

1 Robert A. Seeman
2 Attorney at Law
3 658 Myrtle Street
4 Glendale, CA 91203
5 State Bar No: 52790
6 Phone: 818-384-8059
7 Fax: 818-241-6907
8 rseeman@pacbell.net
9 Attorney for Plaintiff

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12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **EASTERN DIVISION**
15

16 **FREEDOM FROM RELIGION**
17 **FOUNDATION, INC.,**
18 Plaintiff,
19 v.
20 **CITY OF RANCHO CUCAMONGA,**
21 **CALIFORNIA, and LINDA DANIELS,**
22 **Rancho Cucamonga Development**
23 **Director,**
24
25 **Defendants**

26 CASE NO.:
27 COMPLAINT FOR DAMAGES
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JURY TRIAL DEMANDED

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36 The Plaintiff alleges as its complaint as follows:

- 37 1. The Court has jurisdiction of this matter pursuant to 28 U.S.C. §1331.
- 38 2. The Plaintiff, Freedom From Religion Foundation, Inc. ("FFRF"), brings

COMPLAINT FOR DAMAGES

1 this action against the Defendants alleging violations of the Establishment Clause of the
2 First Amendment to the United States Constitution, the Free Speech Clause of the First
3 Amendment to the United States Constitution, and 42 U.S.C. §1983.

4 3. Venue is appropriate in the District Court for the Central District of
5 California, pursuant to 28 U.S.C. §1391, because the Defendants reside within this
6 judicial district, and because the actions giving rise to the claims occurred within the
7 district.

8 4. The Plaintiff, FFRF, is a Wisconsin non-stock corporation with its principal
9 office in Madison, Wisconsin.

10 5. FFRF has nearly 13,000 members, including approximately 1,920 members
11 in the State of California, who are opposed to government endorsement of religion in
12 violation of the Establishment Clause of the First Amendment to the United States
13 Constitution.

14 6. FFRF is a membership organization working to assure the separation of
15 church and state and to educate on matters of non-theism.

16 7. The Defendant, Rancho Cucamonga, is a duly organized city under the laws
17 of the state of California.

18 8. The Defendant, Rancho Cucamonga, committed violations of the
19 Establishment Clause and the Free Speech Clause that have occurred pursuant to official
20 policy and practice of the City.

21 9. The Defendant, Linda Daniels, is the Redevelopment Director for the
22 Rancho Cucamonga Redevelopment Agency, located at 10500 Civic Center Drive,
23 Rancho Cucamonga, California, 91730.

24 10. The Defendant, Linda Daniels, is sued in her individual and official
25 capacities.

26 11. FFRF, as part of its educational and advocacy functions, engages in speech
27 that calls attention to and advocates for the separation of church and state.
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1 12. FFRF, as part of its educational and advocacy functions, has publicly
2 displayed message billboards at locations throughout the United States, which billboards
3 are intended to and do express FFRF's intent to call attention to and advocate for the
4 separation of church and state.

5 13. FFRF publicly contracted for the display of such a message billboard within
6 Rancho Cucamonga, at the intersection of Archibald Avenue and Foothill Boulevard, on
7 Highway 66, which billboard was first posted on or about November 14, 2008; the
8 billboard includes the message "Imagine No Religion," and is designed with a stained
9 glass motif.

10 14. FFRF contracted to have its billboard displayed in Rancho Cucamonga for
11 two months, including the last two weeks of November, and the entire month of
12 December, as part of a national billboard campaign advocating for the separation of
13 church and state.

14 15. FFRF's public billboard in Rancho Cucamonga constituted protected speech
15 on a matter of public importance, but some individuals residing in Rancho Cucamonga
16 apparently consider FFRF's message to be objectionable.

17 16. The Defendants, allegedly in response to the displeasure of some citizens,
18 undertook action intended to interfere with, and which did contribute to cause FFRF's
19 billboard to be taken down from public display.

20 17. The Defendants intended to interfere with and they did contribute to cause
21 FFRF's billboard to be removed from public display because of opposition to the
22 message communicated by FFRF's billboard.

23 18. The Defendants, by interfering with and contributing to cause FFRF's
24 billboard to be removed, intended to endorse, and they did give the appearance of the
25 endorsement of religion.

26 19. The Defendants, through their actions, gave the appearance of religious
27 endorsement, including an expressed preference for religion over non-religion, which an
28 objective person familiar with the circumstances would perceive as hostility to FFRF's

1 non-religious message; the Defendants' actions, in particular, would be perceived by a
2 reasonable listener as expressing disapproval of FFRF's message.

3 20. The actions of the Defendants violated the Establishment Clause of the First
4 Amendment of the United States Constitution, as well as §1983 of Title 42 of the United
5 States Code.

6 21. The Establishment Clause prohibits government actors from engaging in
7 activity that promotes or gives the appearance of the endorsement of religion.

8 22. The actions of the Defendants, including by interfering with and conveying
9 disapproval of FFRF's billboard, impermissibly advanced, endorsed and promoted the
10 establishment of religion in violation of the Establishment Clause of the First
11 Amendment to the United States Constitution.

12 23. The Defendants' actions conveyed a message that religion is favored,
13 preferred, and promoted by the City of Rancho Cucamonga and its officials, despite
14 subsequent attempts to conceal the Defendants' involvement in sending an objectively
15 understood message disapproving FFRF's billboard.

