

**IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING**

DONALD LEE BARNETT,)	
)	
Plaintiff,)	Cause No. 88-2-04148-2
)	
Vs.)	
)	
JACK A. HICKS, JACK H. DUBOIS, and)	TRIAL TRANSCRIPT
E. SCOTT HARTLEY, individually and)	VOLUME I, pp. 1-174
as the board of Directors of COMMUNITY)	
CHAPEL AND BIBLE TRAINING CENTER)	JANUARY 22nd, 1991
and COMMUNITY CHAPEL AND BIBLE)	
TRAINING CENTER,)	
)	
Defendants.)	
)	

**TRIAL TRANSCRIPT, VOLUME I
PAGES 1-174**

BE IT REMEMBERED the above-named cause of action came on for arbitration on January 22nd, 1991 before the HONORABLE WALTER DEIERLEIN, JR. at Judicial Arbitration and Mediation Services, Inc. Seattle, Washington;

ROGER WILLIAM JOHNSON, RODNEY PIERCE, and CHARLES WIGGINS, Attorneys at Law, appearing on behalf of the Plaintiff;

ROBERT ROHAN and ATHONY SHAPIRO, Attorneys at Law, appearing on behalf of the Defendants;

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USE.**

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Colloquy

(The following proceedings
occurred on January 22, 1991)

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THE COURT: Are we ready to begin?

MR. WIGGINS: I believe so, Your Honor.

THE COURT: Do you have an Order of
Reference either in mind or in process or something
that we can get formalized?

MR. WIGGINS: Your Honor, we think that we
can finish it relatively quickly. We have only one
dispute and it's probably not a dispute. We're going
to resolve it by referring to the Agreement to
Arbitrate, of which none of us brought a copy of the
Agreement to Arbitrate. I've asked my office to send
over a copy so that we can resolve that question
during the morning recess. Mr. Rohan and I agreed
that we can proceed with the Motions in Limine and any
other preliminary matters and opening statements.

THE COURT: Okay. I brought the latest
group of papers. I brought not only the latest group
of papers but also the last previous group but I did
not bring my set of first papers that we had. I
recall either having been given or at least have seen
your agreement setting up this procedure. I don't
recall it with any sufficiency to remark other than
that I do recall that all parties or both parties

Colloquy

1 reserve the right to appeal directly to the appellate
2 court with any decision that was made here.

3 Okay, Mr. Wiggins, would you introduce those in
4 attendance from your side, please.

5 MR. WIGGINS: Yes, Your Honor, I'm pleased
6 to introduce Pastor Don Barnett, the Plaintiff in this
7 action. To his left is Roger Johnson, co-counsel, and
8 to his left is Rodney Pierce, also co-counsel.

9 THE COURT: Mr. Rohan?

10 MR. ROHAN: Yes, Your Honor. There are
11 three of the members of the Board of Directors of
12 Community Chapel here, Mr. Ed Mitzel is immediately to
13 your right, Mr. Jeff McGregor, who is right here, and
14 Mr. David Motherwell immediately to my right. Also
15 with me today is my co-counsel, Tony Shapiro from my
16 office and at the end of the table is one of our
17 paralegals, Ms. Lynn Meyer.

18 THE COURT: Thank you. Our experience here
19 in this room today will probably tell us what we
20 should do in the future. This was the best
21 accommodation they could make for this case today. I
22 have before me the schedule for the conference room
23 down the hall and it seems to be tied up until Friday.

Colloquy

1 further on the accommodations as we go along.

2 First of all, I'd like to comment on the hours
3 that we will be in session. I came down assuming that
4 we would start at 9 o'clock because someplace in my
5 papers that was what was indicated. Now, I understand
6 that you people prefer 9:30 to 4:30; is that right?

7 MR. ROHAN: That's correct.

8 MR. WIGGINS: Yes.

9 THE COURT: My only comment is that I would
10 like to get back on I-5 at 4 o'clock if at all
11 possible. I don't know how that will stretch out or
12 contract the sessions, but it makes a lot of
13 difference. Half an hour makes a lot of difference.

14 MR. ROHAN: That's fine with us, Your Honor.

15 MR. WIGGINS: Can we fit in another half
16 hour?

17 THE COURT: By making the noon hour a
18 one-hour break if we choose to do that or some other
19 arrangement.

20 MR. SHAPIRO: Maybe we can borrow from two
21 segments of the day. If we could make the noon hour
22 an hour and 15 minutes and possibly start at 9:15.
23 That will get that extra half hour. My only concern

that the noon hour is things come up during the day

Colloquy

1 doesn't leave that much time.

2 THE COURT: Here again, that applies only to
3 today and tomorrow. On Thursday and Friday I'm going
4 to be down all day Thursday so we can run to 4:30 or
5 whatever and the same goes for Friday.

6 MR. ROHAN: I guess it would be easier if we
7 set a time for the whole thing. Otherwise, we're
8 going to get confused as to whether we want our
9 witnesses to be here or not. If we could set a
10 permanent schedule of 9:15 to noon and 1:15 to 4, that
11 would be fine.

12 MR. WIGGINS: That's fine.

13 THE COURT: The next thing I would like to
14 inquire as to your best estimate of how long the trial
15 will take assuming for the purposes of this question
16 that all the short circuiting motions would be adverse
17 to your position. How long do you feel we'll be
18 going?

19 MR. JOHNSON: Well, I think the Plaintiff's
20 case will take, beyond opening agreement, will
21 probably take, to present and I anticipate to cross, a
22 day and a half. I think we'll be done with him
23 probably tomorrow, maybe midday on Thursday. I can't
24 comment on you.

25 THE COURT: How long for you?

Colloquy

1 MR. ROHAN: I suspect the whole thing will
2 be done by next Friday, a week from Friday. I think
3 it will go nine court days.

4 THE COURT: That's either the 31st or the
5 1st.

6 MR. SHAPIRO: It's the 1st.

7 THE COURT: Is it the 1st?

8 MR. SHAPIRO: Yes.

9 THE COURT: The question I have has to do
10 with the papers that you sent me, Mr. Rohan. It
11 appears to be an original of the Joint Statement of
12 Evidence. Did you intend that I should have the
13 original?

14 MR. ROHAN: I think Mr. Johnson's office
15 sent that to you.

16 THE COURT: Maybe that was yours, Mr.
17 Johnson.

18 MR. JOHNSON: I did send it up and I guess
19 probably we shouldn't have sent up the original.
20 We'll replace that with a copy.

21 THE COURT: The only problem I have is
22 turning it over to the keeper of the papers. Do you
23 have a copy?

24 MR. JOHNSON: I don't have a copy with me
25 here, Your Honor. I can replace it at lunch time.

Colloquy

1 THE COURT: Will you be referring to it this
2 morning?

3 MR. ROHAN: We don't plan to.

4 MR. JOHNSON: Neither side will.

5 THE COURT: Do you have available another
6 copy?

7 MR. JOHNSON: I do have another copy
8 available.

9 THE COURT: I'll pass that on down then.
10 I've read that.

11 MR. ROHAN: I have a copy here that I can
12 give the Court.

13 THE COURT: Okay. Let me say that I've
14 received the trial briefs and the various papers that
15 have been manufactured in the last week and a half and
16 I'm somewhat familiar with them. I've read them all.
17 But every time I say I'm familiar with the papers, I'm
18 embarrassed to be educated.

19 MR. WIGGINS: Your Honor, I propose that I
20 had given to Mr. Rohan this morning a supplemental
21 reply to their trial brief regarding the question of
22 exposing Community Chapel to liability, so I'm handing
23 you a copy of that.

24 THE COURT: Okay. Now, how would you like
25 to start?

Colloquy

1 MR. ROHAN: We can start with the Motions in
2 Limine would be most appropriate.

3 MR. WIGGINS: There's one other question we
4 would like to discuss at some point, and after the
5 motions in limine would be fine, and that has to do
6 with the presence of witnesses or exclusion of
7 witnesses from the hearings. And it's been our
8 assumption that the only people who will be here for
9 all of the testimony will be the parties and the
10 witness and that the hearings being confidential there
11 would be no relaying to anyone evidence that is
12 discussed in the hearings.

13 THE COURT: I'll make a statement to that
14 effect.

15 MR. ROHAN: Your Honor, I have a question
16 about that. The hearings are confidential but the
17 parties agreement in this case states that anything
18 stated in any of the depositions, and I'm not sure
19 whether it states at trial or not, but anything stated
20 in deposition can be relayed to somebody else for
21 purposes of preparing a witness for testimony.

22 For instance, if Donald Barnett says X in his
23 testimony, it's pretty difficult if I have a witness
24 that is going to say, no, Donald Barnett did not tell
25 the truth about that, it's pretty hard for me to say,

Colloquy

1 well, I can't tell you what he said but is this true
2 or not?

3 THE COURT: I've never known that the Motion
4 in Limine excluding witnesses applied to the lawyers
5 and their conferring with subsequent witnesses.

6 MR. ROHAN: Fine, that's my only concern.

7 THE COURT: It applies to the witnesses and
8 the parties.

9 MR. WIGGINS: I guess, Your Honor, I'm a
10 little confused. I'm confused with what Mr. Rohan
11 just said. Let's follow up with that example. Pastor
12 Barnett says this happened at night. Now, Mr. Rohan
13 can certainly go to a witness and say, "Did this
14 happen at night?" I guess I don't understand that he
15 could go to a witness and say, "Pastor Barnett said it
16 happened at night, is he lying?" That doesn't appear
17 to me to be even a relevant inquiry.

18 MR. ROHAN: It's relevant only because the
19 source is relevant as to who knew. If there were only
20 two people there, I think the Court's initial analysis
21 is right that the lawyers cannot be precluded from
22 preparing the witness and talking to a witness from
23 stating what another witness has said. Certainly it
24 applies to the parties.

25 THE COURT: Let's go back over the rule.

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The rule is that witnesses will be excluded from the hearing except during the time that they are actually testifying. Now, that's the normal exclusionary rule. A corollary to that rule is that a witness may not convey to another witness to follow him what he has said or what the lawyers have asked him or said to him. Now, that's as far as I am aware the rule applies. It doesn't apply to lawyers who are trying the case and who, during the testimony of a witness, hear what is said and then in preparation or in inquiring about another witness are permitted to say what had been said.

MR. WIGGINS: I guess I just don't understand why it would be permissible to say, "Pastor Barnett said this act happened during the daytime, is that true" or "during the nighttime"? It seems to me the relevant question to the witness when you're preparing the witness is not who said it but did it happen at day, did it happen at night, and that's the question that would be relevant during the hearing.

THE COURT: I don't wish to go into how an attorney prepares his witness. All I know is that the rule excluding witnesses from the hearing doesn't extend to lawyers.

MR. WIGGINS: I understand that, Your Honor,

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1 but we're dealing with a case where the parties have
2 agreed that the hearings are confidential, that this
3 is not occurring in open court on the record in the
4 sense that things happen in open court. We have
5 agreed that the hearings are going to be --

6 THE COURT: Where do you draw the line then?
7 In what form of communication would you propose when a
8 lawyer sees that a witness is going to testify
9 contrary to some other witness? Do you just say
10 that's it or are you sure, or something without
11 reference to what has been said by the other party,
12 for example, or another witness?

13 MR. WIGGINS: Yes, that's what I would
14 think. I guess I don't see the point of the question.
15 To me it's quite legitimate if Pastor Barnett says X
16 happened at night to ask the next witness did X happen
17 at night and the witness says no, it happened during
18 the daytime. I don't understand any relevance of,
19 well, Pastor Barnett said it happened during the day,
20 was he lying or was he telling the truth? What
21 difference does it make what this witness thinks about
22 Pastor Barnett's testimony?

23 THE COURT: I assume that the second witness
24 is not in effect impeaching the first witness just
25 contradicting.

Colloquy

MR. WIGGINS: It's substantive evidence as to a relevant fact and it doesn't make any difference who has testified previously the same way or a different way. You see this in deposition all the time. People ask, well, so-and-so said this, do you think he's lying? Well, that's not relevant.

THE COURT: I agree with that, the last part of it at any rate. But I don't think the rule prevents a lawyer from telling a witness that somebody else said something different. I just don't feel that.

MR. WIGGINS: Even when we have an agreement? We're not relying on a motion to exclude witnesses, we're relying on --

THE COURT: What do you say about the confidentiality?

MR. ROHAN: The confidentiality agreement does not apply by its own terms. You're allowed to tell a witness what has occurred in a hearing providing they also agree to keep it confidential and provided you get a signed statement from the witness saying they agree to keep it confidential as we in fact have signed statements, as I assume the others have, of any witnesses they've talked to of confidentiality.

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1 THE COURT: I don't know what your agreement
2 says or what you intended it to say, but I assume if
3 you did agree that matters occurring at the hearings
4 would be confidential.

5 MR. ROHAN: We did agree to that, Your
6 Honor, but we also stated that you could talk to a
7 witness about what somebody else said provided they
8 agreed to keep it confidential.

9 THE COURT: Is that part of the agreement?

10 MR. ROHAN: Absolutely.

11 MR. WIGGINS: Your Honor, I think perhaps I
12 have raised this prematurely. We're going to get the
13 agreement over here this morning and I think we should
14 get the agreement before us and strew the agreement
15 when it comes in because I'm a little alarmed to hear
16 that there has been apparently testimony that occurred
17 in deposition shared with other witnesses. I didn't
18 expect that to happen at all and I'm frankly surprised
19 to hear that.

20 MR. ROHAN: I think you better read the
21 agreement.

22 THE COURT: Absent an agreement, I don't see
23 anything wrong with it. But if the agreement cuts
24 against it, I'll put my construction, not
25 interpretation, on the agreement. But for the

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1 purposes of the comment where we first started,
2 witnesses will be excluded. Now, that means for
3 Pastor Barnett and Mr. Motherwell, Mr. Mitzel, and Mr.
4 McGregor that you are permitted to sit here and hear
5 what goes on and hear what testimony is recited from
6 the witness stand by witnesses, but you cannot go out
7 to anyone else, whether they be another witness or
8 not, and tell them what occurred, what was said by
9 that witness. Do you understand that?

10 MR. MOTHERWELL: Yes.

11 MR. MITZEL: Yes.

12 THE COURT: The next issue. We'll come back
13 to this once we get the agreement. Do you wish to
14 mention Witness Baxter?

15 MR. ROHAN: Yes, Your Honor.

16 THE COURT: Do you know what the Witness
17 Baxter is going to testify as to, what subject matter?

18 MR. ROHAN: Pastor Barnett in his deposition
19 mentioned some things that he believed he said that
20 she said to him. He couldn't recall, for instance, a
21 lot of details about the conversation they had, so I
22 don't know whether it's just what Pastor Barnett has
23 told us that she told him or if there's other things
24 that she's going to testify about. The rules do
25 require, King County local rules do require a

Colloquy

1 statement as to what the witness will testify about
2 and we have yet to get a statement about that. The
3 rules also require that we get a telephone number of
4 the witness. Pastor Barnett said, I believe, that he
5 talked to her by telephone. Pastor Barnett apparently
6 has the telephone number. And we have not been given
7 a telephone number despite the fact he talked to her a
8 month ago.

9 THE COURT: Let me kind of focus on that.
10 If I understand it, Witness Baxter will be called as a
11 rebuttal witness. Now, that requires a little
12 definition, too, because I recognize that what might
13 be considered rebuttal by the Plaintiff is simply
14 answering the affirmative defenses of the Defendants.
15 But be that, as it may, it would seem that if there's
16 something new or different, Mr. Wiggins, that he
17 should be at least advised of that.

18 MR. WIGGINS: I'm wondering if perhaps Mr.
19 Johnson should respond to this.

20 MR. JOHNSON: Let me respond to this, Your
21 Honor. This matter arose, as Pastor Barnett explained
22 in his deposition, when he was contacted. He had no
23 knowledge of this person's relationship with one of
24 the witnesses that counsel had listed and I believe
25 this was sometime approximately around Christmas or

Colloquy

maybe a little bit after Christmas.

THE COURT: This past Christmas or a year ago?

MR. JOHNSON: No, this last Christmas, between Christmas and New Years. And on the 7th of January during his deposition when asked I believe a question by Mr. Rohan about any contact with any people, he mentioned that this person had given him a call.

THE COURT: Baxter?

MR. JOHNSON: Baxter and gave the name and so forth and did, to my memory, discuss in substance what she said about this other individual who counsel intended, I gather, to call as a witness. The deposition is available. I think the deposition, the degree of substance of which counsel and I have been identifying what witnesses would be saying is far less than what Pastor Barnett described with reference to this witness in his deposition. So, I believe the substance of her testimony is fully described to the degree of detail that we have been using.

With regards to the telephone number, I didn't have it then. I thought that I had subsequently provided that to counsel. He has never called and asked me for it.

Colloquy

1 THE COURT: Let's get to that. I'm still
2 not quite sure I understand what you said.

3 MR. JOHNSON: We believe we have given in
4 his deposition the substance of what she will testify
5 and don't intend to ask her beyond the matters that
6 Pastor Barnett referred to in the deposition as to
7 what this phone call was about. That was the sum
8 total of it.

9 THE COURT: Mr. Rohan, if I understand Mr.
10 Johnson, he said Baxter would testify in substance in
11 the same manner that Pastor Barnett related her call;
12 is that right?

13 MR. JOHNSON: We described the subject
14 matter of the testimony and described that she would
15 take issue with the particular allegations that would
16 be, we understand, made by one of counsel's witnesses
17 and it's simply an impeachment sort of witness.
18 That's all.

19 THE COURT: Okay. Now, with that
20 information what do you say?

21 MR. ROHAN: Well, the problem, Your Honor,
22 is that the cutoff of discovery occurred over a month
23 ago and we do not have a deposition of her. We have
24 been diligent in taking depositions of witnesses that
25 have been listed by the other side that we're not

Colloquy

1 familiar with their testimony. We would, of course,
2 need to take her deposition. The problem is then that
3 with this trial approaching and the amount of work
4 that's required to do on it and the amount of work
5 that we have during the trial, it's difficult if not
6 impossible to depose a witness like that at this late
7 date.

8 THE COURT: I'll tell you what I'll do.
9 I'll rule in this instance the same way I used to rule
10 in trials and that is would you indicate, Mr. Johnson,
11 the day before you intend to call Baxter and tell Mr.
12 Rohan that their lady, and I forgot her given name,
13 will be testifying tomorrow and give him an
_____ call with her in private however long

Colloquy

1 counsel has indicated that he didn't have an
2 opportunity because of the cutoff and I've offered at
3 the time to waive the cutoff subsequently with regard

Motion in Limine

1 schedule and so forth, if counsel assures we'll try to
2 fit them in. I don't know if she has children in
3 ballet or whatever.

4 THE COURT: Okay, next item.

5 MR. ROHAN: The next item is our Motion in
6 Limine regarding our expectation that Pastor Barnett
7 will attempt to bring into this case sexual conduct by
8 the elders and by the Defendants in this case. And as
9 the Court is aware, we furnished the Court with a copy
10 of our --

11 THE COURT: I've read both issues or both
12 parties' statements on this and I thought we had
read it once but I'll hear you again, Mr. Johnson.

1 evidence might come in. No. 1, it might come in
2 through calling a woman with whom one of these people
3 had a sexual liaison. No. 2, it might come in through
4 cross-examination of one of the Defendants. No. 3, it
5 might come in through examination of any witness as to
6 statements that were made during the hearings that
7 we're going to be talking about. And if we get into
8 the subject of statements that were being made during
9 the hearing, it might well be that there would be
10 testimony that this subject was brought up.

11 So, we don't really know at this point the
12 context in which these questions are going to come up
13 and there's really no intelligent way to rule on a
14 Motion in Limine at this stage.

15 THE COURT: Generally speaking, I will rule
16 as I have in the past that the sexual activities of
17 the elders existing at the time -- Do you mean senior
18 elders or all elders?

19 MR. WIGGINS: Your Honor, may I finish my
20 argument?

21 MR. ROHAN: Our motion was all the elders
22 and the previous orders have been all the 16 elders.

23 THE COURT: Will be excluded. I will see if
24 there is some basis for bringing in this issue other
25 than simply to make the elders look black.

Court's Ruling

1 MR. WIGGINS: Your Honor, let me suggest to
2 you right now several bases for bringing in this
3 evidence because I think it's important. I don't want
4 to have to apologetically now come head in hand and
5 say please change your ruling that you prematurely
6 made at the beginning of the trial. This motion is
7 premature and we shouldn't be discussing it at this
8 point.

9 There are a couple of things about this. No. 1,
10 the claim that the elders are making in this case, the
11 Defendants are making in this case is this. The
12 bylaws say adultery is bad and that you can be put out
13 of the church for adultery, so, of course, ipso facto
14 we're going to put out Pastor Barnett if we have any
15 reason to believe he committed adultery.

