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Attorneys for PLAINTIFFS
FREEDOM FROM RELIGION FOUNDATION,
& DR. SARI DWORKIN

Superior Court of California
County of San Luis Obispo

FREEDOM FROM RELIGION
FOUNDATION, a Wisconsin corporation;
and DR. SARI DWORKIN, an individual,

Plaintiffs,

v.

CITY OF PISMO BEACH, a municipal
corporation; PISMO BEACH CITY
COUNCIL, the governing body of the CITY
OF PISMO BEACH; SHELLY
HIGGINBOTHAM, an individual in her
capacity of Pismo Beach Mayor; and PAUL
JONES, an individual in his capacity as
Pismo Beach City Chaplain; and DOES 1-
100, inclusive,

Defendants.

Case No.

**PLAINTIFFS' COMPLAINT FOR
CONSTITUTIONAL AND CIVIL CODE
VIOLATIONS SEEKING
DECLARATORY RELIEF,
INJUNCTIVE RELIEF, AND NOMINAL
DAMAGES**

INTRODUCTION

1. The Pismo Beach City Council ("Council") begins each of its bi-monthly meetings with an official Christian prayer. All but one of the 126 prayers given from January 1, 2008, through October 15, 2013, were addressed to the Christian god, and all were directed at Pismo Beach's citizens. Christian clergymen delivered 123 of the 126 prayers: the City Chaplain, a Pentecostal clergyman, gave 112 prayers and other Christian clergymen gave 11 more. *See* Exhibit 1, pp. 1-135, copies of transcripts of those prayers.

1 Procedure § 395.
2

3 **PARTIES**

4 9. Plaintiff Freedom From Religion Foundation (“FFRF”) is a national
5 non-profit Internal Revenue Code § 501(c)(3) educational charity and a Wisconsin non-stock
6 corporation. FFRF defends the constitutional separation between state and church, and educates
7 the public about the views of non-theists. FFRF has nearly 20,000 members nationwide,
8 including more than 2,800 members in California. FFRF represents and advocates on behalf of
9 its members throughout the United States.

10 10. Plaintiff Sari Dworkin (“Dworkin”) is a citizen and taxpayer of Pismo
11 Beach and has resided there since 2000. Dworkin earned a Ph.D. (University of Nebraska,
12 Lincoln) and also holds M.S. and B.A. degrees (Herbert H. Lehman College, NYC). She taught
13 graduate level courses at the California State University, Fresno, and is now retired from
14 teaching but still practices as a licensed psychologist. Dr. Dworkin is a member of Atheists
15 United of San Luis Obispo (“AUSLO”), FFRF and the Congregation Beth David — a reform
16 Jewish congregation in San Luis Obispo. Dr. Dworkin identifies as an atheist Jew, and she
17 objects to the Pismo Beach City Council’s prayers. Dr. Dworkin has attended several Pismo
18 Beach City Council meetings over the last 6 years, in conjunction with her involvement in land
19 development issues in Pismo Beach, such as those involving Mike Hodges, 1 Price Canyon, and
20 Spanish Springs, and has watched meetings online and read transcripts of meetings as well. All
21 the meetings she attended, viewed, participated in, or read transcripts of, opened with sectarian
22 prayer. Dr. Dworkin was very surprised at those prayers, which she interpreted as addressed to
23 the Christian God, to a Christian City Council as a religious body, and to only Christian citizens
24 and Christian interests. She feels it unbelievable that such invocations exist in a country that
25 separates church and state. She is still very interested in Pismo Beach land development issues,
26 and intends to attend and view and read transcripts of the meetings in the future. The prayers
27 cause her to feel offended, disenfranchised, and intimidated about participating in her own
28 government. While protesting these prayers at the public council meeting, Dr. Dworkin is forced

1 by the Council’s procedures to give her name and address, but after they had ignored her
2 concerns , she felt vulnerable and uncomfortable, and had trepidation about attending any further
3 meetings. Similarly, as a member of AUSLO, Dr. Dworkin often hosts parties at her home, and
4 her affiliation with AUSLO as well as her name and home address are publicized in conjunction
5 with these parties, so the City Council’s deliberate disregard for her atheism by continuing with
6 its City Council meetings’ prayers and Christian chaplaincy, has made her feel ostracized and
7 even physically unsafe.

8 11. Other concerned citizens of the area who support Plaintiffs’ arguments in
9 this case include among others, David Leidner, Kurt Horner, Dorothy Ellis, Steve Arkowitz,
10 Paul Rinzler, Kim McGrew, Cesar Reyes, Terrence Jones, Laura Montecalvo, and Martin
11 Williams, as well as journalists including among others Colin Rigley (*see*
12 <http://www.newtimeslo.com/commentary/8207/repent/> and Matt Fountain (*see*
13 <http://www.newtimeslo.com/news/7997/pismo-panned-over-public-prayers/>).

14 12. Defendant City of Pismo Beach (“City” or “Pismo Beach”) is a municipal
15 corporation in the County of San Luis Obispo, California, subject to the jurisdiction and venue of
16 this Court. Pismo Beach is a “general law city,” vested with the power to make and enforce
17 within its limits all local ordinances and regulations not in conflict with general laws. The City
18 has less than four square miles of land and a population of less than 8,000.

19 13. Defendant City of Pismo Beach City Council (“Council”) is responsible for
20 governing the City. The Council has five members and a mayor who serve part time and
21 meet twice a month. The Council typically deals in local issues such as permitting, zoning,
22 licensing, land use and development, public works, and tourism.

23 14. The Council appointed Paul Jones the City Chaplain (“Jones”) in 2005, and
24 it grants Jones a privileged opportunity to pray at every meeting. The Council has officially
25 honored Jones for his years of ordained service. *See* Exhibit 2.

26 15. Defendant Shelly Higginbotham (“Mayor Higginbotham”) is Mayor of
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28

1 the City of Pismo Beach and has held that position since November 2010. Mayor Higginbotham
2 officiates at Council meetings and introduces the City Chaplain or substitute prayer-giver.
3 Mayor Higginbotham is being sued in her official capacity.

