

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

BRIAN FIELDS, PAUL TUCKER,
DEANA WEAVER, SCOTT
RHOADES, JOSHUA
NEIDERHISER, PENNSYLVANIA
NONBELIEVERS, INC.,
DILLSBURG AREA
FREETHINKERS, and
LANCASTER FREETHOUGHT
SOCIETY,

Plaintiffs,

v.

SPEAKER OF THE
PENNSYLVANIA HOUSE OF
REPRESENTATIVES,
PARLIAMENTARIAN OF THE
PENNSYLVANIA HOUSE OF
REPRESENTATIVES, and
REPRESENTATIVES FOR
PENNSYLVANIA HOUSE
DISTRICTS 92, 95, 97, 193, and 196,
all solely in their official capacities,

Defendants.

Civil Action

No. _____

COMPLAINT

Introduction

1. In *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014), the U.S. Supreme Court affirmed that governmental entities may open their meetings with invocations that typically have theistic content. But the Court also ruled that

governmental bodies must “maintain[] a policy of nondiscrimination” in deciding who may present invocations, and that the relevant policies or practices must not “reflect an aversion or bias . . . against minority faiths.” *Id.* at 1824. Thus, in upholding the invocation practice of the town at issue, the Court emphasized that the town’s “leaders maintained that a minister or layperson of any persuasion, including an atheist, could give the invocation.” *Id.* at 1816.

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

3. The plaintiffs are nontheist individuals and organizations who wish to give opening invocations before the House. Like people who believe in God, the plaintiffs have strong belief systems about what is right and wrong and how they should live their lives. Like believers in theistic faiths, the plaintiffs meet in groups to discuss and act upon their beliefs, read and study seminal texts about their belief systems, follow leading authors of such texts, celebrate special days of

the year on which they observe their beliefs, and provide volunteer services to their communities based on their beliefs. Like theists, the plaintiffs are capable of giving inspiring and moving invocations, similar to nontheistic invocations that have been given in other communities across the United States. There is just one significant difference between people whom the defendants allow to give opening invocations and the plaintiffs: the former believe in God, while the plaintiffs do not.

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

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

Jurisdiction and Venue

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

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

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

Parties

Plaintiffs

Brian Fields

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

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

11. As explained by the American Humanist Association, “Humanism is a progressive philosophy of life that, without theism and other supernatural beliefs, affirms our ability and responsibility to lead ethical lives of personal fulfillment that aspire to the greater good of humanity.” *What is Humanism*, American Humanist Association, <http://americanhumanist.org/Humanism> (last visited Aug.

11, 2016). “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 AHA*, American Humanist Association, <http://americanhumanist.org/AHA> (last visited Aug. 11, 2016). 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, http://americanhumanist.org/humanism/Humanist_Manifesto_III (last visited Aug. 11, 2016).

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

13. Since 2011, plaintiff Fields has been the president of plaintiff Pennsylvania Nonbelievers, Inc., an organization for nontheists that is described in detail in paragraphs 76 to 90 below. As president of Pennsylvania Nonbelievers,

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

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

15. Plaintiff Fields is a co-chair of the Secular Coalition for Pennsylvania, an organization that engages in advocacy—including before the Pennsylvania legislature—to prevent and remedy violations of church-state separation. Plaintiff Fields is also president of the Pennsylvania Freethought Organization Coalition,

which helps freethought groups in Pennsylvania to get started and grow. He further organizes and participates in conferences where fellow atheists congregate, share their experiences, and discuss their beliefs. Together with plaintiff Scott Rhoades, plaintiff Fields organizes the Pennsylvania State Atheist/Humanist Conference—an annual gathering of atheists, agnostics, Secular Humanists, freethinkers, and skeptics that is now entering its fifth year. Plaintiff Fields attends the American Atheists conference yearly and has attended The Amazing Meeting conference, an annual gathering of advocates for science-based skepticism. At such events, he discusses Humanist and nontheistic beliefs with other attendees.

16. Plaintiff Fields has read and studied a number of texts describing atheistic and Humanist beliefs and considers the following such texts to be particularly seminal or important: *The Moral Landscape*, by Sam Harris (a text that explains how science can determine human values and urges people to think about morality in terms of human and animal well-being); *The God Delusion*, by Richard Dawkins (a text arguing that a supernatural creator almost certainly does not exist and that science and philosophy can help people understand the world and guide society better than traditional theistic religion can); *Letter to a Christian Nation*, by Harris (a text that takes issue with various fundamentalist religious beliefs, explains how they harm society, and argues that society should instead be guided by science and utilitarianism); *God Is Not Great*, by Christopher Hitchens (a text that criticizes

organized religions and advocates a more secular life based on science and reason); and *The Believing Brain: From Ghosts and Gods to Politics and Conspiracies*, by Michael Shermer (a text arguing that humans form beliefs first and then find explanations to justify those beliefs, making science the best tool for determining whether our beliefs match reality).

17. Plaintiff Fields admires and studies the work, writings, and statements of the following prominent nontheists: Dawkins (an evolutionary biologist and atheist advocate), Shermer (a nontheist American science writer who focuses on analyzing and debunking claims that cannot be substantiated by reason and science), and Harris (a nontheist author, philosopher, and neuroscientist, and the co-founder and chief executive of a nonprofit that promotes science and secularism).

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

19. Guided by his Humanist belief that he should be a positive influence on the world, plaintiff Fields engages in volunteer work to benefit his community. He fundraises to stop hunger and has raised thousands of dollars through an “Atheists

Fight Hunger” campaign. He has also participated in fundraising for leukemia and lymphoma victims and for individuals with disabilities.

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

21. Plaintiff Fields has been treated negatively by others on many occasions because of his atheistic and Humanist beliefs. For instance, when he has staffed tables to raise awareness of nontheism, people have come up to him and made hostile remarks. Through social media, he has also received threats of harm as a result of his activism on behalf of nontheists.

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

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

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

25. Plaintiff Fields would like to deliver an opening invocation at a House daily session. He would like to do so to benefit the House and the audience with an uplifting and inspiring message, to demonstrate that nontheists can offer meaningful messages on morality, and to obtain treatment equal to that of theistic believers.

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

defendants' conduct is contributing to a societal atmosphere that encourages negative treatment of nontheists.

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

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

Paul Tucker

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

30. Plaintiff Tucker is an atheist and a Secular Humanist. He does not believe in God. His Humanist beliefs include the following: He values logic and rationality. He believes that morality exists without any higher power. His

guiding principles are to try to improve the world for everyone, to do no harm, and to accomplish the most good for the most people.

31. Plaintiff Tucker is a founder and the chief organizer of plaintiff Dillsburg Area Freethinkers, a local organization of nontheists that is described in detail in paragraphs 91 to 98 below. Plaintiff Tucker helped found the group in 2011 because he wanted to create a safe space in which like-minded nontheists could share camaraderie in an otherwise religious community.

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

33. Plaintiff Tucker has read and studied a number of texts concerning nontheistic beliefs and considers the following authors to be important: Carl Sagan (an astronomer, science educator, and agnostic), Christopher Hitchens (an outspoken nontheist author, literary critic, and journalist), Daniel Dennett (an

atheist philosopher and cognitive scientist), David Sloan Wilson (an evolutionary biologist and atheist), and Dawkins. In particular, *The Demon-Haunted World: Science as a Candle in the Dark*, by Sagan (a text that advocates using critical thinking and the scientific method) has greatly influenced plaintiff Tucker's belief system. Plaintiff Tucker also listens to podcasts related to atheism.

34. Guided by his Humanist beliefs, plaintiff Tucker strives to contribute positively to his community. He has served for fifteen years as a vice president of a committee that organizes a fair that brings local organizations together to celebrate the community. He also volunteers with a nonprofit organization that helps homeless and low-income families achieve independence.

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

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

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

positive and meaningful message, and to obtain treatment equal to that of theistic believers.

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

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

Deana Weaver

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

41. Plaintiff Weaver identifies as a freethinker. Freethinkers are people who form their opinions about religion based on reason, independently of established

belief, tradition, or authority. Plaintiff Weaver's freethinking beliefs include the following: She believes that there is no evidence of a higher power and thus no reason to believe that one exists. Her moral compass is guided by the Golden Rule, which states that one should treat others as one would like to be treated. She values helping those in need, building a strong community in which people look out for each other, and caring for the less fortunate. She values logic, empiricism, common sense, and common decency. She believes that people can be good and moral without belief in a higher power.

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

43. Guided by her beliefs as a freethinker, Plaintiff Weaver volunteers in her local community in many ways. She has won awards at the federal (from the Environmental Protection Agency), state, and local levels for removing litter from watersheds and roadways. She headed an organization that shipped 2,300 books to Iraq and helped an Army officer establish two libraries there for soldiers; for this work, she received a certificate of appreciation for Patriotic Civilian Service.

Since 2009, she has coordinated a local arts-and-crafts street fair, as well as a local “pickle drop”—a New Year’s Eve event that benefits the community through activities such as blood drives and fundraising for local nonprofits. For six years, she volunteered for and sat on the board of directors of a regional summer-camp foundation. She coached, managed, and sat on the board of directors for a youth baseball association. She has also held paid positions with theistic religious groups, in which she coordinated the second-largest (at the time) food drive in the nation and created a bicycle-safety training program.

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

45. Plaintiff Weaver delivered an invocation before the Pennsylvania Senate on April 15, 2015, the text of which is provided in paragraph 202 below. Her invocation emphasized the solemnizing themes of compassion, understanding, and strength in a diverse community.

46. Plaintiff Weaver would like to deliver a similar opening invocation at a House daily session. She would like to do so to benefit the House and the audience with an uplifting message, to take part in the proceedings of a representative

governmental body whose decisions affect her daily life, and to obtain treatment equal to that of believers in God.

47. Plaintiff Weaver views the defendants' policy, custom, and practice of prohibiting nontheists from delivering invocations at House daily sessions, while allowing theists to do so, as follows: Her elected representatives have made a decision that—notwithstanding the variety of ways in which she has served her country and her community—she is unworthy or undeserving of participation in a governmental activity because she does not believe in a specific supernatural deity. The defendants' conduct communicates to her that if she wants to deliver an invocation before them, she cannot continue to hold her freethought beliefs. She feels disenfranchised and unrepresented, and believes that the House is serving only its theistic constituents. The defendants' conduct thus has made and continues to make her feel offended, stigmatized, disfavored, insulted, humiliated, and discriminated against.

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

Scott Rhoades

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

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

51. Plaintiff Rhoades's Humanist beliefs include the following: Humans should work to support each other and to improve the lives of others. He should help other people as much as he can, using whatever resources he has. Everyone, regardless of race, religion, sex, or other characteristics, should have equal rights. He generally agrees with Humanist Manifesto III and aspires to the ideals of reason, compassion, and civic duty outlined therein.

52. Plaintiff Rhoades is ordained as a Humanist Celebrant by the Humanist Society, an adjunct organization of the American Humanist Association. The Humanist Society is incorporated under the laws of the State of California as a religious, educational, and charitable nonprofit organization. It is classified by the Internal Revenue Service as "a church or a convention or association of churches." The Humanist Society is endorsed by the Board of Chaplaincy Certification, Inc., an affiliate of the Association of Professional Chaplains. The Humanist Society is authorized to train and certify Humanist Celebrants anywhere in the world. The Humanist Society prepares Humanist Celebrants to lead ceremonial observances, such as weddings, memorial services, and various rites of passage. Humanist Celebrants also serve as ambassadors, congregational leaders, and scholars of

Humanism. Humanist Celebrants are legally recognized in all states and many countries and are accorded the same rights and privileges granted by law to priests, ministers, and rabbis of traditional theistic religions, including the right to solemnize weddings and the protection of confidential communications through the clergy-penitent privilege. Humanist Celebrants have a long history of conducting weddings, memorial services, and other ceremonies.

