

Rcvd 9/15/23 Public comment # 18

Re: Supporting the public record to rescind the "Christian American Heritage Month" Proclamation

BOS-Clerk of the Board <edc.cob@edcgov.us>

Fri 9/15/2023 10:09 AM

To: Joseph Connolly <retqmcs@gmail.com>

Appropriate public comment will be attached to the item and forwarded to the Board of Supervisors.

Thank you,

El Dorado County Clerk of the Board of Supervisors
330 Fairlane Building A
Placerville, CA 95667
530.621.5390

From: Joseph Connolly <retqmcs@gmail.com>

Sent: Friday, September 15, 2023 10:04 AM

To: BOS-District I <bosone@edcgov.us>; BOS-District II <bostwo@edcgov.us>; BOS-District III <bosthree@edcgov.us>; BOS-District IV <bosfour@edcgov.us>; BOS-District V <bosfive@edcgov.us>

Cc: BOS-Clerk of the Board <edc.cob@edcgov.us>; David A Livingston <david.livingston@edcgov.us>; Tiffany Schmid <Tiffany.Schmid@edcgov.us>

Subject: Supporting the public record to rescind the "Christian American Heritage Month" Proclamation

Dear Board Members: I welcome Supervisor Hidahl's request to rescind the "Christian American Heritage Month" proclamation that he originally submitted, and I urge you to do so unanimously - and "in its entirety" - without debate as highlighted below.

More broadly, though, I'm writing to add to the absence of ANY public record for this item, including Supervisor Hidahl's justification for rescinding his controversial proclamation. There is nothing to note the public's opposition to the proclamation, including public letters from the ACLU of Northern California and the Freedom from Religion Foundation that documented the proclamation's factual and legal deficiencies. There is no record of other letters, such as mine of July 25th, highlighting a previous legal challenge to a similar proclamation by the Calaveras County Board of Supervisors. That letter documented how the Calaveras Board ultimately rescinded their proclamation "in its entirety." There is no record of recent news articles highlighting this subject, including Supervisor Blaine's objections. All these are included below.

Your record does not include any draft recession statement for the Board to act upon, nor any staff record to support why the item should be rescinded, to what degree, or how. The illustration below is what Calaveras County did as an example I hope you'll follow. **Please note that the Calaveras Board was unanimous in its vote to rescind**, and that the following example is unambiguous.

BOARD OF SUPERVISORS, COUNTY OF CALAVERAS
STATE OF CALIFORNIA
March 10, 2015

Resolution
No. 20150310022

**RESOLUTION RESCINDING RESOLUTION No. 2014-101
"RESOLUTION RECOGNIZING CALAVERAS DOOR OF
HOPE FOR SERVING THE WOMEN OF CALAVERAS
COUNTY AND HELP TO SAVE THE LIVES OF OUR MOST
VULNERABLE CHILDREN"**

WHEREAS, on April 8, 2014, the Board of Supervisors adopted Resolution No. 2014-035 on a 3-1-1 vote, and


WHEREAS, on July 8, 2014, the Board of Supervisors rescinded Resolution No. 2014-035 and adopted Resolution No. 2014-101 on a 3-2 vote; and

WHEREAS, the Board of Supervisors wishes to rescind Resolution No. 2014-101 in its entirety

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors hereby rescinds Resolution No. 2014-101 in its entirety.

ON A MOTION by Supervisor Ponte seconded by Supervisor Oliveira, the foregoing resolution was duly passed and adopted by the Board of Supervisors of the County of Calaveras, State of California this 10th day of March, 2015, by the following vote:

AYES: Edson, Wright, Ponte, Oliveira, Kearney


Orr Edson, Chair 3/10/2015

ATTEST


Dana Beverud, Clerk of the Board 3/10/2015

Your approved Board agenda development policy **requires** that "Each agenda item **shall include appropriate background, a link to the County Strategic Plan**, a 'Fiscal Impact' section that identifies the total costs, impact to the General Fund, impact to Net County Cost and if possible the funding source(s) that will be used to cover the costs." Furthermore, "Items submitted by a Board member **should include a rationale, available background information and a reference to the County strategic priorities. Appropriate related files should be linked to the item.**" (See "Good Governance Handbook," pp. 19-20.) (emphasis added.)

This agenda item includes NOTHING to document the history of this item, relevant public comment, nor any rationale for a request to rescind the proclamation, as illustrated below:

Details		Reports	
File #:	23-1763	Version:	1
Type:	Agenda Item	Status:	Department Matters
File created:	9/13/2023	In control:	Board of Supervisors
On agenda:	9/19/2023	Final action:	
Title	Supervisor Hidahtl recommending the Board rescind the Proclamation In Declaration of American Christian Heritage Month which was approved by the Board on July 18, 2023. FUNDING: N/A		
History (0)		Text	
0 records			
Date	Ver	Action By	Action
10 records to display			

The Board's policy **requires** that the agenda be developed "in collaboration with the Board Chair, CAO, and County Counsel" and that "The CAO, Board Chair and/or Vice Chair, the Clerk of the Board of Supervisors and County Counsel participate in the agenda review meeting." (*Ibid.*) The CAO and County Counsel have an obligation to tell the Board Chair, in this case, how the Board's proclamation was legally and factually contested, and the policy requires that the item have "appropriate background," such as letters from the ACLU and Freedom from Religion Foundation.

Finally, **the Board also has a legal duty** to support and defend the California and U.S. Constitutions, and both are applicable here, as noted by the ACLU. However, none of those legal obligations are noted on the record as "appropriate background," and it's not clear that the County Counsel would reaffirm that duty in public to support this requested action. In my opinion, he should, and the Board should realistically affirm its legal duty instead of continuing to flout it.

For these reasons, I have attached three relevant letters, and the following links to recent news articles about this subject. I urge the Board to recognize these materials as relevant grounds to properly rescind the contested proclamation as being impermissibly unconstitutional.

<http://www.southtahoenow.com/story/09/11/2023/concerns-surround-el-dorado-county-action-american-christian-heritage-month>

<https://jweekly.com/2023/09/11/opposition-swells-after-el-dorado-county-proclaims-christian-heritage-month/>

Sincerely, Joseph Connolly



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Northern
California

SENT VIA U.S. MAIL AND E-MAIL

August 25, 2023

Honorable Members of the El Dorado Board of Supervisors
El Dorado Board of Supervisors
c/o Tiffany Schmid, Chief Administrative Officer
330 Fair Lane, Building A
Placerville, California 95667

RE: **Resolution No. 23-1333 (Proclamation of the Board of Supervisors of the County of El Dorado In Declaration of American Christian Heritage Month)**

Dear Honorable Board of Supervisors:

We write on behalf of the American Civil Liberties Union of Northern California to express concern regarding Resolution No. 23-1333, introduced by Supervisor John Hidahl and adopted by the El Dorado Board of Supervisors on July 18, 2023. We are concerned that the Resolution conveys that the County supports, promotes and endorses specific religious beliefs and, as such, violates the California Constitution. Our state Constitution protects the rights of individuals to practice and promote their religion as they see fit and, at the same time, prevents the government from promoting a specific religion or religion in general.

In enacting Resolution No. 23-1333, the Board agreed to mark the month of July, in perpetuity, as “‘American Christian History Month’ to recognize the impact of religious beliefs on America’s history.”¹ The Board also titled the Resolution, “American Christian Heritage Month.” Both the title and the proclamation provision of the Resolution violate two separate provisions of the California Constitution.

I. The No Preference Clause

Article I, section 4 of the California Constitution guarantees “Free exercise and enjoyment of religion without discrimination or preference” and prohibits laws “respecting an establishment of religion.” As our Supreme Court has observed, “[i]t would be difficult to imagine a more sweeping statement of the principle of governmental impartiality in the field of religion than that found in the ‘no preference’ clause [of Article I § 4 of the California Constitution], and California courts have interpreted the clause as being more protective of the principle of separation than the federal guarantee.” *Sands v. Morongo Unified Sch. Dist.* 53

¹ El Dorado County Resolution No. 23-1333 (American Christian Heritage Month), available at <https://tinyurl.com/bdzjhhjt>.

American Civil Liberties Union Foundation of Northern California

FRESNO • SACRAMENTO • SAN FRANCISCO
39 Drumm St. San Francisco, CA 94111
TEL (415) 621-2493 • FAX (415) 255-1478 • TTY (415) 863-7832 • WWW.ACLUNC.ORG

Cal.3d 863, 883 (1991) (internal citations omitted). Government must commit to “‘a position of neutrality’ whenever ‘the relationship between man and religion’ is affected.” *Fox v. City of Los Angeles*, 22 Cal. 3d 792, 798 (1978). “In determining whether government action is neutral, a secular purpose must be shown. The secular purpose stated must be genuine, not a sham, and it may not be merely secondary to what is primarily a religious objective.” *Paulson v. Abdelnour*, 145 Cal. App. 4th 400, 422 (2006).

During its July 18, 2023 Board Meeting, the Board considered the Resolution on its Consent Agenda.² Supervisor Lori Parlin, the only Board Member to register a “no” vote on the Resolution, expressed concern about its content.³ Supervisor Wendy Thomas was the only other Board Member to speak on the Resolution; she expressed her support of the item because she viewed it as a statement in support of “our founding principles as a nation built on sacred ideals” and “not a statement of our exclusivity.”⁴ But Supervisor Thomas’ statement does not save the Resolution from its constitutional infirmities. The title of the Resolution sends a clear message that its primary objective is to endorse American Christianity and that recognizing the “rich spiritual and diverse religious history of our nation” is only secondary.⁵ The Resolution represents the Board’s unlawful “stamp of approval” of American Christianity. *Okrand v. City of Los Angeles*, 207 Cal. App. 3d 566, 579 (1989).

While it is permissible for the Board to recognize cultural heritages and dedicate months to the celebration of those heritages, the Board must do this without endorsing a particular sect, church, or creed. Here, the Board has engaged in “improper political entanglement” by creating “[t]he appearance of support” of American Christianity. *Feminist Women’s Health Ctr., Inc. v. Philibosian*, 157 Cal. App. 3d 1076, 1091 (1984).

Our constitutional protections of religion and of speech mean that private organizations and individuals have the constitutional right to promote American Christianity. But these same protections mean that the government cannot lawfully endorse these religious efforts. By adopting Resolution No. 23-1333, “American Christian Heritage Month,” that is precisely what the Board has done.

II. The No Aid Clause

Furthermore, Article XVI, section 5 of the California Constitution, “forbids official aid to any ‘religious sect, church, creed, or sectarian purpose.’” *Philibosian*, 157 Cal. App. 3d at 1092. This “provision was “intended to insure the separation of church and state and to guarantee that the power, authority, and financial resources of the government shall never be devoted to the advancement or support of religious or sectarian purposes.” *California Educ. Facilities Auth. v. Priest*, 12 Cal. 3d 593, 604 (1974). By adopting the Resolution, the Board has provided aid “in

² El Dorado County Board of Supervisors, *July 18, 2023 Regular Meeting Agenda*, available at <https://tinyurl.com/yvd3393r>.

³ *Ibid.* (see Action Details); see also El Dorado County Board of Supervisors, *July 18, 2023 Regular Meeting* (00:22:15 to 00:23:33), available at <https://tinyurl.com/yt3ftphx>.

⁴ El Dorado County Board of Supervisors, *July 18, 2023 Regular Meeting* (00:49:38 to 00:50:00), available at <https://tinyurl.com/yt3ftphx>.

