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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
NEWARK DIVISION**

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AMERICAN ATHEISTS, INC. and)
CANDICE YAACOBI,)
)
Plaintiffs,)
)
v.) Civil Action No. _____
)
BERGEN COUNTY; BERGEN COUNTY) <i>Document Electronically Filed</i>
ANIMAL SHELTER; and DEBORAH)
YANKOW, Individually and in)
her official capacity as)
Director of the Bergen County)
Animal Shelter; and JOHN DOES)
1-10,)
)
Defendants.)
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**COMPLAINT
AND JURY DEMAND**

Plaintiffs, **AMERICAN ATHEISTS, INC.**, 225 Cristiani St.,
Cranford, New Jersey 07016, and **CANDICE YAACOBI**, 188 Arlington
Blvd., North Arlington, New Jersey 07031, by way of Complaint
against Defendants, **BERGEN COUNTY**, One Bergen County Plaza,
Hackensack, New Jersey 07601-7076, **BERGEN COUNTY ANIMAL SHELTER**,
100 United Ln., Teterboro, New Jersey 07608, **DEBORAH YANKOW**, 100
United Ln., Teterboro, New Jersey 07608, Individually and in her
official capacity as Director of the Bergen County Animal
Shelter, and **JOHN DOES** 1-10, say:

I. NATURE OF THE ACTION

1. This is a civil action brought pursuant to 42 U.S.C. § 1983 and pendant state claims seeking declaratory and injunctive relief, as well as punitive damages, against Defendants for their violations of Plaintiff's rights under the First and Fourteenth Amendments to the Constitution of the United States, and Article I of the Constitution of the State of New Jersey.

II. JURISDICTION AND VENUE

2. This is an action arising under 42 U.S.C. §§ 1983 and 1988 to redress the deprivation, under color of state law, of rights secured by the First and Fourteenth Amendments to the Constitution of the United States.

3. This Court has jurisdiction over Plaintiff's federal claims under 28 U.S.C. §§ 1331 (federal question jurisdiction) and 1343 (civil rights jurisdiction).

4. This Court has supplemental jurisdiction over Plaintiff's state claims under 28 U.S.C. §1367.

5. The declaratory and injunctive remedies sought by Plaintiff are authorized by 28 U.S.C. §§ 2201, 2202, 42 U.S.C. § 1983, and Rule 57 of the Federal Rules of Civil Procedure.

6. Venue in this Court is proper under 28 U.S.C. § 1391(b)(1), because each of the defendants resides in this district and under § 1391(b)(2), because a substantial part of

the events giving rise to the Plaintiff's claims occurred in this district.

III. PARTIES

7. Plaintiff, American Atheists, Inc. (hereinafter "American Atheists" or "AA"), is, and at all relevant times was, a not-for-profit 501(c)(3) corporation based in Cranford, in the County of Union, State of New Jersey and with members, affiliates, and/or meeting locations nationwide and in various New Jersey municipalities including but not limited to Bergen County, New Jersey. American Atheists is a membership organization dedicated to achieving equality for atheists, advancing and preserving the complete separation of church and state, the constitutional protections found in the First and Fourteenth Amendments to the United States Constitution and Article I of the New Jersey Constitution. American Atheists brings this action to assert the First and Fourteenth Amendment rights of its members.

8. Plaintiff, Candice Yaacobi (hereinafter "Candice" or "Plaintiff") is an individual who, at all relevant times, was a resident of North Arlington, in the County of Bergen, State of New Jersey, and a member of American Atheists.

9. Defendant, County of Bergen (hereinafter "Bergen County"), is, and at all relevant times was, a county and political subdivision of the State of New Jersey, duly organized

and existing under the laws of the State of New Jersey. Bergen County is and was duly authorized and empowered to establish, maintain, operate, and administer governmental services to residents of Bergen County, including but not limited to animal control. Said services are provided by Bergen County through the Department of Health Services (hereinafter "DHS"), a department, agency, office, and subdivision of the Defendant Bergen County.

10. Defendant, Bergen County Animal Shelter (hereinafter "BCAS") is, and at all relevant times was, a subdivision of DHS. The BCAS was established for the purpose of providing animal control services in Bergen County and to provide related services to resident pet owners, residents considering becoming pet owners, and residents no longer able or willing to provide care to animals in their possession.

