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13 **UNITED STATES DISTRICT COURT**  
14 **EASTERN DISTRICT OF WASHINGTON**

15 **CHRIST'S CHURCH OF MT.**  
16 **SPOKANE; WESTGATE CHAPEL**

*Plaintiffs,*

17 v.

18 **JAY INSLEE**, in his official capacity as  
19 Governor of Washington; **ROBERT**  
20 **FERGUSON**, in his official capacity as  
the Attorney General of Washington;  
21 **BRET D. DAUGHERTY**, in his official  
capacity as Adjutant General; **JOHN**  
22 **BATISTE**, in his official capacity as  
Chief of the Washington State Patrol;  
23 **OZZIE KNEZOVICH**, in his official  
24 capacity as Sheriff of Spokane County;  
**ADAM FORTNEY**, in his official  
25 capacity as Sheriff of Snohomish  
County,

26 *Defendants.*

Case No.: 2:20-cv-00197

**FIRST AMENDED VERIFIED  
COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

Demand for Jury Trial

1 **INTRODUCTION**

2 1. This action challenges Governor Jay Inslee’s proclamations and  
3 guidance, which narrowly restrict indoor church services while exempting and  
4 treating more leniently comparable secular activities where large groups of people  
5 gather in close proximity for extended periods of time.

6 2. In counties under Phase 2 of the current reopening plan, the  
7 Governor’s guidance prohibits indoor church services exceeding 25% capacity or 50  
8 individuals, *whichever is less* (“Church Gathering Ban”).

9 3. Meanwhile, the Governor grants de facto gathering exemptions to 158  
10 broad classifications of secular activity he designates as “essential.” These  
11 exemptions apply even when the “essential” activity is not constitutionally protected  
12 and is not essential to public health and safety, such as cannabis retail, coffee  
13 production, breweries, and wineries. These exemptions also apply even when the  
14 “essential” activity involves large groups of people gathering in close proximity for  
15 extended periods of time, such as airports and airplanes, trains, subways, company  
16 cafeterias, “big box” stores, and many office-based businesses.

17 4. Besides activity described as “essential,” the Governor grants  
18 exemptions and more lenient restrictions to even “non-essential” secular activity.  
19 This favorable treatment applies even when such “non-essential” activity is not  
20 constitutionally protected, and when that activity involves large groups of people  
21 gathering in close proximity for extended periods of time.

22 5. Under Phase 2 of the current reopening plan, *only* religious activity is  
23 subject to a 25% capacity limit and a numerical cap of 50 people. A more favorable  
24 50% capacity allowance—with no numerical cap—applies for restaurants and  
25 taverns, professional offices, manufacturing facilities, real estate businesses, pet  
26 grooming businesses, tattoo parlors, barbershops, and hair or nail salons.

1           6.       For over two months, Plaintiffs Christ’s Church of Mt. Spokane  
2 (“Christ’s Church”) and Westgate Chapel (“Westgate”) (collectively, “the Churches”)  
3 were unable to hold indoor worship service due to the Governor’s proclamations  
4 prohibiting in-person religious gatherings. The Churches patiently waited for the  
5 Governor to restore their First Amendment freedoms, trusting that he would  
6 prioritize constitutional rights and allow churches to resume in-person services at  
7 the earliest opportunity.

8           7.       But that trust has been shattered. Rather than prioritize religious  
9 freedom, the Governor maligned spiritual gatherings as “COVID-19 ‘superspreader’  
10 events,” and imposed uniquely onerous restrictions on churches while granting  
11 favorable treatment to a broad range of similar secular activity.

12           8.       The Churches operate in counties that have proceeded to Phase 2 of  
13 the current reopening plan, yet the Church Gathering Ban restricts the Churches  
14 from holding substantive indoor services, even when such services would comply  
15 with the same capacity, social distancing, and sanitation standards that the State  
16 accepts as sufficient for comparable secular activity.

17           9.       Regardless of the justifications the Governor may think he has for this  
18 disparate treatment, they cannot survive constitutional scrutiny. Under the Free  
19 Exercise Clause, a law is not generally applicable when it “fail[s] to prohibit  
20 nonreligious conduct that endangers” the government’s interest “in a similar or  
21 greater degree” than the prohibited religious conduct. *Church of the Lukumi Babalu*  
22 *Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 542 (1993). That is exactly what the  
23 exemptions under the Governor’s orders do.

