



IRS. Plaintiff claims that the exemption violates the Establishment Clause because it “results in obligations imposed on secular non-profits, including [Nonbelief Relief], that are not imposed on churches.” (Compl. ¶¶ 1, 42.)

2. But instead of seeking an exemption for itself, Plaintiff asks this Court to eliminate the exemption for churches and church-affiliated organizations altogether. Plaintiff requests a declaratory judgment that exempting churches from the annual filing requirement violates the Establishment Clause, and asks this Court to enjoin the IRS from “continuing to preferentially exempt churches and other affiliated religious organizations from annual information filings required of other non-profit organizations.” (Compl. at 13).

3. As a nonprofit, Christian church located in Washington, D.C., The New Macedonia Baptist Church will be directly affected by this lawsuit. The church currently is not required to file annual information returns with the IRS and in fact has never done so. *See* 26 U.S.C. § 6033(a)(3)(A)(i); Decl. of Patrick Walker at ¶ 6.

4. If Plaintiff’s claims are successful, The New Macedonia Baptist Church will lose its longstanding exemption and be required to file costly, time-consuming, and intrusive annual returns with the IRS or otherwise forfeit its tax-exempt status.

5. Accordingly, The New Macedonia Baptist Church has an interest in the subject matter of this action that will be directly affected by the Court’s ruling. Unless it is granted intervention, the church’s ability to protect its specific interests will be impaired.

6. Moreover, the church's specific interests in this action will not be adequately represented by the existing parties. Although the federal government is likely to defend the constitutionality of the challenged exemption, its particular interest in doing so is necessarily broad and nonreligious. The New Macedonia Baptist Church, in contrast, has very specific religious interests in upholding the exemption—interests that it alone can articulate and adequately defend. Indeed, the church intends to defend the exemption by explaining how forcing it to file detailed and intrusive annual returns with the IRS would burden its religious exercise in violation of the First Amendment. *See, e.g., Doe 1 v. Federal Election Comm'n*, No. 17-2694 (ABJ), 2018 WL 2561043, at \*5 (D.D.C. Jan. 31, 2018) (intervention required if “the government’s and the intervenor’s interests may diverge during the course of litigation or if the intervenor’s individual interests in the matter are narrower than those of the government”); *New England Anti-Vivisection Soc’y v. U.S. Fish & Wildlife Serv.*, No. 16-cv-149 (KBJ), 2016 WL 10839560 (D.D.C. Apr. 29, 2016) (“mere possibility” that “the Federal Defendants will not adequately represent [proposed intervenor’s] interests ... is all that is required”).

7. The church's request for intervention also is timely. This motion has been filed very early in this case, and the church will comply with any scheduling

orders established by the Court. Allowing the church to intervene therefore will not cause prejudice to any party, nor will it delay the proceedings.<sup>1</sup>

8. In sum, The New Macedonia Baptist Church is entitled to intervention as a matter of right under Rule 24(a) because its motion is timely, it has significant protectable interests in the subject matter of this action that will be impaired in the absence of intervention, and its specific religious interests are not adequately represented by the existing parties.

9. Alternatively, the Court should grant permissive intervention under Rule 24(b) because the church's anticipated defenses raise common issues of law and fact, and intervention will not unduly delay the proceedings or prejudice the original parties.

10. Counsel for The New Macedonia Baptist Church first contacted counsel for both Plaintiff and Defendant on November 13, 2018, to ascertain the parties' respective positions on this motion. On November 20, 2018, counsel for

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<sup>1</sup> So as not to delay the proceedings or prejudice the original parties, and to ensure the earliest opportunity to participate in this case, The New Macedonia Baptist Church has moved to intervene before the government's filing of any responsive pleading. Consistent with the D.C. Circuit's practical approach to interpreting Rule 24(c), the church has not included a proposed pleading with its motion. *See Massachusetts v. Microsoft Corp.*, 373 F.3d 1199, 1236 n.19 (D.C. Cir. 2004) (rejecting argument that proposed intervenors "may not intervene because they did not include with their motion to intervene" such a pleading). Having provided the parties with notice of its specific interest in this action, as well as its intent to defend the constitutionality of challenged exemption, the church intends to file a responsive pleading by the government's deadline to do so, or as otherwise instructed by the Court. *See Tachiona ex rel. Tachiona v. Mugabe*, 186 F. Supp. 2d 383, 393 n.8 (S.D.N.Y. 2002) (when "the position of the movant is apparent" and "the opposing party will not be prejudiced, Rule 24(c) permits a degree of flexibility with technical requirements").

