

*Alvin D. Quinn*  
CLERK OF THE COURT

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9 ATTORNEY FOR:

10 WALLACE E. SMITH, Pastor/Trustee of  
11 HOUSE OF ISRAEL FELLOWSHIP, A  
12 Free Congregation of Messianic Christians.  
13  
14

15 DISTRICT COURT

16 CLARK COUNTY, NEVADA

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18  
19 WALLACE E. SMITH, Pastor/Trustee of )  
20 HOUSE OF ISRAEL FELLOWSHIP, A )  
21 Free Congregation of Messianic Christians, )  
22 Plaintiff. )  
23 )  
24 vs. )  
25 )  
26 CLARK COUNTY, NEVADA, a )  
27 Municipal Corporation of the state of )  
28 Nevada, THE STATE OF NEVADA, and )  
29 DOE I to DOE XX, inclusive, )  
30 Defendants. )  
31 )

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--- V I I ---

X I X

CASE NO.  
DEPT.  
DOCKET NO.

32  
33 COMPLAINT FOR DECLARATORY RELIEF,  
34 TEMPORARY RESTRAINING ORDER, PRELIMINARY  
35 AND PERMANENT INJUNCTIONS, AND DAMAGES  
36 (US Constitution Amendment 1, NV Constitution Ordinance §2 and Article 1 §4)

37 COMES NOW, Plaintiff, WALLACE E. SMITH, Pastor/Trustee of the HOUSE OF  
38 ISRAEL FELLOWSHIP, A Free Congregation of Messianic Christians, by and through their  
39 undersigned attorney, and for their causes of action, complain of Defendants, and each of them,  
40 as follows:  
41

1 FIRST CAUSE OF ACTION

2 Plaintiff complains of Defendants, and each of them, and alleges:

3 1. Plaintiff WALLACE E. SMITH, Pastor/Trustee, is the Pastor/Trustee of the  
4 HOUSE OF ISRAEL FELLOWSHIP, A Free Congregation of Messianic Christians  
5 (hereinafter called HOUSE OF ISRAEL), a free unregistered Church founded by Jesus Christ  
6 pursuant to the Scriptures of The Holy Bible, 1611 King James Version, and located in Clark  
7 County, Nevada, during all times and events mentioned herein;

8 2. Plaintiff WALLACE E. SMITH, Pastor/Trustee, is, and during all times and  
9 events mentioned herein was, a resident of Clark County, Nevada;

10 3. Defendant CLARK COUNTY, NEVADA (hereinafter referred to as CLARK  
11 COUNTY) is a municipal corporation of the state of Nevada;

12 4. Defendant THE STATE OF NEVADA (hereinafter referred to as STATE) is the  
13 government of the state of Nevada;

14 5. Defendant STATE prosecutes the misdemeanor violations of Defendant  
15 CLARK COUNTY's codified ordinances, the Clark County Code, for Defendant CLARK  
16 COUNTY;

17 6. The true names and capacities whether individual or corporation, associate or  
18 otherwise, of Defendants DOE I to DOE XX, inclusive, and each of them are unknown to  
19 Plaintiff at this time, who, therefore, sues said Defendants by such fictitious names and when  
20 the true names and capacities are ascertained, Plaintiff will amend this complaint accordingly.  
21 Plaintiff is informed and believes and, therefore, alleges that each of the Defendants designated  
22 herein as DOE is responsible in some manner for the events and happenings herein referred to  
23 and each DOE Defendant caused the injuries and damages complained of herein;

1           7.     At all times herein mentioned, each Defendant was the agent, servant and  
2 employee of its remaining co-Defendant and was at all times herein acting within the course  
3 and scope of their said agency and employment;

4           8.     On or about May 27, 2009, HOUSE OF ISRAEL, by and through Plaintiff  
5 WALLACE E. SMITH, Pastor/Trustee, (hereinafter Plaintiff/Church) became the owner of that  
6 certain parcel of land located in Clark County, Nevada, having an APN# of 161-19-303-010,  
7 and commonly known as 4603 Sandhill Road, Las Vegas, NV 89121;

8           9.     Briefly, according to the tenets of the faith of the HOUSE OF ISRAEL and the  
9 firm Christian convictions of the congregation as witnessed by the Declaration of Trust  
10 whereby WALLACE E. SMITH, as Pastor/Trustee, holds the property as trustee for the benefit  
11 of the Lord Jesus Christ (a copy of said Declaration of Trust is attached hereto as Exhibit "1"  
12 and made a part hereof by reference),

