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NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EMC

11 CATHOLIC LEAGUE FOR RELIGIOUS AND
12 CIVIL RIGHTS, DR. RICHARD SONNENSHEIN
and VALERIE MEEHAN,

06 2351

Case No. _____

13 Plaintiffs,

COMPLAINT

14 v.

15 CITY AND COUNTY OF SAN FRANCISCO,
16 AARON PESKIN, in his official capacity as President,
17 Board of Supervisors, City and County of San Francisco, and
TOM AMMIANO, in his official capacity as a Supervisor,
Board of Supervisors, City and County of San Francisco,

18 Defendants.

19 Plaintiffs, by and through their undersigned attorneys, bring this Complaint against the
20 above-named Defendants, their employees, agents, and successors in office, and in support
21 thereof allege the following upon information and belief:

22 INTRODUCTION

23 1. This civil rights action is brought on behalf of the Catholic League for Religious
24 and Civil Rights ("Catholic League"), its members, and Catholic citizens of the City and
25 County of San Francisco who object to and have been injured by the anti-Catholic resolution

1 adopted unanimously by the Board of Supervisors on or about March 21, 2006. Defendants'
2 anti-Catholic resolution attacks and condemns the Catholic Church, the Catholic religion and its
3 beliefs, and Catholic leaders for adhering to the universal moral teaching of the Church, which
4 disapproves of homosexual unions and prohibits adoptions by those who are in such unions.
5 This anti-Catholic resolution is a startling attack by government officials on the Catholic
6 Church, Catholic moral teaching and beliefs, and those who adhere to the tenets of the Catholic
7 faith, which violates the First and Fourteenth Amendments to the United States Constitution
8 and 42 U.S.C. § 1983.

9 2. It is a fundamental constitutional principle that government in our democracy,
10 state and national, must be neutral in matters of religious theory, doctrine, and practice. It may
11 not be hostile to any religion; and it may not aid, foster, or promote one religion or religious
12 theory against another or even against the militant opposite.

13 3. The United States Constitution assures all religious believers, including
14 Catholics, that the government will not take official positions that condemn their religious
15 beliefs or practices. Our Constitution affirmatively mandates accommodation, not merely
16 tolerance of all religions, and forbids hostility toward any. The First Amendment forbids an
17 official purpose to disapprove of a particular religion, religious beliefs, or of religion in general.

18 4. Defendants' anti-Catholic resolution is a mean-spirited attack on the Catholic
19 Church and the religious beliefs of Catholics. This official resolution conveys a message of
20 religious hatred, intolerance, and bigotry toward Catholics, and it conveys an official
21 government message of disapproval of the Catholic religion and Catholic religious beliefs in
22 violation of the United States Constitution. Anti-Catholic bigotry is an old prejudice and vice
23 that weaves its way through American life and rears its head in new forms. The latest form is
24 Defendants' anti-Catholic resolution.

1 5. Plaintiffs seek nominal damages, a declaration that this anti-Catholic resolution
2 is unconstitutional, and a permanent injunction enjoining this and other official resolutions,
3 pronouncements, or declarations against Catholics and their religious beliefs. Plaintiffs also
4 seek an award of reasonable costs of litigation, including attorneys' fees and expenses, pursuant
5 to 42 U.S.C. § 1988.

6 **JURISDICTION AND VENUE**

7 6. This action arises under the First and Fourteenth Amendments to the United
8 States Constitution and 42 U.S.C. § 1983. Jurisdiction is conferred on this Court pursuant to 28
9 U.S.C. §§ 1331, 1343(a)(3) and 1343(a)(4).

10 7. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28
11 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, and by
12 the general legal and equitable powers of this Court. Plaintiffs' claim for nominal damages is
13 made pursuant to 42 U.S.C. § 1983.

14 8. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the
15 events or omissions giving rise to Plaintiffs' claims occurred in this district.

16 **INTRADISTRICT ASSIGNMENT**

17 9. Pursuant to Civil L.R. 3-2(c)-(d) and Civil L.R. 3-5(b), this case is properly
18 assigned to the San Francisco Division because a substantial part of the events or omissions
19 giving rise to Plaintiffs' claims occurred in the County of San Francisco, California.

