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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

David Hoffman,

Plaintiff,

v.

City of Tucson, Officer Matt Alexander
in his individual capacity, and Officer
William Leonard in his individual
capacity,

Defendants.

CASE NO. _____

COMPLAINT

INTRODUCTION

1. The public streets are the United States’ oldest and most traditional public forum. And religious evangelism is protected speech. But plaintiff David Hoffman was excluded from sharing his religious beliefs in the public streets, under threat of arrest, at the Winterhaven Festival of Lights—a free event open to the public.

2. Defendants the City of Tucson and its police officers prohibited any “religious” speech and any distribution of “flyers” at the festival. The City purported to make up for it by sending Hoffman to a designated “free expression zone” *outside the festival*. The officers threatened multiple times to arrest Hoffman if he talked about his faith or distributed leaflets inside the festival.

3. The City’s policy and the officers’ actions were unlawful restrictions on speech under the First Amendment and the Arizona Constitution. When a city grants private users a permit to host an open event in a public forum, any restrictions on speech must be “content neutral,” “narrowly tailored” to serve a government interest, and leave open “ample alternative channels of communication.” *Gathright v. City of Portland*, 439 F.3d 573, 577 (9th Cir. 2006). Prohibiting “religious” speech is not content-neutral. And stopping conversations or leaflet handouts does not serve any legitimate government interest, much less as a narrowly tailored means to do so. Defendants’ policy and actions also unlawfully burdened Hoffman’s sincere religious exercise with a

1 requirement that was not neutral or generally applicable, in violation of the First
2 Amendment and Arizona’s Free Exercise of Religion Act.

3 4. Federal and Arizona law prohibit cities from outlawing speech in
4 public forums—particularly religious speech. The Court should grant
5 declaratory and injunctive relief confirming that Hoffman can speak and hand out
6 leaflets on public streets and rights of way during this year’s festival and all future
7 festivals. The Court should also grant nominal damages for the constitutional
8 violations Hoffman suffered at last year’s festival.

9 **JURISDICTION AND VENUE**

10 5. This civil rights action asserts federal claims under the United States
11 Constitution and the Civil Rights Act of 1871, 42 U.S.C. § 1983, and state-law
12 claims under the Arizona Constitution and the Free Exercise of Religion Act,
13 Ariz. Rev. Stat. Ann. §§ 41-1493–41-1493.04.

14 6. This Court has original jurisdiction over the federal claims under 28
15 U.S.C. §§ 1331 and 1343, and it has supplemental jurisdiction over the state-law
16 claims under 28 U.S.C. § 1367 because those claims form part of the same case
17 or controversy as the claims brought under federal law.

18 7. For the federal claims, this Court can grant the requested declaratory
19 relief under 28 U.S.C. §§ 2201 and 2202 and Federal Rule of Civil Procedure 57,
20 and for the state-law claims, it can grant the requested relief under Ariz. Rev.
21 Stat. Ann. § 41-1493.01(D) and Ariz. Rev. Stat. Ann. § 12-1831.

1 8. This Court can award the requested nominal damages under 28
2 U.S.C. § 1343 and Ariz. Rev. Stat. Ann. § 41-1493.01(D), and it can grant costs
3 and attorney’s fees under 42 U.S.C. § 1988 and Ariz. Rev. Stat. Ann. § 41-
4 1493.01(D).

5 9. Venue is proper in this District under 28 U.S.C. § 1391 because the
6 events giving rise to this complaint occurred within the District.

7 **THE PARTIES**

8 10. David Hoffman is a Christian evangelist who resides in Arizona.

9 11. The City of Tucson is a political subdivision of Arizona.

10 12. Officer Matt Alexander is a Tucson police officer. Hoffman seeks
11 only nominal damages against Officer Alexander.

12 13. Officer William Leonard is a Tucson police officer. Hoffman seeks
13 only nominal damages against Officer Leonard.

