

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

**DAVID WILLIAMSON, CHASE  
HANSEL, KEITH BECHER,  
RONALD GORDON, JEFFERY  
KOEBERL, CENTRAL FLORIDA  
FREETHOUGHT COMMUNITY,  
SPACE COAST FREETHOUGHT  
ASSOCIATION, and HUMANIST  
COMMUNITY OF THE SPACE  
COAST,**

**Plaintiffs,**

**v.**

**Case No. 6:15-cv-1098-Orl-28DAB**

**BREVARD COUNTY,**

**Defendant.**

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**FIRST AMENDED COMPLAINT  
(Injunctive Relief Sought)**

**Introduction**

1. In *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014), the U.S. Supreme Court held that local governmental bodies may open their meetings with invocations that typically have theistic content. But the Court also ruled that local governments 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. After the Supreme Court’s decision, numerous local governmental bodies in Florida and elsewhere in America allowed nontheists — atheists, agnostics, Secular Humanists, and others who do not believe in a theistic God — to give opening invocations at governmental meetings. Yet defendant Brevard County (“the County”) has repeatedly rejected and ignored requests from atheists and Humanists to give opening invocations at meetings of its Board of County Commissioners (“the Board”). The County has adopted a policy of permitting only people who hold theistic religious beliefs to give the opening invocations.

3. The plaintiffs are atheist, Humanist, and other nontheist individuals and organizations who seek the opportunity to give opening invocations before the Board. Similarly to individuals who believe in God, the plaintiffs have strong and meaningful belief systems about how they should live their lives and what is right and wrong, meet in groups to discuss and act upon their beliefs, read and study seminal texts about their belief systems and follow leading authors of such texts, and have special days of the year upon which they observe their beliefs. Like believers in theistic faiths, 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 the plaintiffs and people whom the County allows to give opening invocations: The latter believe in a theistic 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, gender, national origin,

disability, and (more recently) sexual orientation has become prohibited or disfavored. Nevertheless, in Brevard County’s eyes, people who do not believe in God remain a disfavored minority against whom it is acceptable to discriminate.

5. Brevard County’s discriminatory policy violates the Establishment, Free Exercise, Free Speech, and Equal Protection Clauses of the U.S. Constitution, as well as Sections 2 and 3 of Article I of the Florida Constitution. The plaintiffs seek injunctive and declaratory relief to end this discrimination, as well as damages for the harms inflicted upon them by the County’s unconstitutional conduct.

**Jurisdiction and Venue**

6. This Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331, 1343, and 1367.

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

8. Venue is proper in this Court under 28 U.S.C. § 1391(b), as the defendant and most of the plaintiffs reside or are situated within this district.

**Parties**

***Plaintiffs***

*David Williamson*

9. Plaintiff David Williamson is a resident of Oviedo, Florida. He has resided in Florida since 1995. He served in the U.S. Navy for four years and was honorably discharged.

10. Plaintiff Williamson identifies himself as an atheist, a Secular Humanist, and a scientific skeptic. He rejects the claim that God exists, rejects supernatural explanations, and believes in reason and science.

11. Plaintiff Williamson 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 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, meetings, 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 worldwide 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 protection of confidential communications by the clergy-penitent privilege. Humanist Celebrants have a long history of conducting weddings, other ceremonies, and meetings.

12. As an ordained Humanist Celebrant, plaintiff Williamson is considered ordained clergy under Florida law and is permitted to officiate weddings and sign marriage licenses. He has officiated four weddings.

13. Plaintiff Williamson has given opening invocations at meetings of two municipal governmental bodies in Florida and arranged the delivery of fourteen additional opening invocations by other members of plaintiff Central Florida Freethought Community.

14. Plaintiff Williamson founded plaintiff Central Florida Freethought Community in 2012 and has served as the Chair of the organization since then. He is also a member of the organization's board of directors.

15. 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." *Exploring the Idea of Humanism*, American Humanist Association, [americanhumanist.org/Humanism](http://americanhumanist.org/Humanism) (last visited Aug. 11, 2015). "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, [americanhumanist.org/AHA](http://americanhumanist.org/AHA) (last visited Aug. 11, 2015). A more detailed statement of basic Humanist beliefs is set forth in a document entitled, "Humanist Manifesto III." *See Humanist Manifesto III*, American Humanist Association, [americanhumanist.org/humanism/Humanist\\_Manifesto\\_III](http://americanhumanist.org/humanism/Humanist_Manifesto_III) (last visited Aug. 11, 2015). Not every Humanist agrees with everything in Humanist Manifesto III, however; the American Humanist Association describes the Manifesto as "part of an ongoing effort to manifest in

clear and positive terms the conceptual boundaries of Humanism, not what we must believe but a consensus of what we do believe.” *Id.*

16. Plaintiff Williamson’s Humanist beliefs include the following: That he should help other people and live his life in a manner that makes the world a better place, minimizing harm and maximizing joy. That he should provide support to his family. That he should support other freethinkers and build community for them. That what is right and wrong is determined by whether it benefits or harms human lives, as well as those of other species and the planet as a whole. That something is not a crime or a sin if it harms no one. That seeking one’s purpose and finding out what truly matters gives meaning to life. That the things he does matter not only in his life, but in the lives of those who will be here after he is gone. That this life is the only life we have, and that thinking otherwise reduces its value.

17. Plaintiff Williamson hosts and attends Humanist and freethinker social and educational events. At these events, he discusses Humanist and atheistic beliefs with other attendees, as well as related practical topics such as how nontheists should function and raise children in a religious world.

18. As a Humanist and atheist, plaintiff Williamson considers several days of the year particularly important, including International Darwin Day (February 12 — the birthday of scientist Charles Darwin, and “a day of celebration, activism, and international cooperation for the advancement of science, education, and human well-being” to “inspire people throughout the globe to reflect and act on the principles of intellectual bravery, perpetual curiosity, scientific thinking, and hunger for truth as embodied in Charles Darwin,” *see About*

*Charles Darwin's Great Discovery: What is Darwin Day*, International Darwin Day, <http://darwinday.org/about/> (last visited Aug. 11, 2015)), the National Day of Reason (May 7 — a day of celebrating reason and its societal benefits, promoting reason-based thinking, and opposing unconstitutional promotion of religion by governmental officials), Freethought Day (October 12 — an annual day of observance by freethinkers and other nontheists of the anniversary of the end of the Salem Witch Trials, on which people declare themselves to be freethinkers, discuss and promote freethought, and perform community service), and Carl Sagan Day (November 9 — the birthday of astronomer, science educator/popularizer, and agnostic Carl Sagan, and a day to celebrate the beauty and wonder of the cosmos). On these days, plaintiff Williamson reflects on how he can do more to educate people about freethought and nontheism. He has also engaged in efforts to educate people about nontheism through distribution of literature on the National Day of Reason.

19. Plaintiff Williamson's atheistic and Humanist beliefs are very important to him, holding a place in his life equally important to the significance the orthodox belief in God has in lives of monotheistic religious believers. Plaintiff Williamson believes that atheism and Humanism are "religions" as that term is defined by case law interpreting the U.S. Constitution.

20. Plaintiff Williamson has attended two Board meetings, on August 19, 2014 and July 7, 2015. At the July 7, 2015 Board meeting, he witnessed a Christian opening invocation, after a member of the Board instructed the Board and the audience to stand for the invocation.

21. Plaintiff Williamson would like to deliver an opening invocation at a meeting of the Board. He would like to do so to educate elected officials and all in attendance about Humanist values, normalize the participation of nontheists in local governmental meetings, and serve the underserved population of nontheists in the County through an invocation that is inclusive of them.

22. Plaintiff Williamson views the County's policy, custom, and practice of prohibiting nontheists from delivering opening invocations at Board meetings while allowing theists to do so as follows: It amounts to an official declaration that nontheists are second-class citizens who are not equal in public life to others in the community and do not have the same privileges that others do. It feels like a slap in the face. It has made and continues to make him feel offended, stigmatized, disfavored, insulted, humiliated, and discriminated against by the County.

23. The County's conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Williamson.

*Chase Hansel*

24. Plaintiff Chase Hansel is a resident of Melbourne, Florida and District 3 of Brevard County. He has resided in the County since 2008. He owns a home in the County and pays property taxes to the County. He is an engineer.

25. Plaintiff Hansel identifies himself as an atheist and a Secular Humanist. He does not believe in God, and believes in using reason, logic, and science to determine what benefits others and society.

26. Plaintiff Hansel is the President of plaintiff Space Coast Freethought Association (“SCFA”). He is also a member of the organization’s board of directors.

27. Plaintiff Hansel’s Humanist beliefs include the following: He values human well-being and the well-being of other living things, including animals. People should take actions that promote the happiness of others and the long life of society, while discouraging actions that do the opposite. Reason and logic and the scientific method should be used to determine what actions facilitate these goals and what actions do not. The purposes of life include experiencing and discovering new things, and helping others do the same and learn. Having friends and engaging in social activity promote well-being on an individual level. He has a sense of awe and respect for the universe, as well as for fundamental and important scientific truths and discoveries.

28. Plaintiff Hansel regularly attends SCFA meetings and events, detailed below in paragraph 89, where he discusses his atheistic and Humanist beliefs, as well as other topics such as religion, philosophy, science, and church-state separation.

29. Plaintiff Hansel 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 that argues 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); and *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).

30. In addition to Harris (a nontheist author, philosopher, and neuroscientist, and the co-founder and chief executive of a non-profit that promotes science and secularism) and Dawkins (an evolutionary biologist and atheist advocate), plaintiff Hansel admires and studies the work, writings, and statements of the following prominent nontheist individuals: Lawrence Krauss (a theoretical physicist, cosmologist, and atheist activist who has explained in his scientific writings why a supernatural explanation is not needed for the origin of the universe), Daniel Dennett (an atheist philosopher and cognitive scientist), Stephen Hawking (a world-famous theoretical physicist who has discussed in his work why a supernatural creator is not necessary to explain the universe), Carl Sagan, and Neil deGrasse Tyson (who, like Sagan, is a famous astrophysicist and science educator/popularizer and is an agnostic).

31. As a Humanist and atheist, plaintiff Hansel considers several days of the year particularly important, including International Darwin Day and Winter Solstice Day (December 21 or 22 — the shortest day of the year). He sometimes attends nontheist celebrations organized by plaintiff SCFA on Winter Solstice Day and discusses topics relating to Darwin Day on or shortly after that day at SCFA meetings.

32. Plaintiff Hansel's atheistic and Humanist beliefs are strongly held and are very important to him, holding a place in his life parallel to the significance the orthodox belief in God has in lives of monotheistic religious believers.

33. Plaintiff Hansel believes that atheism and Secular Humanism are “religions” as that term is defined by case law interpreting the U.S. Constitution and for purposes of determining how he should be classified with respect to religion.

34. Plaintiff Hansel’s atheistic and Humanist beliefs have often resulted in him being treated negatively by others, including by members of his family. When he has told people that he is an atheist, sometimes their jaws have dropped and they have subsequently discounted him as a human being. He has been subjected to comments such as “you can’t be an atheist, you’re a good person” and “what’s wrong with you that you don’t believe in God?” As a result of such comments, he became reluctant to open up about his atheism in certain contexts.

