

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

GLOBAL IMPACT MINISTRIES, INC.,
JUSTIN REEDER, CARL UBINAS,
JASON OESTERREICH, ISAIAH
BURNER, ANDRE GONZALEZ, LEROY
STOKES, JR., RICHARD WHITTIER,
JON MCATEE,

Plaintiffs,

v.

CITY OF GREENSBORO,
GUILFORD COUNTY,

Defendants.

Case No.: 1:20-cv-329-WO-LPA

AMENDED COMPLAINT

PLAINTIFFS

1. Plaintiff Global Impact Ministries, Inc. d/b/a Love Life is a nonprofit, charitable, and religious entity organized under the laws of the State of North Carolina, with a principal place of business at 3030 Latrobe Drive, Charlotte, North Carolina 28211.

2. Plaintiff Justin Reeder is an individual and resident of Huntersville, North Carolina.

3. Plaintiff Carl Ubinas is an individual and resident of Mooresville, North Carolina.

4. Plaintiff Jason Oesterreich is an individual and resident of Locust, North Carolina.

5. Plaintiff Isaiah Burner is an individual and resident of Statesville, North Carolina.

6. Plaintiff Andre Gonzalez is an individual and resident of Mooresville, North Carolina.

7. Plaintiff Pastor Leroy Stokes, Jr., is an individual and resident of Greensboro, North Carolina.

8. Plaintiff Pastor Richard Whittier is an individual and resident of Mint Hill, North Carolina.

9. Plaintiff Pastor Jon McAtee is an individual and resident of Mint Hill, North Carolina.

DEFENDANTS

10. Defendant City of Greensboro is a municipality organized under the laws of the State of North Carolina and subject to suit under 42 U.S.C. § 1983 and the common law.

11. Defendant Guilford County is a county formed under the laws of the State of North Carolina and subject to suit under 42 U.S.C. § 1983 and the common law.

INTRODUCTION AND FACTUAL BACKGROUND

12. This challenge seeks to protect the right of a pro-life, faith-based public charity and pro-life, religious individuals to exercise their religious beliefs and to speak about those beliefs so they can help women with concerns about pregnancy and motherhood, and help meet the needs of vulnerable mothers and babies.

13. The County passed, and the City enforced, regulations limiting the operations of certain businesses and activities, and imposing social distancing requirements in response to the current pandemic, but those requirements were applied in an inconsistent and unconstitutional manner with respect to peaceful speech, conduct, and charitable religious activities in Greensboro.

14. This challenge also seeks redress for violations of Plaintiff Individuals' Fourth Amendment rights to be free from unlawful stop, unlawful arrest, and unlawful detention.

15. The City of Greensboro and Guilford County, in enforcing regulations limiting the operation of certain businesses, by and through officers of the Greensboro Police Department ("GPD officers"), violated Plaintiff Individuals' Fourth Amendment rights to be free from unlawful stop, unlawful arrest, and unlawful detention.

Love Life Ministries

16. Global Impact Ministries, Inc., operating as Love Life, is a private, faith-based, nonprofit organization that offers spiritual counseling, prayer, emotional counseling, post-abortion counseling, and a network of partnering area churches to provide material resources to expectant mothers, such as baby clothes, strollers, diapers, cribs, baby equipment, and car seats to women facing unplanned pregnancies. Love Life offers its ministry in the greater Charlotte, Greensboro, and Raleigh metropolitan areas.

17. Love Life's purpose is to unite and mobilize the church to create a culture of love and life that will bring an end to abortion and the orphan crisis. Love Life furthers

this mission by providing compassion and hope to young women and men who find themselves facing unplanned pregnancies, to help encourage them to make life-affirming decisions.

18. Specifically, for many years, a gap in available social services existed for women facing unplanned pregnancies who chose to continue their pregnancies. Often, Christian sidewalk ministers would counsel women about life at abortion facilities and could immediately provide free ultrasounds, but the ministers were limited by resources and could not provide all essential social services to mothers after they chose life.

19. Post-abortive counseling was another gap in social services. After abortion, many women and men feel grief, guilt, and regret. Manpower and resource limitations long limited the ability of Christian sidewalk ministers to invest an appropriate amount of time with such women and men to provide real hope and an understanding of the forgiveness that Christ offers.

20. Parenting mentorship and adoption-related services were also gaps that were not adequately being fulfilled for the same reasons.

21. Love Life was formed for the primary purpose of resolving these gaps. Essentially, Love Life is the interface between mothers and fathers who have considered or had an abortion, and the church — along with all the services local churches can offer when they are organized and mobilized to provide those services.

22. To close the gaps, Love Life hires personnel to work outside abortion facilities and alongside Christian sidewalk ministers. If a mother desires, she can speak

with a Christian sidewalk minister. Upon receiving information, the mother can generally have a free on-site sonogram on a mobile ultrasound unit. Many times, mothers will choose life for their babies after seeing the ultrasound, in which case the mother is usually referred to Love Life personnel who can help determine and meet the mother's needs — directly or with its church partner network.

23. Additionally, Love Life personnel, along with Christian sidewalk ministers, provide requested counseling to men and women after an abortion. Love Life refers the post-abortive men and women to its church network for ongoing counseling support services.

24. Apart from the ministry and services provided at the abortion facilities, Love Life also initiated a multi-year campaign to partner with area churches to inform the churches of the needs, and the methods by which they can help, and to organize the churches and Christians to effectively provide help.

25. Since its inception in 2016, Love Life has partnered with over 300 churches. A partnering church hears a sermon detailing the biblical view of life on a given Sunday, the following Wednesday the church will pray and fast, then on the next Saturday the church members will come to a local abortion clinic and prayer walk.

26. Love Life has a strict code of conduct that limits each volunteer prayer walking participant to prayer only. Prayer walkers are not allowed to engage abortion-minded mothers or any individuals present advocating for abortion. Prayer walkers do not carry signs and are asked to engage in silent prayer as they walk.

27. The prayer walks serve two primary purposes. First, the prayer walks seek God's intervention in a mother or father's heart so that he or she may choose life, and later be provided with material resources and support by Love Life to enable this decision. The second purpose of the prayer walk is to bring Christian believers to the abortion facilities so that Christians have a better understanding of the abortion and orphan crisis. Love Life believes that when confronted with the realities of the abortion and orphan crisis, Christians will become more involved in assisting those in need and provide women and men facing unexpected pregnancies with the resources and support needed to enable them to choose life.

28. Effective March 20, 2020, in response to the COVID-19 virus and CDC recommendations, Love Life terminated all organized prayer walks and told any church partners that if Christians desired to prayer walk individually, they must abide by all CDC social distancing requirements. Love Life's new policy continued to call for paid Love Life personnel to be present at or near abortion facilities that remained open during the pandemic, to fulfill Love Life's charitable purposes.

29. Love Life's personnel offers its free services in Greensboro two days each week. These paid Love Life personnel engage in prayer walking as well as sidewalk counseling. Additionally, Love Life provides its contact information to Christian sidewalk counselors and ultrasound operators in Greensboro, and Love Life is available via telephone to provide additional services on days when its personnel are not present.

30. Love Life's activities manifest its sincerely held religious belief that it should convey and promote messages about God's creation of each unique individual human life.

31. Love Life believes that Jesus' transforming love can free people from hopelessness and fear when facing difficult circumstances.

32. Love Life believes the Bible teaches that God creates each human being in His image and forms babies in their mothers' wombs, such that from the moment of conception every life has precious value and worth.

33. Love Life's sincerely held religious belief is that it should care for and support women facing difficult decisions related to unplanned motherhood.

34. Love Life believes that women should be respected, encouraged, supported, and protected with emotional, spiritual, and tangible material resources and help.

35. Love Life fulfills its religious and charitable mission by serving and teaching women about their unique value as human beings made in God's image, the precious value of babies in the womb, and the hope and peace that Jesus Christ offers.

36. Love Life hopes that by loving and counseling women in need, it encourages those it serves to put their faith in Jesus and free themselves from unhealthy behaviors, destructive relationships and habits, difficult situations, fears, and hopelessness.

37. Love Life operates its ministry through a staff of approximately 15 individuals working in various roles within the organization, along with a network of

volunteers, affiliates, and other supporters, primarily from churches throughout North Carolina.

Guilford County Emergency Proclamation

38. Guilford County, North Carolina, enacted an Emergency Proclamation¹ (“Order”) that limited business operations, travel, and other activities in Guilford County to those deemed “essential” or otherwise exempted under the Order.

