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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

**HARBORVIEW FELLOWSHIP**, a  
Washington nonprofit corporation,

Plaintiff,

vs.

**GOVERNOR JAY INSLEE**, in his official  
capacity; **SECRETARY OF HEALTH JOHN  
WIESMAN**, in his official capacity;  
**ROBERT FERGUSON**, in his official  
capacity as Attorney General of  
Washington,

Defendants.

CASE NO. 3:20-cv-05518-BHS

**FIRST AMENDED COMPLAINT  
FOR DECLARATORY JUDGMENT,  
INJUNCTIVE RELIEF, AND  
DAMAGES**

Pursuant to FRCP 15(a)(1), Plaintiff amends its complaint as follows:

**I. INTRODUCTION**

1. Until Wednesday, May 27, 2020 faith communities were legally prohibited from gathering for fellowship or worship in Washington State under Governor Inslee’s Stay Home – Stay Healthy proclamation. That was true even in counties where office-based business, dining, and manufacturing industries were already permitted to resume their operations with appropriate social distancing and hygiene standards.

1           2.     On May 27, 2020, Governor Inslee recognized that “religion is  
 2 constitutionally protected” and religion, particularly its free exercise, “has a unique  
 3 constitutional position. . .[and] deserves an extra degree of acuity in figuring out  
 4 what is in the realm of the possible.”<sup>1</sup> Along with this statement, Governor Inslee  
 5 issued mandatory regulations that, if followed, permit the immediate resumption of  
 6 public worship in all phases of Governor Inslee’s four-phased reopening plan. These  
 7 regulations cap religious worship services at 100 people for outdoor services and 25%  
 8 capacity or 50 people, whichever is less, for indoor services. These caps do not  
 9 consider the capacity of religious organizations’ facilities or property. Harborview  
 10 Fellowship welcomes the ability to resume worship, but these regulations impose  
 11 discriminatory restrictions that treat faith communities less favorably than  
 12 comparable nonreligious activities – such as office-based business, dining, and  
 13 manufacturing industries – which are not subject to similar capacity restrictions or  
 14 caps.

15           3.     On Friday, May 29, 2020, Chief Justice Roberts stated that restrictions  
 16 on places of worship may be permissible if the restrictions “exempt[] or treat[] more  
 17 leniently *only* dissimilar activities, such as operating grocery stores, banks, and  
 18 laundromats, in which people neither congregate in large groups nor remain in close  
 19 proximity for extended periods.” *S. Bay United Pentecostal Church v. Newsom*, No. 20-  
 20 55533, 509 U. S. \_\_\_\_2020 WL 2813056, at \*1, 2020 LEXIS 3041, at \*2 (May 29, 2020)  
 21 (emphasis added). Because Washington’s Requirements for Religious Worship treat  
 22 *comparable* secular gatherings – manufacturing facilities, office-based professional  
 23 services, and restaurants and taverns – more favorably, they are neither neutral nor  
 24 generally applicable.

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25 <sup>1</sup> Governor Inslee Press Conference on COVID-19. (Wash. May 27, 2020), Washington State Public  
 26 Affairs Network, *available at*  
 27 <https://www.tvw.org/watch/?clientID=9375922947&eventID=2020051089&startStreamAt=2881&stopStreamAt=2911&autoStartStream=true>.

1 4. Because the Requirements for Religious worship are neither neutral or  
2 generally applicable, Harborview Fellowship brings this civil rights action under the  
3 First and Fourteenth Amendments to the U.S. Constitution and under federal law,  
4 particularly 42 U.S.C. 1983.

5  
6 **II. PARTIES, JURISDICTION, AND VENUE**

7 5. Plaintiff, Harborview Fellowship, is a nonprofit, Christian church  
8 organized exclusively for religious purposes within the meaning of Section 501(c)(3)  
9 of the Internal Revenue Code.

10 6. Defendant Governor Jay Inslee is the Governor of the State of  
11 Washington. Governor Inslee has responded to the coronavirus disease by declaring  
12 a State of Emergency and issuing numerous proclamations, including those  
13 challenged here. Violation of these proclamations can result in civil or criminal  
14 penalties. Governor Inslee is named in his official capacity only.

