

DISTRICT COURT,
CITY AND COUNTY OF DENVER, COLORADO
1437 Bannock Street, Denver, CO 80202

FREEDOM FROM RELIGION FOUNDATION, INC.,
MIKE SMITH,
DAVID HABECKER,
TIMOTHY G. BAILEY and
JEFF BAYSINGER,

Plaintiffs,

v.

BILL RITTER, JR., in his official capacity as
GOVERNOR OF THE STATE OF COLORADO, and
THE STATE OF COLORADO,

Defendants.

▲ COURT USE ONLY ▲

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Case Number: 08CV9799

Courtroom: 19

**PLAINTIFFS' PROPOSED FINDINGS OF FACT
IN SUPPORT OF CROSS-MOTION FOR SUMMARY JUDGMENT**

The plaintiffs submit the following Proposed Findings of Fact in support of their Cross Motion for Summary Judgment:

A. Stipulated Facts.

1. Freedom From Religion Foundation ("FFRF") is a non-profit corporation headquartered in Wisconsin. FFRF is registered to do business in Colorado and is in good standing.
2. Members of FFRF, including, the named Plaintiffs, are residents of Colorado and are Colorado taxpayers.
3. Bill Ritter, Jr., who is named as a defendant in his official capacity, is the Governor of the State of Colorado.
4. On April 2, 1952, the Committee on the Judiciary of the U.S. House of Representatives issued a Report to Accompany H.J. Res. 382 to create a National Day of Prayer.
5. Public Law 324, a Joint Resolution, was approved on April 17, 1952. It provides: "Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall set aside and proclaim a suitable day each year, other than a Sunday, as a National Day of Prayer, on which the people of the United States may turn to God in prayer and meditation in churches, in groups, and as individuals."
6. Public Law 324 was signed by President Harry Truman on April 17, 1952.
7. S. 1378, "An act to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated," was approved by the Senate on May 5, 1988, and signed into law by President Ronald Reagan on May 9, 1988.

8. The NDP Task Force, led by Shirley Dobson, writes to each state governor on an annual basis requesting a prayer proclamation, while referencing the NDP Task Force annual theme and supporting scriptural reference.

9. Letters written by the NDP Task Force to governors requesting honorary proclamations are signed by Shirley Dobson, who reviews such letters before signing them.

10. Honorary proclamations recognizing the National Day of Prayer were issued by the Governor of Colorado for at least 2004-2009.

11. The honorary proclamations issued by the Governor of Colorado from 2004-2008 each acknowledged the NDP Task Force annual theme and/or scriptural reference.

12. The honorary proclamation issued by the Governor of Colorado in 2009 did not acknowledge the NDP Task Force annual theme or scriptural reference.

B. Colorado Day Of Prayer Proclamations.

13. The Governor of Colorado began issuing annual "Colorado Day of Prayer" Proclamations in 2004, upon the request of the National Day of Prayer Task Force, led by Shirley Dobson. (Bolton Aff., Exs. 2-6 and 8.)

14. Each Colorado Day of Prayer Proclamation bears the Executive Seal of the State of Colorado and the signature of the Governor. (Bolton Aff., Exs. 2-7; Bannister Dep. at 13.¹)

15. The Colorado Day of Prayer Proclamations are issued with the consent and authorization of the Office of the Governor. (Bannister Dep. at 14 and 18.)

16. The 2004 Colorado Day of Prayer Proclamation includes an annual theme and scriptural reference that Shirley Dobson requested the Governor to include:

¹ The Deposition transcript of Craig Bannister is attached as Exhibit I to the Affidavit of Richard Bolton.

"WHEREAS in 2004, the National Day of Prayer acknowledges Leviticus 25:10 with the theme "Let Freedom Ring"; . . .

The 2004 proclamation concludes with the following declaration:

NOW, THEREFORE, I, Bill Owens, Governor of the State of Colorado, do hereby proclaim May 6, 2004, as the COLORADO DAY OF PRAYER in the State of Colorado. (Bolton Aff., Ex. 2.)

17. The 2005 Colorado Day of Prayer Proclamation also includes a scriptural reference and annual theme requested by Mrs. Dobson:

WHEREAS, in 2005, the National Day of Prayer acknowledges Hebrews 4:16 - "Let us then approach the throne of grace with confidence, so that we may receive mercy and find grace to help us in our time of need" - with the theme "God shed his grace on thee"; . . .

The 2005 proclamation concluded with the following declaration:

Now, therefore, I, Bill Owens, Governor of the State of Colorado, do hereby proclaim May 5, 2005, as the COLORADO DAY OF PRAYER in the State of Colorado. (Bolton Aff., Ex. 3.)

18. The 2006 Colorado Day of Prayer Proclamation also includes an annual theme and scriptural reference requested by Mrs. Dobson:

WHEREAS, in 2006, the National Day of Prayer acknowledges I Samuel 2:30 - "Those who honor me, I will honor," and the theme "America, honor God"; . . .

The 2006 proclamation concludes with the following declaration:

Now, therefore, I, Bill Owens, Governor of the State of Colorado, do hereby proclaim May 4, 2006, as a DAY OF PRAYER in the State of Colorado. (Bolton Aff., Ex. 4.)

