



**INDEX OF WITNESSES**

**PAGE**

**DEFENDANTS' WITNESSES:**

Colloquy	1434
<b>Gregory R. Thiel (Continued)</b>	
Cross (by Mr. Pierce)	1437
Re-direct (by Mr. Shapiro)	1483
Colloquy	1494
Defendant's rest	1502

**PLAINTIFF'S REBUTTAL WITNESSES:**

<b>Kristian Erickson</b>	
Direct (by Mr. Wiggins)	1503
Cross (by Mr. Rohan)	1510
Re-direct (by Mr. Wiggins)	1512
Re-cross (by Mr. Rohan)	1516
<b>David Motherwell</b>	
Direct (by Mr. Pierce)	1518
Argument RE: admission of Exhibit 57	1526
<b>David Motherwell (continued)</b>	
Direct (by Mr. Pierce)	1535
Cross (by Mr. Rohan)	1539
<b>Donald Lee Barnett</b>	
Direct (by Mr. Wiggins)	1543

**NOTE: THIS PAGE DOES NOT APPEAR IN ORIGINAL TRANSCRIPT FILES, AND IS ONLY INCLUDED FOR ORGANIZATIONAL CLARITY AND EASE OF USE.**

**EXHIBIT INDEX**

<b>No.</b>	<b>Description</b>	<b>Marked</b>	<b>Rec'd</b>
D-53	Letter from Motherwell to Barnett & Elders, 2/26/88	1489	---
D-54	Excerpts from the Deposition of Jack H. Dubois, 11/14/90	1496	1497
P-55	Excerpts from the Depositions of Jack H. Dubois, 11/14/90 & 12/6/88	1497	1497
P-56	Declaration of David Motherwell, 12/10/90	1521	1521
P-57	Minutes of Senior elder meetings dated 12/22/88, 4/3/89, 10/12/89, 9/17/90 & 9/25/90	1523	1688
D-58	Order dissolving Restraining order, 12/16/8	1680	1682

**NOTE: THIS PAGE DOES NOT APPEAR IN ORIGINAL TRANSCRIPT FILES, AND IS ONLY INCLUDED FOR ORGANIZATIONAL CLARITY AND EASE OF USE.**

Colloquy

1 (The following proceedings  
2 occurred on February 1<sup>st</sup>, 1991)

3 THE COURT: I believe that neither of these  
4 two matters require much of an agreement, but I'd like  
5 to get your expressions on it, if I could.

6 One is with respect to the exhibits. I'm a  
7 little uneasy about handling these exhibits. I'm not  
8 just sure what you would suggest that I do with them  
9 after the hearing is concluded, whether to leave them  
10 here with JAMS or what other disposition need be made  
11 of them. I'm willing to do anything that you  
12 gentlemen would suggest other than take them home and  
13 ~~add them to the confusion of my already full basement.~~

14 MR. JOHNSON: I have a suggestion that we  
15 take the exhibits that are admitted and we sit down  
16 and confirm those that have been admitted and those  
17 that haven't, that were offered and not admitted for  
18 one reason or another and that we make sure they're  
19 all numbered. And the ones that are offered but not  
20 admitted we seal in one envelope after we've confirmed  
21 that we have true and correct copies of them and then  
22 do the same thing with the others. And that having  
23 been done, as far as I'm concerned either counsel can  
24 safeguard them until such time as they're needed.

25 THE COURT: Okay, we'll accomplish that at

Colloquy

1 the time I close my remarks.

2 MR. SHAPIRO: I have a question. Do we need  
3 to file them with the Superior Court?

4 MR. JOHNSON: Yes, at some time we may well  
5 need to do that and I guess all I'm saying is between  
6 now and then over the weekend or whatever I think  
7 that's a way that would satisfy us.

8 THE COURT: The second matter has to do with  
9 my decision and I reread this morning the order and it  
10 calls for an expression by me of an order or award. I  
11 have attended a number of conferences, seminars, and  
12 discussions concerning arbitrations since joining  
13 JAMS. I've done it before but that was in a different  
14 basis. And I take it that you -- Well, the result of  
15 these discussions led me to believe that attorneys who  
16 put matters to an arbitrator or an arbiter only want  
17 an award. They don't want findings. They don't want  
18 explanations. They want an award.

19 I had started into this case believing that I  
20 would some day be called upon to possibly sign or at  
21 least express orally certain findings. What is your  
22 wish in this matter?

23 MR. WIGGINS: Your Honor, I would think,  
24 what I have expected, I don't know if that's the worst  
25 thing, but what I had expected is since we are

Colloquy

1 carrying these proceedings out in accordance with the  
2 Superior Court rules having heard testimony that you  
3 would then enter findings. That was my expectation,  
4 frankly.

5 MR. SHAPIRO: That was ours as well.

6 MR. ROHAN: Both Findings of Fact and  
7 Conclusions of Law.

8 THE COURT: Okay, that was mine too. I  
9 think we're all in step then.

10 Anybody else have anything they would care to  
11 mention today? I expect to take the exhibits home  
12 with me over the weekend, I don't even know that calls  
13 for an expression from me.

14 MR. ROHAN: Are we leaving at 4 or 4:30?

15 THE COURT: It depends upon how long we go.  
16 Now, that's a silly statement on my part. If we are  
17 finished at 4, we leave at 4. If we're not, we go to  
18 4:30. Is that satisfactory?

19 MR. WIGGINS: I wanted to ask, Your Honor, I  
20 guess we should make these decisions this afternoon,  
21 but I was hoping maybe we would have a little  
22 flexibility that we can wrap everything up we need to  
23 do today and close the arguments and do everything,  
24 even if it means going a little extra.

25 MR. SHAPIRO: That would be our wish.

1 THE COURT: We'll see how long that might  
2 take to wind it up at 4:30.

3 You believe you had completed your direct  
4 examination of this witness and that you may  
5 cross-examine him, sir.

6 GREGORY THIEL,

7 having been previously duly  
8 sworn on oath as a witness  
9 on behalf of the Defendants,  
10 was examined and testified  
11 as follows:

12 CROSS-EXAMINATION

13 BY MR. PIERCE:

14 Q Mr. Thiel, you indicated that, you talked at the  
15 request of the Court and on direct examination with  
16 regards to your background and that you were working  
17 for PACE Network; is that correct?

18 A Yes.

19 Q When did you start working with PACE Network?

20 A Last year.

21 Q Do you remember when?

22 A About May.

23 Q And prior to May of 1989, where were you employed?

24 A Insurance Courier Services.

25 Q What were you doing with them?

A Courier.

Q What period of time did you work with Insurance

1 Courier Services?

2 A September of '89 to April of '90.

3 Q And prior to Insurance Courier Services, where were  
4 you employed?

5 A I don't recall right now, probably several temporary  
6 agencies like PACE, Kelly, and so forth.

7 Q When did you stop working at Community Chapel and  
8 Bible Training Center?

9 A That would have been June of 1988.

10 Q Was there a period of time that you were off work  
11 after you stopped working at Community Chapel after  
12 June of 1988?

13 A I was probably off of work for a month or two after  
14 that.

15 Q Did you lose your job at Community Chapel and Bible  
16 Training Center?

17 A I resigned.

18 Q ~~And do you believe that is the fault of Pastor Barnett~~  
19 that you had to resign?

20 A Yes.

21 Q Do you hold that as part of the reason?

22 THE COURT: I didn't get that

3

23 Q Is that a fault of Pastor Barnett that  
24 resign?

25 A Yes.

1 Q You voluntarily terminated your work at Community  
2 Chapel; didn't you?

3 A Yes.

4 Q And do you recall that there were problems with the  
5 finances at Community Chapel at that time?

6 A I recall that the pastor had cut our wage to minimum  
7 wage and had made it untenable to continue employment  
8 there.

9 Q And do you recall that there were problems with the  
10 finances at that time which required that pay for  
11 employees be cut back?

12 A I recall that there was ongoing litigation which made  
13 it difficult for us to conduct the affairs of the  
14 church.

15 Q What about the financial condition, do you recall any  
16 problems with that?

17 MR. SHAPIRO: Objection, Your Honor, this  
18 has been asked and answered three times. I have a  
19 hard time seeing the relevance.

20 THE COURT: I'm having that trouble, too,  
21 but you may proceed, if you know.

22 A I believe that the church had sufficient finances to  
23 be able to continue with its staff had the pastor  
24 submitted to the sanctions that had been imposed.

25 Q (By Mr. Pierce) The pastor did not submit to the

1 sanctions you wanted imposed and, as a result of that,  
2 there were serious problems with the finances; isn't  
3 that correct?

4 MR. SHAPIRO: Same objection, Your Honor.

5 THE COURT: Is that correct? You may  
6 answer.

7 A I did not have first-hand information of exactly what  
8 was in the bank, so I don't know actually what was  
9 going on in the finances.

10 Q (By Mr. Pierce) You knew the general condition of  
11 Community Chapel in June of 1988, that the elders'  
12 group was not contributing any money to the church;  
13 isn't that correct?

14 MR. SHAPIRO: Your Honor, I'd object.  
15 Counsel in his question says June 1988. This has to  
16 do with another lawsuit he filed which has been  
17 dismissed. It has nothing to do with this case. This  
18 is June 1988, we're talking about events leading up to  
19 March 4.

20 MR. PIERCE: I'll explain the relevance,  
21 Your Honor.

22 THE COURT: Go ahead.

23 MR. PIERCE: This witness is prejudiced  
24 against Pastor Barnett. He voluntarily terminated his  
25 job at Community Chapel, was off work for a period of

1 time, was unable to work, had to go to work at  
2 temporary services, all is what he thinks is the  
3 result of Pastor Barnett's activities.

4 At this time in June of 1988, the elders' group  
5 was not contributing any money to Community Chapel.  
6 They weren't putting any money in, they were  
7 continuing to take money out in the way of salaries  
8 which decreased the assets of the corporation and the  
9 ability to pay employees. He blames the fact that he  
10 had to terminate on Pastor Barnett.

11 THE COURT: Well, ask him that question.

12 MR. SHAPIRO: Your Honor, he's already  
13 admitted he blames that on Pastor Barnett. It's been  
14 asked and answered.

15 MR. PIERCE: His prejudice is the area I  
16 would like to inquiry into.

17 THE COURT: Well, you're going into details  
18 about financing and who was contributing and who was  
19 not, and I'm not sure that's material.

20 MR. PIERCE: I'll continue on.

21 Q (By Mr. Pierce) Do you recall in your Employee  
22 Termination Notice that you indicated that you thought  
23 Pastor Barnett was using unethical pressure tactics to  
24 force staff employees to resign?

25 A Yes.

1 Q You indicated in your direct testimony that you  
2 believed you had authority to hold the hearings  
3 without Pastor Barnett signing the January 25, 1988  
4 agreement.

5 A Yes.

6 Q If he hadn't signed that document, do you believe  
7 there was any authority set forth in the bylaws or the  
8 corporation documents to remove him from his position?

9 MR. SHAPIRO: Does he believe that now or  
10 did he at the time?

11 Q (By Mr. Pierce) In either case.

12 A Yes.

13 Q What authority was set forth in the bylaws or the  
14 corporate documents which allowed for the elders to  
15 remove him from the position?

16 A In the bylaws, it states concerning elders that they  
17 can perform other functions and ministries as the need  
18 arises.

19 THE COURT: I didn't get that.

20 A They can perform other functions and ministries as the  
21 need arises and I believe there was a definite need to  
22 hold the hearings.

23 Q In the white book, could you flip to Exhibit 10,  
24 please, which I would represent to you are the bylaws  
25 which existed at that time on March 4, 1988. Will you

- 1           turn to page 21? And while you're doing that, can you  
2           tell us are you familiar with these bylaws?
- 3    A       Somewhat.
- 4    Q       You've looked through these before?
- 5    A       Not recently.
- 6    Q       But during that time period of the elders' hearings?
- 7    A       Yes.
- 8    Q       Now, on page 21 there's a Section 2 at the top up  
9           there that starts a new section that you says  
10          "Elders". Do you see that?
- 11   A       Yes.
- 12   Q       And Article 1 provides the office of elder and  
13          identifies it as being a spiritual office; is that  
14          correct?
- 15   A       Yes.
- 16   Q       And that sets forth in the first sentence and the  
17          second sentence defines and identifies that elders  
18          shall serve as ministering to the spiritual needs; is  
19          that correct?
- 20   A       Yes.
- 21   Q       And the third sentence identifies activities that the  
22          elders can do; is that correct?
- 23   A       Yes.
- 24   Q       Would you read the first four words of that sentence?
- 25   A       With the pastor's concurrence.

3  
4  
1 Q In other words, would you agree that you had authority  
2 to do the items that were set forth in the bylaws here  
3 with Pastor Barnett's concurrence on March 4, 1988?

4 A I don't believe that that can be constructed to mean  
5 that if a need arose to minister or perform a function  
6 that would require us doing it without the pastor's  
7 concurrence that we could not so do it.

8 Q You indicated that you wanted to have Pastor Barnett  
9 sign this January 25 agreement so he wouldn't exercise  
10 control over the meetings?

11 A Yes.

12 Q Did you believe there was some power of Donald Barnett  
13 without the agreement to exercise control over the  
14 meetings?

15 ~~I do believe that there could possibly be attempts on~~

e meetings

16 the part of Donald Barnett to try to stop them  
17 once they started.

tempts

18 Q I'm not asking about what you thought his at  
19 would be, I wanted to know if you thought that  
20 the power or authority to control those meetings

at he had

21 A I believe that he had the power or authority  
22 attempt to control them.

ings.

23 Q You indicated in your direct testimony that  
24 discussions with the other elders with regard to  
25 witnesses and that you reserved the right to

to

you had

ds to live

call

1           them.

2       A       Yes.

3       Q       Were these discussions done with Pastor Barnett  
4           present or were they in the pre-elder hearing  
5           meetings?

6       A       I don't strictly recall at this point.

7       Q       Do you recall what happened at the start of the  
8           elders' hearings on January 25, 1988?

9       A       There was a statement read by the moderator and the  
10          hearings proceeded.

11      Q       And did that statement include anything with regard to  
12          live witnesses?

13      A       I don't recall.

14      Q       ~~You talked about Exhibit No. 35 which was the~~  
15          guidelines for the elders' hearings and the fact that  
16          you had typed up the guidelines after discussing all  
17          of the different terminology and provisions that were  
18          set forth in there; is that correct?

19                   MR. SHAPIRO:  Objection, Your Honor, I  
20          believe that 35 is the draft of the guidelines, but 23  
21          is the final which was in effect, just so the witness  
22          isn't confused.

23                   THE COURT:  Show him 35 for purposes of this  
24          question.

25      Q       (By Mr. Pierce)  Here's 35.

1 A Okay, what was your question again?

2 Q Did you and the other elders go over the terms of this  
3 guideline and make notations on it and finally come up  
4 with a final draft of the guidelines?

5 A Yes.

6 Q Did you have Pastor Barnett present at those meetings  
7 when you went over these guidelines?

8 A No.

9 Q Did Pastor Barnett have any input in these guidelines  
10 which is Exhibit 35 when you were negotiating among  
11 the elders here?

12 MR. SHAPIRO: Object to the form of the  
13 question, lacks foundation.

14 A No.

15

16

17

18

**DELETED MATERIAL FILED UNDER SEAL**

19

20

21

22

23

24

25

1

2

3

4

5

6

7

**DELETED MATERIAL FILED UNDER SEAL**

8

9

10

11

12

13

14

15

MR. SHAPIRO: Object to the form of the question, calls for speculation.

16

17

THE COURT: Does that summarize what you're saying?

18

19

THE WITNESS: Fine.

20

Q (By Mr. Pierce) You testified that Pastor Barnett met with the senior elders on February 3, 1988; is that right?

21

22

23

A Yes.

24

Q And that a tape of this was played to the elders on February 10?

25

THIEL - Cross (By Mr. Pierce)

1 A That was a mistake on my part. On further reflection,  
2 I realized it was actually played later the same day  
3 on February 3rd.

4 Q Did somebody help you to remember that?

5 A No, I went over my notes, I know the date of the  
6 the meeting.

7 Q So, you aren't able to clearly remember everything  
8 without reviewing your notes; is that correct?

9 A Well, we're talking about a fairly complex set of  
10 incidents that occurred over a three-month period  
11 three years ago, so I think the answer is  
12 self-evident.

13 Q Yes?

14 A Yes.

15 Q When do you recall the testimony by Pastor Barnett  
16 front of the elders' committee ending?

17 A February 2nd.

18 THE COURT: I didn't get that.

19 Q When did you recall the testimony of Pastor Barnett  
20 ending before the elders' committee?

21 A His phase one testimony ended February 2, 1988.

22 Q Did they have phase two testimony?

23 A Yes.

24 Q When did that end?

25 A The same day.

some

in

t

1 Q So, the last time that Pastor Barnett brought any  
2 information in the way of testimony before the elders'  
3 committee would be February 2, 1988?

4 A He addressed the committee again on February 25, 1988.

5 Q But that was not in the form of testimony; is that  
6 correct?

7 A No, it was basically castigation.

8 Q After February 2, 1988, did you believe that the only,  
9 at any time after February 2, 1988, did you believe  
10 that the appropriate remedy would be to put the pastor  
11 on special status?

12 MR. SHAPIRO: Object to the form of the  
13 question, it's vague, mischaracterizes the evidence.

14 THE COURT: Do I understand your question to  
15 be at that time on February 2nd did you form an  
16 opinion that he should be placed on special status; is  
17 that right?

18 MR. PIERCE: No, I'll ask another question.

19 Q (By Mr. Pierce) At any time after February 2, 1988,  
20 did you form an opinion that the appropriate remedy  
21 for the elders would be to put the pastor on special  
22 status?

23 A Yes.

24 Q When was that?

25 A On February 22nd.

THIEL - Cross (By Mr. Pierce)

1 Q On February 22nd, you thought an appropriate remedy  
2 would be to have the pastor not have any contact with  
3 women by himself who were members of the Community  
4 Chapel; is that correct?

5 A Yes.

6 Q And no other remedies were necessary at that time; is  
7 that correct?

8 A I don't know that our deliberations were confined to  
9 that point and I believe that there was discussion of  
10 the possibility of other future sources of help for  
11 Don Barnett. But in terms of what sanctions were  
12 imposed at that time, yes, it was simply the special  
13 status.

14 Q What was that special status?

15 A Yes.

16

17

18

19

20

**DELETED MATERIAL FILED UNDER SEAL**

21

22

23

24

25

1 Q From Don Barnett?

2 A Yes.

3 Q What other evidence did you have from Don Barnett?

4 A The evidence that we had consisted of Don's stated  
5 refusal before the committee to abide by the special  
6 status. We consider that to be evidence. It also  
7 consisted of Don's attempts, contrary to the signed  
8 agreement, to exercise authority over the committee,  
9 to stop the proceedings which he tried to do on the  
10 25th, he tried to do on February 3rd in his tape, he  
11 tried to do again on February 28 in his two-hour  
12 sermon. And we considered that to be evidence that  
13 simply putting him on special status was not going to  
14 be sufficient and that further sanctions would be  
15 necessary.

16 Q Let's just look at this stopping the elders' meetings.  
17 Did they ever stop after February 25?

18 A No.

19 Q When he said that you ought to go back to work, that  
20 didn't stop you from having your meetings, did it?

21 A No.

22 Q How did that interfere and void the agreement?

23 A The point is that he was evidencing an incorrigible  
24 attitude toward a minimal sanction that was levied on

25 him by the eldership indicating that he was going to

THIEL - Cross (By Mr. Pierce)

1 be intractable and impossible to work with forcing a  
2 confrontation with the committee, forcing our hand to  
3 levy a greater sanction against him. The point isn't  
4 that we were able to conduct further meetings, that's  
5 in my opinion irrelevant.

6 Q So, the reason that you had to use other sanctions is  
7 because he didn't believe it was appropriate to go on  
8 special status; is that correct?

9 A That's one way to word it.

10 Q And do you recall anything in the bylaws or the  
11 corporate documents which allow for you to put him on  
12 special status?

13 A There was nothing in the bylaws that prevented us from  
14 putting him on special status. The bylaws did not  
15 address the procedures for bringing an elder before  
16 the general eldership to discuss sanctions. It was  
17 not approached in the bylaws.

18  
19

~~There are some provisions in the bylaws which res~~  
your ability to sanction the pastor, aren't there

20

A We had the pastor's own written statement that he  
accountable to the elders.

21

22

Q First, let's talk about the bylaws and then we can

23

~~talk about his agreement. The provisions of the~~

24

bylaws restrict you from putting some sanctions on t

25

Pastor; don't they?

1 MR. SHAPIRO: I'll object to the form of the  
2 question. The bylaws by their very essence are a  
3 multi-page document. If counsel is referring to one  
4 section, I think he should --

5 THE COURT: I don't even know what he's  
6 referring to.

7 MR. SHAPIRO: It's hopelessly vague.

8 MR. PIERCE: He indicated at that time he  
9 had reviewed the bylaws.

10 THE COURT: Well, I'm not sure that that's  
11 the case.

12 Q (By Mr. Pierce) Did you in February of 1988 review  
13 the bylaws?

14 A I was not aware that anything we did was contrary to  
15 anything specific, any specific prohibition in the  
16 bylaws because we believed, as we stated in our  
17 February 24 letter in which we concurred with the  
18 senior elders' special status in which he said do the  
19 bylaws give you the right? We stated, and I can show  
20 you the citations, that we believed that the bylaws at  
21 that time did not address the issues.

