

IN THE UNITED STATES DISTRICT COURT
 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
 No. _____

NANCY LUND, LIESA MONTAG-SIEGEL,)
 and ROBERT VOELKER)
)
 Plaintiffs,)
 v.)
 ROWAN COUNTY, NORTH CAROLINA,)
 Defendant.)
 _____)

VERIFIED COMPLAINT FOR
 DECLARATORY AND
 INJUNCTIVE RELIEF AND
 NOMINAL DAMAGES

INTRODUCTION

1. “As our nation becomes more diverse, so also will our faiths. To plant sectarian prayers at the heart of local government is a prescription for religious discord. In churches, homes, and private settings beyond number, citizens practice diverse faiths that lift and nurture both personal and civic life. But in their public pursuits, Americans respect the manifold beliefs of fellow citizens by abjuring sectarianism and embracing more inclusive themes.”¹

2. Across North Carolina, many counties have taken the Fourth Circuit’s recent admonition to heart, recognizing that sectarian legislative prayer practices are neither compatible with the religious liberty guarantee of the First Amendment nor permissible under the Fourth Circuit’s clear precedent, those counties have adopted policies that require invocations delivered at county commissioner meetings to be nonsectarian.

3. Rowan County, North Carolina, on the other hand, continues to knowingly and willfully flout the law, regularly violating the constitutional rights of local citizens by continuing

¹ *Joyner v. Forsyth Cnty.*, 33 F.3d 341, 345 (4th Cir. 2011) (holding county’s sectarian prayer practice unconstitutional), *cert. denied*, 132 S. Ct. 1097 (2012).

meetings of its Board of Commissioners with Christian prayer. Since November 2007, 97% of all Board meetings have featured expressly Christian prayer.

4. This case is brought pursuant to 42 U.S.C. § 1983 to challenge the constitutionality of Defendant Rowan County's practice of delivering sectarian prayer at meetings of its Board of Commissioners. Plaintiffs Nancy Lund, Lieke Mag-Siegel, and Robert Voelker (collectively, "Plaintiffs") bring this lawsuit to vindicate their rights under the First and Fourteenth Amendments to the United States Constitution and Article I, §§ 13 and 19 of the Constitution of North Carolina.

JURISDICTION

5. This action is brought pursuant to 42 U.S.C. § 1983, the First and Fourteenth Amendments to the United States Constitution, and Article I, §§ 13 and 19 of the Constitution of North Carolina. This Court has subject-matter jurisdiction over the federal constitutional claim pursuant to 28 U.S.C. §§ 1331 and 1343(3) and supplemental jurisdiction over the state constitutional claim pursuant to 28 U.S.C. § 167(a).

6. The Court has authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Plaintiffs' action for injunctive relief is authorized by the foregoing statutes and by Rule 65 of the Federal Rules of Civil Procedure.

VENUE

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(1).

PARTIES

8. Plaintiff Nancy Lund is a long-time citizen and resident of Rowan County, North Carolina. She has been active in the Rowan County community for years. For example, she serves as a volunteer tutor and board member for the Literacy Council. She has taken an

interest in numerous issues before the Rowan County Board of Commissioners, prompting her to attend a number of Board meetings since 2004. For example, Lund has attended Board meetings on May 7, 2012; May 21, 2012; January 7, 2013; February 4, 2013; and February 18, 2013. At each of these meetings, Lund was subjected to official sectarian prayers. Lund intends to continue attending Board meetings to follow local issues of interest.

9. Lund objects to and is offended by the Board's sectarian prayers because it affiliates the County with one particular faith, Christianity, and its Commissioners favor adherents of that faith. As Lund does not subscribe to the religious beliefs promoted by the prayers, the prayers exclude her from the community and the local political process. At meetings, she feels pressured to participate in the sectarian prayers.

10. Plaintiff Liesa Montag-Siegel is a long-time citizen and resident of Rowan County, North Carolina. She has been active in the community for years. For example, she has been a volunteer at The Faithful Friends, a local animal shelter. She is a member of the Kol Tikvah synagogue in Davidson, North Carolina. As a retired middle school librarian with the Rowan County-Salisbury School System, she is very interested in educational funding issues. This interest has led her to attend a number of Board meetings since the early 2000s, including the April 10, 2012, Board meeting and, more recently, the March 4, 2013, Board meeting. She intends to continue attending meetings in the future, especially when educational issues will be considered.

