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12 *Attorneys for Plaintiffs*

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

16 **WENDY GISH**, an individual;  
 17 **PATRICK SCALES**, an individual,  
 18 **JAMES DEAN MOFFATT**, an  
 19 individual; and **BRENDA WOOD**, an  
 20 individual,

21 Plaintiffs,  
 22 v.

23 **GAVIN NEWSOM**, in his official  
 24 capacity as the Governor of California;  
 25 **XAVIER BECERRA**, in his official  
 26 capacity as the Attorney General of  
 27 California; **ERIN GUSTAFSON**, in  
 28 her official capacity as the San  
 Bernardino County Acting Public  
 Health Officer; **JOHN MCMAHON**,  
 in his official capacity as the San  
 Bernardino County Sheriff; **ROBERT**  
**A. LOVINGGOOD**, in his official

Case No.: \_\_\_\_\_

**VERIFIED COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**



1 capacity as a San Bernardino County  
 2 Supervisor; **JANICE**  
 3 **RUTHERFORD**, in her official  
 4 capacity as a San Bernardino County  
 5 Supervisor; **DAWN ROWE**, in her  
 6 official capacity as a San Bernardino  
 7 County Supervisor; **CURT HAGMAN**,  
 8 in his official capacity as a San  
 9 Bernardino County Supervisor; **JOSIE**  
 10 **GONZALES**, in his official capacity as  
 11 a San Bernardino County Supervisor;  
 12 **CAMERON KAISER**, in his official  
 13 capacity as the Riverside County Public  
 14 Health Officer; **GEORGE JOHNSON**,  
 15 in his official capacity as the Riverside  
 16 County Executive Officer and Director  
 17 of Emergency Services; **CHAD**  
 18 **BIANCO**, in his official capacity as a  
 19 Riverside County Sheriff; **KEVIN**  
 20 **JEFFRIES**, in his official capacity as a  
 21 Riverside County Supervisor; **KAREN**  
 22 **SPIEGEL**, in her official capacity as a  
 23 Riverside County Supervisor; **CHUCK**  
 24 **WASHINGTON**, in his official  
 25 capacity as a Riverside County  
 26 Supervisor; **V. MANUEL PEREZ**, in  
 27 his official capacity as a Riverside  
 28 County Supervisor; and **JEFF**  
**HEWITT**, in his official capacity as a  
 Riverside County Supervisor,

Defendants.

*Liberty must at all hazards be supported. We have a right to it, derived from our  
 Maker. But if we had not, our fathers have earned and bought it for us, at the expense of  
 their ease, their estates, their pleasure, and their blood.*

– John Adams, 1765

1 NOW COME the above-named Plaintiffs Wendy Gish, Patrick Scales, James  
2 Dean Moffatt, and Brenda Wood, by and through their attorneys, Dhillon Law Group,  
3 Inc., as and for claims against the above-named Defendants Gavin Newsom, in his  
4 official capacity as Governor of California; Xavier Becerra, in his official capacity as  
5 Attorney General of California; Erin Gustafson, in her official capacity as the San  
6 Bernardino County Acting Public Health Officer; John McMahon, in his official  
7 capacity as the San Bernardino County Sheriff; Robert A. Lovinggood, in his official  
8 capacity as a San Bernardino County Supervisor; Janice Rutherford, in her official  
9 capacity as a San Bernardino County Supervisor; Dawn Rowe, in her official capacity  
10 as a San Bernardino County Supervisor; Curt Hagman, in his official capacity as a San  
11 Bernardino County Supervisor; Josie Gonzales, in his official capacity as a San  
12 Bernardino County Supervisor; Cameron Kaiser, in his official capacity as the  
13 Riverside County Public Health Officer; George Johnson, in his official capacity as the  
14 Riverside County Executive Officer and Director of Emergency Services; Chad Bianco,  
15 in his official capacity as the Riverside County Sheriff; Kevin Jeffries, in his official  
16 capacity as a Riverside County Supervisor; Karen Spiegel, in her official capacity as a  
17 Riverside County Supervisor; Chuck Washington, in his official capacity as a Riverside  
18 County Supervisor; V. Manuel Perez, in his official capacity as a Riverside County  
19 Supervisor; and Jeff Hewitt, in his official capacity as a Riverside County Supervisor,  
20 allege and show the Court as follows (this “Complaint”).

### 21 NATURE OF ACTION

22 1. Defendants, in a gross abuse of their power, have seized the Coronavirus  
23 pandemic to expand their authority by unprecedented lengths, depriving Plaintiffs and  
24 all other residents of California of fundamental rights protected by the U.S. and  
25 California Constitutions, including freedom of religion, speech, and assembly, and due  
26 process and equal protection under the law. It is this Court’s duty to defend these  
27 constitutional principles, by safeguarding the many rights and liberties of Californians  
28 that Defendants so brazenly violate.

1           2.       This Action presents facial and as-applied challenges to the Governor of  
2 California’s March 19, 2020 Executive Order N-33-20 (the “State Order”) attached here  
3 as Exhibit 1; the April 7, 2020 “Order of the Health Officer of the County of San  
4 Bernardino for the Control of COVID-19” (the “San Bernardino Order”) attached here  
5 as Exhibit 2; and the April 6, 2020 “Amended Order of the Health Officer for the  
6 County of Riverside and of the County Executive Officer as Director of Emergency  
7 Services” (the “Riverside Order”) attached here as Exhibit 3, which violate the  
8 constitutional rights of Plaintiffs and the people of California. The State Order, San  
9 Bernardino Order, and Riverside Order may at times be referred to collectively as the  
10 “Orders” in this Complaint.<sup>1</sup>

11           3.       The Orders and Defendants’ enforcement thereof violate (I) the Free  
12 Exercise Clause of the First Amendment; (II) the Establishment Clause of the First  
13 Amendment; (III) the Free Speech Clause of the First Amendment; (IV) the Freedom of  
14 Assembly Clause of the First Amendment; (V) the Vagueness Doctrine enshrined by  
15 Due Process of Clause of the Fourteenth Amendment; (VI) substantive rights protected  
16 by Due Process of Clause of the Fourteenth Amendment; (VII) the Equal Protection  
17 Clause of the Fourteenth Amendment; (VIII) California Constitution Article 1, Section  
18 1’s right to liberty; (IX) California Constitution Article 1, Section 2’s right to free  
19

20 \_\_\_\_\_  
21 <sup>1</sup> As of the date of this filing, the State Order, San Bernardino Order, and Riverside  
22 Order, respectively, may be accessed online at the following URLs:

23 State Order: <https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf>;

24 San Bernardino Order: [http://wp.sbcounty.gov/dph/wp-](http://wp.sbcounty.gov/dph/wp-content/uploads/sites/7/2020/04/SKM_C45820040714190.pdf)  
25 [content/uploads/sites/7/2020/04/SKM\\_C45820040714190.pdf](http://wp.sbcounty.gov/dph/wp-content/uploads/sites/7/2020/04/SKM_C45820040714190.pdf);

26 Riverside Order:

27 [https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/PHOrders/Riv-](https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/PHOrders/Riv-EOC_20200406_090004.pdf?ver=2020-04-06-102528-423&timestamp=1586193935186)  
28 [EOC\\_20200406\\_090004.pdf?ver=2020-04-06-102528-](https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/PHOrders/Riv-EOC_20200406_090004.pdf?ver=2020-04-06-102528-423&timestamp=1586193935186)  
[423&timestamp=1586193935186.](https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/PHOrders/Riv-EOC_20200406_090004.pdf?ver=2020-04-06-102528-423&timestamp=1586193935186)

1 speech; (X) California Constitution Article 1, Section 3's right to assemble freely; (XI)  
2 California Constitution Article 1, Section 4's right free exercise and enjoyment of  
3 religion.

#### 4 **JURISDICTION AND VENUE**

5 4. This action arises under 42 U.S.C. § 1983 in relation to Defendants'  
6 deprivation of Plaintiffs' constitutional rights to freedom of religion, speech, and  
7 assembly, due process, and equal protection rights under the First and Fourteenth  
8 Amendments to the U.S. Constitution. Accordingly, this Court has federal question  
9 jurisdiction under 28 U.S.C. §§ 1331 and 1343. This Court has authority to award the  
10 requested declaratory relief under 28 U.S.C. § 2201; the requested injunctive relief and  
11 damages under 28 U.S.C. § 1343(a); and attorneys' fees and costs under 42 U.S.C. §  
12 1988.

13 5. The Central District of California is the appropriate venue for this action  
14 pursuant to 28 U.S.C. §§ 1391(b)(1) and (2) because it is the District in which  
15 Defendants maintain offices, exercise their authority in their official capacities, and will  
16 enforce the Orders; and it is the District in which substantially all of the events giving  
17 rise to the claims occurred.

#### 18 **PARTIES**

19 6. Plaintiff Wendy Gish is a resident of San Bernardino County, California.  
20 She attends Shield of Faith Family Church located in Fontana, California. Gish is a  
21 strong believer in the scriptural command found in Hebrew 10:25: "Let us not neglect  
22 meeting together, as some have made a habit, but let us encourage one another, and all  
23 the more as you see the Day approaching." In fulfillment of her sincerely held religious  
24 belief, Gish attends church twice a week, Sundays and Wednesday.

25 7. Plaintiff Patrick Scales is a resident of San Bernardino County, California.  
26 He is the head pastor of Shield of Faith Family Church located in Fontana, California.  
27 Scales believes that he must serve the needs of his church's parishioners, especially  
28 right now in the midst of the COVID-19 crisis. James 5:14 commands believers that "Is

1 any sick among you? Let him call for the elders of the church; and let them pray over  
2 him, anointing him with oil in the name of the Lord ... .” Scales desires to keep Shield  
3 of Faith Family Church open to help deal with the spiritual and physical needs of its  
4 congregants. Scales believes that he can have in-person church services while making  
5 every effort to prevent contact between congregants by adhering to social distancing  
6 guidance, just as grocery stores, laundromats, and marijuana dispensaries are  
7 implementing to keep their customers safe. Congregants in the Shield of Faith Family  
8 Church are seated with family units at least six feet apart, and all worshippers wearing  
9 masks in the church.

10 8. Plaintiff James Dean Moffatt is a resident of Riverside County. Moffatt is  
11 the senior pastor at Church Unlimited located in Indio, California. Moffatt believes that  
12 scripture commands him as a pastor to lay hands on people and pray for them, this  
13 includes the sick. Moffatt also believes that he is required by scripture to baptize  
14 individuals, something that cannot be done at an online service.

15 9. Plaintiff Brenda Wood is a resident of Riverside County. Wood is the  
16 senior pastor at Word of Life Ministries International, Inc. located in Riverside,  
17 California. Wood desires to hold services in a manner that properly protects her  
18 parishioners so that its parishioners may follow Hebrews 10:25 and encourage one  
19 another during these troubling times of COVID-19. Wood believes that her parishioners  
20 need to connect with other people so as to give them hope and encouragement. Wood  
21 believes she can implement proper social distancing measures similar to those practiced  
22 by restaurants, auto mechanics, and abortion clinics. Wood also would like to offer  
23 drive-in services for parishioners.

