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18 County Supervisor

19 UNITED STATES DISTRICT COURT  
20 CENTRAL DISTRICT OF CALIFORNIA – EASTERN DIVISION

21 WENDY GISH, an individual, *et al.*,  
22 Plaintiffs,  
23 v.  
24 GAVIN NEWSON, in his official  
25 capacity as Governor of California, *et al.*,  
26 Defendants.

Case No. 5:20-cv-00755-JGB-KK  
Judge Hon. Jesus G. Bernal  
Magistrate Judge Kenly Kiya Kato

**COUNTY OF RIVERSIDE, ET AL.’S,  
OPPOSITION TO PLAINTIFFS’  
APPLICATION FOR TEMPORARY  
RESTRAINING ORDER (DOCKET  
NO. 8)**

*(Filed concurrently with:  
Declaration of Kelly A. Moran;  
Declaration of Jason Anderson;  
Declaration of Dr. Cameron Kaiser; and  
Request for Judicial Notice)*

**DATE:** TBD  
**TIME:** TBD  
**COURTROOM:** 1  
**LOCATION:** 3470 Twelfth Street  
Riverside, CA 92501-3801

Complaint Filed: April 14, 2020

**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

	<b><u>Page</u></b>
I. INTRODUCTION .....	7
II. BACKGROUND AND FACTS .....	8
III. LEGAL ANALYSIS – Plaintiffs are Not Entitled to a TRO ....	15
A. Standard for Issuance of a TRO .....	15
B. It is Unlikely that Plaintiffs Will Succeed on the Merits .....	16
1. The Free Exercise Clause and the California Constitution	
Have Not Been Violated. ....	16
2. The Establishment Clause Has Not Been Violated.....	20
3. The Orders Do Not Violate Plaintiff’s Right to Free Speech	24
4. Plaintiffs’ Right to Assembly is Not Violated .....	26
5. County’s Orders are Not Vague, Nor are they Void.....	28
6. Plaintiffs’ General Due Process Argument Fails .....	29
7. Plaintiffs’ Right to Liberty Has Not Been Violated.....	30
8. Plaintiffs Are Not a Member of a Protected Class.....	34
C. Plaintiffs’ Do Not Face Irreparable Injury .....	35
D. The Balance of Equities and Public Interest Support Denial	
Of the TRO .....	35
IV. CONCLUSION	36

**TABLE OF AUTHORITIES**

**Cases**

*Aids Healthcare Foundation v. Los Angeles County Department of Health* (2011) 197  
 Cal.App. 8<sup>th</sup> 693, 701-702..... 31

*Albright v. Oliver*, 510 U.S. 266, 273-274 (1994)..... 30

*Alexander v. United States*, 509 U.S. 544, 550 (1993)..... 24

*Am. Trucking Ass'ns v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009) ..... 15

*Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998)..... 34

*Broadrick v. Oklahoma*, 413 U.S. 601, 615, 93 S.Ct. 2908, 37 L.Ed.2d 830 (1973)..... 26

*Cantwell v. State of Connecticut*, 310 U.S. 296 (1940)..... 17

*Caribbean Marine Services, Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988)..... 35

*Carroll v. President and Com'rs of Princess Anne*, 393, U.S. 175 (1968) ..... 26

*Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 53 (1993) ..... 17

*City of Cleburne*, 473 U.S. 432, 440 (1985)..... 35

*City of Lakewood v. Plain Dealer Pub. Co.*, 486 U.S. 750, 759 (1988)..... 24

*Doe v. McAleenan*, 415 F. Supp. 3d 971, 976 (S.D. Cal. 2019)..... 15

*Does 1–5 v. Chandler*, 83 F.3d 1150, 1155 (9th Cir.1996)..... 35

*Edwards v. Aguillard*, 482 U.S. 578, 594–95 (1987) ..... 21

*Employment Div., Dep't of Human Res. of Or. v. Smith*, 494 U.S. 872, 879 (1990)..... 17

*F.C.C. v. Beach Communs., Inc.*, 508 U.S. 307, 315 (1993)..... 20

1 *Forsyth County v. Nationalist Movement*, 505 U.S. 123, 129–30 (1992) ..... 25

2 *Foti*, 146 F.3d at 638 ..... 28

3

4 *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) ..... 16

5 *Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers*, 415 U.S.

6 423, 439 (1974) ..... 15

7

8 *Grayned*, 408 U.S. at 110, 92 S.Ct. 2294 ..... 29

9 *Heller v. Doe by Doe*, 509 U.S. 312, 320-321 (1993) ..... 20

10 *Hill v. Colorado*, 530 U.S. 703, 733, 120 S.Ct. 2480 (2000) ..... 29

11

12 *Jew Ho v. Williamson*, 104 F.10. (C.C. Cal.1900) ..... 30

13 *Kolender v. Lawson*, 461 U.S. 352, 361 (1983) ..... 29

14 *Lemon v. Kurtzman*, 403 U.S. 602, 612, 91 S.Ct. 2105, 29 L.Ed.2d 745 (1971)..... 21, 23

15

16 *Lukumi*, supra, 508 at 542 ..... 19, 19

17 *Lukumi*, supra, at 542-543..... 18

18

19 *Lynch v. Donnelly*, 465 U.S. 668, 690 ..... 23

20 *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997)..... 15

21 *McCreary Cty., Ky. v. Am. Civil Liberties Union of Ky.*, 545

22 U.S. 844, 862, 866 (2005)..... 21, 22

23

24 *Parents for Privacy v. Barr*, 949 F.3d 1210, 1234 (9th Cir. 2020)

25 (*Parents for Privacy*) ..... 17, 18, 19

26

27 *Perfect 10, Inc. v. Amazon.com, Inc.* 508 F.3d 1146, 1158 (9th Cir. 2007)..... 16

28

1 *Sandry v. Brooklyn School District No. 78 of Williams County* (1921) 47 N.D. 444 ..... 28

2

3 *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000) ..... 21, 22

4 *Santa Monica Nativity Scenes Comm. v. City of Santa Monica*, 784 F.3d 1286, 1299 n. 7

5 (9th Cir. 2015 ..... 21, 23

6

7 *Selecky*, 586 F.3d at 1127- 1128 ..... 17, 20

8 *Selecky*, 586 F.3d at 1129..... 19

9

10 *Set Enterps., Inc. v. City of Hallandale Beach*, 2010 WL 11549707,

11 at \*12 (S.D. Fla. Dec. 30, 2010) ..... 24

12 *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) ..... 16

13

14 *Thomas v. Collins*, 323 U.S. 516 (1945); *West Virginia State Board of Education v.*

