

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</p> <p>1437 Bannock Street Denver, CO 80202</p> <hr/> <p>Plaintiffs:</p> <p>FREEDOM FROM RELIGION FOUNDATION, INC., MIKE SMITH, DAVID HABECKER, TIMOTHY G. BAILEY and JEFF BAYSINGER</p> <p>v.</p> <p>Defendants:</p> <p>BILL RITTER, JR., in his official capacity as Governor of the State of Colorado, and THE STATE OF COLORADO.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>JOHN W. SUTHERS, Attorney General DANIEL D. DOMENICO, Solicitor General* #32038 GEOFFREY N. BLUE, Deputy Attorney General* #32684 MAURICE KNAIZER, Deputy Attorney General* #5264 MATTHEW D. GROVE, Assistant Attorney General* #34269 1525 Sherman Street, 7th Floor Denver, CO 80203 Phone: (303) 866-5380 Fax: (303) 866-5671 Email: dianne.eret@state.co.us *Counsel of Record</p>	<p>Case No.: 08 CV 9799</p> <p style="text-align: center;">Courtroom 19</p>
<p>DEFENDANTS' MOTION FOR SUMMARY JUDGMENT</p>	

Pursuant to C.R.C.P. 56, Defendants Governor Bill Ritter, Jr., in his official capacity as the Governor of the State of Colorado, and the State of Colorado, by and through undersigned

counsel, respectfully submit this Motion for Summary Judgment on all claims asserted by Plaintiffs. As grounds, the Defendants state as follows:

1. This action challenges the constitutionality of Governor Ritter's issuance of honorary proclamations in 2007, 2008, and 2009, declaring a "Colorado Day of Prayer."
2. Plaintiffs seek a declaratory judgment that these honorary proclamations violated the Preference Clause of the Colorado Constitution (Colo. Const. art II, § 4), and also demand an injunction against the issuance of similar honorary proclamations in the future.
3. As demonstrated in the supporting brief submitted with this motion, which brief is incorporated herein by reference, there is no genuine issue as to any material fact, and the Defendants are entitled to judgment as a matter of law on all of Plaintiffs' claims for relief.

WHEREFORE, Governor Bill Ritter, Jr., and the State of Colorado respectfully move this Court to enter summary judgment in their favor and against Plaintiffs on all of Plaintiffs' claims for relief.

Respectfully submitted this 7th day of May, 2010.

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/s/ Matthew D. Grove

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within DEFENDANTS' MOTION FOR SUMMARY JUDGMENT upon all parties herein by LexisNexis File and Serve or by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, this 7th day of May, 2010, addressed as follows:

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