14 **FACTUAL BACKGROUND**

15 **I. David Hoffman speaks in public to evangelize for Christ.**

16 14. Hoffman has shared his religious beliefs in public around the
17 Country. He sincerely believes that Christians should spread the gospel of Jesus
18 Christ—literally the “good news”—to everyone they can. And he believes the
19 gospel positively changes lives. Considering that, he wants to tell others about
20 the hope he’s found in Christ.

1 15. Hoffman has been evangelizing in public since 2015. Around the
2 same time, he started an evangelistic nonprofit organization that aims to share the
3 gospel across the Country.

4 16. To reach as many people as possible with his religious beliefs,
5 Hoffman goes to well-attended public events. He has one-on-one conversations
6 with people willing to talk. He also hands out literature at the events, which
7 expands and deepens Hoffman's engagement because it can be faster and more
8 detailed than individual conversations. And Hoffman preaches to those around
9 him. Hoffman tries not to interfere with pedestrian traffic, vendors, or anyone
10 else's speech. Hoffman doesn't seek to offend or shock those he talks to. His
11 focus is spiritual, not political or social. He wants to share the gospel.

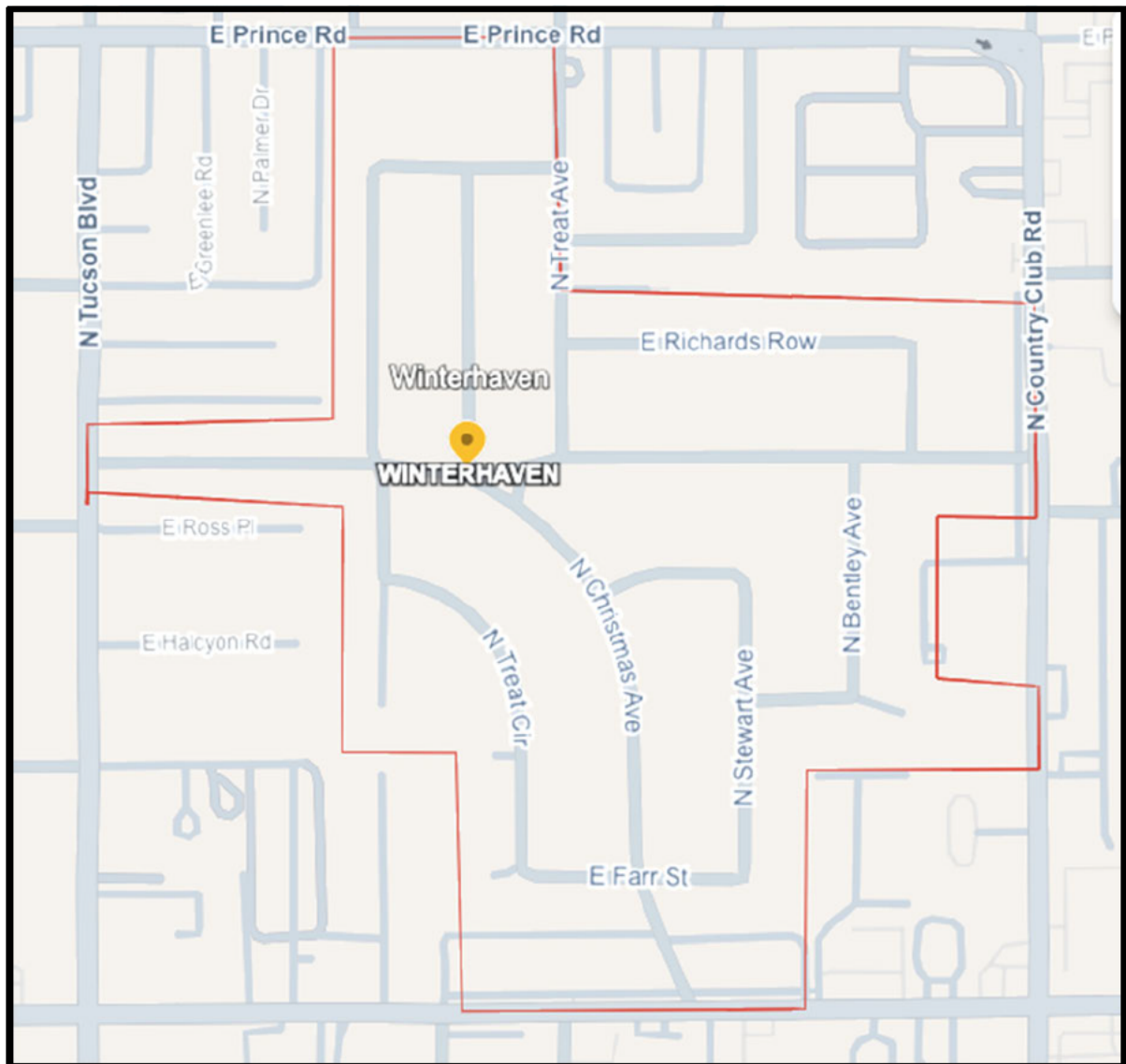
12 17. Hoffman considers his method for spreading the gospel unique and
13 irreplaceable, including because it creates meaningful dialogue. Freedom to
14 speak in public areas where an event's attendees are present for a sustained time
15 is essential. It enables Hoffman to engage other attendees in friendly, persuasive
16 conversations.