15 *Barnette* 319 U.S.624 (1943) ..... 26

16

17 *Trunk v. City of San Diego*, 629 F.3d 1099, 1106 (9th Cir. 2011) ..... 23

18 *Vasquez v. Los Angeles County*, 487 F.3d 1246, 1256 (9th Cir. 2007) ..... 23

19

20 *Virginia v. Hicks*, 539 U.S. 113, 118–19(2003) ..... 26

21

22 *Ward v. Rock Against Racism*, 491 U.S. 781, 794 (1989)..... 28

23

24 **Statutes**

25 42 U.S.C. § 1983 ..... 34

26

27 Article XI of the California Constitution California

28 sections 8610, 8630, 8634 and 8655 ..... 11

1 *Government Code* section 8558 ..... 31

2 *Government Code* section 8684 ..... 31

3

4 *Health and Safety Code* sections 101030 ..... 11

5 *Health & Safety Code* section 101040 ..... 11, 32

6 *Health & Safety Code* section 101080 ..... 31

7

8 *Health & Safety Code* section 101085 ..... 11

9 *Health & Safety Code* section 120175 ..... 11, 31

10 Title 17 California Code of Regulations section 2501 ..... 11

11

12 **Other Authorities**

13 Riverside County Code sections 442 ..... 11

14

15 Riverside County Code sections 533.6 ..... 11

16

17 **Rules**

18 17 C.C.R. section 2501(a) ..... 31

19

20 **Constitutional Provisions**

21 Equal Protection Clause of the Fourteenth Amendment ..... 34

22

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**TO THE PLAINTIFFS AND THEIR COUNSEL OF RECORD:**

DEFENDANTS, CAMERON KAISER, in his official capacity as the Riverside County Public Health Officer; GEORGE JOHNSON, in his official capacity as Riverside County Executive Officer and Director of Emergency Services; CHAD BIANCO, in his official capacity as the Riverside County Sheriff; KEVIN JEFFRIES, in his official capacity as a Riverside County Supervisor; KAREN SPIEGEL, in her official capacity as a Riverside County Supervisor; CHUCH WASHINGTON, in his official capacity as a Riverside County Supervisor; V. MANUEL PEREZ, in his official capacity as a Riverside County Supervisor; and JEFF HEWITT, in his official capacity as a Riverside County Supervisor (hereinafter collectively the “County”) hereby offer the following Opposition to the Application for Temporary Restraining Order (Docket No. 8).

**I.**

**INTRODUCTION**

Asymptomatic human-to-human transmission of COVID-19 is devastating the world. From a silent and deadly spread at a Kings County nursing home in Washington to a “super-spread” event at the Tablighi Jamaat in India to the spike in Daegu, South Korea, the ruthless efficiency of human-to-human transmission continues with blatant disregard to borders, race, gender, color or faith. Driven by individuals who are pre-symptomatic or asymptomatic, the State of California (“State”) and the County have issued numerous public health orders in an effort to stem the spread of the virus and to slow the growth rate of the

1 infected and hospitalized. The singular purpose: to “flatten the curve” to avoid the collapse  
2 of our hospitals, medical professionals and healthcare institutions throughout California.  
3  
4 Despite numerous examples of “super-spread” events, even at religious gatherings that  
5 observe social distancing and safety processes, COVID-19 continues to spread. Now,  
6 Plaintiffs demand that this Court ignore the clear and present danger of this pandemic and  
7  
8 allow in-person religious services to continue. For the following reasons, Plaintiffs’ ex parte  
9 application for a temporary restraining order (“TRO”) should be denied.

10  
11 **II.**

12 **BACKGROUND AND FACTS**

13 These are unprecedented times. To date, the worldwide pandemic of COVID-19  
14 disease, also known as “novel coronavirus,” has infected over 2.1 million individuals  
15 worldwide in over 180 countries and is implicated in nearly 140,000 worldwide deaths,  
16 including over 2,000 cases and 54 deaths in Riverside County. In response to this healthcare  
17 crisis, the County, and the elected officials and employees therein, have been working  
18 around the clock to determine how to best meet the needs of all residents. From the youngest  
19 to the oldest, the inmate to the un-incarcerated, and the unsheltered to those residing in  
20 mansions, the County is focused on protecting the health and safety of the more than 2.4  
21 million people within its boundaries.  
22  
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25 Over the past six weeks, the County has taken several steps in an attempt to control  
26 the spread of COVID-19. The actions taken by the County have addressed and affected a  
27 wide-variety of industries and events, all with the common goal of reducing the spread of  
28



1 COVID-19 and minimizing the strain upon the healthcare system. On March 8, 2020 the  
2 County’s Public Health Officer, Dr. Cameron Kaiser, issued a Declaration of Local Health  
3 Emergency based on an imminent and proximate threat to public health from the  
4 introduction of novel COVID-19 in Riverside County. On March 10, 2020 the Board of  
5 Supervisors of the County of Riverside issued a Resolution proclaiming the existence of a  
6 Local Emergency in the County of Riverside regarding COVID-19 and a Resolution  
7 ratifying and extending the Declaration of Local Health Emergency due to COVID-19. Also  
8 on March 10, 2020, Dr. Kaiser issued an Order cancelling the Coachella Valley Music and  
9 Arts Festival and Stagecoach Music Festival. On March 12, 2020, Dr. Kaiser issued an  
10 Order cancelling all events with an anticipated attendance in excess of 250 persons. On  
11 March 13, 2020, Dr. Kaiser issued an Order closing all schools (extended through June 19,  
12 2020 by subsequent Orders of the Health Officer). On March 16, 2020 Dr. Kaiser issued an  
13 Order prohibiting all gatherings with expected presence above ten (10) individuals. On  
14 March 27, 2020, Dr. Kaiser issued an Order restricting short-term lodgings within the  
15 County of Riverside. On April 2, 2020, the Health Officer and the County Executive Officer  
16 as the Director of Emergency Services issued an Order closing all golf courses and ancillary  
17 use areas. On April 4, 2020, later amended on April 6, 2020, the Health Officer and the  
18 County Executive Officer as the Director of Emergency Services issued an Order prohibiting  
19 all public gatherings and requiring the use of face coverings by all persons. *See* Declaration  
20 of Dr. Cameron Kaiser, M.D., M.P.H. (hereinafter the “Kaiser Declaration”), Paragraph 10,  
21 Page 4, Line 1 – Page 6, Line 3; Exhibits A through I.  
22  
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1 By way of the April 4, 2020 Order and the amendment of April 6, 2020 (collectively  
2 “Orders Against Public Gatherings”), the County immediately prohibited all public events  
3 and gatherings regardless of size or venue. A "gathering" was defined “as any event or  
4 convening that brings together people in a single room or single space at the same time,  
5 including, but not limited to, an auditorium, stadium, arena, theater, church, casino,  
6 conference room, meeting hall, cafeteria, drive-in theater, parking lot, or any other indoor  
7 or outdoor space used for any non-essential purpose including, but not limited to,  
8 movies, church services, swap meets, etc.” A gathering does not include: (1) a convening of  
9 persons who reside in the same residence; (2) operations at airports and/or public  
10 transportation; (3) operations at essential businesses where many people are present but are  
11 able to practice social distancing; and (4) funerals and burial services conducted in strict  
12 compliance with social distancing requirements. *See* Kaiser Declaration, Paragraph 10,  
13 Exhibit I at Page 4.  
14  
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18 Notably, the Orders Against Public Gatherings are orders of laws of *general*  
19 *applicability*; they apply to all residents and visitors in the State and this County. These  
20 orders were specifically based upon the March 19<sup>th</sup> Orders of the Governor and the Director  
21 of the California Department of Public Health since the County does not have any legal  
22 authority to issue orders less restrictive than the State’s orders. Neither Plaintiffs’ church  
23 services nor churches are singled out or otherwise treated adversely under the orders.  
24  
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27 The Orders Against Public Gatherings were issued by the Health Officer and County  
28 Executive Order as a result of the worldwide pandemic of COVID-19 disease, also known