20 **PLAINTIFFS**

21 10. Plaintiff Catholic League is the nation's largest Catholic civil rights
22 organization. Founded in 1973, the Catholic League defends the right of Catholics—lay and
23 clergy alike—to participate in American public life without defamation or discrimination. The
24 Catholic League has approximately 6,000 members who reside in the City and County of San
25 Francisco. The Catholic League and its members object to, and have been injured by, the anti-

1 Catholic resolution adopted by Defendants. Defendants' anti-Catholic resolution attacks the
2 deeply held religious beliefs of Catholics, conveys the impermissible, state-sponsored message
3 of disapproval of and hostility toward the Catholic religion, and sends a clear message to the
4 Catholic League, its members, and others who are adherents to the Catholic faith that they are
5 outsiders, not full members of the political community.

6 11. Plaintiff Dr. Richard Sonnenshein is a resident of the City and County of San
7 Francisco. He is a devout Catholic, and he objects to and has been injured by the anti-Catholic
8 resolution adopted by Defendants. Defendants' anti-Catholic resolution attacks Plaintiff
9 Sonnenshein's deeply held religious beliefs, conveys the impermissible, state-sponsored
10 message of disapproval of and hostility toward the Catholic religion, and sends a clear message
11 to Plaintiff Sonnenshein and others who are adherents to the Catholic faith that they are
12 outsiders, not full members of the political community. Plaintiff Sonnenshein is a member of
13 the Catholic League.

14 12. Plaintiff Valerie Meehan is a resident of the City and County of San Francisco.
15 She is a third-generation San Franciscan and a devout Catholic. Plaintiff Meehan objects to and
16 has been injured by the anti-Catholic resolution adopted by Defendants. Defendants' anti-
17 Catholic resolution attacks Plaintiff Meehan's deeply held religious beliefs, conveys the
18 impermissible, state-sponsored message of disapproval of and hostility toward the Catholic
19 religion, and sends a clear message to Plaintiff Meehan and others who are adherents to the
20 Catholic faith that they are outsiders, not full members of the political community.

21 13. Plaintiffs Sonnenshein and Meehan have had direct contact with and have been
22 injured by the offending anti-Catholic resolution, which stigmatizes Plaintiffs on account of
23 their religious beliefs and conveys a message to them that they are outsiders, not full members
24 of the political community. Plaintiffs Sonnenshein and Meehan, who are citizens and municipal
25 taxpayers of Defendant City and County of San Francisco, have been injured by the abuse of

1 government authority and the misuse of the instruments of government to criticize, demean, and
2 attack their religion and religious beliefs, thereby chilling their access to the government. As a
3 result of Defendants' anti-Catholic resolution, Plaintiffs Sonnenshein and Meehan will curtail
4 their activities to lessen their contact with Defendants, thereby causing further harm. Plaintiff
5 Catholic League, through its members, has been similarly injured and harmed by Defendants'
6 anti-Catholic resolution.

7 **DEFENDANTS**

8 14. Defendant City and County of San Francisco is a municipal subdivision of the
9 State of California and is responsible for the policies, practices, and/or customs of its Board of
10 Supervisors, including the anti-Catholic resolution described in this Complaint. At all relevant
11 times, Defendant City and County of San Francisco was a "person" acting under color of state
12 law as that phrase is used in 42 U.S.C. § 1983.

13 15. Defendant Aaron Peskin is the President of the Board of Supervisors of
14 Defendant City and County of San Francisco. The Board of Supervisors is the governing body
15 of the City and County of San Francisco and is responsible for creating, adopting, and
16 implementing its policies, practices, and/or customs, including the anti-Catholic resolution
17 described in this Complaint. The Board of Supervisors has a policy, practice, and/or custom of
18 adopting official resolutions criticizing and attacking religion and religious beliefs and practices
19 that it disagrees with. At all relevant times, Defendant Peskin was an agent, servant, and/or
20 employee of Defendant City and County of San Francisco, acting under color of state law as
21 that phrase is used in 42 U.S.C. § 1983. Defendant Peskin is sued in his official capacity.

