

Cause No. 199-07889-2025

EAST PLANO ISLAMIC CENTER,	§	IN THE DISTRICT COURT
<i>Plaintiff,</i>	§	
	§	
v.	§	
	§	OF COLLIN COUNTY, TEXAS
LANDON THURMAN, TESTIMONIES	§	
OF GOD, INC., HERITAGE GRACE	§	
COMMUNITY CHURCH, INC., JASON	§	
OSBORNE, and JOHN DOES 1-20,	§	
<i>Defendants.</i>	§	199th JUDICIAL DISTRICT

**DEFENDANTS TESTIMONIES OF GOD, INC.; HERITAGE GRACE COMMUNITY
CHURCH, INC., AND LANDON THURMAN’S ORIGINAL ANSWER, PLEA TO THE
JURISDICTION, SPECIAL EXCEPTIONS, VERIFIED DENIALS, AND AFFIRMATIVE
DEFENSES**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendants Landon Thurman; Testimonies of God, Inc.; and Heritage Grace Community Church, Inc. (collectively, the “Defendants”), by and through undersigned counsel, file this Original Answer, Plea to the Jurisdiction, Special Exceptions, Verified Denials, and Affirmative Defenses and assert the following matters, including threshold jurisdictional pleas, special exceptions, verified denials, a general denial, and affirmative defenses, in response to Plaintiff’s Original Petition and Request for Declaratory and Injunctive Relief (the “Petition”).

As required by Tex. Civ. Prac. & Rem. Code § 30.014, Defendant Landon Thurman states: the last three digits of his driver’s license number are 826, and the last three digits of his Social Security number are 189.

INTRODUCTION AND BACKGROUND

1. This lawsuit is a shocking and illegal demand by the East Plano Islamic Center (“EPIC” or “EPIC Mosque”) to ban a church and missionaries from sharing any message that is “offensive to the Islamic faith,” including by “handing out evangelical pamphlets, letters, fliers, or other documents.” Pet. ¶ 36. Such demands are an unthinkable attack on our country’s core values of free speech and freedom of religion. Under the injunction that Plaintiff demands, a local church would be prohibited from even handing out free Bibles if doing so were “offensive to the Islamic faith.” *Id.*

2. Landon Thurman is the President and Founder of, and a missionary with, Testimonies of God, Inc. (“Testimonies of God”), which is an evangelism ministry whose mission is to empower and encourage Christians in the principles of biblical evangelism and to provide them with practical tools to proclaim the Good News of Jesus Christ. Testimonies of God holds to the core belief that Christ commands His followers to “Go into all the world and preach the gospel to all creation.” Mark 16:15. Testimonies of God’s activities include both domestic and international missions trips; open-air preaching and public evangelism at sporting events, college campuses, and other public areas; distributing Bible and religious literature; providing online apologetic resources; and providing evangelism training for local churches. Testimonies of God is a Texas religious nonprofit corporation that is tax-exempt under 26 U.S.C. § 501(c)(3).

3. Defendants Landon Thurman and Testimonies of God are the “Missionary Defendants.”

4. Defendant Heritage Grace Community Church (“Heritage Grace” or the “Church”) is a Reformed Baptist church founded in 2012 and meeting in Frisco, Texas. Landon Thurman and his family are members of Heritage Grace Community Church, but Landon does not hold any leadership position in the Church. While some of Heritage Grace’s members, including Landon Thurman, may have participated in Testimonies of God’s outreach activities, Heritage Grace has no involvement in the Missionary Defendants’ outreach to Muslims, has no oversight of or formal relationship with Testimonies of God; does not plan, sponsor, or coordinate with Testimonies of God; and no Heritage Grace staff have participated in any Testimonies of God outreach activities. There is no employment or agency relationship between Heritage Grace and any of the Missionary Defendants or Jason Osborne.

5. Heritage Grace, however, as a Christian church, does believe that it is bound by the biblical command for Christians to share the Gospel of Jesus Christ, and any restriction on Heritage Grace’s ability to proclaim its religious conviction that there is no other name under heaven by which man can be saved except Jesus Christ (Acts 4:12), even if the message of Jesus is offensive to the lost (1 Pet. 2:6–8, John 15:18–21), would stop the core religious work of Heritage Grace.

6. The Missionary Defendants go to the EPIC Mosque to lovingly proclaim the Good News of salvation in Jesus Christ (the “Gospel”) to Muslim neighbors who do not know the True Jesus Christ as their Lord and Savior. The Missionary Defendants preach and hand out religious literature near the EPIC Mosque because it is a opportunity to reach many who have never heard the biblical message of the Gospel. The Missionary Defendants do not want to provoke or protest EPIC Mosque’s congregation, but they want to offer the message of eternal life through Jesus Christ, knowing that God’s Word will not return back to Him void. Isaiah 55:11. The Missionary Defendants hold to Romans 1:16, from the Bible, which says, “For I am not ashamed of the gospel, for it is the power of God for salvation to everyone who believes . . .”