Defendant stated that Defendant will oppose the motion. Counsel for Plaintiff stated that Plaintiff takes no position on the motion.

**WHEREFORE**, The New Macedonia Baptist Church respectfully requests that this Court grant its Motion to Intervene as Defendant.

Dated: November 21, 2018

Respectfully submitted,

s/Christen Price

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## CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to the following:

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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**NONBELIEF RELIEF, INC.,**  
P.O. Box 448  
Madison, WI 53701-0448,

Plaintiff,

v.

Case No. 1:18-cv-02347-TJK

**DAVID J. KAUTTER**, Acting Commissioner  
of the Internal Revenue Service,  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224,

Defendant.

**THE NEW MACEDONIA BAPTIST  
CHURCH**  
4115 Alabama Avenue, S.E.  
Washington, DC 20019

[Proposed] Defendant-  
Intervenor

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**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THE  
NEW MACEDONIA BAPTIST CHURCH'S MOTION TO INTERVENE**

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## INTRODUCTION

Ever since Congress required nonprofit organizations to file annual information returns with the IRS, churches and other church-affiliated organizations have been statutorily exempt from that requirement. This longstanding exemption recognizes that the First Amendment gives “special solicitude” to houses of worship and forbids government entanglement with religious doctrine, belief, organization, and administration. *Hosanna-Tabor v. E.E.O.C.*, 565 U.S. 171, 189 (2012). Yet the Freedom From Religion Foundation (“FFRF”), on behalf of Plaintiff Nonbelief Relief, Inc. (“Nonbelief”), challenges the constitutionality of that exemption, claiming that it violates the Establishment Clause and asking this Court to permanently enjoin its application.

As a nonprofit church located within this Court’s jurisdiction, The New Macedonia Baptist Church is entitled to intervene as a defendant under Federal Rule of Civil Procedure 24. The church is a direct beneficiary of the challenged exemption, and thus has legally protectable interests that will be affected by this lawsuit. Moreover, the church’s specific religious interests in upholding the exemption are narrower than (and different from) the federal government’s interests and therefore will not be adequately represented by the existing parties. Indeed, the church intends to show that forcing it and other churches to file detailed and invasive annual returns with the IRS burdens religion in violation of the First Amendment. Because Rule 24 gives the church the right to defend its own interests, the Court should grant intervention.

## BACKGROUND

### A. Tax-exempt organizations and annual information returns.

Congress first began requiring tax-exempt organizations to file annual information returns in 1943. But exceptions from that requirement have always existed. Churches and other church-affiliated organizations, for example, have always been exempt from filing such returns. *See* 26 U.S.C. § 6033(a)(3)(A)(i). Tax-exempt organizations whose gross receipts are normally not more than \$5,000 also are exempt. *Id.* § 6033(a)(3)(A)(ii). And the IRS may grant additional exemptions whenever it “determines that such filing is not necessary to the efficient administration of the internal revenue laws.” *Id.* § 6033(a)(3)(B).

If a tax-exempt organization is subject to the filing requirement, it must furnish the IRS with, among other things:

- its gross income, expenses, and disbursements;
- a balance sheet showing its assets, liabilities, and net worth;
- the total of the contributions and gifts received, and the names and addresses of all substantial contributors; and
- the names and addresses of its foundation managers and highly compensated employees, along with the compensation and other payments made to those individuals.

26 U.S.C. § 6033(b). Moreover, the return generally required of tax-exempt organizations—Form 990—requests additional information designed to influence and modify the behavior of tax-exempt organizations, particularly in connection

with governance. Besides demanding exhaustive financial information, Form 990 requires organizations to disclose, among other things, significant information about their governance procedures and policies, governing documents, and relationships with organizational leaders and third parties. And access to this sensitive information is not restricted to the government—the law requires annual returns to be made available for public inspection. 26 U.S.C. § 6104(d).