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

54. Guided by his beliefs, plaintiff Rhoades has worked tirelessly to foster a community for and advocate on behalf of nontheists. He is the founder and president of plaintiff Lancaster Freethought Society—an organization for nontheists that is described in detail in paragraphs 99 to 108 below—which he has led since 2011.

55. As president of Lancaster Freethought, plaintiff Rhoades provides leadership and coordination for the group. He regularly attends two to three Lancaster Freethought meetings per month. At these meetings, he leads discussions of nontheistic beliefs and related issues (in areas such as religion, philosophy, science, and activism), works to foster community for nontheists, and coordinates the other activities described in paragraphs 102 and 103 below. He also serves as the principal contact for the organization's members.

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

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

that analyzes why people adopt theistic beliefs); and *Freethinkers: A History of American Secularism*, by Susan Jacoby (a text that chronicles the contributions of freethinkers to American society).

58. Plaintiff Rhoades admires and studies the work, writings, and statements of the following prominent nontheists: Sagan, Shermer, Dawkins, Hitchens, Dennett, Harris, Epstein (an influential Humanist blogger, speaker, adviser, and author who serves as the Humanist Chaplain at Harvard University), and Jacoby (an atheist journalist and author).

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

60. Plaintiff Rhoades has attended a House daily session in connection with his legislative-advocacy activity for the Secular Coalition for Pennsylvania and intends to attend future sessions when they are relevant to the organization's legislative-advocacy activities. He was accompanied by plaintiff Fields the time he attended, and he witnessed a monotheistic opening invocation. That day, while

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

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

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

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

64. For the reasons stated in the preceding two paragraphs, the defendants' conduct has made and continues to make plaintiff Rhoades feel offended,

stigmatized, disfavored, insulted, humiliated, and discriminated against. The defendant's conduct has therefore harmed, continues to harm, and threatens future harm against plaintiff Rhoades.

Joshua Neiderhiser

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

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

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

68. Plaintiff Neiderhiser is a member of plaintiff Pennsylvania Nonbelievers. He formerly served as one of the organization's board members. He periodically

attends meetings of the organization, where he and other members discuss atheistic and Humanist beliefs, as well as other topics, such as the challenges and concerns that come with being a nontheist in a heavily theist society, books relating to nontheism, church-state separation, and activism opportunities. He has staffed tables on the organization's behalf at street fairs to raise awareness of nontheism and to provide resources for nontheists seeking like-minded individuals. Plaintiff Neiderhiser is also a member of the American Humanist Association, an organization that "strive[s] to bring about a progressive society where being 'good without a god' is an accepted and respected way to live life." *See American Humanist Association's Key Issues*, American Humanist Association, <http://americanhumanist.org/AHA/Issues> (last visited Aug. 12, 2016).

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

70. As a Humanist and an atheist, plaintiff Neiderhiser celebrates the National Day of Reason, which occurs on the first Thursday in May and is a day of

celebrating reason and its social benefits, promoting reason-based thinking, and opposing unconstitutional promotion of religion by public officials.

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

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

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

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

has made and continues to make plaintiff Neiderhiser feel offended, stigmatized, disfavored, insulted, humiliated, and discriminated against.

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

Pennsylvania Nonbelievers, Inc.

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

77. Pennsylvania Nonbelievers is a local partner of American Atheists, Inc., 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 American Atheists*, American Atheists, <http://atheists.org/about-us> (last visited Aug. 12, 2016). Pennsylvania Nonbelievers is also affiliated with Atheist Alliance International (“a global federation of atheist and freethought groups and individuals, committed to educating its members and the public about atheism, secularism and related issues,” *see About AAI*, Atheist Alliance International, <https://www.atheistalliance.org/about-aa.html> (last visited Aug. 12, 2016)) and the

Council for Secular Humanism (an organization that champions the rights and beliefs of Secular Humanists, develops communities for them, and promotes Humanist viewpoints on important ethical and social issues, *see About the Council for Secular Humanism*, Council for Secular Humanism, <http://www.secularhumanism.org/index.php/10> (last visited Aug. 12, 2016)).

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

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

80. Pennsylvania Nonbelievers has five meeting locations in central Pennsylvania. At each meeting location, there is one meeting per month. At these meetings, members discuss atheism, agnosticism, Humanism, and freethought. Members also discuss other topics, such as the challenges and concerns that come

with being a nontheist in a heavily theistic society, books relating to nontheism, church-state separation, and activism opportunities.

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

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

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

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

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

86. Pennsylvania Nonbelievers plays an important role in the lives of its members, parallel to the role that traditional theistic religious congregations play in

the lives of their members. Pennsylvania Nonbelievers provides its members a sense of community with people who share similar beliefs, allows its members to regularly spend time with like-minded people, and holds regular events at which those members discuss, observe, and celebrate their beliefs.

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

88. Pennsylvania Nonbelievers would like its leaders and members to have opportunities to give invocations at House daily sessions on a recurring basis. Pennsylvania Nonbelievers' desire to deliver opening invocations and participation in this lawsuit are motivated by and germane to the organization's goals of promoting Humanist values through service to the community and promoting equal treatment of nontheists.

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

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

Dillsburg Area Freethinkers

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

92. Dillsburg Freethinkers has approximately thirty-five members. Six to eight of those members attend the organization's meetings regularly or periodically. The organization's members include people who identify as atheists, agnostics, freethinkers, and Humanists. Most members reside in the Dillsburg area. Plaintiff Tucker is the founder and chief organizer of Dillsburg Freethinkers, and plaintiff Weaver is a member.

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

94. Dillsburg Freethinkers has meetings once a month. At these meetings, the organization's members discuss their nontheistic beliefs, how to survive as a nontheist in a religious society, and how they became nontheists. They also discuss books and movies relating to freethought, as well as issues and current

events relating to church-state separation. The meetings give members a safe space to discuss and explore their nontheistic beliefs.

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

96. Dillsburg Freethinkers would like its leaders and members to have opportunities to give invocations at House daily sessions on a recurring basis. Dillsburg Freethinkers' desire to deliver opening invocations and participation in this lawsuit are motivated by and germane to the organization's goals of serving the community and improving the lives of nontheists.

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

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

Lancaster Freethought Society

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

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

101. The mission of Lancaster Freethought is to provide a social and intellectual community for nontheists and their families; enrich and empower its members through education and activism; educate the public about nontheism and church-state separation; promote critical thinking and reason; and defend and promote the separation of church and state. Lancaster Freethought seeks to put a positive face on atheism, provide a social support system for its members, and help the local community.

102. Lancaster Freethought hosts five regular events per month: (1) a discussion meeting, at which members gather to discuss nontheistic beliefs and related issues in areas such as religion, philosophy, science, and activism; (2) a social meeting at a local pub that provides members with the opportunity to socialize with like-minded individuals and freely discuss their nontheistic beliefs;

(3) a Sunday-morning social meeting at a cafe, at which there are often discussions about nontheistic beliefs; (4) an “Adopt a Highway” service event, at which members clean up trash at a highway interchange, while displaying signs with the organization’s name; and (5) an “Ask an Atheist” event in Lancaster’s central town square during the warmer months of the year, at which individuals from the community can approach Lancaster Freethought members and ask anything they would like about atheism, allowing the organization to educate the public and dispel misconceptions about atheism.

103. Lancaster Freethought also hosts some special events. For example, the organization annually hosts a picnic on Summer Solstice Day and a party on Winter Solstice Day to foster community among its members and other nontheists. Other events include bowling nights and pizza parties. Lancaster Freethought also staffs a booth at an annual local gay-pride festival and hopes to have booths at other community festivals in the future.

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

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

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

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

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

Defendants

Speaker of the House

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

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

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

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

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

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

115. The Speaker is currently the Honorable Mike Turzai.

116. He became Speaker on January 6, 2015.

117. Samuel Smith served as Speaker from January 4, 2011 until January 6, 2015.

Parliamentarian of the House

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

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

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

121. The Parliamentarian is currently Clancy Myer.

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

Representative for House District 92

123. Defendant Representative for Pennsylvania House District 92 is being sued in his official capacity.

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

125. The Representative for House District 92 is currently the Honorable Mike Regan.

126. He has served in this position since 2013.

Representative for House District 95

127. Defendant Representative for Pennsylvania House District 95 is being sued in his official capacity.

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

129. The Representative for House District 95 is currently the Honorable Kevin Schreiber.

130. He has served in this position since 2013.

Representative for House District 97

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

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

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

134. He has served in this position since 2013.

Representative for House District 193

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

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

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

138. He has served in this position since 2009.

Representative for House District 196

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

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

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

142. He has served in this position since 2009.

General Allegations

Invocations before the House

House Daily Sessions and Chamber

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

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

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

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

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

148. During daily sessions, the Speaker, the Parliamentarian, and others on the dais typically face the upper gallery.

Invocation Procedures

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

150. Occasionally, however, the invocation is omitted.

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

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

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

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

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

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

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

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

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

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

Selection of Invocation-Presenters

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

162. Upon information and belief, invocation-presenters who are not members of the House are selected in the following manner:

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

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

165. The Speaker approves the proposed guest invocation-presenters who are members of “a regularly established church or religious organization.” *Id.*

166. The Speaker schedules when the approved guest invocation-presenters will give their invocations.

167. The Speaker sends letters to the approved guest invocation-presenters with information about the procedure for delivering the invocation.

168. A standard form letter that the Speaker uses for this purpose is attached as Exhibit 1.

169. In this form letter, the Speaker asks those scheduled to deliver invocations to “craft a prayer that is respectful of all religious beliefs.”

170. The Speaker’s office does not review the texts of planned invocations before they are delivered, however.

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

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

Identities of Invocation-Presenters and Nature of Invocations

173. The following data cover the period from January 8, 2008 through February 9, 2016:

174. During this period, the House held 678 daily sessions.

175. Of those daily sessions, 575 began with an invocation.

176. In the 103 other daily sessions, the invocation was omitted.

177. Members of the House delivered the invocation 310 times.

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

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

180. Of these guest invocation-presenters, 238 were Christian clergy.

181. Twenty-three of the guest invocation-presenters were Jewish rabbis.

182. Three of the guest invocation-presenters gave prayers in the Muslim tradition.

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

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

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

186. No opening invocation was free of theistic content.

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

188. For example, opening invocations were given by a guest with no apparent relationship with a particular religious organization (on June 11, 2008), the chancellor of a religious college (on June 21, 2011), the chaplain of a Sons of

American Legion Post (on September 24, 2012), the chaplain of a state correctional institution (on October 2, 2012), a state police chaplain (on April 8, 2013), a member of a religious healthcare sisterhood (on May 7, 2013), a chaplain of the U.S. Army War College (on April 9, 2014), the chaplain of a nursing home (on September 9, 2014), and a missionary to the Dominican Republic (on February 3, 2015).

Defendants' Denials of Plaintiffs' Requests to Give Invocations

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

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

191. On September 25, 2014, the Speaker sent Mr. Silverman a letter rejecting Pennsylvania Nonbelievers' request. The letter stated, in pertinent part, "[W]e do not believe that governmental bodies are required to allow non-adherents or

nonbelievers the opportunity to serve as chaplains. . . . We honor requests from religious leaders of any regularly established church or congregation to serve as chaplains and permit them to address his or her God as their conscience dictates.”

A copy of this letter is attached as Exhibit 4.

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

193. On January 9, 2015, one of the plaintiffs’ counsel, Americans United for Separation of Church and State, sent a letter to the Speaker and the Parliamentarian, requesting that a representative of Pennsylvania Nonbelievers be given an opportunity to deliver an opening invocation at a House daily session. A copy of this letter is attached as Exhibit 6 (enclosures not included).