4 16. Defendant Paul Jones is the City Chaplain of Pismo Beach. Jones is being
5 sued in his official capacity. Jones has delivered nearly 90% of the invocations since January
6 2008. According to the “Proclamation of the City Council of the City of Pismo Beach” honoring
7 Jones for 60 years of ordained service, Jones is a leader in the International Church of the
8 Foursquare Gospel, a Pentecostal sect of Christianity. Jones graduated from a bible school
9 affiliated with the Foursquare Pentecostal sect, acted as pastor in various Foursquare Pentecostal
10 churches, and is a bishop for that sect. See Exhibit 2. The International Church of the
11 Foursquare Gospel affirms the inspiration and authority of scripture, the trinity, and other
12 orthodox Protestant evangelical doctrines and tenets, and emphasizes the baptism of the holy
13 spirit and speaking in tongues.

14 17. The fictitiously named Defendants sued as DOES 1 through 100,
15 inclusive, and each of them, were in some manner responsible or legally liable for the actions,
16 events, transactions and circumstances alleged herein. The true names and capacities of such
17 fictitiously named Defendants, whether individual, corporate, associate or otherwise, are
18 presently unknown to Plaintiffs and Plaintiffs will seek leave of Court to amend this Complaint to
19 assert the true names and capacities of such fictitiously named Defendants when the same have
20 been ascertained. For convenience, each reference to a Defendant will also refer to the Doe
21 Defendants.

22 18. Defendants were the agents, employees, partners, joint-venturers, co-
23 conspirators, owners, principals, and/or employers of the remaining Defendants, and are, and at
24 all times alleged herein were, acting within the course and scope of that agency, partnership,
25 employment, conspiracy, ownership and/or joint venture, and the acts and conduct alleged herein
26 of each Defendant were known to, authorized by, and/or ratified by the other Defendants.

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FACTS

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2 19. Official city business is conducted at the Pismo Beach City Council
3 meetings, which meetings are held on public property located at 760 Mattie Road, Pismo Beach,
4 California, 93449. These meetings are held in a relatively small room. Each public speaker,
5 including Plaintiff Dworkin, is required to fill out a blue card with her or his name and address on
6 it, and to recite their name and address before speaking for their allotted three minutes. The
7 invocation is included on the meeting agenda, and official minutes are posted online, and for
8 many years, the meetings have also been televised and recorded for online viewing. The room is
9 too small to exit or not one's head in prayer without everyone noticing, and the City is so small
10 that it is typical for people to know one another personally or through another Pismo Beach
11 acquaintance. At the beginning of every meeting after the call to order and taking of attendance
12 of the government officials, Mayor Higginbotham, in her official capacity, asks all attendees,
13 including Council members, government employees, citizens, and students, regardless of their
14 religious beliefs or lack thereof, to rise for the invocation. These invocations, which are included
15 on each official meeting agenda, are directed at the Council as well as at the citizens attending
16 the meetings and those watching online. Non-Christians wishing to participate in their
17 government are forced to endure this invariably Christian religious ritual at every meeting.

18 20. Pismo Beach citizens have opposed including sectarian prayers at City
19 Council meetings since at least 2003. See Exhibit 7, p. 2. In fact, the official minutes do not
20 reflect the substance of the public comment, but it is possible that one or both the speakers who
21 voiced support for, and opposition to, the resolution prohibiting sectarian invocations wanted to
22 ban all Council meeting invocations altogether because such invocations were unnecessary
23 and/or offensive to nonthesists. At any rate, at least one of these two speakers, David Taub,
24 went to this meeting specifically to support a prohibition on sectarian prayers at Pismo Beach
25 City Council meetings.

26 21. Moreover, at the March 1, 2005, Council meeting, one of the two citizens
27 who made public comments on the prayers and proposed chaplaincy opposed this chaplaincy.
28 See Exhibit 4, p. 3. At that meeting, the Council acknowledged the legal difficulties with a

1 chaplaincy, admitting that “sectarian invocations are improper at a City Council meeting.” The
2 council continued:

3 If the effect of establishing a City Chaplain position would be to
4 preclude other ministers from giving an invocation, then the City is
5 assuming some undetermined legal risk. Further, since the City has no
6 historical chaplaincy program, instituting such a program may have
7 significant constitutional obstacles especially in California’s litigious
8 climate.

9 See Exhibit 3, p. 5.

10 22. Nonetheless, the Council established the City Chaplain position, appointed
11 Jones to the post, and authorized the purchase of business cards and an official nametag. See
12 Exhibit 4 at p. 3, Exhibit 9.

13 23. Opposition to the chaplaincy and prayers continued, and in May 2012,
14 AUSLO sent a letter to the Council objecting to the prayers. See Exhibit 5. AUSLO did not
15 receive a response.

16 24. In followup to that AUSLO complaint letter, on June 5, 2012, Plaintiff
17 Dworkin, a member of both FFRF and AUSLO, objected to the prayers during the public
18 comment at the Council meeting. Defendant Mayor Higginbotham cut off her objections after
19 three minutes. AUSLO member Kurt Horner also went on record with a public comment at that
20 Council meeting and brought the Council a copy of his May 15, 2012, letter sent via e-mail. He
21 offered to take questions about the legal rationale for opposition to the Council’s prayers, but the
22 Council had no questions, and did not respond in any way to Ms. Dworkin or Mr. Horner either
23 at that meeting or thereafter.

24 25. Plaintiff FFRF wrote a letter to the Council on August 15, 2012, repeating
25 the objections to the prayers and elaborating on the legal authority calling for their termination.
26 See Exhibit 6. FFRF did not receive a response.

27 26. Not only has the Council ignored these complaints and attempts to follow
28 up on these complaints, but it has never complied with or enforced the policy it adopted on
August 5, 2003 and re-affirmed on March 1, 2005, prohibiting offering sectarian prayer. See
Exhibit 3, p. 5, 10; Exhibit 7, p. 2.

1 27. Public school students attend and speak at City Council meetings. *See e.g.*,
2 Exhibit 8, pp. 1-6.

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4 **The Prayers Are Sectarian.**

5 28. These sectarian prayers begin with a reference to the Christian god,
6 conclude with a reference to the Christian god, declare the Christian bible to be divinely
7 authored, and cite to it repeatedly.

