

DISTRICT COURT,
CITY AND COUNTY OF DENVER, COLORADO
1437 Bannock Street, Denver, CO 80202

FREEDOM FROM RELIGION FOUNDATION, INC.,
MIKE SMITH,
DAVID HABECKER,
TIMOTHY G. BAILEY and
JEFF BAYSINGER,

Plaintiffs,

v.

BILL RITTER, JR., in his official capacity as
GOVERNOR OF THE STATE OF COLORADO, and
THE STATE OF COLORADO,

Defendants.

▲ COURT USE ONLY ▲

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Case Number:

Division:

Courtroom:

COMPLAINT

COME NOW the Plaintiffs, by and through their undersigned counsel, and file the following Complaint:

1. This is an action seeking (1) a declaration that Day of Prayer Proclamations and Dedications by Governor Bill Ritter, Jr., in his official capacity, violate Article II, Section 4 of the Colorado Constitution (the “Religious Freedom clause”), and (2) an order that the defendants be enjoined from issuing further proclamations.

2. Plaintiff Freedom From Religion Foundation, Inc. (“FFRF”), is a Wisconsin non-stock corporation authorized to do business and in good standing in the State of Colorado. FFRF is a non-profit membership organization working for the separation of church and state; it educates on matters of nontheism and advocates on behalf of its members.

3. FFRF has more than 12,000 members, including approximately 400 members in the State of Colorado, who are opposed to governmental endorsement of religion in violation of the Colorado Constitution.

4. FFRF’s membership includes Colorado citizens who have standing to sue in their own right. The interests that FFRF seeks to protect are germane to FFRF’s purposes and neither the claims asserted, nor the relief requested, require the participation of each individual FFRF member in the lawsuit.

5. Plaintiff Mike Smith is a Colorado taxpayer, a member of FFRF residing in Denver, Colorado, and a non-believer who is opposed to the governmental endorsement of religion alleged herein.

6. Plaintiff David Habecker is a Colorado taxpayer, a member of FFRF residing in Estes Park, Colorado, and a non-believer who is opposed to the governmental endorsement of religion alleged herein.

7. Plaintiff Timothy G. Bailey is a Colorado taxpayer, a member of FFRF residing in Aurora, Colorado, and a non-believer who is opposed to the governmental endorsement of religion alleged herein.

8. Plaintiff Jeff Baysinger is a Colorado taxpayer, a lifetime member of FFRF residing in Lakewood, Colorado, and a non-believer who is opposed to the governmental endorsement of religion alleged herein.

9. The individual plaintiffs are taxpayers, each of whom has a protectible interest in ensuring that the defendants act in conformity with the Colorado Constitution. The Religious

Freedom clause of the Colorado Constitution (Article II, Section 4) affords the means of protecting the right given and of enforcing the duty imposed.

10. Defendant Bill Ritter, Jr. is the Governor of the State of Colorado and is the State's Chief Executive Officer.

11. Governor Ritter is sued in his official capacity as the Governor of the State of Colorado.

12. The Religious Freedom clause of the Colorado Constitution prohibits government officials from taking actions that endorse religion, including actions that prefer religion over non-religion.

13. In 2007 and 2008, Governor Ritter issued official Proclamations, declaring a dedicated state-sanctioned official Day of Prayer. (See e.g., Exhibit 1).

14. On information and belief, Governor Ritter further has aligned himself and the State of Colorado with a nationwide observance called Reign Down USA, an evangelical movement that also promotes prayer, ostensibly for restoration of the nation.

15. Governor Ritter's designations of a Day of Prayer have the intent and the effect of giving official recognition to the endorsement of religion.

16. Prayer is an inherently and quintessentially religious activity.

17. Exhortations to pray in official Proclamations, directed at the citizens of the State of Colorado, including plaintiffs and other members of FFRF, constitute an end in themselves intended to promote and endorse religion.

18. Governor Ritter's Proclamations of a Day of Prayer violate the Religious Freedom clause of the Colorado Constitution by endorsing religion over non-religion, as do Governor Ritter's related pronouncements endorsing prayer.

