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16 Anaheim Japanese Free Methodist Church
17 and Debra Chiya

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **FOR THE COUNTY OF ORANGE**
20 **NORTH JUSTICE CENTER**

21 ANAHEIM JAPANESE FREE
22 METHODIST CHURCH, a California
23 Nonprofit Religious Corporation, Debra
24 Chiya, member, board member and
25 corporate treasurer;

26 Plaintiffs,

27 vs.

28 THE VOICE CHURCH OF ORANGE
COUNTY, INC., a California Nonprofit
Religious Corporation, TAKA IGUCHI, as
an individual and officer; PACIFIC
COAST JAPANESE CONFERENCE OF
THE FREE METHODIST CHURCH OF
NORTH AMERICA, a California
Nonprofit Religious Corporation; and
DOES 1 through 50, inclusive,

Defendants.

**CASE NO. 30-2023-01322048-CU-PP-
NJC**

**EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE RE PRELIMINARY
INJUNCTION**

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT**

**VERIFIED COMPLAINT ON FILE
AND INCORPORATED HEREIN**

**DECLARATIONS OF:
JERRY WADA, DEBRA CHIYA,
DAVID HINO, JAMES K.
KAWAHARA, ERIC IKEDA, MIKE
TOGUCHI AND BRUCE L.
ISHIMATSU IN SUPPORT OF
TEMPORARY RESTRAINING
ORDER**

**PROPOSED ORDERS RE TRO AND
ORDER TO SHOW CAUSE FOR
PRELIMINARY INJUNCTION**

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(Code of Civ. Proc §§ 525 et seq.; Cal. Rules of Court, rule 3.1150 and Cal. Rules of Court, rules 3.1200 and 3.1207)

Date: May 3, 2023

Time: 9:00 a.m.

Dept.: N16

Judge: Donald F. Gaffney

TO THE COURT AND ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

Plaintiffs hereby apply, *ex parte*, for a Temporary Restraining Order (“TRO”), to stop a hostile corporate takeover by restraining and enjoining Defendants and their agents, partners, employees, affiliates, parents and any individual or entity acting in concert with Defendants, from engaging in any of the following commercial, business or financial acts in violation of 1978 Nonprofit Religious Corporation Law (California Corporate Code §§9110, et seq.) pending a hearing on a Preliminary Injunction:

1. Changing the name of the Anaheim Free Methodist Church (“AFMC”); and
2. Interfering with Plaintiffs’ use and occupation of the property on which AFMC operates; and
3. Removing the board of directors and other officers of the AFMC; and
4. Controlling and accessing AFMC’s funds and bank accounts; and
5. Terminating or replacing any members of the church staff, and
6. Entering into any contracts that seek to obligate AFMC for payment; and
7. Altering AFMC’s online accounts (website, and social media); and
8. Installing “VOICE” marketing materials on AFMC property; and
9. Merging corporate operations or structure of AFMC into The Voice Church of Orange County.

1 This Application is narrowly tailored to only restrain the commercial, business and
2 financial activities of the Defendants that are California nonprofit religious corporations
3 and does not hinder or effect the practice of religious belief or pastoral, religious duties of
4 the individual named Defendant Taka Iguchi. This Application is for preliminary
5 injunctive relief as set forth in the TRO filed herewith, is made upon the grounds that the
6 conduct sought to be enjoined, if allowed to occur, will cause immediate and irreparable
7 injury to Plaintiff AFMC, a California Nonprofit Religious Corporation formed in 1960,
8 and the congregational members of AFMC in that AFMC will lose its unique identity and
9 history, sense of community and church members; they will also lose their goodwill and
10 reputation within the community; and they will lose their use and occupancy of their
11 property.

12 In addition, without a TRO and Preliminary Injunction, an ultimate judgment in this
13 action will be ineffectual in that monetary compensation cannot remedy the harm that is
14 imminent.

15 Plaintiffs also request the Court to issue an Order to Show Cause (“OSC”) pursuant
16 to *Cal. Rules of Court*, rule 3.1150, affording Defendants the opportunity to appear and
17 show cause why a Preliminary Injunction should not issue restraining and enjoining in the
18 same manner for the remainder of this litigation.