39. The Order prohibited “Mass Gatherings,” defined as groups of 10 or more people. Ex. 6 at 4.²

40. The Order also set forth “Social Distancing Requirements” for all individuals within the county, regardless of the activities they were engaged in. The Social Distancing Requirements mandated that, among other things, all individuals remain at least six feet apart and keep sanitizing products available. Ex. 6 at 13.

41. Violation of the Order was a class 2 misdemeanor, carrying a penalty of up to 60 days in jail and a \$1000 fine. Ex. 6 at 14.

¹ Plaintiffs challenge three iterations of the Order: the Revised Emergency Proclamation, effective March 27, 2020, attached as Exhibit 7; the Second Revised Emergency Proclamation, with an effective date of March 30, 2020, at 7:00 p.m., attached as Exhibit 1; and the Third Revised Emergency Proclamation, which went into effect at 5:00 p.m. on April 10, 2020, attached as Exhibit 6. Except where otherwise noted in this Complaint, the Orders are identical in material respects. Each Order therefore had a materially identical effect on Love Life during its operative duration.

² Except where otherwise noted, citations to the Order are to the Third Revised version, operative at the time of the filing of the initial Complaint. Because the Order does not contain section numbers, page numbers, or other designations for ready citation, Love Life will refer to relevant provisions by title and the estimated page number.

42. The Order expressly permitted and “strongly encourage[d]” “essential businesses” to continue operating in Guilford County, and defined “Essential Businesses and Operations” to include numerous businesses and services, such as transportation, food and beverage, laundry, media, hardware and supplies, construction, financial institutions, mailing and shipping, hotels, and professional services like legal services, real estate, and insurance. Ex. 6 at 8–12.

43. The Order expressly “allow[ed] travel into or out of the County” for these “Essential Businesses and Operations.” Ex. 6 at 5.

44. The provision for “Essential Businesses and Operations” permitted operations by “[o]rganizations that provide charitable and social services,” including “religious and secular nonprofit organizations, ... when providing ... social services, and other necessities of life for economically disadvantaged or otherwise needy individuals.” Ex. 6 at 9.

45. The provision for “Essential Businesses and Operations” expressly permitted “Human Services Operations” to continue in Guilford County, Ex. 6 at 8, and includes in the definition “businesses that provide ... social services, and other necessities of life for economically disadvantaged individuals ... or otherwise needy individuals,” Ex. 6 at 7. Under the Order, “individuals may leave and return to their residence to work for ... any Human Services Operations.” Ex. 6 at 7. The Order expressly directed that provision of such human services be permitted to the fullest extent

possible: “Human Services Operations shall be construed broadly to avoid any impacts to the delivery of human services, broadly defined.” *Id.*

46. In addition, the Order permitted “Essential Travel,” which was defined to include “[t]ravel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons.” Ex. 6 at 12–13.

47. “Essential Activities” the Order permitted allowed for “outdoor activity, provided the individuals comply with Social Distancing Requirements, as defined herein, such as, *by way of example and without limitation*, walking, hiking, golfing, running, cycling, or using the greenways[,] . . . go[ing] to public parks and open outdoor recreation areas.” Ex. 6 at 6 (emphasis supplied). The operative order March 25 through April 10 did not specify any exclusions to permitted types of “outdoor activity” qualifying as “Essential Activities.” Ex. 1 at 6.

48. Although the Order expired on its own terms on April 16, 2020, Defendants enforced the Order while it was operative in a manner causing constitutional injury to Plaintiffs, warranting redress by this Court.

Stops, citations, arrests, and imprisonment on March 28, 2020

49. On March 28, 2020,³ GPD officers stopped and issued citations to Love Life staff members Isaiah Burner, Justin Reeder, and Carl Ubinas, and Love Life attorney and agent Jason Oesterreich. GPD officers Lieutenant Dan Knott and Sergeant Eric Goodykoontz stopped these four men and informed them that they were in violation of

³ The operative Guilford County Emergency Proclamation on this date was the version which went into effect March 27. Ex. 7.

the Order. The citations originally indicated that the violation was “gather[ing] more than 10 people.” *See* Ex. 2.

50. The incident occurred in the vicinity of A Woman’s Choice abortion clinic, located at 2425 Randleman Road, Greensboro, North Carolina 27406.

51. After these four Plaintiff Individuals explained to GPD officers that they were not gathered in a group of more than 10 people, GPD officers scratched through the stated reasons for the violations and changed it to say that Plaintiff Individuals were cited for “travel[ing] for a non-essential function[/purpose].” Ex. 2.

52. Oesterreich, Reeder, and Ubinas were arrested following the stops and citations.

53. Lt. Knott and Sgt. Goodykoontz detained Reeder, Oesterreich, and Ubinas on a curb for approximately one hour, and six to eight GPD vehicles arrived with GPD officers Poole, Schneider, and Schoonmaker, among others.

54. The GPD officers told Reeder, Oesterreich, and Ubinas that the officers would not put them in handcuffs because they had been so nice and respectful with the officers.

55. At the time of their citation and arrest, Oesterreich, as a lawyer for Love Life, was providing legal services to Love Life. The remaining three Plaintiff Individuals were present to provide social services according to Love Life’s non-profit purpose, and to walk and pray on a public sidewalk and on private property where Love Life frequently gathers with the property owners’ permission.

56. At the time of the stops, citations, and arrests, these four Plaintiff Individuals were at least six feet apart, were not gathered with more than 10 people, and were abiding by all of the Order's other Social Distancing Requirements, including carrying hand sanitizer.

57. At the time of the stops, citations, and arrests, these four Plaintiff Individuals were acting in their capacity as staff, officers, and agents of Love Life to offer the charitable and social services that it is Love Life's organizational mission to provide to people in need.

58. At all times, the four Plaintiff Individuals remained respectful, calm, and compliant with the instructions of the GPD officers while they were stopped, cited, detained, and/or arrested.

59. Despite this, GPD officers also charged Reeder, Oesterreich, and Ubinas with "resisting arrest."

60. Reeder, Oesterreich, and Ubinas then were escorted to the Guilford County Jail, where they were imprisoned for approximately one hour.

61. Reeder, Oesterreich, and Ubinas were released by the magistrate on conditioned written promise to appear.

Stops, citations, arrests, and imprisonment on March 30, 2020

62. On March 30, nine individuals affiliated with Love Life were at the same location. Reeder, Ubinas, Oesterreich, and Burner gathered with Love Life staff and

volunteers, including Andre Gonzalez, Pastor Leroy Stokes Jr., Pastor Mark Shelley, Pastor Richard Whittier, and Pastor Jon McAtee.

63. Pastor Stokes is the pastor of Destiny Church, located down the street from A Woman's Choice.

64. Pastor Shelley is the pastor of Shannon Hills Bible Chapel in Greensboro.

65. Pastors Whittier and McAtee are pastors at Arlington Baptist Church in Mecklenburg County.

66. Pastors Stokes, Shelley, Whitter, and McAtee support Love Life's mission and regularly assist Love Life in providing its charitable outreach services and ministry.

67. Oesterreich was present to provide legal services. Specifically, a nationally recognized constitutional law firm had reviewed the Order, and Love Life's and Plaintiff Individuals' activities, and provided a written opinion that Plaintiffs' activities complied with the Order. Oesterreich sought to share the written opinion with Lt. Knott and explain that Love Life and Plaintiff Individuals' actions were permitted by the Order.

68. That day, Plaintiff Individuals listed in paragraph 63 walked and prayed on the public sidewalk until reaching the private property on which they had the owner's permission to be and where Love Life and Plaintiff Individuals frequently perform their charitable activities.

69. When these Plaintiff Individuals arrived, Lt. Dan Knott was already present on the private property where Love Life and Plaintiff Individuals had permission to be.⁴

⁴ Video footage of this incident is available to view at:

70. Minutes before these Plaintiff Individuals arrived, Lt. Knott told the individuals operating the nearby ultrasound van (which Love Life and Plaintiff Individuals refer women to) that they had to leave, without providing a reason.

71. Lt. Knott then stopped the nine Plaintiff Individuals, telling them to either leave or be arrested for violating the Order.

72. At the time of the stops, citations, and arrests, Plaintiff Individuals were distancing themselves at least six feet apart, were not gathered with more than 10 people, and were abiding by all other Social Distancing Requirements of the Order.

73. At the time of the stops, citations, and arrests, Reeder, Burner, Ubinas, Gonzalez, Pastor Stokes, Pastor McAtee, Pastor Whittier, and Pastor Shelley were acting in their capacity as staff, officers, agents, or representatives of Love Life to offer the charitable and social services of Love Life's organizational mission by offering its charitable and social services to people in need.

