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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92065178
Party	Plaintiff Philanthropist.com, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PHILANTHROPIST.COM, INC.

Petitioner,

v.

GENERAL CONFERENCE CORPORATION
OF SEVENTH-DAY ADVENTISTS

Respondent.

Cancellation No. 92065178 (parent)
Cancellation No. 92065255

Mark: ADVENTIST

PETITIONER PHILANTHROPIST.COM, INC.’S ELEVENTH NOTICE OF RELIANCE

Pursuant to 37 C.F.R. § 2.122 and Chapter 700 of the TBMP, Petitioner intends to rely on the printed publications submitted through these Notices of Reliance in support of its Petition for Cancellation.

Exhibit 25: True and correct copies of pages 158-161 of ORGANIZING FOR MISSION AND GROWTH by George R. Knight, published in 2006 by Review and Herald Publishing Association. The book is publicly available and in general circulation. It is accessible for purchase by the public at major booksellers such as Amazon.com. These pages are relevant to show the history, chronology, and usage of “Adventism” as predating Respondent and referring to an entire genus of denominations and movements, all who make use of the term in a generic manner.

Exhibit 26: True and correct copies of pages 86 – 88 of RELIGION AND SOCIAL POLICY, edited

by Paula D. Nesbitt. The book was published in 2001 by AltaMira Press. The book is publicly available and in general circulation. It is accessible for purchase by the public at major booksellers such as Amazon.com. These pages are relevant to show the impetus behind and historical context of Respondent's trademark registration of the term "Adventist."

Dated: December 23, 2019

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Petitioner's Eleventh Notice of Reliance was served upon counsel of record pursuant to the Federal Rules of Civil Procedure via email on December 23, 2019 as follows:

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ORGANIZING FOR MISSION AND GROWTH

*The Development of
Adventist Church Structure*

GEORGE R. KNIGHT



REVIEW AND HERALD® PUBLISHING ASSOCIATION
HAGERSTOWN, MD 21740

Organizing for Mission and Growth

The commission, which reported to the 1995 General Conference session, undertook its task in an open and efficient manner, but appears to have been hampered in at least two ways. First, it lacked balance in its makeup. According to its 1995 report it consisted of 43 individuals from the General Conference and the divisions of the General Conference and 8 laypersons (*ibid.*, 3). Thus the commission tended to view things through a certain lens. One can surmise that if the makeup had had fewer people from the General Conference and its divisions and more from the ranks of local conference presidents, pastors, and the laity, it would have gained a broader perspective. A second shortcoming that surfaces as one reads the published report is that the commission tended to focus mainly on the needs of the General Conference as a world organization. That is helpful, but it might have even been more beneficial if the group had viewed the work of the church as a totality from the perspective of the needs and challenges of each level of its structure. The commission did that to some extent, as we see in its recommendations on flexibility, but when all is said and done the report tends to reflect the concerns of the General Conference as seen through the eyes of General Conference officials. While such a perspective is useful, it is not the only one, nor one that is necessarily adequate.

Resurrecting Babylon:

Another Look at Congregationalism

The 1980s and 1990s witnessed an increasingly open criticism of Seventh-day Adventist Church organization as being too much of a good thing. Some in fact, in the spirit of George Storrs and A. T. Jones, concluded that organization isn't even a "good thing." Rather, it hinders the outreach of the church.

Foremost among those who saw Adventist Church organization as a "bad thing" were those who opted for congrega-

tionalism and sought to start an Adventist congregational movement in the 1990s. Congregationalism, as we saw in chapters 1, 2, and 5, has deep roots in Adventism's past. It is a form of church government that rests on the independence and autonomy of each local church.

Certain aspects of congregationalism have very positive things about them. First and foremost is the important fact that the local congregation is where members "do" church. It is crucial that congregations be healthy and vibrant. A second thing to note about a healthy congregation is that no one can stop it. If members have excitement about their mission, there will be initiative and outreach. A local sense of responsibility is priceless. Beyond those advantages, a local congregation knows the needs of its community in an intimate way and can create a diversity of programs to meet those specific needs.

The recent congregational movement in Adventism, which is quite diverse in itself, has raised several concerns about traditional Adventism and its structure. We should note at the outset that not all of the denomination's congregational types would find each concern equally valid.

One concern involves perceived and real abuses of power. Many wonder where the servanthood of leadership has gone. Too many see a two-level clergy model, somewhat like the medieval church, with General Motors-type bosses at the "top" and the servants on the "bottom" in the local churches. A second and very widespread worry is a lack of resources at the congregational level. The congregations that raise the money for all levels of the church appear to have the fewest discretionary funds. Many are tired of hearing that a large portion of the funds came back to the local church through appropriations from higher levels. Such people don't want earmarked funds for a program developed by a "higher" level in the structure, but funds that they can put to use in their local area to implement

Organizing for Mission and Growth

programs that will promote mission opportunities that are especially inviting in their local community.

