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7 Attorneys for Plaintiffs: **BARRY FELIS AND STEVEN DAVIES**

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

10 **BARRY FELIS**, an individual, and **STEVEN**
11 **DAVIS**, an individual,

12 v.

13 **DEL AMO FASHION CENTER, SIMON**
14 **PROPERTY GROUP, INC., ANDREWS**
15 **INTERNATIONAL, INC., OFFICER**
16 **CRISANTOS, OFFICER JEMANEZ,**
17 **OFFICER HICKLAND, and DOES 1 to 50,**

18 Defendants.

Case No.:

VERIFIED COMPLAINT FOR
DAMAGES [CIVIL CODE §§51, et seq.]
AND DECLARATORY AND
INJUNCTIVE RELIEF

19
20 Plaintiffs, BARRY FELIS AND STEVEN DAVIES allege as follows:

21 **PARTIES**

22 1. Plaintiff BARRY FELIS (hereinafter "Plaintiff" or "Mr. Felis,") is, and at all
23 times mentioned herein was, a resident of Los Angeles County. He is the founder and president
24 of Barry Felis Ministries, an evangelical Christian ministry which exists to preach the Gospel of
25 Christ and to make disciples, and a former senior pastor at a church in Los Angeles County.

26 2. Plaintiff STEVEN DAVIS (hereinafter "Plaintiff" or "Mr. Davis,") is, and at all
27 times mentioned herein was, a resident of Los Angeles County. Mr. Davis is an associate with
28 Barry Felis Ministries and is part of the Ministry's outreach team. Mr. Davis is also employed as

1 a computer technician with the Torrance Unified School District.

2 3. Defendant DEL AMO FASHION CENTER is, and at all times mentioned herein
3 was, a business entity of unknown type, with principal offices within the State of California and
4 the County of Los Angeles.

5 4. Defendant SIMON PROPERTY GROUP, INC. is, and at all times mentioned
6 herein was, a Delaware corporation doing business within the State of California and the County
7 of Los Angeles. The Defendants identified in paragraphs 3 and 4 are sometimes hereinafter
8 referred to collectively as the “Del Amo Defendants.”

9 5. Defendant ANDREWS INTERNATIONAL, INC. is, and at all time mentioned
10 herein was, a Delaware corporation doing business within the State of California and the County
11 of Los Angeles, and was under contract with one or more of the above Defendants to perform
12 security services.

13 6. Plaintiffs are informed and believe and therefore allege that defendant OFFICER
14 CRISANTOS was at all relevant times herein employed as a security guard by defendant
15 ANDREWS INTERNATIONAL, INC. and is responsible in some part for the injuries to
16 Plaintiffs and the deprivation of Plaintiffs’ rights as described herein.

17 7. Plaintiffs are informed and believe and therefore allege that defendant OFFICER
18 JEMANEZ was at all relevant times herein employed as a security guard by defendant
19 ANDREWS INTERNATIONAL, INC. and is responsible in some part for the injuries to
20 Plaintiffs and the deprivation of Plaintiffs’ rights as described herein.

21 8. Plaintiff are informed and believe and therefore allege that defendant OFFICER
22 HICKLAND was at all relevant times herein employed as a security guard by defendant
23 ANDREWS INTERNATIONAL, INC. and is responsible in some part for the injuries to
24 Plaintiffs and the deprivation of Plaintiffs’ rights as described herein

25 9. Plaintiffs are unaware of the true names of the Defendants named herein as DOES
26 1 through 50 and, for that reason, designate those Defendants by such fictitious names. Plaintiff
27 seeks leave to amend this Complaint to set forth the true names and capacities of those fictitious
28 Defendants at such time as those names and capacities are discovered. Plaintiffs are informed

1 and believe, and on the basis of said information and belief allege, that each of the fictitious
2 Defendants is responsible in some manner for the acts and omissions described in this Complaint
3 and for the injuries and damages suffered by Plaintiffs.

4 10. At all times mentioned herein, each of the Defendants was acting as the agent,
5 employee, joint venturer, and servant and at the request of each of the other Defendants. At all
6 times mentioned herein, each Defendant was acting within the course and scope of said agency,
7 employment, and joint venture with the advance knowledge, acquiescence, subsequent
8 ratification, and approval of the acts and omission of each of the other Defendants. Moreover,
9 each of the Defendants supervised each of the other Defendants and was subject to non-delegable
10 duties, and to duties connected to the peculiar risk of the acts and omissions which are the
11 subject of this complaint.