24           10.      Consistent with their religious beliefs, the Churches plan to resume  
25 indoor worship services up to 50% capacity on Sunday, June 21, 2020, and have  
26 developed comprehensive social distancing and health protocols to govern those

1 services. Despite these measures, however, the Governor’s Church Gathering Ban  
2 threatens the Churches with criminal penalties.

3 11. Without a temporary restraining order and injunction, the Churches  
4 will face criminal penalties for exercising their sincerely held religious beliefs by  
5 assembling for worship. A temporary restraining order and injunction are necessary  
6 to preserve the Churches’ constitutional rights.

7 **JURISDICTION AND VENUE**

8 12. This civil rights action raises federal questions under the United  
9 States Constitution, specifically the First and Fourteenth Amendments, and under  
10 federal law, particularly 42 U.S.C. § 1983.

11 13. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and  
12 1343.

13 14. This Court has authority to grant the requested declaratory relief  
14 under 28 U.S.C. §§ 2201 and 2202, the requested injunctive relief under 28 U.S.C.  
15 § 1343, and reasonable attorney’s fees and costs under 42 U.S.C. § 1988.

16 15. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because all  
17 defendants are Washington residents, and because at least one defendant resides in  
18 the Eastern District of Washington.

19 16. Venue is also proper in this Court under 28 U.S.C. § 1391(b)(2) because  
20 a substantial part of the events or omissions giving rise to the claims occurred in  
21 this district.

22 **PARTIES**

23 17. Christ’s Church is a nonprofit church organized exclusively for  
24 religious purposes under § 501(c)(3) of the Internal Revenue Code. Christ’s Church  
25 is located in Mead, Washington (Spokane County).  
26

1 18. Westgate is a nonprofit church organized exclusively for religious  
2 purposes under § 501(c)(3) of the Internal Revenue Code. Westgate is located in  
3 Edmonds, Washington (Snohomish County).

4 19. Jay Inslee is the Governor of Washington. Governor Inslee is  
5 responsible for issuing and enforcing the Church Gathering Ban. He is sued in his  
6 official capacity only.

7 20. Robert Ferguson is Washington's Attorney General. Attorney General  
8 Ferguson is authorized, both individually and through his subordinates, to enforce  
9 and prosecute violations of the Church Gathering Ban. He is sued in his official  
10 capacity only.

11 21. Defendant Bret D. Daugherty is Washington's Adjutant General.  
12 General Daugherty is authorized, both individually and through his subordinates,  
13 to enforce and prosecute violations of the Church Gathering Ban. He is sued in his  
14 official capacity only.

15 22. Defendant John Batiste is Chief of the Washington State Patrol. As  
16 Chief, Defendant Batiste has the power, both individually and through his  
17 subordinates, to enforce the Church Gathering Ban. He is sued in his official  
18 capacity only.

19 23. Defendant Ozzie Knezovich is the Sheriff of Spokane County. As  
20 Sheriff of Spokane County, Defendant Knezovich has the power, both individually  
21 and through his subordinates, to enforce the Church Gathering Ban. He is sued in  
22 his official capacity only.

23 24. Defendant Adam Fortney is the Sheriff of Snohomish County. As  
24 Sheriff of Snohomish County, Defendant Fortney has the power, both individually  
25 and through his subordinates, to enforce the Church Gathering Ban. He is sued in  
26 his official capacity only.

**FACTUAL ALLEGATIONS**

**The Churches**

1  
2  
3 25. Founded in 1959, Westgate has been serving its community for over 61  
4 years.

5 26. Westgate is proud of its multicultural community, including members  
6 representing at least 62 nations, some of whom—including church leadership—  
7 marched in recent protests and demonstrations following the tragic killing of  
8 George Floyd. Westgate also contributes to its community by maintaining a food  
9 and clothing bank, hosting ministries for people with special needs and those  
10 experiencing homelessness, and by hosting a “healing and recovery” group for  
11 around 120 people requiring support for issues involving drug abuse, alcoholism,  
12 addiction, and other harmful activities.