⁵ See El Dorado County Resolution No. 23-1333 (American Christian Heritage Month), available at <https://tinyurl.com/bdzjihjt>.

Letter to El Dorado Board of Supervisors, Resolution No. 23-1333

August 25, 2023

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the intangible form of prestige and power” to American Christianity, in violation of this section.
Fox, 22 Cal. 3d at 802.

* * *

The American Civil Liberties Union of Northern California asks the Board to repeal the Resolution or, at a minimum, to replace “American Christian” with a more generic and inclusive reference to religion. Please let us know your position on these matters on or before September 15, 2023. Also, please feel free to contact me if you have any questions or concerns.

Sincerely,



Angélica Salceda, Director
Democracy and Civic Engagement Program
ACLU Foundation of Northern California



Shayla Harris, Legal Fellow
Democracy and Civic Engagement Program
ACLU Foundation of Northern California

July 25, 2023

From: Joseph Connolly, M.A.

To: El Dorado County Board of Supervisors
El Dorado County Chief Administrative Officer
El Dorado County Counsel

Subj: Presumptively Unconstitutional Proclamation

Dear Supervisors:

Please take note that your July 18, 2023 adoption of a “American Christian Heritage Month” proclamation, and your supportive comments to endorse it, may be presumptively unconstitutional according to the U.S. and California Constitutions, and accompanying law on the prohibitions that maintain government neutrality in matters of promoting religion.

In 2014, the Calaveras County Board of Supervisors (“Calaveras Board”) adopted a resolution containing an impermissible endorsement of religion. The ACLU of Northern California notified the Calaveras Board by letter of its unconstitutional acts and later filed a lawsuit alleging three causes of action:

- Violation of Article I, Section 4 of the California Constitution
- Violation of Article XVI, Section 5 of the California Constitution
- Violation of California Code of Civil Procedure 526a - illegal expenditure of public funds

Ultimately, the contested resolution was rescinded by the Calaveras Board “in its entirety” on March 10, 2015. The same legal principles, and your conditional oath of office to support and defend both the California and U.S. Constitutions should compel you to do the same. The Calaveras Board matter is attached for your review and reconsideration of your July 18, 2023 proclamation decision.

Sincerely,

Joseph Connolly

Copy: ACLU of Northern California

ATTACHMENT 1

LAVAGETTO V. CALAVERAS COUNTY SUMMARY¹

Home - What We Do - Legal Docket - Lavagetto v. Calaveras County (Religious Freedom)

Lavagetto v. Calaveras County (Religious Freedom)

Status **CLOSED CASE**

Mar 10, 2015



The Calaveras County Board of Supervisors violated the California Constitution's requirement that the government remain neutral on matters of religion when it passed a resolution recognizing a local Christian ministry for, among other things, its "advocacy and education" "to enlighten and strengthen the lives of women and young women in Calaveras County by inviting them to test and see for themselves the many blessings that can come from living the teachings of Christ."



After Plaintiffs and other County residents objected to this language on the grounds that it constituted an unconstitutional endorsement of religion, the Board's staff recommended that the Board rescind the resolution and adopt one that recognized the organization for its community work without endorsing its religious views.

Instead, on July 8, 2014, after two hours of public comment and debate that focused largely on the issue of whether the original resolution constituted an impermissible endorsement of religion, the Board decided to reject its staff recommendation and instead to adopt a second resolution that included this same controversial language quoted above. The California constitution protects the rights of individuals and private organizations to practice and promote their religion as they see fit and at the same time prevents the *government* from promoting a specific religion or religion in general

On March 10, 2015, the Calaveras County Board of Supervisors voted five to zero to repeal the resolution promoting a specific religion over all others. This vote is a resounding victory for the California Constitution's requirement that the government remain neutral in all matters of religion, helping to ensure that all persons are free to exercise the religion or their choice or no religion at all.

¹ See case summary source document at <https://www.aclunc.org/our-work/legal-docket/lavagetto-v-calaveras-county-religious-freedom>.

ATTACHMENT 2 CALAVERAS BOARD ACTION²

File 4 - [Calaveras County Board of Supervisors Agenda](#) [Public Access](#) [Web Department of Church and State](#)

Calaveras County Board of Supervisors Wrestles With Separation of Church and State

Jul 07, 2014



By [Neville Coleman](#) [@NevilleColeman](#)

It has long been settled in this country that the government has no business choosing a religion to endorse (or denigrate, for that matter). Public schools cannot, for example, teach that Judaism is better than Christianity, and leg. statutes cannot pass laws favoring one creed over another. So it was a shock to learn that in April the Calaveras County Board of Supervisors had passed a law to praise a local organization not just for its work in the community but also for its mission of "my long" women in the community to "seek for themselves the many blessings that can come from living the teachings of Christ."



It was equally shocking to hear that the Board had failed to allow community members - many of whom were at the meeting to oppose this resolution. It's speak out about the resolution before they made their vote, and our violation of our state's Brown Act, which requires that our public officials listen to us before they make decisions. [Read this](#)

But what was perhaps most surprising was that when a board member pointed out that part of the resolution improperly endorses a particular religion, the measure's sponsor, instead of simply modifying the language so that it recognized the organization without endorsing a particular creed, defended it, suggesting that the United States Constitution only forbids the government from forcing people to follow a particular religion and does not mandate any separation of church and state.

The Board ultimately passed the resolution on a 3-1 vote, with one Supervisor abstaining because of her concerns that the resolution endorsed a particular religion.

The enactment of this resolution is wrong as a matter of federal constitutional law and, even more clearly, under our state constitution. As the ACLU of Northern California pointed out in a [letter](#) to the Board of Supervisors that we sent on behalf of more than 20 Calaveras County residents, our state supreme court has long made it clear that the California constitution is "intended to ensure the separation of church and state and to guarantee that the power, authority, and financial resources of the government shall never be devoted to the advancement or support of religious or sectarian purposes." It therefore requires that the government in California take "a position of neutrality whenever the relationship between man and religion is affected." Even if it were true that the federal Constitution would allow the government to pass resolutions like this that endorse a particular religion and to be true, it does not. California is different.

To its credit, the Board seems to understand that they messed up. In response to our letter, they agreed to schedule another hearing, where they will allow members of the public to air their views about the resolution; the Board will then consider whether to rescind or reauthorize the resolution. This new hearing is scheduled for July 8.

A video of the April Board of Supervisors meeting can be found [here](#).

The Board's July 8 agenda item with the new draft resolution is posted [here](#).

Update

On July 8 the Calaveras Board of Supervisors agreed to rescind the resolution and replace it with a resolution that is identical, with one modification. The [new](#) resolution is unconstitutional because it does not take a neutral stance on religion as mandated by both the state and federal constitution. The ACLU of Northern California [filed a lawsuit](#) on Feb. 18, 2015.

Neville Coleman is a Staff Attorney at the ACLU of Northern California.

² See Calaveras Board action source document at <https://www.aclunc.org/blog/calaveras-county-board-supervisors-wrestles-separation-church-and-state>.

ATTACHMENT 3
ACLU OF NORTHERN CALIFORNIA LETTER TO CALAVERAS BOARD³



May 15, 2014

VIA U.S. MAIL AND E-MAIL

Ms. Lori Norton, County Administrative Officer
Calaveras County Board of Supervisors
891 Mountain Ranch Road
San Andreas, CA 95249
lnorton@co.calaveras.ca.us

RE: Resolution No. 2014-035

Dear Ms. Norton and Board of Supervisors:

I am writing on behalf of the American Civil Liberties Union of Northern California (ACLU-NC) and over 20 Calaveras County residents to express concern about the Board's adoption of Resolution No. 2014-035, adopted on April 8, 2014. We are concerned both that the Resolution expressly endorses a specific religion, in violation of the California Constitution, and that the Board adopted it without allowing for public comment, in violation of the Brown Act.

In enacting Resolution 2014-035, the Board voted to recognize the Calaveras Door of Hope's work and specifically included its "advocacy and education" that "seeks to enlighten and strengthen the lives of women and young women in Calaveras County by inviting them to test and see for themselves the many blessings that can come from living the teachings of Christ."¹ This part of the Resolution violates two separate provisions of the California Constitution.

Article I, section 4 of the California Constitution guarantees "free exercise and enjoyment of religion without discrimination or preference" and prohibits laws "respecting an establishment of religion." Government must commit to "a position of neutrality" where ever "the relationship between man and religion" is affected." *Fox v. City of Los Angeles*, 22 Cal. 3d 792, 798 (1978). "In determining whether government action is neutral, a secular purpose must be shown. The secular purpose stated must be genuine, not a sham, and it may not be merely secondary to what is primarily a religious objective." *Paulson v. Abdelnour*, 145 Cal. App. 4th 400, 422 (2006). The Board's admitted purpose for adopting the Resolution is to recognize the Calaveras Door of Hope "[i]n conjunction with the annual '40 Days for Life' program,"² "a focused pro-life campaign with a vision to access God's power through prayer, fasting, and

¹ Calaveras County Resolution No. 2014-035, at 1-13-15.

² Calaveras County Bd. of Supervisors Agenda Submittal, Agenda No. 3.

³ See ACLU of Northern California letter to Calaveras Board source document at <https://www.aclunc.org/sites/default/files/2014%2005%2015%20REDACTED%20ACLU-NC%20Letter%20and%20Encl%20to%20Calaveras%20County%20Admin%20Of.pdf>.

Ms. Norton and Board of Supervisors

May 15, 2014

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peaceful vigil to end abortion.”³ By adopting the Resolution, the Board has unlawfully given “its stamp of approval” to the religious content of the Calaveras Door of Hope’s work, *Oktand v. City of Los Angeles*, 207 Cal. App. 3d 566, 579 (1989).

While it is permissible for the Board to recognize the charitable work of local religious groups, the Board must do this without endorsing the group’s sectarian tenets. Here the Board has engaged in “improper political entanglement” by creating “[t]he appearance of support” of the Calaveras Door of Hope’s position on abortion. *Feminist Women’s Health Ctr., Inc. v. Philbrosian*, 157 Cal. App. 3d 1076, 1091 (1984). In the future we hope the Board will also commend the good work of clinics providing the full range of women’s health care and of local groups providing women with objective information about their pregnancy options.

Furthermore, Article XVI, section 5 of the California Constitution, “forbids official aid to any ‘religious sect, church, creed, or sectarian purpose.’” *Id.* at 1092. This “provision was ‘intended to insure the separation of church and state and to guarantee that the power, authority, and financial resources of the government shall never be devoted to the advancement or support of religious or sectarian purposes.’” *California Educ. Facilities Auth. v. Priest*, 12 Cal. 3d 593, 604 (1974). By adopting the Resolution the Board has provided aid “in the intangible form of prestige and power” to the Calaveras Board of Hope’s sectarian purpose, in violation of this section. *Fox*, 22 Cal. 3d at 802.

