

**UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

**No. 16-3387**

---

**The Satanic Temple and Mary Doe,**

**Appellants**

**vs.**

**Jeremiah Jay Nixon, Governor of the State of Missouri,  
and Chris Koster, Attorney General of the State of Missouri**

**Appellees**

---

**Appeal from an Order of the United States District Court for the  
Eastern District of Missouri, per the Hon. Henry Edward Autry,  
U.S.D.J., dated July 15, 2016 Dismissing Appellant's Complaint  
Pursuant to Fed. R. Civ. Pro. 12(b)(6)**

**APPELLANTS' BRIEF**

W. James Mac Naughton  
7 Fredon Marksboro Road  
Newton, NJ 07860  
732-634-3700 (o)  
732-875-1250 (f)  
wjm@wjmesq.com  
Bar ID No. 701985NJ  
*Attorney for Appellants The Satanic  
Temple  
and Mary Doe*

**TABLE OF CONTENTS**

**I. SUMMARY OF THE CASE ..... 1**

**II. JURISDICTIONAL STATEMENT..... 2**

**III. ISSUES PRESENTED FOR REVIEW ..... 4**

**IV. STATEMENT OF THE CASE..... 7**

**V. SUMMARY OF THE ARGUMENT ..... 12**

**VI. LEGAL ARGUMENT..... 13**

**A. Appellants Allege Concrete and Particularized Injury in Fact. .... 13**

**B. Appellants Allege Actual Injury in Fact. .... 22**

**C. Appellants Have Standing to Make Their Establishment Clause Claims..... 25**

**D. Appellants Have Standing to Make Their Free Exercise Clause Claims..... 25**

**E. The Satanic Temple Has Standing to Assert Certainly Impending Violations of the Religion Clauses. .... 29**

**VII. CONCLUSION..... 33**

## TABLE OF AUTHORITIES

### Cases

<i>ACLU Neb. Found. v. City of Plattsmouth, Neb.</i> , 358 F.3d 1020 (8 <sup>th</sup> Cir. 2004), <i>rev'd en banc on other grounds</i> , 419 F.3d 772 (8 <sup>th</sup> Cir. 2005) .....	21, 29
<i>Adland v. Russ</i> , 307 F.3d 471 (6 <sup>th</sup> Cir.2002) .....	17
<i>Americans United for Separation v. Prison Fellow.</i> , 509 F.3d 406, 419 (8 <sup>th</sup> Cir. 2007) .....	30
<i>Association of Data Processing Service Organizations, Inc. v. Camp</i> , 397 U.S. 150, 154, 90 S.Ct. 827, 25 L.Ed.2d 184 (1970) .....	5, 17, 29
<i>Awad v. Ziriax</i> , 670 F.3d 1111 (10 <sup>th</sup> Cir. 2012).....	5, 17
<i>Bostic v. Schaefer</i> , 760 F.3d 352 (4 <sup>th</sup> Cir. 2014) .....	17
<i>Burwell v. Hobby Lobby Stores, Inc.</i> , 134 S. Ct. 2751, 2770 (2014) (June 30, 2014) .....	26
<i>Catholic League for Religion &amp; Civil Rights v. City &amp; Cnty. of San Francisco</i> , 624 F.3d 1043 (9 <sup>th</sup> Cir. 2010) ( <i>en banc</i> ) .....	18
<i>Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah</i> , 508 U.S. 520, 532, 113 S.Ct. 2217, 124 L.Ed.2d 472 (1993) .....	27
<i>Cnty. of Allegheny v. ACLU</i> , 492 U.S. 573, 109 S.Ct. 3086, 106 L.Ed.2d 472 (1989) .....	18
<i>Daimler Chrysler Corp. v. Cuno</i> , 547 U.S. 332, 126 S.Ct. 1854, 184 L.Ed.2d 589 (2006) .....	13
<i>Davis v. Federal Election Comm'n</i> , 554 U.S. 724, 128 S.Ct. 2759, 171 L.Ed.2d 737 (2008) .....	14
<i>Doe ex rel. Doe v. School Dist. of City of Norfolk</i> , 340 F.3d 605 (8 <sup>th</sup> Cir. 2003) .....	16

*Engel v. Vitale*, 370 U.S. 421, 82 S.Ct. 1261, 8 L.Ed.2d 601 (1962) (1962)28

*Foremaster v. City of St. George*, 882 F.2d 1485 (10<sup>th</sup> Cir. 1989), *cert. den.*,  
495 U.S. 910, 110 S.Ct. 1937, 109 L.Ed.2d (1990) ..... 17

*Glickert v. Loop Trolley Transp. Dev. Dist.*, 792 F.3d 876, 880 (8<sup>th</sup> Cir.  
2015) ..... 14

*Hunt v. Washington State Apple Advertising Commission*, 432 U.S. 333, 97  
S.Ct. 2434, 53 L.Ed.2d 383 (1977) ..... 6, 31, 32

*Jewish People for the Betterment of Westhampton Beach v. Vill. of  
Westhampton Beach*, 778 F.3d 390 (2<sup>nd</sup> Cir. 2015); ..... 17

*Krantz v. City of Fort Smith*, 160 F. 3d 1214, 1218 (8<sup>th</sup> Cir. 1998)..... 6, 31

*Lemon v. Kurtzman*, 403 U.S. 602, 622, 91 S.Ct. 2105, 29 L.Ed.2d 745  
(1971) ..... 19

*Lujan v. Defenders of Wildlife*, 504 U.S. 555, 112 S.Ct. 2130, 119 L.Ed.2d  
351 (1992) ..... 13, 22

*Lynch v. Donnelly*, 465 U.S. 668, 104 S.Ct. 1355, 79 L.Ed.2d 604 (1984) . 19

*McGowan v. Maryland*, 366 U.S. 420, 81 S.Ct. 1218, 1156-1157, 6 L.Ed.2d  
393 (1961) ..... 19

*Miller City of St. Paul*, 823 F.3d 503 (8<sup>th</sup> Cir. 2016)..... 29

*Murray v. City of Austin, Tex.*, 947 F.2d 147 (5<sup>th</sup> Cir.1991), *cert. den.* 495  
U.S.1219, 112 S. Ct. 3028, 120 L.Ed.2d 899 (1992) ..... 17

*Native Village of Tanana v. Cowper*, 945 F.2d 409 (9<sup>th</sup> Cir. 1991) ..... 32

