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15 **Pro hac vice application submitted, pending decision*

16
17 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

18 CALVARY CHAPEL DAYTON VALLEY,

19 *Plaintiff,*

20
21 v.

22 STEVE SISOLAK, in his official capacity as
Governor of Nevada; AARON FORD, in his
23 official capacity as Attorney General of
Nevada; FRANK HUNEWILL, in his official
24 capacity as Sheriff of Lyon County,

25 *Defendants.*
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Case No.: 3:20-cv-00303-LRH-CLB

**REQUEST FOR
RECONSIDERATION OF
ORDER DENYING
EMERGENCY TEMPORARY
RESTRAINING ORDER**

1 Pursuant to FRCP 59(e), Plaintiff Calvary Chapel Dayton Valley (“the
2 Church”), hereby moves for reconsideration of this Court’s order denying temporary
3 emergency relief that would permit the Church to resume in-person worship services
4 Sunday, May 31, 2020 to celebrate Pentecost Sunday pending a decision on a
5 preliminary injunction after briefing and argument now scheduled for next week.
6 Without a temporary order being issued, the Church will be unable to celebrate this
7 holy day without facilitating 10 to 13 services of 50 people or less. This is not feasible
8 and, without the temporary emergency relief requested, will prevent the Church from
9 having in-person services.

10 The Church understands that granting emergency motions should be rare. LR
11 7-4(b). But the Church did not create the emergency in question and did, in fact, act
12 diligently under the circumstances. Given that the Court may have been unaware of
13 all the facts causing the Church to file its emergency motion the afternoon of
14 Thursday May 28, 2020, the Church respectfully submits the following timeline to
15 clarify the record in support its request for emergency relief:

16 1) On May 14, 2020, the Church’s Pastor, along with nearly 200 other Pastors
17 from churches across the state sent a letter to the Governor as one united voice of
18 diverse churches and ministry leaders from multiple denominations and expressions
19 of the Christian faith throughout the State of Nevada, “request[ing] that [he]
20 immediately lift the ban on in-person worship services where ten or more persons
21 may gather so long as each church develops, implements, and maintains a safety plan
22 that adheres to applicable social distancing and hygiene guidelines.” See **Exhibit 1**
23 (May 14, 2020 Letter). The Church had hoped that this letter would result in a lifting
24 of the ban on in-person services that would allow them to celebrate Pentecost Sunday.
25 However, the Governor did not respond to this letter or give any indication when he
26

1 was going to lift the ban on in-person church services where ten or more people may
2 gather.

3 2) On May 21, 2020, in an effort to avoid taking legal action, the Pastor of the
4 Church, along with 200 other Pastors and Ministry leaders from across the State of
5 Nevada, sent a second letter to the Governor emphasizing to him and his LEAP
6 committee the fact that Churches can re-open the safely. See **Exhibit 2** (May 21,
7 2020 Letter). Unfortunately, the Governor and the LEAP Committee did not respond
8 to this letter.

9 3) On May 22, 2020, at 2:31 p.m., the Church filed a Verified Complaint for
10 Declaratory and Injunctive Relief with the Court requesting relief from the
11 unconstitutional actions of the Governor.

12 4) Approximately one hour after filing the Complaint, the Governor's office
13 issued a press release stating the following, "Today, ahead of the holiday weekend,
14 Nevada Gov. Steve Sisolak announced he will hold a press conference on Tuesday,
15 May 26, to discuss the next phase in Nevada's reopening plan, as outlined in Nevada
16 United: Roadmap to Recovery." See **Exhibit 3** (May 22, 2020, Press Release). The
17 announcement was scheduled for 5:30 p.m. on May 26, 2020. When this
18 announcement was made, it caused the Church to pause and reconsider filing a
19 motion for a temporary restraining order and preliminary injunction because it
20 appeared the Governor was finally going to move into Phase 2 of his plan to reopen
21 Nevada. It was the hope of the Church that the Governor's actions would address the
22 concerns and proposals submitted in the two letters that had been sent to him and
23 that churches would be allowed to re-open.

24 5) On May 26, 2020, the Governor cancelled his press conference that was
25 scheduled for 5:30 p.m. Ultimately, late on the evening of May 26, 2020, the
26 Governor released his prepared remarks regarding "Phase 2 Reopening." Despite

1 allowing restaurants, movie theaters, bowling allies, indoor malls, museums, gyms,
2 etc., to open with a 50% capacity restriction, Governor Sisolak continued to
3 discriminate against places of worship and treat them differently than other entities
4 by only allowing reopening of their services up to a maximum of 50 people attending
5 an in-person service at a time with strict social distancing measures in place. See
6 **Exhibit 4** (May 26, 2020, Press Release).

7 6) In response to the Governor’s statement, on Wednesday May 27, 2020, the
8 Church prepared an amended complaint and the request for emergency temporary
9 restraining order and preliminary injunction. However, the Church could not file
10 these documents with the Court until the meet and confer requirements of LR 7-4
11 were satisfied. Meanwhile, the Church was also waiting for the signed directive from
12 Governor’s office to be made public.

13 7) On May 28, 2020, the LR 7-4 meet and conference requirements were
14 satisfied. However, by 2:00 p.m. on that same day the Governor’s signed directive
15 still had not been made public. See **Exhibit 5** (May 28, 2020 Phase II Directive). So,
16 the Church decided it could not wait any longer to file the amended verified complaint
17 and motion for an emergency temporary restraining order and preliminary
18 injunction. These filings were completed at 3:26 p.m. and 3:36 p.m. respectively.
19 These filings were followed by phone calls to the Court to provide notice of the
20 emergency filings. Concurrently, courtesy copies of the filings were provided to both
21 legal counsel for the State of Nevada and Lyon County Sherriff. Additionally, their
22 cell phone numbers were secured in order to facilitate a call with the Court if a call
23 was deemed necessary.

24 In short, the Church filed its motion challenging the Governor’s “Phase 2”
25 directive at the earliest opportunity—indeed, the motion was filed *before* the
26 Governor even issued his signed directive late yesterday afternoon.

1 In accordance with the foregoing, the Church respectfully submits that the
2 timing of its filing was reasonable and appropriate under the circumstances. The
3 Church did not create the emergency. The Governor did by his unconstitutional and
4 desperate treatment of the Church despite being given reasonable time and
5 opportunity to avoid creating this crisis for the Church with respect to the Pentecost
6 Sunday services.

7 **CONCLUSION**

8
9 With the foregoing clarification regarding the timeline of events that led to the
10 Churches emergency filing, the Church hereby requests the Court provide temporary
11 relief from the Governor's directive thereby allowing the Church and its congregants
12 to resume corporate prayer and worship while following the social distancing and
13 public health protocols Plaintiff has indicated in its complaint that it is prepared to
14 apply pending the completion of briefing and oral argument schedule for next week.

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1 Respectfully submitted this 29th day of May 2020.

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