12 **SUMMARY OF FACTS**

13 11. Plaintiffs refer to and incorporate herein the prior allegations of this Complaint.

14 12. The “incident” upon which this Complaint is based occurred at the Del Amo
15 Fashion Center (hereinafter the “Mall”) on September 21, 2007 during normal operating hours.
16 The Mall consists of a large parking lot, an outdoor promenade and a totally covered, air
17 conditioned two-story retail shopping complex located in Torrance, California and the County of
18 Los Angeles. The Mall contains many nationwide retail stores common to shopping malls
19 throughout the United States, anchored by Macy’s, Sears and J.C. Penney. All of the stores have
20 an unobstructed frontage on the covered common walkways. The Mall also contains numerous
21 smaller retailers that sell merchandise through kiosks or carts located within the Mall, but
22 without a set retail space. Fast food retailers occupy an open food court, with other food retailers
23 scattered throughout the Mall. There are tables, chairs and benches that facilitate rest, eating and
24 conversation among patrons. There are also various non-shopping programs and activities
25 sponsored by the Mall that are intended to attract people to the Mall.

26 13. The Mall, including the covered mall area, is open to the public during business
27 hours by means of entry through unlocked doors. Prospective customers are encouraged to visit
28 the Mall, which features piped-in music, benches, attractive walkways and open areas, and

1 occasional business promotions and displays. No admission is charged for entry to the Mall area
2 and no purchases are required as a condition of entry. In fact, many people use the Mall as a
3 place to meet friends, exercise or people watch. Plaintiffs are informed and believe, and
4 thereupon allege that the Mall has been used by members of the public for expressive activities,
5 such as picketing and the distribution of political and religious literature, and has served as the
6 functional equivalent of a traditional public forum such as a town square or public sidewalk for
7 the City of Torrance and the County of Los Angeles.

8 14. The Mall hosts a military show on Veteran’s Day, whereupon the United States
9 military is invited on to Mall property to display their equipment and perform demonstrations. In
10 addition, the Mall has hosted the Tom Sullivan 10k run on Saint Patrick’s Day, which began and
11 was organized on Mall Property.

12 15. The Mall also has and will be permitting the Chabad of South Bay to host its
13 annual Menorah Lighting Ceremony in the Outdoor Promenade on Sunday, December 9, from
14 4:00 PM - 6:00 PM. The ceremony will take place at sundown. There will be crafts, goodie bags,
15 and entertainment compliments of Chabad of South Bay. According to the Mall website, last
16 year's Menorah Lighting Ceremony event drew over 300 people. The Menorah will be on display
17 in the promenade from December 4 - December 11 to coincide with Chanukah.

18 16. In addition to the religious ceremony permitted by the Mall, the Mall has also
19 allowed commercial speech in its Promenade as well. The Mall is currently promoting an event
20 scheduled for December 9, 2007, which states: *“This is your chance to see the Chevy Volt, up
21 close and personal! Stop by the entrance to the Outdoor Promenade to see the Concept Chevy
22 Volt, a new kind of plug-in electric vehicle from GM. The Concept Chevy Volt is unlike any
23 previous electric vehicle, thanks to its innovative rechargeable electric drive system and range-
24 extending power source. Concept Chevy Volt is one more way GM is working to bring drivable,
25 practical vehicles that help decrease dependence on petroleum and reduce greenhouse gas
26 emissions.”*

27 17. The Mall also hosts a weekly “Kids Club” in Del Amo Fashion Center's
28 International Food Court Location. The Kids Club is actually organized by the Mall’s parent

1 corporation, Simon Property Group. According to its website, the Simon Kidgits Club® [as it is
2 known corporately] has it all. As a member, kids and their parents can enjoy the many benefits of
3 the program including:

- 4 • Interactive Kids events
- 5 • Family-Friendly and Money-Saving Coupons from Mall Retailers and more
- 6 • Birthday Club and Gift Redemption for Kids
- 7 • Simon Kidgits Newsletter with games and educational elements
- and other membership exclusives!

