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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FREEDOM FROM RELIGION
FOUNDATION, INC.,

Cause No. CV 12-19-M-DLC

Plaintiff,

vs.

CHIP WEBER, Flathead National Forest
Supervisor; UNITED STATES FOREST
SERVICE,

Defendants.

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 the co-president of the Freedom From Religion Foundation ("FFRF"), a membership group organized as an educational 501(c)(3) charitable non-profit that advocates for the separation of state and church, and educates on matters of non-theism. FFRF's membership consists primarily of persons who identify as freethinkers (atheist, agnostic, or who are otherwise non-religious).
2. I co-founded FFRF with my mother when I was a college student in 1976. FFRF was incorporated in 1978 and went national. Since its beginning, FFRF has received complaints from atheists and agnostics around the country who object to religious displays on government property as a violation of their freedom of conscience.
3. FFRF has more than 19,000 members nationally and more than 100 in Montana, including members who reside in the City of Whitefish, the City of Kalispell and the surrounding area of Flathead County, Montana.
4. FFRF represents its members when complaining about religious displays on public-owned property.
5. FFRF received complaints about the Sacred Heart of Jesus Shrine ("Jesus Shrine") located in Flathead National Forest, prompting our office to write our letters of complaint. FFRF Staff Attorney Stephanie Schmitt first wrote a letter to the U.S. Forest Service on May 26, 2011, making a Freedom of Information Act request on behalf of "a concerned resident and taxpayer, and other Montana members of the Freedom From Religion Foundation ('FFRF'), who object to the erection and maintenance of a statue of Jesus Christ on government property." Exhibit 1 is a true and correct copy of FFRF's May 26, 2011 letter.

6. FFRF received a response to its FOIA request dated June 28, 2011, including a copy of the Special Use Permit, stating the purpose of the permit is: "to provide a site for a religious shrine." The map displaying the location of the statue is titled, "Knights of Columbus Shrine" and points to the statue's location via a tab, also clearly marked "Shrine." Exhibit 2 is a true and correct copy of the response FFRF received from Forest Supervisor Chip Weber to its FOIA request.
7. FFRF was informed in October 2011 that the Special Use Permit application for the Jesus Shrine had been formally denied by the Forest Service.
8. Via media reports and a media release issued by the Forest Service on October 21, 2011, FFRF learned that the Forest Service had reversed its decision to deny the Special Use Permit and was seeking public comment on reissuance of the permit.
9. On Oct. 26, 2011, on behalf of our national and Montana membership, I sent a letter to Tim Tidwell, Office of the Chief, U.S. Forest Service, urging him to "immediately overrule a misguided decision by Forest Supervisor Chip Weber" to take public comments and reconsider its decision to remove the shrine. I noted this was a longstanding First Amendment violation, that erecting a "shrine" constitutes an impermissible religious purpose, that the Forest Service acknowledges preferential treatment and constitutional concerns, that the public comment was "irrelevant, inappropriate, divisive," that the "war memorial" rationale "is a sham," that the fence and plaque violate the Special Use Permit, and that the Forest Service must uphold the Constitution. Exhibit 3 is a true and correct copy of my letter to Tim Tidwell.

10. I, as an atheist, and FFRF, as a membership organization of nonbelievers, categorically reject belief in deities and reverence for shrines to deities, including the Jesus Shrine located in Flathead National Forest.
11. I, as a federal citizen who is a nonbeliever, and FFRF as an organization made up of other nonbelievers, nearly all of whom are federal citizens, are offended and feel marginalized by the U.S. Forest Service's actions to permanently place the Jesus Shrine, a Christian icon, as part of a federal forest owned by all federal citizens of the United States, including FFRF members.
12. I, as a federal citizen who is a non-believer, and FFRF, as an organization made up of other non-believers, nearly all of whom are federal citizens, are offended that the U.S. Forest Service has extended an unprecedented lease to the sectarian and exclusionary Roman Catholic men's organization, the Knights of Columbus. This signals to us that the religious beliefs of the Knights of Columbus – i.e., Christian and specifically Roman Catholic – are endorsed and approved by the U.S. government, that nonreligious views are disfavored, and that I and members of FFRF are second-class citizens. The fact that this "lease" has involved no payment to the federal government for more than 50 years exacerbates the subsidy. I and FFRF's 19,000 members directly and indirectly are subsidizing a devotional sectarian message on federal property.
13. As a co-founder of FFRF, who has been an active part of FFRF since the beginning, and who became co-president in 2004, I have personally observed that the public reaction to requests to end Establishment Clause violations often devolves into ad hominem, hostility and veiled or unveiled threats to FFRF and members who are state/church separation advocates.