*O'Shea v. Littleton*, 414 U.S. 488, 94 S.Ct. 669, 38 L.Ed.2d 674 (1974)..... 24

*Peter v. Wedl*, 155 F.3d 992 (8<sup>th</sup> Cir. 1998)..... 27

*Red River Freethinkers v. City of Fargo*, 679 F.3d 1015 (8<sup>th</sup> Cir. 2012)  
..... passim

<i>Roe v. Wade</i> , 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973) .....	22
<i>Rumsfeld v. Forum for Academic &amp; Institutional Rights, Inc.</i> , 547 U.S. 47, 52 n. 2, 126 S.Ct. 1297, 164 L.Ed.2d 156 (2006) .....	30
<i>Saladin v. City of Milledgeville</i> , 812 F.2d 687, 692–93 (11 <sup>th</sup> Cir. 1987) .....	17
<i>Sch. Dist. of Abington Township v. Schempp</i> , 374 U.S. 203, 83 S.Ct. 1560, 10 L.Ed.2d 844 (1963) .....	5, 25
<i>School District of City of Grand Rapids v. Ball</i> , 473 U.S. 373, 105 S.Ct. 3216, 87 L.Ed.2d 267 (1985) .....	14
<i>Spirit Lake Tribe of Indians v. Nat'l Collegiate Athletic Ass'n</i> , 715 F.3d 1089 (8 <sup>th</sup> Cir. 2013) .....	6, 16
<i>Spokeo, Inc. v. Robins</i> , 136 S. Ct. 1540 (May 16, 2016).....	5, 13
<i>State v. Rollen</i> , 133 S.W.3d 57 (Mo. App., 2003) .....	28
<i>Suhre v. Haywood Cnty.</i> , 131 F.3d 1083 (4 <sup>th</sup> Cir.1997) .....	7, 17, 31
<i>Turner Broad. Sys., Inc. v. Fed. Communications Comm'n</i> , 512 U.S. 622, 114 S.Ct. 2445, 129 L.Ed.2d 497 (1994) .....	21
<i>Vasquez v. Los Angeles Cnty.</i> , 487 F.3d 1246 (9 <sup>th</sup> Cir. 2007) .....	17
<i>Webster v. Reproductive Health Services</i> , 851 F.2d 1071 (8 <sup>th</sup> Cir. 1988) ("Webster"), <i>rev'd other grounds</i> , 492 U.S. 490 (1989).....	1, 4, 14, 21

**Statutes**

28 U.S.C. §1291 .....	4
28 U.S.C. §1331 .....	4
42 U.S.C. §1983 .....	3

Mo. Rev. Stat. § 188.027.1(2) ..... 2

Mo. Rev. Stat. § 188.027.1(4) ..... 2

Mo. Rev. Stat. § 188.027.1(5) ..... 9

Mo. Rev. Stat. § 188.027.12 ..... 3

Mo. Rev. Stat. §1.0205.1 ..... 27

Mo. Rev. Stat. §188.027.3 ..... 3

**Constitution**

Establishment Clause..... passim

First Amendment ..... passim

Free Exercise Clause ..... passim

**Procedural Rules**

Fed. R. Civ. Pro. 12(b)(6)..... 4, 10

**Treatises**

Antonin Scalia, *The Doctrine of Standing as an Essential Element of the Separation of Powers*, 17 Suffolk U.L.Rev. 881 (1983)..... 16

**Other Authorities**

*The Scarlet Letter* by Nathaniel Hawthorne ..... 19

## I. SUMMARY OF THE CASE

Appellants The Satanic Temple and Mary Doe (“Appellants”) challenge the constitutionality of Missouri statutes that compel women getting an abortion to consider religious beliefs that 1) the life of each human being begins at conception; and 2) abortion will terminate the life of a separate, unique, living human. This statutory statement is “an impermissible state adoption of a theory when life begins.” *Webster v. Reproductive Health Services*, 851 F.2d 1071, 1076 (8<sup>th</sup> Cir. 1988) (“*Webster*”), *rev’d other grounds*, 492 U.S. 490 (1989). Appellants contend Missouri’s “theory when life begins” and the manner in which it is delivered violate the Establishment Clause and Free Exercise Clause (jointly the “Religion Clauses”) because the “theory” is state sponsorship of religious beliefs held by some Christian sects. Appellants, who had and will seek abortions, appeal the dismissal of their Complaint for lack of standing.

This case raises issues of first impression regarding the application of the Religion Clauses to Missouri’s “theory when life begins” and the manner in which it is delivered. Appellants request twenty (20) minutes of time for oral argument.

## II. JURISDICTIONAL STATEMENT

Appellees Jeremiah Nixon and Chris Koster, in their respective capacities as Missouri's Governor and Attorney General, have enforced and will continue to enforce:

- Mo. Rev. Stat. § 188.027.1(2) which requires an abortion provider to deliver a booklet to a pregnant woman before she gets an abortion that recites “The life of each human being begins at conception. Abortion will terminate the life of a separate, unique, living human being” (the “Booklet”).<sup>1</sup>
- Mo. Rev. Stat. § 188.027.1(4) which requires that prior to an abortion, the provider “shall provide the woman with the opportunity to view . . . an active ultrasound of the unborn child and hear the heartbeat of the unborn child if the heartbeat is audible” (the “Ultrasound Opportunity”).
- Mo. Rev. Stat. § 188.027.1(4) which requires a woman seeking an abortion to wait seventy-two hours after the Ultrasound Opportunity before getting her abortion (the “72 Hour Waiting Period”).

---

<sup>1</sup> A copy of the Booklet was attached as Exhibit A to the Complaint. JA 25.

- Mo. Rev. Stat. § 188.027.12 which requires a woman seeking an abortion to wait twenty-four hours after the Ultrasound Opportunity before getting her abortion if the 72 Hour Waiting Period is enjoined by the Court (the “24 Hour Waiting Period.”)
- Mo. Rev. Stat. §188.027.3 which requires a woman to certify in writing that she has received the Booklet and the Ultrasound Opportunity before she may get an abortion (the “Certification Requirement”).

The Booklet, Ultrasound Opportunity, 72 Hour Waiting Period, 24 Hour Waiting Period and the Certification Requirement are described in the Complaint as the “Missouri Lectionary” because their sole purpose and effect is to promote the state sponsored religious beliefs that 1) the life of each human being begins at conception; and 2) abortion will terminate the life of a separate, unique, living human being (the “Missouri Tenets”). JA 16. Appellants allege they do not believe the Missouri Tenets. JA 18. Appellants allege the Missouri Lectionary and Missouri Tenets are forced upon them and cause them guilt, doubt, and shame. JA 17 and 21. The Complaint alleges enforcement of the Missouri Lectionary and Missouri Tenets violates 42 U.S.C. §1983 because the promotion of the state’s theory “when life begins” infringes on Appellants’ rights under the Religion

Clauses. JA 21 and 21. The District Court had jurisdiction of Appellants' claims pursuant to 28 U.S.C. §1331. JA 14.