19. The 2007 Colorado Day of Prayer Proclamation includes the following scriptural reference and annual theme, as requested by Mrs. Dobson:

WHEREAS, in 2007, the National Day of Prayer acknowledges 2 Chronicles 7:14 - "If my people, who are called by my name, will humble themselves and

pray and seek my face and turn from their wicked ways, then I will hear from heaven and forgive their sin and heal their land; . . .

The 2007 proclamation concludes as follows:

Therefore, I, Bill Ritter, Jr., Governor of the State of Colorado, do hereby proclaim May 3, 2007, COLORADO DAY OF PRAYER in the State of Colorado. (Bolton Aff., Ex. 5.)

20. The 2008 Colorado Day of Prayer Proclamation includes the following scriptural reference as requested by Mrs. Dobson:

WHEREAS, in 2008, the National Day of Prayer acknowledges Psalm 28:7 - "The Lord is my strength and shield, my heart trusts in Him, and I am helped;"

....

The 2008 proclamation concludes with the following declaration:

Therefore, I, Bill Ritter, Jr., Governor of the State of Colorado, do hereby proclaim May 1, 2008, COLORADO DAY OF PRAYER in the State of Colorado. (Bolton Aff., Ex. 6.)

21. The 2009 Colorado Day of Prayer Proclamation, issued after the filing of the present lawsuit, did not include the NDP Task Force scriptural reference or annual theme, as requested by Mrs. Dobson, but still concluded:

Therefore, I, Bill Ritter, Jr., Governor of the State of Colorado, do hereby proclaim May 7, 2009, COLORADO DAY OF PRAYER in the State of Colorado. (Bolton Aff., Ex. 7.)

C. Colorado Day of Prayer Proclamations Issued In Response To Shirley Dobson.

22. Each of the Colorado Day of Prayer Proclamations issued by the Governor declares a day of prayer that corresponds to the National Day of Prayer, including in 2004 through 2009, as requested by Mrs. Dobson. (Bolton Aff., Exs. 2-6 and 8.)

23. Each of the Colorado Day of Prayer Proclamations since 2004, have been issued in response to a request by the National Day of Prayer Task Force, by Shirley Dobson;

each request included a scriptural reference and annual theme, chosen by the National Day of Prayer Task Force, which Mrs. Dobson asked each governor to incorporate into their Day of Prayer Proclamations. (Bolton Aff., Exs. 2-8; Bannister Dep. at 34.)

D. Day Of Prayer Proclamations Service A Purpose.

24. The Colorado Day of Prayer Proclamations are issued by the Governor's Office with no restrictions on their use. (Bannister Dep. at 17.)
25. The National Day of Prayer Task Force is not prohibited from using the official Colorado Day of Prayer Proclamations to support their organizing of prayer activities, including by indicating the Governor's support. (Bannister Dep. at 91.)
26. The NDP Task Force uses the proclamations of government officials to promote National Day of Prayer activities, including by utilizing the proclamations as evidence of government support. (Bannister Dep. at 32; Bolton Aff., Ex. 8.)
27. Officials in the Colorado Governor's Office assume that groups request proclamations in order to add support for their event from the Governor's Office. (Bannister Dep. at 15.)
28. The Governor's Office also assumes that proclamations are used, at least by some requestors, to promote their activities. (Bannister Dep. at 15 and 17.)
29. The National Day of Prayer Task Force uses proclamations as evidence of the Government's support for their activities. (Bannister Dep. at 32.)
30. The Governor's Office is not surprised that people who request proclamations, such as the National Day of Prayer Task Force, use them to promote the Day of Prayer. (Bannister Dep. at 33.)

31. Persons requesting proclamations are not told by the Governor's Office that they cannot circulate proclamations, nor are they told that they cannot tout proclamations as indicating the Governor's support. (Bannister Dep. at 33-34.)

E. Proclamations Crafted To Apply To Everyone.

32. Proclamations are intentionally drafted by the Governor's Office so as to appear to reflect general support for the requestor's activities, without specifically identifying the requesting party. (Bannister Dep. at 40-41.)

33. Proclamations are drafted to make them as general as possible, without specifically identifying the requesting organization. (Bannister Dep. at 40-41, 53-54 and 67.)

34. Proclamations are drafted intentionally so as to not identify the requesting organizations, which would otherwise make the proclamation very specific to that organization. (Bannister Dep. at 53-54.)

35. In the case of Colorado Day of Prayer Proclamations, the National Day of Prayer Task Force is not specifically identified in the proclamation and the specified day is proclaimed as the Colorado Day of Prayer, without limitation to a specific organization's Day of Prayer. (Bannister Dep. at 54.)

36. By not identifying the National Day of Prayer Task Force, Day of Prayer proclamations appear to be applicable to as many people as possible without reference to a single group or a single individual. (Bannister Dep. at 54 and 67.)

F. Proclamations Are Discretionary With The Governor.

37. In deciding to issue a proclamation, the Governor's Office first looks at the requesting group to determine if it is promoting a good cause. (Bannister Dep. at 35.)

38. If the proclamation is for a good cause, and if it does not seem to be problematic and the Governor supports the cause, then the Governor's Office issues the proclamation. (Bannister Dep. at 35.)