In addition to the concerns regarding the content of the Resolution, the ACLU-NC objects to the Board’s failure to invite public comment before the Board vote as required by the Brown Act.⁴ On April 8, residents of Calaveras County attended the Board’s meeting to ask the Board to vote against the Resolution, as is their right under the Brown Act. After the Resolution was introduced, the Board chair only allowed the supervisors and a representative from the Calaveras Door of Hope to speak before the vote was taken. After adopting the Resolution and reading it into the record, the Board finally invited members of the public to speak. Nothing in the Board’s published agenda provided for public comment before this item was to be considered.⁵

This violated the Brown Act. “[T]he purpose of the Brown Act is to ensure openness in decisionmaking by public agencies and facilitate public participation in the decisionmaking process.” *Serv. Employees Inter. Union, Local 99 v. Opilons--A Child Care & Human Servs. Agency*, 200 Cal. App. 4th 869, 877 (2011). To accomplish this purpose, the law requires that legislative bodies allow the “public to directly address the legislative body on any item of

³ <http://www.40daysforlife.com/about.html>

⁴ Cal. Gov’t Code §§ 54952.6, 54954.3(a); *The Brown Act: Open Meetings for Local Legislative Bodies*, California Attorney General’s Office, at *vii (2003), available at http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf.

⁵ Also, the agenda submittal for this item indicates the Board’s determination that public hearing was not required. Calaveras County Bd. of Supervisors Agenda Submittal, Agenda No. 3.

Ms. Norve and Board of Supervisors
May 13, 2014
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interest to the public, **before or during** the legislative body's consideration of the item." Here public participation was allowed only after the decision had been made and the final vote taken. This violated both the spirit and the letter of the Brown Act.

The ACLT-NC and the enclosed list of supporters, including [REDACTED] and other residents of Calaveras County, ask the Board to repeal the Resolution or that part of it that violates the state constitution, as discussed above. We also ask the Board to consider all future agenda items in accordance with the Brown Act, giving members of the public notice and a real opportunity to comment *before* action is taken by the Board. This change should be reflected in all written agendas for open Board meetings.

Please let us know your position on these matters by June 5, 2014. Also, please feel free to contact me if you have any questions or concerns.

Sincerely,



Novella Coleman
Staff Attorney

Enclosure: list of supporters

cc: Crifi Edson, Vice Chair and District 1 Supervisor, edson@co.calaveras.ca.us
Christopher Wright, District 2 Supervisor, cwright@co.calaveras.ca.us
Marta Callaway, District 3 Supervisor, mcallaw@co.calaveras.ca.us
Michele Rome, Chair and District 4 Supervisor, drome@co.calaveras.ca.us
Karen Speltman, District 5 Supervisor, dspeltman@co.calaveras.ca.us

Cal. Gov. Code § 54951.3(a)

AMERICAN OVERSIGHT BOARD ON GOVERNMENT ETHICS

ATTACHMENT 4 NOTICE OF ACLU LAWSUIT AGAINST CALAVERAS BOARD⁴

Home » News » ACLU Lawsuit Charges Calaveras County with Unconstitutionally Promoting One Particular Religious Belief

ACLU Lawsuit Charges Calaveras County with Unconstitutionally Promoting One Particular Religious Belief

July Resolution Commends Local Christian Ministry for inviting women to "to test and see for themselves the many blessings that can come from living the teachings of Christ."

For Immediate Release: FEB 18, 2015



Media Contact: press@aclunc.org, (415) 621-2493

San Andreas – The American Civil Liberties Union of Northern California today filed a [lawsuit](#) against the county of Calaveras, charging the board of supervisors with passing a [resolution](#) last summer that unconstitutionally promotes one particular set of religious beliefs over all others.

Filed in state superior court on behalf of nine Calaveras County residents with various religious beliefs. The lawsuit charges that the resolution runs afoul of the fundamental constitutional principle that the government should not promote one particular religious belief over others because, among other things, it recognizes a local Christian ministry's work in "strengthen(ing) the lives of women and young women in Calaveras County by inviting them to test and see for themselves the many blessings that can come from living the teachings of Christ."



"Prohibiting the government from promoting one particular set of religious beliefs helps ensure that all Americans are free to exercise the religion of their choice, or no religion at all," said Novella Coleman, staff attorney with the ACLU of Northern California. "While the board of supervisors can certainly recognize the charity work of a religious organization, the board cannot expressly promote any one particular religious viewpoint."

On April 8, 2014, without first allowing any opportunity for public comment, the board of supervisors approved and adopted the resolution. Former Supervisor Merita Callaway abstained from the vote, saying at the time that she was "being asked to recognize a specific religious point of view and I do not feel that is our role."

In May, the ACLU sent a letter to the supervisors on behalf of 20 concerned county residents explaining that the resolution violated the California Constitution and that the board had violated the Brown Act by failing to allow for public comment before a vote on the resolution was taken. The Calaveras County Counsel responded to the letter by saying that the board would consider "rescission and possible re-adoption of" the resolution.

In July, the board voted 3-2 to rescind the original resolution and replace it with a virtually identical one that did not correct the original resolution's constitutional problems.

"No one should ever be made to feel like an outsider in their own community simply because they don't share the same religious beliefs as many of their neighbors," said Cindy Lavagetto, one of the plaintiffs in the lawsuit and the former deputy executive officer of the California state Senate.

⁴ See ACLU of Northern California press release source document at <https://www.aclunc.org/news/aclu-lawsuit-charges-calaveras-county-unconstitutionally-promoting-one-particular-religious>.

ATTACHMENT 5
ACLU COMPLAINT AGAINST CALAVERAS BOARD⁵

1	Michael Temple Risher (SBN 191627) American Civil Liberties Union Foundation of Northern California, Inc. 39 Drumm Street, San Francisco, CA 94111 Telephone: (415) 621-2493 Facsimile: (415) 255-8437 Email: nrisher@aclunc.org	(ENDORSED) FILED FEB 18 2015 <small>Clerk of the Court Superior Court of California County of Calaveras</small> By _____ Deputy
2		
3		
4		
5	Novella Y. Coleman (SBN 281632) American Civil Liberties Union Foundation of Northern California, Inc. P.O. Box 188 Fresno, CA 93707 Telephone: (559) 554-2994 Email: ncoleman@aclunc.org	
6		
7		
8		
9	Attorneys for Plaintiffs	
10		
11	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
12	FOR THE COUNTY OF CALAVERAS	
13		
14	Cindy Lavagetto, John Adams, Richard Mines, Don Payne, William Wittmer, Patricia Payne, Holly Mines, Michael Stockard and Rhoda Nussbaum,	Civil Case No.: 15CV45605
15		Verified petition for writ of mandate and complaint for declaratory relief under Cal. Const. art. I § 4 and Cal. Const. art. XVI § 5
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18		
19	Plaintiffs,	
20	v.	
21	County of Calaveras,	
22	Defendant.	
23		
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<small>Verified petition for writ of mandate and complaint for declaratory relief under Cal. Const. art. I § 4 and Cal. Const. art. XVI § 5</small>		

⁵ See ACLU of Northern California complaint source document at <https://www.aclunc.org/sites/default/files/2015.02.18%20Lavagetto%20v.%20County%20of%20Calaveras%20Complaint%20%28no%20exhibits%29.pdf>.

INTRODUCTION

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1. The Calaveras County Board of Supervisors passed a resolution recognizing a local Christian ministry for, among other things, its "advocacy and education" "to enlighten and strengthen the lives of women and young women in Calaveras County by inviting them to test and see for themselves the many blessings that can come from living the teachings of Christ."

2. After Plaintiffs and other County residents objected to this language on the grounds that it constituted an unconstitutional endorsement of religion, the Board's staff recommended that the Board rescind the resolution and adopt one that recognized the organization for its community work without endorsing its religious views.

3. Instead, on July 8, 2014, after two hours of public comment and debate that focused largely on the issue of whether the original resolution constituted an impermissible endorsement of religion, the Board decided to reject its staff recommendation and instead to adopt a second resolution that included this same controversial language quoted above.

4. Our state Constitution protects the rights of individuals and private organizations to practice and promote their religion as they see fit and at the same time prevents the *government* from promoting a specific religion or religion in general. As our Supreme Court has observed, "[i]t would be difficult to imagine a more sweeping statement of the principle of governmental impartiality in the field of religion' than that found in the 'no preference' clause [of Article I § 4 of the California Constitution], and California courts have interpreted the clause as being more protective of the principle of separation than the federal guarantee." (*Sands v. Morongo Unified Sch. Dist.* (1991) 53 Cal.3d 863, 883 (internal citations omitted)). And Article XVI § 5 of our state Constitution "prohibits not only material aid to religion [by the government], but *any* official involvement that promotes religion." (*Id.* at p. 883).

5. By enacting an *official County resolution* that endorses a specific religious viewpoint, the Board violated these fundamental constitutional principles. Plaintiffs do not question the Board's authority to recognize the civic works of religious organizations in the same way that it may recognize the civic works of secular organizations. And Plaintiffs fully support the right of every individual – including elected officials – to practice, speak about, and promote religion.

1 But Plaintiffs do object to the official governmental endorsement of religion. Our constitutional
2 protections for the freedom of religion and of speech mean that private organizations and
3 individuals have the constitutional right to promote the view that women can “enlighten”
4 themselves by “see[ing] for themselves the many blessings that can come from living the
5 teachings of Christ.” But these same protections mean that the government – which has no First
6 Amendment rights – cannot lawfully endorse these religious efforts. And that is precisely what
7 the County has done here.

8 6. The Board meetings during which the resolution was discussed exemplify the type of
9 religious strife that our constitution aims to prevent. “Respect for the differing religious choices
10 of the people of this country requires that government neither place its stamp of approval on any
11 particular religious practice, nor appear to take a stand on any religious question. In a world
12 frequently torn by religious factionalism and the violence tragically associated with political
13 division along religious lines, our nation’s position of governmental neutrality on religious
14 matters stands as an illuminating example of the true meaning of freedom and tolerance.”
15 (*Sands*, 53 Cal.3d at p. 884).

16 7. Plaintiffs therefore ask this Court to declare that the Board’s July 8, 2014 resolution
17 violates Article I, § 4 and Article XVI, § 5 of the California Constitution, and to issue a writ of
18 mandate to require the County to ensure that any official copies of this Resolution it makes
19 available to the public reflect this holding.¹

20 JURISDICTION AND VENUE

21 8. This Court has jurisdiction under Article VI, § 10, of the California Constitution and
22 California Code of Civil Procedure § 410.10.

23 9. Venue in this Court is proper because the action arose in this County and the
24 defendant is situated in this County. *See id.* §§ 393(b), 394(a).

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27 ¹ References in this complaint to “the Resolution” refer to this July 8, 2014 resolution, Number
28 2014-101, attached as Exhibit A to the complaint.

PARTIES

10. All of the Plaintiffs are citizens and taxpayers of Calaveras County:

11. Plaintiff Cindy Lavagetto is a resident of Calaveras County. She is a retired employee of the California State Senate where she served as Deputy Executive Officer. Ms. Lavagetto is Jewish. Because she is a member of a minority religious community in the County, Ms. Lavagetto believes that government neutrality on matters of religion is essential to the exercise of her faith. For her, the July 8 Resolution is a public announcement that the County government prefers Christianity over other religions. She believes the government can recognize individuals and groups, whether faith-based or not, for their community service without promoting a specific religion. Ms. Lavagetto fears that the resolution's public endorsement of Christianity creates an environment that is conducive to discrimination on the basis of religion. A judicial declaration that the Resolution is unconstitutional would reduce her concerns that this will happen, in part because it would clarify to the public that this official endorsement of religion was improper and would make it less likely that the County will take similar action in the future.

12. Ms. Lavagetto owns real property in Calaveras County and has been assessed and has paid property taxes to the County within the last year.