The District Court, per the Hon. Edward Henry Autry, U.S.D.J., dismissed the Complaint pursuant to Fed. R. Civ. Pro. 12(b)(6) by order dated July 15, 2016, which is a final order. JA 1. The District Court ruled Appellants do not have standing to challenge the Missouri Lectionary and Missouri Tenets because Appellants have not suffered and will not certainly suffer concrete and particular injury. JA 11. Appellants timely filed an appeal on August 11, 2016. This Court has jurisdiction over the appeal pursuant to 28 U.S.C. §1291.

### III. ISSUES PRESENTED FOR REVIEW

A. Whether contact with the Missouri Lectionary and Missouri Tenets forced upon a woman before getting an abortion is sufficiently concrete and particularized “injury in fact” to give her standing to assert violations of the Religion Clauses.

- *Webster*, 851 F.2d at 1076 (The Missouri Tenets are “an impermissible state adoption of a theory when life begins”).
- *Red River Freethinkers v. City of Fargo*, 679 F.3d 1015, 1022 (8<sup>th</sup> Cir. 2012) (“*Red River Freethinkers*”) (Unwelcome contact with state sponsored religion is “injury in fact” for standing purposes).

- *Awad v. Ziriax*, 670 F.3d 1111, 1122 (10<sup>th</sup> Cir. 2012) (“*Awad*”) (“alleging *only* ‘personal and unwelcome contact’ with government-sponsored Religion symbols is sufficient to establish standing” [emphasis in original])
- *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150, 154, 90 S.Ct. 827, 25 L.Ed.2d 184 (1970) (“*Association of Data Processing Service Organizations*”) (A “spiritual stake in First Amendment values” provides standing to raise issues concerning the Establishment Clause and the Free Exercise Clause).

B. Whether the guilt, doubt, and shame inflicted by the Missouri Lectionary and Missouri Tenets on a woman before getting an abortion are sufficiently concrete and particularized “injury in fact” to give her standing to assert violations of the Religion Clauses.

- *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1545 (May 16, 2016) (“*Spokeo*”) (Intangible injuries can be sufficiently concrete and particularized to constitute “injury in fact”).
- *Sch. Dist. of Abington Township v. Schempp*, 374 U.S. 203, 223, 83 S.Ct. 1560, 10 L.Ed.2d 844 (1963) (“*Schempp*”) (“It is necessary in a free exercise case for one to show the coercive effect of

the enactment as it operates against him in the practice of his religion.”).

- *Spirit Lake Tribe of Indians v. Nat'l Collegiate Athletic Ass'n*, 715 F.3d 1089, 1092 (8<sup>th</sup> Cir. 2013) (“*Spirit Lake Tribe of Indians* “ (“Emotional harm can be sufficiently concrete and particularized to confer standing”).

C. Whether the injury that will be suffered by members of The Satanic Temple who will be subject to forced contact with the Missouri Lektionary and Missouri Tenets gives The Satanic Temple standing to assert violations of the Religion Clauses.

- *Hunt v. Washington State Apple Advertising Commission*, 432 U.S. 333, 343, 97 S.Ct. 2434, 53 L.Ed.2d 383 (1977) (“*Hunt*”) (An association has standing to bring suit on behalf of its members when 1) its members would otherwise have standing to sue in their own right; 2) the interests it seeks to protect are germane to the organization's purpose; and 3) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.)
- *Krantz v. City of Fort Smith*, 160 F. 3d 1214, 1218 (8<sup>th</sup> Cir. 1998) (“*Krantz*”) (Church members have standing to challenge

leafleting ban because they “allege an actual and well-founded fear that the law will be enforced against them”)

- *Suhre v. Haywood Cnty.*, 131 F.3d 1083, 1091 (4<sup>th</sup> Cir.1997) (“*Suhre*”) (Plaintiff who alleges “an unmistakable intention” to be subjected to unwelcome contact with state sponsored religion has standing to assert Establishment Clause claim).

#### IV. STATEMENT OF THE CASE

Appellant Mary Doe (“Mary Doe”) is a Missouri resident who got an abortion at the facilities of Planned Parenthood in St. Louis, which is the only place in Missouri providing abortions. Mary Doe is a member of Appellant The Satanic Temple (“The Satanic Temple”). JA 13 and 14.

The Satanic Temple is an association of politically aware Satanists, secularists, and advocates for individual liberty.<sup>2</sup> Members of the Satanic Temple include women who have had abortions and will get abortions at Planned Parenthood in St. Louis. JA 13 and 14.

---

<sup>2</sup> “It is the position of The Satanic Temple that religion can, and should, be divorced from superstition. As such, we do not promote a belief in a personal Satan. To embrace the name Satan is to embrace rational inquiry removed from supernaturalism and archaic tradition-based superstitions. The Satanist should actively work to hone critical thinking and exercise reasonable agnosticism in all things.” <https://thesatanictemple.com/faq/> (last visited October 7, 2016)

Mary Doe and other members of The Satanic Temple believe in the Satanic Tenets:

- Human fetal tissue *in utero* that is not viable (“Human Tissue”) is part of a woman’s body.
- A woman’s body, including any Human Tissue she carries, is inviolable and subject to her will alone.
- A woman makes decisions regarding her health based on the best scientific understanding of the world, even if the science does not comport with the religious or political beliefs of others.
- A pregnant woman alone decides whether to remove Human Tissue from her body; and
- A pregnant woman may, in good conscience, have Human Tissue removed from her body on demand and without regard to the current or future condition of the Human Tissue.

JA 17 and 18.

When Mary Doe and other women from The Satanic Temple arrive at Planned Parenthood for their abortions, Missouri law requires Planned Parenthood to deliver the Booklet to them. JA 17. The Booklet recites the Missouri Tenets – “The life of a human being begins at conception. Abortion terminates the life of a separate, unique, living human being.” JA

15.

Some people in Missouri believe The Missouri Tenets are true, primarily the Catholic Church and some evangelical and fundamentalist Christian sects. JA 15. However, Mary Doe and other members of The Satanic Temple do not believe the Missouri Tenets are true. Specifically, they do not believe the life of a human being begins at conception or that abortion terminates the life of a separate, unique, living human being. JA

18.