1 as “novel coronavirus,” which at the time of issuing the Orders Against Public Gatherings  
2 had infected over one million individuals worldwide in over 180 countries and was  
3 implicated in over 50,000 worldwide deaths, including six hundred cases and fifteen (15)  
4 deaths in Riverside County. The Orders Against Public Gatherings were intended to address  
5 the strain upon the health care system from the effects of the COVID-19 virus. And to  
6 reduce the likelihood of exposure to COVID-19, thereby slowing the spread of COVID-19  
7 in communities worldwide.  
8  
9

10 The Orders Against Public Gatherings were made pursuant to: California *Health and*  
11 *Safety Code* sections 101030, 101040, 101085, AND 120175; Title 17 California Code of  
12 Regulations section 2501; Article XI of the California Constitution; California sections  
13 8610, 8630, 8634 and 8655; and Riverside County Code sections 442 and 533.6.  
14  
15

16 The Orders Against Public Gatherings were issued in accordance with, and  
17 incorporated by reference, the:

- 18 • March 4, 2020 Proclamation of a State Emergency issued by Governor Gavin  
19 Newsom;
- 20 • March 8, 2020 Declaration of Local Health Emergency based on an imminent and  
21 proximate threat to public health from the introduction of novel COVID-19 in  
22 Riverside County;  
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- 1 • March 10, 2020 Resolution of the Board of Supervisors of the County of Riverside  
2 proclaiming the existence of a Local Emergency in the County of Riverside regarding  
3 COVID-19;
- 4
- 5 • March 10, 2020 Resolution of the Board of Supervisors of the County of Riverside  
6 ratifying and extending the Declaration of Local Health Emergency due to COVID-  
7 19;
- 8
- 9 • Guidance issued on March 11, 2020 by the California Department of Public Health  
10 regarding large gatherings of 250 people or more;
- 11
- 12 • Governor Gavin Newsom’s Executive Order N-25-20 of March 12, 2020 preparing  
13 the State to commandeer hotels and other places of temporary residence, medical  
14 facilities, and other facilities that are suitable as places of temporary residence or  
15 medical facilities as necessary for quarantining, isolating or treating individuals who  
16 test positive for COVID-19 or who have had a high-risk exposure and are thought to  
17 be in the incubation period;
- 18
- 19
- 20 • Guidance issued on March 15, 2020 by the Centers for Disease Control and  
21 Prevention, the California Department of Public Health, and other public health  
22 officials through the United States and around the world recommending the  
23 cancellation of gatherings involving more than fifty (50) or more persons in a single  
24 space at the same time;
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- 1 • March 16, 2020 order of the Public Health Officer prohibiting all gatherings with  
2 expected presence above ten (10) individuals;
- 3
- 4 • Governor Newsom’s Executive Order N-33-20 of March 19, 2020 ordering all  
5 persons to stay at home to protect the health and well-being of all Californians and to  
6 establish consistency across the state in order to slow the spread of COVID-19;
- 7
- 8 • The Order of the State Public Health Officer of March 19, 2020 requiring all  
9 individuals living in the State of California to stay home or at their place of residence  
10 except as needed to maintain continuity of operations of the federal critical  
11 infrastructure sectors, as outlined at [https://www.cisa.gov/identifying-critical-](https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19)  
12 [infrastructure-during-covid-19](https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19).
- 13
- 14
- 15 • The State Public Health Officer’s March 22, 2020 designation of “Essential Critical  
16 Infrastructure Workers’ to help state, local, tribal, and industry partners as they work  
17 to protect communities, while ensuring the continuity of functions critical to public  
18 health and safety, as well as economic and national security”.
- 19
- 20 • Governor Newsom’s Executive Order N-35-20 giving the state the ability to increase  
21 the health care capacity in clinics, mobile health care units and adult day health care  
22 facilities and allowing local governments more flexibility to utilize the skills of retired  
23 employees in order to meet the COVID-19 surge.
- 24
- 25 • Governor Newsom’s Executive Order N-39-20 intended to expand the health care  
26 workforce and recruit health care professionals to address the COVID-19 surge.  
27
- 28

- 1 • The Centers for Disease Control and Prevention’s "Interim Additional Guidance for  
2 Infection Prevention and Control for Patients with Suspected or Confirmed COVID-  
3 19 in Nursing Homes”.
- 4 • The California Department of Public Health Face Covering Guidance issued on April  
5 1, 2020.

6  
7  
8 On April 13, 2020, Plaintiffs WENDY GISH, PATRICK SCALES, JAMES DEAN  
9 MOFFATT, and BRENDA WOOD filed their lawsuit against Governor Gavin Newsom,  
10 Attorney General Xavier Becerra, the County of San Bernardino, the County of Riverside,  
11 and elected officials and named employees thereof, alleging various violations of the First  
12 and Fourteenth Amendments to the U.S. Constitution and Article 1, Sections 1, 2, and 4 of  
13 the California Constitution.  
14

15  
16 On April 14, 2020, Plaintiffs filed an Application for Temporary Restraining Order,  
17 seeking a broad Order of the Court that “Defendants, as well as their agents, employees, and  
18 successors in office, shall be restrained and enjoined from enforcing, attempting to enforce,  
19 threatening to enforce, or otherwise requiring compliance with any prohibition on Plaintiffs’  
20 engagement in religious services, practices, or activities at which the Center for Disease  
21 Control’s social distancing guidelines are followed”. [See Doc. 8, p. 1, lines 24-28.]  
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23  
24 The County refutes Plaintiffs’ claims that they are entitled to this relief and requests  
25 that the Court deny the Application in its entirety for the reasons set forth herein.  
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**III.**

**LEGAL ANALYSIS**

**Plaintiffs are Not Entitled to a Temporary Restraining Order**

**A. Standard for Issuance of a TRO.**

“The purpose of a TRO is to preserve the status quo before a preliminary injunction hearing may be held; its provisional remedial nature is designed merely to prevent irreparable loss of rights prior to judgment.” [*Doe v. McAleenan*, 415 F. Supp. 3d 971, 976 (S.D. Cal. 2019), citing *Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers*, 415 U.S. 423, 439 (1974).] “The standard for issuing a temporary restraining order is identical to the standard for issuing a preliminary injunction. *Lockheed Missile & Space Co., Inc. v. Hughes Aircraft Co.*, 887 F. Supp. 1320, 1323 (N.D. Cal. 1995).” [*Id.*] “Injunctive relief is an ‘extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.’” [*Id.*, quoting *Winter v. NRDC, Inc.*, 555 U.S. 7, 22 (2008).] The “clear showing” requirement is particularly strong when a party seeks a TRO. [*Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997).]

In order to obtain a TRO, Plaintiffs must satisfy the four-part or traditional test under *Winter* by a clear showing. Plaintiffs “must establish that [it] is likely to succeed on the merits, that [it] is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [its] favor, and that an injunction is in the public interest.” [*Am. Trucking Ass'ns v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009), quoting *Winter*, supra, 555 U.S. at 20; see also, Fed. R. Civ. P. 65(b).]

1           **B. It is Unlikely that Plaintiffs Will Succeed on the Merits.**

2           “The first factor under *Winter* is the most important – likely success on the merits.”  
3  
4 [Garcia v. Google, Inc., 786 F.3d 733, 740 (9th Cir. 2015).] A TRO is an “extraordinary  
5 remedy that may only be awarded upon a *clear showing* that the plaintiff is entitled to such  
6 relief.” [*Winter*, supra, 555 U.S. at 22 (italics added).] Plaintiffs have not satisfied this heavy  
7  
8 burden, and in fact it is unlikely that Plaintiffs’ claims will succeed on the merits.

