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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **COUNTY OF SANTA CLARA**  
14

15 THE PEOPLE OF THE STATE OF  
16 CALIFORNIA, COUNTY OF SANTA  
CLARA, and SARA H. CODY, M.D., in her  
17 official capacity as Health Officer for the  
County of Santa Clara,

18 Plaintiffs

19 v.

20 CALVARY CHAPEL SAN JOSE; MIKE  
21 MCCLURE, and DOES 1 through 50,  
inclusive,

22 Defendants.  
23

Case No.: 20cv372285

**OPPOSITION TO MOTION FOR  
TEMPORARY RESTRAINING ORDER**

Date: TBD  
Time: TBD  
Dept.: D19

24 Defendants Calvary Chapel San Jose (“Church”), and Pastor Mike McClure request  
25 that this Application for Temporary Restraining Order be denied because this case is of great  
26 public importance and involves a request to crush the Church’s constitutional rights, warranting a  
27 noticed hearing and testimony from expert witnesses. At a minimum, however, the Church and  
28 Pastor Mike McClure request a continuance of 3 business days to oppose to Plaintiffs’ ex parte

1 application because Defendants were given less than one business day to prepare an  
2 opposition. Plaintiffs rushed to file this application less than 24-hours before the hearing even  
3 though this application is not an emergency, restricts constitutional liberties, and attempts to change  
4 the status quo. In the absence of a continuance, Defendants submit this opposition.

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## Table of Contents

I. INTRODUCTION.....	1
II. FACTUAL BACKGROUND.....	1
III. STANDARD FOR ISSUANCE OF EX PARTE REQUEST FOR TEMPORARY RESTRAINING ORDER.....	4
IV. ARGUMENT .....	5
A. Because a Substantially Similar Case is Pending in Federal Court Between the Same Parties, This Court Should “Stay” These Proceedings. ....	6
B. The Emergency Services Act Violates Article III’s Non-Delegation Doctrine by Delegating the Legislative Power to Restrict Civil Liberties to County Health Officers Without Limitation. ....	7
1. Santa Clara County and Dr. Cody’s Authority under The Emergency Services Act is Unconstitutional. ....	8
C. Santa Clara County’s Arbitrary Restrictions Are Unconstitutional Because They Rely on Content Based Restrictions on Speech.....	9
D. The Plaintiffs Do Not Face Imminent Irreparable Injury. ....	10
V. CONCLUSION .....	11

1 **TABLE OF AUTHORITIES**

2  
3 **Cases**

4 *Buckley v. Valeo*,  
5 424 U.S. 1 (1976) ..... 7

6 *Caiafa Prof. Law Corp. v. State Farm Fire & Casualty Co.*,  
7 15 Cal.App.4th 800 (1993) ..... 6

8 *Choice-In-Education League v. Los Angeles Unified School District*, (1993)  
9 17 Cal.App.4th 415. (1993) ..... 5

10 *City of Tiburon v. Northwestern Pac R. Co*  
11 4 Cal.App.3d 160, 179 (1970) ..... 4

12 *Dougherty v. Austin*,  
13 94 Cal. 601 (1892) ..... 7

14 *E.H Renzel Co. v. Warehousemen's Union*,  
15 16 Cal.2d 369 (1940) ..... 5, 10

