

# In Determining Whether A Corporation Qualifies As A Religious Corporation, Words Speak Louder Than Actions.

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California readers most likely are aware of the fact that California's nonprofit corporate law is triadic. Thus, it possible to organize a nonprofit corporation as a public benefit corporation, a mutual benefit corporation or religious corporation. Although each of these laws contain many of the same provisions, they are separate laws. Thus, I would characterize California's nonprofit corporations laws as more homoiousian than homoousian. For the difference between these two words, see this 2012 [post](#).

California's Fair Employment and Housing Act, Gov't Code § 12900 *et. seq.*, expressly provides the term “employer” does not include a “religious association or corporation not organized for private profit.” Cal. Gov't Code § 12926(d). In *Verduzco v. St. Mary's High Sch.*, 2024 WL 3088467 (E.D. Cal. June 21, 2024), the plaintiff argued that the defendant did not qualify for this exception even though the defendant had been incorporated as a religious corporation. The plaintiff's argument rested on no firmer a foundation than an assertion that the defendant was acting not as a religious corporation but as a public benefit corporation. Unlike religious corporations, public benefit corporations are not excepted from the definition of “employer” under the FEHA. According to the plaintiff, actions speak louder than words on a piece of paper (the articles).

After taking judicial notice of the defendant's articles of incorporation, U.S. District Court Judge [Kimberly J. Mueller](#) ruled that words (i.e., the articles of incorporation) determine the character of a corporation:

A nonprofit public benefit corporation is a specific type of corporate entity that must specifically state in its articles of incorporation that it is a “nonprofit public benefit corporation . . . organized under the Nonprofit Public Benefit Corporation Law[.]” Cal. Corp. Code § 5130(b)(1). Likewise, a religious corporation must include specific language stating it is a “religious corporation . . . organized under the Nonprofit Religious Corporation Law[.]” [Cal. Corp. Code § 9130\(b\)](#). The High School's articles of incorporation contain language indicating it is a religious corporation, not a nonprofit public benefit corporation. Req. at 4, 7; see also *Sprewell* [v. Golden State Warriors], 266 F.3d [979] at 988 [(9th Cir. 2001)].

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