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**IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF ARIZONA**

22 St. Mark Roman Catholic Parish Phoenix;  
 23 Christ the King Liturgical Charismatic  
 24 Church, Inc.; and First Christian Church  
 25 of Phoenix, Arizona, Inc.,  
 26 Plaintiffs,  
 27 vs.  
 28 City of Phoenix, Arizona,  
 Defendant.

Case No.

Judge

**VERIFIED COMPLAINT FOR  
 DECLARATORY AND  
 INJUNCTIVE RELIEF**

1 COME NOW the Plaintiffs, by counsel and pursuant to the Federal Rules of Civil  
2 Procedure, and for their causes of action against Defendant allege and state the following:

3 **I.**

4 **INTRODUCTION**

5 1. Plaintiffs bring this action pursuant to 42 U.S.C. § 1983 for violation of their  
6 civil rights. ST. MARK ROMAN CATHOLIC PARISH PHOENIX (“ST. MARK”),  
7 CHRIST THE KING LITURGICAL CHARISMATIC CHURCH, INC. (“CKC”), and  
8 FIRST CHRISTIAN CHURCH OF PHOENIX, ARIZONA, INC. (“FCC”) are  
9 churches located in the city limits of Phoenix, Arizona. These churches want to ring  
10 carillon bells from their locations in the City of Phoenix as part of their religious  
11 exercise, but fear that they will be prohibited from doing so under a facially  
12 unconstitutional noise ordinance.

13 2. On June 3, 2009, Bishop Rick Painter, the Pastor of CKC, was convicted and  
14 sentenced to ten days in jail (suspended) and three years of probation for violating  
15 Phoenix’s Noise Ordinance by ringing carillon bells from CKC’s church building.

16 3. On August 24, two City of Phoenix Prosecutors and two Phoenix Police  
17 officers met with representatives of St. Mark and advised those representatives that St.  
18 Mark could be prosecuted for violating the noise ordinance if St. Mark did not reduce  
19 the amount of times that it rings its carillon to the satisfaction of certain neighbors.

20 4. St. Mark, CKC, and FCC desire to ring carillon bells in the future as part of  
21 the exercise of their religion, and their right to free speech, but fear future prosecution  
22 through application of the Phoenix Municipal Noise Ordinance.

23 5. Plaintiffs seek declaratory and injunctive relief to redress irreparable harm to  
24 their civil rights by virtue of the existence and threatened application of the Phoenix  
25 Noise Ordinance.

26 6. Plaintiff St. Mark also seeks nominal damages for violation of its  
27 constitutional rights.

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## II.

### JURISDICTION AND VENUE

7. This action raises federal questions under the United States Constitution, particularly the First and Fourteenth Amendments.

8. This Court has original jurisdiction over the federal claims by operation of 28 U.S.C. §§ 1331 and 1343.

9. This Court has authority to issue the requested declaratory relief under 28 U.S.C. § 2201.

10. This Court has authority to issue the requested injunctive relief under Fed. R. Civ. P. 65 and 28 U.S.C. § 1343(3).

11. This Court has supplemental jurisdiction over Plaintiffs' State law claims by virtue of 28 U.S.C. §1367.

12. This Court is authorized to award attorneys' fees under 42 U.S.C. § 1988 and under AZ Stat. §41-1493.01(D).

13. Venue is proper in this Court under 28 U.S.C. § 1391(b), because Defendant is within the District.

## III.

### IDENTIFICATION OF PLAINTIFFS

14. Plaintiff St. Mark Roman Catholic Parish Phoenix is a church, organized and existing as a nonprofit religious corporation under the laws of the State of Arizona.

15. Plaintiff St. Mark is a Parish of the Roman Catholic Church of the Diocese of Phoenix.

16. Plaintiff St. Mark is located within the City limits of Phoenix, Arizona, at 400 North 30th Street.

17. Plaintiff Christ the King Liturgical Charismatic Church, Inc. is a church, organized and existing as a nonprofit religious corporation under the laws of the State of Arizona.

18. Plaintiff CKC is recognized as a church by the Internal Revenue Service.



1 purpose of playing the carillon.

2 31. The carillon system was installed and operated at the same levels as it  
3 previously operated at the Church's facility on Bell Road.