The Booklet also contains detailed descriptions and color renditions of the anatomical characteristics of Human Tissue at two-week gestational increments from conception to full term. JA 29 to 38. The description includes statements that promote the truth of the Missouri Tenets such as:

- “The fetal heartbeat can be detected with a Doppler or heart monitor.”
- “The fetal heartbeat can now be heard with a stethoscope.”
- “The fetus can blink, grasp, and move its mouth.”
- “If the hand floats to the mouth, the fetus may suck its thumb.”
- “The fetus hears the mother’s sounds such as her heartbeat, breathing and speaking.”
- “The fetus sleeps and wakes regularly.”

- “At least by 22 weeks of gestational age, the fetus possesses all the anatomical structures, including pain receptors, spinal cord, nerve tracts, thalamus, and cortex, which are required to feel pain,” a statement required by Mo. Rev. Stat. § 188.027.1(5).

There is no mention in the Booklet that the umbilical cord makes Human Tissue an inextricable part of a pregnant woman’s body.

Before getting her abortion, Mary Doe and other women from The Satanic Temple must also undergo the Ultrasound Opportunity. Then they must comply with the Certification Requirement and undergo the 72 Hour Waiting Period before getting an abortion.<sup>3</sup> JA 17.

These procedures – the Booklet, the Ultrasound Opportunity, the Certification Requirement, the 72 Hour Waiting Period and the 24 Hour Waiting Period – are not medically necessary for a woman to make an informed decision about getting an abortion. JA 18. Instead, they serve the sole purpose of trying to persuade a woman the Missouri Tenets are true and forgo an abortion that is morally wrong. JA 19. For that reason, these

---

<sup>3</sup> If the 72 Hour Waiting Period should be declared invalid, they are subject to the 24 Hour Waiting Period.

procedures are referred to in the Complaint and this brief as the Missouri Lectionary.<sup>4</sup> JA 16.

The Missouri Lectionary makes no mention of any of the Satanic Tenets or alternative theories of when “human life begins.” It omits any reference to a critical biological fact that supports the Satanic Tenets and refutes the Missouri Tenets – the umbilical cord connects Human Tissue with a pregnant woman thus making it part of her body.

Appellants filed their complaint on June 23, 2015, in United States District Court for the Eastern District of Missouri. The Complaint sought a declaration the Missouri Lectionary and Missouri Tenets violate the Religion Clauses and an injunction enjoining their enforcement. JA 20 and 22.

Appellees filed a motion to dismiss the complaint pursuant to Fed. R. Civ. Pro. 12(b)(6) on September 8, 2015 on the grounds, *inter alia*, Appellants lacked standing to assert their claims.

In a written Opinion, Memorandum and Order dated July 15, 2016, the District Court, per the Hon. Henry Edward Autry, U.S.D.J., granted Appellees’ motion and dismissed the Complaint. JA 1. The District Court said:

---

<sup>4</sup> “The lectionary is a pre-selected collection of scriptural readings from the Bible that can be used for worship, study or other theological uses.” <http://disciples.org/resources/lectionary/what-is-the-lectionary/> (last visited September 30, 2016).

Plaintiff Doe is not now pregnant, there is no guaranty that she will become pregnant in the future, and that if she does, she will seek an abortion, thus, Plaintiffs' injuries are not sufficiently concrete for the Court to order the requested relief. . . . Plaintiffs have failed allege a threatened injury that is certainly impending and that any future injury is particular and concrete, Plaintiffs have failed to sufficiently establish standing to challenge the Missouri statutes.

JA 11

This appeal timely followed.

## V. SUMMARY OF THE ARGUMENT

The Missouri Lectionary and Missouri Tenets have been forced upon Appellants as a condition of getting their abortions. That unwanted contact caused them doubt, guilt and shame when they got their abortions and thereafter. Appellants suffered a sufficiently concrete and particularized injury in fact to give them standing to assert violations of their rights under the Religion Clauses.<sup>5</sup>

The Missouri Lectionary and Missouri Tenets discriminate against Appellants' beliefs and coerced Appellants to forgo the exercise of their religion beliefs when they got abortions. Appellants suffered a sufficiently concrete and particularized injury in fact to give them standing to assert violations of their rights under the Free Exercise Clause.

When members of The Satanic Temple get their abortions in the future,

---

<sup>5</sup> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

they will be subject to forced contact with the Missouri Lectionary and Missouri Tenets which will cause them guilt, doubt, and shame. They will also be subject to the discrimination and coercion of the Missouri Lectionary and Missouri Tenets. The injury they will suffer as a result of that forced contact is certainly impending and therefore gives The Satanic Temple standing to assert violations of its members' rights under the Religion Clauses.

## VI. LEGAL ARGUMENT

### A. Appellants Allege Concrete and Particularized Injury in Fact.

The irreducible constitutional minimum of standing consists of three elements. The plaintiff must have 1) suffered an injury in fact, 2) a causal connection between the injury and the challenged conduct of the defendant, and 3) the injury is likely to be redressed by a favorable judicial decision. *Spokeo*, 136 S. Ct. at 1547; *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992) (“*Lujan*”).

The injury in fact must be “concrete” and “particularized” to the plaintiff. *Spokeo*, 136 S.Ct. at 1545. An intangible injury can be a “concrete” injury in fact. *Id.* A “concrete” injury in fact must be “*de facto*”; that is, it must actually exist. *Spokeo*, 136 S.Ct. at 1548. “Particularized” injuries “must affect the plaintiff in a personal and individual way.” *Id.*

Appellants must establish standing to assert each of their claims under the Religion Clauses. *Daimler Chrysler Corp. v. Cuno*, 547 U.S. 332, 335, 126 S.Ct. 1854, 184 L.Ed.2d 589 (2006) (A plaintiff must demonstrate standing for each claim asserted). The Court reviews the dismissal of a complaint for lack of standing *de novo*, construing its allegations and the reasonable inferences drawn therefrom, most favorably to the plaintiff. *Glickert v. Loop Trolley Transp. Dev. Dist.*, 792 F.3d 876, 880 (8<sup>th</sup> Cir. 2015). Standing is assessed as of the time a suit is filed. *Davis v. Federal Election Comm'n*, 554 U.S. 724, 734, 128 S.Ct. 2759, 171 L.Ed.2d 737 (2008).