8 29. Each prayer begins by invoking the Christian god. Of the 119 fully audible
9 prayers, 115 used Christian honorifics to address the Christian deity: 108 to “Our Heavenly
10 Father,” two to “Our Father in Heaven,” two to “Our Father,” one to “God, Our Father,” and
11 one to “Our Eternal God, Our Father.” Three more addressed “Our Eternal God,” which, like
12 “Our Eternal God, Our Father,” or “Eternal God, Our Heavenly Father,” is a Judeo-Christian
13 address—especially when the Pentecostal clergyman concludes the prayer “in the name of Our
14 Blessed Redeemer and Dearest Friend” or “in the name of Our Lord and Dearest Friend.”

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16 **The Prayers Conclude “in the Name of” the Christian God.**

17 30. Chaplain Jones or his substitute gave 122 prayers “in the name of” the
18 Christian Lord as follows:

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- 20 • 67 prayers were given “in the name of our personal Savior and Lord”
- 21 • 33 were similar but with additional or varied Christian embellishment
- 22 • five prayers were given in the name of “Christ our Lord”
- 23 • one was given in his name as “Your Son and Our Savior”
- 24 • six were given in the name of Christ the “Redeemer” (e.g., “in the name of the great
25 Redeemer, Your Divine Son,” June 1, 2010, prayer) or “Christ, Jesus, Our Lord”
26 (July 16, 2013, prayer)
- 27 • nine were given “in the name of the Lord” with varying embellishment
- 28 • one was given to “great God Our King.”

29 See Exhibit 1.

30 31. Often the invocations given “in the name of” the Christian god use a
31 combination of the aforementioned Christian phrases including: “Him who Isaiah called ‘the
32 Prince of Peace’” (twice), “Redeemer” or “redemptive” name (six times), “Your Divine Son”

1 (once), “Loving Lord” (seven times), “personal” (79 times), “Savior” (90 times), “personal
2 Savior” (74 times), and “Lord” (111 times.) Examples of these combinations include:

3 ... in the blessed name of our Savior and Lord. May 6, 2008, prayer.

4 See Exhibit 1, p. 9.

5 ... in the name of Your Son and our Savior. May 19, 2009, prayer.

6 See Exhibit 1, p. 33.

7 ... through Christ our Lord. August 18, 2009, prayer.

8 See Exhibit 1, p. 40.

9 ... in the name of the great Redeemer, Your Divine Son. June 1, 2010, prayer.

10 See Exhibit 1, p. 58.

11 ... in the name of our gracious Redeemer and Lord. April 5, 2011, prayer.

12 See Exhibit 1, p. 75.

13 ... in the name of him who Isaiah called ‘the Prince of Peace’ but
14 whom we know as our personal Savior and Lord, in His name we pray.
July 19, 2011, prayer.

15 See Exhibit 1, p. 82.

16 ... we pray this holy Christmas season in the name of Him who was
17 born in Bethlehem’s manger and who has become our personal Savior
and Lord. December 20, 2011, prayer.

18 See Exhibit 1, p. 91.

19 ... in the blessed name in the wonderful name of our Savior and Lord.
20 June 4, 2013, prayer.

21 See Exhibit 1, p. 126.

22 ... through Jesus Christ our Lord. July 16, 2013, prayer.

23 See Exhibit 1, p. 130.

24 32. The prayers are addressed to “our” God 99% of the time (at least 118 times
25 of 119 full audio) and conclude in the name of “our” God 95% of the time (119 of 125 prayers).
26 Plaintiffs allege that the use of the word “our,” as in “our personal Savior and Lord,” in the
27 prayer context is not only sectarian, but also excludes them and all non-Christians. Plaintiffs
28

1 allege that the use of the phrase “our personal Savior” and its variants are particularly sectarian
2 and exclusionary because only Christianity claims a personal savior.

3

4 **The Chaplain’s Use of the Christian Bible in the Prayers is Sectarian.**

5 33. City Chaplain Jones gives official government endorsement to the Christian
6 bible in two ways. First, he uses the prayers to give official sanction to sectarian beliefs found in
7 his religion’s bible. Second, he references, quotes, or cites that bible no less than 88 times.

8 34. City Chaplain Jones (or his substitute) used the phrase “Holy Scripture” 43
9 times (more than the phrase “the Bible” which was used 39 times) and attributes authorship of
10 the Christian bible (as if there was only one version of these books), to his God at least ten times.
11 He used the phrase “Your Word” seven times, “Holy Scriptures of God,” “Your Book” and the
12 “Holy Writings of God” once each.

13 35. Plaintiffs feel excluded when the government makes the claim that the
14 Christian bible is “holy” or that it is divinely authored. Such claims are sectarian, as would be
15 declaring that the Qu’ran or the Book of Mormon was written by a god, or declaring
16 Mohammed a prophet, as Islam claims.

17 36. Plaintiffs feel excluded whenever the City Chaplain references, cites,
18 or quotes the Christian bible, and Jones has done so in referring to the book of Psalms at least 37
19 times, Proverbs at least 22 times, Isaiah at least 11 times, Timothy at least ten times, Luke at
20 least nine times, Matthew at least three times, and James at least three times.

21 37. The above statistics are not exhaustive because “Holy Scripture” is often
22 quoted without stating the source. For instance, Jones delivered a prayer with multiple
23 unattributed Christian bible quotes on December 15, 2009, when he officially proclaimed:

24 But the babe that was born in Bethlehem’s manger will yet remain...
25 the babe that was born in Bethlehem’s manger will continue to bring
26 happiness and satisfaction. For His name is above all other names, His
27 reign is above all other rulers, and His truth is above all other.

28 See Exhibit 1, p. 48.

1 The two references to Jesus Christ as the “babe born in Bethlehem’s manger,” are from the
2 Christian bible’s book of Luke 2:3 and 2:12; “His name is above all other names” is from
3 Philippians 2:9.

4 38. Examples of the City Chaplain’s use of the Bible in official government
5 prayers include:

6 The Scriptures teach us, saying, ‘Blessed is the nation whose God
7 is the Lord.’¹ We recognize that we are a nation under God. Our
8 forefathers have handed us the torch of faith; you alone have given us our
9 freedom, our liberty, and our prosperity. And faith in God is our heritage
10 and our foundation. It was President George Washington who reminded us
11 that morality and faith are the pillars of our republic. But it is evident that
12 these pillars are being eroded in our secular and permissive society. Too
13 long, we have neglected Your Word and ignored your laws. We have tried
14 to solve our problems without reference to You. Your word is so clear, and
15 is so simple. For Your Word says: ‘righteousness exalts a nation, but sin is a
16 reproach and an embarrassment to any people.’ And so we confess to you
17 our sins, and ask that we as a nation and as individuals, may experience a
18 moral and a spiritual restoration. October 6, 2009, prayer.