14. The attacks on FFRF since contacting the Forest Service over this unconstitutional shrine have often been framed in hostile and religious terms, not as a mere disagreement over a “historic” monument.
15. FFRF has received a number of vitriolic phone calls and messages in response to FFRF’s request that the U.S. Forest Service decline to reissue a permit for the Jesus Shrine. These messages often treated the issue as a religious matter.
16. Many of these phone calls and messages warned FFRF and its members “don’t come to Montana” (from fuckyou@yousuck.com, on Oct. 22, 2011). FFRF received numerous phone calls and emails saying such things as: “Stay the fuck away” (from wwbd4u@hotmail.com on Oct. 25, 2011), “We don’t take kindly to people from outside our wonderful state trying to push their crap on us. Go the Fuck away!!” (Jim Kirk, Oct. 25, 2011), “when the flames of hell are on you I hope you remember what got you there.” (J.O., Oct. 25, 2011), “You are a minority, so shut the hell up . . . Surely there is another country you can move to in which you will not feel so offended. I’ll help you pack!” (Cathy Wright, Oct. 25, 2011); “One day you will go fo [sic] far and the majority if [sic] Americans will cook your Butt” (John Basilone, Oct. 25, 2011); “We CAN make you go away, forever!!!” (fake name “Jack Mehoff,” Oct. 25, 2011); “I’ll try to pray for you and ask that The Lord will free you from satans’ hands” (Tim Barrs, Oct. 25, 2011); “Maybe you will think even clearer if I put my boot up your backside” (Moose Airborne, Oct. 25, 2011); “Idiots! . . . Open your bibles and see the truth. One Nation Under GOD.” (Edna Perkins, Oct. 25, 2011); “I’m writing to you about the JESUS Statue in Montana How dare you!!! Our country was founded by Religion and GOD.” (Lesa Grayson, Oct. 24, 2011); “FUCK YOU ASSHOLES If you don’t like the customs and history of his nation

– GET THE FUCK OUT of my Country.” (fake name “Barry Obama” from Nigger@whitehouse.gov, Oct. 25, 2011); “Send someone to my house so I can kick his fucking ass out of this country — you dumbcocksucking muthafuckingassholes !” (fake name “Barry Soetoro,” Oct. 25, 2011); “Have you ever thought that one day you will be standing before the flesh and blood Jesus and what will your answer to be the question, ‘Why should I let you into my heaven?’” (*GG Grose, Oct. 24, 2011); “You fucking assholes. Stay the hell out of Montana. One of your members ever shows up here, they will never leave. They will be planted with the statue.” (Bobbie Thompson, Oct. 21, 2011); “How does it feel to be a traitor?” (John Haglund, Oct. 23, 2011). Exhibit 4 is a true and correct copy of correspondence we received in October of 2011, which is when the issue garnered substantial national media attention.

17. The level of hostility prompted FFRF not to name individual Montana members as plaintiffs in the Complaint, both because I felt they could still be represented by FFRF in the suit and to protect our local Montana membership from harassment.
18. FFRF’s electronic database used during February 2012 was Filemaker Pro. FFRF staff typically entered membership information in batches into Filemaker Pro. This meant that the date a new record was created in the Filemaker Pro database was typically after the date that a member joined FFRF. For this reason, FFRF relies on the date of payment in determining the initial membership date.
19. Doug Bonham has been a member of FFRF since February 3, 2012. Mr. Bonham’s physical membership card records the date that a household membership for Mr. Bonham and his daughter was paid, which was on February 3, 2012. Exhibit 5 is a true and correct copy of Mr. Bonham’s membership card.