Noncompliance also results in significant penalties. Failure to file the appropriate return, or failure to include any required information (or failure to show the correct information), will result in a \$20 per-day penalty, with a maximum penalty of \$10,000 or 5 percent of the gross receipts of the organization for one year. 26 U.S.C. § 6652(c)(1)(A). For larger organizations with annual gross receipts more than \$1 million, there is a \$100 per-day penalty for failure to file and a maximum penalty of \$50,000. *Id.* § 6652(c)(1)(A)(ii). An additional penalty may also be imposed on the person responsible for failing to file the return—\$10 per day and a maximum of \$5,000. *Id.* § 6652(c)(1)(B). Finally, failing to file an annual return for three consecutive years will result in revocation of the organization’s tax-exempt status. *Id.* § 6033(j)(1).

**B. FFRF’s renewed attack on the church exemption.**

This is not Freedom From Religion Foundation’s first attempt at eliminating the church exemption. A few years ago, it filed a similar legal challenge in the U.S. District Court for the Western District of Wisconsin. *See Freedom From Religion Foundation v. Koskinen*, 72 F. Supp. 3d 963 (W.D. Wis. 2014). That case was

dismissed in 2014 for lack of standing, with the court noting that FFRF filed the required annual information returns and “disavowed any interest in seeking an exemption” from that requirement. *Id.* at 966–67.

FFRF formed Plaintiff Nonbelief shortly thereafter in 2015. (Compl. ¶ 14.) Despite being separately incorporated, Nonbelief and FFRF are essentially one and the same. Nonbelief’s sole member is FFRF; its presidency is specifically reserved for FFRF’s president; FFRF co-president Annie Laurie Gaylor currently serves as Nonbelief’s president; FFRF co-president Dan Barker serves as vice-president; FFRF’s director of operations doubles as Nonbelief’s secretary and treasurer; and certain FFRF board members make up the entirety of Nonbelief’s board. *See* Compl., Ex. 1 at 3, 15; *see also Freethinkers Work To Make This World Heavenly, Freedom From Religion Foundation*, <https://ffrf.org/outreach/nonbelief-relief-inc>.

While incorporating Nonbelief, FFRF informed the IRS that Nonbelief would not be filing the required Form 990 and requested an exemption from the annual filing requirement. (Compl. ¶¶ 4, 5.) Nonbelief claims that it did not receive an exemption. (Compl. ¶ 5.) Having intentionally failed to file an annual information return for the past three years, the IRS purportedly revoked Nonbelief’s tax exemption in August 2018. (Compl. ¶ 31.)

In its complaint, Nonbelief contends that the exemption available to churches and church-affiliated organizations under 26 U.S.C. § 6033(a)(3)(A) violates the Establishment Clause. According to Nonbelief, the exemption “results in obligations imposed on secular non-profits, including [Nonbelief], that are not imposed on

churches.” (Compl. ¶¶ 1, 42.) The complaint further alleges that the IRS “preferentially does not enforce against churches even requirements that are facially applicable to churches and affiliated religious organizations.” (Compl. ¶ 47.) Specifically, Nonbelief contends that “[c]hurches openly and notoriously ignore and violate the prohibition on partisan politicking, which the [IRS], in turn, ignores.” (Compl. ¶ 52.) Such “differential enforcement policies and practices,” the complaint alleges, “constitute discrimination against non-religious non-profit organizations solely on the basis of religious criteria.” (Compl. ¶ 59.)

Nonbelief seeks a declaratory judgment that exempting churches from the annual filing requirement violates the Establishment Clause and that revoking Nonbelief’s tax-exempt status violates both the Establishment Clause and Equal Protection rights of the organization. (Compl. at 12–13.) Nonbelief also asks this Court to enjoin the IRS from “continuing to preferentially exempt churches and other affiliated religious organizations from annual information filings required of other non-profit organizations.” (Compl. at 13.)

### **C. The New Macedonia Baptist Church.**

The New Macedonia Baptist Church is a nonprofit, Christian church located in Washington, D.C. (Decl. of Patrick Walker at ¶¶ 4, 6.) Established in 1958, the church “has been sharing the good news of Jesus Christ with and serving the Washington, D.C., community for the past 60 years.” (*Id.* ¶ 3.) Currently, the church has twenty-two employees and two locations within the District. (*Id.* ¶ 4.)