13 See Exhibit 1, p. 43.

14 For it is recorded in Holy Scripture, and King Solomon declared it in 930
15 B.C., ‘God is a shield to those who put their trust in Him.’ And again he
16 said, ‘He who trust [sic] in the Lord shall prosper.’ And again he said,
17 ‘Whoever trusts in the Lord shall be safe and secure.’ And his father before
18 him, King David wrote, ‘He that trust [sic] in the Lord, mercy shall surround
19 him.’ Our forefathers read and reread these portions of Holy Scripture, and
20 anchored their faith and their future to them. March 2, 2010, prayer.

18 See Exhibit 1, p. 52.

19 It is clear that the Bible has had an incredible influence in shaping the history
20 of our great country, the United States of America. King Solomon wrote in
21 the Holy Scriptures, ‘Blessed is the nation whose God is the Lord.’ And so
22 tonight, we seek your help, oh God, through daily prayer and daily Bible
23 reading that we may be able to guarantee for generations to come that we
24 remain one nation under God, indivisible, with liberty and justice for all, for
25 the more we absorb the Scriptures and seek to live by its precepts... .”
26 September 4, 2012, prayer.

24 See Exhibit 1, p. 106.

26 ¹ The City Chaplain cites or quotes Psalm 33:12, “Blessed is the nation whose God is the Lord,” at least 16 times. The
27 sectarian nature of the word “Lord” in the prayer context is evident in this passage. The City Chaplain’s repeated use of the
28 quote is meaningless if “Lord” refers to a generic, common god (“Blessed is the nation whose God is God”). The quote only
has meaning if “Lord” specifically invokes the Christian God (“Blessed is the nation whose God is YHWH, the Christian
God”). “Lord” is the name for a particular god, the Christian god *Yahweh*. In Judeo-Christian writings the name was rendered
as *YHWH* — the tetragrammaton (Greek: “Four Letters”) — was ineffable, so “Lord” was substituted. Thus, the passage is
sectarian, as are prayers given “in the name of our Lord.”

1 **Christian Clergymen Gave Almost Every Prayer.**

2 39. Of the 126 invocations from 2008 through October 15, 2013, 99% of them
3 were Christian. Christian clergy delivered 98% (123 of 126) of the prayers. Defendant Jones,
4 the Pentecostal City Chaplain, gave 112 invocations; the Reverend Paul Toms, a pastor at the
5 Christian Evangelical Grace Bible Church, gave ten (several in the name of “Christ, our Lord” or
6 “Christ Jesus Our Lord”); and Father Victor Abegg, pastor at St. Paul the Apostle Catholic
7 Church, gave one. Rebecca McMurry, then-CEO of the Pismo Chamber of Commerce,
8 delivered one of the three prayers not delivered by Christian clergy, and it was strikingly similar
9 to Chaplain Jones’ prayers. See e.g. November 15, 2011, prayer, Exhibit 1 at p. 89. City
10 Manager Kevin Rice gave the other prayer. Both McMurry’s and Rice’s prayers were Christian.
11 McMurry addressed the prayer to “Our Heavenly Father,” called for “obedience to Holy
12 Scripture,” asked the Council to make decisions that will “honor You [God],” and gave the
13 prayer “in the name of our Lord.” See February 3, 2009, prayer, Exhibit 1, p. 26. Rice invoked
14 the Christian deity, “God our Father, creator of all.”² See November 6, 2012, prayer, Exhibit 1,
15 p. 111. The sole non-Christian prayer-giver was Rajan Zed, a Hindu cleric from Reno, Nevada,
16 who gave the invocation on October 1, 2013, reading quotes from Hindu scripture and
17 addressing the Hindu God, thus making his prayer just as sectarian as the Christian prayers.

18
19 **Jones Exploits the Prayers to Proselytize, Disparage non-Christians, and Advance**
20 **Christianity.**

21 40. Virtually all of Jones’ prayers order citizens to live in accordance with his
22 god’s laws, criticize citizens who do not do so, or lobby the Council to govern so as to honor his
23 god. For instance, in his prayer at a City Council meeting on April 6, 2010, City Chaplain Jones
24 lobbied:

25 The power of prayer is a dynamic force that repels unrighteousness, but
26 the influence of prayer has been dramatically reduced in our public life.
And the moral compass of the Holy Scriptures has been largely laid

27 ² Rice’s words are an introduction typical of the Christian Bible, specifically the writings attributed to Paul. Most of Paul’s
28 letters include a greeting referencing “God Our father.” See Romans 1:7; 1 Corinthians 1:3; 2 Corinthians 1:2; Galatians 1:3;
Ephesians 1:2; Philippians 1:2; Colossians 1:2; 2 Thessalonians 1:1; 2 Thessalonians 2:16; Philemon 1:3. See also James :27.
[See Appendix of Out of State Authority]

1 aside. Public morality is declining to dangerously low points. So help
2 *each of us* to always seek to live justly, and to pursue righteousness,
3 and to be zealous for a lifestyle that honors God. ... Give to them your
4 solution to every difficulty ... May proper decisions be made tonight
5 that will honor You....”

6 See Exhibit 1, p. 54, emphasis added. Jones delivered nearly identical prayers on October 7,
7 2008 and on April 7, 2009. See Exhibit 1, pp. 19, 30. Further, on September 17, 2013, Jones
8 prayed:

9 Cause our leaders *and our citizens* to stand up for clear standards
10 expressed in the Bible, the Holy Writings of God. May they stand firm
11 for our freedoms to live by these standards. . . . Allow your Infinite
12 Wisdom to be graciously bestowed on our City Council whom we have
13 freely elected. May your leadership be manifested in their lives and in
14 their decisions as well as the staff that supports them. . . Fill City Hall
15 and these Council chambers with the peace and the power of your
16 eternal presence and *cause every home and every citizen in Pismo
17 Beach to feel the impact.*

18 See September 17, 2013, prayer, Exhibit 1, p. 133, emphasis added.

19 41. These prayers are official government admonishments to all citizens (“*each
20 of us,*” “*every home and every citizen in Pismo Beach*”) to be zealous for and live a lifestyle that
21 honors the Christian god, and to the Council to serve and honor the Christian god (and not all
22 gods of all of Pismo Beach’s people).