22 MR. PIERCE: Objection, move to strike. The  
23 question, Your Honor, is did you review the bylaws?

24 THE COURT: The answer is as vague as your  
25 question. You may refine your question.

THIEL - Cross (By Mr. Pierce)

1 Q (By Mr. Pierce) Did you look at the documents  
2 identified as the bylaws of Community Chapel in  
3 February of 1988?

4 A I can't recall.

5 Q Did you discuss them at the elders' hearings?

6 THE COURT: Discuss what?

7 Q Did you discuss the bylaws at the elders' hearings?

8 A Probably.

9 Q Do you recall?

10 A Not for sure.

11 Q Pastor Barnett had addressed the elders and said what

12 ~~...the authority in the bylaws?~~

13 A Definitely.

14 Q And one of the issues was with regard to the authority  
15 under the bylaws; wasn't it?

16 A That's correct.

17 Q Did you discuss that among the elders?

18 A I'm certain we did.

19 Q Did you discuss the fact that the pastor, the original  
20 pastor of Community Chapel, could not be removed from  
21 his position pursuant to the terms of the bylaws?

22 A It is my understanding that the topic that was on  
23 table at the time that that letter was written was  
24 disfellowship, it was special status.

25 Q Mr. Thiel, I didn't ask you what the topic was, I

prity

iginal

from

the

not

THIEL - Cross (By Mr. Pierce)

1 asked --

2 A You said discuss, did we discuss that we could not  
3 disfellowship him. What I'm telling you is that in  
4 that letter disfellowship was not even in its purview,  
5 it was special status.

6 Q Let me ask you a new question if that's the way you  
7 recall that one. Did you among the elders discuss the  
8 fact that the bylaws provided that the original pastor  
9 could not be removed?

10 A I don't recall.

11 Q Did you discuss any of the provisions of the bylaws  
12 which restricted actions to remove Pastor Barnett from  
13 any of his positions at Community Chapel?

14 A We probably did.

15 Q Do you recall what those discussions were?

16 A I cannot recall the substance of them.

17 Q In your direct testimony you talked about the fact  
18 that Pastor Barnett had considered you legalistic  
19 hawks; is that right?

20 A Yes.

21 Q What is legalism in your understanding of it?

22 A Legalism is briefly a blind adherence to insignificant  
23 details of the law without regard to its main spirit,  
24 intent, and thrust.

25 Q Did Don think you were being legalistic with regards

1 to any portions of the elders' hearings?

2 A He stated that he believed that we were.

3 THE COURT: He stated that he did?

4 THE WITNESS: He stated that he believed  
5 that we were.

6 Q Has the topic of legalism been discussed or preached  
7 about at Community Chapel over a number of years?

8 A Off and on, yes.

9 Q Would it be, would it include such things as looking  
10 at the letter of an agreement without taking into  
11 effect the spirit of the agreement?

12 A I would have to speculate to answer that question and  
13 it would depend a whole lot upon the context of the  
14 agreement that we're talking about. It's a vague  
15 question.

16 MR. SHAPIRO: I'd also object, Your Honor,  
17 counsel is really calling for a legal conclusion.  
18 He's asking him how one would interpret a document, so  
19 I would object on that basis.

20 THE COURT: He may.

21 Q (By Mr. Pierce) You said on February 25 that Pastor  
22 Barnett was allowed to come to the meeting of the  
23 elders; is that correct?

24 A He was. We permitted him to speak to the exclusive  
25 eldership review session, yes.

THIEL - Cross (By Mr. Pierce)

1 Q Do you remember what day of the week that was?

2 A Thursday.

3 Q And where was Pastor Barnett on Friday and Saturday of  
4 that week?

5 A Out of town. It's my understand he was in Montana.

6 Q In fact, he left shortly after that meeting and left  
7 for Montana; didn't he?

8 A I don't know exactly when he left.

9 Q At that time of, at the end of this meeting on  
10 February 25, did Pastor Barnett indicate to the  
11 elders' group he would like to get back together on  
12 Monday?

13 A No.

14 Q Was there any discussions about resuming the meeting?

15 A When Don Barnett left the committee at the end of his  
16 tirade on the 25th, he was in a state of rage. And I  
17 remember Jack Hicks saying something to him and it  
18 seems to me it had to do with getting together or  
19 something to do with that. And I recall distinctly  
20 Don's words being "thanks a lot, Jack", and he marched

~~me out the door. And that was the last thing that was~~  
22 said and, therefore, there was no date set for getting  
23 together again.

24 I would further say that the elders wanted and  
25 stated at the meeting in Don's presence they wanted

1           this meeting to continue so that we could resolve  
2           Jerry's grievances and Don's grievances. But Don kept  
3           looking at his watch nervously throughout the course  
4           of that meeting saying, I have an appointment, I have  
5           to be somewhere at 6 o'clock or 6:30.

6           And we felt here we're in the middle of the worst  
7           crisis our church has ever been in and he wants to go  
8           see a woman or something and he doesn't have the time  
9           to allow the meeting to continue so that we can  
10          resolve the issues, and so he's the one that left the  
11          meeting. We sat there around the table stunned  
12          wondering why he left the meeting.

13        Q       But you knew he had to go to Montana, didn't you?

14        A       I had absolutely no idea.

15        Q       When did you first hear about his trip to Montana?

16        A       I heard about it later. I don't know exactly when I  
17          heard about it, but at the time that he left during  
18          the whole course of the meeting up to the time he left  
19          I had no idea. In fact, he didn't say I have a plane  
20          to catch. He said nothing of the kind. He just said

21          I have to see somebody, I have to be somewhere and he  
22          stormed out of the meeting. So, I had no idea he was  
23          even going to Montana, I didn't find that out until  
24          later.

25        Q       But you did find out that he left and had to go to

THIEL - Cross (By Mr. Pierce)

1 Montana and that may have been the reason that he was  
2 looking at his watch; isn't that correct?

3 A I can't say it wasn't, but I can't say it was.

4 Q Did you get any information from David Motherwell on  
5 the following day which would indicate to you that he  
6 had thought that Pastor Barnett was making a good  
7 faith effort with regard to resolving his sins with  
8 the church?

9 A Are you referencing to February 26 now?

10 Q Yes.

11 A No.

12 Q On February 26, that would have been a Friday; is that  
13 right?

14 A Yes.

15 Q And there were services held that Friday; is that  
16 right?

17 A That's correct.

18 Q And that's where members of the elders' group got up  
19 to the committee and talked to them with regard to the  
20 congregation about the problems that Don Barnett had;  
21 is that correct?

22 A We got up in front of the congregation and we notified  
23 them that he was on special status.

24 Q Did you see a copy of the February 26 letter from  
25 David Motherwell to Pastor Barnett and the eldership?

THIEL - Cross (By Mr. Pierce)

1 A Yes.

2 Q And do you recall in that letter that David had said  
3 concerning how well you are following counsel, I fully  
4 agree with you that you are trying to do all you can  
5 to walk free from any more sexual sins?

6 A What was your question?

7 Q Do you recall David writing that in his letter?

8 A I recall that in the letter, yes.

9 Q And did you ask David after you got that letter as to  
10 whether or not he thought that Pastor Barnett was free  
11 of these sins at the present time?

12

13

14

15

16

17

**DELETED MATERIAL FILED UNDER SEAL**

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8 **DELETED MATERIAL FILED UNDER SEAL**  
9  
10  
11  
12  
13  
14

15 Q Do you recall in this letter of February 26, 1988 that  
16 David Motherwell said that he did not feel that he had  
17 asked for Pastor Barnett to make any big behavioral  
18 changes or lifestyle changes up to that point?

19 MR. SHAPIRO: Same Objection, Your Honor,  
20 There's two more questions that are inadmissible.

21 THE COURT: If you know, if you are aware of  
22 what he's talking about.

23 A I recall a statement, that statement or something  
24 similar to it, being in the letter.

25 Q (By Mr. Pierce) That was from David Motherwell?

1 A It was from David Motherwell.

2 Q That was given to you the day after Pastor Barnett had  
3 to go to Montana; is that correct?

4 A I don't remember, what's the date of the letter?

5 Q February 26.

6 A Okay.

7 Q Would that have been the time?

8 A If that's the date of it, yes. We did meet on the  
9 26th.

10 Q And at that meeting did David Motherwell indicate to  
11 the elders' group that he thought that Pastor Barnett  
12 should be making behavioral changes?

13 MR. SHAPIRO: Same objection, Your Honor.

14 MR. PIERCE: That's one of the admissions of  
15 David Motherwell.

16 THE COURT: I know. We've had objections  
17 back and forth as to hearsay statements that are  
18 coming in about what somebody else has said and  
19 sometimes they come in without objections, sometimes  
20 they are objectionable.

21 MR. SHAPIRO: Here's the official problem --

22 THE COURT: But I'm going to sustain this  
23 objection because this, to my knowledge, was not gone  
24 into at the time David Motherwell appeared and it's  
25 coming in for the first time here and I believe it's

1 hearsay and objectionable.

2 MR. PIERCE: It is hearsay, Your Honor, but  
3 it's also an admission of a party in interest and  
4 David Motherwell stands in the position of being a  
5 Defendant in these proceedings.

6 THE COURT: I'm not sure, he does now. Yes,  
7 he does. Okay, he may answer.

8 MR. SHAPIRO: Your Honor, if I might point  
9 out one further thing. Counsel is asking this witness  
10 about a document he may have read three years ago. If  
11 he's going to ask it and the Court is going to allow  
12 it, at least he should be given a copy of the document  
13 to review so that he knows whether or not it's in the  
14 document.

15 THE COURT: Well, I've never been asked to  
16 order that and he has never asked for it.

17 MR. SHAPIRO: I'm requesting it.

18 MR. PIERCE: I'm not asking about the  
19 letter, I'm asking what David Motherwell said about  
20 the meeting right now.

21 THE COURT: Okay, you may answer.

22 A After all that, I need to hear the question again.

23 Q (By Mr. Pierce) Did David Motherwell at this time  
24 period, February 25, February 26, 1988, indicate to  
25 the eldership that he thought that Pastor Barnett

THIEL - Cross (By Mr. Pierce)

1           should be making behavioral changes or lifestyle  
2           changes?

3       A     The special status had already been levied which was a  
4           sanction on his behavior, and it's my understanding  
5           ~~that everything that was said from that point on had~~

6           to do with anything over and above it. So, he had  
7           already been requested to not be with women who were  
8           not his wife on vacations, in private, and so on and  
9           so forth. So, it's obvious since David signed the  
10          letter concurring with the senior elder special status  
11          on Don Barnett that he agreed to behavioral  
12          modifications.

13       Q     Other than the letter, did David Motherwell say  
14           anything --

15                       THE COURT: You may look at the letter, if  
16           you want to.

17                       THE WITNESS: Yeah, I would like to, if I  
18           could.

19       Q     (By Mr. Pierce) These are your documents you had this  
20           in. I'm not asking about the letter now, Mr. Thiel.

21       A     What are you asking me?

22       Q     I'm asking you what David Motherwell said at the  
23           eldership hearings after February 25, 1988 as to  
24           whether or not he thought it was necessary for Pastor  
25           Barnett to make lifestyle changes, behavioral changes.

THIEL - Cross (By Mr. Pierce)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12

DELETED MATERIAL FILED UNDER SEAL

- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

DELETED MATERIAL FILED UNDER SEAL

1  
2  
3  
4  
5  
6  
7  
8 THE COURT: Does that answer your question?

9  
10 it. I move to strike.

11 THE COURT: I don't know whether he even  
12 answered your question.

13 MR. PIERCE: I'm not sure he can answer the  
14 question, Your Honor.

15 Q (By Mr. Pierce) When Pastor Barnett left the elders'  
16 meeting on February 25, what was the last thing you  
17 remember being said by the elders to him?

18 THE COURT: As he left or at the end?

19 Q At the end of the meeting, what was the last thing you  
20 recall being said to him by the elders?

21 A As I said earlier, I believe that the last statement  
22 was something, some statement that Jack Hicks made,  
23 and I don't remember exactly what he said, but it  
24 seems to me that within that statement there was  
25 something about let's finish this talk or let's get

1 together, and it was frankly a sarcastic response on  
2 Donald Barnett's part and he marched off the floor  
3 cutting off any further communication.

4 Q Do you recall what Don said?

5 A Thanks a lot, Jack.

6 Q So, the last thing at the end of the meeting on  
7 February 25 was Jack or somebody saying, "Let's try to  
8 continue this meeting" and Don said, "Thanks a lot,  
9 Jack"?

10 A Right.

11

12

ED UNDER SEAL

hearings between the time  
at the end of the meeting on  
somebody had said let's try to get  
meeting, before the service that  
ning, February 26?

ed at that point in time that

13

14

15

16

17

18

9

19

20

21

22

23

24

25

DELETED MATERIAL FIL

Q Did you have any other  
period that Don left at  
February 25, where some  
together for another me  
occurred on Friday even

A Yes.

Q Is that when you decid

1 you were going to read these letters to the

2 congregants at the services?

3 A It could have been on the 25th or it could have  
4 on the 26th that we decided to do that, I'm not

5 Q After Don had left on the 25th or on the morning  
6 the 26th?

7 A Well, before the 26th; correct.

8 Q Did Don have any idea at the end of these meetings  
9 February 25 that the elders' group would take  
10 services and read these type of letters to the  
11 of the congregation?

12 A I'd have to speculate to answer that question  
13 know what was in the mind of Don Barnett.

14  
15  
16 **DELETED MATERIAL FILED UNDER SEAL**

17  
18  
19 Q Probably came as a big surprise to him.

20 A It may have.

21 Q He was probably upset when he got back and when

22 first went up and saw him. Your

23 February 28; isn't that correct?

24 MR. SHAPIRO: Objecti

25 speculation, also mischaracteri

1 THE COURT: I guess the question is was he  
2 upset --

3 A Well, the meeting was on the 29th. He preached a  
4 sermon on the 28th. He seemed upset in the sermon on  
5 the 28th. He seemed agitated in the meeting on the  
6 morning of the 29th.

7 Q (By Mr. Pierce) Did you talk to him on February 28?

8 A I did not personally talk to him on Sunday, February  
9 28.

10 Q You said that you talked to Don on February 29th with  
11 regard to continuing the hearings?

12 A Yes.

13 Q Did you have authority from the committee to go and  
14 ask Don to come and talk with the elders' group?

15 A I had authority, including from the elders' group,  
16 the committee, to offer on their behalf to meet with  
17 him.

18 Q Were you doing this by yourself without any  
19 concurrence from other members?

20 A There were other members of the committee present at  
21 the meeting when I --

22 THE COURT: At the meeting on the 29th?

23 A On the 29th when I made that offer. I not only did  
24 not hear any objections from them, but they concurred  
25 wholeheartedly in my invitation.

THIEL - Cross (By Mr. Pierce)

1 Q Other than the people being present when you said  
2 this, had you had some contact with the elders' group  
3 about making an offer for Don to come back to the  
4 elders' group meetings?

5 A On the 25th after Don left and on the 26th the subject  
6 of having further discussions between Don and the

7 committee definitely was broached. It was not stated  
8 that I would be individually an envoy for the  
9 committee going to Don, but we were exploring  
10 different ways that we might be able to extend an  
11 invitation to him and get him to come back and talk to  
12 us further.

13 As a matter of fact, Mark Yokers, if I recall,  
14 said he felt I should go and talk to Don and try to  
15 appeal to him and see if I could get him to come back  
16 and meet with us. So, again, I'll have to say  
17 technically, no, there was no committee vote that Greg

18 I felt totally confident that what I did would be  
19 agreed by the committee and indeed when we met  
20 on the day of the 29th they were glad that I had  
21 extended that offer because every one felt that  
22 they wanted to do.

23  
24 Q In the meetings of the elders, did you discuss o

help beyond special status?

25

THIEL - Cross (By Mr. Pierce)

1 THE COURT: Beyond what, special status?

2 Q Beyond special status.

3 A Yes.

4 Q What other helps were available or possible besides  
5 special status?

6 A We discussed the possibility of getting him  
7 professional help for his problems.

8 Q Anything else?

9 A That's all I can recall specifically at this time.

10 Q When was the discussion about getting professional

help?

11 I think probably the topic arose on more than one 12 A

occasion, and I frankly don't recall what dates that 13

would be. 14

15 Q Would it be before or after the special status letter

of February 15? 16

I can't tell you for sure. 17 A

18 Q Was that brought up to Don Barnett, to your knowledge?

19 A Yes, I think it was brought up to him, but I don't recall

up and I'm not privy to that information. But as far 20

as the committee presenting it to him, I don't recall 21

us doing it. Of course, the committee never really 22

talked to him in a sense as the committee. It was 23

pretty much Jerry's presentation and his presentation, 24

that was it. 25

1 Q Was one of the helps discussed by the elders'  
2 committee limitation on his authority in the church?

3 A The extent of the pastoral authority, the extent of  
4 the eldership authority I'm sure at some time was a  
5 topic of our discussions since we were asked by Don  
6 himself in his audio tape of February 3rd whether the  
7 Bible gave us the authority to hold those meetings.  
8 And so we decided to go ahead and respond to that and  
9 that required research on the scriptural parameters of  
10 pastoral and eldership authority. So, by virtue of  
11 answering his tape, it had to have been discussed.

12 Q Discussed as an available alternative to special  
13 status?

14 A No, not in that regard.  
15  
16  
17

18 **DELETED MATERIAL FILED UNDER SEAL**  
19  
20  
21  
22  
23  
24  
25

THIEL - Cross (By Mr. Pierce)

1 Q Who did he admit this to?

2 A Rob Kaufmann.

3 Q Did Rob Kaufmann testify at the elders' hearings?

4 A He wrote a letter to the elders. This would have been

5 probably after February 28th.

6 Q Was it before March 4?

7 A I don't recall.

8 Q Did you take that into consideration when you decided

9 to approve disfellowship of Don Barnett, the Rob

10 Kaufmann letter?

11 A Since I don't recall the exact date that I came into

12 that information, I can't therefore say we took that

13 into consideration when we took the vote.

14

15

16

17

18

DELETED MATERIAL FILED UNDER SEAL

19

20

21

22

23

24

25

ecided

into

that

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

**DELETED MATERIAL FILED UNDER SEAL**

1 to light with regard to the prior six months?

2 A Jerry Zwack to my remembrance did not.

3 Q Did you and the elders in your meetings discuss  
4 resigning as a group?

5 A That was an option that was discussed.

6 Q What was discussed about that?

7 A I can't certainly recall all of the specific points  
8 that were brought up. We met for hours on end for a  
9 number of days. It was discussed as an option and my  
10 recollection is that the reason that it was decided  
11 against is because we felt it would be a dereliction  
12 of duty on our part to walk off the post that we had  
13 been called to and to leave the church in such a state  
14 of eminent danger.

15 Q Most of the elders hadn't been originally at Community  
16 Chapel, is that correct, that were at the eldership'  
17 hearings?

18 A I think that's probably correct.

19 Q When you came to Community Chapel, you knew that  
20 Community Chapel was a church organized by and with  
21 its predominant pastor being Donald Barnett; is that  
22 correct?

23 MR. SHAPIRO: Object to the form of the  
24 question. What does predominant pastor mean?

25 THE COURT: Yeah, but I think I will permit

THIEL - Cross (By Mr. Pierce)

1 it. Predominant, if you quarrel with that word, say  
2 so, I think the idea is there.

3 Q (By Mr. Pierce) Let's say the only pastor.

4 A When I came to the church, I would say, yes, Don was  
5 the pastor of the church. He was considered to be the  
6 chief pastor, whatever, chief elder, if you will.

7 Q Did the elders in your meetings discuss the fact that  
8 if you didn't like the philosophy or teachings of  
9 Donald Barnett at Community Chapel that you could vote  
10 by walking?

11 A Well, I think you are repeating the same question that  
12 you just asked me but in a different way and I've  
13 already given you that answer.

14 Q Did you or did you not discuss that?

15 A I've already answered that. We discussed the  
16 possibility of resigning and now you're asking me  
17 again about voting to walk. To me that's the same  
18 question and the answer is, yes, we discussed it as an  
19 option. We discussed every option that was at our  
20 disposal and, as I said earlier, we rejected it  
21 because we determined that we would be derelict of our  
22 responsibility before God and before man and before  
23 the church in abandoning them in their greatest hour  
24 of need. And that's why we decided to stay and try to  
25 work this to a positive resolution. We were the

1 elders of the church. We were the church government.  
2 Q Would you agree that the members of the congregation  
3 of Community Chapel came to Community Chapel not  
4 because of the elders but because of Don Barnett who  
5 was the pastor?

6 MR. SHAPIRO: Objection, calls for  
7 speculation.

8 THE COURT: If you know.

9 A I would have to speculate as to what was in people's  
10 minds as to why they attended that church, what  
11 brought them to the church. I would like to believe  
12 it was because God had something to do with it.

13 Q (By Mr. Pierce) Did you discuss among the elders as  
14 an option or giving the vote to the congregation about  
15 whether or not they wished to keep Pastor Barnett on  
16 as the pastor of Community Chapel?

17 A I don't recall.

18 Q Did you discuss the provision of the bylaws which  
19 provided that upon removal of a subsequent pastor that  
20 it would be subject to the vote of the congregation?

21 A We may have, I don't recall.

22 Q Did you and the elders discuss the fact that you may  
23 have been precipitating a church split based on the  
24 suspicion that he may fall into sin again?

25 THE COURT: I didn't get the last part.

1 Q Did you and the elders discuss that you may be  
2 precipitating a church split based upon the suspicion  
3 that he might fall into sin again?

4 A That sounds an awful lot like a leading question. I  
5 would just have to say that we discussed what possible  
6 ramifications there were to the action that we took  
7 and I'm sure that we were aware that there was a  
8 possibility that the church could divide over what we  
9 were going to do, yes.

