

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LIGHTHOUSE BAPTIST CHURCH, INC.,
RICHARD HACK, MATT MAYER, and
PAUL GLISSON

Plaintiffs,

**VERIFIED COMPLAINT
AND JURY DEMAND**

-against-

CHEMUNG COUNTY,

Civil No. 20-cv-7000

CHEMUNG COUNTY HEALTH DEPARTMENT,

CHRISTOPHER MOSS, individually and in his
official capacity as County Executive,

PETE BUZZETTI, individually and in his official capacity
as Chemung County's Public Health Director, and

MARI DELANEY, individually and in her official capacity
as Chairman for the Chemung County Health Department

Defendants.

NATURE OF ACTION

This action seeks declaratory and injunctive relief for deprivations sustained by Plaintiffs and for violations committed by Defendants — while acting under color of state law — against Plaintiffs' rights as guaranteed by the First, Fifth, and Fourteenth Amendments of the United States Constitution.

PARTIES

1. Lighthouse Baptist Church, Inc. (“LBC”) is an independent Baptist Church and a not-for-profit 501(c)(3) religious organization (Federal EIN: 16-1408626) that has a designated place for worship at 209 Gardner Road, Horseheads, New York.
2. Plaintiff Pastor Richard Hack (“Pastor Hack”) is the leader of the church, and lives in Chemung County, New York.
3. Plaintiff Matt Mayer (“Mr. Mayer”) is a congregant of Lighthouse and a sincere practitioner of the Baptist Christian faith who resides in Elmira, New York.
4. Plaintiff Paul Glisson (“Mr. Glisson”) is a congregant of Lighthouse and a sincere practitioner of the Baptist Christian faith who resides in Gillett, Pennsylvania.
5. Defendant Chemung County was and is a municipal corporation duly organized and existing under the laws of the State of New York and has a business address at 210 Lake Street, PO Box 588, Elmira, New York
6. Defendant Chemung County Health Department (“CCHD”) is a department of Chemung County with offices located at 103 Washington Street, Elmira, New York.
7. Defendant Christopher Moss is the County Executive for Chemung County, and is the final decision-maker in Chemung County concerning the promulgation and enforcement of the challenged government actions and orders. He is sued individually and in his official capacity.
8. Defendant Peter Buzzetti is the Public Health Director in Chemung County, and is a final decision-maker for Chemung County’s Health Department concerning the

promulgation and enforcement of the challenged government actions and orders. He is sued individually and in his official capacity.

9. Defendant Mari Delaney is the Chairman for Chemung County's Department of Health and is a final decision-maker for Chemung County's Health Department concerning the promulgation and enforcement of the challenged government actions and orders. She is sued individually and in her official capacity.

JURISDICTION AND VENUE

10. This action implicates federal questions under the First, Fifth, and Fourteenth Amendment to the United States Constitution and pursuant to Federal Law, 28 U.S.C. §§ 1920, 2201 and 2202, as well as 42 U.S.C. §§ 1983 and 1988.

11. This Court has jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1343 and 5 U.S.C. § 701, et seq.

12. This Court has authority to grant the requested injunctive relief pursuant to 28 U.S.C. § 1343 (3) and 42 U.S.C. § 1983, declaratory relief pursuant to 28 U.S.C. §§ 2201, 2202, and Plaintiffs' demand for costs, including reasonable attorney's fees, pursuant to 42 U.S.C. § 1988 and 28 U.S.C. § 1920.

13. Venue is proper in the Western District pursuant to 28 U.S.C. §1391, as at least one Defendant resides in this District and a substantial part of the events giving rise to the claims herein arose in this District.

ALLEGATIONS COMMON TO ALL COUNTS

14. On June 26, 2020, the New York State Department of Health promulgated the “Interim Guidance for Religious & Funeral Services During the Covid-19 Public Health Emergency” (“Guidance”) which governed the reopening of churches across New York State.

15. LBC has stated on numerous occasions that it is willing to comply with the Guidance, yet Defendants will not allow LBC to reopen until it agrees to comply with requirements that go above and beyond those requirements set forth in the Guidance.