4 32. The decision to install and play the carillon system was made by CKC's  
5 Church Council.

6 33. The Church Council is the entity ultimately responsible for the governance  
7 of CKC.

8 34. CKC's carillon is a part of the Church's exercise of its religion.

9 35. CKC rings carillon bells to honor and glorify God.

10 36. CKC believes that ringing the carillon is a way of acknowledging God's  
11 sovereignty over time and all that exists.

12 37. CKC also rings the carillon as a way of evangelizing by notifying anyone  
13 nearby that the Church is there and is a place of hope, help, and prayer.

14 38. CKC also rings the carillon as a way of continuing a centuries-old church  
15 tradition of ringing bells as a way of glorifying God.

16 39. CKC made the decision to commence ringing the carillon from its  
17 Greenway Road building on Palm Sunday, March 16, 2008.

18 40. Prior to March 16, 2008, CKC distributed approximately 1,000 fliers in the  
19 surrounding vicinity advising residents that it was now located in the neighborhood and  
20 would commence ringing its carillon on Palm Sunday, March 16, 2008.

21 41. On Palm Sunday, March 16, 2008, CKC began ringing its carillon.

22 42. The carillon was initially scheduled to ring from 7:00 a.m. to 9:00 p.m.

23 43. The carillon tolled the time on the half hour and the hour.

24 44. When the carillon tolled the time, it began by playing a 16-beat melody  
25 taken from Handel's *Messiah*. Following the playing of the melody, the carillon tolled the  
26 time.

27 45. When the carillon first began, CKC would play a short song following the  
28 tolling of the time at 9:00 a.m., 12:00 p.m., 3:00 p.m., 6:00 p.m., and 9:00 p.m.

1           46.     On Monday, March 17, 2008, Detective Daniel Cook from the City of  
2 Phoenix Police Department visited the Church.

3           47.     Detective Cook was following up on a noise complaint about the carillon.

4           48.     Detective Cook notified CKC during his visit that CKC was not breaking  
5 any laws by playing the carillon.

6           49.     Detective Cook did not issue any citations to CKC during his visit on March  
7 17, 2008.

8           50.     On or about March 18, 2008, two of the residents who lived near CKC  
9 spoke to Deacon James Lee, an employee of CKC, and complained about the carillon.

10          51.     On or about March 21, 2008, CKC requested to meet with three of the  
11 nearby residents who had complained about the carillon in an effort to see if a  
12 compromise could be reached and to explain the Church's religious beliefs concerning  
13 ringing the carillon.

14          52.     Following the meeting, CKC voluntarily undertook various efforts to  
15 mitigate the impact of the carillon on the nearby residents who had complained.

16          53.     CKC reduced the time period of the carillon so that it now rings from 8:00  
17 a.m. to 8:00 p.m.

18          54.     CKC reduced the frequency of the carillon so that it rings every hour instead  
19 of every half hour.

20          55.     Instead of playing five songs per day, CKC only plays one song per day at  
21 the noon hour.

22          56.     CKC installed a two inch thick Styrofoam buffer on the side of the carillon  
23 speakers facing the residents who complained.

24          57.     CKC angled the carillon speakers more up in the air in order to mitigate  
25 their impact on the nearby residents.

26          58.     After the nearby residents complained about the carillon, CKC took decibel  
27 readings of the carillon to assess its impact on the residents.

28          59.     On July 18, 2008, Deacon James Lee measured the decibel level of the

1 carillon at each of the three nearby residents' property lines.

2 60. CKC's church building is approximately 40 feet from the property line of  
3 the three nearby residents where Deacon Lee measured the decibel levels of the carillon.

4 61. The peak level of the carillon measured between 65.6 to 67.6 decibels at the  
5 property line of the neighbors closest to CKC.

6 62. On January 26, 2009, the City of Phoenix filed a Misdemeanor criminal  
7 Complaint against Bishop Rick Painter, the Pastor of CKC. *See* Municipal Misdemeanor  
8 Complaint attached hereto as Exhibit "A."

9 63. The Complaint accused Bishop Painter of creating "an unreasonably loud,  
10 disturbing and unnecessary noise, a Class 1 misdemeanor, in violation of Phoenix City  
11 Code Sections 23-12 and 1-5."