10 Q Were their questions among the elders about Don  
11 Barnett's refusal to follow restrictions as being a  
12 sufficient ground for making the information about his  
13 sexual activity public?

14 THE COURT: Was there discussion?

15  
16 **DELETED MATERIAL FILED UNDER SEAL**  
17  
18  
19

20 refusal to abide by the special status as being one of  
21 the grounds for informing the congregation that he was  
22 on special status.

23 Q In fact, your disfellowshipping Don Barnett was  
24 discussed as being a time bomb; wasn't it?

25 A I do not recall the phrase that you used.

1 Q Time bomb?

2 A Um-hmm (Affirmative).

3 Q ~~Will you show your notes, are they your writing home?~~

4 A Yes.

5 Q Is that your writing, time bomb?

6 A Yes.

7 Q That was something you wrote down as being something  
8 that the elders had considered as happening to this  
9 church as a result of your disfellowshipping Don  
10 Barnett?

11 A Well, it's something that I considered. I can't speak  
12 for the rest of the elders. I wrote that down. I  
13 wrote those notes down because I often played devil's  
14 advocate in our discussions. What I mean is when the  
15 subject of disfellowship and things like that was  
16 brought up, I tried to bring as many reasons as I  
17 could think of not to and we argued every one of these  
18 out so that we could make sure we had exhausted every  
19 other alternative to disfellowship before we did it.  
20 So, those are the notes you happen to be looking at  
21 there, notes for discussion.

22 Q On March 4, 1988, did you get up and talk before the  
23 congregation at the service?

24 A Me, personally?

25 Q Yes.

1 A Yes.

2 Q You prepared before that service your own notes that  
3 you were going to use at that service; is that  
4 correct?

5 A Correct.

6 Q You prepared questions and answers that might even be,  
7 you prepared possible questions with potential answers  
8 for that service; is that correct?

9 A Correct.

10

11

12 **DELETED MATERIAL FILED UNDER SEAL**

13

14

15

16 have not looked at them for a long time.

17

18 MR. SHAPIRO: Counsel, can you tell us what  
19 you're referring to?

20

21 MR. PIERCE: There are answers and questions  
22 somewhere at the back of the section of the documents  
23 you gave us in discovery called "elders' docs". It's  
24 about, I would guess, 20 pages into it. You will see  
25 answers to questions. See that section?

26

27 MR. SHAPIRO: Yes. Can you tell us what  
28 page?

29

30 MR. PIERCE: That would be page 5 and it's

1 down at the bottom. It's a section called, do you  
2 want to read what that section says?  
3  
4  
5

6  
7 **DELETED MATERIAL FILED UNDER SEAL**  
8  
9  
10  
11

12 A Yes.

13 Q As part of the service on March 4th, you were prepared  
14 to answer a question from the audience or the members  
15 of the congregation that what you are doing was in  
16 violation of the bylaws of Community Chapel; is that  
17 correct?

18 A I would have to defer to my notes again, I don't  
19 remember.

20 MR. PIERCE: Page 12, counsel.

21 A Okay, yes.

22 Q And part --

23 MR. SHAPIRO: I'm going to object to the  
24 question because it mischaracterizes his notes. And I  
25 think in all fairness to this witness, the answer

1 that's there he should be allowed to state.

2 MR. PIERCE: I gave him the opportunity to  
3 review it and he said yes.

4 MR. SHAPIRO: I said question.

5 THE COURT: He said part of his question and  
6 answering had to do with whether or not the bylaws  
7 restricted that and he said yes. Now I  
8 mischaracterized the question and the answer,  
9 probably.

10 A Could you ask the question again.

11 Q (By Mr. Pierce) For the services on March 4, 1988,  
12 you were prepared to answer a question from the  
13 congregants that what you were doing was in violation  
14 of the bylaws.

15 A I was prepared to ask that potential question.

16 Q To answer that question?

17 A To answer that question.

18 Q And your answer if you were to give one to that would  
19 have been the action we are taking is in complete  
20 accordance with our bylaws as they currently stand and  
21 with the Articles of Incorporation; is that correct?

22 A That's correct.

23 Q Is that because earlier in the day that you knew that  
24 the elders would be, senior elders would be going down  
25 to Olympia to amend the Articles of Incorporation?

1 A I don't recall. All I know is at that point in time  
2 it was my conviction that what we were doing was in  
3 accordance with the bylaws and the Articles of  
4 Incorporation.

5 Q Is that after discussion with the senior elders?

6 A I don't recall discussing that issue with the senior  
7 elders.

8 MR. PIERCE: I have nothing further, Your  
9 Honor.

10 THE COURT: Redirect.

11 MR. SHAPIRO: I have just a few.

12 THE COURT: If you want to start now, you  
13 may.

14 MR. SHAPIRO: If that's all right with the  
15 Court.

16 THE COURT: We can go until a quarter to or  
17 shortly thereafter. If we feel we can close.

18 REDIRECT EXAMINATION

19 BY MR. SHAPIRO:

20 Q You mentioned that you played devil's advocate at some  
21 point during the hearings in response to one of  
22 counsel's question. Do you recall that?

23 A Yes.

24  
25

advocate?

1 A Because we realized to the man that disfellowship was  
2 a big decision, a momentous decision. We realized we  
3 were in the midst of the biggest crisis that the  
4 church had ever seen or ever would see. And most  
5 importantly, we wanted to work with Don if at all  
6 possible to preserve his ministry in the church, to  
7 preserve the wholeness, the integrity of the church  
8 while at the same time addressing the serious charges  
9 and problems that were before us on the table.

10 And so we agonized for days over the decision to  
11 disfellowship him. It was not something that was  
12 lightly taken, so I played devil's advocate  
13 continually in order to make sure that we were not  
14 doing something based upon a whim, based upon the  
15 emotion of the moment, or any personality conflict or  
16 anything but that we were doing it based for the right  
17 reasons.

18 Q Would you agree that a church split was a serious  
19 concern?

20 MR. PIERCE: Objection, Your Honor, leading  
21 his own witness.

22 THE COURT: He may answer.

23 Q (By Mr. Shapiro) Is it a serious concern?

24 A It was a serious concern and it was something that we  
25 wanted to avoid if at all possible.

1 Q Notwithstanding the fact that it was serious concern,  
2 why would you go forward with the action that might  
3 cause a church split?

4 A Because we were given no viable alternative with which  
5 to work based upon Don Barnett's adamant refusal to  
6 abide by minimal behavioral restrictions.

7 Q ~~Was there any discussion about the protection of others?~~

8 MR. PIERCE: Objection, Your Honor, as to  
9 time frame.

10 THE COURT: Any discussion?

11 Q (By Mr. Shapiro) About protection of others?

12 A There was lengthy discussion of the issue of the  
13 vulnerability of the women of the assembly were we  
14 allow this conduct to continue. There was even some  
15 discussion as to our corporate liability for tortious  
16 acts of the corporate officers and those were  
17 certainly also factors in our decision.

18 Q Counsel also asked you a question about resigning  
19 you disagreed with, and I'm quoting, the philosophy

20 ~~teachings of Don Barnett. The teaching was to~~

21 have to do with your disagreement of  
22 teachings of Don Barnett?

23 A Can you rephrase the question?

24 Q Sure. Counsel asked you why didn't

disagreed with the philosophy or teachings of

25

if you d

1 Donald Barnett. Is that what was at the heart of the  
2 problem or was it something else?

13  
3 A We didn't walk because we felt that would be a cop  
4 out. It would be a dereliction of our duties.

5 (Off-the-record discussion.)

6 Q My question to you was counsel asked you why didn't  
7 you walk if you disagreed with the philosophy and  
8 teachings of Don Barnett. My question to you is was  
9 the philosophy or teachings at the core of the problem  
10 or was it something else?

11 A ~~The core of the problem was Donald Barnett's behavior.~~

12 Q His actions?

13 A His actions. And to walk would have left the families  
14 in the assembly vulnerable to continual abuse and we  
15 felt we would be derelict in our responsibility to the  
16 church and to God if we left it the way it stood.

17 Q Counsel also asked you a question about the

18 ~~guidelines. When the hearings started, did he have~~  
19 Barnett have a set of the guidelines?

20 A Yes, he did.

21 Q When the hearings started, was there a statement that  
22 the guidelines that he had would apply?

23 A Yes.

24 Q Was there ever any objection or concern raised by  
25 Donald Barnett about anything in the guidelines when

1 the hearings started?

2 A No.

3 MR. PIERCE: Objection, Your Honor,  
4 subjective determination of what was in Barnett's  
5 mind.

6 THE COURT: He said there was never any  
7 objection at the meeting.

8 Q (By Mr. Shapiro) Did he manifest either by raising  
9 his hands, standing up screaming and saying these are  
10 wrong, in any way manifest any objection when these  
11 hearings started to the use of these guidelines?

12 A No.

13 MR. PIERCE: Objection, Your Honor, asked  
14 and answered.

15 THE COURT: The answer will stand.

16 Q (By Mr. Shapiro) Counsel also asked you about a  
17 February 26, 1988 letter from David Motherwell. Do  
18 you recall that?

19 THE COURT: That was the letter to the  
20 elders from David Motherwell?

21 Q To the elders and to Dear Pastor Don. Do you recall  
22 him asking you about that?

23 A Yes.

24 Q And about sections of that letter?

25 A Yes.

1 Q Just so it's read in context, take a look at the  
2 portion on page 2 where he asked you whether or not  
3 David Motherwell ever expressed that he would not ask  
4 for behavioral changes or lifestyle changes. Do you  
5 see that?

6 MR. PIERCE: Object, Your Honor. If he  
7 needs to refresh the witness's memory with regard to a  
8 document, he has to ask the question first. I do  
9 not -- and this document is not identified. All I did  
10 was refresh his memory as to whether or not David  
11 Motherwell had made the statements.

12 THE COURT: At this point he has asked him  
13 to examine the letter and there is no further  
14 question. If he does ask a question that's  
15 objectionable.

16 Q (By Mr. Shapiro) Did you receive a copy of this  
17 letter?

18 A Yes.

19 Q At any time -- First of all, is this the letter  
20 counsel was asking you about?

21 A Yes.

22 MR. SHAPIRO: We'd offer this letter, Your  
23 Honor, as Exhibit No. 53.

24 MR. PIERCE: Your Honor, I have to object.  
25 It's hearsay. It's not identified as one of the

1 pre-discovery documents or listed documents here. It  
2 was only used to refresh the memory of this witness.  
3 If they need to use it as such to bring in any  
4 information, it can be used that way.

ur Honor, I  
herefore, if  
door.  
his reference  
ly opened the  
ys. I don't  
recognize that

MR. SHAPIRO: That's all, Thiel's letter, which  
6 were listed as an exhibit. Secondly, You  
7 didn't bring it up, counsel did. And, th  
8 there is an objection he has opened the  
9 THE COURT: I'm concerned that  
10 to certain portions of the letter actual  
11 door and I don't know what the letter say  
12 know what all is contained therein. I re

Before I admit  
need on these  
hat satisfies any  
he letter. You

13  
14 certain parts of that letter will  
15 the letter, it will permit you to redi  
16 specific portions enough, if I feel t  
17 redirect. I do not intend to admit t  
18 better mark it.

' Exhibit No. 53  
identification.)  
t, 53. It's a  
avid Motherwell  
dership.  
e behavioral

19 (Defendants  
20 marked for  
21  
22 MR. SHAPIRO: I've marked i  
23 letter dated February 26, 1988 from D  
24 to Dear Pastor Don and the general el  
25 Q Let's put counsel's question about th

1 changes issue in context, Mr. Thiel, so we can have a  
2 clear understanding of how that was used in this  
3 letter. Would you take a look at the second to last  
4 paragraph -- or third to last paragraph and the second  
5 to last paragraph. Do you see that?

6 MR. PIERCE: I'm going to object. The Court  
7 had said he could redirect with regard to those areas

8 ~~one was discussed by the judge. What is not~~  
9 portion here, the second and third paragraph.  
10 wasn't the areas that were brought up.

11 MR. SHAPIRO: Second and third to last

12 MR. PIERCE: The second and third to last  
13 was not discussed. And all I did was use it to  
14 refresh his memory as to what Mr. Motherwell had  
15 so refreshing is not using this letter.

16 THE COURT: I know but he referred to  
17 to answer the question.

18 MR. SHAPIRO: I would like him to read  
19 two paragraphs to put it in context, Your Honor.  
20 Under 106, the Rule of Completeness, it should be  
21 in context.

22 THE COURT: I'm not sure how that puts it in  
23 any context. To review the basis for this objection,  
24 this witness was asked if on February 2nd, except  
25 February 26, that at that time he had Mr. Motherwell's

THIEL - Redirect (By Mr. Shapiro)

1 letter telling the elders in part that Don was trying  
2 to straighten himself out, and he said yes. Now, I  
3 think that was the only portion.

4 MR. SHAPIRO: And my concern about that,  
5 Your Honor, is that the letter doesn't say that. If  
6 you place it in context, it clearly says --

7 THE COURT: Just a minute. Mr. Motherwell's  
8 letter indicated that Don was trying to work his way  
9 through it by straightening himself out, or something  
10 to that effect.

11 Now, to the extent that the letter may somehow  
12 contain language that makes this more understandable,  
13 you can ask him about it, but not put in other matters  
14 that deal with something other than Motherwell's  
15 assertion that Don was trying to straighten him out.

16 MR. SHAPIRO: All right, I'll try to do  
17 that.

18 Q (By Mr. Shapiro): Would you take a look at page 2, Mr.

19 Thiel.

20 A Okay.

21 Q Take a look at the third paragraph. Is there a  
22 reference in that paragraph about whether or not  
23 Donald Barnett is capable of following counsel?

24 MR. PIERCE: I'm going to object to this  
25 question. The third paragraph had nothing to do,

1 there wasn't any statements by Mr. Motherwell with  
2 regards to these issues and brings up a whole new area  
3 outside of what was discussed here. He can ask him  
4 questions without asking him to read the letter or  
5 portions of the third paragraph.

6 THE COURT: The letter may contain  
7 qualifications or setting, I don't know. Paragraph 3  
8 you say.

9 MR. SHAPIRO: Paragraph 3 of page 2.

10 Q (By Mr. Shapiro) Does it contain, sir, any reference  
11 in regard to changes whether or not Donald Barnett can  
12 follow counsel?

13 A Yes.

14 Q Can you tell us what it says.

15 MR. PIERCE: Objection, Your Honor.

16 THE COURT: He may answer.

17 A In this you have not and cannot follow counsel.

18 Q (By Mr. Shapiro) How did you interpret that when you  
19 got the letter?

20 MR. PIERCE: Objection as to his opinion,  
21 Your Honor.

22 THE COURT: Pardon?

23 MR. SHAPIRO: I asked him how he interpreted  
24 that.

25 THE COURT: It will stand.

1 THE WITNESS: May I answer the question?

2 THE COURT: No.

3 Q (By Mr. Shapiro) With respect to the second to the  
4 last paragraph, could you see the one that counsel --

5 THE COURT: What paragraph would this be?

6 MR. SHAPIRO: The fifth paragraph of the  
7 second page.

8 Q (By Mr. Shapiro) Is there a discussion about why Mr.  
9 Motherwell did not demand big behavioral changes or  
10 lifestyle changes up to that point?

11 A Yes.

12 Q And what is the discussion? Why didn't he do it?

13 A Do you want me to tell you in my words or read from  
14 the paragraph?

15 Q Go ahead and read the paragraph.

16 A I have not felt to ask of you big behavioral changes  
17 or lifestyle changes up to this point, nor have I felt  
18 to charge you with the task to get you to see. I had  
19 felt to implore with your heart and spirit to get you  
20 to release the web of self-protective shells and to  
21 open you up to honestly facing the debilitating fears  
22 which have been with you since you've been a boy. As  
23 you have said, however, you haven't been able to do  
24 this or face the fears because you are too afraid.

25 Q How did David Motherwell sign the letter?

1 A I love you, David Motherwell.

2 MR. SHAPIRO: Thank you, I nothing further.

3 THE COURT: We'll take our recess now. Do  
4 you have further questions?

5 MR. PIERCE: No.

6 THE COURT: You may recross when we return,  
7 Mr. Pierce.

8 MR. PIERCE: Thank you, Your Honor.

9 (Short break taken.)

10 MR. SHAPIRO: Your Honor, Mr. Pierce  
11 realized there is no recross and we allowed the  
12 witness to go, if that's all right.

13 THE COURT: Yes, that's perfectly all right.

14 MR. SHAPIRO: Additionally, Your Honor, Mr.  
15 Wiggins and I have submitted to you portions of the  
16 deposition of Jack DuBois. Mr. DuBois had a stroke  
17 and is now in critical condition. He's clearly  
18 unavailable and both sides have agreed that the Court  
19 can read the excerpts in lieu of live testimony.

20 THE COURT: You are going to strain my eyes  
21 to read this? Now, I see something else.

22 MR. SHAPIRO: That is Mr. Wiggin's road map  
23 to his references. I don't have any objection to  
24 those being put in.

25 MR. WIGGINS: If you don't want that, Your

Colloquy

1 Honor, just pitch it.

2 THE COURT: No, any help I can get is  
3 welcome.

4 MR. WIGGINS: I think there's some  
5 duplication.

6 MR. SHAPIRO: There is some duplication. I  
7 did mine before I had seen Mr. Wiggin's.

8 MR. WIGGINS: And I have before me portions  
9 of depositions of Jack DuBois dated November 14, 1990  
10 at 9:50 a.m, original and a copy.

11 MR. SHAPIRO: There's a second deposition I

from from 1988.

correct. I have

e, I wonder if we

the record, if we

if we should publish

ke them as an

stipulation probably

pies taken from the

d be fine.

two depositions have

12

13

14

15

16

17

18

19

20

21

22

23

24

25

guess Mr. Wiggins has excerpted f

MR. WIGGINS: That's co  
excerpted from two depositions.

Your Honor, if you would lik  
need, how we make this a part of  
should mark these as exhibits or  
the deps, I just don't know.

THE COURT: Probably ma  
exhibit, I would think.

MR. JOHNSON: With the  
that they're true and accurate co  
deposition.

MR. WIGGINS: That woul

THE COURT: I guess the





Colloquy

1 Mrs. A and I think that was admitted in, came in in  
2 the testimony of Witness Baxter.

3 MR. SHAPIRO: Came in during Mrs. A. Ms.  
4 Baxter did say that Mrs. A was an inveterate note  
5 writer.

6 THE COURT: That is Plaintiff's exhibit,  
7 would you care to comment on that exhibit any further?

8 MR. SHAPIRO: We objected initially because  
9 it had not been identified as a potential exhibit to  
10 be offered. We would like to preserve that objection.  
11 I apologize, we have no objection.

12 MR. WIGGINS: It's marked as a Plaintiff's  
13 exhibit.

14 THE COURT: I have it as a Plaintiff's  
15 exhibit.

16 MR. WIGGINS: I think we marked it and you  
17 offered it.

18 MR. SHAPIRO: Just so we're clear, it's two  
19 separate letters stapled together?

20 THE COURT: Yes, I called it a two-page  
21 letter.

22 MR. SHAPIRO: We have no objection.

23 MR. WIGGINS: No objection.

24 (Plaintiff's Exhibit No. 36  
25 received into evidence.)

Colloquy

1 THE COURT: Now, maybe you people can  
2 monitor me because I haven't marked my sheet to

3 ~~indicate the action taken on anything submitted~~  
the judgment on the jury  
4 elson against the Church.  
5 was admitted.

6 selection is I admitted

7 not recall, I know we

8 o back through my notes.

9 . Number 39 was the

10 policies. Do you

11 n that?

12 dmitted.

13 es indicate that 39, 40

14 , 40, and 41.

15 was initially rejected

16 re yesterday.

17 er from Motherwell to

18 e one we were talking

19 D: Now that's a different one.

20 Do you wish me to check my notes

1499

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

subsequent to 37. No. 38 was  
verdict, Pierce County, Gabrie

MR. SHAPIRO: That w

THE COURT: My recol

that.

MR. WIGGINS: I do n

objected to it.

THE COURT: Let me g

I have admitted it in my notes

special status procedures and

gentlemen also have anything o

MR. SHAPIRO: Also a

MR. WIGGINS: My not

and 41 were all admitted.

THE COURT: Admit 39

MR. WIGGINS: No. 42

and then admitted the day befo

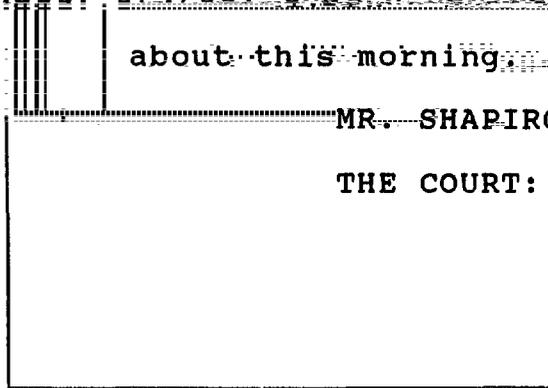
THE COURT: The lett

Barnett, 3/4/88, that's not th

23 about this morning

24 MR. SHAPIRO

25 THE COURT:



Colloquy

1 on that?