13 27. Founded in 2001, Christ’s Church has been serving its community for  
14 over 19 years. Initially founded as Liberty Church of Christ of Spokane, the church  
15 changed its name to Christ’s Church of Mt. Spokane in 2010.

16 28. The Churches are autonomous churches with no denominational  
17 affiliation.

18 29. The Churches believe that the Bible is the inspired Word of God, fully  
19 true and accurate, and thus the infallible rule of faith and practice.

20 30. The Bible is the foundation on which the Churches operate and is the  
21 basis on which they are governed.

22 31. The Churches believe, among other things, that the Bible affirms the  
23 infinite dignity of every human person made in the image of God, and commands  
24 Christians to gather in person for corporate prayer, worship, and fellowship, and  
25 that such assembly is necessary and good for the Churches and their members’  
26 spiritual growth.

1           32.    The Churches believe that the Bible commands Christians to gather in  
2 fellowship to hold one another accountable and responsible, to provide the support  
3 necessary to overcome challenges and temptations, and to help each other grow  
4 spiritually. Indeed, the Churches believe that the purpose and value of their  
5 activities flows out of their meetings as a corporate body for worship.

6                           **The Churches' Plans to Resume In-Person Services**

7           33.    In response to the Governor's orders, Westgate suspended in-person  
8 services on or around March 15, 2020, and Christ's Church suspended in-person  
9 services on or around March 19, 2020.

10          34.    More than two months later, the Governor's Church Gathering Ban  
11 prevented the Churches from resuming in-person worship services.

12          35.    Christ's Church does not have full-time staff, and thus does not have  
13 the resources to record or livestream services.

14          36.    The Churches lack the equipment and resources necessary to  
15 successfully implement radio broadcasts for drive-in services.

16          37.    In addition, some of the Churches' parishioners do not have internet  
17 access or the ability to participate in online services.

18          38.    The Churches believe they are called to resume in-person worship  
19 services, consistent with their religious beliefs about corporate prayer, worship, and  
20 fellowship.

21          39.    The Churches sincerely believe that online services and drive-in  
22 services do not satisfy the Bible's requirement that the Churches meet in person for  
23 corporate worship.

24          40.    The Churches plan to resume in-person worship services on June 21,  
25 2020, but the Governor's Church Gathering Ban makes such services illegal and  
26 subjects the Churches to possible criminal penalties.

1 41. Christ's Church's sanctuary has a capacity of about 110, and before the  
2 pandemic it typically hosted around 60 attendees during Sunday worship services.  
3 Christ's Church seeks to hold indoor services at 50% of its sanctuary's capacity  
4 (about 55 people), and has configured its seating to provide for proper social  
5 distancing of at least six feet separation between families and individuals:  
6



19 42. Westgate has two separate meeting areas, each with its own egress,  
20 ingress, and restrooms. These spaces include a sanctuary that seats 1300 people  
21 and a fellowship hall that seats 400 people. Westgate seeks to hold indoor services  
22 at (or less than) 50% of capacity in these areas (up to 300-400 people in the  
23 sanctuary and up to 200 people in the fellowship hall), and has configured its  
24 seating to provide for proper social distancing of at least six feet separation between  
25 families and individuals:  
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13       43.     In preparation for resuming in-person worship services, the Churches  
14 have adopted—and will follow—strict social distancing and health and safety  
15 protocols.

16       44.     To ensure proper social distancing, the Churches have assigned seats  
17 for each church family and individual, and have provided for at least six feet of  
18 separation between each individual or family.

19       45.     In addition, the Churches' health and safety protocols include:

- 20       •     Directing attendees to one designated entrance;
- 21       •     Having greeters open doors for attendees;
- 22       •     Requiring all greeters to wear gloves and masks;
- 23       •     Advising attendees of proper social distancing protocols;
- 24       •     Encouraging attendees to wear face coverings and masks;
- 25       •     Providing masks and gloves to those who wish to wear them and do not  
26 have their own;

- 1 • Making hand sanitizer stations easily accessible to attendees, and
- 2 encouraging attendees to bring their own hand sanitizer;
- 3 • Providing disinfecting wipes for attendees to wipe down any surfaces;
- 4 • Using prepackaged communion elements whenever served;
- 5 • Instructing attendees to refrain from congregating in the building;
- 6 • Dismissing attendees by sections to ensure that members maintain
- 7 social distancing; and
- 8 • Thoroughly cleaning and sanitizing sanctuary, hallways, bathrooms,
- 9 and common surfaces before and after Sunday service.