19. Governor Ritter, for example, attended the 2007 National Day of Prayer Capitol Event on the Capitol lawn in Denver, where he stated: "We should be prayerful in all things, and mindful of the importance of prayer . . ."

20. Governor Ritter then read the official 2007 Prayer Proclamation at the Capitol Event, intended as a day for Americans to celebrate rights purportedly endowed by their Creator.

21. Approximately 70 events were held in Colorado to commemorate the May 1, 2008, National Day of Prayer and the Colorado Day of Prayer, including an event conducted at the State Capitol.

22. Governor Ritter's Prayer Proclamations violate the Religious Freedom clause by giving the appearance to an objective observer that the State of Colorado prefers religious belief over non-belief.

23. By issuing the Prayer Proclamations, Governor Ritter engages in joint and concerted action with the National Day of Prayer (NDP) Task Force, the self-proclaimed "official" organizer of the National Day of Prayer.

24. Governor Ritter's 2008 Prayer Proclamation expressly incorporated the NDP Task Force pre-selected Biblical reference.

25. Governor Ritter's 2008 Prayer Proclamation states:

WHEREAS, in 2008, the National Day of Prayer acknowledges Psalm 28:7
– "The Lord is my strength and shield, my heart trusts in Him, and I am helped."

26. The joint action between Governor Ritter and the NDP Task Force in proclaiming and designating a Day of Prayer would be, and is, construed by objective observers as government preference for and endorsement of religion.

27. Governor Ritter, for his part, has embraced the NDP Task Force, which includes incorporating content requested by the Task Force into his official Prayer Proclamations.

28. Governor Ritter's alliance with the NDP Task Force creates the intended impression that the NDP Task Force and the State of Colorado are working hand-in-glove in sponsoring the Colorado Day of Prayer and the National Day of Prayer.

29. The collaborative relationship between the NDP Task Force and Governor Ritter further indicates to an objective observer that the Governor and the State of Colorado endorse the religious principles of the NDP Task Force.

30. The evangelical mission of the NDP Task Force is to "communicate with every individual the need for personal repentance and prayer."

31. In accordance with alleged biblical truth, the NDP Task Force seeks to publicize and preserve America's alleged Christian heritage, to encourage and emphasize prayer, and to glorify the Lord in word and deed.

32. The NDP Task Force even requires that volunteer coordinators sign statements of belief that the "Holy Bible is the inerrant Word of the Living God."

33. The NDP Task Force represents a Judeo-Christian expression of the Day of Prayer observance, based on the NDP Task Force's stated belief that the United States was birthed in prayer and in reverence for the God of the Bible.

34. The NDP Task Force, in turn, has close ties to Focus On The Family, also an avowedly evangelical religious organization.

35. The chairman of the NDP Task Force is Shirley Dobson, who is married to Focus On The Family Board Chairman and founder, James Dobson.

36. The NDP Task Force aggressively promotes a Judeo-Christian creed, with the purpose and intent of mobilizing the Christian community in prayer through the vehicle of the National Day of Prayer and parallel state celebrations, including Colorado's Day of Prayer.

37. The NDP Task Force encourages prayer that is inherently religious and that is admittedly Christian.

38. The NDP Task Force promotes its concept of prayer and exhorts prayer using explicitly Christian justifications.

39. The actions of Governor Ritter in issuing Prayer Proclamations, including those that expressly incorporate references to the NDP Task Force's selected biblical precepts, constitute the endorsement of religion by Governor Ritter and the State of Colorado in violation of the Colorado Constitution's Religious Freedom clause.

40. The Prayer Proclamations by Governor Ritter constitute inherent endorsements of religion.

41. Official prayer proclamations by Governor Ritter create an indelible bond between church and state, which includes the public celebration of religion by government officials.

42. Prayer proclamations by public officials, including the proclamations by Governor Ritter, convey to non-religious Americans that they are expected to believe in God.