15 7. Defendant Secretary John Wiesman is the Secretary of Health for the  
16 State of Washington. He is named in his official capacity only.

17 8. Defendant Attorney General Robert Ferguson is the Attorney General  
18 for the State of Washington. Attorney General Ferguson has authority to enforce the  
19 proclamations issued by Governor Inslee. He is named in his official capacity only.

20 9. This Court has subject matter jurisdiction over federal claims under 28  
21 U.S.C. §§ 1331 and 1343.

22 10. This Court has authority to grant declaratory relief under 28 U.S.C. §  
23 2201-02, injunctive relief under 28 U.S.C. § 1343, and reasonable attorney’s fees and  
24 costs under 42 U.S.C. § 1988.

25 11. Venue is proper in this Court under 28 U.S.C. § 1391(b) because a  
26 substantial part of the events or omissions giving rise to the claims occurred in this  
27 district.

I. STATEMENT OF FACTS

A. Governor Inslee began easing emergency restrictions under a four-phase reopening plan at the beginning of May. In the majority of Washington’s counties, industries like manufacturing, office-based business, and dining have resumed operations subject to social distancing and hygiene requirements.

12. Washington has been in a state of emergency in response to the coronavirus disease since February 29, 2020. On March 23, 2020, Governor Inslee issued Proclamation 20-25 (“Stay Home – Stay Healthy”), which prohibited all people in Washington State from leaving their homes, participating in any social, spiritual, or recreational gatherings of any kind (regardless of the number of participants) and prohibiting non-essential businesses from conducting business, consistent with the limitations of the proclamation.

13. This proclamation had the effect of immediately suspending all in-person gatherings, including religious worship services.

14. On Friday, May 4, 2020, Governor Inslee issued Proclamation 20-25.3 and his Safe Start Plan (“Safe Start Reopening Plan”), which set out a four-phased recovery and reopening plan for Washington State.

B. On Friday, May 29, 2020, Governor Inslee announced that his office and the Department of Health will apply a new approach to give counties “more flexibility” to reopen some businesses, even in Phase One; this flexibility will not be applied to the Regulations on Religious Worship.

15. Beginning June 1, 2020, Governor Inslee and Secretary Wiesman will apply a more flexible approach under the Safe Start-Stay Healthy Proclamation 20-25.4.<sup>2</sup>

16. Under this new, more flexible approach, counties will have more flexibility to demonstrate they can safely allow additional economic activity based on targeted metrics. Any county – including Phase One counties – will be permitted to apply to move to the next phase of reopening.

<sup>2</sup> Proclamation by the Governor 20-25.4 (May 29, 2020) <https://www.governor.wa.gov/sites/default/files/20-25.4%20-%20COVID-19%20Safe%20Start.pdf>

1 17. If approval is granted, counties will be permitted to – among other  
2 things – “increase[] economic activity while sustain[ing] health and safety  
3 protections.”<sup>3</sup>

4 18. Proclamation 20-25.4 delegates to Secretary Wiesman the authority to  
5 advance specific activities to the next phase of re-opening, while limiting other  
6 activities to the existing phase.

7 **C. In-person worship services were legally prohibited until May 27, 2020. Even  
8 now, corporate worship is permitted only in compliance with the strict  
Requirements for Religious Worship issued by Governor Inslee.**

9 19. On May 4, 2020 Governor Inslee stated that regular attendance at  
10 religious services is “a vital part of the spiritual and mental health of our  
11 community” and “these services can be conducted in a manner similar to comparable  
12 secular activities.” Proclamation 20-25.3.

13 20. On May 6, 2020, Governor Inslee permitted drive-in worship services.

14 21. Three weeks later, on May 27, 2020, Governor Inslee held a press  
15 conference to announce that public worship could immediately resume under all  
16 phases of the Safe Start Reopening Plan *if* religious organization follow the strict  
17 regulations (“Requirements for Religious Worship”) released by his office.

18 22. Prior to this, in-person “spiritual gatherings” were legally prohibited in  
19 Phase One counties. In Phase Two counties, in-person “spiritual gatherings” – even  
20 with the same social distancing and hygiene standards required of business,  
21 manufacturing, and dining operations – were strictly limited to five or fewer people.

