

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JUST FOR JESUS CHALLENGE )  
HOMELESS OUTREACH, a Pennsylvania )  
non-profit corporation; FIRST APOSTLES' )  
DOCTRINE CHURCH; REVEREND )  
JACK L. WISOR, )

Plaintiffs, )

vs. )

BOROUGH OF BROOKVILLE, PA; )  
ROBERT RECESKI, MARK HUMES, )  
VINCENT MARKLE, DAVID )  
VALLOSIO, in their official and individual )  
capacities, )

Defendants. )

CIVIL ACTION NO. \_\_\_\_\_

\_\_\_\_\_

**VERIFIED CIVIL COMPLAINT**

Plaintiffs, by and through their undersigned counsel, K&L Gates LLP and the American Civil Liberties Union-Foundation of Pennsylvania, aver as follows.

**INTRODUCTORY STATEMENT**

1. Plaintiffs in this religious-liberty case are evangelical Christians called by Jesus Christ to minister to the homeless. Plaintiff "Just for Jesus Challenge Homeless Outreach," a ministry of the First Apostles' Doctrine Church, was founded several years ago by the Reverend Jack Wisor primarily to help the least fortunate in the Jefferson County area by providing them shelter, services, and bringing Jesus Christ into their lives. The program has operated two churches in Jefferson County, one in Brockway and the other in Brookville. During that time, both churches have opened their doors to shelter and serve countless homeless individuals, including disabled military veterans, teenagers forced from their homes, senior citizens who could not afford their personal-care homes, recently-released low-level offenders,

people referred by county mental-health agencies, and people evicted from their homes and apartments.

2. This lawsuit arises from Brookville officials' improper and disingenuous use of their Zoning Code to close the Church's homeless ministry. For at least four years, the Church and the homeless ministry have openly housed guests in the Brookville church's large parsonage. The Church is unaware of there being any significant problems caused by the operation of the program or the guests. But beginning in late summer 2008, Brookville officials have cited the Church for allowing overnight guests; forcibly and illegally entered and searched the property; threatened Church officials with further sanction if homeless persons were permitted to stay in the Church's parsonage; and most recently this month the Borough Council voted 6-0 to reject the undersigned lawyers' plea to allow the church to resume housing homeless guests in the parsonage.

3. The Church, which has been in existence since the late 1800s and has an attached parsonage that in the past has housed pastors and their families, is located in a "Transitional Zone" (TZ), which permits a mix of commercial and residential uses, including, as conditional uses, churches, group dwellings, and licensed-care facilities. Permitted accessory uses include apartment units, bed-and-breakfasts, hospitals, single-family dwellings, two-family dwellings, and townhouses. Indeed, next door to the church and on the same block are single and multi-dwelling residential units. Even if the Church was not grandfathered under the new zoning district, which was amended in 2006, Brookville's allowance of residential and other overnight housing in the same area while refusing overnight accommodations by a religious institution constitutes illegal discrimination and imposes a substantial burden on Plaintiffs' religious liberty, which violates the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc, et seq. ("RLUIPA"), the Pennsylvania's Religious Freedom Protection Act, 71 Pa. Stat. Ann. § 2404 ("RFPA"), and the First Amendment to the U.S. Constitution.

4. Defendants cannot demonstrate that they have a compelling interest to shutter the Plaintiffs' homeless shelter, much less that their actions are narrowly tailored to effectuate such an interest. At a time when foreclosures in this country are approaching record levels, the demand for shelter in the Jefferson County area eclipses available facilities, and winter is upon us, Plaintiffs seek equitable relief, preliminary and permanent thereafter, to restore their right to fulfill their religious ministry by providing housing and bringing Jesus Christ to the people who need and want to seek refuge in the Brookville church.

### **JURISDICTION AND VENUE**

5. This Court has jurisdiction to adjudicate Plaintiffs' federal claims under 28 U.S.C. §§ 1331 and 1343. The Court has jurisdiction to declare the rights of the parties to the action under 28 U.S.C. §§ 2201 and 2202, and the Court has pendent jurisdiction over Plaintiffs' state-law claims under 28 U.S.C. § 1367.

