of Israel. And in the Book of Joel it said to blow the trumpet and to assemble the people and to go into a day of fasting and prayer to ask for God's direction relative to uh, our, um, our direction. And that's exactly what we're doing. (Ex. 2 at 1.)

13. Governor Perry further described the lofty goals of scheduled prayer rally as follows:

Well, obviously I hope there are literally hundreds of thousands if not millions of people across this country that will that day go into a spiritual, truthful fasting and praying mode, lifting up this country. And you know, just ask for God's will to be done. I mean, that's simply what we're asking people to do, nothing more, nothing less. (Ex. 2 at 3.)

14. Governor Perry also described the objective of the prayer rally as getting together to pray for God's help and guidance, and "that's the reason that we've brought together these Christian leaders of all races, all ages, all Christian denominations." (Ex. 2 at 2.) The Governor then provided details of the scheduled prayer rally, noting that "the service actually will begin at 10 o'clock and I believe run to five." (Ex. 2 at 3.)

15. Governor Perry also described the prayer rally scheduled for August 6th to a group of business leaders in the following terms:

On Aug. 6th of this year, 2011, we are going to have a day of prayer and fasting. And it's going to be the real deal. It's not going to be some program where we line up a dozen political figures to come in and talk. It's going to be people standing on that stage, projecting and proclaiming Jesus Christ our Lord and Savior at Reliant Stadium in Houston. (Ex. 3 at 2.)

16. Governor Perry's association with the American Family Association in promoting and hosting the prayer rally at Reliant Stadium gives significant prestige and credibility to the American Family Association in the process.

17. The Governor's preferential relationship with the American Family Association, by contrast, is disadvantageous to FFRF, which cannot trade on the prestige and visibility of the highest elected official in the State of Texas.

18. The Governor's alignment with the American Family Association is based on the Association's religious agenda. By choosing American Family Association to co-host the Governor's prayer rally, the Governor has preferentially favored this Christian evangelical association, to the disadvantage of other competing groups like FFRF, on the basis of religion.

19. The stated mission of the American Family Association, according to its website, is "to inform, equip, and activate individuals to strengthen the moral foundations of American culture, and give aid to the church here and abroad in its task of fulfilling the Great Commission." (Ex. 4.)

20. The American Family Association "believes that God has communicated absolute truth to mankind, and that all people are subject to the authority of God's Word at all times. AFA believes that a culture based on biblical truth best serves the well-being of the nation and its families, in accordance with the alleged vision of the Nation's founding documents; and that personal transformation through the Gospel of Jesus Christ is the greatest agent of biblical change in any culture."

21. The American Family Association describes its agenda to include:

- (1) restrain evil by exposing the works of darkness;
- (2) promote virtue by upholding in culture that which is right, true and good according to Scripture;
- (3) convince individuals of sin and challenge them to seek Christ's grace and forgiveness;
- (4) motivate people to take a stand on cultural and moral issues at the local, state and national levels; and
- (5) encourage Christians to bear witness to the love of Jesus Christ as they live their lives before the world.

22. AFA spurs activism directed to:

- Preservation of Marriage and the Family
- Decency and Morality
- Sanctity of Human Life
- Stewardship
- Media Integrity (Ex. 4.)

23. AFA's stated goal is to be a champion of Christian activism: "If you are alarmed by the increasing ungodliness and depravity assaulting our nation, tired of cursing the darkness, and ready to light a bonfire, please join us. Do it for your children and grandchildren."

24. The joint action between Governor Perry and the American Family Association in organizing, promoting and conducting the prayer rally indicates a government preference for and endorsement of the religious dogma of the American Family Association.

25. The American Family Association espouses a very conservative evangelical Christian perspective and it has been outspokenly hostile and disdainful of non-Christian believers, non-believers, atheists, and other protected groups, including gays and lesbians.

26. The prayer rally initiated by Governor Perry for August 6, 2011, was preceded by an official proclamation from the Governor declaring August 6, 2011, to be an Official Day of Prayer and Fasting for Our Nation. (See Ex. 5.)

27. Governor Perry's Official Proclamation includes the following exhortation to participate in the religious practice of prayer, particularly Christian prayer:

In times of trouble, even those who have been granted power by the people, must turn to God in humility for wisdom, mercy and direction. In the spirit of the Book of Joel, Chapter 2, Verses 15-16, I urge a solemn gathering of prayer and fasting. As those verses admonish: "15 Blow the trumpet in Zion, declare a holy fast, call a sacred assembly . . . 16 Gather the people, consecrate the assembly . . ." As Jesus prayed publicly for the benefit of others in John 11:41-42, so should we express our faith in this way.

THEREFORE, I invite my fellow Texans to join me on August 6 at Reliant Stadium in Houston as we pray for unity and righteousness -- for this great State, this great nation and all mankind. I urge all Americans of faith to pray on that day for the healing of our country, the rebuilding of our communities and the restoration of enduring values as our guiding force.