7. On May 13, 2025, the Missionary Defendants went for the first time to preach and hand out religious literature at the EPIC Mosque. The Missionary Defendants located themselves beside what they believed to be a public sidewalk. After preaching and talking with various passersby for approximately an hour and a half, Plano police officers and EPIC Mosque security personnel approached the Missionary Defendants. The EPIC Mosque security personnel asserted that the Missionary Defendants were standing within EPIC Mosque's property. Because the street signs in the area were green, the Plano police also believed that the Missionary Defendants were on public property and allowed the Missionary Defendants to continue preaching while the property line was verified.

8. Eventually, it was confirmed that the Missionary Defendants were standing on property owned by the EPIC Mosque and, at the request of the EPIC Mosque security, Plano police issued Landon Thurman with criminal trespass warnings. The Plano police also informed the EPIC Mosque that the private street signs should be blue instead of green.

9. The Plano Chief of Police directed the Missionary Defendants to relocate to the public sidewalks at the corner of 14th Street and Star Court. The Missionary Defendants complied immediately and have only preached from that location at all times since May 13.

10. The location at the corner of 14th Street and Star Court, where the Missionary Defendants have preached every time since May 13th that they have preached near the EPIC Mosque (the "Preaching Location"), is approximately 500 feet away from the mosque, and there is a strip mall between the Preaching Location and the mosque. The Preaching Location is also adjacent to a six-lane road.

11. The Missionary Defendants do not block the sidewalk or impede pedestrian traffic.

12. The Missionary Defendants do not want to disrupt or prevent religious services at the mosque but to proclaim the truth in love. They want to exercise their rights to free speech and to respect every person, regardless of what they believe, because each person is made in the image of God, and Christians are commanded to love their neighbors as they would love themselves. The Missionary Defendants want all people to hear the Gospel and come to repentance and faith in Jesus Christ alone.

13. The Missionary Defendants have used their mobile phones to record videos of their preaching every time they have preached near the EPIC Mosque.

14. On May 16, 2025, during the Missionary Defendants' second time visiting the EPIC Mosque, Nadeem, who identified himself as the Head of Security and the Property Manager for the mosque, approached the Missionary Defendants and expressed concern about the Mission-

ary Defendants' message. Nadeem asked the Missionary Defendants to stop calling the Qu'ran and Islam false. The Missionary Defendants responded that they could not compromise the truth of the Gospel. Despite the disagreement about refraining from calling the Qu'ran and Islam false, the conversation was cordial, and Nadeem invited the Missionary Defendants to return the following week for a possible tour of the mosque.

15. At no point did Nadeem claim that the Missionary Defendants' speech was audible within the mosque, and Nadeem did not request that the Missionary Defendants lower the volume of their sound amplification equipment.

16. Also on May 16, the Plano police worked with the Missionary Defendants to adjust their sound amplification devices to a reasonable volume, and Missionary Defendants have worked to keep their volume levels at that same level at all times since May 16. The Missionary Defendants use the sound amplification equipment so that they can avoid voice strain and maintain a conversational tone, especially because they speak while standing next to a busy, six-lane road.

17. On May 30, 2025, Nadeem again approached us outside and welcomed our presence. He reiterated that we were fine to remain on public property. The exchange was friendly and professional, and he did not request that we stop preaching or change the content of our message.

18. On August 15, 2025, Nadeem once again came out to greet us, offered us bottled water, and thanked us for remaining orderly. No requests were made to modify our volume, message, or presence.

19. Nadeem's request on May 16, 2025, that the Missionary Defendants stop calling the Qu'ran and Islam false is the *only* request for the Missionary Defendants to change their practice that the Missionary Defendants have ever received from anyone who identified themselves as mosque personnel until the Missionary Defendants were served with this lawsuit.

20. From the first time Missionary Defendants began preaching near the EPIC Mosque until the filing of this lawsuit, no one has ever communicated to the Missionary Defendants that their preaching has interfered in any way with the mosque's prayer services.

21. After the first time the Missionary Defendants preached near the EPIC Mosque, after learning where the property line was located, the Missionary Defendants have never entered the EPIC Mosque's property line.

22. The Missionary Defendants have never, at any time, attempted to enter the EPIC Mosque.

23. The Missionary Defendants have never, at any time, attempted to stop a congregant from entering the EPIC Mosque.

24. The Missionary Defendants have never received a criminal citation related to their activity near the EPIC Mosque.

25. On October 2, 2025, Plaintiff filed the Petition, which contained causes of action against Defendants for common law nuisance and for declaratory relief under the Texas Declaratory Judgment Act, Tex. Civil Prac. & Rem. Code Ch. 37, and seeks injunctive relief (collectively, the “Causes of Action”).