The church regularly holds worship services and has a wide-variety of ministries. (*Id.* ¶ 5.) For example, the church serves its parishioners and the surrounding community by offering substance abuse, marriage, and grief support groups; providing food and clothing to families and children in need; financially supporting and volunteering with an organization that provides healthy food to the community; participating in both foreign and local disaster relief efforts; and engaging youth through tutoring, college tours, and entertainment. (*Id.*)

Since its founding in 1958, The New Macedonia Baptist Church has been exempt from filing annual information returns with the IRS. (*Id.* ¶ 6.) The church therefore has significant interests in upholding the constitutionality of the challenged exemption. As explained by its Senior Pastor, Patrick Walker, eliminating the church’s exemption and forcing it to file annual information returns with the IRS would undoubtedly burden the church’s religious ministries. (*Id.* ¶ 7.) Not only would preparing and filing such returns require the church to “expend substantial amounts of time, energy, and money” that could otherwise be spent on ministry, but it also would cause sensitive and confidential information about the church to be disclosed to the federal government and general public. (*Id.* ¶¶ 7, 8.)

## **ARGUMENT**

The New Macedonia Baptist Church meets the requirements for both intervention as of right and permissive intervention under Federal Rule of Civil Procedure 24. Simply put, Nonbelief’s lawsuit could cause the church to be required to file costly, time-consuming, and intrusive annual returns with the IRS. Not only

would this burden the church's religious freedom, but it also would lead to excessive government entanglement with religion. Because the church has a significant interest in the subject matter of this action, and is the party best equipped to defend against the threat to *its* religious freedom and autonomy, it is entitled to intervene as a defendant.

**I. The New Macedonia Baptist Church is entitled to intervene as of right.**

The D.C. Circuit applies a four-prong test when deciding motions to intervene as of right: “(1) the application to intervene must be timely; (2) the applicant must demonstrate a legally protected interest in the action; (3) the action must threaten to impair that interest; and (4) no party to the action can be an adequate representative of the applicant's interests.” *Karsner v. Lothian*, 532 F.3d 876, 885 (D.C. Cir. 2008). Because The New Macedonia Baptist Church meets each of these elements, it is entitled to intervene as a defendant.

**A. The church's motion is timely.**

The New Macedonia Baptist Church satisfies the timeliness requirement for intervention, which “is aimed primarily at preventing potential intervenors from unduly disrupting litigation, to the unfair detriment of the existing parties.” *Roane v. Leonhart*, 741 F.3d 147, 151 (D.C. Cir. 2014). Indeed, the church filed this motion a little more than a month after Plaintiff filed its initial complaint and before Defendant has even filed a responsive pleading. Accordingly, the church does not seek to alter any of the Court's current deadlines, and its addition to the case will not disrupt the litigation or result in any prejudice to the parties. *See, e.g., Fund For*

*Animals, Inc. v. Norton*, 322 F.3d 728, 735 (D.C. Cir. 2003) (motion to intervene filed less than two months after the plaintiffs filed their complaint and before the defendants filed an answer was timely); *Me-Wuk Indian Community of the Wilton Rancheria v. Kempthorne*, 246 F.R.D. 315, 319 (D.D.C. 2007) (motion to intervene filed less than three months after the complaint was timely).

**B. The church is a direct beneficiary of the challenged exemption and thus has important, legally protected interests in the subject matter of this action.**

Under Rule 24(a), a prospective intervenor must “demonstrate a legally protected interest in the action.” *100Reporters LLC v. U.S. Dep’t of Justice*, 307 F.R.D. 269, 275 (D.C. Cir. 2014). This requirement recognizes that “the interest of justice is best served when all parties with a real stake in a controversy are afforded an opportunity to be heard.” *Hodgson v. United Mine Workers of Am.*, 473 F.2d 118, 1130 (D.C. Cir. 1972). The requirement operates largely as a “practical guide,” with the aim of “disposing of disputes with as many concerned parties as may be compatible with efficiency and due process.” *100Reporters LLC*, 307 F.R.D. at 275 (quoting *Wildearth Guardians v. Salazar*, 272 F.R.D. 4, 12–13 (D.D.C. 2010)).