The Missouri Tenets, on their face, violate the Establishment Clause. *School District of City of Grand Rapids v. Ball*, 473 U.S. 373, 385, 105 S.Ct. 3216, 87 L.Ed.2d 267 (1985) (“Although Establishment Clause jurisprudence is characterized by few absolutes, the Clause does absolutely prohibit . . . government-sponsored indoctrination into the beliefs of a particular religious faith.”); *Webster*, 851 F.2d at 1076. The Missouri Tenets have been preached to women getting abortions in Missouri for nearly thirty years because there is substantial political support for the Missouri Tenets. The Courts are understandably reluctant to do their constitutional duty in the

face of such pressure. The District Court demonstrated that timidity when it dismissed the Complaint with no serious analysis of Appellants' standing.

The District Court held "Plaintiff Doe is not now pregnant, there is no guaranty that she will become pregnant in the future, and that if she does, she will seek an abortion, thus, Plaintiffs' injuries are not sufficiently concrete for the Court to order the requested relief." This finding was erroneous as a matter of law.

The intangible injury caused by the Appellants' forced contact with the Missouri Lictionary and Missouri Tenets is not trivial. Appellants express it as guilt, doubt, and shame because - according to the Missouri Tenets - they are murdering their babies. That injury does not evaporate after an abortion.

In *Red River Freethinkers v. City of Fargo*, 679 F.3d 1015, 1022 (8<sup>th</sup> Cir. 2012) ("*Red River Freethinkers*"), the Court held that direct and unwelcome contact with the public display of the Ten Commandments on municipal property gave Plaintiffs standing to assert an Establishment Clause claim:

[T]he alleged injuries are concrete. Freethinkers' members experience direct, offensive, and alienating contact with the Ten Commandments monument. . . . And while those injuries are largely emotional, we must presume they are sincerely felt. To the extent that emotional harms differ from other, more readily quantifiable harms, that difference lacks expression in Article

III's case-or-controversy requirement. [Internal quotations and citations omitted]

Appellants alleged direct, personal contact with the Missouri Lectionary and Missouri Tenets at the offices of Planned Parenthood. The Missouri Lectionary and Missouri Tenets were unwanted intrusions that sought to influence Appellants' religious beliefs on one of the most gut-wrenching and consequential decisions a woman can make. As a result, Appellants felt guilt, doubt, and shame for getting abortions they believed they had the right to get in good conscience. The Court must accept these allegations as true. The injury Appellants describe is not conjectural or hypothetical. It is concrete because it exists. The injury is "particularized" to Appellants because it affects them in a personal and individual way.<sup>6</sup> The alleged facts are sufficient to show the concrete and particularized "injury in fact" necessary to support standing.

As this Court has long recognized, the injury of unwelcome contact with state sponsored religion - in and of itself - confers standing to make an

---

<sup>6</sup> The District Court provided no explanation for holding members of The Satanic Temple had failed to allege any "future particular" injury. No such explanation exists. See Antonin Scalia, *The Doctrine of Standing as an Essential Element of the Separation of Powers*, 17 Suffolk U.L.Rev. 881, 894 (1983) ("Thus, when an individual who is the very object of a law's requirement or prohibition seeks to challenge it, he always has standing.")

Establishment Clause claim. *Spirit Lake Tribe of Indians* 715 F.3d at 1092 (“Emotional harm can be sufficiently concrete and particularized to confer standing” citing *Red River Thinkers*); *Doe ex rel. Doe v. School Dist. of City of Norfolk*, 340 F.3d 605, 609 (8<sup>th</sup> Cir. 2003) (Plaintiff “subjected to an unwelcome religious recitation at a school function . . . ha[s] standing to challenge the action”).

All of the other Circuits that have addressed standing for an Establishment Clause claim agree that “unwelcome contact” is the only requirement to show a concrete and particularized “injury in fact.” *Awad*, 670 F.3d at 1122; (“alleging *only* ‘personal and unwelcome contact’ with government-sponsored religious symbols is sufficient to establish standing” [emphasis in original].); *Jewish People for the Betterment of Westhampton Beach v. Vill. of Westhampton Beach*, 778 F.3d 390, 394 (2<sup>nd</sup> Cir. 2015); *Suhre* 131 F.3d at 1089; *Murray v. City of Austin, Tex.*, 947 F.2d 147, 151 (5<sup>th</sup> Cir.1991), *cert. den.* 495 U.S.1219, 112 S. Ct. 3028, 120 L.Ed.2d 899 (1992) ; *Adland v. Russ*, 307 F.3d 471, 478 (6<sup>th</sup> Cir.2002); *Vasquez v. Los Angeles Cnty.*, 487 F.3d 1246, 1253 (9<sup>th</sup> Cir. 2007) (“We join the majority of the circuits and hold that, in the Establishment Clause context, spiritual harm resulting from unwelcome direct contact with an allegedly offensive religious (or anti-religious) symbol is a legally cognizable injury and

suffices to confer Article III standing”); *Foremaster v. City of St. George*, 882 F.2d 1485, 1491 (10<sup>th</sup> Cir. 1989), *cert. den.*, 495 U.S. 910, 110 S.Ct. 1937, 109 L.Ed.2d (1990); *Saladin v. City of Milledgeville*, 812 F.2d 687, 692–93 (11<sup>th</sup> Cir. 1987).

The Courts describe the cognizable injury from unwelcome contact with state sponsored religion using a variety of metaphors. *Association of Data Processing Service Organizations*, 397 U.S. at 154 (“a spiritual stake in First Amendment values”); *Bostic v. Schaefer*, 760 F.3d 352, 372 (4<sup>th</sup> Cir. 2014) (“stigmatic injury”); *Catholic League for Religion & Civil Rights v. City & Cnty. of San Francisco*, 624 F.3d 1043, 1052 (9<sup>th</sup> Cir. 2010) (*en banc*) (“exclusion or denigration on a religious basis within the political community”). All of these formulations express the fundamental *raison d’être* of the Establishment Clause; all of us are full members of this society regardless of our religious beliefs. Unwanted contact with state sponsored religion causes “non-believers” to feel shunned for not adhering to the social norm. *Cnty. of Allegheny v. ACLU*, 492 U.S. 573, 595, 109 S.Ct. 3086, 106 L.Ed.2d 472 (1989) (The “endorsement of religion [is] invalid because it sends a message to nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that

they are insiders, favored members of the political community” [internal quotations and citations omitted]).

The stigma of being an “outsider” tears at the social fabric of our society, which is built on a broad and complex tapestry of religious and philosophical beliefs. The Founders well understood the corrosive effect of the state promoting a favored religious belief.<sup>7</sup> The Religion Clauses were adopted to protect us from that evil. *Lynch v. Donnelly*, 465 U.S. 668, 679, 104 S.Ct. 1355, 79 L.Ed.2d 604 (1984) (“Political divisiveness is admittedly an evil addressed by the Establishment Clause”).

