

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BRIAN FIELDS, PAUL TUCKER, : **Civil Action No. 1:16-CV-1764**
DEANA WEAVER, SCOTT :
RHOADES, JOSHUA : **(Chief Judge Conner)**
NEIDERHISER, REV. DR. NEAL :
JONES, RICHARD KINIRY, :
PENNSYLVANIA :
NONBELIEVERS, INC., :
DILLSBURG AREA :
FREETHINKERS, LANCASTER :
FREETHOUGHT SOCIETY, and :
PHILADELPHIA ETHICAL :
SOCIETY, :

Plaintiffs,

v.

SPEAKER OF THE :
PENNSYLVANIA HOUSE OF :
REPRESENTATIVES, :
PARLIAMENTARIAN OF THE :
PENNSYLVANIA HOUSE OF :
REPRESENTATIVES, :
DIRECTOR OF SPECIAL EVENTS :
OF THE PENNSYLVANIA HOUSE :
OF REPRESENTATIVES, and :
REPRESENTATIVES FOR :
PENNSYLVANIA HOUSE :
DISTRICTS 92, 95, 97, 165, 167, :
182, 193, and 196, :
all solely in their official capacities, :

Defendants.

AMENDED COMPLAINT

Introduction

1. In *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014), the U.S. Supreme Court affirmed that governmental entities may open their meetings with invocations that typically have theistic content. But the Court also ruled that governmental bodies must “maintain[] a policy of nondiscrimination” in deciding who may present invocations, and that the relevant policies or practices must not “reflect an aversion or bias . . . against minority faiths.” *Id.* at 1824. Thus, in upholding the invocation practice of the town at issue, the Court emphasized that the town’s “leaders maintained that a minister or layperson of any persuasion, including an atheist, could give the invocation.” *Id.* at 1816.

2. Since the Supreme Court’s decision, numerous governmental bodies across America have allowed nontheists—atheists, agnostics, Secular Humanists, and others who do not believe in a deity—to give opening invocations at governmental meetings. Yet the defendant officials of the Pennsylvania House of Representatives have repeatedly rejected requests from nontheists to give opening invocations at the House’s daily legislative sessions. The defendants have implemented a policy that permits only people who hold theistic religious beliefs to give the opening invocations.

3. The plaintiffs are nontheist individuals and organizations who wish to give opening invocations before the House. Like people who believe in God, the

plaintiffs have strong belief systems about what is right and wrong and how they should live their lives. Like believers in theistic faiths, the plaintiffs meet in groups to discuss and act upon their beliefs, read and study seminal texts about their belief systems, follow leading authors of such texts, celebrate special days of the year on which they observe their beliefs, and provide volunteer services to their communities based on their beliefs. Like theists, the plaintiffs are capable of giving inspiring and moving invocations, similar to nontheistic invocations that have been given in other communities across the United States. There is just one significant difference between people whom the defendants allow to give opening invocations and the plaintiffs: the former believe in God, while the plaintiffs do not.

4. Over the last half-century, our country has made great progress—both legally and socially—toward eradicating discrimination and meeting the goal of equality for all, which lies at the heart of our Constitution. Discrimination based on race, sex, national origin, disability, and sexual orientation has become prohibited or disfavored. Nevertheless, in the House’s eyes, people who do not believe in God remain a disfavored minority against whom it is acceptable to discriminate.

5. The defendants' discriminatory policy violates the Establishment[, Free Exercise, Free Speech, and Equal Protection] Clause[s] of the U.S. Constitution. The plaintiffs seek injunctive and declaratory relief to end this discrimination.

Jurisdiction and Venue

6. This Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331 and 1343.

7. This Court has the authority to grant declaratory relief under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

8. Venue is proper in this Court under 28 U.S.C. § 1391(b), as most of the plaintiffs reside or are situated within this district, and the House holds its sessions here. Hence, "a substantial part of the events or omissions giving rise to th[is] claim occurred" in this district. *Id.*

Parties

Plaintiffs

Brian Fields

9. Plaintiff Brian Fields is a resident of Newville (North Newton Township), in Cumberland County and Pennsylvania State House District 193. Except for the period between 2002 and 2007, he has lived in Pennsylvania his entire life.

10. Plaintiff Fields is an atheist and a Secular Humanist. He believes that God does not exist, that good can be achieved only through informed action, and that gaining knowledge leads to more rational and correct decisions.

11. As explained by the American Humanist Association, “Humanism is a progressive philosophy of life that, without theism and other supernatural beliefs, affirms our ability and responsibility to lead ethical lives of personal fulfillment that aspire to the greater good of humanity.” *What is Humanism*, American Humanist Association, <http://americanhumanist.org/Humanism> (last visited June 1, 2017). “Humanism encompasses a variety of nontheistic views (atheism, agnosticism, rationalism, naturalism, secularism, and so forth) while adding the important element of a comprehensive worldview and set of ethical values—values that are grounded in the philosophy of the Enlightenment, informed by scientific knowledge, and driven by a desire to meet the needs of people in the here and now.” *About the American Humanist Association*, American Humanist Association, <https://americanhumanist.org/about/> (last visited June 23, 2017). A more detailed statement of basic Humanist beliefs is set forth in a document entitled “Humanist Manifesto III.” *See Humanism and Its Aspirations: Humanist Manifesto III, a Successor to the Humanist Manifesto of 1933*, American Humanist Association, <https://americanhumanist.org/what-is-humanism/manifesto3/> (last visited June 23, 2017).

12. Plaintiff Fields' Humanist beliefs include the following: He strives to be a positive influence on the world, guided by what is best both for the individual and for humans as a species. He highly values justice, equality, and rationalism. He relies on knowledge and evidence as the means for ascertaining what actions would benefit others and thus should be undertaken. Based on such evidence, he believes that humans have intrinsic moral worth.

13. Since 2011, plaintiff Fields has been the president of plaintiff Pennsylvania Nonbelievers, Inc., an organization for nontheists that is described in detail in paragraphs 115 to 129 below. As president of Pennsylvania Nonbelievers, plaintiff Fields serves a function for the organization similar to the role a congregational leader has in a theistic religious organization. He provides leadership and coordination for the group. He ordinarily attends at least three Pennsylvania Nonbelievers meetings per month. At those meetings, he leads discussions of atheistic and Humanist beliefs, as well as other topics, such as the challenges and concerns that come with being a nontheist in a heavily theist society, books relating to nontheism, church-state separation, and activism opportunities. He also serves as the principal contact for the organization's members.

14. Plaintiff Fields works tirelessly to foster a community for fellow atheists and to engage in constructive dialogue about Humanist beliefs and nontheism.

Plaintiff Fields staffs a table on behalf of Pennsylvania Nonbelievers at least once a month at street fairs during the warmer months of the year to raise awareness of nontheism and to provide resources for nontheists seeking like-minded individuals. When doing so, he welcomes discussions with any individuals who ask questions about his belief system.

15. Plaintiff Fields is a co-chair of the Secular Coalition for Pennsylvania, an organization that engages in advocacy—including before the Pennsylvania legislature—to prevent and remedy violations of church-state separation. Plaintiff Fields is also president of the Pennsylvania Freethought Organization Coalition, which helps freethought groups in Pennsylvania to get started and grow. He further organizes and participates in conferences where fellow atheists congregate, share their experiences, and discuss their beliefs. Together with plaintiff Scott Rhoades, plaintiff Fields organizes the Pennsylvania State Atheist/Humanist Conference—an annual gathering of atheists, agnostics, Secular Humanists, freethinkers, and skeptics that is now entering its sixth year. Plaintiff Fields attends the American Atheists conference yearly and has attended The Amazing Meeting conference, an annual gathering of advocates for science-based skepticism. At such events, he discusses Humanist and nontheistic beliefs with other attendees.

16. Plaintiff Fields has read and studied a number of texts describing atheistic and Humanist beliefs and considers the following such texts to be particularly seminal or important: *The Moral Landscape*, by Sam Harris (a text that explains how science can determine human values and urges people to think about morality in terms of human and animal well-being); *The God Delusion*, by Richard Dawkins (a text arguing that a supernatural creator almost certainly does not exist and that science and philosophy can help people understand the world and guide society better than traditional theistic religion can); *Letter to a Christian Nation*, by Harris (a text that takes issue with various fundamentalist religious beliefs, explains how they harm society, and argues that society should instead be guided by science and utilitarianism); *God Is Not Great*, by Christopher Hitchens (a text that criticizes organized religions and advocates a more secular life based on science and reason); and *The Believing Brain: From Ghosts and Gods to Politics and Conspiracies*, by Michael Shermer (a text arguing that humans form beliefs first and then find explanations to justify those beliefs, making science the best tool for determining whether our beliefs match reality).

17. Plaintiff Fields admires and studies the work, writings, and statements of the following prominent nontheists: Dawkins (an evolutionary biologist and atheist advocate), Shermer (a nontheist American science writer who focuses on analyzing and debunking claims that cannot be substantiated by reason and science), and

Harris (a nontheist author, philosopher, and neuroscientist, and the co-founder and chief executive of a nonprofit that promotes science and secularism).

18. As a Humanist and an atheist, plaintiff Fields celebrates Summer Solstice Day (June 20, 21, or 22—the longest day of the year) and Winter Solstice Day (December 21 or 22—the shortest day of the year). On these days, he joins members of Pennsylvania Nonbelievers and other nontheists at celebratory events to share in food, music, and conversation. He values these events as rituals that encourage connection, family, and community.

19. Guided by his Humanist belief that he should be a positive influence on the world, plaintiff Fields engages in volunteer work to benefit his community. He fundraises to stop hunger and has raised thousands of dollars through an “Atheists Fight Hunger” campaign. He has also participated in fundraising for leukemia and lymphoma victims and for individuals with disabilities.

20. Plaintiff Fields’ atheistic and Humanist beliefs are strongly held and are very important to him, holding a place in his life parallel to the significance that the orthodox belief in God has in the lives of adherents to monotheistic faiths. Plaintiff Fields believes that atheism and Humanism are “religions” as that term is defined by case law interpreting the U.S. Constitution.

21. Plaintiff Fields has been treated negatively by others on many occasions because of his atheistic and Humanist beliefs. For instance, when he has staffed

tables to raise awareness of nontheism, people have come up to him and made hostile remarks. Through social media, he has also received threats of harm as a result of his activism on behalf of nontheists.

22. Since 2010, plaintiff Fields has usually attended House daily sessions once or twice per year, and he plans to continue to do so. He attends to watch House proceedings concerning issues relating to church-state separation and other matters of interest to him.

23. At each of the House daily sessions that he attended, plaintiff Fields witnessed monotheistic opening invocations. And at each session that he attended, the Speaker of the House directed the visitors in the gallery to stand for the opening invocation. Plaintiff Fields ordinarily does not stand for the invocation.

24. On one occasion, while plaintiff Fields was sitting in the visitors' gallery, the Speaker of the House directed the visitors to stand, and plaintiff Fields did not. The Speaker then repeatedly asked plaintiff Fields to stand. When plaintiff Fields did not, the Speaker publicly asked a Legislative Security Officer to further pressure plaintiff Fields to stand for the prayer. The Security Officer then approached plaintiff Fields and several times asked him to stand. Plaintiff Fields continued to refuse to do so.

25. Plaintiff Fields would like to deliver an opening invocation at a House daily session. He would like to do so to benefit the House and the audience with

an uplifting and inspiring message, to demonstrate that nontheists can offer meaningful messages on morality, and to obtain treatment equal to that of theistic believers.

26. Plaintiff Fields views the defendants' policy, custom, and practice of prohibiting nontheists from delivering opening invocations at House daily sessions, while allowing theists to do so, as follows: It makes him feel like a second-class citizen who is not being treated equally. It sends him a message that he is not worthy of being permitted to offer his point of view on the same terms that theists do. It conveys to him that the House is not properly, fully, or fairly representing him. The defendants are perpetuating the wrongful prejudice that nontheists do not have and cannot speak about morality because they do not believe in God. The defendants' conduct is contributing to a societal atmosphere that encourages negative treatment of nontheists.

27. The Speaker of the House's directions to stand for invocations at House daily sessions make plaintiff Fields feel pressured to participate in prayer and to recognize the validity of the religious beliefs referenced in the invocations. Plaintiff Fields also perceives that by not standing up, he stands out from other visitors to the House as a religious dissenter and incurs the opprobrium of the House leadership.

28. For the reasons stated in the preceding two paragraphs, the defendants' conduct has made and continues to make plaintiff Fields feel offended, stigmatized, disfavored, insulted, humiliated, and discriminated against. The defendant's conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Fields.

Paul Tucker

29. Plaintiff Paul Tucker is a resident of Dillsburg (Franklin Township) in York County and Pennsylvania State House District 92. He has lived in Pennsylvania virtually all his life, including the last twenty-three years.

30. Plaintiff Tucker is an atheist and a Secular Humanist. He does not believe in God. His Humanist beliefs include the following: He values logic and rationality. He believes that morality exists without any higher power. His guiding principles are to try to improve the world for everyone, to do no harm, and to accomplish the most good for the most people.

31. Plaintiff Tucker is a founder and the chief organizer of plaintiff Dillsburg Area Freethinkers, a local organization of nontheists that is described in detail in paragraphs 130 to 137 below. Plaintiff Tucker helped found the group in 2011 because he wanted to create a safe space in which like-minded nontheists could share camaraderie in an otherwise religious community.

32. As chief organizer of Dillsburg Freethinkers, plaintiff Tucker serves a function for that nontheistic organization similar to the role a congregational leader has in a theistic religious organization. He provides leadership and coordination for the group. Plaintiff Tucker attends Dillsburg Freethinkers meetings every month. At those meetings, he leads discussions of nontheistic beliefs, how to survive as a nontheist in a religious society, how members became nontheists, books and movies relating to freethought, and issues and current events relating to church-state separation. He also serves as the principal contact for the organization's members.

33. Plaintiff Tucker has read and studied a number of texts concerning nontheistic beliefs and considers the following authors to be important: Carl Sagan (an astronomer, science educator, and agnostic), Christopher Hitchens (an outspoken nontheist author, literary critic, and journalist), Daniel Dennett (an atheist philosopher and cognitive scientist), David Sloan Wilson (an evolutionary biologist and atheist), and Dawkins. In particular, *The Demon-Haunted World: Science as a Candle in the Dark*, by Sagan (a text that advocates using critical thinking and the scientific method) has greatly influenced plaintiff Tucker's belief system. Plaintiff Tucker also listens to podcasts related to atheism.