22 23. Under the Governor’s Requirements for Religious Worship, religious  
23 organizations in Phase One counties may immediately resume public worship  
24 outdoors on their property or, if “explicitly permitted by the local jurisdiction,” on  
25 immediately adjacent property.

26 \_\_\_\_\_  
27 <sup>3</sup> WA Governor’s Office, Inslee announces Safe Start – Washington’s Phased Reopening by county, Medium (May 29, 2020), <https://medium.com/wagovernor/safe-start-washingtons-phased-reopening-1436dfccc908>.

1 24. Regardless of the size of the property, these outdoor services are  
2 limited to 100 people. That 100-person limit is inclusive of all volunteers but does not  
3 include the organization’s staff.

4 25. For religious organizations in Phase Two counties – like Pierce and  
5 Kitsap counties – the Requirements for Religious Worship permit indoor services at a  
6 place of worship with up to 25% capacity or 50 individuals, *whichever is less*. That 50-  
7 person cap is inclusive of volunteers but does not include the organization’s staff.

8 26. Regardless of reopening phase, in-person religious services are legally  
9 prohibited unless they comply not only with “the main L&I COVID19 requirements  
10 to protect employees, members, and visitors” – which are required of comparable  
11 industries – but also with (1) hard caps on attendance and (2) 16 additional  
12 “organization-specific” safety requirements imposed only on religious organizations.

13 27. These caps and 16 “organization-specific” safety requirements apply  
14 only to religious organizations as they conduct worship services, religious study  
15 classes, religious ceremonies, religious holiday celebrations, weddings, or funerals.

16 28. Governor Inslee can unilaterally withdraw, restrict, or modify these  
17 Requirements for Religious Worship at any time.

18 29. Governor Inslee’s Proclamation 20-25.4 now delegates to Secretary  
19 Wiesman – an unelected official without the Governor’s statutory emergency  
20 powers – the authority to make decisions regulating the conduct of religious  
21 worship.

22 30. Governor Inslee has emphasized that individuals and entities that  
23 violate the restrictions in his emergency proclamations and reopening plan may face  
24 criminal or civil penalties. On March 30, 2020, Governor Inslee, Attorney General  
25 Ferguson, and various law enforcement officials held a press conference to announce  
26 enforcement measures of Governor Inslee’s Stay Home – Stay Healthy proclamation,  
27 which included re-affirming referrals for civil or criminal charges. An accompanying

1 Medium post from Governor Inslee stated that: “agencies responsible for public  
2 safety could take formal enforcement actions. Inslee said these include citations,  
3 suspension notices, revoking someone’s business license, potential criminal charges,  
4 and even a Consumer Protection Act violation action.”<sup>4</sup>

5 31. Attorney General Ferguson has, in fact, taken actions to enforce the  
6 Stay Home – Stay Healthy proclamation. For example, on May 19, 2020, he sued a  
7 business owner for violating of the proclamations.<sup>5</sup>

8 **D. Prior to issuing the Requirements for Religious Worship, Governor Inslee**  
9 **issued proclamations regulating other industries.**

10 32. Prior to issuing his Regulations on Religious Worship, Governor Inslee  
11 established numerous secular exceptions to the Stay Home – Stay Healthy and Safe  
12 Start Reopening Plan.

13 33. Under the Safe Start Reopening Plan, numerous industries – deemed  
14 “nonessential” – are permitted to reopen in Phase Two counties consistent with  
15 industry-specific guidance.

16 34. These industries include manufacturing, office-based businesses, and  
17 restaurants.

18 35. Manufacturing is permitted to resume consistent with social distancing  
19 and hygiene requirements set out by Governor Inslee’s office. These requirements  
20 include maintaining six feet of separation between employers and workers, but  
21 “when strict physical distancing is not feasible for a specific task, other prevention  
22 measure are required, such as use of barriers, minimizing staff in narrow or enclosed  
23 areas, and/or creating space between employees/works and job tasks as possible.”

24 36. No cap on the number of employers or workers is placed on  
25 manufacturing facilities.

