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ARIZONA SUPERIOR COURT

PIMA COUNTY

10 FRIENDS OF BLENMAN-ELM, an
11 Arizona Nonprofit Corporation,
12
13 Plaintiff,

14 v.

15 GRACE ST. PAUL'S EPISCOPAL
16 CHURCH, an Arizona Nonprofit
17 Corporation,

Defendant.

No. C20260380

**PLAINTIFF'S FIRST AMENDED
VERIFIED COMPLAINT**

(Honorable Cynthia T. Kuhn)

18 Plaintiff Friends of Blenman-Elm, an Arizona Nonprofit Corporation, by and
19 through undersigned counsel, for its Complaint alleges as follows:

20 **PARTIES, JURISDICTION & VENUE**

21 1. Plaintiff Friends of Blenman-Elm ("FOBE") is an Arizona nonprofit
22 corporation formed for the purpose of protecting the interests of homeowners, tenants
23 and business owners who reside or operate in the Blenman-Elm neighborhood of
24 Tucson, Arizona, in the immediate vicinity of Defendant.

25 2. FOBE and its members are private citizens and not a governmental
26 entity.

1 3. The residents that are members of FOBE would have standing in their
2 own right to sue for the causes of action in complaint.

3 4. FOBE president Olga Yiparaki is a homeowner who resides in the
4 Blenman-Elm neighborhood. Her address is 2332 E. Adams Street, Tucson, Arizona
5 85719. Her house is directly across the street from Defendant Grace St. Paul's
6 Episcopal Church ("GSP").

7 5. FOBE member Frank von Hippel is a homeowner who resides in the
8 Blenman-Elm neighborhood. His house is located at 2350 E. Elm Street, Tucson,
9 Arizona 85719, which is the southwest corner of Norton and Elm, across the street
10 from the Medical Square and one building north of GSP.

11 6. FOBE member Phillip Morgan is a homeowner who resides in the
12 Blenman-Elm neighborhood. His house is located at 2215 E. Drachman Street,
13 Tucson, Arizona 85719, directly near one of the two bus stops closest to GSP.

14 7. FOBE member Dan Distefano is a homeowner who resides in the
15 Blenman-Elm neighborhood. His house is located at 2500 E. Adams Street, Tucson,
16 Arizona 85719, just to the east of Tucson Boulevard and one block from GSP.

17 8. The interests that FOBE seeks to protect are relevant to FOBE's purpose.

18 9. None of the claims asserted herein, or the relief requested, requires the
19 participation of individual members.

20 10. Given all the circumstances of this case, FOBE has a legitimate interest
21 in the controversy at issue in this lawsuit.

22 11. Judicial economy and administration will be furthered by allowing
23 representational appearance because FOBE seeks an injunction, rather than damages
24 for separate property owners.

25 12. On information and belief, Defendant GSP is an Arizona nonprofit
26 corporation with its principal place of operations located at 2331 E. Adams Street,

1 Tucson, Arizona 85719, within the Blenman-Elm neighborhood.

2 13. Events giving rise to this Complaint occurred in Pima County, Arizona
3 and jurisdiction and venue are proper in Pima County.

4 14. The injunctive relief demanded in this verified complaint is justified
5 because, without it, the plaintiff and others will endure irreparable injury, and there is
6 no other remedy that is comparably plain, speedy, or sufficient.

7 15. Declaratory relief is appropriate in this action because, among other
8 things, FOBE seeks a declaration of its rights, status and legal relations with respect to
9 GSP's activities in the relevant area.

10 **GENERAL ALLEGATIONS**

11 16. GSP is located in a predominantly residential neighborhood in central
12 Tucson, near family homes, schools, and small businesses.

13 17. On information and belief, GSP began operating a program known as
14 "Joseph's Pantry" and other ministries serving unhoused and low-income individuals
15 (the "Program") at its Adams Street property in or about 1992.

16 18. On information and belief, besides food boxes and snack bags, the
17 Program now additionally provides toiletries, showers, pet food, unlicensed mental
18 health counseling and assistance with identification and vital records.

19 19. GSP runs the Program on Mondays, Wednesdays, and Fridays from
20 approximately 9:00 a.m. to noon.

21 20. The Program, as operated by GSP, attracts a significant number of
22 unhoused and transient individuals into the immediate neighborhood surrounding GSP,
23 including along Adams Street and other streets leading to and from GSP's property.

