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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 1:08-cv-02248-RBW

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FIRST AMENDED COMPLAINT

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MICHAEL NEWDOW;  
ELLERY SCHEMPP;  
MEL LIPMAN;  
DAN BARKER;  
ANNIE-LAURIE GAYLOR;  
ROBERT SHERMAN;  
AUGUST BERKSHIRE;  
MARIE CASTLE;  
STUART BECHMAN;  
HERB SILVERMAN;  
JASON TORPY;

HARRY GREENBERGER;  
KIRK HORNBECK;  
RICHARD WINGROVE;  
CHRISTOPHER ARNTZEN;  
JOHN STOLTENBERG;  
KATHERINE LACLAIR;  
LOUIS ALTMAN;  
PAUL CASE;  
JERRY SCHIFFELBEIN;  
ANNE RICHARDSON;  
JAY RICHARDSON;  
DAN DUGAN;  
ANNA MAE ANDREWS;  
ELIZA SUTTON;  
RICHARD RESSMAN;

“UNNAMED CHILDREN;”

ADDITIONAL INDIVIDUALS;<sup>1</sup>

THE AMERICAN HUMANIST ASSOCIATION  
1777 T STREET, NW  
WASHINGTON, DC 20009

THE FREEDOM FROM RELIGION FOUNDATION  
304 W WASHINGTON AVE  
MADISON WI 53703

MILITARY ASSOCIATION OF ATHEISTS & FREETHINKERS  
519 SOMERVILLE AVE, PMB 200  
SOMERVILLE, MA 02143

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<sup>1</sup> The names and addresses of these individuals are provided (along with copies of their Declarations, signed under penalty of perjury) in Appendix G. Declarations from the original Plaintiffs are in Appendix F.

MINNESOTA ATHEISTS  
522 20TH AVE. S.  
MINNEAPOLIS, MN 55454-1325

ATHEISTS FOR HUMAN RIGHTS  
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MINNEAPOLIS MN 55430

ATHEIST ALLIANCE INTERNATIONAL  
1777 T STREET, NW  
WASHINGTON, DC 20009-7125

ATHEISTS UNITED  
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NEW ORLEANS SECULAR HUMANIST ASSN  
52 SAINT LOUIS STREET, APT. 3  
NEW ORLEANS LA 70130

UNIVERSITY OF WASHINGTON  
SECULAR STUDENT UNION  
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SEATTLE ATHEISTS  
11008 NE 140TH ST.  
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ATHEISTS OF FLORIDA  
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CENTRAL MINNESOTA FRIENDS FREE OF THEISM  
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HUMANIST SOCIETY OF SANTA BARBARA  
PO BOX 30232  
SANTA BARBARA, CA 93130

FREETHINKERS OF COLORADO SPRINGS, INC.  
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COLORADO SPRINGS, CO 80908

ATHEISTS OF BROWARD COUNTY, FL., INC.  
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PEMBROKE PINES, FL 33024

HUMANISTS OF WASHINGTON  
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PENNSYLVANIA NONBELIEVERS  
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MOUNT WOLF, PA 17347

FREETHOUGHT SOCIETY OF GREATER PHILADELPHIA  
P.O. BOX 5054  
WEST CHESTER, PA 19380

BOSTON ATHEISTS  
95 MELVILLE AVENUE  
BOSTON, MA 02124

PLAINTIFFS,

v.

HON. JOHN ROBERTS, JR.  
CHIEF JUSTICE OF THE U.S. SUPREME COURT  
SUPREME COURT OF THE UNITED STATES  
ONE FIRST STREET NE  
WASHINGTON, DC 20543

OTHER UNNAMED OATH ADMINISTRATOR(S)

PRESIDENTIAL INAUGURAL COMMITTEE ("PIC")  
WASHINGTON, DC 20599

EMMETT BELIVEAU, EXECUTIVE DIRECTOR, PIC  
WASHINGTON, DC 20599

OTHER PIC DEFENDANTS

JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES ("JCCIC")  
UNITED STATES SENATE  
331 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510

SENATOR DIANNE FEINSTEIN, CHAIRPERSON, JCCIC  
UNITED STATES SENATE  
331 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510

ARMED FORCES INAUGURAL COMMITTEE (“AFIC”)  
JOINT FORCE HEADQUARTERS - NATIONAL CAPITAL REGION  
US ARMY MILITARY DISTRICT OF WASHINGTON  
103 THIRD AVENUE - FORT LESLEY J. MCNAIR  
WASHINGTON, DC 20319-5058

MAJOR GENERAL RICHARD J. ROWE JR., CHAIRPERSON, AFIC;  
JOINT FORCE HEADQUARTERS - NATIONAL CAPITAL REGION  
US ARMY MILITARY DISTRICT OF WASHINGTON  
103 THIRD AVENUE - FORT LESLEY J. MCNAIR  
WASHINGTON, DC 20319-5058

UNITED STATES SECRET SERVICE (“USSS”)  
GENERAL COUNSEL’S OFFICE  
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MARK SULLIVAN, DIRECTOR, USSS  
C/O GENERAL COUNSEL’S OFFICE  
950 H STREET, NW #8300  
WASHINGTON, DC 20223

UNITED STATES MARSHALS SERVICE (“USMS”)  
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ARLINGTON, VA 20530

JOHN F. CLARK, DIRECTOR, USMS  
1750 CRYSTAL DRIVE – BLDG CS-3  
ARLINGTON, VA 20530

OTHER GOVERNMENTAL “ROE” DEFENDANTS;

REV. RICK WARREN;  
REV. JOE LOWERY;

OTHER UNNAMED CLERGY;

DEFENDANTS.

Plaintiffs allege as follows:

**JURISDICTION AND VENUE**

1. This is a civil action claiming violations of the First and Fifth Amendments of the Constitution of the United States of America. As such, this Court has jurisdiction under 28 U.S.C. § 1331.
2. This action is founded upon the Constitution of the United States of America. As such, this Court has jurisdiction over Defendants under 28 U.S.C. § 1346(a)(2).
3. This is a civil action claiming violations of 42 U.S.C. §§ 2000bb et seq. (Religious Freedom Restoration Act (RFRA)). As such, this Court has jurisdiction under 42 U.S.C. §§ 2000bb-1(c) and 28 U.S.C. § 1331.
4. This action seeks declaratory relief. As such, this Court has jurisdiction under 28 U.S.C. § 2201(a) and 28 U.S.C. § 2202.<sup>2</sup>
5. This action seeks injunctive relief. As such, this Court has jurisdiction under 28 U.S.C. § 1343(a)(3) and 28 U.S.C. § 1343(a)(4).
6. This action is in the nature of mandamus, and seeks to compel those Defendants who are “officer[s] or employee[s] of the United States or any agency thereof” to perform their duties owed Plaintiffs under the terms of the First and Fifth Amendments of the Constitution of the United States. As such, this Court has jurisdiction under 28 U.S.C. § 1361.
7. Defendants PIC, JCCIC and AFIC all reside in this judicial district.<sup>3</sup> The events giving rise to this claim all have taken place, are taking place or will be taking place in this judicial district. Venue is therefore proper under 28 U.S.C. § 1391(b).

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<sup>2</sup> It might be noted that Fed. R. Civ. P. Rule 57 states in pertinent part that, “The court may order a speedy hearing of a declaratory-judgment action.”

<sup>3</sup> The remaining defendants may or may not reside in this judicial district.

## PARTIES

### **I. Plaintiffs**

8. Plaintiff Michael Newdow is a citizen of the United States, a resident of the State of California, Reverend of the First Atheist Church of True Science (“FACTS”), a member of the Freedom From Religion Foundation (“FFRF”) and the American Humanist Association (“AHA”), and an Atheist. He viewed the 2001 presidential inauguration on television, and actually had a ticket for the 2005 inauguration, which he opted not to attend solely because those orchestrating that event refused to eliminate the use of (Christian) Monotheistic clergy. He states, “On January 20, 2009, I traveled to Washington, DC, to view the inauguration of President Obama. I had obtained tickets to be admitted to the event. I accompanied a minor child, whose parents had entrusted her care to me. Unable to get into the viewing section for which we had tickets, we entered the Rayburn House Office Building, and found a room where numerous individuals were watching the ceremony on a television. We watched along with them.”<sup>4</sup> In that room, Newdow, “was infuriated by the repeated endorsements of belief in God, and felt as a ‘political outsider’ among the many other viewers who were clearly Christian Monotheists, participating in Defendant Rev. Warren’s recitation of the Lord’s Prayer, bowing their heads during the invocation and benediction, and so on. In fact, the very first words [he] heard after the ceremony ended was a ‘God bless you’ from one of the viewers.” He continues, “Because I have a keen interest in our nation’s government generally, and in the inaugural ceremonies in particular, I plan to view every future inauguration for the rest of my life.” He expects that will be at least six more inaugurations. He writes, “It is my fervent hope that I won’t have to endure any further violations of my fundamental rights under the religion clauses of the Constitution at any of those.”

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<sup>4</sup> All Plaintiffs’ quotes are taken from their Declarations, signed under penalty of perjury. Appendix F.

9. Plaintiff Ellery Schempp is a citizen of the United States, a resident of the State of Massachusetts, a member of the Unitarian-Universalist Church, First Parish, in Bedford, Massachusetts, a member of the Freedom From Religion Foundation (“FFRF”), the American Humanist Association (“AHA”), the National Center for Science Education (“NCSE”), Americans United for Separation of Church and State (“AUC&S”), the Secular Coalition for America (“SCA”), the Center for Naturalism, and the Skeptic Society, and a Secularist, Humanist and Atheist. He has watched every inauguration on his television at home since 1960. When he heard Defendant Roberts add the phrase, “so help me God,” to the oath of office, he felt offended. “This phrase about God is not in our Constitution. ... I do not believe that incantations to a ‘deity’ help humans solve human problems. To me, it sounded like a superstitious ritual, which offends true spiritual concerns.” As for the invocation and the benediction, Plaintiff Schempp writes, “I thought this an intrusion of church-oriented ‘pastors’ who have their own agendas. Magical thinking has never been worthwhile in human affairs.” He intends to watch all future inaugurations during his lifetime, which should be approximately four inaugurations over the next 15-20 years.
10. Plaintiff Mel Lipman is a citizen of the United States, a resident of the State of Florida, Board member (and immediate past president) of AHA, a member of FFRF and a Humanistic Jew who does not believe in a god. He viewed the inauguration on January 20, 2009 at home on television. A constitutional law professor, he states, “The repetitive references to belief in a monotheistic god and the recitation of the “Lord’s Prayer” during the ceremony, made me feel as an outsider watching a ceremony in a theocracy of which I was not part.” He is 72 years old and healthy, and hopes to view at least two more inaugurals, which “do not violate my fundamental constitutional right to be free from endorsement of religion by my government.”

11. Plaintiff Dan Barker is a citizen of the United States, a resident of the State of Wisconsin, a founder and co-President of FFRF, and an Atheist. He watched the Obama inauguration via live streaming on his computer at work.” Although pleased to participate “in the most significant ceremony of my country,” he was hurt by the “formal prayers at the beginning and ending of the ceremony,” stating, “I am not religious and not only think prayers are ineffectual but think they cause to divide Americans.” Plaintiff Barker states, “I felt left out and excluded. I felt like a second-class American when I saw the Inauguration directly interfere with and contradict my most precious, private opinions on religious matters. I would love to watch future inaugurations, but now feel less excited about it, anticipating that my views will once again be insulted in a ceremony that is supposed to include all Americans.”

12. Plaintiff Annie-Laurie Gaylor is a citizen of the United States, a resident of the State of Wisconsin, a founder and co-President of FFRF, and an Atheist. She “viewed the prayers and swearing-in segments of the Inauguration of President Obama, first via the Internet live at work, and later ... via a C-Span recording on our television at home in Madison.” Plaintiff Gaylor states, “I was so disappointed and frustrated that the Inauguration appeared to turn into a religious, instead of civil, ceremony. I bridled at Rev. Rick Warren ordering me and the public to pray, and was shocked that he prayed in the name of Jesus (repeating the name in several languages).” Regarding Rev. Lowery, “I found the public spectacle of someone whom I have respected as a former civil rights activist, praying out loud to an imaginary deity, to be highly embarrassing.” With “an interest in the news and politics of the day, I make it a point to view the presidential inaugurations, and believe I have watched all of them since I came of age. I am 53, and hope and expect to view at least six more inaugurals.” Hopefully, the future ceremonies will occur in a manner “so that I will not feel excluded.”