24 10. Defendant Gavin Newsom is made a party to this Action in his official  
25 capacity as the Governor of California. The California Constitution vests the “supreme  
26 executive power of the State” in the Governor, who “shall see that the law is faithfully  
27 executed.” Cal. Const. Art. V, § 1. Governor Newsom signed the State Order.

28

1           11. Defendant Xavier Becerra is made a party to this Action in his official  
2 capacity as the Attorney General of California. Under California law he is the chief law  
3 enforcement officer with supervision over all sheriffs in the state. Cal. Const. Art. V, §  
4 13.

5           12. Defendant Erin Gustafson is made a party to this Action in her official  
6 capacity as the San Bernardino County Acting Public Health Officer. She signed the  
7 San Bernardino Order.

8           13. Defendant John Mahon is made a party to this Action in his official  
9 capacity as the San Bernardino County Sheriff. Under California law he has the  
10 responsibility to enforce the San Bernardino Order in San Bernardino County. *See* Cal.  
11 Gov't. Code § 26601.

12           14. Defendant Robert A. Lovinggood is made a party to this Action in his  
13 official capacity as a member of the San Bernardino County Board of Supervisors,  
14 which exercises broad legislative, executive, and quasi-judicial authority under  
15 California law, including the supervision of the county sheriff and public health  
16 officials. *See, e.g.*, Cal. Gov't. Code § 25000, *et seq.*; Cal. Health & Safety Code §  
17 101000.

18           15. Defendant Janice Rutherford is made a party to this Action in her official  
19 capacity as a member of the San Bernardino County Board of Supervisors, which  
20 exercises broad legislative, executive, and quasi-judicial authority under California law,  
21 including the supervision of the county sheriff and public health officials. *See, e.g.*, Cal.  
22 Gov't. Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

23           16. Defendant Dawn Rowe is made a party to this Action in her official  
24 capacity as a member of the San Bernardino County Board of Supervisors, which  
25 exercises broad legislative, executive, and quasi-judicial authority under California law,  
26 including the supervision of the county sheriff and public health officials. *See, e.g.*, Cal.  
27 Gov't. Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

28



1           17. Defendant Curt Hagman is made a party to this Action in his official  
2 capacity as a member of the San Bernardino County Board of Supervisors, which  
3 exercises broad legislative, executive, and quasi-judicial authority under California law,  
4 including the supervision of the county sheriff and public health officials. *See, e.g.*, Cal.  
5 Gov't. Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

6           18. Defendant Josie Gonzales is made a party to this Action in his official  
7 capacity as a member of the San Bernardino County Board of Supervisors, which  
8 exercises broad legislative, executive, and quasi-judicial authority under California law,  
9 including the supervision of the county sheriff and public health officials. *See, e.g.*, Cal.  
10 Gov't. Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

11           19. Defendant Cameron Kaiser is made a party to this Action in his official  
12 capacity as the Riverside County Public Health Officer. He signed the Riverside Order  
13 on April 6, 2020.

14           20. Defendant George Johnson is made a party to this Action in his official  
15 capacity as the Riverside County Executive Officer and Director of Emergency  
16 Services. He also signed the Riverside Order on April 6, 2020.

17           21. Defendant Chad Bianco is made a party to this Action in his official  
18 capacity as the Riverside County Sheriff. Under California law he has the responsibility  
19 to enforce the Riverside Amend Order in Riverside County. *See* Cal. Gov't. Code §  
20 26601.

21           22. Defendant Kevin Jeffries is made a party to this Action in his official  
22 capacity as a member of the Riverside County Board of Supervisors, which exercises  
23 broad legislative, executive, and quasi-judicial authority under California law, including  
24 the supervision of the county sheriff and public health officials. *See, e.g.*, Cal. Gov't.  
25 Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

26           23. Defendant Karen Spiegel is made a party to this Action in her official  
27 capacity as a member of the Riverside County Board of Supervisors, which exercises  
28 broad legislative, executive, and quasi-judicial authority under California law, including



1 the supervision of the county sheriff and public health officials. *See, e.g.*, Cal. Gov't.  
2 Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

3 24. Defendant Chuck Washington is made a party to this Action in his official  
4 capacity as a member of the Riverside County Board of Supervisors, which exercises  
5 broad legislative, executive, and quasi-judicial authority under California law, including  
6 the supervision of the county sheriff and public health officials. *See, e.g.*, Cal. Gov't.  
7 Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

8 25. Defendant V. Manuel Perez is made a party to this Action in his official  
9 capacity as a member of the Riverside County Board of Supervisors, which exercises  
10 broad legislative, executive, and quasi-judicial authority under California law, including  
11 the supervision of the county sheriff and public health officials. *See, e.g.*, Cal. Gov't.  
12 Code § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

13 26. Defendant Jeff Hewitt is made a party to this Action in his official capacity  
14 as a member of the Riverside County Board of Supervisors, which exercises broad  
15 legislative, executive, and quasi-judicial authority under California law, including the  
16 supervision of the county sheriff and public health officials. *See, e.g.*, Cal. Gov't. Code  
17 § 25000, *et seq.*; Cal. Health & Safety Code § 101000.

18 27. Each and every Defendant acted under color of state law with respect to all  
19 acts or omissions herein alleged.

## 20 FACTUAL ALLEGATIONS

21 28. On or about March 13, 2020, President Donald J. Trump proclaimed a  
22 National State of Emergency as a result of the threat of the emergence of a novel  
23 coronavirus, COVID-19.<sup>2</sup>

24 29. Since the initial outbreak of COVID-19 in the United States in February  
25 and March 2020, the federal government's projections of the anticipated national death  
26

27 <sup>2</sup> As of the date of this filing, the Proclamation of a National Emergency can be found  
28 online at: <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

1 toll related to the virus has decreased substantially, by an order of magnitude. Despite  
2 such revisions, Defendants have increasingly restricted—where not outright banned—  
3 Plaintiffs’ engagement in constitutionally-protected activities.<sup>3</sup>

4 **FACTUAL ALLEGATIONS AS TO THE STATE OF CALIFORNIA**

5 30. On or about March 4, 2020, California Governor Gavin Newsom  
6 proclaimed a State of Emergency as a result of the threat of COVID-19.<sup>4</sup>

7 31. On or about March 19, 2020, California Governor Newsom issued  
8 Executive Order N-33-20 in which he ordered “all residents are directed to immediately  
9 heed the current State public health directives.”

10 32. The state public health directive requires “all individuals living in the State  
11 of California to stay home or at their place of residence except as needed to maintain  
12 continuity of operations of the federal critical infrastructure sectors ...”.<sup>5</sup>

13 33. On or about March 22, 2020, the California Public Health Officer  
14 designated a list of “Essential Critical Infrastructure Workers.”<sup>6</sup> Included on the list of  
15 the “essential workforce” are “faith based services that are provided through streaming  
16 or other technology.”

17  
18  
19  
20 <sup>3</sup> See, e.g.,

21 [https://www.usatoday.com/story/news/investigations/2020/04/09/coronavirus-deaths-u-  
22 s-could-closer-60-k-new-model-shows/5122467002/](https://www.usatoday.com/story/news/investigations/2020/04/09/coronavirus-deaths-u-s-could-closer-60-k-new-model-shows/5122467002/)

23 <sup>4</sup> As of the date of this filing, the Proclamation of a State of Emergency can be found  
24 online at: [https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-  
25 SOE-Proclamation.pdf](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf).

26 <sup>5</sup>The State Public Health Directive was included in the text of Executive Order N-33-  
27 20.

28 <sup>6</sup> As of the date of this filing, the list of Essential Critical Infrastructure Workers can be  
found online at: <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>.

1           34. Accordingly, this list prohibits all religious leaders from conducting in-  
2 person and out-of-home religious services, regardless of the measures taken to reduce or  
3 eliminate the risk of the virus spreading. Meanwhile, the list deems the continuity of  
4 services provided by coffee baristas, burger flippers, and laundromat technicians to be  
5 so necessary for society that these activities are permitted to continue under the State  
6 Order, despite the existence of the very same risk Defendants rely on to stymie the  
7 exercise of fundamental rights.

8           35. The public health directive provides that its directives “shall stay in effect  
9 until further notice.” Ex. 1.

#### 10           **FACTUAL ALLEGATIONS AS TO SAN BERNADINO COUNTY**

11           36. On or about April 7, 2020, defendant Dr. Erin Gustafson signed the San  
12 Bernardino Order.<sup>7</sup>

13           37. The San Bernardino Order “allow[s] faith based services that are provided  
14 through streaming or other technology, while individuals remain in their homes, but  
15 does not allow individuals to leave their home for driving parades or drive-up services,  
16 or for picking up non-essential items.” Ex. 2, § 2.

17           38. The San Bernardino Order requires all residents to “wear face coverings,  
18 such as scarves (dense fabric, without holes), bandanas, neck gaiters, or other fabric  
19 face coverings when they leave their homes or places of residence for essential  
20 activities.” Ex. 2, § 4.

21           39. The San Bernardino Order states that any violation “is a crime punishable  
22 by fine, imprisonment, or both.” Ex. 2.

23           40. The Order states that it will remain in effect “until rescinded.” Ex. 2.

24           41. The San Bernardino Order is signed by Defendant Dr. Erin Gustafson.  
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26

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27 <sup>7</sup> As of the date of this filing, the San Bernardino Order may be accessed online at the  
28 following URLs: [http://wp.sbcounty.gov/dph/wp-  
content/uploads/sites/7/2020/04/SKM\\_C45820040714190.pdf](http://wp.sbcounty.gov/dph/wp-content/uploads/sites/7/2020/04/SKM_C45820040714190.pdf).

1           42. Dr. Erin Gustafson is not an elected official but is the Acting Public Health  
2 Officer of San Bernardino. The San Bernardino Board of Supervisors have not appointed  
3 a Public Health Officer pursuant to Cal. Health & Safety Code §101000.

4           43. On April 8, 2020, San Bernardino County released a document on their  
5 website titled “Clarification of religious services and face-covering order” (hereinafter  
6 Clarification”). A copy of the Clarification is attached here as Exhibit 4.<sup>8</sup>

7           44. The Clarification is not signed by the Public Health Officer.

8           45. The Clarification does not revoke the San Bernardino Order.

9           46. The Clarification states “[o]n the subject of enforcement, the public is  
10 advised that although violation of a health order is a violation of the California Health  
11 and Safety Code, the County does not expect law enforcement to broadly impose  
12 citations on violators.”

13           47. The Clarification does not revoke law enforcement authority to criminally  
14 charge any individual who violates the San Bernardino Order.

15           48. Defendants have granted law enforcement unfettered discretion when  
16 deciding whether or not to enforce the San Bernardino Order.