11. Defendant, Deborah Yankow (hereinafter "Defendant Yankow"), is, and at all relevant times was, the Director of BCAS and its employee and agent responsible for directing, planning, organizing, and coordinating the activities of the BCAS, and in doing the things hereinafter alleged was acting within the course and scope of her employment. Defendant Yankow's employment duties include responsibility for the establishment and enforcement of policies and procedures by which services are provided by the BCAS to Bergen County residents.

12. Defendants, John Does 1-10, whose true names and capacities are currently unknown to Plaintiff, are each responsible in some manner for the occurrences herein alleged, and Plaintiff's injuries as herein alleged were proximately caused by their conduct. Each Defendant Doe is the agent, employee, and/or servant of each of its co-defendants, and was at all times mentioned herein acting in the course and scope of said agency and/or employment and were acting with the knowledge and consent of, and at the direction of, Defendant Yankow. Plaintiff will amend this complaint to allege the true names and capacities of Defendants Doe when ascertained.

IV. FACTS

13. Candice is a humanist atheist, a member of American Atheists, and a pet owner who has utilized the services of the BCAS in the past and intends to do so in the future.

14. Kenneth Reihl holds himself out as a Franciscan Bishop and is associated with the Franciscan Order of the Divine Mercy, a religious order associated with Catholicism and based in New Jersey. Reihl dresses in the traditional vestments of his order, including a brown, hooded cassock, a large cross on a chain around his neck, a rosary around his wrist, and a white stole draped over his shoulders.

15. The "Blessing of the Animals" is a ritual performed by Franciscan clergy annually on October 4th in honor of the Catholic saint, Francis of Assisi.

16. Defendant BCAS is supported by state funds, which it utilizes in order to administer governmental services to residents of Bergen County, in part through the maintenance of a Facebook page, <https://www.facebook.com/BCAnimalShelter/>, on which BCAS posts information about animals available for adoption, announcements of recent pet adoptions, and upcoming events associated with the shelter.

The 2016 Blessing of the Animals Event

17. On or around October 1, 2016, Defendant Yankow received a call from Reihl, who sought permission to perform a "Blessing of the Animals" at the BCAS on October 4, 2016 (hereinafter, the "2016 Ritual").

18. After an internal discussion, Marc N. Schrieks, then a deputy chief of staff for Bergen County Administrator James Tedesco, informed Defendant Yankow that the 2016 Ritual was approved and instructed her to promote the event in the hopes of garnering media coverage.

19. The 2016 Ritual took place as planned, with the BCAS hosting Reihl in full religious vestments as he "blessed" all the animals then housed in the shelter.

20. On or about October 5, 2016, the BCAS posted to its Facebook page 22 pictures taken during the 2016 Ritual. The BCAS included a statement with the pictures, saying:

Tuesday afternoon was a special day for all of us, including our adoptable pets. We were graced by Reverend Kenneth Riehl [sic] from the Franciscan Order of the Divine Mercy in North Arlington for the blessing of the animals. It was a very moving and memorable moment that touched us all. Here are some photos of this treasured occasion.

21. In each of the accompanying photos, Riehl is performing the ritual over an animal being held or otherwise restrained by a member of the BCAS staff.

The 2017 Blessing of the Animals Event

22. On September 17, 2017, Riehl again called the BCAS to inquire about holding a "Blessing of the Animals" event at the BCAS on October 4, 2017 (hereinafter, the "2017 Ritual") and asking the BCAS to promote the event.

23. Defendant Yankow approved the event and instructed that a public invitation to attend the event should be posted on the BCAS Facebook page a week prior to the event.

24. On September 26, 2017, the BCAS posted an announcement on its Facebook page stating, "The Bergen County Animal Shelter would like you to join us for The Blessing of the Animals on October 4th. Beginning at 1:30 pm and ending at approximately 3:00 pm. Feel free to bring in your owned pets to be blessed by Franciscan Bishop Riehl."

25. Shortly before the 2017 Ritual took place on October 4, the BCAS re-posted the invitation by "sharing" the September 26th announcement.