2 MR. WIGGINS: We agreed on that. 43 was  
3 admitted.

4 THE COURT: 43 was what, again?

5 MR. WIGGINS: It was the notes and minutes  
6 of the meeting.

7 THE COURT: 44 was a letter Leach to  
8 Barnett.

9 MR. SHAPIRO: That was not admitted.

10 THE COURT: 44 and 45 were not admitted.

11 MR. SHAPIRO: Correct.

12 MR. WIGGINS: Correct.

13 MR. ROHAN: 46 was admitted.

14 MR. WIGGINS: I had the Court reserving  
15 ruling. Did he later admit it?

16 MR. ROHAN: I think it was admitted.

17 THE COURT: What?

18 MR. ROHAN: 46 is the Articles of  
19 Amendments, I believe was admitted.

20 THE COURT: Do you want me to check that?

21 MR. SHAPIRO: I think we're in agreement.

22 THE COURT: Admitted. 47, notes of senior  
23 elders' meeting, 10:20 a.m, March 4.

24 MR. ROHAN: That was admitted.

25 MR. SHAPIRO: 48 as well.

Colloquy

1 THE COURT: And 48 is the same only this is  
2 3:15 p.m. and was admitted.

3 49 was the letter, senior elders to Barnett,  
4 3/4/88.

5 MR. WIGGINS: I know that as admitted, same  
6 with 50.

7 THE COURT: Number 50 was the Resolution of  
8 Amendments to Bylaws.

9 MR. WIGGINS: I believe that was admitted.

10 MR. ROHAN: It was admitted, Your Honor.

11 THE COURT: And 51 and 52 were the Jack  
12 Hicks Rules of Protocol and Rules of Deliberation.  
13 They were never offered or admitted; is that right?

14 MR. WIGGINS: I believe that's correct.

15 MR. JOHNSON: That's correct, Your Honor.

16 THE COURT: He said they just turned their  
17 back on them or something.

18 MR. ROHAN: Not admitted.

19 MR. SHAPIRO: 53 is the letter we were  
20 talking about this morning. That has not been  
21 admitted.

22 THE COURT: Letter, Motherwell 2/26 to Don  
23 Barnett and elders and that was not admitted. What  
24 was the date of that letter?

25 MR. SHAPIRO: 2/26/88.

Defendants Rest

1 MR. SHAPIRO: 54 and 55 are the deps, I  
2 believe.

3 THE COURT: Are we up to date on exhibits?  
4 It seems so to me.

5 MR. JOHNSON: 54 and 55 were the deposition  
6 exhibits, Your Honor.

7 THE COURT: Oh, that's right.

8 MR. JOHNSON: Defendant's deposition, DuBois  
9 deposition exhibit or excerpts, November 14.

10 MR. SHAPIRO: November 19, 1990 and 55 was  
11 Plaintiff's. Oh, Your Honor, it is November 14, I'm  
12 sorry.

13 THE COURT: Excerpt from the same deposition  
14 and another.

15 MR. SHAPIRO: That was sometime in '88.

16 MR. WIGGINS: The date of the earlier dep  
17 was 12/6/88.

18 MR. SHAPIRO: Defendants would then rest,  
19 Your Honor.

20 THE COURT: Do you want to argue a motion?

21 MR. WIGGINS: I have no motion, Your Honor.  
22 At this time, the Plaintiff would like to begin  
23 rebuttal testimony by calling Kristian Erickson who is  
24 waiting. I'll go get Mr. Erickson.

25 MR. SHAPIRO: Your Honor, may I be excused?

1 THE COURT: Are you going to rejoin us?

2 MR. SHAPIRO: I'd like to, Your Honor. I  
3 have a criminal matter that I have put over three  
4 times that I have to take care of right now.

5 KRISTIAN ERICKSON, having been duly sworn on  
6 oath was called as a  
7 rebuttal witness on behalf  
8 of the Plaintiff, was  
9 examined and testified as  
10 follows:

11 DIRECT EXAMINATION

12 BY MR. WIGGINS:

13 Q Would you state and spell your name for the court  
14 reporter, please.

15 A My name is Kristian Erickson, first name  
16 K-R-I-S-T-I-A-N, last name, E-R-I-C-K-S-O-N.

17 Q Would you give us your address, please, Mr. Erickson?

18 A 20044 Bagland Drive North, No. Y-101, Seattle 98133.

19 Q Mr. Erickson, how are you employed?

20 A I'm a casualty adjuster.

21 Q What does that mean? What do you do?

22 A Bodily injury liability, negotiating with attorneys,  
23 negotiating settling bodily injury and third party  
24 liability, as well as first party claims.

25 Q By whom are you employed?

A Pemco Mutual Insurance.

Q What type of insurance would this be? What claims do

1           you adjust?

2       A     Primarily auto, sometimes boats, sometimes homeowner  
3           liability claims.

4       Q     Mr. Erickson, was there a time in the past when you  
5           attended Community Chapel?

6       A     Yes.

7       Q     And when was that? Can you give us an approximate  
8           date span?

9       A     Approximately from 1969 late, or early 1969 to 1987.  
10          The last time I attended was probably shortly after  
11          Christmas, early 1988, approximately the time of the  
12          break-up of elders and pastor's churches.

13      Q     All right, thank you. So, you do not now attend  
14          Community Chapel?

15      A     No.

16      Q     Do you attend the church which Pastor Barnett now  
17          leads?

18      A     No.

19      Q     I want to ask you some questions about a woman named  
20          Sue Towery, T-O-W-E-R-Y, now Sue Towery Zwack. Do you  
21          know this person?

22      A     Yes.

23      Q     How recently have you talked with Mrs. Zwack?

24      A     She called me after her testimony here on Friday.

25      Q     What did she say to you?

1 A She was disturbed. She didn't say she was disturbed,  
2 I'm editorializing.

3 MR. ROHAN: Your Honor, I object. The  
4 question was what did the woman say to him and I think  
5 he should answer the question that was asked, what she  
6 did say to him.

7 THE COURT: Yes.

8 Q (By Mr. Wiggins) All right, please answer that  
9 question to the extent you can.

10 A Sure. She asked if I was going to testify at the JAMS  
11 arbitration. She asked if I was going to talk about  
12 the incident at the Pan Pacific Hotel in Vancouver.

13 THE COURT: Where?

14 THE WITNESS: In Vancouver, British  
15 Columbia.

16 THE COURT: I think that's something with  
17 which I'm not familiar.

re.

e asked -- Excuse me for the pause, I'm trying to  
member exactly what it was that she said.

ke your time.

~~re asked if I would do that please and then I'm trying~~

rrangement at the Pan Pacific Hotel and I said that  
y memory was really fuzzy.

19

he

20

A

Sh

21

re

22

Q

Ta

23

A

24

a

25

m

1 A She started talking and refreshed my memory on some

things, just about what happened whereupon I began to  
remember more from my own. My memory was refreshed by  
this and refreshed beyond the time of the deposition I  
gave. I responded to her that I didn't want to talk  
to her about it. I didn't say that in so many words,  
I said it in a broader context. I didn't say I don't  
want to talk to you about this, I said something to  
that effect and I don't recall what the words were  
exactly.

She was very concerned about what I might or  
might not say at this arbitration and I tried to be  
inclusive. And I realize those are editorial comments,  
but I don't remember the specifics very carefully. I  
didn't really want to talk to her about what I might  
or might not say.

Did she tell you why she was calling you?  
Because she had been at the arbitration and testified  
that Friday, this was Friday evening, and because she  
was under the impression that I had said something in  
my deposition that was damaging perhaps to her  
personally or something and she wanted me to assure  
her that this wasn't true.

When she asked you that -- When was your deposition  
taken?

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

t  
r  
t  
g  
t  
I  
w  
t  
e  
m  
e  
b  
d  
o  
D  
B  
t  
w  
m  
p  
h  
W  
t

Q  
A  
Q

1 A December 14th, I believe.

2 Q Of last year?

3 A Yes.

4 Q So, a month and a half ago?

5 A Um-hmm (Affirmative).

6 Q And after your deposition was taken, did you before  
7 today ever see a typed up copy of your deposition?

8 A No, I did not.

9 Q And so you never reviewed the deposition?

10 A No, I did not.

11 Q What did you say to her when she asked you if you had  
12 said anything detrimental to her in your deposition?

13 A She didn't say did you say anything detrimental, she  
14 brought up -- Now I'm recalling the conversation.  
15 She wanted to know about the beds being pushed  
16 together and where the dividing point was between the  
17 beds. She admitted freely that she and the other girl

ition I  
the beds  
'd like to  
ning ahead

19  
20  
21  
22  
23  
24  
25

Q  
A

together themselves. I recall at the depos  
said that I thought that the crack between  
that would exist was --  
I don't mean to interrupt your answer but I  
put this in context because perhaps I'm run  
a little bit.  
Sure.

discussion with Mrs. Zwack about the incident during your telephone conversation, have you related just pretty much the substance of everything that was said during your telephone conversation with her last Friday?

2  
3  
4  
5  
6

As far as it's come up here. It's conceivable we talked about some other things, but I think so. I probably told her how old my son was or something like that, I don't know.

7  
8  
9  
10

Okay. Now, did she ask you to say particular things in your testimony?

11  
12

She did not in fact ask me to say any particular things. I indicated to her that I didn't want to talk to her about what I would say or wouldn't say and she terminated the conversation dejectedly.

13  
14  
15  
16

took with Sue Towery Zwack  
Kristen Miller and Donald  
Vancouver?

18  
19  
20

you recall a trip that you  
and now you've mentioned Kr  
Barnett and yourself to Van

was Vancouver, Washington.

22

Q And Mrs. Zwack testified it

on or Vancouver, British

23

Was it Vancouver, Washington

24

Columbia?

25

A Vancouver, British Columbia

ERICKSON - Direct (By Mr. Wiggins)

- 1 Q Where did you stay in Vancouver?
- 2 A At the Hotel Pan Pacific.
- 3 Q How many nights did you stay?
- 4 A I think we stayed one.
- 5 Q All right. And Mrs. Zwack asked you about the beds,  
6 is that correct, the beds in the room?
- 7 A We discussed the beds, right.
- 8 Q Did the four of you all stay in one room?
- 9 A Yes.
- 10 Q How many beds were there?
- 11 A Two.
- 12 Q How were the beds arranged when you arrived?
- 13 A Normal motel fashion, separated I believe by a light  
14 or night stand between the two double beds or king  
15 size beds.
- 16 Q Did someone in fact move the two beds together?
- 17 A The two girls moved the beds together.
- 18 Q Did Pastor Barnett move the beds together?
- 19 A No.
- 20 Q Now, did you recall while you were staying at the Pan  
21 Pacific Hotel in Vancouver going to the hot tub?
- 22 A Yes.
- 23 Q And when you returned from the hot tub, did you all  
24 return to the room together?
- 25 A I don't recall.

1

2

3

4

5

6

7

8

9

10

11

**DELETED MATERIAL FILED UNDER SEAL**

12

13

14

15

16

17

18

19

20

21

22

23

24

25

ERICKSON - Cross (By Mr. Rohan)

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

**DELETED MATERIAL FILED UNDER SEAL**

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

DELETED MATERIAL FILED UNDER SEAL

ERICKSON - Redirect (By Mr. Wiggins)

1 There's no question pending other than for him to read  
2 it.

3 THE COURT: The request was that you read  
4 that to refresh your recollection and then he will ask  
5 you another question.  
6  
7  
8  
9  
10  
11  
12

13  
14 DELETED MATERIAL FILED UNDER SEAL  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1

2

3

4

5

6

7

8

9

10

11

12

**DELETED MATERIAL FILED UNDER SEAL**

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

DELETED MATERIAL FILED UNDER SEAL

20 types of things. I have consciously tried to go on  
21 with my life and put these other items out of my  
22 memory and have done a pretty good job of it until  
23 just recently when I've had to recall things.

24 MR. WIGGINS: I'm sorry we've had to  
25 reawaken all of this, I have no further questions.

RECROSS-EXAMINATION

1  
2 BY MR. ROHAN:

3 Q You said you have tried to put all of this information  
4 out of your memory; is that right?

5 A Yes.

6 Q So, whether you said it in your deposition or you said  
7 it here today, although that's your best memory of  
8 today it could be inaccurate; is that right?

9 A With the caveat that certainly anything can be  
10 inaccurate so many years afterwards.

11 MR. ROHAN: No further questions. Thank  
12 you, sir.

13 MR. WIGGINS: I have nothing, Your Honor.

14 THE COURT: You may be excused, sir. I  
15 think we should recess at this time. And without  
16 prejudice, could you give us some indication of how  
17 the afternoon will go?

18 MR. WIGGINS: We will put on Mr. Motherwell  
19 briefly as we indicated that we would do. We'll put  
20 on Pastor Barnett and that would conclude our  
21 rebuttal.

22 MR. ROHAN: How long with Pastor Barnett?

23 MR. WIGGINS: I don't know. I have a fairly  
24 lengthy line of questioning. We have had a week of  
25 testimony that we need to respond to.

MOTHERWELL - Direct (By Mr. Pierce)

1 THE COURT: I can imagine it might be  
2 extensive.

3 MR. ROHAN: Your Honor, if we do closing  
4 arguments, I would ask that we do both of them one  
5 right after another.

6 THE COURT: I think that's reasonable.

7 MR. ROHAN: So, if we don't get through by

erime in the afternoon where it looks like we can't  
both --

THE COURT: I'm not going to start late in  
afternoon because I take it, and I'm putting  
elf in your place, it would seem to me that an  
ument on each of you, both of you will take at  
st an hour.

MR. JOHNSON: Realistically, I don't think  
s going to happen today.

THE COURT: I ask you to be as explicit and  
ailed as you possibly could and I agree with you,  
Johnson, that it needn't be but I think it  
bably will be and that's where I'm coming from.

MR. PIERCE: Call David Motherwell to the  
nd.

WELL, PIERCE

having been first duly sworn  
on oath was called as a  
rebuttal witness on behalf  
of the Plaintiff, examined  
and testified as follows:

9 do  
10  
11 the  
12 mys  
13 arg  
14 lea  
15  
16 it'  
17  
18 det  
19 Mr.  
20 pro  
21  
22 sta

23 DAVID MOTHER

24

25

DIRECT EXAMINATION

BY MR. PIERCE:

Q Mr. Motherwell, did you testify in direct examination that you were present at the meeting of February 28, excuse me, service of February 28, 1988?

A I was, yes.

Q And at that time did the congregation raise their hands at the request of Pastor Barnett to indicate that they wanted him to stay at that time?

A I believe I said I don't recall that. I don't believe they did, although I don't recall seeing that happen.

Q Can you turn to Exhibit 31?

A Got it.

Q Have you seen Exhibit 31 previously?

A Bouncing around.

Q Have you read Exhibit 31?

A Not word for word.

THE COURT: What is that, transcript of the sermon?

MR. PIERCE: From February 28, 1988.

A I hope I never see it again.

Q (By Mr. Pierce) Could you turn to page 57, please.

A There's no 57. This ends at 26.

MR. ROHAN: You have the right one, that's the wrong one.

MOTHERWELL - Direct (By Mr. Pierce)

1 MR. PIERCE: We don't have the right exhibit  
2 in here apparently.

3 THE COURT: Are you looking for the  
4 transcript?

5 MR. ROHAN: Yes, Your Honor.

6 MR. JOHNSON: This is interesting because  
7 this is different from the one we had gotten before.

8 MR. ROHAN: That's why we didn't introduce  
9 that because the one in your hand is the more accurate  
10 of the two.

11 MR. PIERCE: Which exhibit is this?

12 MR. ROHAN: It's actually not an exhibit. I  
13 don't know how it got into the book.

14 MR. WIGGINS: Maybe we should use the  
15 Judge's.

16 THE COURT: Yeah, it would be 31.

17 MR. ROHAN: That's the one that's the  
18 exhibit.

19 MR. PIERCE: Your Honor, we'll replace  
20 Exhibit 31 taking out the document that's presently  
21 there.

22 THE COURT: I don't know that mine is at  
23 fault. That one may be at fault, let me see.

24 MR. ROHAN: The Court has the correct one.

25 MR. JOHNSON: Is it true that the Court's

1 copy and that our copy is not as accurate as this  
2 copy?

3 MR. ROHAN: No, the opposite way around.

4 MR. PIERCE: So, this one is the inaccurate  
5 one.

6 MR. ROHAN: Correct.

7 MR. PIERCE: The one that was in the book  
8 which we'll take out at the present time.

9 MR. ROHAN: That's correct.

10 Q (By Mr. Pierce) So, Mr. Motherwell, if you could  
11 place that in the book and we'll hopefully have the  
12 correct set. Now, can you turn to page 57?

13 A I've got it.

14 Q Up at the top in the middle of the third line, does  
15 that start off and say "I want you to raise your  
16 hands" and end with a period?

17 A It does.

18 Q And does that refresh your memory that there was a  
19 show of hands on the February 28, 1988 services?

20 A No, I don't know if there was. First of all, I was  
21 sitting towards the front which I normally do. And  
22 second of all, I didn't raise my hand, I'm positive of  
23 that, and the people sitting next to me didn't raise  
24 their hands, and I'm positive of that. If others  
25 raised their hands, then perhaps.

MOTHERWELL - Direct (By Mr. Pierce)

1 Q Do you recall if anybody raised their hands?

2 A People raise their hands all kinds of times during a  
3 church service. They perhaps raised their hands in  
4 response to this. I don't recall this. The people I  
5 was sitting next to, the other elders and my wife  
6 their wives, none of us raised our hands.

7 (Plaintiff's No. 56 marked  
8 for identification.)

9 Q Showing you Plaintiff's Exhibit 56, is that your  
10 declaration that you signed on December 10, 1990?

11 A It is, yes.

12 Q And at page 23, excuse me, page 2, line 23 you  
13 indicate on February 28, 1988 there was no show of  
14 hands in support of Pastor Barnett remaining as  
15 pastor; is that correct?

16 A It says that.

17 MR. PIERCE: Offer Exhibit 58.

18 MR. ROHAN: 56 or 58?

19 THE COURT: 56.

20 MR. PIERCE: We have no objection.

21 THE COURT: Admit 56.

22 (Plaintiff's Exhibit No. 56  
23 received into evidence.)

24 Q Would you turn to Exhibit No. 11, Mr. Motherwell.

25 A Got it.

MOTHERWELL - Direct (By Mr. Pierce)

1 Q Let's turn to page 1 of that document that follows the  
2 index to the bylaws; is that correct?

3 A Yes.

4 Q That is the last set of bylaws that you would have  
5 seen as the president and Chairman of Board of  
6 Directors of Community Chapel; is that correct?

7 A I can't answer that.

8 Q Let's look at page 1 of that document and at the top  
9 of page 1 it identifies the revisions that are in

10 ~~existence, for these Articles of Faith and Bylaws: is~~

11 that correct?

12 A It says first revision, second, third, et cetera  
13 present revision, April 6, '88 there.

14 Q There are no other revisions to the bylaws after  
15 April 6, 1988?

16 A That's correct.

17 Q Do you know what the current set of bylaws are?

18 A Do I know what they are?

19 Q Yeah. Is there another set of bylaws for Communi  
20 Chapel and Bible Training Center other than this  
21 April 6, 1988 bylaws?

22 A I don't know of any.

23 Q The prior revision, other than the present revisi  
24 that's dated April 6, 1988, the prior revision fo  
25 these set of bylaws is what date?

MOTHERWELL - Direct (By Mr. Pierce)

1 A It says January 28, 1986.

2 Q And that would, to your knowledge, be Exhibit 10?

3 A I don't know.

4 Q Let's flip to Exhibit 10 and make sure. At the top of  
5 page 1 up there it identifies with regard to that  
6 document the present revision as being January --

7 A January blank, 1986.

8 (Plaintiff's Exhibit No. 57  
9 marked for identification.)

10 Q Can you review Exhibit 57, Mr. Motherwell?

11 A The date is --

12 Q You don't have to say anything, just first review it.

13 A All right, I've reviewed it.

14 Q When did you become Chairman of the Board of Directors

ould you like

16

A No, that is not what that says. What w  
me to read?

17

ou became the  
ommunity

18

Q The next question is what is the date y  
Chairman of the Board of Directors of C  
Chapel?

19

20

wing me, it

21

A Well, as opposed to the date you're sho  
says here October 12, 1989. It was mov  
and approved, that's paragraph 5, it wa  
seconded and approved that David Mother  
President of the Board of Directors.

ed and seconded

22

s moved and

23

well be named

24

25

1 Q That's the date you would have become Chairman of the  
2 Board of Directors?

3 THE COURT: And that date was what?

4 THE WITNESS: October 12, 1989.

5 Q And Exhibit No. 57 that you have in your hand is  
6 copies of the minutes of the Board of Directors  
7 meeting which occurred after March 4, 1988 when Pastor  
8 Barnett was removed; is that correct?

9 A It says Minutes of Board of Directors, December 22,  
10 1988.

11 Q That's on that first document and then the remaining  
12 documents are other minutes of the Board of Directors;  
13 is that correct?

14 A That's correct.

15 Q Are there any other minutes of the Board of Directors  
16 other than these subsequent to March 4, 1988?

17 A I'm not the corporate secretary.

18 Q Have you been at any other meetings of the Board of  
19 Directors of Community Chapel and Bible Training  
20 Center other than the ones that are listed here?

21 MR. ROHAN: Your Honor, some of these  
22 minutes show on their face that Mr. Motherwell wasn't  
23 present because they predated the time he was on the  
24 Board of Directors.

25 THE COURT: You haven't moved to admit at

1 this point. I don't know where we're going or what  
2 we're doing.

3 A What was your question?

4 Q (By Mr. Pierce) Have you been present at any other  
5 meetings of the Board of Directors other than the ones  
6 listed here?