17           49. The Clarification states that the “specific reference to drive-in religious  
18 service so close to major religious observances taking place during the next four days,  
19 for which organizations had already conducted considerable planning and incurred  
20 expenses, are clarified as follows: Organizations that have planned such services for the  
21 coming weekend should proceed with those services if they choose to do so and make  
22 every effort to prevent contact between congregants.”

23           50. The Clarification, which is not signed by any individual and is simply a  
24 document posted online, directly contradicts the written San Bernardino Order that  
25  
26

27 \_\_\_\_\_  
28 <sup>8</sup> As of the date of this filing, the San Bernardino Clarification can be found online at:  
<http://wp.sbcounty.gov/cao/countywire/?p=5862>.

1 makes it a crime for churches to have drive-in religious services and for parishioners to  
2 attend such services.

3 51. Plaintiff Patrick Scales' church, Shield of Faith Family Church, Inc., is  
4 located in San Bernardino County.

5 52. Plaintiff Scales desires to hold in-person religious services for those  
6 congregants who desire to attend church.

7 53. Plaintiff Scales believes that he can hold such religious services and  
8 abiding by social distancing tips recommended by the CDC by keeping congregants at  
9 least six feet apart, and provide for the wearing of masks and gloves.

10 54. Plaintiff Scales believes that religious services are essential for the spiritual  
11 health of the congregation so that the congregants can exhort one another during these  
12 difficult times.

13 55. Plaintiff Scales recognizes that most of his congregants will stay at home  
14 but he wants to be available for those who are healthy and feel that in-person church  
15 service can be safely attended.

16 56. Plaintiff Wendy Gish attends Shield of Faith Family Church and would  
17 attend an in-person church service should it be made available to her.

18 57. Plaintiff Gish regularly attends church services and believes that she has a  
19 scriptural command to "not neglect meeting together."

20 58. To her knowledge, Plaintiff Gish has never had or contracted said  
21 coronavirus; she has never been at any time exposed to the danger of contracting it and  
22 has never been in close proximity to any locality where said coronavirus has or have  
23 existed.

24 59. As a result of not being able to attend in-person church, Plaintiff Gish has  
25 been deprived of the opportunity for important cultural, social, and religious activities,  
26 including speech activities pertaining to the coronavirus outbreak and the government's  
27 response.

28

1           60. As of April 11, 2020, San Bernardino County has eight hundred ten (810)  
2 coronavirus cases and twenty-five (25) COVID-19 associated deaths, according to  
3 information posted on the county’s website.<sup>9</sup>

4           61. The United States Census estimates that as of July 1, 2019, San Bernardino  
5 County’s population is 2,180,085 people.<sup>10</sup>

6                           **FACTUAL ALLEGATIONS AS TO RIVERSIDE COUNTY**

7           62. On or about April 6, 2020, defendants Dr. Cameron Kaiser and George  
8 Johnson signed the Riverside Order.<sup>11</sup>

9           63. The Riverside Order prohibits “[a]ll public or private gatherings . . .  
10 including, but not limited to an auditorium, . . . church, . . . or any other indoor or  
11 outdoor space used for any non-essential purpose including, but not limited to . . .  
12 church . . .” Ex. 3, § 1(a).

13           64. Exempted from its prohibition on public or private gatherings are  
14 numerous services, industries, and activities, including: “courts of law, medical  
15 providers . . . daycare and child care . . . [and] necessary shopping at fuel stations, stores  
16 or malls,” provided that a “state and federal guidelines for infection control” are  
17 observed. Ex. 3, § 1(b).

18  
19  
20 <sup>9</sup> Per San Bernardino County Department of Public Health’s web page visited on April  
21 11, 2020 <http://wp.sbcounty.gov/dph/coronavirus/>.

22 <sup>10</sup> United States Census Bureau quick facts for San Bernardino County can be found  
23 online at:  
24 [https://www.census.gov/quickfacts/fact/table/sanbernardinocalifornia/PST04521](https://www.census.gov/quickfacts/fact/table/sanbernardinocalifornia/PST045219)  
25 [9](https://www.census.gov/quickfacts/fact/table/sanbernardinocalifornia/PST045219).

26 <sup>11</sup> As of the date of this filing, the Riverside Order may be accessed online at the  
27 following URLs:  
28 [https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/PHOrders/Riv-EOC\\_20200406\\_090004.pdf?ver=2020-04-06-102528-423&timestamp=1586193935186](https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/PHOrders/Riv-EOC_20200406_090004.pdf?ver=2020-04-06-102528-423&timestamp=1586193935186).

1           65. The Riverside Order provides that “[a]ll essential business that remain in  
2 operation . . . shall follow the Social Distancing and Infection Control Guidelines  
3 published by the [Center for Disease Control] and California Department of Public  
4 Health . . . or the facility shall be closed.” Ex. 3, § 1(c).

5           66. The Riverside Order mandates that all people wear face coverings. Ex. 3, §  
6 1(d).

7           67. The Riverside Order expressly states that any violation “is a crime  
8 publishable by fine, imprisonment, or both.” Ex. 3, § 11.

9           68. The Riverside Order is signed by Defendant Dr. Cameron Kaiser.

10           69. The Riverside Order is also signed by Defendant George Johnson as County  
11 Executive Officer and Director of Emergency Services.

12           70. Dr. Cameron Kaiser is not an elected official but is appointed by the  
13 Riverside County Board of Supervisors. *See* Cal. Health & Safety Code §101000.

14           71. On April 10, 2020, Riverside County issued a press release in which they  
15 stated that “Drive-up church services that practice proper social distancing will be  
16 allowed this weekend in Riverside County, although the order to prohibit such activities  
17 will remain after Easter Sunday.”<sup>12</sup>

18           72. The April 10<sup>th</sup> clarification was issued by Defendant George Johnson.

19           73. Plaintiff James Dean Moffatt’s church, “Church Unlimited” is located in  
20 Riverside County.

21           74. Plaintiff James Dean Moffatt, upon learning about the coronavirus,  
22 immediately had his church building cleaned and disinfected.

23           75. Plaintiff Moffatt ensured that sanitizing materials were available to each  
24 person who entered his church and encouraged family units to sit at least six feet apart.

25  
26 \_\_\_\_\_  
27 <sup>12</sup> As of the date of this filing, the Riverside County News Release can be found online  
28 at:

[https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/News/April\\_10.pdf?ver=2020-04-11-105351-463&timestamp=1586627749323](https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/News/April_10.pdf?ver=2020-04-11-105351-463&timestamp=1586627749323).



1           76. Plaintiff Moffatt encouraged anyone who was uncomfortable with  
2 gathering during coronavirus to stay at home.

3           77. Plaintiff Moffatt encouraged anyone who was sick to stay at home.

4           78. On April 9, 2020, Plaintiff Moffatt was fined \$1,000 for violating the  
5 Riverside Order for holding a church service on April 5, 2020, Palm Sunday.

6           79. To his knowledge, Plaintiff Moffatt has never had or contracted the  
7 coronavirus; he has never been at any time exposed to the danger of contracting it; and  
8 has never been in close proximity to any locality where said coronavirus has or have  
9 existed.

10           80. But for the Riverside Order and Defendants' enforcement thereof, Plaintiff  
11 Moffatt would continue to hold in-person religious services in Riverside County, while  
12 taking the same social distancing precautions taken by "essential businesses" that  
13 Defendants continue to allow to operate in the county, despite any prevalence of  
14 COVID-19. Plaintiff Moffatt believes that it is important for Christians to come  
15 together, remember, and celebrate all that Jesus has done for this world.

16           81. As a result of not being able to conduct an in-person church service,  
17 Plaintiff Moffatt has been deprived of the opportunity for important cultural, socials,  
18 and religious activities, including speech activities pertaining to the coronavirus  
19 outbreak and the government's response.

20           82. Plaintiff Brenda Wood's church, Word of Life Ministries International Inc.  
21 is located in Riverside County.

22           83. Word of Life Ministries International Inc. has approximately 20-30 regular  
23 attendees.

24           84. Plaintiff Brenda Wood believes Scripture commands her to provide  
25 opportunities for the believers to obey Hebrews 10:25 where the believers meet together  
26 and encourage one another.

27           85. Plaintiff Brenda Wood held a drive-up church service on Easter Sunday.  
28

1           86. The drive-up church service provided appropriate social distancing, with  
2 everyone wearing masks and staying in their vehicles. The restrooms were not made  
3 available. Each car was parked at least six feet from other vehicles.

4           87. During the service, Plaintiff Brenda Wood used a portable sound  
5 amplification system. The congregants had to roll down their windows in order to listen.

6           88. During the service, communion was served by an individual wearing a  
7 mask and gloves and the elements were pre-packaged. The person serving communion  
8 used tongs to remove the communion cups from the pre-packaged box.

9           89. At this time, Plaintiff Brenda Wood has postponed all baptisms at her  
10 church.

11           90. Plaintiff Brenda Wood would like to hold drive-up church services every  
12 Sunday following safe social distancing practices until the state of emergency has been  
13 lifted.

14           91. As of April 11, 2020, Riverside County has one thousand four hundred  
15 thirty-one (1,431) coronavirus cases and forty-one (41) coronavirus associated deaths,  
16 according to information posted on the county's website.<sup>13</sup>

17           92. The United States Census estimates that as of July 1, 2019, Riverside  
18 County's population is 2,470,546 people.<sup>14</sup>

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25 \_\_\_\_\_  
26 <sup>13</sup> Per Riverside County Department of Public Health's web page visited on April 11,  
27 2020 <https://rivcoph.org/coronavirus>.

28 <sup>14</sup> United States Census Bureau quick facts for Riverside County can be found online at:  
<https://www.census.gov/quickfacts/fact/table/riversidecountycalifornia/PST045219>.

1 **CLAIMS**

2 **FIRST CLAIM FOR RELIEF**

3 **Free Exercise Clause of First Amendment to U.S. Constitution**

4 **(42 U.S.C. § 1983)**

5 *(By all Plaintiffs against all Defendants)*

6 93. Plaintiffs incorporate by reference the allegations in the preceding  
7 paragraphs, as if fully set forth herein.

8 94. The Orders and Defendants' enforcement thereof violate the First  
9 Amendment, both facially and as-applied to Plaintiffs. The First Amendment of the  
10 Constitution protects the "free exercise" of religion. Fundamental to this protection is  
11 the right to gather and worship. *See W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624,  
12 638 (1943) ("The very purpose of a Bill of Rights was to withdraw certain subjects  
13 from the vicissitudes of political controversy, to place them beyond the reach of  
14 majorities and officials and to establish them as legal principles to be applied by the  
15 courts ... [such as the] freedom of worship and assembly."). The Free Exercise Clause  
16 applies to the states through the Due Process Clause of the Fourteenth Amendment.  
17 *Cantwell v. Connecticut*, 310 U.S. 296 (1940).