26 <sup>4</sup> <https://medium.com/wagovernor/inslee-law-enforcement-provide-guidance-to-businesses-individuals-for-compliance-with-stay-home-d4bf2fdd0413>

27 <sup>5</sup> *State v. Power Alley Fitness, Inc.*, Sno. Cty. Sup Ct. Cause No. 20-2-02973-31



1 37. Office-based businesses are permitted to resume operations consistent  
2 with social distancing and hygiene requirements set out by Governor Inslee’s office.  
3 These requirements include maintaining “[six feet] of separation between employee-  
4 service providers and clients in all interactions at all times. When strict physical  
5 distancing is not feasible, other prevention measures are required, such as use of  
6 barriers, minimization of service providers or clients in narrow, enclosed areas and  
7 waiting rooms, staggered breaks, and work shift starts.”

8 38. Office-based professional services are required to keep guest occupancy  
9 at 50% of maximum building occupancy or lower, but no cap on the number of  
10 employees or clients is placed on office-based businesses.

11 39. Restaurants and taverns are permitted to resume operations consistent  
12 with social distancing and hygiene requirements set out by Governor Inslee’s office.  
13 Guest occupancy must be limited to 50% of maximum building capacity, but no cap  
14 on the number of employees or guests is placed on restaurants or taverns.

15 **E. Harborview Fellowship is a vibrant worshipping community that has served  
16 Pierce and Kitsap Counties since 2004.**

17 40. Harborview Fellowship is located just outside of Gig Harbor,  
18 Washington. It was formed in 2004 and today has a membership of approximately  
19 250 people and an average Sunday attendance of between 250 and 325 people.

20 41. Prior to suspending public worship, Harborview Fellowship typically  
21 hosted only one worship service on Sunday mornings.

22 42. Harborview Fellowship’s congregation is drawn primarily from the  
23 surrounding Kitsap and Pierce county communities.

24 43. Harborview Fellowship is a non-denominational, evangelical church. It  
25 is not closely affiliated with any association, convention, conference, or council of  
26 churches.  
27



1 44. Harborview Fellowship’s building has a sanctuary with a 475 person  
2 capacity, seven classrooms that can accommodate 10 socially-distanced individuals,  
3 one meeting room that can accommodate 25 socially-distanced individuals, and six  
4 offices that can each accommodate a few socially distanced individuals.

5 45. The church can simulcast worship services to each of these in-house  
6 overflow spaces.

7 46. The church believes that Scripture teaches, among other things, that  
8 believers are to gather together for corporate prayer and worship and the gathering  
9 together of the church is both good and necessary for its members’ spiritual growth  
10 and spiritual, mental, and emotional wellbeing.

11 47. Communal worship and ministry are at the heart of Harborview  
12 Fellowship’s religious beliefs and practices. The church believes that believers are the  
13 church, and the church is a family.<sup>6</sup>

14 **F. Harborview Fellowship fully complied with Governor Inslee’s Stay  
15 Home – Stay Healthy requirements.**

16 48. Out of an abundance of caution, Harborview Fellowship suspended  
17 public worship and in-person gatherings on March 15, 2020.

18 49. This action was over a week before Governor Inslee’s Stay Home – Stay  
19 Healthy Proclamation legally prohibited spiritual gatherings.

20 50. Though it suspended in-person worship and fellowship, the church  
21 continues to worship through a virtual format on Sundays and through morning and  
22 evening devotions hosted online. Additionally, the church and its members continue  
23 to minister to the sick, the needy, and the elderly as well as they are able.

24 51. Baptisms, communion, membership vows, and – of course – all in-  
25 person worship and fellowship have been suspended for over 12 weeks.  
26

27 \_\_\_\_\_  
<sup>6</sup> Harborview Fellowship, <https://harborviewfellowship.org/i-m-new> (last visited June 1, 2020).

1 52. Harborview Fellowship did all this because the church understands  
2 and supports the severe social restrictions that were necessary to “flatten the curve”  
3 and control the spread of the coronavirus in Washington State.