16 *Ex parte Arata*,  
17 52 Cal.App. 380 (1921) ..... 9

18 *Ex parte Martin*,  
19 83 Cal.App.2d 164 (1948) ..... 9

20 *Farmland Irrigation. Co. v. Dopplmaier*,  
21 48 Cal.2d 208 (1957) ..... 6

22 *I.N.S. v. Chadha*,  
23 462 U.S. 919 (1983) ..... 8

24 *Jew Ho v. Williamson*,  
25 103 F. 10 ..... 9

26 *Kasler v. Lockyer*  
27 23 Cal. 4<sup>th</sup> 472, 493 (2000) ..... 7

28 *Korematsu v. United States*,  
584 F. Supp. 1406 (N.D. Cal. 1984) ..... 9

*Kugler v. Yocum*,  
69 Cal. 2d 371 (1968) ..... 7

*Loder v. City of Glendale*,  
216 Cal.App.3d 777 (1989) ..... 5

1	<i>Mistretta v. United States</i>	
2	488 U.S. 361, 382 (1989). .....	7
3	<i>People v. Johnson,</i>	
4	95 Cal. 471 (1892) .....	7
5	<i>People v. Mitchell</i>	
6	209 Cal.App.4th 1364 (2012) .....	7
7	<i>People v. Pacific Land Research Co.</i>	
8	20 Cal.3d 10 (1977) .....	5
9	<i>Reed v. Town of Gilbert</i>	
10	576 U.S. 155 (2015) .....	10
11	<i>Schwartz v. Arata,</i>	
12	45 Cal.App. 596 (1920) .....	4
13	<i>Tahoe Keys Property Owners' Ass'n. v. State Water Resources Control Board</i>	
14	4 Cal.App.3d 160, 179 (1970).....	4, 5
15	<i>Triple A Machine Shop, Inc. v. State of California</i>	
16	213Cal.App.3d131, 138 (1989).....	5
17	<b>Statutes</b>	
18	Ed. Code, §§ 56205–56207 .....	8
19	Gov. Code, § 7579.2 .....	8
20	Gov. Code, § 8565 and 8574 .....	8
21	Health & Saf. Code, §§ 1267.7, 1569.71, 1568.083 .....	8
22	Prob. Code, § 1800.3 .....	8
23	Welf. & Inst. Code, §§ 602.1, 18252–18253 .....	8
24	Welf. & Inst. Code, §§ 4806, 5600.1–5600.2 .....	8
25	<b>Other</b>	
26	Cal. Const., art. III, § 3 .....	7
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**I. INTRODUCTION**

Defendants have notoriously held Church services since May 2020. Five months later, Plaintiffs choose to file this Motion for a temporary restraining order. Their actions speak for themselves. No material change has suddenly precipitated the need for emergency relief to protect against alleged imminent irreparable harm. In fact, the evidence says otherwise. The virus, by all scientific measures, is no worse than the season flu, and Santa Clara County remains in one of the lowest tiers. Plaintiffs have also outwardly supported super spreader events like protests in the streets. Yet now, the Defendants have the gall to claim somehow the Defendants’ indoor services will present a grave threat to the community. This is pure fear mongering and inconsistent with the facts and Plaintiffs own actions. Defendants accordingly request that the Court deny Plaintiffs’ application in its entirety.

**II. FACTUAL BACKGROUND**

**State and County Orders**

On March 4, 2020, Governor Gavin Newsom declared a State Emergency in response to COVID-19 under sections 8565 through 8574.<sup>1</sup> On March 19, 2020, Governor Newsom issued Executive Order N-33-20 (“State Order”), which prohibited all in-person worship services in California for an indefinite period until the threat of the pandemic had subsided. The State Order delegated wholesale authority to the California Department of Public Health (CDPH) and county health officers to fashion protocols for creating and enforcing restrictions related to COVID-19. On May 25, 2020, Governor Gavin Newsom announced the re-opening of places of worship in California with the exception that building capacity must remain at 25% or 100 people.<sup>2</sup> These restrictions were later loosened.

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<sup>1</sup> Available as of the date of filing: <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>.

<sup>2</sup> Available as of the date of filing: <https://www.cbsnews.com/news/newsom-issues-guidelines-for-california-houses-of-worship-to-reopen/>

1 On June 5, 2020, Santa Clara County issued an order banning indoor religious services.<sup>3</sup>  
2 The County’s Frequently Asked Questions Page<sup>4</sup> asked the following question: “Can I leave my  
3 home to go to my church, synagogue, or mosque?” The answer states the following: “No. For your  
4 safety as well as the safety of your fellow worshippers, we need to help each other fight the spread  
5 of COVID-19 by staying at home.”

