

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**LEGACY CHURCH, INC.,**

**Plaintiff,**

**v.**

**Case No. 1:20-CV-00327-JB-SCY**

**KATHYLEEN M. KUNKEL and the  
STATE OF NEW MEXICO,**

**Defendants.**

**NOTICE REGARDING MAY 14, 2020 MINUTE ORDER [DOC. 58]**

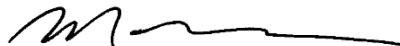
Comes now Defendant Kathyleen M. Kunkel, through her counsel of record in this matter. The Court's May 14, 2020 Minute Order [Doc. 58] ("Minute Order") directed Defendant Kunkel to notify the Court by 12:00 p.m. on May 15, 2020 as to "whether the current public health order restricts Plaintiff Legacy Church's small ministry activities, which include up to 20 people, from gathering in an enclosed space." Defendant Kunkel hereby provides this response in compliance with the May 14, 2020 Minute Order.

1. For purposes of this response, Defendant Kunkel assumes that the Minute Order's reference to the "current public health order" is intended to refer to the public health order that will be executed this afternoon and which, unless some unforeseen circumstance occurs, will be the effective order at the time of the May 18, 2020 hearing scheduled in this matter. Defendant Kunkel also assumes that the Minute Order's reference to "small ministry activities" refers to the "small group ministries and activities" listed in Paragraph 5 of an undated Declaration of Steve Smothermon, which was attached as "Exhibit 3" to Plaintiff's Response to Defendant Kunkel's Motion to Dismiss (filed May 13, 2020) [Doc. 57].

2. There is no categorical answer to the Court's question; however, it is highly likely that all small ministry activities involving up to 20 people can take place under the order. The current public health order exempts houses of worship, such as Plaintiff Legacy Church, Inc., from the mass gatherings restriction by permitting them to gather together a number of people that is equal to 25% of the maximum occupancy of the space where they are gathering, so long as the house of worship complies with the "COVID-Safe Practices for Houses of Worship" section of "All Together New Mexico: COVID-Safe Practices for Individuals and Businesses." This means that if any of the small ministry activities take place or could take place in a space with a maximum occupancy of 80 people or more (assuming 20 in-person attendees), then those activities are permitted under the order, assuming that the relevant COVID-Safe Practices are followed.

3. Defendant Kunkel cannot yet provide the Court with the new public health order because a final version of the order has not been executed. However, when a final version of the order is executed this afternoon, Defendant Kunkel will promptly file a copy of the final version through a notice of supplemental authority. Defendant Kunkel will file a copy of "All Together New Mexico: COVID-Safe Practices for Individuals and Businesses" with the order. Defendant Kunkel will also email a copy of a finalized version of the new order and the COVID-Safe Practices document to the Court and the parties to ensure that everyone can have access to the relevant order and practices without any delay.

Respectfully submitted,



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Matthew L. Garcia,  
*Chief General Counsel to*  
*Governor Michelle Lujan Grisham*  
Jonathan J. Guss  
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**CERTIFICATE OF SERVICE**

I hereby certify that on May 15, 2020, I filed the foregoing through the New Mexico Electronic Filing system, which caused all counsel of record to be served by electronic means.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'M. Garcia', written over a horizontal line.

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Matthew L. Garcia