9           In the unlikely event that Plaintiffs have established a likelihood of success, the County  
10 will show that its affirmative defense will succeed. [*Perfect 10, Inc. v. Amazon.com, Inc.*  
11 508 F.3d 1146, 1158 (9th Cir. 2007).]  
12

13           **1. The Free Exercise Clause and the California Constitution Have Not**  
14           **Been Violated.**

15  
16           Plaintiffs argue that the County’s Orders Against Public Gatherings are “neither  
17 neutral nor of general application.” [*See* Doc. 8, p. 10, line 16.] Plaintiffs further argue that  
18 the Orders Against Public Gatherings target religious and “faith-based” services. [Doc. 8,  
19 p.10, line 17-18.] Plaintiffs’ arguments, however, fail because the County’s Orders Against  
20 Public Gatherings are valid and neutral law of general applicability that do not target  
21 Plaintiffs’ exercise of faith.  
22  
23

24           “The Free Exercise Clause, applicable to the states through the Fourteenth  
25 Amendment, provides that ‘Congress shall make no law . . . prohibiting the free exercise [of  
26 religion],’ U.S. Const., amend. I.” [*Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir.  
27 2009) (*Selecky*) (internal citation omitted).] “The right to freely exercise one’s religion,  
28



1 however, ‘does not relieve an individual of the obligation to comply with a valid and neutral  
2 law of general applicability on the ground that the law proscribes (or prescribes) conduct  
3 that his religion prescribes (or proscribes).’ [*Id.*, quoting *Employment Div., Dep’t of Human*  
4 *Res. of Or. v. Smith*, 494 U.S. 872, 879 (1990) (*Smith*) (internal quotation omitted).]

6 Indeed, the right to free exercise of chosen form of religion is not absolute, in that  
7 conduct remains subject to regulation for protection of society. [*Cantwell v. State of*  
8 *Connecticut*, 310 U.S. 296 (1940).]

10 “Underlying the Supreme Court’s jurisprudence is the principle that the Free Exercise  
11 Clause ‘embraces two concepts – freedom to believe and freedom to act. The first is absolute  
12 but, in the nature of things, the second cannot be. Conduct remains subject to regulation for  
13 the protection of society.’” [*Selecky*, at 1128, quoting *Cantwell v. State of Conn.*, *supra* at  
14 303-304 (underscore added).] “Under the governing standard, ‘a law that is neutral and of  
15 general applicability need not be justified by a compelling governmental interest even if the  
16 law has the incidental effect of burdening a particular religious practice.’” [*Id.* at 1127-1128,  
17 quoting *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 53 (1993)  
18 (*Lukumi*).]

22 “In assessing neutrality and general applicability, courts evaluate both ‘the text of the  
23 challenged law as well as the effect . . . in its real operation.’” [*Parents for Privacy v. Barr*,  
24 949 F.3d 1210, 1234 (9th Cir. 2020) (*Parents for Privacy*), quoting *Selecky*, *supra*, 794 F.3d  
25 at 1076 (ellipsis in original).] “[T]he two tests for whether a law is neutral and generally  
26 applicable focus on whether a law specifically targets or singles out religion.” [*Id.* at 1234-  
27  
28

1 1235.] The County’s challenged Orders Against Public Gatherings does neither of those  
2 things.

3  
4 The first test asks whether the law is “neutral” with respect to religion. “If the object  
5 of a law is to infringe upon or restrict practices *because of* their religious motivation, the law  
6 is not neutral.” [*Parents for Privacy*, supra, 949 F.3d at 1235 (internal citation omitted).]  
7  
8 Here, Plaintiffs neither argue nor presents any evidence that the County issued its emergency  
9 public health orders out of any desire or intent to target Plaintiffs gatherings (or religious  
10 gatherings in general) because of the gatherings’ religious nature or motivation. The  
11 County’s stay-at-home order applies generally countywide, and has required the temporary  
12 closure of a wide-range of businesses, events, and areas where people gather, without respect  
13 to the secular or religious nature of any such establishment or gathering, including, but not  
14 limited to, stadiums, casinos and restaurants.  
15

16  
17 The second test asks whether the challenged law has “general applicability” – that is,  
18 “whether a law treats religious observers unequally.” [*Parents for Privacy*, supra, 949 F.3d  
19 at 1235, citing *Lukumi*, supra, 508 at 542.] As the Supreme Court has noted, “inequality  
20 results when a legislature decides that the governmental interests it seeks to advance are  
21 worthy of being pursued *only* against conduct with a religious motivation.” [*Lukumi*, supra,  
22 at 542-543 (italics added).] “Thus, a law is not generally applicable if its prohibitions  
23 substantially underinclude non-religiously motivated conduct that might endanger the same  
24 governmental interest that the law is designed to protect.” [*Parents for Privacy*, supra, 949  
25 F.3d at 1235 (internal citations omitted).]  
26  
27  
28

1            “In other words, if a law pursues the government's interest ‘*only against conduct*  
2 *motivated by religious belief,*’ but fails to include in its prohibitions substantial, comparable  
3 secular conduct that would similarly threaten the government's interest, then the law is not  
4 generally applicable.” [*Parents for Privacy*, supra, 949 F.3d at 1235, quoting *Lukumi*, 508  
5 U.S. at 545.] “For example, in *Lukumi*, the Court concluded that the challenged ordinances  
6 were not generally applicable because they ‘pursue[d] the city's governmental interests only  
7 against conduct motivated by religious belief’ and ‘fail[ed] to prohibit nonreligious conduct  
8 that endanger[ed] these interests in a similar or greater degree than Santeria sacrifice does.’”  
9 [*Id.*, quoting *Lukumi*, 508 U.S. at 543, 545.]  
10  
11  
12

13            Here, the County’s challenged public health Order in no way places “demands  
14 exclusively (or even principally) on religious persons or conduct.” [*Parents for Privacy*,  
15 supra, 949 F.3d at 1235.] The Orders Against Public Gatherings instead apply generally to  
16 all residents, businesses, and other gatherings of people in the County, except for a limited  
17 number of businesses in “critical infrastructure sectors” designated by the federal and State  
18 governments as necessary to protect the health and safety of the community while people  
19 hunker down and engage in the extreme social distancing needed to flatten the curve by  
20 stemming and slowing the transmission of the virus.  
21  
22  
23

24            Because the challenged County public health Order “qualifies as neutral and generally  
25 applicable, it is not subject to strict scrutiny.” [*Parents for Privacy*, supra, 949 F.3d at 1236,  
26 citing *Selecky*, 586 F.3d at 1129 (“[A] neutral law of general applicability will not be subject  
27 to strict scrutiny review.”).] Instead, the County’s Order Against Public Gatherings is  
28

1 reviewed “for a rational basis, which means that the [order] must be upheld if it is rationally  
2 related to a legitimate governmental purpose.” [*Id.* at 1238; *see also Selecky*, 586 F.3d at  
3 1127- 1128 (“Under the governing standard, ‘a law that is neutral and of general  
4 applicability need not be justified by a compelling governmental interest even if the law has  
5 the incidental effect of burdening a particular religious practice.’”).]