6. The Western District of Pennsylvania is a proper venue for this action under 28 U.S.C. § 1391(b) because all Defendants reside in the district, all events or omissions giving rise to the claims occurred in the district, and the property subject to the action is situated in the district.

### **PARTIES**

7. Plaintiff First Apostles' Doctrine Church is a Christian organization with churches at two locations. One is located at 14530 Route 28, about a mile outside of the Borough of Brockway. The second church, which is the subject of this lawsuit, is located at 336 Madison Avenue in the Borough of Brookville, which is about 90 miles northeast of Pittsburgh in Jefferson County, Pennsylvania.

8. Plaintiff "Just for Jesus Challenge Homeless Outreach" is a ministry of the First Apostles' Doctrine Church.

9. Plaintiff Reverend Jack L. Wisor is the Bishop of the First Apostles' Doctrine Church and the "Just for Jesus Challenge Homeless Outreach" ministry.

10. Defendant Borough of Brookville is a political subdivision of the Commonwealth of Pennsylvania existing and operating under the laws of the Commonwealth. The central administrative offices of the Borough of Brookville are located at 18 Western Avenue – Suite A in the Borough of Brookville, Pennsylvania.

11. Defendant Robert Receski is the Zoning and Code Enforcement Officer for the Borough of Brookville. Mr. Receski issued the citation dated July 11, 2008, and directed the warrantless entry of the First Apostles' Doctrine Church on September 4, 2008. Mr. Receski is the final policymaker for the Borough of Brookville for, among other things, the enforcement of the zoning code. Mr. Receski, who was at all relevant times acting under color of state law, is being sued in his official and individual capacities.

12. Defendant Mark Humes is a police officer for the Borough of Brookville. Mr. Humes forcibly and without a warrant or consent entered the First Apostles' Doctrine Church on September 4, 2008, to allow Mr. Receski and others to enter the church. Defendant Humes, who was not in uniform, yet armed, refused to present a badge or identification. Mr. Humes, who was at all relevant times acting under color of state law, is being sued in his official and individual capacities.

13. Defendant Vincent Markle is a police officer for the Borough of Brookville. Defendant Markle, without a warrant or consent, entered the First Apostles' Doctrine Church on September 4, 2008. Mr. Markle, who was at all relevant times acting under color of state law, is being sued in his official and individual capacities.

14. Defendant David Vallosio is an employee of the Borough of Brookville. Defendant Vallosio, without a warrant or consent, entered the First Apostles' Doctrine Church

on September 4, 2008. Mr. Vallosio, who was at all relevant times acting under color of state law, is being sued in his official and individual capacities.

### **FACTUAL BACKGROUND**

#### **A. “Just for Jesus Challenge Homeless Outreach”**

15. First Apostles’ Doctrine Church is a non-denominational, evangelical Christian church.

16. The church was founded in 2002 by Reverend Jack L. Wisor, who left behind a successful career as a custom homebuilder after being called by God to go into full-time ministry.

17. The First Apostles’ Doctrine Church owns two facilities. One is located at 14530 Route 28, outside of the Borough of Brockway, Pennsylvania. The second church, which is the subject of this lawsuit, is located at 336 Madison Avenue in the Borough of Brookville.

18. The defining ministry of the First Apostles’ Doctrine Church is the “Just for Jesus Challenge Homeless Outreach,” which is a non-profit, charitable corporation. The outreach ministry provides shelter, food, clothing, life skills, and religious teaching to the homeless.

19. “Just for Jesus Challenge Homeless Outreach,” as its name suggests, is a faith-based program, designed to care for the homeless and teach the guests about Jesus Christ.

20. The outreach ministry is based on Biblical precepts and is a way that the church, its staff, and congregation can practice their faith in a practical way. The Biblical underpinnings for this ministry, as stated by the church, include, among other precepts, John 17:22 (“And the glory which thou gavest me I have given them; that they may be one, even as we are one”), Matthew 25:40 (“Verily I say unto you, inasmuch as ye have done it unto the least of these my brethren, ye have done it unto me”), and James 2:15-18 (“If a brother or sister be

naked, and destitute of daily food, and one of you say unto them, depart in peace, be ye warmed and filled; notwithstanding ye give them not those things which are needful to the body; what doth it profit? Even so faith, if it hath not works, is dead, being alone. Yea, a man may say, thou hast faith, and I have works: shew me thy faith without thy works, and I will shew thee my faith by my works.”).

