



number of services to the community, including the Keys of Life summer school (hereinafter "Keys of Life"). Mason Cathedral is affiliated with the Church of God in Christ, a national denomination based in Memphis, Tennessee. Reverend Thomas V. Cross, Sr. ("Rev. Cross") is the Pastor of Mason Cathedral. Rev. Cross' daughter, Ms. Kenya Cross ("Ms. Cross"), ran Keys of Life during the summer of 1999.

5. Upon information and belief, Defendant Action for Boston Community Development (hereinafter "ABCD") is a private, non-profit corporation that serves as Boston's official antipoverty agency. ABCD operates, under color of state law, a number of programs in the Boston area, including a program called "SummerWorks." Upon information and belief, ABCD receives over 90% of its funding from government sources including the federal government (through the Job Training Partnership Act ("JTPA")), the Commonwealth of Massachusetts and the City of Boston.

6. Upon information and belief, Defendant the Boston Redevelopment Authority ("BRA") is the chief economic planning unit for the City of Boston. Upon information and belief, the Boston Redevelopment Authority distributes JTPA funds to SummerWorks and, through its division of Office of Jobs and Community Services ("OJCS"), oversees the administration of SummerWorks by ABCD.

#### FACTS

7. ABCD operates SummerWorks with the Boston Redevelopment Authority with funds provided by JTPA and the Governor's At-Risk Youth Fund.

8. SummerWorks is a summer jobs program with the primary purpose of providing job training and career experience to its enrollees (the "Enrollees"). Its Enrollees are low-income youth that have applied to and been accepted to the SummerWorks program.

9. ABCD places approximately 1,300 Enrollees in career-oriented work settings at over 180 entities throughout the city including day camps, hospitals, religious organizations, and public agencies. During the 34 years that ABCD has run SummerWorks, it has placed Enrollees at a number of organizations that have religious affiliations.

10. For seven years, ABCD placed Enrollees at Keys of Life where the Enrollees served as camp counselors for the children aged 3-12 that attended Keys of Life. Keys of Life was open to all children in the community regardless of any religious affiliation. Enrollees working at Keys of Life provided counseling and child care for the children and gained job training experience from Keys of Life while receiving a stipend from ABCD.

11. Keys of Life was located in the basement of a former synagogue that is currently being used as a Church by Rev. Cross' congregation. The summer school involves primarily non-religious activities with the children including computer work, games and field trips. Religious activity in the school was minimal and included Rev. Cross or Ms. Cross leading the children in brief prayers at the beginning of each day and before meals. Ms. Cross would often begin each day by reading a Bible story as well.

12. Each year, certain Enrollees chose to apply to Keys of Life at Mason Cathedral after selecting the site from a list of possible job sites that ABCD provided to Enrollees. Rev. Cross and/or Ms. Cross would then interview the Enrollees who applied to Keys of Life and select Enrollees to serve as counselors.

13. During interviews, Ms. Cross would inform Enrollees about both the religious and non-religious activities at Keys of Life and emphasized that any participation by Enrollees in the prayers was entirely voluntary and not a requirement of working at Keys of Life.

14. Once Enrollees began to work at Keys of Life, the Crosses continued to emphasize to the Enrollees that their participation in prayers was entirely voluntary. The Crosses did not encourage or discourage participation in prayers. At times, some Enrollees chose to sit with children during the Bible story or join in prayers. Enrollees could choose not to participate in prayers. Enrollees did not lead the prayers or read Bible stories to children.

15. During the seven years that Enrollees came to Keys of Life, representatives from ABCD sometimes visited Keys of Life to monitor the site and the Enrollees' work at the site. Over the years, ABCD uniformly praised the Keys of Life program as a SummerWorks site and did not raise concerns about the program until the summer of 1999.

16. In the summer of 1999, the Keys of Life school had approximately eight (8) Enrollees working as counselors. During that summer, representatives from ABCD made at least four visits to the Keys of Life school and took notice of the prayers as well as religious symbols at the site that included a cross and the Ten Commandments in the room used by Keys of Life as well as a Torah on the facade of the building.