35. Plaintiff Hansel would like to deliver an opening invocation at a meeting of the Board. He would like to do so to benefit the Board and the audience, promote nontheism as a valid contribution to public discourse, and advance equality for nontheists.

36. Plaintiff Hansel views the County’s policy, custom, and practice of prohibiting nontheists from delivering opening invocations at Board meetings while allowing theists to do so as follows: It makes him feel like a second-class citizen. It communicates to him that his county government approves some religious views while disapproving his. The County is telling him that if he is not of the right religion, he is not permitted to speak at the opening of its Board’s meetings. The County is thus picking winners and losers in the religious arena, establishing an approved religious norm for local government. The County is communicating that its approved religious messages will be heard at Board meetings, while presentation of his views is prohibited. He also objects to the use of his property taxes to

support a system that selects invocation speakers in a manner that discriminates against him. The County's conduct thus has made and continues to makes him feel offended, stigmatized, disfavored, insulted, humiliated, and discriminated against.

37. The County's conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Hansel.

*Keith Becher*

38. Plaintiff Keith Becher is a resident of Satellite Beach, Florida and District 4 of Brevard County. He has resided in the County for the last six years. He is a teacher.

39. Plaintiff Becher identifies himself as an atheist and a Secular Humanist. He does not believe in God because he is not aware of any evidence that God exists. Instead, he believes in things that can be evidentially substantiated through the use of the scientific method.

40. Plaintiff Becher is ordained by the Humanist Society as a Humanist Celebrant. He is accordingly considered ordained clergy under Florida law and is permitted to officiate weddings and sign marriage licenses.

41. Plaintiff Becher is the President and Organizer of plaintiff Humanist Community of the Space Coast ("HCSC"). He is a member of the boards of directors of plaintiffs Central Florida Freethought Community and Space Coast Freethought Association. He 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 *American Humanist Association's Key Issues*, American Humanist Association, [americanhumanist.org/AHA/Issues](http://americanhumanist.org/AHA/Issues) (last visited Aug. 11, 2015)), the Florida

Humanist Association (an organization that “[p]romot[es] Humanism in Florida,” “[b]uild[s] community among Humanists and between Humanists and non-Humanist[s],” and “[e]ncourag[es] volunteerism and charitable giving,” *see Inside the FHA*, Florida Humanist Association, [www.floridahumanist.org/about](http://www.floridahumanist.org/about) (last visited Aug. 11, 2015)), American Atheists (an organization that “is dedicated to working for the civil rights of atheists, promoting separation of state and church, and providing information about atheism,” *see About Americans Atheists*, American Atheists, [atheists.org/about-us](http://atheists.org/about-us) (last visited Aug. 11, 2015)), and the Freedom From Religion Foundation (an organization that “promote[s] nontheism and defend[s] the constitutional separation between religion and government,” *see Freedom From Religion Foundation Home Page*, <https://ffrf.org> (last visited Aug. 11, 2015)). He is further a member of and monthly contributor to the Foundation Beyond Belief, a charitable foundation “created to focus, encourage and demonstrate humanist generosity and compassion” that promotes and funnels donations to secular charities, as well as other non-proselytizing ones. *See About Foundation Beyond Belief*, Foundation Beyond Belief, <https://foundationbeyondbelief.org/inside-fbb/about/> (last visited Aug. 11, 2015).

42. Plaintiff Becher’s Humanist beliefs include the following: That as a social species people have an evolutionary stake in treating others with kindness and empathy in an effort to build a better community and society as a whole. That people would do well to take care of others, especially the less fortunate, regardless of whether those who need help are religious or not, or what race, sexual orientation, or other identifying characteristics they have. That people make their own purposes in life, and that selecting one’s purpose gives life meaning. That this is the only life we have, which gives life more meaning and

motivates him to live more fully and do more for others. That the scientific method, reason and rationality should be used to determine what benefits society.

43. Plaintiff Becher regularly attends HCSC and SCFA meetings and events. At HCSC meetings and events, detailed below in paragraph 99, he works to promote nontheist volunteerism in the Brevard County community and to create a welcoming community for nontheists. At SCFA meetings, detailed below in paragraph 89, he discusses his atheistic and Humanist beliefs, as well as other topics such as religion, philosophy, science, and church-state separation. He also periodically attends meetings and events of other nontheist groups, where he engages in similar discussions, performs community-service work, or engages in activism to promote nontheist rights.

44. Plaintiff Becher 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: *Deconverted: A Journey from Religion to Reason* by Seth Andrews (a text where the author explains how he evolved from a Christian radio host to an atheist activist); *The God Delusion* by Richard Dawkins; *God is Not Great* by Christopher Hitchens (a text that criticizes organized religions and advocates a more secular life based on science and reason); *The End of Faith* by Sam Harris (a text that points out dangers organized religions, particularly fundamentalist ones, present to modern society, and that advocates a modern foundation for ethics and spirituality that is both secular and Humanist); *Parenting Without God* by Dan Arel (a text that gives atheist parents guidance for raising children as freethinkers); *Why Are You Atheists So Angry?* by Greta Christina (a text that criticizes traditional religions and explains the empathy and justice that drive atheist activism); A

*Manual For Creating Atheists* by Peter Boghossian (a text that centers on epistemology, how people come to knowledge, and the best methods for determining what is true); and *What You Don't Know About RELIGION (but should)* by Ryan T. Cragun (a text that discusses commonly held misconceptions about religion and atheism).

45. Plaintiff Becher admires and studies the work, writings, and statements of the following prominent nontheist individuals: Dawkins, Harris, Carl Sagan, Lawrence Krauss, Neil deGrasse Tyson, Jamila Bey (an African-American journalist and outspoken atheist), Matt Dillahunty (an atheist activist, speaker, and internet personality), John Loftus (an author who writes about his conversion from Christianity to atheism), Richard Carrier (an atheist activist, author, public speaker, and blogger), Hitchens (a late outspoken author, literary critic, and journalist who identified himself as an “antitheist”), Robert Ingersoll (a prominent agnostic Nineteenth Century orator, political leader, and lawyer who advocated Humanism and freethought), and Dale McGowan (a Secular Humanist author and philanthropist whose writings have focused on parenting without religion and who established the Foundation Beyond Belief).

46. As a Humanist and atheist, plaintiff Becher observes special days of the year, including World Water Day (March 22 — a day on which people participate in events and take actions to promote sustainable management of freshwater resources), Earth Day (April 22 — a day on which events are held worldwide and people take actions to promote environmental protection), Openly Secular Day (April 23 — a day on which nontheists are encouraged to disclose their nontheistic beliefs to others and all people are encouraged to support the nontheist people they know), Winter Solstice Day (on which plaintiff Becher

sometimes attends nontheist celebrations organized by plaintiff SCFA), the National Day of Reason, and Darwin Day.

47. Plaintiff Becher's Humanist beliefs are strongly held and are very important to him, holding a place in his life parallel to the significance the orthodox belief in God has in lives of monotheistic religious believers. Humanism has opened his eyes, enriches his life, makes it more fulfilling, and makes him value each day more and more.

48. Plaintiff Becher's atheistic and Humanist beliefs have often resulted in him being treated negatively by others, including in the employment context. While much of the negative treatment has come in the form of snide and derogatory remarks, such as "you'll go to hell," sometimes it has been more severe; indeed, some people have refused to associate with plaintiff Becher because of his beliefs. Based on his experiences, it sometimes feels to plaintiff Becher that atheists are more reviled than sex offenders.

49. Plaintiff Becher is interested in civic affairs and has attended five Board meetings, on August 19, 2014; April 28, 2015; May 12, 2015; May 26, 2015; and July 7, 2015. At each of the four 2015 Board meetings, he witnessed Christian opening invocations, after a member of the Board instructed the Board and the audience to stand for the invocations. Plaintiff Becher intends to attend future Board meetings where issues of interest to him, such as land use and water use, are to be discussed. He also attended in 2015 a Satellite Beach town hall meeting.

50. Plaintiff Becher would like to deliver an opening invocation at a meeting of the Board. He would like to do so to make a positive contribution to the community, to

demonstrate that nontheists are ordinary people who can benefit society on an equal basis with theists and should not be feared or reviled, and to advance nontheist equality.

51. Plaintiff Becher views the County's policy, custom, and practice of prohibiting nontheists from delivering opening invocations at Board meetings while allowing theists to do so as follows: The County is sending him a message that he is not qualified to perform a public function solely because he holds nontheistic beliefs, beliefs that are different from the religious beliefs of the County's leadership. Instead of involving the whole community in this important public function, the County is dividing the community into a favored segment and a disfavored one that includes him.

52. When plaintiff Becher was instructed to stand for Christian opening invocations at the April 28, May 12, and May 26, 2015 Board meetings, he felt pressured and coerced to participate in prayers that reflected religious beliefs to which he did not subscribe. At the April 28 and May 26 meetings, although he remained seated, all other members of the audience but one stood for the invocation. At the May 12 meeting, all members of the audience other than plaintiff Becher stood for the invocation. As a result, plaintiff Becher felt excluded and that he stood out. He felt like he was in church, not at a governmental meeting.

53. For the reasons stated in paragraphs 51 and 52 above, the County's conduct has made and continues to make plaintiff Becher feel angry, offended, stigmatized, disfavored, insulted, humiliated, and discriminated against. The County's conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Becher.

*Ronald Gordon*

54. Plaintiff Ronald Gordon is a resident of Palm Bay, Florida and District 3 of Brevard County. He has resided in the County for approximately thirteen years. He owns a home in the County and pays property taxes to the County. He served in the U.S. Army for approximately six years, and subsequently served in the Army National Guard for approximately fourteen years. He is a registered nurse.

55. Plaintiff Gordon identifies himself as an atheist/agnostic. He does not live his life based on a belief in a higher power, but cannot rule out the possibility that there is one. Until about a decade ago, he was a Baptist.

56. Plaintiff Gordon is a member of the Freedom From Religion Foundation.

57. As an atheist/agnostic, plaintiff Gordon does not expect to have an afterlife or to see his family members after his death. He therefore believes that this life is what matters; that he has to value the present as much as he can; that he has to value, treat well, and support his family each and every day; that he should be kind to his fellow humans and help others in need; and that he should live every day to the fullest.

58. Plaintiff Gordon has read and studied a number of texts concerning nontheistic beliefs. He considers the works of Sam Harris, including *Letter to a Christian Nation*, and Richard Dawkins particularly important.

59. Plaintiff Gordon admires and studies the work, writings, and statements of the following prominent nontheist individuals: Harris, Dawkins, Christopher Hitchens, and Daniel Dennett.

60. Plaintiff Gordon's atheistic/agnostic beliefs are strongly held and are very important to him. Indeed, studying and thinking about his atheistic/agnostic beliefs fills at least as much of his time as his Baptist beliefs did when he held them.

61. Within the last year, plaintiff Gordon has watched portions of several Board meetings via the internet that concerned issues of interest to him. In doing so, he watched the presentation of Christian opening invocations. He would like to attend in person future Board meetings where issues of interest to him are discussed.