16 Now, wait a minute, that doesn't follow if the
17 people who are doing the putting out themselves have
18 been involved in the identical conduct. Then they can
19 no longer argue, golly gee, the bylaws say you're out
20 for adultery, he's out automatically. There is just
21 not any issue about it. That's one way in which it
22 comes in.

23 A second way in which it comes in is this. The
24 bylaws that say Pastor Barnett had the right of final
25 concurrence in any disfellowshipping and Pastor

Court's Ruling

1 Barnett can testify about the way he exercised his
2 right of final concurrence and what he knew and the
3 people that he agreed to disfellowship, people he
4 didn't even try to disfellowship, including these very
5 people who are pointing the finger at him.

6 No. 3, if fact these people are involved in the
7 very conduct for which they are sanctimoniously saying
8 that they're putting out Pastor Barnett, that
9 impeaches their testimony. Their whole claim is this
10 was reasonable. This was in good faith. I say it's
11 in bad faith. It's not in good faith for them to be
12 standing up here saying we put him out for acts of
13 sexual conduct when they themselves were doing the
14 same thing. It's in bad faith. And if you tie our
15 hands and prevent us from putting in that evidence,
16 these people may well admit these things themselves,
17 but if you tie our hands, we can't meet one of their
18 main claims.

19 You know what they're arguing, they're arguing,
20 Judge, you don't have to find that there was any
21 sexual misconduct, you just have to find based on the
22 evidence that was presented to us that we acted
23 reasonably and in good faith. I disagree with that,
24 but that is in fact their argument. If they
25 themselves are involved in that, that's not in good

Plaintiff's Opening Statement

1 faith.

2 THE COURT: I will still rule as I have that
3 it's generally inadmissible. If you feel that it is
4 admissible in some aspect as it may come up during the
5 trial, if you'll say this is what I was talking about
6 earlier, because we can discuss probable testimony for
7 the rest of the week and maybe it is and maybe it
8 isn't, but generally I think it's inadmissible.

9 MR. WIGGINS: Thank you, Your Honor.

10 MR. ROHAN: Thank you, Your Honor.

11 THE COURT: Next issue.

12 MR. ROHAN: Those are the only motions that
13 we have this morning.

14 THE COURT: Mr. Wiggins.

15 MR. WIGGINS: Your Honor, I would like to
16 proceed then with the Plaintiff's opening statement.
17 I have no other issues.

18 THE COURT: Okay, sir. I assume, gentlemen,
19 the papers that were put on the board, that they will
20 not be destroyed and that they will be kept in some
21 form so that they can be referred to and displayed
22 later. Is that a satisfactory procedure?

23 MR. WIGGINS: That's fine, Your Honor.

24 MR. ROHAN: That's fine.

25 MR. WIGGINS: May it please the Court. Your

Plaintiff's Opening Statement

1 Honor, we are here --

2 THE COURT: One more comment, Mr. Wiggins.
3 Only as it pleases you, you need not, none of you need
4 to stand during your presentations or questioning or
5 addressing me. We're here on an informal basis. And
6 I know that I frequently think better on my feet than
7 I do other places, but it's entirely up to you.

8 MR. WIGGINS: Thank you, Your Honor. I'll
9 exercise the discretion. I wanted to come down here
10 because I do have a chronology that I think will be
11 helpful for the Court and I would like to be able to
12 refer to that during the opening statement.

13 I think, Your Honor, that we all would agree that
14 the case that we are about to hear is a very, well, is
15 a tragic story. This is a story of a church that was
16 a very successful church, a very large church that had
17 been split by a schism and it's tragic when that
18 happens. It's tragic when the parties find themselves
19 in two different camps arguing over who is in fact the
20 right church. And whoever prevails in this case we
21 can't overcome the fact that there's an enormous loss.
22 That is just one of the facts of this case that is
23 most unfortunate.

24 We have a claim in this case which is that Pastor
25 Barnett is the lawful pastor of Community Chapel. The

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1 Defendants have made a counterclaim that they removed
2 Pastor Barnett essentially for breach of fiduciary
3 duty. We intend to prove our case which is that he is
4 the lawful pastor. We do not intend to present in our
5 case-in-chief evidence in answer to their
6 counterclaim. We intend to let the Defendants put on
7 evidence in their counterclaim and we will respond to
8 it as necessary. I may wish to reserve part of the
9 opening statement in response to their counterclaim
10 because it is a completely different set of evidence
11 and I would like to do that, as a matter of fact.

12 The parties differ dramatically as to what this
13 case is really all about. As you know from all of the

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1 pointed out, they are still in continuing violation of
2 the procedures of this church because they themselves,
3 the current people claiming to be in control of the
4 church, have never validly been appointed to rule this
5 church.

6 Now, the Defendants have a different view of this
7 case. They want to put Pastor Barnett on trial for
8 what they regard as misconduct. They want to put in
9 all kinds of evidence about things that he did. We
10 think that's totally inappropriate for the reasons we
11 have discussed previously. I recognize the way the
12 Court has ruled in the past, but if we're going to get
13 into this, I think that the evidence is going to have
14 to come in tailored to the Defendants' theories, the
15 theory of breach of fiduciary duty and the theory of
16 exposing the corporation to liability for some action.
17 And we don't know exactly what the Defendants'
18 evidence is going to be but we don't believe they will
19 be able to present any evidence of breach of fiduciary
20 duty or subjecting the corporation to liability.

21 Our evidence will be as follows. This case does
22 not begin in 1987 when Jerry Zwack complained or in
23 1988 with Pastor Barnett signing the agreement in the
24 Zwack hearing. This case really began at least as
25 early as 1967 when Community Chapel was formed and it

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1 really goes back further than that.

2 This is a case about the man. Their case is a
3 case about a man. They are attacking a man, Pastor
4 Barnett, Pastor Donald Barnett, and we will present
5 evidence about Pastor Barnett, evidence of his
6 background, evidence of his training, evidence of his
7 religious convictions. We'll present evidence that he
8 attended a Bible College in Idaho for three years and
9 he went on to study Greek, that he basically served as
10 a lay teacher of the Bible teaching Sunday school
11 classes, leading Bible studies. Then he obtained a
12 job at Boeing and that he was a very successful Boeing
13 employee and was doing very well, but in 1967 Pastor
14 Barnett felt led of God to establish a church which
15 would incorporate the doctrines which he believed to
16 be the proper interpretation of the word of God.

17 Now, he didn't do this alone. I've written here
18 1967 Pastor Barnett founds Community Chapel but, of
19 course, he didn't act alone. He had a steering
20 committee and that steering committee the evidence
21 will show consisted of a lawyer, Lyle Bullinger, who
22 advised him on how to form a nonprofit corporation,
23 what was necessary for a nonprofit corporation. It
24 consisted of one of the Defendants in this case, Scott
25 Hartley. Mr. Hartley was with this church from day

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1 one. And it consisted of a third man who need not
2 concern us further in this opening statement.

3 Now, Pastor Barnett will testify that when they
4 formed Community Chapel from the very beginning this
5 church was organized around certain central
6 theological doctrines and that the articles and bylaws
7 reflected those doctrines. The primary doctrine was
8 that the pastor is the head of church, he's not
9 subject to the authority of anyone else.

10 Pastor Barnett will testify that he discussed
11 that doctrine with the members of his steering
12 committee when the original articles and the original
13 bylaws were drawn up, and he will testify that he
14 explained the reason for that doctrine. He'll testify
15 that he explained that there's reasons for the
16 doctrine that the pastor is over the church and there
17 are several reasons.

18 First of all, there's a theological reason.
19 Pastor Barnett will testify that it is his
20 interpretation of the Bible that the pastor is
21 ordained of God to control the church. He is not to
22 surrender that control to the elders.

23 He will also testify that he explained to the
24 Defendants, or not the Defendants, to the steering
25 committee that there were certain experiences that he

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1 had in the past. He had seen churches that were torn
2 by conflict. He had seen churches and he had
3 personally experienced this where the Board of Elders
4 or the ruling board of the church somehow took control
5 of the church and took the reins out of the hands of
6 the pastor and he wanted to be sure that didn't
7 happen. After all, he was in fact going to be leaving
8 a job or devoting hours and hours and hours of time
9 and eventually leaving his job and becoming a
10 full-time pastor in this church. He wanted to be sure
11 that the church was going to be a biblical church,
12 that it was going to reflect the doctrines that he
13 believed in. He explained these reasons to the
14 steering committee.

15 Now, the bylaws not only stated very clearly that
16 the pastor was over the church, the original 1967
17 Bylaws, but these same Bylaws also provided that
18 Pastor Barnett could not be removed from his position
19 of pastor as long as he was living unless he consented
20 to it. We're not talking about 1987, we're taking
21 about 1967, the first set of Bylaws agreed to by
22 Defendant Scott Hartley.

23 Why did Pastor Barnett want that provision in
24 there? There was a theological reason once again and
25 it is that the pastor is the head of the church and he

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1 felt that if he was subject to removal by a Board of
2 Elders he wasn't in fact the head of the church
3 because if you've got the power to fire somebody,
4 you've got the power to control them, and so he wanted
5 to be sure that he maintained his headship over this
6 church and that's why he insisted on the clause that
7 he couldn't be removed.

8 There was a personal reason for that as well.
9 Pastor Barnett was a very successful employee of the
10 Boeing Company. He enjoyed a good salary. He was
11 going to devote the next several years to being a lay
12 minister, working hours and hours and hours to build
13 this church. If he was successful, he expected he
14 would quit his job at Boeing and go with the church as
15 a full-time pastor. He felt as a personal matter if
16 he was going to give up his job security he was not
17 going to place himself at the mercy of people who
18 control his fate, and that is why, and he'll testify
19 he explained those reasons to this original steering
20 committee. There was no objection. Defendant Hartley
21 along with the other two and with Pastor Barnett
22 signed the original Bylaws.

23 At that time the congregation was very small.

24 THE COURT: Who were the other two?

25 MR. WIGGINS: The other two were Lyle

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1 Bullinger, B-U-L-L-I-N-G-E-R, and the third was a man
2 I think by the name of Gunn, G-U-N-N. That was the
3 original steering committee and that will be reflected
4 in the original Bylaws.

5 Now, not only did they agree on this among
6 themselves, but they explained this to the fledgling
7 congregation which then consisted of only 30 to 40
8 people. Thirty-seven is the number that comes to
9 mind, though it may not be correct. And they
10 explained all the provisions of the articles and
11 bylaws and these people agreed on that. The
12 congregation agreed on that. And so the church was
13 launched.

14 For the next 20 years, Pastor Barnett devoted his
15 life to the church. Two years after forming it, he
16 resigned from his position at Boeing and the church
17 had become sufficiently stable and successful that
18 Pastor Barnett could be hired on and the church could
19 support him. He took a substantial pay cut but he did
20 resign his job and came on board as a full-time
21 pastor.

22 Now, he will explain to you the experiences over
23 the years with the church. He will explain that over
24 the years the bylaws were revised a number of times,
25 six or seven major revisions to those bylaws but every

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1 single time the protection of Pastor Barnett, the
2 theological doctrine that the pastor is the head of
3 the church was continued in place without objection,
4 without question by anyone that that doctrine carried
5 through. In fact, as Pastor Barnett was given
6 additional responsibilities, additional offices in the
7 church, his protections were extended to those
8 offices, to those responsibilities. It was said
9 repeatedly in these bylaws that he could not be
10 removed from his position.

11 And so when we get to 1987, the bylaws that were
12 in effect at that point incorporated a whole series of
13 protections for Pastor Barnett and we discussed that
14 and you've read that, I don't need to go through those
15 now.

16 Pastor Barnett will describe to you how this
17 church grew, how from a handful of followers this
18 church grew to a church with 3,500 coming regularly.
19 Initially back in the 60's they bought a small piece
20 of property. They built a sanctuary on it. Over the
21 years they added on, they expanded this sanctuary.

22 They found they needed a bigger facility. They
23 bought what they called then the West Campus which was
24 a large piece of property. This is down in Des
25 Moines, south of Seattle. I think of it as the

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1 airport area. I don't know if people who live there
2 think it's the airport area, but I think of it that
3 way. They bought a large parcel of property and they
4 constructed a beautiful sanctuary that would hold
5 thousands of people, literally thousands of people in
6 a worship service.

7 Pastor Barnett began a Bible College. The Bible
8 College was very successful. They built facilities
9 for it. They built a dormitory for it. They trained
10 people to go throughout the country and found churches
11 and teach the word of God. They founded a Christian
12 School. They built the facility for that. This was
13 an organization that in the eyes of perhaps even a
14 secular person this was a successful nonprofit
15 corporation, a successful organization.

16 They offered many services. They had out-reach
17 ministries in jails, parks, all around. Wherever
18 people gathered they went to spread the Word.

19 They offered services to their own members and
20 one of the services that will become important in this
21 case was the counseling services, spiritual
22 counseling. Mr. Motherwell, David Motherwell was a
23 counselor in this church. He was paid by the church
24 to counsel members of the church in spiritual
25 counseling. Initially this job of counseling in the

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10
1 early days, like everything else, I suppose, was done
2 by Pastor Barnett and by the elders.

3 And then as the church grew and specialization
4 occurred and Pastor Barnett's responsibility
5 increased, more volunteers became involved and finally
6 a paid staff became involved. It was organized into a
7 very structured Counseling Center. If a member of the
8 church wanted counseling, they would contact the
9 Counseling Center. They would be assigned to a
10 counselor and a counselor/counselee relationship would
11 be formed.

12 Of course, in any organization, successful or
13 unsuccessful, you have people who do not fit in and
14 you have people you have to remove from the church and
15 this church had problems like that from time to time.
16 They had a very specific procedure for removing
17 someone from the church. It's a procedure that we
18 have talked about repeatedly and that was a procedure
19 of disfellowshipping.

20 Now, the bylaws that were in effect in 1987 and
21 1988 are fairly clear in spelling out the procedure
22 which must be followed to disfellowship someone, but
23 they are equally clear in saying that anyone who is
24 disfellowshipped, it must be that the pastor or the
25 pastor's designee must concur in the

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1 disfellowshipping.

2 Now, Pastor Barnett with as many responsibilities
3 as he had could not exercise supervision over every
4 single disfellowshipment. He simply didn't have the
5 time to do that and so in fact he designated his
6 responsibilities at various times. We'll have
7 evidence that at one point in I don't remember if it
8 was '86 or '87 Pastor Barnett delegated his
9 responsibility for concurring in disfellowshipping to
10 Jack Hicks, one of the other Defendants in this case
11 who was a senior elder at this time. We'll introduce
12 a memo setting out the requirements for
13 disfellowshipping and the procedure that's even more
14 detailed and more specific than the bylaws.

15 But Pastor Barnett will also testify that in 1987
16 he came to realize that the procedures to
17 disfellowship people were not going the way he thought
18 they should. People were being disfellowshipped under
19 circumstances that he disagreed with and he changed
20 procedures at that point, and we'll offer a memorandum
21 that was promulgated to members of the Counseling
22 Center essentially tightening up the control over who
23 could concur in the disfellowshipping procedure and
24 providing that Pastor Barnett was the person who must
25 concur in the disfellowshipping decision. Well,

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10
1 enough on disfellowshipping.

2 I want to talk a little bit about some events
3 that occurred in the spiritual life of the church
4 because to understand this case, I frankly do not
5 come, and I'll confess this right now, I don't come
6 from a church background that is like Community
7 Chapel. My church is very different. I go to a
8 Presbyterian church, very structured, very formal.
9 This church is not like that, and I think that you as
10 a fact finder will need to understand some of the
11 spiritual development that went on in this church and
12 the doctrines that developed and were understood by
13 the members of Community Chapel, and I won't go into
14 any great detail. We won't go into any great detail
15 on this.

11
16 But we will show that around 1980 or so the
17 people of Community Chapel began seeking a new level
18 of spiritual experience. They began praying for an
19 outpouring of God's spirit on them in a new way. They
20 began moving into what I guess Pastor Barnett will
21 describe as a spiritual frontier, a new area that they
22 really hadn't been involved in, and they spent hours
23 on their knees in prayer praying for this to happen
24 and indeed it did. The spirits came on this church in
25 a way that they had never previously experienced and

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1 it happened quite spontaneously, not something that
2 Pastor Barnett started, not something that Pastor
3 Barnett originated, not even something that he always
4 experienced first before members of the congregation.

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11
1 developed into couples basically dancing and I mean
2 dancing during worship services in church to music.

3 Well, the next development that occurred was the
4 phenomenon of spiritual connection. Now, as I
5 understand it from the outside, the experience of
6 spiritual connection is one that comes upon a person
7 when they are led to see or experience the love of God
8 in a special way through another person and that they
9 form a bond that the people of Community Chapel began
10 to call a spiritual connection. Now, this could
11 occur, would occur spontaneously between any two
12 people who might be in worship together or might be
13 together. Men might have a spiritual bond with women
14 not their wives. They might have a bond between
15 husband and wife, a spiritual connection. Women might
16 have a spiritual connection with one another. Men
17 might have a spiritual connection with one another.

18 This became for the members of Community Chapel a
19 new experience and a very intense experience, a very
20 emotional experience but at the same time a very
21 spiritual experience. They were led to really new, I
22 don't know whether to call it heights or depths of
23 spiritual experience, but a new level of spiritual
24 experience they had not previously seen.

25 Now, as things happen, when you get into

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uncharted territory, and they were in uncharted territory, you sometimes run afoul of things that you didn't expect. You don't have a road map to guide you through this and that is what happened to the people of Community Chapel. Some of the people began to fall into temptation and into sin. There's just no better way to put it or easier way to put it than that.

When a man and a woman come together in a spiritual connection, this is as I believe we'll hear from Pastor Barnett on the outside, to me it's on the outside, this is a very intense spiritual experience.

But we're human and for people who are human as we all are it's very hard to resist this spiritual experience, this intimate bond becoming a physical attraction and a physical bond. And since this happened between couples who were not married to one another, it became a real problem and a real temptation for people, one with which the members of the church struggled mightily and many fell and many sinned and many fell into sexual sin. And we have talked a little bit in the motion in limine but we're talking about a phenomenon that was widespread within the church. I believe that is what the evidence will show.

Now, Pastor Barnett's wife, Barbara Barnett, was

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1 led into a spiritual connection with a man in the
2 church named Jerry Zwack, Z-W-A-C-K. Now, Jerry Zwack
3 and Barbara Barnett, Pastor Barnett's wife, formed a
4 very intense spiritual connection that lasted for a
5 long time. Some of these connections are apparently
6 short, some apparently last for months or even years.
7 Barbara Barnett and Jerry Zwack formed a very intense
8 spiritual connection and this became an overriding
9 preoccupation in their lives. Soon they were spending
10 a great deal of time together.

11 Jerry Zwack also became employed in the
12 Counseling Center at Community Chapel. He became a
13 counselor with Community Chapel. He also taught a
14 class in the Bible College on counseling.

15 Now, at first there was a very good relationship
16 between Pastor Barnett and Jerry Zwack. He welcomed
17 the fact that his wife had a spiritual connection with
18 a man that seemed to be leading her in a fulfilling
19 way, but over time this relationship deteriorated and
20 it deteriorated in three specific areas.

21 First of all, Jerry Zwack, Pastor Barnett will
22 testify, became involved in essentially taking up
23 Barbara Barnett's position vis-a-vis Pastor Barnett
24 and criticizing Pastor Barnett for the way he treated
25 his wife, and it became a real bone of contention

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1 between them. Jerry Zwack felt that Pastor Barnett
2 was spending time with women other than Barbara
3 Barnett and criticized him for it and really took up
4 Barbara Barnett's position in that regard. That was
5 the first area of grievance that Jerry Zwack had. He
6 felt that time that Pastor Barnett spent with other
7 people was hurting his wife, Barbara Barnett. That
8 was his first grievance.

9 His second grievance came when he was teaching a
10 counseling class or beginning a counseling class at
11 the Bible College and Pastor Barnett felt that he was
12 going astray in the way he was handling the class and
13 found it necessary to stop the class and correct the
14 process that was going on and Pastor Barnett will talk
15 about that Bible College incident.

16 The third grievance that arose in Jerry Zwack's
17 mind at least was this. In the fall of 1987, they
18 experienced some financial difficulties. They had to
19 cut back on staff. Jerry Zwack was laid off from his
20 position with the Counseling Center. Now, Don Barnett
21 did not make the decision to lay off Jerry Zwack.
22 That decision was made by one of the Defendants in
23 this case, Mr. Hicks, who was acting I believe at that
24 time as general manager of Community Chapel and was
25 essentially in the chain of command under Pastor

1 Barnett and over the Counseling Center. Jerry Zwack
2 felt in his mind that somehow Pastor Barnett was
3 responsible for having him terminated from his
4 position with the Counseling Center. So, these were
5 the three grievances that Jerry Zwack had with Pastor
6 Barnett and there's an exchange of correspondence in
7 the fall of 1987 between Pastor Barnett and Jerry
8 Zwack.