Generally, “[w]here a party seeks to intervene as a defendant in order to uphold or defend an agency action,” it has a legally protectable interest if it can establish that it would be harmed “by the setting aside of the government’s action it seeks to defend, that this injury would have been caused by that invalidation, and the injury would be prevented if the government action is upheld.” *Cayuga Nation v. Zinke*, 324 F.R.D. 277, 280, 282 (D.D.C. 2018). That is exactly the case here.

The New Macedonia Baptist Church is a tax-exempt church that directly benefits from the challenged exemption. (See Walker Decl. ¶¶ 6–9.) Through this lawsuit, Plaintiff seeks to eliminate the exemption and require churches to file annual returns with the IRS. (See Compl. at 13) (asking the Court to “enjoin[ ]” the IRS “from continuing to preferentially exempt churches and other affiliated religious organizations from annual information filings required of other non-profit organizations”).

Because the church is among the intended beneficiaries of the challenged exemption, and thus would necessarily be harmed if the exemption were eliminated, it has a substantial and specific interest in seeing it upheld.

**C. The church’s interests will be impaired if Plaintiff succeeds because the church would be required to file costly and intrusive annual returns with the IRS.**

This action threatens to impair the church’s interests. In determining whether the church’s interests will be impaired, this Court must “look to the ‘practical consequences that [the church] may suffer if intervention is denied.’” *Forest County Potawatomi Community v. United States*, 317 F.R.D. 6, 14 (D.D.C. 2016) (quoting *Natural Res. Defense Council v. Costle*, 561 F.2d 904, 909 (D.C. Cir. 1977)).

Intervention is particularly appropriate here because Plaintiff seeks “injunctive relief” that “will have direct, immediate, and harmful effects upon” the church’s interests. *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 818 (9th Cir. 2001). As noted above, Plaintiff seeks a declaratory judgment that exempting The New Macedonia Baptist Church and other churches from the annual filing

requirement is unconstitutional. It also asks the Court to permanently enjoin the federal government from granting such exemptions in the future.

As a church located within this Court’s jurisdiction, a ruling in Plaintiff’s favor will have direct, immediate, and harmful effects on The New Macedonia Baptist Church. Indeed, if Plaintiff’s claims are successful, the church will be forced to “expend substantial amounts of time, energy, and money preparing and filing detailed annual returns with the IRS.” (Walker Decl. ¶ 7.) Not only would this significantly burden the church’s ministry, but it also would interfere with the church’s ability to conduct its internal affairs “free from state interference.” *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952); *see also* Walker Decl. ¶¶ 7–8.

Because the church “would be substantially affected in a practical sense by the determination made in [this] action, [it] should, as a general rule, be entitled to intervene.” Fed. R. Civ. P. 24 (advisory committee’s note).

**D. Existing parties do not adequately represent the church’s specific religious interests.**

In assessing whether representation by existing parties is adequate, the Supreme Court has held that this requirement “is satisfied if the applicant shows that representation of his interest ‘may be’ inadequate; and the burden of making that showing should be treated as minimal.” *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972); *accord Crossroads Grassroots Policy Strategies v. Federal Election Comm’n*, 788 F.3d 312, 321 (D.C. Cir. 2015) (burden “not onerous”); *Cayuga Nation*, 324 F.R.D. at 280 (burden “*de minimis*”).

Although the IRS reasonably can be expected to defend the constitutionality of the challenged exemption, “a shared general agreement” that the exemption is lawful “does not necessarily ensure agreement in all particular respects about what the law requires.” *Costle*, 561 F.2d at 912. “[W]ithout calling the good faith of [the IRS] into question in any way,” the church “may well have honest disagreements with [the IRS] on legal and factual matters.” *Id.* This is especially so because the federal government’s interest in defending the exemption is necessarily broad, public, general, and nonreligious, whereas the church has specific and unique religious interests that need protecting. Furthermore, it is the church that will feel the brunt of an adverse ruling here. The church, after all, would be faced with deciding whether to comply with costly, time-consuming, and intrusive annual reporting requirements or forfeit its tax-exempt status. In other words, the church’s religious freedom and autonomy are at stake here, not the IRS’s. The federal government is ill-suited to articulate these specific religious interests, let alone vigorously defend them.