39. In the case of Colorado Day of Prayer Proclamations, although they all reference the National Day of Prayer as requested by Mrs. Dobson, the Colorado Governor is not required to issue such a proclamation. (Bannister Dep. at 48.)

G. Colorado Day Of Prayer Proclamations Incorporate Distinctly Christian Elements, Which Are Used By The NDP Task Force.

40. Each of the Colorado Day of Prayer Proclamations from 2004 through 2008 included a biblical reference, as requested by Mrs. Dobson. (Bannister Dep. at 52.)

41. The Colorado Governor's Office understands that the scriptural references incorporated into the Colorado Day of Prayer Proclamations were requested by the National Day of Prayer Task Force. (Bannister Dep. at 59.)

42. The Governor's Office knows that the National Day of Prayer Task Force also apparently chooses an annual theme for each year's National Day of Prayer. (Bannister Dep. at 64-65 and 70.)

43. The Governor's Office also understands that Mrs. Dobson, on behalf of the National Day of Prayer Task Force, wants proclamations issued by high government officials. (Bannister Dep. at 70.)

44. The Colorado Governor's Office also assumes that Mrs. Dobson probably uses the Day of Prayer Proclamations by state governors to lend support to her Day of Prayer. (Bannister Dep. at 70.)

45. The Governor's Office also understands that Mrs. Dobson wants the annual theme and supporting scripture selected by the NDP Task Force incorporated into official proclamations by state governors. (Bannister Dep. at 71.)

46. The Colorado Day of Prayer Proclamations, although requested by the NDP Task Force, are issued pursuant to the authority of the Office of the Governor. (Bannister Dep. at 82.)

47. The Governor's Office recognizes that the Colorado Day of Prayer Proclamations mean a great deal to the requesting group, in this case the NDP Task Force. (Bannister Dep. at 90.)

48. The Colorado Governor's Office does not presently intend to discontinue the practice of issuing Colorado Day of Prayer Proclamations. (Bannister Dep. at 27.)

H. The Use Of Day Of Prayer Proclamations To Promote Religion Is No Secret.

49. In addition to issuing Colorado Day of Prayer Proclamations, Governor Ritter has actively participated in Day of Prayer activities held at the Capitol, as reported in the public news media. (Bolton Aff., Ex. 9.)

50. In 2007, Governor Ritter spoke at National Day of Prayer activities held at the Capitol; "There were cheers as Ritter read the official Proclamation," which stated that the National Day of Prayer was a day for Americans to gather to celebrate the rights endowed by their creator. (Bolton Aff., Ex. 9.)

51. Governor Ritter's participation in the 2007 National Day of Prayer activities at the Capitol was planned and known in advance; the Colorado Day of Prayer organizers noted as early as April 12, 2007 that Governor Ritter would be part of their program; in fact

Governor Ritter reportedly met with Day of Prayer organizers six weeks before the Day of Prayer and prayed with them. (Bolton Aff., Exs. 9 and 12.)

52. The purpose of the Colorado Day of Prayer is to encourage prayer, which has been candidly recognized by Colorado Day of Prayer organizers since at least 2005; in their application for use of the Capitol grounds in 2006, for example, the Day of Prayer was described as an annual holiday first established by an act of Congress "which encourages Americans to pray for our nation, its people, and its leaders." (Bolton Aff., Ex. 11.)

53. The activities at the Colorado Capitol routinely include a program of worship and prayer "by church and community leaders, legislators, color guard, home-schoolers with worship band." (Bolton Aff., Ex. 13.)

54. Governor Ritter has also participated in the annual Colorado Prayer Luncheon, including in 2008, held in conjunction with the Day of Prayer. (Bolton Aff., Ex. 12.)

55. The annual declarations of a Colorado Day of Prayer give the appearance of endorsing religion, while encouraging all persons to believe in God, and they thereby give the appearance that belief is preferable and that believers have special access to governmental leaders, including the Governor. (Bolton Aff., Exs. 95-97.)

56. The Governor's encouragement of participation in Day of Prayer events puts the Plaintiffs in the position of being outsiders. (Bolton Aff., Exs. 95-97.)

57. The Plaintiffs consider that the encouragement by government officials to believe in a God is inappropriate and non-believers should not be put in the position of having to resist overtures to pray. (Bolton Aff., Exs. 95-97.)

I. History Of 1952 National Day Of Prayer Legislation.

58. The Governor's Office began issuing Colorado Day of Prayer proclamations at the request of the NDP Task Force, which group organizes around the National Day of Prayer proclaimed by the President in order to promote Judeo-Christian prayer activities. (Bolton Aff., Ex. 2-8.)

59. The National Day of Prayer was a day originally set aside by Congress for prayer. (Bolton Aff., Ex. 111 at 63.)²

60. The impetus for an annual National Day of Prayer, by legislation, came from the Reverend Billy Graham, who suggested it in the midst of a crusade in the nation's Capitol in 1952. (Bolton Aff., Ex. 94 at 1 and Ex. 93 at 2.)

61. The resolution mandating an annual National Day of Prayer was described as a measure against "the corrosive forces of communism which seek simultaneously to destroy our democratic way of life and the faith in an Almighty God on which it is placed." (Bolton Aff., Ex. 55 at 1 and Ex. 93 at 2.)

