

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
SOUTHWESTERN DIVISION**

MORNINGSIDE CHURCH, INC., )  
MORNINGSIDE CHURCH PRODUCTIONS, )  
INC., and JIM BAKKER, )

Plaintiffs, )

v. )

Case No. \_\_\_\_\_ )

LESLIE RUTLEDGE, in her official capacity )  
as the Attorney General for the State of )  
Arkansas, )

*Serve at: 323 Center Street, Ste. 200 )  
Little Rock, AR 72201 )*

KIMBERLY R. H. LEWIS, in her official )  
capacity as the District Attorney for the County )  
of Merced, California, )

*Serve at: 550 W. Main Street )  
Merced, CA 95340 )*

TORI VERBER SALAZAR, in her official )  
capacity as the District Attorney for the County )  
of San Joaquin, California, )

*Serve at: 222 E. Weber Avenue, Room 101 )  
Stockton, CA 95202 )*

*and* )

MIKE FEUER, in his official capacity as the )  
City Attorney for the City of Los Angeles, )  
California, )

*Serve at: James K. Hahn City Hall East, )  
Suite 800 )  
Los Angeles, CA 90012 )*

Defendants. )

**COMPLAINT**

Plaintiffs Morningside Church, Inc. (“Morningside Church”), Morningside Church Productions, Inc. (“Morningside Church Productions”), and Jim Bakker (“Pastor Bakker”), for

their complaint seeking prospective declaratory and injunctive relief against Defendants Leslie Rutledge, in her official capacity as the Attorney General for the State of Arkansas (“Rutledge”), Kimberly R. H. Lewis, in her official capacity as the District Attorney for the County of Merced, California (“Lewis”), Tori Verber Salazar, in her official capacity as the District Attorney for the County of San Joaquin, California (“Salazar”), and Mike Feuer, in his official capacity as the City Attorney for the City of Los Angeles, California (“Feuer”), state:

### ***Introduction***

1. This action presents the question of whether a state governmental agency can, consistent with the protections and proscriptions of the First Amendment to the United States Constitution, compel a church and its pastor to disclose the identity and contribution methods and history of its congregants because they may hold and express divergent or unpopular religious viewpoints, or solicit religious contributions and support for the church’s mission in a manner different from other religions. It similarly presents the question of whether a governmental agency may, in the name of “consumer protection,” intrusively supervise, inquire into, censor, or punish religiously-motivated speech of a pastor to his congregation.

### ***The Parties***

2. Morningside Church is a church and Missouri not-for-profit corporation, with its headquarters located in Blue Eye, Stone County, Missouri.

3. Morningside Church Productions is Missouri corporation wholly owned by Morningside Church, with its headquarters located in Blue Eye, Stone County, Missouri.

4. Pastor Bakker is an employee of Morningside Church and Morningside Church Productions, and is a citizen of the State of Missouri and resident of Blue Eye, Stone County, Missouri.

5. Rutledge is the current Attorney General for the State of Arkansas, and is named as a defendant in her official capacity only.

6. Lewis is the current District Attorney for Merced County, California, and is named as a defendant in her official capacity only.

7. Salazar is the current District Attorney for San Joaquin County, California, and is named as a defendant in her official capacity only.

8. Feuer is the current City Attorney for the City of Los Angeles, California, and is named as a defendant in his official capacity only.

9. On information and belief, all conduct of Lewis described herein was joined in, supported by, and undertaken in concert with Salazar and Feuer after a meeting of the minds.

10. On information and belief, all conduct of Feuer described herein was joined in, supported by, and undertaken in concert with Lewis and Salazar after a meeting of the minds.

### ***Venue and Jurisdiction***

11. This is an action arising under 28 U.S.C. § 2201, 42 U.S.C. § 1983, and the First, Fifth, and Fourteenth Amendments to United States Constitution, and is brought pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

12. A substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated, in Stone County, Missouri, including, *inter alia*, the subpoena and investigative demands at issue (a) relate to the purported conduct of Plaintiffs in Stone County, Missouri, (b) were served or delivered to one or more Plaintiffs in Stone County, Missouri, (c) purport to compel conduct of Plaintiffs in Stone County, Missouri, and (d) seek documents, writings, communications, and electronically stored information and data that are situated in Stone County, Missouri.

