

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

DAVID WILLIAMSON,
CHASE HANSEL,
KEITH BECHER,
RONALD GORDON,
JEFFERY KOEBERL,
CENTRAL FLORIDA
FREETHOUGHT COMMUNITY,
SPACE COAST FREETHOUGHT
ASSOCIATION, and
HUMANST COMMUNITY
OF THE SPACE COAST,

Case No. 6:15-CV-01098-ORL-28 DAB

Plaintiffs,

vs.

BREVARD COUNTY,

Defendant.

**DEFENDANT BREVARD COUNTY'S ANSWER AND COUNTERCLAIM WITH
DEMAND FOR JURY TRIAL**

Defendant, BREVARD COUNTY, by and through its undersigned counsel,
responds to Plaintiffs' Complaint and states:

Introduction

1. Denied.
2. Admit some jurisdictions allowed non-theist invocations. Deny remainder.
3. Admit first sentence. Without knowledge as to remainder.
4. Denied.

5. Admit nature of relief sought, deny remainder.

Jurisdiction and Venue

6. Admitted for jurisdictional purposes only.
7. Admitted for jurisdictional purposes only.
8. Admitted for venue purposes only.

Parties

Plaintiffs

David Williamson

9. Without knowledge, therefore, denied.
10. Without knowledge, therefore, denied.
11. Without knowledge, therefore, denied.
12. Without knowledge, therefore, denied.
13. Without knowledge, therefore, denied.
14. Admitted.
15. Without knowledge, therefore, denied.
16. Without knowledge, therefore, denied.
17. Without knowledge, therefore, denied.
18. Without knowledge, therefore, denied.
19. Without knowledge, therefore, denied.
20. Admit first sentence. Admit Williamson would like to educate officials and attendees, deny remainder.

21. Without knowledge as to Plaintiff Williamson's views, therefore, denied.

Otherwise, denied.

22. Denied.

Chase Hansel

23. Without knowledge, therefore, denied.

24. Without knowledge, therefore, denied.

25. Admitted.

26. Without knowledge, therefore, denied.

27. Without knowledge, therefore, denied.

28. Without knowledge, therefore, denied.

29. Without knowledge, therefore, denied.

30. Without knowledge, therefore, denied.

31. Without knowledge, therefore, denied.

32. Without knowledge, therefore, denied.

33. Without knowledge, therefore, denied.

34. Admit first sentence. Without knowledge as to the remainder.

35. Without knowledge as to Plaintiff Hansel's views, therefore, denied. Otherwise, denied.

36. Denied.

Keith Becher

37. Without knowledge, therefore, denied.

38. Without knowledge, therefore, denied.

39. Without knowledge, therefore, denied.
40. Without knowledge, therefore, denied.
41. Without knowledge, therefore, denied.
42. Without knowledge, therefore, denied.
43. Without knowledge, therefore, denied.
44. Without knowledge, therefore, denied.
45. Without knowledge, therefore, denied.
46. Without knowledge, therefore, denied.
47. Without knowledge, therefore, denied.
48. Without knowledge, therefore, denied.
49. Admit first sentence, without knowledge as to remainder.
50. Without knowledge as to Plaintiff Becher's views, therefore, denied. Otherwise, denied.
51. Without knowledge, therefore, denied.
52. Denied.

Ronald Gordon

53. Without knowledge, therefore, denied.
54. Without knowledge, therefore, denied.
55. Without knowledge, therefore, denied.
56. Without knowledge, therefore, denied.
57. Without knowledge, therefore, denied.
58. Without knowledge, therefore, denied.

59. Without knowledge, therefore, denied.

60. Without knowledge, therefore, denied.

61. Admit first sentence, without knowledge as to remainder.

62. Without knowledge as to Plaintiff Gordon's views, therefore, denied. Otherwise denied.

63. Denied.

Jeffery Koeberl

64. Without knowledge, therefore, denied.

65. Without knowledge, therefore, denied.

66. Without knowledge, therefore, denied.

67. Without knowledge, therefore, denied.

68. Without knowledge, therefore, denied.

69. Without knowledge, therefore, denied.

70. Without knowledge, therefore, denied.

71. Without knowledge, therefore, denied.

72. Without knowledge, therefore, denied.

73. Without knowledge, therefore, denied.

74. Admit first sentence, without knowledge as to remainder.

75. Without knowledge as to Plaintiff Koeberl's views, therefore, denied. Otherwise denied.

76. Denied.

Central Florida Freethought Community

- 77. Without knowledge, therefore, denied.
- 78. Without knowledge, therefore, denied.
- 79. Without knowledge, therefore, denied.
- 80. Without knowledge, therefore, denied.
- 81. Without knowledge, therefore, denied.
- 82. Admit first sentence, deny second sentence.
- 83. Denied.
- 84. Denied.