26. On the afternoon of October 4, 2017, after the conclusion of the event, the BCAS posted 12 photographs on its Facebook page depicting Reihl blessing the shelter's animals as well as a member of the staff. As with the 2016 Ritual, these photos were accompanied by the statement: "Thank you to Franciscan Bishop Reihl for blessing All [sic] of our animals today [praying hands emoji][cat emoji][praying hands emoji][dog emoji][mouse emoji][rabbit emoji][praying hands emoji]"

27. In each of the accompanying photos, Reihl is performing the ritual over an animal or BCAS staff member being held or otherwise restrained by a member of the BCAS staff.

28. The two pictures depicting Reihl blessing a BCAS staff member were subsequently removed.

Candice Yaacobi visits the BCAS

29. In and around September and October of 2017, Candice Yaacobi sought to locate a Chihuahua to adopt for her grandmother. On September 22, 2017, via the BCAS Facebook page, she inquired:

Does the shelter currently have any chihuahuas? My grandmother is looking for another one. Her's just passed away at 16 and she's lonely. [sic]

30. The BCAS did not respond to Candice's inquiry.

31. Through the Facebook page maintained by the BCAS, Candice learned of the upcoming 2017 Ritual, which she brought to the attention of American Atheists.

32. In response to Candice's information, on September 28, 2017 AA sent a letter to Defendant Yankow explaining the unconstitutional nature of the event and requesting that the BCAS cancel the 2017 Ritual.

33. Neither Defendant Yankow nor the BCAS responded to the AA's request and the 2017 Ritual was performed as scheduled.

34. On October 4, 2017, still having received no response to her Facebook message, Candice decided to visit the BCAS in person to find out whether the facility had any Chihuahuas available for adoption.

35. Upon arriving at the BCAS, Candice encountered Reihl, in full Franciscan vestments, standing directly in front of the reception desk to greet anyone arriving at the facility.

36. As a humanist atheist, being forced into an encounter with a member of clergy in order to avail herself of government services sent Candice the message that the BCAS and Bergen County regarded her as inferior to those citizens who happened to adhere to the favored religious view.

V. CAUSES OF ACTION

COUNT I

(Violation of 42 U.S.C. § 1983, Establishment of Religion)

37. The plaintiff reasserts the foregoing paragraphs as though fully set forth herein.

38. For two consecutive years, Defendants permitted Reihl to utilize a government facility for the purpose of conducting a religious ritual.

39. As a result of Defendants' decision to repeatedly host Reihl, the BCAS devoted public resources and employee time to the performance of religious rituals.

40. Defendants' decision to promote the 2016 and 2017 "Blessing of the Animals" rituals, encouraging area residents to bring their pets to the BCAS to be "blessed," and posting photographs of the rituals, accompanied by thanks to Reihl for the "treasured occasion," sent the unmistakable message that the government endorsed the religious views espoused by Reihl.

41. The Defendants' decision forced visitors to the BCAS into an encounter with a member of clergy in order to avail themselves of government services. The decision also facilitated Reihl's blessing of a member of the BCAS staff. These acts sent the message to Bergen residents and BCAS staff that the BCAS and Bergen County endorsed the religious point of view espoused by Reihl, and conveyed to those not sharing that viewpoint that they are outsiders or are otherwise less than Bergen residents who conform to the approved religion.

42. In so doing, the Defendants violated the Establishment Clause of the First Amendment, as incorporated to the states via the Fourteenth Amendment.

COUNT II
(Violation of 42 U.S.C. § 1983, Equal Protection)

43. The plaintiff reasserts the foregoing paragraphs as though fully set forth herein.

44. Defendants' decision to promote the 2016 and 2017 "Blessing of the Animals" rituals, permit religious rituals to be performed on members of staff, devote staff time to assisting in the performance of the rituals, and demand that anyone entering the BCAS either interact with, or conspicuously refrain from interacting with, a member of clergy divided those employed by the BCAS or visiting its facility or Facebook page into two classes based on the religious beliefs of the individuals.

45. These actions sent the unmistakable message that the government favored Reihl and those individuals who adhere to his religious point of view, while conveying to those who do not share that viewpoint that they are outsiders or are otherwise less than Bergen residents who conform to the approved religion.