34. Guided by his Humanist beliefs, plaintiff Tucker strives to contribute positively to his community. He has served for sixteen years as a vice president of

a committee that organizes a fair that brings local organizations together to celebrate the community. He also volunteers with a nonprofit organization that helps homeless and low-income families achieve independence.

35. Plaintiff Tucker's atheistic and Humanist beliefs are strongly held and are very important to him, holding a place in his life parallel to the significance that the orthodox belief in God has in the lives of adherents to monotheistic faiths. He believes that the government should treat his belief system the same way that it treats belief systems that recognize a higher power.

36. Plaintiff Tucker's atheistic and Humanist beliefs have caused others to treat him negatively. For example, he believes that he lost business in his vocation as a carpenter when a customer learned about his beliefs.

37. Plaintiff Tucker would like to deliver an opening invocation at a House daily session. He would like to do so to benefit the House and the audience with a positive and meaningful message, and to obtain treatment equal to that of theistic believers.

38. Plaintiff Tucker views the defendants' policy, custom, and practice of prohibiting nontheists from delivering invocations at House daily sessions, while allowing theists to do so, as the government granting a privilege to theists that is not given to nontheists. He believes that treating nontheists differently from theists in this manner is not fair or right. The defendants' conduct has thus made and

continues to make him feel offended, stigmatized, disfavored, insulted, humiliated, and discriminated against.

39. The defendants' conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Tucker.

Deana Weaver

40. Plaintiff Deana Weaver is a resident of Dillsburg (Carroll Township), in York County and Pennsylvania State House District 92. She was born and raised in Pennsylvania and has resided in the state for the past twenty-one years. She served in the active U.S. Army for four years and in the U.S. Army Reserve for ten more. She has also been involved in local government and currently serves on a local zoning board.

41. Plaintiff Weaver identifies as a freethinker. Freethinkers are people who form their opinions about religion based on reason, independently of established belief, tradition, or authority. Plaintiff Weaver's freethinking beliefs include the following: She believes that there is no evidence of a higher power and thus no reason to believe that one exists. Her moral compass is guided by the Golden Rule, which states that one should treat others as one would like to be treated. She values helping those in need, building a strong community in which people look out for each other, and caring for the less fortunate. She values logic, empiricism,

common sense, and common decency. She believes that people can be good and moral without belief in a higher power.

42. Plaintiff Weaver has been a member of plaintiff Dillsburg Freethinkers for the past four years. She regularly attends the organization's monthly meetings. At these meetings, she discusses her nontheistic beliefs, how to survive as a nontheist in a religious society, how she became a nontheist, books and movies relating to freethought, and issues and current events relating to church-state separation.

43. Guided by her beliefs as a freethinker, Plaintiff Weaver volunteers in her local community in many ways. She has won awards at the federal (from the Environmental Protection Agency), state, and local levels for removing litter from watersheds and roadways. She headed an organization that shipped 2,300 books to Iraq and helped an Army officer establish two libraries there for soldiers; for this work, she received a certificate of appreciation for Patriotic Civilian Service. Since 2009, she has coordinated a local arts-and-crafts street fair, as well as a local "pickle drop"—a New Year's Eve event that benefits the community through activities such as blood drives and fundraising for local nonprofits. For six years, she volunteered for and sat on the board of directors of a regional summer-camp foundation. She coached, managed, and sat on the board of directors for a youth baseball association. She has also held paid positions with theistic religious

groups, in which she coordinated the second-largest (at the time) food drive in the nation and created a bicycle-safety training program.

44. Plaintiff Weaver's freethinking beliefs are strongly held and are very important to her, holding a place in her life parallel to the significance that the orthodox belief in God has in the lives of adherents to monotheistic faiths. She believes that government should treat her belief system the same way that it treats belief systems that recognize a higher power.

45. Plaintiff Weaver delivered an invocation before the Pennsylvania Senate on April 15, 2015, the text of which is provided in paragraph 294 below. Her invocation emphasized the solemnizing themes of compassion, understanding, and strength in a diverse community.

46. Plaintiff Weaver would like to deliver a similar opening invocation at a House daily session. She would like to do so to benefit the House and the audience with an uplifting message, to take part in the proceedings of a representative governmental body whose decisions affect her daily life, and to obtain treatment equal to that of believers in God.

47. Plaintiff Weaver views the defendants' policy, custom, and practice of prohibiting nontheists from delivering invocations at House daily sessions, while allowing theists to do so, as follows: Her elected representatives have made a decision that—withstanding the variety of ways in which she has served her

country and her community—she is unworthy or undeserving of participation in a governmental activity because she does not believe in a specific supernatural deity. The defendants’ conduct communicates to her that if she wants to deliver an invocation before them, she cannot continue to hold her freethought beliefs. She feels disenfranchised and unrepresented, and believes that the House is serving only its theistic constituents. The defendants’ conduct thus has made and continues to make her feel offended, stigmatized, disfavored, insulted, humiliated, and discriminated against.

48. The defendants’ conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Weaver.

Scott Rhoades

49. Plaintiff Scott Rhoades is a resident of Lancaster (Manheim Township), in Lancaster County and Pennsylvania State House District 97. He has lived in Pennsylvania his entire life.

50. Plaintiff Rhoades is a Secular Humanist and an atheist/agnostic. He believes that it is extremely unlikely that God exists. He believes that humans should rely on reason, logic, and science to guide their beliefs and actions.

51. Plaintiff Rhoades’ s Humanist beliefs include the following: Humans should work to support each other and to improve the lives of others. He should help other people as much as he can, using whatever resources he has. Everyone,

regardless of race, religion, sex, or other characteristics, should have equal rights. He generally agrees with Humanist Manifesto III and aspires to the ideals of reason, compassion, and civic duty outlined therein.

52. Plaintiff Rhoades is ordained as a Humanist Celebrant by the Humanist Society, an adjunct organization of the American Humanist Association. The Humanist Society is incorporated under the laws of the State of California as a religious, educational, and charitable nonprofit organization. It is classified by the Internal Revenue Service as “a church or a convention or association of churches.” The Humanist Society is endorsed by the Board of Chaplaincy Certification, Inc., an affiliate of the Association of Professional Chaplains. The Humanist Society is authorized to train and certify Humanist Celebrants anywhere in the world. The Humanist Society prepares Humanist Celebrants to lead ceremonial observances, such as weddings, memorial services, and various rites of passage. Humanist Celebrants also serve as ambassadors, congregational leaders, and scholars of Humanism. Humanist Celebrants are legally recognized in all states and many countries and are accorded the same rights and privileges granted by law to priests, ministers, and rabbis of traditional theistic religions, including the right to solemnize weddings and the protection of confidential communications through the clergy-penitent privilege. Humanist Celebrants have a long history of conducting weddings, memorial services, and other ceremonies.

53. As an ordained Celebrant member of the Humanist Society, plaintiff Rhoades is considered ordained clergy under Pennsylvania law and is permitted to officiate weddings and to sign marriage licenses. He has been an ordained Celebrant since 2012, and his work as a Celebrant has been his full-time occupation since early 2014. He has performed approximately one hundred weddings, two memorial services, and one vow renewal. He is also available for baby-naming and graduation ceremonies. Sometimes he performs wedding ceremonies for theistic believers, including couples of different faiths.

54. Guided by his beliefs, plaintiff Rhoades has worked tirelessly to foster a community for and advocate on behalf of nontheists. He is the founder and president of plaintiff Lancaster Freethought Society—an organization for nontheists that is described in detail in paragraphs 138 to 147 below—which he has led since 2011.

55. As president of Lancaster Freethought, plaintiff Rhoades provides leadership and coordination for the group. He regularly attends two to three Lancaster Freethought meetings per month. At these meetings, he leads discussions of nontheistic beliefs and related issues (in areas such as religion, philosophy, science, and activism), works to foster community for nontheists, and coordinates the other activities described in paragraphs 141 and 142 below. He also serves as the principal contact for the organization's members.

56. Plaintiff Rhoades is co-chair of the Secular Coalition for Pennsylvania. Together with plaintiff Fields, plaintiff Rhoades organizes the Pennsylvania State Atheist/Humanist Conference. Plaintiff Rhoades is also the moderator of a Facebook group for organizers of freethought groups concerning best practices. He further recently helped start and plans to be deeply involved in Lancaster Atheists Helping the Homeless, an initiative to help feed and clothe the homeless population in and around Lancaster.

57. Plaintiff Rhoades has read and studied a number of texts describing atheistic and Humanist beliefs and considers the following texts to be seminal or particularly important: *Good Without God: What a Billion Nonreligious People Do Believe*, by Greg Epstein (a text that offers a worldview for nontheists that avoids hostility to and intolerance of religion); *The Demon-Haunted World*, by Sagan; *How We Believe: Science, Skepticism, and the Search for God*, by Shermer (a text that analyzes why people adopt theistic beliefs); and *Freethinkers: A History of American Secularism*, by Susan Jacoby (a text that chronicles the contributions of freethinkers to American society).

58. Plaintiff Rhoades admires and studies the work, writings, and statements of the following prominent nontheists: Sagan, Shermer, Dawkins, Hitchens, Dennett, Harris, Epstein (an influential Humanist blogger, speaker, adviser, and

author who serves as the Humanist Chaplain at Harvard University), and Jacoby (an atheist journalist and author).

59. Plaintiff Rhoades's Humanist and atheistic/agnostic beliefs are strongly held and are very important to him, holding a place in his life parallel to the significance that the orthodox belief in God has in the lives of adherents to monotheistic faiths. His Humanist beliefs guide his decision-making on a daily basis. Plaintiff Rhoades believes that atheism and Secular Humanism can be characterized as "religions" as that term is defined by case law interpreting the U.S. Constitution.

60. Plaintiff Rhoades has attended a House daily session in connection with his legislative-advocacy activity for the Secular Coalition for Pennsylvania and intends to attend future sessions when they are relevant to the organization's legislative-advocacy activities. He was accompanied by plaintiff Fields the time he attended, and he witnessed a monotheistic opening invocation. That day, while he was sitting in the visitors' gallery, the Speaker of the House directed the visitors to stand, and plaintiff Rhoades did not. The Speaker then repeatedly asked plaintiff Rhoades to stand. When plaintiff Rhoades did not, the Speaker publicly asked a Legislative Security Officer to further pressure plaintiff Rhoades to stand for the prayer. The Security Officer then approached plaintiff Rhoades and several times asked him to stand. Plaintiff Rhoades continued to refuse to do so.

61. Plaintiff Rhoades would like to deliver an opening invocation at a House daily session. He would like to do so to benefit the House and the audience with a positive and unifying message, to advance equality for nontheists, and to educate others about how atheists and Humanists can help society.

62. Plaintiff Rhoades views the defendants' policy, custom, and practice of prohibiting nontheists from delivering invocations at House daily sessions, while allowing theists to do so, as follows: He is being singled out as a member of a disfavored minority. The defendants' conduct communicates to him that he is not an equal citizen. He is not being treated as an equal to theistic believers.

63. The Speaker of the House's directions to stand for invocations at House daily sessions make plaintiff Rhoades feel very uncomfortable. He feels pressured to take part in a religious ritual of a faith to which he does not subscribe.

64. For the reasons stated in the preceding two paragraphs, the defendants' conduct has made and continues to make plaintiff Rhoades feel offended, stigmatized, disfavored, insulted, humiliated, and discriminated against. The defendants' conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Rhoades.

Joshua Neiderhiser

65. Plaintiff Joshua Neiderhiser is a resident of Dover, in York County and Pennsylvania State House District 196. He has lived in Pennsylvania all his life, except for the years 2000 through 2003.

66. Plaintiff Neiderhiser is a Humanist and an atheist. He does not believe in God. His Humanist beliefs include the following: That he should strive to be the best human he can be. That he should work together with other people for the improvement of humanity. That the world can be made better without reliance on a supernatural power. He largely agrees with Humanist Manifesto III.

67. Plaintiff Neiderhiser is ordained by the Humanist Society as a Humanist Celebrant. He is accordingly considered ordained clergy under Pennsylvania law and is permitted to officiate weddings and to sign marriage licenses. He became a Celebrant in 2014—after watching a religious funeral for a colleague who was a nontheist—so that he could help nontheists observe key passages in their lives. He has officiated fourteen weddings and one memorial service.

68. Plaintiff Neiderhiser is a member of plaintiff Pennsylvania Nonbelievers. He formerly served as one of the organization's board members. He periodically attends meetings of the organization, where he and other members discuss atheistic and Humanist beliefs, as well as other topics, such as the challenges and concerns that come with being a nontheist in a heavily theist society, books relating to

nontheism, church-state separation, and activism opportunities. He has staffed tables on the organization's behalf at street fairs to raise awareness of nontheism and to provide resources for nontheists seeking like-minded individuals. Plaintiff Neiderhiser is also a member of the American Humanist Association, an organization that "strive[s] to bring about a progressive society where being 'good without a god' is an accepted and respected way to live life." *See Key Issues, American Humanist Association*, <https://americanhumanist.org/AHA/key-issues/> (last visited June 1, 2017).

69. Plaintiff Neiderhiser has read and studied a number of texts describing Humanist and atheistic beliefs. He has been particularly influenced by the works of Dawkins, Harris, Hitchens, A.C. Grayling (a philosopher, atheist, Humanist, and vice-president of the British Humanist Association), and Dan Barker (an atheist former Christian preacher who now serves as co-president of the Freedom From Religion Foundation).

70. As a Humanist and an atheist, plaintiff Neiderhiser celebrates the National Day of Reason, which occurs on the first Thursday in May and is a day of celebrating reason and its social benefits, promoting reason-based thinking, and opposing unconstitutional promotion of religion by public officials.

71. Plaintiff Neiderhiser's Humanist and atheistic beliefs are strongly held and are very important to him, holding a place in his life parallel to the significance that the orthodox belief in God has in the lives of adherents to monotheistic faiths.