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

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

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

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

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

Nontheistic Invocations

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

200. If allowed to give opening invocations at House daily sessions, the plaintiffs would give invocations that meet these criteria and are similar to the nontheistic invocations described in paragraphs 201 to 207 below. The plaintiffs would invoke authorities or principles such as the U.S. Constitution, the power of the people, democracy, equality, inclusion, reason, cooperation, fairness, justice, and the greater good.

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

Thank you for inviting me to speak today.

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

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

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

Thank you.

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

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

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

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

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

Thank you.

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

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

I would like to open this invocation by asking everyone, look around you. Beside you, in front of you, and behind you, is a person that is, in so many ways, the same as you. We may have different backgrounds and beliefs. We may come from different ethnicities and religions. But when it comes down to it, we are all sharing the same speck of dust floating through this vast and wondrous universe.

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

With that being said, I also ask that you use your trust in the same way I have described. Reach out to one another. Try to understand and have

empathy with those you may disagree with. Make an honest attempt at compromise, for that is what our secular government is based on.

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

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

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

And I will end with this simple phrase:

E Pluribus Unum.

Central Florida Freethought Community, *Invocations*,

<http://cflfreethought.org/invocations> (last visited Aug. 22, 2016).

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

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

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

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

Id.

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

House of Representatives:

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

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

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

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

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

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

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

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

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

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

Id.

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

Commission of Eustis, Florida:

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

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

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

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

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

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

Id.

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

Dearly Beloved,

When the ancients considered the values that were proper and necessary for the good governance of a peaceful, productive society, they brought to our minds the virtues of wisdom, courage, justice, and moderation. These values have stood the test of time.

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

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

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

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

Let it be so.

Id.

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

209. Other governmental bodies that have allowed nontheistic invocations to be delivered at their meetings include the Town Board of Greece, New York; the City Council of Wilkes-Barre, Pennsylvania; the City Council of New Orleans, Louisiana; the City Council of El Paso, Texas; the City Council of Orlando, Florida; the City Council of Tampa, Florida; the City Council of Tulsa, Oklahoma; the City Council of Charleston, South Carolina; the City Council of Colorado Springs, Colorado; the City Council of Grand Junction, Colorado; the City Council of Sioux Falls, South Dakota; the City Council of Wilmington, North Carolina; the City Council of Chico, California; the City Council of Glendale, Arizona; and the County Commission of Cobb County, Georgia. *See* Central Florida Freethought Community, Invocations, <http://cflfreethought.org/invocations> (last visited Aug.

22, 2016); *Secular Invocation Resources*, The Humanist Society,
<http://thehumanistsociety.org/invocations/resources/> (last visited Aug. 22, 2016).

Effect of the Defendants' Discriminatory Policy

Nontheists in America

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

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

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

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

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

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

212. Similarly, another recent study, the 2012 General Social Survey, reported that 19.7 percent of Americans had no religious affiliation in 2012, compared to 7.7 percent in 1990. Institute for the Study of Societal Issues, *More Americans Have No Religious Preference: Key Finding from the 2012 General Social Survey* 11 (2013), <http://tinyurl.com/GenSocSur2012>.

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

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

215. The Pew Research Center further reported that, as of 2014, 3 percent of Pennsylvania residents identified themselves as atheists and 4 percent identified themselves as agnostics, though 10 percent (compared to 9 percent of all Americans) stated that they did not believe in God. *See Religious Landscape Study: Adults in Pennsylvania*, Pew Research Center, <http://tinyurl.com/PewForumPA> (last visited Aug. 22, 2016); *About the Religious Landscape Study*, Pew Research Center, <http://tinyurl.com/PewForumAbout> (last visited Mar. 18, 2016); Pew Research Center, *U.S. Public Becoming Less Religious* 47 (2015), <http://tinyurl.com/PewForum2015>.

216. The U.S. Department of Veterans Affairs furnishes on request, at no charge to the applicant, "a Government headstone or marker for the unmarked

grave of any deceased eligible Veteran in any cemetery around the world, regardless of their date of death.” *Headstones, Markers and Medallions: General Information*, U.S. Department of Veterans Affairs, National Cemetery Administration, <http://www.cem.va.gov/cem/hmm/index.asp> (last visited Aug. 22, 2016). Among the approximately sixty recognized “emblems of belief” that the VA will place on a government-provided headstone or grave-marker are an image of an atom to represent atheism and an emblem 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. 22, 2016).

217. In 2014, the U.S. Army formally recognized Humanism as a religious preference for soldiers. *See, e.g.*, Jason Torpy, *Now You Can Have “Humanist” on Your Army Tag*, The Humanist.com (Apr. 23, 2014), <http://tinyurl.com/HumanistArmyTag>.

218. 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*, Salon (July 27, 2015), <http://tinyurl.com/StevenDuboisArticle>.

219. A number of major U.S. universities—including Stanford, Harvard, Yale, Columbia, New York, Rutgers, and American—have Humanist chaplaincies. *See Humanist Chaplaincies, Humanist Chaplaincies*, <http://tinyurl.com/humanistchaplains> (last visited Aug. 22, 2016).

Nontheist Contributions to Society

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

221. 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.

222. 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.

223. 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.

224. 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.

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

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

227. 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.

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

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

230. 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.

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

232. Citations supporting paragraphs 220 to 231 above are set forth in Exhibit 14.

Negative Treatment of Nontheists

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

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

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

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

237. According to the American Mosaic Project Study, conducted in 2003, 47.6 percent of Americans would disapprove if their child wanted to marry an atheist. Again, atheists drew the highest percentage of disapproving responses out of all the groups listed by the survey. In comparison, 33.5 percent of the respondents would disapprove of a Muslim spouse, 27.2 percent would disapprove of an African-American spouse, 18.5 percent would disapprove of a Latino spouse, 18.5 percent would disapprove of an Asian-American spouse, 11.8 percent would disapprove of a Jewish spouse, 6.9 percent would disapprove of a conservative Christian spouse, and 2.3 percent would disapprove of a Caucasian spouse. Penny Edgell, Joseph Gerteis, & Douglas Hartmann, *Atheists as “Other”*: *Moral Boundaries and Cultural Membership in American Society*, 71 *Am. Soc. Rev.* 211, 218 (2006), <https://www.soc.umn.edu/assets/pdf/atheistAsOther.pdf>.

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

Americans, 4.6 percent with respect to African-Americans, and 2.2 percent with respect to Caucasians. *Id.*

239. The 2008 American Religious Identification Survey reported that 42.9 percent of atheists and agnostics had experienced discrimination within the five preceding years because of their lack of religious identification or affiliation. 12.9 percent of atheists and agnostics reported experiencing such discrimination in the family context, 14.2 percent in the workplace, 13.0 percent in school, 3.4 percent in the military, 26.1 percent socially, and 8.7 percent in the context of volunteer organizations. Cragun, *supra*, at 111, 114.

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

Harm Inflicted by Defendants' Discriminatory Policy

241. For the reasons set forth above in paragraphs 26–28, 38, 47, 62–64, 74, 89, 97, and 107, as well as those set forth below in paragraphs 242 to 247, the plaintiffs have been harmed, continue to be harmed, and are threatened with future harm by the defendants' discriminatory policy, custom, and practice of allowing

theists to give opening invocations at House daily sessions while prohibiting nontheists from doing so.

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

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

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

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

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

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

Claims for Relief

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

248. Paragraphs 1 to 247 above are incorporated as if fully set forth here.

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

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

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

252. The defendants’ policy, custom, and practice excessively entangles the defendants with religion by involving them (or House officials or employees under

their authority) in religious judgments about matters such as whether nontheists' beliefs, affiliations, or proposed invocations are theologically permissible or sufficient.

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

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

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

255. Paragraphs 1 to 254 above are incorporated as if fully set forth here.

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

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

258. 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.

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

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

260. Paragraphs 1 to 259 above are incorporated as if fully set forth here.

261. The Free Speech Clause of the First Amendment to the U.S. Constitution provides that “Congress shall make no law . . . abridging the freedom of speech.”

This provision applies fully to state governmental entities through the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

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

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

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

that reflect or reference their beliefs at governmental meetings where theists are allowed to do so.

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

265. Paragraphs 1 to 264 above are incorporated as if fully set forth here.

266. 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.”

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

268. 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.

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

270. The defendants’ policy, custom, and practice of allowing theists but not nontheists to give opening invocations at House daily sessions violates the Equal

Protection Clause by treating nontheists, including the plaintiffs, differently based on religious belief, affiliation, and identity, without a compelling governmental interest served by narrowly tailored means.

Prayer for Relief

271. Paragraphs 1 to 270 above are incorporated as if fully set forth here.

272. By violating the Establishment, Free Exercise, Free Speech, and Equal Protection Clauses as described above, the defendants have harmed the plaintiffs, are continuing to harm them, and threaten future harm against them.

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

274. In addition or in the alternative, by virtue of the defendants' 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.

275. The plaintiffs accordingly request the relief specified below.

Injunction

276. The plaintiffs have no adequate remedy at law.

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

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

Declaratory Judgment

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

280. Accordingly, the plaintiffs request a declaratory judgment that (a) the defendants have violated, and are continuing to violate, the U.S. Constitution by

prohibiting nontheists from delivering opening invocations at House daily sessions while allowing theists to do so; (b) Pennsylvania House General Operating Rule 17 is unconstitutional and unenforceable to the extent that it permits or supports such discrimination; and (c) defendant Speaker of the House has violated, and is continuing to violate, the U.S. Constitution by instructing visitors at House daily sessions to stand for opening invocations.

Attorneys' Fees and Costs

281. 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

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

Respectfully submitted,

By: /s/ Allen Warshaw
Allen Warshaw

Date: August 25, 2016

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* Petition for admission *pro hac vice* to follow.

Exhibit Index

Number	Title
1	Standard form letter sent by the Speaker of the House to approved guest invocation-presenters.
2	Plaintiff Deana Weaver's August 12, 2014 email requesting an opportunity to deliver an opening invocation at a House daily session on behalf of plaintiff Dillsburg Freethinkers.
3	Plaintiff Pennsylvania Nonbelievers' August 27, 2014 letter requesting an opportunity to deliver an opening invocation at a House daily session.
4	House Speaker's September 25, 2014 letter rejecting Pennsylvania Nonbelievers' request to deliver an opening invocation.
5	September 26, 2014 email from Defendant Representative for House District 92 to plaintiff Weaver, forwarding Exhibit 4.
6	January 9, 2015 letter from plaintiffs' counsel to defendants House Speaker and Parliamentarian, requesting that plaintiff Pennsylvania Nonbelievers be given an opportunity to deliver an opening invocation at a House daily session (enclosures not included).
7	January 15, 2015 letter from defendant House Parliamentarian to plaintiffs' counsel, denying Pennsylvania Nonbelievers' request to deliver an opening invocation at a House daily session.
8	August 26, 2015 letter from plaintiffs' counsel, on behalf of plaintiffs Brian Fields and Pennsylvania Nonbelievers, to defendants House Speaker, House Parliamentarian, Representative for House District 193, and Representative for House District 95, requesting that these plaintiffs be given an opportunity to deliver an opening invocation at a House daily session (enclosures not included).
9	August 26, 2015 letter from plaintiffs' counsel, on behalf of plaintiffs Paul Tucker, Deana Weaver, and Dillsburg Freethinkers, to defendants House Speaker, House Parliamentarian, and Representative for House District 92, requesting that these plaintiffs be given an opportunity to deliver an opening invocation at a House daily session (enclosures not included).