As the Supreme Court said in *Lemon v. Kurtzman*, 403 U.S. 602, 622, 91 S.Ct. 2105, 29 L.Ed.2d 745 (1971):

Ordinarily political debate and division, however vigorous or even partisan, are normal and healthy manifestations of our democratic system of government, but political division along

---

<sup>7</sup> Nathaniel Hawthorne poignantly rendered the deep pain of a woman shamed for breaching the religious norms of colonial times in *The Scarlet Letter*. “In all her intercourse with society, however, there was nothing that made her feel as if she belonged to it. Every gesture, every word, and even the silence of those with whom she came in contact, implied, and often expressed, that she was banished, and as much alone as if she inhabited another sphere, or communicated with the common nature by other organs and senses than the rest of human kind. She stood apart from moral interests, yet close beside them, like a ghost that revisits the familiar fireside, and can no longer make itself seen or felt; no more smile with the household joy, nor mourn with the kindred sorrow; or, should it succeed in manifesting its forbidden sympathy, awakening only terror and horrible repugnance. These emotions, in fact, and its bitterest scorn besides, seemed to be the sole portion that she retained in the universal heart.”

religious lines was one of the principal evils against which the First Amendment was intended to protect. The potential divisiveness of such conflict is a threat to the normal political process.

See also *McGowan v. Maryland*, 366 U.S. 420, 465-466, 81 S.Ct. 1218, 1156-1157, 6 L.Ed.2d 393 (1961) (Frankfurter, J. concurring) (The Establishment Clause “withdraws from the sphere of legitimate legislative concern and competence a specific, but comprehensive area of human conduct: man's belief or disbelief in the verity of some transcendental idea and man’s expression in action of that belief or disbelief.” [internal quotations and citations omitted]).

Abortion is a key battleground in the ongoing “culture wars” in this country. Politicians on both side of the issue raise enormous amounts of money and garner millions of votes based on whether they are “pro life” or “pro choice.” Those battle lines are drawn over the theological question of when does a human being come into existence. The political incentive to fan the fires of discord is significant and unrelenting. However, the Religion Clauses impose an overriding obligation on the judiciary to bar a legislature controlled by one faction from passing laws that take sides in the religious

debate.<sup>8</sup> “We are all of us on a search for truth, and the Establishment Clause prohibits the government from purposefully steering us in a particular direction.” *ACLU Neb. Found. v. City of Plattsmouth, Neb.*, 358 F.3d 1020, 1042 (8<sup>th</sup> Cir. 2004), *rev'd en banc on other grounds*, 419 F.3d 772 (8<sup>th</sup> Cir. 2005) (“*City of Plattsmouth*”). See also *Turner Broad. Sys., Inc. v. Fed. Communications Comm'n*, 512 U.S. 622, 641, 114 S.Ct. 2445, 129 L.Ed.2d 497 (1994) (“At the heart of the First Amendment lies the principle that each person should decide for him or herself the ideas and beliefs deserving of expression, consideration, and adherence. Our political system and cultural life rest upon this ideal.”).

The Missouri Lectionary and Missouri Tenets are state sponsorship of a religious point of view – a sponsorship that tears at the fabric of society. The Missouri Lectionary and Missouri Tenets make crystal clear Missouri approves and promotes the belief of some – but not all – Christian

---

<sup>8</sup> Appellee Governor Jay Nixon vetoed the 72 Hour Waiting Period saying it “serves no demonstrable purpose other than to create emotional and financial hardships for women who have undoubtedly already spent considerable time wrestling with perhaps the most difficult decision they may ever have to make [and] presupposes that women are unable to make up their own minds without further government intervention.” <https://governor.mo.gov/news/archive/gov-nixon-signs-13-bills-vetoes-four> (last visited October 3, 2016). The Missouri legislature overrode the Governor’s veto. [http://www.stltoday.com/news/missouri-s-waiting-period-for-abortion-becomes-hours-after-nixon/article\\_cdd25bb1-3990-531d-a508-7ab7dd9de974.html](http://www.stltoday.com/news/missouri-s-waiting-period-for-abortion-becomes-hours-after-nixon/article_cdd25bb1-3990-531d-a508-7ab7dd9de974.html) (last visited October 1, 2016).

denominations. The Court has made crystal clear this pronouncement is “an impermissible state adoption of a theory when life begins.” *Webster*, 851 F.2d at 1071.

Appellants allege they had direct, personal, and unwelcome contact with the Missouri Lectionary and Missouri Tenets. The Courts confer standing based on the injury that contact causes to Appellants’ “spiritual stake in the First Amendment” as full members of our society, regardless of their beliefs. Appellants express their injury as guilt, doubt, and shame. Appellants have alleged the concrete and particularized “injury in fact” necessary for standing.

**B. Appellants Allege Actual Injury in Fact.**

The most glaring – and demeaning – error made by the District Court was the assumption that Appellants’ injury caused by the Missouri Lectionary and Missouri Tenets somehow evaporates after the abortion. The District Court appears to have erroneously confused the standing necessary to assert privacy claims pursuant to *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973) with Appellants’ spiritual stake in First Amendment values.

Abortion mooted Appellants’ privacy rights under *Roe v. Wade*, 410 U.S. at 125. But Appellants rights under the Religion Clauses are based on

what they believe, not their reproductive status. Thus abortion does not moot Appellants' rights under the Religion Clauses.

Pregnancy is relevant to Appellants' First Amendment rights only because being pregnant is part of the chain of events that lead Appellants to their unwanted direct contact with the Missouri Lectionary and Missouri Tenets in the offices of Planned Parenthood. *Lujan*, 504 U.S. at 560 (“There must be a causal connection between the injury and the conduct complained of—the injury has to be fairly traceable to the challenged action of the defendant” [internal quotations and citations omitted]). Once that contact occurs (before the abortion is performed), the injury caused by the unwanted contact occurs and continues. The abortion does not retroactively break the chain of causation between the Missouri Lectionary and the Missouri Tenets and Appellants' injuries. The abortion does not cause those injuries to magically disappear.