12 64. Following a Trial in Municipal Court on May 12, 2009, Bishop Painter was  
13 convicted of two counts of violating Phoenix City Code §23-12 (the Phoenix Noise  
14 Ordinance) by ringing CKC's carillon.

15 65. On June 3, 2009, Bishop Painter was sentenced to ten days in jail  
16 (suspended) and three years of probation for ringing the carillon.

17 66. CKC has ceased ringing its carillon for fear of future prosecution under the  
18 Phoenix Noise Ordinance.

19 67. CKC desires to continue to ring its carillon as a means of worshipping  
20 God, but is prohibited from doing so because of the threat of criminal prosecution from  
21 the City of Phoenix.

22 68. CKC's exercise of religion is inhibited and stifled because of the  
23 threatened application of the Phoenix Noise Ordinance.

24 ***St. Mark Roman Catholic Parish of Phoenix***

25 69. St. Mark is a church operating from a building located at 400 North 30th  
26 Street in the City of Phoenix.

27 70. St. Mark rings carillon bells from its church buildings as an exercise of its  
28 religious beliefs.

1           71.     The carillon at St. Mark has rung for at least twenty years.

2           72.     St. Mark's carillon usually rings every hour on the hour from 8:00 a.m. to  
3 8:00 p.m.

4           73.     The carillon that rings on the hour begins with a short melody followed  
5 by the counting of the hour by bells.

6           74.     At 12:00 p.m., the carillon rings a short *Angelus*.

7           75.     The *Angelus* is a carillon melody that reminds parishioners to pray.

8           76.     The carillon also rings three times before each Mass as a call to Mass.

9           77.     Mass is held at St. Mark every evening, and three times on Sunday.

10          78.     At 7:30 every evening, St. Mark's carillon rings five times for the prayer  
11 for the dead.

12          79.     The carillon at St. Mark is generated through an electronic system.

13          80.     The carillon system is located approximately 100 yards from the nearest  
14 resident to the Church – although that resident has not complained about the bells.

15          81.     St. Mark rings the carillon every hour to remind people to pray.

16          82.     St. Mark rings the carillon as a call for people to come to Mass and as a  
17 call for people to pray for the dead.

18          83.     St. Mark's carillon is part of a centuries-old tradition of the Catholic  
19 Church as a whole.

20          84.     The Catholic Church has a liturgical order for blessing the bells at a  
21 church.

22          85.     The blessings of the bells ceremony explains how the bells are an integral  
23 and essential part of the exercise of religion of the church:

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25                   It is an ancient practice to summon the Christian people to the  
26 liturgical assembly by means of some sign or signal and also to alert  
27 them to important happenings in the local community. The peal of  
28 bells, then, is in a way the expression of the sentiments of the people  
of God as they rejoice or grieve, offer thanks or petition, gather  
together and show outwardly the mystery of their oneness in Christ.

1           86.     Ringing bells is inextricably intertwined in the life of St. Mark.

2           87.     Ringing bells is an expression of the sentiment of the people of St. Mark  
3 and thus cannot be silenced without silencing the voice of the entire people of the  
4 church community.

5           88.     On or about August 20, 2009, a representative of the City of Phoenix  
6 Prosecutor's Office called St. Mark, to request a meeting to discuss St. Mark's carillon.

7           89.     The Prosecutor stated that the City had received complaints about the  
8 carillon at St. Mark and wanted to meet with the Church to see if something could be  
9 worked out.

10          90.     On August 25, 2009, Father Jorge Gonzales, St. Mark's Pastor, and Larry  
11 Shima, an employee of the church, together with John Kelly, General Counsel of the  
12 Diocese of Phoenix, met with two representatives of the Phoenix City Prosecutor's  
13 office and two Phoenix City Police Officers.

14          91.     The representatives of the Phoenix City Prosecutor's Office were Esteban  
15 Gomez and James Richter, both of whom are Prosecutors.

16          92.     The representatives from the Phoenix Police Department were Ted Music  
17 and Manny Valenzuela.

18          93.     During the meeting, both the Prosecutors and the Police Officers  
19 conveyed to St. Mark that they were trying to find a remedy to appease the resident who  
20 had complained about the carillon.