8 The Kids Club meets every Thursday morning at 10:30 a.m. in Del Amo Fashion Center's
9 International Food Court Location and provides children's entertainment from the likes of
10 Wendee Hersh, Singer (November 29, 2007) "Melissa," Singer (December 6, 2007), Martin
11 Espino, Children's Performer, (December 13, 2007) and the Russian Circus, Children's Performer
12 (December 20, 2007.)

13 18. The Mall also hosts the Salvation Army of Torrance's Giving Tree, celebrating its
14 17th year at Del Amo Fashion Center by Mall Entrance 2. The Mall invites patrons to come and
15 pick out an Angel gift request from the tree and help those in the community that are less
16 fortunate this holiday season.

17 19. The Mall is owned by the Simon Property Group, Inc. ("Simon"). Simon is an
18 S&P 500 company and the largest public U.S. real estate company. Simon is a fully integrated
19 real estate company which operates from five retail real estate platforms: regional malls,
20 Premium Outlet Centers, The Mills, community/lifestyle centers and international properties. It
21 currently owns or has an interest in 379 properties comprising 256 million square feet of gross
22 leasable area in North America, Europe and Asia. Simon is headquartered in Indianapolis,
23 Indiana and employs more than 5,000 people worldwide

24 20. Plaintiff is informed and believes and therefore alleges that the Mall is patrolled
25 by a private security force employed by defendant ANDREWS INTERNATIONAL, INC., under
26 a contractual agreement with one or more Mall Defendants. On the date and time of the incident
27 upon which this Complaint is based, Defendants CHRISANTOS, JEMENEZ, AND HICKEND
28

1 were employed as security guards for ANDREWS INTERNATIONAL, INC.

2 21. On the evening of Friday September 21, 2007, Mr. Felis and Mr. Davis arrived at
3 the Del Amo Fashion Center. During the course of the evening, Mr. Felis and Mr. Davis
4 approached four young men and asked their permission to speak with them. As Plaintiffs were in
5 conversation with these four young men, they noticed a security guard, standing nearby. Over
6 the course of their time at the Mall, Mr. Felis and Mr. Davis spoke with several interested
7 passersby, and provided some with literature which discussed information about the Christian
8 faith.

9 22. After Mr. Felis and Mr. Davis ended their conversation with the four young men,
10 they were stopped by the security guard and told that they were not permitted to pass out
11 literature. Because their desire was to be unobtrusive and courteous, Mr. Felis and Mr. Davis
12 willingly followed the security guard's instruction, and told him that they would stop passing out
13 literature and at that point voluntarily decided to leave the Mall because it was getting late.

14 23. As Mr. Felis and Mr. Davis walked to their car to go home, they were
15 subsequently detained for a second time, this time by three security guards, Officer Jemenez,
16 Officer Chrisantos, and Officer Hickend, who ordered the Mr. Felis and Mr. Davis to "get up
17 against the wall!" and "get your hands out of your pockets!".

18 24. The guards were very aggressive with the men, barking orders in raised voices
19 and demanding that Mr. Felis and Mr. Davis provide them with identification. One officer asked
20 Mr. Felis what group he was with and demanded to know who told Mr. Felis to come to the Mall
21 and do what he was doing. Mr. Felis pointed his finger upward and said, "The Lord Jesus Christ
22 told me to come share His good news." The security guard responded, "Well, I'm a Catholic."
23 During the exchange between the men and the security guards, the group of three guards
24 surrounded the men and was in a very agitated state, taking an aggressive posture and acting with
25 unnecessary and unprovoked hostility and tension.

26 25. After taking down Mr. Felis and Mr. Davis' names and contact information, the
27 security guards told the men that they were banned from the Mall for three (3) months, and if
28 they did not cooperate, that they would be "banned for life." Mr. Felis asked whether that meant

1 that he could not come shopping with his wife at the Center, and the guard replied in the
2 affirmative.

3 26. Mr. Felis, concerned that the officers' actions were unwarranted and
4 impermissible in light of the fact that he and Mr. Davis did not bother, annoy, or harass any
5 Center patrons, and complied with all of the directives of Center employees, asked the officers to
6 provide their names and badge numbers so that he would be able to follow up regarding any
7 speech, public access, and first amendment issues. When Mr. Felis asked for their names and
8 badge numbers, the security guards became even more agitated, and one, (later identified as
9 Officer Hickend,) quickly began to flee the scene.