Space Coast Freethought Association

- 85. Without knowledge, therefore, denied.
- 86. Without knowledge, therefore, denied.
- 87. Without knowledge, therefore, denied.
- 88. Without knowledge, therefore, denied.
- 89. Without knowledge, therefore, denied.
- 90. Without knowledge, therefore, denied.
- 91. Without knowledge, therefore, denied.
- 92. Admit first sentence, without knowledge as to remainder.
- 93. Denied.
- 94. Denied.

Humanist Community of the Space Coast

- 95. Without knowledge, therefore, denied.

96. Without knowledge, therefore, denied.

97. Without knowledge, therefore, denied.

98. Without knowledge, therefore, denied.

99. Without knowledge, therefore, denied.

100. Admit first sentence, but deny any implication that the county policy denies Plaintiffs the opportunity to deliver invocations. Without knowledge as to remainder.

101. Denied.

102. Denied.

Defendant Brevard County

103. Admitted that Defendant, Brevard County (“County”), is a political subdivision of the State of Florida.

104. Admitted.

105. Admitted.

106. Admitted.

107. Admitted.

108. Admitted.

109. Admitted.

110. Admitted.

111. Admitted.

General Allegations

Invocations Before the Board

Board Meetings

- 112. Admitted.
- 113. Admitted.
- 114. Admitted.
- 115. Admitted that meetings of the Board are opened with an invocation.
Otherwise denied.

- 116. Admitted.
- 117. Admitted.
- 118. Without knowledge, therefore, denied.

Identities of Invocation Speakers and Nature of Invocations

- 119. Without knowledge, therefore, denied.
- 120. Without knowledge, therefore, denied.
- 121. Without knowledge, therefore, denied.
- 122. Without knowledge, therefore, denied.
- 123. Without knowledge, therefore, denied.
- 124. Without knowledge, therefore, denied.
- 125. Admitted that the invocations on December 7, 2010, March 1, 2012, and October 21, 2014 were given by Jewish rabbis. Otherwise, denied.

126. Denied. Inconsistent with ¶ 137 in which Plaintiffs identify an invocation that contained a quote from Robert F. Kennedy, which they consider content reflecting their religion.
127. Denied.
128. Without knowledge, therefore, denied.
129. Without knowledge, therefore, denied.
130. Admitted.
131. Without knowledge, therefore, denied.
132. Admitted.
133. Admitted.
134. Admitted.
135. Admitted.
136. Without knowledge, therefore denied.
137. Admitted, with the exception of the two references to God.
138. Admitted.
139. Denied.
140. Admitted.
141. Admitted.
142. Admitted.
143. Denied.
144. Without knowledge, therefore, denied.
145. Denied.

146. Denied.

147. Admitted that, on rare occasion, a Commissioner has given the invocation in the past. Otherwise, denied.

Invocation Procedures

148. Admitted.

149. Admitted.

150. Admitted.

151. Admit that a Commissioner may ask the audience to stand but on some occasions the person delivering the invocation will do so.

152. Admitted.

The Board's Denials of Requests by Nontheists to Give Invocations

Plaintiff Central Florida Freethought Community's Requests

153. Without knowledge, therefore, denied.

154. Without knowledge, therefore, denied.

155. Without knowledge, therefore, denied.

156. Admitted that Plaintiff Williamson sent a letter to the Board on May 9, 2014. Otherwise Denied.

157. Without knowledge, therefore denied.

158. Admitted that Plaintiff Williamson sent a letter to the Board on July 22, 2014. Otherwise denied.

159. Admitted that the Board held a meeting on August 19, 2014. Otherwise deny implication that the only purpose of the meeting was to address the Williamson letter.

160. Without knowledge, therefore, denied.

161. Admitted.

162. Admitted.

163. Admitted.

164. Admitted.

165. Admitted.

166. Admitted.

167. Admitted insofar as the quoted sections are from the August 19 letter. Otherwise denied.

168. Admitted.

169. Admitted.

170. Admitted.

171. Denied.

172. Admitted that BCC-55 contains the quoted language. However, it was approved on April 28, 2015 and canceled the December 16, 2011 version.