***Morningside & Pastor Bakker***

13. Morningside Church Productions produces The Jim Bakker Show.

14. The Jim Bakker Show is an hour-long daily broadcast of a Morningside Church religious service filmed in Blue Eye, Stone County, Missouri, featuring prophetic and Biblical revelations.

15. One of the central tenants of Plaintiffs' religious beliefs, teachings, and practices is to fulfill the Great Commission of Jesus Christ to "go into all the world and preach the Gospel to every creature" (Mark 16:15).

16. In accordance with their sincerely held religious beliefs, Plaintiffs spread the Gospel through "all means" which include, but are not limited to: television, radio, internet, and other forms of media for the purpose of educating people in the Word of God and their religious beliefs.

17. Plaintiffs, in accordance with their sincerely held religious beliefs, consider each of the persons who view The Jim Bakker Show, observe their other forms of media inculcation, or financially contribute to their ministry to be members of Morningside Church's congregation, and refer to such persons as Morningside Church's "partners."

18. The Jim Bakker Show seeks to teach the Bible and teach others to minister the Word of God by making available to its partners sound teaching and wisdom revealed by God to everyday problems that arise in what they believe to be the end times prophesied in the Book of Revelation.

19. In accordance with Plaintiffs' religious beliefs, they consider the entire service, including the remarks of Pastor Bakker, pastoral staff, and guests, to constitute a sermon directed to each of their partners.

20. The filming and broadcast of The Jim Bakker Show serves as a method to express Plaintiffs' religious beliefs, is itself an expression of Plaintiffs' underlying religious beliefs, an effort to inculcate, and an important religious practice of itself.

21. Plaintiffs hold to the teachings of the Bible regarding God's promise to return and save those who have confessed that Jesus is Lord (Romans 10:9-10), obeyed God's commandments and remained faithful to Jesus (Revelation 14:12), and Pastor Bakker and Morningside preach the imminent, personal, pre-millennial Second Coming of the Lord Jesus Christ (1 Thessalonians 4:15-17; Titus 2:13, 2 Peter 3:10-14; Matthew 24:3-44; Revelation 11:15-18; 19:11-16), and love and wait for His appearing (2 Timothy 4:8).

22. Plaintiffs' deeply held belief in the imminent second-coming of Jesus Christ informs their daily lives and choices.

23. Plaintiffs encourage Morningside Church's partners and congregants to ready themselves spiritually, mentally, and physically for the Second Coming of Jesus Christ by, among other things:

(a) "bring[ing] the whole tithe into the storehouse, that there may be food in my house" (Malachi 3:10);

(b) maintaining a disciplined lifestyle and treating their bodies as temples of the Holy Spirit and instruments of righteousness (Jeremiah 33:6; 1 Corinthians 6:19-20, 10:31; Romans 6:13; 3 John 1:2);

(c) living to "let your conduct be worthy of the gospel of Christ" (Philippians 1:27) to stand before God as "a workman who need not be ashamed, rightly dividing the word of truth" (2 Timothy 2:15); and

(d) preparing for scarce times by storing up provisions for use in the future (Genesis 41:1-57; Revelation 24:6-14; Luke 21:10-11; Revelation 6:1-8).

24. Plaintiffs' sincerely-held religious beliefs require them to, through their speech and expression conduct, encourage their partners to prepare spiritually, mentally, and physically for the second-coming of Christ, and assist them in doing so by bringing experts to their broadcasts to teach how to accomplish this goal.

25. An integral part of this expressive ministry and practice, as well as the doctrinal teachings of their religion, includes educating their partners concerning, and offering their partners, products, including Silver Solution, that Plaintiffs believe have been made available to this generation by God.

26. Plaintiffs, in accordance with the doctrinal teachings of their religion, believe in providing practical tools and supplies to prepare for the end-times, in conjunction with the solicitation of funds for the ministry, and have offered Silver Solution to their partners for more than a decade as part of their religious practice and expression.