17 **II. The Winterhaven Festival of Lights is a public event on public streets**
18 **that remain free and open during the event.**

19 18. The Winterhaven Festival of Lights is held annually in December in
20 the Winterhaven residential neighborhood of Tucson, Arizona. The
21 neighborhood is located in northwest Tucson, bounded by four major public
22

1 roads: North Tucson Boulevard to the west; East Prince Road to the north; North
2 Country Club Road to the east; and four-laned East Fort Lowell Road to the
3 south. A smaller frontage road runs parallel to Fort Lowell Road just outside of
4 the North Christmas Avenue entrance into the neighborhood. Multiple
5 businesses across from the neighborhood line these roads.

6 19. The Winterhaven neighborhood consists of around 265 single
7 family homes. City streets run through the neighborhood and connect to the
8 major roads. East Kleindale Road runs east and west through the neighborhood.
9 It connects North Tucson Boulevard to Country Club Road and also extends
10 beyond the neighborhood across most of the northern Tucson area. North Treat
11 Avenue runs north and south through the neighborhood from Prince Road to
12 Kleindale Road, is interrupted at Kleindale Road, then resumes south of the
13 neighborhood and continues through most of the Tucson area. North Christmas
14 Avenue runs north and south through the neighborhood, connecting Fort Lowell
15 Road to Kleindale Road. The neighborhood is also crossed by other public streets
16 and public alleys.



20. Each December, Winterhaven Festival of Lights invites the general public to walk through the neighborhood to enjoy Christmas and seasonal light displays. The festival receives thousands of visitors per year. Vendors offer food and drinks. No admission fee or ticket is required for entry. As at other times of year, the neighborhood is not closed off to the public during the festival.

21. Along with light displays, some homes play amplified music or host live performances. The festival organizers authorize musical performances and

1 other entertainers inside the festival. They permit party bikes or pedal pubs,
2 which are large vehicles seating up to fifteen people, and allow them to play
3 amplified music.

4 22. The City of Tucson provides a non-exclusive use permit for the
5 festival, which authorizes closing the streets to non-residential vehicle traffic.
6 The City places barriers near the primary entrances to the Winterhaven
7 neighborhood as a buffer between vehicular traffic on major roads, like Fort
8 Lowell Road, and pedestrians entering the festival area. The City restricts
9 vehicular traffic during the festival to residents, but pedestrians are free to enter
10 from any street or alley.