62. Plaintiff Gordon would like to deliver an opening invocation at a meeting of the Board. He would like to do so to obtain treatment equal to that of theistic believers, and to benefit the Board and the audience with a positive, inclusive, and respectful message.

63. Plaintiff Gordon views the County's policy, custom, and practice of prohibiting nontheists from delivering opening invocations at Board meetings while allowing theists to do so as follows: It makes him feel like he is less of a County citizen, or at least that the Board believes that. It is unjust, unfair, and discriminatory that someone who holds theistic beliefs is permitted to give an opening invocation, while he is not allowed to do so because of his nontheistic beliefs, despite his long history of serving his country and treating others well and compassionately. The County's decision on who can perform this civic function is based not on how good a citizen or person one is, or what one has contributed to the community, but on whether one holds certain religious beliefs. This makes plaintiff Gordon better understand the discrimination suffered by other minority groups in the past, though he views such discrimination as typically being more egregious. He also objects to the use of his property taxes to support a system that selects invocation speakers in a manner that

discriminates against him. The County's conduct thus has made and continues to make him feel angry, offended, stigmatized, disfavored, insulted, humiliated, and discriminated against.

64. The County's conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Gordon.

*Jeffery Koeberl*

65. Plaintiff Jeffery Koeberl is a resident of West Melbourne, Florida and District 5 of Brevard County. He has resided in Brevard County since 2002.

66. Plaintiff Koeberl identifies himself as a Secular Humanist, atheist, and scientific skeptic. He rejects the concept of a god due to lack of evidence. He thinks we should all strive to live our lives with high moral and ethical standards, compassion, charity, empathy, and respect for the well-being of everyone.

67. Plaintiff Koeberl is ordained by the Humanist Society as both a Humanist Celebrant and a Humanist Chaplain. He is accordingly considered ordained clergy under Florida law and is permitted to officiate weddings and sign marriage licenses. In addition, a Humanist Chaplain is empowered to apply for positions outside the Humanist community in specialized settings (such as hospitals, military, and prisons) in order to serve both the Humanist community and individuals with other beliefs. Ordination by the Humanist Society as a Humanist Chaplain affirms that the ordained individual can authentically represent Humanism and is ready to serve according to the Society's professional ethic outside the Humanist community. The Humanist Society is endorsed to ordain chaplains by the Board of Chaplaincy Certification, Inc., an affiliate of the Association of Professional Chaplains.

68. Plaintiff Koeberl is the Co-Organizer of plaintiff Humanist Community of the Space Coast (“HCSC”). He is also a member of plaintiff Central Florida Freethought Community, plaintiff Space Coast Freethought Association, the American Humanist Association, the Freedom From Religion Foundation, and the Secular Coalition for America (a “nonprofit advocacy organization whose purpose is to amplify the diverse and growing voice of the nontheistic community in the United States,” *see About the Secular Coalition for America*, Secular Coalition for America, <https://www.secular.org/about/main> (last visited Aug. 11, 2015)).

69. Plaintiff Koeberl’s Humanist beliefs include the following: That he should be good to other people and help them. That he should prevent suffering and not do harm. That he should be good to his family. That he should support civil rights, environmental protection, individual autonomy, and charity based on Humanist values. That he should leave a better world for those who survive him. That people have the ability to make life what they want it to be. That all this can be done without theistic beliefs.

70. Plaintiff Koeberl regularly attends HCSC meetings and events, where (as detailed below in paragraph 99) he works to promote nontheist volunteerism in the Brevard County community and to create a welcoming community for nontheists. He regularly serves as the host of monthly SCFA Skeptics in the Pub meetings, and he regularly attends other SCFA meetings and events, where (as detailed below in paragraph 89) he discusses his Humanist and atheistic beliefs, as well as other topics such as religion, philosophy, science, and church-state separation.

71. Plaintiff Koeberl has read and studied a number of texts describing Humanist and atheistic beliefs and considers the following such texts to be particularly seminal or important: *The Age of Reason* by Thomas Paine (a text that challenges institutionalized religion and the legitimacy of the Bible); *The God Delusion* by Richard Dawkins; *The Skeptic's Annotated Bible* by Steve Wells (a text that criticizes the Bible, especially literal interpretations thereof); *God is Not Great* by Christopher Hitchens; *Attack of the Theocrats!* by Sean Faircloth (a text that discusses how religious bias in law harms Americans and that offers a vision for returning America to its secular roots); *The Portable Atheist* (a book edited by Christopher Hitchens that compiles writings by numerous leading nontheist thinkers); *The Good Book: A Humanist Bible* by A.C. Grayling (a text that is designed to be a Humanist alternative to the Judeo-Christian Bible; it is structured like the traditional Bible, but presents Humanist beliefs on how life should be lived, including a Humanist version of the Ten Commandments); *The God Argument* by Grayling (a text that counters arguments for the existence of God and puts forward humanism as an alternative to theism); *A Universe From Nothing* by Lawrence Krauss (a text that explains how the universe came into being and that no supernatural creator is necessary to explain the universe's origin); and *Deconverted: A Journey from Religion to Reason* by Seth Andrews.

72. Plaintiff Koeberl admires and studies the work, writings, and statements of the following prominent nontheist individuals: Dawkins, Hitchens, Krauss, Andrews, Sam Harris, Matt Dillahunty, Tracie Harris (an atheist and former Christian fundamentalist who co-hosts a pro-atheist video program and draws an atheist comic strip), David Fitzgerald (an atheist author, speaker, and activist), David Smalley (an atheist who hosts a talk radio show

called Dogma Debate that features debates about religious beliefs), and Peter Boghossian (a philosophy instructor and atheist advocate).

73. Plaintiff Koeberl's Humanist and atheistic beliefs are strongly held and are very important to him, holding a place in his life as important as Christian beliefs are to a devout Christian. His Humanism serves the same functions for him as theistic faiths do for those who hold them, including providing moral guidance and a sense of community and belonging.

74. Plaintiff Koeberl is generally not open about his atheistic and Humanist beliefs outside the nontheist groups he participates in because he fears disclosure would lead to negative consequences.

75. Plaintiff Koeberl would like to deliver an opening invocation at a meeting of the Board. He would like to do so to benefit the Board and the audience, to present Humanism in a positive light openly before the public, and to help Humanism gain a role in public life equal to that of theistic religions.

76. Plaintiff Koeberl views the County's policy, custom, and practice of prohibiting nontheists from delivering opening invocations at Board meetings while allowing theists to do so as follows: He is being excluded and treated differently on account of his beliefs. Theists are being given special privileges, and he is a disfavored minority. The County is favoring and endorsing theistic beliefs over his nontheistic ones. The County's conduct thus has made and continues to make him feel offended, stigmatized, disfavored, insulted, humiliated, and discriminated against, as well as frightened that theistic religion will become a dominant force in County government.

77. The County's conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Koeberl.

*Central Florida Freethought Community*

78. Plaintiff Central Florida Freethought Community ("CFFC") is a non-profit organization incorporated in Florida and headquartered in Oviedo, Florida. CFFC is a chapter of the Freedom From Religion Foundation, as well as an affiliate of the American Humanist Association, the Florida Humanist Association, the Secular Policy Institute ("a think tank organization of thought leaders, writers, scholars and speakers with a shared mission to influence public opinion and promote a secular society," *see Our Mission*, Secular Policy Institute, <https://secularpolicyinstitute.net/our-mission/> (last visited Aug. 11, 2015)), and the Secular Coalition for America.

79. CFFC has more than three hundred members in Central Florida, many of whom reside in Brevard County. CFFC's members include people who characterize themselves as atheists, agnostics, Humanists, freethinkers, scientific skeptics, spiritualists, and pantheists. Plaintiff Williamson is CFFC's founder, Chairperson, and a member of its board of directors. Plaintiff Becher is a member of CFFC's board of directors. CFFC has a number of members who are ordained by the Humanist Society as Humanist Celebrants or Humanist Chaplains, including plaintiffs Williamson, Becher, and Koeberl.

80. CFFC's mission is "[t]o be an effective advocate for state/church separation by uniting local freethinkers in practical activism." Its vision is "secular local government which neither promotes nor denigrates any religion." Its goals are "[i]nformed and involved members," "[a]n engaged local media," and "[p]ublic support for secular values."

81. CFFC focuses on fighting for equal rights for nontheists. It engages in activism to promote that cause and secularism in government. CFFC also participated with members of the Interfaith Council of Florida in three events: (a) a panel discussion, *Religion 201*, where CFFC's members represented Humanism alongside clergy and religious leaders of many faiths; and (b) two *Meet Your Non-Christian Neighbors* events, where CFFC's members explained atheism and Humanism to attendees.

82. One of CFFC's goals is to eliminate the stigma associated with being someone who does not believe in God. CFFC's members have experienced numerous incidents of harm because of their nontheistic beliefs, such as losing jobs and familial relationships, and being shunned by friends and associates.

83. CFFC would like its leaders and members to have opportunities to give opening invocations at Board meetings on a recurring basis, so that it can educate elected officials and all in attendance about Humanistic values and normalize the participation of nontheists in local governmental meetings. Participation in this lawsuit is germane to CFFC's goals of promoting equal rights for nontheists and equal treatment of nontheists by governmental bodies.

84. For reasons similar to those expressed by the individual plaintiffs, CFFC and its members have been and continue to be offended, stigmatized, disfavored, insulted, humiliated, and discriminated against by the County's policy, custom, and practice of prohibiting nontheists from delivering opening invocations at Board meetings while allowing theists to do so.

85. The County's conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff CFFC.

*Space Coast Freethought Association*

86. Plaintiff Space Coast Freethought Association ("SCFA") is a non-profit organization incorporated in Florida. SCFA is headquartered in Palm Bay, Florida and District 3 of Brevard County. SCFA has a page on Facebook, where it is classified as a "Church/Religious Organization."

87. SCFA has several hundred members, approximately thirty to forty of whom regularly or periodically attend SCFA meetings and events. Nearly all of SCFA's members reside in Brevard County. Most of SCFA's members characterize themselves as atheists. SCFA's membership also includes people who additionally or instead characterize themselves as Humanists, agnostics, and/or freethinkers. Plaintiff Hansel is the President of SCFA. Plaintiff Becher is a member of SCFA's board of directors. Plaintiffs Koeberl and Williamson are members of SCFA.

88. SCFA describes itself as a "community of reason-based individuals organized to facilitate social interaction, promote the non-theistic, rationalist viewpoint as a valid contribution to public discourse, reinforce the First Amendment guarantee of separation between government and religion through education and activism, and work in coalition with like-minded organizations where joint action is needed to achieve these goals."

89. SCFA has four regular events each month (one each week): (1) a main meeting focused on general discussion; (2) a coffee-shop meeting focused on literature; (3) Skeptics in the Pub (a more social meeting in a pub); and (4) a community-service event (generally

clean-up of a highway segment SCFA has adopted). At their meetings, SCFA members discuss their beliefs, atheism and Humanism, religion and philosophy, and other topics such as science and church-state separation.