13           A.     The true and beneficial owner of the personal and real property of the  
14 Plaintiff/Church, including the real property described above, is the Lord Jesus Christ;

15           B.     The Holy Bible, 1611 King James Version, is the recognized published  
16 authority for the establishment of the Plaintiff/Church, its properties, its ministries, its internal  
17 affairs and government;

18           C.     The Plaintiff/Church is a local, visible New Testament Church  
19 established by the Lord Jesus Christ pursuant to the Scriptures of The Holy Bible;

20           D.     Jesus Christ is God, the second person of the triune Godhead, and  
21 sovereign over all the earth, nations, mankind and creation; and

22           E.     The Church, which includes Plaintiff/Church, like God, is holy; its  
23 establishment, ministries, properties, internal affairs and government are not to be entangled

1 with civil government. The Church exists separate and distinct from human, civil government;  
2 and

3 F. The Church is subject solely to the Lordship of Jesus Christ as the  
4 Sovereign head of the Church;

5 10. In accordance with the Scriptures of The Holy Bible, and the religious  
6 convictions of the congregation, the congregation is entrusted with the Church properties to  
7 further the work of the Church ministries, including the propagation of the Gospel of Jesus  
8 Christ. According to the Scriptures and the religious convictions of the congregation, the  
9 Church building is a part of the "house of the Living God."

10 11. The properties of Plaintiff/Church (see Paragraph 8 above) are used solely for  
11 the purpose of worship, including the propagation of the congregation's faith through its  
12 various ministries.

13 12. The Plaintiff/Church on its property and in its affairs cannot recognize and/or  
14 submit to the authority of civil government with respect to its property. Such recognition and/or  
15 submission would constitute a recognition of another sovereign greater than Jesus Christ over  
16 the Church, its establishment, the properties it holds in trust for the Lord Jesus Christ, its  
17 ministries, its internal affairs and its government. In other words, recognizing and/or submitting  
18 to the authority of civil government with respect to its property would constitute a denial of  
19 their faith in the Lordship of Jesus Christ;

20 13. Also in accordance with the Scriptures of The Holy Bible, and the religious  
21 convictions of the congregation, the Plaintiff/Church is NOT incorporated, nor has it filed for  
22 501(c)(3) status with the IRS, thereby has not voluntarily subjected themselves to the authority  
23 of Defendants CLARK COUNTY and STATE, and/or the federal government.

1           14.    On or about September 25, 2009, a Code Enforcement Officer of the Public  
2    Response Office/Code Compliance Office of Defendant CLARK COUNTY inspected the  
3    above mentioned real property and was informed of the religious convictions of  
4    Plaintiff/Church;

5           15.    After the inspection, the Defendant CLARK COUNTY's Code Enforcement  
6    Officer issued a Notice of Violation And Sign Removal alleging that two signs on the property  
7    violate certain provisions of Title 30 of the Clark County Code. A copy of the Notice of  
8    Violation is attached hereto as Exhibit "2" and made a part hereof by reference;

9           16.    For reasons set forth in Paragraph 12 above, the Plaintiff/Church cannot file an  
10   application for sign permits or variances, for the filing of such application would operate as a  
11   recognition of and submission to another sovereign greater than Jesus Christ over  
12   Plaintiff/Church and would operate as a recognition of and submission to the alleged right of  
13   Defendants CLARK COUNTY and STATE to assert authority over Plaintiff/Church with  
14   respect to Plaintiff/Church's property, ministries, and government, and to discriminate against  
15   Plaintiff/Church because of her sincerely held religious beliefs and prefer the religious beliefs  
16   of others, all in violation of the United States Constitution, Amendment I, and the Nevada  
17   Constitution, Ordinance, § 2, and Article 1, § 4;

18           17.    As a result of such sincerely and firmly held religious beliefs, Plaintiff appealed  
19   the Notice of Violation and requested a hearing pursuant to Section 30.72.070(6) of the Clark  
20   County Code;

21           18.    On or about December 2, 1009, a hearing was held on the Sign Appeal before  
22   Hearing Officer Nathaniel J. Reed, Esq., in Defendant CLARK COUNTY's Code Enforcement  
23   Case No. 09-00018883.