18 95. As the Supreme Court has noted, "a law burdening religious practice that is  
19 not neutral or not of general application must undergo the most rigorous of scrutiny."  
20 *Church of the Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520, 546 (1993). "A law is  
21 not generally applicable if its prohibitions substantially underinclude non-religiously  
22 motivated conduct that might endanger the same governmental interest that the law is  
23 designed to protect." *Stormans, Inc. v. Wiesman*, 794 F.3d 1064, 1079 (9th Cir. 2015)  
24 (citing *Lukumi*, 508 U.S. at 542–46). "In other words, if a law pursues the government's  
25 interest 'only against conduct motivated by religious belief,' but fails to include in its  
26 prohibitions substantial, comparable secular conduct that would similarly threaten the  
27 government's interest, then the law is not generally applicable." *Id.*

28

1           96. The Orders are neither neutral nor of general application. Defendants’  
2 restrictions have specifically and explicitly targeted religious and “faith-based” services  
3 and are thus not neutral on their face. Defendants have prohibited certain public and  
4 private gatherings deemed “non-essential,” including out-of-home religious services,  
5 while exempting a laundry list of industries and services purportedly “essential” to the  
6 government’s various interests, including medical cannabis dispensaries and other  
7 medical providers, courts, public utilities, daycare and childcare, and “necessary”  
8 shopping. Further, several Defendants have granted *ad hoc* exemptions to the Orders for  
9 particular religious gatherings of particular faiths – i.e., Christians permitted to  
10 celebrate Easter, but no other gatherings, and other faiths given no exemptions.

11           97. In addition to relegating all faith activities to a second-class status (at best),  
12 Defendants have threatened criminal penalties for holding in person services, and have  
13 thus substantially burdened Plaintiffs’ religious exercise by forcing them to choose  
14 between their sincerely held religious beliefs and their desire to follow secular rules, in  
15 many cases imposed by unelected officials.

16           98. Laws and government actions that burden religious practice and are either  
17 not neutral or not generally applicable must satisfy a compelling governmental interest  
18 and be narrowly tailored to achieve that end.

19           99. Defendants’ mandates are not “narrowly tailored” to further any  
20 compelling governmental interest. Defendants have granted numerous special  
21 exemptions to their bans on public gatherings and conduct, including for purportedly  
22 “essential” businesses and activities, provided that social distancing practices are  
23 observed; and even for out-of-home religious services during Easter, an important day  
24 of religious significance for Christians. Since these gatherings may be permitted, there  
25 can be no doubt that Defendants may, and therefore must, permit Plaintiffs to engage in  
26 equivalent religious activities and services provided that Plaintiffs also adhere to the  
27 social distancing guidelines currently in place.

28



1 The Establishment Clause applies to the states through the Due Process Clause of the  
2 Fourteenth Amendment. *Everson v. Board of Ed. of Ewing*, 330 U.S. 1 (1947).

3 106. Defendants have not and do not act with a clearly secular purpose in  
4 adopting and enforcing the Orders. Defendants have made several exceptions to their  
5 Orders, including certain religious activities during Easter, a day significant to  
6 Christians, without exempting those same activities when occurring on days both before  
7 and after Easter, or on days significant to other faiths. It is not for Defendants to  
8 determine which faiths, and on which days of religious significance to those faiths,  
9 religious services may take place.

10 107. The Orders and Defendants' *ad hoc* enforcement thereof have the primary  
11 effect of inhibiting religious activity.

12 108. Defendants have failed to avoid excessive government entanglement with  
13 religion. Defendants permit only some forms of religious observance, such as live-  
14 streamed, at-home religious activities, and, as to the Riverside Order only, in-person  
15 services during Easter weekend.

16 109. There is no historical precedence in the United States for inhibiting  
17 religious practices on terms more restrictive than those imposed on identical secular  
18 activities, as Defendants do now.

19 110. Plaintiffs have no adequate remedy at law and will suffer serious and  
20 irreparable harm to their constitutional rights unless Defendants are enjoined from  
21 implementing and enforcing the Orders.

22 111. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to  
23 declaratory relief and temporary, preliminary, and permanent injunctive relief  
24 invalidating and restraining enforcement of the Orders.

25 112. Plaintiffs found it necessary to engage the services of private counsel to  
26 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of  
27 attorneys' fees pursuant to 42 U.S.C. § 1988.

28

1 **THIRD CLAIM FOR RELIEF**

2 **Free Speech Clause of First Amendment to U.S. Constitution**

3 **(42 U.S.C. § 1983)**

4 *(By all Plaintiffs against all Defendants)*

5 113. Plaintiffs incorporate by reference the allegations in the preceding  
6 paragraphs, as if fully set forth herein.

7 114. The Orders and Defendants' enforcement thereof violate the First  
8 Amendment, both facially and as-applied to Plaintiffs.

9 115. Under Defendants' Orders, public gatherings and church services are  
10 prohibited.

11 116. Plaintiffs engage in protected speech through worship, religious  
12 discussions, singing hymnals, and praying with their congregation.

13 117. Defendants' imposition of the Orders is unreasonable and has a chilling  
14 effect on protected speech by outright banning in-person church services at the pain of  
15 criminal penalty. Furthermore, several of the Defendants have granted *ad hoc*  
16 exemptions to the Orders for Easter, but not any other Sunday or day of religious  
17 significance to other faiths. Additionally, a representative of Riverside County has  
18 stated that Sheriffs are not expected to enforce every violation, but failed to provide any  
19 guidance as to what violations would be prioritized, leaving it up to the Sheriffs'  
20 unfettered discretion to decide which violations to enforce. Such a lack of standards  
21 along with a grant of such discretion renders the Orders unconstitutional both facially  
22 and as they are applied.

23 118. The Orders are unconstitutionally overbroad, and therefore void as a matter  
24 of law, both on their faces, and as it is applied.

25 119. Plaintiffs have no adequate remedy at law and will suffer serious and  
26 irreparable harm to their constitutional rights unless Defendants are enjoined from  
27 implementing and enforcing the Orders.

28 120. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to



1 declaratory relief and temporary, preliminary, and permanent injunctive relief  
2 invalidating and restraining enforcement of the Orders.

3 121. Plaintiffs found it necessary to engage the services of private counsel to  
4 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of  
5 attorneys' fees pursuant to 42 U.S.C. § 1988.

#### 6 **FOURTH CLAIM FOR RELIEF**

##### 7 **Violation of First Amendment Freedom of Assembly Clause**

##### 8 **(42 U.S.C. § 1983)**

9 *(By all Plaintiffs against all Defendants)*

10 122. Plaintiffs incorporate by reference the allegations in the preceding  
11 paragraphs, as if fully set forth herein.

12 123. The Orders and Defendants' enforcement thereof violate the First  
13 Amendment, both facially and as-applied to Plaintiffs. The First Amendment of the  
14 Constitution protects the "right of the people peaceably to assemble." The Freedom of  
15 Assembly Clause was incorporated against the states in *De Jonge v. Oregon*, 299 U.S.  
16 353 (1937).

17 124. "The right of free speech, the right to teach, and the right of assembly are,  
18 of course, fundamental rights." *Whitney v. California*, 274 U.S. 357, 373 (1927). When  
19 a government practice restricts fundamental rights, it is subject to "strict scrutiny" and  
20 can be justified only if it furthers a compelling government purpose and, even then,  
21 only if no less restrictive alternative is available. *See, e.g., San Antonio Indep. Sch. Dist.*  
22 *v. Rodriguez*, 411 U.S. 1, 16-17 (1973); *Dunn v. Blumstein*, 405 U.S. 330 (1972).

23 125. By denying Plaintiff Brenda Wood the ability to conduct services via a  
24 drive-in church service that complies with the CDC guidelines for social distancing,  
25 Defendants are in violation of the Freedom of Assembly Clause. Defendants cannot  
26 meet the no-less-restrictive-alternative test. The CDC's social distancing guidelines are  
27 appropriate to limit the spread of COVID-19. Imposing more restrictive requirements  
28 that target churches and their drive-in services while at the same time allowing

1 restaurants, coffee shops, marijuana dispensaries to operate drive-ups is not the least  
2 restrictive means of achieving Defendants’ public safety goals.

3 126. By denying Plaintiff Patrick Scales from Shield of Faith Family Church  
4 and Plaintiff James Moffatt of Church Unlimited the ability to assemble via an in-  
5 person church service that complies with the CDC guidelines for social distancing,  
6 Defendants are in violation of the Freedom of Assembly Clause. Defendants cannot  
7 meet the no-less restrictive-alternative test. The CDC’s social distancing guidelines are  
8 appropriate to limit the spread of COVID-19. Imposing more restrictive requirements  
9 that target churches and their in-person services while allowing grocery stores,  
10 laundromats, and marijuana dispensaries is not the least restrictive means of achieving  
11 Defendants’ public safety goals.

12 127. Requiring Plaintiffs to abstain from religious gatherings, despite  
13 substantial modifications to satisfy the public health interests at stake, violates  
14 Plaintiffs’ Constitutional right to peaceably assemble.

15 128. Plaintiffs have no adequate remedy at law and will suffer serious and  
16 irreparable harm to their constitutional rights unless Defendants are enjoined from  
17 implementing and enforcing the Orders.

18 129. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to  
19 declaratory relief and temporary, preliminary, and permanent injunctive relief  
20 invalidating and restraining enforcement of the Orders.

21 130. Plaintiffs found it necessary to engage the services of private counsel to  
22 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of  
23 attorneys’ fees pursuant to 42 U.S.C. § 1988.

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1 **FIFTH CLAIM FOR RELIEF**

2 **Due Process Clause of Fourteenth Amendment to U.S. Constitution**

3 **(42 U.S.C. § 1983)**

4 *(By all Plaintiffs against all Defendants)*

5 131. Plaintiffs incorporate by reference the allegations in the preceding  
6 paragraphs, as if fully set forth herein.

7 132. The Orders and Defendants' enforcement thereof violate the Due Process  
8 Clause of the Fourteenth Amendment, both facially and as-applied to Plaintiffs.

9 133. A regulation is constitutionally void on its face when, as matter of due  
10 process, it is so vague that persons "of common intelligence must necessarily guess at  
11 its meaning and differ as to its application" *Connally v. General Const. Co.*, 269 U.S.  
12 385, 391 (1926); *People ex rel. Gallo v. Acuna*, 14 Cal.4th 1090, 1115 (1997). The void  
13 for vagueness doctrine is designed to prevent arbitrary and discriminatory enforcement.  
14 The problem with a vague regulation is that it "impermissibly delegates basic policy  
15 matters to policemen, judges, and juries for resolution on an ad hoc and subjective  
16 basis...." *Grayned v. City of Rockford*, 408 U.S. 104, 108–109 (1972).