26. Plaintiff’s Petition seeks a temporary and permanent injunction enjoining Defendants from engaging in amplified speech “around and into Plaintiff’s religious institution,” from “attempting to stop Plaintiff’s members from entering the mosque,” or from “handing out evangelical pamphlets, letters, fliers, or other documents offensive to the Islamic faith.”

27. Plaintiff’s Petition seeks a declaration that Defendants are violating Plano Ordinance 2023-9-18, Sections 14-86 and 14-87(d), and a declaration that such violation is a nuisance *per se*.

PLEA TO THE JURISDICTION

28. The purpose of a plea to the jurisdiction is to dismiss a cause of action without regard to whether the claim has merit. *Farmers Tex. Cty. Mut. Ins. Co. v. Beasley*, 598 S.W.3d 237, 241 (Tex. 2020); *Bland Indep. Sch. Dist. v. Blue*, 34 S.W.3d 547, 554 (Tex. 2000).

29. The Court must decide whether Plaintiff has affirmatively demonstrated this Court’s jurisdiction to hear this suit, based on the facts alleged by Plaintiff and, when necessary to resolve jurisdictional facts, on evidence submitted by the parties. *See City of Austin v. Powell*, 704 S.W.3d 437, 447–48 (Tex. 2024); *Nettles v. GTECH Corp.*, 606 S.W.3d 726, 734 (Tex. 2020); *Alamo Heights Indep. Sch. Dist. v. Clark*, 544 S.W.3d 755, 770–71 (Tex. 2018); *Tex. Dep’t of Parks & Wildlife v. Miranda*, 133 S.W.3d 217, 226–27 (Tex. 2004); *Bland Indep. Sch. Dist.*, 34 S.W.3d at 555.

Plaintiff’s Request for a Declaratory Judgment Interpreting a Penal Ordinance Is Impermissible

30. The Court has no subject-matter jurisdiction to render a declaratory judgment construing or enforcing a penal ordinance. “[T]he Uniform Declaratory Judgments Act, Tex. Civ. Prac. & Rem. Code §§ 37.001–.011, is not a grant of jurisdiction, but ‘merely a procedural device for deciding cases already within a court’s jurisdiction.’” *Chenault v. Phillips*, 914 S.W.2d 140, 141 (Tex. 1996) (quoting *State v. Morales*, 869 S.W.2d 941, 947 (Tex.1994)). Plaintiff “seeks a declaratory judgment ... declaring Defendants in violation of the City of Plano’s Ordinance No. 2023-9-18.” Pet. ¶ 26. But City of Plano Ordinance No. 2023-9-18 (the “Noise Ordinance”) is a criminal

ordinance. See Noise Ordinance § 14-86 (“It shall be an offense...”). The Noise Ordinance does not provide for any civil cause of action or non-criminal enforcement mechanism. *Id.* Because of Texas’ jurisdictional bar on civil courts’ interpreting criminal ordinances, which flows from the separation of the Texas Supreme Court’s and the Texas Court of Criminal Appeals’ separate jurisdictions, a Texas court does not have jurisdiction to and cannot issue a declaratory judgment on a criminal ordinance in a civil lawsuit. *State v. Morales*, 869 S.W.2d 941, 947 (Tex. 1994) (“A civil court simply has no jurisdiction to render naked declarations of ‘rights, status or other legal relationships arising under a penal statute.’ ... [T]he prospect of both civil and criminal courts construing criminal statutes would tend to ‘hamstring’ the efforts of law enforcement officers, creates confusion, and might result finally in precise contradiction of opinions between the civil courts and the Court of Criminal Appeals to which the Constitution has entrusted supreme and exclusive jurisdiction in criminal matters.” (cleaned up)); see *City of Justin v. Wesolak*, 2016 WL 2989568 at *3 n.5 (Tex.App.—Ft. Worth 2016) (noting that a court cannot issue a declaratory judgment on a city ordinance in a civil trial because “[t]he meaning of a penal ordinance and a determination of whether it is enforceable against a particular citizen should ordinarily be determined by courts exercising criminal jurisdiction over the alleged violation.”).

Prayer on the Plea to the Jurisdiction

31. Defendants request dismissal for lack of jurisdiction of the request for declaratory judgment interpreting a penal ordinance and all other appropriate relief.

SPECIAL EXCEPTIONS

32. Subject to all jurisdictional challenges and denials, Defendants specifically except to the Petition and request an order requiring Plaintiff to re-plead within fourteen days as follows:

Bundling / Group Pleading in Violation of Tex. R. Civ. P. 47(a) and 50

33. Defendants specially except to the Petition for failing to state claims with the clarity required by the Texas Rules of Civil Procedure and for impermissibly bundling allegations and relief against multiple defendants without defendant-specific facts or clearly distinct claims. See Tex. R. Civ. P. 47(a) and 50; *Brigade Electronics (UK) Ltd. v. Dehaney*, 2020 WL 7391709 at *7–*8 (Tex.App.—Houston [1st Dist.], Dec. 17, 2020); *Easley v. Portfolio Management, Inc.*, 588 S.W.2d 643, 644 (Tex.App.—Houston [14th Dist.] 1979); *Horizon/CMS Healthcare Corp. v. Auld*, 34 S.W.3d 887, 896–97 (Tex. 2000); *Friesenhahn v. Ryan*, 960 S.W.2d 656, 658 (Tex. 1998); *Perry v. Cohen*, 285 S.W.3d 137, 142 (Tex. App.—Austin 2009, pet. denied).