6 The County’s Order treated religious activity differently than other activities. For instance,  
7 The Order deemed certain businesses essential such retail and shopping centers, television, radio,  
8 and other media services, real estate offices, farmers’ markets, bicycle supply shops, airports,  
9 outdoor dining, grocery stores, recreational institutions, liquor stores, summer camps, and summer  
10 schools.<sup>5</sup> Houses of worship, which provide encouragement and safety for people suffering with  
11 mental issues during this time of great turmoil, are not deemed essential. In addition, the County  
12 Order requires the hosts of “Small Outdoor Ceremonies and Religious Gatherings” to “Maintain a  
13 list with the names and contact information of all participants” and “assist the County Public Health  
14 Department in any case investigation and contact tracing associated with the gathering.” The  
15 County does not require other activities or gatherings to maintain such a list.

16 Further, the County has also publicly acknowledged that the right to attend protests  
17 regarding racial injustice is a “fundamental right that is critical to the health of our democracy.”<sup>6</sup>  
18 Despite nearly 1,300 public health experts advising protestors to follow social distancing and mask  
19 requirements, protest organizers have generally not followed their advice. (Bhattacharya Dec. ¶  
20 15). The protestors defiance to the safety requirements protocols resulted in no punishment.

21 On July 2, 2020, the County issued a Revised Risk Reduction Order, allowing some  
22 activities to resume, and requiring businesses and individuals in the County to comply with the  
23 State Public Health Orders. (Plaintiff’s TRO Application at p. 4). On July 8, 2020, Dr. Sara H.  
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26 <sup>3</sup> Available as of the date of filing: <https://www.sccgov.org/sites/covid19/Pages/order-health-officer-05-18-20.aspx>  
27 <sup>4</sup> Available as of the date of filing: <https://www.sccgov.org/sites/covid19/Pages/public-health-orders.aspx>.  
28 <sup>5</sup> Available as of the date of filing: <https://www.sccgov.org/sites/covid19/Pages/order-health-officer-05-18-20.aspx>  
<sup>6</sup> Available as of the date of filing: <https://www.sanjoseca.gov/Home/Components/News/News/1372/>

1 Cody, M.D., issued a Mandatory Directive for Gatherings on July 8 (the “Gatherings  
2 Directive”). (*Id.*) The Gatherings Directive allowed outdoor gatherings of up to 60 people,  
3 with the exception people socially distance, wear face coverings, and refrain from singing.  
4 (*Id.*) Throughout August and until September 7, the State Public Health Officer prohibited  
5 indoor gatherings of any kind in Santa Clara County. (*Id.* at p. 4-5).

6 On August 28, 2020, the State Public Health Officer issued a superseding Order that  
7 established a procedure for assigning counties to one of four tiers based on the severity of  
8 COVID-19. (*Id.* at p. 5). Initially, the County was in the most restrictive tier 1 (Purple), but  
9 quickly moved to tier 2 (Red) on September 8. (*Id.*) Despite moving to Tier 2, Dr. Cody  
10 decided not to lift the prohibition on indoor gatherings. (*Id.*)

11 On October 5, 2020, the County issued a Revised Risk Reduction Order. (*Id.*) Around  
12 the same time, the California Public Health Department reassigned the County to Tier 3  
13 (Orange). (*Id.*) The County’s Revised Risk Reduction Order maintained stricter restrictions  
14 than the State’s requirements regarding indoor gatherings. (*Id.*) Dr. Cody’s October 13 Revised  
15 Gatherings Directive is also more restrictive and only allows indoor gatherings of up to 25%  
16 the facility’s capacity or 100 people, whichever is fewer. (*Id.* at p. 6). Singing and chanting is  
17 prohibited indoors. (*Id.*) Santa Clara County’s more severe restrictions are not scientifically  
18 justified, especially considering the County is in Tier 3. (Bhattacharya Dec. ¶ 17).