### 10 **The Governor’s Covid-19 Orders**

11 46. On February 29, 2020, Governor Inslee declared a state of emergency  
12 in response to the Covid-19 outbreak. Proclamation 20-05, attached as **Exhibit 1**.

13 47. Declaring that “a State of Emergency exists in all counties in the state  
14 of Washington,” the Governor directed “State agencies and departments . . . to  
15 utilize state resources and to do everything reasonably possible to assist affected  
16 political subdivisions in an effort to respond to and recover from the outbreak.” *Id.*  
17 at 2.

18 48. The Governor also “order[ed] into active state service the organized  
19 militia” to address the Covid-19 outbreak. *Id.*

20 49. On March 16, 2020, Governor Inslee issued Proclamation 20-14  
21 prohibiting gatherings of 50 or more people—including religious services—  
22 regardless of whether such gatherings complied with social distancing and health  
23 protocols. *See* Proclamation 20-14, attached as **Exhibit 2**, at 2.

24 50. As noted above, the Churches immediately suspended their worship  
25 services in response to Proclamation 20-14.

26

1 *The Stay-Home Order*

2 51. On March 23, 2020, Governor Inslee issued Proclamation 20-25 (“Stay  
3 Home – Stay Healthy”) announcing a statewide stay-home order. *See* Proclamation  
4 20-25, attached as **Exhibit 3**.

5 52. The stay-home order prohibited in-person church services of any size  
6 and threatened potential violators with criminal penalties under WASH. REV. CODE  
7 § 43.06.220(5), which defines violation of a governor’s order as a gross misdemeanor.  
8 Ex. 3, § 2, p. 5. Punishment for a gross misdemeanor could include imprisonment  
9 for up to one year and a fine in an amount up to \$5,000.00. *See* WASH. REV. CODE §  
10 9.92.020.

11 53. Specifically, the stay-home order expressly prohibited “faith-based”  
12 events, demanding that “[a]ll people in Washington State shall immediately cease  
13 participating in all public and private gatherings and multi-person activities for  
14 social, spiritual and recreational purposes, regardless of the number of people  
15 involved, except as specifically identified here.” Ex. 3, § 2.

16 54. In addition, the stay-home order required “all non-essential businesses  
17 in Washington State” to “cease operations except for performing basic minimum  
18 operations.” *Id.*, § 3.

19 55. The stay-home order did not require “essential businesses” to close, but  
20 rather “encourage[d]” them to “remain open and maintain operations.” *Id.*

21 56. Under the stay-home order, individuals could only leave their home or  
22 residence to conduct or participate in (1) “essential activities,” or (2) “employment in  
23 providing essential business services.” *Id.*, § 1.

24 57. The stay-home order defined “essential activities” as obtaining  
25 necessary supplies or services, engaging in activities essential for health and safety,  
26

1 caring for a friend or family member, or engaging in outdoor exercise activities. *Id.*,  
2 § 1.a.

3 58. The stay-home order defined “employment in essential business  
4 services” as “an essential employee performing work for an essential business as  
5 identified in the ‘Essential Critical Infrastructure Workers’ list.” *Id.*, § 1.b.

6 59. The Essential Critical Infrastructure Workers’ list, comprising  
7 fourteen pages, identifies 158 classifications of workers and businesses spanning  
8 thirteen broad sectors of the economy. *See* Essential Critical Infrastructure  
9 Workers’ List, attached as **Exhibit 4**.

10 60. Although the stay-home order was first set to expire on April 6, it  
11 finally expired on May 31 after the Governor extended it three times. *See*  
12 Proclamations 20-25.1, 20-25.2, and 20-25.3, attached as **Exhibits 5, 6, 7**.