21          94.     The resident who had complained about the carillon at St. Mark lives  
22 approximately one block and a half away from the Church.

23          95.     The Prosecutors advised St. Mark that they hoped a compromise could be  
24 achieved that would avoid the need for prosecution under the Phoenix Noise Ordinance.

25          96.     When questioned about the vagueness of the Phoenix Noise Ordinance,  
26 the Prosecutors acknowledged that the ordinance was vague.

27          97.     St. Mark fears that it will be prosecuted under the Phoenix Noise  
28 Ordinance for ringing its carillon as a part of the exercise of its religion.

1           98.     St. Mark desires to continue ringing its carillon in the future as it has done  
2 for many years without fearing prosecution and criminal penalties for doing so.

3 ***First Christian Church***

4           99.     FCC owns a building at 6750 N. 7th Avenue in the City of Phoenix.

5           100.    FCC's building was designed by the late architect Frank Lloyd Wright  
6 and was completed in 1973.

7           101.    FCC also built a bell tower designed by Frank Lloyd Wright which was  
8 completed in 1978.

9           102.    The bell tower is located on FCC's property on 7th Avenue.

10          103.    The bell tower is 120 feet high and has four sides, each of which is  
11 unequal to the other three. The bell tower appears to be a triangle from any vantage  
12 point. The bell tower contains 608,000 pounds of concrete, stone, and steel and has no  
13 inward supporting structure.

14          104.    Located on top of the bell tower is a cross that is 22 feet in height.

15          105.    The bell tower was purposefully designed to emphasize its triangular  
16 appearance because Mr. Wright's philosophy was that a building in the shape of a  
17 triangle was a building in the attitude of prayer.

18          106.    The bell tower contains an electronic carillon system.

19          107.    FCC rang its carillon from the bell tower from its completion until  
20 approximately 2006 when the carillon became inoperative.

21          108.    The carillon would ring from FCC's bell tower at 12:00 p.m. and at 5:00  
22 p.m.

23          109.    FCC's rings its carillon is part of its exercise of religion.

24          110.    FCC believes that ringing its carillon is a way of worshipping God.

25          111.    FCC believes that ringing its carillon demonstrates the sovereignty of  
26 God over time and creation.

27          112.    FCC rang its carillon from its tower as part of a centuries-old tradition of  
28 churches ringing bells as a means of worshipping God.

1 113. FCC plans to repair the bell tower so that the carillon is once again  
2 operative.

3 114. FCC desires to once again commence ringing its carillon from the bell  
4 tower in the near future as part of its exercise of religion.

5 115. FCC fears that if it commences ringing its carillon from its bell tower in  
6 the future, that it will face prosecution for violating the Phoenix Noise Ordinance.

7 116. FCC desires to ring its carillon in the near future without fearing  
8 prosecution and criminal penalties under the Phoenix Noise Ordinance.

9 ***The Phoenix Noise Ordinance***

10 117. The Phoenix Noise Ordinance is contained within the Phoenix City Code,  
11 in relevant part, in sections 23-12 to 23-15. *See* Phoenix Municipal Code §§23-12 – 23-  
12 15 attached hereto as Exhibit “B.”

13 118. Section 23-12 states, “Subject to the provisions of this article the creating  
14 of any unreasonably loud, disturbing and unnecessary noise within the limits of the City  
15 is hereby prohibited.” *See* Exhibit “B.”

16 119. The Noise Ordinance does not define the terms “unreasonably loud,”  
17 “disturbing,” or “unnecessary.”

18 120. Section 23-14 provides a list of acts that are “declared to be loud,  
19 disturbing, and unnecessary noises.

20 121. Section 23-14’s list of noises is a non-exclusive list.

21 122. Section 23-14 is not intended to enumerate all of the acts or noises that  
22 would violate Section 23-12.

23 123. Section 23-15 lists several exemptions from the noise ordinance  
24 prohibition contained in Section 23-12.

25 124. The exemptions contained within Section 23-15 are for:

26 (a) Any vehicle of the City while engaged upon necessary public  
27 business.