17 134. Defendants' Orders are void for vagueness. In conjunction with issuing the  
18 Orders, including for the following reasons:

19 a. The State Order provides that individuals are ordered to "heed" State  
20 public health directives. The word "heed" is defined by Webster's Dictionary to mean  
21 "to give consideration or attention to" —not specifically to adhere to those directives.  
22 Yet, the State Order is widely reported in the media and cited by local and state  
23 officials, including the San Bernardino and Riverside Orders, as compelling compliance  
24 with State public health directives to shelter in place unless conducting essential  
25 business. The State Order also includes the text of the public health directive, which  
26 includes language that ostensibly "order[s]" compliance, creating further ambiguity as  
27 to whether Plaintiffs must comply with, or merely heed, the public health directive.

28

1 Accordingly, the State Order is vague as to what precisely is being ordered, and what  
2 actions may result in criminal penalties, fines, or imprisonment.

3 b. The San Bernardino Order does not exempt any particular religious  
4 holidays, yet San Bernardino has explicitly exempted compliance during Easter  
5 weekend. County officials have also stated that it “does not expect law enforcement to  
6 broadly impose citations on violators” and that “the expectation is that law enforcement  
7 will rely upon community members to use good judgment, common sense, and act in  
8 the best interest of their own health and the health of their loved ones and the  
9 community at large.”

10 c. The Riverside County Order states that “non-essential personnel . . . are  
11 prohibited from entry into any hospital or long-term care facility,” ostensibly banning  
12 “non-essential” people from seeking medical care. Yet, the Order states that “visitors”  
13 may be permitted access to hospitals under certain conditions. No reasonable person can  
14 make sense of what conduct is permitted under the Order

15 135. As a result of these ambiguities, no reasonable person could understand  
16 what conduct violates the Order and might subject that person to criminal penalties.

17 136. Plaintiffs have no adequate remedy at law and will suffer serious and  
18 irreparable harm to their constitutional rights unless Defendants are enjoined from  
19 implementing and enforcing the Orders.

20 137. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to  
21 declaratory relief and temporary, preliminary, and permanent injunctive relief  
22 invalidating and restraining enforcement of the Orders.

23 138. Plaintiffs found it necessary to engage the services of private counsel to  
24 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of  
25 attorneys’ fees pursuant to 42 U.S.C. § 1988.

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1 **SIXTH CLAIM FOR RELIEF**

2 **Due Process Clause of Fourteenth Amendment to U.S. Constitution**

3 **(42 U.S.C. § 1983)**

4 *(By all Plaintiffs against all Defendants)*

5 139. Plaintiffs incorporate by reference the allegations in the preceding  
6 paragraphs, as if fully set forth herein.

7 140. The Orders and Defendants' enforcement thereof violate Plaintiffs'  
8 substantive due process rights secured by the Fourteenth Amendment to the U.S.  
9 Constitution. Under the Due Process Clause of the Fourteenth Amendment, no State  
10 shall "deprive any person of life, liberty, or property, without due process of law." The  
11 fundamental liberties protected by this Clause include most of the rights enumerated in  
12 the Bill of Rights. *See Duncan v. Louisiana*, 391 U.S. 145, 147–149 (1968). In addition,  
13 these liberties extend to certain personal choices central to individual dignity and  
14 autonomy, including intimate choices that define personal identity and beliefs. *See, e.g.,*  
15 *Eisenstadt v. Baird*, 405 U.S. 438, 453 (1972); *Griswold v. Connecticut*, 381 U.S. 479,  
16 484–486 (1965).

17 141. Plaintiffs' rights to freedom of religion, assembly, speech, and travel are  
18 fundamental rights protected by the U.S. Constitution. *See, e.g., Aptheker v. Secretary*  
19 *of State*, 378 U.S. 500, 520 (1964); *Kent v. Dulles*, 357 U.S. 116, 127 (1958).

20 142. When a government practice restricts fundamental rights such as the right  
21 to practice religion freely, assemble peacefully, speak, and travel, it is subject to "strict  
22 scrutiny" and can be justified only if it furthers a compelling government purpose, and,  
23 even then, only if no less restrictive alternative is available. *See, e.g. Memorial Hospital*  
24 *v. Maricopa County*, 415 U.S. 250, 257-258 (1974); *Dunn v. Blumstein*, 405 U.S. 330,  
25 339-341 (1972); *Shapiro v. Thompson*, 394 U.S. 618, 89 (1969), *Maher v. Roe*, 432  
26 U.S. 464, 488 (1977).

27 143. Strict scrutiny applies to Plaintiffs' claims because both the Riverside  
28 Order and the San Bernardino Order mandate that Plaintiffs stay at home, impinging on

1 their fundamental rights to freedom of religion, assembly, speech, and travel. These  
2 Orders do not permit Plaintiffs to exercise these rights, even while conforming to the  
3 CDC guidelines for social distancing, unless Defendants deem them “essential” or as  
4 participating in “essential” activities.

5 144. Defendants’ mandates are not “narrowly tailored” to further any  
6 compelling governmental interest. Defendants’ have granted numerous special  
7 exemptions to their bans on public gatherings, including for purportedly “essential”  
8 businesses and activities, provided that social distancing practices are observed; and  
9 even for out-of-home religious services during Easter, an important day of religious  
10 significance for Christians. Since these gatherings can be permitted, there can be no  
11 doubt that Defendants may, and therefore must, permit Plaintiffs to engage in  
12 equivalent constitutionally-protected activities provided that Plaintiffs also adhere to the  
13 social distancing guidelines.

14 145. Plaintiffs have no adequate remedy at law and will suffer serious and  
15 irreparable harm to their constitutional rights unless Defendants are enjoined from  
16 implementing and enforcing the Orders.

17 146. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to  
18 declaratory relief and temporary, preliminary, and permanent injunctive relief  
19 invalidating and restraining enforcement of the Orders.

20 147. Plaintiffs found it necessary to engage the services of private counsel to  
21 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of  
22 attorneys’ fees pursuant to 42 U.S.C. § 1988.

## 23 SEVENTH CLAIM FOR RELIEF

### 24 Equal Protection Clause of Fourteenth Amendment to U.S. Constitution

#### 25 (42 U.S.C. § 1983)

26 *(By all Plaintiffs against all Defendants)*

27 148. Plaintiffs incorporate by reference the allegations in the preceding  
28 paragraphs, as if fully set forth herein.

1           149. The Orders and Defendants’ enforcement thereof violate the Fourteenth  
2 Amendment, both facially and as-applied to Plaintiffs. The Fourteenth Amendment of  
3 the Constitution provides that “[n]o State shall . . . deny to any person within its  
4 jurisdiction the equal protection of the laws.” Equal protection requires the state to  
5 govern impartially—not draw arbitrary distinctions between individuals based solely on  
6 differences that are irrelevant to a legitimate governmental objection.

7           150. Defendants intentionally and arbitrarily categorize individuals and conduct  
8 as either “essential” or “non-essential.” Those persons classified as “essential,” or as  
9 participating in essential services, are permitted to go about their business and activities  
10 provided certain social distancing practices are employed. Those classified as “non-  
11 essential,” or as engaging in non-essential activities, are required to stay in their  
12 residence, unless it becomes necessary for them to leave for one of the enumerated  
13 “essential” activities.

14           151. Strict scrutiny under the Equal Protection Clause applies where, as here,  
15 the classification impinges on a fundamental right, including the right to practice  
16 religion freely, to right to free speech and assembly, and the right to travel, among  
17 others.

18           152. Defendants cannot satisfy strict scrutiny, because their arbitrary  
19 classifications are not narrowly tailored measures that further compelling government  
20 interests, for the reasons stated above.

21           153. Plaintiffs have no adequate remedy at law and will suffer serious and  
22 irreparable harm to their constitutional rights unless Defendants are enjoined from  
23 implementing and enforcing the Orders.

24           154. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to  
25 declaratory relief and temporary, preliminary, and permanent injunctive relief  
26 invalidating and restraining enforcement of the Orders.

27           155. Plaintiffs found it necessary to engage the services of private counsel to  
28 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of



1 attorneys' fees pursuant to 42 U.S.C. § 1988.

2 **EIGHTH CLAIM FOR RELIEF**

3 **Right to Liberty**

4 **(Cal. Const. Art. 1, § 1)**

5 *(By all Plaintiffs against all Defendants)*

6 156. Plaintiffs incorporate by reference the allegations in the preceding  
7 paragraphs, as if fully set forth herein.

8 157. In California, “[a]ll people are by nature free and independent and have  
9 inalienable rights. Among these are enjoying and defending life and liberty, acquiring,  
10 possessing, and protecting property, and pursuing and obtaining safety, happiness, and  
11 privacy. Cal. Const. Art. 1, §1.

12 158. California courts have held that Public Health Officials’ authority over the  
13 rights of personal liberty is limited. Before exercising their full powers to quarantine,  
14 there must be “reasonable grounds [] to support the belief that the person so held is  
15 infected.” *Ex parte Martin*, 83 Cal. App. 2d 164 (1948). Public Health Officials must be  
16 able to show “probable cause to believe the person so held has an infectious disease ...”  
17 *Id.*

18 159. California courts found that Public Health Officials could not quarantine  
19 12 blocks of San Francisco Chinatown because of nine (9) deaths due to bubonic  
20 plague. *See Jew Ho v. Williamson*, 103 F. 10 (C.C. Cal. 1900), and *Wong Wai v.*  
21 *Williamson*, 103 F. 1 (C.C. Cal. 1900).

22 160. The court found it “purely arbitrary, unreasonable, unwarranted, wrongful,  
23 and oppressive interference with the personal liberty of complainant” who had “never  
24 had or contracted said bubonic plague; that he has never been at any time exposed to the  
25 danger of contracting it, and has never been in any locality where said bubonic plague,  
26 or any germs of bacteria thereof, has or have existed”. *Jew Ho*, 103 F. 10 (C.C. Cal.  
27 1900).

28

1           161. California courts have found that “a mere suspicion [of a contagious  
2 disease], unsupported by facts giving rise to reasonable or probable cause, will afford  
3 no justification at all *for depriving persons of their liberty* and subjecting them to virtual  
4 imprisonment under a purported order of quarantine.” *Ex parte Arta*, 52 Cal. App. 380,  
5 383 (1921) (emphasis added).

6           162. In *Jew Ho v. Williamson*, 103 F. 10 (C.C. Cal. 1900), and *Wong Wai v.*  
7 *Williamson*, 103 F. 1 (CC Cal. 1900), the California courts found that there were more  
8 than 15,000 people living in the twelve blocks of San Francisco Chinatown who were to  
9 be quarantined. The courts found it unreasonable to shut down the ability of over  
10 15,000 people to make a living because of nine deaths. This was one death for every  
11 1,666 inhabitants of Chinatown.

12           163. As of July 1, 2020, San Bernardino and Riverside Counties have a  
13 combined population of 4,650,631 individuals and as of April 11, 2020, San Bernardino  
14 and Riverside Counties have a total of 66 coronavirus deaths. That is one death for  
15 every 70,464 inhabitants.