22 16. Defendant Tom Ammiano is a member of the Board of Supervisors of Defendant
23 City and County of San Francisco. Defendant Ammiano was responsible for drafting the anti-
24 Catholic resolution described in this Complaint. At all relevant times, Defendant Ammiano was
25 an agent, servant, and/or employee of Defendant City and County of San Francisco, acting

1 under color of state law as that phrase is used in 42 U.S.C. § 1983. Defendant Ammiano is sued
2 in his official capacity.

3 STATEMENT OF FACTS

4 I. Catholic Religious Beliefs and Moral Teaching.

5 17. The Catholic Church's teaching on marriage and on the complementarity of the
6 sexes reiterates a truth that is evident to right reason and recognized as such by all the major
7 cultures of the world. Marriage is not just any relationship between human beings. It was
8 established by the Creator with its own nature, essential properties, and purpose. No ideology
9 can erase from the human spirit the certainty that marriage exists solely between a man and a
10 woman, who by mutual personal gift, proper and exclusive to themselves, tend toward the
11 communion of their persons. In this way, they mutually perfect each other, in order to
12 cooperate with God in the procreation and upbringing of new human lives.

13 18. According to the Catholic Church, the marital union of man and woman has
14 been elevated by Christ to the dignity of a sacrament. The Church teaches that Christian
15 marriage is an efficacious sign of the covenant between Christ and the Church.

16 19. Basing itself on Sacred Scripture, which presents homosexual acts as acts of
17 grave depravity, Catholic tradition has always declared that homosexual acts are intrinsically
18 disordered. They are contrary to the natural law. They close the sexual act to the gift of life.
19 They do not proceed from a genuine affective and sexual complementarity. Under no
20 circumstances can they be approved.

21 20. The Church teaches that respect for homosexual persons cannot lead in any way
22 to approval of homosexual behavior or to legal recognition of homosexual unions. The
23 common good requires that laws recognize, promote, and protect marriage as the basis of the
24 family, the primary unit of society. Legal recognition of homosexual unions or placing them on
25 the same level as marriage would mean not only the approval of deviant behavior, with the

1 consequence of making it a model in present-day society, but would also obscure basic values
2 which belong to the common inheritance of humanity. The Church cannot fail to defend these
3 values, for the good of men and women and for the good of society itself.

4 21. According to the Catholic Church, there are absolutely no grounds for
5 considering homosexual unions to be in any way similar or even remotely analogous to God's
6 plan for marriage and family. Marriage is holy, while homosexual acts go against moral law.
7 Allowing children to be adopted by persons living in such unions would actually mean doing
8 violence to these children, in the sense that their condition of dependency would be used to
9 place them in an environment that is not conducive to their full human development. Such
10 policies are gravely immoral. Therefore, Catholic organizations must not place children for
11 adoption in homosexual households.

12 22. Moral conscience requires that, in every occasion, Catholics give witness to the
13 whole moral truth. Catholics have an obligation to state clearly the immoral nature of
14 homosexual unions so as to safeguard public morality and, above all, to avoid exposing young
15 people to erroneous ideas about sexuality and marriage. Clear and emphatic opposition to
16 homosexual unions is a duty of all Catholics.

17 23. According to the Catholic Church, differentiating between persons or refusing
18 social recognition or benefits is unacceptable only when it is contrary to justice. The denial of
19 the social and legal status of marriage to forms of cohabitation that are not and cannot be
20 marital is not opposed to justice; on the contrary, justice requires it. Thus, Catholics must
21 refrain from any kind of formal cooperation in the enactment or application of gravely unjust
22 laws and, as far as possible, from material cooperation on the level of their application.

23 24. According to the Catholic Church, the Christian home is the place where
24 children receive the first proclamation of the faith. For this reason the family home is rightly
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1 called “the domestic church,” a community of grace and prayer, a school of human virtues and
2 of Christian charity.