10 27. After Mr. Felis called to Officer Hickend and asked him to return in order to get
11 his information, the other two guards, Officer Jemenez and Officer Chrisantos, said that they
12 would provide Mr. Felis with his information and Officer Hickend just kept walking away.
13 Officer Hickend did eventually return to where the other two security officers were standing.
14 The names of the three security officers involved are Officer Crisantos (badge #605), Officer
15 Jemanez, (badge #618), and Officer Hicklend (badge #614).

16 28. Plaintiffs are informed and believe and therefore alleges that at the date and time
17 of the incident, the Mall Defendants and ANDREWS INTERNATIONAL, INC. were
18 responsible for developing and implementing policies governing speech rights in the Mall and
19 training security guards to enforce those policies. At all times relevant, the above referenced
20 security guard Defendants and their supervisors were employees of defendant ANDREWS
21 INTERNATIONAL, INC., and were authorized agents of the above referenced Mall Defendants,
22 and/or DOES 1-50, and were acting in the course and scope of their employment.

23 **FIRST CAUSE OF ACTION**

24 (Claim for Violation of Civil Rights, Including Under California
25 Civil Code §§ 51, *et seq.* – the Unruh Civil Rights Act Against Defendants)

26 29. Plaintiffs refer to and incorporate herein the prior allegations of this Complaint.

27 30. Defendants interfered with or attempted to interfere with Plaintiffs' civil rights
28 under both federal and state law, including, but not limited to under the United States

1 Constitution, the California Constitution, federal civil rights laws, and California Civil Code
2 sections 51, et seq. Such interference occurred by threats, intimidation, and coercion of Plaintiffs
3 by Defendants.

4 31. California Civil Code sections 51 *et seq.* guarantees free and equal
5 accommodations, advantages, facilities, privileges, or services in all business establishments no
6 matter what their sex, race, color, religion, ancestry, national origin, disability, medical
7 condition, marital status, or sexual
8 orientation. Defendants, individually and through their employees and agents, are systematically
9 violating the Unruh Civil Rights Act, California Civil Code sections 51, *et seq.*

10 32. Defendants DEL AMO FASHION CENTER, SIMON PROPERTY GROUP,
11 INC., and DOES 1 to 50 own, operate and control the Mall, which is a “business establishment”
12 within the meaning of California Civil Code sections 51, *et seq.* Defendants have made the Mall
13 inaccessible to persons who, as part of their religious conduct and expression exercise their rights
14 of free speech and faith by conversationally speaking with other persons within the Mall on
15 issues of faith. This inaccessibility denies religious persons full and equal access to the facilities
16 and services at the Mall, because non-religious expression or speech is not prohibited. These
17 violations are ongoing and all persons discussing matters of faith and religion in the Mall are at
18 risk of harassment and arrest.

19 33. Plaintiffs desire to practice the Great Commission of their Christian religion,
20 found in Matthew Chapter 28, by conversationally sharing matters of faith with anyone who is
21 open to such a conversation in places of public accommodation, including the Mall. Pursuant to
22 the Unruh Civil Rights Act, California Civil Code sections 51, *et seq.*, “religion” includes all
23 aspects of religious belief, observance and practice. A recognized belief, observance and
24 practice of Christianity and other faiths is the conversational sharing of faith with others. This
25 was one of the reasons that many of our forefathers immigrated to the United States; so that they
26 could share their faith without oppression, and it is one of the key reasons that religious people of
27 all persuasions continue to immigrate to the United States.
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1 served as the functional equivalent of a traditional public forum such as a town square or public
2 sidewalk for the City of Torrance and the County of Los Angeles.

3 39. Plaintiffs incorporate by reference herein the allegations of paragraphs 11-28 of
4 this Complaint.

5 40. No constitutionally sufficient interest justifies Defendants' discrimination against
6 Plaintiffs based on the content or subject matter of their conversational speech. In fact, no
7 defendant expressed to Plaintiffs any legally valid explanation for denying him the right to speak
8 conversationally in the Mall on a subject matter of his choice. Defendants' decision to eject and
9 ban Plaintiffs from the use of the Mall was wholly arbitrary and capricious and based solely on
10 objection to the subject matter of Plaintiffs' conversation.

11 41. As a proximate result of Defendants' policies and actions, Plaintiffs have been
12 deprived of the right to free speech and assembly as guaranteed by the California Constitution,
13 Article I, Sections 2 and 3.