21. Because the causes of homelessness are so diverse, the “Just for Jesus Challenge Homeless Outreach” shelters guests from different walks of life who come to the program for varying reasons, including: (a) several U.S. military veterans, some of whom were disabled in the line of duty; (b) senior citizens evicted from their nursing-care facilities, often because of their inability to afford the services; (c) individuals, including teenagers whose families will not accept them; (d) renters and home-owners who cannot afford to make rental or mortgage payments; (e) low-level ex-offenders, released from the Jefferson County and other area jails, seeking to become or stay connected to Christ; (f) working-class people, out of work and unable to make ends meet; (g) those with mental health needs, often referred by nearby counties’ mental-health departments; and (h) homeless couples or families with children who are unable to stay together at any other nearby shelter.

22. The only guests not accepted by the program are sexual offenders registered under Megan’s Law. This is done not for lack of compassion, as these too are God’s children in need of help, but because the program accepts families with children. Megan’s Law offenders cannot be allowed near children.

23. The guests are closely monitored by the staff; no drugs or alcohol are permitted on site; and local and state law-enforcement agencies are informed as to which guests are entering and exiting the program.

24. During their stay in the program, the guests follow a plan suitable to their needs as determined by the church. Typically, guests participate in Bible studies, life-skills training, prayer, and fellowship.

25. The guests stay in the program usually on a temporary basis, with the goal being for them to eventually integrate back into society and find full-time employment and permanent residences.

26. The ministry has been successful, with former guests integrating into society, making commitments to follow Jesus Christ, or rededicating their lives to Jesus Christ.

27. The ministry meets an important need in the community. While Jefferson County, where Brookville is located, is a predominantly rural county, the Clarion-Jefferson Shelter Task Force recently completed surveys for 2006 and 2007, chronicling the increase in the number of homeless adults and affected children in Jefferson and Clarion counties.

28. According to the Shelter Task Force's recent surveys, in 2006, 88 adults were found to be homeless and 117 children impacted. The results were similar for 2007.

29. According to the Shelter Task Force's findings, the top causes of homelessness in the area include "eviction, non affordable housing, domestic violence, family and friends unwilling to help and bad credit."

30. While the two First Apostles' Doctrine Churches are located in Jefferson County, the Homeless Outreach program receives referrals from various governmental and private programs in Jefferson, Clarion, and Clearfield Counties, as well as Allegheny County.

31. Though prevalent in the community, the Jefferson County homelessness problem was not well-known. Reverend Wisor helped change this. Indeed, the pastor of the

Evangelical United Methodist Church in Brookville recently credited Reverend Wisor with informing the community of Jefferson County's homelessness problem.

32. Reverend Wisor started the planning for the "Just for Jesus Challenge Homeless Outreach" ministry in 2000, by opening up his home in Brockway to house homeless individuals and others in need.

33. In 2002, Reverend Wisor turned the Brockway facility into a church. The grounds include not only a house of worship, but a large home that can and often does shelter upwards of thirty people. There is also a barn that houses a few farm animals.

**B. The Subject Property—the Brookville Church**

34. The property located at 336 Madison Avenue in Brookville contains a church with an attached residential parsonage, constructed in the late 1800s ("Subject Property").

35. In the past the parsonage was used to house a minister, his wife and five children.

36. The Reverend Wisor purchased the Brookville church in 2003.

37. In or around 2004, the "Just for Jesus Challenge Homeless Outreach" ministry began housing between four and eight individuals in the five-bedroom, three-bathroom parsonage at the First Apostles' Doctrine Church in Brookville.

38. The church and its staff envisioned the parsonage as a "second step" in the "Just for Jesus Challenge Homeless Outreach" program. That is, those guests who may have been staying on the Brockway property but who were ready and willing to look for work, permanent residences, and to integrate back into the community would stay at the parsonage, due to its convenient location in downtown Brookville. Additionally, those guests in the program who were from Brookville or had ties to Brookville would be eligible to stay at the parsonage.