34. Plaintiff pleads that “Defendants and those affiliated with Defendants” interrupted services and “set up a tent, brought external speakers, and came with evangelical pamphlets and signs,” but does not identify which named defendant did what, when, or where. Pet. ¶ 16. This

fails fair-notice pleading and prevents each defendant from understanding the nature of the claims against him/it. Tex. R. Civ. P. 45, 47.

35. Plaintiff claims “Defendants’ conduct has caused injury,” Pet. ¶ 23, and “Defendants have exacted emotional and mental harm,” Pet. ¶ 24, without tying particular injuries to specific acts by particular defendants, dates, locations, or theories. The absence of defendant-specific facts impairs notice and invites a non-compliant, overbroad injunction request. Tex. R. Civ. P. 45, 47, 50.

36. Plaintiff seeks a declaration that “Defendants” violated Plano Ordinance No. 2023-9-18. While this is an impermissible request for a declaratory judgment on a penal ordinance, as discussed above, Plaintiff further fails to (i) identify which defendant allegedly violated which specific section, (ii) state dates, locations, or measured sound levels, or (iii) link facts to elements as to each defendant.

37. Throughout, Plaintiff aggregates different theories (nuisance/ordinance/DJA/injunctive relief) and lumps all defendants together. Rule 50 contemplates stating each claim “in a separate count” when it would promote clarity. Plaintiff should be required to state, in separate counts, the elements and supporting facts for each theory as to each named defendant.

Common Law Nuisance

38. Defendants specially except to Plaintiff’s claim for common law nuisance, which appears to be a claim for private, intentional nuisance, because Plaintiff does not plead sufficient facts to establish private, intentional nuisance. Plaintiff must plead facts to show (1) that a condition substantially interferes with Plaintiff’s use and enjoyment of its property; (2) that the substantial interference caused unreasonable discomfort or annoyance; (3) that Defendants caused the condition; and (4) that Defendants intended to cause not just the conduct that resulted in the substantial interference but that Defendants intended to cause the interference itself. *Crosstex N. Texas Pipeline, L.P. v. Gardiner*, 505 S.W.3d 580, 595, 601, 605 (Tex. 2016).

39. “Substantial interference,” in a private nuisance context, is not a “trifle” or a “petty annoyance.” *Id.* at 595. As “substantial interference,” Plaintiff conclusorily asserts that Defendants “blare evangelical messaging directly into Plaintiff’s mosque” and that members “must withstand evangelical messaging, pamphlets, and signs” when they come to the mosque. While “blar[ing]” messaging *could* rise to the level of substantial interference, Plaintiff never explains what it means by that conclusory allegation. Plaintiff never affirmatively alleges, for example, that any of Defendants’ speech is even audible inside the mosque, must less that it was such that it interfered with use and enjoyment of the property. And given that those Defendants who preach near the mosque do so *over 500 feet* away from the mosque, with an *intervening strip mall*, next to a six-lane road, and with sound amplification equipment kept at the volume the Plano police instruct-

ed, it seems unlikely that Plaintiff will be able to allege such facts. But if Plaintiff cannot plead facts sufficient to allege substantial interference, Plaintiff's claim for private, intentional nuisance must be struck.

40. "Even a substantial interference, however, does not constitute a nuisance unless the effect of the interference on those who would otherwise use and enjoy their land is 'unreasonable.'" *Id.* at 596. The unreasonableness requirement (1) "focuses on the unreasonableness of the interference's effect on the plaintiff's comfort or contentment," not the unreasonableness of the Defendants' conduct, (2) must be determined based on an objective standard of persons of ordinary sensibilities, not on the subjective response of any particular plaintiff," and (3) is determined by "balancing a wide variety of factors, depending on the specific facts." *Id.* at 596–97. "[T]he effects of the defendant's conduct or land use must be 'such as would disturb and annoy persons of ordinary sensibilities, and of ordinary tastes and habits.'" *Id.* at 599. Plaintiff pleads no facts that would establish that any substantial interference, if such substantial interference even exists, is objectively reasonable. Again, Plaintiff pleads no facts as to whether speech is even audible in the mosque, much less its volume and whether any such levels would be unreasonable. Much of the gravamen of Plaintiff's Petition seems to be that Plaintiff objects to hearing speech offensive to Muslims, but in a diverse and pluralistic society, Plaintiff must plead more than annoyance and discomfort at hearing the expression of religious beliefs different from its own. Encountering speech with which Plaintiff or its members disagrees on the way to the mosque does not, in the United States, constitute reasonable substantial interference, and nuisance cannot be used to support an unconstitutional buffer zone. *See Lee v. Weisman*, 505 U.S. 577, 590 (1992) (To endure the speech of . . . offensive content and then to counter it is part of learning how to live in a pluralistic society."); *McCullen v. Coakley*, 573 U.S. 464, 469, 496–97 (2014). Plaintiff must plead facts showing that any substantial interference is objectively reasonable or their common law nuisance claim must be struck.