4 **G. Before the Requirements for Religious Worship were issued, Harborview  
5 Fellowship sent a letter to the Governor detailing its plans to resume  
6 worship and social distancing and safety precautions.**

7 53. On May 18, 2020, Harborview Fellowship sent a letter to Governor  
8 Inslee asking his office to review and approve the church’s plan to resume in-person  
9 worship and fellowship activities.

10 54. The letter offered details about the church’s location and demographics;  
11 communication abilities (for purposes of contact tracing, if necessary); intended  
12 sanitation, hygiene, and capacity protocols, and plan to resume in-person worship,  
13 fellowship, and care.

14 55. The plan and protocols were prepared consistent with COVID-19 safety  
15 and prevention guidelines for religious worship issued by the Center for Disease  
16 Control.

17 56. The church hoped to resume indoor, in-person worship in two services  
18 on June 7, 2020. One of these services was to be reserved for individuals with risk  
19 factors or greater concerns for coronavirus exposure. These services would be  
20 conducted consistent with social distancing and hygiene protocols provided by the  
21 CDC and consistent with the social distancing restrictions and hygiene protocols  
22 Governor Inslee provided to comparable industries.

23 57. The letter asked for a response from the governor so the church could  
24 prepare the needed supplies, volunteers, and logistics to resume in-person worship.

25 58. The letter directed the Governor’s attention to the discriminatory  
26 treatment of religious organizations and faith communities under his phased  
27 reopening plan, stating: “It is [] difficult for [Harborview Fellowship] to understand  
why restaurants would be allowed to open at 50% capacity and office-based

1 businesses allowed to open entirely in Phase Two when churches are only allowed  
2 gatherings of five persons.”

3 59. On Friday, May 22, 2020, the governor’s office was contacted via email  
4 to, again, ask for a response to Harborview Fellowship’s reopening plan. In response,  
5 the governor’s office indicated that they were still reviewing and considering the  
6 church’s request.

7 60. In reply, the church emphasized “the spiritual needs of people of faith  
8 are of no less importance or urgency than the economic survival of businesses,  
9 families and individuals” and offered a brief explanation of the church’s concerns  
10 regarding the unconstitutionality of the Governor’s phased reopening plan.

11 61. Following the publication of the Requirements for Religious Worship  
12 on Friday, May 29, 2020, the Governor’s office forwarded a copy of the requirements  
13 to the church. No comment on the church’s plan or protocols was provided.

14 **H. The Requirements for Religious Worship interfere with the church’s ability**  
15 **to carry out its religious doctrine, faith, and mission.**

16 62. Harborview Fellowship continues to teach, worship, and encourage  
17 one another as they are able. But the two-month restriction on in-person worship, the  
18 current cap on attendance under the Requirements for Religious Worship, and the  
19 ongoing ban of much needed fellowship are significant burdens.

20 63. Harborview Fellowship depends heavily on the “live” and hosting  
21 services of a private social media company.

22 64. Unfortunately, there are Harborview Fellowship members, and  
23 perhaps regular attenders and would-be guests, who do not have the resources,  
24 technical ability, or access to attend the services or devotionals streamed online.

25 65. The emergency restrictions have not only impacted Harborview  
26 Fellowship’s weekly worship and fellowship but have impacted the numerous ways  
27

1 Harborview Fellowship carries out the church's religious doctrine, faith, and mission  
2 by serving its community.<sup>7</sup>

3 66. Harborview Fellowship, like so many faith communities, is eager to  
4 resume small group fellowship and in-person worship. At that time, Harborview  
5 Fellowship will again be able to gather as they understand themselves to be  
6 commanded to do. They will be able to—at a social distance—pass the peace of  
7 Christ, spur one another on towards love and good deeds, and encourage one  
8 another as well as be fortified by the celebration of the Lord's Supper and rejoice  
9 with and welcome believers in baptism and membership in their church community.

10 67. Harborview Fellowship's worship services may be inspected and shut  
11 down if not in compliance with the Requirements for Worship.

12 68. Harborview Fellowship's worship may be reported to the governor as  
13 out of compliance with the Requirements for Worship by any interested party via a  
14 website set up by the governor's office.

15 69. Harborview Fellowship may be subject to criminal and civil penalties if  
16 their worship services are not in compliance with the Requirements for Worship.