28 (b) Excavations or repairs of bridges, streets or highways by or on

1                   behalf of the City or the State, at night, when the public welfare  
2                   and convenience renders it impossible to perform such work  
3                   during the day.

4                   (c)     The reasonable use of amplifiers or loudspeakers in the course of  
5                   public addresses which are noncommercial in character, and which  
6                   amplifiers or loudspeakers are not used in connection with any  
7                   moving vehicle.

8                   (d)     The use of a hand-operated device producing not in excess of  
9                   seventy decibels of sound, "C" scale, measured a distance of fifty  
10                  feet from the instrument emanating sound from bicycles, pushcarts,  
11                  or other vehicles, or from vehicles in connection with the sale or  
12                  display of merchandise; provided, that such devices or musical  
13                  systems:

14                  (1)     Shall be operated only while the bicycle, pushcart or vehicle  
15                  is in motion;

16                  (2)     Shall play only pleasing melodies; and

17                  (3)     Shall not be played between the hours of 1:00 p.m. and 3:00  
18                  p.m., and between the hours of 9:00 p.m. and 10:00 a.m.

19     *See Exhibit "B."*

20                  125.     CKC's church building is approximately 40 feet from the property lines  
21                  of the nearest residents to the Church.

22                  126.     Deacon Lee's decibel level measurements at approximately 40 feet from  
23                  the source of the bells are lower than that allowed in the Noise Ordinance for vehicles  
24                  at 50 feet distance.

25                  127.     St. Mark's church building is approximately 100 yards from the nearest  
26                  resident to the church.

27                  128.     The decibel level measurements obtained at approximately 50 feet from  
28                  the bells at St. Mark are lower than that allowed in the Noise Ordinance for vehicles at

1 50 feet distance.

2 129. The Noise Ordinance does not contain an exemption for church bells.

3 130. The Noise Ordinance does not contain a specific exemption for noises  
4 that emanate as part of the exercise of religion.

5 131. The Noise Ordinance contains only one decibel level standard in §23-  
6 15(d) related to sounds emanating from vehicles.

7 132. Other than the one decibel level standard in §23-15(d), the Noise  
8 Ordinance contains no other decibel level standards.

9 133. Other than the one decibel level standard in §23-15(d), the Noise  
10 Ordinance contains no objective standards for enforcement.

11 134. Other towns and cities across the United States have noise ordinances that  
12 contain specific exemptions for church bells. *See e.g., SEIU v. City of Houston*, 542 F.  
13 Supp. 2d 617 (S.D. Tex. 2008) (discussing Houston's exemption for church bells); *see*  
14 *also* City of Cambridge Massachusetts explanation of noise ordinance, *available at*  
15 [http://www.cambridgema.gov/deptann.cfm?story\\_id=63](http://www.cambridgema.gov/deptann.cfm?story_id=63) (last visited August 26, 2009);  
16 Jackson County North Carolina Noise Ordinance, *available at* [http://planning.](http://planning.jacksonnc.org/Noise_Ordinance.pdf)  
17 [jacksonnc.org/Noise\\_Ordinance.pdf](http://planning.jacksonnc.org/Noise_Ordinance.pdf) (last visited August 26, 2009).

18 135. Plaintiffs would like to ring bells in the future as a part of the exercise of  
19 their religion, but fear prosecution and enforcement of the Phoenix Noise Ordinance  
20 against them.

21 136. Plaintiff CKC has ceased ringing its carillon out of fear of prosecution  
22 under the Noise Ordinance.

23 137. Plaintiff St. Mark fears imminent prosecution if it does not compromise  
24 or cease ringing its carillon.

25 138. Plaintiffs are being irreparably harmed due to Defendant's Noise  
26 Ordinance.

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## VI.

### ALLEGATIONS OF LAW

139. Each and all of the acts herein alleged of the Defendant, its officers, agents, servants, employees, or persons acting at its behest or direction, were done and are continuing to be done under the color of state law, including the statutes, regulations, customs, policies, and usages of the State of Arizona.