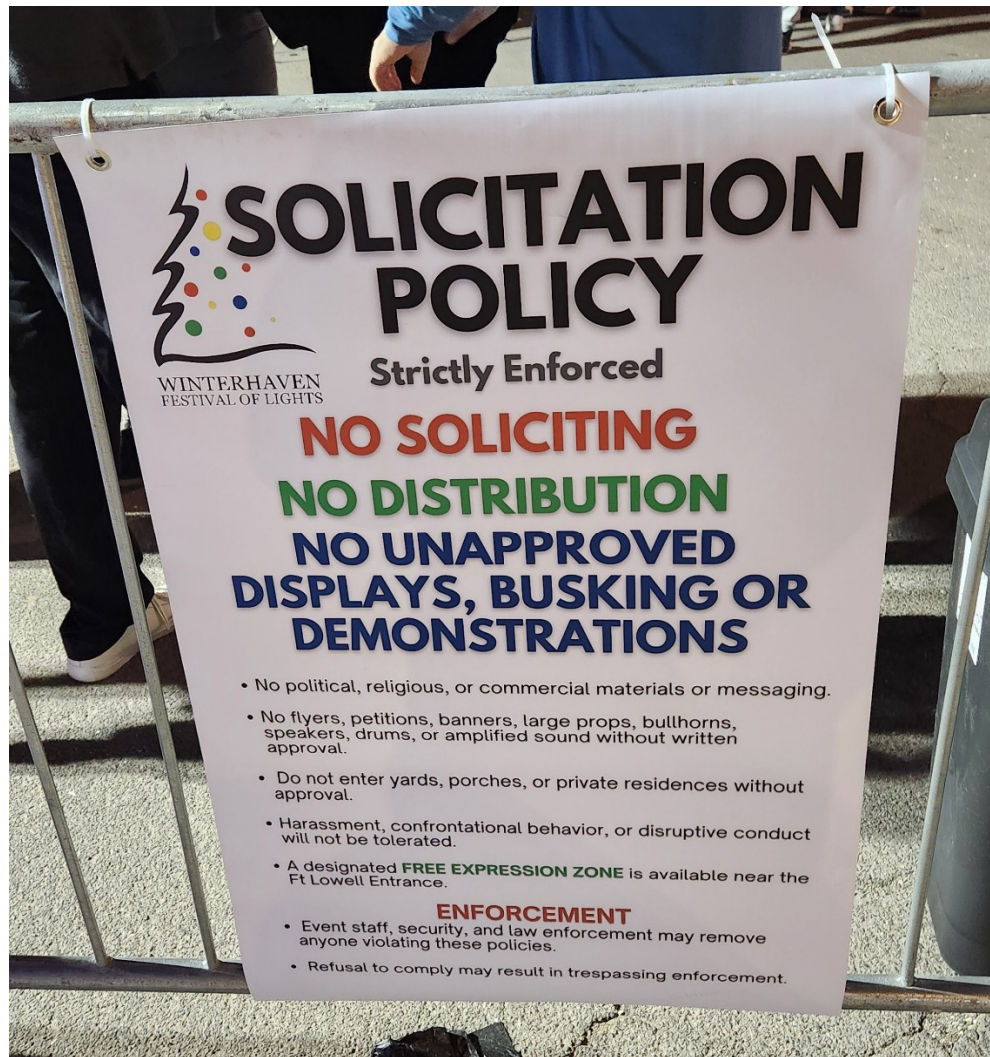
11 23. The City makes policy for the festival through its permitting
12 process. The festival organizers coordinate permit details directly with the city
13 manager's office, including City officials Andy Squire and Joshua Rothschild.
14 The City's legal department is also involved in the permitting process. According
15 to a police officer present at the festival in 2025, the terms of the permit allow
16 the festival organizers to exclude anyone for any reason.

17 24. With the permit, the City empowers the Winterhaven festival
18 organizers to exclude people because of their speech. And City police officers
19 enforce the exclusions.
20
21
22

1 25. Hoffman attended and evangelized at the festival for approximately
2 ten years until his exclusion in December 2025. He plans to attend and speak at
3 the festival in December 2026 and in future years.