13. Plaintiff Robert Sherman is a citizen of the United States, a resident of the State of Illinois, and an Atheist. Although he planned to view the inauguration live in Washington, DC, he opted not to “because of all the offensively inappropriate God stuff that I knew would be crammed into what was supposed to be a secular government ceremony.” Plaintiff Sherman states, “I have avoided watching previous inaugurations for as far back as I can remember for the same reason.” He continues, “I intend to watch all future inaugurations during my lifetime, which should be the next twenty to twenty-eight years, but only if the ceremonies are secular, as they are supposed to be.”
14. Plaintiff August Berkshire is a citizen of the United States, a resident of the State of Minnesota, president of Minnesota Atheists, a member of AHA, FFRF and AAI, and an Atheist. He viewed the January 20, 2009 inauguration on television, and states, “My sense of patriotic pride was ruined when Defendant Pastor Rick Warren interrupted the secular ceremony with sectarian Christian prayer. I don’t know who he was talking to, I only know it wasn’t me. I felt excluded.” Furthermore, he is “fully aware that the presidential oath appears in the U.S. Constitution and does *not* include the words “so help me God.” Thus, when Defendant Roberts altered the oath, Plaintiff Berkshire “again felt the secular ceremony was ruined by the addition of government-sponsored religion.” Plaintiff Berkshire viewed the 2001 presidential inauguration on television. “I expect that I will view at least seven more inaugurations. I look forward to future inaugurations being free from government-sponsored religion and adhering to the U.S. Constitution.”
15. Plaintiff Marie Castle is a citizen of the United States, a resident of the State of Minnesota, communications director of Atheists For Human Rights (“AFHR”), a member of FFRF and AA, and a “Valiant Atheist.” She states, “Several local members (5, including myself) were at our

headquarters to watch the event on our big screen TV on January 20, 2009. All expressed disappointment and outrage at the religiosity we were exposed to. ... [N]o one could see any reason for the prayers other than an arrogant assumption that the U.S. is a Christian nation and unbelievers are outsiders.” Plaintiff Castle further states, “I have always found [inaugural religiosity] offensive and dismissive of me as a worthy citizen. Even if the religiosity consists only of ‘so help me God,’ I find that offensive because it is not part of the oath as stated in the Constitution. The implication is that the Constitution is not good enough and needs an overlay of religion to validate it.” She concludes, “I watched the ... inaugural in hopes that it would be inclusive, but it was not. It was, if anything, worse than previous inaugurations. I do not intend to expose my self to these unconstitutional insults in the future.”

16. Plaintiff Stuart Bechman is a citizen of the United States, a resident of the State of California, President of Atheist Alliance International (“AAI”), President of Atheists United (“AU”), a member of FFRF and AA, and an Atheist. He viewed the 2001 presidential inauguration on television. He refused to view the 2005 presidential inauguration out of disgust of the blatant religious proselytization and the disregard of church-state separation that he viewed in 2001. As regards the 2009 ceremony, Plaintiff Bechman states, “Because of the denial of the original injunction, I anticipated the inaugural ceremony to be offensive, exclusionary to me, and in violation of the First Amendment of our Constitution; and so I did not participate in or view any part of the inaugural ceremony.” Plaintiff Bechman also states, “As these inaugurations clearly do not mean to include me or those who share my worldview, I do not intend to attend or watch any future presidential inaugurations, and I intend to shield my children and grandchildren from them in order to protect them from the messages that our government ignores our laws and that we are second-class citizens in this country.”

17. Plaintiff Herb Silverman is a citizen of the United States, a resident of the State of South Carolina, President of the Secular Coalition for America (“SCA”), a Board member of AHA, faculty advisor to the College of Charleston Atheist-Humanist Alliance student group, and an Atheist. He watched the inauguration of President Obama on television, and “felt a wonderful and profound chill watching Barack Obama become the first African-American president.” Nonetheless, he felt there was an excess of references to God, and “all this religiosity made me feel like a second-class citizen.” Plaintiff Silverman intends to view “all future inaugurations” during his remaining life. Hopefully, those will not involve activity “in which the separation of religion and government is so abused.”
18. Plaintiff Jason Torpy is a citizen of the United States, a resident of the State of New York, President of the Military Association of Atheists & Freethinkers (“MAAF”) and board member of AHA, graduate of West Point, Iraq War veteran and a Nontheist. He has viewed each of the last five presidential inaugurations on television (both Clinton and Bush inaugurations, and the Obama inauguration on January 20, 2009). He “noted with disappointment the use of religious messages and the Christian Bible during each.” After the Obama inaugural, he felt that “the Christian prayer and pandering, undocumented in the Constitutional ceremony and authorized entirely by personal religious beliefs rather than public or Constitutional mandate, show that Christians hold an undue and disturbing influence in our government and that even though a black man can be elected, non-Christians apparently are still de-facto second-class citizens.” “With a keen interest in our nation's government,” Mr. Torpy plans “to view most future inaugurations for the rest of my life, especially if reforms are made to avoid the exclusionary and divisive practice of including religious messages in inauguration ceremonies.” At age 32 and in very good health, he expects that will include at approximately ten more inaugurals.

19. Plaintiff Harry Greenberger is a citizen of the United States, a resident of the State of Louisiana, President of the New Orleans Secular Humanist Association (“NOSHA”), a member of AHA, FFRF and AA, and an Atheist. He watched the inauguration at home on television on January 20, 2009, and “found repugnant the addition of “so help me God” to the constitutionally prescribed oath of office.” He has viewed approximately five of the prior televised inaugurations and (at the age of 81) intends to view future inaugural ceremonies.
20. Plaintiff Kirk Hornbeck is a citizen of the United States, a resident of the State of Maryland, a member of FFRF and AHA, and an Atheist. Having witnessed eleven previous inaugurals, he looked forward to viewing the January 20, 2009 event live by standing in the “Silver” area (for which he had a ticket). However, he was unable to get into that area, and instead watched the event on a television in the Rayburn House Office building. Plaintiff Hornbeck states, “I was appalled and outraged at the extent of a clearly Christian presentation at one of the most important functions of our democracy: the inauguration of the President of the United States.” As a 62 year old veteran, the inauguration made him “feel violated and harmed to a degree that is difficult to put into words.” He expects to view at least five more inaugurations, hopefully after the judicial system acts “to protect my fundamental religious rights against the voice of a vocal majority.”
21. Plaintiff Richard Wingrove is a citizen of the United States, a resident of the Commonwealth of Virginia, a member of FFRF, and an Atheist. “On January 20, 2009, I was on the National Mall in Washington, DC, to view the inauguration of President Obama. Unable to get any closer, we watched the inauguration from a large screen near the Lincoln Memorial.” He was “insulted and upset by the numerous references to the alleged Christian deity,” and notes that “it is easy to feel not only excluded, but threatened when government openly endorses a sectarian religious

establishment.” Plaintiff Wingrove is an “involved, politically engaged citizen,” who states “I will continue to participate in the political process and view many more inaugurations.”

22. Plaintiff Christopher Arntzen is a citizen of the United States, a resident of the District of Columbia, a member of AHA and FFRF, and an Atheist. On January 20, 2009, he walked from his home in Washington, D.C. and joined the large crowd assembled on the National Mall to view the inaugural ceremony on the large video displays that had been set up there. “I felt isolated and like an outsider on several occasions when references were made to religion and belief in God. During the presentation by Defendant Rev. Warren, many in the crowd around me adopted postures of prayer suitable to Protestant religious services, something I have not encountered in public before. I found the benediction given to be undignified, aggressively sectarian in tone, and offensive to someone who does not share the evangelical Protestant beliefs of the minister who delivered it.” With “an active interest in politics and national events,” Plaintiff Arntzen “has carefully followed coverage of presidential inaugurations on television beginning in 1965, at the age of 15.” He watched televised coverage of the inaugurations in 1969, 1973, and 1977. After moving to Washington, D.C., in 1981, he received inauguration day off from his employers and took the opportunity to watch live television coverage of the 1981, 1985, 1989, 1997, and 2005 inaugural ceremonies. He visited the National Mall during the 1993 and 2001 inaugurations and watched the ceremonies later the same day when they were rebroadcast. Now at age 59 and in good health, he expects to continue this unbroken interest in national events throughout his lifetime and to attend or watch on television no fewer than five additional Inaugurations.

23. Plaintiff John Stoltenberg is a citizen of the United States, a resident of the State of Wisconsin, a member of AHA and FFRF, and a Freethinker/Atheist. He witnessed the inaugural oath-taking

at home on television on January 20, 2009, and felt it to be “enormously disappointing to see what should be a secular ceremony conducted by our secular government being used to promote the notion that Christian religion must be introduced into the ceremony in order for the ceremony to have legal standing.” Plaintiff Stoltenberg is seventy years old and has watched every inauguration since they were first put on TV. He plans to continue to watch future inaugurations until he dies.

24. Plaintiff Katherine LaClair is a citizen of the United States, a resident of the State of New Jersey, and a Humanist. She had previously viewed the 1997 and 2001 inaugurations, and attended the January 20, 2009 inaugural ceremony in Washington, D.C. on the Capitol Mall. Plaintiff LaClair states that “[t]he repeated endorsements of a supernatural creator, ‘God,’ made me feel entirely excluded from the ceremony as a social and political outsider. Every individual I could see around me bowed their heads during Defendant Rev. Warren’s recitation of the Lord’s Prayer, as well as the invocation and benediction. Defendant Warren’s blatant disregard for those of other faiths was infuriating, most notably his unwavering and repeated assertions that all of creation is due to a god.” As a responsible and involved citizen, she plans to view all future inaugurations for the remainder of her life. Being twenty years old and in excellent health, that time period will likely include at least sixteen inaugural ceremonies.

25. Plaintiff Louis Altman is a citizen of the United States, a resident of the State of Illinois, a descendent of Jewish immigrants, a member of the Board of AHA, a member of FFRF, president of the Society for Humanistic Judaism, and a member other organizations devoted, among other objectives, to keeping the government of this country secular in nature. He is a Humanist who viewed the inaugural ceremony on television on January 20, 2009, and was “saddened by the repeated endorsements of belief in God, and felt clearly that I was a ‘political

outsider' among the Christian Monotheists.” Plaintiff Altman has listened to or viewed every presidential inauguration via radio or television since 1945, when he was 12 years old, and he plans to continue doing so for the rest of his life. Now 75 years old and in good health, he plans to view “several more inaugurals,” hoping “that I won’t have to endure any further violations of my fundamental rights under the religion clauses of the Constitution at any of those.”

26. Plaintiff Paul Case is a citizen of the United States, a resident of the State of Washington, a member AA and Seattle Atheists ("SA"), and an Atheist. He has viewed the 1993 and 2001 presidential inaugurations. He viewed the Obama Presidential inauguration on a big screen projector live at work with several of his co-workers. He states, “I was disappointed at the religious overtures- why do I have to hear a prayer at what is essentially a public ceremony?? It is clear that the Christian majority does not care to make the rest of us sit still through their prayers, but how would they feel if it was a religion they did not approve of? I doubt they would be as glib about a Scientologist-led prayer.” Plaintiff Case plans on watching about ten more inaugurations over his lifetime.

27. Plaintiff Jerry Schiffelbein is a citizen of the United States, a resident of the State of Washington, President of Humanists of Washington (“HOW”), Treasurer of Seattle Atheists (“SA”), and a Secular Humanist, Atheist and Freethinker. He states, “I was unable to view the 1993 inauguration due to a windstorm that knocked out power that day, and I was not able to view the 1997 presidential inauguration because I was at work that day. I did not view the 2001 or 2005 inaugurations as I did not believe the elections preceding them were legitimate. As such, the inauguration of President Barack Obama, which occurred on January 20, 2009, was the first I watched live on television. I still remember very clearly the feeling of pride and exuberance of watching history being made. For the first time in years, I

felt like a true citizen of this country.” Nonetheless, “this feeling was tarnished by the inclusion of the invocation given by Pastor Rick Warren. I felt that the prayer he gave was very sectarian and exclusive.” Plaintiff Schiffelbein writes, “As an American citizen vested in this country’s political future, I plan to view every future inauguration for the rest of my life. At age 46 and in good health, I anticipate that this will include at least eight more inaugurations.”