16. LBC asks this Court for an Order allowing it to reopen for worship services in accordance with the Guidance, and that Defendants be enjoined from conditioning that reopening on dictats and requirements of their own invention.

The Challenged Government Actions

17. On September 6, 2020, the leadership of LBC was contacted by two LBC attendees who informed LBC leadership that they have tested positive for the COVID-19 virus.

18. Upon receipt of this information, LBC proactively and voluntarily decided to close its doors for a period of twenty (20) days.

19. LBC leadership began notifying LBC attendees of the positive test results that same day.

20. On September 7, 2020, Pastor Hack was contacted by Defendant Pete Buzzetti to inform LBC leadership of the attendees who had tested positive for COVID-19.

21. On September 8, 2020, Defendant CCHD posted a Notice of Closure on LBC’s church building doors.

22. No hearing was conducted before LBC was ordered to close and no due process was afforded to Plaintiffs.

23. No evidence was presented to LBC to confirm that these two COVID cases originated from LBC, much less due to any actions or failures on the part of LBC.

24. The Notice of Closure referred to “the state and county Sanitary Code” and “NY Governor’s Executive Order’s (sic) Number 202” as authority for LBC’s shutdown. No further or more specific authority has been provided to LBC or its attorney at any time.

25. Defendant Buzzetti requested that he be provided with the personal information (name, address, and phone number) for the entire LBC membership.

26. LBC was not comfortable providing this information as providing the personal information for LBC membership without the permission of the attendees and without a court order is illegal.

27. That same day, Defendant Buzzetti notified LBC leadership of a free COVID testing site at the Chemung County Fairgrounds.

28. LBC worked with the CCHD and notified LBC’s membership of the free testing site.

29. LBC offered free transportation for any of its membership who would like to get tested and who did not have a way to get to the fairgrounds.

30. The free COVID testing took place on September 9, 2020.

31. The testing site at the Chemung County Fairgrounds was open both to LBC attendees and the general public.

32. According to a CCHD press release, forty (40) people were tested at the testing site.

33. However, those people taking the COVID test were not asked if they were LBC attendees.

34. It is understood that not everyone who was tested at the free testing site was an LBC attendee.

35. According to the CCHD press release, nineteen (19) individuals tested positive.

36. The CCHD press release attributed those positive tests to LBC attendees, despite there being no evidence that those who tested positive for COVID were part of LBC's membership.

37. On September 9, 2020, LBC held its first livestream-only service after its voluntary shutdown.

38. To date, LBC has not assembled in the building since the services that were held on Sunday, September 6, 2020.

39. On September 10, 2020, Defendant Buzzetti again requested Lighthouse's the entire membership roll.

40. LBC leadership still was not comfortable providing that information without permission from its attendees and without a court order.

41. Rather, LBC sought to assist the CCHD by contacting its attendees to convey the importance of slowing the spread of the virus.

42. LBC encouraged its attendees to self-quarantine and/or test if they had any symptoms.

43. On September 11, 2020, the CCHD delivered a subpoena demanding the names and addresses of LBC attendees from August 18, 2020 to September 8, 2020.

44. LBC was threatened that failure to comply will result in fines of up to \$2,000.00 plus damages.

45. The subpoena was not dated and cites no authority for its issuance. The subpoena does not cite an actual matter that is before any agency, tribunal, or court.

46. That subpoena was signed by Defendant Delaney.

47. LBC contacted its attendees and requested permission to disclose their names and addresses.

48. On September 12, 2020, with the permission of each head of household and/or individual, LBC provided the names and addresses of people who had been in attendance during the requested time frame in compliance of the subpoena.

49. Thereafter, LBC attempted to negotiate with CCHD to reopen. As a condition of reopening, LBC has agreed to comply and will comply with the “Interim Guidance for Religious & Funeral Services During the Covid-19 Public Health Emergency” (“Guidance”) promulgated by the New York State Department of Health.

50. However, LBC has been unable to reopen because, without any justification or due process, Defendants seek to impose additional requirements that go beyond those that are set forth in the Guidance.