43. Such official proclamations reflect the official policy of the government, including the State of Colorado, sending a message that religion is preferred over non-religion.

44. Official prayer proclamations send a message that believers in religion are political insiders – and non-believers are political outsiders.

45. Official prayer proclamations are intended to convey a message of religious endorsement to each citizen with an exhortation that all citizens should engage in prayer.

46. Official prayer proclamations are intended to be public and to become known by all citizens, to whom the prayer proclamations are directed.

47. Designations of an official Day of Prayer by Governor Ritter encourage public celebration of prayer and create a hostile environment for non-believers, including the plaintiffs, who are made to feel as if they are political outsiders.

48. Plaintiffs and other members of FFRF in Colorado are subjected to these unwanted proclamations to pray and the resulting government-induced celebrations of religion in the public realm.

49. Further unwanted contact with exhortations and public celebrations of prayer by Governor Ritter and officials of the State of Colorado is imminent, moreover, because future prayer proclamations and designations of official prayer days are already planned for 2009.

50. As a result of Governor Ritter's actions, plaintiffs and FFRF members in Colorado will continue to be exposed to unwanted proclamations of prayer and public celebrations of religion in the public domain.

51. Official days of prayer create a culture of officially-sanctioned religiosity.

52. The actions of Governor Ritter in issuing prayer proclamations and dedicating days of prayer violate the fundamental principle of the separation of church and state because they include actively and intentionally endorsing religion in violation of the Religious Freedom clause of the Colorado Constitution.

53. The actions of Governor Ritter in issuing prayer proclamations and dedicating days of prayer violate the fundamental principle of the Religious Freedom clause of the Colorado Constitution by giving the appearance of the government's official support for and advocacy of religion through the medium of prayer.

54. The actions of Governor Ritter are injurious to the interests of plaintiffs and FFRF members in Colorado because the Governor's actions subject them to official admonitions and exhortations to pray, and expose them to unwanted endorsements of religion, which violate the Religious Freedom clause of the Colorado Constitution.

55. The actions of Governor Ritter, in his official capacity, as alleged herein are, by definition, acts of the State of Colorado.

WHEREFORE, the plaintiffs demand judgment as follows:

A. That the Court declare that Prayer Proclamations by Governor Ritter designating a Day of Prayer and the attendant celebrations and commemorations are a violation of Article II, Section 4 of the Colorado Constitution;

B. That the Court enjoin future designations of Day of Prayer celebrations by Governor Ritter and enjoining Governor Ritter and his successors from issuing further Day of Prayer Proclamations; and

C. That the Court award the plaintiffs their reasonable costs, disbursements and attorneys fees, as allowed by law.

Dated this 12th day of November, 2008.

Respectfully submitted,

Robert R. Tiernan #16301

Addresses of the Plaintiffs:

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Honorary Proclamation



BILL RITTER, JR.
GOVERNOR

COLORADO DAY OF PRAYER May 1, 2008

WHEREAS, the authors of the Declaration of Independence recognized "That all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness;" and

WHEREAS, the National Day of Prayer, established in 1952 and defined by President Ronald Reagan as the first Thursday in May, provides Americans with the chance to congregate in celebration of these endowed rights; and

WHEREAS, each citizen has the freedom to gather, the freedom to worship, and the freedom to pray, whether in public or private; and

WHEREAS, in 2008, the National Day of Prayer acknowledges Psalm 28:7- "The Lord is my strength and shield, my heart trusts in Him, and I am helped;" and

WHEREAS, on May 1, 2008, individuals across this state and nation will unite in prayer for our country, our state, our leaders, and our people;

Therefore, I, Bill Ritter, Jr., Governor of the State of Colorado, do hereby proclaim May 1, 2008,

COLORADO DAY OF PRAYER

in the State of Colorado.



GIVEN under my hand and the Executive Seal of the State of Colorado, this twenty-fourth day of March, 2008

A handwritten signature in blue ink that reads "Bill Ritter, Jr.".

*Bill Ritter, Jr.
Governor*