17 70. Harborview Fellowship's religious beliefs generally call for it to honor  
18 the authority of the government where the exercise of that authority does not  
19 explicitly conflict with what Harborview Fellowship believes to be a higher spiritual  
20 command. To the extent the Defendants are asking for Harborview Fellowship to  
21 violate the Governor's proclamations or publicly announce an intention to do so as a  
22 requirement for seeking judicial redress, Harborview Fellowship has been harmed in  
23 that it must publicly compromise its religious message in order to exercise its rights  
24 to petition this Court for redress.

25 \_\_\_\_\_  
26 <sup>7</sup> During this time the church and its members continue to volunteer with a community effort to  
27 provide supplies each week for 200 families experiencing hardship, collect thousands of dollars of  
food and supplies for a local food bank, serve the residents of the church-operated transition houses in  
Gig Harbor and Tacoma, and provide counselling and support for people in mental and emotional  
duress.

II. CLAIMS

A. Count 1: Violation of the First Amendment to the U.S. Constitution’s Guarantee of the Right to Free Exercise

71. The church incorporates by reference paragraphs 1 through 70.

72. Harborview Fellowship’s sincerely held religious beliefs hold that “Scripture, both Old and New Testaments, [is] the verbally inspired Word of God in its entirety, without error in the original writings [and is] the complete revelation of His person and His will necessary to be understood by mankind.”

73. Harborview Fellowship sincerely believes that Scripture teaches the necessity of, among other things, gathering for corporate prayer and worship. The church believes that the gathering together of the church is both good and necessary for its members’ spiritual growth and wellbeing.

74. The Governor’s Safe Start Reopening Plan and Requirements for Religious Worship substantially burden the free exercise of Harborview Fellowship and its members, visitors, and friends by imposing discriminatory restrictions on Harborview Fellowship’s worship.

75. The Requirements for Religious Worship chill religious exercise and expression by imposing an unnecessarily low cap, without regard to the size or capacity of the church’s outdoor space or indoor facilities.

76. The Requirements for Religious Worship chill religious exercise and expression because they impose unsustainable and burdensome obligations on church leadership, staff, and volunteers.

77. The Safe Start Reopening Plan and Requirements for Religious Worship interfere with the church’s ability to carry its religious doctrine, faith, and mission.

78. The Safe Start Reopening Plan and Requirements for Religious Worship are neither neutral nor generally applicable. *See First Baptist Church v. Kelly*, No. 20-cv-01102, 2020 LEXIS 68267, at \*3 (D. Kan. Apr. 18, 2020) (finding that a law is not generally applicable where the state did not “argue[] that mass gatherings at

1 churches pose unique health risks that do not arise in mass gatherings at airports,  
2 offices, and production facilities.”); *Berean Baptist Church v. Cooper*, 4:20-cv-81-D, 2020  
3 U.S. Dist. LEXIS 86319, at \*22 (E.D.N.C. May 16, 2020) (“Eleven men and women can  
4 stand side by side working indoors Monday through Friday at a hospital, at a plant,  
5 or at a package distribution center and be trusted to follow social distancing and  
6 hygiene guidance, but those same eleven men and women cannot be trusted to do  
7 the same when they worship inside together on Saturday or Sunday.”); *Roberts v.*  
8 *Neace*, 958 F.3d 409, 413 (6th Cir. 2020) (“[T]he more exceptions to a prohibition, the  
9 less likely it will count as a generally applicable, non-discriminatory law.”).

10 79. The Safe Start Reopening Plan and Requirements for Religious Worship  
11 are not neutral because they target, discriminate against, and show hostility towards  
12 the faith community and houses of worship.

13 80. The Requirements for Religious Worship are not neutral or generally  
14 applicable because they impose 16 organization-specific requirements on religious  
15 organizations. Some of these requirements are unique to religious organizations and  
16 have no corollary in the requirements imposed on comparable industries.

17 81. The Requirements for Religious Worship are not neutral or generally  
18 applicable because they impose more stringent capacity limitations on the size of  
19 religious worship than on comparable industries. No other comparable industry is  
20 subject to a cap that does not take facility capacity into account.