6  
7  
8 Under rational basis review, Plaintiff has the burden to negate “every conceivable  
9 basis which might support” the County’s Orders Against Public Gatherings. [*F.C.C. v.*  
10 *Beach Communs., Inc.*, 508 U.S. 307, 315 (1993) (underscore added).] And Plaintiffs’ duty  
11 to negate every rational basis supporting the order exists “whether or not the basis has a  
12 foundation in the record.” [*Heller v. Doe by Doe*, 509 U.S. 312, 320-321 (1993).] In its  
13 application, Plaintiff made no attempt to negate every conceivable basis that might support  
14 the County’s Orders Against Public Gatherings. And although the County is not required to  
15 do so, it points to ample evidence in the record supporting the stay-at-home order’s rational  
16 basis. [*See* Kaiser Declaration, Paragraph 10, Exhibit I at Paragraphs 4-11; Kaiser  
17 Declaration, Paragraph 11, Page 6, Lines 4-10.]

## 21 **2. The Establishment Clause Has Not Been Violated.**

22  
23 The Federal Establishment Clause prohibits the government from making any law  
24 “respecting an establishment of religion” or undertaking any act that unduly favors one  
25 religion over another. [U.S. Const. amend. I.] The test articulated by the Supreme Court  
26 in *Lemon v. Kurtzman* “remains the Court’s principal framework for applying the  
27 Establishment Clause,” although *Lemon* has been “much criticized both inside and outside  
28

1 the Court,” and “sometimes ignored by the Court altogether.” [*Santa Monica Nativity Scenes*  
2 *Comm. v. City of Santa Monica*, 784 F.3d 1286, 1299 n. 7 (9th Cir.  
3 2015)(citing *Lemon v. Kurtzman*, 403 U.S. 602, 612, 91 S.Ct. 2105, 29 L.Ed.2d 745 (1971)  
4 ).]

5  
6 Under the Lemon test, a government action violates the Establishment Clause if (1) it  
7 lacks a “secular legislative purpose,” (2) “its principal or primary effect” is to “advance  
8 [or] inhibit[ ] religion,” or (3) it “foster[s] an excessive government entanglement with  
9 religion.” [*Lemon*, 403 U.S. at 612–613 (internal quotation marks omitted).]  
10

11  
12 First, there can be no reasonable dispute that the Orders Against Public Gatherings  
13 have secular legislative purpose. Under *Lemon's* “purpose” inquiry, the Court assesses the  
14 underlying purpose of the government action from the vantage point of “an ‘objective  
15 observer’ ” who is “presumed to be familiar with the history of the government's actions and  
16 competent to learn what history has to show.” [*McCreary Cty., Ky. v. Am. Civil Liberties*  
17 *Union of Ky.*, 545 U.S. 844, 862, 866 (2005) (quoting *Santa Fe Indep. Sch. Dist. v. Doe*, 530  
18 U.S. 290, 308 (2000)).]  
19

20  
21 In assessing purpose, the Court may “take[ ] account of the traditional external signs  
22 that show up in the “text, legislative history, and implementation of the statute,” or  
23 comparable official act.” [*Id.* at 862 (citation omitted); see also *Edwards v. Aguillard*, 482  
24 U.S. 578, 594–95 (1987) (noting that the Court's inquiry looks to the “plain meaning of the  
25 statute's words, enlightened by their context and the contemporaneous legislative history  
26  
27  
28

1 [and] the historical context of the statute, ... and the specific sequence of events leading to  
2 [its] passage”).]

3  
4 Crucially, “although a [legislative body's] stated reasons will generally get deference,  
5 the secular purpose required has to be genuine, not a sham, and not merely secondary to a  
6 religious objective.” [*McCreary*, 545 U.S. at 864 (citing *Santa Fe*, 530 U.S. at 308, (“When  
7 a governmental entity professes a secular purpose for an arguably religious policy, the  
8 government's characterization is, of course, entitled to some deference. But it is nonetheless  
9 the duty of the courts to 'distinguis[h] a sham secular purpose from a sincere one.' ”))].  
10  
11

12 Here, there is absolutely no doubt that the Orders Against Public Gatherings are  
13 intended to have a secular legislative purpose – to slow down the spread of COVID-19 and  
14 to “flatten the curve”. [*See*, Kaiser Declaration, Paragraph 12, Page 6, Lines 12-21.] The  
15 number of hospitalizations and deaths alone clearly support a finding that there is a genuine  
16 secular purpose in issuing the Orders Against Public Gatherings. Moreover, this Court can  
17 objectively review the specific sequence of orders from the federal government, State  
18 government and the County to determine that a secular legislative intent exists in support of  
19 the Orders Against Public Gatherings.  
20  
21

22 With respect to the second and third prong of the *Lemon* test, the principal effect of  
23 the Orders Against Public Gatherings is not to effect the advance of religion. Under *Lemon's*  
24 second prong, a “[g]overnmental act[ ] has the primary effect of advancing or disapproving  
25 of religion if it is ‘sufficiently likely to be perceived by adherents of the controlling  
26 denominations as an endorsement, and by the nonadherents as a disapproval, of their  
27  
28

1 individual religious choices.’ ” [*Vasquez v. Los Angeles County*, 487 F.3d 1246, 1256 (9th  
2 Cir. 2007) (citation omitted); see also *Lynch v. Donnelly*, 465 U.S. 668, 690 (O'Connor, J.,  
3 concurring) (“The effect prong asks whether, irrespective of government's actual purpose,  
4 the practice under review in fact conveys a message of endorsement or disapproval.”).]

5  
6 Under the *Lemon* test's third prong, a government action must not “foster[ ] an  
7 excessive government entanglement with religion.” [*Santa Monica Nativity Scenes*  
8 *Comm.*, 784 F.3d at 1299 (citation omitted).] While Plaintiffs do not adequately address  
9 either prong in their Complaint or in their TRO, “the Supreme Court essentially has  
10 collapsed the[ ] last two prongs to ask whether the challenged governmental practice has the  
11 effect of endorsing religion.” [*Trunk v. City of San Diego*, 629 F.3d 1099, 1106 (9th Cir.  
12 2011) (internal quotation marks and citation omitted); see also *id.* at 1109 (defining  
13 “endorsement” as “those acts that send the stigmatic message to nonadherents ‘that they are  
14 outsiders, not full members of the political community, and an accompanying message to  
15 adherents that they are insiders, favored members’ ”) (citation omitted).]