28. Plaintiff Anne M. Richardson is a citizen of the United States, a resident of the State of Virginia, a member of Washington Area Secular Humanists (“WASH”), and an Atheist. She watched the inauguration on the Capitol Mall with her son, and was “very disappointed” over the “so help me God” addition to the oath of office. Although she plans to continue attending future inaugurations, she will “fight against any religious language and rhetoric included in them.”
29. Plaintiff Jay Richardson is a citizen of the United States, a resident of the State of Virginia, a member of Washington Area Secular Humanists (“WASH”), and an Atheist. He watched the inauguration of President Obama on the Capitol Mall with his mother, and was “sorry” to hear the “so help me God” verbiage, believing that “these words are telling me that I am a second class citizen in the United States.” He plans to continue to attend future inaugurations.
30. Plaintiff Dan Dugan is a citizen of the United States, a resident of the State of California, and a Secular Humanist. He was in Yosemite during the inauguration, but “watched a television recording of the 2009 Inaugural ceremony at my earliest opportunity when I returned home the evening of the next day.” When he did so, he “was offended by the elaborate prayer of Pastor Rick Warren, and the addition of ‘So help me God’ to the oath of office.” Plaintiff Dugan has watched every inauguration since 1961. He expects to see at least four more inaugurations, “free of religious acts that offend me.”

31. Plaintiff Anna Mae Andrews is a citizen of the United States, a resident of the State of California, a member of AHA and a Humanist and an Atheist. She watched the Obama inaugural ceremony on television on January 20, 2009. “A president represents all of us, religious or not,” she writes, “and I feel discriminated against, and offended, to have religion and prayers at the inauguration.” Plaintiff Andrews has “either heard (on the radio) or seen (on television) all the inaugurations since the 1950s. I won't be a witness to further inaugurations because I'm tired of being exposed to the governmental endorsements of monotheism. I've seen too many inaugurations that don't reflect our secular nation.” She concludes, “I would otherwise like to view the inaugurations as a part of my history.”
32. Plaintiff Eliza Sutton is a citizen of the United States, a resident of the State of Washington, a member of AHA, FFRF and Seattle Atheists, and “a lifelong Atheist.” On January 20, 2009, she listened to the inauguration live on the radio, after which she viewed the ceremony on an inline video. “Listening to the ceremony brought me tears of frustration and a sense of isolation. I felt excluded from the proceedings of this Constitutionally mandated transfer of my government's administration, due to repeated statements in the proceedings which assumed and seemed to advocate belief in God and in monotheism.” Plaintiff Sutton states, “I plan to view every future inauguration for the rest of my life. Being age 45 and in good health, I expect that I will view at least nine more inaugurals. It is my clear hope that I won't have to endure any further violations of my fundamental rights under the religion clauses of the Constitution at any of those future presidential inaugurations.”
33. Plaintiff Richard Ressman is a citizen of the United States, a resident of the State of California, and a “seldom practicing Jew.” He has watched the inaugurations from 1961 to the present on television. He watched the inaugural ceremony at home on television on January 20, 2009. “As I

watched ..., I resented the references to god in the oaths and the use of a bible.” He is 67 years old, and expects to witness at least five more inaugurations.

34. Plaintiffs “Unnamed Children” are the children of one or more of the adult plaintiffs (and/or members of AHA and/or FFRF) in this case. They have been and/or will be coerced to view (Christian) Monotheism thrust into the midst of the nation’s grandest civic ceremony which they have every right to experience without being turned into outsiders, or being thrown into a state of confusion as to their own patriotism, sense of belonging, and confidence in the religious values that have been instilled by their parents and/or gathered on their own.
35. Plaintiffs “Additional Individuals” are those whose Declarations are included in Appendix G. Their pertinent accounts can be gleaned from those Declarations.
36. Plaintiff American Humanist Association (“AHA”) is dedicated to ensuring a voice for those with a positive, nontheistic outlook. Headquartered in Washington, D.C., its work is extended through more than 100 local chapters and affiliates across America. Humanism is a progressive philosophy of life that, without theism and other supernatural beliefs, affirms our ability and responsibility to lead ethical lives of personal fulfillment that aspire to the greater good of humanity. The mission of the American Humanist Association is to promote the spread of humanism, raise public awareness and acceptance of humanism and encourage the continued refinement of the humanist philosophy. AHA has more than 10,000 members in every state as well as the District of Columbia. AHA was founded in 1941 and members are thought to have watched the inaugural exercises on television since Franklin Roosevelt’s fourth inaugural in 1945. Additionally, it is believed that AHA members have personally attended presidential inaugurations since at least the 1960s. AHA anticipates that members will watch each and every future inauguration until the organization disbands. There are no plans to disband at this time.

37. Plaintiff Freedom From Religion Foundation (“FFRF”) is a national association of Freethinkers (Atheists and Agnostics), established as a 501(c)(3) educational association to promote nontheism. It works to protect its members by keeping church and state separate. Based in Madison, Wisconsin, the Foundation has members in every state as well as the District of Columbia. Current total membership is more than 14,000. FFRF started in 1976, and went national in 1978. The Foundation, on behalf of its membership, has protested the inclusion of “so help me God” in the Presidential Inauguration ever since its inception, consistently writing presidents-elect, pointing out that the oath as dictated in the Constitution is secular and god-free. The Foundation wrote President-Elect Barack Obama on December 22 to request that he recite the oath as prescribed in the Constitution. Members take careful note of the Inaugural swearing-in, due to concern over the mingling of religion with this most civil of all ceremonies. Its membership has consistently expressed dismay during the 30 years of our national existence over the inclusion of “God” in the Inaugural Oath and the use of formal prayer by invited ministers. With many careful political observers among its membership, the Foundation has every reason to assume its members will continue to have a strong interest in attending or watching the Presidential Inauguration well into the future. FFRF has no plans to disband.
38. The Military Association of Atheists and Freethinkers (“MAAF”) is an independent 501(c)3 project of Social and Environmental Entrepreneurs. MAAF is a community support network that connects military members from around the world with each other and with local organizations. In addition to our community services, MAAF takes action to educate and train both the military and civilian community about our issues and respond to insensitive practices that illegally promote religion over non-religion within the military. MAAF has special concern for the legality of actions by senior military officials including the Commander-In-Chief. MAAF has

been in existence since 2000, and members are believed to have watched both of the prior presidential inaugurations since that time. Because members are primarily active duty and veteran US service members, they have a special interest in the government and the Commander In Chief. It is expected that members will be watching nearly every future inauguration until the organization disbands. There are no plans to disband at this time.

39. Plaintiff Minnesota Atheists (“MNA”) is the oldest, largest, and most active Atheist organization in the state of Minnesota. It was founded in 1991 and is a 501(c)3 nonprofit educational organization. Its purposes are: to provide a community for Atheists; to educate the public about Atheism; and to promote separation of state and church. With currently 400 members, it is highly likely that every inaugural since 1991 was watched by at least some of our members, including their children. Its membership is steadily growing, and it has no plans to disband. Therefore, it is likely that every inauguration from now on will be watched by at least some of its members, including their children.
40. Plaintiff Atheists for Human Rights (“AFHR”) is a staunch advocate for religion-free government uninfluenced by sectarian religious beliefs, that supports an inclusive society that does not give preferential treatment to any religious group. It has membership throughout the United States, many of whom will be watching the inaugural events on the big screen TV at its headquarters in Minneapolis, Minnesota.
41. Plaintiff Atheist Alliance International (“AAI”) is an umbrella group of over 60 Atheist and humanist organizations across the United States, founded in 1992 and dedicated to promoting the worldview of positive Atheism and pursuing the restoration of the First Amendment. The ethical and constitutional conduct of the US government, especially in regards to church-state separation, has always been of keen interest to its membership. Members have observed or

attended at least the last 4 inaugurations, and have regularly discussed what might be done to hold the event sponsors and participants accountable for their blatant disregard of the US Constitution in regards to church-state separation. No members are known to be planning to attend this year in person, but many, along with their children, will be viewing the ceremonies on television. A similar number will refuse to watch and will forbid their children from watching because of their revulsion of the unconstitutional religious proselytizing that they expect to happen at the ceremony. Because of the interest over this issue, AAI expects that its members and their children and grandchildren will observe or attend every future inauguration for the life of the organization. The organization has no plans to disband at this time.

42. Plaintiff Atheists United (“AU”) is the preeminent Atheist organization in southern California, founded in 1982 and dedicated to providing a community for Atheists and fighting the societal stigmas and stereotypes about Atheism through education and advocacy. AU was founded in 1982, partly as a response to the religious proselytizing conducted at the 1981 presidential inauguration of Ronald Reagan. Members of our organization have always been keenly interested in the inauguration and have regularly discussed their disappointment and upset at the ongoing and building church-state violations observed in the past six inauguration ceremonies since our founding. Many members plan to attend this year’s ceremony in person. Many, along with their children, will be viewing the ceremonies on television. A similar number will be refuse to watch and will forbid their children from watching because of their revulsion of the unconstitutional religious proselytization that they expect to happen at the ceremony. Because of the interest over this issue, AU expects its members and their children and grandchildren to observe or attend every future inauguration for the life of the organization. The organization has no plans to disband at this time.

43. Plaintiff New Orleans Secular Humanist Association (“NOSHA”) is the only secular organization covering Southern Louisiana and the Mississippi Gulf coast, providing monthly meetings, quarterly newsletters, informative website and public access television programs. Without supernaturalism, its members celebrate reason and humanity. NOSHA was organized in 1999. It is believed that most of its members viewed on television the inaugurations in 2001 and 2005. The members anticipate viewing all of the future inaugurations. The organization is growing and has no plans to terminate activities.
44. Plaintiff University of Washington Secular Student Union (“UWSSU”) was formed in the summer of 2006 to provide students at the University of Washington in Seattle, Washington, who are Atheist, Agnostic, and otherwise nonreligious students with a place to discuss their lack of faith, and to provide all students with a forum to discuss and debate general issues of religion and philosophy. The Secular Student Union is a student-created and student-run organization. Members communicate with other similar groups across the nation via the Internet, Facebook and other electronic media to share ideas and programs around their philosophical perspective. Members of the group include self-described Atheists, Agnostics, Freethinkers, and other non-theists perspectives.
45. Plaintiff Seattle Atheists (“SA”) is a nonprofit educational corporation organized to develop and support the Atheist, Rationalist, secular Humanist, Agnostic, Skeptic and non-theist communities; to provide opportunities for socializing and friendship among these groups; to promote and defend their views; to protect the first amendment principle of state-church separation; to oppose any discrimination based upon religious conviction, particularly when it is directed at the non-religious; to expose the dangers of supernaturalism and superstition; to promote science; and to work with other organizations in pursuit of common goals. SA has been

in existence since 2004, and members are believed to have watched one inauguration since that time. It is expected that members will be watching the Barak Obama inauguration on January 20, 2009, and most future presidential inaugurations.

46. Plaintiff Atheists of Florida (“AOF”) is a 501(c)(3) nonprofit, educational corporation founded to heighten public awareness about Atheism and to monitor state/church separation issues. AOF has been in existence since 1992, and members are believed to have watched all five presidential inaugurations since that time. It is expected that members will be watching every future inauguration until the organization dissolves. There are no plans to dissolve at this time.
47. Plaintiff Central Minnesota Friends Free of Theism (“CMFFOT”) is a non-profit organization that began in 1997 to promote the separation of church and state and provide a community for Atheists, Humanists, and agnostics in Central Minnesota. Many of its members are involved as volunteers and professionals in secular organizations contributing to the betterment of society.
48. Plaintiff Humanist Society of Santa Barbara (“HSSB”) is a 501(c)(3) non-profit corporation incorporated in California. Its purpose is to foster a community of Secular Humanists in the greater Santa Barbara County area dedicated to improving the human condition through rational inquiry and creative thinking unfettered by superstition, religion or any form of dogma. It has been in existence for 12 years and has approximately 150 members.
49. Plaintiff Freethinkers of Colorado Springs, Inc. (“FTCS”) is a Colorado not-for-profit corporation and educational organization of freethinkers, advocating the use of critical thinking, logic and reason to evaluate the credibility of claims, especially with respect to religion, the supernatural and tradition. It holds monthly meetings, promotes the rational basis of morality, defends the separation of church and state, and contends that freedom of religion includes freedom *from* religion.