9 Jerry Zwack was not satisfied with any of the
10 resolution that he got from Pastor Barnett, and in
11 late 1987, and now I go to my second entry in this
12 chronology, Jerry Zwack wrote a letter of complaint to
13 the elders. He sent this to all the elders of the
14 church and basically complained about various things
15 about Pastor Barnett.

16 Now, this letter was not directed to Pastor
17 Barnett, it was written to the elders. Well, when the
18 elders got this letter, they were quite concerned
19 about this whole problem because they were worried
20 that Jerry Zwack who was acting in kind of a role of
21 troublemaker and that he might in fact take some
22 action to embarrass the church, embarrass Pastor
23 Barnett, and that it could be an explosive situation.
24 And the elders decided it would be better if they
25 could handle this dispute within the framework of the

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1 church in specific hearings.

2 They sent an emissary or an ambassador to Pastor
3 Barnett. That ambassador was David Motherwell, one of
4 the Defendants. And I think that the evidence will
5 show that they chose David Motherwell because he was
6 Pastor Barnett's counselor at that time. David
7 Motherwell was counseling Pastor Barnett and had
8 counseled him on various aspects of his life.

9 Mr. Motherwell came to Pastor Barnett and
10 explained that this letter had been sent to the elders
11 and that the elders would like to meet with Pastor
12 Barnett and Jerry Zwack and try to resolve Jerry
13 Zwack's grievances and try to heal the relationship
14 between these two people.

15 Now, when I talk about the elders and there's a
16 letter going to the elders, I think we have to make an
17 important distinction throughout this case between the
18 elders and the senior elders and I've made it in my
19 brief and I will just briefly touch on it because I
20 know you are probably familiar with this.

21 The three senior elders, Defendants in this case,
22 Hicks, Hartley, and DuBois, were essentially in the
23 role of the Board of Directors. That's what the
24 bylaws and the articles provided. They functioned as
25 the Board of Directors of Community Chapel together

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1 with Pastor Barnett who was an ex officio member of
2 the Board of Senior Elders. Under them were a group
3 of elders. They were not senior elders, they were
4 elders and they had specific ministerial, I don't know
5 if ministerial, but spiritual responsibilities within
6 the church. There's two different groups of people,
7 two different sets of responsibility.

8 Now, throughout these proceedings unfortunately
9 the Defendants have tended to blur the distinction
10 between the senior elders and the elders, and I think
11 that we cannot fall into that during these hearings.
12 The issue in this case is who had power to terminate
13 Pastor Barnett and did they exercise that power
14 properly. The senior elders had certain powers, the
15 elders had certain powers and we fall into error when
16 we confuse the two or roll them all together in one
17 ball of wax. They are not the same group of people.

18 In fact, as we've pointed out in the supplemental
19 memo on summary judgment, the letter that I wrote to
20 you earlier this month, these Defendants have totally
21 eradicated this distinction without amending the
22 bylaws. They have simply chucked the concept of
23 senior elders. I think maybe that's why they talk
24 about elders, but be that as it may, we need to
25 distinguish between senior elders and elders.

1 The group of elders before whom the Zwack
2 hearings were conducted were 16 individuals, three
3 senior elders, a group of elders, and then David
4 Motherwell and John Bergin I believe was the whole
5 group and they were all treated generically in these
6 hearings as the elders.

7 Okay, a return to the story. Mr. Motherwell
8 comes to Pastor Barnett, the elders were going to hold
9 a hearing. Now, Mr. Motherwell acknowledged to Pastor
10 Barnett that the elders didn't have power over Pastor
11 Barnett, that they weren't in a position to discipline
12 Pastor Barnett. And as a result of that, they wanted
13 Pastor Barnett to sign an agreement that he would let
14 these hearings continue until they were finished to
15 the satisfaction of the elders.

16 Now, I think there may be some dispute about what
17 was said between Mr. Motherwell and Pastor Barnett in
18 these early discussions about the nature of these
19 hearings, but I do think that the evidence will be
20 clear on a couple of points. Neither party ever said
21 anything about Pastor Barnett giving up his
22 protections under the bylaws. Neither party said
23 anything about disciplining Pastor Barnett. Neither
24 party said anything about disfellowshipping Pastor
25 Barnett. I think the parties will agree on that.

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1 Now, as a result of this, Pastor Barnett agreed
2 to these hearings and signed what is labeled an
3 agreement. I'm not sure it's an agreement. I
4 referred to it in a brief as a stipulation but it is a
5 document that says on the top "agreement".

6 Now, the Defendants' theory in this case is that
7 somehow Pastor Barnett waived protection that he had
8 under the bylaws. Now, of course, we know the law is
9 that a waiver is a knowing and intentional
10 relinquishment of a known right. That's the
11 definition of a waiver in Bowman v. Webster, a knowing
12 and intentional relinquishment of a known right.

13 Pastor Barnett will testify unequivocally that he
14 did not intend to waive his protection under the
15 bylaws. He did not think that he was waiving his
16 protection under the bylaws. He didn't think he was
17 giving up any such thing when he signed this document.
18 No one ever said anything about that to him. And if
19 in fact anyone had said anything about that to him,
20 that he never would have signed this document.

21 Now, the hearings began apparently on June the
22 25th at the time that Pastor Barnett signed this
23 agreement and the parties agreed on a set of
24 guidelines and those guidelines will probably come
25 into evidence and a few of those guidelines are very

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1 significant here.

2 First of all, the parties agreed that there would
3 be two separate phases or really three separate phases
4 of these hearings. Phase one, Jerry Zwack would give
5 his evidence, Pastor Barnett would give his evidence.
6 Phase two, each side would have an opportunity to
7 rebut the other. In phase three there would
8 essentially be deliberations among the eldership.
9 Pastor Barnett and Mr. Zwack would have the
10 opportunity to present evidence, to rebut evidence,
11 but they wouldn't be present for the exclusive
12 eldership review sessions, I believe is the term that
13 they used for it.

14 I think the evidence will also be clear they
15 never finished these hearings, that they never
16 finished the rebuttal phase, they never went into the
17 exclusive eldership review session.

18 Now, another point that these parties agreed on
19 about these hearings was that they would be strictly
20 confidential, that nothing would be said outside of
21 the confines of the hearing. The evidence will show
22 that the elders breached this vow of confidentiality.
23 They went to the congregation with evidence about what
24 had come out. They certainly continued that breach in
25 this lawsuit. The parties agreed there would be no

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1 permanent notes taken of these proceedings. Well, we
2 know that they breached that too. In fact, they are
3 offering as exhibits some of the notes that they took
4 in those proceedings.

5 The parties agreed that all allegations would be
6 proven by admissions or by the testimony of witnesses,
7 and the evidence will be that they breached this
8 agreement, too, that they did not have admissions from
9 Pastor Barnett that he had breached any fiduciary
10 duty. They didn't have admissions from Pastor Barnett
11 that he had subjected the corporation to any
12 liability. They didn't have evidence from witnesses
13 that he had breached fiduciary duty. They didn't have
14 evidence from witnesses that he had exposed the
15 corporation, to liability. And so the evidence is
16 going to show that the guidelines that the parties
17 agreed on for these hearings were repeatedly violated
18 by these Defendants.

19 Now, we don't believe that it's appropriate for
20 this hearing to go into the content of this alleged
21 hearing. We don't believe we should be sitting here
22 as a second court retrying Pastor Barnett for what
23 happened in the Zwack hearings. I think that's what
24 the Defendants intend to do but we don't believe that
25 that's an appropriate thing. We don't have any

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1 intention of presenting evidence in Pastor Barnett's
2 case of what was said in the hearings, the evidence
3 presented in the hearings. That's the Defendants'
4 allegation and if you let that evidence in we'll see
5 what they put in, but we don't intend to present that
6 as part of our openings case. We don't think it's
7 appropriate.

8 Now, the hearings went on for about a week with
9 parties giving testimony and at one point in the
10 hearings Pastor Barnett very expressly told the elders
11 he didn't have the heart to go on with these. He
12 challenged their authority to conduct these hearings.
13 Well, that resulted in kind of a recess in the
14 hearings during which the elders sat around for
15 several days and talked about their authority.

16 Now, we weren't privy, Pastor Barnett wasn't
17 privy to these hearings, they were confidential among
18 the elders, so we have to kind of rely on what the
19 Defendants say occurred. But what appears occurred
20 was that they did not seek any legal advice as to what
21 their authority was. They didn't consider corporate
22 law to see what their authority was. They didn't look
23 at the Articles to see what their authority was. They
24 didn't look at the bylaws. They looked at the Bible.
25 That's where they went to see what their authority

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14

1 was. That's one of the reasons that we shouldn't even
2 be looking at the content of these hearings. They
3 made themselves into a religious tribunal. That's
4 what they were doing. They were conducting an inquiry
5 in their own minds into the fitness of this man to
6 continue as a pastor of this church. That's why we
7 shouldn't be looking into this. That's what the First
8 Amendment violated and I think that's exactly what
9 they will say, that they looked to the Bible to
10 determine their own authority.

11 Now, at about the same time, the senior elders
12 decided they would meet and they made it very clear
13 that in this meeting that occurred on February 10th,
14 secret meeting of the senior elders, they made it very
15 clear to Pastor Barnett in a subsequent letter that
16 the purpose of this meeting was not an eldership
17 matter. This meeting didn't occur pursuant to the
18 Zwack hearings. They say right in a letter that the
19 reason for the hearing or the reason for the meeting
20 was a corporate matter. They were acting as the Board
21 of Senior Elders in meeting.

22 Now that's kind of interesting because, of
23 course, the bylaws say they can't meet without Pastor
24 Barnett. There's a very clear provision in the
25 bylaws, that's part of the theological doctrine. They

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1 were not able to meet without Pastor Barnett but they
2 deliberately decided they would do it. They met
3 without him. They didn't give him notice of the
4 meeting. What they decided to do at this meeting was
5 to place him on what they call special status saying
6 that he could not be alone in the company of women
7 other than his wife.

8 Now, we'll never know, of course, what would have
9 happened if they had given notice to Pastor Barnett,
10 and if he had been present. We'll never know how that
11 meeting would have come out. We'll never know whether
12 the senior elders would have decided to place him on
13 special status or not. We'll never know because they
14 broke the bylaws. They laid down an ultimatum, you go
15 on special status. We have decided without you that
16 you're supposed to be on special status.

17 Not too surprisingly, Pastor Barnett refused to
18 do that. He regarded this as an illegal act. They
19 could not control him as pastor of the church, and he
20 refused to accept the special status. Now, at this
21 point, the senior elders and the elders decided to
22 take matters into their own hands. They mutinied I
23 guess would be the best way to describe it.

24 Pastor Barnett found it necessary to fly over to
25 Bozeman, Montana to deal with a problem that had

1 arisen in one of the satellite churches. On the
2 Friday night when Pastor Barnett was in Bozeman,
3 that's on the chronology as February 26, 1988, the
4 senior elders or the elders denounced Pastor Barnett
5 to the congregation. They got up in a congregational
6 meeting and shared what they had been learning in
7 these hearings and explained that Pastor Barnett had
8 refused to accept this special status.

9 I guess I skipped a step on my chart which is
10 after this second secret meeting of February 10th, the
11 senior elders sent this letter of February 15th to
12 Pastor Barnett. That's the letter announcing the
13 special status.

14 Well, Pastor Barnett, returned the next day.
15 This was a Friday night. This church holds worship
16 services on Friday night and on Sunday mornings and
17 Sunday night. He returned on Saturday and the next
18 morning he got up on February the 28th and defended
19 himself to the congregation and he explained that he
20 would not accept this special status. And the
21 congregation supported Pastor Barnett at that meeting.

22 Okay, then we move into the final week and this
23 is an important week. On March the 2nd, again the
24 senior elders met secretly without Pastor Barnett. It
25 was a meeting of the senior elders. They met with

15
1 Attorney Leach to discuss their options and decided
2 what to do, an illegal meeting without Pastor
3 Barnett's presence, without notice to Pastor Barnett.
4 What they decided to do was they decided that they
5 could not get rid of Pastor Barnett. They didn't have
6 authority to remove Pastor Barnett unless they changed
7 the bylaws, so they decided to embark on a three-step
8 procedure to amend the bylaws to enable them to get
9 rid of Pastor Barnett.

10 The first step that they had to take was to amend
11 the Articles of Incorporation because the Articles of
12 Incorporation said they couldn't amend the bylaws
13 without Pastor Barnett. Once they amended the
14 articles, then they would be in a position to amend
15 the bylaws. And once they amended the bylaws, they
16 would be in a position to try to remove Pastor Barnett
17 and that's exactly what they did.

18 Now, on the morning of March 4, 1988 he had the
19 morning meeting at the parsonage. Pastor Barnett had
20 asked the elders to come, the three senior elders to
21 come to the parsonage one by one. He had scheduled
22 meetings with them to discuss the problems that had
23 arisen. Well, they didn't want to do it that way.
24 They saw fit to all come as a group. They all trooped
25 into the parsonage and there they had the meetings.

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1 Now, they didn't explain to Pastor Barnett what
2 they were there for. They didn't tell Pastor Barnett
3 they were there to amend the Articles. They didn't
4 say anything about voting to amend the Articles. At
5 some point in the meeting when Pastor Barnett demanded
6 to know whether they had been having secret meetings
7 without him they refused to answer. And he told them
8 that if they were not going to answer they might as
9 well leave his house right then.

10 At that point, one the elders, I believe it was
11 Mr. Hicks, looked to the other two elders and asked
12 them. He didn't ask them, "Do you vote to amend the
13 Articles to remove Pastor Barnett's authority?" He
14 said, "Do you?" and the other elder said "yes". And
15 he looked at the other elder and said, "Do you?" and
16 the other elder said "yes". And then he said, "I do
17 too" and they got up and left. That was the vote they
18 took on the morning of March the 4th.

19 Now, it's also interesting there were some other
20 things they did not do on the morning of March the
21 4th. They didn't say, "Oh, by the way, we're going to
22 have another meeting this afternoon". They did not
23 say we're going to continue this meeting. They did
24 not say we're adjourning this meeting to Mr. Hicks'
25 office in case you are interested in attending. They

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1 didn't tell him anything about their next plan. But
2 they continued with their next plan.

3 After this, they all adjourned to Mr. Hicks'
4 office and they signed off on the Articles of
5 Amendment and Mr. Hicks went speeding down to
6 Olympia -- Mr. Hartley went speeding down to Olympia
7 to file this document. The afternoon of March 4th,
8 they had another secret meeting. They didn't tell
9 Pastor Barnett about it but they met and here they
10 purported to amend the bylaws. Here they purported to
11 remove Pastor Barnett and to disfellowship him.

12 Now interestingly enough, after they left the
13 morning meeting at the parsonage, Pastor Barnett
14 consulted with Mr. Pierce, my co-counsel here and at
15 that point Mr. Pierce prepared a lawsuit and prepared
16 a motion for a temporary restraining order to prevent
17 them from doing this, to prevent the Defendants from
18 attempting to act outside of the authority of the
19 articles and bylaws, in other words, acting without
20 him as they were required to do under the bylaws.

21 Well, they managed to stall the hearings on the
22 CRO until they could go ahead and get their secret
23 vote accomplished. And by the time Mr. Pierce and
24 Pastor Barnett arrived in court the deed was done and
25 Mr. Leach appeared on behalf of the Defendants and

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1 announced the deed was done. We have already done it.

2 Now, we're going into the lawsuit and I've
3 included some chronology of the lawsuit in my
4 pleadings.

5 THE COURT: In your pleadings?

6 MR. WIGGINS: In my trial brief.

7 THE COURT: Yes, I thought that.

8 MR. WIGGINS: Defendants think this is all
9 irrelevant. I kind of think the judge who is trying
10 this case between the parties should know some of the
11 procedural history of the case, that's why I've
12 included it. Judge Bates restrained the senior elders
13 on March 11th from doing anything to interfere with
14 the conduct of Pastor Barnett's offices.

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1 held the senior elders in contempt for interfering
2 with Pastor Barnett's conduct of his corporate office.
3 What happened was Judge Bates essentially ruled to
4 return the parties to the status quo of March 3rd, put
5 Pastor Barnett into his office and held that Pastor
6 Barnett would continue to exercise his powers under
7 the articles and bylaws until the matter could be
8 resolved by a court.

9 Now, at this point the church had two separate
10 sanctuaries, the East Campus and the West Campus and
11 so the parties, both groups, the congregants of
12 Community Chapel essentially some left, many, many
13 left, some began to attend services held by Pastor
14 Barnett in one sanctuary, others began to attend
15 services held by the Defendants in another sanctuary
16 and that situation has continued, really continued
17 until Judge Quinn granted summary judgment, but I've
18 skipped over the fact that Judge Wartnick held the
19 senior elders in contempt. Judge Burdell on June 28th
20 dissolved or dismissed the dissolution action.

21 Well, in December Judge Quinn granted summary
22 judgment. At the time Judge Quinn granted summary
23 judgment, he ended or lifted the restraining order and
24 essentially cast Pastor Barnett and his congregation
25 out of the facilities of Community Chapel. And from

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16
1 that time until the present, Pastor Barnett and the
2 members who follow him have had to rent a hall to meet
3 in. They really have what I would call a substandard
4 facility for a religious meeting, but they have
5 continued to meet and they have held the church
6 together throughout this difficult period.

17
8 As the Court knows, I don't have to rehearse the
9 fact that the Supreme Court reversed Judge Quinn,
10 remanded the case for summary judgment and that brings
11 us to this point. So, that's the evidence we expect
12 to present. We're confident the evidence is going to
13 show they had no power to act as they did and that
14 they violated the bylaws in multiple ways in
15 purporting to act as they did. Thank you.

16 THE COURT: I believe we'll take a recess at
17 this time.

(Short break taken.)

18 THE COURT: Mr. Shapiro, do you intend to
19 make your own opening statement as to the Complaint or
20 do you intend to extend that into the Cross-claim as
21 well?

22 MR. SHAPIRO: I will be discussing our
23 affirmative defenses.

24 THE COURT: You may proceed.

25 MR. SHAPIRO: May it please the Court,

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1 counsel.

2 Before I get into my prepared remarks, I would
3 like to mention one point that Mr. Wiggins made with
4 respect to the chronology that he has placed before
5 the Court. One of the things that Mr. Wiggins focused
6 on early on in his opening statement was the question
7 of authority and it's on that issue that he and I can
8 agree. We can agree on very few things, but I think
9 we can agree on that. That is the central issue.

10 What is clearly not an issue here is what has
11 transpired since Donald Barnett has been
12 disfellowshipped. I can only conjecture as to why
13 this chronology was placed during the opening
14 statement, but it clearly has nothing to do with
15 whether or not Pastor Barnett was validly
16 disfellowshipped or whether he was validly removed
17 from this corporation for breach of fiduciary duty,
18 two things we believe the evidence will show were
19 validly done.

20 When I began preparing for this opening
21 statement, there were two themes or two words that
22 kept coming back to me. Obviously, the first one is
23 authority. But the second one surprisingly is the
24 word compassion.

25 Now, authority is obvious because the evidence

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1 will show that even though this group of 16, the
2 elders, as I call them, took each step reluctantly and
3 carefully, the evidence will show that they were
4 authorized to take the steps that they eventually
5 took. They were united in what they did and they were
6 authorized, not on the basis of one document or one
7 doctrine, but on a host of sources and bases for their
8 decisions and their actions. Among those sources is
9 the following. Donald Barnett's statements, the
10 disfellowshipping bylaws that have been referred to
11 earlier, Donald Barnett's admissions at the hearing
12 regarding his submission to their authority, the
13 January 25, 1988 agreement which Mr. Wiggins has
14 referred to and the guidelines for eldership hearings.

15 These are sources of authority separate and apart
16 from their scriptural and spiritual authority that
17 they believe they had and do so today. This
18 authority, mind you, is separate and apart from their
19 authority that they had as overseers of the
20 corporation to put out a man who has breached his
21 fiduciary duty to this corporation. The evidence will
22 show that that breach was obvious and was rampant and
23 there were clear cases of misuse of pastoral
24 authority. There's no law which requires a
25 corporation to keep an officer who has clearly

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1 breached his fiduciary duty.

2 The second term, compassion. Compassion must
3 seem like a foreign term in a room where there are so
4 many lawyers and so many witnesses that are going to
5 be called. It must seem like a strange term to bring
6 up. But what has come clear to me in reviewing the
7 evidence that we will put forward and the documents
8 and the witness testimony that you'll hear is that not
9 one step was taken by any of the elders that was not
10 taken carefully and with tremendous compassion for
11 both Community Chapel and Bible Training Center and
12 Donald Barnett. We will see it throughout their
13 statements, throughout their documents, and we'll also
14 see it when you assess their credibility, Your Honor.