20. Pamela Morris has been a member of FFRF since February 3, 2012. Ms. Morris' physical membership card records the date that an individual membership was paid, which was on February 3, 2012. Exhibit 6 is a true and correct copy of Ms. Morris' membership card.
21. Since FFRF filed its federal lawsuit, it has continued to receive both hostile phone calls and vitriolic e-mails, often claiming the United States is founded on a deity or Christianity and calling FFRF and its membership "anti-American." Exhibit 7 is a true and correct copy of continuing messages we received since the lawsuit was filed.
22. The Jesus Shrine placement within the Flathead National Forest and the U.S. Forest Service's reissuance of a permit signals to me and other non-believers that we are disfavored and considered second-class citizens by the federal government. This in turn clearly signals those who are being treated by the federal government as "insiders" (Roman Catholics, Christians and supporters of Christian shrines on federal property) to treat nonbelievers and nonorthodox as "outsiders." (i.e., "Stay out of Montana").
23. It is my experience, working in various capacities as founder, volunteer, board member, and staff member at FFRF for more than 35 years, that many persons who object to religious displays on government property are reluctant to come forward for fear of alienation or retribution.
24. It is my experience that, over the years, government officials often ignore or may fail to keep or hold onto complete records of Establishment Clause complaints. I have found this to be particularly the case regarding religious displays that were erected on public property in the 1950s and 1960s.
25. As a prime example, a complaint that I, FFRF, its members and others have made over a religious display in the past, that evidently went unrecorded by government officials,

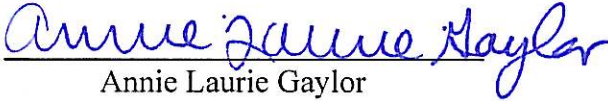
concerns the Ten Commandments monument on the Texas State Capitol lawn. It is my personal knowledge that Madalyn Murray O'Hair, as director of American Atheists, and my mother, Anne Nicol Gaylor, then president of the Freedom From Religion Foundation, objected several times to Texas governors since the 1970's to this monument on state property. It is my belief and understanding that none of these complaints became a part of the court record in the case *Van Orden v. Perry*. Exhibit 8 and 9 are true and correct copies of reports on these complaints from the Galveston Daily News and the Corpus Christi Times respectively, both published on November 16, 1977.

26. I wrote Texas Gov. Rick Perry a letter on Sept. 4, 2001, prior to any commencement of action by Mr. Van Orden to challenge the decalogue at the Texas State Capitol, asking Perry to order the immediate removal of that monument: "The State of Texas has no business dictating to its constituents which gods they may have, how many gods they should have, or that they need to have any gods at all!" Exhibit 10 is a true and correct copy of this letter.
27. My 2001 letter of complaint was made on behalf of a Texas member whose email correspondence notes that he too had written Gov. Perry ("no reply"), Congressman Lamar Smith and Senators Wentworth and Ogden. The Texas FFRF member emailed me, "All replies I did receive expressed support for the monument claiming tradition, America being based on godly principles, etc., etc." My email reply to our complainant also noted "FFRF has complained about this in the past." Exhibit 11 is a true and correct copy of my email correspondence.

28. I do not find it surprising that the U.S. Forest Service has not provided/retained records of complaints over the Jesus Shrine. This is consistent with how FFRF's complaints have been treated in other situations.

29. Just as a display ridiculing the beliefs of Roman Catholics on federal land would be offensive to practitioners of that religion, a Roman Catholic shrine to Jesus Christ on federal land is offensive to myself and FFRF members who are non-religious.

Madison, Wisconsin
February 13, 2013


Annie Laurie Gaylor