11. Montag-Siegel objects to and is offended by the Board's sectarian prayers because they promote religious beliefs to which she does not subscribe, causing her to feel excluded at meetings and from the community. She feels that the prayers send a message that

the County and the Board favor Christians and that non-Christians, like her, are outsiders. In addition, at meetings, such as the April 16, 2012, and March 4, 2013, meetings, Montag Siegel felt coerced into participating in the Board's sectarian prayers, which are not in accordance with her Jewish faith.

12. Plaintiff Robert Voelker is a long-time citizen and resident of Rowan County, North Carolina. He has been active in the Rowan County community for years. For example, Voelker has attended Board meetings on March 5, 2012; April 2, 2012; April 16, 2012; May 7, 2012; January 2013; February 4, 2013; and March 4, 2013. In particular, he has closely followed the Board's consideration of educational issues, including its recent debate on the new Rowan County Salisbury School Administration building. Voelker intends to continue attending Board meetings to follow local issues of interest to him.

13. At each of the Board meetings he has attended, Voelker has been subjected to official sectarian prayer. He objects to and is offended by the Board's sectarian prayer practice because it affixes the County with one particular faith, Christianity, and sends a message that the County and its commissioners favor adherents of that faith. As Voelker is not a Christian and does not subscribe to the religious beliefs promoted by the prayers, the prayers make him feel excluded from the community and the local political process. At meetings, he also feels pressured to stand and participate in the sectarian prayers because all Commissioners and most audience members are standing and the invocation is immediately followed by the Pledge of Allegiance, for which Voelker feels strongly that he needs to stand.

14. During the public comments portion of a recent Board meeting, Voelker expressed his concern about the Board's sectarian prayer practice and proposed a non-sectarian prayer that the Board could instead use to open its meetings. He proposed this non-sectarian

prayer of non-Christians citizens, like him, could attend Board meetings without feeling excluded if prayers read without feeling pressured to participate in sectarian invocations that espouse specific religious beliefs they do not share. Voelker worries that his failure to participate in the sectarian prayer and his open questioning of this practice will be noted by the Board and make him less effective advocate before the Board on other issues of interest to him such as educational funding. He is thus now hesitant to speak during Board meetings on behalf of causes he supports.

5. Defendant Rowan County ("Defendant" or the "County") is one of the 100 counties of the State of North Carolina designated in N.C.G.S. § 1-10 and has the capacity to be sued in its own name under N.C.G.S. § 1-3A-1. Defendant exercises its power as a county through its elected Board of Commissioners.

ACTUAL ALLEGATIONS

16. Plaintiff's re-allegations incorporate by reference all of the preceding paragraphs of this Complaint as if fully set out herein.

Meetings of the Board of Commissioners

17. The Rowan County Board of Commissioners usually meets twice per month. These meetings are open to the public and available for viewing online through Defendant's website.²

² Videos of the Board's meetings are available online dating to November 5, 2007, at <http://www.rowancountync.gov/GOVERNMENT/Commission/MeetingPractices.aspx>. This Complaint details the Board's practices for all meetings held between November 5, 2007, through March 4, 2013, with the exception of (1) Board meetings that were continued over from a previous meeting; (2) the February 8, 2013, joint meeting of the Board of Commissioners and the Rowan-Salisbury School Board of Education, which was conducted pursuant to a unique protocol.

18 From November 5, 2007, through the present, the meetings have generally proceeded in the same manner.

19 For the Board public agendas, meetings generally open with the Call to Order, Invocation, and Pledge of Allegiance. A copy of the agenda for each Board meeting is attached hereto as Exhibit A and incorporated into the Verified Complaint as fully set forth herein.

20 First, meetings are called to order by a Board member (a post always the Board chairman).

21 After the meeting is called to order, the invocation is delivered, followed by recitation of the Pledge of Allegiance. The Board chairman indicates that everyone in attendance should stand for this portion of the meeting. For example, on November 7, 2011, Board Chairman Chad Mitchell stated, "If you will stand for the invocation and pledge, I will lead tonight." Similarly, on February 18, 2013, current Board chairman Jim Sides stated, "At this time, if you would, please stand. I will ask Melissa Key to give us the invocation and pledge."

22 Then, the Board chairman either leads the invocation or identifies the Board member who will do so. The Board member typically leads the Pledge of Allegiance, although, on occasion, a local Boy Scout Troop leader has led the pledge recitation.

23 Board members always stand during the invocation and pledge and generally lift their heads during the prayer.

³ The agendas for the June 6, 2007 and August 20, 2008, meetings are not accessible online. However, the minutes for these meetings (attached hereto as Exhibit B) confirm adherence to the typical pattern of Call to Order, Invocation, and Pledge of Allegiance.