72. Plaintiff Neiderhiser has been treated negatively by others as a result of his atheistic beliefs. He has lost friends because of his atheism, and people have abruptly terminated social interactions with him upon learning about his atheism.

73. Plaintiff Neiderhiser would like to deliver an invocation at a House daily session. He would like to do so to benefit the House and the audience with a respectful message that promotes reason and equality, to demonstrate that the House represents a community of diverse beliefs, and to advance equality for nontheists.

74. Plaintiff Neiderhiser views the defendants' policy, custom, and practice of prohibiting nontheists from delivering invocations at House daily sessions, while allowing theists to do so, as follows: The defendants are negatively singling out nontheists and communicating to them that they are worth less because they do not go to church. The defendants' actions send a message that the House preferentially represents and serves theistic believers over others. The defendants' conduct thus has made and continues to make plaintiff Neiderhiser feel offended, stigmatized, disfavored, insulted, humiliated, and discriminated against.

75. The defendants' conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Neiderhiser.

Rev. Dr. Neal Jones

76. Plaintiff Rev. Dr. Neal Jones is a resident of Wayne (Radnor Township), in Delaware County and Pennsylvania House District 165. He has lived in Pennsylvania for the last two years.

77. Plaintiff Jones is a Unitarian Universalist, a Humanist, and an agnostic. He doubts that any supernatural power exists but does not claim to be certain about this.

78. "Unitarian Universalism is a liberal religious tradition that was formed from the consolidation of" the Universalist and the Unitarian Christian traditions.

History of Unitarian Universalism, Unitarian Universalist Association,

<http://www.uua.org/beliefs/who-we-are/history> (last visited June 23, 2017).

Unitarian Universalism welcomes people with many beliefs, including atheists, agnostics, Buddhists, Christians, Hindus, Humanists, Jews, Muslims, and Pagans.

"Unitarian Universalism affirms and promotes seven Principles, grounded in the humanistic teachings of the world's religions" (*Welcome to Unitarian*

Universalism, Unitarian Universalist Association, <http://www.uua.org/beliefs> (last

visited June 23, 2017)): "[t]he inherent worth and dignity of every person";

"[j]ustice, equity, and compassion in human relations"; "[a]cceptance of one

another and encouragement to spiritual growth in [its] congregations”; “[a] free and responsible search for truth and meaning”; “[t]he right of conscience and the use of the democratic process within [its] congregations and in society at large”; “[t]he goal of world community with peace, liberty, and justice for all”; and “[r]espect for the interdependent web of all existence of which [all humanity is] a part” (*The Seven Principles*, Unitarian Universalist Association, <http://www.uua.org/beliefs/what-we-believe/principles> (last visited June 23, 2017)). Unitarian Universalism’s “spirituality is unbounded” (*Welcome to Unitarian Universalism*, Unitarian Universalist Association, <http://www.uua.org/beliefs> (last visited June 23, 2017)), drawing from six sources: “[d]irect experience of that transcending mystery and wonder, . . . which moves us to a renewal of the spirit and an openness to the forces which create and uphold life”; “[w]ords and deeds of prophetic women and men”; “wisdom from the world’s religions”; “Jewish and Christian teachings”; “Humanist teachings”; and “[s]piritual teachings of Earth-centered traditions” (*Sources of Our Living Tradition*, Unitarian Universalist Association, <http://www.uua.org/beliefs/what-we-believe/sources> (last visited June 23, 2017)). Unitarian Universalists are “united in shared experience: our open and stirring worship services, religious education, and rites of passage; our work for social justice; our quest to include the marginalized; our expressions of love.” *Beliefs & Principles*, Unitarian

Universalist Association, <http://www.uua.org/beliefs/what-we-believe> (last visited June 23, 2017).

79. Plaintiff Jones's Humanist beliefs include the following: Humans have supreme worth and value and should be treated with respect. Human life is an end in itself, rather than a means to an end. Humans have only one life to live. Humans invent and are responsible for society's religions and political, economic, and social systems. People are ultimately responsible for the well-being of society and should work for peace, justice, and equality. Each person is responsible for their own life. Science should guide human decision-making, and people should change their beliefs to fit scientific facts when science contradicts their beliefs.

80. Plaintiff Jones generally agrees with Humanist Manifesto III, as well as two prior versions, Humanist Manifestos I and II. *See* Humanist Manifesto I, *American Humanist Association*, <https://americanhumanist.org/what-is-humanism/manifesto1/> (last visited June 23, 2017); Humanist Manifesto II, *American Humanist Association*, <https://americanhumanist.org/what-is-humanism/manifesto2/> (last visited June 23, 2017). He is also a member of the American Humanist Association.

81. Plaintiff Jones was ordained as a Southern Baptist minister in 1986, after obtaining a master's degree in divinity from Southeastern Baptist Theological Seminary. He was subsequently ordained as a minister by the United Church of

Christ and served as a minister for churches affiliated with the United Church of Christ and the Moravian Church. From 2004 until 2015, he served as the minister for the Unitarian Universalist Congregation of Columbia in South Carolina.

82. In 2014, plaintiff Jones was credentialed by the Unitarian Universalist Association as a fully fellowshiped minister. The Unitarian Universalist Association is a religious organization incorporated in 1961 under the laws of Massachusetts and New York. “Within a congregational setting, [Unitarian Universalist] ministers preach and lead worship, teach religious education, lead social justice, provide pastoral care and often oversee administration.” Unitarian Universalist Association Ministerial Credentialing Office, *Requirements for Ministerial Fellowship with the Unitarian Universalist Association 2* (Aug. 2016), http://www.uua.org/sites/live-new.uua.org/files/requirements_mfc.pdf.

83. Plaintiff Jones is now the senior minister at Main Line Unitarian Church, a Unitarian Universalist congregation located in Devon (Easttown Township), in Chester County and Pennsylvania House District 167. He has held that position since 2015. Main Line Unitarian Church has approximately 550 members and is the largest Unitarian Universalist church in Pennsylvania. Main Line Unitarian Church is a nonprofit institution incorporated in Pennsylvania. The Church is affiliated with the Unitarian Universalist Association.

84. The members of Main Line Unitarian Church hold a wide variety of beliefs with respect to divinity and include Christians, Jews, Buddhists, Humanists, atheists, and agnostics. But other than embracing a variety of theistic and nontheistic beliefs, Main Line Unitarian Church functions similarly to many Protestant churches. Main Line Unitarian Church holds services every Sunday that include sermons, hymns, prayers, reflective readings, meditations, and moments of silence. The Church provides religious education classes for children, youth, and adults. The Church has several volunteer choirs that participate in worship services, as well as a Small Group Ministry through which small groups meet for readings and discussions on personal and spiritual development. The Church sponsors community-service events and has social-action groups that advocate for various social-justice causes.

85. As the senior minister at Main Line Unitarian Church, plaintiff Jones plays a role similar to that of ministers of many Protestant churches, except that he does not advocate theistic beliefs. He presents sermons at Sunday services, in which he discusses various Unitarian Universalist ideas and perspectives, social-justice issues, and matters such as how to deal with grief and loss. He teaches a children's story at the beginning of the services, and he teaches religious education classes for adults. He also provides general ministry to his congregation, through

activities such as visiting sick members in hospitals. He strives to ensure that his presentations and activities are inclusive of both theistic and nontheistic views.

86. Plaintiff Jones further provides general leadership for Main Line Unitarian Church. One of his leadership activities is chairing a church council composed of the leaders of the Church's social-action groups. He also spearheads social-justice actions and speaks publicly for the Church on social-justice issues.

87. As ordained clergy, plaintiff Jones is permitted to officiate weddings and to sign marriage licenses under Pennsylvania law. He has performed hundreds of wedding, memorial, and child-naming ceremonies. Occasionally, he has performed weddings for theistic believers.

88. Plaintiff Jones has read and studied a number of texts describing Humanist and nontheistic beliefs and considers the following such texts to be seminal or particularly important: *The God Delusion*, by Dawkins; *God Is Not Great*, by Hitchens; *Letter to a Christian Nation*, by Harris; and *Religion for Atheists: A Non-believer's Guide to the Uses of Religion*, by Alain de Botton (a text that discusses how nontheists can learn useful things from theistic religions).

89. In addition, Plaintiff Jones admires and studies the work, writings, and statements of Bill Murry (a Unitarian Universalist Humanist author) and Michael Werner (a Humanist author, past president of the American Humanist Association, and past vice-president of the Unitarian Universalist Humanist Association).

90. At Main Line Unitarian Church, plaintiff Jones, as a Unitarian Universalist and a Humanist, celebrates various holidays, typically leading services on them. These holidays include International Darwin Day (February 12—the birthday of scientist Charles Darwin, and a day promoting science, education, and intellectual curiosity), Easter, Passover, the Summer Solstice, the Flower Communion (a late-June Unitarian Universalist ceremony involving exchange of flowers), the Fourth of July, Rosh Hashanah, Yom Kippur, Halloween, All Soul’s Day (at which the service honors people who have passed away), Thanksgiving, the Winter Solstice, Christmas, and Hanukkah.

91. Guided by his Unitarian Universalist and Humanist beliefs, plaintiff Jones leads and engages in Main Line Unitarian Church community-service events. For example, he has led projects through which congregants gathered food for the hungry and cleaned up a waterway. Plaintiff Jones also serves as president of the board of trustees of Americans United for Separation of Church and State.

92. Plaintiff Jones’s Unitarian Universalist, Humanist, and agnostic beliefs are strongly held and very important to him, holding a place in his life parallel to the significance that the orthodox belief in God has in the lives of adherents to monotheistic faiths. Plaintiffs Jones’s Unitarian Universalist, Humanist, and agnostic beliefs form the core of his convictions and worldview and inform how he leads his life. Plaintiff Jones believes that Unitarian Universalism, Humanism, and

agnosticism are “religions” as that term is defined by case law interpreting the U.S. Constitution.

93. Plaintiff Jones has been treated negatively by others as a result of his Humanism and agnosticism. He has received emails and phone calls threatening him and attacking his beliefs, including communications questioning how he, as an agnostic, can be a minister or have any morals.

94. Plaintiff Jones has delivered a number of ceremonial invocations to open events of civic, advocacy, and political organizations, and will shortly deliver an opening invocation at a private-school event. His opening invocations have been nontheistic and inclusive, consistent with his philosophy that people should respect others even if they do not agree with their beliefs.

95. Plaintiff Jones would like to deliver a nontheistic opening prayer at a House daily session. He would like to do so to benefit the members of the House with a message encouraging them to promote justice, compassion, and equality. He would also like to obtain equal treatment for nontheists.

96. Plaintiff Jones views the defendants’ policy, custom, and practice of prohibiting nontheists from delivering opening invocations at House daily sessions, while allowing theists to do so, as follows: The policy makes him feel like a second-class citizen who is not being treated equally or fairly. The policy endorses a particular religious stance that does not reflect his beliefs and makes him feel

excluded and unrepresented by his legislature. The policy perpetuates general societal prejudice against nontheists. The defendants' conduct has thus made and continues to make plaintiff Jones feel offended, stigmatized, disfavored, insulted, humiliated, and discriminated against.

97. The defendants' conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Jones.

Clergy Leader Richard Kiniry

98. Plaintiff Richard Kiniry is a resident of Philadelphia and Pennsylvania House District 182. He was born and raised in Pennsylvania and has resided in Pennsylvania for the last 47 years. He is an Ethical Humanist / Ethical Culturist and a nontheist.

99. Ethical Humanism was originally known solely as Ethical Culture. Today, the two terms are used interchangeably. "Ethical Humanism/Ethical Culture is a humanist Movement focusing on human goodness and building ethical relationships with each other and the Earth." *Mission & Vision*, American Ethical Union, <https://aeu.org/who-we-are/mission-vision/> (last visited June 23, 2017). Ethical Humanism / Ethical Culture is "recognized as a religious movement because for [its members] the ethical quest has the depth of a religious commitment, and because [they] recognize the value of a community of support, celebration, and action." *Id.* Adherents to Ethical Humanism / Ethical Culture

gather locally in Ethical Societies, which “serve as religious congregations in which members can build a community of friends, find inspiration and purpose, provide moral education for their children, celebrate seasons and life events, and clarify their world views.” *Ethical Humanism*, American Ethical Union, <https://aeu.org/who-we-are/ethical-humanism/> (last visited June 23, 2017).

100. Ethical Humanism / Ethical Culture is “non-theistic” because it “do[es] not concern [itself] with the existence or non-existence of a deity but instead embrace[s] the diversity of [its] membership.” *Mission & Vision, supra*. “For Ethical Humanists, the ultimate religious questions are not about the existence of gods or an afterlife, but rather, ‘How can we create meaningfulness in this life?’ and ‘How should we treat each other?’” *Ethical Humanism, supra*. “[F]or an Ethical Humanist, there are unquestionably acts that are good and evil, right and wrong. In order for human beings to have good lives, love must prevail, truth must be respected, honesty esteemed, justice secured, and freedom protected.” *Id.*

101. Ethical Culture / Ethical Humanism has Eight Commitments: “Ethics is Central”; “Ethics Begins with Choice”; “We Choose to Treat Each Other as Ends, not Means”; “We Seek to Act with Integrity”; “We are Committed to Educate Ourselves”; “Self Reflection and Our Social Nature Require Us to Shape a More Humane World”; “Democratic Process is Essential to Our Task”; and “Life Itself Inspires a Natural ‘Religious’ Response.” *Id.* Ethical Culture / Ethical Humanism

also teaches that freedom of belief should be encouraged; that people should act in a way that brings out the best in others and in themselves; that all people have “an inherent capacity for fairness, kindness, and living ethically”; that practicing “ethical principles such as love, justice, honesty, and forgiveness” leads people to “experience harmony within [them]selves and in [their] relationships”; and that people should “cultivate the spiritual dimension in life by experiencing [their] interdependent connections to humanity, nature, and [their] inner values.” *Id.* A more detailed statement of Ethical Culture / Ethical Humanist beliefs is set forth in a 2008 Statement of the National Leader’s Council of the American Ethical Union. *See Ethical Culture*, <https://aeu.org/wp-content/uploads/NLC-Ethical-Culture-Religious-Identity-Statement-.pdf> (Nov. 1, 2008).