4 **III. The City prohibits “[r]eligious” speech and leafleting.**

5 26. In December 2025, the City prohibited religious speech inside the
6 festival. Under this policy, “[r]eligious, political, or issue-based leafleting” is
7 prohibited. Signs posted at the festival prohibited “political, religious, or
8 commercial materials or messaging” and warned that “law enforcement may
9 remove anyone violating” the policy and “[r]efusal to comply may result in
10 trespassing enforcement”:



27. In conjunction with its speech prohibitions inside the festival, the City directed would-be speakers to a “free expression zone” outside the festival near the corner of E. Fort Lowell Road and North Christmas Avenue. Signs posted at the festival cited the “City-approved event safety plan” as authority for the “removal” of anyone who was “noncompliant” with the policy:



28. Though the signs stated that “[e]nforcement” wasn’t based on “the content of any message,” this didn’t apply to “[r]eligious, political, or commercial” messages—which the policy prohibited.

IV. The City and uniformed officers enforce the policy against Hoffman.

29. Hoffman tried to attend the festival with a small group of people on multiple nights in December 2025. Tucson police officers excluded him and threatened him with arrest.

1 30. When Hoffman entered the festival and talked to people about Jesus,
2 Officer Leonard and other uniformed City police officers approached him to
3 enforce the policy that this message wasn't allowed. Officer Leonard said "[y]ou
4 can't be inside here doing the preaching." Though he wasn't loud, Hoffman
5 asked the officers if his volume was a problem. Officer Leonard said "it's the
6 communicating, it's the sending of your message, which is one of the prohibited
7 rules." Hoffman asked "[c]ould I ask someone if they'd like to discuss Jesus?"
8 Officer Leonard replied, "[n]o, I would say that's still part of the sermonizing,"
9 and "once you start sermonizing, that becomes a problem."

10 31. Hoffman asked if he could talk to people about Jesus in a
11 conversational style. Officer Leonard responded "[t]hat's still a part of the
12 sermonizing." Hoffman asked a hypothetical question—what could he do if
13 someone approached him and asked "[w]hat would I do if I am lost?" Officer
14 Leonard told Hoffman to hold that conversation "outside the program."

15 32. Officer Leonard and other uniformed City police officers required
16 Hoffman to leave the festival because he'd discussed a prohibited message. "You
17 have been asked to leave tonight. . . . You could be subject to arrest if you are
18 continuing to solicit." Hoffman asked "if I preach while I walk out, will I be
19 arrested?" Officer Leonard said "[y]eah." Four uniformed police officers
20 escorted Hoffman out of the festival.
21
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1 33. In another instance when police officers confronted Hoffman, he
2 asked for clarification about the policy on the posted signs. A festival organizer
3 who had joined the conversation explained that religious speech was prohibited
4 and that these restrictions were City policy: “It’s about like no political, no
5 religious, no nothing. . . . [W]e’ve had political removed. . . . We’ve already had
6 some religious removed.” “We did get from the City of Tucson. Police told us
7 this is how we do the stuff. . . . [T]his is how all the festivals are now doing.”
8 The restrictions were based on past “complaints” during the festival and “[y]ou
9 can call the city manager’s office and they will happily give that to you, they
10 aggressively gave that information to us.”

11 34. In another conversation, Officer Alexander told Hoffman he would
12 be arrested if he engaged in religious speech inside the festival. Hoffman asked
13 for more details about the policy: “[s]o if someone were to be inside . . . not
14 distributing anything and just using their voice, would it be an arrest?” Officer
15 Alexander responded that “if you don’t leave” when requested, then “I would
16 have to do that” and make the arrest.

17 35. Skeptical of what seemed like an unusually oppressive restriction on
18 speech, Hoffman inquired further: “I can’t totally see [arrest for] just the voice
19 thing.” Officer Alexander explained that, under the City’s policy, whatever the
20 festival organizers said goes: “what they want is not that. And because of the
21 permit thing I told you about, they get to decide that.”
22

1 36. Officer Leonard also told Hoffman he would be arrested if he
2 declined to leave or stop his religious speech after a request. “[W]e can make an
3 arrest for trespassing [i]n the event that Winterhaven asked you guys to leave
4 [and] you guys refuse to leave.”