15 I'm not going to go through the lengthy
16 background that Mr. Wiggins did, but I would like to
17 focus on the years 1986 and 1987. There were a number
18 of rumors swirling around Community Chapel in 1986 and
19 1987 regarding Don Barnett's sexual contact with
20 female members of Community Chapel. There were also
21 rumors of misuse of pastoral authority. You'll hear
22 that a number of these women came to elders, senior
23 elders, and church leaders and complained about what
24 Don Barnett was doing.

25 A number of these women came to a man who has

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1 already been introduced to you by the name of Jerry
2 Zwack. He at the time was the head of the Counseling
3 Center. And these women came and cried out their
4 hearts to Jerry Zwack and complained about the
5 advances and the misuses of his authority that Donald
6 Barnett was taking in order to gain sexual favors.

7 Jerry Zwack was alarmed. He kept a file. These
8 women signed statements. Jerry Zwack could have gone
9 to the congregation or gone somewhere else, but in an
10 effort to be compassionate and caring to Donald
11 Barnett, he went to Donald Barnett and he tried to
12 work with Donald Barnett and apprise him of the
13 impending problem that existed here.

14 And in response and in return for his efforts,
15 his efforts, to try to get to Donald Barnett's heart
16 and to see the destruction that his conduct was
17 reaping, Jerry Zwack was rebutted.

18 You will also hear about efforts by Donald
19 Barnett once Jerry Zwack came to him to try to cover
20 this up. You'll hear about an instance where it was
21 decreed by Donald Barnett that no one should go to
22 anyone else but the accused wrongdoer if they feel
23 wronged. Coincidentally, this decree only occurred
24 when Jerry Zwack was questioning Donald Barnett about
25 the allegations that these women were making about

1 sexual impropriety and misuse of his pastoral
2 authority.

3 At some point, and it's in mid-1987, Jerry Zwack
4 gave up. He gave up trying to help Pastor Barnett and
5 in essence threw up his hands. And into the problem
6 stepped two elders, a senior elder, Scott Hartley, and
7 the other is an elder by the name of Lanny Peterson
8 who happened to be Donald Barnett's son-in-law, and
9 tried to help Donald Barnett by counseling, trying to
10 get to the root of the problem, and tried to help him
11 mend what was becoming a recurring, continual problem
12 in the church. This church was being tremendously
13 upset by the conduct and activity of Donald Barnett.

14 They didn't go to the congregation, they did not
15 go to any outside source, they tried to work with
16 Donald Barnett and show him caring, compassion, and
17 tried to work through this problem. In return, Donald
18 Barnett fired him as his counselor. That's what they
19 got in return.

20 On December 23rd, 1987, Jerry Zwack wrote a
21 letter. You've heard the letter referred to by Mr.
22 Wiggins. Well, that letter does not set out the three
23 bases or three problems that Mr. Wiggins said were
24 Jerry Zwack's complaints. In fact, you'll see from
25 the letter it clearly states that the main and

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3
1 paramount problem were the continuing sexual abuses
2 that were being taken by Donald Barnett and that
3 something had to be done about them.

4 Each one of the elders was delivered a copy of
5 that document. Most of the elders, you will hear,
6 were shocked by the allegations, did not want to
7 believe the allegations. Once again, the elders got
8 together and, instead of going to a larger audience,
9 decided to try to protect Donald Barnett, tried to
10 show him caring and compassion and work with him to
11 see if this could be sorted out. And there was an
12 agreement to hold hearings. The hearings were to
13 start on the 25th of January 1988.

14 Now, in fact, when the committee was formulated
15 and there were 16 men, Mr. Wiggins said, three senior
16 elders, 10 elders, and three others, John Bergin,
17 Chris Mathews, and David Motherwell. In fact, you
18 will hear that Donald Barnett participated in the
19 formulation of this committee. He requested that
20 David Motherwell, his counselor, be on this committee.
21 He requested that John Bergin be on this committee
22 and, in fact, he nominated Russell MacKenzie to be the
23 moderator for this committee.

24 This was not surprising, this sort of committee,
25 to oversee these allegation because Donald Barnett had

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1 on numerous occasions in the past indicated that he
2 was answerable and accountable to the eldership and

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1 hearings and the term that the elders, this group of
2 16 men, will have final authority and that the
3 decisions will be to the satisfaction of the elders,
4 not Donald Barnett.

5 This agreement was put to Donald Barnett by his
6 counselor, David Motherwell, and it was signed. It
7 was ascended to, and you'll see the date January 25.
8 But what is also interesting to note, Your Honor, and
9 there will be testimony about this, there were two
10 words interlineated in this document, the words "and
11 Jerry". They were put by No. 2. The evidence will
12 show that they show a clear intent by Donald Barnett
13 to make sure that Jerry Zwack also adhered to the
14 final decision and the end result of these hearings,
15 because I think the clear inference is going to be
16 after you hear these witnesses' testimony is that
17 Donald Barnett and the witnesses did not believe when
18 these hearings started that there would be any
19 disciplinary action taken. But that changed and the
20 reason why it changed was based solely on Donald
21 Barnett's shocking admissions at these hearings.

22 Now, the format of the hearings were, as Mr.
23 Wiggins stated, there was to be opening evidence given
24 by Mr. Zwack and Mr. Barnett and then the rebuttal
25 phase and then the exclusive eldership hearing

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deliberations. Each one of those phases did occur contrary to prior statements otherwise. You will hear testimony that there was not only opening evidence but also rebuttal testimony and the eldership deliberations.

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The evidence will show that each step taken by this group of 16 was taken unanimously, was taken with unity, and there never was a dissenter. These are 16 men, Your Honor, not one ever dissented. Each step you will see was taken in an effort to help Community Chapel and also Donald Barnett.

I'd like to point out one thing. A number of these men will come in during the course of this hearing and testify, but a number of these men have nothing to do with Community Chapel today. They have no stake in this litigation, they have no stake in the outcome. These are the men that I think should be focused on when assessing credibility and whether or not they are believable in terms of what they knew was their authority.

4
1 Now, Mr. Wiggins has labeled a meeting as a
2 secret meeting of the senior elders to somehow infer
3 that that was an illegal or inappropriate meeting. It
4 is true that the senior elders met on February 10,
5 1988 and they purported to place Donald Barnett on
6 special status. That was followed up with a letter on
7 February 15th.

8 One of the points that's important and neglected
9 by Mr. Wiggins is if you look at that February 15
10 letter, each step taken by those senior elders was an
11 effort to protect Donald Barnett from a larger
12 audience. It was an effort to try to help Donald
13 Barnett curb the excesses in his abuses and to avoid a
14 larger problem. This was an effort done by three men
15 he had known a long time to try to help Donald
16 Barnett.

17 But more important is that within nine days of
18 that letter the rest of that committee, the remaining
19 people, ratified that action. They concurred. You'll
20 see a letter of February 24 which clearly shows the
21 concurrence and ratification of all remaining members
22 of that committee. It shows the unity of their
23 actions, unanimity of their purpose in putting Donald
24 Barnett on special status.

25 What is special status? It's a term that we

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1 don't use as lay people. But in essence what was the
2 restriction that was played on Donald Barnett? What
3 was this onerous restriction that was rebelled
4 against? It's quite simple. Donald Barnett was not
5 supposed to be in the company of women not his wife
6 when he was alone. That was it, plain and simple.
7 It was taken as the most minimal restriction given the
8 admissions made by Donald Barnett to try to protect
9 not only Donald Barnett but the countless women who
10 attended Community Chapel. Keep in mind that these 16
11 men were the overseers of this church who were
12 invested with the responsibility of taking care of
13 each one of its members as well as the church. They
14 also attempted to try to care for Donald Barnett.

15 Now, if that minimal restriction was followed, we
16 would never be here today and that's the real irony of
17 this whole thing. Pastor Barnett would probably still
18 be the pastor. We don't know the size of the church
19 but notwithstanding the authority they had and
20 notwithstanding the minimal, minor restriction they
21 tried to place on Pastor Barnett, he rejected and he
22 lashed out on the 25th of February in a tirade
23 demanding that these people repent, claiming that this
24 action was wholly inappropriate.

25 The committee, group of 16, men who took their

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5

1 job very, very seriously were faced with a very
2 troubling situation. They believe they've acted
3 within their authority. The evidence will show that
4 they had. Here's a man who presents a clear and
5 present danger to the congregation. What do they do?
6 They make a very tough decision and it's been labeled
7 by Mr. Wiggins as the elders denounce Pastor Barnett
8 to the congregation. Well, it didn't happen that way.
9 The evidence will show that what they did is they
10 warned the congregation, as they felt their duty was,
11 to protect the women. They warned the congregation
12 that Donald Barnett had been placed on special status.
13 They did not disclose any admissions that Donald

5
1 clearly Pastor Barnett breached his signed agreement
2 that he would not in any way interfere with these
3 deliberations.

4 Now, Mr. Wiggins has stated that the committee,
5 this committee, lacked authority. Well, in fact on
6 the 3rd of February Pastor Barnett, sensing that this
7 committee was not going to rubber stamp what he wanted
8 to do, himself tried to go outside of the group of 16
9 and he demanded that the senior elders, Mr. Hartley,
10 Mr. Hicks, and Mr. DuBois, meet him in his office
11 outside of the confines of these hearings and during
12 that time he did what is best described as gave them a
13 blistering attack on what was going on and he charged
14 them to go back and make sure that the committee
15 followed what he wanted to do.

16 Well, this attack was taped and it was played
17 before the group of 16 and the group of 16 responded
18 in clear, concise, and measured tones. They wrote a
19 letter on the 24th of February detailing for Donald
20 Barnett answers to each one of his questions, and a
21 number of those questions dealt with authority and
22 they specifically laid out what their authority was in
23 clear black and white and you will see this letter.
24 To a man they said they had authority from the
25 scriptures, they had authority from Barnett's prior

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1 teachings, they had authority from the
2 disfellowshipping bylaws, they had authority from this
3 special agreement and they had authority from
4 Barnett's prior quotations in magazines such as
5 Balance No. 20.

6 Only after Donald Barnett publicly rebuked these
7 16 men in the February 28 sermon and publicly defied
8 them did the elders even begin to think about
9 disfellowshipment. Here was a man who refused to face
10 the most minimal restriction and based on his
11 admissions presented a clear hazard to the people in
12 the church.

13 The evidence will show that Donald Barnett was
14 disfellowshipped on three separate occasions and it's
15 important because Mr. Wiggins is attempting to split
16 the elders apart. On March 4, a letter was written,
17 and Russell MacKenzie was the author and he'll testify
18 to that, was written disfellowshipping Donald Barnett.
19 The words are clear and the words are without
20 equivocation. It is signed by all 16 of these men.
21 There can be no clearer affirmation of what their act
22 was. But just so there wasn't any claim that the
23 senior elders were somehow not supposed to act with
24 this group, the senior elders on their own
25 notwithstanding the fact that they signed this March 4

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5
1 letter with the group of 16, drafted their own letter
2 on the same day, on March 4, also disfellowshipping
3 Donald Barnett, disfellowshipment No. 2.

4 Disfellowshipment No. 3 occurred on the same day
5 or the verification of it because there was a letter
6 from David Motherwell delivered to Donald Barnett who
7 as Donald Barnett's counselor clearly disfellowshipped
8 Donald Barnett. There was a longstanding practice at
9 Community Chapel where a counselor could disfellowship
10 a counselee on the spot if this was an emergency
11 situation. All witnesses will testify who were at
12 those hearings, save Pastor Barnett, will testify this
13 was an emergency and aggravated situation. So, Donald
14 Barnett was not disfellowshipped but once, he was
15 disfellowshipped thrice. These disfellowshipment are
16 separate and apart from the ability that these
17 directors, these corporate officers, these overseers
18 of the welfare of this corporation had to oust Pastor
19 Barnett for his breach of fiduciary duty.

6
20 You will hear the evidence of what constitutes
21 those breaches, but suffice it to say that the abuses
22 are great in number and they are significant. He did
23 subject the corporation to lawsuits and a litigation.
24 In fact, when these hearings were occurring, there
25 were two lawsuits or three lawsuits ongoing which were

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1 solely based on this type of activity by Donald
2 Barnett.

3 One last point before I conclude. Mr. Wiggins
4 has talked about the events by the senior elders on
5 March 2nd and March 4th. The Supreme Court has now
6 held that Pastor Barnett had to concur in the
7 meetings. That fact has nothing to do with the
8 separate, distinct, and equal authority that these
9 people had to disfellowship Donald Barnett on the
10 countless bases I've laid out, as well as to oust him
11 for breach of fiduciary duty.

12 The evidence will be that these men, on advice of
13 counsel, in order to make sure that they were
14 following not only the letter of internal church
15 policy but what they understood was secular law,
16 followed the advice of their lawyer and went down to
17 Olympia and changed the bylaws. That has nothing to
18 do, whether or not that was proper in hindsight has
19 nothing to do with their clear actions of
20 disfellowshipment and nothing could be clearer actions
21 of their desire to disfellowship Donald Barnett than
22 these three March 4 letters.

23 You will hear from a number of men who attended
24 that hearing, men who I submit to you you will find
25 honest, you will find concerned, and you will find

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6
1 troubled by this whole episode. They're also men, for
2 the most part, who have nothing to gain from the
3 outcome of this hearing, but these are men who will
4 tell you in no uncertain terms that pursuant to
5 agreements, bylaws, and practice at Community Chapel
6 they had every right, both by the letter of the law
7 and by God, to do what they did and they did so
8 reluctantly and were forced to their ultimate action
9 only by Donald Barnett's defiance. Thank you.

10 THE COURT: According to my new watch, it is
11 a quarter to at this point. Do you wish now to take
12 up the matter of seeing what the agreement is?

13 MR. PIERCE: Your Honor, the messengers have
14 apparently not arrived, converged upon the building as
15 I anticipated or maybe they have -- Maybe what we
16 should do is check at the front desk to see.

17 THE COURT: Okay, I think probably it's not
18 very orderly to start a witness at this point. What
19 do you say, Mr. Wiggins?

20 MR. WIGGINS: I agree with that, Your Honor.

21 THE COURT: We'll stand at recess. When do
22 we return?

23 MR. ROHAN: Why don't we come back at 1
24 o'clock and get this thing resolved and we can restart
25 this at 1:15.

6
1 (Luncheon break taken.)

2 MR. JOHNSON: Your Honor, Pastor Barnett
3 will be our first witness.

4 THE COURT: Are you prepared to proceed at
5 this time?

6 MR. JOHNSON: Yes. I think Charlie may want
7 to speak about the Order of Reference.

8 MR. WIGGINS: Your Honor, we have reached an
9 agreement on the Order of Reference and we have signed
10 a copy. We're having it rerun so that we can present
11 a clean copy to the Court and get a Superior Court
12 judge's signature on it.

13 THE COURT: All right.

14 DONALD L. BARNETT, the Plaintiff herein, having
15 been first duly sworn on
16 oath, was examined and
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MR. JOHNSON:

20 Q Mr. Barnett, would you please state your name.

21 A Donald Lee Barnett.

22 Q What is your occupation?

23 A Pastor.

24 Q How long have you been a minister?

25 A For about, since 1967.

Q Are you a minister presently?

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- 2
- 1 A Yes.
- 2 Q Where are you a minister?
- 3 A The Church of the Agape.
- 4 Q How old are you, Pastor Barnett?
- 5 A Sixty.
- 6 Q Where were you raised?
- 7 A Most of the time in Tacoma, Washington.
- 8 Q Tell me a little bit about your parents, your mother
9 and father.
- 10 A My father was brought up in a very religious family,
11 devout Christians and he majored in business at the
12 University of Idaho. He became a part-time pastor at

1 A Yes.

2 Q Tell us a little bit about your childhood. First, are
3 there any brothers or sisters?

4 A Yes, I had an older brother and two younger brothers.
5 Well, we were brought up to love God and fear God and
6 follow the Bible. We had Bible studies almost every
7 night there wasn't church. There would be a Bible
8 reading and my father would have us also read the
9 scriptures.

10 Q When you were a child, how often did you go to church
11 during the week?

12 A Three times a week was typical.

13 Q Tell us the times. Would it vary? I take it it would
14 be every Sunday morning.

15 A It would be, Sunday morning Sunday School, Sunday
16 morning service, Sunday evening service, and there was
17 always a midweek service, usually a Bible study.

18 Q Did you have any experiences, religious experiences
19 that were significant to you when you were a child?

20 A Yes, because I was brought up believing in God and
21 repenting for my sins and accepting in my heart all
22 the time. But when I was in the eighth grade, God
23 moved upon me very powerfully when I was at a revival
24 service at the Assembly of God church. And they gave
25 an altar call each night for salvation and, although I

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1 knew I was already born again and saved, I had to get
2 down to that altar.

3 Q What is an altar call? Can you describe that?

4 A Well, a call to come down to the front of the church
5 and make a commitment between you and God for
6 salvation typically. It could be for other purposes
7 too.

8 Q Go ahead.

9 A Well, I raised my hand every night even though I knew
10 people would think, hey, he was just down here last
11 night getting saved, because I didn't realize I could

2
1 A Yes, in the Pentecostal Church everyone has this
2 experience, almost at least.

3 Q Were there any miracles that you or members of your
4 family experienced while you were a youth?

5 A Yes, a number of them.

6 Q Describe a couple of those perhaps.

7 A Well, my older brother got a mastoid infection while
8 he was swimming at the YMCA and my folks had -- My
9 father and mother made a dedication to God when they
10 got saved in college. My father got healed from three
11 things that the doctors couldn't help him with, so God
12 was going to be the healer. We were brought up
13 without any medication or hospitalizations and so
14 forth, and so they prayed for him. And the more they
15 prayed the worse he got. The worse he got the more
16 they prayed. And they had a home medical book they
17 looked at and it said 13 days was the longest on
18 medical record at that time of a person having mastoid
19 infection living without an operation.

3
20 On the 13th night, he had a raging fever, the
21 swelling was very high. They stayed up all night
22 praying for him, never took their clothes off. In the
23 morning, my father was down at the Weyerhaeuser
24 Company working in the office, praying as he was
25 working. And he felt an assurance from God that his

1 son Bob was healed. He turned to the man next to him
2 and said, "Burt, Bob is all right". And he said, "How
3 do you know? Did you get a phone call?" He said,
4 "No, I just know he's all right".

5 When he got home that summer evening, his wife
6 met him at the door with a strange look on her face
7 and he said, "Where's Bob?" She said, "He's outside
8 playing baseball". He said, "When did this happen?"
9 "About 11 in the morning the fever went down and the
10 swelling went down and the pain stopped and I felt
11 fine and he kept begging to go out and so I let him go
12 out". That's one thing.

13 Q Have you, yourself, been given the gift of healing?

14 A Yes.

15 Q Has this manifested itself?

16 A Many, many times.

17 Q Where did you go to high school?

18 A Stadium High School in Tacoma.

19 Q Did you graduate?

20 A Yes.

21 Q What did you do after you graduated from high school?

22 A I went to Northern Bible Seminary in Idaho.

23 Q What year did you graduate from high school?

24 A 1948.

25 Q I'm sorry, where did you go after that?

- 1 A Northern Bible Seminary in Boise, Idaho.
- 2 Q What did you study at Northern Bible Seminary?
- 3 A Bible theology.
- 4 Q How long were you there?
- 5 A Three years.
- 6 Q And after you left Northern Bible Seminary, did you
- 7 have occasion to study the Bible or theology again?
- 8 And I know that you've been studying for a long time
- 9 on your own, but have you ever studied with anyone
- 10 else?
- 11 A I took Biblical Greek from professors of Simpson Bible
- 12 College in Seattle.
- 13 Q Was I correct saying you've on your own studied beyond
- 14 that?
- 15 A I have an extensive library and I've studied ever
- 16 since I quit Bible College some 40 years very
- 17 diligently.
- 18 Q At some point in time -- How old were you when you
- 19 left Northern Bible Seminary?
- 20 A Oh, about 22.
- 21 Q At some point, did you meet a woman that you would
- 22 later marry?
- 23 A Yes.
- 24 Q How old were you then?
- 25 A About 20.

- 3
- 1 Q Was that when you were in college?
- 2 A Yes.
- 3 Q Who was that?
- 4 A Barbara Jean Monroe was her name then.
- 5 Q Did you later marry?
- 6 A Yes.
- 7 Q When was that?
- 8 A Oh, I think August 5, 1950.
- 9 Q When you left Bible College, where did you move?
- 10 A To Tacoma, Washington.
- 11 Q Your parents were still there?
- 12 A Yes.
- 13 Q Did you take a job?
- 14 A Yes.
- 15 Q Where did you start to work?
- 16 A Well, when I first landed here, I got a job at St.
- 17 Paul Tacoma Lumber Company just to get started. I
- 18 injured my knee in a sports judo accident so I started
- 19 to work at the Boeing Company.
- 20 Q Excuse me, you injured your knee in some sort of
- 21 accident?
- 22 A Sports judo accident. So, I applied to the Boeing
- 23 Company and took a job there in engineering.
- 24 Q Had you had any training in that sort of thing that
- 25 you did at Boeing?