90. Activities that SCFA engages in to promote nontheism include setting up a booth approximately twice per year at a festival in Brevard County, where SCFA members make available SCFA pamphlets, display an SCFA sign, and discuss nontheism with interested persons who approach them. SCFA also displays its sign at its community-service road clean-up events.

91. SCFA plays an important role in the lives of its members, parallel to the roles that traditional theistic religious congregations play in the lives of their members. SCFA gives its members a sense of community with people of like-minded beliefs, allows its members to regularly spend time with people of like-minded beliefs, and holds regular events where those members can discuss, observe, and celebrate their beliefs.

92. SCFA's members have experienced numerous incidents of harm because of their nontheistic beliefs, such as suffering negative consequences in familial and employment relationships, and being treated adversely by friends and associates.

93. SCFA would like its leaders and members to have opportunities to give opening invocations at Board meetings on a recurring basis. SCFA's desire to give an opening invocation and participation in this lawsuit are motivated by and germane to SCFA's goals of serving the community, promoting nontheism, and advancing the separation of church and state.

94. For reasons similar to those expressed by the individual plaintiffs, SCFA and its members have been and continue to be offended, stigmatized, disfavored, insulted, humiliated, and discriminated against by the County's policy, custom, and practice of prohibiting nontheists from delivering opening invocations at Board meetings while allowing theists to do so.

95. The County's conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff SCFA.

*Humanist Community of the Space Coast*

96. Plaintiff Humanist Community of the Space Coast ("HCSC") is an unincorporated association. HCSC is headquartered in Satellite Beach, Florida and District 4 of Brevard County.

97. HCSC has approximately 90 members. Most of HCSC's members reside in Brevard County, though the group also accepts members from nearby counties. HCSC welcomes as members people who identify themselves as Humanists, agnostics, freethinkers, other nontheists, and church-state separation advocates. Plaintiff Becher is the President and Organizer of HCSC. Plaintiff Koeberl is the Co-Organizer of HCSC. Plaintiffs Williamson and Hansel are members of HCSC.

98. HCSC's mission statement and organizational description is:

We would like to build a supportive and safe community for adults and families who acknowledge that ethical living does not require belief in supernatural, scriptural, or religious dogma. We welcome all who strive to better our communities through kindness, compassion, empathy, reason, science and rationality. Through volunteer efforts, community outreach and positive activism we look to advance secular values, government, and secular humanism as a whole.

99. HCSC's main goals and purposes are community service, outreach, and volunteerism. HCSC's focus is to hold volunteer and community-service events and to make Humanists and nontheists a more visible, positive presence in the Brevard County community. HCSC informs its members of appropriate volunteer opportunities in the community. HCSC also wants to be a welcoming community for those who recently left religion or are unaffiliated. HCSC holds meetings and meet-ups where nontheists can get to know each other; discuss Humanist and nontheistic beliefs, literature, and media, as well as issues important to nontheists, such as secular parenting; advocate for nontheist equality; and raise funds or take actions to support worthy causes.

100. HCSC's goals include helping other people and demonstrating to both nontheists and theists that Humanists and other nontheists are good people who can help the community. HCSC wants people to understand that although nontheists have beliefs different from those of the majority, nontheists are part of society, neighbors of theists, no different than other people but for their beliefs. HCSC further wants people to understand that nontheists should not be feared and do not wish to take away people's religious beliefs; instead, they merely desire equal treatment and want to aid the entire populace, theist and nontheist.

101. HCSC would like its leaders and members to have opportunities to give opening invocations at Board meetings on a recurring basis. HCSC's desire to give an opening invocation and participation in this lawsuit are motivated by and germane to HCSC's goals of making a positive contribution to the community, obtaining equal treatment for nontheists, and demonstrating that nontheists can benefit society on an equal basis with theists.

102. For reasons similar to those expressed by the individual plaintiffs, HCSC and its members have been and continue to be offended, stigmatized, disfavored, insulted, humiliated, and discriminated against by the County's policy, custom, and practice of prohibiting nontheists from delivering opening invocations at Board meetings while allowing theists to do so.

103. The County's conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff HCSC.

***Defendant Brevard County***

104. Defendant Brevard County ("the County") is a political subdivision of the State of Florida. *See* Fla. Const. art. VIII, § 1(a); Brevard Cnty. Charter § 1.1.

105. The Brevard County Board of County Commissioners ("the Board") is the legislative and governing body of Brevard County. *See* Fla. Const. art. VIII, § 1(e); Fla. Stat. § 125.01; Brevard Cnty. Charter § 1.5.

106. The Board has the power to carry on county government. Fla. Stat. § 125.01(a).

107. The Board's powers include the "establishment and adoption of policy." Brevard Cnty. Charter § 1.5.

108. The Board's powers further include the power to adopt its own rules of procedure (Fla. Stat. § 125.01(a); Brevard Cnty. Charter § 2.9.6) and to levy taxes (Brevard Cnty. Charter § 1.4.1).

109. The Board takes official action by adopting, amending, or repealing ordinances, resolutions, and motions. Brevard Cnty. Charter § 2.10.1; *see also* Fla. Stat. § 125.01(t).

110. “A resolution means an expression of a temporary character, or a provision for the disposition of the administrative business of the Board.” Brevard Cnty. Charter § 2.10.1.

111. The Board has five Commissioners, each of whom represents and is elected by one of five numbered Districts that make up the County. Brevard Cnty. Charter § 2.1.

112. Under Florida Statutes § 125.15, “[t]he county commissioners shall sue and be sued in the name of the County.”

### **General Allegations**

#### ***Invocations before the Board***

##### *Board Meetings*

113. To carry out its responsibilities, the Board regularly conducts meetings in its main board room, called the “Government Center Commission Room.”

114. The board-room meetings are designated as “regular,” “zoning,” “budget,” or “organizational” meetings.

115. These board-room meetings are open to the public, are carried live on cable television, and are available for public viewing on the Board’s website.

116. Board-room meetings are typically opened with an invocation or, infrequently, with a moment of silence.

117. The Board also periodically holds “workshop” meetings and other special meetings outside its main board room.

118. The non-board-room meetings are typically not opened with an invocation.

119. The non-board-room meetings are thus not at issue in this lawsuit and are not covered in the information and data presented below.

120. The main board room is approximately sixty feet wide and seventy feet deep.

121. In the main board room, the audience sits in rows of seats that face a raised seating area.

122. During Board meetings, the five County Commissioners, the County Manager, and the County Attorney sit in the raised seating area.

123. During Board meetings, the County Commissioners and the audience face each other.

124. There are approximately 180 seats in the main board room for the audience.

125. The seats for the audience are arranged in approximately ten rows.

126. Each row has approximately eighteen seats, approximately nine on each side of a center aisle.

127. The main board room is small enough that a person can see and be seen from one end of it to another.

128. Audience members can see each other in the main board room during Board meetings.

129. County Commissioners can see audience members in the main board room during Board meetings.

130. The main board room is small enough that a person can hear someone else across the room speak without amplification.

131. Though attendance can vary substantially, on average approximately thirty people attend each Board meeting.

132. County Commissioners sometimes walk around the main board room to greet and talk to audience members before the commencement of a Board meeting.

133. At its meetings, the Board often considers and votes on issues that affect only one person or a small group of people.

134. Such issues include requests for zoning amendments, variances, or classification changes, including ones that affect only one particular property; requests for tax abatements or exemptions for individual properties or taxpayers; requests to grant or vacate easements affecting particular properties or locations; and requests by individual restaurants for permission to sell alcoholic beverages.

135. People affected by or interested in an agenda item at a Board meeting are permitted to present public comments about the agenda item to the Board during the meeting before the Board votes on the item.

136. Typically, after the opening invocation, the Pledge of Allegiance, and (at some meetings) the approval of minutes of past meetings, the first item on a Board-meeting agenda is “Resolutions, Awards, and Presentations.”

137. Sometimes, children appear before the Board to be honored during the “Resolutions, Awards, and Presentations” section of Board meetings.

138. For example, members of high-school girls’ sports teams appeared before the Board at its March 31, 2015 meeting to be honored for winning championships; a high-school student appeared before the Board at its May 12, 2015 meeting to accept a resolution celebrating the fiftieth anniversary of her school; and elementary-school children appeared before the Board at its May 26, 2015 meeting to be honored for winning a speech contest.

139. Children who are to be so honored typically are sitting in the main board room during the opening invocation.

140. Children — including groups thereof — sometimes attend Board meetings for other reasons, such as agenda items in the “Resolutions, Awards, and Presentations” segment of the meetings that are relevant to but do not directly honor the children.

141. For example, several young children were present at the Board’s February 3, 2015 meeting in connection with a resolution honoring a mother’s club; several children appeared before the Board at its March 17, 2015 meeting in connection with a resolution proclaiming Boys and Girls Club Week in Brevard County; and a large group of children — who were participating in the Brevard County Parks and Recreation Department’s Summer Day Camp program — attended the Board’s July 7, 2015 meeting to watch the presentation of a resolution proclaiming the month of July 2015 as Parks and Recreation Month.

142. In such cases, the children are typically sitting in the main board room during the opening invocation.

143. County employees also sometimes appear before the Board to be honored during the “Resolutions, Awards, and Presentations” section of Board meetings.

144. In such cases, the employees are typically sitting in the main board room during the opening invocation.

*Identities of Invocation Speakers and Nature of Invocations*

145. The following data cover the period from January 1, 2010 through August 18, 2015:

146. During that time, the Board held approximately 185 board-room meetings.

147. Approximately 173 of those meetings began with an invocation.

148. Approximately twelve of the meetings began with a moment of silence.

149. Virtually all of the opening invocations were given by Christians and/or had Christian content.

150. Only five of the opening invocations could be identified as not being given by a Christian and not having Christian content.

151. All five of those non-Christian opening invocations were given by Jewish rabbis (on January 26, 2010, December 7, 2010, March 1, 2012, October 21, 2014, and August 6, 2015).

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

153. No opening invocation could be identified as having content particular to a religion other than Christianity or Judaism.

154. No opening invocation could be identified as having no theistic content.

155. No opening invocation could be identified as being delivered by someone not affiliated with any theistic religion.

156. Nearly all the speakers who delivered Christian invocations were Protestants.

157. Only six of the Christian invocations could be identified as being delivered by non-Protestants.

158. Five of those six were delivered by Catholics (on January 11, 2011, October 18, 2011, May 14, 2013, December 16, 2014, and May 28, 2015) and one was delivered by a member of the Church of Jesus Christ of Latter-day Saints (on March 4, 2014).

159. While most of the opening invocations were given by ordained clergy, at least approximately sixteen were not.

160. Non-clergy who delivered opening invocations included police officers (on September 26, 2013 and January 6, 2015); staff-members of a Congressman's office (on May 6, 2010, February 3, 2011, April 4, 2013, and April 2, 2015); a state judge (on September 23, 2014); one of the County Commissioners (on October 12, 2010, August 21, 2012, November 27, 2012, and May 12, 2015); aides to the Commissioners (on April 1, 2010, August 5, 2010, September 28, 2010, November 4, 2010, and December 2, 2010); and a lay leader of the Church of Jesus Christ of Latter-day Saints (on March 4, 2014).