140. The Noise Ordinance is unconstitutional on its face.

141. The Noise Ordinance is unconstitutionally vague.

142. The Noise Ordinance allows for subjective and/or arbitrary enforcement of its terms.

143. The Noise Ordinance is a content-based restriction on speech.

144. The Noise Ordinance is not a neutral law of general applicability.

145. The Noise Ordinance contains categorical secular exemptions but does not contain a categorical religious exemption.

146. The Noise Ordinance sets up a system of individualized exemptions from its requirements and prohibitions.

147. The Noise Ordinance is not supported by any compelling governmental interest.

148. The Defendant's interest in the Noise Ordinance is not advanced in the least restrictive means available.

149. The Noise Ordinance is unconstitutionally overbroad.

## VII.

### FIRST CAUSE OF ACTION:

### VIOLATION OF THE RIGHT TO FREEDOM OF SPEECH

### UNDER THE UNITED STATES CONSTITUTION

150. Plaintiffs re-allege and incorporate herein, as though fully set forth herein, all previous paragraphs of this Verified Complaint and do further allege as follows:

151. The Noise Ordinance is an unconstitutional content-based restriction on

1 speech.

2 152. In order to enforce the Noise Ordinance, Defendant must review the  
3 content of the speech.

4 153. The government may not exclude protected speech on the basis of its  
5 content, absent a compelling governmental interest.

6 154. Defendant has no compelling government interest to justify its Noise  
7 Ordinance.

8 155. Any interest Defendant has in its Noise Ordinance is not advanced in the  
9 least restrictive means available.

10 156. The Noise Ordinance allows for discrimination against the viewpoint of a  
11 speaker.

12 157. The government may not discriminate based upon the viewpoint  
13 expressed by a speaker.

14 158. There is nothing in the Noise Ordinance that prohibits Defendant from  
15 silencing speech based on viewpoint.

16 159. The Noise Ordinance allows for the exercise of unbridled discretion in  
17 enforcing its terms.

18 160. The terms of the Noise Ordinance allow for subjective and/or arbitrary  
19 enforcement.

20 161. Defendant's Noise Ordinance chills the exercise of First Amendment  
21 rights by other organizations and individuals.

22 162. The Noise Ordinance violates the Free Speech Clause of the First  
23 Amendment to the United States Constitution.

24 163. Unless and until Defendant is enjoined from enforcing the Noise  
25 Ordinance, Plaintiffs will continue to suffer irreparable harm to their constitutional  
26 rights.

27 WHEREFORE, Plaintiffs respectfully pray that the Court grant the relief set  
28 forth in the prayer for relief.

1 **VIII.**

2 **SECOND CAUSE OF ACTION:**

3 **VIOLATION OF THE RIGHT TO DUE PROCESS**

4 **UNDER THE UNITED STATES CONSTITUTION**

5 164. Plaintiffs re-allege and incorporate herein, as though fully set forth herein,  
6 all previous paragraphs of this Verified Complaint and do further allege as follows:

7 165. The Noise Ordinance is unconstitutionally vague.

8 166. The terms “Unreasonably loud,” “disturbing,” and “unnecessary” in the  
9 Noise Ordinance as well as other words are not defined and are unconstitutionally  
10 vague.

11 167. Individuals of ordinary, common intelligence would guess at the meaning  
12 of the terms in the Noise Ordinance.

13 168. The Noise Ordinance does not adequately notify persons of what  
14 expression is prohibited and what is permitted.

15 169. The lack of definition of the terms in the Noise Ordinance allows for  
16 subjective and/or arbitrary enforcement of the Ordinance.

17 170. The Noise Ordinance is unconstitutionally overbroad.

18 171. Defendant’s Noise Ordinance chills the exercise of First Amendment  
19 rights by other organizations and individuals.

20 172. The Noise Ordinance includes within its prohibitions expression that is  
21 protected by the First and Fourteenth Amendments.

22 173. Unless and until Defendant is enjoined from enforcing its Noise  
23 Ordinance, Plaintiffs will continue to suffer irreparable harm to their federal  
24 constitutional rights.

25 174. Therefore, the Noise Ordinance violates the Due Process Clause of the  
26 Fourteenth Amendment to the United States Constitution.