102. Plaintiff Kiniry is a signer of the 2008 Statement. He also generally agrees with all three Humanist Manifestos. And he has authored a long essay setting forth the specifics of his Ethical Culture / Ethical Humanist beliefs, emphasizing the intrinsic worth of humans, acting so as to elicit the best in others and thereby in yourself, loving life in all of its individual uniqueness, personal living, and social justice. *See* Richard Kiniry, *Ethical Humanism as [a] Religious Approach* 11–15, http://www.phillyethics.org/leaders_page/LPehara.pdf (Oct. 2008). As a nontheist, he believes that interaction among living beings is what

creates reality for them, that there are no absolute answers about whether God exists, and that how one lives one's life should not depend on whether God exists.

103. Plaintiff Kiniry was certified as an Ethical Culture / Ethical Humanist Clergy Leader by the American Ethical Union in 1989. The American Ethical Union is non-profit religious organization founded in 1889 and incorporated under the laws of the State of New York in 1947. Ethical Culture / Ethical Humanist Clergy Leaders “fill the roles of religious clergy” for Ethical Societies, “including meeting the pastoral needs of members, performing ceremonies, and serving as spokespeople for the congregation.” *Ethical Humanism, supra*. Clergy Leaders also “bring the ideals of Ethical Culture to the wider community through their work on social justice initiatives and in collaboration with organizations that share [Ethical Culture] priorities.” *National Leaders Council, American Ethical Union, <https://aeu.org/our-community/national-leaders-council/>* (last visited June 23, 2017).

104. Plaintiff Kiniry served as Clergy Leader of the Philadelphia Ethical Society—which is described in detail in paragraphs 148 to 159 below—from 1989 to 2011. Since then, he has served as Clergy Leader Emeritus of the Philadelphia Ethical Society.

105. As Clergy Leader Emeritus, plaintiff Kiniry occasionally leads Sunday Platforms—which are described in detail in paragraph 152 below—at the

Philadelphia Ethical Society and other Ethical Societies. When he does so, he gives the talk—the equivalent of a sermon at a theistic congregation, but presented from an Ethical Culture / Ethical Humanist perspective.

106. As an ordained Ethical Culture / Ethical Humanist Clergy Leader, plaintiff Kiniry is permitted to officiate weddings and to sign marriage licenses under Pennsylvania law. He has performed hundreds of wedding, memorial, and child-naming ceremonies. Occasionally, he has performed weddings for theistic believers.

107. Plaintiff Kiniry has read and studied a number of texts that have influenced his Ethical Culture / Ethical Humanist beliefs. He has been particularly influenced by *The Politics at God's Funeral*, by Michael Harrington (a text that plaintiff Kiniry sees as a plea for Ethical Humanism in a world where traditional religions are failing), as well as the works of Felix Adler (the founder of Ethical Culture), John Dewey (a philosopher, atheist, Humanist, and signatory of the first Humanist Manifesto), Bertrand Russell (a philosopher, agnostic, and Humanist), Albert Einstein (an agnostic), Ralph Waldo Emerson (a leader of the transcendentalist movement), and Alfred North Whitehead (a mathematician and philosopher and the intellectual forefather of process theology).

108. As an Ethical Culturist / Ethical Humanist, plaintiff Kiniry celebrates the Summer and Winter Solstices, the Fall and Spring Equinoxes, International Darwin

Day, and Earth Day (April 22—a day on which events are held worldwide and people take actions to promote environmental protection). On these days, he joins members of the Philadelphia Ethical Society for celebratory events.

109. Guided by his Ethical Culture / Ethical Humanist beliefs, plaintiff Kiniry participates in Philadelphia Ethical Society community-service activities. He is active in Camp Linden, an outdoor recreation and education program for inner-city children, which he rebuilt when he was the Society's Clergy Leader. He also chairs the Society's college-scholarship-fund committee.

110. Plaintiff Kiniry's Ethical Culture / Ethical Humanist beliefs are strongly held and are very important to him, holding a place in his life parallel to the significance that the orthodox belief in God has in the lives of adherents to monotheistic faiths. Plaintiff Kiniry believes that Ethical Culture / Ethical Humanism is a "religion" as that term is defined by case law interpreting the U.S. Constitution.

111. Plaintiff Kiniry has delivered approximately six ceremonial invocations, principally to open municipal celebrations. His opening invocations have always been nontheistic.

112. Plaintiff Kiniry would like to deliver a nontheistic opening prayer at a House daily session. He would like to do so to benefit the House with an inspiring message reflecting universal values, to demonstrate that nontheists are good and

normal people, and to remind the House that it represents constituents of diverse beliefs.

113. Plaintiff Kiniry views the defendants' policy, custom, and practice of prohibiting nontheists from delivering opening invocations at House daily sessions, while allowing theists to do so, as follows: The House is not treating him equally based on his nontheistic beliefs. The House's policy tells him that the House favors theistic beliefs over his beliefs. The policy communicates to him that he is not a full citizen of Pennsylvania and that the House believes that there is something wrong with him. The defendants' conduct has thus made and continues to make him feel offended, stigmatized, disfavored, insulted, humiliated, and discriminated against.

114. The defendants' conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Kiniry.

Pennsylvania Nonbelievers, Inc.

115. Plaintiff Pennsylvania Nonbelievers, Inc., is a non-profit organization incorporated in Pennsylvania. Its operating headquarters is in Newville (North Newton Township), in Cumberland County and Pennsylvania State House District 193. Its board and annual meetings occur and its mailing address is in York, in York County and Pennsylvania State House District 95.

116. Pennsylvania Nonbelievers is a local partner of American Atheists, Inc., an organization that “is dedicated to advancing the civil rights of atheists, promoting separation of religion from government, and providing information about atheism.” *See About Us*, American Atheists, <https://www.atheists.org/about/> (last visited June 23, 2017). Pennsylvania Nonbelievers is also affiliated with Atheist Alliance International (“a global federation of atheist and freethought groups and individuals, committed to educating its members and the public about atheism, secularism and related issues,” *see About AAI*, Atheist Alliance International, <https://www.atheistalliance.org/about-aa.html> (last visited June 23, 2017)) and the Council for Secular Humanism (an organization that champions the rights and beliefs of Secular Humanists, develops communities for them, and promotes Humanist viewpoints on important ethical and social issues, *see About the Council for Secular Humanism*, Council for Secular Humanism, <http://www.secularhumanism.org/index.php/10> (last visited June 23, 2017)).

117. Pennsylvania Nonbelievers has eighty paying members and three hundred recipients on its mailing list. Its members include people who identify themselves as atheists, agnostics, Humanists, unbelievers, and secularists. Most of the organization’s members reside in Central Pennsylvania. Plaintiff Fields is the organization’s president and plaintiff Neiderhiser is a member.

118. Pennsylvania Nonbelievers' mission includes promoting skeptical thinking and nonbelief in the supernatural; promoting the Humanist values of moral excellence, altruism, integrity, honesty, and personal responsibility; and advocating for civil rights and the separation of church and state. Pennsylvania Nonbelievers also provides a community in which nontheists can meet and feel safe.

119. Pennsylvania Nonbelievers has five meeting locations in central Pennsylvania. At each meeting location, there is one meeting per month. At these meetings, members discuss atheism, agnosticism, Humanism, and freethought. Members also discuss other topics, such as the challenges and concerns that come with being a nontheist in a heavily theistic society, books relating to nontheism, church-state separation, and activism opportunities.

120. In addition, Pennsylvania Nonbelievers hosts special events and lectures throughout the year, at which the discussions cover the same kinds of topics as the regular meetings do. The organization further participates in the annual Pennsylvania State Atheist/Humanist Conference.

121. Pennsylvania Nonbelievers also organizes celebratory events for its members and other nontheists on Summer Solstice Day and Winter Solstice Day—at which attendees share in food, music, and conversation—to encourage connection, family, and community.

122. During the warmer months of the year, Pennsylvania Nonbelievers staffs tables at least once a month at street fairs to raise awareness of nontheism and to provide resources for nontheists seeking like-minded individuals.

123. Pennsylvania Nonbelievers regularly organizes volunteer events for its members to benefit the community, such as events to feed the hungry, support disaster relief, and engage in interfaith charity work with theistic religious groups.

124. Pennsylvania Nonbelievers additionally engages in activism to promote church-state separation and equal treatment of nontheists.

125. Pennsylvania Nonbelievers plays an important role in the lives of its members, parallel to the role that traditional theistic religious congregations play in the lives of their members. Pennsylvania Nonbelievers provides its members a sense of community with people who share similar beliefs, allows its members to regularly spend time with like-minded people, and holds regular events at which those members discuss, observe, and celebrate their beliefs.

126. Many members of Pennsylvania Nonbelievers have experienced negative treatment from others in familial, educational, and employment contexts as a result of their nontheistic beliefs. Many members are afraid to disclose their nontheistic beliefs to theists because of fear of such mistreatment.

127. Pennsylvania Nonbelievers would like its leaders and members to have opportunities to give invocations at House daily sessions on a recurring basis.

Pennsylvania Nonbelievers' desire to deliver opening invocations and participation in this lawsuit are motivated by and germane to the organization's goals of promoting Humanist values through service to the community and promoting equal treatment of nontheists.

128. For reasons similar to those expressed by the individual plaintiffs, Pennsylvania Nonbelievers and its members have been and continue to be offended, stigmatized, disfavored, insulted, humiliated, and discriminated against by the defendants' policy, custom, and practice of prohibiting nontheists from delivering invocations at House daily sessions while allowing theists to do so.

129. The defendants' conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Pennsylvania Nonbelievers.

Dillsburg Area Freethinkers

130. Plaintiff Dillsburg Area Freethinkers is an unincorporated association headquartered in Dillsburg (Franklin Township), in York County and Pennsylvania State House District 92.

131. Dillsburg Freethinkers has approximately thirty-five members. Six to eight of those members attend the organization's meetings regularly or periodically. The organization's members include people who identify as atheists, agnostics, freethinkers, and Humanists. Most members reside in the Dillsburg

area. Plaintiff Tucker is the founder and chief organizer of Dillsburg Freethinkers, and plaintiff Weaver is a member.

132. The mission of Dillsburg Freethinkers is to create a space in which nontheistic individuals may meet one another, freely share their viewpoints, and explore their beliefs in a welcoming community.

133. Dillsburg Freethinkers has meetings once a month. At these meetings, the organization's members discuss their nontheistic beliefs, how to survive as a nontheist in a religious society, and how they became nontheists. They also discuss books and movies relating to freethought, as well as issues and current events relating to church-state separation. The meetings give members a safe space to discuss and explore their nontheistic beliefs.

134. Dillsburg Freethinkers plays an important role in the lives of its members, parallel to the role that traditional theistic religious congregations play in the lives of their members. Dillsburg Freethinkers provides its members a sense of community with people who share similar beliefs, allows its members to regularly spend time with like-minded people, and holds regular events at which those members can discuss, observe, and celebrate their beliefs.

135. Dillsburg Freethinkers would like its leaders and members to have opportunities to give invocations at House daily sessions on a recurring basis. Dillsburg Freethinkers' desire to deliver opening invocations and participation in

this lawsuit are motivated by and germane to the organization's goals of serving the community and improving the lives of nontheists.

136. For reasons similar to those expressed by the individual plaintiffs, Dillsburg Freethinkers and its members have been and continue to be offended, stigmatized, disfavored, insulted, humiliated, and discriminated against by the defendants' policy, custom, and practice of prohibiting nontheists from delivering invocations before the House while allowing theists to do so.

137. The defendants' conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Dillsburg Freethinkers.

Lancaster Freethought Society

138. Plaintiff Lancaster Freethought Society is an unincorporated organization headquartered in Lancaster (Manheim Township), in Lancaster County and Pennsylvania State House District 97.

139. Lancaster Freethought has approximately 400 members. Its members include people who identify as atheists, agnostics, freethinkers, Humanists, and skeptics. Most members reside in the Lancaster area. Plaintiff Rhoades is the founder and president of the organization.

140. The mission of Lancaster Freethought is to provide a social and intellectual community for nontheists and their families; enrich and empower its members through education and activism; educate the public about nontheism and

church-state separation; promote critical thinking and reason; and defend and promote the separation of church and state. Lancaster Freethought seeks to put a positive face on atheism, provide a social support system for its members, and help the local community.

141. Lancaster Freethought hosts five regular events per month: (1) a discussion meeting, at which members gather to discuss nontheistic beliefs and related issues in areas such as religion, philosophy, science, and activism; (2) a social meeting at a local pub that provides members with the opportunity to socialize with like-minded individuals and freely discuss their nontheistic beliefs; (3) a Sunday-morning social meeting at a cafe, at which there are often discussions about nontheistic beliefs; (4) an “Adopt a Highway” service event, at which members clean up trash at a highway interchange, while displaying signs with the organization’s name; and (5) an “Ask an Atheist” event in Lancaster’s central town square during the warmer months of the year, at which individuals from the community can approach Lancaster Freethought members and ask anything they would like about atheism, allowing the organization to educate the public and dispel misconceptions about atheism.

142. Lancaster Freethought also hosts some special events. For example, the organization annually hosts a picnic on Summer Solstice Day and a party on Winter Solstice Day to foster community among its members and other nontheists.

Other events include bowling nights and pizza parties. Lancaster Freethought also staffs a booth at an annual local gay-pride festival and hopes to have booths at other community festivals in the future.

143. Lancaster Freethought plays an important role in the lives of its members, parallel to the role that traditional theistic religious congregations play in the lives of their members. Lancaster Freethought provides its members a sense of community with people who share similar beliefs, allows its members to regularly spend time with like-minded people, and holds regular events at which those members discuss, observe, and celebrate their beliefs.

144. Many members of Lancaster Freethought have experienced negative treatment from others in familial, community, and employment contexts as a result of their nontheistic beliefs.

145. Lancaster Freethought would like its leaders and members to have opportunities to give invocations at House daily sessions on a recurring basis. Lancaster Freethought's desire to deliver opening invocations and participate in this lawsuit are motivated by and germane to the organization's goals of serving the community, educating the public about the positive nature of nontheism, normalizing the presence of nontheists in the community, and obtaining equal treatment for them.