3 **II. The Authority of the Catholic Church.**

4 25. A Cardinal is a Catholic bishop who holds a particular office of importance in
5 the Catholic Church. Cardinals are selected by the pope, and they are responsible for electing
6 the next pope—the next successor of Peter—to lead the Church.

7 26. Founded in 1542 by Pope Paul III, the Congregation for the Doctrine of the Faith
8 today has the duty proper to promote and safeguard the doctrine on the faith and morals
9 throughout the Catholic world: for this reason everything which in any way touches such matter
10 falls within its competence, including homosexual unions and adoption by those living in such
11 unions. The Congregation for the Doctrine of the Faith spreads sound doctrine and defends
12 those points of Christian tradition which seem in danger because of new and unacceptable
13 doctrines.

14 27. Prior to his election as Pope Benedict XVI, then Joseph Cardinal Ratzinger was
15 the Prefect for the Congregation for the Doctrine of the Faith. The Congregation is now headed
16 by Prefect Cardinal William Joseph Levada.

17 28. Pursuant to its authority, in 2003 the Congregation for the Doctrine of the Faith
18 issued a document entitled “Considerations Regarding Proposals To Give Legal Recognition To
19 Unions Between Homosexual Persons.” This document outlines the moral duty of Catholics to
20 oppose homosexual unions and policies that allow homosexual partners to adopt children,
21 stating, “Allowing children to be adopted by persons living in such unions would actually mean
22 doing violence to these children.” The document describes such policies as “gravely immoral.”

23 **III. Defendants’ Anti-Catholic Resolution.**

24 29. On or about March 21, 2006, Defendants adopted the following official
25 resolution:

1 Resolution urging Cardinal William Levada, in his capacity as head of the
2 Congregation for the Doctrine of the Faith at the Vatican, to withdraw his
3 discriminatory and defamatory directive that Catholic Charities of the Archdiocese
4 of San Francisco stop placing children in need of adoption with homosexual
5 households.

6 WHEREAS, It is an insult to all San Franciscans when a foreign country,
7 like the Vatican, meddles with and attempts to negatively influence this great
8 City's existing and established customs and traditions such as the right of same-
9 sex couples to adopt and care for children in need; and

10 WHEREAS, The statement of Cardinal Levada and the Vatican that
11 "Catholic agencies should not place children for adoption in homosexual
12 households," and "Allowing children to be adopted by persons living in such
13 unions would actually mean doing violence to these children" are absolutely
14 unacceptable to the citizenry of San Francisco; and,

15 WHEREAS, Such hateful and discriminatory rhetoric is both insulting and
16 callous, and shows a level of insensitivity and ignorance which has seldom been
17 encountered by this Board of Supervisors; and

18 WHEREAS, Same-sex couples are just as qualified to be parents as are
19 heterosexual couples; and

20 WHEREAS, Cardinal Levada is a decidedly unqualified representative of
21 his former home city, and of the people of San Francisco and the values they hold
22 dear; and

23 WHEREAS, The Board of Supervisors urges Archbishop Niederauer and
24 the Catholic Charities of the Archdiocese of San Francisco to defy all
25 discriminatory directives of Cardinal Levada; now, therefore, be it

1 RESOLVED, That the Board of Supervisors urges Cardinal William
2 Levada, in his capacity as head of the Congregation of the Doctrine of Faith at the
3 Vatican (formerly known as Holy Office of the Inquisition), to withdraw his
4 discriminatory and defamatory directive that Catholic Charities of the Archdiocese
5 of San Francisco stop placing children in need of adoption with homosexual
6 households.

7 30. The Board of Supervisors unanimously adopted the anti-Catholic resolution.

8 31. Defendants have threatened to withhold funding from Catholic Charities of the
9 Archdiocese of San Francisco if they do not violate Church teaching and oppose Church
10 authority.

11 **IV. Defendants' Anti-Catholic Agenda.**

12 32. Defendants are using the powers of government to improperly influence Church
13 authority, meddle in Church affairs, and undermine the religious beliefs and practices of
14 Catholics.

15 33. Homosexual activists see the Church as a main obstacle hindering wholesale
16 acceptance of their disordered behaviors and lifestyle.