74. Plaintiffs Reeder, Burner, Ubinas, Gonzalez, Pastor Stokes, Pastor McAtee, Pastor Whittier, and Pastor Shelley were present to provide social services according to Love Life's purpose, and to walk and pray on a public sidewalk and on private property with permission.

75. Plaintiff Oesterreich was present to provide legal services to the other Plaintiffs. After being stopped, Oesterreich attempted to speak with Lt. Knott and provide

Steve Noble, FACEBOOK (March 30, 2020), <https://www.facebook.com/steve.noble.9081/videos/2277295322579407/UzpfSTk3OTU4NTQxODc5NjE0NDoyOTk3NjUzNDMwMzIyNjU2/>.

the letter explaining Love Life's and Plaintiff Individuals' compliance with the Order, but Lt. Knott rejected these efforts.

76. Immediately after this, Oesterreich was handcuffed and detained in a police vehicle. Oesterreich was handcuffed while in the police car for approximately forty-five to fifty minutes while GPD officers stopped, cited, and arrested other Plaintiff Individuals. The handcuffs were tight and uncomfortable the entire time.

77. GPD officers Smith, Faust, Recchio, and Constant stopped and issued citations to Plaintiffs Burner, Gonzalez, Reeder, Oesterreich, Pastor Stokes, Pastor Whittier, and Pastor McAtee, and then arrested them. Pastor Shelley was issued a citation but not arrested. GPD officers informed them that they were in violation of the Order, and issued the citations for travel for non-essential function. *See, e.g.*, Ex. 3.

78. Despite Plaintiff Individuals' respectful, calm, and compliant behavior and attitudes at all times throughout the stops, citations, detentions, and arrests, Plaintiffs Burner, Gonzalez, Reeder, Oesterreich, Pastor Stokes, Pastor Whittier, and Pastor McAtee were also charged with resisting arrest.

79. Plaintiffs Gonzalez, Reeder, Stokes, Whittier, and McAtee were detained for approximately thirty to forty-five minutes while GPD officers completed the citations.

80. Separately, Burner was handcuffed and detained in the back of a GPD officer vehicle for approximately thirty minutes.

81. Burner and Oesterreich were then taken to Guilford County Jail.

82. Plaintiffs Oesterreich, Gonzalez, and Reeder were imprisoned for approximately two hours in Guilford County Jail before they were released by the magistrate judge, conditioned on written promise to appear.

83. Plaintiffs Whittier, McAtee, Stokes, and Burner were imprisoned for approximately one hour in Guilford County Jail before they were released by the magistrate judge, conditioned on written promise to appear.

84. While detained in the police vehicle and imprisoned at Guilford County Jail, Oesterreich was approached by Sgt. Goodykoontz, who attempted to negotiate terms by which the ultrasound van that Lt. Knott had sent away would be allowed on the private property, but Plaintiff Individuals would still not be allowed on the public sidewalk to engage in peaceful and socially distanced charitable human services.

Damages from the March 28 and 30, 2020, unlawful stops, arrests, and detainments.

85. On both March 28 and 30, each Plaintiff Individual involved was aware that they were being detained and were harmed by the unconstitutional detainments, entitling them to nominal damages.

86. Plaintiff Individuals' and Love Life's reputations in the community were harmed as a direct result of the March 28 and March 30 stops, arrests, and detainments.

87. Specifically, as a direct result of the March 28 and 30 unlawful arrests, Plaintiff Individuals' and Love Life's reputations were harmed with Love Life's partner churches.

88. As a direct result of the unlawful arrests on March 28 and 30, some of Love Life's partner churches ended their partnership with Plaintiff Individuals and Love Life.

89. On both March 28 and 30, Plaintiff Reeder traveled roundtrip from Charlotte to Greensboro, for a total of three hours each day solely because GPD officers were threatening to arrest the other Plaintiff Individuals and Love Life staff and volunteers, thus incurring travel costs as a result of the unconstitutional application of the Order.

90. As a direct result of the unlawful arrests on both March 28 and 30, Reeder has suffered harm as a licensed foster parent. He was required to disclose the arrest to the case worker at the foster care agency, who asked him to keep the agency updated on the charges, and implied that the arrest could postpone a child's placement with Reeder. The unlawful arrest directly caused harm to Reeder's reputation as a foster parent, and harm to his relationship with the foster care agency.

91. Reeder, as Founder and President of Love Life, suffered public reputational harm as a direct result of the unlawful stops and arrests. He spent extensive time communicating with many of the 300 churches Love Life is partnered with explaining why he and the other Plaintiff Individuals were arrested on March 28 and 30.

92. On both March 28 and 30, Plaintiff Ubinas traveled roundtrip from Charlotte to Greensboro, for a total of three hours each day to perform Love Life's ministry and essential services, which he was prevented from doing by Defendants, thus incurring travel costs as a result of the application of the Order.

93. Ubinas suffered emotional distress and mental anguish as a result of the unlawful stops, arrest, and detainment. At the time of the arrest, Ubinas was Chief Operating Officer for Love Life. But the distress, fear, embarrassment, and humiliation from the unlawful stop and arrest severely impacted his ability to work, and he left the position. Ubinas was unable to find comparable work until January 2021, because potential employers could merely search his name online and find news articles noting he was arrested for resisting arrest and violating the Order.

94. As a result of the unlawful arrest, Ubinas lost income, suffered loss of reputation, and experienced emotional distress and mental anguish due to his own and his family's fears that he would be convicted and imprisoned. The unlawful arrest significantly delayed Ubinas's ability to find and qualify to purchase a new home due to the stress and decrease in monthly income.

95. Ubinas found part-time employment as a pastor in January 2021, but his reputation as a pastor also suffered harm as a result of his unlawful arrest. Many people have approached Ubinas to ask him about the arrest, causing further embarrassment, humiliation, and harm to his reputation.

96. Ubinas has also been denied a permit to purchase a firearm solely because of his unlawful arrest by GPD officers.⁵

97. On both March 28 and 30, Plaintiff Oesterreich traveled roundtrip from Charlotte to Greensboro, for a total of three hours solely because GPD officers threatened

⁵ See Exhibit 5.

to arrest the other Plaintiff Individuals and Love Life staff and volunteers, thus incurring travel costs as a result of the unconstitutional application of the Order.

98. If not for GPD officers' unlawful arrest of Oesterreich on March 30, Oesterreich would have been working a nine-hour day as an attorney, and billing four to five hours at a \$250/hour rate.

99. Oesterreich lost the opportunity to serve his other paying clients, as a direct result of the unlawful stop and arrest by Defendants.

100. Oesterreich suffered emotional distress and mental anguish as a direct result of the unlawful arrests on both March 28 and 30. Oesterreich experienced sleeplessness, fear, stress, embarrassment, and humiliation caused by the arrests and detainment. He also experienced mental anguish because of his family's fears that he would be imprisoned for an extended time.

101. On both March 28 and 30, Plaintiff Burner traveled roundtrip from Statesville to Greensboro for a total of two hours and twenty-five minutes hours each day to provide Love Life's ministry and essential services, which he was prevented from doing by Defendants, thus incurring travel costs as a result of the unlawful stop, arrest, and detainment.

102. Plaintiff Burner experienced emotional distress and mental anguish as a direct result of his unlawful stop, arrest, and detainment by GPD officers on March 28 and 30. He was shocked, distressed, and felt fear, betrayal, and panic while he was stopped, detained, arrested, and imprisoned. Burner experienced further emotional

distress and mental anguish because of his family's fears that he would be imprisoned for an extended time.

103. Plaintiff Gonzalez traveled roundtrip from Mooresville to Greensboro for a total of two hours and thirty minutes to provide Love Life's ministry and essential services, which he was prevented from doing by Defendants, thus incurring travel costs as a result of the unlawful stop, arrest, and detainment.

104. Gonzalez experienced emotional distress and mental anguish as a direct result of the unlawful stop, arrest, and detainment. He experienced fear of being imprisoned, and a heightened fear of being exposed to COVID-19 while in the police car and in jail. He also experienced anguish and distress due to his own and his family's fears that he would be imprisoned for an extended time.

105. Plaintiff Stokes traveled for twenty minutes within Greensboro to provide Love Life's ministry and essential services, which he was prevented from doing by Defendants, thus incurring travel costs as a result of the unlawful stop, arrest, and detainment.

106. Plaintiff Whittier traveled for three hours roundtrip from Charlotte to Greensboro to provide Love Life's ministry and essential services, which he was prevented from doing by Defendants, thus incurring travel costs as a result of the unlawful stop, arrest, and detainment.