51. Although no hearing has been conducted, no legal authority has been cited, and no due process has been afforded to LBC, CCDH seeks to require LBC, as a condition of reopening, to provide CCDH, among other things:

- a. With a daily submission of logs including the date, time, and scope of cleaning and disinfection being utilized and maintained. Even on days when the church is not open and thus no cleaning has been performed, documentation still is required to be submitted daily.
- b. With a daily submission of logs of every person who attended any service at the church, including name, address, and telephone number, via daily e-

mail to Mr. Buzzetti. Even on days when the church is not open and thus no one has attended any service, documentation still is required to be submitted.

52. Because LBC would not agree to these demands of Defendants, additional punitive measures were taken against LBC. The defendants posted a new Notice of Closure on the church building in late October banning all indoor and outdoor operations.

53. There were no new cases of COVID-19 that were anecdotally linked to LC to prompt this new October notice, the purpose of which seems entirely punitive.

54. LBC remains willing to abide by the same Guidance that applies to all religious institutions across New York State. It should not have to jump through additional hoops invented by Defendants.

THE INFRINGEMENT OF PLAINTIFFS' CONSTITUTIONAL RIGHTS

Plaintiff Lighthouse Baptist Church

55. LBC is an independent Baptist church. LBC's church is governed strictly by biblical guidance, and LBC is autonomous from any outside organizations.

56. The church's Pastor, Richard Hack, is the leader of the church, and he is assisted by the staff and board of deacons. The board of deacons are also the board of trustees for the LBC corporation.

57. LBC cares about the health and well-being of its attendees as well as those in the Chemung County community.

58. In order to protect and serve its congregation and those in the community, LBC sought to follow the applicable COVID-guidelines while still allowing people the freedom to worship at its church.

59. LBC implemented the following safety measures including, but not limited to: temperature taking, limited contact, social distancing, hand washing, wearing of masks, sanitization of facilities, and the admonishment of those that were showing symptoms of illness to stay at home.

60. Hand sanitizer, disinfectant wipes, and masks were available at each of LBC's public services.

61. Steps were taken by LBC leadership to limit the spread of the virus including, but not limited to: eliminating hand-shaking, suspending the passing of offering plates, postponing Sunday School classes, and suspending the operation of various outreach ministries.

62. LBC offered a touch-free church service. Attendees could come to a public service and not touch anything.

63. The aforementioned steps were implemented so that those who chose to attend LBC's public services were as safe and as comfortable as possible while on LBC's property.

64. Pastor Hack, in concerned response to the two LBC attendees who tested positive for COVID, already made the decision to go to only livestream services before Defendant Buzzetti contacted LBC leadership.

65. LBC encouraged its membership to get tested for COVID and offered free transportation for those attendees who did not have transportation.

66. The overwhelming majority of LBC attendees were tested or self-quarantined voluntarily in order to protect the Chemung County community.

67. Despite these efforts, Defendant Chemung County though Defendant Moss chose to disparage LBC in the media and in press releases. For example, Defendant Moss opined on September 10, 2020 that “some of the [LBC] parishioners believe that they don’t need to cooperate with the health department because God will look after them.”

68. Defendant Moss has made similar statements on numerous other occasions. Defendant Moss made these statements despite that, to LBC’s knowledge, no investigation had been conducted concerning the origin of the positive COVID cases – no inspection of the church occurred, no interviews were conducted, and no site-visit was made.

69. These statements by Defendant Moss do not reflect the perspective of LBC leadership or its membership. While LBC is a congregation of faith and does believe that God loves and cares about its membership, it and its congregants are not ignorant as portrayed by Defendant Moss, nor does it downplay wise and prudent practices regarding sensible health measures.

70. LBC has been and is willing to work alongside the CCHD in any reasonable effort to slow the spread of the virus, but it will not provide its attendees’ personal information carte blanche.

71. LBC is a religious organization and has a responsibility to its attendees to protect their constitutional rights.

72. In press reports by the CCHD, LBC was accused of providing limited cooperation.

73. LBC has provided the CCHD with all the information it has for which Defendants have asked within legal guidelines.

74. LBC has been careful with the information it has provided to defendants for two reasons: (1) Defendants have shown themselves to be unfriendly and even aggressive toward LBC and its membership; and (2) Defendants have already misrepresented the facts regarding LBC and the alleged outbreak stemming therefrom on more than one occasion.