- 1 A A little but not much. I started as a draftsman.
- 2 Q So, you essentially learned while you were on the job
- 3 then?
- 4 A Yes and I was trained on the job too.
- 5 Q Which Boeing plant was it that you took a job at?
- 6 A Plant One working on the B-52 bomber.
- 7 Q Did you stay in Tacoma then, living in Tacoma?
- 8 A No, I moved to Seattle.
- 9 Q When you moved to Seattle -- I take it when you were
- 10 in Tacoma you went to your father's church.
- 11 A Yes.
- 12 Q When you moved to Seattle, did you continue in your
- 13 father's church?
- 14 A No.
- 15 Q Did you attend a church somewhere else?
- 16 A First I went to the Assembly of God Church in North
- 17 Seattle.
- 18 Q Did you have any position there or participate in the
- 19 ministry in any way?
- 20 A Well, they made me Bible teacher for the young people
- 21 but I didn't stay there very long. I went to the
- 22 Church by the Side of the Road.
- 23 Q Where?
- 24 A It was called the Church by the Side of the Road.
- 25 Q Where was it located?

1 A On Second and Stewart, I think, something like that.

2 Q Did you have some sort of involvement in the ministry
3 there?

4 A Yes, they made me lay pastor and Bible teacher for the
5 young people.

6 Q How long were you there?

7 A I think probably just about three years. We built a
8 house in West Seattle, so we moved out there.

9 Q When you moved to West Seattle, did you move to a
10 different church?

11 A I attended the West Seattle Assembly of God Church.

12 Q Have you been involved in some ministries there?

13 A Yeah, they made me adult Bible teacher for Sunday
14 School and also young people's leader, publishing
15 their magazine monthly. I was in charge of the
16 mission service, the Zion Mission for the church, and
17 I also went to old people's homes in charge of the
18 ministering to the old folk's home and to the
19 hospital.

20 When I was down at the Church by the Side of the
21 Road, there was an evangelist that came in from
22 Ireland and I used to go out with him to jail services
23 and street meetings.

24 Q How long did you stay there?

25 A About eight years.

- 1 Q You moved onto a different church then?
- 2 A I bought a house, built a house down in the airport
3 area, so I attended the Des Moines Assembly of God
4 after that.
- 5 Q Did you participate in the ministry at Des Moines
6 Assembly of God?
- 7 A Yes, I was the adult Bible teacher, young people's
8 leader in charge of the -- The first place was the
9 Bread of Life Mission and at this church it was the
10 Zion mission. I made a mistake there. And also I
11 think I was in charge of the youth ministry there.
- 12 Q When you were at the West Seattle Assembly of God
13 Church, you mentioned a number of ministries you were
14 involved in there, how did you get along with the
15 pastor of the church?
- 16 A Fine.
- 17 Q And the congregation?
- 18 A Fine.
- 19 Q How about the board? Did they have a Board of
20 Directors or something of that sort, Board of Elders?
- 21 A Yes.
- 22 Q Did you get along well with them?
- 23 A At the West Seattle Assembly I did, not at Des Moines.
- 24 Q What happened at the Des Moines Assembly of God
25 Church?

1 A Well, pastor was -- I was the closest person in the
2 church to the pastor and I think my wife was to the
3 pastor's wife. We were very close to them. Everybody
4 in the congregation really loved me, but the Elder
5 Deacon Board, the pastor was having trouble with them.
6 One of them had embezzled money for many, many years
7 and pastor put him out of the treasury but the Board
8 would not let him put him out of the eldership. And
9 they gave the pastor a rough time and they didn't
10 like --

11 God was moving upon me to preach a deeper life
12 ministry and the congregation was very moved by it.
13 They said we haven't heard this kind of preaching
14 since early Pentecostal, but the Board did not like my
15 seriousness, my dedication to God. They kind of
16 wanted to have their opening exercises and play and so
17 forth and they opposed me at every step. And the
18 pastor was working on my behalf behind the scenes
19 without me even knowing it most of the time and it
20 kind of blew up in their face, but it was opposition
21 from them.

22 One of the things was my wife was in Welcome
23 Wagon. And she was working with the pastor's wife in
24 the community and those that were interested in God
25 why I'd go out in the evening and I'd meet them and

4

1 led them to the Lord and I was filling the church up
2 and front row, second row, third row and they began to
3 be really jealous and they were accusing me of --

4 Q Who is they?

5 A The Board. It was like a church within a church, and
6 they didn't like me coming in that way. They wanted
7 to have western. all kinds of play and stuff and I

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- 5
- 1 A About 1965, roughly.
- 2 Q So, in 1965 when you say I moved up to Everett, did
- 3 you literally move your family up there or did you
- 4 just move up there to work?
- 5 A Just to work.
- 6 Q You stayed living then down by Seatac?
- 7 A Yes.
- 8 A At this time, I was pastoring at this time and working
- 9 full time at the Boeing Company, pastoring without
- 10 wages and holding five services a day -- a week, I
- 11 mean.
- 12 Q Where was this that you were holding these services?
- 13 A Well, at that time they first started at Scott
- 14 Hartley's unfinished home and then they moved to Cal
- 15 Freden's basement. He had a very large basement and
- 16 put paneling and carpeting in and fixed it up for a
- 17 church, and we met there until we had over a hundred
- 18 people and we had to move.
- 19 Q Let's back up to the point in time when you were still
- 20 at the Des Moines Assembly of God. Let me ask you
- 21 this. When was it that you left the Des Moines
- 22 Assembly of God?
- 23 A I left it when I started to pastor which would be
- 24 1967.
- 25 Q So, prior to that you'd been working for a year or two

5
1 up in Everett; right? Had you moved up to Everett to
2 work by then?

3 A No, I started pastoring actually before I moved to
4 Everett, I believe, if my memory serves me correct.

5 Q Okay. How exactly was it that you came to leave the
6 Des Moines Assembly of God and decided to start your
7 own church?

8 A Well, God began to move upon me very powerfully for a
9 full-time ministry and I felt this burden for this
10 full-time ministry so strong and I didn't know what to
11 do and I would pray and I prayed intensely in other
12 tongues. And every time I would go to speak they
13 would speak and say, now just hold on, something is
14 going to come up. And I didn't really see a way. I
15 thought maybe it was five or ten years into the
16 future. This happened maybe eight or nine times
17 during that year.

18 And then when I was in the prayer room praying I
19 saw a vision of a vast throng of people and I was
20 preaching to them and I was speaking in tongues all by
21 myself and my arm was going like this and my wife was
22 outside the door and said, "I don't know who Don is
23 preaching to, he must be peaching to somebody". And I
24 knew every word in English I was preaching. It was
25 one of the most dynamic messages in faith. I knew

1 that God was giving me a vision of what I was going to
2 be involved in in the future ministry.

3 As my wife was greeting people in the Welcome
4 Wagon, she would bring them to our home. We were
5 getting them born again and filled with the Holy
6 Spirit and teaching them on biblical subjects and we
7 were also bringing them down to the Assembly of God
8 Church. Well, finally the Assembly of God Church, I
9 don't know how much you want me to tell but --

10 Q Let me ask you this. Was Scott Hartley one of those
11 early people that you met while you were still at the
12 Assembly of God?

13 A Yes.

14 Q What occasioned your final leaving the church at the
15 Des Moines, and starting a new one? Was there one
16 thing that caused it to occur or caused you to make
17 that decision?

18 A Well, I feel like God was moving me to pastor them, I
19 began to feel to pastor them but I was afraid to make
20 the break. I learned later that the group said they
21 were being impressed to have me pastor but they were
22 afraid to tell me. But then the board, they were
23 jealous of me bringing so many people into the church
24 and they wanted the pastor to take over. I don't know
25 how much to go into. I kind of felt like when the

6

1 pastor took over again, they wanted the pastor to take
2 over and do the Bible teaching. And so when he did I
3 felt it was the nudge I needed to move out and pastor
4 because God was moving me in that way anyway.

5 Q When you did decide to make that decision, how many
6 people followed with you?

7 A I purposely did not mention this to anybody who was
8 going to the Des Moines Assembly of God previously or
9 anything. None of them followed, but those that were
10 meeting in my home meetings they all came.

11 Q How many were there?

12 A About 35.

13 Q Were there some among those that you sat down with and

1 it is not going to prove what Bullinger said. You may
2 answer.

3 A Well, he just helped us to tell us what we needed to
4 do to get incorporated, have bylaws and incorporation.
5 And so I got some bylaws of the Assembly of God Church
6 and also the Pentecostal Church and used them as a
7 basis and looked at them with Lyle's help. And then
8 we discussed it with the others. I formed a steering
9 committee.

10 Q (By Mr. Johnson) Who was on the steering committee?

11 A Scott Hartley, Keith Gunn, who is now pastor of a
12 satellite church of Community Chapel in Chippewa,
13 Wisconsin, and Lyle Bullinger. We discussed it among
14 ourselves and wrapped it up, the bylaws first and then
15 the incorporation papers.

16 Q When you drafted up the bylaws and the incorporation
17 papers, did you draw on any of your own past
18 experience in churches?

19 A Yes.

20 Q Can you tell us what some of those experiences were
21 that you had drawn on when you drafted the initial
22 bylaws?

23 A Well, my father being in the ministry and my brother
24 and my uncle and being around churches for a long
25 time, we have seen a lot of problems in churches.

1 There's been lots of churches split through the
2 country and I had seen some church splits and I told
3 them -- Well, first of all, I strongly believe that
4 Biblically the pastor is over the elders, and I
5 believe God has really confirmed that to me personally
6 besides.

7 In addition, I said I have seen a lot more
8 churches ruined by boards than I have by pastors. If
9 I'm going to quit my job -- At that time I went to
10 lead engineer and then to supervision over the 16
11 years with the Boeing Company. I turned down a job at
12 the Marietta plant being over the C-5A in supervision
13 and more money to pastor. I said if I'm going to quit
14 my job and enter the ministry and lose all my benefits
15 I had accrued I need to know that some board is not
16 going to treat me like some other boards have treated
17 pastors.

18 Q Had you had any experience at the West Seattle Church
19 of God that you mentioned that you attended for a
20 while, anything you learned while you were there that
21 you considered when you were drawing up these bylaws?

22 A Well, yeah. They had really a lovely pastor, a senior
23 pastor, a man of a lot of experience and a lot of
24 love, as far as I felt, and he brought in one of his
25 relatives as a very talented musician to be head of

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6

1 the music ministry. But he could not get along with
2 her ego or her insubordination and so forth and it got
3 to a place where he tried to put her out and the board
wouldn't let him put her out. And so he finally told

1 and 1981.

2 THE COURT: Wait just a minute, '79,
3 September 22?

4 MR. JOHNSON: I believe that's the date.

5 THE COURT: Is that No. 2?

6 MR. JOHNSON: That's No. 2, yes, Your Honor.
7 It's August 20, 1979 is the date of the Articles of
8 Incorporation. And then No. 3 is Articles of
9 Amendment filed on November 17, 1981.

10 THE COURT: Those are not on your list.

11 MR. JOHNSON: I believe I referred to
12 Articles of Incorporation and Amendments Thereto. And
13 I have just separated them in a binder. I guess my
14 point is I'm not sure that counsel has objections to
15 these.

16 THE COURT: One, 2, and 3, Mr. Rohan?

17 MR. ROHAN: Your Honor, they're all signed
18 in addition by Mr. Barnett and by several other people
19 and I think that since Mr. Barnett would clearly
20 testify that he signed them that that's adequate for
21 us. We're not going to make any objection.

22 MR. JOHNSON: That's 1, 2 and 3. Now, we
23 have 4 essentially through 11 are a number of versions
24 of the bylaws of Community Chapel and Bible Training
25 Center.

1 THE COURT: Those are the ones that are set
2 out in your attachment?

3 MR. JOHNSON: Yes. And I believe that our
4 Exhibit Nos. 10 and 11 were also listed by counsel as
5 exhibits as well.

6 MR. ROHAN: Again, Your Honor, they are all
7 signed not only by Mr. Barnett but they are signed in
8 addition by a number of other people even though they
9 may or may not testify. Through number 10 we don't
10 have any objection.

11 THE COURT: Have you agreed on how we're
12 going to number these tomorrow morning?

13 MR. JOHNSON: Well, I thought that we were
14 going to start out 1 through whatever we get through
15 here.

16 THE COURT: And then renumber them?

17 MR. JOHNSON: Well, those would be the first
18 ones in. They could be 1 through whatever and the
19 court reporter has indicated she'd bring up I guess
20 two color exhibit things.

21 THE COURT: You better get with her tomorrow
22 morning so that you can attach the proper ones.

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THE COURT: So far we have gotten three amended articles and 9 or 10 bylaws.

MR. ROHAN: We're not agreeing to Exhibit 11, Your Honor.

THE COURT: Which one is 11?

MR. ROHAN: Eleven is the April 1988 revision.

THE COURT: April 6, 1988. You'll have to lay a foundation.

MR. JOHNSON: Which one is the one that you're not agreeing to?

MR. ROHAN: No. 11.

MR. JOHNSON: Well, perhaps if we can remove that.

MR. WIGGINS: Your Honor, this book has No. 1 through 13 in it. These tabs show.

MR. JOHNSON: Why don't we take out, since they are not agreeing to No. 11, take that out and what was 12 then will become 11.

THE COURT: Are you going to reorder them now?

MR. JOHNSON: I was going to, Your Honor, just so that we can get this out of the way so we could proceed on through, if that's okay.

THE COURT: You can propose 11. I will not

1 admit it.

2 MR. JOHNSON: It would be just fine for us
3 to wait on that.

4 THE COURT: Well, I'm having trouble
5 mechanically.

6 MR. JOHNSON: If I could suggest, we have
7 taken out what was Exhibit No. 11 and what I had
8 previously had as our Exhibit No. 12, which are all of
9 the senior elder minutes for the senior elder and
10 steering committee, essentially the Board of
11 Directors.

12 THE COURT: Starting when?

13 MR. JOHNSON: Starting in 1968 and
14 proceeding up to and through a telephone meeting of
15 January 22,, 1988.

16 THE COURT: Have you checked those out?

17 MR. ROHAN: I actually have not had a chance
18 to. We just got these I believe in our office
19 yesterday and I have not had a chance to look at every
20 single one of these.

1 MR. JOHNSON: Thirteen are some
2 disfellowship procedures of the Community Chapel dated
3 January 1987. It's my understanding counsel has no
4 objection to.

5 MR. ROHAN: Again, Your Honor, even though
6 it's not signed by or signed as approved by Pastor
7 Barnett, in an effort to speed this matter along
8 recognizing it is in fact one of the procedures that
9 was used at Community Chapel, we don't have any
10 objection.

11 THE COURT: Is this the long bylaw dealing
12 with disfellowship?

13 MR. ROHAN: No, Your Honor, it's not.
14 That's separate.

15 THE COURT: This is a procedure and policy.

16 MR. JOHNSON: That's correct, essentially a
17 memo.

18 (Plaintiff's Exhibits 1-13
19 marked for identification.)

20 Q (By Mr. Johnson) Pastor Barnett, I'm going to hand
21 you the witness exhibit binder and I'm going to ask
22 you to turn to Exhibit No. 4. I believe your
23 testimony was that, correct me if I'm wrong, that you
24 drew up some bylaws. Having agreed on some bylaws,
25 you then drew up some Articles of Incorporation.

1 A Yes.

2 Q Is Exhibit No. 4 entitled Community Chapel and Bible
3 Training Center Articles of Faith and Bylaws, October
4 1967 bylaws that you drew up?

5 A Yes.

6 Q Did you discuss these bylaws as you were drawing them
7 up with the other members of the steering committee?

8 A Yes.

9 Q And, again, who were the members of the steering
10 committee?

11 A Keith Gunn, Lyle Bullinger, Scott Hartley.

12 Q Scott Hartley is one of the Defendants in this case?

13 A Yes.

14 Q And Keith Gunn is a pastor now at a church in
15 Wisconsin? ,

16 A Yes.

17 THE COURT: He is what?

18 MR. JOHNSON: He's a pastor at a church in
19 Wisconsin now.

20 A Satellite church of Community Chapel.

21 Q (By Mr. Johnson) And Lyle Bullinger was an attorney?

22 A Yes.

23 Q I'd like you to turn your attention, if you would, to
24 page 3 of the bylaws and look if you will at section
25 Roman II in the middle of the page at Article II.

1 Please read Article II.

2 A Article II: Authority. 1. The pastor is recognized
3 as the spiritual overseer of the church, an office
4 ordained of God to shepherd and feed God's flock. 2.
5 The pastor shall have authority to appoint a steering
6 committee to investigate and take charge of the legal
7 and necessary duties and decisions in order to approve
8 the original Articles of faith and bylaws, buy land,
9 and erect buildings, until such time as the first
10 congregational meeting is held (not later than 30 days
11 after occupying the sanctuary). The pastor shall
12 assume the chairmanship of this temporary committee
13 and shall appoint a moderator and vice chairman of
14 same. Their signatures shall be affixed to this form
15 to authorize its acceptance by the church.

16 Q Okay, that's fine. Now, I'd like you to turn the page
17 to page 3.

18 A I was on page 3.

19 Q Okay. And specifically I'd like you to read Arabic 3
20 at the top of page 3.

21 A Do you mean page 4?

22 Q I'm sorry, page 4.

23 A Article III is the middle of the page.

24 Q Arabic 3 at the top of the page.

25 A Oh, you call that Arabic.

1 Q As opposed to Roman numeral.

2 A Yes, I'm sorry. The pastor shall appoint at least
3 three original elders hereafter called spirit
4 overseers as he sees need.

5 Q Would you look down under Article III and read
6 paragraph Arabic 2.

7 A The pastor, having established the original church,
8 (along with the congregation and, we feel, by God)
9 shall have oversight of same until the pastor agrees
10 to change.

11 Q Would you read paragraph 3 right below that.

12 A Future pastors may only be removed by both a
13 two-thirds vote of the spiritual overseers and of the
14 congregation. In such an event, the pastor shall be
15 invited to the meeting and shall have an opportunity
16 to address the congregation for at least 15 minutes,
17 prior to the voting.

18 Q Now, looking up towards the top of the page again,
19 would you read Arabic 5 up there, the page you were
20 just on, page 4.

21 A The pastor shall have the prerogative to minister as
22 he feels the Holy Spirit leads him and shall be in
23 official charge of all services of the church, even
24 though he may not attend all such meetings.

25 Q Now, paragraph 2 down below where you read the pastor

1 having established the original church (along with the
2 congregation and, we feel, by God) will have oversight
3 of same until the pastor agrees to change, what was
4 your intention when you drafted that paragraph?

5 A Well, God in my understanding of theology and the
6 Bible, God calls the pastor and only God can remove a
7 pastor.

8 Q Did you feel called to pastor, called by God to pastor
9 this church?

10 A Very positively called by God.

11 Q More than once? Was it a continual call?

12 A I felt a positive leading of God to pastor for --
13 First there was a powerful clear-cut directive to and
14 goading for full-time ministry and then later it took
15 its form in a divine knowledge, imparted a knowledge
16 which I knew that I knew that God was calling me to
17 pastor this church and it was a continuous thing. And
18 in fact, he gave me a pastor's heart for the
19 congregation I never had in all the years I've taught
20 so the relationship was totally different. There was
21 a definite call.

22 Q Is this sort of paragraph, the provision that prevents
23 you from being removed until you agree to change, do
24 you feel that sort of provision is Biblical as a basis
25 in the Bible?

9

1 A Absolutely.

2 Q Were there any other specific, I think you mentioned
3 maybe, mentioned specific experiences that you've had
4 at previous churches that went into the formation of
5 your understanding when you drafted this paragraph?

6 A Well, there were several things involved in this
7 decision. The Biblical teaching of a pastor being
8 over the church because God always has a pyramid
9 government in everything he's done. he's never had

1 A I did.

2 Q Were all of the three people that you mentioned, Scott
3 Hartley, Lyle Bullinger, and Mr. Gunn present when you
4 discussed this provision?

5 A Yes.

6 Q Did you discuss the other provisions that you've read?

7 A We discussed everything that was in the original
8 articles and bylaws.

9 Q Did anybody voice any concern about this provision?

10 A No.

11 Q Wasn't it clear that you were sort of saddling them
12 with your services as their pastor forever?

13 A They agreed with me. At that time, they felt that we
14 would rather trust you than trust other people coming
15 into the eldership. We have enough confidence in you.
16 That was unanimous.

17 Q How many people -- You mentioned steering committee
18 and yourself, I take it beyond the steering committee
19 there were a number of people that you considered at
20 this point in time part of your church, part of your
21 following there were going to form the congregation
22 for your new church. How many people do you think
23 there were?