Furthermore, Appellants expressly alleged their injuries were suffered before they had their abortions and continued thereafter:

- “Plaintiffs have been and will be irreparably injured by that violation because the Missouri Tenets and Missouri Lectionary are forced upon them with the intent and purpose to influence

their Freedom to Believe When Human Life Begins” [emphasis added]. JA 20

- “The Missouri Lectionary and Missouri Tenets cause Plaintiff Mary Doe and pregnant members of The Satanic Temple to endure delay, doubt, guilt and shame when they exercise their Religion beliefs to abort Human Tissue in accordance with the Satanic Tenets.” [emphasis added].<sup>9</sup> JA 21

Women who get abortions remember the event for the rest of their lives. They remember the look, smell, and feel of the reception office and the operating theater. They remember how they felt before the abortion, during the abortion and after the abortion. Women who get abortions at Planned Parenthood in St. Louis remember the “pro life” advocates on the street corner waving their placards and calling them baby killers. They remember receiving the Missouri Lectionary and Missouri Tenets at Planned Parenthood. They remember waiting three days to contemplate whether they were in fact baby killers. Appellants endured guilt, doubt, and shame caused by the Missouri Lectionary and Missouri Tenets – before, during and after

---

<sup>9</sup> Webster’s Dictionary defines “endure” as “to continue to exist in the same state or condition” and, alternatively, “to experience (pain or suffering) for a long time.” <http://www.merriam-webster.com/dictionary/endure> (last visited September 29, 2016).

their abortions. Appellants' have alleged current, ongoing concrete and particularized "injury in fact."<sup>10</sup> The District Court erred in finding Appellants have no standing because the abortion was over and they were no longer pregnant.

**C. Appellants Have Standing to Make Their Establishment Clause Claims.**

Appellants need not allege their belief in the Satanic Tenets was affected to make a claim under the Establishment Clause. *Schempp*, 374 U.S. at 224 n. 9 ("But the requirements for standing to challenge state action under the Establishment Clause, unlike those relating to the Free Exercise Clause, do not include proof that particular religious freedoms are infringed."). They only need to allege unwelcome contact with the Missouri Lectionary and Missouri Tenets. *Red River Freethinkers*, 679 F.3d at 1022. Appellants have made that allegation for both past and future contact. They therefore have standing to assert violations of the Establishment Clause.

**D. Appellants Have Standing to Make Their Free Exercise Clause Claims.**

Appellants have standing to assert violations of the Free Exercise Clause caused by the coercive effect of the Missouri Lectionary and

---

<sup>10</sup> Appellants' ongoing emotional injury gives them standing to seek declaratory and injunctive relief. *O'Shea v. Littleton*, 414 U.S. 488, 495-96, 94 S.Ct. 669, 38 L.Ed.2d 674 (1974) (Standing for injunctive relief can be based on past exposure to illegal conduct and continuing adverse effects).

Missouri Tenets on their belief in the Satanic Tenets. *Schempp*, 374 at 233 (“It is necessary in a free exercise case for one to show the coercive effect of the enactment as it operates against him in the practice of his religion.”).

Mary Doe and other members of The Satanic Temple would, if given the opportunity, get their abortions in accordance with the Satanic Tenets, i.e., on demand and, in good conscience, without consideration of the current or future condition of the Human Tissue (a “Satanic Abortion”). A Satanic Abortion is a physical act engaged in for a religious reason – the sincerely held religious beliefs that 1) Human Tissue is not a human being whose separate and independent life begins at conception; and 2) the current and future condition of the Human Tissue is irrelevant to its removal; and 3) a woman has the absolute right to control her body, including the removal, in good conscience, of Human Tissue on demand. A Satanic Abortion is therefore the exercise of religion under the First Amendment.<sup>11</sup> *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751, 2770 (2014) (June 30, 2014) (“[T]he exercise of religion involves not only belief and profession but the performance of (or abstention from) physical acts that are engaged in for religious reasons.”).

---

<sup>11</sup> A woman who forgoes an abortion because she believes the Missouri Tenets is likewise engaged in the exercise of religion because her forbearance is the product of her sincerely held religious beliefs.

The purpose of the Missouri Lectionary is to persuade Mary Doe and other members of The Satanic Temple to reject the Satanic Tenets and embrace the Missouri Tenets. The effect of the Missouri Lectionary and Missouri Tenets is to cause Mary Doe and other members of the Satanic Temple to feel guilt, doubt and shame when they go to Planned Parenthood for their abortion. This “injury in fact” gives Mary Doe and other members of The Satanic Temple standing to assert a violation of their rights under the Free Exercise Clause.

Appellants also have standing to assert violations of the Free Exercise Clause caused by the discrimination between their beliefs in the Satanic Tenets and the beliefs stated in Missouri Lectionary and Missouri Tenets. The Missouri Lectionary and Missouri Tenets make no reference to the dispositive scientific fact that debunks the Missouri Tenets; a fetus is connected to a woman by the umbilical cord and therefore is not a “separate” human. The Missouri Lectionary and Missouri Tenets make no mention of the Satanic Tenets or any other religious beliefs of when a fetus becomes a human being. That discrimination violates the Free Exercise Clause. *Peter v. Wedl*, 155 F.3d 992, 996 (8<sup>th</sup> Cir. 1998) (“Government discrimination based on religion violates the Free Exercise Clause of the First Amendment.”). The discrimination is particularly pernicious when, as in

this, case, its overt purpose and intent are to coerce Appellants into changing their religious beliefs about the morality of an abortion. *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532, 113 S.Ct. 2217, 124 L.Ed.2d 472 (1993) (“the First Amendment forbids an official purpose to disapprove of a particular religion”); *Engel v. Vitale*, 370 U.S. 421, 431, 82 S.Ct. 1261, 8 L.Ed.2d 601 (1962) (“When the power, prestige and financial support of Government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain.”).

The coercive effect of the Missouri Tenets on Appellants goes beyond discrimination and inflicting guilt, doubt, and shame. It is an outright ban on Satanic Abortions, which would otherwise be the legitimate exercise of Appellants’ religious belief that they 1) have absolute control over their bodies, including any Human Tissue they carry; and 2) can, in good conscience, get an abortion on demand without considering the current or future condition of the Human Tissue.

Satanic Abortions cannot be performed at Planned Parenthood. Indeed, Satanic Abortions are illegal throughout Missouri due to the

Missouri Tenets.<sup>12</sup> This ban on Satanic Abortions gives Appellants standing to assert their claims pursuant to the Free Exercise Clause. Appellants have alleged injury in fact to their spiritual stake in the First Amendment caused by the Missouri Lectionary and Missouri Tenets. *Association of Data Processing Service Organizations* (A “spiritual stake in First Amendment values” is sufficient to give standing to raise issues concerning the Establishment Clause and the Free Exercise Clause). There is no question the relief requested by Appellants will redress their injuries. *City of Plattsmouth*, 358 F.3d at 1030.<sup>13</sup> They have standing to assert their Free Expression Clause claims.