23 42. Plaintiffs are disparaged by government claims that the “moral compass of
24 the Holy Scriptures has been largely laid aside” and that “public morality is declining.” April 6,
25 2010, prayer, see Exhibit 1, p. 54. Plaintiffs do not derive their morality from any bible, nor do
26 they conflate religion with morality. They are denigrated by government claims that one religion
27 has a monopoly on morality and, that therefore, nonadherents of that religion are immoral.

28 43. Other examples of official prayers that advance Christianity include:

 May we never resist God’s will in our lives but, rather, may we value
 godliness and pursue righteousness each day. For the Bible teaches us that
 righteousness and right living are essential to a healthy society. May we seek
 the Lord and obey the Bible, so as to walk daily in the purity of God’s ways.
 Cause us to make godliness, as recorded in the Scripture, to be our life’s
 standards. ... cause each of us, as individuals and as a nation, to repent of
 our sins and turn wholeheartedly to honor You and to serve You. March
 17, 2009, prayer.

See Exhibit 1, p. 29.

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In Deuteronomy chapter 30, verse 15, the Holy Scriptures record, ‘See? I’ve set before you today life and good, death and evil, and that I command you today to love the Lord your God, to walk in his ways, to keep his commandments, his statutes, and his judgments that you may live and multiply and the Lord your God will bless you in the land which you go to possess.’ God is asking America to make the same choice today in order for us to rebuild America’s crumbling moral foundation. God has made it clear that he will continue to bless our land if we choose to love him and walk in his ways. As a nation and as individuals, we can stand before almighty God and say to him, we love you Lord, and as a people we will walk in your ways and keep your commandments. March 6, 2012, prayer.

See Exhibit 1, p . 95.

King Solomon ... stated, ‘The way of the Lord is strength for the upright and he who walks in integrity walks securely. The righteous has an everlasting foundation and will never be moved, and the memory of the righteous is blessed.’ Many of our citizens and leaders have turned from the path of righteousness in our lives and lifestyles. Infuse this ideal from King Solomon once again into our public mind, and may it be practiced by our citizens. October 16, 2012, prayer.

See Exhibit 1, p. 110.

44. Jones’ prayers affiliate the government he speaks for with the church he also speaks for. These prayers additionally disparage and ostracize those who do not share City Chaplain Jones’ faith in his god, or derive their moral code from his holy book:

Two weeks from today, November 4th, as United States citizens, we will be electing a new president, a full House of Representatives, and numerous senators. In our city of Pismo Beach, we will be electing our city mayor, and two council members. Cause each of our citizens to accept their responsibility and privilege to vote, and help us as individual citizens to elect leaders whose lifestyles and judgements have pursued integrity and righteousness. For King Solomon wrote in the Holy Scriptures, ‘Righteousness exalts a nation, but sin is a reproach to any people.’ October 21, 2008, prayer.

See Exhibit 1, p. 20.

Ethics, morals, standards of behavior, these are determined by God rather than majority of people. So tonight, enable each of us to stand firm for our godly convictions, understanding it is an honor and a privilege to stand for right. May the deep abiding sense of God’s holiness and God’s righteousness always determine our sense of right and wrong. Tonight we strongly affirm our nation’s motto; in God we trust. Help us to maintain these and this firm conviction in our hearts and in our lifestyles. For only then we will not be helpless or defenseless as we face the future. November 18, 2008, prayer.

See Exhibit 1, p. 21.

1 And God is always true to his character, as we seek his face and prayer and
2 respond to his holy promise in the Scriptures, it will change the way we
3 think and the way we behave. For sin and spiritual decline removes the
4 favor of God, but if we repent, God will forgive and pardon our sins, and
5 replace them with his righteousness in our lives. Each day we rest upon the
unfailing promise found in the Scriptures, Isaiah 41:10, 'Fear not for I am
with you. Be not dismayed, for I am your God. I will strengthen you, I will
help you, I will uphold you with my righteous right hand.' May 5, 2009,
prayer.

6 See Exhibit 1, p. 32.

7 We ask that you will cause every citizen to perform their civic duty and
8 vote this season. Cause us to elect leaders who will stand up for the
9 clear standards that are expressed in the Bible, the Holy Writings of
God. October 16, 2012, prayer.

10 See Exhibit 1, p. 110.

11 **City Chaplain Jones Revises and Christianizes History to Advance his Religion.**

12 45. At least 54 of Jones' prayers contain versions of history revised to misstate
13 and exaggerate the influence of Christianity on the founders and our country's founding — a
14 Christianized version of history.

15 46. Plaintiffs are excluded and disenfranchised by official governmental
16 proclamations that dishonestly Christianize United States history. Plaintiffs believe these
17 historical fabrications give the untrue appearance that Christianity is and has been the basis of the
18 United States government and is uniquely aligned with our government. This show of favoritism
19 is evident not only in the Chaplain's privileged office and opportunity to give governmental
20 weight to the fabrications, but also in the fabrications themselves. Plaintiffs are marginalized and
21 disparaged because the Chaplain uses his governmental position and authority to co-opt
22 America's greatness for Christianity and thereby advance that religion.

23 47. For instance, City Chaplain Jones claims include many unspecified
24 references to the founding fathers' beliefs in God and the Bible, e.g., May 17, 2011, prayer, see
25 Exhibit 1, p. 79; August 19, 2008, prayer, see Exhibit 1, p. 16.³

26 48. Jones also re-imagines history and the actions of the United States'
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28 ³ See also, Jones' nearly identical prayers on October 20, 2009, October 19, 2010, and February 7, 2012, Exhibit 1, at pp. 44, 66, and 93.

1 founders to show that his religion is *the* religion of this nation. For example, of Benjamin
2 Franklin’s prayer proposal at the Constitutional Convention, City Council Chaplain Jones
3 asserted, “James Madison concurred and such resolution was passed . . .’ June 3, 2008, prayer.
4 See Exhibit 1, p. 11.⁴ However, the prayer motion did *not* pass. The prayer motion was so
5 unimportant that the Constitutional Convention did not even bring it to a vote, let alone pass it.
6 Benjamin Franklin wrote of his own motion that “The Convention, except three or four persons,
7 thought prayers unnecessary.”⁵

8 49. Jones has also said:

- 9 • James Madison ... said, ‘We have staked the whole future of American
10 civilization not upon the power of government, far from it, we have
11 staked the future upon the capacity of each and all of us to govern
ourselves according to the Ten Commandments of God.’ August 5,
2008.