24 A When we drafted these, only about 37.

25 Q After you discussed these provisions and this document

9

1 with the members of the steering committee, these
2 three people that you talked about, did you have
3 occasion to discuss this document with the members of
4 the congregation?

5 A Yes. We, what we called and maybe in a non-legal
6 sense, but we said we had to ratify it. We read it to
7 them, asked them if there were any comments, anything
8 they felt should be added or subtracted, if they would
9 agree to it and we had them raise their hands as to
10 how many agree to these articles and bylaws as drafted
11 and it was a unanimous vote.

12 Q I'd like you to turn over to page 10, if you would.
13 Directing your attention down to section Roman numeral
14 IX, Article Roman numeral I, would you please read
15 that?

16 A A three-fourths affirmative vote of the spiritual
17 overseers and the original pastor's concurrence if
18 still presiding is necessary to change any established
19 bylaws stated herein (after signatures of the steering
20 committee and pastor).

21 Q In other words, to amend these bylaws required
22 three-fourth affirmative vote plus your concurrence if
23 you were still presiding.

24 A Right.

25 Q Could you read Article Roman II, Section 9?

9
1 A In case of any disagreement of interpretation of these
2 rules (in the event that an agreement cannot be
3 reached, the decision of the spiritual overseers takes
4 precedence over the deacon board). If the
5 disagreement cannot be reconciled by two-thirds of the
6 spiritual overseers, the pastor shall decide the
7 issue.

8 Q Was this provision part of the bylaws when they were
9 discussed with the congregation?

10 A Yes.

11 Q Anybody voice, anybody in the congregation voice any
12 question or any concern about any of the provisions in
13 the bylaws?

14 A No.

15 Q Where was it that you were meeting, you and these 37
16 people in the congregation?

17 A For the services or the meeting?

18 Q Well, for the meeting.

19 A The meeting was held in Lyle Bullinger's living room.

20 Q Where would you hold services?

21 A At this time, they were being held in the unfinished
22 home of Scott Hartley.

23 Q And I think you indicated that after you had agreed
24 upon the bylaws, you with the help of Lyle Bullinger
25 drafted Articles of Incorporation?

1 A Yes.

2 Q Were these filed with the Secretary of State?

3 A Yes.

4 Q I'd like to direct your attention to the Exhibit No. 1
5 and ask you if that's the exhibit or if that's the
6 Articles of Incorporation filed on November 2, 1967.

7 A November 2, 1967.

8 Q Upper right-hand corner of the front page, Pastor
9 Barnett.

10 A November 1967 Articles of Incorporation of Community
11 Chapel and Bible Training Center.

12 Q Page 1. I'd like to direct your attention to page 3.

13 A I didn't answer your question. Yes, these appear to
14 be, as far as I know.

15 Q Turning to the last page, do you see the signatures in
16 the middle of the last page, page 4?

17 A Yes.

18 Q Is one of those signatures yours?

19 A Yes.

20 Q And those other three signatures are the other members
21 of the steering committee?

22 A Yes.

23 Q Turning back to page 3 right at the very bottom, would
24 you read for the Court Article Roman VI, Amendments
25 and Bylaws, just the Section 1, please.

1 A Amendments to those Articles of Incorporation may be
2 made by a three-fourths affirmative vote of the Board
3 of Elders and the original pastor's concurrence.

4 Q Who was the original pastor?

5 A I was.

6 Q Where again did you start holding your first services?

7 A After incorporation, the first services were held at
8 Scott Hartley's home.

9 Q Describe where in the home they were held and what it
10 was like?

11 A The home was unfinished so we had chairs lined up in
12 the living room, kind of living room-dining room area
13 and used the unfinished bedrooms as Sunday School
14 rooms.

15 Q How long did you meet there?

16 A Probably only six months, not more than a year.

17 Q Did something happen that caused you to move?

18 A Well, we packed it out so much we had to move some
19 place else.

20 Q Excuse me, you did what?

21 A There were so many people that it wouldn't hold it
22 anymore.

23 Q Your congregation grew?

24 A Yes.

25 Q Do you have any idea how large the congregation had

1 grown to when you had to move out of Scott Hartley's
2 home?

3 A I think in about six months it had grown to maybe 60
4 members or something like this. Cal Freden remodeled
5 his basement, a big long basement of the whole house,
6 paneled it and all this and lighting fixtures and

10
1 church?

2 A About two years, I think.

3 Q How many services would you have during the week?

4 A Five.

5 Q And tell us what those services were.

6 A Friday night service, Sunday morning Sunday School,
7 Sunday morning, Sunday night and then on Wednesday
8 night prayer meetings.

9 Q Sunday morning Sunday School, Sunday morning services,
10 give me an idea of when that would start and when that
11 would end. An hour for Sunday School and an hour for
12 church?

13 A No, Sunday School 10 to 11, church would be from 11 to
14 about 1.

15 Q How about Sunday evening?

16 A Seven to 9:30 or 10.

17 Q What about the Wednesday night prayer service?

18 A Probably two, two and a half hours.

19 Q Friday night service?

20 A 7:45 to about 10.

21 Q Beyond preaching at these services, did you have any
22 other duties or responsibilities as a pastor of this
23 church?

24 A Well, yes.

25 Q I guess my question is what about Monday night and

[REDACTED]

[REDACTED]

1

[REDACTED]

11

1 '69, a little less than two years later?

2 A Yes.

3 Q And you had 8.5 acres of real estate and you were
4 building a church and a Bible College?

5 A 8.6 acres, yes.

6 Q Tell me a little bit what this building that you built
7 on these 8.5 acres, and I suspect there were additions
8 to it later on, but I'm interested just at that point
9 in time. What was it like? How big was it? What did
10 it consist of? Describe it?

11 A Well, it was a curved A-frame chapel that held
12 probably, I'm guess, maybe 160 people and had a foyer,
13 restrooms, room for some offices, Sunday School rooms,
14 Bible College room.

15 Q Who designed it?

16 A I did.

17 Q Did people in the church help to build it?

18 A Yes.

19 Q You mentioned something about a Bible College. When
20 did you and your congregation decide to start a Bible
21 College?

22 A Well, I was coming back from California with my wife
23 on vacation actually when the Lord dropped into me
24 very clearly to start a Bible College. And I asked my
25 wife to take the wheel and I spent the rest of the

11

1 time laying it out of all the reaches I had been doing
2 and things I had been teaching and all the classes to
3 see what I could pull together. And by the time I got
4 home, I had the first semester's curriculum laid out
5 as to things I was already up to speed on and things
6 that would be appropriate to start with.

7 Q Did you discuss this then with the steering committee?

8 A No, I didn't. Actually, I was a little afraid to
9 because I was afraid they might veto it and think that
10 we shouldn't be starting it so early. I knew God had
11 called me to do it and I had the authority to do it,
12 so what I really did is I got up and just announced it
13 to the church, we're starting a Bible College.

14 Q What kind of reaction did you get when you made that
15 announcement?

16 A Well, everybody clapped and was for it. But Cal
17 Freden told me later, he said, Don, that's the best
18 thing we ever did but I admit I would have vetoed it
19 if you would have brought it before the committee to
20 ask our opinions, not veto it but, I would have voted
21 against it because I didn't think we could get one
22 started at that time. I thought we were moving too
23 fast.

24 Q So, the new facility contained both the church
25 facility and the place for this Bible College?

1 A Yes. Actually, we didn't design it for the Bible
2 College, but I made a phone call coming on the way up.
3 I stopped and said, "You know those two big rooms that
4 we have a big accordion door between the two?" I
5 said, "Leave the accordion out, we're going to have a
6 Bible College. That's going to be the Bible College
7 room."

8 Q Do you remember when it was that you first moved into
9 the facility? Did you have a ground breaking
10 ceremony?

11 A No, we didn't have that, no.

12 Q Do you remember when it was?

1 semester students.

2 Q Do you remember how big the second class was, the
3 class that started in the fall of 1970?

4 A Ninety-six students.

5 Q So, that was more than double the class size that you
6 had before?

7 A Yes.

8 Q In years following, did the Bible College continue to
9 grow?

10 A Yes.

11 Q How big did the Bible College ultimately extend to in
12 terms of the number of students?

13 A I remember the next year we had 196. It kept doubling
14 for a while, 196 then about 396, something like that,
15 and about 600 and it grew to just over a thousand
16 including part-time students.

17 Q Beyond the Bible College and turning again back to the
18 earlier part of the church in 1969, 1970, early 70's,
19 did there come a time when the church expanded the
20 schooling services that the church offered and start
21 another kind of school?

22 A We started the Christian School.

23 Q What age group of persons?

24 A Kindergarten, K4 and K5, and first grade through 12.

25 Q How many students was that when you first started?

- 12
- 1 A I can't remember how many when we first started. It
2 grew to just over 600, 650 maybe.
- 3 Q Was it an accredited school?
- 4 A Yes.
- 5 Q Was it respected as a grade school and high school
6 academically, I mean?
- 7 A Yes. We had some of the highest stat scores in the
8 state. We worked very diligently to make it a top
9 level school in curriculum and teaching and
10 particularly in the essentials of education.
- 11 Q Now, the children in the Christian School, were these
12 primarily the children of church members or were they
13 other children as well?
- 14 A They were primarily, not exclusively, of church
15 members. ,
- 16 Q What about in the Bible College? Where did you draw
17 on your student body in the Bible College?
- 18 A Well, actually, our statistics showed us we had
19 students from over 300 universities, colleges, and
20 Bible colleges attending our school.
- 21 Q All from this country?
- 22 A We had foreign students from Switzerland, Greece,
23 Egypt, Sweden, the Philippines, Taiwan, Canada.
24 That's all I can remember at the moment.
- 25 Q In addition to the Christian School and --

1 A Also from Africa, Angola.

2 Q In addition to the Christian School, the Bible
3 College, did the Community Chapel come to offer other
4 ministries and services?

5 A Yes.

6 Q Can you describe some of those?

7 A Well, we had a prison ministry, jail ministry.

8 Q What was a prison ministry like? What was involved in
9 that?

10 A A team of half a dozen or so men, or women for the
11 women's ministry, would go to prisons and would preach
12 the gospel to them and pray for them and to get men
13 and women to repent and become saved and some of them
14 did. And some even came to our church after they got
15 out of jail.

16 Q You mentioned some other ministries. Go ahead and
17 tell us what some of those were.

18 A Well, we had a Master's of Ministries program. Our
19 college offered a Bachelor of Theology and a Master of
20 Theology program. But, in addition, the Master of
21 Ministries is one in which a person would take and
22 they would get involved a little bit in this ministry,
23 a little bit in that ministry, and a little bit in
24 another ministry until they had practical experience
25 in many ministries so that when they went out to the

1 field they would have ministries in the hospital
2 ministry, the jail ministry, and we had deliverance
3 ministries.

4 Q What's a deliverance ministry?

5 A Praying for people to get delivered from demonic
6 spirits that were troubling them.

7 Q The hospital ministry I assume would be visiting
8 people in the hospital?

9 A For comfort and we had a healing ministries and we had
10 out-reach ministries where we had motor homes we
11 purchased that people went all over the United States
12 to different churches and ministering to these
13 churches and on television and radio and parks and
14 they were well received everywhere and asked back.

15 Q Did the church at some point obtain a piece of
16 property of some camp or a lodge somewhere?

17 A We had a lodge up at Wenatchee.

18 Q Is that on Lake Wenatchee?

19 A Yes.

20 Q You mentioned that Pastor Gunn is a pastor of a
21 satellite church in Chippewa Falls, Wisconsin.

22 A Yes.

23 Q Tell me about the satellite churches.

24 A Well, we had satellite churches and fellowships both.
25 I'm not certain of the exact number of satellites and

12
13
1 fellowships but we had, I think if my memory serves me
2 correctly, we had 18 satellite churches plus a number
3 of fellowships that were in the process of becoming
4 satellite churches.

5 Q Now, you described the expansion of the ministries,
6 the various ministries of the Community Chapel, and I
7 take it that occurred over some period of time from
8 when you started in 1967. What was the period of time
9 from then until when these ministries continued to
10 expand?

11 A I don't understand the question.

12 Q Over what period of time did the expansion of
13 ministries -- You indicated there were a number of
14 ministries, did that continued to expand over time?

15 A Yes, we continued adding more and more ministries.
16 There were a great many more ministries than I told
17 you. We had four full-time evangelists, Answer Stand
18 ministries.

19 Q What is an Answer Stand?

20 A Well, we put out the Answer Man, as we call it, booths
21 in schools, the mall, up in North Seattle, Green Lake,
22 various places. People come by and ask Bible
23 questions and spiritual questions and so forth.

24 Q As things grew and you started a children's school and
25 the college expanded and you started some of these

1 other ministries, was the church building that you
2 built and moved into in 1969 big enough to hold all
3 these things?

4 A No.

5 Q Did you have to expand it from time to time?

6 A We had a building program every single year until we
7 moved into the West Campus in about 1980.

8 Q Now, the West Campus, I take it we have heard you talk
9 about the East Campus and the West Campus. I take it
10 the building that you started that you built and moved
11 into in 1969 that was the beginning the East Campus?

12 A Yes.

13 Q Now, tell us a little bit about the West Campus. When
14 did you move into the West Campus?

15 A About 1980,, I think.

16 Q So, about 10 or 11 years later?

17 A Yes.

18 Q How big a piece of property was the West Campus built
19 on?

20 A Forty-four acres.

21 Q Whereabouts was it located?

22 A Kind of across the street and diagonal of the other
23 property.

24 Q So, fairly close to the East Campus?

25 A Yes.

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1 Q Describe, if you can, the building that you built on
2 that when you first moved into it in 1980 or whatever
3 it was, the West Campus.

4 A We built a sanctuary, educational unit which was two
5 stories that had a lot of rooms for the Christian
6 School and Sunday School and offices and we had a
7 Christian School building, two story with a gymnasium
8 and we had dormitories, very nice dormitories for 96
9 students.

10 Q For the Bible College?

11 A Yes.

12 Q Now, when you moved into the West Campus, did you
13 retain the East Campus?

14 A Yes.

15 Q So, you used both campuses for these various
16 ministries that you described.

17 A Yes.

18 Q I think you mentioned something about a counseling
19 ministry. Can you describe what counseling is in
20 Community Chapel?

21 A Well, people that needed counseling, spiritually and
22 in their marriages and interpersonal relationships,
23 financial counseling, any kind of counseling, at first
24 the pastor was the only counselor.

25 Q That was you?

1 A Yes. And then after a while the elders and typically
2 the wives were beginning also counseling and then it
3 grew to a place where we hired George Alberts as
4 full-time counselor and began to get more and more
5 volunteers which we needed as the congregation grew
6 and we put all the volunteers and counselors under
7 George Alberts. And eventually we got to the place
8 where we decided it was in our best interests to make
9 a Counseling Center and put all of the counseling
10 under one roof so we would have a unity so everybody
11 was following the same procedures.

12 Q When was that that the church made this decision that
13 you're describing now, do you remember?

14 A I think, I can't remember the exact year, 1986, '87,
15 5, 6, 7, someplace.

16 Q You mentioned that in 1969 you built this new church
17 and started the Bible College. I'd like you to direct
18 your attention to Exhibit No. 5.

19 A Um-hmm (Affirmative).

20 Q Can you tell me what those are, what Exhibit No. 5 is?

21 A Articles of Faith and Bylaws, October 18, 1967,
22 revised December 9, 1969.

23 Q Do you remember why you passed these bylaws?

24 A I'm not quite sure what you're getting at. Any time
25 there was -- As we grew and our ministries enlarged

14
1 voting.

2 Q Okay. Now, that also had been in the previous set of
3 bylaws; is that correct?

4 A Yes.

5 Q But paragraph 3 refers to future pastors and not to
6 yourself. Was that your understanding when you
7 adopted these bylaws?

8 A Yes.

9 Q Look at page 13. Can you indicate, these signatures
10 aren't the best, but can you tell me who it is that
11 signed these bylaws?

12 A Jack Hicks, Calvin Freden, Scott Hartley, and Donald
13 Barnett.

14 Q So, Jack Hicks now it's indicated was a member of the
15 steering committee.

16 A Yes.

17 Q And I take it Mr. Bullinger who had been a member was
18 now no longer a member.

19 A Yes, he transferred to Olympia in his legal services.

20 Q Now, I see following that page a couple of additional
21 pages. Can you tell me what those two pages are? Are
22 those just extras?

23 A These are amendments to the bylaws. The first one is
24 an amendment of August 29. The next one is a
25 supplement to the bylaws.

14

1 Q Okay. Now, I'd like to direct your attention, if you
2 would, to Exhibit No. 6. Would you tell Judge
3 Deierlein what is Exhibit No. 6?

4 A These are Articles of Faith and Bylaws. This
5 particular one is in relation to December 16, 1974.

6 Q It appears that the bylaws, the format of these bylaws
7 is different than the two earlier versions in that it
8 sets out a table of contents on the first page, refers
9 to a number of different divisions and so forth. What
10 was the reason for changing the format, if you recall?

11 A Well, this was in September -- No, this was --
12 Q December of 1984. Had the church grown a lot by this
13 point in time?

14 A Yes, it was always growing.

15 Q And I can tell that it appears --

16 A I can see one, that September the 9th was after we

14
1 bylaws.

2 A Yes, we might have added the Publication Department
3 since then. I'm not sure. If not, we may have
4 expanded the parameters that we did.

5 Q Don, I'd like to direct your attention to a page in
6 Exhibit No. 6 that is page C3 p.5 in the upper
7 right-hand corner. Do you see that? I think it means
8 page 5. It begins with Division Roman I, Section
9 Roman III and the word "continued".

10 A Yes, I see it.

11 Q Would you look down at Article Nine and read that in
12 its entirety, if you would.

13 A The steering committee shall not meet to discuss
14 problems or make decisions without the presence or
15 permission of the chairman and a minimum of all
16 steering committee members save one. If the vote is
17 such that the missing member's vote might have an
18 impact upon the outcome of the decision, no decision
19 shall be made until that person's vote is in, except
20 in emergency matters, which shall be judged to be so
21 by all present. This regulation shall apply to the
22 chairman even if he is on extended leave. In such
23 cases, action without him can only be made if
24 reasonable effort to contact him fails and it is
25 judged to be an emergency situation by all present.

15

1 Even so, the committee shall not make any decision
2 contrary to whatever believes the pastor's decision
3 would be, if the case is such as to require his
4 concurrence. In such a case, Russ Barnett, that's my
5 father, shall be requested to act as provisional
6 chairman, if available. After the pastor returns or
7 contact is made with him, he shall have the power to
8 overturn the ruling subject to other conditions of the
9 bylaws. If more than one member is missing, a full
10 complement shall be made up by the chairman (or in his
11 absence, the committee appointing elders to be
12 substitutes for that meeting only.)

13 Q Now, Don, this provision I don't think existed at the
14 two previous versions of the bylaws. My question is
15 can you tell me if you recall when this provision was
16 added were these bylaws discussed with all of the
17 members of the steering committee?

18 A Yes.

19 Q I'd like you to turn, if you would, to the very last
20 page of the bylaws of Exhibit No. 6 and ask you who
21 are the persons who have signed the bylaws. Again,
22 some of the signatures aren't completely legible.

23 A Jack Hicks, Calvin Freden, Scott Hartley. And Donald
24 Lee Barnett.

25

(Luncheon break taken.)

1 THE COURT: I think we're ready to proceed.
2 Q Pastor Barnett, we were talking about Exhibit No. 6,
3 the 1974 bylaws.

4 (Off-the-record discussion.)

5 Q Do you have Exhibit 6 in front of you?

6 A Yes.

7 Q I'd like you to turn to what is page 4 and you can
8 only see that partially in the upper right-hand corner
9 but it's the fourth page in and direct your attention
10 specifically to Article VI, Paragraph F. Would you
11 please read that?

12 A The original pastor shall not be subject to removal
13 from the steering committee nor from the position of
14 chairman of the steering committee.

15 Q I'd like to direct your attention back to page 9, if I
16 could, Section B, Change of Pastors. Would you please
17 read paragraph 2.

18 A The pastor, having established the original church by
19 the direction of God and with support of the
20 congregation, shall have oversight of same until the
21 pastor agrees to change. He shall have the authority
22 to take extended leave of absences as he feels led
23 without relinquishing the position of pastor. An
24 associate pastor, assistant pastor, or acting pastor
25 may stand in for him, subject to his oversight, and

1 relinquish the position and authority upon demand by
2 the pastor, if the pastor so wishes.

3 Q Would you also read paragraph, just below that, 3
4 sub-paragraph A.

5 A Future pastors may only be removed by both a minimum
6 two-thirds majority vote of the steering committee and
7 of the congregation. In such an event, the pastor
8 shall be invited to the meeting (called to decide --
9 this doesn't have all the words on it.

10 Q Decide removal?

11 A Decide removal and have an opportunity to address the
12 congregation for at least 30 minutes prior to the
13 voting.