Another aspect of the financial appeal of congregationalism is that many people no longer see the need to support a church structure with four levels above the congregation.

Some are calling for a trimmed-down institution that puts more money and personnel on the front lines where "doing church" actually takes place. They point out that no other church in the world, including the Roman Catholic (which has only two levels above the local congregation), has so many administrative levels to support.

A fourth concern focuses on declining confidence in the organization by many laypersons and pastors. It is part of a larger picture that began developing in the broader culture with Watergate and the resistance to the Vietnam War. The church has had parallel events brought about by the Davenport, Walter Rea, and Desmond Ford crises in the late 1970s and early 1980s. In the larger culture the result has been postmodernism and postinstitutionalism. The Christian world has seen the arrival of what some have termed "postdenominationalism." "Brand loyalty" is fading away. Younger generations tend not to support an organization just because someone says it's right.

A fifth concern of some is that they worry that no one in the "hierarchy" is listening to the needs of the local congregations, but seem to be pursuing their own goals at the expense of congregations. A sixth concern results from the fact that some pastors feel that their primary role is to produce numbers for the conference—numbers in terms of money and baptisms. One leading pastor of a multipastor congregation noted that he was in effect the manager of the local Seventh-day Adventist franchise, much like his McDonald's counterpart.

Other concerns that have led some Adventists toward congregationalism are theological. To them, such doctrines as the

sanctuary and the eschatological implications of the Sabbath have become problems, and they view congregationalism as a way to achieve more freedom to preach the gospel while playing down Adventism's distinctive doctrines. Yet others seek through congregationalism not only additional funds to utilize on the local level but also more freedom to create contemporary worship styles. The majority of Adventism's congregational breakaways in the nineties cited the desire for more successful mission as their initial motivation. Many believe that there are good reasons for such renewal. After all, they note, Adventism has too many dead and dying congregations that have lost the ability to attract and inspire either members or nonmembers.

A final concern is a perception of resistance to change on the part of church leaders. Many members and pastors resent leaders who seem to believe that the present way of doing things is the only way to do them. Such concerned individuals fear that the denomination may have confused its structure with its mission. The truism that the denomination can be healthy only if it is healthy at the congregational level attracts them to congregationalism.

While many of the above concerns are genuine issues that the church needs to address, we should also realize that besides the scriptural objections church history in general and Adventist history in particular also indicate the downside of congregationalism as a form of church government. In other words, congregationalism has its own set of problems. One of its greatest shortcomings is the inability to maintain a global vision. The history of the church has repeatedly demonstrated that it is all too easy for congregations to become focused merely on their local community and forget the larger mission of the church. One of the advantages of hierarchical models of the church is that they provide the essential framework for concerted action.

Religion and Social Policy

Edited by Paula D. Nesbitt



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Establishment Clause. The case also emphasized that the absolute free exercise claim made by attorneys for the Press is not part of American constitutional law (Colvin 1986, 476, 487, 575). Adventist leaders chose not to appeal the decision to the U.S. Supreme Court because by that time it was clear that they would have lost there also, thus compounding the significance of the outcome.

Meanwhile, increasing numbers of members were also pressing suits against the Adventist Church that did not attract the intervention of government agencies (e.g., *Rayburn v. General Conference of Seventh-day Adventists* 1985; *Lewis v. Seventh-day Adventist Lake Region Conference* 1992).

SUITS BROUGHT BY THE ADVENTIST CHURCH

As church leaders became more at ease with broader society, they increasingly employed a corporate model. One corollary of this was the decision to trademark the name of the church, which was completed in 1981. This came at a time when church leaders were becoming increasingly nervous about pluralism among Adventists. The purpose of registering the name was to control which groups could use the church's name and, in particular, to prevent splinter groups or organizations that were regarded as unsavory from seeming to claim affiliation with the church.

The trademark initiative was unusual within a religious polity where multiple groups bear names—such as Baptist, Pentecostal, Methodist, or Catholic—which signify attachment to broader “religious families.” There is also a broad “Adventist” family, whose other members, such as the Advent Christian Church, like their Millerite forebears, continue to refer to themselves as “Adventists.” Moreover, there is also a more circumscribed “Seventh-day Adventist” family that includes such groups as the “Seventh-day Adventist Reform Movement,” dating from about 1920, and various groups of “Davidian Seventh-day Adventists,” which originally broke with the Adventist Church in the late 1930s. Their long use of the trademarked name renders the Adventist Church unable, under the legal doctrine of laches, to force them to change their names.

Consequently, when the General Conference of Seventh-day Adventists brought pressure on groups using the trademarked names in the latter 1980s, these were mostly unseemly “David and Goliath” maneuvers in which the church was cast as Goliath and took on small, recent, schismatic congregations that, without the resources to do battle in the court system, typically caved in on receipt of the initial threat. Only one of these cases, against a schismatic Hawaiian congregation, the Seventh-day Adventist Congregational Church, and its pastor, John R. Marik, reached the U.S. Court of Appeals for the Ninth Circuit. But even in this case, the disparity in resources

was central, for the mistakes made by Marik, who tried to represent the schismatic church himself, crippled its defense (*General Conference Corporation of Seventh-day Adventist v. Seventh-day Adventist Congregational Church* 1989).