27 WHEREFORE, Plaintiffs respectfully pray that the Court grant the relief set  
28 forth in the prayer for relief.

1 **IX.**

2 **THIRD CAUSE OF ACTION:**

3 **VIOLATION OF THE RIGHT TO FREE EXERCISE OF RELIGION**

4 **UNDER THE UNITED STATES CONSTITUTION**

5 175. Plaintiffs re-allege and incorporate herein, as though fully set forth herein,  
6 all previous paragraphs of this Verified Complaint and do further allege as follows:

7 176. Plaintiffs have a sincerely-held religious belief to ring bells as part of their  
8 religious exercise.

9 177. The Noise Ordinance substantially burdens the Plaintiffs' exercise of  
10 religion.

11 178. The Noise Ordinance is not a neutral law of general applicability.

12 179. The government may not substantially burden religious exercise through a  
13 law that is not neutral or generally applicable absent a compelling governmental  
14 interest.

15 180. The Noise Ordinance sets up a system of individualized exemptions from  
16 its prohibitions.

17 181. The government may not set up a system of individualized exemptions  
18 from a requirement or prohibition without extending an exemption to religious exercise  
19 unless the government can demonstrate a compelling interest.

20 182. The Noise Ordinance contains categorical exemptions from its  
21 prohibitions.

22 183. The Noise Ordinance does not offer a categorical exemption to conduct  
23 that is part of religious exercise.

24 184. The government may not offer secular categorical exemptions and refuse  
25 to offer a categorical exemption for religious exercise absent a compelling government  
26 interest.

27 185. Defendant has no compelling government interest to justify its Noise  
28 Ordinance.





1           G.     Adjudge, decree, and declare the rights and other legal relations of the  
2 parties to the subject matter here in controversy, in order that such declarations shall  
3 have the force and effect of final judgment; and

4           H.     Retain jurisdiction of this matter for the purpose of enforcing the Court's  
5 orders.

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1 Respectfully submitted this 2nd day of September, 2009.

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4 /s/ Dale Schowengerdt

5 Erik W. Stanley, FL Bar No, 0183504\*

6 estanley@telladf.org

7 Dale Schowengerdt, AZ Bar No. 022684

8 dschowengerdt@telladf.org

9 **Alliance Defense Fund**

10 15192 Rosewood

11 Leawood, KS 66224

12 (913) 685-8000 - Telephone

13 (913) 685-8001 – Fax

14 \**pro hac vice motion forthcoming*

15

16 Gary McCaleb, AZ Bar No. 018848

17 gmccaleb@telladf.org

18 Alliance Defense Fund

19 15100 North 90th Street

20 Scottsdale, AZ 85260

21 (480) 444-0020 – Phone

22 (480) 444-0028 – Fax

23

24 John J. Jakubczyk, AZ Bar No. 005894

25 jakeslaw@qwest.net

26 4643 E. Thomas Rd., Ste #5

27 Phoenix, AZ 85018

28 (602) 468-0030 - Phone

(602) 468-0053 - Fax

*Local Counsel*

*Attorneys for Plaintiffs*

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**VERIFICATION OF COMPLAINT**

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I have read the foregoing Verified Complaint and the factual allegations thereof and that to the best of my knowledge the facts alleged therein that are relevant to Christ the King Liturgical Charismatic Church are true and correct.

Executed this 29th day of August, 2009, in Maricopa County, Arizona.

/s/ Alan L. Marbley  
Board Member

/s/ James M. Lee  
Deacon

/s/ Rick Painter, Sr.  
Bishop, Pastor, Corp. Pres.

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**VERIFICATION OF COMPLAINT**

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I have read the foregoing Verified Complaint and the factual allegations thereof and that to the best of my knowledge the facts alleged therein that are relevant to First Christian Church are true and correct.

Executed this 31st day of August, 2009, in Maricopa County, Arizona.

/s/ Jon Taylor  
Jon Taylor  
Senior Pastor  
First Christian Church of Phoenix

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**VERIFICATION OF COMPLAINT**

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I have read the foregoing Verified Complaint and the factual allegations thereof and that to the best of my knowledge the facts alleged therein that are relevant to St. Mark Roman Catholic Parish of Phoenix are true and correct.

Executed this 31st day of August, 2009, in Maricopa County, Arizona.

/s/ Jorge Gonzalez  
Rev. Jorge Gonzalez, Pastor  
St. Mark Roman Catholic Parish of Phoenix