5 37. Both police officers also confirmed that leafleting was prohibited
6 inside the festival. When Hoffman asked Officer Alexander “[s]o you’re saying
7 that somebody could not literally stand over there and hand out Christian
8 literature,” Officer Alexander responded that the festival organizers “do not want
9 that” and their wants “supersede everything else because they have a permit from
10 the city.” Officer Leonard likewise warned Hoffman that “the distribution of
11 pamphlets is the thing that is prohibited.”

12 38. The police officers confirmed that they were enforcing City policy.
13 Officer Alexander explained that “I clarified through our department, they have
14 gotten a permit from the City of Tucson,” so “everything from the barricades in
15 is theirs” to control. When Hoffman asked to see the permit, Officer Alexander
16 responded that “I’m being told that the permit is in effect and I have to be able to
17 rely on other officers and part of my agency in the city.”

18 39. The officers weren’t enforcing a private policy. Aside from the
19 officers’ repeated statements they were enforcing City policy, the City’s Special
20 Event Guidebook also provides that Tucson police officers present at special
21

1 events “are there to enforce laws. It is not the responsibility of police officers to
2 provide the services that are the job of private security staff.”

3 40. While Hoffman was censored, performers and vendors were
4 allowed to enter the festival, set up equipment, and communicate their messaging.

5 41. The City’s policy to quarantine Hoffman’s religious expression to a
6 “free expression zone” outside of the festival undermines Hoffman’s ability to
7 effectively communicate to his intended audience inside the festival. The “free
8 expression zone” was a less effective and less useful place to speak than inside
9 the festival. Rather than talk *to* people who were viewing displays at a relaxed
10 pace, the zone’s location outside the festival required Hoffman to talk *at* people
11 who were transiting to get where they wanted to go.

12 42. It was difficult to reach even the people who were present near the
13 zone. The zone keeps Hoffman separated from people walking on the public
14 sidewalk. Noise, including from traffic on Fort Lowell Road, forces Hoffman to
15 shout and raise his voice, undermining his conversational style. Sequestering
16 Hoffman and those with him in a small zone away from the festival demeans
17 them in front of the same people they are trying to reach. The City’s policy
18 stopped Hoffman from effectively communicating his message on public streets.

19 43. Hoffman still wants to communicate his hopeful message about
20 God’s love and will at the festival. But the City’s policy stops him—if he follows
21 it, he can’t effectively speak. If he doesn’t follow it, he’s been repeatedly told
22

1 he'll be arrested. Unconstitutionally stopping Hoffman's speech and religious
2 exercise is an irreparable harm for which Hoffman has no adequate remedy at
3 law.

4 **FIRST CLAIM FOR RELIEF**

5 **Violation of the First Amendment: Freedom of Speech**

6 44. Hoffman incorporates by reference all preceding factual allegations.

7 45. The First Amendment forbids the government from "abridging the
8 freedom of speech," including by regulating protected speech based on its
9 content, message, or viewpoint. U.S. Const. amend. I. Speech related to matters
10 of religious concern is entitled to even greater—or "doubl[ed]"—protection
11 under the First Amendment. *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 523
12 (2022) ("That the First Amendment doubly protects religious speech is no
13 accident").

14 46. Hoffman's religious evangelism, including conversation and
15 leafleting, are protected speech. "[S]preading one's religious beliefs or preaching
16 the Gospel through distribution of religious literature and through personal
17 visitations is an age-old type of evangelism with as high a claim to constitutional
18 protection as [any other] types." *Murdock v. Com. of Pennsylvania*, 319 U.S.
19 105, 110 (1943).

20 47. Defendants enforced content-based restrictions on Hoffman's
21 speech in a public forum. They prohibited "religious" speech inside the festival.
22

1 48. No legitimate government interest supports excluding religious
2 speech and leafleting from the festival.

