

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

Plaintiff: COUNTY OF RIVERSIDE vs Defendant: CHURCH UNLIMITED	FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE APR 08 2020 Anthony Rangel <i>AR</i>
	CASE NUMBER: PSC2002064
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

APR 08 2020

Anthony Rangel *AR*

Attorneys for Plaintiff, County of Riverside

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE**

COUNTY OF RIVERSIDE,

Plaintiff,

v.

CHURCH UNLIMITED, a religious non-
profit organization; JAMES MOFFATT, an
individual; DOES 1 THROUGH 100,

Defendants.

Case No. *PSC 2002064*

**VERIFIED COMPLAINT FOR TEMPORARY
RESTRAINING ORDER, PRELIMINARY
INJUNCTIVE RELIEF
FOR ABATEMENT OF NUISANCE:**

- 1. VIOLATION OF THE COUNTY OF RIVERSIDE'S HEALTH ORDER;**
- 2. PUBLIC NUISANCE**

[Deemed Verified Per CCP § 446]

Complaint filed: April 8, 2020

Plaintiff, COUNTY OF RIVERSIDE, a political subdivision of the State of California, on behalf of the people of the State of California, complains of Defendant CHURCH UNLIMITED, a religious non-profit organization; JAMES MOFFATT, an individual and DOES 1 through 100, inclusive (collectively referred to as "Defendants") as follows:

GENERAL ALLEGATIONS

1. Plaintiff, COUNTY OF RIVERSIDE ("the County"), is, and at all times relevant herein, a general law county and a political subdivision of the State of California.

1 2. The property which is the subject of this litigation is located at 45520 Clinton Street, Indio,
2 California 92201, within Riverside County, California 92881 and identified as the Unlimited Church
3 (hereinafter referred to as "Property").

4 3. Defendant CHURCH UNLIMITED is, and at all times relevant herein has been, a religious
5 non-profit organization, with a place of business at the Property.

6 4. Defendant JAMES MOFFATT is the pastor of CHURCH UNLIMITED and is believed to
7 be a resident of Riverside County.

8 5. Defendants are causing, allowing, permitting, aiding, abetting, suffering or concealing the
9 operation of unlawful public gathering as prohibited by the March 19, 2020, Order by Governor Gavin
10 Newsom and referenced as Executive Order N-33-20 which directs all residents immediately to heed current
11 State public health directives to stay home, except as needed to maintain continuity of operations of essential
12 critical infrastructure sectors. This action by Defendants also violates the April 4, 2020, Order County of
13 Riverside's Public Health Officer and its Amended Order dated April 6, 2020 (hereinafter referred to
14 collectively as "County Health Orders") which **prohibits all public events, regardless of venue or size.**
15 By way of this County Health Order, a "Gathering" is defined "as any event or convening that brings
16 together people in a single room or single space at the same time, including, but not limited to, an
17 auditorium, stadium, arena, theatre, **church**, casino, conference room, meeting hall, cafeteria, drive-in
18 theatre, **parking lot, or any other indoor or outdoor space** used for any non-essential purpose including
19 but not limited to movies, **church services**, swap meets, etc." A true and correct copy of the County of
20 Riverside's Health Order dated April 4, 2020, is attached as Exhibit A; A true and correct copy of the
21 County of Riverside's Health Amended Order dated April 6, 2020, is attached as Exhibit B.

22 6. On April 7, 2020, Deputy County Counsel Kelly Moran with the Office of County Counsel
23 for the County of Riverside had a discussion with JAMES MOFFATT at 2:45 p.m. wherein she informed
24 JAMES MOFFATT that in-person church services may not be held based upon the prohibitions set forth in
25 the Governor's Order as well as the County Health Orders of April 4, 2020 and April 6, 2020. JAMES
26 MOFFATT informed Deputy County Counsel Moran that he would not confirm compliance with the orders
27 and that CHURCH UNLIMITED may be providing church services at the Property on Easter Sunday as
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1 scheduled, with an anticipated attendance of approximately 500 persons. Deputy County Counsel Moran
2 sent Defendants a Cease and Desist Letter by email on April 7, 2020, which memorialized their conversation
3 and her warning that by holding church services they would be in violation of the law. In her letter, Deputy
4 County Counsel Moran provided them a copy of the County Health Orders. Attached as Exhibit C is a
5 true and correct copy of Deputy County Counsel Moran's Cease and Desist Letter dated April 7, 2020.

6 7. Defendants' refusal to comply with the County Health Order, is in violation of the law and
7 subject to civil penalties up to \$1000.00 per day, injunctive relief and attorney fees pursuant to Government
8 Code sections 8665 and 25132, Health & Safety Code section 120295, and Riverside County Ordinances
9 533 and 556. Health care orders are necessary for the health and safety of the citizens of Riverside County
10 and immediate and irreparable injury will result if Defendants do not comply.