107. Whittier's reputation suffered harm as a direct result of this arrest. Whittier is the Lead Pastor of Arlington Baptist Church, and several members of his congregation

were very disturbed that he was arrested. As a direct result of the unlawful arrest, Whittier's relationship of trust with his congregants was damaged. On two different occasions, members of his church approached him and shamed him for being arrested, calling it "an unwise choice" and blaming him for the unlawful actions of Defendants.

108. Whittier also suffered emotional distress and mental anguish caused by fear that the adoption of the child he and his wife were fostering would be delayed or stopped because of the arrest.

109. Plaintiff McAtee traveled for three hours roundtrip from Charlotte to Greensboro to provide Love Life's ministry and essential services, which he was prevented from doing by Defendants, thus incurring travel costs as a result of the unlawful stop, arrest, and detainment.

110. McAtee also suffered emotional distress and mental anguish as a direct result of the unlawful stop and arrest. He experienced fear of being imprisoned, anguish wondering how long he would be imprisoned, and distress over potential costs to his family. He experienced humiliation while being publicly arrested and anguish that his reputation as a pastor would be harmed by his arrest.

111. McAtee experienced additional emotional distress, mental anguish, reputational harm, and professional harm because he is trying to serve as a missionary with the International Mission Board ("IMB"). IMB has a current policy of rejecting any candidate with an arrest record, which means that, solely because of the unlawful arrest, McAtee would be denied the ability to serve as a missionary with IMB.

112. McAtee’s reputation as a local pastor suffered harmed as a direct result of the unlawful stop and arrest. On two different occasions, members of his church approached him and shamed him for being arrested, calling it “an unwise choice” and blaming him for the unlawful actions of Defendants.

113. On March 28, but for the unlawful stops and arrests, Ubinas, Burner, and other Love Life volunteers would have been counseling outside of the abortion clinic from 7:45 a.m. to 1:00 p.m., and would have had the opportunity to speak to women and men considering abortion by engaging in ministry, counseling, and providing referrals for material benefits and services.

114. On March 30, but for the unlawful stops and arrests by Defendants, Burner, Ubinas, Gonzalez, Stokes, Whittier, and McAtee would have been ministering outside the abortion clinic from 7:45 a.m. to 1:00 p.m., and would have had the opportunity to speak to women and men considering abortion, by engaging in ministry and providing referrals for material benefits and services.

Chart Summary of Plaintiff Individuals’ Time and Travel Damages from March 28 and 30

Plaintiff	Date(s)	Total Time Detained	Total Travel Time
Justin Reeder	March 28 & 30	4.5-4.75 hours	6 hours
Carl Ubinas	March 28 & 30	2 hours	6 hours
Jason Oesterreich	March 28 & 30	4.75-5 hours	6 hours
Isaiah Burner	March 28 & 30	1.5 hours	4 hours 50 minutes

Andre Gonzalez	March 30	2.5-2.75 hours	2 hours 25 minutes
Leroy Stokes, Jr.	March 30	1.5-1.75 hours	20 minutes
Richard Whittier	March 30	1.5-1.75 hours	3 hours
Jon McAtee	March 30	1.5-1.75 hours	3 hours

Unlawful Stop and Threat of Arrest on April 4, 2020

115. On April 4, Pastor Stokes, Pastor Brian Wardlaw of Guilford County, and two other pastors engaged in walking and praying at the same location where Plaintiff Individuals had been cited and arrested on March 28 and 30. The four pastors are supporters and regular volunteers with Love Life.

116. Pastor Stokes was orally praying and peacefully walking on the public sidewalk. Three GPD officers stopped Pastor Stokes.⁶ Sergeant Goodykoontz told Pastor Stokes that the Order prohibits him from walking and praying because “praying is a form of demonstration” that is “outside the realm of the stay-at-home order.”⁷ The GPD officer attributed this interpretation to “the guidance that [he had] been given by the City.”⁸

117. When Pastor Stokes asked Sgt. Goodykoontz, “So, just like anybody else, we can’t walk down the street?,” Sgt. Goodykoontz told Pastor Stokes that he and Pastor

⁶ Video footage of this incident, including Pastor Stokes’s conduct and the full exchange between Pastor Stokes and the Greensboro Police Department officers is available at Love Life, FACEBOOK (April 4, 2020)

<https://www.facebook.com/lovelifeusa/videos/224199762156073/>.

⁷ See *id.* at 14:50–17:50.

⁸ *Id.* at 19:05–19:22.

Wardlaw were “not just like anybody else” because they were walking down the street “with a purpose of praying for the abortion clinic, which is a form of demonstration.”⁹

118. Sergeant Goodykoontz instructed Pastor Stokes, however, that it was permissible for Pastor Stokes to engage in the same walking and praying in the Destiny Church parking lot, but not on the public sidewalks or streets outside A Woman’s Choice.¹⁰

119. When another man then walked past the GPD officers and Pastor Stokes on the same public walkway, Sergeant Goodykoontz explained that while Pastor Stokes was subject to arrest under the Order for walking there, the other man would not be — because the other man was carrying grocery bags and presumably not praying.¹¹

120. Pastor Stokes was unlawfully stopped by GPD officers for approximately three minutes.

121. If not for GPD officers’ unlawful stop pursuant to Defendants’ unconstitutional custom, policy, and practice to target, silence, and exclude Plaintiffs, Pastor Stokes would have been lawfully walking down the sidewalk while praying for approximately one hour to one-and-a-half hours.

122. As a direct result of the unlawful stop, Pastor Stokes lost the opportunity to exercise his First Amendment rights by engaging in prayer while walking on a public sidewalk, entitling him to nominal damages.

⁹ *Id.* at 16:20–16:50

¹⁰ *Id.* at 16:00–17:50.

¹¹ *Id.* at 18:00–18:50.

The City of Greensboro's Changing Explanations for Arrests

123. After the arrests on March 30, Mr. Oesterreich contacted Greensboro City Attorney Charles Watts. During their telephone conversation, City Attorney Watts represented that the City would continue interpreting the Order to prohibit Love Life's activities of walking, praying, and speaking even though Love Life engaged in these activities in groups of 10 or fewer and in accordance with Order's Social Distancing Requirements.

124. During the call, City Attorney Watts stated that the Order authorized the City to suspend First Amendment activities for the duration of the COVID-19 emergency.

125. The following day, April 1, undersigned counsel Denise Harle spoke with Mr. Watts by telephone to clarify the City's position as to which provisions of the Order prohibited Love Life's activities. During that call, City Attorney Watts stated that under the Order, individuals may travel by foot but not by car to engage in an "Outdoor activity."

126. During that call, City Attorney Watts also asserted that the Order did not restrict speech. City Attorney Watts informed Ms. Harle that the Order was *not* narrowly tailored because it in no way addresses speech.

127. During the same call, City Attorney Watts maintained that it was a violation of the Order for Reeder, Ubinas, Oesterreich, and Burner to travel from outside

Guilford County to walk and pray as representatives of Love Life on the public areas outside A Woman's Choice.

128. In the same conversation, City Attorney Watts stated that, as of that date, all individuals that had been arrested under the Order were affiliated with Love Life — and that the City had not enforced any provision of the Order against any other person in Greensboro.

129. On April 2, 2020, Ms. Harle sent a demand letter to the City, to the attention of City Attorney Watts, outlining Love Life's position as to the unlawful nature of the arrests of Plaintiff Individuals, and the several ways in which Love Life and Plaintiff Individuals' activities fell within the activities permitted by the Order. Ex. 4.

130. In response to Love Life's demand letter, City Attorney Watts responded by email that "[t]ravel is the problem" with Love Life's counseling, speech, and other provision of social services. City Attorney Watts further stated that Love Life's Representatives and Plaintiff Individuals could instead "[p]rey [sic] and speak at home." Ex. 4 at 6.

131. The following day, April 3, the City's outside counsel, Mr. Kane, contacted Ms. Harle and stated that the City's interpretation of the Order's "Prohibited and Permitted Travel" is that travel is permitted into Guilford County "only ... if that travel is for the purpose of maintaining Essential Businesses and Operations and Minimum Basic Operations, as those two things are subsequently defined in the Proclamation." Mr. Kane further stated, without explanation, that the City did not interpret the "Essential Travel"

provision of the Order to permit Love Life’s speech, counseling, and other social services. Ex. 4 at 4–5.