146. For reasons similar to those expressed by the individual plaintiffs, Lancaster Freethought and its members have been and continue to be offended, stigmatized, disfavored, insulted, humiliated, and discriminated against by the defendants' policy, custom, and practice of prohibiting nontheists from delivering invocations before the House while allowing theists to do so.

147. The defendants' conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Lancaster Freethought.

Philadelphia Ethical Society

148. Plaintiff Philadelphia Ethical Society is a religious non-profit organization incorporated in Pennsylvania. It is based in a historic building located in Philadelphia and Pennsylvania House District 182.

149. The Philadelphia Ethical Society was founded in 1885. It was the third Ethical Society in the Ethical Culture religious denomination. The Philadelphia Ethical Society was a founding member, and remains a member, of the American Ethical Union. The Internal Revenue Service has recognized that the individual Ethical Societies that are members of the American Ethical Union are entitled to tax-exempt status as churches or religious organizations.

150. The Philadelphia Ethical Society has approximately 85 members. Though most of its members are atheists or agnostics, some are not. Most of the Society's

members reside in the Philadelphia area. Plaintiff Kiniry is the Clergy Leader Emeritus of the Society.

151. The Philadelphia Ethical Society “is a fellowship of individuals and families; an Ethical Humanist religious community.” *About Us*, Philadelphia Ethical Society, http://www.phillyethics.org/about_us.php (last visited June 23, 2017). Its mission includes supporting its members, educating people about Ethical Culture / Ethical Humanism, and promoting ethical action by its members and others. Its Amended and Restated Articles of Incorporation provide that it is incorporated exclusively for religious purposes and in furtherance thereof:

to promote the knowledge, the love and the practice of right living in all the relations of life; and

to join its members into a religious and educational fellowship in an effort to advance the moral growth of humanity through study, social action and spiritual consecration.

152. The Philadelphia Ethical Society holds weekly Sunday Platforms. The Sunday Platforms are similar to weekly worship services held by various theistic congregations, but are presented from an Ethical Culture / Ethical Humanist perspective. Members sing, hear music and readings, reflect during quiet time, share news, listen to a talk from the clergy leader—the equivalent of a sermon in a traditional theistic worship service—hear a fundraising appeal, and listen to a report on social-justice activities. A coffee hour featuring discussion and

conversation follows. Often there is also a presentation by an outside speaker who takes questions.

153. The Philadelphia Ethical Society runs a Sunday-school program, similar to a Sunday school at a theistic church, but based on Ethical Culture / Ethical Humanist values instead of theistic beliefs. The Society also offers a class that teaches adults about Ethical Humanism. It has a choir. And it holds social events for its members, such as picnics.

154. The Philadelphia Ethical Society holds celebrations on various holidays throughout the year, including the Winter and Summer Solstices, the Fall and Spring Equinoxes, International Darwin Day, and Earth Day. These holiday celebrations feature talks, discussion, singing, food, and special ceremonies. For example, on the Winter Solstice, members celebrate with songs, candles, and a tree of knowledge covered with flowers. And on the first Sunday of January, the Society celebrates Memorial Sunday, when members bring flowers to remember loved ones who have passed away.

155. The Philadelphia Ethical Society has a number of community-service projects. Its largest project is Camp Linden, an outdoor recreation and education program for inner-city children that teaches them about the environment and how to swim. Other service projects include operating a college-scholarship fund, purchasing personal dictionaries for needy schoolchildren, preparing and serving

dinner for a homeless shelter, signing letters for prisoners of conscience, conducting special collections for various causes, and participating in an interfaith organization to support various causes. The Society also takes part in social-justice events on issues such as peace, human rights, and LGBTQ rights.

156. The Philadelphia Ethical Society plays an important role in the lives of its members, similar to the role that traditional theistic religious congregations play in the lives of their members. The Society provides its members a sense of community with people who share similar beliefs, allows its members to regularly spend time with like-minded people, and holds regular events at which those members discuss, observe, and celebrate their beliefs.

157. The Philadelphia Ethical Society would like its leaders and members to have opportunities to give invocations at House daily sessions on a recurring basis. The Society's desire to deliver opening invocations and participation in this lawsuit are motivated by and germane to the Society's goals of promoting ethical conduct by others and educating people about Ethical Culture / Ethical Humanism.

158. For reasons similar to those expressed by the individual plaintiffs, the Philadelphia Ethical Society and its members have been and continue to be offended, stigmatized, disfavored, insulted, humiliated, and discriminated against by the defendants' policy, custom, and practice of prohibiting nontheists from delivering invocations at House daily sessions while allowing theists to do so.

159. The defendants' conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Philadelphia Ethical Society.

Defendants

Speaker of the House

160. Defendant Speaker of the Pennsylvania House of Representatives is being sued in his official capacity.

161. The Speaker presides over sessions of the House. General Operating Rules of the House of Representatives, Rule 1 (2015–16).

162. The Speaker is responsible for calling the members of the House to order at the beginning of each daily session. Pa. H.R. 2.

163. The Speaker is responsible for preserving order and decorum in the House chamber, has the power to order any disturbance or disorderly conduct in the House galleries to be cleared, and has the authority to summon Legislative Security Officers and State Police if necessary to preserve order and decorum. Pa. H.R. 3.

164. The Speaker decides all questions of order in the House, though his decision may be overturned by a majority of the House after an appeal by two members. Pa. H.R. 4.

165. The Speaker has authority to enforce House rules against other House members. Pa. H.R. 13.

166. The Speaker is currently the Honorable Mike Turzai.

167. He was first elected Speaker on January 6, 2015, and has served as Speaker since then.

168. Samuel Smith served as the previous Speaker, from January 4, 2011, until November 30, 2014.

Parliamentarian of the House

169. Defendant Parliamentarian of the Pennsylvania House of Representatives is being sued in his official capacity.

170. His responsibility as Parliamentarian is “to advise the Speaker on parliamentary questions and legislative procedure, and to perform such other duties in connection with the house desk and house transcribing room as the Speaker and Chief Clerk of the house shall direct.” 46 Pa. Stat. and Const. Stat. Ann. § 36 (2015).

171. Additionally, “[b]etween legislative sessions, the [P]arliamentarian . . . perform[s] such duties for the Speaker, any committee of the house, or any legislative commission, as the Speaker of the house shall prescribe.” *Id.*

172. The Parliamentarian is currently Clancy Myer.

173. He has served as Parliamentarian from 1983 to 2007 and since 2011.

Director of Special Events of the House

174. Defendant Director of Special Events of the Pennsylvania House of Representatives is being sued in her official capacity.

175. The Director of Special Events manages special events on the House floor, including daily introductions of guests, swearing in the Speaker and House members, the Governor's budget address, and programs commemorating significant events in state history.

176. The Director of Special Events also acts as the Speaker's liaison with invocation-presenters, as well as visiting foreign officials, professional athletes, celebrities, state leaders, and other dignitaries who visit the House.

177. The Director of Special Events further advises the Speaker and House members concerning official protocol procedures relating to planning and orchestrating visits by VIPs, ceremonies, meetings, and special events.

178. The Director of Special Events is currently Kelly Fedeli.

179. She has served as Director of Special Events since January of 2011.

Representative for House District 92

180. Defendant Representative for Pennsylvania House District 92 is being sued in her official capacity.

181. House District 92 is the district in which plaintiffs Tucker and Weaver reside and plaintiff Dillsburg Freethinkers is headquartered.

182. The Representative for House District 92 is currently the Honorable Dawn Keefer.

183. She has served in this position since 2017.

184. The Honorable Mike Regan served as the previous Representative for House District 92, from 2013 until 2016.

Representative for House District 95

185. Defendant Representative for Pennsylvania House District 95 is being sued in her official capacity.

186. House District 95 is the district in which plaintiff Pennsylvania Nonbelievers holds its board and annual meetings and has its mailing address.

187. The Representative for House District 95 is currently the Honorable Carol Hill-Evans.

188. She has served in this position since 2017.

189. Kevin Schreiber served as the previous Representative for House District 95, from 2013 until 2016.

Representative for House District 97

190. Defendant Representative for Pennsylvania House District 97 is being sued in his official capacity.

191. House District 97 is the district in which plaintiff Rhoades resides and plaintiff Lancaster Freethought is headquartered.

192. The Representative for House District 97 is currently the Honorable Steven Mentzer.

193. He has served in this position since 2013.

Representative for House District 165

194. Defendant Representative for Pennsylvania House District 165 is being sued in his official capacity.

195. House District 165 is the district in which plaintiff Jones resides.

196. The Representative for House District 165 is currently the Honorable Alexander Charlton.

197. He has served in this position since 2017.

Representative for House District 167

198. Defendant Representative for Pennsylvania House District 167 is being sued in his official capacity.

199. House District 167 is the district in which plaintiff Jones's congregation, Main Line Unitarian Church, is located.

200. The Representative for House District 167 is currently the Honorable Duane Milne.

201. He has served in this position since 2007.

Representative for House District 182

202. Defendant Representative for Pennsylvania House District 182 is being sued in his official capacity.

203. House District 182 is the district in which plaintiff Kiniry resides and in which plaintiff Philadelphia Ethical Society is located.

204. The Representative for House District 182 is currently the Honorable Brian Sims.

205. He has served in this position since 2013.

Representative for House District 193

206. Defendant Representative for Pennsylvania House District 193 is being sued in his official capacity.

207. House District 193 is the district in which plaintiff Fields resides and where the operating headquarters of plaintiff Pennsylvania Nonbelievers is.

208. The Representative for House District 193 is currently the Honorable Will Tallman.

209. He has served in this position since 2009.

Representative for House District 196

210. Defendant Representative for Pennsylvania House District 196 is being sued in his official capacity.

211. House District 196 is the district in which plaintiff Joshua Neiderhiser resides.

212. The Representative for House District 196 is currently the Honorable Seth Grove.

213. He has served in this position since 2009.

General Allegations

Invocations before the House

House Daily Sessions and Chamber

214. As used in this complaint, the term “daily session” refers to a House-session proceeding that takes place on an individual day on which the House is in session (as distinguished from the entirety of the period during which the House meets in a particular year).

215. The House holds daily sessions that are open to the public and shown live on the House’s website.

216. The House holds these daily sessions in an amphitheater-like chamber at the State Capitol.

217. During daily sessions, the Speaker of the House (or his designee) presides from a rostrum on a raised dais at the front of the House chamber.

218. During daily sessions, the Parliamentarian of the House is typically also on the dais, at the presiding officer’s side.

219. Visitors may observe the House’s proceedings from the upper gallery, which is located in a balcony at the back of the chamber.

220. The visitors’ gallery has a capacity of approximately 80 to 90 people.

221. Attendance in the visitors’ gallery at the beginning of House daily sessions varies widely and can range from none to full capacity.

222. Average attendance in the visitors' gallery at the beginning of House daily sessions is estimated by the House to be half of capacity.

223. The distance between the Speaker's rostrum and the visitors' gallery is approximately 120 to 130 feet.

224. During daily sessions, the Speaker, the Parliamentarian, and others on the dais typically face in the direction of the upper gallery.

Invocation Procedures

225. The General Operating Rules of the House require that the first order of business each day of a House session be "Prayer by the Chaplain." Pa. H.R. 17.

226. Occasionally, however, the invocation is omitted on non-voting session days when members of the House are typically not present.

227. House daily sessions begin with the Speaker (or his designee) standing in front of the Speaker's chair on the raised dais at the front of the chamber and calling the body to order.

228. Immediately after calling the body to order, the Speaker (or his designee) introduces the individual who will give the invocation (if there is an invocation that day).

229. When the invocation-presenter is not a member of the House, the Speaker (or his designee) typically names the church or organization that the invocation-presenter represents.

230. Typically, after introducing the invocation-presenter, the Speaker (or his designee) directs the members of the House and the visitors in the upper gallery to stand.

231. The Speaker (or his designee) then steps aside, allowing the invocation-presenter to address the House from the Speaker's rostrum.

232. From the upper gallery, visitors can see the Speaker (or his designee), as well as any other individuals who may be on the raised dais at the front of the chamber.

233. The Speaker and others on the raised dais at the front of the chamber can likewise see the visitors in the upper gallery.

234. Visitors in the upper gallery typically stand for the invocation.

235. Members of the House typically stand for the invocation.

236. The Speaker and others on the raised dais at the front of the chamber can see whether the visitors in the upper gallery are standing for the invocation.

Selection of Invocation-Presenters

237. Since January 6, 2015, House General Operating Rule 17 has provided that “[t]he Chaplain offering the prayer shall be a member of a regularly established church or religious organization or shall be a member of the House of Representatives.”

238. Invocation-presenters who are not members of the House are selected in the manner described in paragraphs 239 to 252 below.

239. A member of the House submits a request to the Speaker's office on behalf of a proposed guest invocation-presenter, providing the proposed invocation-presenter's name, house of worship (or other affiliated organization), and contact information.

240. Ordinarily, House members submit such requests on behalf of individuals who reside in their district.

241. Within the Speaker's office, such requests are processed by the Director of Special Events.

242. The Director of Special Events approves the proposed guest invocation-presenters if they are members of "a regularly established church or religious organization" (*id.*), unless they indicate that they are not willing to offer a theistic prayer.

243. If the proposed guest invocation-presenter indicates that he or she is not willing to offer a theistic prayer, or if the proposed presenter is not readily identifiable as a religious leader or as "a member of a regularly established church or religious organization" (*id.*), then the Director of Special Events generally addresses to the Parliamentarian the question whether the proposed guest invocation-presenter should be allowed to deliver an invocation.

244. The Parliamentarian may resolve that question on his own or in consultation with the Director of Special Events.

245. If the Parliamentarian, by himself or with the Director of Special Events, is unable to resolve the question, then it is referred to the Speaker, who makes a final determination of eligibility in consultation with the Parliamentarian.

246. When it is unclear whether a proposed invocation-presenter is “a member of a regularly established church or religious organization” (*id.*), the Speaker, the Parliamentarian, the Director of Special Events, or one of their staff attempt to obtain additional information to determine whether this requirement is satisfied.

247. On certain occasions, such as the opening daily session of the year, the Speaker directly invites a person of his choice to present the opening invocation.