19 This Application is based upon *Code of Civ. Proc.* §§ 525 *et seq.* and *Cal. Rules of*
20 *Court*, rule 3.1150 and *Cal. Rules of Court*, rule 3.1200 *et seq.*; upon the accompanying
21 Memorandum of Points and Authorities and the verified Complaint filed in this action, the
22 Declarations of Jerry Wada, Debra Chiya, David Hino, James Kawahara and Eric Ikeda,
23 and the records and files in this action; and upon such further evidence and argument as
24 may be presented prior to or at the time of hearing on the application.

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There has been no previous application for such relief.

Dated: May 2, 2023

KAWAHARA LAW, APC

By: /s/ James K. Kawahara

James K. Kawahara

and

ISHIMATSU LAW GROUP, P.C.

By: /s/ Bruce L. Ishimatsu

By: Bruce L. Ishimatsu

Attorneys for Plaintiffs Anaheim Japanese
Free Methodist Church, a California
Nonprofit Religious Corporation, and Debra
Chiya, church member and corporate board
member and treasurer.

1 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EX PARTE**
2 **APPLICATION FOR TEMPORARY RESTRAINING ORDER (TRO) AND**
3 **ORDER TO SHOW CAUSE (OSC) RE PRELIMINARY INJUNCTION**

4 (*Code of Civ. Proc* §§ 525 et seq.; *Cal. Rules of Court*, rule 3.1150 and *Cal. Rules of*
5 *Court*, rules 3.1200 and 3.1207)

6 I.
7 **INTRODUCTION**

8 We ask this Court to recognize *immediate, exigent circumstances* and maintain the
9 *status quo* to stop the irreparable harm caused by a real-time hostile corporate takeover
10 that violates the civil laws that govern California nonprofit religious corporations.

11 [*Cal. Corp. Code* §§9110 et seq.] A Temporary Restraining Order is needed to stop
12 Defendants from taking commercial, business and financial actions, such as, dissolving
13 Plaintiff’s corporate board of directors, firing Plaintiff’s employees, taking control of its
14 bank accounts and most importantly, stop Defendant’s callous and ongoing efforts to erase
15 Plaintiff’s name and identity on its own real property – that it has owned in Anaheim -- in
16 its name -- since 1961 – a church with over 100 years of history in Orange County. The
17 requested Temporary Restraining Order is narrowly tailored, not to hinder or affect the
18 practice of religious belief or pastoral, religious duties of the individual named Defendant
19 Taka Iguchi. Here are the exigent circumstances:

- 20 • The Plaintiff church, the Anaheim Japanese Free Methodist Church (“AFMC”),
21 is a California nonprofit religious corporation incorporated in 1960 and in
22 current good standing with the California Secretary of State’s Office. [Verified
23 Complaint Exhibit A is a true and correct copy of AFMC’s restated corporate
24 articles of incorporation.][Declaration of Debra Chiya in Support of TRO ¶5,
25 Exhibits 1 and 2 are true and correct copies of the 2020 and 2023, Corporate
26 Statement of Information.]
- 27 • Since 1961, AFMC has owned and continues to own its current church site in its
28 own name, as the “Anaheim Japanese Free Methodist Church.” [Verified