132. Love Life’s counsel twice, on April 3 and 7, asked Mr. Kane for an explanation why “Essential Business and Operations” would not include Love Life, a federally recognized 501(c)(3) public charity that offers emotional and spiritual counseling, prayer, and referrals for free basic material resources (e.g., diapers, strollers, breast pumps, baby equipment, baby clothes, baby blankets, etc.) for women in need and babies born into difficult circumstances. “Essential Businesses and Operations” is defined to include “Organizations that provide charitable and social services,” such as “religious and secular nonprofit organizations ... providing social services, and other necessities of life for economically disadvantaged or otherwise needy individuals.” Ex. 4 at 2, 4. Outside counsel for the City simply restated, without explanation, that the City did not believe Love Life fit the definition of “Essential Businesses and Operations.” Ex. 4 at 1, 3.

133. On April 6, Love Life’s counsel sought clarification on whether the City asserted that simply walking, and praying, and speaking — by any individual — if done in accordance with Social Distancing Requirements would be prohibited by the Order, i.e., if the City deemed the walking and praying to be “a form of demonstration.” Ex. 4 at 3–4.

134. In response, on April 7, outside counsel for the City referred Love Life’s counsel to statements by City Attorney Watts in a media article, in which City Attorney

Watts stated that for the duration of the Order, limits have been placed on where and how individuals may walk and pray. Ex. 4 at 2. The article further quoted City Attorney Watts as saying that the issue with Love Life’s conduct of praying, walking, and speaking is “primarily an issue of travel.”¹²

135. The City declined to explain why GPD officers warned Pastor Stokes — a Guilford County resident — that he would be arrested for violating the Order if he did not move away from A Woman’s Choice because walking and praying was a form of demonstration prohibited by the Order. Nor did the City explain why GPD officers then ordered Guilford County resident Pastor Wardlaw to move away,¹³ or why GPD officers issued citations to Pastor Stokes and Guilford County resident Pastor Shelley, and arrested Pastor Stokes.

136. This policy, custom, and practice indicates that the City is intent on interfering with certain views about life, pregnancy, and motherhood. The City thus implemented the Order as a speaker-based, viewpoint-based law targeting the speech only of speakers espousing certain pro-life moral, religious, and philosophical beliefs.

137. The practical result of enforcing the Order to prohibit the activities of Love Life and Plaintiff Individuals not only inhibited a religious ministry from furthering its mission and message but also silenced religious speakers from praying, speaking messages, and otherwise providing social services consistent with their beliefs.

¹² https://www.greensboro.com/news/local_news/abortion-protesters-greensboro-city-officials-battle-over-stay-home-enforcement/article_a47424e7-92fd-59b5-9dd6-eb88f67114c8.html

¹³ *See supra* note 4.

Guilford County Dismisses All Charges Against Plaintiff Individuals

138. On October 22, 2020, Guilford County offered the Plaintiff Individuals a deferred dismissal, whereby all charges against each Plaintiff Individual would be dismissed upon completing ten hours of community service¹⁴, with no court appearances required.

139. Guilford County granted permission for Plaintiff Individuals to complete the community service requirement with Love Life, by engaging in the same activities for which they were arrested.

140. On November 24, 2020, Plaintiff Individuals submitted their letters of completion for their ten-hour community service requirement with Love Life.

141. On November 30, 2020, all charges against Plaintiff Individuals were dismissed.

142. There are no longer any pending criminal proceedings against any Plaintiff.

JURISDICTION AND VENUE

143. This Court has subject matter jurisdiction over the federal claims by operation of 28 U.S.C. §§ 1331 and 1343.

144. This Court has authority to issue the requested declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202, the requested injunctive relief under 28 U.S.C. § 1343, all appropriate monetary damages, including compensatory and nominal, and reasonable attorneys' fees and costs under 42 U.S.C. § 1988.

¹⁴ Pastor Shelley was offered deferred dismissal without any community service component.

145. Venue lies in this district pursuant to 28 U.S.C. § 1391(b) because all events giving rise to the claims detailed here occurred within the Middle District of North Carolina and Defendants reside in the Middle District of North Carolina.

ALLEGATIONS OF LAW

146. At all times relevant to this Complaint, each and all of the acts alleged here are attributable to Defendants, whose officials were acting under color of a statute, regulation, custom, ordinance, or usage of the City of Greensboro or Guilford County.

147. Love Life and Plaintiff Individuals suffered irreparable harm because of Defendants' actions that violated Plaintiffs' constitutional rights.

148. Love Life and Plaintiff Individuals Reeder, Ubinas, Oesterreich, Burner, Gonzalez, Stokes, Whittier, and McAtee suffered nominal and compensatory damages because of Defendants' actions that violated Plaintiff Individuals' constitutional and/or common law rights.

149. Defendants deprived Plaintiffs of their federal constitutional rights through an official policy or custom.

FIRST CAUSE OF ACTION

First Amendment: Free Exercise of Religion

150. Love Life and Plaintiff Individuals repeat and reallege each allegation contained in paragraphs 1–149 of this Complaint.

151. The First Amendment to the United States Constitution protects Love Life and Plaintiff Individuals' rights to operate, speak, provide charitable services, and pray in accordance with their religious beliefs.

152. Love Life and Plaintiff Individuals have sincerely held religious beliefs that require them to operate their ministry in accordance with biblical moral teachings affirming the value and dignity of life at every stage, from the moment of conception, and to teach and explain those beliefs to the public and those Love Life serves.

153. Love Life's and Plaintiff Individuals' religious beliefs are violated when forced to refrain from praying for women facing unplanned pregnancies and for the lives of their unborn babies, in the general vicinity of those people in need, or prevented from providing their charitable services according to their mission.

154. Love Life and Plaintiff Individuals violate their religious beliefs if they are forced to refrain from praying and speaking their messages of hope and life, and thus from informing others about their religious beliefs and charitable services motivated by their religious beliefs.

155. The Order was not neutral or generally applicable on its face because it targeted and prohibited outdoor activity by individuals engaging in religious activity.

156. The Order was not neutral or generally applicable as interpreted and applied by the City because the City's interpretation and application of the Order was based on hostility toward Love Life and Plaintiff Individuals' religious beliefs and pro-life viewpoints.

157. The Order was not neutral or generally applicable as interpreted and applied by the City because the City's interpretation and application of the Order targeted Love

Life and Plaintiff Individuals' disfavored religious beliefs and religious practices for punishment.

158. Defendants interfered with Love Life and Plaintiff Individuals' religious expressions without any substantial evidence of a compelling need for such an application of the Order, while at the same time allowing identical conduct providing charitable services and walking outdoors in small groups and in public places for purposes other than praying.

159. The First Amendment protects Love Life and Plaintiff Individuals' rights to believe and profess the religious doctrines of their choice.

160. The First Amendment prohibits the government from interfering with this right by punishing the profession of a religious belief or imposing special disabilities on the basis of stating disfavored religious views.

161. The Order, facially and as enforced and interpreted by the City, punished Love Life and Plaintiff Individuals' profession of their religious beliefs.

162. Application of the Order against Love Life and Plaintiff Individuals, its representatives and affiliates, suppressed their speech based on their religious beliefs.

163. The Order therefore imposed special disabilities on Love Life and Plaintiff Individuals due exclusively to their profession of disfavored religious beliefs.

164. The Order also violated Love Life and Plaintiff Individuals' free exercise rights under the hybrid rights doctrine because it implicated free exercise rights in

conjunction with other constitutional guarantees, like the rights to free speech, expressive association, due process, and equal protection.

165. The Order burdened Love Life and Plaintiff Individuals' sincerely held religious beliefs by banning, deterring, and preventing their religiously motivated speech.

166. The Order did not serve any compelling, significant, legitimate, or even valid interests in a narrowly tailored way.

167. Defendants' policy, custom, and practice of targeting religious people and unequal application of the Order restricted Love Life and Plaintiff Individuals' fundamental right to exercise their religious beliefs, without any real or substantial relation to the public health crisis on which the Order was based.

168. Defendants' targeted and unequal application of the Order was a pretext for restricting Love Life and Plaintiff Individuals' fundamental right to express their religious beliefs.

169. Accordingly, facially and as applied to Love Life and Plaintiff Individuals, the Order violated the First Amendment right to free exercise, and Plaintiffs suffered nominal and compensatory damages as a result of the violation.¹⁵

¹⁵ As to Plaintiffs' Free Exercise claim, the City's interpretation and application of the plain meaning of "Outdoor activity" within "Essential Activities," "Essential Businesses and Operations," "Human Services Operations," "Prohibited ... travel," and "Organizations that provide charitable and social services" was unconstitutional on its face for all three challenged versions of the Order. The Order as revised by the County on April 10 was additionally unconstitutional on its face as to "Essential Activities," in particular, "Outdoor activity."