Indeed, time and again, courts have held that the federal government cannot adequately defend the specific interests of private individuals or organizations. *See, e.g., Trbovich v. United Mine Workers of America*, 404 U.S. 528, 539 (1972) (authorizing intervention by a union member who sought to participate in a suit that the Secretary of Labor had instituted against the member’s union, upon the member’s own complaint, explaining that “the Secretary has an obligation to protect the vital public interest in assuring free and democratic union elections that

transcends the narrower interest of the complaining union member”); *Smuck v. Hobson*, 408 F.2d 175, 181 (D.C. Cir. 1969) (holding that school board did not adequately represent the interests of intervening parents because the “board represents all parents,” while the intervenors “may have more parochial interests centering upon the education of their own children”); *Costle*, 561 F.2d at 912–13 (allowing rubber and chemical companies to intervene in support of EPA because their interest “is more narrow and focused than EPA’s” and, “[g]iven the acknowledged impact that regulation can be expected to have upon their operations, appellants’ participation in defense of EPA decisions that accord with their interest may also be likely to serve as a vigorous and helpful supplement to EPA’s defense”).

In fact, the D.C. Circuit has stated that it “look[s] skeptically on government entities serving as adequate advocates for private parties,” *Crossroads*, 788 F.3d at 321. And courts in this Circuit “have often concluded that governmental entities do not adequately represent the interests of aspiring intervenors.” *Fund For Animals*, 322 F.3d at 736. Because the church’s interests are “more narrow and focused” than the IRS’s, its “participation in defense” of the challenged exemption at the very least is “likely to serve as a vigorous and helpful supplement.” *Costle*, 561 F.2d at 912–13.

**E. The church has standing to intervene as a defendant.**

While “a party seeking to intervene as of right must demonstrate that it has standing under Article III of the Constitution,” *Fund For Animals*, 322 F.3d at 731–32, the D.C. Circuit has explained that “any person who satisfies Rule 24(a) will also meet Article III’s standing requirement.” *Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 233 (D.C. Cir. 2003). Thus, “[f]or standing purposes, it is enough that

[Nonbelief] seeks relief, which, if granted, would injure [the church].” *Crossroads*, 788 F.3d at 318.

**II. Alternatively, this Court can exercise its discretion and grant permissive intervention.**

In the alternative, this Court should grant The New Macedonia Baptist Church permission to intervene under Rule 24(b), which allows courts to grant permissive intervention to anyone who “has a claim or defense that shares with the main action a common question of law or fact.” This Court has “wide latitude” in determining whether to grant permissive intervention. *E.E.O.C. v. Nat’l Children’s Ctr., Inc.*, 146 F.3d 1042, 1046 (D.C. Cir. 1998).

As already established, this motion is timely, and allowing intervention will cause no undue delay or prejudice to the original parties. Moreover, the church’s anticipated defense—that exempting it and other churches from the annual filing requirement is *necessary* to preserve their religious freedom and avoid government entanglement with religion—shares a common question of law or fact with this action. Indeed, the need for such a defense arises entirely from Plaintiff’s claims and argument that churches, including The New Macedonia Baptist Church, should be required to file annual information returns with the IRS.

Because the church can provide this Court with a perspective that it otherwise would not hear—namely, the burden such a filing requirement would have on the church’s religious freedom and ability to conduct internal affairs free of government interference—the church’s involvement in this case would aid the Court and is desirable.

## CONCLUSION

For the foregoing reasons, The New Macedonia Baptist Church respectfully requests that this Court grant its motion to intervene as of right or, alternatively, grant its request for permissive intervention.

Dated: November 21, 2018

Respectfully submitted,

s/Christen Price

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*\*Pro hac vice forthcoming*

*\*\*Application for permanent court  
admission forthcoming*

## CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to the following:

Richard L. Bolton  
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I further certify that I served a copy of the foregoing document on the following parties or their counsel of record by U.S. mail:

Kari M. Larson  
Senior Litigation Counsel  
Office of the Assistant Attorney General  
U.S. Department of Justice, Tax Division  
PO Box 683, Ben Franklin Station  
Washington, DC 20044  
Kari.M.Larson@usdoj.gov

David J. Kautter  
Acting Commissioner of the Internal  
Revenue Service  
1111 Constitution Ave., NW  
Washington, DC 20224

s/Christen Price

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*Counsel for Proposed Defendant-  
Intervenor The New Macedonia  
Baptist Church*



church, including casting and implementing the church's vision. In addition to having the primary preaching and teaching responsibilities, I am responsible for providing biblical guidance and direction for parishioners, conducting pastoral and pre-marital counseling, and officiating weddings and funerals, among other things. I also supervise senior staff members at the church, oversee administration of the church's day-to-day affairs, and am ultimately responsible for monitoring and approving the church's finances and budget.