50. Plaintiff Atheists of Broward County, Fl., Inc. (“ABC”), and also known as Florida Atheists and Secular Humanists (“FLASH”), is a non-profit educational organization founded in 2007, supporting science education, separation of state and church (especially in public places of learning), and creating a community for nonbelievers in South Florida.
51. Plaintiff Humanists of Washington (“HOW”) is a 501(c)(3) educational corporation comprised of secular humanists and freethinkers from across the state of Washington. Founded in 1979, it is the oldest, largest and most active humanist organization in the state. HOW espouses a life-affirming, secular view of the universe, built on a foundation of reason, science, and democracy, and supports intellectual freedom, free inquiry, critical thinking and human compassion.
52. Plaintiff Pennsylvania Nonbelievers, Inc. (“PAN”) is a Pennsylvania non-profit educational corporation for atheists, agnostics, secular humanists and other nonbelievers, primarily in central Pennsylvania. Founded in 1998, it holds monthly meetings in two locations and advocates the positive values of reason, rational thinking, and understanding the natural origin of our world and our personal freedoms and responsibilities. Its members have watched past inaugurations on television, including 2009, and plan to watch future inaugurations, including 2013. They have felt excluded from the American political process by the addition of the religious phrase, “so help me God,” to the Constitutional oath of office and the inclusion of divisive religious prayers in the ceremonies.
53. Plaintiff Freethought Society of Greater Philadelphia (“FSGP”) was founded in 1993 and today serves over 100 members most of whom are in the Greater Philadelphia, Pennsylvania area. FSGP holds monthly meetings and advocates reason, rationalism, freethought and humanism. FSGP provides forums in which freethinkers can gather for informational and educational

meetings, and for social events and networking with like-minded individuals. Its Helping Hands committee participates in a variety of service and volunteer activities throughout the year.

54. Plaintiff Boston Atheists ("BA") is an unincorporated association founded in October of 2002 for the purpose of building a sense of community and shared interests among secularists, non-theist humanists, skeptics, freethinkers, and self-identified atheists in the metropolitan region of Boston, Massachusetts. Each month, the BA sponsors social gatherings, discussion and reading groups, and participation at public events. Among the more than 450 members of the BA, opinion varies as to how best mediate communication and cooperation between religious- and reality-based communities. Nonetheless, within the group there is wide agreement that a prevalence of unjustified belief is detrimental to civic and societal health, and that the foregrounding of religious ritual in government, such as the inclusion of prayers in the Presidential inauguration, is both unconstitutional and unconscionably divisive.

## **II. Defendants**

55. Defendant Hon. John Roberts, Jr., the Chief Justice of the United States, is the nation's highest judicial officer. He is being sued in his official and in his individual capacity.

56. Defendants "Other Unknown Oath Administrators" are those individuals who will be assigned to administer the presidential oath of office at the 2013 and 2017 inaugural events.

57. Defendant Presidential Inaugural Committee ("PIC") is the "committee appointed by the President-elect to be in charge of the Presidential inaugural ceremony and functions and activities connected with the ceremony."<sup>5</sup> Defendant PIC, led by its executive director, is a

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<sup>5</sup> 36 U.S.C. § 501(1).

quasi-governmental<sup>6</sup> entity that plays a key role in controlling access to the inaugural platforms and to the audio-visual systems that broadcast the presentations of the speakers and performers.

Defendant PIC is being sued in its official capacity.

58. Defendant Emmett Beliveau is the executive director of PIC. Defendant Beliveau is being sued in his official capacity.

59. Defendants “Other PIC Defendants” are the Presidential Inaugural Committees (and their directors) who will be in charge of the Presidential inaugural ceremonies and functions and activities connected with the 2013 and 2017 ceremonies.

60. Defendant Joint Congressional Committee on Inaugural Ceremonies (“JCCIC”) is the committee established by S. Con. Res. 67, 110th Cong., 2d Sess., 154 Cong. Rec. 21, S820-21 (Feb 8, 2008) “authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between the joint committee and the heads of the departments and agencies, in connection with the inaugural proceedings and ceremonies.” Upon information and belief, Defendant JCCIC (and its chairperson) plays a role in controlling access to the inaugural platforms and to the audio-visual systems that broadcast the presentations of the speakers and performers. Defendant JCCIC is being sued in its official capacity.

61. Defendant Dianne Feinstein is a United States Senator who is serving as chairperson of JCCIC. Defendant Feinstein is being sued in her official capacity.

62. Defendant Armed Forces Inaugural Committee (“AFIC”), led by its Commander, is “a joint service committee charged with coordinating all military ceremonial support for the presidential

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<sup>6</sup> See 36 U.S.C. § 501 et seq. See, also, 69 Fed. Reg. (No. 193) 59775 (October 6, 2004) (to be codified at 11 C.F.R. pts. 104 & 110) (“The inaugural committee ... receives special privileges in the District of Columbia beginning five days before and ending four days after the inaugural ceremony.”)

inaugural.”<sup>7</sup> Upon information and belief, Defendant AFIC (and its Commander) plays a role in controlling access to the inaugural platforms and to the audio-visual systems that broadcast the presentations of the speakers and performers. Defendant AFIC is being sued in its official capacity.

63. Defendant Major General Richard J. Rowe Jr. is the Commander of AFIC. Defendant Rowe is being sued in his official capacity.

64. Defendant United States Secret Service (“USSS”), led by its Director, is the federal agency authorized to protect the President and the President-elect. 18 U.S.C. § 3056(a)(1). Upon information and belief, Defendant USSS plays a role in controlling access to the inaugural platform. Defendant USSS is being sued in its official capacity.

65. Defendant Mark Sullivan is the Director of the USSS. Defendant Sullivan is being sued in his official capacity.

66. Defendant United States Marshals Service (“USMS”), led by its Director, is the federal agency authorized to protect Federal jurists. 28 U.S.C. § 566(e)(1)(A). Upon information and belief, Defendant USSS plays a role in controlling access to the inaugural platform. Defendant USSS is being sued in its official capacity.

67. Defendant John F. Clark is the Director of the USMS. Defendant Clark is being sued in his official capacity.

68. Defendants “Other Governmental ‘Roe’ Defendants” are those governmental actors, unknown to Plaintiffs at this time, who (along with or in addition to the other Defendants) control access to the inaugural platform and to the audio-visual systems that broadcast the presentations of the speakers and performers.

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<sup>7</sup> As described at the AFIC website, accessed at <http://www.afic.northcom.mil/about.html> on December 20, 2008.

69. Defendant Rev. Rick Warren is a clergyman who was chosen to provide the invocation at the 2009 presidential inaugural exercises, and may be chosen again to serve in that or a similar role at the 2013 (or 2017) inaugural exercises.

70. Defendant Rev. Joe Lowery is a clergyman who was chosen to provide the benediction at the 2009 presidential inaugural exercises, and may be chosen again to serve in that or a similar role at the 2013 (or 2017) inaugural exercises.

71. Defendants “Other Unnamed Clergy” are those clergy who will in the future be called upon to offer invocations, benedictions or other forms of prayer to God in the 2013 and 2017 inaugural exercises.

## INTRODUCTION

72. The First Amendment of the United States Constitution states “Congress shall make no law **respecting** an establishment of religion, or prohibiting the free exercise thereof ...”<sup>8</sup>
73. The United States Supreme Court has extended the ambit of these words to include any governmental actor.<sup>9</sup>
74. In explaining the Establishment Clause, the Supreme Court has stated, “[t]he touchstone for our analysis is the principle that the ‘First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.’”<sup>10</sup>
75. The phrase “between religion and nonreligion” as just utilized refers to “religion” (meaning views of the universe “based on a belief in the existence of God”<sup>11</sup>) and “nonreligion” (meaning views of the universe which are “founded on different beliefs,”<sup>12</sup> including those views that deny God’s existence).
76. “[W]ords such as ‘God’ have religious significance.”<sup>13</sup>
77. The addition of “so help me God” to an oath or leading an audience in a prayer to God, “necessarily ‘entail[s] an affirmation that God exists.’”<sup>14</sup>
78. Accordingly, as between those who believe in God and those who deny God’s existence, it is clearly not neutral when the government places “so help me God” in its presidential oath of office or sponsors prayers to God.

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<sup>8</sup> Emphasis added.

<sup>9</sup> “To be sure, the First Amendment is phrased as a restriction on Congress’ legislative authority ... [but it] binds the Government as a whole, regardless of which branch is at work in a particular instance.” Valley Forge Christian College v. Americans United for Separation of Church & State, 454 U.S. 464, 511 (1982) (Brennan, J., dissenting).

<sup>10</sup> McCreary County v. ACLU, 545 U.S. 844, 860 (2005) (citation omitted).

<sup>11</sup> Torcaso v. Watkins, 367 U.S. 488, 495 (1961)

<sup>12</sup> Id.

<sup>13</sup> Van Orden v. Perry, 545 U.S. 677, 695 (2005) (Thomas, J., concurring).

<sup>14</sup> Van Orden, 545 U.S. at 696 (Thomas, J., concurring) (citation omitted).

79. This is especially so at the “the transcendent ritual of America’s democracy and representative government.”<sup>15</sup>
80. The Supreme Court has also stated that “The government may not ... lend its power to one or the other side in controversies over religious authority or dogma.”<sup>16</sup> By placing “so help me God” in its oaths and sponsoring prayers to God, government is lending its power to one side of perhaps the greatest religious controversy: God’s existence or non-existence.
81. The Supreme Court has stated that the Establishment Clause requires a “purpose” analysis, which “aims at preventing the relevant governmental decisionmaker ... from abandoning neutrality and acting with the intent of promoting a particular point of view in religious matters.”<sup>17</sup> There can be no purpose for placing “so help me God” in an oath or sponsoring prayers to God (as opposed to the myriad other available methods of solemnizing occasions), other than promoting the particular point of view that God exists.
82. The Supreme Court has looked at the “effects” of government activity, especially in terms of “endorsement” of any religious dogma, and agreed that “an important concern of the effects test is whether the symbolic union of church and state effected by the challenged governmental action is sufficiently likely to be perceived by adherents of the controlling denominations as an endorsement, and by the nonadherents as a disapproval, of their individual religious choices.”<sup>18</sup>
83. That the effect of placing “so help me God” in its oaths and sponsoring prayers to God has been perceived by adherents of Monotheism as an endorsement of their individual religious choices is unequivocal.

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<sup>15</sup> As described by Donald R. Kennon, Ph.D., Chief Historian of the United States Capitol Historical Society. (Remarks of January 14, 2009, given at the Foreign Press Center, accessed on January 30, 2009 at <http://fpc.state.gov/114510.htm>.)

<sup>16</sup> Employment Div. v. Smith, 494 U.S. 872, 877 (1990).

<sup>17</sup> Corporation of Presiding Bishop v. Amos, 483 U.S. 327, 335 (1986).

<sup>18</sup> Grand Rapids School District v. Ball, 473 U.S. 373, 390 (1985).

84. In fact, a member of the Supreme Court, itself – joined by two of his colleagues – has used those very actions to contend that government may assist “the overwhelming majority of religious believers in being able to give God thanks and supplication *as a people*, and with respect to our national endeavors,”<sup>19</sup> and that “the Establishment clause ... permits the disregard of devout Atheists.”<sup>20</sup>

85. The Supreme Court has continued, noting that “[t]he inquiry into this kind of effect must be conducted with particular care when many of the citizens perceiving the governmental message are children in their formative years.”<sup>21</sup> Plaintiffs “Unnamed Children” are children in their formative years, who have been forced and/or (unless an end is put to the practices challenged in this lawsuit) will continue to be forced – as the price to pay for participating as observers of the inauguration of their president – to watch as the government alters the sole constitutionally-prescribed oath by adding “so help me God” to it, and as the government gives (Christian) Monotheistic clergy unique access to the grandest ceremony in our national existence solely for the purpose of praying to God.

86. On January 20, 2009, Defendant Roberts, individually and in his official capacity as Chief Justice of the United States (a position of trust that, more than any other, embodies the rule of law and the devotion of our government to the United States Constitution) altered the text of the Constitution’s Article II oath of office, adding the words, “so help me God.”<sup>22</sup>

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<sup>19</sup> McCreary County v. ACLU, 545 U.S. 844, 900 (2005) (Scalia, J., dissenting).

<sup>20</sup> Id. at 893.

<sup>21</sup> Id.

<sup>22</sup> Furthering the harm, Defendant Roberts did this with a raised inflection, suggesting that these four words are especially important, and required in order to complete the oath which one must take to assume the office of President of the United States.