10	August 26, 2015 letter from plaintiffs' counsel, on behalf of plaintiffs Scott Rhoades and Lancaster Freethought Society, to defendants House Speaker, House Parliamentarian, and Representative for House District 97, requesting that these plaintiffs be given an opportunity to deliver an opening invocation at a House daily session (enclosures not included).
11	August 26, 2015 letter from plaintiffs' counsel, on behalf of plaintiff Joshua Neiderhiser, to defendants House Speaker, House Parliamentarian, and Representative for House District 196, requesting that this plaintiff be given an opportunity to deliver an opening invocation at a House daily session (enclosures not included).
12	August 26, 2015 letter from plaintiffs' counsel to defendants House Speaker and House Parliamentarian, asking Speaker to stop directing visitors to stand during opening invocations.
13	September 9, 2015 letter from defendant House Parliamentarian, denying plaintiffs' request to deliver opening invocations.
14	Citations supporting "Nontheist Contributions to Society" section of complaint (paragraphs 220 to 231).

Exhibit 1

Standard form letter sent by the Speaker of the House to approved guest invocation-presenters.

Date

Name

Address

Dear Reverend _____:

We are honored that you will be delivering the invocation on the floor of the House of Representatives on _____.

In order to assist in your travels, we have reserved parking space #69 for you on Commonwealth Avenue. If you are not familiar with the city of Harrisburg, we've enclosed a map of the Capitol Complex that shows the location of your parking space.

As you are preparing your thoughts, we would ask that you craft a prayer that is respectful of all religious beliefs. There are 203 members of the House coming from a wide variety of faiths. We believe it's important to respect this diversity. Your efforts to deliver an inter-faith prayer are greatly appreciated.

Please plan to arrive in my office, Room 139 Main Capitol, at _____ which is approximately 30 minutes prior to the start of the House session at _____.

Again, we look forward to welcoming you to the House Floor. If you have any questions prior to your arrival, please contact Jennifer Korac in my office at 717-783-4501 or jkorac@pahousegop.com.

Sincerely,

SPEAKER
House of Representatives

Exhibit 2

Plaintiff Deana Weaver's August 12, 2014 email
requesting an opportunity to deliver an opening invocation at a
House daily session on behalf of plaintiff Dillsburg Freethinkers.

----- Original Message -----

From: [Deana](#)

To: [Jodi Parry](#)

Sent: Tuesday, August 12, 2014 8:17 AM

Subject: Request to deliver opening prayer

Dear Representative Regan,

Dillsburg Area Free Thinkers would like to deliver an opening prayer at an upcoming session. This invitation would be in keeping with the spirit of openness exhibited to date, which has been all-inclusive in nature and non-biased toward any specific belief or faith designation.

We would be honored to participate in this practice and, if requested, will provide the text of the prayer prior to determination or scheduling.

Thank you for your time and consideration.
Dillsburg Area Free Thinkers

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2013.0.3485 / Virus Database: 3955/8019 - Release Date: 08/11/14

Exhibit 3

Plaintiff Pennsylvania Nonbelievers' August 27, 2014 letter requesting an opportunity to deliver an opening invocation at a House daily session.

PENNSYLVANIA NONBELIEVERS

August 27, 2014

Hon. Glen R. Grell
5521 Carlisle Pike, Suite 2-D
Mechanicsburg, PA 17050

Dear Rep. Grell:

As you know, the Pennsylvania House of Representatives has a long history of inviting guest chaplains to deliver prayers to open most House sessions. Often these prayers are sectarian in nature, and until this year, the constitutionality of such prayers was in question. However, in May, the United States Supreme Court ruled that sectarian legislative prayer was permissible at the Town Council of Greece, New York, in part because, "The town at no point excluded or denied an opportunity to a would-be prayer giver. Its leaders maintained that a minister or layperson of any persuasion, including an atheist, could give the invocation."

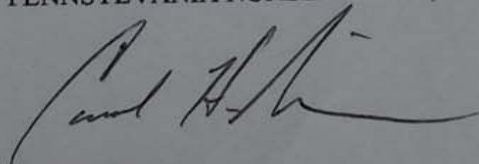
The Supreme Court has now made it clear that the House may not disallow atheists, or any religious minority, from having equal opportunity to serve as guest chaplains.

Accordingly, as the Capital Area Operations Manager of Pennsylvania Nonbelievers, central Pennsylvania's leading organization of atheists, agnostics, and humanists, I am hereby requesting the opportunity to serve as guest chaplain as soon as possible. In the event a schedule conflict precludes my appearance at the House, Brian Fields, president of Pennsylvania Nonbelievers, will serve as alternate chaplain.

By copy of this letter, I am notifying Speaker Sam Smith and Parliamentarian Clancy Myer of my request. I would appreciate a response from your office and from the House leadership as soon as possible. I can be reached at 717-215-3542 and harrisburg@panonbelievers.org. Postal mail should be sent to 368 Beverly Road, Camp Hill, PA 17011.

Sincerely,

PENNSYLVANIA NONBELIEVERS, INC.



Carl H. Silverman
Capital Area Operations Manager

Cc: Rep. Sam Smith; Clancy Myer; Brian Fields



PA Nonbelievers, Inc.

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Cathryn Smith
Shannon Turk
Jacob Zenichko

PA Nonbelievers, Inc. is a
Local Partner of
American Atheists and
Affiliated with the
Council for
Secular Humanism

Exhibit 4

House Speaker's September 25, 2014 letter rejecting Pennsylvania
Nonbelievers' request to deliver an opening invocation.

**SAMUEL H. SMITH
THE SPEAKER**

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House of Representatives
Commonwealth of Pennsylvania
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PHONE: (814) 849-8008

September 25, 2014

Mr. Carl H. Silverman
368 Beverly Road
Camp Hill, PA 17011

Dear Mr. Silverman:

This is in response to your correspondence dated August 27, 2014, wherein you requested that as a member of the Pennsylvania Nonbelievers, Inc. of Pennsylvania you be given the opportunity to serve as House Chaplain.

As a part of considering your request, we have reviewed the Supreme Court's decision in *Town of Greece, New York v. Galloway et al*, as well as other court decisions including the landmark 1993 Supreme Court decision in *Marsh v. Chambers*. Our conclusions are as follows:

Justice Kennedy, in writing for the Court in *Greece* discussed the strong historical link between legislative prayers and the First Amendment. The First Congress appropriated money to pay House and Senate chaplains. Kennedy also observed that government is rife with religious references and that even the Supreme Court begins its sessions with "God save the United States and this Honorable Court." In his view, the references are intended to impress the participants with the importance of religion in our culture. Further, he opined that by inviting ministers to serve as chaplains, the town of Greece acknowledged the central place that religion and religious institutions hold in the lives of those present. Further Justice Kennedy stated on page 23 of the opinion:


"Ceremonial prayer is but a recognition that, since this Nation was founded and until the present day, many Americans deem that their own existence must be understood by precepts far beyond the authority of government to alter or define and that willing participation in civic affairs can be consistent with a brief acknowledgement of their belief in a higher power, always with due respect for those who adhere to other beliefs."
(underlining supplied)

Please note that the current decision contains numerous references to the role religion has had in our country. Nowhere did we see any language which would require legislative bodies to allow nonbelievers to address the opening of legislative bodies in lieu of an opening prayer by a regular chaplain. It is our opinion, that while the Court encouraged a diversity of prayer givers, we do not believe that governmental bodies are required to allow non-adherents or nonbelievers the opportunity to serve as chaplains. Because of the aforementioned reasons, we disagree with your assertion that the House may not disallow atheists from serving as chaplains.

We view the opening prayer as an opportunity for the members of the House to seek divine intervention in their work and in their lives. We honor requests from religious leaders of any regularly established church or congregation to serve as chaplains and permit them to address his or her God as their conscience dictates. When guest chaplains are not available, members of the House are also afforded this opportunity. Our intention is to continue our current practices which are based on the historical traditions of the House of Representatives that date back to the 18th Century.

For all of the above reasons, we will not honor your request.

Sincerely,


Samuel H. Smith
The Speaker

cc: Representative Glen R. Grell

bcc: All House Members

Exhibit 5

September 26, 2014 email from Defendant Representative
for House District 92 to plaintiff Weaver, forwarding Exhibit 4.

----- Original Message -----

From: [Mike Regan](#)

To: [Deana](#)

Sent: Friday, September 26, 2014 10:51 AM

Subject: FW: Opening Prayer on the House Floor

Dear Deana:

For your information. This was forwarded to all legislative offices relative to an atheist offering the opening of session.

Thanks.

Mike

Mike Regan
STATE REPRESENTATIVE
92nd Legislative District
(717) 432-0792

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this information in error, please contact the sender and delete the message and material from all computers.

No virus found in this message.

**SAMUEL H. SMITH
THE SPEAKER**

ROOM 139 MAIN CAPITOL BUILDING
PO BOX 202066
HARRISBURG, PA 17120-2066
PHONE: (717) 787-3845
FAX: (717) 787-6564
www.samsmithpahouse.com



House of Representatives
Commonwealth of Pennsylvania
Harrisburg

DISTRICT OFFICES

109 INDIANA STREET, SUITE 3
PUNXSUTAWNEY, PA 15767
PHONE: (814) 938-4225

125-A MAIN STREET
BROOKVILLE, PA 15825
PHONE: (814) 849-8008

September 25, 2014

Mr. Carl H. Silverman
368 Beverly Road
Camp Hill, PA 17011

Dear Mr. Silverman:

This is in response to your correspondence dated August 27, 2014, wherein you requested that as a member of the Pennsylvania Nonbelievers, Inc. of Pennsylvania you be given the opportunity to serve as House Chaplain.

As a part of considering your request, we have reviewed the Supreme Court's decision in *Town of Greece, New York v. Galloway et al*, as well as other court decisions including the landmark 1993 Supreme Court decision in *Marsh v. Chambers*. Our conclusions are as follows:

Justice Kennedy, in writing for the Court in *Greece* discussed the strong historical link between legislative prayers and the First Amendment. The First Congress appropriated money to pay House and Senate chaplains. Kennedy also observed that government is rife with religious references and that even the Supreme Court begins its sessions with "God save the United States and this Honorable Court." In his view, the references are intended to impress the participants with the importance of religion in our culture. Further, he opined that by inviting ministers to serve as chaplains, the town of Greece acknowledged the central place that religion and religious institutions hold in the lives of those present. Further Justice Kennedy stated on page 23 of the opinion:


"Ceremonial prayer is but a recognition that, since this Nation was founded and until the present day, many Americans deem that their own existence must be understood by precepts far beyond the authority of government to alter or define and that willing participation in civic affairs can be consistent with a brief acknowledgement of their belief in a higher power, always with due respect for those who adhere to other beliefs."
(underlining supplied)

Please note that the current decision contains numerous references to the role religion has had in our country. Nowhere did we see any language which would require legislative bodies to allow nonbelievers to address the opening of legislative bodies in lieu of an opening prayer by a regular chaplain. It is our opinion, that while the Court encouraged a diversity of prayer givers, we do not believe that governmental bodies are required to allow non-adherents or nonbelievers the opportunity to serve as chaplains. Because of the aforementioned reasons, we disagree with your assertion that the House may not disallow atheists from serving as chaplains.

We view the opening prayer as an opportunity for the members of the House to seek divine intervention in their work and in their lives. We honor requests from religious leaders of any regularly established church or congregation to serve as chaplains and permit them to address his or her God as their conscience dictates. When guest chaplains are not available, members of the House are also afforded this opportunity. Our intention is to continue our current practices which are based on the historical traditions of the House of Representatives that date back to the 18th Century.

For all of the above reasons, we will not honor your request.

Sincerely,


Samuel H. Smith
The Speaker

cc: Representative Glen R. Grell

bcc: All House Members

Exhibit 6

January 9, 2015 letter from plaintiffs' counsel to defendants House Speaker and Parliamentarian, requesting that plaintiff Pennsylvania Nonbelievers be given an opportunity to deliver an opening invocation at a House daily session (enclosures not included).