3. Established in 1958, The New Macedonia Baptist Church has been sharing the good news of Jesus Christ with and serving the Washington, D.C., community for the past 60 years.

4. Currently, The New Macedonia Baptist Church has twenty-two employees and two locations. The church's primary campus is located at 4115 Alabama Avenue, S.E., Washington, D.C. 20019, and the second is located at 3200 22nd Street, N.E., Washington, D.C. 20018.

5. In addition to holding regular weekend and weekday services, the church has a wide-variety of ministries that effectively minister to parishioners and the surrounding community. For example, the church offers numerous support groups, including groups for substance abuse, marriage, and grief. The church also operates a food pantry and provides clothing to families and children in need. The church provides both financial and volunteer support to Martha's Table, which runs healthy food markets for the local community. The church also engages in both foreign and domestic mission efforts, which involve disaster relief, building schools,

and providing clean water to those in need, among other things. And the church actively engages youth in the community through, among other things, tutoring, college tours, and entertainment such as organizing groups to attend Washington Wizards and Mystics games.

6. Since its founding in 1958, The New Macedonia Baptist Church has been organized exclusively for religious purposes and has operated as a nonprofit, Christian church. As a result, the church has always been exempt from filing annual information returns with the IRS, and in fact has never filed an information return such as a Form 990.

7. If the church were to lose this exemption and be required to file annual information returns, its ministry would be significantly burdened. Instead of using all of its resources to further its religious purpose and activities, the church would have to expend substantial amounts of time, energy, and money preparing and filing detailed annual returns with the IRS. This would burden and interfere with the church's ability to live out its faith and mission.

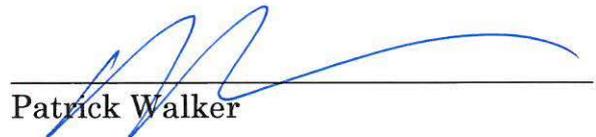
8. Additionally, if the church were required to file annual information returns such as a Form 990, the church would have to provide the IRS with—and make available to the general public—sensitive and confidential information related to the church's governance, ministry expenses, compensation of pastors and other key employees, and financial contributions made to the church, among other things.

9. My understanding is that if the church were required to file annual information returns with the IRS but refused to do so, its tax-exempt status would

be revoked. Revocation of the church's tax-exempt status would be devastating, as it would greatly decrease the amount of funds available to the church. A reduction in staff, including pastoral staff, would probably be necessary as a result. And some very important church ministries and outreaches would cease to exist entirely. The church and its various ministries simply could not exist in their current form if the church lost its tax-exempt status.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 9<sup>th</sup> day of November 2018,

  
\_\_\_\_\_  
Patrick Walker

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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**NONBELIEF RELIEF, INC.,**  
P.O. Box 448  
Madison, WI 53701-0448,

Plaintiff,

v.

Case No. 1:18-cv-02347-TJK

**DAVID J. KAUTTER**, Acting Commissioner  
of the Internal Revenue Service,  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224,

Defendant.

**THE NEW MACEDONIA BAPTIST  
CHURCH**

4115 Alabama Avenue, S.E.  
Washington, DC 20019

Defendant-Intervenor

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**[PROPOSED] ORDER**

This matter came before the Court on the motion of The New Macedonia Baptist Church to intervene as a defendant in this action pursuant to Federal Rule of Civil Procedure 24. Having considered the motion, the supporting memorandum, and declaration in support thereof, this Court finds good cause exists for granting the motion.

It is therefore ORDERED that The New Macedonia Baptist Church's Motion to Intervene as a Defendant is GRANTED.

DATED:

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The Hon. Timothy J. Kelly  
United States District Judge

Attorneys/Parties to be notified:

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