24 Similarly, most audience members in attendance stand for the invocation and pledge and bow their heads during the prayer.

Secretary Prayers at Board Meetings

25 From November 5, 2011, through the present, nearly every Board meeting featured a sectarian invocation.⁴ Specifically, 139 of 143 Board meetings opened with a sectarian prayer during the time period. Put another way, 97% of Board meetings in the past five-and-a-half years have featured sectarian prayer.⁵

26 More specifically, all of the sectarian prayers delivered by Board members invoked the Christian faith by beginning with one or more references to Jesus Christ or other beliefs and doctrine specific to Christianity. Board members have closed prayers, for example, with the following sectarian references: “in Jesus’ name,” “in the name of Jesus the Christ,” “in the name of Jesus,” “in the knowledge of our Lord and Savior Jesus Christ,” “in the name of Jesus, the one and only way to salvation,” “in Christ’s name, for His sake,” “in the name of Jesus the King of Kings and Lord of Lords,” “in the name of Jesus and for the sake of His kingdom,” “in Christ our Savior,” “through Jesus Christ our Lord,” “in the name of our Risen Lord, Jesus

⁴ A “sectarian prayer” has been defined as one that “uses ideas or images identified with a particular religious belief.” *Lemon v. New York*, 450 U.S. 564, 570 (1981). See also *id.* at 577, 588 (1992). See also *id.* at 641 (Scalia, J., dissenting) (citing a sectarian prayer as one “specifying details upon which men and women who believe in a benevolent, omnipotent Creator and Ruler of the world are known to differ”). *Id.* at 653 F.3d at 364 (Niemeyer, J., dissenting) (“[S]ectarian.”).

⁵ At two meetings, then-Commissioner Coltrain (who is no longer a Board member) asked the audience to observe a moment of silence or prayer for our meeting rather than recite an invocation. The two meetings were held on June 4, 2012, and August 20, 2012. In addition, on March 19, 2012, and November 5, 2012, Coltrain prayed “in His holy name” and “in your holy name.” While Plaintiffs consider Coltrain’s prayers “in His holy name” and “in your Holy name” to be sectarian for purposes of this Complaint, Plaintiffs counted only those prayers mentioned in the “Sectarian Prayers” list, or the “Sectarian Prayers” list, as clearly Christian.

Christ," "Jesus our Savior," "my Lord and Savior's name,"
Savior, Jesus Christ."

27. Many of the prayers delivered by Board members incorporated Christian doctrine and tenets to an even greater extent. For example, the following invocations have been delivered at Board meetings since November 2007:

a. Father, we thank you for your grace and your love this evening as we conduct the business of Rowan County. We have your will as it relates to all the burdens that our citizens of Rowan County have today. *As we get ready to celebrate the Virgin Birth, we'd like to thank you for the resurrection, and that is Jesus Christ. Jesus. Amen. December 3, 2007 (emphasis added).*

b. Let us pray. Our Heavenly Father, we will never be defeated, and we won't be denied, because of our salvation through the Lord Jesus Christ. We confess our sins and thank you for your blessings. I ask you to be with us in Rowan County this evening, and at all these things in the name of His King Jesus. Amen. June 2, 2008 (emphasis added).

c. Our Heavenly Father, we will never be defeated, and we won't be denied, because of our salvation through the Lord Jesus Christ. I ask you to be with us in Rowan County this evening, and continue to bless every friend, and our homes. *I ask all these things in the name of Jesus, Amen. May 18, 2009 (emphasis added).*

d. Let us pray. Father, I pray that all may be one in you. I pray that they may be one in you, that Jesus to save us from our sins. *May we be brought perfect in holiness, and be preserved, who is irrevocable at the coming of our Lord Jesus Christ. I pray, Father, that you will continue to bless this nation, because with you we have hope. I ask all these things in the name of Jesus. Amen. October 5, 2009 (emphasis added).*

"in the name of our Lord and Savior, Jesus Christ."