161. In addition, at its September 13, 2011 meeting, no designated invocation speaker was present, so an audience member spontaneously volunteered to give the invocation at the meeting's commencement and was permitted and proceeded to do so.

162. While most of the clergy-given opening invocations were given by leaders of houses of worship, some of them were not.

163. For example, opening invocations were given by the chaplain of a minor-league baseball team (on September 16, 2014); chaplains of a jail and prison ministry (on February 4, 2010, February 18, 2014, and August 18, 2015); a chaplain of a hospice (on March 23, 2010); hospital chaplains (on September 6, 2011 and March 5, 2015); a chaplain of a private school (on March 22, 2011 and April 3, 2014); chaplains of veterans' organizations (on November 29, 2011, January 24, 2012, and August 7, 2014); the chaplain of the Brevard County Sheriff's Office (on July 7, 2015); and a retired minister (on May 18, 2010).

164. Although the opening invocations typically have substantial religious content or references, on occasion they have contained significant non-religious components.

165. The opening invocation delivered by a police officer on January 6, 2015 consisted principally of the reading of a 1968 speech by Robert F. Kennedy that had no religious content. After reciting the speech, the police officer closed the invocation with a few religious references: “God bless you all,” “God bless the United States of America,” and a request for prayer for fallen police officers.

166. Although it concluded with a religious prayer, the first half of the opening invocation delivered by a Catholic deacon on May 28, 2015 lacked religious content. The deacon said in the invocation’s first half:

Teddy Roosevelt was a man who had a reputation for being frank and direct. In 1900, a year before he entered the White House, he made these words:

No community is healthy where it is ever necessary to distinguish one politician from his fellow because he is honest. Moreover, it is not enough that a public official should be honest. No amount of honesty will avail if he is not also brave and wise. The weakling and the coward cannot be saved by honesty alone.

Leadership requires two virtues that seem very simple until they become very inconvenient, and these are honesty and courage. All of you have earned the right to be here today by winning the trust of the people of Brevard. But along with that honor comes a duty of humility, integrity, and public service.

167. On August 21, 2012, Commissioner Trudie Infantini delivered the following opening invocation:

Let us pray. Heavenly father, as we the elected body for the citizens of Brevard County conduct the people’s business, I pray that you guide us in the decisions we make and help us remember these words of our Founding Fathers as written in our Declaration of Independence: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” Please

guide the Commission to be mindful of the rights and the freedoms of all the individuals. Amen.

*Selection of Invocation Speakers*

168. The Board and its staff are responsible for selecting and scheduling speakers to give opening invocations at the Board's board-room meetings.

169. The speakers are invited for the specific task of giving an invocation to open the meetings.

170. The invocation speaker for each meeting is selected by an individual Commissioner.

171. The five Commissioners take turns selecting speakers, following a rotation system.

172. The Board or its staff periodically create lists of which Commissioner will select the invocation speaker for each scheduled meeting.

173. Board members and their staff send letters and e-mails and make phone calls to identify and schedule invocation speakers, to provide them with instructions, to list them on Board agendas, and to thank them for delivering invocations.

174. The Board thus uses tax-funded resources to implement its invocation practice, including on the selection of invocation speakers.

175. Sometimes the Board has difficulty finding someone willing to give an opening invocation.

176. This sometimes results in the opening invocation being given by a Commissioner or Commissioner's aide, or in a moment of silence being held in lieu of the opening invocation.

*Invocation Procedures*

177. For each board-room meeting, the first item listed on the agenda is the “Call to Order” and the second item listed is the “Invocation.”

178. The selected invocation speaker’s name often appears on the agenda.

179. Typically, at the beginning of each meeting, the County Commissioner who has selected the invocation speaker calls on the speaker to deliver the invocation for that meeting.

180. Typically, a County Commissioner instructs Board members and members of the audience to stand for the opening invocation.

181. The main board room is small enough that County Commissioners can see whether audience members, including audience members in the back row of the room’s seats, are standing during the opening invocation.

182. Often (most recently at the February 3, February 5, March 3, March 17, March 31, July 21, August 6, and August 18, 2015 Board meetings), at the invitation of the Commissioner who introduces the invocation speaker, the invocation speaker provides some information about their house of worship or organization before commencing the opening invocation.

***The Board’s Denials of Requests by Nontheists to Give Opening Invocations***

*Plaintiff Central Florida Freethought Community’s Requests*

183. After *Town of Greece* was decided, plaintiff CFFC sent letters to six counties and fourteen municipalities in Central Florida requesting an opportunity to give opening invocations at municipal governmental meetings.

184. Fourteen of those requests were accepted, while five have not been acted upon.

185. Only one of the twenty governmental bodies — Brevard County — has sent a negative response.

186. Specifically, on May 9, 2014, plaintiff Williamson sent a letter to the Board requesting that a representative of plaintiff CFFC be given an opportunity to deliver an opening invocation at a Board meeting. In this letter, plaintiff Williamson informed the Board “that Humanism is recognized as a religion under the First Amendment in numerous cases and excluding a particular faith group from consideration is unconstitutional.”

(Footnotes omitted.) A copy of this letter is attached hereto as Exhibit 1.

187. Plaintiff Williamson received no response to this letter.

188. On July 22, 2014, plaintiff Williamson again wrote to the Board and again requested that a member of plaintiff CFFC be permitted to deliver an opening invocation. In this letter, he wrote that, by ignoring CFFC’s request, “the Board is excluding members of our organization, that of a minority religion, from the same opportunity as members of majority religions.” A copy of this letter is attached hereto as Exhibit 2.

189. On August 19, 2014, the Board held a meeting during which, among other matters, it discussed how to respond to plaintiff Williamson’s letters.

190. Plaintiff Williamson attended the August 19 meeting and addressed the Board to advocate in favor of CFFC’s request.

191. At the August 19 meeting, in response to a speaker’s comments that certain religions are not invited to give opening invocations before the Board, Commissioner Infantini stated that, in selecting invocation speakers,

My staff and I, we search — I mean I don't have any specific religion — we will go anywhere to find somebody. No, not anywhere. Okay, correct, not anywhere. Not anywhere. There are certain places.

192. At the August 19 meeting, in response to the comments of a speaker who advocated in favor of CFFC's request, Commissioner Andy Anderson said, "For you to say that Christianity isn't under attack, I'd like you to look over at Iraq right now and let me know if Christianity is not under attack."

193. At the August 19 meeting, during the discussion of CFFC's request, Commissioner Anderson subsequently said, "I need all the prayer in my life I can get."

194. At the August 19 meeting, during the discussion of CFFC's request, Commissioner Anderson further said:

I just never understood the concept on — and this is no personal slight to anybody — how you could possibly be offended by something that you do not believe exists. I just never understood that.

195. At the August 19 meeting, the Board unanimously approved a resolution providing that a response letter — which was appended to the resolution, signed by then Board Chair Mary Bolin Lewis, and dated August 19, 2014 — be sent to plaintiff Williamson. A copy of the resolution, with the response letter, is attached hereto as Exhibit 3.

196. The August 19 letter was in fact sent to plaintiff Williamson shortly after the August 19 meeting.

197. The August 19 letter stated, in relevant part:

The Invocation portion of the agenda is an opening prayer presented by members of our faith community. The prayer is delivered during the ceremonial portion of the County's meeting and typically invokes guidance for the County Commission from the highest spiritual authority, a higher authority which a substantial body of Brevard constituents believe to exist. The invocation is also meant to lend gravity to the

occasion, to reflect values long part of the County's heritage and to acknowledge the place religion holds in the lives of many private citizens in Brevard County.

Your website leads us to understand your organization and its members do not share those beliefs or values which, of course, is your choice under the laws of the United States. However, this Commission chooses to stand by the tradition of opening its meetings in a manner acknowledging the beliefs of a large segment of its constituents. . . .

. . . . You or your Brevard members have the opportunity to speak for three minutes on any subject involving County business during the Public Comment portion of our meeting. County business clearly includes the subject of pre-meeting prayers at County Commission meetings. As a practical matter, there are no restrictions on what is said during those three minutes. During Public Comment presentations, this Board has politely listened to Bible readings; political points of view of all varieties; and some of our citizens' sharpest critiques and criticisms of County staff and the County Commission, among other things.

During that segment, members of your organization are free to speak their views and beliefs, or even a closing supplication. You or your members are also free to invoke whatever authorities they choose, including but not limited to, those you have quoted on your website. . . .

198. At the time the August 19 letter was approved, the "Public Comment" section of a Board meeting occurred at the end of each regular Board meeting. *See* Board Resolution 05-332, approved November 28, 2005 and December 6, 2005, § VIII.

199. On December 16, 2014, the Board passed a resolution moving up the first thirty minutes of the "Public Comment" section so that it occurs after the "Resolutions, Awards, and Presentations" and "Consent Agenda" sections of each regular Board meeting.

200. Under the December 16 resolution, if the "Public Comment" section is not concluded within thirty minutes, the remainder occurs "at the conclusion of business specified on the regular commission agenda."

201. Many people who attend Board meetings leave before the "Public Comment" section begins.

*Plaintiff Ronald Gordon's Requests*

202. On August 18, 2014, plaintiff Gordon sent an e-mail to District 3 Commissioner Infantini, the Commissioner of the District in which he resides, stating, "Commissioner Infantini, please allow a member of the Freethought Community to deliver an invocation."

203. On August 19, 2014, Commissioner Infantini e-mailed back:

Ron,

Would you like to give the invocation?

204. On August 20, 2014, plaintiff Gordon responded, "I am an Atheist in Brevard County and I am willing to give the invocation."

205. On August 27, 2014, plaintiff Gordon sent the following e-mail to Commissioner Infantini: "I sent you the below [above-described] email last week, but I have not received a response. I am an Atheist living in Brevard County and I would like to give an invocation."

206. On September 12, 2014, plaintiff Gordon sent the following e-mail to Commissioner Infantini:

On August 19 you asked if I would like to give an invocation at a Brevard County Commission meeting. I responded on August 20 and again on August 27 that I am an Atheist living in Brevard County and I would like to give an invocation.

I truly appreciate the opportunity and would appreciate a response to my acceptance of your offer.

207. After sending her August 19, 2014 e-mail, Commissioner Infantini never responded to plaintiff Gordon.

208. A copy of plaintiff Gordon's e-mail correspondence with Commissioner Infantini is attached hereto as Exhibit 4.

*Requests from Others*

209. On August 21, 2014, the Rev. Ann Fuller (not a plaintiff in this case) sent an e-mail to all five members of the Board. In the e-mail, Rev. Fuller informed the Board that she is a Brevard County resident, “ordained clergy,” and a “known humanist in the community.” She added that she has “served Brevard County humanists as a Community Minister since 2006 affiliated with the UU [Unitarian Universalist] Church of Brevard in West Melbourne and the UU Congregation of Cocoa”; has “officiated countless humanist weddings, funerals, and child dedications for both UUs in our community and humanists”; and gave an invocation some years ago at the ceremonial groundbreaking for a senior center at the invitation of the Brevard County Parks and Recreation Department. She requested “an opportunity to give an invocation at an upcoming board meeting.”