1           19.     A Decision was issued by said Hearing Officer dated December 8, 2009, mailed  
2 by the Defendant CLARK COUNTY's Public Response Office/Code Compliance Office on or  
3 about December 17, 2009, and received by Plaintiff WALLACE E. SMITH, Pastor/Trustee, on  
4 or about December 18, 2009. A copy of said Decision is attached hereto as Exhibit "3" and  
5 made a part hereof by reference;

6           20.     The Decision did not acknowledge the constitutional issues brought forth by  
7 Plaintiff at the hearing;

8           21.     The Decision found as fact that there were, and are, two (2) temporary signs  
9 located on the property, one a free-standing metal frame in violation of the minimum from the  
10 public right-of-way, the other a vinyl banner located on the building; concluded as a matter of  
11 law that due to the type of material, size and locations of the signs, they are in violation of  
12 CC30.72.070, Tables 30.72-1 and 30.72-3; and ordered that on or before January 5, 2010, the  
13 signs be dismantled and removed, impounded, and destroyed thirty (30) days after  
14 impoundment if not recovered by Plaintiff;

15           22.     The Plaintiff/Church acknowledges that there are two (2) signs located on the  
16 property, one is a vinyl banner hanging from the building which indicates the name of the  
17 congregation, and the other a sign in a metal frame which presents the Ten Commandments to  
18 persons passing by;

19           23.     The actions of Defendant CLARK COUNTY with respect to Plaintiff, including  
20 requiring a permit and/or variance to erect the signs, and Defendant CLARK COUNTY's  
21 Decision demanding removal of such signs violate Plaintiff's constitutional rights by reason of  
22 the religious freedom clauses of the United States Constitution, Amendment 1, and the Nevada  
23 Constitution Ordinance § 2 and Article 1 §§ 4 and 9;

1           24.    Removal of the vinyl banner, or reduction in size of the banner, would violate  
2 Plaintiff/Church's instructions to keep Jesus as Lord and to publish the Church's location so  
3 that any interested persons may voluntarily come to hear the message being proffered;

4           25.    Removal of the Ten Commandments' metal sign would violate  
5 Plaintiff/Church's instructions to keep Jesus as Lord and to publish and propagate His message  
6 to the general public;

7           26.    Plaintiff has informed officers and employees of the Defendant CLARK  
8 COUNTY of their constitutional violations with respect to Plaintiff/Church and Defendant  
9 CLARK COUNTY's lack of authority over Plaintiff/Church and its property;

10          27.    Plaintiff/Church acknowledges that Defendant CLARK COUNTY, through its  
11 employees, is withholding its threatened action to remove, impound, and destroy the signs only  
12 at the request of Plaintiff/Church's attorney pending the filing and service of this Complaint  
13 and accompanying documents;.

14          28.    A true case and controversy exists between Plaintiff/Church and Defendants and  
15 it is appropriate for this Court to make a declaration with respect to Plaintiff/Church's  
16 constitutional rights and Defendants CLARK COUNTY's and STATE's lack of authority over  
17 Plaintiff/Church with respect to its property, including their lack of authority to demand a  
18 permit or permits from Plaintiff/Church for the size, material, location and/or content of signs  
19 on Plaintiff/Church's property, and/or to limit or restrict the placement of signs upon  
20 Plaintiff/Church's property; and

21          29.    It has been necessary for plaintiff to obtain the services of an attorney to  
22 prosecute this action.

23





1 property is used by Plaintiff/Church for church purposes only;

2 4. The properties referenced are not subject to assessment and taxation by reason  
3 of the religious freedom clauses of the United States Constitution Amendment 1 and the  
4 Nevada Constitution Ordinance §2 and Article 1 §4, in conjunction with NRS 361.125;

5 5. By the referenced document Defendant CLARK COUNTY was notified that the  
6 properties of the Plaintiff/Church are used solely for the purpose of worship, including the  
7 propagation of the congregation's faith through its various ministries;