SECOND CAUSE OF ACTION

First Amendment: Freedom of Speech

170. Love Life and Plaintiff Individuals repeat and reallege each allegation contained in paragraphs 1–149 of this Complaint.

171. The First Amendment’s Free Speech Clause protects Love Life and Plaintiff Individuals’ rights to speak, to publish speech, to be free from content and viewpoint discrimination, to be free from unconstitutional conditions, to be free from laws allowing unbridled discretion, and to be free from overbroad laws.

172. The Order, facially and as enforced and interpreted by the City, punished Love Life and Plaintiff Individuals’ speech in a traditional public forum.

173. Application of the Order against Love Life and Plaintiff Individuals violated the Free Speech Clause by punishing and suppressing their speech based on content and viewpoint.

174. If not for the Order and the City’s interpretation and enforcement of it, Plaintiff Individuals, Love Life, and its agents, including its staff, would have engaged in protected speech, including but not limited to, praying, counseling, and speaking their desired messages in accordance with their organizational mission and outreach services.

175. Instead, Love Life and Plaintiff Individuals were not only unable to pray and speak freely about their outreach ministries and services, they likewise could not discuss their own religious beliefs in a public location where they were most likely to reach the vulnerable persons they desire to charitably serve.

176. Love Life and Plaintiff Individuals did not engage in protected speech, to avoid triggering the Order and the City's unconstitutional interpretation and application of it, and to avoid incurring the penalties for allegedly violating the Order.

177. Love Life and Plaintiff Individuals suffered ongoing harm because of the Order and the City's unconstitutional interpretation and application of it.

178. Because the Order on its face and as interpreted and applied by the City infringed rights under the Free Speech Clause, its provisions chilled, deterred, and restricted Love Life and Plaintiff Individuals from speaking.

179. The Order gave the City unbounded discretion to punish disfavored speech on pregnancy, motherhood, sexuality, abortions, and unborn life, and other topics of public concern, by interpreting provisions of the Order contrary to the plain meaning of the words.

180. This unbridled discretion also exacerbated the viewpoint discrimination of the Order.

181. Because the Order on its face and as interpreted by the City violated free-speech principles for all the reasons stated above, it must further a compelling interest in a narrowly tailored way.

182. Punishing Love Life's and Plaintiff Individuals' speech did not serve any legitimate, rational, substantial, or compelling government interest in a narrowly tailored way, and it had no real or substantial relation to the public health crisis underlying the Order.

183. The Defendants had alternative, less restrictive means to achieve any legitimate interest they may possess rather than forcing Love Life and Plaintiff Individuals to abandon their free-speech rights, such as by permitting Plaintiffs to walk, pray, and speak where other individuals were permitted to walk for purposes other than praying.

184. Accordingly, facially and as applied to Love Life and Plaintiff Individuals, the Order violated the First Amendment right to free speech, and Plaintiffs suffered nominal and compensatory damages as a result of the violation.¹⁶

THIRD CAUSE OF ACTION

Fourteenth Amendment: Procedural Due Process

185. Love Life and Plaintiff Individuals repeat and reallege each allegation contained in paragraphs 1–149 of this Complaint.

186. The Due Process Clause of the Fourteenth Amendment guarantees persons the right to due process of law, which includes the right to be free from vague guidelines granting officials unbridled discretion.

187. Love Life and Plaintiff Individuals' Fourteenth Amendment rights to due process were violated by both the vagueness of the Order on its face and the manner in

¹⁶ As to Plaintiffs' Free Speech claim, the City's interpretation and application of the plain meaning of "Outdoor activity" within "Essential Activities," "Essential Businesses and Operations," "Human Services Operations," "Prohibited ... travel," and "Organizations that provide charitable and social services" was unconstitutional on its face for all three challenged versions of the Order. The Order as revised by the County on April 10 was additionally unconstitutional on its face as to "Essential Activities," in particular, "Outdoor activity."

which the City interpreted the Order, as well as by the lack of procedural safeguards in the enforcement process resulting from the City's misinterpretation.

188. First, while the Order expressly permitted Love Life and Plaintiff Individuals' activities as an "[o]rganization[] that provide[s] charitable and social services," including "religious and secular nonprofit organizations, ... when providing ... social services, and other necessities of life for economically disadvantaged or otherwise needy individuals," Ex. 6 at 9, the City arbitrarily determined Love Life and Plaintiff Individuals did not provide "social services" or "other necessities of life" to "economically disadvantaged or otherwise needy individuals."

189. While the Order also expressly permitted "Essential Travel," which was defined to include Love Life and Plaintiff Individuals' conduct of "[t]ravel to care for ... minors, dependents, ... or other vulnerable persons," Ex. 6 at 13, the City arbitrarily determined what constitutes "care" or who is a "vulnerable person."

190. While the Order allowed "Human Services Operations" to continue, including businesses like Love Life and Plaintiff Individuals "that provide ... social services, and other necessities of life for economically disadvantaged individuals ... or otherwise needy individuals," Ex. 6 at 6–8, the City arbitrarily and restrictively determined what constitutes "social services" or "other necessities of life for . . . economically disadvantaged individuals ... or otherwise needy individuals"—even though the Order expressly directed that the provision "shall be construed broadly to avoid any impacts to the delivery of human services, broadly defined," Ex. 6 at 8.

191. These provisions of the Order were therefore vague as the City applied it to Love Life and Plaintiff Individuals, and did not provide Plaintiffs fair notice.

192. The provision of the Order that allowed “Outdoor activity” and defined it as “exercise and/or recreational activity” that did not include outside activity for other purposes was also impermissibly vague and allowed for unbridled discretion.

193. The Order further failed to define operative terms, such as “social services,” which allowed enforcing officials to apply the Order’s terms discriminatorily and did not provide Plaintiffs fair notice.

194. The Greensboro Police Department, backed by City of Greensboro officials including the Mayor and City Attorney, had the power to investigate, interpret, apply, and enforce the Order.

195. Guilford County, backed by and operating through the Guilford County Board of Commissioners, the Guilford County Emergency Management Director, the Guilford County Public Health Director, the Guilford County Manager, and the Guilford County Attorney, had the power to draft, revise, investigate, interpret, apply, and enforce the Order.

196. As such, the Order was devoid of procedural safeguards to protect against arbitrary enforcement. In particular, the broad powers given to the Greensboro Police Department by the City of Greensboro and Guilford County violated the concepts of legal fairness, objectivity, and due process.

197. The Order, facially and as interpreted and applied by the City, did not serve any compelling, significant, legitimate, or even valid interest in a narrowly tailored way, because its application to Love Life and Plaintiff Individuals bore no real or substantial relation to the public health crisis underlying the Order.

198. Accordingly, facially and as applied to Love Life and Plaintiff Individuals, the City's arbitrary interpretation of the Order's language, and the facial lack of procedural safeguards resulting from that misinterpretation violated Plaintiffs' Fourteenth Amendment right to due process under the laws; and Plaintiffs suffered nominal and compensatory damages as a result of the violation.

FOURTH CAUSE OF ACTION

First Amendment: Freedom of Expressive Association

199. Love Life and Plaintiff Individuals repeat and reallege each allegation contained in paragraphs 1–149 of this Complaint.

200. The First Amendment protects the right of people to associate with others in pursuit of a wide variety of political, social, economic, educational, religious, and cultural ends.

201. The First Amendment prohibits the government from banning people from associating with others in an association expressing messages.

202. Love Life is an expressive association because people with like-minded beliefs, including those on staff and volunteers in its organization like Plaintiff

Individuals, join together to assist and serve women in the Greensboro area and to express their religious beliefs about God's creation of life, pregnancy, and motherhood.

203. The volunteers and staff at Love Life advocate the position that women deserve dignity, respect, and truth when seeking information and counsel about their pregnancy. Forcing Love Life and Plaintiff Individuals to refrain from this advocacy undermined their ability to collectively advocate their beliefs-based position and to freely associate with the women they seek to associate with.

204. Love Life likewise engages in expressive association when its staff and volunteers, including Plaintiff Individuals, pray together or alongside one another, while abiding by the Order's Social Distancing Requirements and prohibition on Mass Gatherings. Forcing Love Life and Plaintiff Individuals to refrain from this collective prayer undermined their ability to freely associate with the volunteers, supporters, and women they seek to associate with.

205. Love Life also engages in expressive association when its staff and volunteers, like Plaintiff Individuals, partner with each other and partner with women seeking information and counsel, teaching them certain biblical values and lessons, and providing them with emotional, spiritual, and material support.