75. Defendants have made multiple claims against LBC that cannot be verified due to privacy concerns, thus preventing LBC from validating their assertions.

76. For example, one LBC member was in ICU due to a car accident. This individual was tested for COVID-19 upon arrival to the hospital despite showing no symptoms of the virus. When the individual's test came back positive, it was reported by Defendants that the individual's stay in ICU was because of COVID-19.

77. On Thursday, September 10, 2020, Defendant Buzzetti made several assumptions about the potential number of cases and counties affected by the alleged outbreak, including stating, "I'm just picking this number right now. It may be a little bit more or less by tomorrow, but we've identified probably 18 . . . er, 80 contacts associated with the ill patients." However, Defendant Buzzetti offered no data to substantiate the totals about which he was guessing.

78. On Wednesday, September 16, 2020, the CCHD attributed a COVID-19 death in the community to LBC. At the time of the news publication, LBC leadership was not aware of this person or their COVID diagnosis. LBC did not know whose death Defendants were attributing to the church and how it was connected.

79. LBC has since learned from a news report that it was a 76-year-old man and that he was a relative of one of LBC's attendees. According to the LBC attendee, the

attendee last attended church on Sunday, August 16, 2020, which was more than 14 days before any COVID-19 tests from attendees at LBC's church came back positive.

80. Two other individuals died from COVID that Defendant apparently connect to LBC.

81. One was an individual who was a shut-in for 8 years. Neither this individual nor the individual's family has physically attended LBC's church in years.

82. The other individual has attended LBC quite regularly but died of a brain aneurysm. After her death, this individual was tested for COVID-19. The test returned positive.

83. LBC does not deny that there is an outbreak in Chemung County, and it is saddened to seek individuals in its congregation and community who are struggling with the virus.

84. However, it seems that Defendants are intent on blaming LBC for this outbreak. This blame is both unfounded and unfair, especially since no actual investigation was conducted – a least not one that involved interviewing LBC congregants or personnel, or visiting the church premises where the Defendants have alleged the virus spread.

85. On September 16, 2020. Defendant Buzzetti, along with Chemung County's attorney, Hyder Hussain, contacted Pastor Hack to inform him that LBC had been reported for a gathering.

86. The only gathering that took place on LBC property was a tree company not associated with the church that was working on its back property.

87. Additionally, LB was reported for having a night gathering on the same day. However, this "gathering" was Pastor Hack in the church auditorium preaching for LBC's livestreamed mid-week church service. There were two other individuals in the church

building—one to run the camera and one to run the sound system. These individuals maintained social distancing and wore masks.

88. Because the Defendants will not share this information, LBC is unsure of the exact number of LBC attendees who have tested positive for COVID.

89. LBC continues to be willing to work with Defendants within legal guidelines, within the constitutional rights of its attendees, and for the good of LBC's church and community.

Pastor Hack

90. Pastor Hack founded LBC in June of 1991 as Independent Baptist Church in Elmira, New York.

91. In 2011, Pastor Hack merged the church with Calvary Baptist Church in Horseheads, New York, which became Lighthouse Baptist Church.

92. Pastor Hack grew up in upstate New York. He attended Hyles-Anderson College (HAC), a Bible college and seminary, in Crown Point, Indiana. He graduated from HAC in 1990 with a BS degree in Pastoral Theology.

93. The church's typical attendance pre-COVID-19 lockdowns would have been 200 to 250.

94. LBC, prior to the COVID-19 lockdowns, engaged in the following ministries:

- General
 - Public Services
 - Sunday School for All Ages
 - Sunday Morning
 - Sunday Evening
 - Wednesday Night

- Music Ministry
 - Adult Choir
 - Youth Choirs
 - Instrumental Ensembles
 - Youth Ministries
 - Nursery
 - Junior Church
 - Children's Church
 - Graded Sunday School
 - Teen Group
- Visitation
 - Hospital
 - Shut-In
 - Evangelistic
- Outreach
 - Bus Ministry (free transportation for children and adults to church)
 - Reformers Unanimous Ministry (recovery program)
 - Tract Ministry
 - Jail Ministry
 - Nursing Home Ministry
- Conferences
 - Annual Missions Revival for Local and Regional Pastors and Laymen
 - Semi-Annual Ladies Meeting
- Missions
 - Golden Land Baptist Mission (GLBM)—a mission board for outreach in Myanmar (Old Burma), Thailand, and Southeast Asia
 - 25+ Foreign and Domestic Missionaries Supported