1 Complaint, Exhibit B is a true and correct copy of the grant deed to AFMC.]

- 2 • Plaintiff Debra Chiya, is the current corporate treasurer of AFMC and was
3 elected that position by the AFMC membership. She has served in that position
4 since 2002. [Declaration of Debra Chiya ¶¶2-6.]
- 5 • AFMC is in the network of churches of Defendant Pacific Coast Japanese
6 Conference of the Free Methodist Church of North America, a non-profit
7 religious California corporation (“PCJC”).
- 8 • Defendant The Voice Church of Orange County, Inc. is also a California
9 nonprofit religious corporation.
- 10 • Defendant Taka Iguchi is an individual, and current officer and member of
11 Voice Church of Orange County, Inc., as well as the newly appointed lead
12 pastor at AFMC.
- 13 • On April 15, 2023, Defendant, Pacific Coast Japanese Conference (PCJC),
14 stated its “final” intention to unilaterally “restructure” AFMC by dissolving the
15 AFMC Board, renaming and turning over control of its property, and creating
16 one entity under the brand “Voice Church North OC,” that would be controlled
17 by Defendant The Voice Church of Orange County, Inc.’s board of directors.
18 [Verified Complaint, Exhibit C is a true and correct copy of the Letter from Matt
19 Whitehead, Area Bishop, Supt. Keith Tanita, PCFC Board of Administration et
20 al. sent on April 15, 2023.]
- 21 • Individual Defendant Taka Iguchi, on behalf of himself and Defendant, The
22 Voice Church of Orange County, Inc., told current AFMC board member, Jerry
23 Wada, about Mr. Iguchi’s decision to unilaterally, and unlawfully dissolve the
24 AFMC board of directors and transfer control of AFMC’s property to the board
25 of directors of Voice Church of Orange County, Inc., where Defendant Iguchi is
26 an officer and member of the board. [Declaration of Jerry Wada ¶¶4-6.]
- 27 • April 24, 2023, Defendants communicated by email their demand that the
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1 AFMC church members stop meeting on its own property as the “AFMC” after
2 April 30, 2023. [Verified Complaint, ¶46-48 Exhibit “E.”] This is an immediate
3 and exigent circumstance, Plaintiffs need a Temporary Restraining Order this
4 week to permit the Plaintiffs to continue to meet at their property as the AFMC
5 and prevent disorder at the church property this week for congregation meetings,
6 including this Sunday May 7th.

- 7 • April 28, 2023, Plaintiffs received a letter from Defendant’s attorney, claiming
8 that Defendants may act to dissolve AFMC in total disregard and violation of
9 California Corporations Code under a mistaken and convoluted set of reasoning
10 regarding a Free Methodist denominational set of “rules” known as the “Book of
11 Discipline.” [Declaration of James K. Kawahara in Support of TRO, ¶2-3,
12 Exhibit 1.] These interpretations of the attorney for PCJC are far-fetched and
13 erroneous, as explained by David Hino. [Declaration of David Hino in Support
14 of TRO ¶¶ 5-21; Exhibit 3.] David Hino has the requisite personal knowledge
15 since he served as PCJC Superintendent from the years 2000 to 2006.

16 [Declaration of David Hino in Support of TRO ¶2.]

- 17 • April 30, 2023, Plaintiff AFMC’s church members rejected the hostile takeover
18 and renaming of the church. At a duly noticed meeting, Plaintiff AFMC’s active
19 church members met in a corporate meeting to consider the PCJC’s announced,
20 unilateral actions to dissolve AFMC and to rename it the Voice Church North
21 OC. [Declaration of Eric Ikeda ¶5.] On April 30, 2023, the membership of the
22 AFMC in a corporate membership meeting considered and voted by ballot on
23 two propositions:

- 24 ○ (1) “Anaheim Free Methodist Church” Shall Keep its Current Name? The
25 active membership voted 128 “yes,” 0 “no,” 1 abstention. [Declaration of
26 Eric Ikeda ¶ 8.]

- 27 ○ (2) Shall Anaheim Japanese Free Methodist Church Remain an
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1 Independent Nonprofit Religious Corporation That is Operated
2 Separately from Voice Church of Orange County, Inc?

3 The active membership voted 128 “yes,” 0 “no,” 1 abstention.

4 [Declaration of Eric Ikeda ¶ 9.]

5 Plaintiffs urgently need a TRO to keep the *status quo* of its separate
6 corporate name and existence - as overwhelmingly expressed by the
7 membership of the church this is what they want. Under [Cal.Corp.Code
8 §9640 (c)], members of nonprofit religious corporations have the right to
9 approve or disapprove mergers: “principal terms of the merger **shall be**
10 approved by the members.” [Ibid.] On April 30, 2023, the members rejected
11 the merger with the Voice Church of Orange County, Inc.