12 See Exhibit 1, p. 15; see also March 2, 2010, and June 7, 2011, prayers, Exhibit 1, pp. 52, 80.

- 13 • Our Heavenly Father, Thomas Jefferson ... in a prayer March 4, 1805, he
14 prayed, ‘Almighty God, may we always prove ourselves to be a people
15 mindful of your favor and glad to do Your Will. Save us from violence, and
16 confusion, and pride, and arrogance, and from every evil way. Endow with
17 your spirit of wisdom, those we entrust with the authority of government,
18 that there may be justice and peace, and through obedience to your word,
we may show forth your praise among the nations of the world. God, who
gave us life, gave us liberty, can the liberties of a nation be thought secure
when we remove the conviction in the minds of people, that these liberties
are the gift of God?’ February 17, 2009, prayer.

19 See Exhibit 1, p. 27.

- 20 • It was George Washington, our first president, who said, ‘It is impossible to
21 rightly govern without God and the Bible.’ August 4, 2009, prayer.

22 See Exhibit 1, p. 39; see also, prayers on March 16, 2010, August 3, 2010, and September 18,
2012, Exhibit 1, pp. 53, 61, 108.

- 23 • In 1787 at the Constitutional Convention, James Madison read from the
24 Bible, Isaiah 33:22, ‘The Lord is our judge, the Lord is our lawgiver, the
25 Lord is our king; he will save us.’ And on the basis of the bible reading, he
proposed the plan to divide our central government into three branches:
judicial, God our judge; legislative, God our lawgiver; and executive, God

26 ⁴ See also prayers on September 16, 2008, October 21, 2008, February 2, 2010, April 20, 2010, and Exhibit 1, pp. 18, 20, 50,
27 55.

28 ⁵ Max Farand, *The Records of the Federal Convention of 1787*, Volume 1 (Yale University Press, 1911) p. 452, n. 15. Available
at the Library of Congress website:
<http://memory.loc.gov/cgi-bin/query/r?ammem/hlaw:@field%28DOCID+@lit%28fr001136%29%29>.

1 our king. He discovered our model of government from the eternal
2 governor.’ June 18, 2013, prayer.

3 See Exhibit 1, p. 127.

4 50. Each of these is a fabrication.⁶ Plaintiffs feel excluded when the
5 government advances City Chaplain Jones’ religion by approving these sectarian fabrications and
6 claims that our government was founded on and is aligned solely with his religion.

7 51. As noted in the attached Exhibit 1, this Complaint does not contain an
8 exhaustive list of these revisions of history. Other historical fabrications in the prayers include
9 the idea that “our founding fathers carved words of praise to god in nearly every building and
10 monument and memorial in our capital city...” (September 2, 2008, prayer, see Exhibit 1 , p.
11 17), despite the fact that most of those buildings do not include such representations and those
12 that the Chaplain cites were built in the 20th century; distortions about Congress printing bibles
13 and about the ministerial training of the signers of the Declaration of Independence (July 7, 2009,
14 prayer, see Exhibit 1, p. 36); and the whopper that “the most frequently cited source in the
15 founding era of our great country was the Bible.” September 4, 2012, prayer, see Exhibit 1,
16 p. 106.

17
18 ⁶ In the same order:

19 · Madison never said that American civilization is staked on the Ten Commandments or anything similar. See
20 Robert Alley, “Public Education and the Public Good,” *William and Mary Bill of Rights Journal*, Summer 1995,
pp. 316-318. Available at <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1501&context=wmborj>.

21 · According to the Thomas Jefferson Foundation, which runs and maintains Jefferson’s estate at Monticello, “This
22 prayer was not written or delivered by Thomas Jefferson. It is in fact from the 1928 United States *Book of*
Common Prayer.” See <http://www.monticello.org/site/research-and-collections/national-prayer-peace>.

23 · Washington never said or wrote this. See *Paul Boller and John H. George, They Never Said It: A Book of Fake*
Quotes, Misquotes, and Misleading Attributions, 126-7 (Oxford University Press, 1989).

24 · Madison did not read from the bible at the Constitutional Convention. Historians are certain that separation of
25 powers did not come from the bible. It came from Montesquieu who never mentioned or referred to the Bible in
26 his discussion of the separation. See Barron Charles Louis Joseph de Secondat Montesquieu *The Spirit of the*
Laws, Book XI. Madison devoted the Federalist no. 47 to the workings of “this invaluable precept in the science of
27 politics” and wrote that “no political truth is certainly of greater intrinsic value, or is stamped with the authority
of more enlightened patrons of liberty, than that [of separation of powers.]” He goes on to say “[t]he oracle who is
28 always consulted and cited on this subject is the celebrated Montesquieu.” Furthermore Isaiah 33:22 does not
separate power; it concentrates power in one being. The founders thought that “concentrating these [powers] in
the same hands is precisely the definition of despotic government” (Thomas Jefferson, Notes on the State of
Virginia, Query 13, 120-121, 1784) and that such a concentration was “the very definition of tyranny.” The
Federalist No. 47 (James Madison). Each of these three sources appears in *The Founders' Constitution: Vol. I*
Major Themes, 318, 319-320, 325-328, 623-628 (Philip B. Kurland, Ralph Lerner eds., Liberty Fund)(2000).

1 **The City of Pismo Beach Gives Both Tangible and Intangible Aid to One Religion.**

2 52. The City Council gives both tangible and intangible aid for sectarian
3 religious purposes, and in this tangible way, gives its City’s seal, literally, and its seal of approval,
4 figuratively, to Chaplain Jones. For two examples, the City Council purchased City Chaplain
5 Jones a nametag and authorized the purchase of business cards bearing the Pismo Beach official
6 seal. See Exhibit 4, p. 3, City Council Resolution #05-011; see also Exhibit 9.

7 53. The City Council lends the power and prestige of the government and
8 people of Pismo Beach to the Chaplain’s particular religious beliefs. The City accords this one
9 set of sectarian religious beliefs a privileged place at each government meeting and welcomes
10 that religion’s prayers at such meetings.