27. Each of the products offered on The Jim Bakker Show, including Silver Solution, are products that Plaintiffs feel divinely inspired to offer to the world, and such offerings are an integral part of Plaintiffs' religious mission to prepare their partners physically, spiritually, and mentally for the Second Coming, and are a vital part of how they interact with their partners to spread the Word of God.

28. Educating their partners concerning, and offering to their partners, products, including Silver Solution, in conjunction with the solicitation of funds for the ministry serves as an expression of Plaintiffs' religious beliefs, an effort to inculcate, and an important religious practice of itself.

29. The solicitation of funds in conjunction the offering of products, including Silver Solution, while an important religious practice of Plaintiffs, is incidental and collateral to their main object to inculcate and facilitate their religious message of preparedness for the end-times.

30. The identities of Plaintiffs' religious partners and their contribution histories are not public information, or information voluntarily shared with any governmental agencies, and pursuant to Plaintiffs' sincerely held religious beliefs and religious practices, such information is held in confidence between the individual partner, the Plaintiffs, and God.

31. Plaintiffs have faced, and Plaintiffs' partners are likely to face retaliation, ridicule, and harassment for their association, religious beliefs, religious expression, and contributions.

32. For example, in just the last month, Plaintiffs have been the subject of well over nine hundred news articles or internet posts, and thousands of derogatory, intimidating, and harassing comments directed to both Plaintiffs and their partners, related to Plaintiffs offering of Silver Solution in conjunction with religious solicitations of funds, many of which falsely refer to Plaintiffs' ministry as a "scam" and the religious product taught about and offered through its sermons as "snake oil," even though the product is legally sold across the country by numerous other outlets, including GNC and CVS.

33. On information and belief, Defendants seek the identities of the Plaintiffs' partners for the purpose of contacting and harassing such partners to further their unlawful object to inhibit Plaintiffs' religious exercise and expression, to interfere with the religious expression of financial contribution to the Plaintiffs' ministry, and to cause irreparable injury to Plaintiffs' religious ministry, mission, and beliefs.

*Feuer's March 11, 2020 Conduct & Credible Threats of Future Conduct*

34. On or about March 11, 2020, Feuer sent a letter (the "March 11th Letter") to Pastor Bakker and "The Jim Bakker Show" threatening that his office brings lawsuits on behalf of the People of the state of California, to stop unlawful, unfair, and fraudulent business acts and practices, including deceptive and misleading advertising.

35. On information and belief, the March 11th Letter was sent by Feuer acting in concert with Lewis and Salazar, and not sent in connection with any ongoing state judicial proceeding.

36. In his March 11th Letter, Feuer asserted that, under California law which he possesses statutory authority to enforce, he can require any person offering a product to California residents to substantiate any "advertising claim," including any claims that (1) purport to be based on factual, objective, or clinical evidence, (2) compare a product's effectiveness or safety to that of other brand or products, or (3) purport to be based on any fact.

37. In his March 11th Letter, Feuer expressed the government's displeasure with the content of Pastor Bakker's sermons, stating that Los Angeles, California, was "referred to recently on your show as a 'cesspool of disease,' while making alarmist statements about COVID-19 and hawking Silver Solution and other products you make available" to California residents.

38. Feuer's March 11th Letter, in retaliation and as harassment for Plaintiffs' sermons, demanded that Pastor Bakker, within the state of Missouri, compile and produce evidence of the facts on which certain statements allegedly made during Plaintiffs' sermons were based, and threatened that failure to "adequately substantiate" the statements made in the context of the religious sermons would result in an immediate termination or modification of such statements by way of injunction, with or without notice, or the dissemination by Feuer of information to the



public concerning the alleged veracity of Pastor Bakker's sermons or why his sermons are allegedly misleading.

***Rutledge's March 24, 2020 Conduct & Credible Threats of Future Conduct***

39. On or about March 24, 2020, Rutledge, in retaliation and as harassment for Plaintiffs' sermons, delivered to both Morningside Church Productions and Pastor Bakker a Civil Investigative Demand (the "CID").