### 19 **The Church Gatherings are Consistent with Science**

20 The Church has gathered in-person since Pentecost Sunday, May 31, 2020. (McClure  
21 Dec. ¶ 3). The Church meets inside because it cannot find an outdoor space large enough to  
22 accommodate its 600 attendees, and outdoor services are also not feasible when you have to  
23 consider parking, restroom space, electricity, and unpredictable weather conditions. (*Id.* ¶ 12)

24 Since reopening five months ago, the Church and Church school have not experienced  
25 any known COVID-19 case. (*Id.* ¶ 5). However, the Church has experienced a significant  
26 increase in spiritual and mental distress. (*Id.* ¶ 6). In fact, Pastor Mike McClure has been in  
27 contact with people who are suffering from anxiety, depression, and even thoughts of suicide.

28

1 (*Id.* ¶¶ 6-7). The Church services have played a vital role in sustaining the congregation’s  
2 spiritual, emotional, and mental wellbeing. (*Id.* ¶ 8).

3 Indeed, science and studies reveal that church attendance provides critical  
4 psychological benefits for attendees. (Bhattacharya Dec. ¶ 12). Church services alleviate stress  
5 and allostatic load (a term indicating stress endured over a long period of time). (*Id.*) Allostatic  
6 load can cause psychological and physical harms, including higher incidence of chronic  
7 disease and mortality. (*Id.*) In particular, evidence strongly suggests church attendance reduces  
8 the rate of depression in adolescents. (*Id.*)

9 The Plaintiffs claim Defendants’ conduct will pose a grave threat to the community,  
10 but their predictions of doom and gloom are just not supported by science. Based upon a  
11 seroprevalence study conducted in Santa Clara County, the infection survival rate is 100%  
12 among people between 0 and 19 years of age; 99.987% for people between 20-39 years of age;  
13 99.84% for people 40-69 years of age; and 98.7% for people above 70 years of age. (*Id.* ¶ 10).  
14 The probability of contracting COVID-19 amongst all groups is very small, with 0.12% of the  
15 county’s 1,920,000 resident having contracted the disease. (*Id.* ¶ 11).

16 **III. STANDARD FOR ISSUANCE OF EX PARTE REQUEST FOR TEMPORARY**  
17 **RESTRAINING ORDER**

18 A temporary restraining order is an extraordinary power, to be exercised always with great  
19 caution and, therefore, should rarely, if ever, be exercised in a doubtful case. “The right must  
20 be clear, the injury impending and threatened, so as to be averted only by the protective preventive  
21 process of injunction.” (*City of Tiburon v. Northwestern Pac R. Co.*, 4 Cal.App.3d 160, 179  
22 (1970), quoting *Schwartz v. Arata*, 45 Cal.App. 596, 601 (1920)). As one court has observed,  
23 “[I]t is clear that a plaintiff must make some showing which would support the exercise of the  
24 rather *extraordinary* power to restrain the defendant's actions prior to a trial on the merits.”  
25 (*Tahoe Keys Property Owners' Ass'n. v. State Water Resources Control Board*, 23 Cal.App.4th  
26 1459, 1471 (1994) (*Tahoe Keys*), emphasis added.)

27 When deciding whether to grant preliminary injunctive relief, including a temporary  
28 restraining order, the trial court considers two interrelated factors: (1) the interim harm that the