11 8. The Defendants named as DOES 1 through 100, inclusive, are sued and designated by
12 fictitious names pursuant to Section 474 of the Code of Civil Procedure, for the reason that their true names
13 and capacities are unknown by the County. The County will amend its complaint to show the true names
14 and capacities of such defendants fictitiously named when ascertained. The County is informed and
15 believes, and thereon alleges, that each of the DOE Defendants is responsible in some manner for the
16 nuisance and violation of the County's health order ordinances herein alleged.

17 9. The County is informed and believes, and on that basis alleges, that at all times mentioned
18 herein, each of the Defendants were and now are the agents, officers, employees, members, representatives,
19 or alter egos of one or more of the remaining Defendants, and, in doing the things hereinafter alleged, were
20 acting within the scope of his, her or its authority as such agent, officer, employee, member, representative
21 or alter ego with the permission and consent of the remaining Defendants.

22 **FIRST CAUSE OF ACTION**

23 **VIOLATION OF THE COUNTY OF RIVERSIDE'S HEALTH ORDER BY CONTINUING TO**
24 **ORGANIZE AND HOLD A PUBLIC CHURCH GATHERING**

25 **(Against All Defendants)**

26 10. The County re-alleges and incorporates by reference each and every one of the allegations
27 contained in Paragraphs 1 through 9 of this Complaint.

1 11. The Covid-19 virus has created both a health emergency as defined by *Health & Safety Code*
2 section 101080 and a local emergency as defined by *Government Code* section 8558 for the State of
3 California including the County of Riverside. As referenced above, based upon these statutes, A
4 Proclamation of a State Emergency was issued by Governor Gavin Newsom on March 4, 2020. A
5 Declaration of Local Health Emergency based on an imminent and proximate threat to public health from
6 the introduction of novel COVID-19 in Riverside County was made on March 10, 2020.

7 12. The County of Riverside’s Public Health Officer, may promulgate orders as necessary to
8 protect life and property pursuant to *Government Code* section 8684.

9 13. *California Health and Safety Code* section 101040(a) holds that “The local health officer
10 may take any preventive measure that may be necessary to protect and preserve the public health from any
11 public health hazard during any ‘state of war emergency,’ ‘state of emergency,’ or ‘local emergency,’ as
12 defined by Section 8558 of the *Government Code*, within his or her jurisdiction.”

13 14. The County of Riverside has authority to have its Health Officer issue these orders pursuant
14 to the County under *Article XI of the California Constitution*, section 7, wherein a “county ... may make
15 and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict
16 with general laws”.

17 15. Based upon the trajectory of the Covid-19 pandemic, the Riverside County Public Health
18 Officer determined that prohibiting public gatherings including church gatherings at this time is a
19 preventative measure that is necessary to protect the public health during this time pursuant to *Government*
20 *Code* Section 8630. “Preventative measure” means abatement, correction, removal of any other protective
21 step that may be taken against any public health hazard that is caused by a disaster and affects the public
22 health. *Health & Safety Code* section 101040.

23 16. *Health and Safety Code* section 120175 states that a health officer who knows or has reason
24 to believe that any contagious, infectious or communicable diseases exists, or recently existed “shall take
25 measures as may be necessary to prevent the spread of the disease or occurrence of additional cases.”
26 Section 120575 specifically states it is the duty of the health officer to investigate all cases, to ascertain the
27 sources of infection, and to take “all measures reasonably necessary to prevent the transmission of
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1 infection.” *Aids Healthcare Foundation v. Los Angeles County Department of Health* (2011) 197 Cal.App.
2 8th 693, 701-702. “The health officer must take “measures as may be necessary,” or “reasonably
3 necessary,” to achieve the Department's goals and policies, leaving the course of action to the health officer's
4 discretion. The statutory scheme sets forth certain actions, ranging from quarantine and isolation for
5 contagious and communicable diseases” (citations omitted). These statutory measures, however, are
6 not exhaustive or mandatory, giving the health officer discretion to act in a particular manner depending
7 upon the circumstances.” (*Id.* at 702).

8 17. Likewise under *Title 17 California Code of Regulations* section 2501(a) “... the local health
9 officer shall take whatever steps deemed necessary for the investigation and control of the disease, condition
10 or outbreak reported...”

11 18. As referenced in detail above the County of Riverside’s Public Health Officer has the
12 authority under the law to promulgate his orders including the County Health Order which prohibits public
13 gathers or services including church services. The Defendants are in violation of the County Health Order
14 by continuing to organize, plan and hold in-person church services which includes a public gathering at its
15 property on Easter Sunday, April 12, 2020.

16 **SECOND CAUSE OF ACTION**

17 **DEFENDANTS’ REFUSAL TO COMPLY WITH THE COUNTY HEALTH OFFICER ORDER**
18 **CONSTITUTES A PUBLIC NUISANCE.**

19 **(Against All Defendants)**

20 19. The COUNTY re-alleges and incorporates by reference each and every one of the allegations
21 contained in Paragraphs 1 through 19 of this Complaint.