24 21. On information and belief, there is open-air drug dealing occurring on or
25 around GSP's property during much of the program, and afterwards.

26 22. As of July 30, 2025, one of the alleged drug dealers regularly seen on or

1 around GSP's property had his vehicle registered to GSP's address.

2 23. On multiple occasions, this individual has threatened bodily harm on
3 FOBE's members and other residents of the neighborhood.

4 24. On the afternoon of January 3, 2026, this individual was observed
5 arriving and entering GSP property, on information and belief, to sell drugs to other
6 patrons of GSP's Program that were loitering on GSP's property after its Program had
7 ended.

8 25. Upon returning to his vehicle, this individual saw one of the residents of
9 the neighborhood observing him and made lewd gestures towards her.

10 26. After starting his vehicle, this individual attempted (or tried to make it
11 appear as if he was attempting to) to ram into the resident's vehicle.

12 27. FOBE's members, including, but not limited to, members Olga Yiparaki,
13 Frank von Hippel, Phillip Morgan, and Dan Distefano and other residents of the
14 neighborhood have witnessed open-air drug use, including the use of illegal narcotics,
15 occurring on or around GSP's property by GSP's Program patrons, including at or
16 around their personal residences.

17 28. FOBE's members, including, but not limited to, members Olga Yiparaki,
18 Frank von Hippel, Phillip Morgan, and Dan Distefano routinely find drug
19 paraphernalia – including “fentanyl foil,” syringes and needles – strewn in alleys, on
20 sidewalks and on private property in the area surrounding and at GSP, including at or
21 around their personal residences.

22 29. FOBE's members, including, but not limited to, members Olga Yiparaki,
23 Frank von Hippel, Phillip Morgan, and Dan Distefano have repeatedly observed
24 Program clients loitering, fighting and sleeping on and immediately surrounding
25 GSP's property during non-Program hours, including at or around their personal
26 property.

1 30. At times, FOBE's members, including, but not limited to, members Olga
2 Yiparaki, Frank von Hippel, Phillip Morgan, and Dan Distefano have encountered
3 GSP's Program patrons passed out on sidewalks in front of and near their homes, in
4 alleys behind or near their homes, and in their yards and the yards of their neighbors
5 due to apparent overdoses or extreme intoxication, requiring repeated calls to the
6 Tucson Fire Department and paramedics for emergency medical assistance. These
7 issues are more concentrated the closer the residents live to GSP and are especially bad
8 at the homes of Olga, Frank, and Dan.

9 31. FOBE's members, including, but not limited to, members Olga Yiparaki,
10 Frank von Hippel, Phillip Morgan and Dan Distefano regularly encounter human urine
11 and feces on walls, sidewalks, alleys and on their own property. These issues are more
12 concentrated the closer the residents live to GSP.

13 32. GSP's Program patrons and other unhoused individuals have repeatedly
14 trespassed on FOBE's members' properties, including FOBE's members Olga
15 Yiparaki, Paul Bowden (who lives at 2100 E. Adams), and Frank von Hippel; the
16 unhoused regularly sleep in yards, on roofs, on porches, and in alleys behind homes of
17 FOBE members and other Blenman-Elm residents.

18 33. These trespassers leave trash, drug paraphernalia, and human waste
19 behind, including on the property of FOBE members, including Olga, Dan, Phil, and
20 Frank.

21 34. On information and belief, GSP's Program patrons and other unhoused
22 individuals have broken into properties in Blenman-Elm while the owners are out of
23 town and squatted for an undetermined amount of time until either the owner/resident
24 returns or law enforcement arrives.

25 35. On one occasion, two individuals identified by neighbors as GSP's
26 Program patrons broke into a nearby home, 2346 E. Adams, squatted there for an

1 unknown period of time, and later confronted the resident in an attempt to retrieve
2 items they had left inside the home they had unlawfully occupied.

3 36. Multiple fires started by unhoused individuals have occurred near homes
4 in the area around GSP's property, posing a direct threat of harm to FOBE's members
5 and their families, including members Olga Yiparaki, Frank von Hippel, Phillip
6 Morgan, and Dan Distefano.