1 applicant will sustain if the injunction is denied as compared to the harm to the defendant if the  
2 injunction issues; and (2) the likelihood of success on the merits at trial. (*Choice-In-Education*  
3 *League v. Los Angeles Unified School District*, (1993) 17 Cal.App.4th 415, 422. (1993)) The court  
4 may deny a preliminary injunction either (1) on its finding irreparable injury will not result to the  
5 party seeking the injunction, or (2) that the party has failed to demonstrate a reasonable probability  
6 of success on the merits. (*People v. Pacific Land Research Co.*, 20 Cal.3d 10, 21 (1977)). Before  
7 the trial court can exercise its discretion, the applicant must make prima facie showing of  
8 entitlement to injunctive relief. The applicant must demonstrate a real threat of immediate and  
9 irreparable injury due to the inadequacy of legal remedies. (*Triple A Machine Shop, Inc., v. State*  
10 *of California*, 213Cal.App.3d131, 138 (1989)); *see also Tahoe Keys, supra*, 23 Cal.App.4th at  
11 p. 1471 (interim harm by denial of preliminary injunctive relief assessed before reaching the  
12 potential merits). It is also well settled that the plaintiff bears the burden of producing *evidence* of  
13 irreparable interim injury. (*Loder v. City of Glendale*, 216 Cal.App.3d 777, 782-783 (1989),  
14 emphasis added.) “To entitle a plaintiff to injunctive relief the burden is upon him to prove actual  
15 or threatened injury and a court may not infer this from mere proof of acts intended to harm.” (*E.H*  
16 *Renzel Co. v. Warehousemen's Union*, 16 Cal.2d 369, 373 (1940)). Mere conclusory allegations  
17 that such injury will result is not sufficient. (*Ibid.*)

#### 18 IV. ARGUMENT

19 As a threshold matter, this Court should decline to hear this Motion because a similar case  
20 brought by the Defendants is pending in federal Court. The case in federal court addresses the main  
21 issues brought forth in this Motion. However, even if this Court insists on hearing this Motion  
22 (which it should not), it should not grant the temporary restraining order. The entire premise that the  
23 Plaintiffs rely upon is unconstitutional. For one, the Emergency Services Act and Santa Clara  
24 County and Dr. Cody’s actions pursuant thereto are unconstitutional. The Plaintiffs do not have  
25 wholesale authority to restrict Defendants’ religious liberties. Second, the Plaintiffs are unlikely to  
26 prevail on the merits because the regulations and the selective enforcement thereof constitute  
27 content-based restrictions on speech which give rise to strict scrutiny. Finally, the Plaintiffs delayed  
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1 more than five months in bringing this action, undermining their contention that some urgent  
2 emergency exists. The TRO should not issue.

3 **A. Because a Substantially Similar Case is Pending in Federal Court Between the**  
4 **Same Parties, This Court Should “Stay” These Proceedings.**

5 “In exercising its discretion [to stay a proceeding] the court should consider the importance  
6 of discouraging multiple litigation designed to harass an adverse party, and of avoiding unseemly  
7 conflicts with the courts of other jurisdictions.” *Farmland Irrigation. Co. v. Dopplmaier*, 48 Cal.2d  
8 208, 215 (1957); *See also Caiafa Prof. Law Corp. v. State Farm Fire & Casualty Co.*, 15  
9 Cal.App.4th 800, 804 (1993).

10 Defendants in this case are currently engaged in federal question litigation against Plaintiffs  
11 in federal court (U.S. District Court for the Northern District of California case no.: 20-CV-03794-  
12 BLF). In the federal litigation, Defendants (Plaintiffs) are seeking an injunction and declaratory  
13 relief to enjoin the orders set by the County of Santa Clara restricting indoor/outdoor religious  
14 gatherings. Defendants in the federal action, are seeking to enjoin the same orders, Plaintiff in the  
15 present action is seeking to enforce. Accordingly, since the federal lawsuit arose prior to this state  
16 action and involves the same constitutional issues, this court should either dismiss these  
17 proceedings, or “stay” these proceedings in favor of the pending litigation in federal court. The  
18 approach of granting deference to earlier filed federal proceedings containing claims of the same  
19 subject matter---by applying a “stay” ---is discretionary but preferred in California. *Id* at 804.

20 Considering the timing and venue for the Plaintiffs’ motion in this case and knowing it had  
21 the same remedy available to it in the pending federal court action, the only explanation for this  
22 state court action is that it was filed to pressure and harass Defendants into settling their claims.  
23 This court should apply a stay of these proceedings, and not allow Plaintiffs to abuse the judicial  
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1 process for this purpose which will only result in an unseemly conflict with the federal court  
2 proceeding.