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k. L... u's pray... lo... to the world f... strength or encouragement, but w...
le... k to you... are... inced that y... u will protect and guard that whic...
y... I have en... v... w... th... n... bowerment... your in-dwelling Holy Spirit, he...
u... bodily str... w... to... ld, ...er... those close... to us, assault our faith. It is in you...
st... n... th and... ur... w... we... in... faithful... May the purifying of our faith brin...
pi... is', glo... c... m... n... e... Je... s... our Lord... d Savior, Amen. May 21, 201...
(e... p... nasis a... d)

l. F... her God... y... the... Jes... v... come to y... a today thanking you for all you've...
d... e for us... n... a... for... us of our s... as and giving us eternal life. Lor...
w... pray that... you... in the s... meetings to... ay. We pray that you'll guide an...
di... of our th... gh... le... s... to... e the right... ecisions for Rowan County, Lor...
W... th... ank y... e... of... e... n... you sent early... his morning. We thank you for a...
y... d... in Jesus'... n... e... r... p... J... y... 2012 (emp... asis added).

m. L... u's pray... with... the... y... you for this c... y. Thank you for grace and merc...
ar... love. I... n... k... ch, Lor... for sending... your Son; this is the reason for th...
se... son, Jes... a... h... n... n... k... n... for all you... e done for us these last four yea...
W... pray that... Cou... st... i... the... men and won... n. God, I pray to you today, th...
th... e new c... n... y... w... ld... s... ll... s... b... your guidance... I pray that the citizens of Rowa...
C... m... y will... o... e... s... n... c... s... and... n... c... they will p... you first. In Jesus's name, Amen...
D... e... mber 3... 12... s... n... L... d... a... d... e... t...)

28. From N... 7... m... t... 7, ...ough present, every individual who has been
member of th... Board h... el... r... c... or n... e... sectarian inv... cations.

29. From N... 7... m... t... f, t...ough the prese... t, no invocation has referenced
deity specific... one fai... th... th... istianity

30. On Febr... y... the American Civil... liberties Union of North Carolin...
Legal Found... ch sent... et... Rowan County Boar... of Commissioners, informing th...
Board that th... e... ctarie... ora... n... meetings violated t... e First Amendment to the Unite...
States Consti... tion. (A... copy... of... l... r... u... 15... 2012, lette... is attached hereto as Exhibit C an...
incorporated... to this V... r... e... t... as... fully set out h... rein.)

31. The Co... r... e... ally... es... onced to t... e letter, although Board member...
publicly proc... ined to... e... r... a... n... s... to... e offering C... ristian prayers. For example, ther...
Commission... Carl Fo... ol... lev... i... a news statio... "I will continue to pray in Jesus...

name. I am not perfect. I need all the help I can get, and ask for guidance from Jesus is the best and Rowan County, can ever hope for." David Wh...
Sectarian Openings at Community Meetings Need to Stop, WBTV (Feb. 2012) 20 AM), <http://salisbury.wbtv.com/news/news/7144...clu-sectarian-c...ng-p...rs-...obtai...by...to...for...me...I>
commissioner-meetings need-stop. And Commissioner Jim Si...vrote in an er...
the press, "I will continue to pray in JESUS name . . . I volunt...to be the first
this cause . . . and if you [Commissioner Mitchell] will go my l...in time for the
will go again!" *Id.*

32. Defendants' sectarian prayers have promoted divisiveness in Rowan County. Most recently, for instance, the March 5, 2012, Board meeting featured many divisive comments and exchanges relating to sectarian prayer during the public discussion portion of the meeting. For example, Rowan County resident, Shakeisha Gray, was joined by audience members in expressing opposition to the Board's use of sectarian prayers. Video: Rowan County Board of Commissioners Media Archive, March 5, 2012, at 47:00-49:33, available at <http://www.rowan-county.nc.gov/GOVERNMENT/CommissionersMediaArchive.aspx>

CLAIMS FOR RELIEF

Establishment Clause Violation (42 U.S.C. § 1983)

33. Plaintiffs allege and incorporate by reference all of the preceding paragraphs of this Complaint as if fully set out herein.

34. By Defendant's conduct alleged above, Defendant has violated, and is continuing to violate, Plaintiffs' rights under the Establishment Clause of the First Amendment to the U.S. Constitution and the Fourteenth Amendment to the U.S. Constitution.

3 Defendant's past and continue to every invocation at its board of
Commissioners meetings, as alleged above, constitute an official policy practice custom,
and/or usage for purposes of 42 U.S.C. § 83.

3 The custom, practice, and policy established by Defendant is the cause in fact of
the constitutional violation.

3 Specifically, Defendant invokes in practice unconstitutionally affiliates
Defendant with one particular faith, Christianity.

3 Defendant's invocation practice has the primary purpose and effect of promoting
and advancing one particular faith, Christianity.