62. On April 2, 1952, the Committee on the Judiciary issued a Report to Accompany H.J. Res. 382 to create a National Day of Prayer, noting that the Purpose "is to direct the President to proclaim a National Day of Prayer each year." (Bolton Aff., Ex. 103.)

63. The Report to Accompany H.J. Res. 382 to create a National Day of Prayer Statement claimed: "When the delegates to the Constitutional Convention encountered difficulties in the writing and formation of a Constitution for this Nation, prayer was suggested and became an established practice at succeeding sessions." (Bolton Aff., Ex. 103.)

² The Deposition transcript of Shirley Dobson is attached to the Affidavit of Richard L. Bolton as Exhibit 111.

64. The Statement encouraged the people of this country "to unite in a day of prayer each year, each in accordance with his own religious faith, thus reaffirming in a dramatic manner that deep religious conviction which has prevailed throughout the history of the United States." (Bolton Aff., Ex. 103 at 1.)

65. As a matter of historical fact, however, the members of the Constitutional Convention did not pray at any session before adopting the entirely godless and secular U.S. Constitution, as noted by Constitutional Convention Secretary Benjamin Franklin. Franklin did suggest prayer on one occasion, but instead the Constitutional Convention adjourned for the day and never prayed at any time during the Constitutional Convention. (Pfeffer, Church, State & Freedom, at 121-122 (1967).)

66. Public Law 324, a Joint Resolution, was approved on April 17, 1952: "Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall set aside and proclaim a suitable day each year, other than a Sunday, as a National Day of Prayer, on which the people of the United States may turn to God in prayer and meditation in churches, in groups, and as individuals. (Bolton Aff., Ex. 104.)

67. Contemporaneous reporting of President Truman's signing of the Prayer Day Bill, in the New York Times on April 18, 1952, recognized that "the purpose of the resolution is to have the public assemble in churches, synagogues, and other places of worship to offer prayers for world peace." (Bolton Aff., Ex. 104 at 1.)

68. Public Law 324 was signed by President Harry Truman on April 17, 1952. (Bolton Aff., Ex. 104.)

69. The National Day of Prayer legislation passed by Congress is an encouragement for the American people of all faiths to pray. (Bolton Aff., Ex. 111 at 14.)

70. The National Day of Prayer is popularly described as being "designated by the United States Congress as a day when people are asked to come together and pray, especially for their country." (Bolton Aff., Ex. 93 at 1.)

J. Additional Legislation Was Enacted In 1988 To More Fully Facilitate Religious Organizing By Groups Like The NDP Task Force.

71. Prior to 1988, the President would call the nation to a day of prayer whenever he chose each year. (Bolton Aff., Ex. 57 at 1.)

72. Eventually, however, the National Prayer Committee, and the first NDP Task Force Chairman, Mrs. Vonette Bright, directed efforts leading in 1988 to President Reagan signing legislation requiring that the first Thursday in May of each year be designated the National Day of Prayer. (Bolton Aff., Ex. 57 at 1.)

73. The National Prayer Committee provides collective leadership to the National Prayer Movement, and the NDP Task Force is a project of the National Prayer Committee, the purpose of which is to mobilize prayer. (Bolton Aff., Ex. 64 at 1 and Ex. 111 at 34.)

74. Mrs. Bright promoted legislation for a Day of Prayer on a specific day each year because she believed in the power of prayer; she believed that there should be a day in this Country in which the Nation is covered in prayer; and she wanted to facilitate all that prayer, if possible. (Bolton Aff., Ex. 111 at 31-32.)

75. Mrs. Bright, cofounder with Dr. Bill Bright of Campus Crusade for Christ, told Shirley Dobson how the first Thursday in May amendment in 1988 came about: Mrs. Bright got up at 5 a.m. one day to phone some Congressmen about setting aside a [specific] day for

the National Day of Prayer. A committee was formed and the first Thursday of May change came from that. (Bolton Aff., Ex. 111 at 43-44.)

76. The Campus Crusade for Christ website biography of Mrs. Bright publicly credits her with the achievement of introducing legislation that was approved by both houses of Congress to make the first Thursday of May a permanent date for The National Day of Prayer. (Bolton Aff., Ex. 106 at 3.)

77. Congressman Tony P. Hall, while introducing the 1988 National Day of Prayer bill on March 16, 1988, remarked that designating each first Thursday in May as the annual date on which the National Day of Prayer is celebrated, would "help bring more certainty to the scheduling of events related to the National Day of Prayer, and permit more effective long-range planning." (Bolton Aff., Ex. 107 at 2.)

78. "The annual observance would be so much easier to celebrate if its occurrence was not subject to the issuance of an annual proclamation. The event has a tradition of some consequence for increasing our nation's awareness of the need for divine assistance," said Rev. Msgr. Joseph F. Rebman, Chancellor, Diocese of Wilmington, Delaware, in urging passage of the bill. (Bolton Aff., Ex. 107 at 3.)

79. Pat Boone, Co-Chairman of the National Prayer Committee, complained that having a different day proclaimed each year "had offered little advance notice to adequately inform the grass roots constituencies. I believe a definite date will allow millions of citizens within our nation who have explicit faith in a Prayer-hearing God to be informed about this significant day in our country." (Bolton Aff., Ex. 108 at 3.)