7 A I can't accurately say that I have or haven't.

8 Q You do not know whether there have been any other  
9 meetings of the Board of Directors?

10 A I don't know if this is a complete list of the minutes  
11 of the Board of Directors. I don't know if there were

other meetings that I wasn't there.

MR. PIERCE: These, Your Honor, have been

12 d to the Plaintiff through the Defendants'  
13 being all the minutes of the meetings and  
14 st, let me offer them as being the minutes  
15 tings of the Board of Directors and, if  
16 problem, we'll get into the production of

17 THE COURT: Now, we're talking about which  
18 7?

19 MR. PIERCE: Maybe it's better to say that  
20 represented to us as being all the minutes  
21 rd of Directors where the change in  
22 would have occurred, as counsel has

14 represente  
15 counsel as  
16 if -- Fir  
17 of the mee  
18 there's a  
19 documents.  
20  
21 exhibit, 5  
22  
23 these are  
24 of the Boa  
25 directors

1 indicated to me. So, maybe it's better that I ask Mr.  
2 Motherwell are there any other minutes of the Board of  
3 Directors where somebody has been appointed as a new  
4 member of the Board other than the ones that are  
5 listed here?

6 A I can't say that I know of any.

7 MR. PIERCE: I'd offer Exhibit 57, Your  
8 Honor.

9 MR. ROHAN: Your Honor, I don't have any  
10 objection to the first page of Exhibit 57 because it  
11 ~~seems to me it does relate to this case because it~~

talks about the events of March 4, 1988 which are  
relevant to this case.

The remaining parts of that exhibit I don't think  
are relevant whatsoever to this case. There was no  
listing of these by the Plaintiff as exhibits in this  
case. So, although I'm familiar with the document  
certainly, they were not listed as exhibits in this  
case. I don't see other than the first one which I  
have no objection to, I don't see what the relevance  
of any of this is. I would not let it in. I think  
it's goes beyond, the Court has already ruled the  
evidence that the Court will hear.

THE COURT: What is the relevancy of the  
others?

12

13

14

15

16

17

18

19

20

21

22

23

1

24

25

Colloquy

1 MR. PIERCE: Your Honor, the issue of  
2 authority of the present members of this Board had  
3 been raised as an affirmative defense.

4 THE COURT: I can imagine the first one.  
5 Where do we go from there?

6 MR. PIERCE: Well, the first one says March  
7 4, 1988 on it, the other documents relate to the power  
8 of this corporate board to be able to present and  
9 pursue this case and this litigation here.

10 Your Honor, I believe there was a case that was  
11 provided to this Court as part of our supplemental  
12 memorandum called Smith versus Riley which identified  
13 the issue of the authority of the Court to determine  
14 whether or not the Board of Directors, actually in  
15 that case the Board of Trustees, but ours is a Board  
16 of Directors, to pursue the litigation, and that goes  
17 to what our affirmative defense is that they lacked  
18 standing and authority to pursue this litigation at  
19 the present time.

20 MR. ROHAN: Your Honor, the issue in this  
21 case is whether or not as of March 4, 1988 Donald  
22 Barnett still had his offices at Community Chapel or  
23 didn't. If Donald Barnett had his offices after  
24 March 4, 1988 and we don't prevail, that's one thing.

25 If we are to prevail in this case that Donald

Colloquy

1 Barnett was properly removed as of that date, whatever  
2 else happened in the corporation after that date  
3 Donald Barnett is a stranger to. He cannot raise that  
4 issue.

5 It seems to me this doesn't have anything to do  
6 with the true issues of this case. The only issue of  
7 this case is as of March 4, 1988 was Donald Barnett in  
8 or was he was out. We say he was out, they say he was  
9 in. This doesn't have anything to do with that issue.  
10 They cannot -- If Donald Barnett is a stranger to  
11 this corporation, he is not entitled to attack who was  
12 on the Board of Directors.

13 THE COURT: It appears to me that Mr. Rohan  
14 is right in this in that nothing these people have

15 ~~done to pursue or resist in any way~~

16 ~~matter extends beyond the March 4 date. And~~

17 Barnett was not removed, then quite obviously  
18 still the pastor and that, as Mr. Rohan says,  
19 Defendants lose and that does not establish the  
20 present directors or anything else. They lose  
21 what happens thereafter, I don't know.

22 MR. WIGGINS: Your Honor, if I could  
23 to that. As you know, we raised this in our brief  
24 earlier. The Defendants have argued this issue  
25 supplemental brief, I believe maybe, it's in the

## Colloquy

1           brief, I thought it was the supplemental brief.  
2           You've disagreed with us so far on the law on this  
3           point, but we are entitled it seems to me to present  
4           our evidence. This is our evidence. These are  
5           documents we referred to.

6           Now, if I could finish, there are two reasons  
7           here why I think we should go into this. The first  
8           reason, let us suppose you decided Pastor Barnett was  
9           never properly removed. If Mr. Rohan is willing to  
10          stipulate to that, therefore, this man has no offices  
11          in Community Chapel, then you might be inclined to  
12          exclude this. I haven't heard a stipulation like  
13          that, but that's one argument. See, if Pastor Barnett  
14          is in, they're out. And part of the reasons they're  
15          out is because they never were in to begin with. They  
16          never were properly made senior elders or directors of  
17          this corporation. He's in, they're out. It's not  
18          just is Pastor Barnett in or out, it is he's in and  
19          they're out. And this document is relevant to that.  
20          We're going to be asking you to tell them they're out.  
21          We don't want just Pastor Barnett is back in, they're  
22          out. That's the first reason that these documents are  
23          relevant.

24          The second reason these documents are relevant,  
25          they are arguing a counterclaim here that they

## Colloquy

1 properly had the right to dismiss him for breach of  
2 fiduciary duty. That's a matter that the Court must  
3 determine. They have to have standing to represent  
4 the corporation to bring that action.

5 Now, what they say in their supplemental memo is,  
6 gee, here's some cases that say a stranger can't come  
7 in and challenge the standing of the officers who are  
8 de facto in charge of the corporation. We don't have  
9 a stranger here, we have a contender for office, the  
10 man who says he is properly in office.

11 And as far as the state of this case or the  
12 status of this case is concerned, unless they can  
13 prevail on a counterclaim against him, he wins. They  
14 have to carry that burden of proof. It's their  
15 counterclaim. The Supreme Court sent this back to  
16 litigation. It's their counterclaim.

17 We're not trying to kick them out in some quo  
18 warranto proceeding, we are opposing their action.  
19 And so it should come in on that basis alone. I think  
20 it's enough to defeat their entire counterclaim, the  
21 fact they don't have standing to litigate. There are  
22 no people currently running Community Chapel who were  
23 legally made the elders or Directors of the Community  
24 Chapel. This is the only man who was ever made the  
25 legal ruler of Community Chapel, Donald Barnett. It

Colloquy

1 was not David Motherwell. That's why these documents  
2 are relevant.

3 The cases they cite, the authority they cite, and  
4 I only looked at this quickly, I've been a little busy  
5 in the last two weeks since I got this memo, my brief  
6 looking at them indicates there is an exception here.  
7 When you talk about another contender to office,  
8 Pastor Barnett is a contender for the office that this  
9 ~~man claims to hold. That's why he can assert this~~

10 MR. ROHAN: Your Honor, there's a couple of  
11 points here. First is what I've already said which is  
12 the basic issue here is whether or not, what Barnett's  
13 status was as of March 4, 1988 and that is the issue  
14 before this Court. I think only the first document is  
15 relevant to that.

16 Secondly, there is no right if Donald Barnett is  
17 a stranger to this corporation, the Court decides as  
18 of March 4, 1988 Donald Barnett was out. He has no  
19 right to collaterally attack who are in here. And if  
20 he wants to challenge their right, he has to bring the  
21 quo warranto suit that counsel referred to.

22 THE COURT: Now, tip the coin over on the  
23 other side and he has. As the devil's advocate, you  
24 might say, I say, okay, so you may be right. How  
25 about if you lose?

Colloquy

1 MR. ROHAN: If we lose, then the complaint  
2 in this case that they have pleaded, their affirmative

3 ~~case. This case was never brought up in the new~~  
4 affirmative case, they brought this up in their  
5 rebuttal case. Their affirmative case does not  
6 allege, their pleadings do not allege that the  
7 Defendants are not rightfully members of Community  
8 Chapel and Bible Training Center. It was not in their  
9 complaint. They did not plead it in their complaint.  
10 They're bringing this up as some sort of affirmative  
11 defense that somehow this affirmative defense allows  
12 them to do this.

13 Secondly, since it is not pled as their  
14 complaint, it's simply not before the Court at this  
15 time. And they can try to raise this as a collateral  
16 issue, but it demonstrates even more that in fact it  
17 is a collateral issue.

18 THE COURT: If you lose and he is  
19 established, where is your client?

20 MR. ROHAN: Well, our clients are still on  
21 the Board of Directors and he is on the Board of  
22 Directors.

23 MR. WIGGINS: Might I respond briefly?

24 THE COURT: I don't quite see that.

25 MR. WIGGINS: May I respond with respect to

Colloquy

1 the pleadings? They made a counterclaim. You let  
2 them amend the counterclaim. The next thing that  
3 happened was we frankly forgot to answer their  
4 counterclaim and then they came in beefing to you  
5 wanting more time for discovery because we hadn't  
6 answered their counterclaim.

7 We filed an answer to the counterclaim. One of  
8 the affirmative defenses we raised was that these people  
9 ~~these people to litigate this action as pleaded.~~

10 is within the scope of the pleadings. Of course,  
11 didn't present this as part of our case in chief.  
12 are defending a lawsuit that they brought. We tried  
13 to raise it in our cross-examination of Mr. Motherwell  
14 and it was ruled beyond the scope of their examination  
15 of Mr. Motherwell. We are responding. We are  
16 bringing this up in timely fashion.

17 You see, here's the problem. It's very  
18 interesting what Mr. Rohan just said. If Pastor  
19 Barnett is back in, now we have a Board of Elders,  
20 four again, we have the pastor, and we have these  
21 three men. We want to end this litigation here.  
22 want to finish this litigation. We don't want to  
23 set off another round of litigation and wrangling  
24 deadlock or whatever they may try to pull. We want  
25 decision. In fact, were these people ever legally

Colloquy

1 in? And you've heard now what the game plan is. The  
2 game plan is now we're still in and we can still do  
3 things here. That's not it at all.

4 THE COURT: Well, I'm not sure I agree with  
5 him any more than I agree with you, for the purposes  
6 of this argument.

7 MR. ROHAN: There are two memos on this  
8 subject that perhaps the Court should review.

9 THE COURT: I will permit introducing this  
10 evidence. I may strike it entirely if I rule  
11 adversely to you on reflection, on reviewing the two  
12 briefs.

13 MR. WIGGINS: Thank you, Your Honor.

14 THE COURT: And I think that can be done  
15 quite quickly and simply, I mean establishing this  
16 fact. You needn't go through a whole lot of papers.

17 MR. PIERCE: Offer 57, Your Honor.

18 THE COURT: 57 will be admitted subject to  
19 being stricken and I'm going to write that in so that  
20 nobody understands that it has been flatly admitted.

21 MR. ROHAN: We would agree to the first page  
22 being admitted regardless.

23 THE COURT: Well, that's not what they're  
24 after, I think. I'm not trying to tell you what you  
25 are after or what you are not, but the way I

MOTHERWELL - Direct (By Mr. Pierce)

1 understand your argument, that's it.

2 (Plaintiff's Exhibit No. 57  
3 received into evidence.)

4 Q (By Mr. Pierce) Mr. Motherwell, you were appointed to

1 A He was disfellowshipped.

2 THE COURT: The answer to that question is  
3 no?

4 A He was disfellowshipped.

5 Q Has he been present at any other meetings where you  
6 would have been present at a meeting of the Board of  
7 Directors of Community Chapel and Bible Training  
8 Center?

9 A He's been disfellowshipped since March 4. The answer  
10 is no.

11 Q He was not at any meeting that you would have called?

12 A None that I would have called, no.

13 Q Would you turn to Exhibit 11, page 4, article 4.

14 A Article 4, I see it.

15 Q Does that provide that the pastor of the church shall  
16 automatically be a member of Board of Senior Elders?

17 A It says the pastor of the church shall automatically  
18 be a member of the Board of Senior Elders.

19 Q Has there been a pastor of Community Chapel Bible  
20 Training Center since March 4, 1988?

21 A I believe I answered that in direct or cross or  
22 something, but I said no.

23 Q Would you have -- Can you review Article 3 on that  
24 very same page that you were on there, page 4 of  
25 Exhibit 11. Does that provide that additional members

MOTHERWELL - Direct (By Mr. Pierce)

1 of the Board of Senior Elders may be appointed by the  
2 Board of Senior Elders from among the elders of the  
3 church by an affirmative vote of the pastor and a vote  
4 of all other Senior Board of Elders, save one?

5 A That looks like a quote.

6 Q Flip back to Exhibit No. 10 and look at page 5 of that  
7 document, the top two articles of that page provide  
8 the same language for additional members of the Board  
9 to be appointed in article 3 and in article 4 that the  
10 pastor shall automatically be a member of Board; is  
11 that correct?

12 A It looks like that, yes.

13 Q Now, is there a procedure in the bylaws for the  
14 appointment of a new pastor?

15 A I don't see it in front of me.

16 Q Let's turn to Exhibit No. 11, page 15.

17 A I see it.

18 Q And paragraph B-5 provides a means for the procedures  
19 to appoint a new, to fill a pastoral vacancy; is that  
20 correct?

21 A It looks like it.

22 Q Do you know of any action by the Board of Directors of  
23 Community Chapel and Bible Training Center to utilize  
24 this provision of the bylaws of the corporation to  
25 fill a pastoral vacancy?

MOTHERWELL - Direct (By Mr. Pierce)

1 A No.

2 Q This provision B-5 of Exhibit 2 of the articles  
3 provides that the choice of a pastor shall be a  
4 minimum two-thirds majority of the voting  
5 congregation; is that correct?

6 A That's what that says.

7 Q Has there been a vote to the congregation of Community  
8 Chapel with regard to a pastor at Community Chapel and  
9 Bible Training Center?

10 A Not to my knowledge.

11 Q Let's flip back to Exhibit 10 for a moment here.  
12 We're almost completed with this, at page 18.

13 ~~Let's go back to Exhibit 10~~

Q Is that procedure provided in the bylaws of the  
corporation as existed prior to March 4, 1988 or up to  
March 4, 1988?

A Well, without giving a yeah or nay on the date, I  
don't know what date we're looking for. What do you  
want me to read out of here?

Q At the very top of the page, is that same provision in  
paragraph 5 up there? Does the article that exists in  
the exhibit -- bylaws as they existed in Exhibit 10  
provide the same language for the appointment of a new  
pastor as is in Exhibit 11?

A It looks the same.

MOTHERWELL - Cross (By Mr. Rohan)

1 Q And turning back to page 5 of --

2 A Same.

3 Q Article 4, do you see that?

4 A Yes.

5 Q Does that provide that the pastor of the corporation  
6 church shall automatically be a member of the Board of  
7 Senior Elders?

8 A That's the quote in this, yes.

9 Q Since March 4, 1988, had you had a pastor of the  
10 church as a member of the Board of Senior Elders?

11 A Pastor of the church, you're referring in a way voted  
12 on and so on like you've read here?

13 Q Yes.

14 A No.

15 Q ~~Mr. Rohan, turn over to Exhibit No. 11 - on page 4, of~~  
16 Section 4, page 4, is that where you're at?

17 A Right.

18 MR. PIERCE: I guess I have no further  
19 questions.

20 THE COURT: Is there any cross-examination?

21 MR. ROHAN: Just a few questions, Your  
22 Honor.

23 CROSS-EXAMINATION

24 BY MR. ROHAN:

25 Q At the risk of you getting further seasick, why don't

1 you get out Exhibit 31 which is the February 28, 1988  
2 sermon and turn to page 56.

3 A Page 56.

4 Q And it states there, there's a question it's 14 lines  
5 up from the bottom.

6 A From the bottom.

7 Q And it states, quote, "How many of you will sign a  
8 petition to change -- I want the articles of  
9 incorporation, which are very thin, just a paragraph  
10 in there, changed to agree with the detailed laws of  
11 the bylaws that we've always gone by, I want the  
12 articles of incorporation changed". Do you see that?

13 A Yes, that's a quote.

14 Q Turn to the next page. No, let's look at the bottom

~~of that page. The articles of incorporation~~  
t that changed -- the articles of incorporation  
nged so that it agrees with the bylaws so that the  
ter of the church and the president of this  
ration cannot be removed. And I think that's  
than trying to get me removed and have other  
e try to lead this church and lead you on. So,  
u will agree to sign that petition if we ask for  
nd we probably won't, but just in case we do, I  
you to raise your hands". Do you see that?

16

wan

17

cha

18

reac

19

corpo

20

safer

21

peopl

22

if yo

23

it, a

24

want

25

A

Yes.

MOTHERWELL - Cross (By Mr. Rohan)

1 Q Do you recall that? And then let's turn to Exhibit 56  
2 which is your declaration that was just admitted and  
3 look at paragraph 8.

4 A I see it.

5 Q Now, in the February 28 sermon, the show of hands was  
6 regarding whether or not someone would sign the  
7 petition that I just read?

8 A Yes.

9 Q What you said in your affidavit is there was no show  
10 of support of Barnett remaining as pastor?

11 A Yes.

12 Q So, your declaration is in fact consistent with the  
13 February 28 sermon.

14 MR. PIERCE: Objection.

15 THE COURT: He may answer.

16 A Yes, it is.

17 Q (By Mr. Rohan) Let's turn if we might to Exhibit 57  
18 which the Court stated has been tentatively admitted.

19 A I have it.

20 Q And that purports to be the minutes from the Board of  
21 Directors of December 22, 1988 and it states -- Do  
22 you read the members present there were Lanny  
23 Peterson, Jack DuBois, and Scott Hartley; is that  
24 right?

25 A Yes.

1 Q Could you read paragraph 2 and 3 of those minutes.

2 A Paragraph 2 says ratifying the removal of Donald L.  
3 Barnett as director of Community Chapel and Bible  
4 Training Center and removing Donald Lee Barnett as a  
5 director.

6 Q And was there a vote?

7 A A vote 3 to 0.

8 Q And read paragraph 3.

9 A Paragraph 3 says ratify all decisions made by Scott  
10 Hartley, Jack Hicks, and Jack DuBois made on March 4  
11 and March 10, 1988.

12 Q It was approved?

13 A Approved 3 to 0.

14 MR. ROHAN: No further questions. Thank  
15 you, Mr. Motherwell.

16 MR. PIERCE: I have no further questions,  
17 Your Honor.

18 THE COURT: I take it that ends the  
19 tentatively allowed testimony concerning status.

20 MR. WIGGINS: That's correct, I don't have  
21 any more on that subject.

22 MR. JOHNSON: Your Honor, if it's not going  
23 to be objected by anyone, I would excuse myself for  
24 the balance of this afternoon.

25 THE COURT: Okay.

BARNETT - Direct (By Mr. Wiggins)

1 DONALD BARNETT,

the Plaintiff herein, having  
2 been recalled to the  
stand having been previously  
3 duly sworn, was examined and  
testified as follows:

4 DIRECT EXAMINATION

5 BY MR. WIGGINS:

6 Q Pastor Barnett, I would like to ask you some questions  
7 now relating to evidence presented by the Defendants  
8 during their case. And the first question I would  
9 like to ask you about has to do with some statements  
10 made by Mr. MacKenzie while he was testifying. I  
11 would like to begin with Balance Two and Rumor 20 in  
12 Balance Two. Would you turn please to Exhibit 27.  
13 Will you take the black notebook that is there beside  
14 you. Now, would you find in there Rumor 20 in  
15 Balance Two.

16 MR. ROHAN: Page 19, I think.

17 MR. WIGGINS: I have it.

18 Q (By Mr. Wiggins) Pastor Barnett, there have been  
19 repeated references by the Defendants to the Rumor, to  
20 the answer to Rumor 20 in Balance Two and the fact  
21 that there's a term used in the answer, the term being  
22 "accountable". And I believe you indicated earlier  
23 that you had either written an earlier version or you  
24 quote some versions to the answer to Rumor 20.

25 A Yes.

1 Q What do you mean by being held accountable to the  
2 elders and the congregation?

3 A Well, I meant that I'm accountable to the bylaws, the  
4 senior elders, fellow elders, and even the  
5 congregation and God, that I need to give an account.

6 But I did not mean to imply and I do not mean to imply  
7 that I'm accountable to them all in the same way.

8 I'm accountable to the bylaws, for example, in a  
9 different way than to the congregation. I am,  
10 according to the bylaws, under the bylaws but I'm not  
11 under the congregation. I'm accountable to God in a  
12 different way than I am to the congregation. So,  
13 being accountable in no way implies that they have  
14 jurisdiction over me, they have authority over me.

15 They can discipline me or do what they want to  
16 me. It means I have to give an account. And so if I  
17 offend a brethren in the congregation even if he just  
18 came in yesterday, I place myself in a position to  
19 give an account to him. And he can come and say,  
20 "Pastor, I think you have offended me". You laughed  
21 at my blue suit and/or the red tie. And I need to  
22 say, "Well, I'm sorry, I didn't mean to offend you,  
23 forgive me".

24 It doesn't mean I gave him jurisdiction or if I  
25 disagree with him in the matter it doesn't mean he

1 prevails, it only means I submit myself to listen to  
2 his complaints. And to the best of my understanding  
3 and ability according to my own mind, I give an  
4 account to him the best that I can, whether it be  
5 defense or repentance or whatever.