13. Plaintiff John Adams is a resident of Calaveras County. He is a retired professor of organizational systems and a former corporate manager. His spiritual practice includes the shared elements of Buddhism, Christianity, Hinduism and Judaism. For Dr. Adams, the Resolution expresses the Calaveras Board of Supervisors' preference for a particular creed of Christianity. The Resolution conveys the Board's approval of the Door of Hope's belief that according to the teachings of Christ life begins at conception. Dr. Adams fears that if the County government continues to express its preference for a particular religious view, then he and others with different belief systems may be treated as second-class citizens and could in the future be limited in their free exercise of religion. On May 15, 2014, Dr. Adams and other Calaveras County residents joined the American Civil Liberties Union of Northern California

1 (ACLU-NC) in asking the Board to repeal the resolution or that part of it that references the
2 teachings of Christ.

3 14. Dr. Adams owns real property in Calaveras County and has been assessed and has
4 paid property taxes to the County within the last year.

5 15. Plaintiff Richard Mines is a resident of Calaveras County. He is a retired economist
6 and survey researcher with a specialty in farm labor and immigration. Mr. Mines is Jewish. For
7 him, the Resolution conveys the Board's preference for a particular religion. The Resolution's
8 recognition of the Door of Hope's work to invite women to experience the "blessings that can
9 come from living the teachings of Christ" suggests that it is better to practice Christianity than
10 any other religion. Mr. Mines believes that the government should not endorse or disapprove of
11 a particular religion and that he should be able to practice any religion he chooses. The
12 endorsement of a religion distracts from and runs counter to the purpose of government, which
13 is to serve the public interest. A judicial declaration that the Resolution is unconstitutional
14 would make this clear to the media and to the public. Mr. Mines joined the ACLU-NC's May 15
15 letter to the Board.

16 16. Mr. Mines owns real property in Calaveras County and has been assessed and has
17 paid property taxes to the County within the last year.

18 17. Plaintiff Don Payne is a resident of Calaveras County. He is a licensed general
19 building contractor. Mr. Payne is a Unitarian Universalist. For him, the Resolution conveys the
20 County government's preference for a single religion, Christianity. He fears that if the
21 Resolution stands, then County government officials will continue to impose limits on the
22 religious freedom of those who do not share their religious beliefs.

23 18. Mr. Payne owns real property in Calaveras County and has been assessed and has
24 paid property taxes to the County within the last year.

25 19. Plaintiff William Wittmer is a resident of Calaveras County. He is a retired fire
26 department battalion chief and a part-time instructor in fire science. Mr. Wittmer believes in the
27 constitutional guarantee of separation of church and state, and he believes that the government
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1 should remain neutral in religious matters. Mr. Wittmer is Jewish, but he would not support a
2 County resolution favoring Judaism any more than one supporting Islam or Christianity. For
3 him, the Board's actions put it on a slippery path that could lead to the government's imposition
4 of its preferred religion on all Calaveras County residents in other ways. A judicial declaration
5 that the Resolution is unconstitutional would reduce his concerns that this will happen.

6 20. Mr. Wittmer owns real property in Calaveras County and has been assessed and has
7 paid property taxes to the County within the last year.

8 21. Plaintiff Patricia Payne is a resident of Calaveras County. She is an artist, retired
9 museum curator and volunteer with the Calaveras Animal Services. Ms. Payne is a Unitarian
10 Universalist. For her, the Resolution conveys the County government's preference for a single
11 religion and a particular religious view that denounces abortion and a woman's right to have
12 autonomy over her body. Ms. Payne fears that if this government endorsement of religion
13 stands, then it will create divisions in her community and foster an environment of intolerance.
14 A judicial declaration that the Resolution is unconstitutional would help to alleviate these fears.

15 22. Ms. Payne owns real property in Calaveras County and has been assessed and has
16 paid property taxes to the County within the last year.

17 23. Plaintiff Holly Mines is a resident of Calaveras County. She is a retired bilingual
18 social worker and has been a community volunteer and activist most of her life. Ms. Mines does
19 not practice a particular religion. She operates from a personal system of morals and values
20 which is not derived from religious practice. For Ms. Mines, the wording of the Resolution
21 conveys the Board of Supervisors' endorsement of the religious beliefs of the honored
22 organization. She is an active member of the political community in Calaveras County. As a
23 result of the Resolution, Ms. Mines fears that her voice in the local political debate could be
24 diminished, or even worse, dismissed by the Board or members of the community because she
25 does not practice Christianity and does not identify with a religion. A judicial declaration that
26 the Resolution is unconstitutional would make it clear that the government cannot discount her
27 opinion because of her personal religious beliefs.

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1 24. Ms. Mines joined the ACLU-NC's May 15 letter to the Board. She also attended the
2 July 8, 2014 Board meeting and commented that "it's possible to write a resolution which
3 acknowledges the full scope of the work" of the Door of Hope "without referring to its religious
4 practices."

5 25. Ms. Mines owns real property in Calaveras County and has been assessed and has
6 paid property taxes to the County within the last year.

7 26. Plaintiff Michael Stockard is a resident of Calaveras County. Mr. Stockard is an
8 atheist. He believes that the government should remain neutral in matters of religion. For him,
9 the Resolution conveys the Board of Supervisors' support for the Door of Hope's faith-based
10 position against abortion. Mr. Stockard joined the ACLU-NC's May 15 letter to the Board. He
11 also attended the July 8, 2014 Board meeting and commented that although the Supervisors
12 have a personal right to take a stand on these issues, they have a duty to remain neutral on
13 matters of religion when acting in a representative capacity on behalf of their constituents.

14 27. Mr. Stockard owns real property in Calaveras County and has been assessed and has
15 paid property taxes to the County within the last year.

16 28. Plaintiff Rhoda Nussbaum is a resident of Calaveras County. She is a retired Ob/Gyn
17 who practiced medicine for 30 years. She is Jewish and grew up in a family of Holocaust
18 survivors. Dr. Nussbaum's religious beliefs include elements of Judaism as well as other faiths.
19 Dr. Nussbaum believes that every individual should be free to exercise the religion of her choice
20 without the government's approval or disapproval of a particular religious view. For her, the
21 Resolution conveys the Board's preference for Christianity. She fears that if the Resolution
22 stands, then County government officials will be free to impose their religious views on her and
23 other members of her community. A judicial declaration that the Resolution is invalid would
24 assure her that this will not in fact happen and that the law does in fact protect her right to a
25 government that does not favor one religion over another.

26 29. Dr. Nussbaum joined the ACLU-NC's May 15 letter to the Board. She also attended
27 the July 8, 2014 Board meeting and commented that the resolution does not represent her
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1 because its language focuses on Christianity. Dr. Nussbaum asked the Board to rescind the
2 resolution or adopt one that is consistent with the Board's duty to represent all County residents.

3 30. Dr. Nussbaum owns real property in Calaveras County and has been assessed and has
4 paid property taxes to the County within the last year.

5 31. Defendant County of Calaveras is a legal subdivision of the State of California.
6 Calaveras County has a population of approximately 44,515.² It is a religiously diverse
7 community.³ Approximately 69.0% of the total population regularly attend religious services.⁴
8 The Calaveras Board of Supervisors (the "Board") is the County's governing body.

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10 **FACTS**

11 **The Board's April 8, 2014 Adoption of Resolution 2014-035 (the first resolution).**

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13 32. Agenda item three for the April 8, 2014 Board meeting was a "resolution recognizing
14 the Calaveras Door of Hope for their important work on behalf of women and children in
15 [Calaveras] County." A true copy of the County's agenda submittal for this resolution, which
16 was subsequently designated Resolution 2014-035, is attached to this complaint as Exhibit B.

17 33. The agenda summarized the item as follows: "In conjunction with the annual '40
18 Days for Life' program which takes place each year in the months of March and April,
19 celebrating life, leading up to the Easter holiday, [the Board is] recognizing the Calaveras 'Door
20 of Hope' that has helped local women preserve and save lives in our county." *Id.*

21 34. In July 2014, the Calaveras Door of Hope described itself on its website as "a Non-
22 profit ministry. The Mission of Door of Hope is to bring compassionate help and hope to
23 women and teens who are unprepared for pregnancy; to present sexual abstinence as a positive
24 lifestyle for singles; to provide opportunity for healing and restoration to those who have been

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26 ² <http://quickfacts.census.gov/qfd/states/06-06009.html>.

27 ³ http://www.city-data.com/county/Calaveras_County-CA.html;
<http://www.homefacts.com/religions/California/Calaveras-County.html>.

28 ⁴ http://www.thearda.com/remc2010/r/c/06/remc2010_06009_county_name_2010.asp.

1 hurt by abortion; and to present Jesus Christ as Savior and Lord." A true copy of the Calaveras
2 Door of Hope's website, retrieved from <http://www.support4life.info/About.html> on July 22,
3 2014, is attached to this complaint as Exhibit C.

4 35. "40 Days for Life" is a "campaign" that "puts into action a desire to cooperate with
5 God in the carrying out of His plan for the end of abortion" using a "three-point program"
6 including "Prayer and fasting," "Constant vigil," and "Community outreach." A true copy of the
7 "40 Days for Life" website, <http://40daysforlife.com/mission/>, as of December 4, 2014, is
8 attached to this complaint as Exhibit D.

9 36. On April 8, 2014, the Calaveras County Board of Supervisors adopted Resolution
10 Number 2014-035.

11 37. Resolution 2014-035 is titled "Resolution recognizing Calaveras Door of Hope for
12 serving the women of Calaveras County and helping to save the lives of our most vulnerable
13 children." A true copy of Resolution Number 2014-035 is attached to this complaint as Exhibit
14 E.

15 38. The text of Resolution 2014-035, as adopted, reads as follows:

- 16 a. "WHEREAS, The Mission of Door of Hope is to bring compassionate help and
17 hope to women and teens who are unprepared for pregnancy; and
18 b. WHEREAS, Calaveras Door of Hope is part of a national network of pregnancy
19 centers that share the common mission of ministering to women and men in need;
20 and
21 c. WHEREAS, Calaveras Door of Hope endeavors to save the lives of unborn children
22 by partnering with community members who volunteer their time, financial
23 resources and prayers supporting their clients with kindness and compassion while
24 listening without judgment; and
25 d. WHEREAS, Through advocacy and education the Door of Hope seeks to enlighten
26 and strengthen the lives of women and young women in Calaveras County by
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1 inviting them to test and see for themselves the many blessings that can come from
2 living the teachings of Christ.

- 3 e. NOW THEREFORE BE IT RESOLVED, that the Calaveras County Board of
4 Supervisors recognizes the valiant efforts made by members of and contributors to
5 the Calaveras Door of Hope to enhance the quality for women in our county and
6 specifically those going through the very difficult circumstances related to
7 unplanned pregnancy." *Id.* (paragraph lettering added).

8 39. The Board considered this resolution at its April 8, 2014 meeting. A true copy of the
9 video recording of the April 8, 2014 Board of Supervisors meeting is attached to this complaint
10 as Exhibit F. A true copy of the transcript of the April 8, 2014 Board of Supervisors meeting is
11 attached to this complaint as Exhibit G.

12 40. The Board did not allow time for public comment before it voted on the resolution but
13 did allow the Door of Hope's executive director to speak. In addition, several supervisors spoke
14 about the resolution before they voted.

15 41. Supervisor Merita Callaway stated that she would abstain because the Board was
16 "being asked to recognize a specific religious point of view and I do not feel that it is our role."
17 *Id.* at 1. Supervisor Callaway discussed her understanding of the First Amendment, that she
18 agreed with the separation between church and state, and stated that "the right to believe or to
19 not believe" "should not be subject to a political process." *Id.* She added that the Constitution
20 "does not recognize government's right to decide theological questions or positions. It's a
21 subject for individuals, families, and the religious community, not us." *Id.* at 1-2. Supervisor
22 Callaway concluded, "I commend the Door of Hope for their work and what they believe in, but
23 I don't think it is the purview of this board to be supporting this resolution as it is presented to
24 us today." *Id.* at 2.