11 54. The City Council has established an official government office and title for
12 one particular religion, which happens to be the religion of the majority, thereby awarding it the
13 power and prestige of the government. Only one person, representing one religion, has ever
14 occupied the office. The Chaplain wields that prestige in recognition of that power: “Tonight, *in*
15 *the dignity of this public City Council meeting*, we invoke your divine presence ...” June 18,
16 2013 prayer (emphasis added). See Exhibit 1, p. 127; see also August 20, 2013 prayer, Exhibit
17 1, p. 131.

18
19 **FIRST CAUSE OF ACTION**

20 **VIOLATION OF THE CALIFORNIA CONSTITUTION - PRAYERS**

21 **(Against All Defendants)**

22 55. Paragraphs 1 through 54 of this Complaint are incorporated by reference as
23 if set forth in full.

24 56. These prayers are given under color of law, by the official City Chaplain,
25 fulfilling his duty as City Chaplain, with the full knowledge and permission of the City Council
26 that created the Chaplaincy, during official government meetings conducting city business. The
27 Council practice of sponsoring these prayers at meetings constitutes the custom and policy of the
28 City of Pismo Beach.

1 57. These prayers serve no secular purpose, have the effect of endorsing one
2 particular sect, and entangle the government with religion. The prayers proselytize and advance
3 Christianity while disparaging non-Christians.

4 58. The fact that the City adopted a non-sectarian prayer policy eight years ago
5 is not a defense for the City because it is the City Council’s custom and practice not to enforce
6 the policy, and instead to sponsor sectarian prayers at their meetings.

7 59. These prayers violate the California Constitution’s No Preference and
8 Establishment Clauses, which guarantee free exercise and enjoyment of religion without
9 discrimination or preference, and which prohibit the legislature from making any law respecting
10 an establishment of religion.

11 60. Defendants have, under color of state statutes, ordinances, regulations,
12 policies, custom, and usage, deprived Plaintiffs of rights secured by the California Constitution,
13 entitling them to a remedy.

14 61. As alleged herein, an actual controversy has arisen and now exists between
15 Plaintiffs and Defendants. Plaintiffs contend that Defendants’ acts and omissions as pleaded,
16 including the prayers, violate the California Constitution. Plaintiffs expect Defendants to contend
17 that their acts and omissions do not violate the California Constitution. A judicial declaration
18 resolving these actual controversies between the parties is necessary and appropriate so the
19 parties may ascertain their respective rights, duties and obligations. Plaintiffs seek a judicial
20 determination that Defendants are violating California law, and further request permanent
21 injunctive relief.

22

23

SECOND CAUSE OF ACTION

24

VIOLATION OF THE CALIFORNIA CONSTITUTION - CHAPLAINCY

25

(Against All Defendants)

26

27

 62. Paragraphs 1 through 54 of this Complaint are incorporated by reference as
if set forth in full.

28

 63. The official appointment of a City Chaplain serves no secular purpose, and

1 advances one religion over others and religion over non-religion. It also entangles the
2 government with religion, in among other ways, by Jones' recitation of the Pledge of Allegiance
3 at each City Council meeting at which he leads prayers.

4 64. Jones uses his official position to proselytize for Christianity, advance that
5 sect, and disparage non-Christians.

6 65. The Council practice of sponsoring sectarian prayers at meetings constitutes
7 the custom and policy of the City of Pismo Beach.

8 66. Defendants have, under color of state statutes, ordinances, regulations,
9 policies, custom, and usage, deprived Plaintiffs of rights secured by the California Constitution.

10 67. As alleged herein, an actual controversy has arisen and now exists between
11 Plaintiffs and Defendants. Plaintiffs contend that Defendants' acts and omissions as pleaded,
12 including the chaplaincy, violate the California Constitution. Plaintiffs expect Defendants to
13 contend that their acts and omissions do not violate the California Constitution. A judicial
14 declaration resolving these actual controversies between the parties is necessary and appropriate
15 so the parties may ascertain their respective rights, duties and obligations. Plaintiffs seek a
16 judicial determination that Defendants are violating California law, and further request permanent
17 injunctive relief.

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THIRD CAUSE OF ACTION

20

VIOLATION OF THE CALIFORNIA CONSTITUTION - AID

21

(Against All Defendants)

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68. Paragraphs 1 through 54 of this Complaint are incorporated by reference as
if set forth in full.

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69. The appointment of a City Chaplain and the purchase of a name tag or
badge for the chaplain (and perhaps business cards as well) violate the "no aid" provision of the
California Constitution:

27

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Neither the Legislature, nor any county, city and county, township,
school district, or other municipal corporation, shall ever make an
appropriation, or pay from any public fund whatever, or grant anything

1 to or in aid of any religious sect, church, creed, or sectarian purpose, or
2 help to support or sustain any school, college, university, hospital, or
3 other institution controlled by any religious creed, church, or sectarian
4 denomination whatever; nor shall any grant or donation of personal
property or real estate ever be made by the state, or any city, city and
county, town, or other municipal corporation for any religious creed,
church, or sectarian purpose whatever... .”

5 See Cal. Const. art. XVI, § 5.

6 70. No legitimate secular or government interest is served by appointing a City
7 Chaplain.

8 71. This aid is not available to secular and sectarian persons or institutions
9 equally; it is only available to the religious, and, in Pismo Beach, only available to Christians.

10 72. The prayers and chaplaincy impose a financial burden on the government
11 and taxpayer. It is not simple financial aid that article XVI § 5 prohibits; it also prohibits all
12 forms of governmental aid to religion, whether tangible, such as cash, *or in the intangible form*
13 *of prestige and power*. It bans any official involvement which has the direct, immediate, and
14 substantial effect of promoting religious purposes. In Pismo Beach, both tangible and intangible
15 benefits are bestowed to a single sect with the establishment of the City Chaplaincy. These
16 special privileges to the Chaplain and to the religion he represents violate the California
17 Constitution.

18 73. As alleged herein, an actual controversy has arisen and now exists between
19 Plaintiffs and Defendants. Plaintiffs contend that Defendants’ acts and omissions as pleaded,
20 including the prayers, chaplaincy, and aid violate the California Constitution. Plaintiffs expect
21 Defendants to contend that their acts and omissions do not violate the California Constitution. A
22 judicial declaration resolving these actual controversies between the parties is necessary and
23 appropriate so the parties may ascertain their respective rights, duties and obligations. Plaintiffs
24 seek a judicial determination that Defendants are violating California law, and further request
25 permanent injunctive relief.