And those guests who lacked transportation or drivers' licenses, such as several elderly guests using walkers, would be eligible to stay at the parsonage.

39. In 2004, Reverend Wisor introduced the "Just for Jesus Challenge Homeless Outreach" ministry to the Brookville Chief of Police and the Brookville ministerial society.

40. In 2004, Tracy Bundy, an intern pastor at the church, introduced the "Just for Jesus Challenge Homeless Outreach" ministry to the Borough of Brookville Planning Commission.

41. In 2004 and 2005, the church advertised and held public meetings describing the "Just for Jesus Challenge Homeless Outreach" ministry.

### **C. Brookville's Zoning Code**

42. During the first four years of the "Just for Jesus Challenge Homeless Outreach" ministry, the Borough of Brookville was well aware that the Subject Property was being used to house homeless guests, and the church was not cited for violating any zoning laws.

43. The Borough of Brookville enacted its first zoning code in 1967; it did not have a zoning code before that time.

44. Upon information and belief, before and after the enactment of the 1967 zoning code, the Subject Property was continuously used as a church, with the connected parsonage being used for residential purposes.

45. In 2003, the First Apostles' Doctrine Church purchased the Subject Property.

46. Beginning in 2004, the First Apostles' Doctrine Church began using the Subject Property as a church, including using the parsonage to house guests for the "Just for Jesus Challenge Homeless Outreach" ministry and to house its intern pastor, Tracy Bundy.

47. In 2006, the Borough of Brookville enacted a new zoning code.

48. Under the 2006 code, the Subject Property is located in a "Transitional Zone" (TZ), a zoning envelope that permits a mix of commercial and residential uses, including, as conditional uses, churches, group dwellings, and licensed-care facilities.

49. The TZ zone has a diverse amount of permitted uses, including: accessory uses, apartment units, bed-and-breakfasts, business services, commercial recreation, forestry, funeral homes, hospital, personal services, public grounds, professional offices, offices, no-impact home occupations, retail sales, single-family dwellings, schools, second and third floor uses, two-family dwellings, townhouses.

50. In the TZ zone, which covers a concentrated area of downtown Brookville, there are at least three other churches of different denominations (Methodist, Episcopalian, Presbyterian), at least one of which has a parsonage.

51. On the same block as the First Apostles Doctrine Church, and indeed next door, are single and multi-family residential dwelling units.

**D. Defendants' Actions in Interfering with the "Just for Jesus Challenge Homeless Outreach"**

52. Between 2004 and the summer of 2008, the First Apostles Doctrine Church, and its homeless ministry, operated without incident in downtown Brookville.

53. But beginning in the summer of 2008, Defendants have used the Borough's Zoning Code to close the "Just for Jesus Challenge Homeless Outreach" ministry in Brockville.

54. In June of 2008, Robert Receski, the Zoning and Code Enforcement Officer, informed a church staff member that, "I'm going to make sure I get you people thrown out of here."

55. On July 11, 2008, Mr. Receski cited Reverend Wisor for "using a building as group housing in violation of zoning ordinance 230 Table IIIA permitted conditional and special exemptions."

56. The group-home classification does not and should not apply to the church. The Zoning Code defines a "group dwelling" by reference to a "licensed care facility," which is defined as a "facility operated pursuant to a license issued by the Commonwealth of Pennsylvania for a nursing home, intermediate unit, personal care, assisted living, or any similar care facility, including a hospital or child-care center." The "Just For Jesus Challenge Homeless Outreach" is not a licensed-care facility, but simply a faith-based shelter where people can stay to get back on their feet. In other words, the property is being used for a residence (a permitted use under the code) and/or church (a conditional use obviously grandfathered in under the code).

57. Despite the seeming inapplicability of the zoning ordinance to the church, at a hearing on August 5, 2008, the district magistrate found Reverend Wisor guilty, imposing fines and costs of \$559.00. Reverend Wisor has since appealed the magistrate's decision to the Jefferson County Court of Common Pleas, where it remains pending.

58. The citation and guilty finding forced the church in August to evict its guests and Intern Pastor Bundy from the Subject Property.

59. On September 4, 2008, Mr. Receski returned to the church, along with Borough employee, David Vallosio. Mr. Receski demanded access to inspect the church and refused all assertions that he needed a warrant. Church staff refused to consent to the search.