3 **B. The Emergency Services Act Violates Article III’s Non-Delegation Doctrine by**  
4 **Delegating the Legislative Power to Restrict Civil Liberties to County Health**  
5 **Officers Without Limitation.**

6 The Separation of Powers Article of the California Constitution is an express separation-of-  
7 powers article not found in the U.S. Constitution and many other state constitutions. It states: “The  
8 powers of state government are legislative, executive, and judicial. Persons charged with the  
9 exercise of one power *may not exercise either of the others* except as permitted by this Constitution.”  
10 (Cal. Const., art. III, § 3 [italics added].) The purpose of the doctrine is to protect individual liberty  
11 by preventing concentration of powers in the hands of any one individual or body. *Buckley v. Valeo*,  
12 424 U.S. 1, 122 (1976). To serve this purpose, courts “have not hesitated to strike down provisions  
13 of law that either accrete to a single branch powers more appropriately diffused among separate  
14 Branches or that undermine the authority and independence of one or another coordinate Branch.”  
15 *Kasler v. Lockyer*, 23 Cal. 4th 472, 493 (2000), quoting *Mistretta v. United States*, 488 U.S. 361,  
16 382 (1989).

17 The power to suspend, amend, rescind, create and enforce law is legislative in character, and  
18 is vested exclusively in the legislature, and cannot be delegated by it. *Doughtery v. Austin*, 94 Cal.  
19 601, 606-607 (1892); see also *People v. Johnson*, 95 Cal. 471, 475 (1892). “This doctrine rests  
20 upon the premise that the legislative body must itself effectively resolve the truly fundamental  
21 issues.” *Kugler v. Yocum*, 69 Cal. 2d 371, 377 (1968). The legislature cannot explicitly delegate the  
22 function to others or fail to “establish an effective mechanism to assure the proper implementation  
23 of its policy decisions.” *Id.* at 377-78.

24 If the state legislature does delegate to the Governor, the executive branch or counties the  
25 power to restrict civil liberties, strict scrutiny applies. To be sure, “[s]trict scrutiny does not apply  
26 automatically any time an enumerated constitutional right is involved.” (*People v. Mitchell* 209  
27 Cal.App.4th 1364, 1374 (2012) [quotation marks and brackets omitted].) But, strict scrutiny should  
28 be applied under the nondelegation doctrine to wholesale delegation of legislative powers to the

1 Governor, the CDPH, and Santa Clara County to restrict civil liberties because that delegation itself  
2 is resulting in the burdening of constitutional rights. In cases involving civil liberties, delegations of  
3 legislative power have always been closely scrutinized. (*See, e.g., I.N.S. v. Chadha*, 462 U.S. 919  
4 (1983) [a deportable alien had standing to challenge constitutionality of law containing a legislative  
5 veto].)

6 The Emergency Services Act, sections 8565 through 8574 of the Government Code, lacks  
7 legal text limiting the Governor’s restrictions of civil liberties to the “least restrictive alternative.”  
8 This omission has been fatal. In reliance on the Emergency Services Act, Governor Newsom  
9 promulgated the State Order and then the Santa Clara County issued their County Order and  
10 Gathering Directives. *Id.* Santa Clara County now has the unlimited power to decide fundamental  
11 issues surrounding the free exercise of religion such as how, when and where people worship.

12 The “least restrictive” text is found for treatment of the elderly and disabled (Prob. Code, §  
13 1800.3; Health & Saf. Code, §§ 1267.7, 1569.71, 1568.083; Welf. & Inst. Code, §§ 4806, 5600.1–  
14 5600.2), making children wards of the state (Welf. & Inst. Code, §§ 602.1, 18252–18253), and the  
15 provision of education to children. (Ed. Code, §§ 56205–56207; Gov. Code, § 7579.2.) If the  
16 legislature can include such limitations in statutes protecting the civil liberties of a proposed  
17 conservatee, or of a ward of the state, the legislature surely must include such limitations in the  
18 emergency delegation of legislative powers to restrict civil liberties of all Californians. Article III’s  
19 non-delegation doctrine requires nothing less.