Much more dramatic was the suit against Seventh-day Adventist Kinship International, Inc. (SDA Kinship), a "support group for gay and lesbian Seventh-day Adventists, their families and friends," in the U.S. District Court for the Central District of California, which was completed in 1991. The General Conference brief showed just how difficult it was to fit the language of a statute intended for commercial regulation to the activities of a church. It described everything in terms of unfair commercial competition, making the absurd claims that competition from SDA Kinship's newsletter was undermining its publishing empire and that Adventists were likely to contribute heavily to SDA Kinship, mistaking it for the official tithe/offering conduit. Its suit made no mention of homosexuality or that this was an organization of gay and lesbian Adventists. The latter was the real reason for the suit, for Adventist leaders were highly offended that such an "unsavory" group would claim they were Adventists, especially when they carried banners proclaiming their name in Gay Pride parades (Eva 1986). The antipathy of the church was shown by the fact that this was the only such suit in which it sought damages—"Exemplary, punitive, and treble damages."

In filing this suit against an organization with fewer than one thousand members, church leaders expected another easy pushover. However, they failed to take the strength of the Gay Movement into account. The case was accepted by National Gay Rights Advocates, which arranged for Fullbright and Jaworski, a major legal firm, to defend SDA Kinship on a pro bono basis. The church lost the case, at an admitted cost of over \$200,000 (Piner 1992, 64). In her opinion, Judge Mariana Pfaelzer pointed out that the term "Seventh-day Adventist" has a dual meaning, applying to the church but also to adherents of the religion. She found that the Seventh-day Adventist religion preexisted the Seventh-day Adventist Church, that the uncontested use of the name by the Reform Movement and the Davidians indicated that the term does more than suggest membership in the mother church, and that the term, as used by SDA Kinship, merely describes that organization in terms of what it is, an international organization of Seventh-day Adventists. Consequently, she found that "as used by SDA Kinship, the terms 'Seventh-day Adventist,' and its acronym 'SDA' are generic, and are not entitled to trademark protection" (*General Conference Corporation of Seventh-day Adventist v. Seventh-day Adventist Kinship, International, Inc.* 1991). Left with no good grounds on which to appeal the decision, and fearing a more devastating loss in the court of appeals, the General Conference chose not to appeal this result. In 1996, an Adventist member offended by the fact that his church had trademarked its name, challenged its registration. The Trademark Trial and

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Appeals Board of the U.S. Patent and Trademark Office found the mark to be validly and federally registered, "for a period of over 130 years, the primary significance of the designation 'Seventh-day Adventist' has been to identify the source or origin of religious publications and services emanating from the Seventh-day Adventist Church]" (*ANN Bulletin* 1996). Most members would no doubt be surprised to find the primary significance of the name of their church attached to such a commercial meaning. When appealed to the appellate court, this decision was upheld in a case in which the appellant failed to appear (*Stocker and Perry v. General Conference Corporation of Seventh-day Adventists* 1996). The decision found that while "Adventist" was generic, "Seventh-day Adventist" was not. Consequently, although this decision cannot impinge on the right of the Seventh-day Adventist Reform Movement, the Davidian Seventh-day Adventists, or Seventh-day Adventist Kinship International, Inc., to use their names, it can be used to prevent new splinter groups within the Seventh-day Adventist family of religious groups from identifying their ties to it in their names.

CONCLUSION

Adventism's involvement in the courts has passed through phases marking its shift from isolation to growing involvement with society. The first cases, when individual Adventists were arrested for working their farms on Sundays during the second half of the nineteenth century, victimized members who had scrupulously observed their Sabbath on the previous day. They also confirmed in their minds the urgency of Adventist apocalyptic expectations. Then followed a period of some decades when the tension between Adventism and its social and political environment began to lessen, as Adventists built institutions and sought accreditation for them, fought politically to delay what they believed to be the fulfillment of the last sign heralding the return of Christ, changed their position on military service from conscientious objection to noncombatancy, and began to experience upward mobility. This time of transition was marked by the almost complete absence of Adventists as such from the courts.

Beginning in the late 1930s, as Adventism began to embrace society more closely, it involved itself in a few cases. First, there were some focusing on naturalization and military service classification issues during World War II, one of which (*Girouard* 1946), took Adventism to the Supreme Court for the first time, and then, in 1963, a major Supreme Court free exercise case (*Sherbert* 1963), which granted Sabbatarians fired for reasons of conscience the right to unemployment benefits.

During the period since the Vietnam War, Adventism has established considerable ease with the legal system, using the courts with rapidly increasing