6 Q Now, did you ever discuss this answer to Rumor 20 with  
7 any of the members of the eldership?

8 A No. Well, pardon me, you mean when I wrote it or at a  
9 later time?

10 Q At any time.

11 A Not when I wrote it, but I think if my memory serves  
12 me correctly at the eldership hearing Jerry Zwack did  
13 bring this up and I did give an explanation to it at  
14 that time.

15 Q Before that time, had you ever said to any, or have

~~ever said anything to any of the elders that might~~

construed or interpreted as meaning that your use  
the word "accountable" in that answer meant that  
were submitting yourself to the authority of the  
ers?

And as a matter of fact, to the contrary. I  
explained that the scriptures say to submit yourself  
to another. That means anybody in the church, but  
it does not mean that everybody is under the  
jurisdiction of everybody else or under the authority

17

18

19

20

21

22

23

24

25

A

you

be

of

you

elde

No.

expl

one

that

juris

1 of everybody else. Nobody can cut each other up and  
2 determine how he should live and what restrictions  
3 they could place on one another.

4 Q Now, Mr. MacKenzie and I believe others of the elders  
5 have said you refused to continue with the eldership  
6 hearings. Did you in fact refuse to continue with the  
7 eldership hearings?

8 A No.

9 Q The statement I believe has been made that in the  
10 meeting after you finished your rebuttal on February  
11 the 2nd or February the 3rd that you refused to  
12 continue with any further hearings after that time; is  
13 that true?

14 A That's false.

15 Q Now, when was the date, February 2nd or 3rd, when you  
16 finished?

17 A Yes, that's totally false.

18 Q I want to take you forward in time to February the  
19 25th. Now, February 25 was a Thursday. It was the  
20 day before the elders got up and announced the special  
21 status to the congregation. There's been testimony  
22 that you met with the eldership on that day. Do you  
23 recall that?

24 A Yes.

25 Q And I believe there's been testimony that at that

1 point you indicated you were unwilling, you were not  
2 willing to meet with the elders any further; is that  
3 true?

4 A That's false.

5 Q What was said by you or to you about continuing the  
6 meetings at the February 25th meeting?

7 A I said that I had a flight that I had to take and that  
8 I wasn't through with my presentation and Jack Hicks  
9 said, "Well, Don, we can continue the meetings on  
10 Monday after you get back". And I said, "I'd like to  
11 do that". And he said, "Okay, one o'clock, is that  
12 okay?" And we agreed on one o'clock as being the date  
13 we would continue the meetings.

14 Q All right. Now, on February 26 the elders got up and  
15 announced special status to the congregation and made  
16 other statements to the congregation. On February 28  
17 you preached to the congregation and refused to accept  
18 special status.

19 Let's go to February 29th, the Monday following  
20 your sermon or address to the congregation. Did you  
21 meet with the eldership on that date?

22 A The date after my rebuttal, I don't remember meeting  
23 with the eldership unless I have forgotten. I don't  
24 remember meeting with the eldership any time after my  
25 rebuttal, that kind of cut everything off.

1 Q After the statement had been made, did you order the  
2 members of the committee to go back to work? Did you  
3 make such a statement?

4 A I did from the pulpit even.

5 Q When did you make that statement?

6 A I think I made it more than once. I'm not positive of  
7 the dates I made it. I would think that, well, I  
8 would think I would have made it, this is a guess but  
9 I think I would have made it probably on the 28th on  
10 Sunday evening. If I didn't make it in my morning  
11 Apologetica, which I don't remember reading, I think I  
12 would have made it that evening.

13 Q When you say you don't remember reading the  
14 Apologetica, do you mean you don't remember?

15 A Didn't remember reading that phrase in there. It may  
16 have been in there. I must have made it that night  
17 because to my memory I wasn't back in the church again  
18 so I couldn't have made it later than that.

19 I may have made it earlier than the 28th. I think

was insisting that  
of dollars of company  
without a leader,  
paid by the president  
undermine the president  
. If you want to

20  
21  
22  
23  
24  
25

probably did more than once  
they quit spending thousands of  
time leaving their departments  
leaving their duties, getting  
and then using it to secretly  
as I announced they were doing

1

undermine me, you have to do it on your own time after  
your job. You cannot use your job to be collecting

2

and I'm the  
red.  
and that  
ould prevent  
s?  
ship  
fore I went  
tellite  
ing, if you  
ally. Let's  
ny way you  
g to  
t to do, do  
s and  
e when I'm  
hether I'm  
ws.  
red me in  
agreement  
and rumors  
d all kinds  
e contrary  
g my

3

doing this. You have duties to perform an

4

president, I insist, which they just ignor

5

Q

When you made that statement, did you inte

6

returning to work as you told them to do w

7

them from continuing the eldership hearing

8

A

Well, no, because there weren't any elders

9

hearings. I told them on the 25th just be

10

to Kalispell, Montana to try to solve a sa

11

church problem there, I said now, we're go

12

have any dispute, we're going to do it leg

13

do it in the Senior Elder Board and vote a

14

want to vote and then you proceed accordin

15

whatever you decide. And whatever you wan

16

it. But we're going to do it by the bylaw

17

legally. Don't go jumping up in a service

18

gone. I'm in charge of all the services w

19

present or not in accordance with the byla

20

And so then when they got up and smea

21

front of the congregation contrary to our

22

and loaded them with just a lot of gossip

23

and hearsay and circumstantial evidence an

24

of things where there's no witnesses to th

25

or even to have my rebuttal without telling

6  
1 congregation, I answered that I should give it out as  
2 facts.

3 There was no more way that a meeting could go  
4 forward since they were rebelling and taking it in  
5 their own hands to try to go to the congregation and  
6 sever the relationship between the pastor and the  
7 congregation because nothing could legally be done to  
8 go to the congregation. They can do nothing about it.  
9 The only thing they could possibly accomplish is to  
10 undermine the confidence and the pastor from the  
11 congregation, making it difficult for me to pastor  
12 them and they could accomplish nothing of any legal  
13 sense except to split the church.

14 Q Well, let me ask you this.

15 A I wasn't trying to stop a meeting by anything I did,  
16 there could be no more meeting as far as I was  
17 concerned.

18 Q After February 26?

19 A They didn't show up for the meeting on the Monday  
20 after. This would be the 29th, the meeting. They  
21 themselves never showed up for that meeting that they  
22 arranged.

23 Q Now, after they got up and, as you say, smeared you on  
24 February 26, were you willing to continue with any  
25 eldership hearings after that time?

1 THE COURT: What?

2 MR. WIGGINS: Was he willing to continue  
3 with any eldership hearings?

4 MR. ROHAN: I've been patient. I think just  
5 about every question he's asked so far has been  
6 leading.

7 THE COURT: We have had leading questions  
8 both ways, but it's true.

9 MR. WIGGINS: I'll rephrase the question,  
10 Your Honor.

11 Q (By Mr. Wiggins) After February 26, what was your  
12 attitude toward continuing with the eldership  
13 hearings?

14 A It was very obvious that they were not going to abide  
15 by the reasons we came to the meetings, namely to  
16 mediate Jerry Zwack's grievances. They had gone far  
17 beyond Jerry Zwack's grievances. They were now  
18 extending their power play that they had been working  
19 towards for well over a year, perhaps up to probably  
20 two years.

21 And it appears that there was, if they have  
22 already hired a lawyer illegally, were pushing to gain  
23 power and control over the pastor. It became evident  
24 that they were not just counselors to help Jerry Zwack  
25 and I mediate, they were judges and counselors all

BARNETT - Direct (By Mr. Wiggins)

1 mixed together in a power play to get me out and  
2 there's no way I would meet anymore. They had already  
3 stabbed me in the back, broken all their agreements, a  
4 number of covenants made before God. They were being  
5 very highly inaccurate and mischaracterizing. They  
6 were after my jugular. They weren't trying in any way  
7 to solve a problem, they were trying to take over, so  
8 there's no way I could have a meeting.

9 Q Now, Pastor Barnett after the February 26 meeting and  
10 before you preached on February the 28th, I believe  
11 you testified earlier you listened to a tape of that

meeting, is that correct, of the February 26 elders  
address to the congregation?

I listened to most of it on the 28th. I got back so  
late and I was so tired by midnight and there was so  
much of it and it was just garbage and it was hurting  
me so badly that I just said it's too long and I'll go  
and do what I can.

~~In that service for which you listened to the tape~~

get the tape?  
ber who provided it for me, but all the  
taped. And I don't remember if it was  
sk or somebody came over and handed it to  
recall.

ce based on your listening to the tape,

12

13

14

A

15

16

17

18

20

where did you

21

A

I can't remem

22

services are

23

left on my de

24

me, I don't r

25

Q

In that servi

1 did any of the elders say anything about admissions  
2 that you had made during the eldership hearings?

3 A Yes.

4 Q Did they disclose anything about the contents of your  
5 admissions?

6 A Yes, highly inflammatory, confidential and things they  
7 had promised before God would never be exposed was  
8 brought out to the congregation, not only the truth of  
9 my sins which was embarrassing enough but a whole load  
10 of long distance judging, mischaracterizations, gossip  
11 addressed to anybody, what anybody said that they  
12 could get regardless of whether it had any facts, they  
13 brought it up. A lot of the things that were brought  
14 out were things that were characterizations about my  
15 life, my heart, my motives, misrepresentations, this  
16 type of thing.

17 Q All right.

18 A For a moment, I need to qualify for a moment. My mind  
19 flipped back to what Jerry Zwack was bringing out at  
20 the meetings and the elders did later take all of this  
21 kind of stuff and bring out in letters and garbage to  
22 the congregation and for a long time afterwards burn  
23 me in effigy and just for months after, but at the  
24 26th meeting only a portion of that came out but it  
25 was the same kind of thing.

Q Pastor Barnett, I'd ask you to look in the book at Exhibit 29. 29 is the letter written to you by the eldership, I believe. What's the date of that letter?

A February 24.

Q Is this the letter in which the eldership respond to specific inquiries by Pastor Barnett? I'd refer you, Pastor Barnett, to page 5 of Exhibit 29. Do you see there a list which is said to be the list of specific grievances of Jerry Zwack?

A Yes.

Q Now, earlier today, did I ask you to read through that list of specific grievances?

A Pardon?

Q Earlier today, did I ask you to read through that entire list of specific grievances?

A Yes, you did.

Q I don't want you to read these aloud or go through this item by item, but my question is did you admit during the eldership hearings committing the acts that Jerry Zwack alleges in his grievances?

A All the grievances in my judgment are manifestly false. They are not true. I did not admit any of these 12 things.

Q That was my question. Okay, thank you. Now, Mr. MacKenzie and others have stated during these hearings

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

DELETED MATERIAL FILED UNDER SEAL

BARNETT - Direct (By Mr. Wiggins)

1 Q All right. Is there any Biblical reference to a wife  
2 or one's spouse denying the other a conjugal  
3 relationship and the results of that denial?

4 A Yes.

5 Q What does the Bible say about that subject?

6 A The Bible says for a wife not to defraud her husband  
7 and also for the husband not to defraud the wife, and  
8 it gives exceptions for prayer and fasting lest the  
9 devil tempt you.

10 Q Do you know off the top of your head where that is  
11 found?

12 A 1 Corinthians 7. It would be roughly in about verses  
13 2, 3 and 4.

14 Q Thank you. Now, have you preached on that text from  
15 the pulpit?

16 A Yes, many times.

17 Q When you preached on that text from the pulpit, were  
18 you offering that text in your preaching -- Strike  
19 that. When you preached on that text from the pulpit,  
20 were you using that sermon to accuse your wife?

21 A No.

22 Q Were you using the sermon to justify your own  
23 activities?

24 A I was not.

25 Q All right. Mr. MacKenzie testified in his deposition

1 that you stated that you were willing to commit  
2 perjury in court and that you said you had lied in  
3 court because it was the better of two choices. Do

4 you recall him saying that?

5 A I remember him saying the first thing and do remember

7 it was the better. It was, I'm not sure how he  
8 described it, it was the best choice, but I didn't  
9 remember him saying the latter.

10 Q All right. Did you make those statements that Mr.  
11 MacKenzie attributed to you?

12 A No. This is like most of everything done, they  
13 forget, they take things out of context. They get  
14 half truth, join it with something else, they have  
15 another one. What I said was not that I would per  
16 myself in court, I rather said I took a  
17 counselor/ministerial privilege in order to cover  
18 for your sins. I did not expose your sins, I took  
19 that privilege instead.

20 Somehow, it got twisted or forgotten and join  
21 with something else. No, I did not say I would

22 and I never went to court, so I  
23 perjure myself. I don't believe in perjuring  
24 court. It's highly dangerous, I wouldn't do  
25

22 perjure mys  
23 didn't perj  
24 myself in c  
25 that.

1 Q Other than the eldership hearings, did you say at any  
2 time from the pulpit that lying is all right?

3 A No, another familiar mischaracterization, message  
4 twisted way out of context.

5 Q What were you preaching?

6 A Well, this has been said over and over again, so I'd  
7 like to give you a substantial answer, if I can,  
8 because I've been labeled an incorrigible liar who's  
9 teaching a new strange doctrine or heresy that it's  
10 okay to lie. That's what's been said, so I would like  
11 to explain.

12 What I said was because we have a lot of Bible  
13 College students, some of them new converts coming in

14 and now being born again, their whole life is  
15 changing. They are not going to lie anymore. They  
16 have been truthful here and were truthful but, because  
17 of this, they're hurting people unnecessarily because  
18 in their legalism new converts are basically fairly  
19 fanatical and legalistic.

20 And at the two opposites of the spectrum, things  
21 like a wife just getting married. They are young and  
22 the wife says, "Honey, do you think my hips are too  
23 big?" Or she's looking for assurance, but now he's a  
24 Christian, he has to tell the truth. So, he says,  
25 yeah, your hips are too big or other things that

1           embarrass her. Then she's hurt for life. And we were  
2           having things like this. They were hurting people  
3           unnecessarily, so I gave a sermon on it.

4           And in the sermon I said my theological belief is  
5           that the American term for lying as defined in our  
6           dictionary as untruth or an intention to deceive is  
7           different than the Greek and Hebrew Biblical  
8           injunction that God intended. Because the Bible says  
9           that all liars shall have their part in the lake of  
10          fire.

11          And a liar is not somebody that told a lie  
12          because if that is so, he is going to the lake of  
13          fire, not one that allows himself to, and he continues  
14          there's no repentance where he is getting lake of  
15          fire. The Bible says God is not a man that he should  
16          lie; neither the son of man that he should repent.  
17          God does not lie.

18          The allies deceived the Nazi's as to where the  
19          invasion was going to be at Normandy, and I explained  
20          what they did to deceive them or one of many things  
21          they did. And I said in fact William Tindale deceived  
22          the Catholics' forbidden Bible to be smuggled into  
23          England, smuggled them in bales of cotton. And I went  
24          on to say how Christians have deceived to get Bibles  
25          smuggled into Russia. People are not typically

1           blaming them for lying.

2           Then I came down to more practical issues, of  
3           course, and said you don't in a retarded child that  
4           has scribbled all over the page, you don't say --  
5           "How is this, teacher?" "Oh, that's messy". "Well, I  
6           had to tell the truth." He says, "That's fine,  
7           Darling, that's really nice". And we don't consider  
8           it lying, it's not hurting the child.

9           The doctors deceive people sometimes on their  
10          death beds and tell the relatives, don't tell him how  
11          bad he is because he may have a stroke and die. Tell  
12          him things are going pretty good even though they  
13          aren't, we'll tell him the facts later. And we don't  
14          accuse him.

15          So, the Biblical injunction against lying as I  
16          interpret it, not according to modern American  
17          traditionaries because the Bible is written for all  
18          kinds and times and people, not twentieth century  
19          Americans is that you are not to take advantage of  
20          somebody else and injure them by deceiving or telling  
21          an untruth. It's a moral issue. Moral means a  
22          horizontal thing, not to hurt your fellow man, take  
23          advantage of them, tell them something that's going to  
24          damage them.

25          And there are times I said if a crazed killer

1 comes in and machine guns two or three of your kids  
2 and says, "Got any more in the house?" Sometimes if  
3 you don't give an answer they'll know the answer. You  
4 might have to lie to that crazed killer, "There's no  
5 more" for the greater good because you don't owe him  
6 that. So, I said the whole question comes down to do  
7 you owe that person this and what is the greater good.

8 Now, I want to stress, however, that we need to  
9 do everything in our power to tell the truth. And I  
10 said these are white lies, there's no such thing as a  
11 white lie. It's either a lie or it's not a lie. I  
12 said when people ask you questions, find a way to say  
13 it in which it's not a lie. You don't owe them to  
14 tell them everything. And I said Jesus did not give  
15 them full answers.

16 And I said if you cannot get out of it, the  
17 people will know if you don't tell them, make a joke  
18 out of it. Say, "Hang me at the cross, I'll never  
19 tell. Burn me at the stake". Or say, well, I never.  
20 Is that your real hair? You don't want to say. You  
21 ask women, is that your real bosom? I say, "Whose do  
22 you think it is?" Well, get indignant about it. Do  
23 your best not to lie.

24 But there are cases, I said, but don't feel you  
25 have to be brutally honest. And a person comes out in

1 the morning and says, "Well, I'm not fixed very good,  
2 I don't know if I should go". "Oh, you're fine,  
3 you're fine." You don't come out and say, "No, your  
4 hair is messed up". We do that. We don't call that  
5 lying.

6 Now, that has been mischaracterized to Don  
7 Barnett has that new strange doctrine that lying is  
8 okay now. At the time I preached that, nobody took  
9 any offense. Nobody disagreed with it. They were  
10 thankful for the Balance, but now that they're trying  
11 to nail me to the cross everybody is dragging up  
12 everything they can and twisting it somehow to be some  
13 kind of ammunition against me to show me to be some  
14 kind of a person that I'm not.

15 Q Pastor Barnett, does this doctrine of shading the  
16 truth for the greater good justify lying in court?

17 A No, because God has put it before authority and said  
18 the greater magistrate and those that rule over you  
19 and the truth, the magistrate cannot make a proper  
20 decision unless he has the truth from both sides and  
21 if they lie that does not give you jurisdiction to  
22 lie. And if you lose, well, before God it will all  
23 come out on judgment day. And I have been lied about  
24 in court.

25 Q Pastor Barnett, I want to go through a couple of

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

**DELETED MATERIAL FILED UNDER SEAL**

10

1

2

3

4

5

6

7

8

9

10

11

12

**DELETED MATERIAL FILED UNDER SEAL**

13

14

15

16

17

18

19

20

21

22

23

24

25

1           They threw it all in the garbage can like they  
2           did every other explanation I made and brought it up  
3           to the congregation to use that as another example of  
4           Don Barnett lying. It didn't make any difference what  
5           I told them. They didn't accept anything I said,  
6  
7  
8  
9

10  
11  
12  
13  
14           **DELETED MATERIAL FILED UNDER SEAL**  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**BARNETT - Direct (By Mr. Wiggins)**

1

2

3

4

5

6

7

8

9

10

11

12

13

**DELETED MATERIAL FILED UNDER SEAL**

14

15

16

17

18

19

20

21

22

23

24

25

BARNETT - Direct (By Mr. Wiggins)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

DELETED MATERIAL FILED UNDER SEAL

BARNETT - Direct (By Mr. Wiggins)

1

2

3

4

5

6

7

8

9

10

11

12

DELETED MATERIAL FILED UNDER SEAL

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

DELETED MATERIAL FILED UNDER SEAL

13

14

15

16

17

18

19

20

21

22

23

24

25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

DELETED MATERIAL FILED UNDER SEAL

1

2

3

4

5

6

7

8

9

10

11

12

DELETED MATERIAL FILED UNDER SEAL

13

14

15

16

17

18

19

20

21

22

23

24

25

12

BARNETT - Direct (By Mr. Wiggins)

1

2

3

4

5

6

7

8

9

10

11

12

DELETED MATERIAL FILED UNDER SEAL

13

14

15

16

17

18

19

20

21

22

23

24

25

BARNETT - Direct (By Mr. Wiggins)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

DELETED MATERIAL FILED UNDER SEAL

BARNETT - Direct (By Mr. Wiggins)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

DELETED MATERIAL FILED UNDER SEAL

BARNETT - Direct (By Mr. Wiggins)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13

DELETED MATERIAL FILED UNDER SFAI

14  
15  
16  
17  
18  
19  
20  
21  
22  
23

24  
25

BARNETT - Direct (By Mr. Wiggins)

1

2

3

4

5

6

7

8

9

10

11

12

13

DELETED MATERIAL FILED UNDER SEAL

14

15

16

17

18

19

20

21

22

23

24

25

1 were much more dangerous and worthless than no files.  
2 And when I found out what kind of files they had, I  
3 instituted a new policy of how to make the files.

4 Q What kind of file was it that you destroyed?

5 A Each senior elder went down and shredded their own  
6 file so that it wouldn't get into the media if this  
7 came up in the future, became a subject where it might  
8 come out in court or something. The type of  
9 information in there was far from accurate, very  
10 inaccurate.

11 THE COURT: Files on whom?

12 THE WITNESS: On each of the senior elders  
13 with respect to anything in their life, whether it be  
14 sexual or nonsexual. Do you want me to tell you why  
15 it was inaccurate?

16 Q (By Mr. Wiggins) Let me lead you, I don't mean lead  
17 you, but I want to ask you a series of questions so  
18 you can explain to the judge what was in these files.  
19 Did you destroy a file on you?

20 A Yes.

21 Q Did this file contain information on counseling  
22 sessions with you?

23 A Yes.

24 Q Did it contain information that came from counseling  
25 sessions at which you were not present?

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

**DELETED MATERIAL FILED UNDER SEAL**

1 be assuming it was true, it was totally imbalanced,  
2 worse than amateurish. It was a totally unfair thing.