173. Admitted, however the language was supplemented by Resolution 2015-101.

Plaintiff Ronald Gordon's Requests

174. Admitted that Plaintiff Gordon sent an e-mail to District 3 Commissioner Infantini on August 18, 2014 containing the quoted sentence. Otherwise without knowledge and denied.

175. Admitted.

176. Admitted.

177. Without knowledge, therefore, denied.

178. Without knowledge, therefore, denied.

179. Without knowledge, therefore, denied.

180. Without knowledge, therefore, denied.

Requests from Others

181. Admitted.

182. Admitted.

183. Admitted.

184. Without knowledge, therefore, denied.

185. Without knowledge, therefore, denied.

186. Admitted.

187. Without knowledge, therefore, denied.

188. Admitted that the Board received a letter from the Anti-Defamation league on August 25, 2014. Otherwise, denied.

189. Admitted.

190. Admitted.

191. Admitted that the quoted paragraphs are from the letter dated November 6, 2014. Otherwise denied.

192. Admitted that the AUSCS sent a letter to the Board on January 26, 2015 requesting that Williamson, Hansel, and Rev. Fuller be added to the roster of invocation-givers. Otherwise, denied.

193. Admitted.

194. Admitted.

195. Admitted that the County Attorney sent a letter to Plaintiff's counsel on May 28, 2015 stating he would bring the May 26 letter before the Board at its next meeting on July 7. Otherwise, denied.

196. Admitted.

Nontheistic Invocations

197. Without knowledge, therefore denied.

198. Denied.

199. Without knowledge, therefore, denied.

200. Without knowledge, therefore, denied.

201. Without knowledge, therefore, denied.

202. Without knowledge, therefore, denied.

203. Without knowledge, therefore, denied.

204. Without knowledge, therefore, denied.

205. Without knowledge, therefore, denied.

206. Without knowledge, therefore, denied.

Impact of the County's Discriminatory Policy

Nontheists in America

- 207. Without knowledge, therefore denied.
- 208. Without knowledge, therefore denied.
- 209. Without knowledge, therefore denied.
- 210. Without knowledge, therefore denied.
- 211. Without knowledge, therefore denied.
- 212. Without knowledge, therefore denied.
- 213. Without knowledge, therefore denied.
- 214. Without knowledge, therefore denied.
- 215. Denied.
- 216. Without knowledge, therefore denied.
- 217. Without knowledge, therefore denied.
- 218. Admit first sentence, without knowledge as to second sentence. Admit third sentence.
- 219. Without knowledge, therefore denied.
- 220. Without knowledge, therefore denied.
- 221. Without knowledge, therefore, denied.
- 222. Without knowledge, therefore, denied.
- 223. Without knowledge, therefore, denied.
- 224. Without knowledge, therefore, denied.
- 225. Without knowledge, therefore, denied.

- 226. Without knowledge, therefore, denied.
- 227. Without knowledge, therefore, denied.
- 228. Without knowledge, therefore, denied.
- 229. Without knowledge, therefore, denied.
- 230. Without knowledge, therefore, denied.
- 231. Without knowledge, therefore, denied.
- 232. Without knowledge, therefore denied.
- 233. Without knowledge, therefore, denied.
- 234. Without knowledge, therefore, denied.
- 235. Without knowledge, therefore denied.
- 236. Without knowledge, therefore denied.
- 237. Without knowledge, therefore denied.
- 238. Without knowledge, therefore denied.
- 239. Denied.
- 240. Denied.
- 241. Denied.
- 242. Denied.
- 243. Denied.
- 244. Denied.
- 245. Denied.
- 246. Without knowledge, therefore denied.
- 247. Without knowledge, therefore, denied.

248. Without knowledge, therefore, denied.

249. Without knowledge, therefore, denied.

250. Without knowledge, therefore, denied.

251. Without knowledge, therefore, denied.

252. Without knowledge, therefore, denied.

Claims for Relief

First Claim for Relief:

Violation of the Establishment clause of the First Amendment to the U.S. Constitution

253. The answers to paragraphs 1 to 252 are incorporated herein.

254. Admitted.

255. Denied.

256. Denied.

257. Denied.

258. Denied.

259. Denied.

Second Claim for Relief:

Violation of the Free Exercise Clause of the First Amendment to the U.S. Constitution

260. The answers to Paragraphs 1-259 are incorporated by reference herein.

261. Admitted.

262. Admitted that the Free Exercise Clause prohibits Congress from making any law restricting the free exercise of religion.