95. Pastor Hack has been trying to negotiate with CCHD to reopen LBC since September.

96. As a condition of reopening, LBC has agreed to comply and will comply with the “Interim Guidance for Religious & Funeral Services During the Covid-19 Public Health Emergency” promulgated by the New York State Department of Health.

97. Despite Pastor Hack’s efforts, LBC has been unable to secure permission from Defendants to reopen.

Matt Mayer

98. Mr. Mayer is 43 years of age and has been a congregant at LBC since 2009.

99. Mr. Mayer has an A.S. from Corning Community College. After achieving his degree, he began studying toward a bachelor’s degree in divinity. Although his pursuit of that degree was de-railed by a serious medical condition, he has studied divinity at Crown College (Powell, Tennessee), Bethany Bible College (Sussex, New Brunswick, Canada), and Indiana Wesleyan University (Marian, Indiana). He continues to work toward a degree in divinity and hopes to achieve that goal.

100. Mr. Mayer presently works as an electrician for the Corning-Painted Post School District. He has held that position since August 2019. Before that, he worked for Akron Associates, which is a food-services provider to Hobart and William Smith Colleges.

101. Mr. Mayer is a born-again Christian. He was raised in the Christian faith as a Wesleyan. As a child, he attended church, CYC, and Sunday School.

102. Mr. Mayer has continued to practice his faith as an adult. Wherever he lived while pursuing his education, he attended church services. When he and his wife, Ann, moved back to Elmira from Tennessee, they joined LBC and have been congregants ever since.

103. Mr. Mayer is a deacon and a trustee of LBC. In those roles, he assists Pastor Hack in his duties and also serve the members of our church in various ways. For example, if an elderly congregant needs to have her lawn cut, a furnace installed, or a water leak fixed, he provides those services on behalf of the church and its congregation.

104. Mr. Mayer also serves as the Financial Director of LBC's Golden Trust Baptist Missions. Presently, it has approximately 15 missionaries serving in Myanmar, in Southeast Asia. In his capacity as Financial Director, he receives donations, sends the missionaries their support, and pays other bills.

105. Mr. Mayer's wife, Ann, serves as LBC's Nursery Director. She and Mr. Mayer also have been placed in charge of remodeling the church's bathrooms.

106. Ann and Mr. Mayer have two children: Aletta, age 11; and Gabriel, age 7. Both of their children have been raised in their faith.

107. When the LBC is open, their entire family attends services at LBC twice on Sundays (morning and evening), and again on Wednesdays. Mr. Mayer believes in the edict "three to thrive," which is why they attend three weekly services.

108. Mr. Mayer's daughter is active in the Junior Church, which meets on Sunday mornings for children ages 7-12 years of age. Mr. Mayer serves as the Junior Church Director. Prior to the church being shut down, Mr. Mayer's son was attending LBC's Children's Church services, for 4- to 6-year-olds, but he recently turned seven and would be attending Children's Church if LBC were open.

109. Mr. Mayer's children also participate in LBC's children's choirs, Sunday School, Kids' Club, and Gabriel also was in the Pee Wee Club. All these weekly activities have been curtailed since the church was shut down.

110. Personal attendance at church in the fellowship of other congregants is important to Mr. Mayer and his family.

111. Part of Mr. Mayer's faith involves giving encouragement to fellow congregants when they are in need. For example, one of LBC's congregants has stage-four breast cancer, and if LBC were open, he would provide personal encouragement to her in her struggle. Mr. Mayer gives this encouragement both before and after services. Mr. Mayer also receives encouragement when he is in need, as does his entire family.

112. Mr. Mayer considers his fellow congregants at LBC to be his brothers and sisters in faith. Not being able to see them and worship with them is like being ripped away from his family.