3 Defendant's invocation practice in every endorsement of one faith. A
reasonable, objective observer aware of the context, legal backdrop would conclude that the
Defendant has endorsed, and continues to endorse, Christianity.

4 Defendant's invocation practice further exercises Plaintiffs to unwanted
sectarian exercises and messages as conducted at public meetings of the local
governmental body, Rowan County.

4 Unless restrained by this Court, Defendant will continue to subject Plaintiffs to
this unconstitutional custom, policy, and practice and Plaintiffs in innumerable harm by denying
them their fundamental constitutional right to be free from government promotion of sectarian
legislative prayer practices and governmental endorsement of sectarian practices at meetings of
legislative bodies.

4 Plaintiffs have no adequate remedy without the denial of their fundamental
constitutional rights.

Constitution of North Carolina Violation

43. Plaintiff re-alleges and incorporates the preceding paragraphs of this complaint if full set out herein.

44. For reasons set forth herein, the sectarian prayer practice and policy Defendant's Board of Commissioners also violates Article I, §§ 13 and 19 of the Constitution of North Carolina, which has been held to require religious neutrality equal to that required by the U.S. Constitution.

RELIEF REQUESTED

Plaintiffs respectfully request the following relief:

1. A declaratory judgment declaring that Defendant's custom, policy, and practice as alleged above, violates the United States and North Carolina Constitutions;
2. A permanent injunction preliminarily and, thereafter permanently, enjoining Defendant, its officers, agents, affiliates, subordinate servants, employees, successors, assigns, those persons in active concert or participation with Defendant, and all other persons within the scope of Federal Rule of Civil Procedure 65, from knowingly and/or intentionally delivering or allowing to be delivered sectarian prayers at meetings of the Rowan County Board of Commissioners;
3. Entry of judgment for plaintiffs against Defendant for nominal damages of \$1;
4. An order that Defendant pay Plaintiffs reasonable expenses and attorneys' fees pursuant to 42 U.S.C. § 1988; and
5. Such other and further relief as the Court seems just and proper.

Respectfully submitted,

/s/ Christopher A. Brook
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* appearing pursuant to Local Rule 83.1(d)

Counsel for Plaintiffs

DATED: March 12, 2013

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2013, I electronically filed the foregoing Complaint with the Clerk of Court using the CM/ECF system which will send notification of such filings to the following counsel:

Jay Dees
Ketner & Dees, P.A.
121 East Kerr Street
Salisbury, NC 28144
jay@ketnerlaw.com
Counsel for Defendant

This is the 12th day of March, 2013.

/s/ Christopher A. Brook
Christopher A. Brook

IN THE UNITED STATES DISTRICT COURT
 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
 No. _____

NANCY LUND, LIESA MONAG-SIEGEL,
 and ROBERT VOELKER,

Plaintiffs

v.

ROWAN COUNTY, NORTH CAROLINA,

Defendant.

VERIFIED COMPLAINT FOR
 DECLARATORY AND
 INJUNCTIVE RELIEF AND
 NOMINAL DAMAGES

VERIFICATION OF COMPLAINT

I, NANCY LUND, do, verily, under penalty of perjury under the law of the United States of America, that the foregoing Complaint is true to the best of my knowledge, information, and belief; is based upon my personal knowledge; and is true and correct.

This the 11 day of March, 2013.

Nancy Lund
 Nancy Lund, Plaintiff

Sworn to and subscribed before me,
 this 11 day of March, 2013.

[Signature]
 Notary Public

My Commission Expires 6-2-2015

CHRISTOPHER A BR...
 NOTARY PUBLIC
 ORANGE COUNTY, NC
 My Commission Expires 6-2-

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

No.

LY LUND, LIESA MONTAG-SIEGEL,
BERT VOELKE

Plaintiffs,

vs.
ORANGE COUNTY, NORTH CAROLINA,

Defendant.

VERIFIED COMPLAINT FOR
DECLARATORY AND
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VERIFICATION OF

COMPLAINT

I, ROBERT VOELKER, verify, under penalty of perjury under the laws of the United States of America that the foregoing Complaint is true and correct to the best of my knowledge, information, and belief, is based upon my personal knowledge; and

to the best of my knowledge, information, and belief, is true and correct.

This the 11 day of March, 2013.

Robert Voelker
Robert Voelker, Plaintiff

to and subscribed before me,
day of March, 2013.

[Signature]
Public

My Commission Expires 6-2-2015

CHRISTOPHER A. [Signature]
NOTARY PUBLIC
ORANGE COUNTY, NC
My Commission Expires [Signature]