14 Q And would you read paragraph 4 right below that.

15 A The pastor shall be included as ex officio spiritual
16 overseer and chairman of the steering committee.

17 Q Pastor Barnett, I'd like you to look at Exhibit No. 7.
18 Can you tell me what that is?

19 A Bylaws, September 1975.

20 Q And would you look at page 36. Tell me, do you
21 recognize those signatures?

22 A Yes.

23 Q Are those the same people that were on the steering
24 committee when the previous Exhibit No. 6 was
25 executed?

1 A Yes, the very same.

2 Q Okay. And it includes two of the Defendants in this
3 case, Jack Hicks and Scott Hartley?

4 A Yes.

5 Q Would you turn over one page to the page that
6 indicates current officers and major appointees of the
7 corporation, Community Chapel and Bible Training
8 Center. My question to you is would you read off the
9 positions that you, Donald Lee Barnett, held when
10 these bylaws were passed in September of 1985.

11 A Steering committee, Donald Lee Barnett, chairman,
12 steering committee says underneath it (Board of
13 Directors); president, Donald Lee Barnett; general
14 manager, Donald Lee Barnett; pastor, Donald Lee
15 Barnett; steering committee chairman Donald Lee
16 Barnett; elder, Donald Lee Barnett; check signer,
17 Donald Lee Barnett; director of Publications, Donald
18 Lee Barnett; college president and administrator,
19 Donald Lee Barnett; director of the Christian schools,
20 Donald Lee Barnett.

21 Q When you were named to all of these various positions
22 you've just read, were Mr. Hicks and Mr. Hartley part
23 of the meetings or the decision-making process that
24 made you or that gave you those positions that you've
25 referred to?

1 A Yes.

2 Q I'd like to ask you to take a look at the next
3 exhibit, Exhibit No. 8, and identify that, if you
4 would.

5 A Articles of Faith and Bylaws. Under present revision
6 it doesn't have a date. I see it here in the index to
7 bylaws, June 1978.

8 Q Now, Pastor Barnett, would you turn to page 43 and
9 indicate the names of the people that signed Exhibit
10 No. 8.

11 A Jack Hicks, Calvin Freden, Scott Hartley, Donald Lee
12 Barnett.

13 Q I'd like you to turn over to the next two pages and
14 just briefly indicate whether or not in the appendix
15 you were listed in essentially the same positions that
16 you read off in detail with respect to Exhibit No. 7.

17 A It appears to be as far as I can see just glancing,
18 exactly the same.

19 Q Would you turn to Exhibit No. 9 and indicate what
20 Exhibit No. 9 is?

21 A Articles of Faith and Bylaws, March 1980 revision.

22 Q I'd like you to turn to page 39, actually an
23 unnumbered page that follows page 38. At the top the
24 page is entitled "Ratification of Divisions One
25 through Five of the Articles of Faith and Bylaws of

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- 1 Community Chapel and Bible Training Center". Do you
2 see that page?
- 3 A Yes.
- 4 Q Are there signatures on that page?
- 5 A Yes.
- 6 Q Are they dated?
- 7 A Yes.
- 8 Q Would you read off who the signatures are?

- 1 correct?
- 2 A Yes.
- 3 Q Turn over one page, if you would, to the next page and
4 tell me what that is.
- 5 A Amendments to the Bylaws. It begins with a Specific
6 Management of the Corporation.
- 7 Q Does it have a date? Are the signatures dated on
8 there?
- 9 A There's two dates.
- 10 Q January of 1985 both dates, 25 and 26?
- 11 A Three senior elders signed it on 1/21/85 and I signed
12 it four days later on 1/25/85.
- 13 Q Would you turn over one sheet to the next page. Is
14 that an additional amendment to the bylaws?
- 15 A Yes, it is.,
- 16 Q Would you turn over one more page, apparently a
17 two-page document. What is that?
- 18 A Amendment to the Bylaws.
- 19 Q And looking at the second page of that, does it bear a
20 date or does the signature bear a date?
- 21 A Yes.
- 22 Q Who is the person that signed that?
- 23 A Donald Lee Barnett, Jack Hicks, Scott Hartley, and
24 Jack DuBois.
- 25 Q Now, the date of either signature is January 21, 1985.

1 On January 21, 1985 were Jack Hicks, Scott Hartley,
2 and Jack DuBois and yourself, did the four of you make
3 up the Senior Elder Board?

4 A Yes.

5 Q Were there any other members of the Senior Elder
6 Board?

7 A No.

8 Q Were you the chairman of the Senior Elder Board?

9 A Yes.

10 Q I'd like you to turn back to the preceding page, the
11 first page of that amendment, the last amendment to
12 Exhibit 9, and ask you to read under "New Wording",
13 paragraph 1E.

14 A Notify the individual that either he is put out of the
15 church with, the concurrence of the pastor or his
16 designee or else that a recommendation is being sent
17 to the pastor or his designee to the effect that he be
18 put out of the church and therefore that he will not
19 have fellowship with the church.

20 Q And what does that paragraph refer to? What sort, if
21 you can look up at the top under the words Article II,
22 can you indicate what the paragraph 1E is talking
23 about?

24 A Procedures regarding an individual being put out of
25 the church or disfellowshipped.

1 Q Will you read paragraph 1F right below that paragraph.

2 A Explain to the individual that he has a right to
3 appeal the expulsion to a board of two or more senior
4 elders (in addition to the counselor, if he is also a
5 senior elder), as determined by the pastor or his
6 designee.

7 Q Looking at the old wording set out above, it appears
8 that the change in this amendment adds the words "or
9 his designee" to what previously had been a power
10 reserved specifically to you. Is that the effect of
11 this amendment?

12 A Yes.

13 Q Do you remember what, this was 1985, do you remember
14 what sorts of things were happening in 1985 or what
15 your workload was or what other reasons there were for
16 giving to you the power to delegate some of your
17 authority?

18 A Well, I think the workload increased and the
19 counseling load increased enough that I felt it
20 prudent and necessary to extend myself a bit by having
21 a senior elder Jack Hicks ratify disfellowshipping.

22 Q Okay. Now, would you look beyond that to the next
23 document following, not the next exhibit but the next
24 two pages, the next several pages entitled Amendment
25 to the Bylaws of Community Chapel, Division 2, Section

1 1, Government of the Church. Do you see what I'm
2 referring to?

3 A Yes.

4 MR. ROHAN: What page is that, counsel?

5 MR. JOHNSON: It's the next document
6 following the Amendment to the Bylaws to this exhibit
7 that follows the amendment we were just speaking about
8 with regards to disfellowship.

9 MR. ROHAN: It's one entitled "Government of
10 the Church"?

11 MR. JOHNSON: The one that's Division 2,
12 Section 1, "Government of the Church". Do you see
13 that, Your Honor?

14 Q (By Mr. Johnson) Is that also an Amendment to the
15 Bylaws?

16 A Yes.

17 Q If you will look at the very next three-page document
18 following that, my question is is that also an
19 Amendment to the Bylaws?

20 A Yes.

21 Q Are there two more Amendments to the Bylaws also as
22 part of Exhibit No. 9?

23 A Yes.

24 Q And all of those amendments were signed by you, Mr.
25 Hicks, Mr. Hartley, and Mr. DuBois; is that correct?

17 1 A And Scott Hartley.

2 Q Yes. Now, finally, I would like you to direct your
3 attention to Exhibit No. 10 and ask that you identify
4 that. And you may need to turn several pages in
5 because it has a fairly lengthy index.

6 A Articles of Faith and Bylaws, January 1986.

7 Q Would you please turn to page 3. Would you please
8 read Article IV which appears at the bottom of page 3
9 and at the top of page 4.

10 A As of this January 1986 revision of these bylaws,
11 Donald Lee Barnett holds the following offices within
12 the corporation: A, Chairman of the Board of Senior
13 Elders (the president of the corporation). B, the
14 pastor of the corporation church. C, the President of
15 Community Chapel Bible College. D, the Chief
16 Executive Officer of Community Chapel Christian
17 School. E, the chief executive officer of Community
18 Chapel Communications.

19 MR. JOHNSON: Your Honor, do you need to
20 have me leave that there a little longer? If I take
21 one of these exhibits down before you are done making
22 notes or whatever, please tell me.

23 THE COURT: I'm following here.

24 MR. JOHNSON: Please interrupt and say
25 something.

- 1 Q (By Mr. Johnson) Pastor Barnett, I would like you to
2 look at page 4, Section 2, Article IIA and B and I ask
3 that you read that.
- 4 A Could you give me the reference again, please.
- 5 Q Yes, I would. It's Section 2, it's on page 4. I'm
6 sorry, Section Roman IV, entitled "Specific Management
7 of the Corporation" on page 4.
- 8 A Okay.
- 9 Q Article 2, Paragraphs A and B.
- 10 A The Board of Senior Elders shall have one chairman.
11 A, The chairman of the Board of Senior Elders shall
12 always be one and the same person as the president of
13 the corporation and the chairman of the board of
14 directors. These three titles shall be interpreted to
15 be synonymous. B, The original chairman of the Board
16 of Senior Elders is Donald Lee Barnett who cannot be
17 removed from office while living.
- 18 Q Now, would you turn the page at the very top of the
19 next page under Section Roman IV, Article 3, would you
20 read that, Article 3 and Article 4.
- 21 A Additional members of the Board of Senior Elders may
22 be appointed by the Board of Senior Elders from among
23 the elders of the corporation church by the
24 affirmative vote of the pastor and at least all other
25 Board of Senior Elder members, save one. Article 4.

18 1 The pastor of the corporation church shall
2 automatically be a member of the Board of Senior
3 Elders.

4 Q Pastor Barnett, you must remember, between you and
5 Judge Deierlein is this hot air blowing machine that's
6 making a little noise, so please keep your voice up.

7 A Okay, thank you.

8 Q Now, when you turn further down page 5 under Article
9 5F, will you read Article 5F.

10 A The original pastor shall not be subject to removal
11 from the position of chairman of the Board of Senior
12 Elders.

13 Q Now, on the next page under Section Roman IV, Article
14 6, Paragraph I, would you please read that.

15 A Exercising jurisdiction in any additional matter for
16 which the Board of Senior Elders feels responsible
17 (subject to the concurrence of the original chairman
18 of the Board of Senior Elders if he is still
19 presiding).

20 Q Now, if you would turn to page 6 under Section Roman
21 IV. Do you have page 6, Don, in the middle of the
22 page where it says Article 7?

23 A Yes.

24 Q Would you read that.

25 A This article applies only if the pastor of the

18 1 corporation church and the chairman of the Board of
2 Senior Elders are one and the same person: The Board
3 of Senior Elders shall not meet to discuss problems or
4 make decisions without the presence or permission of
5 the chairman and a minimum of all members of the Board
6 of Senior Elders, save one, except to consider the
7 chairman's salary. If the vote is such that any
8 missing member's vote might have an impact upon the
9 outcome of the decision, no decision shall be made
10 until that member's vote is in, except in emergency
11 matters, which shall be judged to be so by all
12 present. This regulation shall apply even if the
13 chairman is on extended leave. In such cases, action
14 without him can only be made if reasonable effort to
15 contact him, fails and if it is judged to be an
16 emergency by all present. Even so, the board shall
17 not make any decisions contrary to what it believes
18 the chairman's decision would be, if the case is such
19 as to require his concurrence. In such a case, the
20 vice president of the corporation shall be requested
21 to act as provisional chairman. After the chairman
22 return, or once contact is made with him, he shall
23 have the power to overturn the ruling, subject to the
24 other conditions of these bylaws. See also Section 6,
25 Article 3 below.

18
1 Q Pastor Barnett, Article 7 indicates that that article
2 applies only if the pastor of the corporation church
3 and the chairman of the Board of Senior Elders are one
4 in the same person. My question is were you when this
5 1986 version of the bylaws was adopted both the pastor
6 of the corporation church and the chairman of the
7 senior elders?

8 A I was.

9 Q How often, if at all, was there an occasion where it
10 was required that the senior elders hold a meeting
11 where you weren't present?

12 A I only recall one time in our history where that
13 happened.

14 Q Where it was necessary to have a meeting of the senior
15 elders and you were not present?

16 A Yes.

17 Q Do you remember off the top of your head when that
18 was?

19 A I don't remember the date. I don't remember what
20 happened but I do know that this was not a case when I
21 was gone and they needed to do something without me,
22 it was anticipated that I was going to be gone and I
23 made arrangement for someone to take my place in a
24 meeting when I was gone.

25 Q Okay. If you would turn now to page 7, Section Roman

18 1 IV on Article 11. Do you see where I'm referring,
2 Pastor Barnett, Article 11?

3 A Yes.

4 Q Could you read that please.

5 A The Board of Senior Elders shall have no power to
6 infringe upon the pastoral rights and authority listed
7 in these bylaws.

8 THE COURT: That's on what page?

9 MR. JOHNSON: That's on Page 7, Your Honor,
10 about a third of the way down under Article 11.

11 Q (By Mr. Johnson) Also on the same page there's
12 Section Roman V, Article 2. Would you please read
13 that.

14 A The original president of the corporation is Donald
15 Lee Barnett, who cannot be removed from office while
16 living.

17 Q That's Article 2. I'd like to you to read Article 3
18 right below that.

19 A The president of the corporation shall have the
20 authority to make any interpretation of these bylaws
21 or necessary on-the-spot decisions, arbitrations,
22 regulations, et cetera, regarding areas not covered by
23 these bylaws. The Board of Senior Elders shall have
24 the power to overturn decisions made by the president
25 of the corporation, except the original president of

1 the corporation, regarding his decisions about
2 interpretation of these bylaws and areas not covered
3 by these bylaws. Such a decision to overturn must be
4 by a unanimous vote of all members of the Board of
5 Senior Elders except the chairman.

6 Q Now, you were the original president of the
7 corporation; is that correct?

8 A That's correct.

9 Q So, this provision would not give anyone the power to
10 overturn your decision with regard to interpretation
11 of the bylaws.

12 A That's correct.

13 Q I'd like you to look at Article 4 directly below that.
14 Please read it.

15 A Election of, the president of the corporation: Except
16 for the original president of the corporation, the
17 Board of Senior Elders shall choose all future
18 presidents of the corporation from among its own
19 membership by a simple majority vote. In the event of
20 an evenly split vote, the vote of the pastor of the
21 corporation church shall decide the issue.

22 Q And directly below that, would you please read Article
23 5.

24 A Removal of the president of the corporation: Except
25 for the original president of the corporation, the

1 president of the corporation may be removed from
2 office by a two-thirds majority vote of the Board of
3 Senior Elders.

4 Q Now, you were the original president of the
5 corporation; is that correct?

6 A Yes.

7 Q So, that would not apply to you; is that correct?

8 A That's correct.

9 Q Would you please turn now to page 13 and I direct your
10 attention to Section Roman XI, Article 1.

11 A A minimum three-fourths majority affirmative vote of
12 the Board of Senior Elders and the original pastor's
13 concurrence, if still presiding, is necessary to amend
14 any of the bylaws stated in this document.

15 Q Now, would you turn to page 16, directing your
16 attention to Division 2, Section 1, Article 1 at
17 Paragraph A1.

18 A The original pastor is Donald Lee Barnett.

19 Q And A2, why don't you read paragraphs A2 through A7.

20 A The pastor shall be recognized as the spiritual
21 overseer of the church, ordained and appointed of God
22 for the ministry and to shepherd the flock of
23 Community Chapel and Bible Training Center. In this
24 capacity he shall be the chief elder and chairman of
25 the Board of Senior Elders. No. 3. The pastor shall

1 be officially in charge of all services of the church,
2 whether or not they were held on the church grounds
3 and whether or not he is present at the meetings. No.
4 4. The pastor shall have the prerogative to minister
5 and lead the services as he feels the Holy Spirit
6 shall lead him. No. 5. The pastor shall have
7 authority to question and advise any and all members
8 of the church, including its governing bodies, as he
9 feels led. No. 6. The pastor shall have the
10 authority to appoint, instruct, oversee, and remove
11 any and all Bible and Sunday School teachers in the
12 church. No. 7. The pastor shall appoint, oversee,
13 and remove associates and assistants for spiritual
14 ministries at his discretion.

15 Q Pastor Barnett, I believe that you indicated prior to
16 going to Community Chapel, I think you told about an
17 incident at a West Seattle church that you attended
18 with regard to a music minister or music director
19 there.

20 A Yes.

21 Q My question to you is did that experience play any
22 part in your decision when these bvlaws were drafted

19 1 part in your including provisions such as those two?

2 A I'd say that incident and a number of others did, yes.

3 Q Pastor Barnett, I'd like to direct your attention now,
4 if I might, to directly below that, or correction, on
5 the next page, paragraph B2 midway down the next page
6 under "Change of Pastors". This is page 17.

7 A The original pastor, having established the original
8 church by the direction of God and with support of the
9 congregation shall have oversight of same until the
10 pastor agrees to change. He shall have the authority
11 to take extended leaves of absences as he feels led
12 without relinquishing the position of pastor. An
13 associate pastor, assistant pastor, or acting pastor
14 may stand in for him, subject to his oversight, and
15 relinquish the position and authority upon demand by
16 the pastor, if the pastor so wishes.

17 Q Was this provision similar to provisions in the
18 preceding sets of the bylaws?

19 A It appears to be identical.

20 Q I'd ask you to turn your attention just below that to
21 paragraph B3. Would you please read B3 and B4.

22 A Future pastors may only be removed by both a minimum
23 two-thirds majority vote of the Board of Senior Elders
24 and a simple majority vote of the congregation. A.
25 In such an event, the pastor shall be invited to the

20

1 meeting (called to decide removal) and have an
2 opportunity to address the congregation for at least
3 30 minutes prior to the voting. B. In such an event,
4 the chairman of the Deacon Board shall sit in for the
5 pastor as temporary chairman of the Board of Senior
6 Elders. No. 4. The pastor shall be included as an ex
7 officio member of the Board of Senior Elders.

8 Q I'd like you to look at the top of page 18 under
9 Paragraph C entitled "The New Pastor". Could you read
10 C1.

11 A A pastor subsequent to the original pastor differs in
12 authority from the original pastor in that: A, He may
13 be removed from office by a two-thirds majority vote
14 of the Board of Senior Elders and a simple majority
15 vote of the congregation. The pastor shall have no
16 vote in the case. B. On regular business, his
17 position as a member of the Board of Senior Elders
18 gives his vote no special weight.

19 Q Now, would you turn please to page 21. I direct your
20 attention to Section Roman II, Article 2, Paragraph A.

21 A Senior elders. Oh, this is describing senior elders,
22 ministerial elders, and department elders. Ordained
23 elders who collectively are responsible to be the
24 governing body of the corporation, under the pastor.
25 Senior elders are members of the Board of Senior

1 Elders. See also Division 1, Section 4 above.

2 Q Now, where it says the words "under the pastor" and
3 this is 1986, can you indicate who was the pastor that
4 the ordained elders and the senior elders were under?

5 A Myself, Donald Lee Barnett.

6 Q Would you please turn to page 27. I direct your
7 attention to Section Roman VI. It's under Article 2
8 Paragraph E1 and please read A through F, if you
9 would.

10 A I haven't found the place.

11 Q We're at page 27, Article 2.

12 A I don't see Article 2.

13 Q Well, it's at the top there, Paragraph E and read E1,
14 A through F.

15 A E. We believe that the church government must act
16 promptly yet fairly when considering the matter of an
17 individual being put out of the church or
18 disfellowshipped. To ensure that no one is unfairly
19 treated, our policy is as follows: 1, Standard
20 Procedures. Counselors shall: A, inform the
21 individual that he may be put out of the church if he
22 does not repent and mend his ways. B, allow the
23 individual to repent and mend his ways. C, fully
24 explain the charges against the individual, allowing
25 him to ask questions and to make his defense. D,

1 fully explain to the individual what is expected of
2 him. E, notify the individual that either he is put
3 out of the church with the concurrence of the pastor
4 or his designee, or else that a recommendation is
5 being sent to the pastor or designee to the effect
6 that he be put out of the church and therefore that he
7 will not have fellowship with the church. F, explain
8 to the individual that he has a right to appeal the
9 expulsion to a board of two or more senior elders in
10 (addition to the counselor), If he is also a senior
11 elder as determined by the pastor or his designee.

12 That's one. Did you ask for two?

13 Q No. I'd like you to direct your attention down below
14 that to Paragraph 3. Would you please read that, 3
15 and 4 both.,

16 A Regardless of the reason why a person is put out of
17 the church, he always has the right to appeal. 4, the
18 counselor shall always seek the concurrence of the
19 pastor or his designee in putting someone out of the
20 church; or, in emergency or aggravated matters, the
21 pastor or his designee shall be notified as soon as is
22 reasonably possible.

23 Q Now, when it refers to the counselor shall always seek
24 the concurrence of the pastor in this provision
25 regarding disfellowship, who is the pastor that it is

20

1 referring to?