(202) 466-3234
(202) 898-0955 (fax)
www.au.org

1301 K Street, NW
Suite 850, East Tower
Washington, DC 20005

January 9, 2015

By U.S. Mail, Email, and Fax

Speaker Mike Turzai
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028
Fax: (717) 772-2470
Email: mturzai@pahousegop.com

Parliamentarian Clancy Myer
133 Main Capitol Building
Harrisburg, PA 17120-2020

Re: Pennsylvania Nonbelievers' Request to Deliver an Opening Invocation

Dear Speaker Turzai and Parliamentarian Myer:

We have been retained by Pennsylvania Nonbelievers, a nonprofit atheist and humanist organization, in the organization's effort to have a representative deliver an opening invocation before the Pennsylvania House. We write in an attempt to resolve the matter without needing to resort to litigation.

As you know, the Pennsylvania House and Senate have long maintained a practice of inviting private citizens to deliver invocations to open legislative-session days. On August 27, 2014, Pennsylvania Nonbelievers requested an opportunity to deliver an invocation in each chamber. *See* Exs. A & B. The Pennsylvania Senate responded by agreeing to add the organization, along with another nontheistic organization, to the 2015 calendar. The Pennsylvania House, however, took a different approach: On September 25, 2014, then-Speaker Smith denied Pennsylvania Nonbelievers' request on the grounds that the U.S. Constitution does not "require[governmental bodies] to allow non-adherents or nonbelievers the opportunity to serve as chaplains." Ex. C. Given the recent change in leadership within the Pennsylvania House, we hope that you will reverse course and allow nontheists to participate in the invocation opportunity to the same extent as theistic individuals.

We believe that the exclusion of nontheists is contrary to several provisions of the federal Constitution. In *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014), the U.S. Supreme Court upheld the delivery of legislative prayers under the Establishment Clause, "so long as the town maintains a policy for

nondiscrimination” and does not demonstrate a bias against minority viewpoints. *Id.* at 1824. In that case, the town “made it clear that it would permit any interested residents, *including nonbelievers*, to provide an invocation, and the town ha[d] never refused a request to offer an invocation.” *Id.* at 1829 (Alito, J., concurring) (emphasis added). In light of the U.S. Supreme Court’s ruling in *Greece*, a federal district judge in the Middle District of North Carolina warned a county board that “it may not discriminate for or against any religion in drafting or implementing its [new] prayer policy.” Ex. D, at 30. The judge also warned the county board that it must strive to prevent the denigration of religious minorities and nonbelievers, and must ensure a policy of nondiscrimination to avoid the appearance of aversion or bias. *Id.* at 31. That is in keeping with the general proposition that, pursuant to the Establishment Clause, “the government may not favor one religion over another, *or religion over irreligion.*” *McCreary Cnty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 875-76 (2005) (emphasis added).

The Pennsylvania House’s decision to permit theistic citizens to deliver opening invocations, while prohibiting nontheistic citizens from doing so, likewise cannot be squared with the Free Speech Clause: “If there is a bedrock principle underlying the First Amendment, it is that the Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.” *Texas v. Johnson*, 491 U.S. 397, 414 (1989). Indeed, the Supreme Court has recognized that the government’s drawing a distinction between theism and atheism constitutes impermissible viewpoint discrimination. *See Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 831 (1995).

In a similar vein, discrimination based on religion is “inherently suspect” under the Equal Protection Clause. *City of New Orleans v. Dukes*, 427 U.S. 297, 303 (1976) (per curiam). As a result, the government can justify drawing distinctions along religious lines only when it does so with a compelling reason and in the least restrictive fashion. “Absent the most unusual circumstances, one’s religion ought not affect one’s legal rights or duties or benefits.” *Bd. of Educ. of Kiryas Joel Village Sch. Dist. v. Grumet*, 512 U.S. 687, 715 (1994) (O’Connor, J., concurring). No such unusual circumstances exist here; legislative bodies around the country, including the Pennsylvania Senate, have seen fit to allow nontheistic individuals to deliver opening invocations without consequence. *See, e.g., Secular Reflections*, CENTRAL FLORIDA FREETHOUGHT COMMUNITY, <http://cflfreethought.org/secular-reflections/> (last visited Jan. 6, 2015). The invocation that would be delivered by a representative of Pennsylvania Nonbelievers, like those that have been delivered by other nontheists around the country, would be contemplative in tone and respectful of other faith traditions. Refusing to allow the delivery of such an invocation, on the basis of the speaker’s religious viewpoint, cannot be reconciled with core principles of the United States Constitution.

Accordingly, we ask that you add a representative of Pennsylvania Nonbelievers to the list of individuals to be invited to deliver the House’s opening invocation, and that you inform us of your intentions on or before January 25, 2015.

Meanwhile, if you have any questions or concerns, please feel free to contact Natacha Lam at lam@au.org.


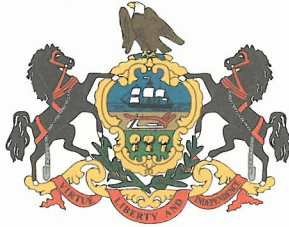
Sincerely,

Ayesha Khan, Legal Director
Natacha Lam, Madison Fellow

Exhibit 7

January 15, 2015 letter from defendant House Parliamentarian to plaintiffs' counsel, denying Pennsylvania Nonbelievers' request to deliver an opening invocation at a House daily session.

CLANCY MYER
PARLIAMENTARIAN



133 CAPITOL BUILDING
HARRISBURG, PA 17120-2211
PHONE: (717) 783-8126
FAX: (717) 772-5288

E-MAIL: cmyer@pabmc.net

House of Representatives
Commonwealth of Pennsylvania
Harrisburg

January 15, 2015

Ms. Ayesha Khan, Legal Director
Americans United
1301 K Street, NW
Suite 850, East Tower
Washington, DC 20005

Dear Ms. Kahn:

This is in response to your correspondence dated January 9, 2015, requesting that a representative from the Pennsylvania Nonbelievers deliver an opening invocation in the Pennsylvania House of Representatives.

I will not repeat the analysis contained in Speaker Smith's letter of September 25, 2014, because in our opinion, that has not changed. One new development has occurred since that time. On January 6, 2015, the members of the House unanimously approved the Rules of the House for the 2015-2016 legislative sessions. House Rule 17 was amended as follows:

"The Chaplain offering the prayer shall be a member of a regularly established church or religious organization or shall be a member of the House of Representatives."

Accordingly, for the aforementioned reasons, we cannot approve your request.

Sincerely,

A handwritten signature in blue ink that reads "Clancy Myer".

Clancy Myer
Parliamentarian

CM:md

Exhibit 8

August 26, 2015 letter from plaintiffs' counsel, on behalf of plaintiffs Brian Fields and Pennsylvania Nonbelievers, to defendants House Speaker, House Parliamentarian, Representative for House District 193, and Representative for House District 95, requesting that these plaintiffs be given an opportunity to deliver an opening invocation at a House daily session (enclosures not included).



(202) 466-3234
(202) 898-0955 (fax)
www.au.org

1901 L Street, NW
Suite 400
Washington, DC 20036

August 26, 2015

By U.S. Mail and Email

Speaker Mike Turzai
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028
mturzai@pahousegop.com

Parliamentarian Clancy Myer
133 Main Capitol Building
Harrisburg, PA 17120-2020
cmyer@pabmc.net

Representative Will Tallman
282 West King St., 1st Floor
Abbottstown, PA 17301
Wtallman@pahousegop.com

Representative Kevin J. Schreiber
York City Government Services Building
101 South George Street
York, PA 17401
repschreiber@pahouse.net

Re: request to deliver nontheistic opening invocation

Dear Speaker Turzai, Parliamentarian Myer, Representative Tallman, and Representative Schreiber:

We write on behalf of (1) Brian Fields, a resident of Newville (North Newton Township), Cumberland County, and State House District 193, which is Representative Tallman's district; and (2) Pennsylvania Nonbelievers, Inc. ("PAN"), a non-profit organization with an operating headquarters in Newville (North Newton Township), Cumberland County, and State House District 193, as well as a mailing address in York, York County, and State House District 95, which is Representative Schreiber's district. We respectfully ask that Mr. Fields, or another representative or member of PAN, be permitted to deliver a nontheistic invocation at the opening of the House's daily sessions.

Mr. Fields is an atheist and a Secular Humanist. He is president of PAN, which describes itself as a community committed to promoting skeptical thinking, nonbelief, and the humanist values of moral excellence, altruism, integrity, honesty, and personal responsibility; advocating for civil rights and the separation of church and state; and challenging those who would impose their religious values or laws on others in society. Virtually all of PAN's members reside in Pennsylvania. Most of them characterize themselves as atheists, and some additionally or instead characterize themselves as Humanists, agnostics, and/or freethinkers.

We recognize that the House has previously denied similar requests made on behalf of PAN, Mr. Fields, and other nontheists, as shown in the attached correspondence. We nevertheless hope that, in the interests of equality, you can

grant this request. We would kindly ask you to respond by September 15, 2015, and we will understand a non-response as a denial based on the reasons given in the House's previous denials. Please do not hesitate to contact me at 202-466-3234 or luchenitser@au.org if you would like to discuss this matter. Thank you for your consideration.

Sincerely,



Alex J. Luchenitser, Associate Legal Director
Natacha Lam, Madison Fellow*

*Admitted only in New York; supervised by Luchenitser, a member of the D.C. Bar.

Americans United for Separation of Church and State
1901 L Street NW, Suite 400
Washington, DC 20036
luchenitser@au.org / lam@au.org

Eric O. Husby
American Atheists
306 South Boulevard
Tampa, FL 33606

Allen Warshaw, Esq.
1035 McCormick Road
Mechanicsburg, PA 17055

Enclosures:

- Aug. 12, 2014 e-mail from Deana Weaver to Rep. Regan
- Aug. 27, 2014 letter from Pennsylvania Nonbelievers to Rep. Grell
- Sept. 25, 2014 letter from Speaker Smith to Pennsylvania Nonbelievers
- Sept. 26, 2014 e-mail from Rep. Regan to Ms. Weaver
- Jan. 9, 2015 letter from Americans United to Speaker Turzai
- Jan. 15, 2015 letter from Parliamentarian Myer to Americans United

Exhibit 9

August 26, 2015 letter from plaintiffs' counsel, on behalf of plaintiffs Paul Tucker, Deana Weaver, and Dillsburg Freethinkers, to defendants House Speaker, House Parliamentarian, and Representative for House District 92, requesting that these plaintiffs be given an opportunity to deliver an opening invocation at a House daily session (enclosures not included).



(202) 466-3234
(202) 898-0955 (fax)
www.au.org

1901 L Street, NW
Suite 400
Washington, DC 20036

August 26, 2015

By U.S. Mail and Email

Speaker Mike Turzai
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028
mturzai@pahousegop.com

Parliamentarian Clancy
Myer
133 Main Capitol Building
Harrisburg, PA 17120-2020
cmyer@pabmc.net

Representative Mike Regan
1 E. Harrisburg St.
Dillsburg, PA 17019
mregan@pahousegop.com

Re: request to deliver nontheistic opening invocation

Dear Speaker Turzai, Parliamentarian Myer, and Representative Regan:

We write on behalf of Paul Tucker, Deana Weaver, and Dillsburg Area FreeThinkers (“the FreeThinkers”). Mr. Tucker and Ms. Weaver reside in, and the FreeThinkers are headquartered in, Dillsburg (Franklin Township for Mr. Tucker and the FreeThinkers; Carroll Township for Ms. Weaver), York County, and State House District 92, which is Representative Regan’s district. We respectfully ask that Mr. Tucker, Ms. Weaver, and/or another representative or member of the FreeThinkers be permitted to deliver nontheistic invocations at the opening of the House’s daily sessions.

Mr. Tucker is an atheist and a Secular Humanist. He is the Chief Organizer and a founding member of the FreeThinkers.