60. After Church staff refused to consent to the search of the church, Mr. Receski called for armed police officers in order to gain forcible entry into the church. Soon thereafter, Brookville Police Officers Mark Humes and Vincent Markle arrived at the church.

61. Without Reverend Wisor's consent, Officer Humes climbed through an unlocked window and opened the doors for Mr. Receski, Officer Markle, and Borough employee David Vallosio.

62. Mr. Receski then ordered four young, homeless men who were helping with cleaning work in the church sanctuary to leave the premises. Mr. Receski asked one of the men, "Are you one of those Just for Jesus retards?" He told another man something along the lines of, "I'm 60 years old, but I can still kick your ass." He also said something to the effect that he was going to "clean them out of town."

63. Mr. Receski and the officers proceeded to search the church in order to find additional violations of the zoning code and the prior citation. While inside the church and parsonage, the officers moved items around and took photographs presumably in an attempt to gather "evidence" of additional zoning violations. Despite the unauthorized search, Reverend Wisor was not cited for any additional zoning-code violations.

64. Facing the irreparable harm of evicting his homeless residents and intern pastor, Reverend Wisor, on his own and through counsel, approached the Borough and Zoning Hearing Board about the situation. Reverend Wisor informed the Zoning Hearing Board by letter that the church was in compliance with the zoning code, but sought the ZHB's view if it concluded otherwise. He asked the Borough to alleviate the irreparable harm the church faced

and agree to a stay agreement, whereby the guests and intern pastor could reside in the parsonage on a temporary basis during the pendency of his appeal of the zoning code citation.

65. The Borough by a 6-0 vote rejected Reverend Wisor's request for a temporary stay pending appeal.

66. The Zoning Hearing Board informed Reverend Wisor that it would not provide him with any "legal advice," but that he should direct his questions to Mr. Receski, the Zoning and Code Enforcement Officer, or seek private legal advice.

67. Additionally, as recently as November 10, 2008, the Borough's Solicitor made clear to Plaintiffs' counsel that the church was being watched, as the Borough purportedly had "witnesses" who saw mattresses being carried into the church.

68. Any further attempts to discuss the zoning code with Mr. Receski or obtain relief from the Borough are futile based upon the above-described actions and conduct of Defendants.

#### **E. Irreparable Harm**

69. Defendants' actions and threats have caused, and will continue to cause, Plaintiffs to suffer irreparable harm to their religious-liberty rights.

70. Plaintiffs' homeless ministry is an integral part of their religious faith. They have been called by Jesus Christ to provide this ministry.

71. Use of the Brookville church and parsonage to shelter homeless guests is essential for several reasons.

72. First, several current residents of the Brockway facility are from Brookville. Being housed in Brookville would facilitate and improve the chances for their

successful reintegration into the community because the location is closer to potential jobs, walking distance to a grocery store, pharmacy and other important services, and closer to family and friends.

73. Second, several current residents of the Brockway facility are elderly and/or disabled. The church and residence at the Brockway facility are connected by an unpaved road, making movement more hazardous for the aforementioned guests. Housing these people in Brookville, which contains paved sidewalks and less hazards, would be better and safer for the more infirm guests.

74. Third, several residents currently staying in Brockway would be better served by staying in Brookville. They can walk to prospective jobs and they can begin to accept greater responsibility for their lives by having access to the City's stores and services.

75. Fourth, Reverend Wisor and his staff are repeatedly approached by government, church, and non-profit-agency officials asking if they can accept additional homeless persons. Due to the capacity limits at the Brockway facility, Reverend Wisor has had to decline these requests.

76. Fifth, Intern Pastor Bundy, as she had before, can no longer reside in the parsonage and be on call "24/7" for any homeless individuals who seek immediate help or shelter. There are thus many potential guests in Brookville who need but cannot seek the church's help.

77. As documented by the recent Clarion-Jefferson Shelter Task Force report, the demand for shelter and services to the homeless exceeds programs currently available in the community. For instance, homeless shelters in Jefferson County are available for just men or just women. Besides the "Just for Jesus Challenge Homeless Outreach" no Jefferson County facility allows couples or families with children.