7 37. In 2022, one of the FOBE's members had to call 911 because a palm tree
8 located on GSP property was on fire and had burned intensely enough to melt a light
9 fixture next to an elder care facility's wall, which is located directly adjacent to GSP.

10 38. On information and belief, one of GSP's patrons went to GSP on March
11 6, 2025, a Thursday, and when finding out that it was not serving food that day, set fire
12 to the alley behind The Arizona Inn.

13 39. The Tucson Fire Department had to be called out to extinguish the large
14 fire.

15 40. FOBE's members, including, but not limited to, members Olga Yiparaki,
16 Frank von Hippel, Phillip Morgan, and Dan Distefano and other residents of Blenman-
17 Elm have experienced harassment, threats of bodily harm, threats to kidnap their
18 children, stalking, loose and violent dogs, squatting and attempted larceny by GSP's
19 program patrons.

20 41. In 2022, an individual carrying a care package from GSP's Program
21 stalked a Blenman-Elm resident and his three-year old daughter south from GSP along
22 Wilson Avenue on a day when the Program was operating.

23 42. The individual continually screamed at the resident, threatening to
24 kidnap his daughter and followed them to their home, where he violently attempted to
25 break into their house on Mabel for approximately ninety (90) minutes until law
26 enforcement arrived and arrested him.

1 43. FOBE's members, including Olga Yiparaki, Dan DiStefano, and Frank
2 von Hippel, have repeatedly witnessed violent altercations between GSP's Programs
3 patrons on or immediately surrounding the GSP property.

4 44. One occasion occurred on Monday, June 16, 2025 when a violent
5 altercation occurred between two of GSP's Program patrons for approximately twenty
6 (20) minutes on Adams Street, directly outside GSP. FOBE member Olga Yiparaki
7 was forced to witness this altercation as it occurred feet from her front door.

8 45. This violent altercation occurred during GSP's Program hours.

9 46. GSP's Associate Rector Reverend Gary Cyr approached the two men but
10 did nothing to deescalate the situation.

11 47. In early November of 2025, one of GSP's patrons built an encampment
12 in the alley directly behind 2225 E. Adams St.

13 48. The unhoused individual possessed two dogs, who were unleashed and
14 aggressive to people walking by.

15 49. At least two of FOBE's members, including Phillip Morgan, have been
16 growled at by the unleashed dogs.

17 50. On November 16, 2025, a man was recorded walking from the alley
18 where the encampment was, with the aggressive dogs, to GSP, screaming in apparent
19 pain.

20 51. A short time later, paramedics and Tucson police officers arrived at
21 GSP, provided medical attention to the man and purportedly transported him to a
22 hospital for further treatment.

23 52. Female residents of the neighborhood, including, but not limited to,
24 FOBE's president Olga Yiparaki, are regularly followed or harassed by GSP patrons
25 while they are walking to and from their homes or places of work.

26 53. FOBE's members, including members Olga Yiparaki, Frank von Hippel,

1 Phillip Morgan, and Dan Distefano routinely must call the Tucson Police Department
2 due to fights, threats, trespasses, attempted break-ins, and other criminal or disorderly
3 behaviors by individuals who have been seen going to or from GSP's Program.

4 54. Despite numerous requests from FOBE's members to address the impact
5 of its Program, GSP has refused to acknowledge or rectify the nuisance it has created.

6 55. Through its actions, GSP has created an unsafe environment for the
7 Blenman-Elm neighborhood.

8 **COUNT I**
9 **(Public Nuisance)**

10 56. GSP, through its Program, has created unreasonable interference with a
11 right common to the general public.

12 57. GSP, through its Program, has allowed its clients to create an
13 environment in the Blenman-Elm neighborhood that is potentially injurious to FOBE's
14 members' health, is indecent and is offensive to the senses.

15 58. GSP, through its Program, is interfering with FOBE's members',
16 including members Olga Yiparaki, Frank von Hippel, Phillip Morgan, and Dan
17 Distefano's rights to peacefully use and enjoy their properties.

18 59. FOBE members, including Olga, Frank, Dan, and Phillip, feel that GSP
19 creates an unsafe environment for them and their families in their own homes, which
20 are geographically located close to GSP.

21 60. GSP's Program set in motion the chain of events resulting in injuries to
22 FOBE's members.