Ms. Weaver is a freethinker. She is a founding member of the FreeThinkers. She delivered a nontheistic opening invocation before the Pennsylvania Senate on April 15, 2015.

The FreeThinkers are an association of nontheists who regularly meet to discuss atheism and related issues. All of the FreeThinkers’ members reside in the Dillsburg area. Most of them characterize themselves as atheists, and some additionally or instead characterize themselves as Humanists, agnostics, and/or freethinkers.

We recognize that the House has previously denied a similar request made by Ms. Weaver on behalf of the FreeThinkers, as well as similar requests by other nontheists, as shown in the attached correspondence. We nevertheless hope that, in the interests of equality, you can grant this request. We would kindly ask you to

respond by September 15, 2015, and we will understand a non-response as a denial based on the reasons given in the House's previous denials. Please do not hesitate to contact me at 202-466-3234 or luchenitser@au.org if you would like to discuss this matter. Thank you for your consideration.

Sincerely,



Alex J. Luchenitser, Associate Legal Director
Natacha Lam, Madison Fellow*

*Admitted only in New York; supervised by Luchenitser, a member of the D.C. Bar.

Americans United for Separation of Church and State
1901 L Street NW, Suite 400
Washington, DC 20036
luchenitser@au.org / lam@au.org

Eric O. Husby
American Atheists
306 South Boulevard
Tampa, FL 33606

Allen Warshaw, Esq.
1035 McCormick Road
Mechanicsburg, PA 17055

Enclosures:

Aug. 12, 2014 e-mail from Deana Weaver to Rep. Regan
Aug. 27, 2014 letter from Pennsylvania Nonbelievers to Rep. Grell
Sept. 25, 2014 letter from Speaker Smith to Pennsylvania Nonbelievers
Sept. 26, 2014 e-mail from Rep. Regan to Ms. Weaver
Jan. 9, 2015 letter from Americans United to Speaker Turzai
Jan. 15, 2015 letter from Parliamentarian Myer to Americans United

Exhibit 10

August 26, 2015 letter from plaintiffs' counsel, on behalf of plaintiffs Scott Rhoades and Lancaster Freethought Society, to defendants House Speaker, House Parliamentarian, and Representative for House District 97, requesting that these plaintiffs be given an opportunity to deliver an opening invocation at a House daily session (enclosures not included).



(202) 466-3234
(202) 898-0955 (fax)
www.au.org

1901 L Street, NW
Suite 400
Washington, DC 20036

August 26, 2015

By U.S. Mail and Email

Speaker Mike Turzai
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028
mturzai@pahousegop.com

Parliamentarian Clancy
Myer
133 Main Capitol Building
Harrisburg, PA 17120-2020
cmyer@pabmc.net

Representative Steven
Mentzer
1555 Highlands Drive
Suite 110
Lititz, PA 17543
smentzer@pahousegop.com

Re: request to deliver nontheistic opening invocation

Dear Speaker Turzai, Parliamentarian Myer, and Representative Mentzer:

We write on behalf of (1) Scott Rhoades, a resident of Lancaster (Manheim Township), Lancaster County, and State House District 97, which is Representative Mentzer's district; and (2) Lancaster Freethought Society ("LFS"), an association headquartered in Lancaster (Manheim Township), Lancaster County, and State House District 97. We respectfully ask that Mr. Rhoades, or another representative or member of LFS, be permitted to deliver a nontheistic invocation at the opening of the House's daily sessions.

Mr. Rhoades is an atheist/agnostic and a Secular Humanist. He is an ordained Humanist Celebrant. He is the President and founder of LFS. LFS's goals are to provide a social and intellectual community for freethinkers and their families; to enrich and empower their membership through education and activism; to educate the public about nontheism and church-state separation; to teach critical thinking skills and promote reason; and to defend the separation of church and state. Most of LFS's members reside in the Lancaster area. LFS's members include freethinkers, atheists, agnostics, Humanists, and other nontheists.

We recognize that the House has previously denied similar requests by other nontheists, as shown in the attached correspondence. We nevertheless hope that, in the interests of equality, you can grant this request. We would kindly ask you to respond by September 15, 2015, and we will understand a non-response as a denial based on the reasons given in the House's previous denials. Please do not

hesitate to contact me at 202-466-3234 or luchenitser@au.org if you would like to discuss this matter. Thank you for your consideration.

Sincerely,



Alex J. Luchenitser, Associate Legal Director
Natacha Lam, Madison Fellow*

*Admitted only in New York; supervised by Luchenitser, a member of the D.C. Bar.

Americans United for Separation of Church and State
1901 L Street NW, Suite 400
Washington, DC 20036
luchenitser@au.org / lam@au.org

Eric O. Husby
American Atheists
306 South Boulevard
Tampa, FL 33606

Allen Warshaw, Esq.
1035 McCormick Road
Mechanicsburg, PA 17055

Enclosures:

Aug. 12, 2014 e-mail from Deana Weaver to Rep. Regan
Aug. 27, 2014 letter from Pennsylvania Nonbelievers to Rep. Grell
Sept. 25, 2014 letter from Speaker Smith to Pennsylvania Nonbelievers
Sept. 26, 2014 e-mail from Rep. Regan to Ms. Weaver
Jan. 9, 2015 letter from Americans United to Speaker Turzai
Jan. 15, 2015 letter from Parliamentarian Myer to Americans United

Exhibit 11

August 26, 2015 letter from plaintiffs' counsel, on behalf of plaintiff Joshua Neiderhiser, to defendants House Speaker, House Parliamentarian, and Representative for House District 196, requesting that this plaintiff be given an opportunity to deliver an opening invocation at a House daily session (enclosures not included).



(202) 466-3234
(202) 898-0955 (fax)
www.au.org

1901 L Street, NW
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Washington, DC 20036

August 26, 2015

By U.S. Mail and Email

Speaker Mike Turzai
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028
mturzai@pahousegop.com

Parliamentarian Clancy
Myer
133 Main Capitol Building
Harrisburg, PA 17120-2020
cmyer@pabmc.net

Representative Seth Grove
1954 Carlisle Road
1st Floor
York, PA 17408
sgrove@pahousegop.com

Re: request to deliver nontheistic opening invocation

Dear Speaker Turzai, Parliamentarian Myer, and Representative Grove:

We write on behalf of Joshua Neiderhiser, a resident of Dover, York County, and State House District 196, which is Representative Grove's district. We respectfully ask that Mr. Neiderhiser be permitted to deliver a nontheistic invocation at the opening of the House's daily sessions.

Mr. Neiderhiser is a Humanist and an atheist. He is an ordained Humanist Celebrant. He is a member of Pennsylvania Nonbelievers ("PAN"), a non-profit organization that describes itself as a community committed to promoting skeptical thinking, nonbelief, and the humanist values of moral excellence, altruism, integrity, honesty, and personal responsibility; advocating for civil rights and the separation of church and state; and challenging those who would impose their religious values or laws on others in society. Virtually all of PAN's members reside in Pennsylvania. Most of them characterize themselves as atheists, and some additionally or instead characterize themselves as Humanists, agnostics, and/or freethinkers.

We recognize that the House has previously denied similar requests by other nontheists, as shown in the attached correspondence. We nevertheless hope that, in the interests of equality, you can grant this request. We would kindly ask you to respond by September 15, 2015, and we will understand a non-response as a denial based on the reasons given in the House's previous denials. Please do not

hesitate to contact me at 202-466-3234 or luchenitser@au.org if you would like to discuss this matter. Thank you for your consideration.

Sincerely,



Alex J. Luchenitser, Associate Legal Director
Natacha Lam, Madison Fellow*

*Admitted only in New York; supervised by Luchenitser, a member of the D.C. Bar.

Americans United for Separation of Church and State
1901 L Street NW, Suite 400
Washington, DC 20036
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Eric O. Husby
American Atheists
306 South Boulevard
Tampa, FL 33606

Allen Warshaw, Esq.
1035 McCormick Road
Mechanicsburg, PA 17055

Enclosures:

- Aug. 12, 2014 e-mail from Deana Weaver to Rep. Regan
- Aug. 27, 2014 letter from Pennsylvania Nonbelievers to Rep. Grell
- Sept. 25, 2014 letter from Speaker Smith to Pennsylvania Nonbelievers
- Sept. 26, 2014 e-mail from Rep. Regan to Ms. Weaver
- Jan. 9, 2015 letter from Americans United to Speaker Turzai
- Jan. 15, 2015 letter from Parliamentarian Myer to Americans United

Exhibit 12

August 26, 2015 letter from plaintiffs' counsel to defendants House Speaker and House Parliamentarian, asking Speaker to stop directing visitors to stand during opening invocations.



(202) 466-3234
(202) 898-0955 (fax)
www.au.org

1901 L Street, NW
Suite 400
Washington, DC 20036

August 26, 2015

By U.S. Mail and Email

Speaker Mike Turzai
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028
mturzai@pahousegop.com

Parliamentarian Clancy Myer
133 Main Capitol Building
Harrisburg, PA 17120-2020
cmeyer@pabmc.net

Re: opening invocations at House daily sessions

Dear Speaker Turzai and Parliamentarian Myer:

We sent four letters today to you and certain members of the Pennsylvania House asking that certain Pennsylvania nontheists be permitted to deliver nontheistic invocations at the opening of the House's daily sessions. We write in this letter about two additional matters relating to the House's opening invocations.

Request for Information about Selection Procedures

We would appreciate it if you would provide a detailed explanation of how the House selects private citizens to give opening invocations, and that you identify the officials who have authority to make such selections. In responding, we ask that you advise whether a private citizen must be recommended or supported by his or her state representative to be permitted to give an invocation, or whether the House Speaker (or another House leadership officer) has authority to allow a private citizen to give an invocation without the support of the citizen's state representative. If the latter is the case, please advise whether a private citizen must meet any special requirements to be selected directly by the Speaker or another House leadership officer. (When one of our clients attempted to obtain this information through a Right-to-Know Law request for documents, he was advised in the attached October 10, 2014 letter that there were no written policies governing the selection process, so we now seek a narrative answer.)

Directing Audience Members to Stand for Invocations

We ask that the Speaker of the House end his practice of directing visitors in the House gallery to stand during opening invocations. This practice violates the Establishment Clause of the First Amendment to the U.S. Constitution. "It is

beyond dispute that, at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise.” *Lee v. Weisman*, 505 U.S. 577, 587 (1992). Accordingly, although it reaffirmed the constitutionality of opening invocations at legislative meetings in *Town of Greece v. Galloway*, 134 S. Ct. 1811, 1826 (2014), the Supreme Court cautioned that

[t]he analysis would be different if town board members directed the public to participate in the prayers No such thing occurred in the town of Greece. Although board members themselves stood, bowed their heads, or made the sign of the cross during the prayer, they at no point solicited similar gestures by the public. Respondents point to several occasions where audience members were asked to rise for the prayer. These requests, however, came not from town leaders but from the guest ministers, who presumably are accustomed to directing their congregations in this way and might have done so thinking the action was inclusive, not coercive.

We would kindly ask you to respond by September 15, 2015, and we will understand a non-response as a denial of our inquiry and request. Please do not hesitate to contact me at 202-466-3234 or luchenitser@au.org if you would like to discuss this matter. Thank you for your consideration.

Sincerely,



Alex J. Luchenitser, Associate Legal Director
Natacha Lam, Madison Fellow*

*Admitted only in New York; supervised by Luchenitser, a member of the D.C. Bar.