40. In connection with the CID, Rutledge represented that she had determined the public interest warranted an investigation to ascertain whether Morningside Church Production and Pastor Bakker had engaged in any activity which would constitute deception and unconscionable trade practices under the Arkansas Deceptive Trade Practices Act, A.C.A. § 4-88-101, *et seq.* (the "ADTPA"), and that Morningside Church Productions and Bakker had information and documents relevant to the investigation.

41. Rutledge possesses statutory authority to enforce the ADTPA.

42. The ADTPA does not apply to, among others, broadcasters, printers, or publishers, or to transactions permitted the Arkansas Insurance Commissioner, Securities Commissioner, State Highway Commission, Bank Commissioner, Public Service Commission, municipal authority, Federal Energy Regulatory Commission, Federal Communications Commission, or other regulatory body acting under statutory authority of the State of Arkansas or the United States, regardless of the content of such transactions, leaving appreciable damage to the interests purportedly served by the statutory scheme unprohibited.

43. The ADTPA purports to prohibit not only false statements, but also statements which, although true, are either misleading or unconscionable, including those that may merely affront ones' sense of decency or reasonableness.

44. In connection with the CID, Rutledge represented that if Morningside Church Productions or Pastor Bakker failed to comply with her demand, such failure would result in suspension of their “business activities in the state of Arkansas” or the enjoining of their “sale or advertisement of any goods or services.”

45. The CID was not issued in connection with any ongoing state judicial proceeding.

46. The CID purports to compel Plaintiffs (including Morningside Church) to, within the State of Missouri, affirmatively state, disclose, and compile all documents concerning, *inter alia*, the following for the period of January 1, 2020, to present:

- (a) the names and addresses of Plaintiffs’ partners;
- (b) the financial contribution histories of Plaintiffs’ partners;
- (c) communications with Plaintiffs’ partners concerning contributions; and
- (d) the content of all sermons delivered, and other means of inculcation made available, to its partners by Plaintiffs.

47. On May 14, 2020, counsel for Plaintiffs discussed the scope of the CID with Rutledge’s office, and agreed to limit the scope of the CID.

48. On May 15, 2020, Plaintiffs complied with the CID as limited by agreement.

49. On May 27, 2020, Rutledge informed Plaintiffs that they would be required to provide “full responses, including all questions answered and requested document provided,” no later than June 12, 2020.

***Lewis’s May 4, 2020 Conduct & Credible Threats of Future Conduct***

50. On or about May 4, 2020, Lewis, in retaliation and as harassment for Plaintiffs’ sermons, delivered to Morningside Church Productions and Pastor Bakker a Subpoena to Produce Books, Records, Papers, Media and Documents, and Answer Interrogatories (the “Subpoena”).

51. In connection with the Subpoena, Lewis represented that there was reason to believe Morningside Church Productions and Pastor Bakker violated the California False Advertising Law, Cal. Bus. & Prof. Code § 17500 (“FAL”), and California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 (“UCL”), which, generally prohibit, respectively, the use of statements that are “untrue or misleading” in connection with the disposition of personal property or the performance of services, and “any unlawful, unfair, or fraudulent business act and unfair, deceptive, untrue or misleading advertising....”

52. Lewis, Salazar, and Feuer possess statutory authority to enforce the FAL and UCL.

53. The FAL and UCL except or exempt from their requirements numerous transactions or entities leaving appreciable damage to the interests purportedly served by those statutory schemes unprohibited.

54. The FAL and UCL purport to prohibit not only false statements, but also statements which, although true, are either misleading or have merely a capacity, likelihood, or tendency to deceive or confuse.

55. In connection with the Subpoena, Lewis represented that if Morningside Church Productions or Pastor Bakker failed to comply they would be liable to penalties provided by law.

56. The Subpoena was not issued in connection with any ongoing state judicial proceeding.

57. The Subpoena purports to compel Plaintiffs (including Morningside Church) to, within the State of Missouri, affirmatively state, disclose, and compile all documents concerning, *inter alia*, the following for the period of March 26, 2016, to present:

- (a) the names and addresses of Plaintiffs’ partners;
- (b) the financial contribution histories of Plaintiffs’ partners;

- (c) communications with Plaintiffs' partners concerning contributions; and
- (d) the content of all sermons delivered, and other means of inculcation made available, to its partners by Plaintiffs;
- (e) the training and qualifications of persons delivering sermons at Plaintiffs' church services;
- (f) agreements between Plaintiffs and their partners; and
- (g) the veracity of the content of sermons delivered at Plaintiffs' church services.