16  
17 Again, the challenged governmental action in this TRO is the County’s Orders  
18 Against Public Gatherings, which are intended to slow down the spread of the COVID-19  
19 pandemic. [*See*, Kaiser Declaration, Paragraph 12, Page 6, Lines 12-21.] These Orders are  
20 clearly not fostering excessive entanglement with religion or advancing a religion of any  
21 kind. In other words, the Orders are not establishing the placement of the Ten  
22 Commandments or a cross on public land in violation of the Establishment Clause. There is  
23 no likelihood of success by the Plaintiffs for violation of the Establishment Clause.  
24  
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1                                   **3. The Orders Do Not Violate Plaintiffs’ Right to Free Speech.**

2                   First, Plaintiffs argue that the Orders Against Public Gatherings are a prior restraint.  
3  
4                   This argument lacks merit as Plaintiffs remain able to communicate with members of their  
5 congregation by various means, including by teleconference, video-conference, and by  
6 streaming video or audio services, methods specifically identified by the State Public Health  
7 Officer as “essential”. [See Kaiser Declaration, Paragraph 19, Page 8, Lines 7-15, Exhibit  
8 identifying “Faith based services that are provided through streaming or other technology”  
9 as part of the “Other Community-Based Government Operations and Essential Functions”  
10 sector, at Page 11; See Moran Declaration, Paragraph 3, Page 2, Lines 17 – 28, Exhibit L.]  
11

12  
13                   The United States Supreme Court has defined prior restraint to be “administrative and  
14 judicial orders *forbidding* certain communications when issued in advance of the time that  
15 such communications are to occur.” [Alexander v. United States, 509 U.S. 544, 550 (1993)  
16 (emphasis in original) (internal quotation marks omitted).] Indeed, “not every governmental  
17 action that may affect future protected expression is ... [a] prior restraint.” *Set Enterps., Inc.*  
18 *v. City of Hallandale Beach*, 2010 WL 11549707, at \*12 (S.D. Fla. Dec. 30, 2010).  
19

20  
21                   Moreover, United States Supreme Court precedent confirms that in order for a law to  
22 be a prior restraint of speech, the law “must have a close enough nexus to expression, or to  
23 conduct commonly associated with expression, to pose a real and substantial threat of the  
24 identified censorship risks.” *City of Lakewood v. Plain Dealer Pub. Co.*, 486 U.S. 750, 759  
25 (1988).  
26  
27  
28



1 Here, there is no ban on communication or censorship of speech or religious speech  
2 of any kind. Rather, there is a ban on in-person gatherings to prevent the spread of COVID-  
3 19. Additionally, faith-based services are able to communicate religious messages or speech  
4 via various technological mediums such as teleconference, video conference, and other  
5 streaming services. For example, Zoom.com allows an individual to use up to forty-five  
6 minutes of free videoconferencing without any payment. Indeed, there is no ban on  
7 expression or speech that is akin to censorship of any kind. Furthermore, there is no  
8 preferential treatment of any specific faith that existed in the *Widmar* case as cited by the  
9 Plaintiffs.  
10  
11  
12

13 Second, Plaintiffs argue that the Orders Against Public Gatherings are facially  
14 unconstitutional as they are overbroad. [Doc. No. 8, p. 14, lines 1-2.] The overbreadth  
15 doctrine is an “exception from general standing rules” that allows a plaintiff to seek facial  
16 invalidation of a law that “sweeps too broadly, penalizing a substantial amount of speech  
17 that is constitutionally protected,” even if that law is constitutional as applied to the  
18 plaintiff. [*Forsyth County v. Nationalist Movement*, 505 U.S. 123, 129–30 (1992).] This  
19 doctrine recognizes that “the very existence of some broadly written laws has the potential  
20 to chill the expressive activity of others not before the court.” [*Id.* at 129.]  
21  
22  
23

24 To succeed on their overbreadth claim, Plaintiffs must show that the Orders Against  
25 Public Gatherings “punish a ‘substantial’ amount of protected free speech, ‘judged in  
26 relation to the statute's plainly legitimate sweep.’ ” [*Virginia v. Hicks*, 539 U.S. 113, 118–  
27  
28

1 19(2003) (quoting *Broadrick v. Oklahoma*, 413 U.S. 601, 615, 93 S.Ct. 2908, 37 L.Ed.2d  
2 830 (1973)).]

3  
4 Plaintiffs' TRO does not identify a substantial amount of protected free speech.  
5 Rather, Plaintiffs instead point to a number of faiths that are allegedly burdened by the  
6 Orders Against Public Gathering in attempt to expand the amount of speech at stake. In  
7 reality, the Orders Against Public Gatherings are intended to encourage people to stay at  
8 home. The Orders do not prohibit religious speech of any kind, nor do they discriminate on  
9 the basis of faith.  
10

#### 11 **4. Plaintiffs' Right to Assembly Is Not Violated.**

12  
13 There is no dispute that the United States Constitution and the California Constitution  
14 protect the rights of individuals to peacefully assemble and/or worship. This right, however,  
15 has certain limitations as explained by the United States Supreme Court on a number of  
16 occasions. [*Carroll v. President and Com'rs of Princess Anne*, 393, U.S. 175 (1968);  
17 *Thomas v. Collins*, 323 U.S. 516 (1945); *West Virginia State Board of Education v. Barnette*  
18 319 U.S.624 (1943).] Indeed, any attempt to restrict free assembly or free worship must be  
19 justified by clear and present danger. [*Collins*, supra, 323 U.S. at 530-531.] California's  
20 Supreme Court has ruled that any prohibitions against a lawful assembly must be limited to  
21 situations which are violent or which pose clear and present danger of imminent violence or  
22 harm to others. *In re Brown* (1973) 9 Cal. 3d 612, 623.  
23  
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1 As described above, the Orders Against Public Gatherings were issued specifically to  
2 prevent such a clear and present danger of harm, namely the spread of the COVID-19 virus  
3 through individuals closely gathering to larger members of the public. As this Court may  
4 be aware, groups that gather, despite public health orders that prohibit such gathering, have  
5 been termed: “super-spreaders”. In South Korea, at the Shincheonji Church of Jesus in  
6 Daegu, a single individual is known to have infected at least 5,080 confirmed cases of  
7 COVID-19, more than half of South Korea’s total. *See Youjin Shin, Bonnie Berkowitz, Min*  
8 *Joo-Kim, How a South Korean church helped fuel the spread of the coronarvirus,*  
9 *Washington Post, March 25, 2020,*  
10 <https://www.washingtonpost.com/graphics/2020/world/coronavirus-south-korea-church/>.

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17 In Seattle, the choir of the Mount Vernon Presbyterian Church of Mount Vernon,  
18 Washington, gathered for choir practice on Tuesday, March 10, 2020. Despite practicing  
19 social distancing, passing out hand sanitizer and avoiding physical contact, COVID-19  
20 spread throughout the group. Now, at least forty-five (45) individuals have been diagnosed  
21 with COVID-19 or ill with symptoms and at least two have died. *See Richard Read, A choir*  
22 *decided to go ahead with rehearsal. Now dozens have COVID-19 and two are dead, March*  
23 *29, 2020,* [https://www.latimes.com/world-nation/story/2020-03-29/coronavirus-choir-](https://www.latimes.com/world-nation/story/2020-03-29/coronavirus-choir-outbreak)  
24 [outbreak.](https://www.latimes.com/world-nation/story/2020-03-29/coronavirus-choir-outbreak)  
25  
26  
27  
28

1           These are just two examples of a single assembly of individuals, whether for a church-  
2  
3 service or for a choice practice, that resulted in the uncontrolled spread of COVID-19 that  
4 resulted in harm against other individuals and the community at large. In fact, the Supreme  
5  
6 Court of South Dakota has ruled that public authorities have the right to prohibit gatherings  
7  
8 or congregations of persons during the prevalence of an epidemic. *Sandry v. Brooklyn*  
9 *School District No. 78 of Williams County* (1921) 47 N.D. 444.

10                           **5. County’s Orders Are Not Vague, Nor Are They Void.**

11  
12           Plaintiffs argue that the Orders Against Public Gatherings are vague as to their scope  
13 and application as to run afoul of the Due Process Clause of the Fourteenth Amendment.  
14 [Doc. 8, p. 16, lines 15-16.] Plaintiffs’ sole argument is that the State’s Order uses the word  
15  
16 “heed”, which “does not appear to order compliance therewith.” [Doc. 8, p. 16, lines 19-20.]