20 In sum, the legislative delegation of emergency powers to Santa Clara County is not  
21 narrowly tailored to meet a compelling state interest. In the absence of limiting language to protect  
22 civil liberties, California’s Emergency Services Act and the County’s Order and Directives  
23 promulgated pursuant to it violate Article III’s non-delegation doctrine.

24 **1. Santa Clara County and Dr. Cody’s Authority under The Emergency Services Act is**  
25 **Unconstitutional.**

26 In times of distress, it is the duty of the courts to ensure that fundamental liberties are not  
27 swept away by the fear-based reactions of public officials – especially when those fears have failed  
28 to come to fruition five months into the panic. Just as we have learned from the internment of

1 Japanese-Americans in World War II<sup>7</sup> and the quarantine of 10,000 Chinese-Americans in San  
2 Francisco during the year 1900<sup>8</sup>, the restraint of fundamental liberties cannot be justified by fear but  
3 by an appropriate balance of public safety with the protection of civil liberties.<sup>9</sup>

4 The mortality rate and Plaintiffs baseless hypothetical predictions do not justify continuing  
5 the state of emergency. Infected people under age 70 survive the disease at least 99.8% of the time.  
6 (Bhattacharya Dec. ¶ 10). For the elderly individuals (age 70+), the mortality risk conditional on  
7 contracting the disease is higher, but still small, with 98.7% of infected elderly people surviving the  
8 infection. (*Id.*) However, even these numbers overestimate the risk of attending church service,  
9 since the probability of contracting the disease during the service is much less than one. (*Id.* ¶ 11).  
10 These risks are commensurate with many other risks that people are willing to take in the pursuit of  
11 their lives and faith. (*Id.*)

12 In sum, Santa Clara County’s unbridled stranglehold on civil liberties is unjustified. No state  
13 of emergency currently exists to justify the restrictions on indoor worship services, and this can be  
14 further proven during discovery and trial.

15 **C. Santa Clara County’s Arbitrary Restrictions Are Unconstitutional Because They Rely**  
16 **on Content Based Restrictions on Speech.**

17 Throughout the summer and to the current day, protests over racial inequality have raged  
18 throughout California and the country at large. But even when protesters have (and they in no way  
19 always have) followed these safety guidelines, many have still violated legal restrictions enacted as  
20 part of the response to COVID-19. Far beyond the frequent limits of congregating with no one  
21 outside your own household, or no more than 200 people outdoors, some of these protests have  
22 numbered in the thousands. Justified as these protesters are in their outrage, Santa Clara County has

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25 <sup>7</sup> *Korematsu v. United States*, 584 F. Supp. 1406, 1424 (N.D. Cal. 1984).  
26 <sup>8</sup> *Jew Ho v. Williamson*, 103 F. 10 (C.C. N.D. Cal. 1900).  
27 <sup>9</sup> “A mere suspicion [that an *individual* is infected] ... will afford no justification at all for depriving persons  
28 of their liberty and subjecting them to virtual imprisonment under a purported order of quarantine. *Ex parte*  
*Arata*, 52 Cal.App. 380, 383 (1921); *see also, Ex parte Martin*, 83 Cal.App.2d 164, 167 (1948) (quarantine  
of a person requires probable cause to believe the person so held has an infectious disease); *Jew Ho* 103 F.  
10, 26 (quarantine was unreasonable, unjust, and oppressive”).

1 promulgated and enforced rules which favor this sort of speech over others, refusing to interfere in  
2 the name of racial inequality.

3 The problem is, under the First Amendment Santa Clara County's conduct is  
4 unconstitutional. The Supreme Court has long been clear the government cannot pick-and-choose  
5 who gets treated one way versus another depending on what people say. (*Reed v. Town of Gilbert*,  
6 576 U.S.155 (2015)). The content-based restriction on speech are subject to strict scrutiny and almost  
7 always held unconstitutional. Here, Santa Clara County is favoring speech about racial justice over  
8 speech over the rights of churchgoers to exercise their faith. While the Defendant's face mounting  
9 fines now exceed \$350,000, those protesting in the name of favored causes are given a free pass,  
10 despite the same purported "immediate and severe risk of a superspreader event" which occurs  
11 whenever a group violates County health orders related to COVID-19. The Plaintiffs will struggle  
12 and ultimately fail to show how this selective enforcement and favored treatment of certain  
13 messages and groups is narrowly tailored to addressing a compelling government interest.  
14 Therefore, the TRO should not issue as the Plaintiffs are unlikely to prevail on the merits.