22 20. On April 7, 2020, Defendants informed Deputy County Counsel Kelly Moran of the Office
23 of County Counsel for the County of Riverside that they would not confirm compliance with the Orders
24 promulgated by the State or by the County of Riverside’s Public Health Officer which prohibit public
25 gatherings and that CHURCH UNLIMITED may be providing church services at the Property on Easter
26 Sunday, April 12, 2020, as scheduled, with an anticipated attendance of approximately 500 persons.

27 21. On or about April 7, 2020, the Deputy County Counsel sent a Cease and Desist Letter by
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1 email to Defendants, which provided notice to Defendants that conducting unlawful public gathers is
2 prohibited by the Governor Newsom's Order of March 19, 2020 and the County Health Order.

3 22. Defendants are willfully violating the County Health Order since, at a minimum, the first
4 date that the County of Riverside issued the Cease and Desist Letter to Defendants on April 7, 2020.
5 Therefore, each date after the Cease and Desist Letter was issued, during which Defendants continued to
6 conduct or allow the unlawful church services at or from the Property, Defendants knowingly and willfully
7 in violation of the law.

8 23. The County of Riverside's Public Health Officer's orders are necessary for the health and
9 safety of the citizens of Riverside County and immediate irreparable injury will result if they are not
10 followed. As of April 8, 2020, according to the Riverside University Health System's Department of Public
11 Health, there have been 1,016 confirmed cases of Covid-19 in Riverside County and 28 deaths. Of those
12 figures, there have been 55 confirmed cases in Indio where the Defendants were planning on holding their
13 church services on Easter Sunday. (Rivcoph.org).

14 24. A "public nuisance" or "common nuisance" is a species of catch-all criminal offense,
15 consisting of an interference with the rights of the community at large. *People v. McDonald* (2006) 137
16 Cal. App. 4th 521, 534; *Cal. Penal Code* §§ 370, 374. In contrast to law of private nuisances, which is tied
17 to and designed to vindicate individual ownership interests in land, public nuisance doctrine is aimed at
18 protection and redress of community interests and embodies collective ideal of civil life. An act or condition
19 may constitute a public nuisance even if it does not cause any loss of enjoyment in the use of private land.
20 In determining whether a particular activity constitutes a public nuisance, a court considers three elements:
21 (1) the proscribed act, (2) whether the result of the act interferes with the comfortable enjoyment of life or
22 property, and (3) whether the act affects a sufficient number of persons. *Id.*

23 25. By refusing to comply with Riverside County's Public Health Officer's Order, Defendants
24 are committing a crime punishable by fine, imprisonment or both. Violators are also subject to civil
25 enforcement actions including civil penalties of up to \$1000 per violation per day, injunctive relief, and
26 attorney's fees and costs. See *Penal Code* section 19, *Government Code* sections 8665 and 23132; *Health*
27 *and Safety Code* section 12095; *County Ordinances* 533 and 566. Based on the number of citizens who
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1 have already been infected with the Covid-19 virus in Riverside County and the concern that this virus is
2 rapidly spreading the continuation of church services by Defendants at their Property constitutes a public
3 nuisance and should be abated immediately. Defendants received sufficient notice regarding the violation
4 because the County Health Order, cites the provisions regarding the repercussions of violating the Orders
5 and these Orders were provided to Defendants on April 7, 2020 as part of the Cease and Desist Letter from
6 Deputy County Counsel Kelly Moran.

7 26. The County of Riverside cannot be fully compensated in damages and is without a plain,
8 speedy or adequate remedy at law because the exact amount of the damages to the general public's health,
9 safety and welfare are unascertainable.

10 27. Unless each Defendant is restrained and enjoined by order of this court and/or the court
11 provides other equitable relief permissible by law, Defendants will continue to cause, allow, permit, aid,
12 organize and plan their church services at their Property, as evidenced by their continuing actions and
13 knowing refusal to comply with the County's Cease and Desist letter.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff COUNTY OF RIVERSIDE ("the COUNTY") prays for judgment against
16 all Defendants, and each of them, as follows:

17 **AS TO ALL CAUSES OF ACTION:**

18 1. For a temporary restraining order and preliminary injunction, enjoining and prohibiting each
19 Defendant, as well as all of their agents, officers, employees, representatives, members, volunteers, and all
20 persons acting for or in concert with them, and their assignees and successors, from planning, organizing
21 and holding church services at their Property which constitutes an unlawful public gathering.

22 2. For individual and separate liability of civil penalties as to each Defendant pursuant to
23 *Government Code* sections 8665 and 25132, *Health & Safety Code* section 120295 and *Riverside County*
24 *Ordinances* 533 and 556, for One Thousand Dollars (\$1,000.00) **per day** accruing from April 7, 2020, until
25 such time as the public nuisance is permanently abated as well as for the County of Riverside's attorney
26 fees and costs for filing this action and making the appearance which is estimated to date to be \$1,122.00
27 (\$187 per hour for 6 hours); and