21 82. The Regulations on Religious Worship are not neutral or generally  
22 applicable because they do not employ the same flexibility that is applied in the new  
23 Safe Start Reopening Plan.<sup>8</sup>

24  
25 <sup>8</sup> Governor Inslee stating “we’ve evinced an increasing flexibility on that to maybe allow some larger  
26 gatherings . . . evaluated county by county as requests might come in [to] the State Department of  
27 Health,” Governor Inslee Press Conference on COVID-19. (Wash. May 27, 2020), Washington State  
Public Affairs Network, *available at*  
<https://www.tvw.org/watch/?clientID=9375922947&eventID=2020051096&startStreamAt=2441&autoStartStream=true>.

1           83.     The Safe Start Reopening Plan and Requirements for Religious Worship  
2 are susceptible to arbitrary enforcement and content and viewpoint discrimination.

3           84.     The Requirements for Religious Worship are subject to content and  
4 viewpoint discrimination because they require the explicit permission of local  
5 officials for churches to use adjacent property for outdoor worship services. Because  
6 the mandatory regulations give government officials discretion to grant or deny this  
7 permission, the Requirements for Religious Worship are susceptible to content and  
8 viewpoint discrimination.

9           85.     Governor Inslee does not have a valid or compelling reason for the Safe  
10 Start Reopening Plan's discrimination against faith communities and houses of  
11 worship.

12           86.     The Safe Start Reopening Plan and Requirements for Religious Worship  
13 are not narrowly tailored to accomplish the State's interest in protecting the health  
14 and safety of Washington citizens.

15           87.     The Safe Start Reopening Plan and Requirements for Religious Worship  
16 are not the least restrictive means available to further the State's interest in protecting  
17 the health and safety of Washington citizens.

18           88.     The Safe Start Reopening Plan and Requirements for Religious Worship  
19 violate the First Amendment's Free Exercise Clause, both facially and as applied to  
20 Harborview Fellowship.

21           89.     Without declaratory and injunctive relief, Harborview Fellowship and  
22 its members, visitors, and friends will be irreparably harmed.

23           90.     The Safe Start Reopening Plan and Requirements for Religious Worship  
24 deprive Harborview Fellowship of the First Amendment right to free exercise under  
25 color of state law in violation of 42 U.S.C. § 1983.



1 **B. Count 2: Violation of the First Amendment of the U.S. Constitution’s**  
2 **Guarantee of the Right to Assemble for Religious Worship**

3 91. The church incorporates by reference paragraphs 1 through 90.

4 92. The First Amendment prohibits the State from violating Harborview  
5 Fellowship’s right to peaceably assemble.

6 93. The Safe Start Reopening Plan and Requirements for Religious worship  
7 violate the constitutional rights of Harborview Fellowship because they do not serve  
8 any legitimate, rational, substantial, or compelling state interest, particularly when  
9 considering the unique caps imposed on religious worship services.

10 94. The Safe Start Reopening Plan and Requirements for Religious Worship  
11 are not the least restrictive means available to further the State’s interest in protecting  
12 the health and safety of Washington citizens.

13 95. The Safe Start Reopening Plan and Requirements for Religious Worship  
14 are susceptible to content and viewpoint discrimination.

15 96. The Safe Start Reopening Plan and Requirements for Religious Worship  
16 violate Harborview Fellowship’s constitutional right to assemble under the First  
17 Amendment, both facially and as applied.

18 97. Without declaratory and injunctive relief, Harborview Fellowship and  
19 its members, visitors, and friends will be irreparably harmed.

20 98. The Safe Start Reopening Plan and Requirements for Religious Worship  
21 deprive Harborview Fellowship of the First Amendment right to free assembly  
22 under color of state law in violation of 42 U.S.C. § 1983.

23 **C. Count 3: Violation of the First Amendment to the U.S. Constitution’s**  
24 **Guarantee of the Right to Free Speech**

25 99. The church incorporates by reference paragraphs 1 through 98.

26 100. The First Amendment prohibits the State from violating Harborview  
27 Fellowship’s right to engage in speech through its church services, devotionals, and  
fellowship groups.