**E. The Satanic Temple Has Standing to Assert Certainly Impending Violations of the Religion Clauses.**

Having erroneously found Appellants have no current “injury in fact,” the District Court relied on *Miller City of St. Paul*, 823 F.3d 503 (8<sup>th</sup> Cir. 2016) (“*Miller*”) to find Appellants have no “threatened injury [which] must

---

<sup>12</sup>The Missouri Tenets are stated in Mo. Rev. Stat. §1.0205.1, which defines Human Tissue as a “person” for purposes of Missouri’s murder statutes. *State v. Rollen*, 133 S.W.3d 57 (Mo. App., 2003).

<sup>13</sup> The elimination of the Missouri Lectionary and the Missouri Tenets will bring Missouri in line with the many states that permit Satanic Abortions, i.e., an abortion on demand with no onerous “informed consent” requirements.

be certainly impending to constitute injury in fact.”<sup>14</sup> The District Court based this holding on the fact Mary Doe was not pregnant and only “may” seek an abortion in the future.

The District Court erred because it did not address the standing of The Satanic Temple whose members have had an abortion (like Mary Doe), and whose members will get an abortion in the future (unlike Mary Doe).

The Satanic Temple is an association with standing to assert its members’ Establishment Clause claims. See *Red River Freethinkers*, 679 F.3d at 1022; *Americans United for Separation v. Prison Fellow.*, 509 F.3d 406, 419 (8<sup>th</sup> Cir. 2007). Mary Doe’s purported lack of standing to assert her uncertain future injury is irrelevant because The Satanic Temple has standing to assert the certain future injury of its members under the Religion Clauses. *Rumsfeld v. Forum for Academic & Institutional Rights, Inc.*, 547 U.S. 47, 52 n. 2, 126 S.Ct. 1297, 164 L.Ed.2d 156 (2006) (“[T]he presence of one party with standing is sufficient to satisfy Article III’s case-or-controversy requirement”).

---

<sup>14</sup> The Court in *Miller* held the plaintiff did not have standing to sue the city for violating his First Amendment rights because he had not alleged the existence of any “official municipal policy” restricting his speech. *Id.* at 507. The Missouri Lexionary and Missouri Tenets are unequivocally official state policy.

Drawing all inferences from the Complaint in favor of The Satanic Temple, one or more of its members were pregnant when the Complaint was filed because they unequivocally intended to get an abortion.<sup>15</sup> Their prospective exposure to the Missouri Lectionary and Missouri Tenets is sufficiently certain and impending to constitute “injury in fact.” *Krantz*, 160 F. 3d 1214 at 1218 (Church members have standing to challenge leafleting ban because they “allege an actual and well-founded fear that the law will be enforced against them”); *Suhre*, 131 F.3d at 1091 (Plaintiff who alleges “an unmistakable intention” to be subjected to unwelcome contact with state sponsored religion has standing to assert Establishment Clause claim).

Members of The Satanic Temple will be subjected to unwelcome contact with the Missouri Lectionary and Missouri Tenets, which gives The Satanic Temple standing to assert its members’ Establishment Clause claims. *Red River Freethinkers*, 679 F.3d at 1023 (“The injuries to Freethinkers's members are no doubt actual and imminent”).

The Satanic Temple also has standing to assert the Free Exercise Clause claims of its members. An association has standing to bring suit on

---

<sup>15</sup> The gestational period has lapsed since the Complaint was filed. However, The Satanic Temple retains standing since the rights of its then pregnant members are capable of repetition yet evading review. *Roe v. Wade*, 410 U.S. at 125.

behalf of its members when 1) its members would otherwise have standing to sue in their own right; 2) the interests it seeks to protect are germane to the organization's purpose; and 3) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit. *Hunt*, 432 U.S. at 343. As discussed previously in Section D, members of The Satanic Temple have standing to assert violations of the Free Exercise Clause caused by enforcement of the Missouri Lectionary and Missouri Tenets. The Satanic Tenets are promulgated and promoted by The Satanic Temple.<sup>16</sup> The protection and promotion of The Satanic Tenets are germane to its purpose.

Finally, there is no need for the individual members of The Satanic Members to participate in this action. They all believe the Satanic Tenets and they all will all be injured in the same manner by the uniform application of the Missouri Lectionary and Missouri Tenets. There is no need for individualized proof of their injury. *Hunt*, 432 U.S. at 342 (Neither the claim nor the relief sought “requires individualized proof and both are thus properly resolved in a group context.”). Members of The Satanic Temple will all get the same relief sought by The Satanic Temple; a declaration the Missouri Lectionary and Missouri Tenets violate the Religion

---

<sup>16</sup> <https://thesatanictemple.com/about-us/tenets/> (last visited October 6, 2016)

Clauses and their enforcement enjoined. The third prong of *Hunt* has therefore been met. *Native Village of Tanana v. Cowper*, 945 F.2d 409, ¶12 (9<sup>th</sup> Cir. 1991) (unpublished) (“Where the relief sought is a declaration which will inure to the benefit of the organization's members, an organization will meet the third part of the standing test.”)

## VII. CONCLUSION

For the reasons set forth above, the District Court erred when it dismissed the Complaint. Appellants respectfully request the District Court be reversed and the case remanded for proceedings on the merits.

Dated: October 7, 2016

*W. James Mac Naughton*  
W. James Mac Naughton  
7 Fredon Marksboro Road  
Newton, NJ 07860  
732-634-3700 (o)  
732-875-1250 (f)  
wjm@wjmesq.com  
Bar ID No. 701985NJ  
*Attorney for Appellants The Satanic  
Temple  
and Mary Doe*

**Certification of Compliance Pursuant To Fed. R. App. Pro. 32(a)(7).**

This brief complies with the type-volume limitation of Fed. R. App. Pro. 32(a)(7)(B) because this brief contains six thousand, one hundred nine (6,109) words excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

This brief complies with the typeface requirements of Fed. R. App. Pro. 32(a)(5) and the type style requirements of Fed. R. App. Pro. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word for Mac 2011, Version 14.6.8., Point 14 Times New Roman typeface.

**Certification of Compliance Pursuant to 8th Cir. R. 28A(h)(2)**

This brief and addendum have been scanned for viruses and are virus-free.

Dated: October 7, 2016

*W. James Mac Naughton*  
W. James Mac Naughton  
7 Fredon Marksboro Road  
Newton, NJ 07860  
732-634-3700 (o)  
732-875-1250 (f)  
wjm@wjmesq.com  
Bar ID No. 701985NJ  
*Attorney for Appellants The Satanic  
Temple  
and Mary Doe*