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FOURTH CAUSE OF ACTION

VIOLATION OF THE CALIFORNIA CONSTITUTION - CHAPLAINCY

(Against All Defendants)

74. Paragraphs 1 through 54 and 63 through 67 of this Complaint are incorporated by reference as if set forth in full.

75. The City’s Chaplaincy violates Article XX, § 3 of the California Constitution. That provision lays out the oath and qualifications for any California public office. The City Chaplaincy is a “public officer and employee” which “includes every officer and employee of the State, including the University of California, every county, city, city and county, district, and authority, including any department, division, bureau, board, commission, agency, or instrumentality of any of the foregoing.”

76. After the secular oath, § 3 reads: “And no other oath, declaration, or test, shall be required as a qualification for any public office or employment.”

77. The City requires that a religious person with religious training serve as City Chaplain.

78. No legitimate interest is served by the appointment of a City Chaplain. Creating a public office and requiring that it be held by a religious person, as Defendants have done, violates Article XX, § 3 of the California Constitution.

79. As alleged herein, an actual controversy has arisen and now exists between Plaintiffs and Defendants. Plaintiffs contend that Defendants’ acts and omissions as pleaded, including the chaplaincy, violate the California Constitution. Plaintiffs expect Defendants to contend that their acts and omissions do not violate the California Constitution. A judicial declaration resolving these actual controversies between the parties is necessary and appropriate so the parties may ascertain their respective rights, duties and obligations. Plaintiffs seek a judicial determination that Defendants are violating California law, and further request permanent injunctive relief.

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FIFTH CAUSE OF ACTION
VIOLATION OF THE CALIFORNIA CONSTITUTION AND THE CIVIL CODE -
COERCION OF CITIZENS

(Against All Defendants)

80. Paragraphs 1 through 54 of this Complaint are incorporated by reference as if set forth in full.

81. California Civil Code (“Civil Code”) § 52.1 authorizes a claim for relief against anyone who interferes, or tries to do so, by threats, intimidation, or coercion, with an individual’s exercise or enjoyment of rights secured by federal or state law.

82. This includes claims against anyone who tries to force someone to do something not required to be done under the law.

83. Defendants force Plaintiffs to undergo a Christian religious ritual in order to exercise their constitutionally protected right to participate in and monitor their democratic government and choose their own method and form of worship, including none at all.

84. Defendants are liable under the California Constitution’s No Preference and Establishment Clauses, and under Civil Code § 52.1 for forcing and coercing Plaintiffs into religious worship.

85. As alleged herein, an actual controversy has arisen and now exists between Plaintiffs and Defendants. Plaintiffs contend that Defendants’ acts and omissions as pleaded, violate the California Constitution and Civil Code. Plaintiffs expect Defendants to contend that their acts and omissions do not violate the California Constitution and/or the Civil Code. A judicial declaration resolving these actual controversies between the parties is necessary and appropriate so the parties may ascertain their respective rights, duties and obligations. Plaintiffs seek a judicial determination that Defendants are violating California law, and further request permanent injunctive relief.

REQUEST FOR RELIEF

Plaintiffs seek judgment as follows:

1 1. On the First Cause of Action, for a declaratory judgment that Defendants’
2 prayers violate Article I, § 4 of the California Constitution; for nominal damages for past
3 violations of constitutional rights; for a permanent injunction ordering Defendants to refrain from
4 prayers at government meetings; and for court costs and attorneys’ fees pursuant to California
5 Civil Procedure §1021.5, California Civil Code § 52.1 (h), and pursuant to the substantial benefit
6 doctrine.

7 2. On the Second Cause of Action, for a declaratory judgment that Defendants’
8 appointment of a City Chaplain and providing the Chaplain with items of monetary value and
9 intangible aid at the public expense violates Article I, § 4 and Article XVI, § 5 of the California
10 Constitution; for nominal damages for past violations of constitutional rights; for a permanent
11 injunction ordering Defendants to permanently dissolve the position of City Chaplain; and for
12 court costs and attorneys’ fees pursuant to California Civil Procedure §1021.5, California Civil
13 Code § 52.1 (h), and pursuant to the substantial benefit doctrine.

14 3. On the Third Cause of Action, for a declaratory judgment that Defendants’
15 aid given to prayers and to the City Chaplain violate Article XVI, § 5 of the California
16 Constitution; for nominal damages for past violations of constitutional rights; for a permanent
17 injunction ordering Defendants to refrain from providing any tangible or intangible aid for
18 religious purposes, including without limitation prayers or an official chaplaincy; and for court
19 costs and attorneys’ fees pursuant to California Civil Procedure §1021.5, California Civil Code §
20 52.1 (h), and pursuant to the substantial benefit doctrine.

21 4. On the Fourth Cause of Action, for a declaratory judgment that Defendants’
22 appointment of a City Chaplain required to adhere to a religion or believe in a god to hold such
23 public office violates Article XX, § 3 of the California Constitution; for nominal damages for past
24 violations of constitutional rights; for a permanent injunction ordering Defendants to permanently
25 dissolve the position of City Chaplain; and for court costs and attorneys’ fees pursuant to
26 California Civil Procedure §1021.5, California Civil Code § 52.1 (h), and pursuant to the
27 substantial benefit doctrine.

28 5. On the Fifth Cause of Action, for a declaratory judgment that forcing

1 plaintiffs to attend a Christian religious ritual in order to exercise their constitutionally protected
2 right to participate in their democratic government, and interfering with plaintiffs' right to choose
3 their own method and form of worship, including none at all, violates the California Constitution
4 and Civil Code § 52.1; for a permanent injunction ordering Defendants to refrain from prayers at
5 government meetings; and for court costs and attorneys' fees pursuant to California Civil
6 Procedure §1021.5, California Civil Code § 52.1 (h), and pursuant to the substantial benefit
7 doctrine.

8 6. On All Causes of Action, for such further and equitable relief as the Court
9 may deem appropriate.

10 Dated: November 1, 2013

LAW OFFICES OF PAMELA KOSLYN

11
12 By: _____
13 PAMELA KOSLYN

14 Attorneys for PLAINTIFFS

15 FREEDOM FROM RELIGION FOUNDATION
16 DR. SARI DWORKIN

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