113. As a born-again Christian, Mr. Mayer believes that the Holy Spirit is with LBC membership when they worship together at LBC. God is not there on a computer screen. Mr. Mayer also cannot offer encouragement to other congregants through a computer monitor.

114. Since LBC was closed, Mr. Mayer and his family have been unable to practice our faith freely as is their constitutional right. The decision by Chemung County and the Chemung County Department of Health to close LBC and keep it closed for over two months has had a significant negative impact on his family.

115. Mr. Mayer fully understands the need to abide by the guidance and protocols issued by the governor's office and the New York State Department of Health. Outside of church, and he does abide by these guidelines.

116. If LBC is reopened, Mr. Mayer and his family also will abide by the restrictions during worship services.

117. Mr. Mayer has been told that, as a condition of reopening, Chemung County is purporting to require LBC to provide on a daily basis the names, addresses, and telephone numbers of all individuals who attend services to Chemung County.

118. Mr. Mayer does not want records of his family's attendance at LBC to be transmitted to Chemung County every time they attend a service.

119. LBC has been shuttered for over two months. In this time, Mr. Mayer and his family have been unfairly and unconstitutionally deprived of their ability to practice our faith.

Paul Glisson

120. Mr. Glisson is 36 years of age and has been a congregant at LBC since 2015.

121. Mr. Glisson is the son of a longtime pastor and was raised in the Christian faith.

122. Mr. Glisson's wife, Jaclynn, shares Mr. Glisson's faith, as does his three children: Wyatt, 11; Hunter, 9; and Emalynn, 8. It is very important to Mr. Glisson and his wife that their children be raised in the Christian faith.

123. Mr. Glisson's entire family belongs to Lighthouse and worships at the church building in Horseheads. The typically attend services twice on Sundays, and once more on Wednesday nights.

124. If the church were open, Mr. Glisson's children would attend Sunday School and participate in Lighthouse's children's choirs. On Sundays, they participate in the

Junior Church and Children's Church Services. These services are held for children while the adult services are being conducted in the main church sanctuary.

125. Mr. Glisson's entire family participates in LBC's visitation ministry on Saturday mornings.

126. Mr. Glisson and his wife also participate in the Adult Sunday School run by Assistant Pastor John Early.

127. In addition to worshipping at the church, Mr. Glisson assists LBC in the sound booth during services and serve on the Safety and Security Committee.

128. Since LBC was closed, Mr. Glisson and his family have been unable to practice their faith freely as is their constitutional right.

129. A critical tenet of Mr. Glisson's faith is fellowship. The ability to worship together with like-minded individuals of the same faith is important to Mr. Glisson and his family. The Bible speaks to the importance of fellowship in worship. Fellowship is important to Mr. Glisson and his family.

130. The decision by the CCHD to close LBC and keep it closed for over two months has had a significant negative impact on Mr. Glisson and his family. While Mr. Glisson and his family have tried to experience worship services via livestreaming, the technology is poor. Mr. Glisson and his family frequently cannot hear or see well, there is only one-way communication, and the important element of fellowship is entirely missing.

131. Mr. Glisson does not wish to practice his faith via livestreamed services. Mr. Glisson wants to be able to worship in person at the church of his choice in fellowship with his fellow congregants.

132. Mr. Glisson works in the secular world as a manager in charge of 12 different locations for Schwan's. He fully understands the need to abide by the guidance and protocols issued by the governor's office and the New York State Department of Health. Mr. Glisson does abide by these guidelines.

133. If LBC is reopened, Mr. Glisson and his family also will abide by the restrictions during worship services. As a volunteer on LBC's Safety and Security Committee, Mr. Glisson will help to ensure that these guidelines are followed by other congregants and attendees.

134. Mr. Glisson has been told that, as a condition of reopening, Chemung County is purporting to require LBC to provide on a daily basis the names, addresses, and telephone numbers of all individuals who attend services to Chemung County.

135. Mr. Glisson does not want records of his family's attendance at LBC to be transmitted to Chemung County every time they attend a service.

136. Mr. Glisson and his family enjoy a Constitutional right to practice their faith without unwarranted governmental interference. Being forced to provide their names every time they worship, just because Chemung County has demanded it, chills their right to free exercise of religion. Mr. Glisson does not want the government maintaining lists of when and where his eight-year-old daughter attended worship services.