25 42. In response, the resolution's sponsor, Supervisor Darren Spellman, gave a lengthy
26 explanation of his understanding of the federal constitutional issues at stake, asserting that "the
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1 separation of church and state, was in a letter, in the form of a letter from” Thomas Jefferson,
2 denying that the resolution violated the federal constitution. *Id.* at 2.

3 43. Supervisor Ponte then invited Sissy Hedrick, the executive director of Calaveras Door
4 of Hope, to speak. Ms. Hedrick explained the services the organization provides to the
5 community.

6 44. Supervisor Cliff Edson and Supervisor Ponte also made comments before the vote.

7 45. The Board adopted Resolution 2014-035 by a vote of 3 in favor, 1 opposed, and 1
8 abstention. *Id.* at 5.

9 46. After the resolution was adopted and read into the record, Supervisor Ponte invited
10 public comment by those wishing to speak on the resolution. *Id.*

11 47. One member of the public commented that “[w]omen’s access to healthcare is a
12 quality of life issue. Which should not be obstructed nor influenced by the endorsement of any
13 particular religious perspective by the Board of Supervisors. *Id.* at 7. She added, “the
14 endorsement of any particular religion or ministry by a resolution of the Board is an act that
15 excludes members of the public who do not practice that religion or who may be atheists or
16 agnostics. A resolution that recognizes an organization whose purpose is to promote quote ‘the
17 many blessings that can come from living the teachings of Christ,’ unquote, discourages broad-
18 based participation in local government. Because Christianity is an exclusive religion that
19 recognizes no other God.” *Id.* at 6. She concluded, “Not only does the resolution enlist the
20 Board of Supervisors in God’s army, it elevates Christianity over all other religions in Calaveras
21 County.” *Id.*

22 48. Another member of the public commented, “There are good people involved in [Door
23 of Hope]—this is not what it’s about. It’s about you being elected officials and keeping religion
24 out of what you approve.” *Id.* at 8. Other commenters expressed their approval of the resolution.
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1 **Plaintiffs' letter asking the Board to repeal Resolution 2014-035**

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3 49. After receiving complaints from residents of Calaveras County, lawyers with the
4 American Civil Liberties Union of Northern California (ACLU-NC) submitted a letter to the
5 Board on behalf of over 20 Calaveras County residents, 5 of whom are Plaintiffs in this matter.
6 A true copy of this May 15, 2014 letter is attached to this complaint as pages 3-6 of Exhibit H
7 (page numbering added).

8 50. This letter explained that the resolution's recognition of the Door of Hope's
9 "advocacy and education" that "seeks to enlighten and strengthen the lives of women and young
10 women in Calaveras County by inviting them to test and see for themselves the many blessings
11 that can come from living the teachings of Christ" violated two separate provisions of the
12 California Constitution. *Id.* at 3. It therefore asked the Board to repeal the resolution or the part
13 of it that violates the Constitution. *Id.* at 5.

14 51. The letter also explained that the Board had violated the Brown Act by failing to
15 allow for public comment before the vote on the resolution was taken. *Id.* at 4.

16 52. On May 28, 2014, the Calaveras County Counsel responded to the letter. A true copy
17 of this response is attached to this complaint as pages 7-10 of Exhibit H. This response stated
18 that although the County did not believe there was anything illegal about the resolution or its
19 adoption, the Board intended to consider "rescission and possible re-adoption of" the resolution
20 at a future Board meeting. *Id.* at 10.

21 **The Board's repeal of Resolution 2014-035, rejection of the alternatives drafted by its**
22 **staff, and adoption of Resolution 2014-101**

23 53. Board Agenda item 13 for the July 8, 2014 Board meeting was a "resolution
24 repealing Resolution No. 2014-35 ... and possible readoption of a similar resolution." A true
25 copy of the agenda submittal for this item is attached to this complaint as Exhibit H, with page
26 numbering added. A true copy of the video recording of the July 8, 2014 Board of Supervisors
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1 meeting is attached to this complaint as Exhibits I and J. A true copy of the transcript of the July
2 8, 2014 Board of Supervisors meeting is attached to this complaint as Exhibit K.

3 54. The Board staff summary for this item discussed the prior adoption of Resolution
4 2014-035, the correspondence between the ACLU-NC and the County, and the importance of
5 allowing public comments. See Exhibit H at 1. The Board agenda submittal also included a copy
6 of the correspondence between the ACLU-NC and the Board and County Counsel, *id.* at 3-11, a
7 draft resolution rescinding Resolution 2014-035, *id.* at 12-13, and a draft revised resolution
8 recognizing Calaveras Door of Hope for its community service. *Id.* at 14-15. This draft
9 resolution, see Ex. H at 14-15, had been “processed through the Admin office and county
10 counsel.” Ex. K at 2.

11 55. The draft revised resolution differed from Resolution 2014-035 in several ways:
12 First, it described the history of the prior resolution. Second, it omitted the language that
13 Plaintiffs had objected to as unconstitutional in their May 15 letter, as well as some of the
14 details of the Door of Hope’s mission. Third, it expressly stated that the Board’s recognition was
15 “not based on any mission of the Door of Hope” and was simply “intended to show the same
16 type of recognition that the Board of Supervisors has given to many other community
17 organizations.” Ex. H at 15.

18 56. Plaintiff Rhoda Nussbaum spoke at the meeting, asking the Board to rescind the
19 original resolution and adopt the draft resolution recommended by county staff or work with
20 Supervisor Spellman to draft an alternative that considers the Board’s “responsibility to
21 represent all the people of this county.” Ex. K at 5. She stated that “many of the people that I
22 know who live in this county do not define themselves as Christians.” *Id.* Dr. Nussbaum
23 reminded the Board, “You don’t sit there to represent your own religious, moral views. To me,
24 this resolution is putting forward personal, religious, moral views.” *Id.*

25 57. Plaintiff Holly Mines also spoke at the meeting, saying, “I think it’s possible to write
26 a resolution which acknowledges the full scope of work that the organization does without
27 making it, without referring to its religious practices.” Ex. K at 8.

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1 58. Plaintiff Mick Stockard also spoke at the meeting, objecting that the Supervisors were
2 "taking a position on something that's outside the job description of a county supervisor." *Id.* at
3 12. He said, "[Y]ou went beyond the limits of what you're here for," and "when you put your
4 supervisors' hat on and represent my district, and the people in your district, then you don't
5 have a right to take a position on all these other social issues. I think it's beyond the realm of
6 your job description." *Id.*

7 59. Other members of the public also spoke against the resolution adopted on April 8 and
8 in favor of the staff's recommendation. One said, "A community service organization is of
9 course free to have religious beliefs but a county government is not free to endorse, show
10 preference, or recognize those specific religious beliefs." *Id.* at 11. She concluded, "we have the
11 right to express our religious beliefs or no belief, but it should not be for the Board of
12 Supervisors to recognize the belief, only the service, of the organization." *Id.*

13 60. Other members of the public spoke in favor of the original resolution. One stated he
14 "wanted to commend the Board on the original resolution," and said "if this is an issue you want
15 to take a stand on, this'd be a good spot to take a stand on it." *Id.* at 6. Another commented that
16 the original resolution "should stand. And too many times we allow outside influences to come
17 in and put you on the fence." *Id.* at 8. She concluded, "I believe that it should stand and that you
18 guys should fight for it." *Id.*

19 61. After public comment, Supervisor Spellman spoke again, saying "We have done
20 nothing wrong. Nothing illegal. Again people may not like that, but it's life. Grow up you're
21 adults and you need to realize that this is not a tyranny of the minority telling the majority what
22 they're gonna do and what they can say." *Id.* at 16. Supervisor Spellman stated that he believed
23 that the opposition to the resolution was based on discrimination against Christianity and that he
24 had contacted a legal organization that was willing to represent the County in any litigation
25 arising over the resolution without charge. *Id.* Supervisor Spellman then quoted from the New
26 Testament and continued, "Jesus is the light of the world. So beyond that I don't want to get too
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1 religious for those people who have a, a tight stomach right now in the audience." *Id.* He
2 concluded his remarks by stating "And I believe in God and Christ." *Id.* at 17.

3 62. Supervisor Callaway then spoke, stating that, "if we have a new resolution, Mr.
4 Spellman wants to be part of it and it's religion-neutral and it just talks about the work of the
5 Door of Hope. I'm open to doing that. I am not open to supporting anything in any way that is
6 written the way the resolution was on April, April eighth. So I want that very clear. The issues
7 in my mind are very clear. It was crossing the line between church and state. I have a diverse
8 constituency, many Christians, many non-Christians, and I represent them all." *Id.* at 17.

9 63. After reading the original resolution, Supervisor Edson remarked, "we're recognizing
10 the Door of Hope for the good works that they do and part of their process is a religious process
11 and part of their process is it says that in the original resolution they seek to enlighten and
12 strengthen the lives of women and young women in Calaveras County by inviting them. Inviting
13 them to test and see for themselves the many blessing that can come from living the teachings of
14 Christ. They're not telling them that they have to. They're not telling them that they must,
15 they're not saying that they'll be kicked out if they don't. They're not, it just, they're, it's their
16 process." *Id.* at 18.

17 64. Before the vote was called, Supervisor Wright suggested removing the phrase "by
18 inviting them to test and see for themselves the many blessings that can come from living the
19 teachings of Christ." *Id.* at 22. He said, "We know this is a Christian organization, we've all,
20 we've all talked about that. But but it eliminates that that part that is the fundamental dividing
21 split in our community." *Id.* He said, "We still leave in prayer I guess and unborn children and
22 those things." *Id.*

23 65. Supervisor Wright then proposed expanding the resolution "to be all inclusive of
24 religions, not just the teachings of Christ." *Id.* at 23.

25 66. The Door of Hope's executive director, Ms. Hedrick, then said, "I have a lot of clients
26 who are of many other religions and we are open to their religions coming in. But we still teach
27 the teachings of Christ. That's our example. That's our process." *Id.*

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1 67. After the lunch break, Supervisor Ponte announced that county staff had drafted an
2 alternative resolution to recognize the Door of Hope. Before proceeding with that item, she
3 asked for comments.