12 The statements of the Defendants -- made through its attorney’s April 28 letter,
13 have brought into sharp focus the actual disagreement and controversy that requires a
14 determination of applicable law by the Court. In the meantime, the *status quo* must be
15 maintained until this Court has time to deliberate over the application of California civil
16 laws to these parties --- all are California nonprofit religious corporations or acting on their
17 behalf -- and to understand whether the arcane workings of the current Free Methodist
18 Church Denomination’s bylaws known as the “2019 Book of Discipline” can trump or
19 alter California law. Plaintiffs say it cannot contradict California law. [Cal.Corp.Code
20 §9210 (“All corporate powers shall be exercised by or under the control of the board.”)]

21 On this point alone, contrary to the statements made in Defendant’s legal counsel,
22 Bradley Greenman’s letter of April 28th, [Exhibit 1 to Declaration of James K. Kawahara
23 in Support of TRO], these new interpretations and application of the “Book of Discipline”
24 to assert direct corporate control by Defendants over the Plaintiffs are wrong. By the
25 competent testimony of former PCJC Superintendent David Hino, Plaintiffs point out that
26 Defendants’ positions regarding its authority under the 2019 Book of Discipline are not
27 well supported and are in fact wrong. [Declaration of David Hino in Support of TRO ¶¶ 5-

1 21; Exhibit 3.] Furthermore, the PCJC has never exerted direct board of director control
2 over the management of the business of AFMC in the last twenty years. [Declaration of
3 Debra Chiya in Support of TRO ¶ 9.] This is an illegal power grab.

4 Effectively, by their actions and statements, Defendants are dissolving AFMC into
5 Defendant, The Voice Church of Orange County, Inc., in violation of [Cal. Corp. Code
6 §9640] which requires consent and agreement to merge, and Defendants are breaching
7 their fiduciary duties owed to AFMC and its members. [9 Witkin, Summary 11th Corp. 410
8 (2022) (“ the rules governing mergers involving religious corporations are the same as
9 those applicable to public benefit corporations (citations omitted)).]

10 Defendants have ceased referring to AFMC by that name and, instead, are now
11 publicly referring to AFMC as “*The Voice Church of North OC*” in order to make it
12 appear to be a part of The Voice Church, both legally and in fact, with no separate identity
13 of its own. [Verified Complaint, ¶¶28-31.] Defendants have announced plans to
14 effectively eliminate AFMC’s identity and legacy. By their repeated words and actions,
15 Defendants have publicly confirmed their plan to takeover AFMC, without regard to the
16 civil laws of the State of California, and erase its identity, and assume control of AMFC
17 by Defendant The Voice Church. . [Declaration of Mike Toguchi ¶3-7.]

18 Unless Defendants are immediately enjoined from pursuing their power play to
19 illegally seize control over AFMC, they will effectively destroy the long and rich history
20 of AFMC and its members’ place of worship. Once that is done, the church known for over
21 100 years as AFMC will be erased from existence. This is having a profound and
22 disturbing impact on the members of the AFMC, as expressed by church member Mike
23 Toguchi, who is experiencing deep emotional distress over the announcement by the
24 Defendants to dissolve the church he has attended for over fifty years. [Declaration of
25 Mike Toguchi ¶¶3-7.]

26 Furthermore, without a TRO, individual Plaintiff Debra Chiya, as the AFMC
27 Corporate Treasurer, is left with conflicting instructions from three corporations regarding
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1 her fiduciary duties. [See Declaration of James K. Kawahara, Exhibit 1 Letter from
2 Bradley Greenman to James Kawahara, page 4, first paragraph: “*the AFMC, its treasurer,*
3 *or any other persons preventing such transfers [of control of money] are liable for any*
4 *breach of their fiduciary duty to the FMC and its governing bodies.”]. We ask for the
5 order to maintain the **status quo** to keep AFMC operating the way it has been for sixty (60)
6 years and make it clear that individual Plaintiff Debra Chiya’s duty is to the AFMC, the
7 Plaintiff corporation – as it has been for the past twenty (20) years. [Declaration of Debra
8 Chiya in Support of TRO ¶ 9-12.] Defendants will suffer no harm from issuing a TRO.*