41. Even if Plaintiff established a nuisance injury, "[w]hether a defendant may be held liable for causing a nuisance depends on the culpability of the defendant's conduct, in addition to proof that the interference is a nuisance. . . . [N]uisance cannot be premised on a mere accidental interference." *Id.* at 604. Instead, for a private, intentional nuisance claim, Plaintiff must *also* plead facts showing that a defendant acted *for the purpose* of causing the nuisance, not merely that the defendant intentionally took the action that resulted in the nuisance. *Id.* at 605 ("[T]o prove an intentional nuisance, the evidence must establish that the defendant intentionally caused the interference that constitutes the nuisance, not just that the defendant intentionally engaged in the conduct that caused the interference."). Plaintiff has alleged no facts that any defendant intends to disrupt Plaintiff's services. Indeed, the defendants that have preached near the mosque stand over 500 feet away, do not block the sidewalk leading to the mosque, and are careful to maintain their volume at the level indicated by the Plano police. If Plaintiff cannot plead facts showing that

a defendant is intentionally trying to cause a reasonable and substantial interference, Plaintiff's common law nuisance claim must be struck.

Plaintiff's Request for Declaratory Relief

42. Defendants specially except to Plaintiff's claim requesting declaratory relief. Plaintiff's claim for declaratory relief mixes language seeking a declaratory judgment under a penal ordinance, which, as discussed above, is impermissible, with language that appears to conflate the Uniform Declaratory Judgments Act, Tex. Civ. Prac. & Rem. Code Ch. 37, with negligence *per se*, which is also impermissible.

43. To the extent Plaintiff is attempting to use the Plano Noise Ordinance to support nuisance *per se*, municipal ordinances cannot support nuisance *per se* on their own, and Plaintiff fails to plead what state legislative authority grants the Plano Noise Ordinance authorization to establish nuisance *per se*. *Crossman v. City of Galveston*, 247 S.W. 810, 812 (Tex. 1923) ("The rule is that, in the absence of express legislative sanction, a city is without authority to declare that a nuisance which is not so *per se* or at common law."); *Stockwell v. State*, 221 S.W. 932, 933 (Tex. 1920) ("It would, indeed, be a dangerous power to repose in municipal corporations to permit them to declare, by ordinance or otherwise, anything a nuisance . . ."); *see Huynh v. Blanchard*, 694 S.W.3d 648, 683 n.49 (Tex. 2024) ("[The City's] own definition of a nuisance, set forth in its ordinance, is not conclusive and binding on the courts." (brackets in original) (*quoting City of Texarkana v. Reagan*, 247 S.W. 816, 817 (Tex. 1923))). The Plano Noise Ordinance is also time- and place-variant, which is incompatible with nuisance *per se*. *Marantha Temple, Inc. v. Enterprise Products Co.*, 893 S.W.2d 92, 100 (Tex.App.—Houston [1st Dist.] 1994, writ den'd) ("A nuisance *per se* is an act, occupation, or structure that is a nuisance at all times, under any circumstances, and in any location."); *Rankin v. FPL Energy, LLC*, 266 S.W.3d 506, 511 n.7 (Tex. App.—Eastland 2008) (same). Nuisance *per se* is also categorically excluded when dealing with legal conduct, such as the Missionary Defendants' statutorily and constitutionally-protected speech. *Marantha Temple*, 893 S.W.2d at 100 ("Neither the lawful use of property nor the lawful conduct of a business is a nuisance *per se*"). Finally, nuisance *per se* is an injury, not a claim, and Plaintiff's seeking a declaratory judgment with respect to nuisance *per se*, in addition to violating the penal-jurisdictional limitation on declarations with respect to penal ordinances, would constitute an advisory opinion.