4 68. Supervisor Spellman commented first, asking that the resolution only be modified to
5 change the word "unborn" to "our most vulnerable children" and the phrase "the teachings of
6 Christ" to "according to God's word." thereby "specifically addressing those things that people
7 said that they had a problem with. 'Unborn' and 'Christ.'" *Id.* at 25. When asked what he
8 thought about the new resolution drafted by county staff during the lunch break, he said, "it
9 looks very much like most documents you'd see that have been watered down to the point of
10 almost irrelevance." *Id.*

11 69. Supervisor Ponte then read into the record the alternative resolution drafted by county
12 staff during the lunch break:

13 "“This is a resolution recognizing the Calaveras Door of Hope for serving the people of
14 Calaveras County and helping to save the lives of our most vulnerable children.’ I’m going to
15 skip the ‘whereas’ es. ‘The mission of the Door of Hope is to bring practical, emotional and
16 spiritual assistance to women, men and children who face pregnancy-related issues. Calaveras
17 Door of Hope is part of a national network of pregnancy centers that share the common mission
18 of serving men, women and children in need. And Calaveras Door of Hope promotes many
19 values including providing a warm, safe environment for those in need, treating clients with
20 kindness and compassion, listening without judgment, keeping the confidence of clients,
21 offering ongoing support, counseling and provision of clothing and supplies to their clients.
22 Calaveras Door of Hope partners with community members who volunteer their time, financial
23 resources and prayers, supporting their clients with kindness and compassion while listening
24 without judgment. Through advocacy and education, the Door of Hope seeks to enlighten and
25 strengthen the lives of all throughout the county. The Board of Supervisors has a long history of
26 recognizing community organizations for the community services they provide to the residents
27 of Calaveras County by adopting non-binding recognition resolutions. The Board of Supervisors
28 desire to recognize the Door of Hope by this resolution for the support they provide the
residents of Calaveras County. Calaveras County Board of Supervisors recognizes the valiant
efforts made by members of and contributors to the Calaveras Door of Hope to enhance the
quality of life for women in our county and specifically those going through the very difficult
circumstances related to unplanned pregnancy.””

Id. at 26. She then opened the item to Board and public comments.

1 70. This proposed resolution maintained much of the text of the April 8 resolution but
2 omitted the reference to the many blessings that can come from living the teachings of Christ.

3 71. Several members of the public spoke against staff's new proposed resolution.

4 72. One said, "This is washed out, perfectly clean like the hands of Pontius Pilate when
5 he washed his hands before condemning Jesus. He didn't want the word Jesus Christ around
6 either." *Id.* at 27.

7 73. Ms. Hedrick, the executive director of the Door of Hope, said, "I thought that when
8 we walked back in here it was even going to have a mention of God. I don't see that. As Cliff
9 said earlier, it's our process. And obviously we don't have the right to our own process to be
10 recognized because everyone else has such strong opinions on agendas." *Id.* at 23.

11 74. Another member of the public said, "the resolution is fine the way it was. You
12 recognized an organization who helps in most part pregnant girls who need some guidance. And
13 they have a choice. The choices that they give 'em are to keep their child or to adopt it out. If
14 they want a different choice, they can go find that different choice somewhere else. There's no
15 reason to sugar -- or to hide all of what this group does. Most of the people in this community
16 are very pleased and happy to use the word God and Christian and Christ and all those things
17 because we truly believe in that because it's freedom to us. And not to have some other people
18 come around telling us we can't say those things because it offends me." *Id.* at 28.

19 75. Several members of the public spoke in favor of the staff's new proposed resolution.

20 76. Plaintiff Holly Mines commented, "I think that the staff made a terrific effort in just
21 one hour to rewrite what to me doesn't sound washed out at all. They use words like 'emotional'
22 and 'spiritual assistance.'" *Id.* at 28. She added, "This is what they do. And so everything which
23 has been expressed in the previous one, except the specific reference to Christian Christian the
24 practice of Jesus Christ has been included in my view." *Id.*

25 77. Another member of the public said, "It promotes the Door of Hope, and I thought that
26 was what the Door of Hope was looking for. Is recognition for the good works they do. Not for
27 promoting religion." *Id.* at 27. She added, "I do not consider it a watered down document." *Id.*

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1 78. Another member of the public said, "I want to say that I accept the rewritten
2 resolution here. Mainly because it brings praise to the Door of Hope. And that is what the
3 majority of supervisors were after in the first place. It was nice that they were trying to also
4 bring in our Lord Jesus and the process. But we're not quite to the point of accepting that yet it
5 appears. Due to you know fear." *Id.* at 28.

6 79. After public comment, Supervisor Spellman restated his two proposed revisions to the
7 original resolution. *Id.* at 31. He said, "People have a problem with the word 'unborn,' I
8 replaced that with 'our most vulnerable children.'" *Id.* Also, he said, "So I addressed exactly
9 what people said they had a problem with. Which was endorsement of Christianity. I replaced
10 'teaching of Christ' with 'according to God's word.'" *Id.* Supervisor Spellman previously
11 explained that in his view this change should address this problem because "Jewish people as
12 well as people who consider the Koran as their Holy Scripture and consider themselves to Islam
13 they believe in God, even agnostics believe in God, they just don't believe in organized
14 religion." *Id.* at 25. He concluded, "So, if it is that we adopt the vanilla resolution instead of this
15 one, where I've actually addressed exactly the concerns that were given, then it's of my opinion
16 that this is a complete, frontal armored situation on anybody that believes in God not just
17 Christianity. Anybody that believes in God whether you're a Jew, Islam, Muslim, whatever." *Id.*
18 at 32.

19 80. Supervisor Spellman then made a motion to rescind the original resolution and adopt
20 his proposed resolution with these two changes. However, the motion failed for a lack of a
21 second. *Id.* at 34.

22 81. Supervisor Edson then proposed a new alternative resolution that would be identical
23 to the April 8 resolution except that it would omit the word "unborn." *Id.* at 35.

24 82. Supervisor Edson made a motion to rescind the original resolution and adopt an
25 identical one omitting the word "unborn." Supervisor Spellman seconded the motion. When
26 Supervisor Ponte called for a vote, the motion passed three to two, with Supervisors Edson,
27 Spellman and Ponte voting in favor and Supervisors Wright and Callaway voting against. A true
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1 copy of Resolution Number 2014-100, rescinding Resolution Number 2014-035, is attached to
2 this complaint as Exhibit K. A true copy of Resolution Number 2014-101, recognizing the Door
3 of Hope, is attached to this complaint as Exhibit A.

4 83. That final July 8, 2014, Resolution reads as follows:

- 5 a. "WHEREAS, The Mission of Door of Hope is to bring compassionate help and
6 hope to women and teens who are unprepared for pregnancy; and
7 b. WHEREAS, Calaveras Door of Hope is part of a national network of pregnancy
8 centers that share the common mission of ministering to women and men in need;
9 and
10 c. WHEREAS, Calaveras Door of Hope endeavors to save the lives of children by
11 partnering with community members who volunteer their time, financial resources
12 and prayers supporting their clients with kindness and compassion while listening
13 without judgment; and
14 d. WHEREAS, Through advocacy and education the Door of Hope seeks to enlighten
15 and strengthen the lives of women and young women in Calaveras County by
16 inviting them to test and see for themselves the many blessings that can come from
17 living the teachings of Christ.
18 e. NOW THEREFORE BE IT RESOLVED, that the Calaveras County Board of
19 Supervisors recognizes the valiant efforts made by members of and contributors to
20 the Calaveras Door of Hope to enhance the quality for women in our county and
21 specifically those going through the very difficult circumstances related to
22 unplanned pregnancy.
23 f. PASSED AND ADOPTED by the Board of Supervisors of the County of Calaveras,
24 State of California, this 8th day of July, 2014." Ex. A (paragraph lettering added).

25 84. The resolution was endorsed by the Clerk and filed with the County as Resolution
26 2014-101.
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1 85. There is an ongoing controversy between the parties: Plaintiffs believe that
2 Resolution 2014-101 violates the California Constitution. Defendant maintains that it does not.
3 Defendant has already passed two resolutions with the unconstitutional language, and without a
4 decision from this Court holding this language unconstitutional it will likely do so again. A
5 declaratory judgment will make it clear that the County may not lawfully enact a future
6 resolution with this same language; it will also communicate to the community that the County
7 cannot favor any religion over another, or over non-religion.

8 86. Plaintiffs are beneficially interested in the issuance of a writ. Plaintiffs are citizens
9 and taxpayers of Calaveras County who are personally affected by the resolution and who
10 additionally seek to vindicate the public interest in ensuring that Calaveras County comply with
11 the California Constitution.

12 87. The County expended taxpayer money, including money on staff salaries, to enact
13 and issue Resolution 2014-101. The County will continue to expend resources related to the
14 Resolution in the future, including resources needed to maintain records related to the
15 Resolution, as required by Government Code §§ 25101, 25102.1.

16 88. The Resolution is maintained on the Board of Supervisors' website,
17 [www.hos.calaverasgov.us/ClerkResources/DocumentArchives/tabid/835/FolderID/1656/Default](http://www.hos.calaverasgov.us/ClerkResources/DocumentArchives/tabid/835/FolderID/1656/Default.aspx)
18 [.aspx](http://www.hos.calaverasgov.us/ClerkResources/DocumentArchives/tabid/835/FolderID/1656/Default.aspx).

19 89. The County has a ministerial duty to comply with the California Constitution.

20 90. Plaintiffs have no plain, speedy or adequate remedy at law to compel the County to
21 perform its duty.

22 **FIRST CAUSE OF ACTION**

23 **All Plaintiffs against Defendant**
24 **Violation of California Constitution, Article I § 4**

25 91. Plaintiffs incorporate by reference the allegations of the above paragraphs as though
26 fully set forth herein.

1 92. Article I § 4 of the California Constitution provides, "The free exercise and
2 enjoyment of religion without discrimination or preference are guaranteed," and "The
3 Legislature shall make no law respecting an establishment of religion."

4 93 Defendants violate Article I § 4 of the California Constitution by adopting Resolution
5 Number 2014-101.

6 **SECOND CAUSE OF ACTION**

7 **All Plaintiffs against Defendant**
8 **Violation of California Constitution, Article XVI § 5**

9 94. Plaintiffs incorporate by reference the allegations of the above paragraphs as though
10 fully set forth herein.

11 95. Article XVI § 5 prohibits any county from "mak[ing] an appropriation, or pay[ing]
12 from any public fund whatever, or grant[ing] anything to or in aid of any religious sect, church,
13 creed, or sectarian purpose."

14 96. Defendant violates Article XVI § 5 by adopting Resolution Number 2014-101.

15 **THIRD CAUSE OF ACTION**

16 **All Plaintiffs against Defendant**
17 **Taxpayer Action under Cal. Code of Civ. Proc. § 526a to**
18 **Prevent Illegal Expenditure of Funds**

19 97. Plaintiffs incorporate by reference the allegations of the above paragraphs as though
20 fully set forth herein.

21 98. Defendant has and continues to expend public funds by enacting Resolution Number
22 2014-101 and maintaining records of it in violation of the California Constitution.

23 **PRAYER FOR RELIEF**

24 Wherefore, Plaintiffs respectfully request that the Court:

- 25 A. Issue a declaration that Resolution Number 2014-101 violates Article I § 4 of the
26 California Constitution and Article XVI § 5 of the California Constitution, in whole and
27 in part.
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- B. Grant mandamus requiring Defendant to provide notice on or with all copies of the Resolution that Defendant distributes or makes publicly available that this Court has held that the Resolution is unconstitutional.
- C. Grant Plaintiffs their attorneys' fees and costs.
- D. Grant Plaintiffs such further relief as the Court deems just and proper.

Dated: February 13, 2015

Respectfully submitted,

Michael Temple Risher
Novella Y. Coleman
American Civil Liberties Union
Foundation of Northern California, Inc.