58. On May 22, 2020, counsel for Plaintiffs discussed the scope of the Subpoena with Lewis's, Salazar's, and Feuer's offices, and proposed that the scope of the Subpoena be unilaterally limited by Lewis, Salazar, and Feuer to avoid contravention of constitutional concerns.

59. Lewis, Salazar, and Feuer did not ultimately agree to unilaterally limit the scope of the Subpoena, and such decision was conveyed to Plaintiffs on May 28, 2020.

60. At present, Plaintiffs deadline to respond to the Subpoena is June 10, 2020.

***Infringement of Plaintiffs' Constitutional Rights &  
Claim for Prospective Declaratory and Injunctive Relief***

61. Defendants, through their application of the ADTPA, FAL, and UCL to Plaintiffs, including but not limited to the Defendants' investigations, CID, and Subpoena, seek to, and if not enjoined will continue to: (a) compel the disclosure of the identities of Plaintiffs' partners and their contribution histories, religious communications between the partners and Plaintiffs, and agreements between the Plaintiffs and the partners; (b) compel the disclosure of the secular training and qualifications of those Plaintiffs have authorized in the exercise of their religious functions to deliver sermons to Plaintiffs' partners; (c) compel the disclosure of the content of Plaintiffs' sermons for secular regulation, supervision, inquiry, approval, disapproval, classification,

regulation, or control; (d) inhibit Plaintiffs' religious practice and exercise; (e) cease or chill Plaintiffs' religious speech, expressive conduct, and inculcation; and (f) harass, punish, and retaliate against Plaintiffs for their constitutionally-protected speech and expressive conduct, and religious beliefs and practices.

62. As a result of Defendants' express assertion that Plaintiffs' offering of Silver Solution to its partners violates the ADTPA, FAL, and UCL, and threat of imminent legal action both with respect to the alleged violations of those statutes and non-compliance with the CID and Subpoena, Plaintiffs reasonably fear legal action is imminent and certainly impending.

63. This reasonable fear of imminent and certainly impending legal action has caused or contributed to Plaintiffs discontinuing their religiously-motivated offering of Silver Solution to their partners in conjunction with the solicitation of funds for their ministry, and ceasing or limiting their preaching on aspects of world events and on products they believe have been provided to this generation by God, infringing upon Plaintiffs' religious expression and practice.

64. Both California and Arkansas law provide for the issuance of injunction, in the form of a temporary restraining order, without notice to the defendant, and without an opportunity to be heard or to assert defenses, including, *inter alia*, defenses arising under the First Amendment to the United States Constitution.

65. The ADTPA, FAL, and UCL, in their application to Plaintiffs by Defendants, including but not limited to the Defendants' investigations, CID, and Subpoena, have violated and continue to violate the Establishment Clause of the First Amendment to the United States Constitution by, *inter alia*, purporting to (a) regulate, supervise, and inquire into, purely religious affairs, including the content of Plaintiffs' religious sermons, the relationships between Plaintiffs

and their partners, and the contribution histories of Plaintiffs partners, and (b) approve, disapprove, classify, regulate, or control such sermons, relationship, or contributions.

66. The ADTPA, FAL, and UCL, in their application to Plaintiffs by Defendants, including but not limited to the Defendants' investigations, CID, and Subpoena, have violated and continue to violate the Free Exercise Clause of the First Amendment to the United States Constitution by, *inter alia*, purporting to punish the expression and practice of religious doctrines, and performance of physical acts of religious exercise, that Defendants believe to be false or misleading, and such laws are not narrowly tailored to advance interests of the highest order.