80. S.1378, "An act to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated," was approved by the Senate on

May 5, 1988, and signed into law by President Ronald Reagan on May 9, 1988. (Bolton Aff., Ex. 120.)

81. After signing the 1988 law, President Reagan encouraged people of all faiths to participate in the National Day of Prayer. (Bolton Aff., Ex. 111, at 28-29.)

82. Groups like the NDP Task Force would have trouble mobilizing a National Day of Prayer if they did not know well in advance when it was going to take place. (Bolton Aff., Ex. 111 at 29-30.)

83. The change in the law in 1988, to make predictable the Day of Prayer, on the first Thursday in May, facilitated efforts by the NDP Task Force to organize prayer observances. (Bolton Aff., Ex. 111 at 29.)

84. Groups like the NDP Task Force have been successful in mobilizing Christians to engage in prayer in part because it is beneficial to have a central event that people can gather around. (Bolton Aff., Ex. 111 at 85-86.)

K. Mrs. Dobson Is The Voice And Face Of The NDP Task Force.

85. Campus Crusade for Christ, of which Vonette Bright is a founder and still affiliated, boasts 25,000 employees and is a major international evangelical force with the following stated purpose: "Helping to fulfill the Great Commission in the power of the Holy Spirit by winning people to faith in Jesus Christ, building them in their faith and sending them to win and build others; and helping the Body of Christ do evangelism and discipleship." (Bolton Aff., Ex 110.)

86. Campus Crusade for Christ uses a lot of their staff as part of the NDP Task Force to promote the National Day of Prayer. (Bolton Aff., Ex. 111 at 25.)

87. When Mrs. Bright first asked Mrs. Dobson to become co-chair of the NDP Task Force in 1989, Mrs. Dobson told her she would pray about it and talk to her husband and get back to her. (Bolton Aff., Ex. 111, at 8-9.)

88. Shirley Dobson's husband, James Dobson, is the founder of Focus on the Family. (Bolton Aff., Ex. 101 at 3.)

89. Once Shirley Dobson became chair of the NDP Task Force, Focus on the Family provided startup money for the NDP Task Force: \$100,000 the first year; \$50,000 the second, \$25,000 the third. (Bolton Aff., Ex. 111 at 7-8.)

90. Shirley Dobson ultimately accepted Mrs. Bright's overture and became cochairman of the NDP Task Force in 1989, and she has been the chairman since 1991. (Bolton Aff., Ex. 111 at 4.)

91. Mrs. Dobson is now the recognized voice and the face of the National Day of Prayer. (Bolton Aff., Ex. 111 at 42.)

L. The NDP Task Force Uses The National Day Of Prayer To Mobilize Prayer Activities.

92. One of the goals of the NDP Task Force is to encourage prayer. (Bolton Aff., Ex. 111 at 4.)

93. The NDP Task Force promotes and encourages the role of prayer by mobilizing around the National Day of Prayer. (Bolton Aff., Ex. 111 at 10.)

94. The National Day of Prayer is a rallying point, as a day for focusing on prayer, because it is declared as such by the President each year. (Bolton Aff., Ex. 111 at 62.)

95. The National Day of Prayer is a rallying point for the NDP Task Force in focusing on prayer for the country. (Bolton Aff., Ex. 111 at 62.)

96. The National Day of Prayer is set aside by Congress, so it's a day when Americans pray for their country and for its leaders, and a day that symbolizes the country, which is why the NDP Task Force chose to make the American flag a prominent part of its logo. (Bolton Aff., Ex. 111 at 47.)

97. Mrs. Dobson understands the National Day of Prayer to be a special day set aside specifically for prayer. (Bolton Aff., Ex. 111 at 63.)

M. The NDP Task Force Is Exclusively Christian In Perspective.

98. The NDP Task Force was created by the National Prayer Committee for the express purpose of organizing and promoting prayer observances conforming to a Judeo-Christian system of values. (Bolton Aff., Ex. 51 at 1.)

99. The Judeo-Christian expression of the National Day of Prayer involves praying to the God of the Bible. (Bolton Aff., Ex. 111 at 67.)

100. The NDP Task Force expression of the National Day of Prayer is based on the Bible, which says that God is the one and only, and his son, Jesus Christ, is the way to salvation, which is the belief of the Christian church. (Bolton Aff., Ex. 111 at 69.)

101. Mrs. Dobson understands the National Day of Prayer to involve proclaiming reliance on an Almighty God in calling Americans to come before Him on behalf of the Nation. (Bolton Aff., Ex. 111 at 106.)

102. The NDP Task Force's annual theme, including in 2009, represents an effort to point Americans to the eternal source of encouragement and help, i.e., the God of the Bible. (Bolton Aff., Ex. 111 at 121-22.)

O. Participation By Government Officials Is Critical To The NDP Task Force Efforts.

110. Mrs. Dobson understands the National Day of Prayer to be about calling Americans to come before Almighty God. (Bolton Aff., Ex. 111 at 106.)

111. NDP proclamations by state governors also lend support to the National Day of Prayer. (Bolton Aff., Ex. 111 at 107.)