3 49. Defendants' policy and actions are not the least restrictive means of
4 protecting any legitimate government interest. Excluding all religious speech and
5 all leafleting is not narrowly tailored and does not leave open adequate alternative
6 channels of communication. And "allowing permittees unfettered discretion to
7 exclude private citizens on any (or no) basis" is also "not narrowly tailored."
8 *Gathright*, 439 F.3d at 577.

9 50. Defendants' actions violated Hoffman's right to free speech,
10 prevented him from speaking, and continue to prevent him from speaking at the
11 festival in the future.

12 **SECOND CLAIM FOR RELIEF**

13 **Violation of the Arizona Constitution: Free Speech**

14 51. Hoffman incorporates by reference all preceding factual allegations.

15 52. The Arizona Constitution guarantees that "[e]very person may
16 freely speak, write, and publish on all subjects, being responsible for the abuse
17 of that right." Ariz. Const. art. 2, § 6.

18 53. Hoffman's evangelism is pure speech protected by the Arizona
19 Constitution.

20 54. Defendants enforced content-based restrictions on Hoffman's
21 speech. They prohibited "religious" speech inside the festival.

1 55. No legitimate government interest supports excluding religious
2 speech and leafleting from the festival.

3 56. Defendants' policy and actions were not the least restrictive means
4 of protecting any legitimate government interest.

5 57. Excluding all religious speech and all leafleting is also not narrowly
6 tailored and does not leave open adequate alternative channels of communication.
7 And "allowing permittees unfettered discretion to exclude private citizens on any
8 (or no) basis" is "not narrowly tailored." *Gathright*, 439 F.3d at 577.

9 58. Defendants' actions violated Hoffman's right to free speech,
10 prevented him from speaking, and continue to prevent him from speaking at the
11 festival in the future.

12 **THIRD CLAIM FOR RELIEF**

13 **Violation of the First Amendment: Free Exercise of Religion**

14 59. Hoffman incorporates by reference all preceding factual allegations.

15 60. The First Amendment's Free Exercise Clause restricts the
16 government from "prohibiting the free exercise" of religion. U.S. Const. amend.
17 I. The government may not burden "sincere religious practice" by imposing
18 policies that aren't "'neutral' or 'generally applicable'" unless it "can satisfy
19 'strict scrutiny' by demonstrating its course was justified by a compelling state
20 interest and was narrowly tailored in pursuit of that interest." *Kennedy*, 597 U.S.
21 at 525.

1 61. Hoffman’s evangelism is motivated by his sincere religious belief.
2 He believes that Christians should spread the gospel of Jesus Christ to everyone
3 they can.

4 62. Defendants burdened Hoffman’s religious exercise by prohibiting
5 “religious” messages and evangelism on public streets and rights of way inside
6 the open festival, including one-on-one, voluntary conversations and leafleting.
7 By definition, targeting religion for different treatment than other messages is not
8 neutral or generally applicable.

9 63. No legitimate government interest supports excluding religious
10 messages from the festival.

11 64. Defendants’ policy and actions were not the least restrictive means
12 of protecting any legitimate government interest. Excluding all religious
13 messages is not narrowly tailored. *FCA v. San Jose Unified Sch. Dist. Bd. of*
14 *Educ.*, 82 F.4th 664, 694 (9th Cir. 2023) (policy not narrowly tailored where
15 district didn’t “consider[] less restrictive measures”). And “allowing permittees
16 unfettered discretion to exclude private citizens on any (or no) basis” is “not
17 narrowly tailored.” *Gathright*, 439 F.3d at 577.

18 65. Defendants’ actions violated Hoffman’s right to free exercise of
19 religion, deterred him from exercising his religion, and continue to deter him
20 from exercising his religion in the future.