206. In offering free services to those who seek the services, Love Life and Plaintiff Individuals expressively associate with those women for the purpose of communicating desirable messages to those individuals.

207. One of the reasons that Love Life and Plaintiff Individuals associate with women is to express messages consistent with their religious beliefs about God's sovereign creation of life and God's ability to offer hope, peace, and love in all circumstances.

208. When Love Life and Plaintiff Individuals assist a woman with considering the baby in her womb and becoming equipped to welcome her baby into the world, they associate with that person, who themselves become an ongoing, living example that communicates to friends, co-workers, and others regarding Love Life and Plaintiff Individuals' views about God's design.

209. It is common for people to learn about the services that Love Life and Plaintiff Individuals provide from women who have used Plaintiffs' services, through word of mouth.

210. When people learn that Love Life and Plaintiff Individuals assisted a woman facing an unplanned pregnancy, people believe that the services provided were consistent with Plaintiffs' religious beliefs.

211. By preventing Love Life and Plaintiff Individuals from praying and speaking freely, the City forbade Plaintiffs from expressively associating in a way that communicates messages to women and to the community that are consistent with Love Life's and Plaintiff Individuals' desired messages.

212. Because the Order infringed on Love Life’s and Plaintiff Individuals’ expressive association rights, it must further a compelling interest in a narrowly tailored way.

213. As applied to Love Life and Plaintiff Individuals, the Order did not further any legitimate, rational, substantial, or compelling interest by preventing Love Life and Plaintiff Individuals from expressively associating with and thereby conveying messages to the women they seek to serve and to the community, and had no real or substantial relation to the public health crisis underlying the Order.

214. Defendants had alternative, less restrictive means to achieve any legitimate interest they might have possessed, without forcing Love Life and Plaintiff Individuals to abandon their freedom of expressive association, including by permitting Plaintiffs to associate in accordance with the Order’s Social Distancing Requirements and prohibition on Mass Gatherings.

215. Accordingly, facially and as applied to Love Life and Plaintiff Individuals, the Order violated Love Life’s right to expressive association protected by the Free Speech Clause of the First Amendment, and Plaintiffs suffered nominal and compensatory damages as a result of the violation.¹⁷

¹⁷ As to Plaintiffs’ Free Association claim, the City’s interpretation and application of the plain meaning of “Outdoor activity” within “Essential Activities,” “Essential Businesses and Operations,” “Human Services Operations,” “Prohibited ... travel,” and “Organizations that provide charitable and social services” was unconstitutional on its face for all three challenged versions of the Order. The Order as revised by the County on April 10 was additionally unconstitutional on its face as to “Essential Activities,” in particular, “Outdoor activity.”

FIFTH CAUSE OF ACTION

Fourteenth Amendment: Equal Protection Clause

216. Love Life and Plaintiff Individuals repeat and reallege each allegation contained in paragraphs 1–149 of this Complaint.

217. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution guarantees Love Life and Plaintiff Individuals equal protection of the laws, which prohibits Defendants from treating Plaintiffs differently than similarly situated persons and organizations.

218. The government may not treat some individuals or entities disparately as compared to similarly situated persons, based on a fundamental right.

219. The Order permitted individuals who are walking outside A Woman’s Choice, engaging in “outdoor activity” or providing “social services,” to be free to do so in accordance with the Social Distancing Requirements and in groups of 10 or fewer.

220. The City interpreted all three challenged versions of the Order, and the County explicitly revised the Order effective April 10, to prohibit Love Life and Plaintiff Individuals from walking in the same place and manner if Plaintiffs were doing so with the purpose of engaging in prayer and religious speech.

221. The City’s interpretation and application of the Order, and the Order as revised by the County effective April 10, therefore treated Love Life, its staff and volunteers, and Plaintiff Individuals, differently than other persons engaging in the same activity.

222. Therefore, in its interpretation and application of the Order, the City treated similarly situated persons differently based upon a fundamental right.

223. Defendants lacked a rational or compelling state interest for such disparate treatment of Love Life and Plaintiff Individuals because prohibiting prayer and religious speech while walking, while at the same time permitting walking in the same location and manner by those who are not praying or engaging in religious speech, bore no real or substantial relation to the public health crisis underlying the Order.

224. Defendants' disparate treatment of Love Life and Plaintiff Individuals was not narrowly tailored because prohibiting Plaintiffs from praying or speaking while walking was not the least restrictive means of advancing any legitimate interest the government may have had regarding the public health crisis.

225. Accordingly, facially and as applied to Love Life and Plaintiff Individuals, the Order and the City's implementation and enforcement of the Order violated the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, and Plaintiffs suffered nominal damages as a result of this violation.¹⁸

SIXTH CAUSE OF ACTION

Fourth Amendment: Unlawful Stop on behalf of Plaintiffs Justin Reeder, Carl Ubinas, Jason Oesterreich, Isaiah Burner, Andre Gonzalez, Leroy Stokes, Jr., Richard Whittier, and Jon McAtee

¹⁸ As to Plaintiffs' Equal Protection claim, the City's interpretation and application of the plain meaning of "Outdoor activity" within "Essential Activities," "Essential Businesses and Operations," "Human Services Operations," "Prohibited ... travel," and "Organizations that provide charitable and social services" was unconstitutional on its face for all three challenged versions of the Order. The Order as revised by the County on April 10 was additionally unconstitutional on its face as to "Essential Activities," in particular, "Outdoor activity."

226. Plaintiff Individuals repeat and reallege each allegation contained in paragraphs 1-149 of this Complaint.

227. Defendants had an unconstitutional policy, custom, practice, and interpretation of the Order that excluded, targeted, and silenced Plaintiff Individuals. This unconstitutional policy, custom, practice, and interpretation of the Order manifested deliberate indifference to Plaintiff Individuals' constitutional rights.

228. The Fourth Amendment to the United States Constitution protects Plaintiff Individuals from brief investigatory stops when there is no reasonable suspicion based on articulable facts that unlawful activity is occurring.

229. Defendants violated Plaintiff Individuals' Fourth Amendment rights when GPD officers, authorized by and pursuant to Defendants' unconstitutional policy to exclude, target, and silence Plaintiff Individuals, conducted unlawful stops on March 28 and 30 because there was no reasonable suspicion based on articulable facts that Plaintiff Individuals were engaging in illegal activity.

230. GPD officers could not have had a reasonable suspicion that Plaintiff Individuals were violating the Order because Plaintiff Individuals were performing "essential services" as defined under the Order.

231. GPD officers did not have articulable facts to show that Plaintiff Individuals were engaging in illegal activity when Plaintiff Individuals were providing essential services and acting in compliance with CDC recommendations for social distancing and sanitation, as well as the Order's Social Distancing Requirements.

232. Instead, because of Defendants' unconstitutional policy and custom to exclude, target, and silence Plaintiff Individuals under the Order, GPD officers unlawfully stopped Plaintiff Individuals Reeder, Ubinas, Burner, and Oesterreich on March 28, and unlawfully stopped Plaintiff Individuals Reeder, Oesterreich, Ubinas, Gonzalez, Burner, Whittier, McAtee, and Stokes on March 30.

233. The only authority that GPD officers cited as supporting these unlawful stops was Defendants' unconstitutional policy, custom, and practice to exclude, target, and silence Plaintiff Individuals based on the religious content and motivation of Plaintiffs' speech and conduct.

234. Because Plaintiff Individuals were lawfully engaging in and attempting to provide essential services, GPD officers could not have made a reasonable inference that Plaintiff Individuals were engaging in illegal activity.

235. Accordingly, Defendants violated Plaintiff Individuals' Fourth Amendment rights to be free from unlawful stops.

236. Plaintiff Individuals suffered nominal and compensatory damages as a result of Defendants' violation of their Fourth Amendment rights.

SEVENTH CAUSE OF ACTION

Fourth Amendment: Unlawful Arrest and/or Detainment on behalf of Plaintiffs Justin Reeder, Carl Ubinas, Jason Oesterreich, Isaiah Burner, Andre Gonzalez, Leroy Stokes, Jr., Richard Whittier, and Jon McAtee

237. Plaintiff Individuals repeat and reallege each allegation contained in paragraphs 1–149 of this Complaint.

238. The Fourth Amendment to the United States Constitution protects Plaintiff Individuals from unlawful arrest, without either a warrant or probable cause, and from unlawful detainment.

239. A municipality is liable for a violation of the Fourth Amendment if the municipality causes a deprivation of federal constitutional rights through an official policy or custom.