87. Defendant Roberts did this with no authority whatsoever. Such blatant disregard for the explicit text specified – in quotation marks, no less! – in the Constitution of the United States is an offense of the highest magnitude to the foundation of our governmental structure.
88. To allow this practice to continue in future inaugurations “would subvert the very foundation of all written constitutions.”<sup>23</sup>
89. Unless the declaratory and/or injunctive relief sought in this litigation is obtained, Defendants Roberts and/or “Other Unknown Oath Administrators” will (also with no authority whatsoever) alter the text of the Constitution to infuse the 2013 and 2017 inaugural ceremonies with that same purely religious dogma.
90. The remaining Defendants will bring to the presidential inaugurations – the grandest ceremonies in our national existence – chaplains to extol the glory of God. This is the case even though the Supreme Court has specifically pronounced that “the religious liberty protected by the Constitution is abridged when the State affirmatively sponsors the particular religious practice of prayer.”<sup>24</sup>
91. Plaintiffs are American “Humanists,” “Freethinkers” and/or Atheists, who sincerely believe that there is no such thing as god, or God, or any supernatural force.<sup>25</sup> On the contrary, under their belief system(s), “supernatural” is an oxymoron.
92. Although it has been written that “acknowledgements” of God “serve, in the only ways reasonably possible in our culture, the legitimate secular purposes of solemnizing public

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<sup>23</sup> Marbury v. Madison, 5 U.S. 137, 178 (1803).

<sup>24</sup> Santa Fe Independent School District v. Doe, 530 U.S. 290, 313 (2000).

<sup>25</sup> Some Plaintiffs are agnostics, who are unsure whether or not any God exists.

occasions, expressing confidence in the future, and encouraging the recognition of what is worthy of appreciation in society,”<sup>26</sup> Plaintiffs strongly disagree with this claim.

93. In fact, to Plaintiffs, such “acknowledgements” (much less endorsements) of God do not solemnize those occasions at all. On the contrary, they ridicule public occasions, making a mockery of the wonders of nature and of human achievement.

94. To Plaintiffs, such “acknowledgements” (much less endorsements) of God do not express confidence in the future. On the contrary, they remind Plaintiffs of the most egregious past human conduct, where people have done such unfathomable acts as literally burning others alive, merely because their victims held different religious views.

95. “Acknowledgements” of God remind Plaintiffs of the myriad wars fought by those convinced that their religious “truths” justified intolerance, and of September 11, 2001, when a fanatic and his religious followers turned four of our airplanes into bombs, murdering 3,000 of our citizens ... all in the name of God.

96. Nor do Plaintiffs find that “acknowledgements” of God encourage the recognition of what is worthy of appreciation in society. Rather, to Plaintiffs, such “acknowledgements” reflect a falsehood that readily leads to such views as those expressed by Hon. Leon Bazile (who wrote that antimiscegenation statutes were proper because “Almighty God ... did not intend for the races to mix”<sup>27</sup>), by Supreme Court Justice Joseph Bradley, who contended that women should not be lawyers because their “paramount destiny and mission ... are to fulfill the noble and

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<sup>26</sup> Lynch v. Donnelly, 465 U.S. 668, 693 (1984) (O’Connor, J., concurring).

<sup>27</sup> Loving v. Virginia, 388 U.S. 1, 3 (1967) (“Almighty God created the races white, black, yellow, malay and red, and he placed them on separate continents. And but for the interference with his arrangement there would be no cause for such marriages. The fact that he separated the races shows that he did not intend for the races to mix.” (quoting the trial judge, Hon. Leon Bazile)).

benign offices of wife and mother,”<sup>28</sup> and by Rev. Raymund Harris (who claimed to “successfully prove, that the SLAVE-TRADE is perfectly consonant to ... Christian Law, as delineated to us in the Sacred Writings of the Word of God”<sup>29</sup>).

97. If the declarations of God’s glory were meant merely as positive reflections of the Monotheistic views of believers, they would still violate the First Amendment’s religion clauses. Plaintiffs, however, contend that the “real meaning” of these declarations goes far beyond that unconstitutional “benignity,” for they contain an element analogous to the “real meaning” of the “separate but equal” laws of our nation’s earlier history and tradition. Specifically, the “real meaning” is that Atheists are “so inferior and so degraded”<sup>30</sup> that their religious views warrant no respect.

98. That “real meaning” has been exhibited time and again in our past. For instance, Congress, when it interlarded the Pledge of Allegiance with the words “under God” in 1954, specifically noted that it was acting “to deny ... Atheistic ... concepts.”<sup>31</sup>

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<sup>28</sup> Bradwell v. State, 83 U.S. 130, 141 (1873) (Bradley, J., concurring) (“The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator.”).

<sup>29</sup> Harris R. *Scriptural researches on the licitness of the slave-trade, shewing its conformity with the principles of natural and revealed religion, delineated in the sacred writings of the word of God*. (John Stockdale: London, 1788 (reprinted by John Winter: Fredericktown, MD; 1790)) as provided in Early American Imprints, Series I, Evans, 1639-1800, No. 22555.

<sup>30</sup> Plessy v. Ferguson, 163 U.S. 537, 560 (1896) (Harlan, J., dissenting) (“What can more certainly arouse race hate, what more certainly create and perpetuate a feeling of distrust between these races, than state enactments which, in fact, proceed on the ground that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens. That, as all will admit, is the real meaning of such legislation as was enacted in Louisiana.”).

<sup>31</sup> H.R. 1693, 83rd Cong., 2d Sess., at 2.

99. Along these same lines, Defendant Rev. Rick Warren has repeatedly asserted, “I could not vote for an Atheist because an Atheist says, ‘I don’t need God.’”<sup>32</sup>

100. It is well known that Defendant Roberts is a Catholic. In Catholicism, many similar examples of the “real meaning” of proclamations of God’s glory and/or importance exist. For instance, in a relatively recent encyclical, the Pope spoke of how he had “frequently and with urgent insistence **denounced the current trend to Atheism** which is alarmingly on the increase.”<sup>33</sup>

101. Although not explicitly denouncing Atheism, a nonetheless similarly exclusionary viewpoint is apparently expressed annually at the “Red Mass,” which “is timed for the day before the opening of the Supreme Court’s new term, and is meant to convey the Roman Catholic church’s blessing on the judicial and civic leaders of the community.”<sup>34</sup> It has been attended by at least four of the five Catholic members of the current Supreme Court (including Defendant Roberts) in each of the past three years,<sup>35</sup> and melds nationalism and (Catholic) Monotheistic belief.<sup>36</sup>

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<sup>32</sup> Tran, My-Thuan. *Warren: Character is key*. Los Angeles Times (August 18, 2008), p. B-1. Rev. Warren also made this claim on national television on the Larry King Show: “I couldn’t vote for a person who is an Atheist.” August 18, 2008. Accessed on December 25, 2008, at <http://transcripts.cnn.com/TRANSCRIPTS/0808/18/lk1.01.html>.

<sup>33</sup> Encyclical DIVINI REDEMPTORIS (On Atheistic Communism) of Pope Pius XI, dated March 19, 1937, and accessed at <http://www.ewtn.com/library/encyc/p11divin.htm> on December 27, 2008 (emphasis added).

<sup>34</sup> Mauro T. *Judiciary Gathers for Red Mass*. Legal Times, October 6, 2008 (hereafter “Mauro: Legal Times”).

<sup>35</sup> *Id.*, See also, Banerjee N. *Archbishop’s Call for Court Blessing Stirs Clear of Issues*. New York Times, October 2, 2006, A12 (hereafter “Banerjee: NY Times”); Moore K. *Mass seeks guidance for court; Archbishop presses ‘inviolability’ of human life*. Washington Times, October 1, 2007, A3 (hereafter “Moore: Washington Times”).

<sup>36</sup> Archbishop Donald W. Wuerl claimed to “recognize how dependent we [Americans] are on God’s grace, God’s light, God’s guidance,” Mauro: Legal Times, and has included rendering the National Anthem and God Bless America, Banerjee: NY Times. Plaintiffs are unaware of those musical compositions being part of Catholic doctrine.

Claims are made such as “We recognize how dependent we [Americans] are on God's grace, God's light, God's guidance,”<sup>37</sup> and:

Participation in the Red Mass is a humble prayer for the red-hot fire of the Holy Spirit, bringing the jurists, legislators and executives of our government the wisdom to recognize that we are indeed made in God's image ... and then to give them the courage to judge, legislate and administer based on the consequences of this conviction ...<sup>38</sup>

102. Additionally, the program has included the singing of the National Anthem and *God Bless America*.<sup>39</sup> Plaintiffs are unaware of those musical compositions being part of Catholic doctrine, and find it quite unsettling to see so public a display of such a conflation of Catholicism and Americanism among the Catholic justices of the highest court in the land.

103. The “real meaning” of the inaugural references to God is also found in the Holy Bible used during the inaugural ceremonies. That book calls anyone who is an Atheist a “fool,”<sup>40</sup> while further making the outlandish, degrading and insulting declarations that Atheists “are corrupt, ... have done abominable works, [and] there is none that doeth good.”<sup>41</sup>

104. It doesn't end there. That book decrees that Plaintiffs “shall surely be put to death!”<sup>42</sup>

105. According to Defendant PIC, President Obama and Vice President Biden shared a “commitment to ... ensure that as many Americans as possible ... w[ould] be able to come together to unite the country and celebrate our common values and shared aspirations.”<sup>43</sup>

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<sup>37</sup> Mauro: Legal Times.

<sup>38</sup> Moore: Washington Times

<sup>39</sup> Banerjee: NY Times.

<sup>40</sup> Psalms 14:1.

<sup>41</sup> *Id.*

<sup>42</sup> Leviticus 24:16 states “whoever blasphemes the name of the Lord shall surely be put to death.” Denials of God's existence – such as those made by each of the instant plaintiffs – are considered “blasphemy.”

<sup>43</sup> Accessed at [http://www.pic2009.org/pressroom/entry/presidential\\_inaugural\\_launch/](http://www.pic2009.org/pressroom/entry/presidential_inaugural_launch/) on December 12, 2008.

106. Additionally, the PIC “unveiled the official theme for the inauguration ... “Renewing America’s Promise.”<sup>44</sup> That promise was purportedly depicted in the words of the then-President-elect: “[I]n America, we rise or fall as one nation and one people. That sense of unity and shared purpose is what this Inauguration will reflect.”<sup>45</sup>
107. Similarly, “[t]he PIC also outlined a preliminary schedule of official inaugural events that underscore[d] a commitment to organizing activities that are inclusive.”<sup>46</sup>
108. Yet, despite the foregoing, Defendants had an invocation and a benediction during the inauguration. Both of these activities were completely exclusionary, showing absolute disrespect to Plaintiffs and others of similar religious views, who explicitly reject the purely religious claims that were endorsed, i.e., (a) there exists a God, and (b) the United States government should pay homage to that God.
109. That defendants would engage in such disrespect – while claiming to be dedicated to “unity,” “common values,” “shared aspirations,” “shared purpose,” and “a commitment to organizing activities that are inclusive” – is but further evidence of the “real meaning” of the decision to spatchcock clergy into the inauguration.
110. Plaintiff individuals wish to watch the inaugurations of their presidents.
111. Under the Establishment Clause, Plaintiffs have a right to view their government in action without being forced to confront official endorsements of religious dogma with which they disagree. This is especially the case when that dogma stigmatizes them in the process.

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<sup>44</sup> Accessed at [http://www.pic2009.org/pressroom/entry/theme\\_and\\_preliminary\\_information/](http://www.pic2009.org/pressroom/entry/theme_and_preliminary_information/) on December 25, 2008.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

112. Being forced to confront such religious dogma as the price to pay for observing a governmental ceremony is a substantial burden upon Plaintiffs' rights of Free Exercise as well.<sup>47</sup> One cannot freely live as an adherent to a religious ideology when the government uses its "power, prestige and financial support"<sup>48</sup> to impose a contrary religious doctrine while such individuals are observing its ceremonies.
113. To directly violate and abridge any citizen's fundamental constitutional rights under the Establishment and Free Exercise Clauses of the First Amendment demands that the courts examine the challenged governmental activity under a strict scrutiny standard.<sup>49</sup>
114. That standard places the burden of proof upon the governmental actors to demonstrate that their actions serve a compelling interest and that those actions are narrowly tailored to serve that interest.<sup>50</sup> Defendants cannot meet this standard for the actions being challenged in this litigation.
115. Any religious belief or religious expression not adhered to by all is, constitutionally, sectarian. Appendix A.
116. Prayers that declare there is a God exclude Atheistic Americans such as Plaintiffs here, making them feel as "outsiders" due to their personal religious beliefs.

