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11 Attorney for Plaintiffs

13 **UNITED STATES DISTRICT COURT**
14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN JOSE DIVISION**

17 **CALVARY CHAPEL SAN JOSE**, a
18 California Non-Profit Corporation; **PASTOR**
19 **MIKE MCCLURE**, an individual;
20 **SOUTHRIDGE BAPTIST CHURCH OF**
21 **SAN JOSE CALIFORNIA dba**
22 **SOUTHRIDGE CHURCH**, a California
23 Non-Profit Corporation; **PASTOR**
24 **MICAIAH IRMLER**, an individual;

22 Plaintiffs,

23 vs.

24 **GAVIN NEWSOM**, in his official capacity
25 as the Governor of California, **TOMAS**
26 **ARAGON, M.D.**, in his official capacity as
27 the Acting California Public Health Officer;
28 **SANTA CLARA COUNTY; SARA H.**
CODY, M.D., in her official capacity as
Santa Clara County Public Health Officer;
MIKE WASSERMAN, in his official

Case No.: 20-cv-03794

**DECLARATION OF MIKE MCCLURE IN
SUPPORT OF PLAINTIFFS' PROPOSED
PROTECTIVE ORDER**

1 capacity as a Santa Clara County Supervisor;
2 **CINDY CHAVEZ**, in her official capacity
3 as a Santa Clara County Supervisor; **DAVE**
4 **CORTESE**, in his official capacity as a
5 Santa Clara County Supervisor; **SUSAN**
6 **ELLENBERG**, in her official capacity as a
7 Santa Clara County Supervisor; **JOE**
8 **SIMITIAN**, in his official capacity as a
9 Santa Clara County Supervisor; and **THE**
10 **SANTA CLARA COUNTY BOARD OF**
11 **SUPERVISORS**

12 Defendants.

13 I, Mike McClure, declare as follows:

14 1. I am the lead pastor of Calvary Chapel San Jose (the “Church”). I have personal
15 knowledge of the matters stated herein, and if called to testify, I could and would testify
16 competently thereto.

17 2. On December 15, 2020, County Counsel James Williams and Assistant County
18 Counsel Tony Lopresti sent a letter to the Church’s lender, Cass Commercial Bank (“Cass Bank”),
19 informing the bank I was held in contempt of court and ordered to pay \$55,000 in fines and
20 sanctions and that the Church was facing fines exceeding \$1 million for violating COVID-19 public
21 health orders. A true and correct copy of the letter is attached hereto as **Exhibit A**. The letter also
22 stated the “county intends to seek further relief from the Court.” The letter made no reference to
23 the appeal process or the Supreme Court decision involving Harvest Rock Church which was
24 published around two weeks before the County had sent this letter. I felt both these exclusions were
25 intentionally misleading, especially because my brothers in Christ at Harvest Rock Church had
26 succeeded in enjoining major parts of California’s public health orders.

27 3. The County sent the first letter to Cass Bank before I appealed the contempt fines
28 and sanctions.

1 On or around January 4, 2021, Mr. Williams and Mr. Lopresti sent another letter to
2 Cass Bank, informing them the Santa Clara County Superior Court set a another contempt hearing
3 and that the County would seek further fines and sanctions against the Church, Assistant Pastor

1 Carson Atherley, and me. A true and correct copy of the letter is attached hereto as **Exhibit B**.
2 Again, the letter did not indicate that the Church, Pastor Atherley, or I would appeal any adverse
3 decision, or even that an appeal was available. Nor did the letter make any mention of the recent
4 Supreme Court decisions that seemed to call into question the validity of some or all the
5 administrative fines, contempt fines, and sanctions.

6 5. On or around early January 2021, the Cass Bank employee who managed the
7 Church's account expressed to me his concern about the content of the County's letters, which he
8 interpreted as a veiled threat to take the church property to satisfy the fines and sanctions. He
9 advised me the Church would need to find an angel lender to pay off our loan.

10 6. On January 15, 2021, I was ordered to appear before the Santa Clara County
11 Superior Court to show cause why I should not be held in contempt of court for violating COVID-
12 19 public health orders that required I abandon my sincerely held religious beliefs. The contempt
13 hearing continued January 21 and January 28, 2021.

14 7. On January 21, 2021, Cass Bank sent a Notice of Default for noncompliance with
15 governmental regulations and nonpayment of fines. The Default noted the Church "has not notified
16 [Cass Bank] in writing of its intent to contest" the fines, in violation of the Deed of Trust. Therefore,
17 Cass Bank had "determined that [its] interest in the Property have been jeopardized."

18 8. Receiving the Notice of Default amidst a global pandemic caused me great despair
19 and worry because I thought the County was going to put a lien on our Church's property, that the
20 bank would pull the loan, and that we might lose our church home. This was particularly distressing
21 because we were providing a lifeline to scores of congregants suffering from fear, depression, and
22 anxiety at a frequency far above anything I'd seen in my thirty years of pastoring. If we lost our
23 church, I did not know who would be left to help these people.

24 9. In addition to these worries, I was increasingly frustrated with how little time I had
25 to focus on my important pastoral duties. I was spending hours each week speaking with my
26 attorneys, facing mounting fines that were then over \$1.2 million dollars, constantly in and out of
27 court, and now somehow trying to find time to secure funding just to keep the doors open. I felt
28 like I was in the County's crosshairs, and that their vendetta would not stop until our church was

1 bankrupt and repossessed. In my opinion, the County Counsel had seen the writing on the wall
2 thanks to the recent Supreme Court decisions and was now taking matters into their own hands,
3 going outside the court system to ruin us financially before the slow wheels of justice could provide
4 us the relief we deserved.

5 10. We were blessed in that upon learning the Church was in good faith contesting the
6 administrative fines and court-ordered fines and sanctions, on February 8, 2021, Cass Bank sent a
7 letter withdrawing their prior “Notice of Default” and confirming that “no Default or Event of
8 Default...ha[d] occurred under the Deed of Trust, the Note, or any of the Related Documents.” A
9 true and correct copy of the letter is attached hereto as **Exhibit C**.

10 11. Around the same time, Cass Bank President Dwight Erdbruegger flew down to San
11 Jose to meet with me personally and express his deep regret and sincerest apologies over sending
12 the Notice of Default and the harm and despair it may have caused the Church community. He also
13 reiterated how he had been entirely unaware the Church was contesting the administrative fines
14 and court-ordered fines and sanctions and wanted to personally convey how he and Cass Bank fully
15 supported our fight against the County.

16 I declare under penalty of perjury under the laws of the State of California that the foregoing
17 is true and correct. Executed May 11, 2021 at San Jose, California.

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Pastor Mike McClure