Americans United for Separation of Church and State
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luchenitser@au.org / lam@au.org

Eric O. Husby
American Atheists
306 South Boulevard
Tampa, FL 33606

Allen Warshaw, Esq.
1035 McCormick Road
Mechanicsburg, PA 17055

Enclosure: Oct. 10, 2014 letter from Chief Clerk Barbush to Brian Fields



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

October 10, 2014

VIA EMAIL & FIRST CLASS MAIL

Brian Fields
Pennsylvania Nonbelievers, Inc.
bfields@panonbelievers.org

Dear Mr. Fields,

Thank you for writing to the Pennsylvania House of Representatives with your request for information pursuant to the Pennsylvania *Right-to-Know Law* (65 P.S. §§67.101 *et seq.*). On October 3, 2014, I received your request via both email and U.S. Mail for the following information:

- “1. All documents that relate or refer to the House’s policies about legislative prayers and the selection of prayer-givers for legislative sessions.
2. All documents that relate or refer to the identification, selection, scheduling, or invitation of citizens to deliver a prayer, invocation, or opening remarks at a legislative session.
3. All documents that constitute or contain correspondence, either to or from The House, regarding any request to deliver a prayer, including but not limited to correspondence relating to the prayer requests made by Carl Silverman, Margaret Downey, and Brian Fields on behalf of the Pennsylvania Nonbelievers.
4. All video, audio or written transcription of prayers that have been delivered during legislative sessions.
5. Lists of all individuals who have previously performed a prayer during a legislative session.
6. Lists of all individuals who are currently scheduled to perform a prayer for a legislative session.
7. Lists of all individuals whose requests to perform a prayer for a legislative session were denied.

8. All non-privileged legal opinions or memoranda regarding the House's policy of legislative prayer and selection of prayers.

9. All documents that reflect any expression of support, opposition, concern, or complaint about the selection, invitation, scheduling or revocation of an invitation of any individual – including but not limited to Carl Silverman, Brian Fields and Margaret Downey – to deliver a prayer, invocation, or opening remarks at any legislative session.”

* * *

This correspondence serves to inform you that your request is hereby answered as follows.

The Right-to-Know Law and the House of Representatives

According to section 303(a) of the *Right-to-Know Law*, the House of Representatives (a “legislative agency” under section 102) is obligated to provide *Right-to-Know Law* requesters with access to “legislative records.” As defined by section 102, “legislative records” specifically include the following nineteen (19) items:

- (1) *A financial record.*
- (2) *A bill or resolution that has been introduced and amendments offered thereto in committee or in legislative session, including resolutions to adopt or amend the rules of a chamber.*
- (3) *Fiscal notes.*
- (4) *A cosponsorship memorandum.*
- (5) *The journal of a chamber.*
- (6) *The minutes of, record of attendance of members at a public hearing or a public committee meeting and all recorded votes taken in a public committee meeting.*
- (7) *The transcript of a public hearing when available.*
- (8) *Executive nomination calendars.*
- (9) *The rules of a chamber.*
- (10) *A record of all recorded votes taken in a legislative session.*
- (11) *Any administrative staff manuals or written policies.*
- (12) *An audit report prepared pursuant to the act of June 30, 1970 (P.L.442, No.151) entitled, “An act implementing the provisions of Article VIII, section 10 of the Constitution of Pennsylvania, by designating the Commonwealth officers who shall be charged with the function of auditing the financial transactions after the occurrence thereof of the Legislative and Judicial branches of the government of the Commonwealth, establishing a Legislative Audit Advisory Commission, and imposing certain powers and duties on such commission.”*
- (13) *Final or annual reports required by law to be submitted to the General Assembly.*
- (14) *Legislative Budget and Finance Committee reports.*
- (15) *Daily Legislative Session Calendars and marked calendars.*

- (16) *A record communicating to an agency the official appointment of a legislative appointee.*
- (17) *A record communicating to the appointing authority the resignation of a legislative appointee.*
- (18) *Proposed regulations, final-form regulations and final-omitted regulations submitted to a legislative agency.*
- (19) *The results of public opinion surveys, polls, focus groups, marketing research or similar efforts designed to measure public opinion funded by a legislative agency.*

Your Right-to-Know Law Request

Item 1

A review of our records indicates that the House of Representatives has no internal written policies in effect pertaining to the invocation or persons delivering the invocation at the start of each House Session Day. Therefore, I am unable to provide you with any “*legislative records*” in response to this portion of your request.

Items 2, 6, 7, 8, and 9

Access to the records requested in these portions of your request is hereby denied. To the extent any of the information requested under these items exists within our files, none of it falls under the definition of “*legislative record*.” As such, these items are exempt from disclosure under the Pennsylvania *Right-to-Know Law*, and a denial of access is appropriate.

Item 3

Access to the records requested in this portion of your request is hereby denied with an exception. The records requested in this portion of your request, including “correspondence” of any kind, do not fall under the definition of “*legislative record*.” Likewise, these items are exempt from disclosure under the *Right-to-Know Law*, and a denial of access to the records requested under this portion of your request is proper.

However, pursuant to the provisions of section 506(c)(3) of the *Right-to-Know Law* (“*the public interest favoring access outweighs any...agency interest that may favor restriction*”), please note that I am hereby exercising the House of Representatives’ discretion to make accessible one otherwise exempt record requested under this portion of your request. Accordingly, please find enclosed a sample of the correspondence that is issued in advance to persons scheduled to provide the invocation on House Session Days.

Items 4 and 5

This information is recorded each Session Day in the House Legislative Journals. The House Journals are available on our website, at: www.house.state.pa.us. Once there, click on the tab on the left marked “House Legislative Journals.” Then, select the relevant Session Year in the drop-down box, and

click on any date of Session. The information requested in these portions of your request can generally be found at the top of the first page of each day's Journal.

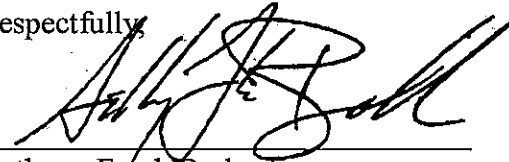
Right to Appeal

Because none of the information requested under items 2, 3, 6, 7, 8 and 9 of your request falls under the definition of "*legislative record*" to the extent it may exist within our files, a denial of access to the information requested under these items is appropriate. If you choose to file an appeal to this denial, you must do so in writing to Anthony C. Aliano Esq., Right-to-Know Appeals Officer, Pennsylvania House of Representatives, 139 Main Capitol Building, Harrisburg, PA 17120. Pursuant to Section 1101, an appeal must be filed within 15 business days of the mailing date of this response.

Conclusion

For your reference, please find enclosed a copy of the Pennsylvania *Right-to-Know Law* (65 P.S. §§67.101 *et seq.*). This correspondence serves to close your request with our office as permitted by law.

Respectfully,



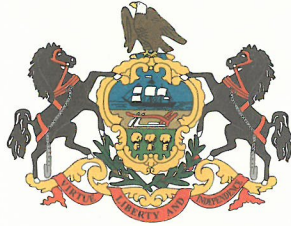
Anthony Frank Barbush
Chief Clerk/Open Records Officer
Pennsylvania House of Representatives

Encl.
AFB/biw

Exhibit 13

September 9, 2015 letter from defendant House Parliamentarian, denying plaintiffs' request to deliver opening invocations.

CLANCY MYER
PARLIAMENTARIAN



133 CAPITOL BUILDING
HARRISBURG, PA 17120-2211
PHONE: (717) 783-8126
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E-MAIL: cmyer@pabmc.net

House of Representatives
Commonwealth of Pennsylvania
Harrisburg

September 9, 2015

Alex Luchenitser
Associate Legal Director
Americans United for Separating of Church and State
1901 L Street, NW
Suite 400
Washington, DC 20036

Dear Mr. Luchenitser:

Speaker Turzai has asked me to respond to your correspondence dated August 26, 2015, regarding your request that certain Pennsylvania nontheists be permitted to deliver nontheistic invocations at the opening of the House's sessions.

House Rule 17 provides, inter alia, that the first order of business shall be prayer by the chaplain. (underlining supplied) This same Rule provides that the Chaplain shall be a member of a regularly established church or religious organization or shall be a member of the House. (underlining supplied) Chaplains are recommended to us by members of the House. The individuals about whom you inquired do not meet the requirements of House Rule 17.

Additionally, for the reasons outlined in former Speaker Smith's letter to Mr. Silverman dated September 25, 2014, we do not believe our Rule and our policy violate the Supreme Court decision in the case of *Town of Greece, New York v. Galloway*.

Accordingly, we cannot approve your request.

Sincerely,

A handwritten signature in black ink, appearing to read "Clancy Myer".

Clancy Myer
Parliamentarian

cc: All House Members

Exhibit 14

Citations supporting “Nontheist Contributions to Society” section of complaint (paragraphs 220 to 231).

Exhibit 14
Citations Supporting Paragraphs 220 to 231 of Complaint

Politicians and statesmen

Moshe Dayan. *See* Tariq Ali, *The Clash of Fundamentalisms: Crusades, Jihads and Modernity* 10 (2003).

Yitzhak Rabin. *See* Uri Avnery, *The Real Rabin*, Ma'ariv, Oct. 31, 1999.

Neil Kinnock. *See* William Crawley, *Should we keep God out of politics?*, BBC Blog (Oct. 1, 2010), http://www.bbc.co.uk/blogs/ni/2010/10/should_we_keep_god_out_of_poli.html.

Pete Stark. *See* Lori Lipman Brown, *Congressman Holds No God Belief*, Secular Coalition (Mar. 12, 2007), http://web.archive.org/web/20070928021401/http://www.secular.org/news/pete_stark_070312.html.

Jesse Ventura. *See* Hemant Mehta, *Jesse Ventura: 'I'm An Atheist. And I'm Proud To Say It,' Friendly Atheist* (June 22, 2012), <http://www.patheos.com/blogs/friendlyatheist/2012/06/22/jesse-ventura-i%E2%80%99m-an-atheist-and-i%E2%80%99m-proud-to-say-it/>.

Natural scientists

Hans Bethe. *See* Denis Brian, *The Voice Of Genius: Conversations With Nobel Scientists And Other Luminaries* 117 (2001).

Francis Crick. *See* Francis Crick, *What Mad Pursuit* 10-12 (1990).

Richard Dawkins. *See generally* Richard Dawkins, *The God Delusion* (2006).

Richard Feynman. *See* Brian, *supra*, at 49.

Sigmund Freud. *See* Mark Edmundson, *Defender of the Faith?*, N.Y. Times (Sept. 9, 2007), http://www.nytimes.com/2007/09/09/magazine/09wwln-lede-t.html?pagewanted=all&_r=0.

Erich Fromm. *See* Erich Fromm, *a place for enthusiasts*, <http://www.erichfromm.net/> (last visited Aug. 22, 2016).

Stephen Hawking. *See* Alan Boyle, *I'm an Atheist: Stephen Hawking on God and Space Travel*, NBC News (Sept. 23, 2013), <http://www.nbcnews.com/science/space/im-atheist-stephen-hawking-god-space-travel-n210076>.

Peter Higgs. See Prof. Peter Higgs: Atheist scientist admits he doesn't believe in 'god particle,' The Telegraph (Apr. 8, 2013), <http://www.telegraph.co.uk/news/science/science-news/9978226/Prof-Peter-Higgs-Atheist-scientist-admits-he-doesnt-believe-in-god-particle.html>.

Lawrence Krauss. See Lawrence M. Krauss, *Everything and Nothing: An Interview with Lawrence M. Krauss*, Sam Harris Blog (Jan. 3, 2012), <http://www.samharris.org/blog/item/everything-and-nothing>.

Hermann Joseph Muller. See Elof Axel Carlson, *Hermann Joseph Muller, 1890-1967: A Biographical Memoir* 4-5 (2009).

John F. Nash. See Sylvia Nasar, *A Beautiful Mind* 143, 212 (1998).

Frank Oppenheimer. See K.C. Cole, *Something Incredibly Wonderful Happens: Frank Oppenheimer and His Astonishing Exploratorium* 104–05 (2012).