210. The same day, District 3 Commissioner Infantini responded to Rev. Fuller through an e-mail that stated, in relevant part:

I am willing to have most anyone offer an invocation. However, by definition, an invocation is seeking guidance from a higher power. Therefore, it would seem that anyone without a “higher power” would lack the capacity to fill that spot. . . .

Further, I welcome “freethinkers” being the only “freethinker” on the board. It just doesn’t seem like the invocation is the correct place for it is all.

211. Rev. Fuller sent Commissioner Infantini a response e-mail the same day explaining that an invocation does not need to be to a “higher power” and reiterating her request to give a Humanist invocation.

212. Commissioner Infantini then sent Rev. Fuller, still that same day, a response e-mail identical, word for word, to the one she had sent Rev. Fuller earlier that day.

213. On November 5, 2014, Rev. Fuller sent an e-mail to all five members of the Board asking them to “reconsider my offer as a local ordained member of the clergy to deliver an appropriate and meaningful humanist invocation prior to a County Commission meeting.”

214. On November 6, 2014, Rev. Fuller sent a letter to the Board stating, “I urge the Commissioners to allow me, or another humanist in our community, to deliver just one invocation prior to a single meeting, thereby demonstrating sensitivity of the diversity of the constituency and awareness of U.S. legal precedent.”

215. Rev. Fuller received no response to her November 5 and 6 communications.

216. On or about August 28, 2014, the Board received a letter from the Anti-Defamation League (“ADL”) urging the Board to reconsider its decision to bar atheists and Humanists from giving opening invocations. A copy of this letter is attached hereto as Exhibit 5.

217. At a November 6, 2014 meeting, the Board unanimously approved a resolution providing that a response letter — which was appended to the resolution, signed by then Board Chair Mary Bolin Lewis, and dated November 6, 2014 — be sent to the ADL. A copy of the resolution, with the response letter, is attached hereto as Exhibit 6.

218. The November 6 letter was in fact sent to the ADL shortly after the November 6 meeting.

219. The November 6 letter stated, in relevant part:

[Y]our suggestion to allow atheists to provide the invocation would, in fact, show hostility toward the faith-based community . . . . Therefore, this Board has no desire to follow your suggested action since that action could be easily construed, either overtly or by implication, as evidencing vicarious disdain, scorn or disrespect for the beliefs of our faith-based community.

. . . . It follows that the Board’s decision to avoid hostility toward the faith-based community precludes any claim of discrimination. Indeed, if your characterization of secular humanism as a religion is valid, modifying the county’s time-honored pre-meeting tradition by affording a secular humanist the opportunity to recite a secular “prayer” during the faith-based invocation portion of the Board’s agenda could be perceived as an endorsing [sic] a specific religion—*secular humanism*—in violation of the Establishment Clause because all Board actions at the meeting held following such a *secular “prayer”* invariably involve an underlying *secular purpose*. Atheists or secular humanists are still afforded an opportunity to speak their thoughts or supplications during the secular business portion of the agenda under “public comment.”

*Plaintiffs’ Counsel’s Requests*

220. On January 26, 2015, the plaintiffs’ counsel (Americans United for Separation of Church and State, the Freedom From Religion Foundation, the American Civil Liberties Union, and the American Civil Liberties Union of Florida) sent a letter to the Board requesting that plaintiffs Williamson and Hansel, as well as non-plaintiff Rev. Fuller, be granted the opportunity to deliver an opening invocation at a Board meeting. The letter requested a response from the Board by February 6, 2015. A copy of this letter (not including exhibits to it) is attached hereto as Exhibit 7.

221. Neither the Board nor any Commissioner responded to the January 26, 2015 letter.

222. On May 26, 2015, the plaintiffs’ counsel sent another letter to the Board requesting that plaintiffs Williamson, Hansel, Becher, Gordon, and Koeberl, or other representatives of plaintiffs CFFC, SCFA, and HCSC, be granted the opportunity to deliver an opening invocation at a Board meeting. The letter asked for a response from the Board by June 16, 2015, and informed the Board that a failure to respond by that date would be interpreted as a denial of the request. A copy of this letter is attached hereto as Exhibit 8.

223. On May 28, 2015, the County Attorney sent the plaintiffs' counsel a letter stating that the Board's next regular meeting was scheduled for July 7, and that he would bring the May 26 letter before the Board at that meeting. A copy of this letter is attached hereto as Exhibit 9. Neither the County Attorney nor the Board sent the plaintiffs or their counsel any other correspondence responding to the May 26 letter by June 16, 2015 or thereafter.

224. At its July 7, 2015 meeting, the Board unanimously approved Resolution No. 2015-101, a copy of which (not including exhibits) is attached hereto as Exhibit 10.

225. Resolution No. 2015-101 adopted a formal policy that "allows the traditional faith-based invocation prior to the beginning of the Board's secular business agenda and subsequent 'secular invocations' during the Public Comment section of that secular agenda."

226. The resolution states, "the Board wishes to formalize a policy on invocations that is not hostile to faith-based religions and that does not endorse secular humanism or non-belief over traditional faith-based religions comprised of constituents who believe in God." Ex. 10 at 1.

227. The resolution asserts, "For at least the past forty-four years, the Brevard County Board of County Commissioners has observed the tradition of calling for a ceremonial invocation in the form of a short prayer delivered prior to the commencement of the Board's business agenda at regular meetings of the Board." *Id.*

228. The resolution further states:

4. On a rotating basis, individual Board members have predominately selected clerics from monotheistic religions and denominations—including Christian, Jewish and Muslim—to present the invocation.

5. Prior to the invocation, in recognition of the traditional positive role faith-based monotheistic religions have historically played in the community, the Board through

one or more of its member[s], typically interacts with the presenting cleric by offering the cleric the opportunity to tell the Board, meeting attendees and the viewing audience something about their religious organization, which may include the organization's location and ongoing and future programs or events that might be of interest to the community at large.

6. Virtually all invocations and opportunities to speak afforded to clerics during the invocation segment prior to a regular meeting last less than five minutes.

*Id.* at 2.

229. The resolution further asserts,

supplanting traditional ceremonial pre-meeting prayer before the Board's secular business agenda at regular Board meetings—a segment reserved for the acknowledgement and interaction with the county's faith-based community—with an “invocation” by atheists, agnostics or other persons represented by or associated with [Freedom From Religion Foundation] and [Americans United for Separation of Church and State] could be viewed as County hostility toward monotheistic religions whose theology and principles currently represent the minority view in Brevard County.

*Id.* at 9.

230. The resolution thus amends prior Board resolutions concerning public comment to provide:

Secular invocations and supplications from any organization whose precepts, tenets or principles espouse or promote reason, science, environmental factors, nature or ethics as guiding forces, ideologies, and philosophies that should be observed in the secular business or secular decision making process involving Brevard County employees, elected officials, or decision makers including the Board of County Commissioners, fall within the current policies pertaining to Public Comment and must be placed on the Public Comment section of the secular business agenda. Pre-meeting invocations shall continue to be delivered by persons from the faith-based community in perpetuation of the Board's tradition for over forty years.

*Id.* at 10–11.

231. The resolution further provides, “The Board does restrict each Public Comment speaker to three minutes of speaking time.”

232. The resolution was sponsored by District 4 Commissioner Curt Smith.

233. Commissioner Smith was quoted in a newspaper article as stating on July 6, 2015, “The invocation is for worshipping the God that created us. [Atheists and agnostics] are not going to take the place of the godly invocation. Absolutely not.” Dave Berman, *Atheist group to sue Brevard over invocation policy*, Florida Today, July 7, 2015, <http://www.floridatoday.com/story/news/local/2015/07/06/commission-asked-stick-faith-based-invocations/29786135/>.

234. Commissioner Smith was quoted by a radio station as stating, on or about July 7, 2015, about the people requesting to give nontheistic opening invocations, “If they were a religion and they honored the word of God, they would have every opportunity to speak to us during that period that we set aside to honor God.” Renata Sago, *Atheists Sue Brevard County Board for Religious Discrimination*, WMFE, July 7, 2015, <http://www.wmfe.org/atheists-sue-brevard-county-board-for-religious-discrimination/50888>.

### ***Nontheistic Invocations***

235. Nontheists, like theists, are fully capable of delivering opening 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 upon 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.

236. If allowed to give opening invocations at Board meetings, the plaintiffs would give invocations that meet these criteria and are similar to the nontheistic invocations described in paragraphs 237 to 242 below.

237. For example, on June 16, 2014, plaintiff Williamson delivered the following opening invocation to the Board of County Commissioners of Osceola, Florida:

Through the millennia we as a society have learned the best way to govern the people is for the people to govern themselves. Today, in this tradition, we travel from our homes and businesses across the county; citizens, staff, and those elected converge on this chamber to work as one community united and indivisible by nearly every measure. Each of us arrives as individuals with unique ideas and experiences but all with a need, or in a spirit of goodwill, to fulfill the needs of others.

Citizens request assistance and offer their concerns and we are ever grateful for their interest and for their trust in the process. Staff provides invaluable expertise in their particular field and we truly appreciate their continued service. Elected officials listen, debate, and choose the path forward for us all out of a sincere desire to serve and honor the people of Osceola County while shaping its future. We all offer our thanks in that often thankless task.

When we leave this chamber this evening let us carry with us this same spirit of service and goodwill tomorrow and every day that follows.

This is how we assemble to serve and to govern ourselves.

*Secular Reflections*, Central Florida Freethought Community,

<http://cflfreethought.org/secular-reflections> (last visited Aug. 11, 2015).

238. On July 17, 2014, plaintiff Williamson delivered the following opening invocation 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.*

239. On September 9, 2014, the following opening invocation was delivered to the Board of County Commissioners of Seminole County, Florida:

Thank you Mr. Chairman, board members and fellow citizens of Seminole County.

I would ask that you survey the room and regard our community gathered here.

This moment of reflection is to remind us that we are here to work in harmony even when there may be honest disagreement. We gather together this morning to share our collective wisdom to face the needs of our county. We are here to consider many issues and find the optimum solutions.

As you work through the agenda today, be confident that what you are doing serves to build a better Seminole County. In the words of Albert Einstein, "Nothing truly valuable can be achieved except by the unselfish cooperation of many individuals."

THAT is what is happening here today.

The success of our government stems from commitment of you and your staff to serving the people. It isn't in strength in numbers, but strength in our actions. May we learn from how we faced our past challenges and in This meeting This morning, may each of us here give and receive the supportive communication we need to develop and grow our county, together.

I would like to close with a quote from Henry Ford.

Coming together is a beginning.  
Keeping together is progress.  
Working together is success.

May today's meeting be nothing but successful.

Thank you.

*Id.*

240. On June 2, 2014, the following opening invocation was delivered to the City

Council of Wheaton, Illinois:

Let us rise each morning, and strive each day, to do only that which brings happiness and joy to others, and let us avoid doing things that cause others hurt and pain. Let us use our minds and our reason to encourage behavior based on the mutuality and reciprocity inherent in human relationships, and let us always respect the dignity and worth of each other. And let us, above all, love one another, not to obtain rewards for ourselves now or hereafter or to avoid punishment, but rather always to bring each other contentment and peace. So be it.