16           164. Plaintiffs have never had or contracted said coronavirus; they have never  
17 been at any time exposed to the danger of contracting it, and have never been in any  
18 locality where said coronavirus, or any germs of bacteria thereof, has or have existed.

19           165. Requiring Plaintiffs to abstain from all religious gatherings, despite  
20 substantial modifications to satisfy the public health interests at stake, violates their  
21 California Constitutional liberty rights.

22           166. Plaintiffs have no adequate remedy at law and will suffer serious and  
23 irreparable harm to their constitutional rights unless Defendants are enjoined from  
24 implementing and enforcing the Orders.

25           167. Plaintiffs have found it necessary to engage the services of private counsel  
26 to vindicate their rights under the law. Plaintiffs are therefore entitled to an award of  
27 attorney fees and costs pursuant to California Code of Civil Procedure Section 1021.5.  
28

**NINTH CLAIM FOR RELIEF**

**Freedom of Speech**

**(Cal. Const. Art. 1, § 2)**

*(By all Plaintiffs against all Defendants)*

168. Plaintiffs incorporate by reference the allegations in the preceding paragraphs, as if fully set forth herein.

169. In California “[e]very person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.” Cal. Const. Art. 1, §2.

170. “The California Supreme Court has recognized that the California Constitution is ‘more protective, definitive and inclusive of rights to expression and speech’ than the First Amendment to the United States Constitution.” *Rosenbaum v. City and County of San Francisco*, 484 F.3d 1142, 1167 (9th Cir. 2007).

171. For the reasons stated in Plaintiffs’ Third Claim for Relief, requiring Plaintiffs to abstain from its religious gatherings, despite substantial modifications to satisfy the public health interests at stake, violates Plaintiffs’ liberty of speech rights under the California Constitution as well.

172. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm to their constitutional rights unless Defendants are enjoined from implementing and enforcing the Orders.

173. Plaintiffs have found it necessary to engage the services of private counsel to vindicate their rights under the law. Plaintiffs are therefore entitled to an award of attorney fees and costs pursuant to California Code of Civil Procedure Section 1021.5.

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**TENTH CLAIM FOR RELIEF**

**Freedom of Assembly**

**(Cal. Const. Art. 1, § 3)**

*(By all Plaintiffs against all Defendants)*

174. Plaintiffs incorporate by reference the allegations in the preceding paragraphs, as if fully set forth herein.

175. In California “[t]he people have the right to ... assemble freely to consult for the common good.” Cal. Const. Art. 1, §3.

176. For the reasons stated in Plaintiffs’ Fourth Claim for Relief, requiring Plaintiffs to abstain from its religious gatherings, despite substantial modifications to satisfy the public health interests at stake, violates Plaintiffs’ right to assemble freely under the California Constitution as well.

177. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm to their constitutional rights unless Defendants are enjoined from implementing and enforcing the Orders.

178. Plaintiffs have found it necessary to engage the services of private counsel to vindicate their rights under the law. Plaintiffs are therefore entitled to an award of attorney fees and costs pursuant to California Code of Civil Procedure Section 1021.5.

**ELEVENTH CLAIM FOR RELIEF**

**Free Exercise and Enjoyment of Religion**

**(Cal. Const. Art. 1, § 4)**

*(By all Plaintiffs against all Defendants)*

179. Plaintiffs incorporate by reference the allegations in the preceding paragraphs, as if fully set forth herein.

180. In California “[f]ree exercise and enjoyment of religion without discrimination or preference are guaranteed.” Cal. Const. Art. 1, §4.



1 181. “In general, the religion clauses of the California Constitution are read  
2 more broadly than their counterparts in the federal Constitution.” *Carpenter v. City and*  
3 *County of San Francisco*, 93 F.3d 627, 629 (9th Cir. 1996).

4 182. For the reasons stated in Plaintiffs’ First Claim for Relief, requiring  
5 Plaintiffs to abstain from its religious gatherings, despite substantial modifications to  
6 satisfy the public health interests at stake, violates Plaintiffs’ free exercise rights under  
7 the California Constitution as well.

8 183. Plaintiffs have no adequate remedy at law and will suffer serious and  
9 irreparable harm to their constitutional rights unless Defendants are enjoined from  
10 implementing and enforcing the Orders.

11 184. Plaintiffs have found it necessary to engage the services of private counsel  
12 to vindicate their rights under the law. Plaintiffs are therefore entitled to an award of  
13 attorney fees and costs pursuant to California Code of Civil Procedure Section 1021.5.

14 **WHEREFORE**, Plaintiffs respectfully request that this Court enter judgment  
15 against Defendants as follows:

16 A. An order and judgment declaring that the Orders, facially and as-applied to  
17 Plaintiffs, violate the First and Fourteenth Amendments to the U.S. Constitution and  
18 Article 1, Sections 1, 2, and 4 of the California Constitution;

19 B. An order temporarily, preliminarily, and permanently enjoining and  
20 prohibiting Defendants from enforcing the Orders;

21 C. For attorneys’ fees and costs;

22 D. Such other and further relief as the Court deems appropriate and just.

23  
24 Date: April 13, 2020

DHILLON LAW GROUP INC.

25  
26 By: /s/ Harmeet K. Dhillon

HARMEET K. DHILLON (SBN: 207873)

harmeet@dhillonlaw.com

27 MARK P. MEUSER (SBN: 231335)

mmeuser@dhillonlaw.com  
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GREGORY R. MICHAEL (SBN: 306814)  
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177 Post Street, Suite 700  
San Francisco, California 94108  
Telephone: (415) 433-1700

Attorneys for Plaintiffs

**VERIFICATION OF COMPLAINT**


I, the undersigned, declare as follows:

1. I am a plaintiff in this matter.
2. I have read the foregoing complaint and know the contents thereof.
3. The same is true of my own knowledge, except as to those matters which

are therein state on information and belief, and, as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: 4/13/2020

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Wendy Gish

Date: 4/13/2020

DocuSigned by:  
  
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Patrick Scales

Date: 4/13/2020

DocuSigned by:  
  
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James Dean Moffatt

Date: 4/13/2020

DocuSigned by:  
  
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Brenda Wood



# EXHIBIT 1

EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA

EXECUTIVE ORDER N-33-20

**WHEREAS** on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

**WHEREAS** in a short period of time, COVID-19 has rapidly spread throughout California, necessitating updated and more stringent guidance from federal, state, and local public health officials; and

**WHEREAS** for the preservation of public health and safety throughout the entire State of California, I find it necessary for all Californians to heed the State public health directives from the Department of Public Health.

**NOW, THEREFORE, I, GAVIN NEWSOM**, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8627, and 8665 do hereby issue the following Order to become effective immediately:

**IT IS HEREBY ORDERED THAT:**

- 1) To preserve the public health and safety, and to ensure the healthcare delivery system is capable of serving all, and prioritizing those at the highest risk and vulnerability, all residents are directed to immediately heed the current State public health directives, which I ordered the Department of Public Health to develop for the current statewide status of COVID-19. Those directives are consistent with the March 19, 2020, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: <https://covid19.ca.gov/>. Those directives follow:

ORDER OF THE STATE PUBLIC HEALTH OFFICER  
March 19, 2020

To protect public health, I as State Public Health Officer and Director of the California Department of Public Health order all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>. In addition, and in consultation with the Director of the Governor's Office of Emergency Services, I may designate additional sectors as critical in order to protect the health and well-being of all Californians.

Pursuant to the authority under the Health and Safety Code 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this order is to go into effect immediately and shall stay in effect until further notice.

The federal government has identified 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or

destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof. I order that Californians working in these 16 critical infrastructure sectors may continue their work because of the importance of these sectors to Californians' health and well-being.

This Order is being issued to protect the public health of Californians. The California Department of Public Health looks to establish consistency across the state in order to ensure that we mitigate the impact of COVID-19. Our goal is simple, we want to bend the curve, and disrupt the spread of the virus.

The supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care. When people need to leave their homes or places of residence, whether to obtain or perform the functions above, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing.

- 2) The healthcare delivery system shall prioritize services to serving those who are the sickest and shall prioritize resources, including personal protective equipment, for the providers providing direct care to them.
- 3) The Office of Emergency Services is directed to take necessary steps to ensure compliance with this Order.
- 4) This Order shall be enforceable pursuant to California law, including, but not limited to, Government Code section 8665.

**IT IS FURTHER ORDERED** that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

**IN WITNESS WHEREOF** I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 19th day of March 2020.



\_\_\_\_\_  
GAVIN NEWSOM  
Governor of California

**ATTEST:**

\_\_\_\_\_  
ALEX PADILLA  
Secretary of State

# EXHIBIT 2



## Public Health

Trudy Raymundo  
Director

Corwin Porter  
Assistant Director

Maxwell Ohikhuare, M.D.  
Health Officer

Erin Gustafson, M.D., MPH  
Acting Health Officer

### **ORDER OF THE HEALTH OFFICER OF THE COUNTY OF SAN BERNARDINO**

#### **FOR THE CONTROL OF COVID-19**

**DATE OF ORDER: April 7, 2020**

Please read this Order carefully. Violation of or failure to comply with this Order is a crime punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295; County Code Section 31.0101 Et. Seq.)

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085, AND 120175, TITLE 17 CALIFORNIA CODE OF REGULATIONS SECTION 2501, AND SAN BERNARDINO COUNTY CODE SECTION 31.0101 ET. SEQ., THE HEALTH OFFICER OF THE COUNTY OF SAN BERNARDINO (“HEALTH OFFICER”) ORDERS:

**Effective 12:00 a.m. on Wednesday, April 8, 2020, and continuing until rescinded,** pending further Order of the Public Health Officer, the following will be in effect for the County of San Bernardino (hereinafter the “County”):

1. The Orders of the San Bernardino County Health Officer issued on March 17, 2020 and March 27, 2020, Governor Newsom’s Executive Order N-22-20 and order of the California State Public Health Officer issued on March 19, 2020, requiring all persons residing in the State to remain in their homes or places of residence, except as needed to maintain the continuity of operations for critical infrastructure (the “Stay-at-Home Order”) remain in effect until the Governor’s Executive Order N-22-20, and the Orders of the San Bernardino County Health Officer remain in effect until they are rescinded.
2. Under the Orders of the San Bernardino County Health Officer, the California State Public Health Officer, and Governor Newsom’s Executive Order N-22-20, all individuals living in the State of California are ordered to stay home or at their place of residence except as need to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>. This guidance does allow faith based services that are provided through streaming or other technology, while individuals remain in their homes, but does not allow individuals to leave their homes for driving parades or drive-up services, or for picking up non-essential items.