### 13 *The Original Reopening Plan*

14 61. On May 4, 2020, Governor Inslee signed Proclamation 20-25.3, which  
15 allowed drive-in worship services but continued to prohibit in-person services of any  
16 size. *See* Ex. 7, at 3, 4.

17 62. Proclamation 20-25.3 also introduced and incorporated the State’s  
18 original reopening plan: “Safe Start Washington: A Phased Approach to Recovery.”  
19 *See* Ex. 7, at 3; *see also* Original Reopening Plan, attached as **Exhibit 8**.

20 63. Under Phase 1 of the original reopening plan, in-person church  
21 services of any size remained prohibited. Ex. 8, at 7.

22 64. Under Phase 2 of the original reopening plan, the original reopening  
23 plan generally restricted gatherings to “no more than 5 people outside your  
24 household per week.” *Id.*





1           78. The current reopening plan restricts various activities during each of  
2 the four reopening phases and provides all counties—regardless of size—an  
3 opportunity to apply for a variance to proceed to later phases. *See Ex. 15*, at 2.

4           79. In Phase 1 of the current reopening plan, businesses and operations  
5 designated as “essential” are “open” and permitted to operate subject only to  
6 industry-specific guidance. *See id.* at 8, 11.

7           80. The current reopening plan creates a new, intermediate phase called  
8 “Modified Phase 1.” *Id.* at 8.

9           81. Counties that are not ready to proceed from Phase 1 to Phase 2 may  
10 still apply for unique Modified Phase 1 restrictions tailored to their circumstances.  
11 *Id.*

12           82. Under Modified Phase 1, the current reopening plan recommends a  
13 25% capacity restriction for professional offices, real estate operations, pet grooming  
14 businesses, and personal services such as tattoo parlors, barber shops, hair salons,  
15 and nail salons. *See Ex. 15*, at 9.

16           83. Subject to industry-specific guidance, “non-essential” operations may  
17 resume in Phase 2 counties for restaurants and taverns, office-based businesses,  
18 manufacturing facilities, retail stores, real estate businesses, and personal services  
19 such as tattoo parlors, barbershops, hair salons, and nail salons. *Ex. 15*, at 11.

20                           ***Secular Exceptions to the Gathering Bans***

21           84. As noted, there are many secular exceptions to the Governor’s  
22 gathering restrictions, including “essential” activities, “non-essential” activities, and  
23 protest gatherings.

24           85. The Governor’s gathering restrictions do not apply to a wide range of  
25 businesses and activities identified in the State’s fourteen-page-long “Essential  
26 Workers” list, including:

- 1 • Cannabis retailers;
- 2 • Brewery and wine-making facilities;
- 3 • Coffee-production facilities;
- 4 • Company cafeterias;
- 5 • “Big box stores” that also sell groceries;
- 6 • Union operations;
- 7 • Airports;
- 8 • Subways and metros; and
- 9 • Radio, television, newspaper, and media operations.

10 *See* Ex. 4, at 1-12.

11 86. Even in counties under Modified Phase 1, the current reopening plan  
12 recommends a 25% capacity restriction with no numerical cap for professional  
13 offices, real estate operations, pet grooming businesses, and personal services such  
14 as tattoo parlors, barber shops, hair salons, and nail salons. *See* Ex. 15, at 9.

15 87. Under Phase 2, even “non-essential” operations are exempted from the  
16 gathering restrictions or granted more lenient treatment than houses of worship,  
17 even if they involve large groups of people gathering in close proximity for extended  
18 periods of time. *See* Ex. 15, at 11.

19 88. Under Phase 2, subject to industry-specific guidance, operations may  
20 resume for restaurants and taverns, office-based businesses, manufacturing  
21 facilities, retail stores, real estate businesses, pet grooming businesses, and  
22 personal services including tattoo parlors, barbershops, and hair or nail salons. *See*  
23 Ex. 15, at 11.

24 89. Manufacturing facilities in Phase 2 counties are permitted to resume  
25 operations with no capacity or numerical restrictions, subject only to social  
26

1 distancing and hygiene protocols. *See* Ex. 15, at 11; *see also* Industry-Specific  
2 Guidance for Manufacturing Facilities, attached as **Exhibit 16**.