23 61. The conditions described above – including violent altercations, threats
24 to children, trespasses, open-air drug use and sales, human waste, fires, loose and
25 violent dogs, threats of sexual violence, and accumulations of drug paraphernalia and
26 trash – are injurious to health, indecent, offensive to the senses, and materially

1 interfere with the comfortable enjoyment of life and property by the Blenman-Elm
2 community and a considerable number of residents and business owners.

3 62. FOBE's members, including members Olga Yiparaki, Frank von Hippel,
4 Phillip Morgan, and Dan Distefano, live and work in the immediate vicinity of GSP
5 and bear the brunt of the daily intrusions and dangers.

6 63. Because of their proximity to GSP, the residents of Blenman, including
7 FOBE members Olga Yiparaki, Frank von Hippel, Phillip Morgan, and Dan Distefano,
8 are affected in the use and enjoyment of their real property in a nature and different in
9 kind from that experienced by the residents of the city in general.

10 64. Specifically, due to their proximity, Olga, Frank, Phil, and Dan suffer a
11 special injury distinct from the rest of the public at large, specifically that their
12 enjoyment and use of their real property is unreasonably interfered with by the
13 numerous nuisance behaviors identified in this complaint.

14 65. While the entirety of the southwest quadrant of Blenman Elm (East of
15 Campbell, North of Speedway, West of Tucson, and South of Elm) suffers from the
16 unreasonable actions of GSP, Olga, Frank, Phil, and Dan suffer a special injury due to
17 the fact that their personal homes are directly impacted by the nuisance caused by
18 GSP's patrons.

19 66. The nuisance conditions affect the public at large in the Blenman-Elm
20 neighborhood and not merely a single property or individual.

21 67. GSP is responsible for creating these nuisance conditions.

22 68. GSP knows, or in the exercise of reasonable care, should know, of the
23 nuisance conditions created by its Program.

24 69. GSP has been provided with repeated notice of the nuisance conditions
25 its Program has created; a group of neighbors, including FOBE members Olga
26 Yiparaki, Frank and Cathy Von Hippel, Patrice Lange, and Laurel Solon went to six

1 months of meetings with GSP in an attempt to address these issues.

2 70. In response, GSP told the neighbors to resort to legal action if they
3 wanted GSP to change its program.

4 71. GSP has refused to relocate its Program or take effective steps to abate
5 the nuisance.

6 72. GSP consents to the activities that lead to the nuisance caused by GSP's
7 Program.

8 73. GSP has failed to exercise reasonable care to prevent the nuisance
9 caused by its Program.

10 74. As a direct and proximate result of GSP's conduct, FOBE's members,
11 including members Olga Yiparaki, Frank von Hippel, Phillip Morgan, and Dan
12 Distefano, have suffered and will continue to suffer irreparable harm to their health,
13 safety, comfort and ability to use and enjoy their properties.

14 75. FOBE is entitled to declaratory and injunctive relief declaring GSP's
15 Program at its Adams Street location to be a public nuisance and requiring GSP to
16 abate that nuisance.

17 **COUNT II**
18 **(Private Nuisance)**

19 76. FOBE incorporates and realleges all paragraphs above, especially ¶¶ 56-
20 75 above.

21 77. GSP's unreasonable use of its property foreseeably and actually
22 interferes with FOBE's members', including members Olga Yiparaki, Frank von
23 Hippel, Phillip Morgan, and Dan Distefano, private use and enjoyment of their homes
24 and businesses.

25 78. FOBE's members, including members Olga Yiparaki, Frank von Hippel,
26 Phillip Morgan and Dan Distefano, are repeatedly subjected to violent and threatening

1 encounters, trespasses, unsanitary conditions, fires and the constant presence of open-
2 air drug use and dealing in their immediate vicinity.

3 79. The interference caused by GSP's Program is not the petty annoyances
4 and disturbances of everyday life but consists of substantial interferences.

5 80. The instances of nuisance interfere with FOBE's members' use and
6 enjoyment of their properties.

7 81. As a direct and proximate result of GSP's conduct, FOBE's members
8 have suffered material annoyance, inconvenience, discomfort, and fear for their safety
9 and that of their families.

10 82. FOBE is entitled to injunctive and equitable relief to abate this private
11 nuisance.

12 **COUNT III**
13 **(Declaratory Action)**

14 83. This Court has authority, pursuant to A.R.S. § 12-1831, to declare the
15 existence of a public or private nuisance.

