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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CALVARY CHAPEL DAYTON VALLEY,

Plaintiff,

vs.

STEVE SISOLAK, in his official capacity as
Governor of Nevada; AARON FORD, in his
official capacity as Attorney General of
Nevada; FRANK HUNEWILL, in his official
capacity as Sheriff of Lyon County,

Defendant.

Case Number:
3:20-cv-00303-LRH-CLB

**LIMITED JOINDER OF
SHERIFF FRANK HUNEWILL
TO THE OPPOSITION [ECF NO 29]
FILED BY THE GOVERNOR AND
ATTORNEY GENERAL OF NEVADA**

Defendant, Frank Hunewill, in his official capacity as Sheriff of Lyon County, (the “Sherriff”), by and through his attorneys of record, the law firm of Marquis Aurbach Coffing, hereby files his Limited Joinder to the Opposition [ECF No. 29] filed by the Governor and Attorney General of Nevada in the above referenced matter. This Opposition is made and based upon the attached Memorandum of Points and Authorities, all pleadings and papers on file herein, and any oral argument allowed at the time of the hearing.

Defendant Frank Hunewill

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Issuing blanket edicts over an entire state as diverse as Nevada without taking into account local needs does not seem narrowly tailored. For this reason, each County should

1 be afforded discretion with respect to enforcement. Notably, Lyon County is not a
 2 “hotspot” for COVID-19. And, unlike the larger Nevada counties, Lyon County has been
 3 able to weather the effects of COVID-19 without a single death. Consequently, while Lyon
 4 County law enforcement officers have been diligent in monitoring and assisting in the
 5 COVID-19 efforts, enforcement of recommendations from the Centers for Disease Control
 6 (the “CDC”) and the executive directives of the Governor have not been given priority over
 7 any other law enforcement functions. Lyon County law enforcement officers have not and
 8 will not be using their limited resources monitoring church attendance and/or parishioners’
 9 adherence to social distancing recommendations. Simply put, whether the Plaintiff’s
 10 services include more than the Governor’s recommended number of parishioners or whether
 11 such parishioners adhere to the recommended social distancing during the worship services
 12 is not a priority of Lyon County law enforcement officials. Lyon County law enforcement
 13 officials are optimistic that the residents of the county will reasonably adhere to all CDC
 14 guidelines and encourage Lyon County residents to act appropriately to assure they and their
 15 neighbors remain safe and healthy. However, if there is a call, complaint or issue reported,
 16 then such will be investigated and afforded the appropriate response necessary under the
 17 circumstances.

18 **II. LEGAL ARGUMENT**

19 The Sherriff files this limited joinder to the Opposition filed by the Governor and
 20 Attorney General. Notably, the Sherriff acknowledges that the United States Supreme Court
 21 recently issued a determination denying similarly sought injunctive relief for a church
 22 challenging California’s temporary restrictions on public gatherings in light of COVID-19.
 23 *See South Bay United Pentecostal Church, et al. v. Newsom, et al.* Case No. 19A1044, 2020
 24 WL 2813056 (May 29, 2020). *See* State Opposition [ECF No. 29] at Exhibit B.

25 The Supreme Court in *South Bay United* stated:

26 The precise question of when restrictions on particular social activities should
 27 be lifted during the pandemic is a dynamic and fact-intensive matter subject
 to reasonable disagreement. Our Constitution principally entrusts “[t]he

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1 safety and the health of the people” to the politically accountable officials of
 2 the States “to guard and protect.” *Jacobson v. Massachusetts*, 197 U.S. 11, 38
 3 (1905). When those officials “undertake[] to act in areas fraught with
 4 medical and scientific uncertainties,” their latitude “must be especially
 5 broad.” *Marshall v. United States*, 414 U. S. 417, 427 (1974). Where those
 6 broad limits are not exceeded, they should not be subject to second-guessing
 7 by an “unelected federal judiciary,” which lacks the background,
 8 competence, and expertise to assess public health and is not accountable to
 9 the people. See *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.
 10 S. 528, 545 (1985).

11 *Id.*, 2020 WL 2813056 at *2.

12 The Sheriff affirms that the “question of when restrictions on particular social
 13 activities should be lifted during the pandemic ***is a dynamic and fact-intensive matter***
 14 ***subject to reasonable disagreement.***” *Id.* (emphasis added). And, that such questions of fact
 15 may not be best accomplished through general directives. Rather, it is important for the
 16 officials entrusted to “to guard and protect” the “safety and health of the people” to act in
 17 such areas. *Id.* (citing *Jacobson*, 197 U.S. at 38).

18 For this reason, each county and their elected officials should be afforded discretion
 19 and latitude with respect to the enforcement of such general directives and restrictions. Here,
 20 the Sheriff has not and will not be using his limited law enforcement resources to monitor
 21 church attendance and/or parishioners’ adherence to social distancing recommendations.
 22 Rather, the Sherriff is optimistic that his fellow Lyon County residents will reasonably
 23 adhere to all CDC guidelines and he encourages Lyon County residents to act appropriately
 24 to assure they and their neighbors remain safe and healthy. Nevertheless, if there is a call,
 25 complaint or issue reported, then such will be investigated and afforded the appropriate
 26 response necessary under the circumstances.
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1 **III. CONCLUSION**

2 Based upon the foregoing, the Sherriff respectfully requests that this Court follow the
3 directives of the United States Supreme Court and affirms that he will adhere to any orders
4 of this Court resulting therefrom.

5 Dated this 2nd day of June, 2020.

6 MARQUIS AURBACH COFFING
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8
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **LIMITED JOINDER OF SHERRIFF FRANK HUNEWILL TO THE OPPOSITION FILED BY THE GOVERNOR AND ATTORNEY GENERAL OF NEVADA** with the Clerk of the Court for the United States District Court by using the court's CM/ECF system on the 2nd day of June, 2020.

☒ I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

☐ I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third-party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

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