3 I set up a new strict rule for proper counseling  
4 notes, and I think I told them to destroy all  
5 counseling files and start over with proper notes that  
6 had to follow each of these procedures. What we have  
7 in there is unfair, damaging, worse than no notes.

8 Q All right. This decision to destroy files, was this a  
9 decision that you made on your own without any input  
10 from anybody else?

11 A No.

12 Q Who else was involved in the decision?

13 A I called Jack Hicks after I learned what these notes  
14 were like and what was happening and I think the Jim  
15 Baker case perhaps was up in the air. We could see  
16 maybe there might be some problems. And I said, Jack  
17 here's my concern. I would like you to contact the  
18 other senior elders and get their opinion on what we  
19 should do about it. I said personally I think we  
20 ought to get rid of these files. And he said, okay,  
21 Don, I'll take care of it.

22 Well, instead of following my directive and  
23 getting with the others and getting a vote on it, he  
24 apparently agreed with me and decided to implement it.  
25 So, he just notified the others we're going to destroy

1 ~~you're files. And he notified Wayne Snowey who was the~~  
2 head of operations and security who had the key to the  
3 file, besides Jerry Zwack, to the file. And Jack  
4 Hicks called me up and announced a time we were all  
5 going to all meet and destroy the files. So, we all  
6 went down and we each one took our files and ran them  
7 through the shredder.

8 Q Now, the policy that you instituted to prevent this  
9 abuse from continuing, why did you institute that  
10 policy?

11 A You mean to make new counseling notes?

12 Q Yes.

13 A Well, as I said, because the notes there were  
14 inaccurate, unfair, damaging to either an innocent  
15 party or even overly damaging to a guilty party or  
16 partially guilty party. And I wanted to institute  
17 notes that would be worth something if they were ever  
18 subpoenaed that would be fair to both parties involved  
19 and would not be highly biased and prejudiced. And  
20 they would be what we call, well, what is the word I  
21 want, proper, first-class counseling notes we could be  
22 proud of as opposed to what we had.

23 Q All right. I want to ask you about another accusation

24 ~~of abuse of pastoral authority. The charge has been~~

25 ~~made that when you preach on the subject that no~~

1 person should go to a counselor if they were wronged  
2 but should go to the person who brought the charges  
3 made you abused your pastoral authority when you  
4 preached that sermon. Did you discuss that in the  
5 eldership hearings?

6 A Yes.

7 Q Was that sermon an abuse of your pastoral authority?

8 A No.

9 Q Would you explain that?

10 A Yes. See, every time I did something they disagreed  
11 with they charged me with abusing my pastoral  
12 authority. In this particular case, I said and I  
13 think I explained this, I said that the Bible teaches  
14 that if you have aught against your brother to go to  
15 him alone. And then if they will not hear you, take  
16 two or three elders with you. And if they will not  
17 hear them, take the matter before the church. And if  
18 they will not hear the church, then let him be a  
19 publican and a heathen unto you, meaning to put him  
20 out, don't have fellowship with him.

21 And I said, first of all the policy is if  
22 somebody has a disagreement with somebody, a  
23 misunderstanding or hurt, the first thing you do,  
24 according to the scriptures is to go to them alone.  
25 Talk to them. See if you can -- Let's don't widen

1           the circle of accusation and hurt any wider than we  
2 ~~have to. And so like when you drop a pebble in the~~  
3 water, it starts going out. Let's see how small we  
4 can confine the circle. If you can convince the  
5 person, you can talk your hearts out, get through the  
6 misunderstanding, hug each other, and make up, I said  
7 you gain something.

8           And we don't want to widen the circle to  
9 counselors or anybody. Counselors have enough to do  
10 without everybody running to them every time there's a  
11 problem with someone, a husband or wife or anybody,  
12 try to solve it. And I said, husbands and wives, try  
13 to solve your problem with each. You have a problem,  
14 try to solve it. If you can't, go to the counselor,  
15 but first try with each other.

16           This is a principle that should always be adhered  
17 to. Don't run of and tell two or three people, like  
18 is often done, and the third person would tell a  
19 counselor and then he would call them in and then find  
20 out the story was totally different than what was told  
21 and then these people have the wrong opinion about  
22 this person and he's hurt.

23           We're getting hurts in the congregation and we  
24 shouldn't be having these hurts. We're not doing  
25 things Biblically and correctly. This was called Don

BARNETT - Direct (By Mr. Wiggins)

14 1 Barnett trying to hide his sins. Every time I  
2 preached something for the benefit of the  
3 congregation, it's assumed that I'm the only person  
4 that's got any sins and I'm trying to cover up.

5 I would stand up and say, now, this sermon,  
6 because I was hearing that, and I said this sermon in  
7 no way justifies any of my sins. Sin cannot be  
8 justified. I want you to understand that. I am not  
9 speaking about my life personally, my wife and I or  
10 anything else, I'm talking about a principle for  
11 helping other people's lives.

12 Q You made that statement as part of that sermon?

13 A As part of many sermons in the latter part of '87,  
14 what I call anti-legalism sermons. I made that  
15 qualification many times.

16 Q That you were not talking about your own life?

17 A Yes. And I promised -- I don't know if I should say  
18 that.

19 Q And I want to ask about another accusations of abuse  
20 of pastoral authority and that is the charge that when  
21 you agreed to have Scott Hartley and Lanny Peterson as  
22 counselors in 1987 that you lied to them and covered  
23 up your sins. Did you discuss that during the  
24 eldership hearings?

25 A I did.

1 Q What did you say?

2 A I said this was a totally unfair accusation and it's  
3 not true. I said my wife -- Pardon me, I'll start by  
4 saying it this way. Lanny called me up and said, Don,  
5 your wife has come to Scott and I to discuss her  
6 marriage problem. If you would like to, Scott and I  
7 would be happy to try to include you and try to help  
8 you and your wife in your marriage problem. And I  
9 said I appreciate that because I desperately wanted to  
10 get my wife back. And so I said for the purpose of  
11 trying to help my wife and I get our marriage back, I  
12 would agree to have you counsel both my wife and I,  
13 because she won't listen to me, I can't reach her.

14 And so when we got together, see, my wife worked  
15 down in the Counseling Center with them and there was  
16 a rebellion going on for a long time, and I won't get  
17 into it, but they were kind of on one side together  
18 and they were hearing her but not me. And so they  
19 came and began accusing, shotgun approaches, asking  
20 questions about did you, like this.

21  
22  
23 DELETED MATERIAL FILED UNDER SEAL  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**DELETED MATERIAL FILED UNDER SEAL**

And my rebuttal was I didn't owe you the information. You were not my counselor for that particular issue. I don't owe that to you. I'm not under that authority and I don't owe that to you, and they called it, no, he's lying because look at all of this and all he said was this. Well, because they brought up a couple of things that they did know about and even though I said, well, yeah, so-and-so about it, they then decided I had lied because I didn't tell them everything else.

This is totally unfair. Because I don't reveal things to you doesn't mean I lie and cover up. Cover up has only that meaning if they have, if you have an obligation to tell somebody something. And then if I don't give it out and I have an obligation, I've covered it up. If I have no obligation, I have not covered it up. For if Court says you have to tell

1 everything and I don't and I hide some things, I've  
2 covered up. But if the man on the street asks me  
3 things and I don't tell him, I haven't covered it up.  
4 I haven't covered up anything to them, I don't owe  
5 them anything. Then they accused me. Don says he  
6 didn't owe that to us. That's true, I didn't owe it  
7 to him.

8 Q I want to ask you about a meeting of the senior elders  
9 on February the 10th. Mr. Hicks testified about the  
10 meeting at which the three senior elders voted to  
11 place you on special status. Are you familiar with  
12 the meeting? This is the meeting at which the three  
13 senior elders met. Mr. Hicks testified about that.

14 A Well, I'm not familiar with the meeting because I  
15 wasn't at the meeting, but I am familiar that I got a  
16 letter saying, purporting to put me on special status.

17 Q Okay. My question to you is this: Mr. Hicks  
18 testified that the three senior elders got together  
19 and discussed putting you on special status but this  
20 was not, I think his words were, this was not  
21 technically a meeting of the Board of Senior Elders.  
22 Would you agree with that?

23 A Well, it couldn't have been the Board of Senior Elders  
24 if I wasn't present, according to the bylaws.

25 Q What do the bylaws say about the senior elders meeting

1 with or without you?

2 A The bylaws state that the senior elders shall not meet  
3 without the original pastor if still presiding to do  
4 any church business, something on that order --

5 Q All right. Now --

6 A -- make a decision or discuss church business.

7 Q I want to ask your interpretation of that bylaw about  
8 the senior elders meeting without you. Do you  
9 interpret the bylaws as preventing the senior elders  
10 from, preventing or allowing the senior elders to get  
11 together without you to discuss church business?

12 A The bylaws are very clear that the original pastor,  
13 and that was me, is an ex-officio member of the Board  
14 of Directors of the Senior Elder Board and that they  
15 are not in any case ever to meet to do any business  
16 whatsoever, corporation business. In fact, they can't  
17 do church business. Another bylaw states that they  
18 shall have nothing, they shall take no, I can't  
19 remember how it says it but they shall make no  
20 something in relationship to that which is under the  
21 pastoral authority. The bylaws very clearly state  
22 that they cannot meet to do any business with the  
23 exception of my church, pardon, my personal salary and  
24 that would include any personal benefits to me, to do  
25 any business without me there.

1 Q All right. Were you given any notice in advance of a  
2 meeting on February 10 of the senior elders,  
3 February 10, 1988?

4 A No, I was not.

5 Q If you had been given notice of a meeting on  
6 February 10, 1988 to discuss placing you on special  
7 status, would you have attended that meeting?

8 A I would have attended that meeting for sure.

9 Q I'd like to ask you about another bylaw, Pastor  
10 Barnett, and that bylaw, you mentioned bylaws  
11 regarding the church itself. Is there a bylaw that  
12 discusses who is in charge of services, church  
13 services?

14 A Yes, the bylaws state that the pastor is in charge of  
15 all services, not just church services, but all  
16 services whether or not he is present.

17 Q I want to direct your attention to the church service  
18 ~~for Friday night, February the 26th. That's the~~

19 ~~service at which the senior elders got up and~~  
20 ~~announced that they decided to put you on special~~  
21 ~~status. And I believe your testimony had been you~~  
22 ~~were not at that service; is that correct?~~

23 A That's true, I was in Kalispell.

24 Q Had you given any directions to the elders or the  
25 senior elders regarding that February 26 service?

1 A Yes. The night before when I was meeting with the  
2 elders, I explicitly told them that you are not to get  
3 up in front of the church and bring this matter to the  
4 church. If you have any disagreements, it will be  
5 done in a senior elder board meeting legally under the  
6 bylaws.

7 Q That was the meeting on February 25?

8 A Yes.

9 Q The charge has been made that the eldership learned  
10 that you left the February 25 meeting in a hurry  
11 because you had a date; is that true?

12 A No.

13 Q Why did you leave the February 25 meeting?

14 A Because I was rushing to make my trip to Kalispell.

15 Q All right. Now, I want to take you again to Monday,  
16 February the 29th, after the elders had gotten up and  
17 announced special status and after you had gotten up  
18 and said you would not go on special status, Monday,  
19 February 29. Mr. MacKenzie testified that on that day  
20 you asked the church employees for a letter retracting  
21 the charges that had been made against you; is that  
22 true?

23 A I don't have any memory of that.

24 Q Lanny Peterson testified I believe that women told him  
25 that if any woman talked about a sexual relationship

1 with you that talking about the sexual relationship  
2 would cause the death or demise of your ministry and  
3 of your marriage. Did you tell any women that?

4 A No, not in those words, not in that fashion. I did  
5 tell ladies that, well, for example, can I give an  
6 example?

7 Q Yes.

8 A For example, I said now, please, don't run out and  
9 tell people about this. I said you were the  
10 initiator, not me. And we got through, I held them in  
11 my arms and I repented before God audibly and I said  
12 I'm not going to do this again. I did not intend to  
13 do this. It was not adultery. And I said I've been  
14 hurt by others who have done this. And since you were  
15 the initiator and you kept pressing me, I said please  
16 don't go out and hurt me by doing this. That's one  
17 case. And I believe that was proper for me to say  
18 that. I don't believe it's proper for a woman to  
19 initiate and then run out and tell somebody that you  
20 did something.

21

22

23

**DELETED MATERIAL FILED UNDER SEAL**

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**DELETED MATERIAL FILED UNDER SEAL**

And disfellowshipping is a big thing and people, even if they shouldn't be telling, there's no -- How shall I say it? There's no grounds to disfellowship a person in my judgment because they told somebody what happened to them, even if they promised not to tell or shouldn't have told, or it's only injurious. That is not the type of thing you disfellowship somebody for.

In fact, my patience in disfellowship should be seen by the fact that I bore with a growing rebellion, as Jack Hicks testified, it was Jerry Zwack, both to me and to him. And I bore with rebellion over and over again, a growing rebellion, undermining me until I had to tell my Counseling Center quit undermining

1 the pastor. I was getting complaints from counselees  
2 that they were undermining me. People were standing  
3 up and preaching sermons contrary when I'm on vacation  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

DELETED MATERIAL FILED UNDER SEAL

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

DELETED MATERIAL FILED UNDER SEAL

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

**DELETED MATERIAL FILED UNDER SEAL**

1

2

3

4

5

6

7

8

9

10

11

12

DELETED MATERIAL FILED UNDER SEAL

13

14

15

16

17

18

19

20

21

22

23

24

25

BARNETT - Direct (By Mr. Wiggins)

1

2

3

4

5

6

7

8

9

10

11

12

**DELETED MATERIAL FILED UNDER SEAL**

13

14

15

16

17

18

19

20

21

22

23

24

25

BARNETT - Direct (By Mr. Wiggins)

1 treated this way.

2 Q Okay. I'd like to ask you about a couple of  
3 statements that John Harold made during his testimony.  
4 Would you take the exhibit book in front of you and  
5 turn to Exhibit 37, please. Now, Exhibit 37 is a  
6 memorandum dated September 25, 1987 from Jack Hicks to  
7 department heads. And this has to do with the  
8 termination of Jerry Zwack and placing Mr. Motherwell  
9 in his position. Now, I'd like to ask you to read to  
10 yourself this fourth paragraph in this memorandum and  
11 then I have a question on it.

12 A Okay.

13 Q This sentence states, among other things, that David  
14 Motherwell will have oversight of among other things,  
15 quote, counselor consultation regarding  
16 disfellowships, end of quote, counselor consultations.

17 Now, Mr. Harold testified that the counselor

1           answer that but I need a qualification. In the first  
2           place, I don't believe I've ever seen this letter.  
3           Jack Hicks did not need to tie in with me on  
4           everything he did. He had a difficult job I suppose  
5           of making the decision when to bother the pastor and  
6           the president or when to make a decision that he  
7           believes he would implement or is in line with the  
8           general guideline he gives and then he takes care of  
9           the details, just like you do in the military or any  
10          other big industry.

11                 So, it is true, I know Jack Hicks did testify  
12          that he talked to me about this. I don't object to  
13          that statement. He probably did talk to me about it,  
14          but I don't believe I've seen this particular paper  
15          after it was finished. I did agree. In fact, I was  
16          probably the one who set it up to have David  
17          Motherwell take over the oversight of the counseling  
18          aspect inasmuch as Chris Mathews was doing more of the  
19          other type of, I believe, other type of management  
20          type things.

21                 And so I did not chose these words. I did not  
22          say counselor consultant. I did not make these things  
23          up. I would say this is in agreement with my basic  
24          guidelines that I directed Jack Hicks to implement and  
25          he implemented in this way.

1           Now, after saying that, it is true that a, with  
2           how this reads and what counselor consultation, what  
3           that means and with what my directive was. Certainly  
4           David Motherwell had no authority at all. The idea  
5           that I gave Jack Hicks for David Motherwell was to  
6           have him be in charge of the basic counseling  
7           philosophy here because John Bergin had his own brand  
8           that I didn't agree with, and I felt that David would  
9           be the best person to have monitor the counseling, the  
10          counselors.

11           And so I would say I do agree with John Harold.  
12          The counselor consultation doesn't have authority to  
13          do anything, but it would be a position I put him in  
14          through Jack Hicks was he was to monitor the  
15          counseling, provide them input, make decisions, how  
16          should we do this, no, we should do this, not this.  
17          No, let's don't do this. But he didn't have, there  
18          was no authority there to discipline. There was no  
19          authority above any other counselor with a counselee,  
20          it was only kind of like a team captain with the other  
21          counselors.

22          Q       Okay, thank you. Pastor Barnett, John Harold  
23          testified about an incident in which you stated from  
24          the pulpit that you had read an announcement about  
25          disfellowshipping someone in the church and you had

1 read that in the bulletin and you commented that you  
2 were saddened to read of this disfellowshipping. Now,  
3 does that incident, does that incident mean that you  
4 had done nothing with respect to your authority over  
5 disfellowship?

6 A No, absolutely not. I don't make verbal statements  
7 from the pulpit that modify bylaws. Bylaws are only  
8 modified by amendments to the bylaws or total change  
9 to the bylaws, not by offhand statements made that  
10 somebody wants interpreted as bylaw modifications.

11 Q Now, Mr. Harold also testified that the first mention  
12 of disfellowship that he recalled during the eldership  
13 hearings was on February 29, the day after you  
14 announced in your apologetica to the congregation that  
15 you would not accept special status. My question to  
16 you is do you recall any mention of disfellowship  
17 during the eldership hearings before February 29?

18 A I don't really understand the question.

19 THE COURT: I didn't hear that.

20 THE WITNESS: I don't understand the  
21 question.

22 Q Let me ask it a different way. Pastor Barnett, prior  
23 to February 29, do you recall any elder or David  
24 Motherwell or anyone in the eldership hearings saying  
25 anything about disfellowshipping you?

1 A No, I do not have any memory of anybody saying they  
2 would disfellowship me. If they did, I think I would  
3 come off the launch pad.

4 Q All right. Now, Mr. Harold testified that the senior  
5 elders told the rest of the elders -- Let me put it  
6 in context. Mr. Harold testified about March 3rd, the  
7 day before the meeting where the senior elders came to  
8 the parsonage and took a vote of some kind to amend  
9 the Articles of Incorporation. We're talking about  
10 March 3rd, the day before. Mr. Harold testified on  
11 March 3rd the senior elders told the eldership that  
12 the senior elders had met and voted to disfellowship  
13 you. My question to you is this: Did you receive any  
14 notice of any meeting of the senior elders on March  
15 the 3rd for the purpose of disfellowshipping you?

16 A No, I did not, although I object to the  
17 characterization that the elders met on March the 4th  
18 to take a vote. They did not take a vote.

19 Q All right. Did you ever attend any meeting of the  
20 Board of Senior Elders at which they discussed the  
21 subject of disfellowshipping you?

22 A No.

23 Q When the senior elders came to your house on the  
24 morning of March the 4th, was there any mention at  
25 that time of disfellowshipping you?

1 A No.

2 Q When the senior elders were at your house or the  
3 parsonage on the morning of March the 4th, was there  
4 any mention by anyone of continuing or going on with  
5 the meeting of the senior elders outside your  
6 presence?

7 A No.

8 Q Was there any mention by the senior --

9 A And I must qualify it, it was not a senior elder board  
10 meeting.

11 Q All right. But at that time when the senior elders  
12 came to the parsonage on the morning of March the 4th,

13 ~~did anyone say anything about adjourning any senior~~  
14 elders meeting?

15 A No. I'd be happy to talk about that meeting, if  
16 you're willing to go into that.

17 Q I want to talk for a few minutes about disfellowship  
18 before we talk about the March 4th meeting. There's  
19 been testimony or questions asked during the trial  
20 here about a right of appeal and whether you knew that  
21 ~~you had a right of appeal from disfellowship. What is~~

22 the significance of the right of appeal from  
23 disfellowship?

24 A The significance is that if a counselor determines in  
25 his judgment that a person should be disfellowshipped,

BARNETT - Direct (By Mr. Wiggins)

1 and he contacts the pastor and gives his view of the  
2 scenario and his recommendation and the pastor, not  
3 having the ability to having heard the case, listen to  
4 both sides. make an evaluation and so forth. says.

5 okay, in my position I cannot take the time to go  
6 through everything all over again with everybody as  
7 you have presented the case. I have to trust you to  
8 be accurate in your judgment and as you have  
9 delineated the case I will agree with the  
10 disfellowship of a particular case.

11 But the individual certainly has a right to come  
12 back to a higher court, just like we do here, we  
13 always have a higher court we can go to, up to the  
14 highest court that is, and say, well, pastor, this  
15 particular individual, my counselor, is the connectio  
16 of my wife or something or this person has really  
17 dealt unfairly. I never had a chance to really fully  
18 explain my view. I think it is totally unfair and  
19 this person is part of the rebellion here or the  
20 progressive party or whatever and certainly that  
21 person on something as big as this has a right to hav  
22 his own pastor review the matter to see if it is true  
23 or not to make sure he's treated as fairly as we can  
24 possible treat him, and that's the significance of th  
25 appeal.

1 Q All right. Now, questions were asked you of whether  
2 you sought an appeal. Was there anyone at Community  
3 Chapel to whom you could appeal this decision of  
4 disfellowship?

5 A No. There's no one in authority over me. You can't  
6 appeal to somebody that has no authority, you have to  
7 appeal to someone who is over you who has authority.