17           Vague statutes are objectionable for three primary reasons. First, they trap the  
18  
19 innocent by not providing adequate warning. Second, they impermissibly delegate basic  
20  
21 policy matters to lower level officials for resolution on an ad hoc and subjective basis, with  
22  
23 the attendant dangers of arbitrary and discriminatory application. Third, when vague statutes  
24  
25 involve sensitive areas of First Amendment freedoms, they operate to inhibit the exercise of  
26  
27 those freedoms. [*Foti*, 146 F.3d at 638.]

28           Nevertheless, perfect clarity is not required even when a law regulates protected  
speech. [*Ward v. Rock Against Racism*, 491 U.S. 781, 794 (1989).] “Condemned to the use  
of words, we can never expect mathematical certainty from our language.” [*Grayned*, 408

1 U.S. at 110, 92 S.Ct. 2294; *see Kolender v. Lawson*, 461 U.S. 352, 361 (1983) (even in the  
2 strictest sense, “due process does not require impossible standards of clarity”) (quotation  
3 marks omitted).]

4  
5 Therefore, even when a law implicates First Amendment rights, the constitution must  
6 tolerate a certain amount of vagueness. Indeed, uncertainty at a statute's margins will not  
7 warrant facial invalidation if it is clear what the statute proscribes “in the vast majority of  
8 its intended applications.” [*Hill v. Colorado*, 530 U.S. 703, 733, 120 S.Ct. 2480  
9 (2000) (quotation marks omitted).]

10  
11 Plaintiffs argue that no reasonable person can understand a “stay-at-home” order and  
12 nitpicks at words such as “heed” and “visitors”. Plaintiffs ignore the intent and application  
13 of the Orders Against Public Gatherings – to stay home and prevent the spread of COVID-  
14 19. Indeed, the touchstone of a facial vagueness challenge in the First Amendment context  
15 does not turn on the words “heed” and “visitors”, but on a substantial amount of legitimate  
16 speech that can be burdened. No such burden exists here and the Orders Against Public  
17 Gatherings are not void, nor are they vague.

18  
19  
20  
21 **6. Plaintiffs’ General Due Process Argument Fails.**

22 Plaintiffs argue that their substantive due process rights have secured by the  
23 Fourteenth Amendment have been violated. For purposes of this TRO, this Court should  
24 not engage in a generalized substantive due process argument as Plaintiffs’ rights are being  
25 determined by the First Amendment. In other words, Plaintiffs’ claim should be analyzed  
26 under the First Amendment to free exercise of religion rather than any generalized notion of  
27  
28

1 substantive due process under the Fourteenth Amendment. [*Albright v. Oliver*, 510 U.S. 266,  
2 273-274 (1994).]

3  
4 **7. Plaintiffs’ Right to Liberty Has Not Been Violated.**

5 Plaintiffs’ next argue that the Orders Against Public Gatherings violate the California  
6 Constitution’s right to liberty. [Doc. 8, p. 19, line 2.] Plaintiffs’ further argue that because  
7 Plaintiffs have never had, been exposed to or been in a locality of the coronavirus, they are  
8 being arbitrarily detained.

9  
10 As a threshold point, it is interesting to note that Plaintiffs do not state whether they  
11 have been tested or not for COVID-19, especially in light of pre-symptomatic and  
12 asymptomatic carriers that have been transmitting the disease around the world.  
13 Notwithstanding those undisputable facts, Plaintiffs’ argument is that it is outside the local  
14 health official’s powers to assert a quarantine because there has been “only one death for  
15 every 70,464 inhabitants”. [Doc. 8, p. 19, lines 21-25.] Plaintiffs, of course, ignore the  
16 number of individuals hospitalized by COVID-19 in both counties, the limited number of  
17 hospitals and hospital beds in both counties, the limited number of ventilators in the counties,  
18 or the fact that health care professionals are being overwhelmed by the disease.

19  
20  
21  
22 With respect to the *Jew Ho* case cited by the Plaintiffs, the facts are significantly  
23 different than those currently facing California. In that case, there was no living person with  
24 the bubonic plague! [*Jew Ho v. Williamson*, 104 F.10. (C.C. Cal.1900). Again, Plaintiffs  
25 simply ignore the fact that there are over 27,098 known infections and 405 deaths in  
26 California and the disease is spread through human-to-human interaction.  
27  
28

1           The Covid-19 virus has created both a health emergency as defined by *Health &*  
2 *Safety Code* section 101080 and a local emergency as defined by *Government Code* section  
3 8558 for the State of California including the County of Riverside. As such, based upon  
4 these statutes, Dr. Kaiser, as the County of Riverside’s Public Health Officer, may  
5 promulgate orders as necessary to protect life and property pursuant to *Government Code*  
6 section 8684. “Each health officer knowing or having reason to believe that any case of the  
7 diseases made reportable by regulation of the department, or any other contagious, infectious  
8 or communicable disease exists, or has recently existed, within the territory under his or her  
9 jurisdiction, shall take measures as may be necessary to prevent the spread of the disease or  
10 occurrence of additional cases.” *Health & Safety Code* section 120175. See also 17 C.C.R.  
11 section 2501(a) which states in relevant part: “Upon receiving a report made pursuant to  
12 Section 2500 or 2505, the local health officer shall take whatever steps deemed necessary  
13 for the investigation and control of the disease, condition or outbreak reported.” Thus, Dr.  
14 Kaiser, as the local Health Officer, may take any measures as may be necessary to prevent  
15 the spread of disease or the occurrence of additional cases.  
16  
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21           Notably, *Health and Safety Code* section 120175 specifically states it is the duty of  
22 the Health Officer to investigate all cases, to ascertain the sources of infection, and to take  
23 “all measures reasonably necessary to prevent the transmission of infection.” *Aids*  
24 *Healthcare Foundation v. Los Angeles County Department of Health* (2011) 197 Cal.App.  
25 8<sup>th</sup> 693, 701-702. “The health officer must take “measures as may be necessary,” or  
26 “reasonably necessary,” to achieve the Department's goals and policies, leaving the course  
27  
28

1 of action to the health officer's discretion. The statutory scheme sets forth certain actions,  
2 ranging from quarantine and isolation for contagious and communicable diseases ....”  
3 (citations omitted). These statutory measures, however, are not exhaustive or mandatory,  
4 giving the health officer discretion to act in a particular manner depending upon the  
5 circumstances.” *Id.* at 702. “Preventative measure” means abatement, correction, removal  
6 of any other protective step that may be taken against any public health hazard that is caused  
7 by a disaster and affects the public health. *Health & Safety Code* section 101040. (Emphasis  
8 added.)  
9  
10  
11

12 Based upon the trajectory of the Covid-19 pandemic, Dr. Kaiser determined that the  
13 prohibition on public gatherings was necessary:  
14