15 **D. The Plaintiffs Do Not Face Imminent Irreparable Injury.**

16 Without any evidence (and contrary to the facts on the ground), the Plaintiffs attempt to  
17 allege an immediate and severe risk of a superspreader event as the purported irreparable harm they  
18 face. (Plaintiff's TRO Application at pp. 10-11). However, these allegations are exactly the kind  
19 of conclusory allegations which courts disfavor. (*E.H Renzel Co. v. Warehousemen's Union*, 16  
20 Cal.2d 369, 373 (1940)). The Plaintiffs waited months to file this application, and this delay  
21 belies their claim of an imminent danger which rises to the level requiring the extraordinary  
22 measure of a TRO. Further, the reality is that in five months of meeting each Sunday since  
23 Pentecost, no known COVID-19 transmissions have occurred. County Officials felt safe  
24 enough to visit the church service on multiple occasions. All this to say, the Defendants have  
25 been meeting openly and notoriously for five months and the Plaintiffs did not consider it an  
26 emergency warranting the need for a TRO. In sum, the Plaintiffs fail to make a showing that  
27 anything material has changed to precipitate the need for an extraordinary measure like a TRO.

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**V. CONCLUSION**

The Plaintiffs conduct is unconstitutional, they are unlikely to succeed on the merits of their claims at trial, and their unexplained months-long delay belies the need for an emergency measure like a TRO. For the reasons stated above, Defendants respectfully request that the Court deny Plaintiffs' application in its entirety.

DATED: October 29, 2020

TYLER & BURSCH, LLP

By:   
Robert H. Tyler, Esq.  
Attorneys for Defendants **Calvary Chapel San Jose and Mike McClure**

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**PROOF OF SERVICE**

*The People of the State of California v. Calvary Chapel San Jose*  
*Santa Clara Superior Court Case No. 20cv372285*

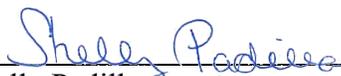
I am an employee in the County of Riverside. I am over the age of 18 years and not a party to the within entitled action; my business address is 25026 Las Brisas Road, Murrieta, California 92562.

On October 29, 2020, I served a copy of the following document(s) described as **OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER** on the interested party(ies) in this action as follows:

**SEE ATTACHED SERVICE LIST**

- BY E-MAIL OR ELECTRONIC TRANSMISSION.** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I transmitted copies of the above-referenced document(s) on the interested parties in this action by electronic transmission. Said electronic transmission reported as complete and without error.
- BY FACSIMILE TRANSMISSION.** Pursuant to agreement and written confirmation of the parties to accept service by facsimile transmission, I transmitted copies of the above-referenced document(s) on the interested parties in this action by facsimile transmission from (951) 600-4996. A transmission report issued as complete and without error.
- BY UNITED STATES POSTAL SERVICE.** I am readily familiar with the practice for collection and processing of correspondence for mailing and deposit on the same day in the ordinary course of business with the United States Postal Service. Pursuant to that practice, I sealed in an envelope, with postage prepaid and deposited in the ordinary course of business with the United States Postal Service in Murrieta, California, the above-referenced document(s).
- BY OVERNIGHT DELIVERY.** I enclosed the above-referenced document(s) in an envelope or package provided by an overnight delivery carrier and addressed as above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- BY PERSONAL SERVICE.** I caused copies of the above-referenced documents to the addressee(s) noted above served by process server.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am an employee in the office of a member of the bar of this Court who directed this service.

  
\_\_\_\_\_  
Shelly Padilla