28. Governor Perry concluded his Proclamation by declaring August 6, 2011, to be "a Day of Prayer and Fasting for Our Nation," and he "urged the appropriate recognition" of the Day of Prayer and Fasting by the citizens of Texas.

29. Governor Perry affixed his official signature to the Proclamation, dated May 23, 2011, "in official recognition whereof."

30. Governor Perry since has publicly and extensively promoted the prayer rally, including in public letters addressed to all Texans, as well as "Fellow Americans." (Ex. 6.)

31. In a public letter included on "TheResponseUSA.com" website, bearing the State of Texas Official Seal, Governor Perry urges individuals to join "with praying people" on August 6 at Reliant Stadium. The Governor's open letter includes the following statements:

Some problems are beyond our power to solve, and according to the Book of Joel, Chapter 2, this historic hour demands a historic response. Therefore, on August 6, thousands will gather to pray for a historic breakthrough for our country and a renewed sense of moral purpose.

I sincerely hope you'll join me in Houston on August 6 and take your place in Reliant Stadium with praying people asking God's forgiveness, wisdom and provision for our state and nation. There is hope for America. It lies in Heaven, and we will find it on our knees.

32. The letter by Governor Perry further states that "as a nation, we must come together and call upon Jesus to guide us through unprecedented struggles, and thank Him for the blessings of freedom we so richly enjoy." (See Ex. 6.)

33. The prayer rally that Governor Perry has initiated for August 6, 2011, at Reliant Stadium, is described on the Governor's website, and linked to the website set up by the American Family Association, which is collaborating with Governor Perry on the prayer rally; the official website for the prayer rally is located at "TheResponseUSA.com."

34. The official website for the rally identifies the event as "The Response: a call to prayer for a nation in crisis." (See Ex. 7, which are true and correct copies of pages from "The Response" website.)

35. The website for The Response includes Governor Perry's open letter exhorting participation in the prayer rally by Christian believers.

36. Governor Perry is identified as the "Initiator of The Response" on the website for the event.

37. The website for The Response further describes the event as historic, and states that "as a nation, we must come together, and call upon Jesus to guide us through unprecedented struggles and thank Him for the blessings of freedom we so richly enjoy according to His grace, mercy and kindness towards us."

38. The website for The Response, linked from the Governor's website, further exhorts citizens to turn to Jesus of the Bible, as the recognized solution to the problems confronting Texas and the nation. The Response website states as follows:

Our hope is found in the One who might turn towards our nation in its time of great need -- if we, as a nation would turn to Him in repentance, prayer and fasting. The call of God to His people in times of great trouble is to gather together and call on Him with one voice, one heart, and a unified desire to see great blessing and great glory come to our nation again. The power of unified prayer from a humble gathering of the saints is found in the hope that He might answer us, and turn the tide of trouble and threats that stand against us.

39. The website for The Response, linked from the Governor's website, further describes the event as an historic and unified breakthrough in requesting the earthly intervention of the person of Christ:

On August 6 thousands will gather at Reliant Stadium in Houston, Texas, to pray for a historic breakthrough for our country and a renewed sense of moral purpose. We want the presence, power, and person of Christ to fill our nation and turn the hearts of millions to righteousness, peace and joy in Him. We want the blessing and favor of a Holy God who loves righteousness and wants to see righteousness exalt a nation in our generation. We want to see real change across our nation that only our God can perform. Will you join us in Houston? Will you pray, fast and believe with us for a mighty move of God in our nation again? There is hope for America. It lies in Heaven, and we will find it on our knees.

40. The website for The Response, linked from the Governor's website, further attempts to explain why a solemn assembly of prayer and fasting is being organized, including so that citizens might "gather together, repent of their sins, and pray to God to intervene on their Declaration of Annie Laurie Gaylor

behalf," as directed in the Bible, Joel Chapter 2. The website also states that in gathering together, God wants the people instructed so that they know why their nation is in peril:

God wanted the people -- from the children and nursing babes to the leaders and priests (Joel 2:16) -- to all completely understand both the nature of the crisis at hand and the only solution that would deliver them from their great crisis: God Himself. God ordained in that hour of history that prayer would serve as the only way of escape from the mounting trouble. Why? Because only God has the power to solve both the internal moral decline and the external economic and military threats. All three were unsolvable by human means and human solutions -- but God had a solution that could be found in His great mercy.

41. The Response website concludes with the hope that the Governor's prayer rally will provide divine guidance to the nation: "Who knows what can happen in our generation when we gather together to worship Jesus, fast and pray, and believe for great change in our nation?"