9 The requested order is narrowly tailored to only restrain the commercial, business
10 and financial activities of the Defendants that are California nonprofit religious
11 corporations or its officers and does not hinder or effect the practice of religious belief or
12 pastoral, religious duties of the individual named Defendant Taka Iguchi. Specifically, this
13 action seeks to restrain Defendants from the following commercial, business or financial
14 acts during the pendency of this lawsuit:

- 15 1. Changing the name of the Anaheim Free Methodist Church (“AFMC”); and
- 16 2. Interfering with Plaintiffs’ use and occupation of the property on which AFMC
17 operates; and
- 18 3. Removing the board of directors and other officers of the AFMC; and
- 19 4. Controlling and accessing AFMC’s funds and bank accounts; and
- 20 5. Terminating or replacing any members of the church staff, and
- 21 6. Entering into any contracts that seek to obligate AFMC for payment; and
- 22 7. Altering AFMC’s online accounts (website, and social media); and
- 23 8. Installing “VOICE” marketing materials on AFMC property; and
- 24 9. Merging corporate operations or structure of AFMC into The Voice Church of
25 Orange County.

26 Pending a hearing on a Preliminary Injunction, Plaintiffs hereby apply for, and submit that
27 the interests of justice require that a Temporary Restraining Order issue restraining and
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1 enjoining Defendants and their agents, representatives and affiliates from engaging in the
2 aforesaid conduct.

3 As set forth in the Verified Complaint on file herewith and incorporated herein, as
4 well as the Declarations of Jerry Wada, Eric Ikeda, Debra Chiya, David Hino and Mike
5 Toguchi, filed concurrently herewith, absent said Temporary Restraining Order, Plaintiffs
6 and the AFMC congregation they represent will suffer great and irreparable harm in that
7 AFMC will lose its unique identity and history, sense of community and church members;
8 they will also lose their goodwill and reputation within the community; and they will lose
9 their ability to congregate as members of the AFMC on its own property.

10 On April 19, 2023, counsel for Plaintiffs delivered a cease and desist letter
11 (“Letter”) to Defendants informing them of the reasons why their actions were wrongful
12 and must be stopped immediately. Until April 28, 2023, Defendants ignored said Letter
13 and failed to respond which was a clear indication that they have no intention of refraining
14 from the illegal takeover of AFMC which violates the law and runs against the will of
15 AFMC, its board and members. On April 28, 2023, counsel for the PCJC finally responded
16 to Letter and stated that Defendants would not cease their unlawful actions.

17 II.

18 **A TEMPORARY RESTRAINING ORDER MAY ISSUE WHERE GREAT AND** 19 **IRREPARABLE INJURY WILL RESULT TO THE APPLICANT UNLESS THE** 20 **OFFENDING CONDUCT IS IMMEDIATELY RESTRAINED**

21 A TRO may issue when “[i]t appears from the facts shown by affidavit or by the
22 verified complaint [or cross-complaint] that great or irreparable injury will result to the
23 applicant before the matter can be heard on notice...” (*Code Civ. Proc.* § 527I(1).)

24 The Court should evaluate two interrelated factors when deciding whether or not to
25 issue a temporary restraining order. The first is the likelihood that the plaintiff or cross-
26 complainant will prevail on the merits at trial. The second is the interim harm that the
27 plaintiff is likely to sustain if the restraining order is denied, as compared to the harm that
28 the defendant is likely to suffer if the order is issued. *Church of Christ in Hollywood v.*

1 *Superior Court*, 99 Cal. App 4th 1244, 1251, 121 Cal. Rptr. 2d 810 (2d Dist. 2002).

2 A TRO is distinguishable from a preliminary injunction in the following respects: It
3 may be issued ex parte; a bond, though commonly required, is not essential; and it is of short
4 duration, normally expiring at the time of the hearing on the preliminary injunction. *Chico*
5 *Feminist Women's Health Center v. Scully*, 208 Cal. App. 3d 230, 237, 256 Cal. Rptr. 194
6 (3d Dist. 1989).

7 The granting or denial of a temporary restraining order is discretionary with the trial
8 judge and amounts to a mere preliminary or interlocutory order to keep the subject of the
9 litigation in status quo pending the determination of the action on its merits. *Gray v. Bybee*,
10 60 Cal. App. 2d 564, 571, 141 P.2d 32 (3d Dist. 1943).