8 6. The Plaintiff/Church cannot pay a tax of any kind, for to do so would constitute  
9 a sin against God. The payment of any tax would operate as a recognition of and submission to  
10 another sovereign greater than Jesus Christ over the Plaintiff/Church and would operate as a  
11 recognition of and submission to the alleged right of Defendants CLARK COUNTY and  
12 STATE to assert authority over Plaintiff/Church with respect to Plaintiff/Church's property,  
13 establishment, the properties it holds in trust for the Lord Jesus Christ, its ministries, internal  
14 affairs and government, all in violation of the United States Constitution Amendment 1, and the  
15 Nevada Constitution Ordinance §2 and Article 1 §4. In other words, the payment of a tax on  
16 Plaintiff/Church's property or any other tax would constitute a denial of their faith in the  
17 Lordship of Jesus Christ;

18 7. For the same reason, the Plaintiff/Church cannot file an application for  
19 exemption from property taxation, for the filing of such application would operate as a  
20 recognition of the alleged right of Defendants CLARK COUNTY and STATE to discriminate  
21 against Plaintiff/Church because of her sincerely held religious beliefs and prefer the religious  
22 beliefs of others in violation of the United States Constitution Amendment 1, and the Nevada  
23 Constitution Ordinance §2 and Article 1 §4;

1           8.     Defendant STATE provides tax exemption to those churches who do file for an  
2 exemption;

3           9.     Charging property tax against property being used by Plaintiff/Church violates  
4 both the United States Constitution Amendment 1, and Nevada Constitution Ordinance §2 and  
5 Article 1 §4;

6           10.    The Plaintiff/Church and congregation have sincerely held religious beliefs,  
7 which prohibit them from filing for an exemption;

8           11.    The Defendant STATE's interest in requiring an application for exemption to  
9 perfect the right of an exemption from taxation is the administration of the tax laws;

10          12.    The First Amendment of the United States Constitution and the Declaration of  
11 Rights of the Nevada Constitution require Defendants CLARK COUNTY and STATE to  
12 accommodate a religiously based objection requirement imposed by statute, procedure or  
13 regulation when reasonable alternatives are available;

14          13.    A reasonable alternative to filing an application for exemption from property  
15 taxation by reason of the religious precepts of the Plaintiff/Church, who uses the property  
16 strictly for religious worship, is notification, and notification was provided to Defendants  
17 pursuant to Exhibit "4" attached to this Complaint;

18          14.    On or about August 20, 2009, Defendant CLARK COUNTY's office of the  
19 Clark County Assessor notified Plaintiff of its receipt of claim for property tax exemption and  
20 requested further information with respect to the nature of the organization. A copy of said  
21 receipt of claim is attached hereto as Exhibit "5" and is incorporated herein by reference;

22          15.    Plaintiff provided the Clark County Assessor's office with the requested  
23 documentation;

1           16.    On or about September 14, 2009, Defendant CLARK COUNTY's office of the  
2 Clark County Assessor advised Plaintiff/Church that the District Attorney's Office "denied  
3 [the] application for a property tax exemption on the [Plaintiff/Church's property] pursuant to  
4 NRS 361.125 pending additional documents 'creating a legally recognizable organization.'" A  
5 copy of said denial document is attached hereto as Exhibit "6" and made a part hereof by  
6 reference;

7           17.    The Plaintiff/Church properties would qualify for statutory exemption if the  
8 Plaintiff/Church was organized as a State Corporation or unincorporated association;

9           18.    According to Exhibit "6" Defendant CLARK COUNTY is requiring that  
10 Plaintiff/Church "voluntarily" submit to the Lordship of Defendants STATE and CLARK  
11 COUNTY by "creating a legally recognizable organization" before allowing a tax exemption  
12 for the property or recognition that the property is not taxable, which submission would be a  
13 violation of Plaintiff/Church's sincerely and firmly held religious beliefs;

14           19.    This denial of the free exercise of religion violates Plaintiff's constitutional  
15 rights by reason of the religious freedom clauses of the United States Constitution Amendment  
16 1, and the Nevada Constitution Ordinance § 2 and Article 1 § 4, in conjunction with Nevada  
17 Revised Statutes Annotated (NRS) 361.125 [property taxes], and the establishment clause of  
18 the United States Constitution, Amendment 1, for requiring the Plaintiff/Church to create "a  
19 legally recognizable organization" establishes a state church (a church in submission to State  
20 government);

21           20.    The Defendant CLARK COUNTY is charging property taxes to the  
22 Plaintiff/Church, which tax charges are increasing over time with penalties being added for late  
23 payments. A copy of two of Plaintiff/Church's recent property tax bills is attached hereto as

1 Exhibit "7" and made a part hereof by reference;

2 21. A true case and controversy exists between Plaintiff/Church and Defendants and  
3 it is appropriate for this Court to make a declaration with respect to Plaintiff/Church's  
4 constitutional rights and Defendants lack of authority over Plaintiff/Church with respect to its  
5 property, including their lack of authority to tax Plaintiff/Church's property, and to order  
6 Defendants to rescind the taxes and penalties charged against Plaintiff/Church's property.