112. Support by the nation's leaders is critical to the NDP Task Force's efforts. (Bolton Aff., Ex. 111 at 108-109.)

113. People look to their leaders to give them direction, so it is critical that the leaders support the National Day of Prayer because they are role models. (Bolton Aff., Ex. 111 at 109.)

114. The NDP Task Force, therefore, hopes that leaders of the country will call the nation to prayer, including by issuing proclamations. (Bolton Aff., Ex. 111 at 110.)

P. Presidential Proclamations Promote Active Prayer.

115. Presidential proclamations advance the cause of prayer and inspire others to get involved. (Bolton Aff., Ex. 22 at 2.)

116. The NDP Task Force solicits proclamations from the President, which are then read by some 40,000 Task Force coordinators at events around the country, and the presidential proclamations "underscore the need for corporate and personal intercession [that] will lend tremendous prestige and credibility to these gatherings." (Bolton Aff., Ex. 22 at 1.)

117. President George W. Bush in his NDP public comments lauded the Dobsons and the NDP Task Force and promoted the role of prayer at exclusive annual NDP prayer observances in the East Room of the White House. (Bolton Aff., Ex. 100 at 1-4.)

118. Mrs. Dobson has attended ten White House prayer services for the National Day of Prayer and she has spoken at eight of these events. (Bolton Aff., Ex. 111 at 72 and 74.)

119. Mrs. Dobson, as Chairman of the NDP Task Force, also has received personal "thank-you's" from President George W. Bush as a result of the Task Forces' NDP observances in Washington. (Bolton Aff., Ex. 47 at 1-2.)

120. For its part, the NDP Task Force bound all the state National Day of Prayer proclamations by governors into a presentable package and presented it as a unique gift to President Bush on the National Day of Prayer. (Bolton Aff., Ex. 111 at 52.)

121. Presidential Proclamations are an important symbol and affirmation of the annual National Day of Prayer observance, which the NDP Task Force incorporates into its promotional materials. (Bolton Aff., Ex. 30 at 1.)

Q. Governors Also Issue Proclamations In Conjunction With The National Day of Prayer.

122. The NDP Task Force, led by Mrs. Dobson writes to each state governor every year requesting a prayer proclamation, while referencing the NDP Task Force annual theme and supporting scriptural reference. (Bolton Aff., Ex. 111 at 21, 23, 50, 585, 115 and 121.)

123. Letters written by the NDP Task Force to governors requesting proclamations are signed by Mrs. Dobson, who reviews such letters before signing them. (Bolton Aff., Ex. 111 at 23 and 148.)

124. The NDP Task Force requests state governors to designate the same day as the day set aside by the President for the National Day of Prayer. (Bolton Aff., Ex. 111 at 28.)

125. The NDP Task Force considers it desirable that governors incorporate the NDP Task Force's annual theme and scriptural reference into their official proclamations. (Bolton Aff., Ex. 111 at 86.)

126. All state governors issued NDP Proclamations in 2009, including proclamations from the Governors of Arkansas, Florida, Iowa, Idaho, Indiana, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New Mexico, South Dakota, Texas, Utah, Virginia, Wisconsin and Wyoming, which all included references to the NDP Task Force annual theme and supporting scripture. (Bolton Aff., Ex. 19 at 1-17.)

127. All state governors also issued NDP Prayer Proclamations in 2008, including proclamations by the governors of Colorado, Florida, Idaho, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Missouri, Nebraska, New Jersey, Utah, Virginia, Wisconsin and Wyoming, which proclamations included the NDP Task Force annual theme and supporting scripture. (Bolton Aff., Ex. 14 at 1-14.)

128. All state governors likewise issued NDP Prayer Proclamations in 2007, including proclamations by the governors of Colorado, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Nebraska, Utah, Virginia, Wisconsin and Wyoming, which included the NDP Task Force annual theme and supporting scripture. (Bolton Aff., Ex. 15 at 1-16.)

129. All state governors issued NDP Prayer Proclamations in 2006, including proclamations by the governors of Arkansas, Colorado, Florida, Idaho, Illinois, Indiana,

Louisiana, Nebraska, Utah, Wisconsin and Wyoming which included the NDP Task Force annual theme and supporting scripture. (Bolton Aff., Ex. 16 at 11.)

130. All state governors issued NDP Prayer Proclamations in 2005, including proclamations by the governors of Arkansas, Colorado, Florida, Idaho, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Missouri, Nebraska, North Carolina, Texas, Utah, Virginia and Wisconsin, which included the NDP Task Force annual theme and supporting scripture. (Bolton Aff., Ex. 17 at 1-17.)

131. All state governors issued NDP Prayer Proclamations in 2004, including proclamations by the governors of Arkansas, Colorado, Florida, Idaho, Illinois, Louisiana, Massachusetts, Missouri, Nebraska, New York, North Carolina, Texas, Virginia, Wisconsin and Wyoming, which included the NDP Task Force annual theme and supporting scripture. (Bolton Aff., Ex. 18 at 1-15.)

132. Annual Day of Prayer Proclamations by the Colorado Governor for 2004-2008 included the NDP Task Force annual theme and/or scriptural reference. (Bolton Aff., Exs. 2-6.)