11 As stated in the Verified Complaint on file and the Declarations of Jerry Wada,
12 Eric Ikeda, Debra Chiya, David Hino, and Mike Toguchi, filed concurrently herewith, if
13 Defendants are not immediately restrained and enjoined from engaging in/continuing to
14 engage in the aforesaid conduct, Plaintiffs and the congregational membership of AFMC
15 which Plaintiffs represent, will suffer great and immediate irreparable harm in that AFMC
16 will lose its unique identity and history, sense of community and church members; they
17 will also lose their goodwill and reputation within the community and they will lose use of
18 their property to meet as the AFMC church. The deep, and ongoing trauma is evidenced
19 by the Declaration of Mike Toguchi filed concurrently herewith.

20 On the other hand, the Defendant/Cross-defendant is not likely to suffer any
21 damages by reason of granting the TRO.

22 As further stated in the Verified Complaint on file, there is a high likelihood that
23 Plaintiffs will prevail on the merits at trial, in that Defendants have violated the *1978*
24 *Nonprofit Religious Corporation Law (California Corporate Code §§9110, et seq.)* and the
25 rules governing the corporate relationship between Plaintiffs and Defendants which also
26 constitutes a breach of fiduciary duty and conversion of property. Defendants' wrongful
27 conduct is not speculative – it has been publicly announced by Defendants orally and in
28 writing and they have already taken steps to accomplish their illegal scheme.

1 For the above reasons, a Temporary Restraining Order should be immediately
2 issued to prevent further harm to Plaintiffs and those whom they represent as alleged and
3 as set forth in the Verified Complaint and the supporting declarations of Jerry Wada, Eric
4 Ikeda, Debra Chiya, David Hino, and Mike Toguchi.

5 **III.**
6 **AN ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION SHOULD**
7 **ALSO ISSUE**

8 "A party requesting a preliminary injunction may give notice of the request to the
9 opposing or responding party either by serving a noticed motion under *Code of*
10 *Civil Procedure* section 1005 or by obtaining and serving an order to show cause
11 ("OSC"). An OSC must be used when a temporary restraining order ("TRO") is
12 sought, or if the party against whom the preliminary injunction is sought has not
13 appeared in the action. If the responding party has not appeared, the OSC must be
14 served in the same manner as a summons and complaint."

15 *Cal. Rules of Court*, rule 3.1150(a).

16 "If the action is initiated the same day a TRO or an OSC is sought, the complaint
17 must be filed first. The moving party must provide a file-stamped copy of the
18 complaint to the judge who will hear the application. If an application is made in
19 an existing case, the moving party must request that the court file be made
20 available to the judge hearing the application."

21 *Cal. Rules of Court*, rule 3.1150(b).

22 Plaintiffs request that the instant TRO be issued based upon the evidence presented
23 in the Verified Complaint on file herein. Plaintiff further requests a full hearing on a
24 Preliminary Injunction for the same reasons and under the same authorities as set forth
25 herein, and requests that an Order to Show Cause be issued along with the TRO to afford
26 Defendants the opportunity to show why it/he should not be restrained and enjoined in the
27 same manner for the remainder of this litigation.

28 "An injunction is a writ or order requiring a person to refrain from a particular
act. It may be granted by the court in which the action is brought, or by a judge
thereof; and when granted by a judge, it may be enforced as an order of the court."

Code Civ. Proc. § 525.

1 A Preliminary Injunction is proper in the following circumstances:

2 ”(1) When it appears by the complaint that the plaintiff is entitled to the relief demanded,
3 and such relief, or any part thereof, consists in restraining the commission or continuance of
4 the act complained of, either for a limited period or perpetually.

5 (2) When it appears by the complaint or affidavits that the commission or continuance of
6 some act during the litigation would produce waste, or great or irreparable injury, to a party
7 to the action.

8 (3) When it appears, during the litigation, that a party to the action is doing, or threatens, or
9 is about to do, or is procuring or suffering to be done, some act in violation of the rights of
10 another party to the action respecting the subject of the action, and tending to render the
11 judgment ineffectual.