#### BOARD OF SUPERVISORS

ROBERT A. LOVINGOOD  
First District

JANICE RUTHERFORD  
Second District

DAWN ROWE  
Third District

CURT HAGMAN  
Chairman, Fourth District

JOSIE GONZALES  
Vice Chair, Fifth District

Gary McBride  
Chief Executive Officer



3. All non-essential businesses that do not fall under the Essential Critical Infrastructure referenced above are ordered to remain closed. All essential businesses that remain in operation in accordance with the above referenced Orders of the San Bernardino County Health Officer, the Order of the California State Public Health Officer, and Governor Newsom's Executive Order N-22-20, shall follow the Social Distancing and Infection Control Guidelines published by the CDC and California Department of Public Health. All essential businesses must ensure all required measures are implemented and must identify and require measures necessary to implement social distancing and sanitation at that particular facility. If the measures identified and implemented are not effective in maintaining proper social distancing and sanitation, additional measures shall be identified and implemented or the facility shall be closed.
4. All persons, including Essential Workers shall wear face coverings, such as scarves (dense fabric, without holes), bandanas, neck gaiters, or other fabric face coverings, when they leave their homes or places of residence for essential activities. All persons, including **non-medical** Essential Workers are discouraged from using Personal Protective Equipment (PPE), such as N95 masks, for **non-medical reasons**. Staff working at facilities listed in Attachment A at <http://wp.sbcounty.gov/dph/wp-content/uploads/sites/7/2020/04/Attachment-A-and-B.pdf> must follow the Order of the San Bernardino County Public Health Officer issued on April 6, 2020, requiring staff at these facilities to wear a surgical mask at all times while in the facility.
5. All essential businesses shall make every effort to use telecommuting for its workforce.
6. Government entities shall enforce social distancing requirements at all parks and trails. If a government entity is unable to enforce social distancing at a park or trail, it shall be closed to the public. Parking lots at all parks and/or trails shall be closed and shall be accessible only by members of the public within walking distance of the parks and/or trails. Said parks and/or trails shall be used solely for walking, hiking, equestrian or bicycle riding. The public shall not congregate or participate in group sporting activities at such parks and/or trails.
7. A strong recommendation is made that all persons who are 65 years old or older, have a chronic underlying condition, or have a compromised immune system self-quarantine themselves at home.
8. Hospitals and healthcare providers shall take measures to preserve and prioritize resources including delaying non-emergent or elective surgeries or procedures where feasible.
9. All persons arriving in the county from international locations identified on the Centers for Disease Control and Prevention (CDC) Warning Level 2 or 3 Travel Advisory (available at: <https://wwwnc.cdc.gov/travel/notices>) shall be subject to 14-day home quarantine, self-monitoring.
10. A strong recommendation is made for persons exhibiting mild to moderate symptoms of COVID-19 to self-isolate in their place of residence unless seeking medical treatment. A guide to symptoms is found here: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>.
11. This Order is issued based on evidence of increasing transmission of COVID-19 within the County, in the state of California, and worldwide, scientific evidence regarding the most effective approach to slow transmission of communicable diseases generally and COVID-19 specifically, as well as

best practices as currently known and available to protect the public from the risk of spread of or exposure to COVID-19. The virus that causes COVID-19 (known as SARS-CoV2) has infected over one million individuals worldwide in over 180 countries and is implicated in over 76,000 worldwide deaths, including at least 530 cases and 16 deaths in San Bernardino County. These numbers increase significantly every day.

12. This Order is intended to reduce the likelihood of exposure to COVID-19, thereby slowing the spread of COVID-19 in communities worldwide. This Order will help to reduce the number of Californians who contract COVID-19 before an effective treatment or vaccine is available; protect those most likely to experience severe symptoms, such as older Californians and those with underlying chronic conditions; preserve and protect our healthcare delivery system; and minimize the social and economic impacts of COVID-19 over the long run.
13. This Order is issued in accordance with, and incorporates by reference, the: March 4, 2020 Proclamation of a State Emergency issued by Governor Gavin Newsom; the March 10, 2020 Declaration of Local Health Emergency based on an imminent and proximate threat to public health from the introduction of novel COVID-19 in San Bernardino County; the March 10, 2020 Resolution of the Board of Supervisors of the County of San Bernardino proclaiming the existence of a Local Emergency in the County of San Bernardino regarding COVID-19; the March 10, 2020 Resolution of the Board of Supervisors of the County of San Bernardino ratifying and extending the Declaration of Local Health Emergency due to COVID-19; and Executive Order N-22-20 of the Governor of California and Order of the State Public Health Officer issued on March 19, 2020.
14. This Order comes after the release of substantial guidance from the Health Officer, the California Department of Public Health, the Centers for Disease Control and Prevention, and other public health officials throughout the United States and around the world, including but not limited to, the Centers for Disease Control and Prevention's "Interim Additional Guidance for Infection Prevention and Control for Patients with Suspected or Confirmed COVID-19 in Nursing Homes", the California Department of Public Health Face Covering Guidance issued on April 1, 2020, and Recommendation Regarding the Use of Cloth Face Coverings from the Centers from Disease Control and Prevention issued on April 3, 2020.
15. This Order is made in accordance with all applicable State and Federal laws, including but not limited to: Health and Safety Code sections 101030, et seq.; Health and Safety Code sections 120100, et seq.; and Title 17 of the California Code of Regulations section 2501.
16. This Order shall not supersede any conflicting or more restrictive orders issued by the State of California or Federal governments, including any requirements regarding child care. If any portion of this Order or the application thereof to any person or circumstance is held to be invalid the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.
17. To the extent necessary, pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, this order is enforceable by the Sheriff and all Chiefs of Police in the County. The violation of any provision of this Order constitutes an imminent threat to public health.



Copies of this Order shall promptly be: (1) made available at the County of San Bernardino Health Administration office located at 351 N. Mountain View Ave., #303, San Bernardino, CA 92415; (2) posted on the County of San Bernardino Public Health Department's website ([wp.sbcounty.gov/dph](http://wp.sbcounty.gov/dph)); and (3) provided to any member of the public requesting a copy of this Order.

**IT IS SO ORDERED:**



Dated: April 7, 2020

Dr. Erin Gustafson, MD, MPH  
Acting Public Health Officer  
County of San Bernardino

Approved as to form and legality:



Dated: April 7, 2020

Adam Ebright  
County Counsel  
County of San Bernardino

# EXHIBIT 3

**AMENDED ORDER OF THE HEALTH OFFICER FOR THE COUNTY OF RIVERSIDE AND OF THE COUNTY EXECUTIVE OFFICER AS DIRECTOR OF EMERGENCY SERVICES**

**DATE OF ORDER: APRIL 6, 2020**

Please read this Order carefully. Violation of or failure to comply with this Order is a crime punishable by fine, imprisonment, or both. Violators are also subject to civil enforcement actions including civil penalties of up to \$1,000 per violation per day, injunctive relief, and attorneys' fees and costs. (Penal Code section 19; Government Code sections 8665 and 25132; Health and Safety Code section 120295; County Ordinances 533 and 556.)

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101030, 101040, 101085, AND 120175, TITLE 17 CALIFORNIA CODE OF REGULATIONS SECTION 2501, ARTICLE XI OF THE CALIFORNIA CONSTITUTION; CALIFORNIA GOVERNMENT CODE SECTIONS 8610, 8630, 8634, AND 8665; AND RIVERSIDE COUNTY CODE SECTIONS 442 AND 533.6, THE HEALTH OFFICER OF THE COUNTY OF RIVERSIDE ("HEALTH OFFICER") ORDERS:

**Effective 12:00 a.m. on Sunday, April 5, 2020, and continuing through April 30, 2020**, pending further Order of the Public Health Officer, the following will be in effect for the County of Riverside (hereinafter the "County"):

1. Executive Order N-33-20 issued by the Governor of the State of California ("Executive Order") (available at: <https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf>) ordered all individuals living in the State of California to stay home or at their place of residence, except as needed to maintain continuity of operations of sectors designated in the document available at: <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>) as updated by the State Public Health Officer ("Essential Workers"). This also includes all orders of the State Public Health Officer.

In conformance with, and where not superseded by the Executive Order, this Order additionally specifies and orders as follows:

- a. All public or private "gatherings," as defined in section 2 below, within the jurisdiction of the Public Health Officer of the County of Riverside are prohibited, regardless of venue or size.
- b. **Paragraph 1.a. of** this Order does not apply to courts of law, medical providers, public utilities, critical county, city, and special district operations, critical school operations such as nutrition programs, logistics/distribution centers, congregate living settings, daycare and child care, shelters, public transportation, airport travel, or necessary shopping at fuel stations, stores or malls. However, these settings are instructed to observe all applicable state and federal guidelines for infection control.

- c. All essential businesses that remain in operation in accordance with the Order shall follow the Social Distancing and Infection Control Guidelines published by the CDC and California Department of Public Health. All essential businesses must ensure all required measures are implemented and must identify and require measures necessary to implement social distancing are implemented at each facility that will ensure social distancing and sanitation at that particular facility. If the measures identified and implemented are not effective in maintaining proper social distancing and sanitation, additional measures shall be identified and implemented or the facility shall be closed.
- d. All persons, including Essential Workers shall wear face coverings, such as scarves (dense fabric, without holes), bandanas, neck gaiter, or other fabric face coverings. All persons, including Essential Workers are discouraged from using Personal Protective Equipment (PPE), such as N95 masks, for **non-medical reasons**.
- e. All bars, adult entertainment establishments, and other business establishments that serve alcohol and do not serve food shall be and shall remain closed.
- f. All restaurants and other business establishments that serve food shall close all on-site dining. All food served shall be by delivery, or through pick-up or drive thru. Social distancing shall be required for persons picking up food on site.
- g. All gyms and fitness centers shall be and shall remain closed.
- h. All essential businesses shall make every effort to use telecommuting for its workforce.
- i. Government entities shall enforce social distancing requirements at all parks and trails. If a government entity is unable to enforce social distancing at a park or trail, it shall be closed to the public. Parking lots at all parks and/or trails shall be closed and shall be accessible only by members of the public within walking distance of the parks and/or trails. Said parks and/or trails shall be used solely for walking, hiking, equestrian or bicycle riding. The public shall not congregate or participate in group sporting activities at such parks and/or trails.
- j. As outlined in the Public Health Officer's Order of April 2, 2020, all public and private golf courses are closed for play. Golf Clubs may allow members to walk the course solely for exercise. Golf Clubs that provide food services may continue to do so by delivery or through pick-up. Social distancing shall be required for persons picking up food on site and using a course for walking.
- k. As outlined in the Health Officer's Amended Order of April 1, 2020, all schools within the jurisdiction of the Public Health Officer of the County of Riverside

including, but not limited to, all preschools, K-12 public, private and charter schools, community colleges, public, private, nonprofit, and for-profit colleges and universities shall remain closed through June 19, 2020, pending further Order of the Public Health Officer. This closure shall be understood to prohibit any activity where students, staff, parents, or members of the public gather on the school campus, including but not limited to: formal instruction; classes; laboratory sessions; tutoring; meeting; sporting events; or other extracurricular activities. Parents of school-aged minor children shall take steps to ensure children are not participating in activities prohibited by this Order, or the Executive Order, and that social distancing requirements are practiced at all times.