16 84. FOBE's members', including members Olga Yiparaki, Frank von
17 Hippel, Phillip Morgan, and Dan Distefano's rights are affected by the existence of the
18 public and private nuisance, as its existence is causing them, and will continue to cause
19 them substantial harm.

20 85. There exists an actual, present controversy between FOBE and GSP
21 regarding whether GSP's operation of its Program at 2331 E. Adams Street constitutes
22 a public and private nuisance and whether equitable relief requiring abatement of the
23 nuisance, including cessation or relocation of the Program, is warranted.

24 86. Rule 57, A.R.C.P, authorizes declaratory relief and provides that the
25 existence of another adequate remedy does not preclude a declaratory judgment that is
26 otherwise appropriate.

87. GSP's operation of its Program, as presently conducted, constitutes both a public nuisance and a private nuisance under Arizona law.

88. FOBE is entitled to injunctive and equitable relief requiring GSP to abate the nuisance, including by ceasing to operate the nuisance-causing Program at the Adams Street property.

COUNT IV
(Injunctive Relief)

89. GSP's actions create a public and private nuisance and deprive FOBE of its rights.

90. GSP's actions have set in motion the nuisance-causing conditions through its operations.

91. Unless enjoined, GSP will continue to operate its Program at its Adams Street property in substantially the same manner, and the nuisance conditions will continue or worsen, causing ongoing and irreparable harm to FOBE's members and the public.

92. FOBE's members, including members Olga Yiparaki, Frank von Hippel, Phillip Morgan, and Dan Distefano, have suffered, and will continue to suffer, irreparable injury that cannot be adequately remedied by money damages, including continuing threats to physical safety, invasion of property rights, persistent exposure to dangerous, unsanitary, and indecent conditions, the loss of customers to businesses in the neighborhood, and the loss of quiet enjoyment of their homes.

93. Furthermore, injunctive relief is warranted where there is ongoing and repeated harm.

94. The harm in this case is long, continuous, ongoing, and likely to continue unless abated.

95. An injunction is the only means to address the continued deprivation of

1 the residents' enjoyment and use of their properties.

2 96. The balance of hardships favors injunctive relief. The hardship to
3 FOBE's members from living indefinitely with violence, drug markets, fires, and
4 human waste in their immediate environment far outweighs any hardship to GSP from
5 being required to relocate its Program to operate without creating a nuisance.

6 97. The public interest strongly favors abatement of the nuisance conditions
7 and protection of neighboring residents, businesses, families, and schoolchildren.

8 98. FOBE is entitled to temporary, preliminary and permanent injunctive
9 relief requiring GSP to abate the public and private nuisance arising from its Program
10 at the Adams Street Property.

11 99. Pursuant to A.R.S. ¶12-1801, FOBE respectfully requests this Court to
12 issue preliminary and permanent injunctions directing GSP to immediately abate the
13 nuisance caused by its Program by terminating or relocating its Program.

14 **RELIEF REQUESTED**

15 **WHEREFORE**, Plaintiff respectfully requests the following:

16 A. That judgment be rendered in favor of Plaintiff and against Defendant on
17 all counts alleged in this verified complaint.

18 B. That this Court enter judgment determining and declaring Defendant's
19 Program to be a public nuisance.

20 C. That this Court enter judgment determining and declaring Defendant's
21 Program to be a private nuisance.

22 E. That this Court enter preliminary and permanent injunctions enjoining
23 Defendant to immediately abate the nuisance by terminating or relocating its Program.

24 F. For attorney fees pursuant to the private attorney general doctrine
25 because this action a) benefits a large number of people, b) requires private
26 enforcement, and c) is of societal importance. The private attorney general doctrine

1 allows an award of fees against a private party under limited circumstances, such as
2 this, pursuant to *Ansley v. Banner Health Network*, 248 Ariz. 143, 153, ¶ 43, 459 P.3d
3 55, 65 (2020).

4 G. For costs in accordance with A.R.S. §§ 12-341 and 12-1840; and

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

6
7 DATED: June 30, 2026.

8 WINKELMAN LAW PLLC

9
10 By: /s/ Alex Winkelman

Alex Winkelman

11 Attorney for Plaintiff

12 Original filed in AZTurboCourt this
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