44. A Declaratory Judgment Act claim may not be used to resolve issues already pending in the same suit. *See Kyle v. Strasburger*, 522 S.W.3d 461, 467 n.10 (Tex.2017); *BHP Pet. Co. v. Millard*, 800 S.W.2d 838, 841 (Tex.1990); *see, e.g., Boatman v. Lites*, 970 S.W.2d 41, 43 (Tex. App.—Tyler 1998, no pet.) ("It is well settled in Texas that a declaratory judgment may not be used solely as a vehicle to obtain attorney's fees, and it is inappropriate if it will serve no useful purpose."). Plaintiff's claim for declaratory judgment adds nothing to its common law nuisance claim. A declaration that Missionary Defendants' activity is *per se* unreasonable could go to the

“unreasonableness” element of a common law nuisance claim, but it does not establish any of the other elements. Ultimately, Plaintiff’s declaratory judgment claim to declare Missionary Defendants’ activity a nuisance *per se* based on the Ordinance improperly attempts to subject them to nuisance liability without pleading and proving the elements required to establish a nuisance liability claim. Plaintiff’s UDJA claim is also improper because it duplicates issues subsumed within its nuisance theory and seeks only to pave the way to attorney’s fees. *See MBM Fin. Corp. v. Woodlands Operating Co., L.P.*, 292 S.W.3d 660, 669–70 (Tex. 2009) (trial courts should deny UDJA fees where the Act is used to “settle disputes already pending” through coercive claims). The claim should be dismissed or, at minimum, fees denied as a matter of law.

45. Plaintiff’s request for declaratory judgment with also seeks to determine potential future tort liability, which is not an appropriate use of the Declaratory Judgment Act. *E.g., In re Houston Specialty Ins.*, 569 S.W.3d 138, 140–41 (Tex.2019) (legal malpractice); *Abor v. Black*, 695 S.W.2d 564, 566 (Tex.1985) (personal injury), *overruled on other grounds, In re J.B. Hunt Transp.*, 492 S.W.3d 287 (Tex.2016).

Prayer on the Special Exceptions

46. For these reasons, Defendants ask the Court to set their special exceptions for hearing and, after the hearing, sustain their special exceptions and order Plaintiff to replead and cure its pleading defects and, if Plaintiff does not cure its defects, strike the defective portions of Plaintiff’s Petition.

VERIFIED DENIALS

47. Defendant Heritage Grace Community Church denies that it is liable in the capacity in which it is sued; denies any partnership or joint enterprise with any other Defendant; and denies that any other Defendant acted as its agent or with its authority, or that it ratified any alleged acts. See Tex. R. Civ. P. 93(2), (5).

48. The verification for the Verified Denials follows the signature block.

GENERAL DENIAL

49. Subject to the foregoing verified denials, the Defendants generally deny each and every allegation in the Petition and demand strict proof thereof as required by law.

AFFIRMATIVE DEFENSES

50. Subject to and without waiving the foregoing verified denials and general denial, the Defendants assert the following affirmative defenses and matters in avoidance. Each defense is pled in the alternative to the extent necessary.

Failure to State an Actionable Claim / No Private Cause of Action

51. Plaintiff's pleading seeks, in substance, to enforce a penal ordinance and to obtain a declaration that Defendants "violated" the ordinance. Texas law provides no private cause of action to enforce criminal laws or municipal penal ordinances, and civil courts lack jurisdiction to render declarations interpreting or enforcing penal enactments.

No Irreparable Injury / Adequate Remedy at Law.

52. Plaintiff cannot demonstrate probable, imminent, irreparable injury. Alleged "noise" is measurable and compensable.

Texas Constitution Art. I, § 8 and U.S. Constitution Amend. I

53. Plaintiffs' request for injunctive relief prohibiting the Missionary Defendants from engaging in any speech, including the sharing of the gospel and distribution of "any document," which Plaintiff deems "offensive to the Muslim Faith" would impose an unlawful prior restraint on the Missionary Defendants' speech under Article I, Section 8 of the Texas Constitution and the First Amendment to the U.S. Constitution.

54. Plaintiffs' construction of Plano Ordinance 2023-9-18 violates Article I, Section 8 of the Texas Constitution and the First Amendment to the U.S. Constitution as applied to the Missionary Defendants.

55. Plaintiffs' common law nuisance claim violates the free speech rights of the Missionary Defendants under Article I, Section 8 of the Texas Constitution and the First Amendment to the U.S. Constitution.

The Texas Religious Freedom Restoration Act

56. The Texas Religious Freedom Restoration Act, Tex. Civ. Prac. & Rem. Code Ann. § 110.001 *et seq.* ("TRFRA"), provides that the application of a law, regulation, decision, order, practice, or any other exercise of governmental authority cannot substantially burden a person's free exercise of religion unless the government can demonstrate that such exercise of authority is in furtherance of a compelling governmental interest and is the least-restrictive means of furthering that interest. TRFRA § 110.002-.003.

57. A "substantial burden" on religious free exercise exists if there is any burden that is "real vs. merely perceived, and significant vs. trivial." *Merced v. Kasson*, 577 F.3d 578, 588 (5th Cir. 2009). In *Wisconsin v. Yoder*, 406 U.S. 205, 208 (1972), the substantial burden was a \$5 fine.