Individual school districts and educational institutions shall continue to have the discretion to determine the minimum essential personnel as required to support critical functions within those districts and institutions such as federal food service programs, security, and necessary maintenance.

This order shall not affect on-campus housing, dormitories or other congregate living arrangements, or staffing required to maintain and operate them.

- l. Daycare and childcare facilities shall continue to operate under the following mandatory conditions: (1) Childcare must be carried out in stable groups of 10 or fewer ("stable" means that the same 10 or fewer children are in the same group each day); (2) Children shall not change from one group to another; (3) If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other; and (4) Childcare providers shall remain solely with one group of children.
- m. A strong recommendation is made that all persons who are 65 years old or older, have a chronic underlying condition, or have a compromised immune system self-quarantine themselves at home.
- n. "Non-essential personnel," as defined in section 2(c) below, are prohibited from entry into any hospital or long-term care facility.

All essential personnel who show any potential signs or symptoms of COVID-19 shall be strictly prohibited from entry into hospitals or long-term care facilities.

- o. Hospitals and healthcare providers shall take measures to preserve and prioritize resources including delaying non-emergent or elective surgeries or procedures where feasible.
- p. As outlined in the Health Officer's Order of April 3, 2020, all labs that perform COVID-19 testing for Riverside County clients, including but not limited to Kaiser



Permanente; LabCorp, Quest Diagnostics, and labs operated by hospitals across the County of Riverside, shall continue to share COVID-19 orders and results with demographics with Manifest Medex (MX) to create a countywide COVID-19 dashboard to include information regarding tests performed, both pending and resulted, and occurrences by age, gender, and geographical location. Orders and results with demographics shall be shared either through electronic interfaces (preferred) or via electronic file transfers updated on at least a daily basis.

- q. All persons arriving in the county from international locations identified on the Centers for Disease Control and Prevention (CDC) Warning Level 2 or 3 Travel Advisory (available at: <https://wwwnc.cdc.gov/travel/notices>) shall be subject to 14-day home quarantine, self-monitoring.
  - r. A strong recommendation is made for persons exhibiting mild to moderate symptoms of COVID-19 to self-isolate themselves in their place of residence unless seeking medical treatment. A guide to symptoms is found here: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>.
2. For purposes of this Order:
- a. "Gathering" is any event or convening that brings together people in a single room or single space at the same time, including, but not limited to, an auditorium, stadium, arena, theater, church, casino, conference room, meeting hall, cafeteria, drive-in theater, parking lot, or any other indoor or outdoor space used for any non-essential purpose including, but not limited to, movies, church services, swap meets, etc. A gathering does not include:
    - i. A convening of persons who reside in the same residence.
    - ii. Operations at airports and/or public transportation.
    - iii. Operations at essential businesses included in the designated sectors referenced in section 1 above, where many people are present but are able to practice social distancing.
    - iv. Funerals and burial services may proceed with not more than 10 persons present. Funerals and burial services must be conducted in strict compliance with social distancing requirements.
  - b. "Long term care facility" is a facility serving adults that require assistance with activities of daily living, including a skilled nursing facility, and that is licensed by the California Department of Community Care and Licensing, or the California Department of Public Health.
  - c. "Non-essential personnel" for the purpose of section 1 above, are employees, contractors, or members of the public who do not perform treatment, maintenance,

support, or administrative tasks deemed essential to the healthcare mission of the long term care facility or hospital. Non-essential personnel do not include first responders, nor State, federal, or local officials, investigators, or medical personnel carrying out lawful duties. Entry of visitors to hospitals and long-term care facilities are allowed upon the approval of the facility's director, or designee, for the purpose of allowing family and friends to visit a resident such as in an end of life situation, to allow parents or guardians to visit a child who is a patient, or any other circumstances deemed appropriate by the facility director, or designee, and where appropriate precautions by the facility that follow federal, State, and local public health guidance regarding COVID-19 are followed.

- d. "Social distancing" is maintaining a six-foot separation from all persons except for household members and medical providers with the appropriate personal protection equipment.
3. This Order shall be effective immediately and will remain in effect until **April 30, 2020**, pending further Order of the Public Health Officer. To the extent that any conflict shall arise, this Order supersedes the prior Orders of the Public Health Officer concerning public gatherings, including those issued on March 12, March 16, and April 4, 2020.
4. This Order is issued as a result of the worldwide pandemic of COVID-19 disease, also known as "novel coronavirus," which has infected over one million individuals worldwide in over 180 countries and is implicated in over 50,000 worldwide deaths, including over 600 cases and 15 deaths in Riverside County. These numbers increase significantly every day.
5. This Order is issued based on evidence of increasing transmission of COVID-19 both within the County of Riverside and worldwide, scientific evidence regarding the most effective approach to slow transmission of communicable diseases generally and COVID-19 specifically, as well as best practices as currently known and available to protect the public from the risk of spread of or exposure to COVID-19.
6. This Order is intended to reduce the likelihood of exposure to COVID-19, thereby slowing the spread of COVID-19 in communities worldwide. This Order is issued to prevent circumstances often present in gatherings that may exacerbate the spread of COVID-19, such as: 1) the increased likelihood that gatherings will attract people from a broad geographic area; 2) the prolonged time period in which large numbers of people are in close proximity; 3) the difficulty in tracing exposure when large numbers of people attend a single event or are at a single location; and 4) the inability to ensure that such persons follow adequate hygienic practices.
7. This Order is intended to address the strain upon the health care system from the effects of the COVID-19 virus. Similarly, this Order is intended to reduce the likelihood of exposure to COVID-19, thereby slowing the spread of COVID-19 in communities worldwide.



8. This Order is issued in accordance with, and incorporates by reference, the: March 4, 2020 Proclamation of a State Emergency issued by Governor Gavin Newsom; the March 8, 2020 Declaration of Local Health Emergency based on an imminent and proximate threat to public health from the introduction of novel COVID-19 in Riverside County; the March 10, 2020 Resolution of the Board of Supervisors of the County of Riverside proclaiming the existence of a Local Emergency in the County of Riverside regarding COVID-19; the March 10, 2020 Resolution of the Board of Supervisors of the County of Riverside ratifying and extending the Declaration of Local Health Emergency due to COVID-19; the guidance issued on March 11, 2020 by the California Department of Public Health regarding large gatherings of 250 people or more; Governor Gavin Newsom's Executive Order N-25-20 of March 12, 2020 preparing the State to commandeer hotels and other places of temporary residence, medical facilities, and other facilities that are suitable as places of temporary residence or medical facilities as necessary for quarantining, isolating or treating individuals who test positive for COVID-19 or who have had a high-risk exposure and are thought to be in the incubation period; the guidance issued on March 15, 2020 by the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials through the United States and around the world recommending the cancellation of gatherings involving more than fifty (50) or more persons in a single space at the same time; the March 16, 2020 order of the Public Health Officer prohibiting all gatherings with expected presence above ten (10) individuals; Governor Newsom's Executive Order N-33-20 of March 19, 2020 ordering all persons to stay at home to protect the health and well-being of all Californians and to establish consistency across the state in order to slow the spread of COVID-19; Governor Newsom's Executive Order N-35-20 giving the state the ability to increase the health care capacity in clinics, mobile health care units and adult day health care facilities and allowing local governments more flexibility to utilize the skills of retired employees in order to meet the COVID-19 surge; and Governor Newsom's Executive Order N-39-20 intended to expand the health care workforce and recruit health care professionals to address the COVID-19 surge. The Governor and the County Public Health Officer continue to issue COVID-19-related orders to mitigate the public health crisis.
9. This Order comes after the release of substantial guidance from the Health Officer, the California Department of Public Health, the Centers for Disease Control and Prevention, and other public health officials throughout the United States and around the world, including but not limited to, the Centers for Disease Control and Prevention's "Interim Additional Guidance for Infection Prevention and Control for Patients with Suspected or Confirmed COVID-19 in Nursing Homes" and the California Department of Public Health Face Covering Guidance issued on April 1, 2020.
10. This Order is made in accordance with all applicable State and Federal laws, including but not limited to: Health and Safety Code sections 101030, et seq.; Health and Safety Code sections 120100, et seq.; and Title 17 of the California Code of Regulations section 2501. More specifically, Health and Safety Code section 120175.5(b) which provides that all

governmental entities in the county shall take necessary measures within the governmental entity's control to ensure compliance with this Order and to disseminate this Order to venues or locations within the entity's jurisdiction where gatherings may occur.

11. Violation of this Order is subject to fine, imprisonment, or both. (Penal Code section 19; Government Code sections 8665 and 25132; Health and Safety Code section 120295; County Ordinances 533 and 556.)
12. To the extent necessary, pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all Chiefs of Police in the County ensure compliance with and enforcement of this Order.
13. Copies of this Order shall promptly be: (1) made available at the County of Riverside Health Administration office located at 4065 County Circle Drive, Riverside, CA 92503; (2) posted on the County of Riverside Public Health Department's website (rivcoph.org); and (3) provided to any member of the public requesting a copy of this Order.

**IT IS SO ORDERED:**

A handwritten signature in blue ink, appearing to read 'Cameron Kaiser', is written over a horizontal line.

Dated: April 6, 2020

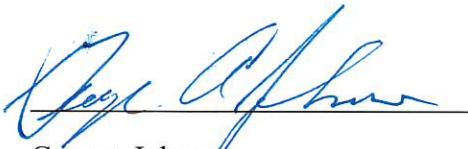
Dr. Cameron Kaiser, MD, MPH, FAAFP  
Public Health Officer  
County of Riverside

**EMERGENCY REGULATIONS**

As Director of Emergency Services for the County of Riverside, I am authorized to promulgate regulations for the protection for life and property pursuant to Government Code section 8634 and Riverside County Ordinances 442 and 533. The following shall be in effect for the duration of the County of Riverside Health Officer's Order issued above which is incorporated in its entirety by reference:

The County of Riverside Health Officer's Order shall be promulgated as a regulation for the protection of life and property.

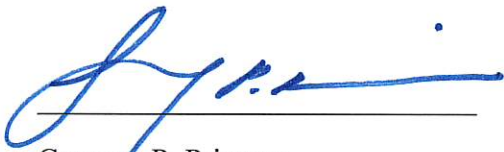
Any person who violates or refuses or willfully neglects to obey this regulation is subject to civil enforcement actions, including civil penalties of up to \$1,000 per violation per day, injunctive relief, and attorneys' fees and costs, imprisonment, or both, pursuant to Government Code section 8665.



George Johnson  
County Executive Officer  
Director of Emergency Services  
County of Riverside

Dated: April 6, 2020

Approved as to form and legality:



Gregory P. Priamos  
County Counsel  
County of Riverside

Dated: April 6, 2020