133. The NDP Task Force considers it especially vital to enlist the support and affirmation of national leaders, including proclamations by state governors. (Bolton Aff., Ex. 26 at 1.)

134. The NDP Task Force considers it "critical" to garner the support of our nation's leaders for the NDP efforts, including by obtaining the written proclamations from governors. (Bolton Aff., Ex. 26 at 1.)

R. Recalcitrant Governors Pressured.

135. If governors do not issue proclamations, the NDP Task Force asks coordinators to set up an appointment at the governor's office and follow up, as well as inviting all governors to actively participate in the National Day of Prayer observance, most appropriately on the steps of the Capitol Buildings to give visibility to the National Day of Prayer. (Bolton Aff., Exs. 24-27.)

136. In 2007, pressure was put on New York Governor Eliot Spitzer, to issue a NDP Proclamation. (Bolton Aff., Ex. 58 at 1-6.)

137. James Dobson, head of Focus on the Family, and husband of Shirley Dobson, Chairman of the NDP Task Forces, was instrumental in publicly pressuring Governor Spitzer to issue a NDP proclamation. (Bolton Aff., Ex. 64 at 1, 3 and 5-6; Ex. 111 at 54-54.)

138. Minnesota Governor Jesse Ventura also was criticized in 1999 for refusing to issue a NDP proclamation. (Bolton Aff., Ex. 59 at 1.)

S. The National Day Of Prayer Task Force Succeeds Due To Official Participation By Government Officials.

139. The NDP Task Force considers it important that all fifty governors issue NDP Proclamations. (Bolton Aff., Ex. 60-61 at 1.)

140. The State National Day of Prayer proclamations acknowledge the federal designation of the Day of Prayer by Congress and the President in their own proclamations. (Bolton Aff., Exs. 2-7 and 14-19.)

141. Millions of individuals participate in the NDP call to prayer by the NDP Task Force, supported by 30-40,000 NDP Task Force volunteers across the country. (Bolton Aff., Ex. 62.)

142. Mrs. Dobson is pleased when governors use the theme of the NDP Task Force because it was supposedly given to her by the Lord. (Bolton Aff., Ex. 111 at 58.)

143. Support for the National Day of Prayer by governors helps further efforts to call the nation to prayer. (Bolton Aff., Ex. 30 at 1.)

144. The NDP Task Force also holds a prayer service in the Caucus Room of the Cannon Office Building each year on the National Day of Prayer as an observance, which is attended by many federal officials and seeks their annual participation. (Bolton Aff., Exs. 32-35, 38, 40-45.)

145. The Cannon Office Building observance by the NDP Task Force is symbolic of thousands of others that take place throughout the country, and overflow crowds each year fill the Cannon Caucus Room and adjoining hallways. (Bolton Aff., Ex. 32 at 5.)

146. The Cannon Office Building is chosen in particular because it represents the seat of government and provides easy access to Congressmen. (Bolton Aff., Ex. 111 at 77.)

147. God TV also now webcasts the Cannon Office Building NDP event. (Bolton Aff., Ex. 111 at 80.)

148. Representatives of all three branches of government are invited to attend the Cannon Office Building event. (Bolton Aff., Ex. 111 at 77-78.)

149. The federal representatives attend a prayer service, and are invited to speak and often do speak; invited speakers have included members of the judiciary. (Bolton Aff., Ex. 111 at 78.)

150. The NDP Task Force requests that federal officials speaking at the Task Force observance in Washington include a description of the significant role that prayer has played in their personal and professional lives. (Bolton Aff., Ex. 33 at 1-2.)

151. Participation in NDP Task Force observances of the National Day of Prayer by federal officials is viewed by Mrs. Dobson as "partnering in calling the nation to prayer." (Bolton Aff., Ex. 32 at 4.)

152. The NDP Task Force values the participation of leaders and dignitaries in National Day of Prayer activities. (Bolton Aff., Exs. 23-46.)

153. Official statements from the President and governors constitute statements of support of the NDP Task Force observance. (Bolton Aff., Ex. 36 at 1.)

154. The NDP Task Force also has students gather around flagpoles on the National Day of Prayer, including little children. (Bolton Aff., Ex. 111 at 85-86.)

155. The NDP Task Force even has a School Prayer Event Guide put together by a "prayer warrior." (Bolton Aff., Ex. 111 at 167.)

156. Regional coordinators also may ask mayors, city council members or school board members to participate in the National Day of Prayer. (Bolton Aff., Ex. 111 at 24.)

157. The mission of the NDP Task Force is to encourage personal repentance and prayer, while mobilizing the Christian community. (Bolton Aff., Ex. 51 at 1.)

158. Participation in NDP Task Force observances by public officials is noteworthy and the participants in such observances number in the millions. (Bolton Aff., Exs. 56 and 62.)

159. The NDP Task Force organizes between 30,000 to 40,000 prayer gatherings across the Nation in conjunction with the National Day of Prayer. (Bolton Aff., Ex. 111 at 26.)

160. The NDP Task Force also seeks "generous contributions to extend its efforts to bring the name of Christ out from behind church walls and into the public front-lines in all fifty states." (Bolton Aff., Ex. 65 at 1.)