263. Admitted that invocations may not be used to advance, proselytize, or disparage any religion. Admitted that the government may not censor religious speech. Otherwise, denied.

264. Denied.

Third Claim for Relief:

Violation of the Free Speech Clause of the First Amendment to the U.S. Constitution

265. The answers to Paragraphs 1-264 are incorporated by reference herein.

266. Admitted.

267. Admitted.

268. Denied.

269. Denied.

270. Admitted that the Free Speech Clause prohibits the government from abridging most speech.

271. Denied.

Fourth Claim for Relief

Violation of the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution

272. The answers to Paragraphs 1-271 are incorporated by reference herein.

273. Admitted.

274. Denied.

275. Admitted.

276. Denied.

277. Denied.

***Fifth Claim for Relief:
Violation of Article I, Section 2 of the Florida Constitution***

278. The answers to Paragraphs 1-277 are incorporated by reference herein.
279. Admitted.
280. Denied.

***Sixth Claim for Relief:
Violation of Article I, Section 3 of the Florida Constitution***

281. The answers to Paragraphs 1-280 are incorporated by reference herein.
282. Admitted.
283. Denied.
284. Denied.

Prayer for Relief

285. The answers to Paragraphs 1-284 are incorporated by reference herein.
286. Denied.
287. Denied.
288. Denied.
289. Denied.
290. Denied.

Injunction

291. Denied.
292. Denied.
293. Denied.

Declaratory Judgment

294. Admitted as to the existence of an actual controversy under U.S. and Florida Constitutions. Otherwise denied.

295. Denied.

Damages

296. Denied.

297. Denied.

298. Denied.

299. Deny Plaintiffs are entitled to attorney's fees or costs.

300. Without knowledge.

AFFIRMATIVE DEFENSES

First Defense

The first claim for relief in the complaint fails to state a claim upon which relief can be granted under Establishment, Free Exercise, Free Speech, and Equal Protection Clauses of the U.S. Constitution and Sections 2 and 3 of Article I of the Florida Constitution because, on the face of the complaint, Brevard County's invocation policy adopted in Resolution 2015-101 does not exclude any of the Plaintiffs, whether individual or corporate, from presenting invocations and fully conforms to the principles established by the United States Supreme Court in *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014).

Second Defense

The second claim for relief in the complaint fails to state a claim upon which relief can be granted under the Free Exercise Clause of the United States Constitution because:

1. On the face of the complaint, the Plaintiffs are not excluded from presenting an invocation.
2. On the face of the complaint, during the pre-meeting invocation preceding the County Commission secular business meeting, the County Commission chambers are a limited public forum reserved for invocations and short informational presentations provided by traditional faith-based institutions representing the minority 34.9% of the County Commission's constituents identified as being affiliated with a religious institution in the County. (Complaint Exhibit 10, p.2, ¶9; Answer Exhibit B, ¶9) As a matter of law, the County has the legal authority to establish such a reasonable restriction and limitation on speech in a limited public forum setting.
3. Because the Commission Chambers is a limited public forum during the pre-meeting invocation by the faith-based community in recognition of the spiritual needs met those institutions for the minority 34.9% of the Commission's constituents who have been identified as being affiliated with a religious institution, the County Commission, as a matter of law, has the authority to establish the reasonable requirement that invocations provided by secularists espousing secular tenets and principles be presented under the secular portion of the County Commission's secular business meeting.

4. On the face of the complaint, any number of secularist non-theists are expressly permitted to present invocations and any other statements of supplication, education, requests for redress, instruction or reflection that a secular non-theist may wish to present to the County Commission during either of *two* Public Comment sections on the Commissions secular business agenda, the first of which occurs immediately after the consent agenda which is frequently approved with a single motion and little discussion. A typical regular County Commission agenda is the agenda from the July 7, 2015 meeting at which Resolution 2015-101 was approved. A copy of that agenda is attached hereto as Exhibit A.

5. The county policy does not require secularist non-theists, including the plaintiffs, to adopt or profess religious beliefs to which they do not subscribe as a condition of participation in the governmental function of solemnizing governmental meetings, nor prohibit secularist non-theists, including the plaintiffs, from giving invocations that reflect or reference their beliefs at governmental meetings.