248. The Director of Special Events schedules when the approved guest invocation-presenters will give their invocations.

249. The Director of Special Events, on behalf of the Speaker, sends letters to the approved guest invocation-presenters with information about the procedure for delivering the invocation.

250. A standard form letter that the Speaker and the Director of Special Events used for this purpose as of October 2014 and continued to use until April 2017 is attached as Exhibit 1.

251. This form letter asks those scheduled to deliver invocations to “craft a prayer that is respectful of all religious beliefs.”

252. Neither the Speaker’s office, nor any other House member, official, or staffer, reviews the texts of planned invocations before they are delivered, however.

253. The Speaker’s office typically gives each guest invocation-presenter a commemorative gavel.

254. The Speaker’s office also typically gives each guest invocation-presenter a photograph of the invocation-presenter with the House member who recommended them.

255. Invocation-presenters who are members of the House are selected in the manner described in paragraphs 256 to 258 below.

256. The Representatives who deliver invocations are previously identified as willing to do so.

257. These Representatives, currently about ten to fifteen in number, are identified as such due to their known religious devotion and/or their expressed interest in presenting invocations.

258. The Director of Special Events arranges to have these Representatives present invocations.

Identities of Invocation-Presenters and Nature of Invocations

259. The following data cover the period from January 8, 2008, through October 17, 2016:

260. During this period, the House held 731 daily sessions.

261. Of those daily sessions, 626 began with an invocation.

262. In the 105 other daily sessions, the invocation was omitted.

263. Members of the House delivered the invocation 341 times.

264. All the invocations delivered by House members were explicitly Christian or otherwise monotheistic.

265. Guest invocation-presenters delivered the invocation 285 times.

266. Of these guest invocation-presenters, 253 were Christian clergy.

267. Twenty-six of the guest invocation-presenters were Jewish rabbis.

268. Five of the guest invocation-presenters gave prayers in the Muslim tradition.

269. One guest invocation-presenter was not recognizably affiliated with any particular religious organization, but gave a monotheistic prayer.

270. No opening invocation could be identified as being delivered by someone affiliated with a religion other than Christianity, Judaism, or Islam.

271. Except for a Native American prayer delivered by a Christian House member on July 21, 2015, no opening invocation could be identified as having content particular to a religion other than Christianity, Judaism, or Islam.

272. No opening invocation was free of theistic content.

273. While most guest invocation-presenters were ordained clergy serving as leaders of houses of worship, some of them were not.

274. For example, opening invocations were given by a guest with no apparent relationship with a particular religious organization (on June 11, 2008), the chancellor of a religious college (on June 21, 2011), the chaplain of a Sons of American Legion Post (on September 24, 2012), the chaplain of a state correctional institution (on October 2, 2012), a state police chaplain (on April 8, 2013), a member of a religious healthcare sisterhood (on May 7, 2013), a chaplain of the U.S. Army War College (on April 9, 2014), the chaplain of a nursing home (on September 9, 2014), and a missionary to the Dominican Republic (on February 3, 2015).

Defendants' Denials of Plaintiffs' Requests to Give Invocations

275. On August 12, 2014, plaintiff Weaver emailed a request on behalf of plaintiff Dillsburg Freethinkers to defendant Representative for House District 92, asking for an opportunity to deliver an opening invocation at a House daily session. A copy of this email is attached as Exhibit 2.

276. On August 27, 2014, Carl Silverman, then the Capital Area Operations Manager for plaintiff Pennsylvania Nonbelievers, sent a letter on behalf of the organization to the representative of his House district, copying defendant Speaker of the House and defendant Parliamentarian of the House. This letter requested that Mr. Silverman or plaintiff Fields be given an opportunity to deliver an opening invocation at a House daily session. A copy of this letter is attached as Exhibit 3.

277. On September 25, 2014, the Speaker sent Mr. Silverman a letter rejecting Pennsylvania Nonbelievers' request. The letter stated, in pertinent part, "[W]e do not believe that governmental bodies are required to allow non-adherents or nonbelievers the opportunity to serve as chaplains. . . . We honor requests from religious leaders of any regularly established church or congregation to serve as chaplains and permit them to address his or her God as their conscience dictates." A copy of this letter is attached as Exhibit 4.

278. On September 26, 2014, defendant Representative for House District 92 emailed the Speaker's denial of Pennsylvania Nonbelievers' request to plaintiff Weaver. The email stated that the Speaker's letter "was forwarded to all legislative offices relative to an atheist offering the opening of session." A copy of this email is attached as Exhibit 5.

279. On January 9, 2015, one of the plaintiffs' counsel, Americans United for Separation of Church and State, sent a letter to the Speaker and the

Parliamentarian, requesting that a representative of Pennsylvania Nonbelievers be given an opportunity to deliver an opening invocation at a House daily session. A copy of this letter is attached as Exhibit 6 (enclosures not included).

280. On January 15, 2015, the Parliamentarian responded with a letter denying Pennsylvania Nonbelievers' request and informing the plaintiffs' counsel that the House had amended its rules on January 6, 2015, to provide: "The Chaplain offering the prayer shall be a member of a regularly established church or religious organization or shall be a member of the House of Representatives." A copy of this letter is attached as Exhibit 7.

281. On August 26, 2015, the plaintiffs' counsel sent letters to all the defendants. The letters requested that plaintiffs Fields, Tucker, Weaver, Rhoades, and Neiderhiser, or other representatives of plaintiffs Pennsylvania Nonbelievers, Dillsburg Freethinkers, and Lancaster Freethought, be granted the opportunity to deliver opening invocations at House daily sessions. In an additional letter to the Speaker and the Parliamentarian, sent on the same day, the plaintiffs' counsel asked that the Speaker stop directing visitors in the upper gallery to stand during the opening invocation. All of these letters stated that a failure to respond by September 15, 2015, would be deemed a denial of the plaintiffs' requests. Copies of these letters are attached as Exhibits 8 through 12 (enclosures not included for Exhibits 8–11).

282. On September 9, 2015, the Parliamentarian responded, on behalf of the Speaker, with a letter denying the plaintiffs' request for an opportunity to deliver opening invocations at House daily sessions. A copy of this letter is attached as Exhibit 13.

283. The September 9, 2015 letter did not address the plaintiffs' request that visitors in the upper gallery no longer be asked to stand during the opening invocation, and the plaintiffs' counsel did not receive any response addressing that request.

284. The Speaker's practice of directing visitors to stand during the opening invocation continued after the September 9, 2015 letter was sent and continues now.

285. On May 19, 2017, the plaintiffs' counsel sent the defendants' counsel a letter addressed to the Speaker, the Parliamentarian, and the Representatives for House Districts 165, 167, and 182. The letter requested that plaintiff Jones, and plaintiff Kiniry or another representative or member of plaintiff Philadelphia Ethical Society, be permitted to deliver nontheistic opening prayers at House daily sessions. A copy of this letter is attached as Exhibit 14.

286. On May 30, 2017, the defendants filed a brief in this case clarifying that the House's policy is that "the opportunity to offer the [opening] prayer is dependent upon the prayer-giver's willingness . . . to provide a theistic

communication to God or a higher power seeking blessing, guidance, or inspiration.” Doc. 58, Br. Supp. Mot. Pa. House Reps. to Certify Interlocutory Review and Temp. Stay, at 5.

287. On June 2, 2017, the defendants’ counsel declined to accept service for the Speaker, the Parliamentarian, and the Representatives for House Districts 165, 167, and 182 of the May 19, 2017 letter and instructed the plaintiffs’ counsel to send the request in the letter directly to the Parliamentarian.

288. On June 2, 2017, the plaintiffs sent a slightly modified version of the May 19 letter, making the same request as the May 19 letter did, directly to the Parliamentarian and the Representatives for House Districts 165, 167, and 182. A copy of this letter is attached as Exhibit 15.

289. On June 15, 2017, the defendants served interrogatory responses on the plaintiffs reiterating that, to be permitted to present an invocation before the House, a person must meet two requirements: First, an invocation-presenter must “be willing to offer a prayer,” which the defendants defined as “an appeal to God, a higher power, or the divine.” House Defs.’ Resp. Pls.’ Am. First Set Interrogs., No. 5. Second, an invocation-presenter must “be either a member of a regularly established church or religious organization, or a Representative.” *Id.* A copy of these interrogatory responses is attached as Exhibit 16.

290. On June 20, 2017, the Parliamentarian responded with a letter denying the requests of plaintiffs Jones, Kiniry, and Philadelphia Ethical Society to deliver nontheistic opening prayers at House daily sessions. The letter stated, in relevant part:

The prayer is an opportunity for the members of the House to seek divine intervention in their work and in their lives.

Because your letter indicates that the individuals and organization you represent are unwilling to offer a prayer appealing to a higher power, they do not meet the requirements of House Rule 17. We therefore need not address whether they are members of a regularly established church or religious organization.

A copy of this letter is attached as Exhibit 17.

Nontheistic Invocations

291. Nontheists, like theists, are fully capable of delivering invocations that solemnize meetings of governmental bodies, lend gravity to the occasion, are solemn and respectful in tone, reflect values that have long been part of the nation's heritage, invite lawmakers to reflect on shared ideals and common ends before they embark on the fractious business of governing, and do not proselytize or advance any one, or disparage any other, faith or belief. Invocations meeting these criteria have been delivered by nontheists before governmental bodies in Pennsylvania and around the country.

292. If allowed to give opening invocations at House daily sessions, the plaintiffs would give invocations that meet these criteria and are similar to the

nontheistic invocations described in paragraphs 293 to 299 below. The plaintiffs would invoke authorities or principles such as the U.S. Constitution, the power of the people, democracy, equality, inclusion, reason, cooperation, fairness, justice, freedom, peace, toleration, and the greater good.

293. For example, plaintiff Fields would deliver an invocation such as the following:

Thank you for inviting me to speak today.

Our commonwealth was founded on the principles of tolerance, respect, and equality. As we gather, let us fully consider each citizen of this commonwealth as equals in the eyes of the law. May reason and rationality guide our decisions, and may those decisions be considered to be in the best interests of all of us.

We are a commonwealth of many different people working together. We are a commonwealth of Muslims, Jews, Hindus, Sikhs, Buddhists, Christians, agnostics, atheists and many, many others. We may disagree in many respects, but we can all agree here that our laws are the foundation of our civil society. To that end, I ask that those gathered here today remember that the reason that society works is the fair and judicious application of those laws discussed here.

To close, I would like to offer the words of Albert Einstein: “Nothing truly valuable can be achieved except by the unselfish cooperation of many individuals.”

Thank you.

294. Plaintiff Weaver would give an invocation similar to the one that she delivered before the Pennsylvania Senate on April 15, 2015:

Good morning. Thank you for welcoming something different to your day. It is an honor to be given a voice in this governing body.

In recent months, religious beliefs have been at the forefront of national debate. We are fortunate to live in a country founded and formed to recognize the importance of the individual, where no one shall be made to hide nor justify his personal beliefs, and where no government shall impose a singular religion on its citizenry. Where there is misunderstanding, we may engage in conscientious and respectful dialogue to assuage fear.

I am humbled to represent a portion of your diverse constituency, and that may raise the question, do atheists pray? A prayer is meditative, seeking inner strength to face difficulty and challenge. A prayer is solicitous, seeking to bring a benefit or relief to one's self, a loved one, or even to strangers. A prayer can be a direct appeal to a higher power.

So, let us pray that we may use our power to lead with compassion and understanding, that we remain tolerant of others regardless of differences in religious belief, gender, race, sexual, or political orientation, and that we treat one another as we wish to be treated. Let us pray for open minds and for the strength to overcome preconceived judgment. Let us learn daily and consider wisely. Let us be mindful of our one diverse human family with common values and needs. Let us work toward clean air, clear water, safe neighborhoods, strong schools, and a viable economy with sustained employment opportunity for all. Let us provide for well-trained and equipped firefighters, emergency responders, police, and military, and may we never forget their sacrifice. As we forge ahead toward the common good of community, may we all benefit from the enduring power of diversity.

Thank you.

199 Pa. Sen. Leg. J. 21 (April 15, 2015), <http://tinyurl.com/PASenateprayer>.

295. On April 13, 2015, the following opening invocation was delivered to the Washington State House of Representatives:

I would like to open this invocation by asking everyone, look around you. Beside you, in front of you, and behind you, is a person that is, in so many ways, the same as you. We may have different backgrounds and

beliefs. We may come from different ethnicities and religions. But when it comes down to it, we are all sharing the same speck of dust floating through this vast and wondrous universe.

Many have come before this chamber to speak of their faith. But I would, instead, like to speak of trust. Of trust in humanity, trust in the fundamental good will within people. Trust that we all yearn to make the world a better place. Trust that some can answer a higher calling. A calling many of us have in common. That is: to serve our fellow humans to the best of our ability. I trust that everyone in this chamber has felt this or you would not be here.

With that being said, I also ask that you use your trust in the same way I have described. Reach out to one another. Try to understand and have empathy with those you may disagree with. Make an honest attempt at compromise, for that is what our secular government is based on.

With today being the 272nd birthday of Thomas Jefferson, I felt I should honor his memory with a quote:

He who receives an idea from me, receives instruction himself without lessening mine; as he who lights his taper at mine, receives light without darkening me.

So thank you for this opportunity to bring my message of trust, humanity, and Humanism into this chamber.

And I will end with this simple phrase:

E Pluribus Unum.

Central Florida Freethought Community, *Invocations*,

<http://cflfreethought.org/invocations> (last visited June 14, 2017).

296. On May 21, 2013, the following opening invocation was delivered to the Arizona House of Representatives:

Most prayers in this room begin with a request to bow your heads. I would like to ask you not to bow your heads. I would like to ask that you take a moment to look around the room at all of the men and women here, in this moment, sharing together this extraordinary experience of being alive and of dedicating ourselves to working toward improving the lives of the people of our state.

This room in which there are many challenging debates, many moments of tension, of ideological division, of frustration. But this is also a room where, as my Secular Humanist tradition stresses, by the very fact of being human, we have much more in common than we have differences. We share the same spectrum of potential for care, for compassion, for fear, for joy, for love.