58. A "compelling governmental interest" is one "of the highest order" and "paramount." *Id.*

at 591–92 (quoting *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993), and *Yoder*, 406 U.S. at 213). Furthermore, the applicability of that compelling interest must relate “to the person—the particular claimant whose sincere exercise of religion is being substantially burdened.” *Id.* at 592 (quoting *Gonzalez v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 430–31 (2006)). That is, broadly-formulated, generalized interests such as “health” or “safety” cannot satisfy the compelling interest test. *Barr v. City of Sinton*, 295 S.W.3d 287, 306 (Tex. 2009) (rejecting “public safety, morals, and general welfare” as broadly-formulated, general interests that do “not satisfy the scrutiny mandated by TRFRA.”); *Merced*, 577 F.3d at 592 (same).

59. TRFRA § 110.004 explicitly provides that this limitation on government authority may be raised “as a defense in a judicial or administrative proceeding without regard to whether the proceeding is brought in the name of the state or by any other person.”

60. Plaintiff’s claims attempt to stop the Defendants’ religious exercise of sharing the gospel, including by distributing gospel tracts. Enjoining or subjecting the Defendants to civil liability for their religious exercise would substantially burden Defendants’ religious free exercise in violation of TRFRA.

61. Interpreting Plano Ord. No. 2023-9-18 to prohibit the Defendants from sharing the gospel would substantially burden their religious free exercise in violation of TRFRA.

62. TRFRA § 110.005(a)(4) provides that any party who asserts TRFRA as a defense is “entitled to recover . . . reasonable attorney’s fees, court costs, and other reasonable expenses incurred in bringing the action.”

Statute Void

63. Defendant is not liable to plaintiff because Plano Ordinance 2023-9-18, Section 14-87(d), declaring noise adjacent to a religious facility and “reasonably likely to interfere” with the facility’s operations a noise nuisance, is void to the extent it declares such activity a nuisance *per se*.

Injunctive Relief

64. Any injunctive relief must strictly comply with Tex. R. Civ. P. 683 and be secured by a bond proportionate to the scope and risk of restraint. A nominal bond is improper.

65. Any injunctive relief must strictly comply with Article I, Section 8 of the Texas Constitution and the First Amendment to the U.S. Constitution. Any time, place, and manner restriction must be content-neutral, narrowly tailored to a significant governmental interest, and leave open ample alternative channels of communication.

66. Plaintiff is not entitled to temporary injunctive relief. “A temporary injunction is an extraordinary remedy and does not issue as a matter of right. To obtain a temporary injunction, the applicant must plead and prove three specific elements: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim.” *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002) (citations omitted). Incorporating the foregoing paragraphs by reference, Plaintiff has not alleged viable claims. Plaintiff’s requested relief violates Article I, Section 8 of the Texas Constitution and the First Amendment to the U.S. Constitution. “Regulations which take the form of prior restraints are subject to particularly exacting judicial scrutiny with a heavy presumption against their constitutional validity.” *Iranian Muslim Org. v. City of San Antonio*, 615 S.W.2d 202, 205 (Tex. 1981). The Texas Constitution’s free speech guarantee is broader than the First Amendment, and “it has been and remains the preference of this court to sanction a speaker after, rather than before, the speech occurs.” *Davenport v. Garcia*, 834 S.W.2d 4 (Tex. 1992). A “heckler’s veto” never justifies a prior restraint on speech; indeed, the Texas Supreme Court deems such a notion “unthinkable.” *Iranian Muslim Org.*, 615 S.W.2d at 206-07 (quoting *Blasi*, *Prior Restraints on Demonstrations*, 68 Mich. L. Rev. 1481, at 1510 (1970)). Plaintiff cannot force Defendants, or anyone else, to “speak only well of” it. *Ex parte Tucker*, 220 S.W. 75, 76 (Tex. 1920). It cannot ask this Court to close a traditional public forum or to regulate speech because it dislikes Missionary Defendants’ viewpoint. *Minnesota Voters All. v. Mansky*, 585 U.S. 1, 11 (2018) (viewpoint discrimination is never constitutionally permissible). Missionary Defendants wish “to converse with their fellow citizens about an important subject on the public streets and sidewalks—sites that have hosted discussions about the issues of the day throughout history.” *McCullen*, 573 U.S. at 496-97. Plaintiff’s claims and requested relief would transform the Ordinance into a heckler’s veto buffer zone in which the mosque may veto any speech with which it disagrees. The Supreme Court has not hesitated to invalidate comparable buffer zones. *See Id.* at 469, 496-97 (holding that a 35-foot-buffer zone around abortion clinics violated the Free Speech Clause because it “clos[ed] a substantial portion of a traditional public forum to all speakers”); *see also Larkin v. Grendel’s Den, Inc.*, 459 U.S. 116, 117 (1982) (invalidating “a Massachusetts statute, which vests in the governing bodies of churches and schools the power effectively to veto applications for liquor licenses within a five hundred foot radius of the church or school”). While Plaintiff’s claims for nuisance have an adequate remedy at law, the relief Plaintiff requests would inflict irreparable harm on Defendants, as “[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020) (per curiam) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion)).

Attorney’s Fees.