14 42. Unless Defendants are restrained by injunction, Plaintiffs will continue to suffer
15 severe, irreparable harm in that the message proposed by Plaintiffs will not be conveyed in a
16 similar public forum in Defendants' jurisdiction and Plaintiffs' constitutional rights to express
17 their message as described herein will continue to be violated. Plaintiffs are informed and
18 believe, and on that basis allege, that unless the Court grants injunctive relief, Defendants will
19 continue to prohibit Plaintiffs' exercise of free speech, and Plaintiffs and the public will continue
20 to suffer injury as described herein.

21 43. Plaintiffs have no adequate remedy at law because monetary damages will not
22 afford adequate relief for the suppression of Plaintiffs' conversational speech and the deprivation
23 of Plaintiffs' constitutional rights.

24 **THIRD CAUSE OF ACTION**

25 (Declaratory Relief Against Defendants)

26 44. Plaintiffs refer to and incorporate herein the prior allegations of this Complaint.

27 45. An actual controversy has arisen and now exists between Plaintiffs and
28 Defendants regarding their respective rights and duties in that Plaintiffs contend that Defendants'

1 rules, policies, and practices concerning the use of the Mall for speech activities, as described
2 herein, violate Plaintiffs' rights of freedom of speech and freedom of assembly under the
3 California Constitution, Article I, Sections 2, in the following manner: Defendants' refusal to
4 permit Plaintiffs to peacefully and naturally engage others in conversation and discussion of
5 issues of faith and religious belief on the premises of the Mall prevents Plaintiffs use of an
6 important public forum for the dissemination of their message. Plaintiffs are informed and
7 believe and thereon allege that Defendants' actions and policies were based in part on
8 Defendants' disagreement with Plaintiffs' message and in part on undifferentiated and
9 unsubstantiated fears of disruption and are not justified by any Constitutionally sufficient interest
10 of Defendants.

11 46. Plaintiffs desire a declaration as to the validity of Defendants' rules, policies and
12 practices, as described in this Complaint, both on their face and as applied to Plaintiffs' free
13 speech activities. Unless the Court issues an appropriate declaration of rights, the parties will not
14 know whether Defendants' policies and procedures comply with the law, and there will continue
15 to be disputes and controversy surrounding the Defendants' current policies for permitting use of
16 and access to the Mall for public use and dissemination of information and messages.

17 WHEREFORE, Plaintiffs pray for judgment as follows:

- 18 1. For special damages according to proof;
- 19 2. For general damages;
- 20 3. For pre-judgment interest;
- 21 4 For exemplary and punitive damages as to the Seventh Cause of Action;
- 22 5. For a temporary restraining order, a preliminary injunction, and a permanent
23 injunction, all enjoining Defendant(s) and their agents, servants, and employees, and all such
24 persons acting under, in concert with, or for them from denying Plaintiffs' constitutional right to
25 express their views and in particular to require Defendants, and each of them, to permit Plaintiffs
26 to use the Mall as a public forum for the purposes of peacefully and naturally engaging others in
27 conversation and discussion of issues of faith and religious belief and other free speech activities,
28 as described herein;

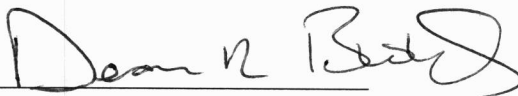
1 6. For a declaration by the Court of the rights and duties of Plaintiffs herein, and
2 specifically for a declaration that the policies and practices of Defendants are unconstitutional as
3 a violation of Plaintiffs' rights, as described herein;

4 7. For costs of suit; and

5 8. For such other and further relief as the Court deems just and proper.
6

7 Dated: December 7, 2007

THE WESTERN CENTER FOR LAW & POLICY

8
9 By: 

10 DEAN R. BROYLES

11 **Attorneys for Plaintiffs BARRY FELIS**
12 **AND STEVEN DAVIS**
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1 **VERIFICATION**

2 I, BARRY FELIS, am the Plaintiff in the above-entitled action. I have read this
3 complaint and know its contents. The same is true of my own knowledge, except as to those
4 matters which are therein alleged on information and belief, and as to those matters, I believe it
5 to be true.

6 I declare under the penalty of perjury under the laws of the State of California that the
7 foregoing is true and correct. Executed on December __, 2007, at Torrance, California.

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11 BARRY FELIS
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