42. The website for The Response recites "What the Response Believes," in blatantly Christian terms, including:

1. We believe the Bible to be the inspired, the only infallible, authoritative word of God.
2. We believe that there is one God, eternally existent in three persons: Father, Son and Holy Spirit.
3. We believe in the deity of Lord Jesus Christ, in His virgin birth, in His sinless life, in His miracles, in His vicarious and atoning death through His shed blood, in His bodily resurrection, in His ascension to the right hand of the Father, and in His personal return in power and glory.
4. We believe that for the salvation of lost and sinful people, regeneration by the Holy Spirit is absolutely essential.
5. We believe in the present ministry of the Holy Spirit by whose indwelling the Christian is enabled to live a Godly life.
6. We believe in the resurrection of both the saved and the lost; they that are saved unto the resurrection of life and that they are lost unto the resurrection of damnation.

7. We believe in the spiritual unity of believers in our Lord Jesus Christ.
43. The website for The Response also includes a videotaped invitation from Governor Perry to join him on August 6 at Reliant Stadium, with other "praying people," turning to Jesus and asking for God's forgiveness.
44. Governor Perry's videotaped and written invitation on The Response website include indicia of the Governor's official status, including the Official Seal of the State of Texas.
45. The prayer rally organized by Governor Perry, according to its spokesman, Eric Bearn, Governor Perry's former Communications Director, is intended to convey "the love, grace and warmth of Jesus Christ in that assembly hall, in that arena. And that's what we want to convey, that there's acceptance and that there's love and that there's hope if people will seek out the living Christ."
46. Governor Perry's actions reflect endorsement of religion by the Governor and send an intended message that religion is preferred over non-religion.
47. Governor Perry's actions also send a message that believers in religion are political insiders -- and non-believers are political outsiders.
48. Governor Perry has initiated, sponsored and promoted an event that is exclusionary of persons of non-belief in God, including the individual plaintiffs.
49. The prayer rally organized and promoted by Governor Perry is discriminatory in its intended exclusion of non-believers and non-Christians.
50. The August 6 prayer rally sponsored by Governor Perry, in fact, reveals that persons and organizations of religious faith really are insiders, and that such insiders do selectively receive the advantages and preferences of government endorsement.

51. The American Family Association, in particular, has received the favor of Governor Perry, including by receiving exclusive rights to openly collaborate with the Governor by co-hosting his prayer rally.

52. Governor Perry has singled out the American Family Association to benefit in its missionary efforts from the prestige and endorsement of the Governor.

53. Governor Perry, in exchange for the preferences extended to the American Family Association, is receiving the benefit of goods and services from the American Family Association, which is paying the costs associated with the prayer rally at Reliant Stadium.

54. Governor Perry is using his Office as Governor of Texas to receive for his benefit the financial underwriting of the American Family Association.

55. Governor Perry, by his preferential endorsement of the American Family Association, conveys a message of support, using his status as Governor for the endorsement of religion.

56. Governor Perry's preferential treatment of the American Family Association discriminates against the plaintiff FFRF, which competes with the American Family Association through its advocacy and education regarding matters of non-theism.

57. FFRF has been refused by several major billboard companies, based on FFRF's proposed content, the opportunity to even purchase advertising space near Reliant Stadium prior to the August 6 prayer rally in order to avoid competition with the American Family Association/Governor Perry rally.

58. Governor Perry, by preferentially associating with the American Family Association, in promoting and hosting the August 6 prayer rally, is discriminating against organizations such as FFRF, and in favor of groups like the American Family Association, on the defining basis of religious belief.

59. The preferences given to the American Family Association, including exclusive rights to host the August 6 prayer rally with the public endorsement of the Governor, constitute favors derived from insider status that are based upon religious identification.

60. The exclusive prayer rally by Governor Perry has been widely covered by the media and it is recognized as an extraordinary promotion of religion by a government official; the prayer rally also has become highly divisive. (See Ex. D, attached to Complaint.)

61. The Houston Clergy Council, in fact, has issued a statement condemning Governor Perry's proclamation of prayer and fasting, noting the American Family Association's anti-gay and anti-Muslim record, and saying, "We ask that Rick Perry leave the ministry to us and refocus his energy on the work of governing our state." (See Ex. 8.)

62. Governor Perry's endorsement and promotion of a particularly fundamentalist Protestant version of Christian beliefs, as espoused by the American Family Association, diminishes the political status of non-believers.

63. Governor Perry's discriminatory and preferential relationship with the American Family Association, on the basis of its religious identification, adversely affects the interests of FFRF.

64. The Governor's actions give official state support to the endorsement of religion by government, acting in the public realm.

65. Governor Perry's preference for religion, and more particularly for the religious message of the American Family Association, adversely affects the ability of FFRF to carry out its purposes, including because such proclamations and designations of public days of prayer give formal and institutional recognition to the establishment of religion by the government.

66. The preferential advantages provided by Governor Perry to the American Family Association are not available to FFRF, which is thereby at a disadvantage compared to organizations receiving such preferential endorsement.

Dated this 25th day of July, 2011.

/s/ Annie Laurie Gaylor
Annie Laurie Gaylor

CERTIFICATE OF SERVICE

I hereby certify that on July 25, 2011, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification electronically to all attorneys of record.

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