67. Plaintiff is not entitled to recover attorney’s fees under the Uniform Declaratory Judgments Act because the declaration merely duplicates and mirrors a coercive claim. *MBM Fin.*, 292 S.W.3d at 669–70.

91a and TCPA Notice

68. Defendants will seek dismissal under Rule 91a of claims with no basis in law and under Texas Civil Practice & Remedies Code § 27.001 *et seq.* of claims based on the Defendants' exercise of the right to free speech.

69. Defendants reserve the right to amend and assert additional defenses as discovery progresses.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully pray that the Court:

- A. Grant the Plea to the Jurisdiction, dismissing for lack of jurisdiction all non-justiciable claims;
- B. Sustain the Special Exceptions and order re-pleading within 14 days and, upon failure to cure, striking the defective allegations and prayers;
- C. On the merits, deny all relief requested by Plaintiff and enter a take-nothing judgment;
- D. Grant Defendants reasonable costs and attorney's fees pursuant to Tex. Civ. Prac. & Rem. Code § 110.005(a)(4); and
- E. Grant Defendants such other and further relief, at law or in equity, to which they may be justly entitled.

[Signature Block on Following Page]

Respectfully submitted,

/s/ Lea E. Patterson

Lea E. Patterson

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Texas Bar No. 24062642

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*Counsel for Defendants Testimonies of God, Inc.;
Heritage Grace Community Church, Inc.; and
Landon Thurman*

VERIFICATION BY LANDON THURMAN

STATE OF TEXAS §

COLLIN COUNTY §

Before me, the undersigned notary, on this day personally appeared Landon Thurman, the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

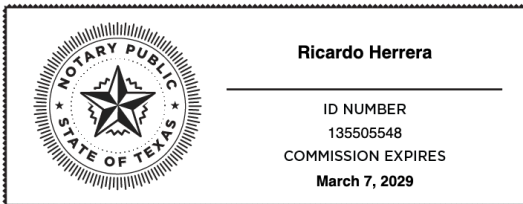
“My name is Landon Thurman. I am capable of making this verification. I have read paragraphs 2–3 and 6–24 of Defendants Testimonies of God, Inc.; Heritage Grace Community Church, Inc.; and Landon Thurman’s Original Answer, Plea to the Jurisdiction, Special Exceptions, Verified Denials, and Affirmative Defenses in *East Plano Islamic Center v. Thurman, et al.* (199th Jud. Dist. Ct., Collin County, Texas). The facts stated in those paragraphs are within my personal knowledge and are true and correct.”

Landon Henry Thurman

Landon Thurman

State of Texas
County of Travis

Sworn to and subscribed before me by Landon Thurman on November 4, 2025.



[Signature]

Notary Public in and for the State of Texas

VERIFICATION BY LYNN KAHLER

STATE OF TEXAS §

COLLIN COUNTY §

Before me, the undersigned notary, on this day personally appeared Lynn Kahler, the affiant, whose identity is proved to me through a Texas driver's license. After I administered an oath, affiant testified as follows:

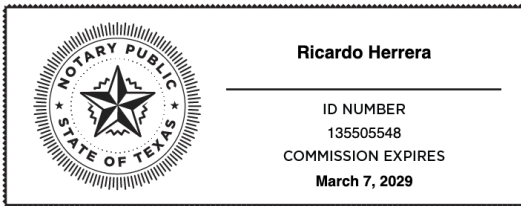
"My name is Lynn Kahler. I capable of making this verification. I am a Pastor and Elder at Heritage Grace Community Church. I have read paragraphs 4–5 and the Verified Denials contained in paragraphs 47–48 of Defendants Testimonies of God, Inc.; Heritage Grace Community Church, Inc.; and Landon Thurman's Original Answer, Plea to the Jurisdiction, Special Exceptions, Verified Denials, and Affirmative Defenses in *East Plano Islamic Center v. Thurman, et al.* (199th Jud. Dist. Ct., Collin County, Texas). The facts stated in those paragraphs and in those Verified Denials are within my personal knowledge and are true and correct."

Lynn C Kahler

Lynn Kahler

State of Texas
County of Travis

Sworn to and subscribed before me by Lynn Kahler on November 4, 2025.



[Signature]

Notary Public in and for the State of Texas

CERTIFICATE OF SERVICE

I certify that on November 5, 2025, I served a copy of Defendants Testimonies of God, Inc.; Heritage Grace Community Church, Inc.; and Landon Thurman's Original Answer, Plea to the Jurisdiction, Special Exceptions, Verified Denials, and Affirmative Defenses, on the Plaintiff by electronic service, which was reported as complete. My email address is lea@butterfieldpatterson.com.

/s/ Lea E. Patterson

Lea E. Patterson

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Lea Patterson on behalf of Lea Patterson
Bar No. 24102338
lea@butterfieldpatterson.com
Envelope ID: 107675742
Filing Code Description: Original Answer
Filing Description:
Status as of 11/5/2025 9:21 AM CST

Case Contacts

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