Linus Pauling. See Linus Pauling & Daisaku Ikeda, *A Lifelong Quest for Peace: A Dialogue* 22 (1992).

Sir Roger Penrose. See Roger Penrose, 'Big Bang follows Big Bang follows Big Bang,' BBC (Sept. 25, 2010), <http://news.bbc.co.uk/1/hi/9032000/9032626.stm>.

Andrei Sakharov. See Gennadii Efimovich Gorelik & Antonina W. Bouis, *The World of Andrei Sakharov: A Russian Physicist's Path to Freedom* 158 (2005).

Erwin Schrodinger. See Walter J. Moore, *A Life of Erwin Schrödinger* 289–90 (1994).

Alan Turing. See BHAwebsite, *Alan Turing*, Humanist Heritage, <http://humanistheritage.org.uk/articles/alan-turing/> (last visited Aug. 22, 2016).

Neil deGrasse Tyson. *Neil deGrasse Tyson: Atheist or Agnostic?*, Big Think (Apr. 25, 2012), <https://www.youtube.com/watch?v=CzSMC5rWvos>.

Harold Urey. See Interview with Harold Urey by Stephanie Groueff (Mar. 3, 1965), Voices of the Manhattan Project, <http://manhattanprojectvoices.org/oral-histories/harold-ureys-interview>.

Steve Wozniak. See Steve Wozniak, *Letters—General Questions Answered*, WOZ.ORG (Mar. 1, 2000), <http://archive.woz.org/letters/general/72.html>.

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Irving Fisher. See Mark Thornton, *The Economics of Prohibition* 16 (2007).

G. Stanley Hall. See *Cambridge Companion to Atheism* 310 (Michael Martin ed., 2006).

Herbert Simon. See Hunter Crowther-Heyck, *Herbert A. Simon: The Bounds of Reason in Modern America* 22 (2005).

B.F. Skinner. See *B.F. Skinner, in 5 A History of Psychology in Autobiography* 387-413 (E. G. Boring and G. Lindzey eds., 1967).

Businesspeople

John Baskerville. See *Printer's Reburial Demanded*, *The Times* (London), Mar. 9, 1963, at 6.

Allen Pinkerton. See Richard Davenport-Hines, *Pinkerton, Allan (1819–1884)*, in *Oxford Dictionary of National Biography* (2004), <http://www.oxforddnb.com/view/article/49497>.

Mark Zuckerberg. See Vauhini Vara, *Just How Much Do We Want to Share On Social Networks?*, *Wall St. J.* (Nov. 28, 2007), <http://www.wsj.com/articles/SB119621309736406034>.

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Claude Monet. See Steven Z. Levine, *Monet, Narcissus, and Self-Reflection: The Modernist Myth of the Self* 66 (2d ed. 1994).

Pablo Picasso. See Paul Johnson, *Creators* 255 (2006).

Writers

Douglas Adams. See *Celebrities in Hell: A Guide to Hollywood's Atheists, Agnostics, Skeptics, Free Thinkers, and More* 6 (Warren Allen Smith ed., 2002).

Isaac Asimov. See Isaac Asimov, *The Way of Reason*, in *In Pursuit of Truth: Essays on the Philosophy of Karl Popper on the Occasion of his 80th Birthday* ix–x (Paul Levinson ed., 1982).

Albert Camus. See *Albert Camus*, *Internet Encyclopedia of Philosophy*, <http://www.iep.utm.edu/camus/> (last visited Aug. 22, 2016).

Anton Chekhov. See Olga Tabachnikova, *Anton Chekhov Through the Eyes of Russian Thinkers: Vasilii Rozanov, Dmitrii Merezhkovskii and Lev Shestov* 26 (2010).

Arthur C. Clarke. See *Life Beyond 2001*, *Midweek Review* (Dec. 20, 2000), <http://www.island.lk/2000/12/20/midwee01.html>.

Umberto Eco. See Jeff Israely, *A Resounding Eco*, Time (June 13, 2005), <http://content.time.com/time/magazine/article/0,9171,1069054,00.html>.

Franz Kafka. See Sander Gilman, *Franz Kafka* 31 (2005).

Stanislaw Lem. See Stanislaw Lem, Peter Engel, & John Sigda, *An Interview With Stanislaw Lem*, 7 Mo. Rev. 218 (1984).

Jack London. See Stewart Gabel, *Jack London: a Man in Search of Meaning: A Jungian Perspective* 14 (2012).

H.P. Lovecraft. See Letter from H.P. Lovecraft to Robert E. Howard (Aug. 16, 1932), in 4 *Selected Letters* 57 (August William Derleth ed., 1976).

Ayn Rand. See Amy Benfer, *And the Rand Played On*, Mother Jones (July/Aug. 2009), <http://www.motherjones.com/media/2009/07/and-rand-played>.

Jean-Paul Sartre. See Nigel Warburton, *A Student's Guide to Jean-Paul Sartre's Existentialism and Humanism*, Philosophy Now (1996), https://philosophynow.org/issues/15/A_students_guide_to_Jean-Paul_Sartres_Existentialism_and_Humanism.

Robert Louis Stevenson. See Theo Tait, *Like an intelligent hare — Theo Tait reviews Robert Louis Stevenson by Claire Harman*, The Telegraph (Jan. 30, 2005), <http://www.telegraph.co.uk/culture/books/3635932/Like-an-intelligent-hare.html>.

Kurt Vonnegut. See Kurt Vonnegut, *Fates Worse Than Death* 157 (1982).

Musicians

Ani DiFranco. See Interview with Ani DiFranco by Matthew Rothschild, The Progressive (May 9, 2000), <http://www.progressive.org/news/2006/10/4079/ani-difranco-interview>.

David Gilmour. See Nigel Farndale, *Still on the dark side*, The Telegraph (May 28, 2006), <http://www.telegraph.co.uk/culture/music/3652743/Still-on-the-dark-side.html>.

Billy Joel. See *Famous Atheists and their Beliefs*, CNN (May 25, 2013), http://www.cnn.com/2013/05/25/living/gallery/atheists/index.html?hpt=hp_c4.

Charlie Parker. See Ross Russell, *Bird Lives! The High Life And Hard Times Of Charlie (yardbird) Parker* 361 (1996).

Linda Ronstadt. See Lawrence Downes, *Linda Ronstadt's Borderland*, N.Y. Times (Dec. 27, 2013), <http://www.nytimes.com/2013/12/29/travel/linda-ronstadts-borderland.html>.

Dmitri Shostakovich. See Laurel Fay, *Shostakovich: A Life* 263 (2000).

Eddie Vedder. See Janeane Garofalo *Interviews Eddie Vedder about Pearl Jam, God, Art, Age and Why Interviews Suck*, CMJ New Music Monthly, Apr. 1998, at 57.

Roger Waters. See Mark Brown, *An interview with Roger Waters*, Rocky Mountain News, Apr. 25, 2008.

Frank Zappa. See *Oxford Handbook of Atheism* 722 (Stephen Bullivant & Michael Ruse eds., 2013).

Actors and others in the film/television industry

Kevin Bacon. See Wendy Ide, *Kevin Bacon*, The Times (London) (Dec. 1, 2005), <http://www.thetimes.co.uk/tto/arts/film/article2431089.ece>.

Richard Burton. See Richard Burton, *The Richard Burton Diaries* 252 (Chris Williams ed., 2012).

James Cameron. See Rebecca Winters Keegan, *The Futurist: The Life and Films of James Cameron* 8 (2009).

Marlene Dietrich. See *Celebrities in Hell: A Guide to Hollywood's Atheists, Agnostics, Skeptics, Free Thinkers, and More* 130 (Warren Allen Smith ed., 2002).

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Jodie Foster. See Cal Fusman, *Jodie Foster: "What I've Learned,"* Esquire (Jan. 2011), <http://www.esquire.com/entertainment/interviews/a9097/jodie-foster-interview-0111/>.

Katharine Hepburn. See Myrna Blyth, *Kate Talks Straight*, Ladies Home Journal, Oct. 1, 1991, at 215.

John Landis. See Interview with John Landis by Simon Mayo and Mark Kermode, *Kermode and Mayo's Film Review*, BBC Five Live (London) (Nov. 11, 2011), <http://www.bbc.co.uk/programmes/b016w0sm>.

John Malkovich. See Peter Howell, *A Kinder, Gentler Malkovich*, Toronto Star (Sept. 11, 2008), http://www.thestar.com/entertainment/movies/2008/09/11/a_kinder_gentler_malkovich.html.

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Brad Pitt. See *Brad Pitt On Atheism & Hatred: Star Talks God, Genocide And Inequality*, Huffington Post (Mar. 26, 2012), <http://www.huffingtonpost.com/2012/01/25/brad-pitt-on-atheism-hatred-1231684.html>.

Ridley Scott. See Adam Sternbergh, *Ridley Scott: 'Most Novelists Are Desperate to Do What I Do'*, N.Y. Times (Oct. 25, 2013), <http://www.nytimes.com/2013/10/27/magazine/ridley-scott-most-novelists-are-desperate-to-do-what-i-do.html>.

Emma Thompson. See Jane Cornwell, *Acting on outspoken beliefs*, The Australian (Oct. 15 2008), <http://www.theaustralian.com.au/arts/acting-on-outspoken-beliefs/story-e6frg8n6-1111117752031>.

Paul Verhoeven. See *Paul Verhoeven misses God*, Jim Dempsey (Oct. 5, 2008), <https://jimdempsey.wordpress.com/2008/10/05/paul-verhoeven-misses-god/>.

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Dave Barry. See Jack Huberman, *The Quotable Atheist* 31 (2007).

Phyllis Diller. See Dan Dulin, *Phyllis Diller*, A&U Magazine (Aug. 22, 2012), <http://aumag.org/wordpress/2012/08/22/phyllis-diller/>.

Ricky Gervais. See Ricky Gervais, *Ricky Gervais: Why I'm an Atheist*, Wall St. J. (Dec. 19, 2010), <http://blogs.wsj.com/speakeasy/2010/12/19/a-holiday-message-from-ricky-gervais-why-im-an-atheist/>.

Patton Oswalt. See Genevieve Koski, *Patton Oswalt*, A.V. Club (Aug. 31, 2011), <http://www.avclub.com/article/patton-oswalt-61121>.

Paula Poundstone. See Paula Poundstone, *There's Nothing in This Book That I Meant to Say* 16 (2006).

Ray Romano. See *Famous Skeptics*, Within Reason, <https://macgregorhill.wordpress.com/religion/atheism/famous-skeptics/> (last visited Aug. 22, 2016).

Andy Rooney. See *Rooney offers his opinion*, Tufts Daily (Nov. 19, 2004), <http://tuftsdaily.com/archives/2004/11/19/rooney-offers-his-opinion/>.

Sarah Silverman. See *Interview With Sarah Silverman*, CNN (Apr. 20, 2010), <http://transcripts.cnn.com/TRANSCRIPTS/1004/20/1kl.01.html>.

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Bruce Lee. See John Little, *The Warrior Within – The philosophies of Bruce Lee to better understand the world around you and achieve a rewarding life* 122, 128 (illustr. ed. 1996).

Rafael Nadal. See Jon Werthum, *Q&A with Rafael Nadal*, Sports Illustrated (July 16, 2010), <http://www.si.com/more-sports/2010/07/16/nadal-interview>.

Pat Tillman. See Michael Ordoña, *Shadowy Truth*, L.A. Times (Aug. 18, 2010), <http://articles.latimes.com/2010/aug/18/entertainment/la-et-tillman-story-20100818>.

Others

Richard Francis Burton. See Thomas Wright, 2 *The Life of Sir Richard Burton* 146 (1906).

Ron Reagan. See Betsy Rothstein, *20 Questions: Ron Reagan*, The Hill (Sept. 24, 2008), <http://thehill.com/capital-living/20-questions/20867-20-questions-ron-reagan>.