8 Q Now, I want to ask you about some statements that Mr.  
9 Motherwell made about --

10 A I think I need to qualify this because I made a  
11 statement in a deposition that may sound different,  
12 and what I mean to say is I have been confused about  
13 the word appeal, because I haven't really known what  
14 appeal really means legally. The context as a church,  
15 that's one thing. Legally, you got involved in a  
16 legal struggle here, so I've been asked questions from  
17 time to time did you appeal this, did you appeal that.

18 Not being sure as to what appeal means, sometimes  
19 I've used it in one sense and said no and sometimes  
20 looked at it in another sense and said yes. I never  
21 had a real criterion or definition that allowed me  
22 to -- I might preach off-hand meaning, well, on a  
23 particular issue, well, I did write a letter back and  
24 say this or whatever. And another time I might say  
25 no, depending on what I thought the situation was.

1           So, I have not, one, I have not intended to lie  
2           if I've given different answers about appeal on  
3           different things. And, two, it has never really been  
4           clear to me how to answer these questions. I'm not  
5           sure what appeal really means. But I do know what  
6           appeal means in relation to a council appealing  
7           within the church bylaws, I understand that.

8           It's true, I was never in a position where I  
9           could appeal in that way. But I might characterize  
10          something as an appeal if I just go back and ask  
11          somebody to reconsider their improper, illegal  
12          actions. I might call it an appeal. But then if  
13          somebody pins me down to did you appeal and I'm  
14          thinking legally, I would say, no, you can't, there's  
15          no authority. So, lest my good friend Mr. Rohan jumps  
16          up and accuses me of impeachment and everything else,  
17          that's my explanation.

18        Q    All right. We have had a great deal of testimony  
19            about the guidelines that were adopted and the fact  
20            that you were given a copy of the guidelines at the  
21            beginning of the hearing or before the hearing began.  
22            We've had a great deal of testimony about the meaning  
23            of the word witnesses in the guidelines. I'd like to  
24            to ask you what your understanding of witnesses was as  
25            that term in used in the guidelines.

1 A Well, not being a judge or a lawyer but rather being a  
2 theologian and pastor, when I draft up or make any  
3 rule or regulation concerning witnesses, I have to  
4 speak from my understanding of a Biblical base since  
5 our church is run not on a legal law base but rather  
6 on a Biblical base.

7 And in the Bible both in the Old Testament and  
8 the New Testament we read both from the law of Moses  
9 and also in the Apostles and specifically to Apostle  
10 Timothy concerning his elders not to receive an  
11 accusation against an elder except in the mouth of two  
12 or three witnesses.

13 Now, the Koine Greek term, meaning vernacular  
14 Greek, as opposed to the older classical Greek or the  
15 even older Ionic Greek that Alexander the Greek used,  
16 and so the Koine Greek work word is martus which,  
17 interestingly enough, has its root in the word martyr.  
18 That's where we get the word martyr from. A martyr  
19 for Jesus, for example, or a martyr for any cause even  
20 earlier than that in the classical Greek, the word  
21 martyr for Jesus has to be somebody who is born again  
22 because Jesus said except a man be born again he can  
23 no way enter the kingdom of God. So, he has to have  
24 the experience by the Holy Spirit of being born again  
25 into the family of God. He has to be baptized and put

1 on Christ and then be a follower of Christ.

2 And as a follower of Christ, then if he would  
3 give his life for his master he would be a martus or a  
4 martyr, meaning that he is a personal witness, not  
5 necessarily to seeing Jesus, because Jesus may have  
6 died and been resurrected before this time, but rather  
7 as one who had the personal experience of conversion  
8 and a relationship with the Lord.

9 Now, the word martus then came to be used also  
10 for people who witnessed an event, and it had to be in  
11 a Biblical sense an eyewitness or somebody who saw  
12 and/or heard, because this word martus carries with it  
13 a connotation of a personal experience and not just  
14 somebody who has heard something hearsay. So, my  
15 understanding and what I have taught and what I  
16 believe contrary to testimony given after the fact and  
17 I can't prove this, but it's my belief that everybody  
18 who when we use that term accepted the pastoral  
19 definition of this.

20 And I have always said an accuser is not an  
21 eyewitness. He can't be, he is one of the parties of  
22 contention. And when the scriptures say bring two or  
23 three witnesses, it doesn't mean, and this was in my  
24 understanding also the rule of common law earlier in  
25 America and England and some places on the continent

1 and certainly was in first century Palestine and I  
2 believe in the old covenant as well, and I have  
3 reasons for believing in the old covenant as well as  
4 the new, that the parties --

5 Otherwise, you have the problem of four men, for  
6 example, would run into a place, steal, they can rob,  
7 cut, or whatever and then they could say we got  
8 witnesses. Well, in my court, in my church, if four  
9 people of the Mafia come in and they all draw their  
10 knives or guns and the other draws his, and they say,  
11 well, he drew his first, we've got witnesses, they  
12 don't, we prevail. They can go through the land as  
13 long as there's nobody else seeing them, they always  
14 outnumber the others, and I say no, we're one witness.  
15 Those four guys have one mind, one heart, so one  
16 witness of what they're doing. I mean they're not a  
17 witness but -- one voice, I should say. They're one  
18 voice and he's one voice.

19 And now the question is did anybody see it who's  
20 not emotionally involved and have some stake in the  
21 matter to be called a witness on the basis of the  
22 Biblical use and my understanding of what's been the  
23 law that has come up from the Biblical base through  
24 Europe and to England and to America in the early  
25 days. And I'm now aware in this country it's been

1 changed. But the Bible wasn't written for twentieth  
2 century America, it was written for all people of all  
3 times and climes and it is not restricted to what some  
4 nation decides for their own outside of church use and  
5 their legal court decisions.

6 And so a church has to be run by the pastor's  
7 understanding of the Biblical base that he wishes to  
8 implement for his assembly and the terms I've used and  
9 the basis. And it's my belief, although I cannot  
10 prove it, that everybody under me accepted that,  
11 except maybe with hindsight to change their minds  
12 because it was more convenient.

13 Q Did a dispute arise during the hearings about the  
14 meaning of the word witness?

15 A No.

16 Q Pastor Barnett, with respect to witness, did anyone  
17 say to you that elders would be giving testimony  
18 during the exclusive eldership review sessions?

19 A No. No testimony would be given for review. A review  
20 is to review what testimony that's already gone on  
21 before. They're only then to take the information

22 presented and review it and come to a decision as who

23 to counsel.

24 Q Did anyone tell you that some of the elders would  
25 during the, some point during the hearings go out and

1 collect information and bring it back to the hearings?

2 A No. And that should never be because this was a

3 mediation between Jerry Zwack and his grievances  
4 against Donald Barnett.

5 Q Now, Mr. Motherwell has testified that you wanted  
6 Motherwell to be part of the hearings so that he could  
7 give your side of this dispute during the exclusive  
8 eldership review session; is that true?

9 A I think I wanted David Motherwell there because  
10 previous to January 25th he had been my counselor  
11 he was very happy with the way I was tracking. He  
12 being a real sweetheart to me, using that in our  
13 church vernacular, and I felt that once determination  
14 was made as to Jerry Zwack's grievances that he might  
15 be of assistance. I'm not sure I totally understand

16 ~~your question, but he didn't come, in my judgement,~~

17 didn't bring him to bring testimony, I brought him  
18 hear Jerry Zwack's grievance and my rebuttal and to  
19 part of the process of determining who's right and  
20 who's wrong and who should be counseled.

21 Q Was it your understanding of the guidelines that you  
22 had an opportunity to answer or rebut any evidence  
23 that was offered against you?

24 A Yes, absolutely.

25 Q Did anybody tell you that evidence would be presented

1 during the elder, exclusive eldership review session  
2 which you would not be able to answer or rebut?

3 A No, not if I had known that ahead of time, I

4 would not have agreed to the meetings because you  
5 cannot have a fair meeting unless you have an  
6 opportunity to rebut accusations made against you.  
7 That's been the problem. That's the problem right now  
8 with all these accusations. You can't rebut them,  
9 then you can't have -- Well, it's like a one-sided  
10 jury. They hear one side and not the other, there's

11 no hope for fairness.

12 Q All right. Now, Mr. Motherwell has testified that  
13 far as he knows there was no greater compiling of  
14 evidence at Community chapel to disfellowship anyone,  
15 is that true?

16 A I think that's totally false.

17 Q Why?

18 A Because our position at Community Chapel, according  
19 to the pastor's theology and directives, I can't talk  
20 about under-handed rebellious policies that some  
21 counselor might do contrary to the pastor's policies  
22 because they were contesting at that time and refused  
23 to follow my orders and directives and had been for  
24 some time, so I can't talk about that, but from a  
25 church standpoint, when I say legal here I don't

1 a court of law but legal according to the bylaws from  
2 the church standpoint. Please give me the question  
3 again.

4 Q My question had to do with Mr. Motherwell and he  
5 stated that there had been no greater compiling of  
6 evidence at Community Chapel to disfellowship anyone  
7 and I asked you to explain your answer that you didn't  
8 believe that.

9 A Because in the Biblical theology, our salvation is not  
10 dependent upon our works, those are law. We have  
11 guides to the laws that might be married to Christ and  
12 the salvations of the law, then we're falling from  
13 grace and there is no grace. And so we do sin and the  
14 Apostle Paul himself said that which I would want to  
15 do I find myself not doing and that which I do do that  
16 I allow I find myself doing. And then he said, oh,  
17 wretched man that I am, who shall deliver me from this  
18 death-doomed body or this body of death, as another  
19 translation has it. I thank God through Jesus Christ.  
20 But he also states --

21 So, then he said if I do that which I do not  
22 allow, then it's no longer I that doeth it but sin  
23 that dwelleth within me. And he concludes that  
24 particular chapter by saying with my mind I serve the  
25 law of God, but with my flesh the law of sin.

1           But he concludes that to be spiritually minded is  
2 life and peace. But to be carnally minded is death.  
3 He's admitting that he's wretched, that he cannot  
4 follow what he wants, he admitted to have to beat my  
5 body under lest there should be a castaway, and so we  
6 allow a person to sin. And if any man sin, we would  
7 advocate with the Father, Jesus Christ, the righteous.

8           But, as long as a person, he can't always get  
9 control over -- A person falls under the power of a  
10 demon, whether it's smoking, drinking, gossiping,  
11 cursing, whatever it is, you can't always get control

12 ~~over it in a day. It isn't always easy to get control~~  
13 ~~and be all done with it. They can get a real~~  
14 ~~strong hold in your life.~~

15           And as long as a person is fighting against it  
16 and is repenting and working on it, we forgive and  
17 forgive and forgive. We have forgiven people that  
18 committed adultery over and over and over again. As a  
19 matter of fact, because of the present distress, the  
20 Apostle Paul talks about because of the presence of  
21 stress, and there is an exception, and the Apostle  
22 John, Jesus through John because in the church of  
23 Smurr, because of the distress of persecution I lay  
24 upon you no greater burden than these necessary  
25 things.

1           Because of the stress that was under in the  
2 chapel at the time having connections and so forth, I  
3 allowed, I didn't really allow by I gave permission,  
4 but there were elders that had committed adultery far  
5 more than me and I did not put them out. I knew that  
6 they were having marriage problems, I knew they were  
7 struggling, I knew the whole church was struggling, I  
8 knew it was rampant in the church.

9           It was no time to be housecleaning by throwing  
10 everybody out. It was a situation I taught from the  
11 pulpit that Moses said that if a person commits  
12 adultery they should be stoned. I said that was a  
13 deterrent because they committed fornication which is  
14 the exact same act. You don't stone them. They  
15 should marry. And the only thing revolved around not  
16 the sexual act but pregnancy and a bastard, they would  
17 say, an illegitimate child and eternal life and all  
18 that.

19           But there came a time in Israel when it became so  
20 widespread that God through his prophets never asked  
21 them to stone them for adultery. And Joseph was  
22 forced to put his own wife away when he thought she  
23 committed fornication or adultery, whichever case it  
24 may be. So, I was bearing with them because this was  
25 no time to be kind of cleaning house and so I was

1 teaching -- I want to wrap this up now, I need your  
2 help to get me where I'm going.

3 Q Compiling of evidence, no greater compiling of  
4 evidence.

5 A So, I only would allow somebody to be put out if they  
6 would rebel and say I'm going to do it anyway.  
7 Because you see if you don't repent, then there's no  
8 forgiveness of sins. And if you don't repent, your  
9 sin remains. And if you refuse to follow the laws of  
10 God and you refuse to repent and refuse to work on it,  
11 then there's no grounds for grace.

12 But as long as you are struggling with it  
13 repenting, the Bible nowhere says the fourth time, the  
14 fifth time, the twelfth time you're out of the church.  
15 There's no place it says that. The issue isn't how  
16 many times, it's whether you are sincerely working on  
17 it. So, I would never put anybody out of the church  
18 for doing what I did, whether it was smoking,  
19 drinking, adultery, or anything. If anybody was  
20 sincerely working on the problem and then got to a  
21 place where, and sought deliverance hard like I did,

had	22	two hours a day, five days a week until I
the most part,	23	conquered it in great substance and for t
here and I	24	even though some temptations were still

ay up the	25	overcame them, except for a minor thing w
-----------	----	---

BARNETT - Direct (By Mr. Wiggins)

1 road, if somebody had quit, had been a smoking fiend  
2 for six months, for example, and then got a  
3 deliverance and hadn't smoked for six months although  
4 he claimed I had a strong temptation two days later  
5 but I didn't smoke. Up here I had a few cigarettes  
6 with the guys. But then he didn't again. I wouldn't  
7 throw that guy out on the basis of that.

8 We kept people in this church for smoking,  
9 drinking, doing homosexual things, drugs, sexual  
10 things. As long as they were struggling with it, I  
11 bore with them and bore with them and bore with them,  
12 even to the day they died. There were a lot of people  
13 who died. ~~They got to heaven, never having conquered~~  
14 their problem. But they're still born again, they're  
15 still loving God. You don't throw them out of the  
16 church. If you did that, there's so many sins  
17 involved and everybody has some weakness and problem  
18 and some sins.

19 And James said if you offend them on one point,  
20 you offend them in all, as far as the law is  
21 concerned. We'd put everybody out of the church, and  
22 I told the congregation that. If we threw everybody  
23 out, I'd grab myself and throw myself out. And I  
24 said, no, that isn't our basis. That isn't the basis  
25 of grace. We're not under the law.

**PAGE 1617 OMMITTED IN SCANNING**

BARNETT - Direct (By Mr. Wiggins)

1 concept?

2 A Yes.

3 Q Would you explain to us what deliverance means?

4 A I'd like to make an opening statement that it is a  
5 Biblical practice. Although we don't have a lot of  
6 scripture for it, we do have some. Jesus gave the 70  
7 disciples, for example, power to go out and cast out  
8 evil spirits. And Jesus said that you should speak  
9 with new tongues, you should cast out demons. That  
10 was part of the commission to go out and cast out  
11 demons.

12 And secondly I might say that there are quite a  
13 number of churches that have been doing this for many  
14 many years. There have been leaders going across the  
15 nation leading other churches in this Biblical  
16 injunction and have been publishing works, which we  
17 have at the chapel, one of them Pigs in the Parlor by  
18 Hammond and others. Win Worley has published a whole  
19 set of books one of them called Annihilating the Host

these 20 of Hell, for example. We read a good portion of  
21 books.

ion 22 I have listened to ministers across the nat  
23 preach on it, listened to testimony of what was  
llite 24 happening. And what began happening in the sate  
with 25 churches and in our church, we were face to face

BARNETT - Direct (By Mr. Wiggins)

1           it and could not get their compliance about the  
2           matter. Prior to this time, we had not seen it.

3           But at this time we became a lot more aware of  
4           things and learned a great deal and had a happening in  
5           our midst, and so what we would do, believing in the  
6           doctrine of demons that Jesus also believed and the  
7           Apostles, the Apostle Paul exorcised a demon out of a  
8           woman that had the spirit of Pythos or divination.  
9           Pythos in Greek means to persuade.

10           But, anyway, we would get a person who would come  
11           and say I've given into this demon for so long, this  
12           demon has come into my life, maybe a demon of fear,  
13           insecurity, whatever it was, and I have been praying

1 sessions with the individual. Those demons would  
2 speak out of their mouths.

3 Before this time, see, I grew up with the idea  
4 that demons can't be in a Christian, you have the Holy  
5 Ghost. They can only pressure you but they cannot  
6 possess you. And I did a lot of work studies on this.

7 But once we began seeing demons speaking out of  
8 people's mouths with a different voice, eyes glazed  
9 looking like they had cataracts, it's so strong it  
10 takes a whole host of people to hold them down. They  
11 can lift two or three people up by the arm like this.  
12 The demons tell you as you're adjuring them in the  
13 name of Jesus what is your name? He would give his  
14 name, how he got in, what he did, and so forth, a  
15 whole host of things that I will not go into, we don't  
16 have enough time, amazing things, interesting things.  
17 Caused him to bite his tongue, caused him not to be  
18 able to hear, and if I go off can I go to a Baptist  
19 church and go into somebody, all kinds of trickery and  
20 everything they pull.

21 And we'd find ourselves in confrontation with  
22 these demons, rebuking them in the name of Jesus and  
23 putting pressure on them and praying and asking God to  
24 send his power and so forth until eventually they lost  
25 their power and they would go. Sometimes they would

1           scream as they would leave and say all manner of  
2           strange things.

3                         THE COURT:    These demons, you mean?

4    A        Yeah.  Through the individuals they would scream and  
5           say all manner of strange things like angels or I've  
6           seen other demons, "Come and get me, you failed".  Or  
7           I can't tell you, satan will punish me.  Here's a  
8           young girl 23 years old, out of her mouth is coming  
9           all these strange things we've never heard before, we  
10          never believed in before.  Well, we became believers  
11          real fast when we saw these things happening.

12                        But in other cases --

13   Q        Let me just ask you more specifically the process of  
14           deliverance.

15   A        Okay, I need to give you the other half of it now.  
16           The other half is when the demons are not manifesting,  
17           when you don't see those things, then you can talk to  
18           the individual about his problem, you begin to try to  
19           get him to reinforce his will, you begin to pray for  
20           the individual all together asking God to send angels  
21           in a spiritual warfare against the fallen angels to  
22           give his power to exorcise his demons, begin to rebuke  
23           them in the name of Jesus like Jesus told us to do.  
24           And we begin to rebuke him and we ask the person to  
25           join in with us and not just be passive.

1           Now, in this kind of situation, you don't  
2 typically get a deliverance right away. We tell the  
3 person you have to go out and implement this. When a  
4 demon comes on you again, you have to take everything  
5 you said here and you have to say, no, in the name of  
6 Jesus, I adjure you, leave me alone, I bind your  
7 power, demon, you have no right to have authority over  
8 me. Jesus said rebuke the devil and he will flee from  
9 you.

10           And you're in a contest and you have to say no  
11 and try to take a way of escape and ask God for help  
12 because the temptation gets real heavy if you're on  
13 drugs, for example, or maybe cigarettes or whatever,  
14 anything. And then you're back again and maybe you  
15 failed but you're back again praying again. Maybe  
16 this time you make it and you hold and you hold and  
17 then you fail. You keep on putting pressure on this  
18 spirit day by day, keeping doing this in deliverance  
19 ~~sessions - maintaining it.~~

20           These demons don't have a right to just come and  
21 take you over. You have to be an open door. There  
22 has to be some open door mentally, spiritually,  
23 physically or something to come in and give you this  
24 problem. And so once that door has been opened, you  
25 have to consistently hold the pattern and they will

1 tempt you for a while but if you consistently hold it  
2 they'll have to leave. They can't hold you forever.

3 Just like Job, once Job held his position there  
4 came a day the trial was over. God would then say,  
5 well, Job has held, Satan, you're done, get out and  
6 he's healed. So, my deliverances, in my particular  
7 case, was not the demon didn't manifest, and so I  
8 would come back every day. I was continually working  
9 on it and holding many times and then I would fail.  
10 Then I'd hold and I'd work on it and I was going to  
11 work on it until I got through it. And so I work on  
12 it about roughly two months.

13 Q What time period about you talking about?

14 A Well, probably the very end of June of '87 and July  
15 and the first, about the first half of August and  
16 after the first half of August.

17 THE COURT: June '87, to the first part of  
18 August; is that right?

19 THE WITNESS: Yes.

Q (By Mr. Wiggins) Now, from what were you seeking  
deliverance? 20

A Well, see, demons take, in our view and understanding  
and experience, they take weaknesses that a man has 21

24 and then they add to it. They don't initiate the  
25 problem. For example, if you feel insecure, they'll 22  
23

1           come and really begin pushing in that area. And so  
2           therefore we say if it's a powerful thing that's  
3           dragging you, you have a demon of insecurity. But a  
4           man could be insecure without a demon if he just feels  
5           insecure because if I don't have good balance and I'm  
6           standing on this log, he doesn't have a demon of  
7           insecurity, he's insecure for a good reason.

8                         THE COURT: I think he asked you what your  
9           deliverance was about.

10        A           I'm sorry. My deliverance was from, I'm sorry, was  
11           from a demon of self-pity. I have loads of self-pity  
12           because my wife had abandoned me and wouldn't give me  
13           love anymore, a demon of insecurity, I was feeling  
14           really insecure without my wife, never being home,  
15           never being my wife, and, pardon me, from a demon  
16           of --

17                         THE COURT: I think we might recess for the  
18           day.

19  
20  
21                                 DELETED MATERIAL FILED UNDER SEAL  
22  
23  
24  
25

**BARNETT - Direct (By Mr. Wiggins)**

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

**DELETED MATERIAL FILED UNDER SEAL**