*Secular Invocation Resources*, The Humanist Society, <http://humanist-society.org/invocations/resouces/> (last visited Aug. 11, 2015).

241. 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.

*Secular Reflections*, Central Florida Freethought Community,

<http://cflfreethought.org/secular-reflections> (last visited Aug. 11, 2015).

242. 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.

*Secular Invocation Resources*, The Humanist Society, <http://humanist-society.org/invocations/resouces/> (last visited Aug. 11, 2015).

243. Many additional secular invocations delivered before legislatures and municipal entities can be found at <http://humanist-society.org/invocations/resouces/> and at <http://cflfreethought.org/secular-reflections>.

244. Other governmental bodies that have allowed nontheistic opening invocations to be delivered at their meetings include the Washington State House of Representatives; the Town Board of Greece, New York; the City Council of Orlando, Florida; the City Council of Tampa, Florida; the City Council of Clearwater, Florida; the City Council of Pensacola, Florida; the City Council of New Orleans, Louisiana; the City Council of El Paso, Texas; 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; the City Council of Wilkes-Barre, Pennsylvania; and the County Commission of Cobb County, Georgia. *See Secular Reflections*, Central Florida Freethought Community, <http://cflfreethought.org/secular-reflections> (last visited Aug. 11, 2015); *Secular Invocation Resources*, The Humanist Society, <http://humanist-society.org/invocations/resouces/> (last visited Aug. 11, 2015).

*Impact of the County's Discriminatory Policy*

*Nontheists in America*

245. Nontheists comprise a significant and growing minority population in the United States.

246. A 2015 study published by the Pew Research Center reported the following data as of 2014:

247. 22.8 percent of Americans identified themselves as having no religious affiliation in 2014, up from 16.1 percent in 2007. Pew Research Center, *America's Changing Religious Landscape* 4 (2015), <http://www.pewforum.org/files/2015/05/RLS-05-08-full-report.pdf>.

248. 3.1 percent of Americans identified themselves as atheists in 2014, and 4.0 percent identified themselves as agnostics, up from 1.6 percent and 2.4 percent in 2007, respectively. *Id.*

249. 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.

250. 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.

251. Similarly, another study, the General Social Survey, reported that 19.7 percent of Americans had no religious affiliation in 2012, compared to 7.7 percent in 1991. Institute for the Study of Societal Issues, *More Americans Have No Religious Preference: Key Finding from the 2012 General Social Survey* 11 (2013),

[http://issi.berkeley.edu/sites/default/files/shared/docs/Hout%20et%20al\\_No%20Relig%20Pre%202012\\_Release%20Mar%202013.pdf](http://issi.berkeley.edu/sites/default/files/shared/docs/Hout%20et%20al_No%20Relig%20Pre%202012_Release%20Mar%202013.pdf).

252. The General Social Survey further reported that 3.1 percent of Americans did not believe in God in 2012 (compared with 2.2 percent in 1991) and that 5.6 percent of Americans in 2012 (compared with 4.1 percent in 1991) agreed with the statement, “I don’t know whether there is a God and I don’t believe there is any way to find out.” *Id.* at 12.

253. Nontheists also comprise a significant minority population in Brevard County.

254. The Pew Research Center’s 2015 study reported that, as of 2014, 24 percent of Florida residents had no religious affiliation. *America’s Changing Religious Landscape*, *supra*, at 146.

255. A Pew Forum study released in 2008 reported that six percent of Florida residents (compared to five percent of all Americans) did not believe in God, and that three percent of Florida residents (compared to four percent of all Americans) were uncertain as to whether there is a God. The Pew Forum on Religion & Public Life, *U.S. Religious Landscape Survey: Religious Beliefs and Practices: Diverse and Politically Relevant* 159 (2008), <http://www.pewforum.org/files/2008/06/report2-religious-landscape-study-full.pdf>.

256. According to the *2010 U.S. Religion Census: Religious Congregations & Membership Study* published by the Association of Statisticians of American Religious Bodies (ASARB), only 34.9 percent of Brevard County residents were affiliated with a religious congregation as of 2010. *See County Membership Report: Brevard County, Florida*, Association of Religion Data Archives (2010), [http://www.thearda.com/rcms2010/r/c/12/rcms2010\\_12009\\_county\\_name\\_2010.asp](http://www.thearda.com/rcms2010/r/c/12/rcms2010_12009_county_name_2010.asp). This

study reported only percentages of people affiliated with a congregation, not percentages of people professing religious belief. *See id.*; *Sources for Religious Congregations and Membership Data: Maps and Reports: Data Sources*, Association of Religion Data Archives, [http://www.thearda.com/RCMS2010/RCMS\\_Notes.asp](http://www.thearda.com/RCMS2010/RCMS_Notes.asp) (last visited Aug. 11, 2015). By comparison, however, this study reported that 48.8 percent of all U.S. residents and 39.1 percent of all Florida residents were affiliated with a religious congregation as of 2010. *See U.S. Membership Report*, Association of Religion Data Archives (2010), [http://www.thearda.com/rcms2010/r/u/rcms2010\\_99\\_US\\_name\\_2010.asp](http://www.thearda.com/rcms2010/r/u/rcms2010_99_US_name_2010.asp); *State Membership Report: Florida*, Association of Religion Data Archives (2010), [http://www.thearda.com/rcms2010/r/s/12/rcms2010\\_12\\_state\\_name\\_2010.asp](http://www.thearda.com/rcms2010/r/s/12/rcms2010_12_state_name_2010.asp).

257. The U.S. Department of Veterans Affairs (“VA”) furnishes upon 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 Aug. 11, 2015). Among the approximately sixty recognized “emblems of belief” that the VA is willing to place on a government-provided headstone or grave-marker are an image of an atom to represent atheism and an emblem consisting of a human in an “H” shape to represent Humanism. *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 Aug. 11, 2015).

258. In 2014, the United States 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://thehumanist.com/news/national/now-you-can-have-humanist-on-your-army-tag>.

259. In 2015, the United States Bureau of Prisons agreed to recognize Humanism as a religious preference for federal prisoners. *See, e.g.*, Steven DuBois, *Federal Prisons Agree to Recognize Humanism as Religion*, AP: The Big Story, July 27, 2015, <http://bigstory.ap.org/article/12cfba9ea684438baae0badef1d5b1fe/federal-prisons-agree-recognize-humanism-religion>.

260. A number of major U.S. universities have Humanist chaplaincies, including Stanford, Harvard, Yale, Columbia, Rutgers, and American. *See Humanist Chaplaincies*, Humanist Chaplaincies, <http://humanistchaplaincies.org/humanist-chaplaincies/> (last visited Aug. 11, 2015).

#### *Nontheist Contributions to Society*

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

262. Famous businesspeople who have been identified as nontheists include printing innovator John Baskerville, Pinkerton detective agency founder Allen Pinkerton, and Facebook founder and CEO Mark Zuckerberg.

263. 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.

264. 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.

265. 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.

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

267. Well-known writers who have been identified as nontheists include Douglas Adams, Isaac Asimov, Dave Barry, 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.

268. 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.

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

270. Well-known comedians who have been identified as nontheists include Phyllis Diller, Ricky Gervais, Kathy Griffin, Bill Maher, Patton Oswalt, Paula Poundstone, Ray Romano, and Sarah Silverman.

271. 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.

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

273. Citations supporting paragraphs 261 to 272 above are set forth in Exhibit 11 hereto.

*Negative Treatment of Nontheists*

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

275. 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://www.trincoll.edu/Academics/centers/issc/Documents/Cragun%20et%20al%20%20202012%20%20On%20the%20Receiving%20End%20Discrimination%20Toward%20the%20No.pdf>.

276. 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), [www.secularismandnonreligion.org/articles/10.5334/snr.ac/galley/3/download/](http://www.secularismandnonreligion.org/articles/10.5334/snr.ac/galley/3/download/).

277. According to a 2012 Gallup poll, 43 percent of Americans would not vote for an atheist for President. Of the groups listed in this poll, atheists were the group that Americans were least likely to vote for. 40 percent of respondents said that they would not be willing to vote for a Muslim for President, 30 percent for a gay or lesbian person, 18 percent for a member of the Church of Jesus Christ of Latter-day Saints, 7 percent for a Latino, 6 percent for a Jew, 5 percent for a Catholic, and 4 percent 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://www.gallup.com/poll/155285/atheists-muslims-bias-presidential-candidates.aspx>.

278. According to a 2003 study, the American Mosaic Project Survey, 47.6 percent of Americans would disapprove if their child wanted to marry an atheist. Again, atheists drew the highest percentage of disapproving responses of all groups asked about in this survey question: 33.5 percent of Americans answered that they would disapprove if their child wanted to marry a Muslim, 27.2 percent would disapprove an African American spouse, 18.5 percent would disapprove a Latino spouse, 18.5 percent would disapprove an Asian American spouse, 11.8 percent would disapprove a Jewish spouse, 6.9 percent would disapprove a conservative Christian spouse, and 2.3 percent would disapprove a Caucasian spouse. Penny Edgell, Joseph Gerteis, and 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>.

279. The American Mosaic Project Survey further reported that atheists drew the highest disapproval level of all groups listed when survey respondents were asked whether they agreed with the statement, "This Group Does Not At All Agree with My Vision of American Society." 39.6 percent of respondents agreed with this statement with respect to atheists, compared to 26.3 percent 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.*

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

281. The discrimination that nontheists suffer has included loss of jobs, abusive family situations, organized shunning campaigns in their communities, harassing telephonic and written communications, death threats, physical violence against property, and physical assault. *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 the County's Discriminatory Policy*

282. For the reasons set forth above in paragraphs 22, 36, 51–53, 63, 76, 84, 94, and 102, as well as those set forth below in paragraphs 283 to 287, the plaintiffs have been harmed, continue to be harmed, and are threatened with future harm by the County's discriminatory policy, custom, and practice of allowing theists to give opening invocations at Board meetings while prohibiting nontheists from doing so.

283. The County's 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.

284. The County's discriminatory policy, custom, and practice communicates a message of county-wide disfavor of the plaintiffs and the plaintiffs' members.

285. The County's 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.

286. This stigmatic harm is especially injurious because it comes from a representative body that is meant to reflect the diverse beliefs of all constituents.

287. Further, the County benefits theistic organizations by allowing their representatives to use the invocation opportunity to promote their organizations, in association with the power and prestige of government, while denying such a benefit to the plaintiffs.

288. Non-plaintiff, nontheist County residents have informed the Board that its discriminatory invocation policy imposes harm on them similar to the harm complained of by the plaintiffs.

289. On August 20, 2014, a non-plaintiff County resident sent the Board an e-mail stating, in relevant part:

[Y]ou can imagine my dismay to hear of your decision today to not allow Brevard County commission meeting[s] to be opened with an invocation by a person of non belief. To hear of your relegation of the beliefs of so many of your constituents, those of us that chose not to believe in any of the myriad of faith based beliefs, to a place in the county *below* those that believe is a slap in the face to those of us who have been proud to call this county home. Allowing us a few moments at the end of a meeting to speak our own peace is little different than moving us to the back of the bus; pushed aside like a problem to be ignored after the “real business” is concluded.