Third Defense

By way of avoidance of the second claim for relief, the COUNTY alleges that requesting those present in the Commission Chambers to stand for the pre-meeting invocation does not constitute coercion under, nor in any way violate, the Establishment Clause of the United States Constitution according to the principles set forth in *Town of Galloway v. Greece* because:

- a. members of the public are not dissuaded from leaving the meeting room during the prayer, arriving late, or even making a later protest to the pre-meeting invocation;
- b. constituents are free to enter and leave the Commission Chambers at any time;
- c. a television in the lobby outside the Commission Chambers allows people to monitor the progress of the County Commission meeting without being present;
- d. the absence of nonbelievers who choose to exit the room during an invocation they find distasteful does not stand out as disrespectful or even noteworthy;
- e. any person who remains and acquiesces to listening to a prayer is not viewed or understood as being in agreement with the words or ideas expressed;
- f. the individual secularist non-theist plaintiffs are mature adults, who are clearly not readily susceptible to religious indoctrination or peer pressure.

Fourth Defense

On the face of the complaint, the third claim for relief fails to state a claim for a violation of the free speech clause of the First Amendment to the United States Constitution because:

- a. As a matter of law, governmental bodies are prohibited from regulating or censoring the content of pre-meeting invocations;
- b. The County's pre-meeting invocation policy does not condition participation in governmental activities on a person's beliefs or affiliations;
- c. The County's policy, custom, and practice of allowing the faith-based community but not secularist non-theists to give opening invocations at Board

meetings does not violate the Free Speech Clause because the written policy expressly allows secularist non-theists to reflect upon or educate the County Commission about their beliefs at regular County Commission meetings and expressly allows secularist non-theists, including the plaintiffs, an opportunity to solemnize the County Commission meeting with an invocation during either one of the two Public Comment portions of the regular meeting.

Fifth Defense

Brevard County avoids the Plaintiffs' fourth claim for relief based upon equal protection claims with the defense that BCC Resolution No. 2015-101 is Constitutional under *Town of Greece v. Galloway* because neither Humanism nor Secular Humanism is a religion for Establishment clause purposes or for the purpose of presenting an invocation in the Commission Chambers when those chambers are designated as limited public forum restricted to the presentation of an invocation by clerics from the faith-based community representing a 34.9% minority of County Commission constituents identified as being affiliated with a faith-based religion. Plaintiffs claim status as secular humanists, humanists and atheists who espouse strictly secular ethics, moral principles, tenets and values while disavowing faith in the existence of any supernatural being, spirit, entity or force. Therefore, Plaintiffs have no constitutional right to participate in a County Commission designated limited or non-forum that is restricted to the presentation of invocations by members of the faith-based community representing the minority of County Commission constituents identified as religious adherents where, as is true under the Brevard County policy attached in its entirety hereto as Exhibit B, Plaintiffs are

afforded the right to present a secular invocation during the secular portion of the regular secular business meeting.

Sixth Defense

By way of avoidance of all claims, Brevard County asserts that its pre-meeting invocation policy is constitutional because, on its face, the policy demonstrates the compelling county interest of seeking to avoid unconstitutionally communicating a message of hostility toward the County's minority population of faith-based religious adherents by capitulating to the Plaintiffs demands that they be allowed to present a secular invocation in a limited or non-public forum restricted to presentation of invocations by representatives of the County's 34.9% minority population affiliated with faith-based religious institutions in the County. The Plaintiffs' requesting the right to deliver pre-meeting invocations have, either as individuals or through organizations with which they are affiliated as named in the complaint, have expressed blatant hostility toward faith-based religion and religious institutions by:

- a. hosting websites and social media sites featuring statements, pictures and imagery that denigrates, demeans, disparages, ridicules and portrays belief in God, religions and people of faith as ignorant, stupid, parochial, undereducated, intolerant, irrational and superstitious;
- b. engaging in the blatant and premeditated strategies designed to intimidate elected officials through coercion, pressure or embarrassment into jettisoning the completely constitutional practice of allowing traditional pre-meeting invocations before government meetings.

The County's pre-meeting invocation policy continuing the tradition of faith-based invocations in a limited public forum setting before regular meetings while allowing secular non-theistic invocations during the County Commission's secular business meeting is narrowly tailored to avoid communicating a message of hostility toward faith-based religions in violation of the Establishment Clause while allowing secularist non-theists to provide invocations during the secular business meeting.