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<sup>47</sup> "Where the state conditions receipt of an important benefit upon conduct proscribed by a religious faith, or where it denies such a benefit because of conduct mandated by religious belief, thereby putting substantial pressure on an adherent to modify his behavior and to violate his beliefs, a burden upon religion exists. **While the compulsion may be indirect, the infringement upon free exercise is nonetheless substantial.**" Thomas v. Review Board, Ind. Empl. Sec. Div., 450 U.S. 707, 717-718 (1981) (emphasis added).

<sup>48</sup> Engel v. Vitale, 370 U.S. 421, 431 (1962) ("When the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain.").

<sup>49</sup> Church of Lukumi Babalu Aye v. City of Hialeah, 508 U.S. 520, 546 (1993).

<sup>50</sup> Id.

117. Even clergy who have given inaugural prayer recognize this fact. For instance, Rev. Pruden – who gave the invocation at President Truman’s 1949 inaugural – noted that: “If you are going to use a phrase or idea that is immediately contrary to their [the audience’s] tradition or training they just feel left out and not part of the experience.”<sup>51</sup>
118. The prayers given for the past nineteen inaugural ceremonies do not form an “unambiguous and unbroken history of more than 200 years.”<sup>52</sup> Rather, they have only existed for the past 72 years, and have run completely counter to the ideal of religious neutrality that is the “touchstone”<sup>53</sup> for Establishment Clause analyses.
119. Constitutionally sectarian (inasmuch as they have all endorsed the idea that there exists a god, which is a religious view adhered to by only a portion of the American people), the prayers have also demonstrated colloquial sectarianism as well, by including patently Christian prayer at every inauguration since the unconstitutional practice of having clergy-led prayers at presidential inaugurations began in 1937. Appendix B.
120. AHA has had members who have personally been unwillingly confronted with the inaugural prayers since its inception in 1941. There have been eighteen public inaugurations since that time. In every one of these, (Christian) Monotheistic clergy have been granted a unique platform to espouse their religious dogma.

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<sup>51</sup> Statement of Rev. Edward Hughes Pruden, as quoted in Medhurst MJ. “*God Bless the President: The Rhetoric of Inaugural Prayer.*” (The Pennsylvania State University, 1980) (Available on microfilm from University Microfilms International, Ann Arbor, MI (800-521-0600) at 174.

<sup>52</sup> Marsh v. Chambers, 463 U.S. 783, 792 (1983).

<sup>53</sup> McCreary County v. ACLU, 545 U.S. at 860.

121. As it is, Atheists are the most despised minority in the land.<sup>54</sup> Plaintiffs contend that it is the sort of government-sponsored activity at issue in this case – i.e., where the “power, prestige and financial support”<sup>55</sup> of government is placed behind Monotheism – that stigmatizes them and perpetuates, if not instigates, this animus.
122. Defendants are acting in concert to further worsen the social condition of Plaintiffs. They are engaging in and promoting governmental activities that (a) exacerbate Plaintiffs’ “outsider” status, (b) have religious purposes, (c) have religious effects, (d) endorse the purely religious notion that there exists a God, (e) show a preference for that exclusionary religious belief, (f) affiliate government with that religious belief, (g) signal the disapproval of Plaintiffs’ religious views, (h) violate the governmental neutrality required in matters of religion, (i) inculcate the specific religious belief that God exists (and likely the specific religious belief that Jesus Christ is the Son of God), and (j) place government’s “imprimatur” on those specific religious beliefs.
123. Moreover, Defendants know that they will impose these harms not only upon the adult plaintiffs in this case, but upon the minor plaintiffs as well.
124. Such impositions, especially upon impressionable young children, amount to the coercive imposition of religious dogma.
125. This has been specifically denounced by the Supreme Court in nine out of nine public school cases (where religious dogma is imposed upon children in a governmental setting).<sup>56</sup>

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<sup>54</sup> “Atheists are at the top of the list of groups that Americans find problematic ... It is striking that the rejection of Atheists is so much more common than rejection of other stigmatized groups.” Edgell P, Hartmann D, and Gerteis J. *Atheists as “other”: Moral Boundaries and Cultural Membership in American Society*. American Sociological Review, Vol. 71 (April, 2006), p. 211-234 at 230.

<sup>55</sup> Engel v. Vitale, 370 U.S. 421, 431 (1962). See note 48, *supra*.

<sup>56</sup> McCullum v. Board of Education, 333 U.S. 203 (1948) (religious teaching); Engel v. Vitale, 370 U.S. 421 (1962) (prayer); Abington School District v. Schempp, 374 U.S. 203 (1963) (Bible-reading); Epperson v. Arkansas, 393 U.S. 97 (1968) (forbidding the teaching of evolution); Stone v. Graham, 449 U.S. 39 (1980) (posting Ten Commandments); Wallace v. Jaffree, 472 U.S. 38

126. It should be noted that witnessing and participating in the inauguration of the president is felt to be of extraordinary importance to a large segment of the population. This is evidenced by the fact that hundreds of thousands, if not millions, of individuals willingly sacrificed significant amounts of time, energy, money and inconvenience to travel to Washington, DC, solely for those ends.

127. Thus, to clarify what is at issue in this case, the specific injuries to Plaintiffs – who were among those who shared this sense of extraordinary importance – should be specified.

128. For the claim against Defendant Roberts, the injury is:

Being personally compelled (as the price to pay for exercising the right to observe the inauguration of the President of the United States) to witness the Chief Justice of the United States, without any authority, alter the presidential oath of office (the text of which is specified in quotation marks within Article II of the Constitution) so that it includes the purely religious phrase, “so help me God.”

129. For the claim against the other Defendants, the injury is:

Being personally compelled (as the price to pay for exercising the right to observe the inauguration of the President of the United States) to endure government-sponsored, clergy-led prayer to (a Christian) God.

130. In both cases, the injury causes harm by sending the message that the government of the United States favors religious views that are completely incompatible with and contradictory to the religious beliefs of Plaintiffs, and, concomitantly, that it disfavors Plaintiffs’ religious views.

131. Thus, each of the injuries “sends a message to nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are

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(1985) (moment of silence/prayer); Edwards v. Aguillard, 482 U.S. 578 (1987) (“creation science”); Lee v. Weisman, 505 U.S. 577 (1992) (graduation benedictions); and Santa Fe Independent School District v. Doe, 530 U.S. 290 (2000) (prayer at football games).

insiders, favored members of the political community.”<sup>57</sup> In other words, each injury turns Plaintiffs into second-class citizens on the basis of their religious choices, leading to the stigmatic damage that is among “the most serious consequences of discriminatory government action.”<sup>58</sup>

132. As a consequence of the foregoing, some Plaintiffs have felt compelled to avoid doing that which they otherwise wished very much to do: i.e., to view the inauguration of their president. In other words, the government-sponsored intrusion of purely religious, (Christian) Monotheism forced them to forgo their right to participate in “the transcendent ritual of America’s democracy and representative government.”

133. Others, unwilling to forgo that right of participation, were compelled, against their will, to countenance the government-sponsored intrusion of purely religious, (Christian) Monotheism into that transcendent ritual as the price to pay for that participation. Thus, the enjoyment and pride they deserved to share with their fellow citizens was (if not totally eliminated) greatly diminished.

134. Plaintiffs who are parents of impressionable minor children were forced to factor the government-sponsored intrusion of purely religious, (Christian) Monotheism into their decisions as to whether or not to have their children share in that “the transcendent ritual.”

135. Finally, those impressionable minor children – not yet mature enough to recognize, filter out or understand the consequences and effects of this government-sponsored intrusion of purely religious, (Christian) Monotheism into that “transcendent ritual” – were either caused to miss that historic event, or else were subjected to the enormous influence of the “power, prestige and

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<sup>57</sup> Lynch v. Donnelly, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring).

<sup>58</sup> Allen v. Wright, 468 U.S. 737, 755 (1984).

financial support” of government, as it sent the message that belief in God is part and parcel of Americanism.<sup>59</sup>

136. For each of the above Plaintiffs, the stated injuries will recur in future inaugurations until the relief requested herein is obtained.

137. In view of the foregoing, Plaintiffs set forth the following Causes of Action.

### **CAUSES OF ACTION**

#### **COUNT 1: THE ALTERATION OF THE PRESIDENTIAL OATH OF OFFICE SPECIFIED IN ARTICLE II OF THE CONSTITUTION, PERPETRATED BY DEFENDANT ROBERTS WITH NO AUTHORITY WHATSOEVER, VIOLATES THE ESTABLISHMENT CLAUSE**

138. The introductory allegations set forth in paragraphs 1-136 are realleged herein.

139. Since 1803, the Supreme Court of the United States has been the final arbiter of the meaning of the Constitution.<sup>60</sup>

140. Thus, that entity, more than any other, symbolizes not only the rule of law, but the supremacy of the Great Charter upon which our nation is founded.

141. As the chief administrator of that Court, the Chief Justice of the United States personifies that role served by the Supreme Court.<sup>61</sup>

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<sup>59</sup> Perhaps President Eisenhower’s remarkable claim in this regard should be noted here: “Recognition of the Supreme Being is the first, the most basic, expression of Americanism. Without God, there could be no American form of government, nor an American way of life.” Marty ME. *Modern American Religion (Volume 3: Under God, Indivisible, 1941-1960)*, (Chicago: University of Chicago Press; 1996) at 296.

<sup>60</sup> Marbury v. Madison, 5 U.S. 137 (1803).

<sup>61</sup> 28 U.S.C. § 1.

142. It is for this reason that, despite the fact that the Constitution does not specify who is to administer the oath of office to the President of the United States, the Chief Justice has been chosen for that solemn duty in 53 of the 54 public inaugurations since Marbury was decided.<sup>62</sup>

143. Following this tradition, on January 20, 2009, “President-elect Barack H. Obama [took] the Oath of Office, using President Lincoln’s Inaugural Bible, administered by the Chief Justice of the United States, the Honorable John G. Roberts, Jr.”<sup>63</sup>

144. The oath of office for the President of the United States is specified in the Constitution’s Article II, Section 1. It is the only oath specified in the entire Constitution, it is mandatory (“Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:”), and its words are the only ones in the document that are placed within quotation marks. In its entirety, it reads:

“I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”

145. It is to be noted that the words, “so help me God” are not included in this oath.

146. It has been claimed that George Washington added “so help me God” to the presidential oath, thus beginning a tradition that has been present since our nation’s founding.

147. Despite the perpetuation of this story by numerous “authorities,” Document 51-9, this story is a myth. There is no contemporaneous account supporting this claim, which was first made in

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<sup>62</sup> These numbers have been gleaned from the information provided by the Architect of the Capitol, accessed at [http://www.aoc.gov/aoc/inaugural/pres\\_list.cfm](http://www.aoc.gov/aoc/inaugural/pres_list.cfm) on February 26, 2009. The one public inauguration since Marbury where the nation’s Chief Justice did not administer the oath took place on July 10, 1850. On that day, William Cranch (the Chief Judge of this Circuit) administered the oath to Millard Fillmore in the chamber of the House of Representatives on July 10, 1850, the day after President Taylor’s death. Id.

<sup>63</sup> From the “Inaugural Schedule” as given at the Presidential Inaugural Committee’s website at <http://www.pic2009.org/pages/schedule/>, accessed on December 27, 2008.

1854,<sup>64</sup> apparently on the basis of a recollection of Washington Irving. Irving was six years old in 1789, when the first inaugural was held. A historical claim based upon nothing but the alleged recollection of a six year old, first made more than six decades later, is of highly questionable validity. When combined with the fact that Irving's report of where he was standing during the inauguration would have made it impossible for him to have heard the oath at all,<sup>65</sup> that validity falls to zero.

148. In fact, it isn't until 1881, ninety-two years after George Washington's initial ceremony, that the first use of the "so help me God" phrase can be verified. That occurred when Vice President Chester A. Arthur took the oath upon hearing of President James Garfield's death.<sup>66</sup>

149. When President Arthur used that phrase, he did so alone, in response to Chief Justice Morrison Waite's recitation of the nonreligious, constitutionally-prescribed oath. President Arthur "responded, 'I will, so help me God.'"<sup>67</sup>

150. Thus, even when it was first used, the "so help me God" phrase was readily recognized as a separate addition made by the oath-taker, with no suggestion that it was part of the oath, itself, as given in the Constitution.

151. The phrase, if used at all during the next half century, was apparently used only intermittently. (It is known that neither President Herbert Hoover nor Chief Justice William Howard Taft used those words at Hoover's inauguration in 1929.<sup>68</sup>)

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<sup>64</sup> Griswold RW. *The Republican Court: American Society in the Days of Washington* (New York: D. Appleton & Co.; 1856), p. 141.