46. Religion is a suspect class and governmental policies which classify individuals based on their religion are subject to strict scrutiny.

47. In so doing, the Defendants violated the Equal Protection Clause of the Fourteenth Amendment.

COUNT III
(Violation of N.J. Const., Art. I, para. 4)

48. The plaintiff reasserts the foregoing paragraphs as though fully set forth herein.

49. For two consecutive years, Defendants permitted Reihl to utilize a government facility for the purpose of conducting a religious ritual.

50. As a result of Defendants' decision to repeatedly host Reihl, the BCAS devoted public resources and employee time to the performance of religious rituals.

51. Defendants' decision to promote the 2016 and 2017 "Blessing of the Animals" rituals, encouraging area residents to bring their pets to the BCAS to be "blessed," and posting photographs of the rituals, accompanied by thanks to Reihl for the "treasured occasion," sent the unmistakable message that the government endorsed the religious views espoused by Reihl.

52. The Defendants' decision forced visitors to the BCAS into an encounter with a member of clergy in order to avail themselves of government services. The decision also facilitated Reihl's blessing of a member of the BCAS staff. These acts sent the message to Bergen residents and BCAS staff that the BCAS and Bergen County endorsed the religious point of view espoused by

Reihl, and conveyed to those not sharing that viewpoint that they are outsiders or are otherwise less than Bergen residents who conform to the approved religion.

53. In so doing, the Defendants established one religious sect, Catholicism, over all others, in contravention of Article I, paragraph 4, of the New Jersey Constitution.

COUNT IV
(Violation of N.J. Const., Art. I, para. 5)

54. The plaintiff reasserts the foregoing paragraphs as though fully set forth herein.

55. Defendants' decision to promote the 2016 and 2017 "Blessing of the Animals" rituals, permit religious rituals to be performed on members of staff, devote staff time to assisting in the performance of the rituals, and demand that anyone entering the BCAS either interact with, or conspicuously refrain from interacting with, a member of clergy divided those employed by the BCAS or visiting its facility or Facebook page into two classes based on the religious beliefs of the individuals.

56. The Defendants' actions sent the unmistakable message that the government favored Reihl and those individuals who adhere to his religious point of view, while conveying to those who do not share that viewpoint that they are outsiders or are otherwise less than Bergen residents who conform to the approved religion.

57. In doing do, the Defendants discriminated against residents in the exercise of civil right to equal access to government services on the basis of religious principles, in contravention of Article I, paragraph 5 of the New Jersey Constitution.

COUNT V
(Violation of N.J. Const., Art. I, para. 3)

58. The plaintiff reasserts the foregoing paragraphs as though fully set forth herein.

59. As a result of Defendants' decision to repeatedly host Reihl, the BCAS devoted public resources and employee time to the performance of religious rituals including a ritual performed on a member of the BCAS staff.

60. In doing so, the Defendants obliged New Jersey residents to pay taxes, or other rates, for the maintenance of a religious minister and ministry, Reihl and the Franciscan Order of the Divine Mercy, in contravention of Article I, paragraph 3 of the New Jersey Constitution.

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- A. Declare that the acts and conduct of the Defendants constitute violations of the United States Constitution and the Constitution of the State of New Jersey;

- B. Preliminarily and permanently enjoin Defendants from hosting, facilitating, promoting, or otherwise participating in religious rituals in the future;
- C. Grant to the Plaintiff, and against all Defendants, jointly and severally, reasonable costs and attorney's fees; and
- D. Grant to the Plaintiff whatever other relief the Court deems just and proper.

JURY DEMAND

Plaintiffs American Atheists, Inc. and Candice Yaacobi hereby demand a trial by jury on all issues so triable.

By: /s/Geoffrey T. Blackwell
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Counsel for Plaintiffs

Dated: November 3, 2017
Washington, D.C.

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**DISCLOSURE STATEMENT
PURSUANT TO
FED. R. CIV. P. 7.1**

Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, Plaintiff American Atheists, Inc. by and through its attorney, submits the following corporate disclosure statement.

American Atheists, Inc. a New Jersey corporation, has no corporate parent.

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Counsel for Plaintiffs

Dated: November 3, 2017