67. The ADTPA, FAL, and UCL, in the application to Plaintiffs by Defendants, including but not limited to the Defendants' investigations, CID, and Subpoena, have violated and continue to violate the Free Speech and Free Press Clauses of the First Amendment to the United States Constitution by, *inter alia*, imposing content-based regulation or restriction of speech, including religious speech and speech on matters of public concern, that does more than propose a mere commercial transaction, and such laws are not narrowly tailored to serve compelling state interests.

68. The ADTPA, FAL, and UCL, in the application to Plaintiffs by Defendants, including but not limited to the Defendants' investigations, CID, and Subpoena, have violated and continue to violate the freedom of association protected by the First Amendment to the United States Constitution by, *inter alia*, compelling the disclosure of the identities, contribution histories, and communications of Plaintiffs' partners.

69. The ADPTA, FAL, and UCL are facially overbroad in that they purport to regulate a substantial amount of protected speech and expressive conduct, including religiously-motivated

speech and expressive conduct, in violation of the Free Exercise and Free Speech Clauses of the First Amendment to the United States Constitution.

70. The ADTPA, FAL, and UCL fail to clearly define the conduct that is prohibited, fail to provide a person of ordinary intelligence fair notice of what is prohibited, and encourage seriously discriminatory enforcement, in violation of the Due Process Clause of the Fifth Amendment to the United States Constitution.

71. Defendants' conduct unduly burdens Plaintiffs' First Amendment rights to exercise their religion free from excessive governmental interference or entanglement, including the rights to freedom of religious belief and freedom of association.

72. Plaintiffs have suffered and are suffering an injury-in-fact that is fairly traceable to the conduct of Defendants challenged herein, which would be redressed by a favorable decision.

73. Plaintiffs are presently subject to a credible threat of legal action by Defendants, which has chilled its religiously-motivated speech and conduct, including the offering of Silver Solution to its partners.

74. Defendants conduct as set forth herein was in retaliation for Plaintiffs' constitutionally protected speech and expressive conduct, including speech and expressive conduct protected by the Free Exercise Clause, Free Speech Clause, and Free Press Clause of the First Amendment to the United States Constitution.

75. Attached hereto and incorporated herein as "Exhibit 1" is the Declaration of Maricella Woodall.

WHEREFORE, Plaintiffs Morningside Church, Inc., Morningside Church Productions, Inc., and Jim Bakker, respectfully pray for the Court to enter judgment in their favor and against Defendants Leslie Rutledge, in her official capacity as the Attorney General for the State of

Arkansas, Kimberly R. H. Lewis, in her official capacity as the District Attorney for the County of Merced, California, Tori Verber Salazar, in her official capacity as the District Attorney for the County of San Joaquin, California, and Mike Feuer, in his official capacity as the City Attorney for the City of Los Angeles, California:

(1) declaring that the ADTPA, FAL, and UCL are unconstitutional as applied to Plaintiffs in connection with the content of their sermons, efforts to inculcate, and solicitation of contributions in conjunction the offering of products, including Silver Solution, as part of Plaintiffs' religious practice, exercise, and expression;

(2) declaring that Plaintiffs religiously-motivated speech and expressive conduct in the form of sermons, efforts to inculcate, and solicitation of contributions in conjunction with the offering of products, including Silver Solution, as part of Plaintiffs' religious practice and exercise, may not be infringed by investigation under, or enforcement or application of, the ADTPA, FAL, or UCL;

(3) declaring that the CID and Subpoena issued by Defendants violate Plaintiffs' rights guaranteed by the United States Constitution, including but not limited to Plaintiffs' and their partners' right to freedom of association;

(4) declaring that the ADTPA, FAL, and UCL are unconstitutionally overbroad;

(5) enjoining Defendants from taking any action against Plaintiffs for their alleged violation of the ADTPA, FAL, or UCL resulting from content of their sermons, efforts to inculcate, or solicitation of contributions in conjunction with the offering of products, including Silver Solution, as part of Plaintiffs' religious practice and exercise;



(6) enjoining Defendants from taking any action against Plaintiffs for their failure to comply with the CID or Subpoena; and

(7) granting Plaintiffs such other and further relief as the Court deems just and proper.

*Respectfully submitted,*

/s/ Derek A. Ankrom

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