290. On August 20, 2014, another non-plaintiff County resident objecting to the Board's decision to prohibit nontheists from giving opening invocations sent the Board an e-mail stating, in relevant part:

I live here in Brevard County, and I am an atheist.

Just today I received this year's estimated tax bill. Then I pick up the paper and find out that, according to my Commissioners, "my kind" isn't as good as "your kind." Apparently you have no problem taking my money, while rejecting my equal status.

As a citizen of Brevard County, I'm offended by your actions.

I resent being treated as a second class citizen by my own Commissioners. I'm not inferior to you, nor are my beliefs inferior to yours.

291. On August 20, 2014, another non-plaintiff County resident objecting to the Board's decision to prohibit nontheists from giving opening invocations sent the Board an e-mail stating, in relevant part:

You are not allowed to treat the non-religious as second-class citizens. We are entitled to the same degree of participation in government activity as people who share your religious views. Just because some of us draw awe and inspiration from the universe without believing in supernatural entities, doesn't mean we are incapable of delivering an inspirational and solemn message appropriate for the occasion.

. . . . It is not your job to tell people what religious views are acceptable and which ones are not. It is not your job to give special privileges [to] people who share the tenet of theism that your religion contains. . . .

292. On September 17, 2014, another non-plaintiff County resident sent at least one of the Commissioners an e-mail stating, in relevant part:

I was very disappointed to read that the Brevard County Commissioners have voted to deny atheists the right to hold an invocation before county meetings. As a voting atheist in this county I feel that it directly excludes me from participating in local government . . . .

293. On August 17, 2014, another non-plaintiff County resident objecting to the Board's decision sent at least some of the Commissioners an e-mail stating, in relevant part:

While we (atheists) do not believe in gods or devils or other superstitions[,] we are nevertheless a part of the "faith" community all the same. How? [B]ecause even atheists can consider themselves Humanists or Cultural Jews. I respectfully request you reconsider your decision.

You need to be inclusive of all people's heritage and faith background, even if it means no particular god belief.

294. On August 23, 2014, another non-plaintiff County resident objecting to the Board's decision sent at least one of the Commissioners an e-mail stating, in relevant part:

The commission should represent all of their constituents and not just the ones who happen to believe in the same mythology as the majority. I think it sends an unnecessary, and negative message to the rest of your constituents about the equity of the treatment that they might expect on the secular issues before the commission.

295. On August 20, 2014, another non-plaintiff County resident objecting to the Board's decision sent at least one of the Commissioners an e-mail stating, in relevant part:

Really appalled at the vote on your meeting invocations. . . .

To address one point you thought you made. It isn't about being upset at something you don't believe in, it is about a practice that almost takes glee in giving privileged status to one group which by it's [sic] very nature excludes another. Government should never do that. . . .

. . . . Shouldn't everyone in your community be welcome? . . .

### **Claims for Relief**

#### ***First Claim for Relief:***

#### ***Violation of the Establishment Clause of the First Amendment to the U.S. Constitution***

296. Paragraphs 1 to 295 above are incorporated as if fully set forth herein.

297. 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 and municipal governments, including Brevard County, through the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

298. The County's policy, custom, and practice of allowing theists but not nontheists to give opening invocations at Board meetings violates the Establishment Clause for a number of reasons, including those stated below.

299. The County's 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 monotheistic beliefs and individuals in particular — while disfavoring, disadvantaging, disparaging, denigrating, and discriminating against nontheistic beliefs and individuals, including the plaintiffs.

300. The County's policy, custom, and practice excessively entangles the County with religion by involving County officials in religious judgments about matters such as whether nontheists' beliefs are acceptable to the majority of County residents, and whether the content of nontheists' proposed opening invocations is theologically permissible or sufficient.

301. The County's policy, custom, and practice produces divisiveness along religious lines in the County.

302. In addition, the County's policy, custom, and practice of instructing audience members to stand for opening invocations at Board meetings violates the Establishment Clause because it coerces County residents, including plaintiff Becher, to participate in prayer.

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

303. Paragraphs 1 to 302 above are incorporated as if fully set forth herein.

304. 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 and municipal governments, including Brevard County, through the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

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

306. 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.

307. The County’s policy, custom, and practice of allowing theists but not nontheists to give opening invocations at Board meetings violates the Free Exercise Clause by (a) requiring nontheists, including the plaintiffs, to adopt or profess religious beliefs to which they do not subscribe as a condition of participation 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***

308. Paragraphs 1 to 307 above are incorporated as if fully set forth herein.

309. 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 and municipal governments, including Brevard County, through the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

310. The opportunity to perform opening invocations at governmental meetings is not a public forum.

311. Thus, governmental bodies may — indeed, must — regulate such invocations to ensure that they do not advance or proselytize any one, or disparage any other, faith or belief.

312. On the other hand, as a result of constitutional restrictions that are at least in part rooted in the Free Speech Clause, governmental bodies may not censor opening invocations given by private citizens at governmental meetings to entirely prohibit the invocations from reflecting or referencing the beliefs or viewpoints of those who give them.

313. The Free Speech Clause also prohibits governmental bodies from conditioning participation in governmental activities on a person’s beliefs or affiliations.

314. The County’s policy, custom, and practice of allowing theists but not nontheists to give opening invocations at Board meetings violates the Free Speech Clause because it (a) prohibits nontheists, including the plaintiffs, from giving opening invocations that reflect or reference their beliefs, at governmental meetings where theists are allowed to do so; and (b) denies nontheists, including the plaintiffs, on account of their nontheistic beliefs and affiliations, the opportunity to solemnize governmental meetings.

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

315. Paragraphs 1 to 314 above are incorporated as if fully set forth herein.

316. 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.” This provision applies fully to municipal governments, including Brevard County.

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

318. 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.

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

320. The County’s policy, custom, and practice of allowing theists but not nontheists to give opening invocations at Board meetings violates the Equal Protection Clause by treating nontheists, including the plaintiffs, differently based on religious belief and identity, without a compelling governmental interest served by narrowly tailored means.

***Fifth Claim for Relief:  
Violation of Article I, Section 2 of the Florida Constitution***

321. Paragraphs 1 to 320 above are incorporated as if fully set forth herein.

322. Article I, Section 2 of the Florida Constitution provides, in relevant part, that “[a]ll natural persons, female and male alike, are equal before the law and have inalienable rights” and that “[n]o person shall be deprived of any right because of race, religion, national origin, or physical disability.”

323. The County’s policy, custom, and practice of allowing theists but not nontheists to give opening invocations at Board meetings violates Article I, Section 2 of the Florida Constitution by treating nontheists, including the plaintiffs, differently based on religious belief and identity.

***Sixth Claim for Relief:  
Violation of Article I, Section 3 of the Florida Constitution***

324. Paragraphs 1 to 323 above are incorporated as if fully set forth herein.

325. Article I, Section 3 of the Florida Constitution provides, in relevant part, that “[t]here shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof” and that “[n]o revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.”

326. The County’s policy, custom, and practice of allowing theists but not nontheists to give opening invocations at Board meetings violates Article I, Section 3 of the Florida Constitution, including for reasons similar to those set forth in paragraphs 299 to 301 above.

327. In addition, the County’s policy, custom, and practice of instructing audience members to stand for opening invocations at Board meetings violates Article I, Section 3 because it coerces County residents, including plaintiff Becher, to participate in prayer.

**Prayer for Relief**

328. Paragraphs 1 to 327 above are incorporated as if fully set forth herein.

329. By violating the Establishment, Free Exercise, Free Speech, and Equal Protection Clauses of the U.S. Constitution and Sections 2 and 3 of Article I of the Florida Constitution as described above, the County has harmed the plaintiffs, is continuing to harm them, and threatens future harm against them.

330. By violating the Establishment, Free Exercise, Free Speech, and Equal Protection Clauses as set forth above, the County has, 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.

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

332. By virtue of the County's violation of Sections 2 and 3 of Article I of the Florida Constitution, the plaintiffs are entitled to a remedy under Florida law.

333. The plaintiffs accordingly request the relief specified below.

***Injunction***

334. The plaintiffs have no adequate remedy at law.

335. By prohibiting the plaintiffs from delivering opening invocations at Board meetings, and by instructing the audience at Board meetings to stand for opening

invocations, the County has inflicted, and will continue to inflict, irreparable harm upon the plaintiffs.

336. Accordingly, the plaintiffs request a permanent injunction (a) requiring defendant Brevard County to permit the individual plaintiffs and leaders and members of the organizational plaintiffs to deliver opening invocations at Board meetings; (b) prohibiting Brevard County from discriminating against nontheists in selecting speakers to deliver opening invocations at Board meetings; and (c) prohibiting Brevard County Commissioners, officials, and employees from instructing audience members to stand for opening invocations at Board meetings.

***Declaratory Judgment***

337. An actual controversy exists between the parties as to whether the County has violated and continues to violate the U.S. Constitution and the Florida Constitution by prohibiting nontheists from delivering opening invocations at Board meetings while allowing theists to do so, and by instructing the audience at Board meetings to stand for opening invocations.

338. Accordingly, the plaintiffs request a declaratory judgment that defendant Brevard County has violated, and is continuing to violate, the U.S. Constitution and the Florida Constitution by (a) prohibiting nontheists from delivering opening invocations at Board meetings while allowing theists to do so, and (b) instructing audience members to stand for opening invocations at Board meetings.

*Damages*

339. Plaintiffs Williamson, Hansel, Becher, Gordon, and Koeberl seek an order awarding them compensatory damages, as according to proof, against the County, for the humiliation and mental and emotional harm and anguish they suffered (a) as a result of the County's discriminatory decision to prohibit them, on account of their nontheistic beliefs and identities, to deliver opening invocations at Board meetings; and (b) in the case of plaintiff Becher, as a result of being subjected to the County's coercive practice of instructing the audience to stand for opening invocations at Board meetings.

340. Plaintiffs Central Florida Freethought Community, Space Coast Freethought Association, and Humanist Community of the Space Coast seek an order awarding them compensatory damages, as according to proof, against the County, for the economic harm of being deprived of the opportunity to promote their organizations that is granted to representatives of theistic organizations in conjunction with the presentation of opening invocations at Board meetings.

341. In the alternative, if they are not awarded compensatory damages, all the plaintiffs seek an order awarding nominal damages in the amount of one dollar to each of them, against the County, for violating the plaintiffs' constitutional rights by (a) prohibiting them from delivering opening invocations at Board meetings; (b) using the tax payments of plaintiffs Hansel and Gordon to support the selection of invocation speakers on a religiously discriminatory basis; and (c) subjecting plaintiff Becher to the County's coercive practice of instructing the audience to stand for opening invocations.

*Attorneys' Fees and Costs*

342. 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*

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

Respectfully submitted,

By: /s/ Alex J. Luchenitser  
Alex J. Luchenitser (Trial Counsel)

Date: August 19, 2015

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 19, 2015, I electronically filed the foregoing document with the Clerk of Court by using CM/ECF, which automatically serves all counsel of record for the defendant.

By: /s/ Alex J. Luchenitser Date: August 19, 2015  
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