17 34. Defendants seek to achieve acceptance of homosexual behaviors and
18 homosexual unions, which are contrary to the moral law and the fundamental teachings of the
19 Catholic Church, by using their governmental authority to undermine the moral and
20 ecclesiastical authority of the Catholic Church.

21 35. Defendants are abusing their authority as government officials and using the
22 instruments of government to force Catholics to recant what they believe about sexuality,
23 marriage, and family.

24 36. Defendants have publicly vilified, criticized, and attacked the Catholic Church,
25 fundamental Catholic religious beliefs and teachings, and Catholic leaders as an official act of

1 government, thus abusing their governmental authority by establishing an official policy
2 condemning the Catholic faith.

3 37. By adopting their anti-Catholic resolution, Defendants have taken an official
4 government position on a point of religious doctrine and beliefs, thereby taking sides in
5 religious matters.

6 38. Defendants have a policy, practice, and/or custom of adopting official
7 resolutions criticizing and attacking religion and religious beliefs and practices that they
8 disagree with. Defendants' anti-Catholic resolution was adopted pursuant to this policy,
9 practice, and/or custom.

10 **CLAIM FOR RELIEF**

11 **(Establishment Clause Violation)**

12 39. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

13 40. By reason of the aforementioned policy, practice, custom, acts, and omissions,
14 engaged in under color of state law, specifically including the adoption and promulgation of
15 Defendants' anti-Catholic resolution, Defendants have violated the Establishment Clause of the
16 First Amendment to the United States Constitution as applied to the states and their political
17 subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C.
18 § 1983.

19 41. Defendants' anti-Catholic resolution lacks a secular purpose, has the primary
20 effect of inhibiting religion, and creates excessive entanglement with religion in violation of the
21 United States Constitution.

22 42. Defendants' anti-Catholic resolution conveys an impermissible, government-
23 sponsored message of disapproval of and hostility toward the Catholic Church and Catholic
24 religious beliefs and practices. As a result, Defendants' anti-Catholic resolution sends a clear
25 message to Plaintiffs and others who are adherents to the Catholic faith that they are outsiders,

1 not full members of the political community and an accompanying message that those who
2 oppose the Catholic Church and Catholic religious beliefs and practices, particularly with
3 regard to homosexual unions and adoptions by those who are in such unions, are insiders,
4 favored members of the political community, in violation of the United States Constitution.

5 43. As a direct and proximate result of Defendants' violation of the Establishment
6 Clause, Plaintiffs have suffered irreparable harm, including the loss of their constitutional
7 rights, entitling them to declaratory and injunctive relief and nominal damages.

8 **CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

9 44. Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other
10 than the named parties, there is no such interest to report.

11 **WHEREFORE**, Plaintiffs ask this Court:

12 A) to declare that Defendants have violated the Establishment Clause of the United
13 States Constitution, as set forth in this Complaint;

14 B) to permanently enjoin Defendants' policy, practice, and/or custom of criticizing
15 and attacking religion and religious beliefs and practices that they disagree with, specifically
16 including Defendants' anti-Catholic resolution, as set forth in this Complaint;

17 C) to award Plaintiffs nominal damages for violation of their constitutional rights
18 pursuant to 42 U.S.C. § 1983;

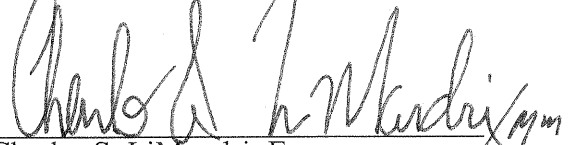
19 D) to award Plaintiffs their reasonable attorneys' fees, costs, and expenses pursuant
20 to 42 U.S.C. § 1988 and other applicable law;

21 E) to grant such other and further relief as this Court should find just and proper.
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Respectfully submitted this 3rd day of April, 2006.

THOMAS MORE LAW CENTER

By: 
Charles S. LiMandri, Esq.
Robert J. Muise, Esq.*
Richard Thompson, Esq.* *with permission*

*Subject to admission *pro hac vice*

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