FOURTH CLAIM FOR RELIEF

Violation of Arizona’s Free Exercise of Religion Act: Burden on Free Exercise of Religion

66. Hoffman incorporates by reference all preceding factual allegations.

67. Arizona’s Free Exercise of Religion Act provides that “government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability.” Ariz. Rev. Stat. Ann. § 41-1493.01(B). The Act was adopted “to protect Arizona citizens’ right to exercise their religious beliefs free from undue governmental interference.” *Brush & Nib Studio, LC v. City of Phoenix*, 448 P.3d 890, 918 (Ariz. 2019), *abrogated in other part by Ctr. for Arizona Policy Inc. v. Arizona Sec’y of State*, 592 P.3d 75, 89 (Ariz. 2026); *see also* Ariz. Rev. Stat. Ann. §§ 41-1493–41-1493.04.

68. Hoffman’s evangelism is motivated by his sincere religious belief. He believes that Christians should spread the gospel of Jesus Christ to everyone they can.

69. Defendants substantially burdened Hoffman’s religious exercise by prohibiting “religious” messages inside the festival.

70. No legitimate government interest supports excluding religious messages from the festival.

71. Defendants’ policy and actions were not the least restrictive means of protecting any legitimate government interest. Excluding all religious

1 messages is not narrowly tailored. *FCA*, 82 F.4th at 694. Nor is “allowing
2 permittees unfettered discretion to exclude private citizens on any (or no) basis.”
3 *Gathright*, 439 F.3d at 577.

4 72. Defendants’ actions violated Hoffman’s right to free exercise of
5 religion, deterred him from exercising his religion, and continue to deter him
6 from exercising his religion in the future.

7 73. Hoffman is entitled to “appropriate relief against” defendants for
8 violating the Act. Ariz. Rev. Stat. Ann. § 41-1493.01(D).

9 **FIFTH CLAIM FOR RELIEF**

10 **Violation of Due Process Clause**

11 74. Hoffman incorporates by reference all preceding factual allegations.

12 75. The City’s policy grants unfettered discretion to private citizen
13 permittees to make decisions about what content is allowed on public streets and
14 ways. This discretion gives Defendants undue opportunity to enforce the policy
15 in an *ad hoc*, arbitrary, and discriminatory manner.

16 76. Defendants have no compelling or legitimate reason that can justify
17 the unfettered discretion.

18 77. The policy and Defendants’ application of it violate the Due Process
19 Clause of the Fourteenth Amendment to the United States Constitution.

PRAYER FOR RELIEF

Hoffman respectfully requests that this Court grant judgment against defendants and order the following relief:

1. Declare that the City's policy violates Hoffman's right to free speech under the First Amendment to the U.S. Constitution.
2. Declare that the City's policy violates Hoffman's right to free speech under the Arizona Constitution.
3. Declare that the City's policy violates Hoffman's right to free exercise of religion under the First Amendment to the U.S. Constitution.
4. Declare that the City's policy violates Arizona's Free Exercise of Religion Act.
5. Declare that the City's policy violates the Due Process Clause of the Fourteenth Amendment.
6. Grant a preliminary and permanent injunction enjoining the City, its agents, officials, servants, employees, and all persons in active concert or participation with it from applying the City's policy to Hoffman.
7. Grant a preliminary and permanent injunction enjoining the City, its agents, officials, servants, employees, and all persons in active

concert or participation with it from applying the City's policy to restrict protected speech in a traditional public forum.

8. Award Hoffman nominal damages for the past violations of his constitutional rights.

9. Award Hoffman his costs and attorney's fees for this lawsuit under 42 U.S.C. § 1988, Arizona's Free Exercise of Religion Act, Ariz. Rev. Stat. Ann. § 41-1493.01(D), and any other applicable provision of law.

10. Award Hoffman pre- and post-judgment interest.

11. Grant Hoffman any other relief to which he is entitled.

12. Retain jurisdiction of this matter as necessary for enforcing this Court's orders.

1 Dated: October 2, 2026

Respectfully submitted,

2
3 /s/ Andrew W. Gould

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