Carl Sagan once wrote, “For small creatures such as we, the vastness is bearable only through love.” There is, in the political process, much to bear. In this room, let us cherish and celebrate our shared humanness, our shared capacity for reason and compassion, our shared love for the people of our state, for our Constitution and for our democracy—and let us root our policymaking process in these values that are relevant to all Arizonans regardless of religious belief or nonbelief. In gratitude and in love, in reason and in compassion, let us work together for a better Arizona.

Id.

297. On March 3, 2014, the following invocation was delivered to the Arizona

House of Representatives:

In keeping with the spirit of the Opening Prayer during which we make a petition honoring our most sacred beliefs, I share with you a poem I adapted after hearing it from someone I respect—a prayer from my Humanist worldview that appeals to all our common humanness.

Today I ask for us all
the grace to shout
the grace to shout when it hurts,
even though silence is expected of us,

And the grace to listen when others shout
though it be painful to hear,

The grace to object, to protest, when we feel, taste or observe injustice
believing that even the unjust and arrogant
are human nonetheless
and therefore are worthy of strong efforts to reach them.

Do not choose a path that leads to the heart of despair
but choose to fill yourself with courage and understanding,

Choose to be that person who knows very well
when the moment has come to protest

I ask for us all the grace to be angry
when the weakest are the first to be exploited
and the trapped are squeezed for their meager resources,
when the most deserving are the last to thrive,
and the privileged demand more privilege.

I ask that we seek the inspiration we find inside each other to make our
voices heard
when we have something that needs to be said,
something that rises to our lips despite the fear that was created in hopes
to silence us,
to make us feel unwelcomed.

Audre Lorde, writer and civil rights activist asked us,
To remember that when we are silent we are still afraid
So it is better to speak
remembering
we were never meant to survive.

And so in closing I ask for us all to have the grace to listen when the
many finally rise to speak and their words are an agony for us.

Id.

298. On July 17, 2014, the following invocation was delivered to the City

Commission of Eustis, Florida:

As the community gathers this evening, let us briefly reflect on the things you, as a Commission, bring with you to do the business of improving the City of Eustis for residents, the many businesses, and its cherished visitors.

Compassion is essential for effective public service, and it is cultivated through a lifetime of learning about the needs of everyone in the community and the harm that follows when those needs are neglected.

Your integrity and honesty are earned through life lessons you take from family, friends, and your own personal experiences of these principles in everyone around you.

Wisdom is often called for during an invocation; however, all the knowledge needed is already right here in this chamber. Your fellow commissioners, the hard-working city staff, as well as citizens and business owners, come to serve along with you and to be a resource to call upon.

As we unite with the common goal of improving the lives of all stakeholders and even those who will be affected by this evening's decisions for generations to come, take solace in the fact that on our own we can do this, because of who we are, because we have one another, and simply because it must be done.

We are all in this together. We will make it happen.

Id.

299. On September 25, 2014, the following opening invocation was delivered to the City Commission of Huntsville, Alabama:

Dearly Beloved,

When the ancients considered the values that were proper and necessary for the good governance of a peaceful, productive society, they

brought to our minds the virtues of wisdom, courage, justice, and moderation. These values have stood the test of time.

In more recent days, an American style of governance had led to approbation for newer enlightened values; we celebrate diversity, we enjoy protections of our freedoms in a Constitutional Republic, and we dearly value egalitarianism—equal protection of the law.

So now let us commence the affairs that are presented to our community. Let doubt and skepticism and inquiry be on our lookout when caution is the appropriate course. But also let innovation and boldness take point when opportunities for excellence appear on our horizon.

In this solemn discourse, let's remember Jefferson's words:

that Truth is great, and will prevail if left to herself, that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them.

Let it be so.

Id.

300. Many other nontheistic invocations delivered before governmental bodies can be found at <http://thehumanistsociety.org/invocations/resources/> and <http://cflfreethought.org/invocations>.

301. Other governmental bodies that have allowed nontheistic invocations to be delivered at their meetings include the Town Board of Greece, New York; the City Council of Wilkes-Barre, Pennsylvania; the City Council of New Orleans, Louisiana; the City Council of El Paso, Texas; the City Council of Orlando,

Florida; the City Council of Tampa, Florida; the City Council of Tulsa, Oklahoma; the City Council of Charleston, South Carolina; the City Council of Colorado Springs, Colorado; the City Council of Grand Junction, Colorado; the City Council of Sioux Falls, South Dakota; the City Council of Wilmington, North Carolina; the City Council of Chico, California; the City Council of Glendale, Arizona; and the County Commission of Cobb County, Georgia. *See* Central Florida Freethought Community, Invocations, <http://cflfreethought.org/invocations> (last visited June 14, 2017); *Secular Invocation Resources*, The Humanist Society, <http://thehumanistsociety.org/invocations/resources/> (last visited June 14, 2017).

Effect of the Defendants' Discriminatory Policy

Nontheists in America

302. Nontheists are a significant and growing minority population in the United States.

303. A 2015 Pew Research Center study, which was based on an extensive survey completed in 2014, reported the following data:

- a. 22.8 percent of Americans identified as having no religious affiliation, up from 16.1 percent in 2007. Pew Research Center, *America's Changing Religious Landscape* 4 (2015), <http://tinyurl.com/ppz6qv2>.

b. 3.1 percent of Americans identified as atheists and 4.0 percent identified as agnostics, up from 1.6 percent and 2.4 percent respectively in 2007. *Id.*

c. 36 percent of Americans born between 1990 and 1996, and 34 percent of those born between 1981 and 1989, have no religious affiliation. *Id.* at 11.

d. 40 percent of Americans who are atheists, as well as 39 percent of Americans who are agnostics, are between 18 and 29 years old; just 22 percent of all Americans are between 18 and 29. *Id.* at 50.

304. Similarly, another recent study, the 2012 General Social Survey, reported that 19.7 percent of Americans had no religious affiliation in 2012, compared to 7.7 percent in 1990. Institute for the Study of Societal Issues, *More Americans Have No Religious Preference: Key Finding from the 2012 General Social Survey* 11 (2013), <http://bit.ly/2sbZYJj>.

305. Nontheists also are a significant minority population in Pennsylvania.

306. The Pew Research Center's 2015 study reported that 21 percent of Pennsylvania residents had no religious affiliation in 2014, up from 13 percent in 2007. *America's Changing Religious Landscape, supra*, at 143.

307. The Pew Research Center further reported that, as of 2014, 3 percent of Pennsylvania residents identified themselves as atheists and 4 percent identified

themselves as agnostics, though 10 percent (compared to 9 percent of all Americans) stated that they did not believe in God. *See Religious Landscape Study: Adults in Pennsylvania*, Pew Research Center, <http://tinyurl.com/PewForumPA> (last visited June 14, 2017); *About the Religious Landscape Study*, Pew Research Center, <http://tinyurl.com/PewForumAbout> (last visited June 14, 2017); Pew Research Center, *U.S. Public Becoming Less Religious* 47 (2015), <http://tinyurl.com/PewForum2015>.

308. The U.S. Department of Veterans Affairs furnishes on request, at no charge to the applicant, “a Government headstone or marker for the unmarked grave of any deceased eligible Veteran in any cemetery around the world, regardless of their date of death.” *Headstones, Markers and Medallions: General Information*, U.S. Department of Veterans Affairs, National Cemetery Administration, <http://www.cem.va.gov/cem/hmm/index.asp> (last visited June 14, 2017). Among the approximately sixty recognized “emblems of belief” that the VA will place on a government-provided headstone or grave-marker are an image of an atom to represent atheism, an emblem of a human in an “H” shape to represent Humanism, and a flaming chalice to represent Unitarian Universalism. *See Available Emblems of Belief for Placement on Government Headstones and Markers*, U.S. Department of Veterans Affairs, National Cemetery Administration, <http://www.cem.va.gov/hmm/emblems.asp> (last visited June 23, 2017).

309. In 2014, the U.S. Army formally recognized Humanism as a religious preference for soldiers. *See, e.g.*, Jason Torpy, *Now You Can Have “Humanist” on Your Army Tag*, The Humanist.com (Apr. 23, 2014), <http://tinyurl.com/HumanistArmyTag>. On March 27, 2017, the U.S. Department of Defense issued a memorandum recognizing Humanism, atheism, agnosticism, and Unitarian Universalism as religious preferences for all members of the U.S. Armed Forces. *See* Memorandum from Lernes J. Hebert, Acting Deputy Assistant Secretary of Defense for Military Personnel Policy, to various Department of Defense officials, concerning “Faith and Belief Codes for Reporting Personnel Data of Service Members” (Mar. 27, 2017), <http://bit.ly/2qk8vYu>.

310. In 2015, the United States Bureau of Prisons agreed to recognize Humanism as a religious preference for federal prisoners. *See, e.g.*, Kimberly Winston, *Federal Prisons Will Now Recognize Humanism As A Religion*, Huffington Post (July 28, 2015), <http://bit.ly/2s2q1nD>.

311. A number of major U.S. universities—including Stanford, Harvard, Yale, Columbia, New York, Rutgers, and American—have Humanist chaplaincies. *See Humanist Chaplaincies*, Humanist Chaplaincies, <http://tinyurl.com/humanistchaplains> (last visited June 14, 2017).

Nontheist Contributions to Society

312. Atheists, agnostics, and other nontheists have made important contributions to society in a wide variety of professions.

313. Well-known politicians and statesmen who have been identified as nontheists include former Israeli defense and foreign minister Moshe Dayan, former Israeli prime minister Yitzhak Rabin, British politician Neil Kinnock, former Congressman Pete Stark, and former Minnesota governor Jesse Ventura.

314. Well-known natural scientists who have been identified as nontheists include nuclear physicist Hans Bethe, molecular biologist Francis Crick, biologist Richard Dawkins, theoretical physicist Richard Feynman, psychiatrist Sigmund Freud, psychologist Erich Fromm, theoretical physicist Stephen Hawking, theoretical physicist Peter Higgs, physicist Lawrence Krauss, geneticist Hermann Joseph Muller, mathematician John F. Nash, physicist Frank Oppenheimer, chemist Linus Pauling, mathematical physicist Sir Roger Penrose, physicist and Soviet dissident Andrei Sakharov, physicist Erwin Schrodinger, computer scientist Alan Turing, astrophysicist Neil deGrasse Tyson, physical chemist Harold Urey, and computer scientist Steve Wozniak.

315. Famous social scientists who have been identified as nontheists include economist Irving Fisher, psychologist G. Stanley Hall, political scientist and economist Herbert Simon, and psychologist B.F. Skinner.

316. Famous businesspeople who have been identified as nontheists include printing innovator John Baskerville and Pinkerton detective agency founder Allen Pinkerton.

317. Well-known artists who have been identified as nontheists include painter Claude Monet and painter and sculptor Pablo Picasso.

318. Well-known writers who have been identified as nontheists include Douglas Adams, Isaac Asimov, Albert Camus, Anton Chekhov, Arthur C. Clarke, Umberto Eco, Franz Kafka, Stanislaw Lem, Jack London, H.P. Lovecraft, Ayn Rand, Jean-Paul Sartre, Robert Louis Stevenson, and Kurt Vonnegut.

319. Famous musicians who have been identified as nontheists include singer-songwriter Ani DiFranco, singer-songwriter David Gilmour, singer-songwriter and pianist Billy Joel, saxophonist and composer Charlie Parker, singer Linda Rondstadt, composer Dmitri Shostakovich, singer Eddie Vedder, singer and guitarist Roger Waters, and singer-songwriter Frank Zappa.

320. Well-known actors and others in the film and television industry who have been identified as nontheists include Kevin Bacon, Richard Burton, James Cameron, Marlene Dietrich, Peter Fonda, Jodie Foster, Katharine Hepburn, John Landis, John Malkovich, Julianne Moore, Brad Pitt, Ridley Scott, Emma Thompson, and Paul Verhoeven.

321. Well-known comedians and humorists who have been identified as nontheists include Dave Barry, Phyllis Diller, Ricky Gervais, Patton Oswalt, Paula Poundstone, Ray Romano, Andy Rooney, and Sarah Silverman.

322. Well-known athletes who have been identified as nontheists include football player Arian Foster, martial artist and actor Bruce Lee, tennis player Rafael Nadal, and football player and soldier Pat Tillman.

323. Other famous people who have been identified as nontheists include explorer Richard Francis Burton and journalist Ron Reagan (son of the former president).

324. Citations supporting paragraphs 313 to 323 above are set forth in Exhibit 18.

Negative Treatment of Nontheists

325. Despite the growth of their numbers and the contributions that they have made to society, nontheists remain a highly disfavored minority in the United States in a number of ways.

326. As one article put it, atheists “are one of the most despised people in the US today.” Ryan T. Cragun, Barry Kosmin, et al., *On the Receiving End: Discrimination toward the Non-Religious in the United States*, 27 J. Contemp. Religion 105, 105 (2012), <http://tinyurl.com/CragunKosminetal>.

327. As another article put it, “Antipathy toward atheists appears to represent a robust and socially acceptable prejudice that pervades American society.” Lawton K. Swan & Martin Heesacker, *Anti-Atheist Bias in the United States: Testing Two Critical Assumptions*, 1 *Secularism & Nonreligion* 32, 40 (2012), <http://bit.ly/2t3uoNx>.

328. According to a 2012 Gallup poll, 43 percent of Americans would not vote for an atheist for President. Out of all the groups listed in the poll, Americans were least likely to vote for atheists. In comparison, 40 percent of respondents said that they would not vote for a Muslim, 30 percent would not vote for a gay or lesbian person, 18 percent would not vote for a member of the Church of Jesus Christ of Latter-Day Saints, 7 percent would not vote for a Latino, 6 percent would not vote for a Jew, 5 percent would not vote for a Catholic, and 4 percent would not vote for an African-American. Jeffrey M. Jones, *Atheists, Muslims See Most Bias as Presidential Candidates: Two-thirds would vote for gay or lesbian*, Gallup (June 21, 2012), <http://tinyurl.com/Gallup20120621>.