<sup>65</sup> See Declaration of Michael Newdow. Document 51-5, ¶ 11.

<sup>66</sup> *Arthur Inaugurated*. The Washington Post (1877-1954); Sep 23, 1881; ProQuest Historical Newspapers, The Washington Post (1877 - 1989) pg. 1.

<sup>67</sup> *Id.*

<sup>68</sup> Bendat J. *Democracy's Big Day: The Inauguration of Our President 1789-2009*. (iUniverse Star: New York; 2008) at 30-32. For corroboration, the undersigned (Newdow) is currently attempting to obtain a copy of the actual sound video of that oath-taking.

152. Since 1933, however (beginning at President Franklin Roosevelt’s first inauguration), “so help me God” has been used at every public inaugural ceremony, with that unauthorized alteration interposed on each occasion by the Chief Justice of the United States and then repeated by the incoming president.<sup>69</sup>

153. Article VI, clause 3 of the United States Constitution states that “no religious test shall ever be required as a qualification to any office or public trust under the United States.”

154. The Supreme Court has held unequivocally that the phrase, “so help me God,” when required, constitutes a religious test, falling within the ambit of Article VI, clause 3. Torcaso v. Watkins, 367 U.S. 488 (1961).

155. To be sure, the Chief Executive has never been “required” (except by political expediency) to recite those words, so there is no Article VI, clause 3 violation.

156. Nevertheless, the unauthorized use of that phrase by the Chief Justices at each of the past twenty inaugurations has created an illusion of such a religious test, sending a message that belief in (and homage to) God is constitutionally-mandated in order to hold the office of President. Any governmental agent’s sending such a message is a violation of the Establishment Clause.

157. Plaintiffs wish to clarify that they are not presently objecting to an oath-taker’s choice to add the “so help me God” phrase. A president, like all other individuals, has Free Exercise rights, which might permit such an alteration.

158. Thus, Barack Obama (as a black man fully aware of the vile effects that stem from a majority’s disregard of a minority’s rights, and as a Democrat fully aware of the efficacy his

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<sup>69</sup> Accessed at [http://www.aoc.gov/aoc/inaugural/pres\\_list.cfm?RenderForPrint=1](http://www.aoc.gov/aoc/inaugural/pres_list.cfm?RenderForPrint=1) on December 28, 2008. Should the Court desire, Plaintiffs can provide video corroboration of each inauguration from 1933-2009 (except, as of yet, 1937 and 1941, for which oath ceremonies videos have not yet been located).

Republican predecessor's "so help me God" oath additions) may have had the right to believe that the verbiage formulated by the Founders was inadequate, and that he needed to interlard his oath with a purely religious phrase deemed unnecessary by the first twenty presidents.

159. No such Free Exercise rights, however, come into play on the part of the individual administering the oath to the President.

160. Absent constitutional amendment, there is no authority to alter the text of the Constitution, the provisions of which are "fixed and exclusive."<sup>70</sup>

161. If a state (which has powers reserved to it under the Tenth Amendment) has no authority to even democratically pass an amendment to its own constitution that affects a federal constitutional provision,<sup>71</sup> then surely no unelected official (who has no supporting constitutional provision) can literally alter the federal constitution's text without any process other than his own will.

162. This is especially true when the alteration is "contrary to the manifest tenor of the Constitution,"<sup>72</sup> as is the case here.<sup>73</sup>

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<sup>70</sup> United States Term Limits v. Thornton, 514 U.S. 779, 790 (1995) (discussing "the Framers' intent that the [congressional] qualifications in the Constitution be fixed and exclusive."). Interestingly, Thornton **four times** quoted James Madison's Federalist No. 52 for the proposition that "the door of this part of the federal government is open to merit of every description, ... without regard to ... any particular profession of religious faith." 514 U.S. at 794, 807, 808 and 822 (n.32). Additionally, Federalist No. 57, where the "Father of the Constitution" wrote "No qualification of ... religious faith ... is permitted to fetter the judgment or disappoint the inclination of the people," is quoted twice. Id. at 808 and 819.

<sup>71</sup> Thornton involved a challenge to an Arkansas constitutional amendment, placing term limits on the state's federal congressmen.

<sup>72</sup> Hamilton A. Federalist #78. Accessed at [http://avalon.law.yale.edu/18th\\_century/fed78.asp](http://avalon.law.yale.edu/18th_century/fed78.asp) on December 28, 2008.

<sup>73</sup> See Article VI, clause 3, discussed at ¶¶ 153-156, supra, and the first ten words of the Bill of Rights (stating government "shall make no law respecting an establishment of religion.").

163. If it is argued that the change is permissible because it is only four words that are being appended to the text, Plaintiffs wish to know what criteria determine changes that are or are not acceptable. Could Defendant Roberts intrude the single word “not” into the oath, before, say, the words “solemnly,” “faithfully” or “preserve”?
164. Similarly, one can consider “so help me Protestant Christianity,” which, constitutionally, is indistinguishable from the “so help me God” phrase currently in vogue. Surely, no one today would argue that this language would be permissible. Yet our history and tradition is not much less anti-Catholic than it is anti-Atheist. Appendix C.
165. James Madison, “the Father of the Constitution,” warned us that governmental actions such as those being challenged in this case have real effects. In what has been called “the most important document explaining the Founders’ conception of religious freedom,”<sup>74</sup> cited in no less than 35 separate opinions, in 32 separate cases, and by sixteen different Justices,<sup>75</sup> Madison informed us that each such action “degrades from the equal rank of Citizens all those whose opinions in Religion do not bend to those of the Legislative authority.”<sup>76</sup>
166. That Madison was absolutely correct can, perhaps, best be seen in the dissenting opinion referenced at paragraph 84, supra. Again, a current Supreme Court Justice – joined by two of his brethren<sup>77</sup> – wrote that our Constitution “permits the disregard of devout Atheists.”<sup>78</sup>

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<sup>74</sup> McConnell M. *New Directions in Religious Liberty: “God is Dead and We Have Killed Him!”: Freedom of Religion in the Post-modern Age*. 1993 B.Y.U.L. Rev. 163, 169 (1993).

<sup>75</sup> Appendix D.

<sup>76</sup> Madison J. *Memorial and Remonstrance Against Religious Assessments*, as provided in the Appendix to Everson v. Board of Education, 330 U.S. 1, 63-72 (1947) at 69.

<sup>77</sup> Justice Kennedy, who joined in Justice Scalia’s McCreary dissent, distanced himself from that portion of the opinion.

<sup>78</sup> McCreary County, 545 U.S. at 893 (Scalia, J., dissenting).

167. This is extraordinary: three Justices of the Supreme Court contended that the Constitution of the United States of America – with its Due Process and Equal Protection Clauses, and with religion addressed only in the negative (stating that “no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States,”<sup>79</sup> and that our governmental officials “shall make no law respecting an establishment of religion”<sup>80</sup>) – “permits the disregard” of the sincerely held religious views of Plaintiffs in this case.

168. The methodology by which this conclusion was reached pertains directly to the instant litigation. Despite being authored by a renowned “textualist” (who has, himself written that “no tradition can supersede the Constitution”<sup>81</sup>), the opinion found this ability of government to “disregard” a minority religious view not by referencing any text, but by referencing an ever-increasing mass of so-called “traditions.”

169. Included in the “traditions” used to justify “the disregard of devout Atheists” was the action being challenged here: i.e., the appending of “so help me God” to the presidential oath of office.<sup>82</sup> When performed by the Chief Justice of the United States as part of the inauguration of the President, it wields enormous power in reinforcing the false notion that the United States is a nation where Monotheism is officially preferred, thus stigmatizing Plaintiffs and others who hold contrary religious views.

170. In other words, the “traditions” within which the “so help me God” addition belongs are “directly subversive of the principle of equality.”<sup>83</sup>

171. To personally experience the Chief Justice of the United States altering the Constitution to further a religious ideal completely contrary to the religious ideals held by Plaintiffs is a

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<sup>79</sup> United States Constitution, Article VI, cl. 3.

<sup>80</sup> United States Constitution, Amendment I.

<sup>81</sup> Rutan v. Republican Party of Illinois, 497 U.S. 62, 96 (n.1) (1990) (Scalia, J., dissenting).

<sup>82</sup> McCreary, 545 U.S. at 886.

<sup>83</sup> Zablocki v. Redhail, 434 U.S. 374, 398 (1978) (Powell, J., concurring).

concrete injury that furthers their marginalization and disenfranchisement before their very own eyes.

172. For those Plaintiffs watching the inaugural ceremony with their children, this action – by the nation’s highest judicial official – is especially intrusive and harmful.

173. An oath-administrator’s addition of “so help me God” to the constitutionally-prescribed presidential oath of office violates every Establishment Clause test enunciated by the Supreme Court, including the neutrality test, the purpose prong of the Lemon test, the effects prong of the Lemon test, the endorsement test, the outsider test and the imprimatur test.

174. Additionally, especially with impressionable children watching, this addition violates the coercion test.

175. Plaintiffs have a right to view the inauguration of their president without having their Chief Justice “degrad[ing them] from the equal rank of Citizens.”<sup>84</sup>

**COUNT 2: GOVERNMENT-SPONSORED INVOCATIONS TO GOD AND BENEDECTIONS IN THE NAME OF GOD, PROVIDED AT THE INAUGURATION OF THE PRESIDENT BY GOVERNMENT-INVITED CLERGY, VIOLATE THE ESTABLISHMENT CLAUSE**

176. The allegations set forth in paragraphs 1-175 are realleged herein.

177. On January 20, 2009, Defendant Warren and Defendant Lowery provided, respectively, an invocation and benediction at the inauguration. Appendix E.

178. The invocation and the benediction infused the inaugural exercises with explicitly religious dogma.

179. Specifically, Defendants Warren and Lowery, with the support of and facilitation by their codefendants, gave religious prayers during that governmental ceremony.

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<sup>84</sup> See note 76 at page 2, supra.

180. The Supreme Court has noted that “no one acquires a vested or protected right in violation of the Constitution by long use, even when that span of time covers our entire national existence and indeed predates it.”<sup>85</sup>
181. Nonetheless, the Court has permitted legislative chaplain-led prayers, in a case which “clearly demonstrates the utter inconsistency of our Establishment Clause jurisprudence.”<sup>86</sup>
182. That permission was based largely on that practice’s “unambiguous and unbroken history of more than 200 years,”<sup>87</sup> which is totally different from clergy-led prayers at presidential inaugurations. “Not until January 20, 1937, was a prayer offered as an official part of the American ceremony of inauguration.”<sup>88</sup> Furthermore, of the nation’s 58 public presidential inaugurations, 38 were devoid of clergy-led prayers. Only have 20 included them.<sup>89</sup>
183. Thus, even accepting for the moment that historically-based violations of the principles underlying the Establishment Clause are permissible, the practice at issue in this litigation is not historically-based.
184. Other “[i]nherent differences” from legislative prayer, noted to be important by the Supreme Court, exist in this case. Legislative prayers are directed towards the legislators, all of whom are “adults.”<sup>90</sup> At inaugurations, the prayers are directed to the audience, which includes numerous impressionable children (including some forty-plus children involved in this litigation).

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<sup>85</sup> Walz v. Tax Commission, 397 U.S. 664, 678 (1970).

<sup>86</sup> McCreary, 545 U.S. at 899 (n.8) (Scalia, J., dissenting).

<sup>87</sup> Marsh, 463 U.S. at 792.

<sup>88</sup> Medhurst MJ. “*God Bless the President: The Rhetoric of Inaugural Prayer.*” (The Pennsylvania State University, 1980). (Available on microfilm from University Microfilms International, Ann Arbor, MI (800-521-0600). At 71.

<sup>89</sup> [http://www.aoc.gov/aoc/inaugural/pres\\_list.cfm](http://www.aoc.gov/aoc/inaugural/pres_list.cfm).

<sup>90</sup> See, Lee v. Weisman, 505 U.S. 577, 597 (1992).