12 (4) When pecuniary compensation would not afford adequate relief.

13 (5) Where it would be extremely difficult to ascertain the amount of compensation which
14 would afford adequate relief.

15 *Code Civ. Proc.* § 526(a).

16 ”A preliminary injunction may be granted at any time before judgment upon a
17 verified complaint, or upon affidavit if the complaint in the one case, or the
18 affidavits in the other, show satisfactorily that sufficient grounds exist therefore.
19 No preliminary injunction shall be granted without notice to the opposing party.”

20 *Code Civ. Proc.* § 527(a).

21 To obtain a preliminary injunction, the plaintiff/cross-complainant must establish
22 that the defendant/cross-defendant should be restrained from the challenged activity
23 pending trial. *Trader Joe’s Co. v. Progressive Campaigns*, 73 Cal. App. 4th 425, 429, 86
24 Cal. Rptr. 2d 442 (1st Dist. 1999). As with a Temporary Restraining Order, the Court
25 weighs two interrelated factors; the likelihood the moving party will prevail on the merits,
26 and the relative interim harm to the parties from the issuance or nonissuance of the
27 injunction. *Whyte v. Schlage Lock Co.*, 101 Cal. App. 4th 1443, 1449, 125 Cal. Rptr. 2d
28 277 (4th Dist. 2002).

As shown in the Verified Complaint on file herein and the Declarations of Jerry
Wada, Eric Ikeda, Debra Chiya, David Hino and Mike Toguchi, submitted concurrently

1 herewith, sufficient grounds exist, and will be shown to exist, at the hearing on a
2 preliminary injunction such that the Court should issue same upon the grounds and facts as
3 alleged herein which support the issuance of a Temporary Restraining Order.

4 **IV.**

5 **EX PARTE RELIEF IS PERMITTED UNDER THESE CIRCUMSTANCES AND**
6 **PLAINTIFF/CROSS-COMPLAINANT HAS COMPLIED WITH CALIFORNIA**
7 **RULES OF COURT**

8 **A. Showing Required For Ex Parte Relief:**

9 *Cal. Rules of Court*, rule 3.1150 provides that “[a]pplications for ex parte temporary
10 restraining orders are governed by the ex parte rules in chapter 4 of this division.”

11 “An applicant [*for an ex parte application*] must make an affirmative factual
12 showing in a declaration containing competent testimony based on personal
13 knowledge of irreparable harm, immediate danger, or any other statutory basis for
14 granting relief ex parte.”

15 *Cal. Rules of Court*, rule 3.1202(c).

16 As shown by the Verified Complaint on file herein and the Declarations of Jerry Wada,
17 Eric Ikeda, Debra Chiya, David Hino, and Mike Toguchi, submitted concurrently herewith,
18 there is an imminent and present danger of irreparable harm/immediate danger or other
19 statutory basis for granting relief *ex parte*, in that Defendants have announced that
20 AFMC’s name will be changed, the congregational members of AFMC will not be
21 permitted to use the church property as they deem appropriate, Defendants will terminate
22 Plaintiff Debra Chiya’s employment as the Corporate Treasurer of AFMC, and Defendants
23 will seize control of the money and bank accounts of AFMC.

24 **B. Document And Notice Requirements For Ex Parte Application For TRO and OSC:**

25 “An *ex parte* application for an order must be accompanied by an affidavit or
26 declaration showing: (1) that, within the applicable time period under (b) [*no later*
27 *than 10:00 a.m. the court day before the ex parte appearance*], the applicant
28 informed the opposing party when and where the application would be made; or
(2) that the applicant in good faith attempted to inform the opposing party but was
unable to do so, specifying the efforts made to inform the opposing party; or (3)
that, for reasons specified, the applicant should not be required to inform the
opposing party.”

1 *Cal. Rules of Court*, rule 3.1201.

2 "A party seeking an *ex parte* order must notify all parties no later than 10:00 a.m.
3 the court day before the *ex parte* appearance, absent a showing of exceptional
4 circumstances that justify a shorter time for notice."