3 90. Restaurants and taverns in Phase 2 counties may resume indoor  
4 dining consistent with social distancing and hygiene requirements and may reach  
5 50% of capacity with no numerical cap, so long as there are only 5 people per table  
6 and no bar seating. *See* Ex. 15 at 11; *see also* Industry-Specific Guidance for  
7 Restaurants and Taverns, attached as **Exhibit 17**, at 1.

8 91. Professional offices in Phase 2 counties may resume operations  
9 consistent with social distancing and hygiene requirements, and may reach 50%  
10 capacity with no numerical cap. *See* Ex. 15, at 11; *see also* Industry-Specific  
11 Guidance for Professional Offices, attached as **Exhibit 18**, at 3.

12 92. In Phase 2 counties, businesses offering personal services—including  
13 tattoo parlors, barbershops, and hair or nail salons—may reach 50% capacity with  
14 no numerical restriction. *See* Ex. 15, at 11; *see also* Industry-Specific Guidance for  
15 Personal Services, attached as **Exhibit 19**, at 2-3.

16 93. The Governor has allowed restaurants and taverns, manufacturing  
17 facilities, office-based businesses, retail establishments, tattoo parlors, nail care  
18 salons, hair salons, and barber shops to reopen with no flat numerical restriction. In  
19 contrast, the Churches and other houses of worship are limited to 50 people  
20 regardless of their physical capacity.

21 94. The State has also granted de facto gathering exemptions for protest  
22 gatherings. Following the tragic killing of George Floyd on May 25, 2020, thousands  
23 of Washingtonians gathered for protests, demonstrations, and vigils. The Seattle  
24 Times described these protests as “seas” of people “gathering” to “listen to  
25  
26

1 speeches,” with photos showing protestors failing to comply with the State’s  
2 gathering limits and social distancing protocols<sup>1</sup>:



14 95. The Washington State Department of Health acknowledged that the  
15 protest gatherings posed public health risks but encouraged the gatherings anyway.  
16 The Department of Health published a blog post entitled “Risking your health to  
17 fight racism (Thank you!),” which stated, “If you were one of many people in  
18 communities across our state who responded to this violent act with outrage,  
19 frustration, and peaceful protest, thank you!”<sup>2</sup>

20  
21 <sup>1</sup> See Seattle Times Staff, *Seattle-area protests: Police declare a riot as demonstrators gather for*  
22 *fourth day to call for police accountability*, THE SEATTLE TIMES (updated June 3, 2020),  
23 [https://www.seattletimes.com/seattle-news/george-floyd-protests-continue-in-seattle-area-](https://www.seattletimes.com/seattle-news/george-floyd-protests-continue-in-seattle-area-demonstrators-expected-to-gather-for-fourth-day-to-call-for-racial-justice/)  
24 [demonstrators-expected-to-gather-for-fourth-day-to-call-for-racial-justice/](https://www.seattletimes.com/seattle-news/george-floyd-protests-continue-in-seattle-area-demonstrators-expected-to-gather-for-fourth-day-to-call-for-racial-justice/).

25 <sup>2</sup> Risking your health to fight racism (Thank you!), *Medium* (Jun. 2, 2020),  
26 <https://medium.com/wadepthealth/risking-your-health-to-fight-racism-thank-you-7a528a692f81>.

1           96. Governor Inslee also expressed full support of the protest gatherings.  
2 On May 31, 2020, Governor Inslee acknowledged that “[t]housands were protesting  
3 peacefully,” and “I want to thank the protesters who carried a peaceful and  
4 important message.” May 31, 2020 Inslee Statement, attached as **Exhibit 20**. In  
5 another statement, Governor Inslee affirmed that “I fully support the right to free  
6 speech and peaceful assembly,” and “[a]s people gather today to protest the unjust  
7 death of George Floyd, I hope they do so peacefully and safely.” May 30, 2020 Inslee  
8 Statement, attached as **Exhibit 21**.