17. At each of the site visits, representatives from ABCD observed that some of the Enrollees joined in the prayers with the children. The ABCD representatives told Ms. Cross that the Enrollees were not allowed to pray. When Ms. Cross told the ABCD representatives that participation in the prayers was optional and that the Enrollees chose to pray, Ms. Cross was told that the Enrollees were not allowed to pray and that she must forbid and prevent them from praying.

18. By letter dated July 15, 1999, Mr. Steven Godfrey ("Mr. Godfrey"), Program Director of SummerWorks wrote Ms. Cross (incorrectly identified as "Ms. Gross" in the letter) and raised the concern that enrollees were being asked to participate in religious activities. The

letter also raised concerns about the presence of religious symbols and the conduct of religious activities in general at the site. Mr. Godfrey's letter originally sought Ms. Cross' agreement that "[a]ll religious activities must cease" at the site and Mr. Godfrey had previously told Ms. Cross to prohibit the Enrollees from praying and she had refused. In the version of the letter Ms. Cross signed, however, Ms. Cross only agreed that Keys of Life would not "ask enrollees to engage in religious activities." Mr. Godfrey's modifications to the letter agreement are indicated on the letter agreement by his initials "SG." Because the Crosses had not asked and did not plan to ask Enrollees to engage in religious activities, Ms. Cross signed the letter agreeing not to ask enrollees to participate in religious activities.

19. By letter dated August 2, 1999, Larry Smith ("Mr. Smith"), a BRA employee who was Program Manager of OJCS, reported to Mr. Godfrey that Enrollees at Keys of Life "were again being directed to pray which is in direct violation of JTPA 11-B regulations," and that an Enrollee "was told to leave the site if he would not pray." On these stated bases, Mr. Smith directed Mr. Godfrey to close the Keys of Life site "for the remainder of the summer" and to "reassign the participants to other worksites immediately." Whereupon, the Keys of Life site was summarily closed and Plaintiff was given no opportunity to respond to the BRA's or ABCD's allegations. A copy of the August 2, 1999 letter is attached hereto as Exhibit 1.

20. The allegations that the "participants" were "being directed to pray" and that "a participant was told to leave the site if he would not pray" have no basis in fact and are pretextual.

21. In fact, by withdrawing its Enrollees from the Keys of Life worksite Defendants denied and are continuing to deny Plaintiff the opportunity to participate in a state and federally-

funded program solely on the basis of the viewpoint of the Keys of Life program, the content of its expression, and the free exercise of religion by Plaintiff.

22. Defendants cannot demonstrate a compelling state interest sufficient to justify plaintiff's exclusion from participation in the SummerWorks program, nor can they demonstrate that the denial of funding is narrowly drawn to satisfy any such state interest.

**COUNT ONE: VIOLATION OF FREEDOM OF SPEECH AND ASSOCIATION**

23. The allegations contained in paragraphs I through 22 are incorporated herein by reference.

24. Although defendants have provided summer job trainees to a wide variety of community-based organizations in Boston, defendants have illegally and unconstitutionally denied plaintiff the opportunity to participate in the SummerWorks program based solely on the content or viewpoint of Plaintiff s speech, communications, identity, activities and affiliation.

25. Plaintiff has unjustifiably and unlawfully been denied benefits to which it was and is entitled. This loss was the result of state action. This state action violated and continues to violate plaintiff s rights of free speech and free association under the First and Fourteenth Amendments to the United States Constitution. The denial of the right of plaintiff to participate in the SummerWorks program constitutes impermissible viewpoint and content discrimination. There exists no compelling state interest to justify the defendants' actions. Moreover, even if there were some compelling state interest, defendants actions are not narrowly tailored to achieve that interest.

26. By virtue of the unlawful policies and conduct of defendants, Plaintiff has suffered and continues to suffer injury to its rights of free speech, free association and free exercise of religion, and to the furtherance of its lawful activities.