7 WHEREFORE, Plaintiff WALLACE E. SMITH, Pastor/Trustee of the HOUSE OF  
8 ISRAEL FELLOWSHIP, A Free Congregation of Messianic Christians, expressly reserving the  
9 right to amend their Complaint when the true names and capacities of Defendants DOE I  
10 through DOE XX are ascertained, and at the time of the trial of the actions herein to include all  
11 items of damages not yet ascertained, prays judgment against Defendants, and each of them, as  
12 follows:

13 1. For an order declaring:

14 a. that a true case and controversy exists between Plaintiff/Church and  
15 Defendants CLARK COUNTY and STATE;

16 b. that Plaintiff/Church has constitutional rights, under the U.S, and  
17 Nevada Constitutions, to free exercise of its religion;

18 c. that Defendants CLARK COUNTY and STATE lack authority over  
19 Plaintiff/Church with respect to its property, including:

20 i. a lack of authority to require or demand a permit or permits  
21 from Plaintiff/Church for:

22 A. the establishment, construction, size, material, location  
23 and/or content of signs on Plaintiff/Church's property, and/or to limit or restrict the placement

1 of signs upon Plaintiff/Church's property, and

2 B. the establishment, construction, repair, or renovation of  
3 buildings upon Plaintiff/Church's property;

4 ii. a lack of authority to tax Plaintiff/Church's property.

5 d. that Defendants CLARK COUNTY and STATE have no right or  
6 authority to discriminate against Plaintiff/Church because of her sincerely held religious beliefs  
7 and/or to prefer the religious beliefs of others in violation of the United States Constitution  
8 Amendment I, and the Nevada Constitution Ordinance § 2 and Article 1 §§ 4 and 9;

9 2. For an order requiring Defendants to show cause, if any they have, why they  
10 should not be enjoined as set forth in this Complaint, during the pendency of this action;

11 3. For a temporary restraining order, a preliminary injunction, and a permanent  
12 injunction, each at the appropriate time in this action, all enjoining Defendants, and each of  
13 them, and their agents, servants, and employees, and all persons acting under, in concert with,  
14 or for them:

15 a. From requiring Plaintiff/Church to move or remove the current vinyl  
16 banner and metal sign from Plaintiff/Church's real property located at 4603 Sandhill Road, Las  
17 Vegas, NV 89121;

18 b. From moving, removing, impounding, and/or destroying the current  
19 vinyl banner and metal sign from Plaintiff/Church's real property located at 4603 Sandhill  
20 Road, Las Vegas, NV 89121;

21 c. From charging or collecting taxes with respect to Plaintiff/Church's  
22 property;

23 d. From charging penalties for non-payment of taxes with respect to

1 Plaintiff/Church's property;

2 e. From foreclosing on Plaintiff/Church's property because of non-payment  
3 of taxes and/or penalties and costs;

4 f. From requiring Plaintiff/Church to file application(s) for permits for  
5 establishment, construction, and location of signs or buildings on its property;

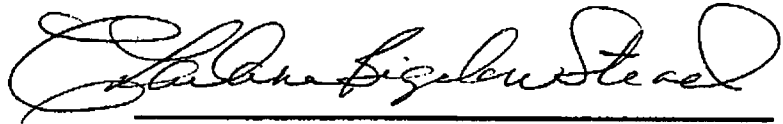
6 g. To recognize Plaintiff/Church's constitutional rights to not be taxed, as  
7 opposed to being qualified for a tax exemption;

8 4. For damages in such sums as may be sustained and as are ascertained before  
9 final judgment in this action;

10 5. For costs of suit incurred in this action, including reasonable attorney fees; and

11 6. For such other and further relief as the Court deems meet and proper.

12 Respectfully submitted this 1st day of February, 2010.

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16  
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