5 *Cal. Rules of Court*, rule 3.1203(a).

6 When notice of an *ex parte* application is given, the person giving notice must:

7 (1) State with specificity the nature of the relief to be requested and the date,
8 time, and place for the presentation of the application; and

9 (2) Attempt to determine whether the opposing party will appear to oppose the
10 application.

11 *Cal. Rules of Court*, rule 3.1204(a).

12 An *ex parte* application must be accompanied by a declaration regarding notice
13 stating:

14 (1) The notice given, including the date, time, manner, and name of the party
15 informed, the relief sought, any response, and whether opposition is expected
16 and that, within the applicable time under rule 3.1203, the applicant informed
17 the opposing party where and when the application would be made;

18 (2) That the applicant in good faith attempted to inform the opposing party but
19 was unable to do so, specifying the efforts made to inform the opposing party;
20 or

21 (3) That, for reasons specified, the applicant should not be required to inform
22 the opposing party.

23 *Cal. Rules of Court*, rule 3.1204(b).

24 "No temporary restraining order shall be granted without notice to the opposing
25 party..."

26 *Code Civ. Proc.* § 527(c).

27 Plaintiffs have given Defendants proper notice of the *ex parte* hearing on Plaintiff's
28 TRO Application and Request for OSC re Preliminary Injunction. *See*, Declaration of Bruce
L. Ishimatsu, submitted concurrently herewith.

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V.

**THE COURT SHOULD NOT REQUIRE PLAINTIFFS TO POST A BOND FOR
ISSUANCE OF THE TRO**

The relative merits of the case tip strongly in favor of Plaintiffs as shown in the Verified Complaint and supporting declarations. The evidence before this Court demonstrates a great likelihood that Plaintiffs will prevail on the merits at trial. Plaintiff Anaheim Free Methodist Church is a non-profit religious organization and Plaintiff Chiya is an individual, both with modest financial resources. Imposing the posting of an undertaking for the TRO, to keep things as they are, would impose an undue hardship on Plaintiffs, and they ask the Court not to require an undertaking at this stage. [*Cal.Civ.Proc.Code* §995.240].

Importantly, there is no harm to Defendant Voice Church of Orange County, Inc. if a TRO is issued by the Court to maintain the *status quo* because Voice Church of Orange County, Inc. will continue to have their own church in Tustin, will continue to enjoy their corporate operations, and Defendant Iguchi will continue to function as the pastor of Plaintiff AFMC and Voice Church, Tustin. Therefore, Defendants will suffer no foreseeable damages that are proximately caused by the issuance of a TRO. [*Cal.Civ.Proc.Code* §529(a)] Accordingly, Plaintiffs request that the Court follow the general practice of not requiring Plaintiffs to post a bond for the TRO.

At the hearing on the Preliminary Injunction, Plaintiffs will argue for no bond or, at most, a *de minimis* bond for the above reasons for preservation of the status quo during the pendency of the lawsuit. *Oiye v. Fox*, 211 CA4th 1036, 1062 (2012).

VI.
CONCLUSION

For all of the foregoing reasons and supporting facts and authorities, it is respectfully requested that the Court issue an immediate order preserving the status quo before it is too late. Plaintiffs submit that the facts warrant a Temporary Restraining Order ("Proposed" Order submitted herewith), and the setting of an Order to Show Cause hearing for Preliminary Injunction consistent with this Application ("Proposed" Order to Show Cause also submitted herewith).

1 AFMC, which was founded over 100 years ago and has remained in existence with
2 loyal church members ever since, deserves to be preserved under its own name and
3 untouched and unchanged during the pendency of this lawsuit.

4 Dated: May 2, 2023

KAWAHARA LAW, APC

5
6 By: /s/ James K. Kawahara

7 James K. Kawahara

8 and

9 ISHIMATSU LAW GROUP, P.C.

10 By: /s/ Bruce L. Ishimatsu

11 By: Bruce L. Ishimatsu

12 Attorneys for Plaintiffs Anaheim Japanese
13 Free Methodist Church, a California
14 Nonprofit Religious Corporation, and Debra
15 Chiya, church member and corporate board
16 member and treasurer.
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