Seventh Defense

By way of avoidance of all claims, Brevard County asserts that its pre-meeting invocation policy is constitutional because, on its face, the policy demonstrates a compelling county interest by seeking to avoid the communication of a message that the County Commission endorses the precepts and tenets of secular humanism, humanism or atheism, to the extent that secular humanism, humanism and/or atheism are a "religion" encompassed by the Establishment Clause of the United States Constitution. Specifically, several principles of Secular Humanism that are common to the espoused beliefs of all Plaintiffs in this case—many of which are less than subtly hostile toward religion—are necessarily utilized by the County Commission when considering and voting upon secular business matters that come before them, include:

- a. commitment to the application of reason and science to the understanding of the universe and to the solving of human problems;
- b. deploring efforts to denigrate human intelligence, to seek to explain the world in supernatural terms, and to look outside nature for salvation;

- c. belief that scientific discovery and technology can contribute to the betterment of human life;
- d. belief in an open and pluralistic society and that democracy is the best guarantee of protecting human rights from authoritarian elites and repressive majorities;
- e. commitment to the principle of the separation of church and state;
- f. cultivate the arts of negotiation and compromise as a means of resolving differences and achieving mutual understanding;
- g. concern with securing justice and fairness in society and with eliminating discrimination and intolerance;
- h. attempting to transcend divisive parochial loyalties based on race, religion, gender, nationality, creed, class, sexual orientation, or ethnicity, and strive to work together for the common good of humanity;
- i. the cultivation of moral excellence;
- j. respect for the right to privacy under which mature adults should be allowed to fulfill their aspirations, to express their sexual preferences, to exercise reproductive freedom, to have access to comprehensive and informed health-care, and to die with dignity;
- k. belief in the common moral decencies: altruism, integrity, honesty, truthfulness, responsibility. Humanist ethics is amenable to critical, rational guidance. There are normative standards that we discover together. Moral principles are tested by their consequences;

- l. deep concern with the moral education of our children; nourishment of reason and compassion;
- m. citizenship in the universe and excitement by discoveries still to be made in the cosmos;
- n. skepticism about untested claims to knowledge, and openness to novel ideas and seek new departures in our thinking;
- o. affirmation of humanism as a realistic alternative to theologies of despair and ideologies of violence and as a source of rich personal significance and genuine satisfaction in the service to others;
- p. optimism rather than pessimism, hope rather than despair, learning in the place of dogma, truth instead of ignorance, joy rather than guilt or sin, tolerance in the place of fear, love instead of hatred, compassion over selfishness, beauty instead of ugliness, and reason rather than blind faith or irrationality.

(<https://www.secularhumanism.org/index.php/12>)

When given the opportunity to present pre-meeting invocations, Plaintiffs and, or representatives of the corporate Plaintiffs, have engaged in a distinct pattern of espousing and proselytizing the shared principles of Secular Humanism, Humanism and atheism, in an effort to educate elected officials. In fact, in ¶20 of the complaint, Plaintiff Williamson admits this is one of the purposes for his invocation. Such invocations advance Secular Humanism while diminishing the faith-based religious institutions serving the 34.9% minority of the county population identified as religious adherents because the very principles being proselytized by the secular Plaintiffs are actually

utilized by the County Commission during the decision-making process in its secular business meetings. Therefore, the Board policy constitutionally relegates such secular non-theistic speech to the secular portion of the County Commission meeting.

Eighth Defense

The case is not ripe for review because none of the Plaintiffs have been denied the opportunity to present a secular invocation during the secular business meeting in accordance with the written policy adopted by the County Commission, a full and complete copy of which is attached as Exhibit B.

Ninth Defense

Neither the individual nor corporate Plaintiffs have been denied an opportunity to present an invocation in accordance with the Board's written policy; no Plaintiff has, therefore, suffered any injury; and therefore all Plaintiff's lack standing to pursue any of the claims for relief set forth in the complaint.

Tenth Defense

Brevard County avoids the fifth claim for relief in the complaint claiming a violation of Article 1, section 2 of the Constitution of the State of Florida by re-alleging the allegations of the Fifth Defense, which are incorporated by reference in full herein.

Eleventh Defense

Brevard County avoids the fifth claim for relief in the complaint claiming a violation of Article 1, section 3 of the Constitution of the State of Florida, by incorporating the allegations in the Sixth, Seventh, Eighth, Ninth and Tenth Defenses by reference herein, in full. In addition, Brevard would allege that the pre-meeting prayer

tradition complained of does not involve taking any county revenue directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

DEMAND FOR TRIAL BY JURY ON THE ISSUE OF DAMAGES

Defendant Brevard County, hereby demands trial by jury on the sole issue of damages, should the Court determine the County is liable on any claim for which damages may be awardable.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 29, 2015, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system and served on all parties using the CM/ECF system.

s/Scott L. Knox
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