By: 
Novella Y. Coleman
Attorneys for Plaintiffs

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VERIFICATION

I, Rhoda Nussbaum, have read this Verified Petition for Writ of Mandate and Complaint for Declaratory Relief in the matter of *Lavagetto v. Calaveras County*. I am informed, and do believe, that the matters herein are true. On that ground I allege that the matters stated herein are true. In addition, the facts within paragraphs 28 through 30 are within my own personal knowledge, and I know them to be true. I know the facts within paragraphs 36 through 48 to be true based on my review of the video of the Board's April 8, 2014, which is attached to this complaint as Exhibit F. I know the facts within paragraphs 56 through 84 to be true based on my memory of the meeting and my review of the video of the Board's July 8, 2014, which is attached to this complaint as Exhibits I and J.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: 02/11/2015



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VERIFICATION

I, Shira J. Tevah, am a third-year law student at the University of California, Berkeley, School of Law (Boalt Hall), and a law clerk at the American Civil Liberties Union Foundation of Northern California. I have reviewed the videos of the Calaveras County Board of Supervisors meetings of April 8, 2014, and July 8, 2014, that are attached to this complaint as Exhibits F and I and J, respectively. I have also reviewed the transcripts of those meetings that are attached to this complaint as Exhibits G and K, respectively, and confirm to the best of my ability that the transcriptions are accurate.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: 2/10/2015



ATTACHMENT 6
CALAVERAS BOARD'S UNANIMOUSLY RESCINDED RESOLUTION⁶

BOARD OF SUPERVISORS, COUNTY OF CALAVERAS
STATE OF CALIFORNIA
March 10, 2015

Resolution
No. 20150310022

**RESOLUTION RESCINDING RESOLUTION No. 2014-101
"RESOLUTION RECOGNIZING CALAVERAS DOOR OF
HOPE FOR SERVING THE WOMEN OF CALAVERAS
COUNTY AND HELP TO SAVE THE LIVES OF OUR MOST
VULNERABLE CHILDREN"**

WHEREAS, on April 8, 2014, the Board of Supervisors adopted Resolution No. 2014-035 on a 3-1-1 vote; and

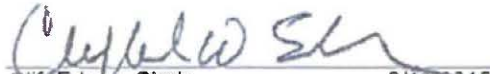
WHEREAS, on July 8, 2014, the Board of Supervisors rescinded Resolution No. 2014-035 and adopted Resolution No. 2014-101 on a 3-2 vote; and

WHEREAS, the Board of Supervisors wishes to rescind Resolution No. 2014-101 in its entirety.

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors hereby rescinds Resolution No. 2014-101 in its entirety.

ON A MOTION by Supervisor Ponte seconded by Supervisor Oliveira, the foregoing resolution was duly passed and adopted by the Board of Supervisors of the County of Calaveras, State of California this 10th day of March, 2015, by the following vote:

AYES: Edson, Wright, Ponte, Oliveira, Kearney
--


Cliff Edson, Chair 3/10/2015

ATTEST


Diane Beverud, Clerk of the Board 3/10/2015

⁶ See Calaveras Board's unanimously rescinded resolution source document at <https://www.aclunc.org/sites/default/files/2015.03.10%20Resolution%20No%2020150310022.pdf>.

ATTACHMENT 7 ACLU NOTICE OF CALAVERAS BOARD CASE RESOLUTION⁷

Home » Blog » Rescinding of Resolution a Victory for Religious Freedom in Calaveras County

Rescinding of Resolution a Victory for Religious Freedom in Calaveras County

Mar 10, 2015



By: Novella Coleman [@NovellaYColeman](#)

Today the Calaveras County Board of Supervisors unanimously voted to repeal a resolution that promoted one particular religious belief over all others. The vote is a resounding victory for the California Constitution's requirement that the government remain neutral in all matters of religion. And it is a victory for the religious freedom of all Calaveras County residents.



This dispute began April 8, 2014 when the board voted to adopt a resolution recognizing a non-profit Christian ministry for "inviting [women] to test and see for themselves the many blessings that can come from living the teachings of Christ."

In conjunction with more than 20 Calaveras County residents, the ACLU of Northern California submitted a [letter](#) to the board asking it to repeal the resolution or just the part of it that promotes a specific religious belief. In response, the board agreed to put the repeal of the resolution on the agenda, but it ultimately decided to re-adopt a resolution containing the same unconstitutional language.

However, after the ACLU [filed suit](#) on behalf of nine Calaveras County residents, the board had a change of heart. Today the board did the right thing by repealing this unconstitutional resolution.

This reaffirms the principle that regardless of their religious beliefs, all Calaveras County residents are equals when coming before the county board of supervisors. The constitutional prohibition on government endorsement of particular sets of religious beliefs helps ensure that all persons are free to exercise the religion or their choice, or no religion at all.

Novella Coleman is a staff attorney with the ACLU of Northern California

⁷ See ACLU of Northern California notice of case resolution at <https://www.aclunc.org/blog/rescinding-resolution-victory-religious-freedom-calaveras-county>.

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

July 28, 2023

**SENT VIA EMAIL & U.S. MAIL: bostthree@edcgov.us, bosone@edcgov.us,
bostwo@edcgov.us, bosfour@edcgov.us, bosfive@edcgov.us**

Wendy Thomas
Board Chair
El Dorado County Board of Supervisors
330 Fair Lane, Building A
Placerville, CA 95667

Re: Unconstitutional Christian History Month Proclamation

Dear Chair Thomas and County Supervisors:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to your recent “American Christian History Month” proclamation. FFRF is a national nonprofit organization with more than 40,000 members across the country, including more than 5,200 members and two local chapters in California. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

We have received multiple complaints about the proclamation that the Board of Supervisors issued on July 18, 2023 declaring “that the month of July each year is designated as ‘American Christian History Month.’” The proclamation twists American history to paint a false narrative perpetuating the myth that we are a Christian nation:

WHEREAS, Religious faith was not only important in American life during the periods of discovery, exploration, colonization, and growth, but has also been acknowledged and incorporated into all three branches of American Federal Government from their very beginning; and

WHEREAS, The Supreme Court of the United States affirmed this self-evident fact in a unanimous ruling declaring “This is a religious people... From the discovery of this continent to the present hour, there is a single voice making this affirmation”; and

WHEREAS, the first act of America’s first Congress in 1774 was to ask a minister to open with prayer and to lead Congress in the reading of four chapters of the Bible; and

WHEREAS, The Liberty Bell was named for the Biblical inscription from Leviticus 25:10, which passage of scripture is emblazoned around it: “Proclaim liberty throughout the land, to all the inhabitants thereof”; and

WHEREAS, President John F. Kennedy declared that “The rights of man come not from the generosity of the state but from the hand of God”; and

WHEREAS, All sessions of the United States Supreme Court begin with the Court's Marshal announcing, "God save the United States and this honorable court"; and

WHEREAS, When taking the oath of office for the President of the United States, George Washington concluded the oath by adding the phrase, "So help me, God," and this has been included in many oaths by those taking public office since that time; and

WHEREAS, There have been attempts to change and distort our history;

THEREFORE, BE IT BE PROCLAIMED, That the month of July each year is designated as "American Christian History Month," to recognized the impact of religious beliefs on America's history; and be it further

PROCLAIMED, That the rich spiritual and diverse religious history of our nation, from its founding to the current day be affirmed; and be it further

PROCLAIMED, That any effort to remove, obscure, or purposely omit such history from our nation's public buildings and educational resources be rejected in the strongest manner.

The proclamation, like most attempts to rewrite our nation's history, attributes any generic reference to religion as supporting our "Christian heritage." This is further exemplified by the fact that the proclamation describes this "American Christian History Month," which is clearly intended to recognize Christianity as an attempt to "recognize the impact of religious beliefs on America's history."

This proclamation is a clear breach of the Establishment Clause of the First Amendment of the United States Constitution. By issuing this proclamation advancing Christian nationalism and the debunked myth that we are a Christian nation, El Dorado County is ironically violating the country's *true* heritage of religious liberty based on a secular government. Cherry picking facts, many of them distortions of the truth and some, outright falsehoods, does not change the fact that the United States was founded as a secular nation. We are a country where you are free to be a Christian if you choose, not a Christian nation.

This proclamation alienates nonreligious and non-Christian citizens in El Dorado County by turning them into political outsiders in their own community. El Dorado County has a diverse population with diverse religious beliefs, including Jews, Muslims, atheists, and agnostics. Thirty-seven percent of the American population is non-Christian,¹ including the 31 percent of El Dorado County residents who are religiously unaffiliated.²

As you may not be aware, efforts to pass "Christian Heritage Week," or "Christian Heritage Month" proclamations are part of a broader movement formerly known as Project Blitz. The overarching goal of Project Blitz and similar Christian nationalist efforts is to legislate Christianity, starting with seemingly innocuous laws, such as the posting of the national motto and issuing historically dubious Christian proclamations, like this one, then progressing to laws that privilege the Christian majority, often by

¹ Gregory A. Smith, *About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated*, Pew Research Center (Dec. 14, 2021), www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/.

² *The 2020 Census of American Religion*, Public Religion Research Institute (July 8, 2021), available at <https://www.prii.org/research/2020-census-of-american-religion>.

deceptively portraying it as a persecuted minority. This proclamation, like all of these efforts, is Christian nationalism and historical revisionism masquerading as religious liberty.

One of the main driving forces behind this Christian nationalist rewriting of our history is Wallbuilders, an organization committed to twisting history in order to sell a false narrative based on Christian exceptionalism. Wallbuilders' founder and CEO, David Barton, is a disgraced pseudo-historian. Barton never apologized after getting caught repeatedly lying about earning a Ph.D. in history.³ He wrote a book, aptly titled *The Jefferson Lies*, that was so divorced from reality that the book's own publisher pulled it from bookstores after noting that "basic truths just were not there."⁴ That year, a poll by the History News Network concluded that the book was "the least credible history book in print."⁵ Undeterred, Barton shamelessly continues to sell this deceitful book, now published by Wallbuilders itself. These are just a couple examples; there are myriad more.⁶ Adopting Christian nationalist legislation allows grifters like this to dictate policy. The people of El Dorado County deserve better.

Barton has explained one of the purposes of promoting "Christian heritage" is to push back against proclamations meant to highlight the contributions of oft-ignored minorities. On the Wallbuilders radio show, Barton lamented the existence of Black History Month,⁷ Native American Heritage Month, Asian Pacific American Heritage Month,⁸ Jewish American Heritage Month, LGBT History Month,⁹ National Hispanic Heritage Month, and Women's History Month,¹⁰ based on the relatively small size of these groups compared to American Christians, who make up more than two-thirds of the population.¹¹ This is a typical tactic of white supremacists: insisting that every celebration of minorities is a veiled attack on the white Christian majority. This dog whistle justification taints all "Christian Heritage" proclamations.

Your proclamation is problematic because it perpetuates the myth that America is a Christian nation. Every reference to religion in the U.S. Constitution is exclusionary, including prohibitions on religious tests for public office, implicitly in the godless oath of office prescribed for the presidency and later, in the First Amendment's historic bar of any congressional establishment of religion (a bar extended to state governments under the 14th Amendment). The United States was first among nations to invest sovereignty not in a deity, but in "We the People." The proscription against religion in government has served our nation well, with the U.S. Constitution now the longest living constitution in history, and our nation spared the constant religious wars afflicting theocratic regions around the world. Keeping religion out of government has in fact allowed religion to flourish on our continent, because it protects freedom of conscience. Keeping divisive religion out of the government is a fundamental American ideal, is essential for true religious freedom, and has been a tremendous asset to our society. This is a principle to revere,

³ See, e.g., Mark Woods, *Did These Top Evangelicals Really Earn Their PhDs?*, Christian Today (Oct. 10, 2016) (after it was revealed that Barton's degree came from a school with no history program, "Barton has not commented, and did not return requests for clarification from Christian Today.").