16 24. The actions of the Defendants violated 42 U.S.C. §1983 because the
17 Defendants violated FFRF's constitutional rights while acting under color of state law.

18 25. The Defendants' actions had the effect of affiliating the City of Rancho
19 Cucamonga, including its official government institutions, with the support of religion,
20 which affiliation sends forth a public message that religion is favored, while dissenting
21 messages are shown to be the views of political outsiders, and such views are
22 discouraged from challenging the official view of public sponsorship of religion.

23 26. The Defendants' actions, including by interfering with and contributing to
24 cause FFRF's billboard to be removed, also violated the Free Speech Clause of the
25 United States Constitution, i.e., as a form of government sanctioned censorship.

26 27. Freedom of Speech is a fundamental right and liberty protected from
27 interference by government action.

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1 28. Government action intended to interfere with or chill constitutionally
2 protected speech or expression contravenes the First Amendment, whether overt or
3 subtle.

4 29. The principal function of free speech under our system of government is to
5 invite dispute, and such speech may best serve its purpose when it induces a condition
6 of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger.

7 30. The bedrock principle underlying the scope of the free speech protection of
8 the First Amendment is that government officials may not interfere with the expression
9 of an idea simply because some persons allegedly consider the idea offensive or
10 disagreeable to their views.

11 31. Government action that interferes with speech on the basis of its content
12 violates the Free Speech Clause of the United States Constitution.

13 32. The Constitutional guarantee of Freedom of Speech embraces the principle
14 favoring wide distribution and publication of speech, and it necessarily protects the right
15 to receive and read, or to see and hear, the matter being published or broadcast.

16 33. The Defendants' actions, including by interfering with and contributing to
17 cause FFRF's billboard to be censored, had the effect of frustrating the ability of FFRF
18 to fulfill its organizational mission.

19 34. The Defendants' actions violated FFRF's free speech rights by interfering
20 with, chilling, and contributing to cause FFRF's protected message from being publicly
21 broadcast and published, i.e., censorship at the behest of government officials.

22 35. The Defendants' actions, including by interfering with and contributing to
23 cause FFRF's message to be removed from the public realm, were undertaken precisely
24 because of the content of FFRF's message, including the Defendants' perception that
25 FFRF was expressing an idea that some members of society found offensive or
26 disagreeable.

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1 36. The Defendants' actions, including by interfering with and contributing to
2 cause FFRF's message to be silenced, were taken under color of law, and in violation of
3 FFRF's Free Speech rights under the First Amendment to the United States Constitution.

4 37. The Defendants' actions, taken under color of law, and in violation of
5 FFRF's Constitutional rights, violated 42 U.S.C. §1983.

6 38. The Defendants' actions had the intended effect of interfering with FFRF's
7 fundamental Constitutional rights, and such actions were undertaken in willful, wanton,
8 and intentional disregard of FFRF's rights.

9 39. The actions of the City of Rancho Cucamonga, by its officials, were
10 undertaken in violation of FFRF's Constitutional rights, and they constituted the official
11 policy and practice of the City, as implemented under the authority of the Defendant,
12 Linda Daniels.

13 40. The Defendants' actions have caused damage to FFRF, including by causing
14 frustration to and interference with FFRF's ability to fulfill its organizational purpose of
15 educating about and promoting the separation of church and state; by damaging FFRF's
16 reputational interests; by denying FFRF's Constitutional and contractual rights, including
17 the right to engage in protected speech calling religion into question and promoting the
18 separation of church and state; and by interfering with and chilling FFRF's ability to
19 broadcast and publish its protected message.

20 41. The Defendants' actions, moreover, also have violated FFRF's rights arising
21 under the Constitution of the State of California, including rights relating to free speech
22 and the prohibition against government endorsement of religion.

23 42. FFRF demands a jury trial of all issues properly triable thereby.

24 WHEREFORE, the Plaintiff demands judgment as follows:

25 A. Holding that the actions of the Defendants violated the Establishment
26 Clause of the First Amendment to the United States Constitution, as well as the Free
27 Speech Clause of the First Amendment to the United States Constitution, and 42 U.S.C.
28 §1983;

1 B. Enjoining the Defendants from engaging in further actions that
2 endorse or give the appearance of endorsement of religion over non-religion;

3 C. Enjoining the Defendants from engaging in further acts that interfere
4 with FFRF's right to free speech under the First Amendment to the United States
5 Constitution;

6 D. Awarding reasonable compensatory and punitive damages to FFRF;

7 E. Holding also or alternatively that the Defendants' actions violated the
8 religious endorsement and free speech provisions of the Constitution of the State of
9 California, and enjoining such actions in the future;

10 F. Awarding FFRF its reasonable costs, disbursements and attorneys
11 fees, as allowed by law, including pursuant to 42 U.S.C. §1988; and

12 G. Ordering such further relief as the Court deems just and equitable.

13 Dated this ___ day of November, 2008.

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16 Robert A. Seeman S.B.N. 52790
17 Attorney at Law
18 658 Myrtle Street
19 Glendale, CA 91203
20 Phone: 818-384-8059
21 Fax: 818-241-6907
22 rseeman@pacbell.net
23 Attorney for Plaintiff
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