240. Defendants violated Plaintiff Individuals' Fourth Amendment rights by unconstitutionally excluding, targeting, and silencing Plaintiff Individuals by authorizing GPD officers to arrest them without warrants and without probable cause, and to unlawfully imprison them thereafter.

241. Defendants accordingly deprived Plaintiff Individuals of their Fourth Amendment rights to be free from unlawful arrest and detainment through its policy, custom, and practice to target and unconstitutionally enforce the Order against Plaintiff Individuals.

242. The municipal decision of Defendants to enforce the Order against Love Life and Plaintiff Individuals by excluding them from the essential services exception to the Order and targeting, silencing, and unlawfully arresting them reflects deliberate indifference to the risk that Fourth Amendment violations would follow Defendants' decision.

243. The policy and custom of Defendants to exclude, target, and silence Plaintiff Individuals by not considering them to be providing essential services is fairly

attributable to Defendants because (1) GPD officers stated that they were acting pursuant to guidance from Defendants' policy and (2) Defendants' attorneys stated that it is Defendants' policy, custom, and practice to not treat Love Life and Plaintiff Individuals as an essential service under the Order based solely on Defendants' hostility to Plaintiff Individuals' religious beliefs and speech.

244. The unconstitutional policy and custom of Defendants in interpreting the Order to exclude, target, and silence Plaintiff Individuals was the moving force behind the GPD officers' unlawful arrests of Plaintiff Individuals Reeder, Oesterreich, and Ubinas on March 28, 2020, and Oesterreich, Reeder, Burner, Gonzalez, Whittier, Stokes, and McAtee on March 30, 2020.

245. Accordingly, Defendants violated these Plaintiff Individuals' Fourth Amendment rights by adopting an unconstitutional interpretation, policy, custom, and practice to exclude, target, and silence these Plaintiff Individuals that authorized GPD officers to unlawfully arrest these Plaintiff Individuals in violation of the Fourth Amendment.

246. The GPD officers could not have had a reasonable belief that a violation of the law occurred because Plaintiff Individuals' actions were not prohibited by law. The only reason that GPD officers arrested Plaintiff Individuals on March 28 and 30, 2020, was because of Defendants' unconstitutional policy, custom, and practice to exclude, target, and silence Plaintiffs under the Order.

247. GPD officers' warrantless arrests of Plaintiff Individuals on March 28 and March 30, 2020, were impermissible because there was no probable cause that these Plaintiff Individuals had committed, were committing, or were about to commit an offense.

248. Further, GPD officers' warrantless citation and arrest of Plaintiffs on March 28 and March 30, 2020, for resisting arrest was without probable cause. Because the officers did not have a warrant or probable cause to arrest Plaintiff Individuals for violating the ten-person ban or the non-essential travel ban, Plaintiff Individuals had a right to resist unlawful arrest. Yet, GPD officers unlawfully cited and arrested Plaintiff Individuals with resisting arrest without a warrant and without probable cause.

249. GPD officers could not have had a reasonable belief that Plaintiff Individuals were resisting arrest, had resisted, or were about to resist arrest because Plaintiff Individuals at all times remained calm, respectful, and compliant throughout citation, detention, and arrest.

250. GPD officers arrested Plaintiff Individuals solely because of Defendants' unconstitutional policy, custom, and practice to exclude, target, and silence Plaintiffs under the Order.

251. Accordingly, Defendants violated Plaintiff Individuals' Fourth Amendment rights by adopting and enforcing an unconstitutional policy to exclude, target, and silence Plaintiff Individuals that authorized and required GPD officers to unlawfully arrest Plaintiffs Reeder, Ubinas, and Oesterreich on March 28, 2020, and Plaintiffs Reeder,

Oesterreich, Burner, Gonzalez, Stokes, Whittier, and McAtee without warrants and without probable cause on March 30, 2020.

252. Plaintiff Individuals suffered nominal and compensatory damages from Defendants' violation of their Fourth Amendment rights.

EIGHTH CAUSE OF ACTION

Fourth Amendment: Unlawful Stop on behalf of Plaintiff Leroy Stokes, Jr.

253. Plaintiff Individuals repeat and reallege each allegation contained in paragraphs 1–149 of this Complaint.

254. Defendants had an unconstitutional policy, custom, practice, and interpretation of the Order that excluded, targeted, and silenced Plaintiff Pastor Stokes. This unconstitutional policy, custom, practice, and interpretation of the Order manifested deliberate indifference to Stokes' constitutional rights.

255. The Fourth Amendment to the United States Constitution protects Pastor Stokes from brief investigatory stops when there is no reasonable suspicion based on articulable facts that unlawful activity is occurring.

256. Defendants violated Stokes' Fourth Amendment rights when GPD officers, authorized by and pursuant to Defendants' unconstitutional policy to exclude, target, and silence Plaintiffs, conducted an unlawful stop on April 4, 2020, because there was no reasonable suspicion based on articulable facts that Pastor Stokes was engaging in illegal activity.

257. Sgt. Goodykoontz could not have had a reasonable suspicion that Pastor Stokes was violating the Order because Pastor Stokes was merely walking down the sidewalk while praying as a form of “outdoor activity” as defined under the Order.

258. Sgt. Goodykoontz did not have articulable facts to show that Pastor Stokes was engaging in illegal activity when Pastor Stokes was using the public sidewalk in the same way as other Guilford County residents, and he was merely praying in addition.

259. Instead, because of Defendants’ unconstitutional policy and custom to exclude, target, and silence Plaintiffs under the Order, GPD officers unlawfully stopped Pastor Stokes.

260. The only authority that Sgt. Goodykoontz cited as supporting his unlawful stop of Pastor Stokes was Defendants’ unconstitutional policy, custom, and practice to exclude, target, and silence Plaintiffs based on the religious character of Plaintiffs’ speech and conduct.

261. Because Pastor Stokes was lawfully engaging in an outdoor activity — walking on a public sidewalk — Sgt. Goodykoontz could not have made a reasonable inference that Pastor Stokes was engaging in illegal activity.

262. Pursuant to Defendants’ unconstitutional policy and custom to exclude, target, and silence Plaintiff Individuals under the Order, Sgt. Goodykoontz unlawfully stopped Pastor Stokes on April 4, 2020.

263. Accordingly, Defendants violated Plaintiff Stokes’ Fourth Amendment right to be free from unlawful stop.

264. Plaintiff Stokes suffered nominal and compensatory damages as a result of Defendants' violation of his Fourth Amendment rights.

PRAYER FOR RELIEF

Love Life respectfully requests that this Court enter judgment against Defendants and provide Love Life with the following relief:

(A) A declaration that Defendants violated the rights of all Plaintiffs under the First Amendment to the United States Constitution;

(B) A declaration that Defendants violated the rights of Plaintiff Individuals Reeder, Ubinas, Oesterreich, Burner, Gonzalez, Stokes, Whittier, and McAtee under the Fourth Amendment to the United States Constitution to be free from unlawful stop, unlawful arrest, and unlawful detainment and imprisonment;

(C) A declaration that Defendants violated the rights of all Plaintiffs under the Fourteenth Amendment to the United States Constitution to have equal protection and due process under the law;

(D) That this Court adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter in controversy here so that these declarations shall have the force and effect of a final judgment;

(E) That this Court award all appropriate damages, including compensatory and nominal, for the violation of Love Life's and Plaintiff Individuals' constitutional and statutory rights;

(F) That this Court retain jurisdiction of this matter for the purpose of enforcing its orders and that it adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy so that these declarations shall have the force and effect of final judgment;

(G) That this Court award Love Life and Plaintiff Individuals costs and expenses of this action, including reasonable attorneys' fees, in accordance with 42 U.S.C. § 1988; and

(H) That this Court grant any other relief that it deems equitable and just in the circumstances.

Respectfully submitted this 7th day of April, 2021.

By: s/ Scott W. Gaylord
Scott W. Gaylord
NC State Bar No. 24670
201 N. Greene St.
Greensboro, NC 27401
(336) 643-0359
sgaylord@elon.edu

s/ Kevin H. Theriot
Kevin H. Theriot*
AZ State Bar No. 030446

s/ Elissa Graves
Elissa Graves*
TX State Bar #24090135

s/ Denise M. Harle
Denise M. Harle*
GA State Bar #176758

ALLIANCE DEFENDING FREEDOM

15100 N. 90th Street
Scottsdale, Arizona 85260
(480) 444-0020
ktheriot@ADFlegal.org
egraves@ADFlegal.org
dharle@ADFlegal.org

Attorneys for Plaintiffs

**Special Appearance*