78. Defendants' refusal to allow the Brookville Church to be used to house homeless individuals infringes on Plaintiffs' religious-liberty rights. Plaintiffs' faith instructs them to accept all who seek shelter, something they are unable to do because of Defendants' actions.

79. Absent injunctive relief, preliminary and permanent thereafter, Plaintiffs will continue to suffer irreparable harm for which there is no adequate remedy at law.

## **LEGAL CLAIMS**

### **COUNT I**

#### **(RLUIPA Substantial Burden Claim)**

80. Paragraphs 1 through 79 are incorporated herein.

81. The Religious Land Use and Institutionalized Persons Act (RLUIPA) prohibits government entities from imposing or implementing land use regulations that substantially burden the exercise of religion unless the regulation is in furtherance of a compelling governmental interest and is implemented in the least restrictive means possible. 42 U.S.C. § 2000cc(a)(1).

82. RLUIPA defines a "land use regulation" as a zoning or landmarking law, or the application of such law in a way that limits or restricts a claimant's use or development of land. 42 U.S.C. § 2000cc-5(5).

83. Defendants' enforcement of the zoning code is a land-use regulation.

84. RLUIPA defines "religious exercise" to include "any exercise of religion, whether or not compelled by, or central to, a system of belief." RLUIPA further states that "use...of real property for the purpose of religious exercise shall be considered religious exercise

of the person or entity that uses or intends to use the property for that purpose.” 42 U.S.C. § 2000cc-5(7).

85. The use of the Subject Property to operate the “Just for Jesus Challenge Homeless Outreach” ministry and house the church’s intern pastor is religious exercise by Plaintiffs.

86. Defendants’ above-described conduct has imposed a substantial burden on Plaintiffs’ exercise of religion and was not done in furtherance of a compelling governmental interest or in the least restrictive means available.

## **COUNT II**

### **(RLUIPA Equal Terms and Non-Discrimination Claims)**

87. Paragraphs numbered 1 through 86 are incorporated herein.

88. The Religious Land Use and Institutionalized Persons Act (RLUIPA) prohibits government entities from imposing or implementing land-use regulations that either: (1) treat a religious assembly or institution on less than equal terms with a nonreligious entity; or (2) discriminate against any religious assembly or institution on the basis of religious denomination. 42 U.S.C. §§ 2000cc(b)(1), (b)(2).

89. Plaintiffs comprise religious assemblies or institutions.

90. Defendants have treated Plaintiffs’ use of the Subject Property differently and on less equal terms than they have treated similarly situated secular entities by, for example, allowing other single-family and multi-family residences to exist in the TZ zone, but not allowing Plaintiffs to operate their “Just for Jesus Challenge Homeless Outreach” ministry on the Subject Property or allowing First Apostles’ Doctrine Church’s intern pastor to reside in the parsonage on the Subject Property.



91. Defendants have discriminated against Plaintiffs on the basis of religious denomination by, for example, allowing other churches of different denominations in the TZ zone to engage in church use, but not allowing Plaintiffs to engage in church use by operating its “Just for Jesus Challenge Homeless Outreach” ministry on the Subject Property or allowing First Apostles’ Doctrine Church’s intern pastor to reside in the parsonage on the Subject Property.

### **COUNT III**

#### **(42 U.S.C. § 1983—4th Amendment Claim)**

92. Paragraphs 1 through 91 are incorporated herein.

93. 42 U.S.C. § 1983 provides an action in law and equity against anyone who under color of state law deprives another of rights secured by the Constitution and laws.

94. The Fourth Amendment of the United States Constitution provides that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. The Fourth Amendment requires that government officials procure a warrant before conducting a search or seizure. The Fourth Amendment is enforceable against the states through the Fourteenth Amendment.

95. Defendants’ above-described conduct, including their illegal search and seizure on September 4, 2008, is a violation of Plaintiffs’ Fourth Amendment rights.

### **COUNT IV**

#### **(42 U.S.C. § 1983—1st Amendment Free Exercise Claim)**

96. Paragraphs 1 through 95 are incorporated herein.

97. The First Amendment of the United States Constitution protects a person’s right to exercise religion free of governmental interference.