137. LBC has been shuttered for over two months. In this time, Mr. Glisson and his family have been unfairly and unconstitutionally deprived of their ability to practice their faith.

COUNT I

**Violation of the First and Fourteenth Amendments to the U.S. Constitution
(Free Exercise of Religion)
42 U.S.C. § 1983**

138. Plaintiffs re-allege and incorporate by reference the allegations contained in ¶¶1-137.

139. Plaintiffs' sincerely held religious beliefs compel them to preside over or participate in religious gatherings *in-person* in keeping with the teachings and requirements of their Christian faith in the Baptist tradition.

140. The Free Exercise Clause of the First Amendment to the U.S. Constitution protects Plaintiffs' religious activities.

141. The challenged government actions and orders substantially burden Plaintiffs' Free Exercise of Religion by forbidding them to preside over or participate in any religious gathering in LBC's respective house of worship.

142. The challenged government actions and orders are not a neutral policy of law of general applicability and cannot be sustained unless narrowly tailored to serve a compelling state interest of the highest order.

143. The challenged government actions and orders are not rationally related to a compelling state interest, nor are they the least restrictive means of accomplishing the purported compelling state interest of reducing the rate of community spread of COVID-19.

144. Defendants have less restrictive means of achieving any legitimate interest served by the challenged government actions and orders, those being the same requirements on which they allow other houses of worship to operate, *i.e.* the Guidelines.

145. In the absence of declaratory and injunctive relief, Plaintiffs will be irreparably harmed.

146. Plaintiffs have no adequate remedy at law for the violation of their constitutional rights.

COUNT II

Violation of the First and Fourteenth Amendments to the U.S. Constitution (Violation of Freedom of Speech, Assembly, and Expressive Association) 42 U.S.C. § 1983

147. Plaintiffs re-allege and incorporate by reference the allegations contained in ¶¶1-146.

148. The First Amendment protects plaintiffs' right peaceably to assemble with other members of their congregations.

149. Plaintiffs' religious assemblies are intertwined with speech and expressive association, meaning the right to associate with others of like mind for a protected purpose.

150. Because Defendants have imposed greater requirements on LBC for reopening than other houses of worship, LBC has been unable to open for more than two months and Plaintiffs have been unable to assemble an associate with other LBC congregants.

151. Defendants have less restrictive means of regulating gatherings for the stated purpose of reducing the rate of community spread of COVID-19.

152. The challenged government actions and orders do not serve any compelling or even significant government interest and are not narrowly tailored to achieve any legitimate state purpose.

153. The challenged regulations impermissibly infringe freedom of speech, assembly and expressive association without serving any compelling or even significant government interest.

154. In the absence of declaratory and injunctive relief, Plaintiffs will be irreparably harmed.

155. Plaintiffs have no adequate remedy at law for the violation of their constitutional rights.

COUNT III

Violation of the Fourteenth Amendment (Violation of Equal Protection Clause) 42 U.S.C. § 1983

156. Plaintiffs re-allege and incorporate by reference the allegations contained in ¶¶1-155.

157. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution guarantees equal protection of the laws, which requires that the State not treat the “suspect class” of religion differently from the class of similarly situated people or pass laws that burden First Amendment rights.

158. The challenged government actions and orders treat the class or subclass of people who exercise freedom of religion by gathering with others for that purpose, including Plaintiffs, differently from those similarly situated class of people who gather with others for that same purpose, but at a house of worship that is not LBC.

159. The challenged government actions and orders, both facially and as applied, also violate Plaintiffs' fundamental rights of freedom of religion, speech, assembly, and expressive association, as alleged above.

160. Even if the challenged government actions and orders did not involve a suspect classification or violate fundamental rights, their severe restriction of religious gatherings, while permitting numerous other non-LBC religious gatherings to take place, is not rationally related to a legitimate state interest, and thus cannot survive even rational basis analysis under the Equal Protection Clause.

161. Alternatively, the challenged government actions and orders cannot survive heightened scrutiny under the "hybrid-rights" theory the United States Supreme Court has recognized for purposes of Equal Protection analysis when, as here, multiple rights are violated by a purportedly neutral law.