185. Similarly, those attending legislative sessions are “free to enter and leave with little comment and for any number of reasons.”<sup>91</sup> Those actually in attendance at the inaugural event are not at all “free” in this manner.
186. “The influence and force of a formal exercise”<sup>92</sup> – another factor found to be important by the Supreme Court – is much greater at an inauguration than at a legislative prayer.
187. Moreover, the government’s “high degree of control over the precise contents of [an inaugural] program,”<sup>93</sup> serves to “make the prayer a state-sanctioned religious exercise in which the [listener] was left with no alternative but to submit.”<sup>94</sup> Surely, this character is maximal at the nation’s grandest ceremony, directed not only to the nation, but to the world.
188. Furthermore, legislative prayers are permissible only when “there is no indication that the prayer opportunity has been exploited to proselytize or advance any one, or to disparage any other, faith or belief.”<sup>95</sup> From the point of view of an Atheists, it is ludicrous to suggest that prayers to God don’t advance the “one” belief that God exists, and also disparage the belief that God is a fiction. In fact, that this statement was made only serves to shine a light on the disenfranchised status of Plaintiffs and their religious compatriots, who have obviously never even been considered<sup>96</sup> in certain Supreme Court opinions.
189. Lastly, in the two cases involving government-sponsored prayers decided by the Supreme Court since legislative prayer was deemed permissible in 1983, completely contrary language has been spoken:

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<sup>91</sup> Id.

<sup>92</sup> Id.

<sup>93</sup> Id. at 597.

<sup>94</sup> Id.

<sup>95</sup> Marsh, 463 U.S. at 794-95.

<sup>96</sup> Or worse, have been considered and consciously “disregarded.” McCreary County, 545 U.S. at 893 (Scalia, J., dissenting).

[T]hough the First Amendment does not allow the government to stifle prayers which aspire to these ends, neither does it permit the government to undertake that task for itself. ... The First Amendment's Religion Clauses mean that religious beliefs and religious expression are too precious to be either proscribed or prescribed by the State;<sup>97</sup>

and

[T]he religious liberty protected by the Constitution is abridged when the State affirmatively sponsors the particular religious practice of prayer.<sup>98</sup>

190. Accordingly, presidential inaugurations fall outside of the ambit of the legislative prayer exception to Establishment Clause jurisprudence.<sup>99</sup>

191. Moreover, clergy-led invocations and benedictions violate every Establishment clause test enunciated by the Supreme Court. Specifically they violate the neutrality test, the purpose test, the effects test, the endorsement test, the outsider test, the imprimatur test and the coercion test.

**COUNT 3: THE ALTERATION OF THE PRESIDENTIAL OATH OF OFFICE, PERPETRATED BY DEFENDANT ROBERTS AND "OTHER UNNAMED OATH ADMINISTRATOR(S)," AND THE GOVERNMENT-SPONSORED, CLERGY-LED INVOCATIONS AND BENEDICTIONS, PERPETRATED BY THE REMAINING DEFENDANTS, VIOLATE THE FREE EXERCISE CLAUSE**

192. The allegations set forth in paragraphs 1-191 are realleged herein.

193. Individuals have a right to observe their government in action.<sup>100</sup>

194. This right surely must be free from governmental endorsement of purely religious claims.

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<sup>97</sup> Lee, 505 U.S. at 589.

<sup>98</sup> Santa Fe Independent School District v. Doe, 530 U.S. 290, 313 (2000).

<sup>99</sup> See Doe v. Tangipahoa Parish Sch. Bd., 473 F.3d 188, 191 (5<sup>th</sup> Cir. 2006). (citing "Marsh v. Chambers' legislative/deliberative-body exception").

<sup>100</sup> Richmond Newspapers v. Virginia, 448 U.S. 555 (1980) (applying this principle to the observation of criminal trials).

195. Desiring to watch the inaugural ceremonies, but wishing to avoid any government-sponsored religious dogma (much less Christian, monotheistic religious dogma), Plaintiffs are placed in the untenable position of having to choose between not watching or being forced to countenance endorsements of purely religious notions that they expressly deny. To be placed in this position is a violation of Plaintiffs' Free Exercise rights:

The essence of the Government's position is that, with regard to a civic, social occasion of this importance, it is the objector, not the majority, who must take unilateral and private action to avoid compromising religious scruples, hereby electing to miss the graduation exercise. This turns conventional First Amendment analysis on its head. It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice.<sup>101</sup>

196. In fact, "Governmental imposition of such a choice puts the same kind of burden upon the free exercise of religion as would a fine."<sup>102</sup>

197. The Supreme Court has written that the exercise of religion includes "assembling with others for a worship service."<sup>103</sup>

198. Thus, the use of clergy to espouse the glory of God at a public ceremony is clearly a religious exercise.

199. Yet the High Court has also written that "[t]hose in office must be resolute in resisting importunate demands and must ensure that the sole reasons for imposing the burdens of law and regulation are secular."<sup>104</sup>

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<sup>101</sup> Lee, 505 U.S. at 596.

<sup>102</sup> Sherbert v. Verner, 374 U.S. 398, 404 (1963).

<sup>103</sup> Employment Div. v. Smith, 494 U.S. 872, 877 (1990).

<sup>104</sup> Church of Lukumi Babalu Aye v. City of Hialeah, 508 U.S. 520, 547 (1993).

200. Plaintiffs' religious practices include avoiding prayer to God, just as a Seventh Day Adventist's religious practices include not working on Saturday,<sup>105</sup> or an Amish person's religious practices include not being exposed to modern society.<sup>106</sup>

201. Accordingly, forcing Plaintiffs to choose between attending the inauguration of their president or acting contrary to their religious tenets – as occurs when the government adds “so help me God” to the presidential oath of office or imposes clergy-led prayer at the ceremony – is a violation of Plaintiffs' Free Exercise rights.

**COUNT 4: THE ALTERATION OF THE PRESIDENTIAL OATH OF OFFICE, PERPETRATED BY DEFENDANT ROBERTS AND “OTHER UNNAMED OATH ADMINISTRATOR(S),” AND GOVERNMENT-SPONSORED, CLERGY-LED INVOCATIONS AND BENEDICTIONS, PERPETRATED BY THE REMAINING DEFENDANTS, VIOLATE RFRA**

202. The allegations set forth in paragraphs 1-201 are realleged herein.

203. In response to the Supreme Court's diminution of the protections under the Free Exercise Clause, Congress enacted 42 U.S.C. §§ 2000bb et seq. Known as the Religious Freedom Restoration Act (“RFRA”), this legislation states, in pertinent parts:

§ 2000bb(a)(3):

“The Congress finds that governments should not substantially burden religious exercise without compelling justification.”

§ 2000bb(b)(1) and (b)(2):

“The purposes of this chapter are to restore the compelling interest test ... and to guarantee its application in all cases where free exercise of religion is substantially burdened; and to provide a claim or defense to persons whose religious exercise is substantially burdened by government.”

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<sup>105</sup> Sherbert v. Verner.

<sup>106</sup> Wisconsin v. Yoder, 406 U.S. 205 (1972).

§ 2000bb-1(b)(1) and (b)(2):

“Government may substantially burden a person’s exercise of religion only if it demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest; and is the least restrictive means of furthering that compelling governmental interest.”

§ 2000bb-2(4):

“[T]he term “exercise of religion” means religious exercise, as defined in section 2000cc–5 of this title.” [§ 2000cc–5(7)(A) “The term ‘religious exercise’ includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.”]

§ 2000bb-3(a):

“This chapter applies to all Federal law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after November 16, 1993.”

§ 2000bb-3(c):

“Nothing in this chapter shall be construed to authorize any government to burden any religious belief.”

204. There is certainly no compelling state interest in having the government advocate for a religious view or sponsor a religious exercise. On the contrary, the compelling interest is in maintaining religious neutrality. “There is no doubt that compliance with the Establishment Clause is a [compelling] state interest.”<sup>107</sup>

205. Accordingly, the demands of strict scrutiny have not been met and Defendants must be enjoined from their planned religious activities.

**COUNT 5: THE ALTERATION OF THE PRESIDENTIAL OATH OF OFFICE, PERPETRATED BY DEFENDANT ROBERTS AND “OTHER UNNAMED OATH ADMINISTRATOR(S),” AND THE GOVERNMENT-SPONSORED, CLERGY-LED INVOCATIONS AND BENEDICTIONS, PERPETRATED BY THE REMAINING DEFENDANTS, VIOLATE THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT**

206. The allegations set forth in paragraphs 1-205 are realleged herein.

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<sup>107</sup> Capitol Square Review & Advisory Bd. v. Pinette, 515 U.S. 753, 761 (1995).

207. The Fifth Amendment states (in pertinent part) that “No person shall ... be deprived of ... liberty ... without due process of law.”

208. “The Due Process Clause of the Fifth Amendment ... has both substantive and procedural components; it performs the office of both the Due Process and Equal Protection Clauses of the Fourteenth Amendment in requiring that the federal sovereign act impartially.”<sup>108</sup>

209. In terms of substantive due process, the allegations in this Complaint demonstrate that Plaintiffs have lost their basic liberties to religious freedom under both the Establishment and the Free Exercise Clauses of the First Amendment.

210. They also have been denied procedural due process, inasmuch as there is no way – except via the courts – that they can ensure that their government respects their religious views.

211. Moreover, by being denied equivalent treatment in terms of their religious views and practices, their rights have been and will be abrogated under the Equal Protection component of the Fifth Amendment’s Due Process clause.<sup>109</sup>

**COUNT 6: THE ALTERATION OF THE PRESIDENTIAL OATH OF OFFICE, PERPETRATED BY DEFENDANT ROBERTS AND “OTHER UNNAMED OATH ADMINISTRATOR(S),” AND THE GOVERNMENT-SPONSORED, CLERGY-LED INVOCATIONS AND BENEDICTIONS, PERPETRATED BY THE REMAINING DEFENDANTS, ARE VOID AS AGAINST PUBLIC POLICY**

212. The allegations set forth in paragraphs 1-211 are realleged herein.

213. Presidential inaugurals are the Nation’s grandest official ceremonies, intended not only to instill confidence in our Constitutional system of government, but to unite our citizens. See, e.g.,

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<sup>108</sup> Fullilove v. Klutznick, 448 U.S. 448, 548 (1980) (Stevens, J., dissenting).

<sup>109</sup> Adarand Constructors, Inc. v. Mineta, 534 U.S. 103, 105 (2001).

paragraphs 105-107, supra (citing to Defendant PIC's own claims that engendering national unity is one of the key purposes of the inauguration).

214. Interlarding those ceremonies with clergy who espouse sectarian religious dogma does not unite, but rather divides, our citizenry. Similarly, instead of instilling confidence in our governmental structure, it tears at the very foundation upon which that structure is built.

215. Because they must countenance the government espousing religious dogma completely contrary to their beliefs, Plaintiffs (and others) feel completely disjointed, not united, within the inaugural ceremonies.

216. Accordingly, beyond their constitutional infirmities, the aforementioned activities are void as against public policy.

217. Furthermore, the primary act of the inauguration is the administration of the presidential oath of office.

218. That mandatory oath has the incoming Chief Executive declaring that he "will to the best of [his] Ability, preserve, protect and defend the Constitution of the United States."

219. It is also void as against public policy (as well as an offense of the highest magnitude) for Defendants here to violate the Constitution as the new President is swearing to "preserve, protect and defend" it.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for relief and judgment as follows:

- I. To declare that the unauthorized addition of “so help me God” to the constitutionally-prescribed presidential oath of office by the individual administering that oath to the President violates the Establishment and Free Exercise Clauses of the First Amendment, as well as 42 U.S.C. §§ 2000bb et seq. (Religious Freedom Restoration Act (RFRA)) and the Due Process Clause of the Fifth Amendment;
- II. To declare that the government-sponsored use of any clergy (much less openly Christian clergy) at a presidential inauguration violates the Establishment and Free Exercise Clauses of the First Amendment, as well as 42 U.S.C. §§ 2000bb et seq. (Religious Freedom Restoration Act (RFRA)) and the Due Process Clause of the Fifth Amendment;
- III. To enjoin Defendant Roberts, in his official capacity and in his individual capacity (and “other unnamed oath administrator(s)”) from altering the constitutionally-prescribed text of the presidential oath of office while administering that oath at any future presidential inauguration;
- IV. To enjoin the remaining Defendants – and/or similarly situated government officials – from utilizing or assisting any clergy to engage in any overtly religious acts on the government’s behalf at any future presidential inauguration;
- V. In the alternative, to enjoin Defendants from utilizing clergy to engage in overtly Christian religious acts at any future presidential inauguration;
- VI. To allow Plaintiffs to recover costs, expert witness fees, attorney fees, etc. as may be allowed by law; and
- VII. To provide such other and further relief as the Court may deem proper.

Respectfully submitted,

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