2 A Myself, Donald Lee Barnett.

3 Q Pastor Barnett, I'd like you to direct your attention
4 to page 34, specifically Division 3, Section Roman II,
5 Article 5 which appears a third of the way down the
6 page.

7 A Article 5. The original pastor, Donald Lee Barnett,
8 shall serve as chief executive officer of Community
9 Chapel Communications as long as he is the pastor of
10 the corporation church.

11 Q Now, Pastor Barnett, would you please look at page 37
12 and I direct your attention to Division 4, Section
13 Roman II, Article 8 and ask that you read that,
14 please.

15 A As long as Donald Lee Barnett is pastor of Community
16 Chapel and Bible Training Center, he shall be the
17 president and chief administrator of Community Chapel
18 Bible College except as follows: A, if he deems it
19 necessary or in the event of poor health or leave of
20 absence, the president may appoint a temporary
21 administrator and/or vice president of Community
22 Chapel Bible College. In such case, Donald Lee
23 Barnett shall retain his position as president and
24 chief administrator of Community Chapel Bible College.
25 B, Donald Lee Barnett is not subject to being removed

1

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1 from the presidency of the Community Chapel Bible
2 College by any action of the corporation.

3 Q Now, Pastor Barnett, if you would turn to page 100

1 you see what I'm referring to?

2 A Yes.

3 Q Now, this has a date on it, does it not, underneath
4 that title?

5 A Yes.

6 Q What is the date?

7 A Revised 10/14/87.

8 Q On 10/14/87, were you the chairman of the Board of
9 Senior Elders?

10 A Yes.

11 Q And on March 4, 1988 were you the chairman of the
12 Board of Senior Elders?

13 A Yes.

14 Q Do the bylaws as set out in Exhibit 10 provide that
15 you may be removed by anyone?

16 A No.

17 Q I direct your attention below that. Were you the
18 president of the corporation on March 4, 1988?

19 A Yes.

20 Q Do the bylaws provide that you can be removed?

21 A No.

22 Q Do the bylaws specifically forbid that you be removed?

23 A Yes.

24 Q Under Division 2, are you listed as the pastor of the
25 Community Chapel and Bible Training Center church?

1 A Yes.

2 Q Do the bylaws, Exhibit No. 10, forbid your removal as
3 pastor?

4 A Yes.

5 Q Do the bylaws, Exhibit No. 10, that were in effect on
6 March 4, 1988 provide that pastors subsequent to you
7 may be removed but only once the Board of Senior
8 Elders has voted and once the congregation has voted?

9 A Yes.

10 Q Would you please turn the page. Were you at this time
11 also chief executive officer of the Community Chapel
12 Publications?

13 A Yes.

14 Q Does this exhibit, the bylaws in effect at that time,
15 forbid your, removal as executive office of the
16 Community Chapel Publications?

17 A Yes.

18 Q Is the same thing true with regard to your removal as
19 president of the Community Chapel Bible College?

20 A Yes.

21 Q This exhibit forbids on that date your removal?

22 A Yes.

23 Q Is the same thing true with regard to your position as
24 chief executive officer of the Community Chapel
25 Christian School?

1 A Yes.

2 Q Would you turn one more page please to a document
3 entitled Amendment to the Bylaws. I direct your
4 attention to the bottom of that page and ask if there
5 are four signatures there and who the signatures are.

6 A Donald Lee Barnett, Jack Hicks, Scott Hartley, and
7 Jack DuBois.

8 Q And one more page over please, the final page of
9 Exhibit No. 10. Is this also an Amendment to the
10 Bylaws?

11 A Yes.

12 Q And all four of you have signed that as well?

13 A Yes.

14 Q Pastor Barnett, I would like to drop back in time from
15 1986 and the bylaws in effect then to the year 1979.
16 Did there come a time in 1979 where the government of
17 Community Chapel and the congregation of Community
18 Chapel decided to become a non-member nonprofit
19 corporation?

20 A Yes.

21 Q I direct your attention, Pastor Barnett, to Exhibit
22 No. 2 in your exhibit book in front of you. Is this
23 the Articles of Amendment that accomplishes that
24 change in your bylaws from a member corporation
25 nonprofit corporation to a non-member nonprofit

1 corporation?

2 A Yes, it is.

3 Q That was adopted it indicates after a meeting of the
4 congregation. Do you recall that meeting?

5 A Yes.

6 Q Was it well attended?

7 A It was attended by all members of the Senior Elder
8 Board.

9 Q Was there a meeting of congregation as well or do you
10 recall? I direct your attention to Paragraph 3.

11 A I'm quite sure that...

12 Q Do you remember?

13 A Well, I feel positive that there wasn't. Well, wait a
14 minutes now, let me think. I don't know why we would
15 possibly include the members. They didn't vote on
16 these things. The Board of Senior Elders voted on
17 these things, but sometimes we could elect to have
18 members also agree and ratify it. We did that once
19 with deacons even though it wasn't a legally necessary
20 thing, so I'm not positive about this.

21 Q Pastor Barnett, would you look at Exhibit No. 3, the
22 next exhibit in your book. Would you indicate what
23 that is?

24 A Articles of Amendments.

25 Q And would you look at the upper right-hand corner of

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1 the first sheet and indicate what date appears there

2 A November 17, 1981.

3 Q And that's the Secretary of State's stamp?

4 A Yes.

5 Q I direct your attention to page 3 and ask that you
6 read Article IV, Section 1, Section 2, and Section 3

7 A That's J, Section 1, 2, and 3?

8 Q I'm sorry, yes, Paragraph J, Article Roman VI, Section
9 1.

10 A That Article VI henceforth reads as follows: Article
11 VI, Amendment to Bylaws. Section 1. Amendments to
12 these Articles of Incorporation shall be made by
13 three-fourths majority vote of the Board of Senior
14 Elders and the original pastor's concurrence if he's
15 still presiding. Section 2. The bylaws shall be the
16 governing law for the internal affairs of this
17 corporation to the extent that they were not
18 inconsistent with these Articles of Incorporation.
19 Section 3. The bylaws of the corporation may be
20 amended by a three-fourths affirmative vote of the
21 Board of Senior Elders and the original pastor's
22 concurrence if he is still presiding.

23 Q Now, Pastor Barnett, and this is important, what you

1 affirmative vote of the Board of Senior Elders and the
2 original pastor's concurrence if he is still
3 presiding. Were you the original pastor referred to
4 there?

5 A Yes.

6 Q And are these amendments here, do they reflect
7 provisions of the Articles of Incorporation of
8 Community Chapel and Bible Training Center as they
9 existed on March 4, 1988?

10 A Yes.

11 Q Now, Pastor Barnett, we have talked a great deal here
12 about papers and we'll let you set your exhibit book
13 back for the time being. I'd like you to tell us
14 about how the church has expanded in its ministries
15 and how it's grown in the number of people who have
16 attended and how we've talked about how the physical
17 plant expanded from a basement meeting to an East
18 Campus, expansion to the East Campus and then the 40
19 some acre West Campus with dormitories and a college.

20 We have talked about how the documents, the
21 bylaws and the governing documents became much more
22 complex over time and also the various ministries. My
23 question to you is during this period of time from the
24 early mid-70's say through the mid-80's were there
25 developments also in the spiritual growth of Community

2 1 Chapel?

2 A Yes.

3 Q Did there come a time when -- Well, let's back up for
4 a second. We read some provisions there with regard
5 to disfellowshipping. Is disfellowshipping a concept
6 that was new to Community Chapel or is it Biblical in
7 its origin?

8 A No, it's Biblical in its origin and it was not new.

9 Q When you first started the church, was there a
10 provision for disfellowshipment?

11 A I'm not sure what the bylaws said without looking at
12 them now but there was Biblical provision. And as
13 pastor I certainly had that right whether or not it
14 was written down anywhere or not.

15 Q When disfellowshipment first occurred in the Community
16 Chapel, who did it?

17 A I did.

18 Q Was there a period of time early in the church's
19 history where no one but you had anything to do with
20 disfellowshipping?

21 A Yes.

22 Q Did there come a point in time where you permitted
23 others to participate in that decision-making process?

24 A Well, they could recommend it but I always had to make
25 the final decision.

1 Q I believe one of the amendments we read ultimately you
2 gave, you delegated your authority -- Excuse me. One
3 of the amendments that we read seemed to give to you
4 the authority to delegate, the right to delegate that
5 authority to approve disfellowshipments.

6 A Yes, I did for a period of time to Jack Hicks.

7 Q Okay. Now, again back to the mid-70's. Your church
8 is growing and I'm wondering in the mid-70's, late
9 70's, early 80's did there come a time when your
10 church started to experience some changes spiritually
11 or theologically?

12 A Yes.

13 Q Can you describe some of these changes.

14 A Well, early in the 80's -- I might say that we've
15 always had a very wonderful spiritual environment and
16 revival spirit, but early in the 80's we began to meet
17 for weekly prayer retreats in which we would pray all
18 day long for a week, two or three times a year.

1 A They were held at various church campgrounds.

2 Q How many people from your church would go?

3 A Well, typically these campgrounds would only hold
4 about 250, so we would have say like if it was the
5 elders and their wives, it would be a smaller amount.
6 And we usually had the satellite church pastors and
7 their wives there too. We had various groups, over 50
8 group, deliverance meeting group, prayer meeting
9 groups, so typically we filled up the campground. And
10 so following one group that would go up there for a
11 week maybe another group would come in the next week
12 and another group come in the next week.

13 Q What would happen at these retreats? You indicated
14 you would pray essentially for a whole week?

15 A Yes.

16 Q What transpired as a result of these retreats?

17 A Well, there began to be what we called, for want of
18 any better word, spiritual healing. People began to
19 feel that the Lord was healing them inside from
20 perhaps roots of bitterness or various hurts, other
21 such things. Some people had visions.

22 Q What about yourself? Did you have any significant
23 sort of life changing experiences during any of these
24 retreats?

25 A Yes. I began to have many powerfully impacting

1 spiritual experiences including visions, and visions
2 in which I could see myself and feel myself acting in
3 the vision. I had an experience that was so
4 remarkable that few others have had it but some have
5 claimed the same and Apostle Paul did. I had an
6 experience where I in spirit, I'm not saying my spirit
7 left the body because the Bible says a spirit without
8 the body is dead, but my spirit had an experience in
9 the heavenly realm for two and a half hours. I came
10 back so impacted that it was a horrible feeling. I
11 came back saying shabby. I didn't like the
12 environment I was in.

13 Q What was horrible? When you say it was horrible, what
14 do you mean by that?

15 A The area about, we were having, a lot of people were
16 having wonderful spiritual experiences, but it was so
17 shabby compared to the heavenly realm experience I
18 had. Myself, everything seemed so carnal and poor
19 compared to where I had been. It took me actually 24
20 hours to get to a place where things here seemed
21 normal again and where the other seemed strange,
22 whereas when I first kind of came back as it were,
23 everything in that realm seemed normal and this realm
24 seemed very strange. It was very impacting. I
25 learned a great deal from this that has never left me.

3
1 Q Any other unusual experiences?

2 A Well, I began to dance under the spirit one time. The
3 power of the Lord came down on me and I danced and
4 danced in the spirit.

5 Q Where were you when this happened? Were you outside
6 somewhere?

7 A No, we were in a large room in an elder's meeting.

8 Q Were there others around?

9 A Yes, the elders and their wives.

10 Q Describe what happened.

11 A Well, we were worshipping on that particular occasion,
12 praising the Lord and the spirit of joy and ecstasy
13 came on me so much I just began to dance and praise
14 for the Lord.

15 Q How long did that last?

16 A Until I was well winded, I suppose about 20 minutes.

17 Q Did any of these experiences ever bring on a
18 compulsion to sing or anything like that?

19 A Well, there was a time when God moved very powerfully
20 upon the elders and their wives and they all began to
21 sing in other tongues various harmonious parts to the
22 same song, a song that none of them had ever learned.
23 And during that time, I was laying on the floor. I
24 was having a vision of what they were singing.

25 And when it was done, our music director who is

1 an excellent musician remarked that he couldn't have
2 trained that group to sing like that if he spent a
3 year doing it. And I asked them did you know what we
4 were singing about and they said, no, other than that
5 it just seemed to be a triumphal music. And I said,
6 well, I saw a vision of it during the entire time and
7 I related that vision to them. I have all these
8 things, all these events I have logged in a book of my
9 spiritual experiences and so forth.

10 Q You mentioned a fellow that was one of your original
11 steering committee, Keith Gunn, who then left and
12 became pastor I think of a church back in Wisconsin.

13 A Yes.

14 Q Did he ever come out here for any retreats? You
15 mentioned some satellite pastors did.

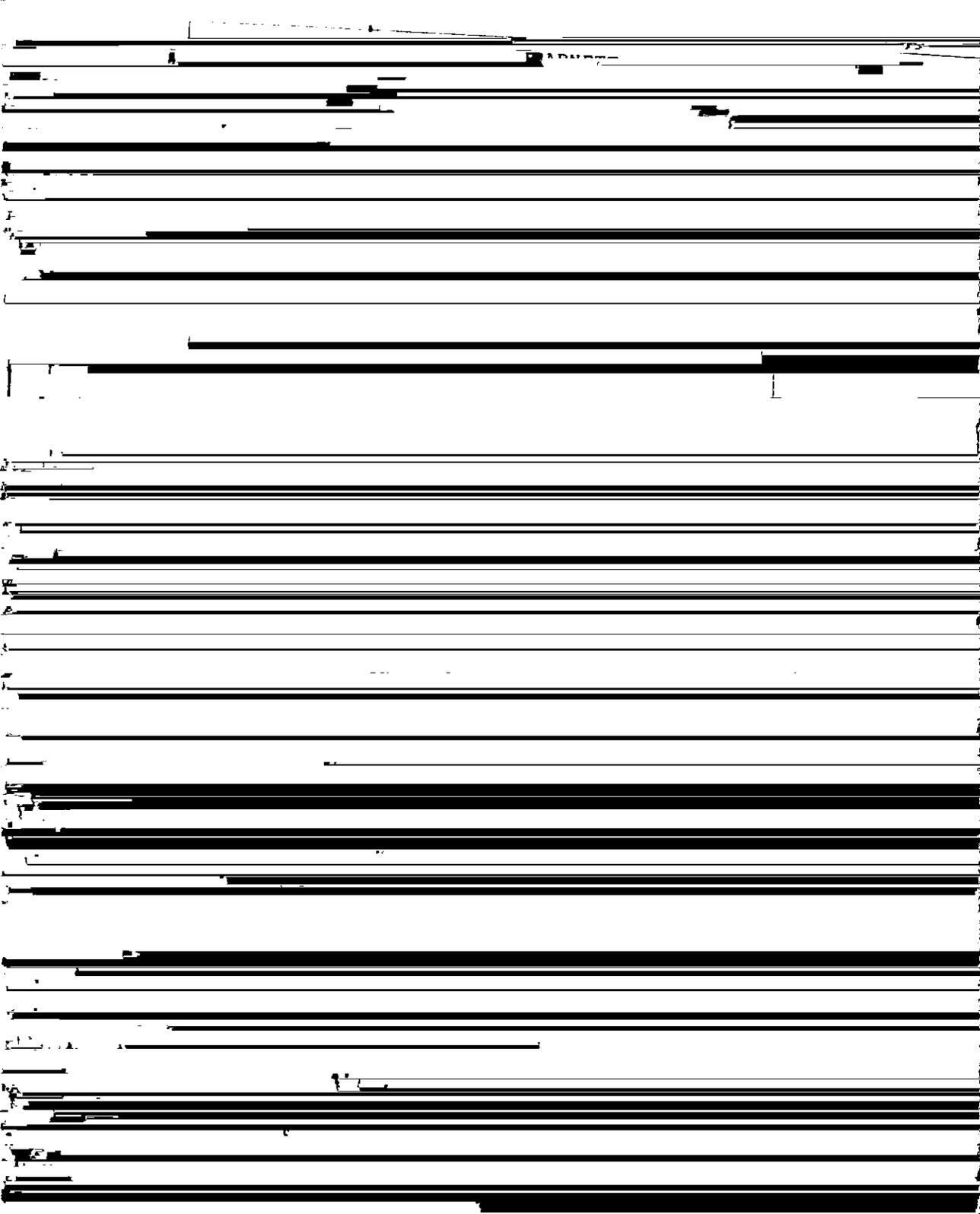
16 A Yes, all of them did.

17 Q Did you ever get a call from him with regard to any
18 spiritual movement that was happening in his church?

19 A Yes.

20 Q Can you tell us about that?

21 A Well, he called me one time and said, Don, unusual
22 things are happening and I just want to tie in with
23 you and make sure I'm on base. First of all, he told
24 about having somebody having experiences with chains
25 rattling in the basement and noises and so forth and



1 hear everything going on. She knew what was
2 happening. She felt kind of disoriented from what was
3 coming out of her mouth. And so he said then other
4 things started happening among others in the
5 congregation, even an elder, and so he said we started
6 praying for these people for deliverance from these
7 demons.

8 Q You mentioned a deliverance ministry in your own
9 church. When did that start?

10 A Well, Keith Gunn got up and he loudly proclaimed we
11 declare war on the devil.

12 Q He said that to the congregation?

13 A Yes, the congregation.

14 Q Back in Wisconsin?

15 A Yes. It was right after that the same phenomena
16 started happening in our church and other satellite
17 churches.

18 Q What phenomena?

19 A Well, it seemed like that Christians -- Before that,
20 I had always been brought up to believe and felt, it
21 was always the theory that demons can oppress you but
22 they can't live in you because you are Christian. But
23 all of a sudden we saw demons in people giving them
24 strength that took several people to hold them down.

25 Q You meaning physical strength?

1 A Yeah. A woman out there a hundred pounds and so could
2 lift two or three men off the floor with one arm.
3 Eyes glazed like they had cataracts. Faces would
4 become contorted, deep voices coming out of their
5 mouth, people that were good Christians.

6 Q Did that start to happen in your church?

7 A It happened in our church and the other churches and
8 we recognized demons were there and these demons, it
9 appeared to us that God was forcing these demons to
10 tell upon themselves, because like in one case, this
11 man was lying there and an elder from Keith Gunn's
12 church was saying this demon came out and admitted it
13 was a demon. He said, "What did Jesus do to you at
14 Calvary?" He said, "He defeated us", and he began
15 talking to these demons like they were being forced to
16 tell upon themselves.

17 Q These are voices that are coming from one of your
18 church members?

19 A Yes.

20 Q But they are in fact the voice of the demons?

21 A Yes.

22 Q So, what would you in this deliverance do? What was
23 the purpose of this deliverance ministry that you
24 mentioned?

25 A Well, we called this, well, they were either demons

5
1 manifesting themselves or we could say coming to the
2 surface, because we found by experience that as long
3 as they were not at the surface if you were trying to
4 get at them you couldn't do much. But once they were
5 manifesting, if you could catch them at that time and
6 begin to deal with them, we could eventually with
7 enough prayer support and prayer and adjuring them in
8 the name of Jesus, eventually expel them.

9 Q When you adjure them, what do you mean by that?

10 A Well, it's a Biblical word. Apostle Paul abjured the
11 demon of Python or Phythias in a woman in a particular
12 church in Asia Minor which he was a missionary in and
13 the spirit left her, the spirit of divination and we
14 found the same thing happened. We had a lot of
15 experience in this.

16 Q About when was this that you recall that you started
17 this deliverance ministry at Community Chapel?

18 A Well, I think --

19 Q Was it after this time when Keith Gunn called you?

20 A Yes.

21 Q I believe you indicated that was in the early 80's.

22 A Yes.

23 Q It would have been some time after that?

24 A Yes.

25 MR. JOHNSON: Your Honor, I'll be turning to

1 a different subject matter and I think this might be a
2 good time to break.

3 THE COURT: I think this would be an
4 appropriate time to recess.

5 MR. PIERCE: Before we close, we have
6 identified the fact that we'll be using Pastor Barnett
7 as our main witness and that we'll not be calling
8 anyone else. And I wanted to make it on the record if
9 you get an identification of witnesses that counsel
10 for the Defendants would tell us.

11 THE COURT: Will you rest after he testifies
12 or essentially so?

13 MR. PIERCE: Yes.

14 MR. SHAPIRO: I indicated to counsel after I
15 consult with Mr. Rohan we will contact them and let
16 them know to the best of our ability.

17 MR. ROHAN: We'll do it on a daily basis.

18 MR. SHAPIRO: Obviously based on the
19 testimony, the order may change. I can't as I sit
20 here right now give the complete order.

21 THE COURT: Maybe not the order but at least
22 some of those that will be coming on tomorrow.

23 MR. SHAPIRO: Certainly, I'll be happy to do
24 that.

25 THE COURT: And if you'll do that after a

5 1 short conference here today.

2 MR. SHAPIRO: I anticipate talking to Mr.
3 Rohan and we'll give them a phone call.

4 (Evening recess.)
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