9           97. During a press conference on June 1, 2020, Governor Inslee  
10 encouraged protesters “to be safe for themselves and the people around them,”  
11 expressing his mere “hope” that protestors might wear a mask and “distance *as*  
12 *much as you can*.”<sup>3</sup>

13           98. In a press conference on June 4, 2020, Governor Inslee stated that, for  
14 protesters, “there are some First Amendment rights that we have respected even  
15 though we do understand there have been some increased risks in any large  
16 gathering and we have respected people’s rights in that regard . . . .”<sup>4</sup>

17           99. In a press conference on June 8, 2020, Governor Inslee acknowledged  
18 that supporting protest gatherings while prohibiting other gatherings does “appear  
19 to be contradictory,” but that “thousands of people have made a decision that the  
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23 <sup>3</sup> Governor Jay Inslee, Address Regarding Demonstrations, <https://www.pscptv.com/w/1OyJAYjMnBgJb>  
24 (June 1, 2020) (emphasis added).

25 <sup>4</sup> Governor Jay Inslee, Press Conference on Covid-19 (June 4, 2020),  
26 <https://www.tvw.org/watch/?clientID=9375922947&eventID=2020061053>

1 virus of racism is important enough to fight back by peaceful protests and we have  
2 encouraged them to do so in the most distanced manner as possible . . . .”<sup>5</sup>

3 100. Meanwhile, the Churches—who also have First Amendment rights—  
4 would be subject to criminal penalties if they made an identical decision that the  
5 virus of sin (including racism) is important enough to fight back by peacefully  
6 gathering for religious services. Indeed, even outdoor church services are limited to  
7 100 people.

8 101. Thus, the Churches may not hold their planned indoor services without  
9 subjecting themselves to criminal penalties, even though they would adhere to strict  
10 social distancing and hygiene protocols and would not exceed 50% of their respective  
11 capacities. As applied to Westgate, the Church Gathering Ban restricts their  
12 services to 3% capacity (50 people for a church with 1700 capacity).

13 102. The Governor’s Church Gathering Ban has harmed the Churches’  
14 ministries by suspending weddings, baptisms, services for vulnerable populations,  
15 membership vows, support for youth, and church leadership meetings.

16 103. There are many considerations that render outdoor services  
17 impracticable for the Churches. For example, inclement weather could significantly  
18 reduce attendance or impede outdoor services altogether. The Churches lack the  
19 equipment necessary to successfully broadcast a drive-in service. Noise from street  
20 traffic could disturb outdoor services. Attendees with reduced mobility, including  
21 attendees who use wheelchairs or walkers, will have trouble safely traversing  
22 grassy areas where an outdoor service could occur.

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24  
25 <sup>5</sup> Governor Jay Inslee, Press Conference on Covid-19 (June 8, 2020),  
26 <https://www.tvw.org/watch/?clientID=9375922947&eventID=2020061125>

1 **LEGAL ALLEGATIONS**

2 104. At all times relevant to this Complaint, each and all the acts and  
3 policies alleged here were attributable to the Defendants who acted and are acting  
4 under color of a statute, regulation, custom, or usage of the State of Washington.

5 105. The Churches have no adequate or speedy remedy at law to correct or  
6 redress the deprivation of their rights by Defendants.

7 106. Defendants' actions and policies do not serve any legitimate or  
8 compelling state interest and are not narrowly tailored to serve any such interests.

9 107. Defendants have deprived, and continue to deprive, the Churches of  
10 their clearly established rights under the United States Constitution, as pleaded  
11 below.

12 108. Without declaratory and injunctive relief, the Churches' religious  
13 exercise will continue to be chilled and the Churches will continue to suffer  
14 violations of their constitutional rights and irreparable harm.

15 **COUNT I**

16 **Violation of the First Amendment to the U.S. Constitution**

17 **(Free Exercise)**

18 109. The Churches incorporate by reference paragraphs 1 through 108.

19 110. The Churches' sincerely held religious beliefs teach that the Bible is  
20 the inspired word of God and the sole authority for faith and practice.

21 111. The Churches sincerely believe that the Bible teaches the necessity of  
22 gathering together for corporate prayer, worship, and fellowship and that such  
23 assembly is necessary and good for the Churches and their members' spiritual  
24 growth.