## **COUNT TWO: VIOLATION OF FREE EXERCISE OF RELIGION**

27. The allegations contained in paragraphs I through 26 are incorporated herein by reference.

28. The Free Exercise Clause of the First Amendment to the United States Constitution prohibits government discrimination in the allocation of benefits or imposition of burdens based upon an individual's or group's religious beliefs, character, or affiliation, or based upon the religious content of their expression and is applicable to state action under the Fourteenth Amendment.

29. Defendants impermissibly and unlawfully denied Plaintiff participation in the SummerWorks program which was available to other community-based organizations. This denial was based upon plaintiff's religious beliefs, character, affiliation, speech, and association.

30. Defendants have not shown and cannot show that denying Plaintiff participation in the SummerWorks program to which it is lawfully entitled is necessary to serve a compelling state interest, nor can defendants show that such a denial is a narrowly drawn means of achieving that interest.

31. Defendants' conduct has deprived and continues to deprive Plaintiff of its right to free exercise of religion as guaranteed under the First and Fourteenth Amendments to the United States Constitution.

32. Defendants' conduct constitutes a failure to give reasonable accommodation to plaintiffs religious beliefs.

33. By virtue of the unlawful policies and conduct of the defendants, Plaintiff has suffered and continues to suffer injury to its rights of religious freedom and to the furtherance of its lawful activities.

### **COUNT THREE: VIOLATION OF EQUAL PROTECTION OF THE LAWS**

34. The allegations contained in paragraphs I through 33 are incorporated herein by reference.

35. By denying Plaintiff the benefits which other community organizations are provided, defendants unlawfully and unconstitutionally have treated and continue to treat plaintiff differently from other similarly situated community organizations on the basis of the content or viewpoint of its speech, association, beliefs, character, affiliation, identity, and activity.

36. Defendants' conduct under color of state law violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution in that it constitutes discrimination on a suspect basis and violates fundamental constitutional rights. This violation is not justified by a compelling state interest and is not accomplished by narrowly drawn means. Defendants have singled out plaintiff and denied it participation in the SummerWorks program based upon the content or viewpoint of its affiliation, its speech, its expression, and its association.

37. Plaintiff has suffered and continues to suffer injury to its rights of equal protection under the law, and to the furtherance of its lawful activities, by virtue of the unlawful policies and conduct of the defendants.

WHEREFORE, having stated claims against the defendants under the United States Constitution and federal law, plaintiff petitions this Court for the following relief:



A. a declaratory judgment that the conduct of the defendants in establishing and applying a policy which refuses to allow the same benefits to plaintiff as to other similarly situated community organizations, and which denies plaintiff participation in the SummerWorks program solely and expressly because of the content or viewpoint of its speech, violates plaintiff's rights to freedom of speech, freedom of association, free exercise of religion, and to equal protection under the law, as guaranteed by the First and Fourteenth Amendments to the United States Constitution;

B. a preliminary injunction and permanent order enjoining the defendants from maintaining and applying a policy of discrimination against plaintiff in the allocation of SummerWorks participants or in any other manner on the basis of plaintiff's speech or on the basis of the content or viewpoint of the speech or the religion with which plaintiff is affiliated;

C. an order awarding plaintiff reasonable costs and attorneys' fees pursuant to Section 2 of the Civil Rights Attorney's Fees Award Act of 1976, as amended, 42 U.S.C. Section 1988(1988); and

D. Such other relief as the court deems just and proper.

Respectfully submitted,

MASON CATHEDRAL CHURCH  
OF GOD IN CHRIST

By Its Attorneys

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Timothy M. Mauser, Esq.  
Mauser & Mauser  
Suite 400  
180 Canal Street  
Boston, MA 02114  
617-720-5585

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Michael P. McDonald, Esq.  
Founder and Director of Litigation  
1233 Twentieth Street,  
N.W. Suite 300  
Washington, DC 20036

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