329. According to the American Mosaic Project Study, conducted in 2003, 47.6 percent of Americans would disapprove if their child wanted to marry an atheist. Again, atheists drew the highest percentage of disapproving responses out of all the groups listed by the survey. In comparison, 33.5 percent of the respondents would disapprove of a Muslim spouse, 27.2 percent would disapprove

of an African-American spouse, 18.5 percent would disapprove of a Latino spouse, 18.5 percent would disapprove of an Asian-American spouse, 11.8 percent would disapprove of a Jewish spouse, 6.9 percent would disapprove of a conservative Christian spouse, and 2.3 percent would disapprove of a Caucasian spouse. Penny Edgell, Joseph Gerteis, & Douglas Hartmann, *Atheists as "Other": Moral Boundaries and Cultural Membership in American Society*, 71 *Am. Soc. Rev.* 211, 218 (2006), <https://www.soc.umn.edu/assets/pdf/atheistAsOther.pdf>.

330. The American Mosaic Project Survey further reported that when respondents were asked whether they agreed with the statement, "This group does not at all agree with my vision of American society," atheists again drew the highest level of disapproval, at 39.6 percent. In comparison, 26.3 percent of respondents agreed with this statement with respect to Muslims, 22.6 percent with respect to gay and lesbian people, 13.5 percent with respect to conservative Christians, 12.5 percent with respect to recent immigrants, 7.6 percent with respect to Latinos, 7.4 percent with respect to Jews, 7.0 percent with respect to Asian-Americans, 4.6 percent with respect to African-Americans, and 2.2 percent with respect to Caucasians. *Id.*

331. The 2008 American Religious Identification Survey reported that 42.9 percent of atheists and agnostics had experienced discrimination within the five preceding years because of their lack of religious identification or affiliation. 12.9

percent of atheists and agnostics reported experiencing such discrimination in the family context, 14.2 percent in the workplace, 13.0 percent in school, 3.4 percent in the military, 26.1 percent socially, and 8.7 percent in the context of volunteer organizations. Cragun, *supra*, at 111, 114.

332. The discrimination that nontheists suffer has included loss of jobs, abusive family situations, organized shunning campaigns in their communities, harassing telephonic and written communications, physical violence against property, physical assault, and death threats. *See, e.g.*, Margaret Downey, *Discrimination Against Atheists: The Facts*, 24 Free Inquiry No. 4 (2004), <http://www.margaretdowney.com/book/export/html/170>.

Harm Inflicted by Defendants' Discriminatory Policy

333. For the reasons set forth above in paragraphs 26–28, 38, 47, 62–64, 74, 96, 113, 128, 136, 146, and 158, as well as those set forth below in paragraphs 334 to 339, the plaintiffs have been harmed, continue to be harmed, and are threatened with future harm by the defendants' discriminatory policy, custom, and practice of allowing theists to give opening invocations at House daily sessions while prohibiting nontheists from doing so.

334. The defendants' discriminatory policy, custom, and practice exacerbates the negative treatment that nontheists, including some of the plaintiffs and their members, have suffered and continue to suffer in other aspects of life.

335. The defendants' discriminatory policy, custom, and practice communicates a message of statewide disfavor for the plaintiffs and the plaintiffs' members.

336. The defendants' discriminatory policy, custom, and practice marks the plaintiffs and the plaintiffs' members as outsiders, and communicates to observers—some of whom are nontheists themselves—that the plaintiffs' and the plaintiffs' members' beliefs are not deserving of equal respect.

337. This stigmatic harm is especially injurious because it comes from a body that is meant to reflect—and represent—the diverse beliefs of all constituents.

338. Further, the defendants benefit theistic organizations by allowing their representatives to use the invocation opportunity to increase the visibility of their organizations, in association with the power and prestige of government, while denying that benefit to the plaintiffs.

339. The defendants additionally benefit theistic invocation-presenters by providing them with tokens of appreciation, which are unavailable to the plaintiffs.

Claims for Relief

***First Claim for Relief:
Violation of the Establishment Clause of the
First Amendment to the U.S. Constitution***

340. Paragraphs 1 to 339 above are incorporated as if fully set forth here.

341. The Establishment Clause of the First Amendment to the U.S. Constitution provides that “Congress shall make no law respecting an establishment of religion.” This provision applies fully to state governmental entities through the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

342. The defendants’ policy, custom, and practice of allowing theists but not nontheists to give opening invocations at House daily sessions violates the Establishment Clause for a number of reasons, including those stated below.

343. The defendants’ policy, custom, and practice has the purpose and effect of favoring, promoting, advancing, endorsing, proselytizing, and coercively supporting theistic beliefs and individuals in general—and the beliefs of entities that the defendants consider to be “regularly established church[es] or religious organization[s]” in particular—while disfavoring, disadvantaging, disparaging, denigrating, and discriminating against nontheistic beliefs and individuals, including the plaintiffs.

344. The defendants’ policy, custom, and practice excessively entangles the defendants with religion by involving them (or House officials or employees under their authority) in religious judgments about matters such as whether nontheists’ beliefs, affiliations, or proposed invocations are theologically permissible or sufficient.

345. The defendants' policy, custom, and practice produces divisiveness along religious lines in Pennsylvania.

346. In addition, defendant Speaker of the House's policy, custom, and practice of instructing audience members to stand for opening invocations at House daily sessions violates the Establishment Clause because it coerces Pennsylvania residents, including plaintiffs Fields and Rhoades, to participate in prayer.

***[Second Claim for Relief:
Violation of the Free Exercise Clause of the
First Amendment to the U.S. Constitution***

347. This claim was dismissed by the Court's Order of April 28, 2017 (Doc. 52). Its text (as well as the references to it in the Introduction above and the Prayer for Relief below) remains in this amended complaint only to preserve this claim for appeal, and the plaintiffs will not further pursue this claim before this Court unless the Court's dismissal of the claim is reversed by an appellate court. This claim and all references to it are therefore placed in brackets.

348. Paragraphs 1 to 347 above are incorporated as if fully set forth here.

349. The Free Exercise Clause of the First Amendment to the U.S. Constitution provides that "Congress shall make no law . . . prohibiting the free exercise [of religion]." This provision applies fully to state governmental entities through the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

350. The Free Exercise Clause prohibits governmental bodies from conditioning participation in political or governmental affairs on adoption or profession of any religious belief.

351. In addition, although governmental bodies must regulate opening invocations at governmental meetings to ensure that they do not advance or proselytize any one, or disparage any other, faith or belief, governmental bodies may not—as a result of constitutional restrictions that are at least in part rooted in the Free Exercise Clause—censor opening invocations given by private citizens to entirely prohibit the invocations from reflecting or referencing the beliefs of those who give them.

352. The defendants' policy, custom, and practice of allowing theists but not nontheists to give opening invocations at House daily sessions violates the Free Exercise Clause by (a) requiring nontheists, including the plaintiffs, to adopt or profess religious beliefs to which they do not subscribe—or to join entities that hold such beliefs—in order to participate in the governmental function of solemnizing governmental meetings; and (b) prohibiting nontheists, including the plaintiffs, from giving opening invocations that reflect or reference their beliefs, at governmental meetings where theists are allowed to do so.]

***[Third Claim for Relief:
Violation of the Free Speech Clause of the
First Amendment to the U.S. Constitution***

353. This claim was dismissed by the Court’s Order of April 28, 2017 (Doc. 52). Its text (as well as the references to it in the Introduction above and the Prayer for Relief below) remains in this amended complaint only to preserve this claim for appeal, and the plaintiffs will not further pursue this claim before this Court unless the Court’s dismissal of the claim is reversed by an appellate court. This claim and all references to it are therefore placed in brackets.

354. Paragraphs 1 to 353 above are incorporated as if fully set forth here.

355. The Free Speech Clause of the First Amendment to the U.S. Constitution provides that “Congress shall make no law . . . abridging the freedom of speech.” This provision applies fully to state governmental entities through the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

356. The Free Speech Clause prohibits governmental bodies from denying citizens opportunities to take part in governmental activities based on their beliefs or affiliations.

357. In addition, although the opportunity to perform opening invocations at governmental meetings is not a public forum, and governmental bodies must regulate such invocations to ensure that they do not advance or proselytize any one, or disparage any other, faith or belief, governmental bodies may not—as a

result of constitutional restrictions that are at least in part rooted in the Free Speech Clause—censor opening invocations given by private citizens at governmental meetings to entirely prohibit the invocations from reflecting or referencing the beliefs of those who give them.

358. The defendants' policy, custom, and practice of allowing theists but not nontheists to give opening invocations at House daily sessions violates the Free Speech Clause by (a) denying nontheists, including the plaintiffs, on account of their nontheistic beliefs and affiliations—or their lack of theistic beliefs and affiliations—the opportunity to solemnize governmental meetings; and (b) prohibiting nontheists, including the plaintiffs, from giving opening invocations that reflect or reference their beliefs at governmental meetings where theists are allowed to do so.]

***[Fourth Claim for Relief:
Violation of the Equal Protection Clause of the
Fourteenth Amendment to the U.S. Constitution***

359. This claim was dismissed by the Court's Order of April 28, 2017 (Doc. 52). Its text (as well as the references to it in the Introduction above and the Prayer for Relief below) remains in this amended complaint only to preserve this claim for appeal, and the plaintiffs will not further pursue this claim before this Court unless the Court's dismissal of the claim is reversed by an appellate court. This claim and all references to it are therefore placed in brackets.

360. Paragraphs 1 to 359 above are incorporated as if fully set forth here.

361. The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution provides that “[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws.”

362. The Equal Protection Clause prohibits governmental bodies from treating citizens differently based on their religious beliefs.

363. Religion is a suspect classification that triggers strict scrutiny under the Equal Protection Clause. To meet such scrutiny, a governmental classification must be necessary to further a compelling governmental interest and must be narrowly tailored to that interest.

364. Nontheists are entitled to particularly heightened protection under the Equal Protection Clause because they are a discrete and insular minority that has been subjected to a history of purposeful unequal treatment and has been relegated to a position of political powerlessness.

365. The defendants’ policy, custom, and practice of allowing theists but not nontheists to give opening invocations at House daily sessions violates the Equal Protection Clause by treating nontheists, including the plaintiffs, differently based on religious belief, affiliation, and identity, without a compelling governmental interest served by narrowly tailored means.]

Prayer for Relief

366. Paragraphs 1 to 365 above are incorporated as if fully set forth here.

367. By violating the Establishment[, Free Exercise, Free Speech, and Equal Protection] Clause[s] as described above, the defendants have harmed the plaintiffs, are continuing to harm them, and threaten future harm against them.

368. By violating the Establishment[, Free Exercise, Free Speech, and Equal Protection] Clause[s] as set forth above, the defendants have, acting under color of statutes, ordinances, regulations, policies, custom, or usage, deprived or threatened to deprive the plaintiffs of rights secured by the First and Fourteenth Amendments to the U.S. Constitution, entitling them to a remedy under 42 U.S.C. § 1983.

369. In addition or in the alternative, by virtue of the defendants' violations of the Establishment[, Free Exercise, Free Speech, and Equal Protection] Clause[s], the plaintiffs are entitled to a remedy directly under the U.S. Constitution.

370. The plaintiffs accordingly request the relief specified below.

Injunction

371. The plaintiffs have no adequate remedy at law.

372. By prohibiting the plaintiffs from delivering opening invocations at House daily sessions and by instructing the visitors at those sessions to stand for opening invocations, the defendants have inflicted, and will continue to inflict, irreparable harm on the plaintiffs.

373. Accordingly, the plaintiffs request a permanent injunction (a) requiring the defendants to permit the individual plaintiffs and leaders and members of the organizational plaintiffs to deliver opening invocations at daily sessions of the House; (b) prohibiting the defendants from discriminating against nontheists in selecting speakers to deliver opening invocations at House daily sessions, and from allowing any person under the defendants' authority to so discriminate; and (c) prohibiting defendant Speaker of the House from instructing visitors at House daily sessions to stand for opening invocations.

Declaratory Judgment

374. An actual controversy exists between the parties as to whether the defendants have violated and continue to violate the U.S. Constitution by prohibiting nontheists from delivering opening invocations at House daily sessions while allowing theists to do so, and by instructing visitors at daily sessions to stand for opening invocations.

375. Accordingly, the plaintiffs request a declaratory judgment that (a) the defendants have violated, and are continuing to violate, the U.S. Constitution by prohibiting nontheists from delivering opening invocations at House daily sessions while allowing theists to do so; (b) Pennsylvania House General Operating Rule 17 is unconstitutional and unenforceable to the extent that it permits or supports such discrimination; and (c) defendant Speaker of the House has violated, and is

continuing to violate, the U.S. Constitution by instructing visitors at House daily sessions to stand for opening invocations.

Attorneys' Fees and Costs

376. The plaintiffs request an order awarding them the costs of this action, including reasonable attorneys' fees and expenses, under 42 U.S.C. § 1988.

Other Relief

377. The plaintiffs request any other relief that the Court deems just and proper.

Respectfully submitted,

By: /s/ Alex J. Luchenitser
Alex J. Luchenitser

Date: July 11, 2017

Richard B. Katskee, DC 474250*
Alex J. Luchenitser, DC 473393 (lead counsel)*
Andrew L. Nellis, NY 5490214*[†]
Carmen N. Green, DC 1033812*
Americans United for Separation of Church and State
1310 L Street, NW, Suite 200
Washington, DC 20005
Tel.: (202) 466-7306
Fax: (202) 466-3353
katskee@au.org / luchenitser@au.org / nellis@au.org / green@au.org

Allen Warshaw
1035 McCormick Road
Mechanicsburg, PA 17055
Tel: (717) 514-6687
Allen.warshaw@gmail.com
PA 17145

Eric O. Husby*
American Atheists
306 South Boulevard
Tampa, FL 33606
Tel: (813) 251-3337
Fax: (813) 283-4949
ehusby@husbylegal.com
FL 0893331

* Appearing *pro hac vice*.

† Admitted in New York only. Supervised by Richard B. Katskee, a member of the D.C. bar.

CERTIFICATE OF SERVICE

I certify that on July 11, 2017, I served the foregoing document, together with any supporting documents filed therewith, on counsel for all parties via the Court's ECF system.

By: /s/ Alex J. Luchenitser
Alex J. Luchenitser*

Date: July 11, 2017

Alex J. Luchenitser
Americans United for Separation of Church and State
1310 L Street, NW, Suite 200
Washington, DC 20005
Tel.: (202) 466-7306
Fax: (202) 466-3353
luchenitser@au.org
DC 473393*

* Appearing *pro hac vice*.