98. Defendants' above-described conduct has imposed a substantial burden and otherwise interfered with Plaintiffs' right to practice their religion in violation of the free exercise clause of the First Amendment to the United States Constitution.

**COUNT V**

**(42 U.S.C. § 1983—1st Amendment Retaliation Claims)**

99. Paragraphs 1 through 98 are incorporated herein.

100. A 42 U.S.C. § 1983 retaliation claim requires that: (1) the plaintiff be engaged in constitutionally protected activity; (2) the defendant's actions caused the plaintiff to suffer an injury that would chill a person of ordinary firmness from continuing to engage in that activity; and (3) the defendant's adverse action was substantially motivated as a response to the plaintiff's exercise of constitutionally protected conduct.

101. The "Just for Jesus Challenge Homeless Outreach" ministry is a constitutionally protected religious exercise.

102. The "Just for Jesus Challenge Homeless Outreach" ministry is a constitutionally protected right of association.

103. Reverend Wisor's appeal of his zoning-violation conviction is constitutionally protected free speech.

104. Mr. Receski's and the Borough of Brookville police officers' actions describe above have chilled Plaintiffs' desire to engage in the constitutionally protected activities described above.

105. Mr. Receski and the Borough of Brookville police officers were substantially motivated to engage in their chilling acts by the religious exercises and associations

of First Apostles' through its Outreach Program and the speech of Reverend Wisor in appealing the zoning conviction.

### **COUNT VI**

#### **(Pennsylvania's Religious Freedom Protection Act (RFPA))**

106. Paragraphs 1 through 105 are incorporated herein.

107. RFPA prohibits Pennsylvania governmental entities from substantially burdening a person's free exercise of religion, including any burden which results from a rule of general applicability, unless the governmental entity proves, by a preponderance of the evidence, that the burden is in furtherance of a compelling interest of the agency and the least restrictive means of furthering the compelling interest. 71 Pa. Stat. Ann. § 2404.

108. Defendants' above-described conduct has imposed a substantial burden on Plaintiffs' exercise of religion and did not represent the least restrictive means of advancing a compelling governmental interest.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court grant judgment in their favor on all claims above and order the following relief:

1. Award declaratory relief, finding that Defendants have violated RLUIPA, the First Amendment of the U.S. Constitution, the Fourth Amendment of the U.S. Constitution, and RFPA;

2. Award injunctive relief, including a temporary restraining order and preliminary and permanent injunctive relief, ordering that Defendants not infringe or interfere with Plaintiffs' use of the Subject Property for the "Just for Jesus Challenge Homeless Outreach" ministry and to house its intern pastor and homeless guests.

3. Award compensatory damages in favor of Plaintiffs and against Defendants, including but not limited to damages for relocating guests and Intern Pastor Bundy from the parsonage on the Subject Property in light of Defendants' actions;
4. Award Plaintiffs punitive damages against Defendants Receski, Humes, Markle and Vallosio for their wanton and malicious disregard of Plaintiffs' Fourth Amendment rights in forcibly and without consent or warrant entering the church on September 4, 2008;
5. Direct Defendants to pay the attorneys' fees and costs incurred by Plaintiffs associated with the preparation and the prosecution of the action; and
6. Grant any other such relief as this Court deems just and equitable.

Respectfully Submitted:

K&L Gates LLP

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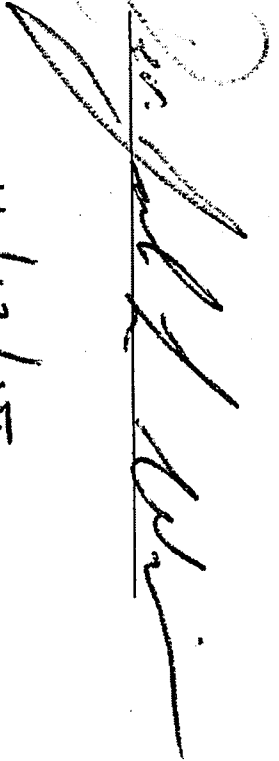
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Dated: November 17, 2008

VERIFICATION

I, Jack L. Wisor, have read the foregoing Verified Civil Complaint, and hereby certify that it is true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsifications to authorities.



Date: 11/13/08