⁴ See, e.g., Elise Hu, *Publisher Pulls Controversial Thomas Jefferson Book, Citing Loss of Confidence*, National Public Radio (Aug. 9, 2012) (the publisher noted that "There were historical details — matters of fact, not matters of opinion, that were not supported at all.").

⁵ historynewsnetwork.org/article/147149.

⁶ See, e.g., Southern Poverty Law Center, *David Barton*, www.splcenter.org/fighting-hate/extremist-files/individual/david-barton.

⁷ Barton incorrectly calls it "African-American Heritage Month."

⁸ Barton incorrectly calls it "Asian Pacific Heritage Month."

⁹ Barton incorrectly calls it "LGBT Pride Month."

¹⁰ Barton incorrectly stated that "percentage wise [American women] are a minority, remember they're a minority."

¹¹ David Barton on Wallbuilders Live! (Mar. 13, 2017), available at wallbuilderslive.com/christian-heritage-week/.

not tarnish or destroy. This proclamation would more appropriately be called "Historical Revisionism Month."

The separation between state and church is among one of the most fundamental principles of our system of government. The United States Supreme Court has held that public officials may not seek to advance or promote religion. The Supreme Court has specifically stated, "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." *W. Va. Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943).

As elected officials, you are charged with great responsibility and have been given significant trust by El Dorado County's citizens, including those citizens who may not share your religious viewpoints. FFRF asks that you rescind the "American Christian History Month" proclamation and refrain from issuing similar proclamations in the future. Please respond in writing about the steps the County will take to respect the rights of conscience of its citizens.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a long horizontal flourish extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

Enclosure



PROCLAMATION

of the Board of Supervisors of the County of El Dorado In Declaration of American Christian Heritage Month

WHEREAS, Religious faith was not only important in American life during the periods of discovery, exploration, colonization, and growth, but has also been acknowledged and incorporated into all three branches of American Federal Government from their very beginning, and

WHEREAS, The Supreme Court of the United States affirmed this self-evident fact in a unanimous ruling declaring "This is a religious people... From the discovery of this continent to the present hour, there is a single voice making this affirmation"; and

WHEREAS, The first act of America's first Congress in 1774 was to ask a minister to open with prayer and to lead Congress in the reading of four chapters of the Bible; and

WHEREAS, The Liberty Bell was named for the Biblical inscription from Leviticus 25:10, which passage of scripture is emblazoned around it: "Proclaim liberty throughout the land, to all the inhabitants thereof"; and

WHEREAS, The constitutions of each of the 50 states, either in the preamble or body, explicitly recognize or express gratitude to God; and

WHEREAS, President John F. Kennedy declared that "The rights of man come not from the generosity of the state but from the hand of God"; and

WHEREAS, All sessions of the United States Supreme Court begin with the Court's Marshal announcing, "God save the United States and this honorable court"; and

WHEREAS, When taking the oath of office for the President of the United States, George Washington concluded the oath by adding the phrase, "So help me, God," and this has been included in many oaths by those taking public office since that time; and

WHEREAS, There have been attempts to change and distort our history;

THEREFORE, BE IT BE PROCLAIMED, that the month of July each year is designated as "American Christian History Month," to recognize the impact of religious beliefs on America's history; and be it further

PROCLAIMED, That the rich spiritual and diverse religious history of our nation, from its founding to the current day be affirmed; and be it further

PROCLAIMED, That any effort to remove, obscure, or purposely omit such history from our nation's public buildings and educational resources be rejected in the strongest manner.

Passed by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held this 18th day of July 2021.

Attest:

Kim Dawson

Clerk of the Board of Supervisors

Wendy Thomas, Chair, Board of Supervisors

Public comment #18

Re: Supporting the public record to rescind the "Christian American Heritage Month" Proclamation

Joseph Connolly <retqmcs@gmail.com>

Fri 9/15/2023 2:03 PM

To: BOS-District I <bosone@edcgov.us>; BOS-District II <bostwo@edcgov.us>; BOS-District III <bosthree@edcgov.us>; BOS-District IV <bosfour@edcgov.us>; BOS-District V <bosfive@edcgov.us>

Cc: BOS-Clerk of the Board <edc.cob@edcgov.us>; David A Livingston <david.livingston@edcgov.us>; Tiffany Schmid <Tiffany.Schmid@edcgov.us>

📎 1 attachments (117 KB)

Letter-to-ACLU-re-proclamation.pdf;

Dear Supervisors:

Regarding the upcoming item to "consider" rescinding the County's "American Christian Heritage Month" proclamation, please include for the public record the additional attached letter from the County Counsel to the ACLU of Northern California, which seems to fall under an exceptionally "available background information" category under your Board agenda policy.....Sincerely, Joseph Connolly

On Fri, Sep 15, 2023 at 10:04 AM Joseph Connolly <retqmcs@gmail.com> wrote:

Dear Board Members: I welcome Supervisor Hidahl's request to rescind the "Christian American Heritage Month" proclamation that he originally submitted, and I urge you to do so unanimously - and "in its entirety" - without debate as highlighted below.

More broadly, though, I'm writing to add to the absence of ANY public record for this item, including Supervisor Hidahl's justification for rescinding his controversial proclamation. There is nothing to note the public's opposition to the proclamation, including public letters from the ACLU of Northern California and the Freedom from Religion Foundation that documented the proclamation's factual and legal deficiencies. There is no record of other letters, such as mine of July 25th, highlighting a previous legal challenge to a similar proclamation by the Calaveras County Board of Supervisors. That letter documented how the Calaveras Board ultimately rescinded their proclamation "in its entirety." There is no record of recent news articles highlighting this subject, including Supervisor Blaine's objections. All these are included below.

Your record does not include any draft recession statement for the Board to act upon, nor any staff record to support why the item should be rescinded, to what degree, or how. The illustration below is what Calaveras County did as an example I hope you'll follow. **Please note that the Calaveras Board was unanimous in its vote to rescind**, and that the following example is unambiguous.

BOARD OF SUPERVISORS, COUNTY OF CALAVERAS
STATE OF CALIFORNIA
March 10, 2015

Resolution
No. 20150310022

**RESOLUTION RESCINDING RESOLUTION No. 2014-101
"RESOLUTION RECOGNIZING CALAVERAS DOOR OF
HOPE FOR SERVING THE WOMEN OF CALAVERAS
COUNTY AND HELP TO SAVE THE LIVES OF OUR MOST
VULNERABLE CHILDREN"**

WHEREAS, on April 8, 2014, the Board of Supervisors adopted Resolution No. 2014-035 on a 3-1-1 vote; and

WHEREAS, on July 8, 2014, the Board of Supervisors rescinded Resolution No. 2014-035 and adopted Resolution No. 2014-101 on a 3-2 vote; and

WHEREAS, the Board of Supervisors wishes to rescind Resolution No. 2014-101 in its entirety.

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors hereby rescinds Resolution No. 2014-101 in its entirety.

ON A MOTION by Supervisor Ponte seconded by Supervisor Oliveira, the foregoing resolution was duly passed and adopted by the Board of Supervisors of the County of Calaveras, State of California this 10th day of March, 2015, by the following vote:

AYES: Edson, Wright, Ponte, Oliveira, Kearney


Chris Edson, Chair 3/10/2015

ATTEST


Diane Severud, Clerk of the Board 3/10/2015

Your approved Board agenda development policy **requires** that "Each agenda item **shall include appropriate background, a link to the County Strategic Plan**, a 'Fiscal Impact' section that identifies the total costs, impact to the General Fund, impact to Net County Cost and if possible the funding source(s) that will be used to cover the costs." Furthermore, "Items submitted by a Board member **should include a rationale, available background information and a reference to the County strategic priorities. Appropriate related files should be linked to the item.**" (See "Good Governance Handbook," pp. 19-20.) (emphasis added.)

This agenda item includes NOTHING to document the history of this item, relevant public comment, nor any rationale for a request to rescind the proclamation, as illustrated below:

BOS Home		Search Agenda Items		Calendar		Boards and Commissions		People		Live & Archived Proceedings	
Details		Reports									
File #:	23-1763	Version:	1								
Type:	Agenda Item	Status:	Department Matters								
File created:	9/13/2023	In control:	Board of Supervisors								
On agenda:	9/19/2023	Final action:									
Title:	Supervisor Hidahl recommending the Board rescind the Proclamation In Declaration of American Christian Heritage Month which was approved by the Board on July 18, 2023. FUNDING: N/A										
History (0)		Text									
0 records											
Display	▼	Ver	Action By	Action	Result						
no records to display											

The Board's policy **requires** that the agenda be developed "in collaboration with the Board Chair, CAO, and County Counsel" and that "The CAO, Board Chair and/or Vice Chair, the Clerk of the Board of Supervisors and County Counsel participate in the agenda review meeting." (*Ibid.*) The CAO and County Counsel have an obligation to tell the Board Chair, in this case, how the Board's proclamation was legally and factually contested, and the policy requires that the item have "appropriate background," such as letters from the ACLU and Freedom from Religion Foundation.

Finally, **the Board also has a legal duty** to support and defend the California and U.S. Constitutions, and both are applicable here, as noted by the ACLU. However, none of those legal obligations are noted on the record as "appropriate background," and it's not clear that the County Counsel would reaffirm that duty in public to support this requested action. In my opinion, he should, and the Board should realistically affirm its legal duty instead of continuing to flout it.

For these reasons, I have attached three relevant letters, and the following links to recent news articles about this subject. I urge the Board to recognize these materials as relevant grounds to properly rescind the contested proclamation as being impermissibly unconstitutional.

<http://www.southtahoenow.com/story/09/11/2023/concerns-surround-el-dorado-county-action-american-christian-heritage-month>

<https://jweekly.com/2023/09/11/opposition-swells-after-el-dorado-county-proclaims-christian-heritage-month/>

Sincerely, Joseph Connolly

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September 13, 2023

Angélica Salceda, Director
Shayla Harris, Legal Fellow
ACLU Foundation of Northern California
39 Drumm St.
San Francisco, CA 94111

Re: Your Letter to El Dorado County Dated August 25, 2023

Dear Ms. Salceda and Ms. Harris:

Thank you for your letter dated August 25, 2023, regarding El Dorado County's proclamation recognizing American Christian Heritage Month. The County is sensitive to the concerns raised in your letter and troubled that the Proclamation had such an effect since, as stated by the Chairperson of the Board of Supervisors prior to adoption of the Proclamation, the Proclamation was "not a statement of [the County's] exclusivity." Indeed, as stated in the Proclamation, the Proclamation was intended merely as a recognition of "the impact of religious beliefs on America's history" and an effort to acknowledge "the rich spiritual and diverse religious history of our nation." Such acknowledgements are not uncommon. (*See Lynch v. Donnelly* (1984) 465 U.S. 668, 674 ("There is an unbroken history of official acknowledgment by all three branches of government of the role of religion in American life from at least 1789.").)

Nevertheless, in light of the community's concerns and the unintended effect of the Proclamation, the Board of Supervisors intends to consider rescission of the Proclamation at its September 19, 2023, meeting. I trust that such action will address any remaining concerns you have about the Proclamation. Should you wish to provide the Board of Supervisors with any comments concerning that proposed action, you may submit those comments to the Clerk of the Board of Supervisors at cob@edcgov.us.

Very truly yours,

DAVID A. LIVINGSTON
County Counsel

A handwritten signature in black ink, appearing to be "David A. Livingston", is written over a horizontal line. The signature is stylized and somewhat cursive.

Cc: Tiffany Schmid, Chief Administrative Officer