- 15 • “...as a result of the worldwide pandemic of COVID-19 disease, also known as ‘novel  
16 coronavirus,’ which has infected over one million individuals worldwide in over 180  
17 countries and is implicated in over 50,000 worldwide deaths, including over 600 cases  
18 and 15 deaths in Riverside County. These numbers increase significantly every  
19 day....” [*See* Kaiser Declaration, Exhibit I at Paragraph 4.]  
20  
21
- 22 • “...to reduce the likelihood of exposure to COVID-19, thereby slowing the spread of  
23 COVID-19 in communities worldwide...” [*See* Kaiser Declaration, Exhibit I at  
24 Paragraph 6.]  
25  
26  
27  
28



1 • “...to prevent circumstances often present in gatherings that may exacerbate the  
2 spread of COVID-19, such as: 1) the increased likelihood that gatherings will attract  
3 people from a broad geographic area; 2) the prolonged time period in which large  
4 numbers of people are in close proximity; 3) the difficulty in tracing exposure when  
5 large numbers of people attend a single event or are at a single location; and 4) the  
6 inability to ensure that such persons follow adequate hygienic practices...” [See  
7 Kaiser Declaration, Exhibit I at Paragraph 6.]  
8  
9

10  
11  
12 • “...to address the strain upon the health care system from the effects of the COVID-  
13 19 virus. Similarly, this Order is intended to reduce the likelihood of exposure to  
14 COVID-19, thereby slowing the spread of COVID-19 in communities worldwide...”  
15 [See Kaiser Declaration, Exhibit I at Paragraph 7.]  
16  
17

18 Using their authority to take measures that are “necessary to prevent the transmission  
19 of” the Covid-19 virus, the Health Officer and the County Executive Officer as the Director  
20 of Emergency Services issued the Orders Against Public Gatherings “based on evidence of  
21 increasing transmission of COVID-19 both within the County of Riverside and worldwide,  
22 scientific evidence regarding the most effective approach to slow transmission of  
23 communicable diseases generally and COVID-19 specifically, as well as best practices as  
24 currently known and available to protect the public from the risk of spread of or exposure to  
25  
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1 COVID-19”. [See Kaiser Declaration, Exhibit I at Paragraph 5.] These measures also took  
2  
3 into account and incorporated (1) substantial guidance issued by the Centers for Disease  
4 Control and Prevention and the California Department of Public Health; (2) Executive  
5 Orders issued by Governor Newsom, including Orders of the State Public Health Officer, as  
6 related to the prevention of the spread of COVID-19; and (3) prior Orders of the local health  
7 officer. [See Kaiser Declaration, Exhibit I at Paragraph 8.]  
8  
9

10 In short, Article I, Section 1 of the California Constitution has not been violated  
11 because the County’s Orders Against Public Gatherings are valid.  
12

13 **8. Plaintiffs Are Not A Member of a Protected Class.**

14 Plaintiffs argue that they have been intentionally and arbitrarily categorized as either  
15 “essential” or “non-essential”. As such, they have been treated differently in violation of the  
16 Equal Protection Clause of the Fourteenth Amendment. [Doc. 8, p. 20, lines 19-21.] To state  
17 a claim under 42 U.S.C. § 1983 for a violation of the Equal Protection Clause of the  
18 Fourteenth Amendment, a plaintiff must show that the defendants acted with an intent or  
19 purpose to discriminate against the plaintiff based upon membership in a protected class.”  
20 [Barren v. Harrington, 152 F.3d 1193, 1194 (9th Cir. 1998).]  
21  
22

23 Plaintiffs will not prevail on this cause of action as “essential” versus “non-essential”  
24 membership is not a protected class. More importantly, Plaintiffs will not be able to show  
25 membership in a protected class as the Orders Against Public Gatherings do not apply  
26 different to members of a protected class such as race or gender. As Plaintiffs are not  
27  
28

1 members of a protected class, a governmental policy that treats individuals differently needs  
2 only to be "rationally related to legitimate legislative goals" to pass constitutional muster.  
3  
4 [*Does 1–5 v. Chandler*, 83 F.3d 1150, 1155 (9th Cir.1996) (citing *City of Cleburne*, 473 U.S.  
5 432, 440 (1985).] As explained above, the Orders Against Public Gatherings serve a  
6 legitimate public interest to protect against the spread of an infectious disease and to protect  
7  
8 our healthcare infrastructure.

9 **C. Plaintiffs Do Not Face Irreparable Injury.**

10 Plaintiffs must demonstrate an “immediate threatened harm” under the irreparable  
11 injury standard. [*Caribbean Marine Services, Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir.  
12 1988).] Plaintiffs have not shown there is an immediate threatened harm to their exercise of  
13 religion as they are still able to hold services through other means. As noted above, Plaintiffs  
14 may use teleconference, video conference, streaming services and other technological  
15 methods such as FaceTime or Google Hangout to hold services. They could livestream  
16 through Facebook or YouTube. In other words, Plaintiffs are still able to hold faith-based  
17 services and meet with their parishioners in other meaningful ways.  
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19  
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21 **D. The Balance of Equities and Public Interest Support Denial of The TRO.**

22 With respect to the final two TRO factors, the balance of the equities and the public  
23 interest heavily support denial of the TRO. For California in general, and the County in  
24 particular, the next few weeks are *critical* for flattening the curve, requiring all County  
25 residents to share in the sacrifice by staying at home in an effort to stem the spread of the  
26 virus. [*See* Kaiser Declaration, Paragraph 12, Page 6, Lines 12-21.] A single trip to a place  
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1 of worship would naturally require one leave the safety of their home, potentially make an  
2 extra stop for gas, snacks or coffee, and arrive to use a common restroom. Coupled with the  
3 fact that the County is home to hundreds of churches, mosques, synagogues, and temples,  
4 Plaintiffs' demand to attend services exposes hundreds and thousands of Californians  
5 needlessly to COVID-19.  
6

7  
8 In a County of over 2.4 million people, there simply are not enough law enforcement  
9 personnel and resources to enforce the public health order at hundreds of places of worship  
10 throughout one the largest geographic counties in the United States. Indeed, there are not  
11 sufficient hospital beds, ventilators or personnel to adequately defend against this pandemic.  
12 As such, there is a strong public interest that favors the denial of this TRO because if we can  
13 successfully flatten the curve in the upcoming weeks, then the County can begin  
14 implementing other safeguards such as contact-tracing to prevent further outbreak of this  
15 disease.  
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17

18 **IV.**

19 **CONCLUSION**

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21 The County's Orders Against Public Gatherings were put into place (1) as a result of  
22 what has now grown to over two million cases of COVID-19 worldwide and over 2,000  
23 cases and 59 deaths in Riverside County; (2) to reduce the likelihood of exposure to COVID-  
24 19, thereby slowing the spread of COVID-19 in communities worldwide; (3) to prevent  
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1 circumstances often present in gatherings that may exacerbate the spread of COVID-19; and

2 (4) to address the strain upon the health care system from the effects of the COVID-19 virus.

3  
4 The application of these Orders is neutral and generally applicable to all residents and

5 visitors of the County, and affects a wide-range of businesses, events, and arenas, without

6  
7 respect to the secular or religious nature of any such establishment or gathering. Finally,

8  
9 failure to abide by the Orders of the State and County Health Officers put at risk the health

10 and safety of all persons within the County of Riverside and the State as a whole. For these

11  
12 reasons, and all those discussed in detail herein, the County respectfully requests that the

13  
14 Court deny Plaintiffs' Application for a Temporary Restraining Order in its entirety.

15  
16 Dated: April 17, 2020

17 By: *Kelly A. Moran*  
\_\_\_\_\_  
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