

## COVID Legal Update 12/16/2020 (Nevada)

On December 15, the 9<sup>th</sup> Circuit Court ruled on *Calvary Chapel v. Sisolak*. The court held that the governor's orders did not meet the standard of equal and reasonable restrictions, nor was there a compelling interest to justify the restrictions. (In other words, there was no reason to treat churches less favorably than other entities.) And therefore the restrictions constituted a violation of the First Amendment right to free exercise of religion. The court remanded the matter back to the lower court and issued an injunction on the state enforcing restrictions of less than 25% capacity.

We don't know how long it will take for the District Court to review the details of the law or for the governor to re-issue new guidelines, but the court has ruled that the state cannot impose a restriction of less than 25% capacity unless they can show a compelling reason to do so (which they haven't been able to show yet.)

**Based on this Federal Court ruling, we advise that churches in Nevada that they can legally meet for worship at 25% capacity, while observing other health guidelines such as cleaning, spacing, and masks. Effective immediately.**

**This decision does not affect churches in California**, although the 9<sup>th</sup> Circuit Court will hear *Harvest Rock v. Newsom* on 12/18 and may result in a similar decision for CA churches.

Here is a quote from the Court's conclusion:

*Calvary Chapel has demonstrated a likelihood of success on the merits of its Free Exercise claim. It has also established that the occupancy limitations contained in the Directive—if enforced—will cause irreparable harm, and that the issuance of an injunction is in the public interest. See id. at \*3; Winter, 555 U.S. at 20. Accordingly, we reverse the district court, instruct the district court to employ strict scrutiny review to its analysis of the Directive, and preliminarily enjoin the State from imposing attendance limitations on in-person services in houses of worship that are less favorable than 25% of the fire-code capacity. The district court may modify this preliminary injunctive relief, consistent with this opinion and general equitable principles. See Winter, 555 U.S. at 20. We encourage the district court to act expeditiously in connection with any such modification. CONCLUSION For the reasons above, we reverse the district court and remand for further proceedings. This order shall act as and for the mandate of this court. REVERSED AND REMANDED.*

<https://cdn.ca9.uscourts.gov/datastore/opinions/2020/12/15/20-16169.pdf>