162. The challenged government actions and orders thus violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

163. In the absence of declaratory and injunctive relief, Plaintiffs will be irreparably harmed.

164. Plaintiffs have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court grant the following relief:

- A. A preliminary and final injunction restraining Defendants, and all those acting in concert with them, from requiring LBC, as a condition of reopening, to comply with requirements

and rules more onerous than those set forth in the “Interim Guidance for Religious & Funeral Services During the Covid-19 Public Health Emergency” (“Guidance”) promulgated by the New York State Department of Health;

- B. A declaratory judgment that Defendants forced closure of LBC for refusing to comply with conditions of reopening more onerous than those set forth in the “Interim Guidance for Religious & Funeral Services During the Covid-19 Public Health Emergency” (“Guidance”) promulgated by the New York State Department of Health is unconstitutional as a matter of law; and
- C. An award of costs of this litigation, including reasonable attorneys’ fees, pursuant to 42 U.S.C. § 1988.
- D. Such other and further relief as this Court deems just and proper.

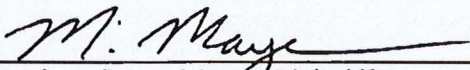
Dated: November 20, 2020

s/ R. Anthony Rupp III
R. Anthony Rupp III, Esq.
Chad A. Davenport, Esq.
1600 Liberty Building
Buffalo, New York 14202
rupp@ruppbaase.com
davenport@ruppbaase.com
(716) 854-3400

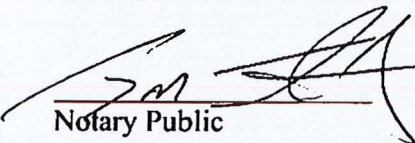
VERIFICATION

STATE OF NEW YORK)
 : ss.:
COUNTY OF ~~CHEMUNG~~)
 Steuben

Matthew James Mayer, being duly sworn, deposes and says that he is the plaintiff named in the within entitled action; that he has read the foregoing Verified Amended Complaint and knows the contents thereof; and that the same is true to his own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters he believes them to be true.


Matthew James Mayer, Plaintiff

Sworn to before me this
20th day of November, 2020.

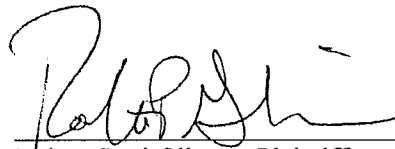

Notary Public

CORY M EDDY
Notary public, State of New York
Qualified in Steuben Co. No. 01ED6216406
COMMISSION EXPIRES 1/19/20 22

VERIFICATION

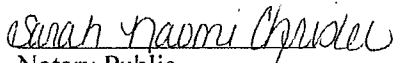
STATE OF PENNSYLVANIA)
 : ss.:
COUNTY OF BRADFORD)

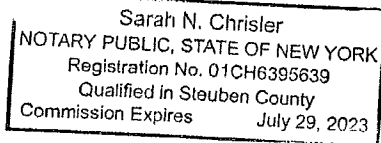
Robert Paul Glisson, being duly sworn, deposes and says that he is the plaintiff named in the within entitled action; that he has read the foregoing Verified Amended Complaint and knows the contents thereof; and that the same is true to his own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters he believes them to be true.



Robert Paul Glisson, Plaintiff

Sworn to before me this
20th day of November, 2020.

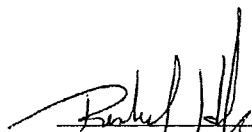

Notary Public



VERIFICATION

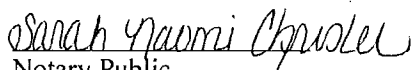
STATE OF NEW YORK)
 : ss.:
COUNTY OF CHEMUNG)

Richard Hack, being duly sworn, deposes and says that he is the plaintiff named in the within entitled action and the pastor of plaintiff Lighthouse Baptist Church; that he has read the foregoing Verified Amended Complaint and knows the contents thereof; and that the same is true to his own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters he believes them to be true.



Richard Hack, Plaintiff, Individually and on behalf
Lighthouse Baptist Church

Sworn to before me this
20th day of November, 2020.


Notary Public