T. The NDP Task Force Promotes Active Christian Prayer.

161. The NDP Task Force promotes the National Day of Prayer as a means to encourage prayer, which involves establishing a relationship with God. (Bolton Aff., Exs. 52-54.)

162. The NDP Task Force represents a Judeo-Christian expression of the national observance, based on the belief that this country was birthed in prayer and in reverence for the God of the Bible. (Bolton Aff., Ex. 51 at 1.)

163. According to Mrs. Dobson, the United States was founded on the Judeo-Christian system of values, and birthed in prayer, and founded on the God of the Bible. (Bolton Aff., Ex. 111 at 11.)

164. The NDP Task Force promotes only a Judeo-Christian expression of the National Day of Prayer. (Bolton Aff., Ex. 111 at 11-12, 14, 67.)

165. The NDP Task Force believes that for true Christians, prayer is communion with God, through which individuals actually experience a relationship with God. (Bolton Aff., Ex. 54 at 1.)

166. The NDP Task Force chooses an annual theme for each year's National Day of Prayer. (Bolton Aff., Ex. 111 at 56.)

167. The NDP Task Force chooses an annual theme purportedly as a way to bring "unity to the Nation." (Bolton Aff., Ex. 111 at 61.)

168. The NDP Task Force desires that its annual theme and supporting scripture be incorporated into official proclamations by government officials. (Bolton Aff., Exs. 20-31.)

169. Shirley Dobson supposedly goes before the Lord every year in prayer, and asks Him what is in His heart for our nation, and through prayer, God usually gives Mrs. Dobson a theme for that year. (Bolton Aff., Ex. 111 at 56-57.)

170. The Bible is the handbook of the NDP Task Force. (Bolton Aff., Ex. 111 at 64.)

171. Prayer from the perspective from the NDP Task Force is related to the relationship with the God of the Bible. (Bolton Aff., Ex. 111 at 64.)

172. The supporting scripture for each National Day of Prayer theme is exclusively chosen from the Bible, a source that is readily recognizable. (Bolton Aff., Ex. 111 at 57.)

U. The NDP Task Force Coordinates A Christian Celebration Of The National Day Of Prayer.

173. The National Day of Prayer stands as a memorial to our nation's supposed Christian heritage. (Bolton Aff., Exs. 40-41.)

174. The NDP Task Force considers "foundational to our country the understanding that God is the Source of freedom," including the Christian God of the Bible. (Bolton Aff., Ex. 42 at 1.)

175. A tremendous outpouring of prayer and repentance encompasses the nation at the time of the National Day of Prayer as hands join together to cry out to God and hearts are allegedly changed and hope restored. (Bolton Aff., Ex. 43 at 1.)

176. The NDP Task Force hopes that its annual theme and supporting scripture will draw Americans closer to God. (Bolton Aff., Ex. 44 at 1.)

177. The NDP Task Force promotes, publicizes and provides resources to "constituents" to help them celebrate the National Day of Prayer. (Bolton Aff., Ex. 111 at 16.)

178. The NDP Task Force limits participation by coordinators and volunteers to persons holding a Judeo-Christian perspective.. (Bolton Aff., Ex. 55 at 1.)

V. The National Day Of Prayer Is Highly Divisive.

179. The National Day of Prayer is highly divisive, amid concerns that it has been hijacked by fundamentalist Christians, including the NDP Task Force. (Bolton Aff., Exs. 66-92.)

180. The participation of public officials in NDP observances, including at public government buildings in Washington D.C., and State Capitol buildings throughout the nation, fuels the perception that the National Day of Prayer is intended to promote and encourage religion. (Bolton Aff., Exs. 66-92.)

W. The NDP Task Force Is Particularly Exclusionary.

181. The NDP Task Force subscribes to the Lausanne Covenant, which was adopted by fundamentalists and other Evangelical Protestants from over 150 nations during the International Congress on World Evangelization at Lausanne, Switzerland in 1974. (Bolton Aff., Ex. 101 at 3.)

182. The Lausanne Covenant includes such beliefs as the inspiration and inerrancy of the Bible, the Trinity, the Second Coming of Jesus Christ, the Anti-Christ, etc. (Bolton Aff., Ex. 101 at 3 and 66 at 4-5.)

183. The adherence of the NDP Task Force to the Lausanne Covenant has the effect of excluding even traditional Jewish groups, or any other non-Christian organization or inter-faith groups. (Bolton Aff., Ex. 101 at 3 and Ex. 66 at 5.)

184. The NDP Task Force, in effect, is an exclusively Evangelical Christian non-profit organization recognizing only those NDP events which are organized by Evangelical groups. (Bolton Aff., Ex. 101 at 3.)

185. The NDP Task Force prays to the God of the Bible, who is perceived as the only "correct God." (Bolton Aff., Ex. 111 at 15.)

X. Nonreligious Persons Constitute A Significant Part Of The Nation Excluded By The National Day of Prayer.

186. The number of nonreligious persons is the fastest-growing segment of the United States population. (Bolton Aff., Ex. 105.)

187. Nonbelievers today are reported to represent a significant part of the American population, constituting approximately 15 percent or thirty-four million Americans, in a recent American Religious Identification Survey. (Bolton Aff., Ex. 105.)