1 112. The Governor’s Church Gathering Ban substantially burdens the  
2 Churches’ religion by prohibiting them from holding in-person church services  
3 exceeding the lesser of 50 people or 25% of the Churches’ respective capacities.

4 113. The Governor’s Church Gathering Ban interferes with the Churches’  
5 religious autonomy and ability to carry out its religious doctrine, faith, and mission.

6 114. The Governor’s Church Gathering Ban targets, discriminates against,  
7 and shows hostility towards houses of worship, including the Churches.

8 115. The Governor’s Church Gathering Ban is neither neutral nor generally  
9 applicable because it is riddled with exceptions and is based on a system of  
10 individualized assessments.

11 116. Defendants do not have a compelling reason for prohibiting the  
12 Churches’ indoor church services when attendees can practice adequate social  
13 distancing, especially when compared to the many secular activities exempted  
14 under the Governor’s orders.

15 117. Defendants have not selected the least restrictive means to further any  
16 purported interest.

17 118. The Church Gathering Ban violates the Free Exercise Clause of the  
18 First Amendment to the United States Constitution, both facially and as applied.

19 119. Without declaratory and injunctive relief, the Churches will be  
20 irreparably harmed.

21 **COUNT II**

22 **Violation of the First Amendment to the U.S. Constitution**

23 **(Right to Assemble)**

24 120. The Churches incorporate by reference paragraphs 1 through 108.

25 121. The First Amendment prohibits Defendants from violating the  
26 Churches’ right to peaceably assemble.



1 penalty, making the order susceptible to both content and viewpoint-based  
2 discrimination.

3 131. Prohibiting or punishing the Churches' religious speech does not serve  
4 any legitimate, rational, substantial, or compelling governmental interest.

5 132. The State also has alternative, less restrictive means to achieve any  
6 interest that it might have.

7 133. The Church Gathering Ban violates the Free Speech Clause of the  
8 First Amendment to the United States Constitution, both facially and as applied.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, the Churches respectfully request that the Court:

11 a. Enter a temporary restraining order, preliminary injunction, and  
12 permanent injunction prohibiting Defendants from enforcing those portions of the  
13 Governor's orders that limit indoor church services to 50 or fewer persons or 25% of  
14 capacity during Phase 2 of the Governor's reopening plan, and that limit in-person  
15 church services to 50 or fewer persons during Phase 3 of the Governor's reopening  
16 plan, thereby allowing the Churches and their congregants to resume corporate  
17 prayer and worship while following adequate social distancing and public health  
18 guidelines.

19 b. Enter a judgment declaring that those portions of the Governor's  
20 orders that limit in-person church services to 50 or fewer persons or 25% capacity  
21 during Phase 2 of the Governor's reopening plan, and that limit in-person church  
22 services to 50 or fewer persons during Phase 3 of the Governor's reopening plan,  
23 violate the U.S. Constitution's Free Exercise, Right to Assemble, and Free Speech  
24 Clauses, both facially and as-applied;

25 c. Award the Churches court costs and reasonable attorney's fees; and  
26

1 d. Award such other and further relief as to which the Churches may be  
2 entitled.

3 Respectfully submitted this 12th day of June 2020.

4 s/ Kristen K. Waggoner

5 Kristen K. Waggoner, WA Bar 27790

6 Ryan J. Tucker, AZ Bar 034382\*

7 Jeremiah Galus, AZ Bar 030469\*

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18 Ste. D-1100

19 Lawrenceville, GA 30043

20 Telephone: (770) 339-0774

21 dcortman@adflegal.org

22 *\*Pro hac vice application pending*

**VERIFICATION**

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I declare under penalty of perjury that the foregoing Verified Complaint has been examined by me and that the factual allegations therein are true to the best of my knowledge, information, and belief.

Dated: June 12, 2020

  
\_\_\_\_\_  
Pastor / Elder  
Christ's Church of Mt. Spokane

1 **VERIFICATION**

2 I declare under penalty of perjury that the foregoing Verified Complaint has  
3 been examined by me and that the factual allegations therein are true to the best of  
4 my knowledge, information, and belief.

5 Dated: June 12, 2020

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8 Pastor ALEC ROWLANDS  
9 Westgate Chapel  
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