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MR. GIBSON: Nothing further, Your Honor.
THE COURT: We will take a ten-minute recess.

(There was a recess at 3:09 p.m.)

THE COURT: Please be seated.
All right. I have a few questions.

Mr. Gibson --

MR. GIBSON: Yes, Your Honor.

THE COURT: -- were you aware at the time you filed this lawsuit of the prior litigation in the 192nd?

MR. GIBSON: Absolutely not.

THE COURT: Thank you. Mr. Metzger, is it the contention of the defendants that the Board of Trustees has the authority to exclude anyone -- members, nonmembers, guests, passers-by -- from entering the church at any time for services and/or participating in worship?

MR. METZGER: No, Your Honor, it is not. In fact, even if someone were dropped from the membership, the bylaws specifically state that they are welcome to attend the sanctuary services at any time. It is open to all from that standpoint.

THE COURT: That's what I would have

expected, and I saw that in the bylaws as well.

MR. METZGER: However, Your Honor, we would go a little further and suggest that that does not empower anyone to create a disturbance within the

5 sanctuary or to interrupt the services.

6 THE COURT: well, and I don't disagree
7 with that either, although what constitutes a
8 disturbance and what constitutes a discussion varies
9 greatly from church to church. I'm not sure I see it
10 as an ecclesiastical matter, but there are portions
11 of the service --

12 And I take it that this was actually an
13 announcement time rather than a worship period?

14 MR. METZGER: Your Honor --

15 MR. GIBSON: That is correct.

16 MR. METZGER: Your Honor, I would just
17 have to let one of the members speak to that in terms
18 of what time it was as I was not really present.

19 If you -- when you listen to the video, I
20 think you hear that the priest may have been speaking
21 also at the same time, so --

22 THE COURT: well, you know, and as far as
23 what's a disruption, again, I'm not familiar with this
24 particular denomination, but I have had the privilege
25 of attending a lot of services in various churches

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1 where many people can speak and shout at the same time,
2 and it is not considered a disturbance.

3 MR. METZGER: I understand, Your Honor.

4 THE COURT: So here's the Court's ruling.
5 The Temporary Restraining Order will be modified to
6 restrain the Board of Trustees only from the following
7 conduct:

8 First, they will not prohibit any person
9 from entering the church and peaceably participating in
10 worship services or associated activities. And if at

11 the beginning or the end of the worship service there
12 is an announcement period, that's part of the worship
13 services as far as the Court is concerned.

14 The Trustees are enjoined from forcibly
15 removing or causing to be forcibly removed from
16 services any person who has not first been asked by a
17 member of the Board or an authorized official of the
18 church to leave peaceably.

19 The Board of Trustees and all others
20 acting upon behalf of the church are enjoined from
21 asking anyone to leave services unless they are causing
22 an actual disruption of the service or services.

23 MR. METZGER: Could you say that one more
24 time?

25 THE COURT: The Board of Trustees and all 174

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1 othes acting upon behalf of the church will not ask
2 anyone to leave unless they are actually just causing
3 a disturbance or a disruption of services. And I guess
4 I can't do any better than to say that in terms of the
5 perception of a reasonable person at that time and
6 place.

7 I will observe that Yeshe -- I'm sorry,
8 I can't pronounce her last name. I have grave doubts
9 as to how much disturbance Yeshe could cause going up
10 against a man with a microphone, but that's neither
11 here nor there.

12 I'm not going to tell the Board what they
13 can or can't do in terms of hiring security officers or
14 off-duty police. But it would seem consistent with the
15 purposes of the church that such officers not be

16 present in the sanctuary during services unless they
17 are needed to deal with an actual disturbance.

18 MR. METZGER: Your Honor, do you mean
19 sanctuary or -- there is a larger body of the building
20 of the church.

21 THE COURT: Well, I'm talking about the
22 space where worship actually takes place. If it's not
23 called the sanctuary, then whatever that space is.
24 If they feel that it is necessary to have security in
25 the hallways or, you know, to help direct traffic and

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1 assist with parking --

2 I mean, I attend a Temple where we
3 typically have 3,000 or 4,000 people for holiday
4 services, and we have lots of police present, but they
5 don't come into the sanctuary. They don't come into
6 the services. And I don't think it's appropriate for
7 these folks anymore than it would be there.

8 And I think that regardless whether they
9 are or are not members, whether they pay or don't pay,
10 whether they get to vote on the Board of Trustees or
11 not, I think that it is everybody's intention that
12 those who want to come and be peaceful, have the right
13 to worship. And that's all I'm trying to protect.

14 It does not really appear to me that
15 there is anything left of the bylaws or the Trustees'
16 controversy for me to look at, but it is not -- the
17 exact scope of Judge Smith's judgment is not entirely
18 clear to me because I haven't read all of those
19 pleadings and because his actual judgment is very
20 sparse in its language. But whatever he's decided, is
21 decided, unless the Court of Appeals says otherwise.

22 Trial on the merits, in order to comply
23 with the requirements of the rules and the statute,
24 is set for the week of December 6, 2010.

25 MR. GIBSON: May I address the other two

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1 items in the relief which we are seeking?

2 THE COURT: You may, but I don't think
3 I'm likely to grant them.

4 MR. GIBSON: We were asking the Court to
5 restrain the destruction of documents which -- since we
6 are in litigation, they would be prohibited from doing
7 anyway.

8 THE COURT: I will continue that part of
9 it.

10 MR. GIBSON: All right. And then the
11 other issue was the use of funds in the ordinary course
12 of business. And I understand that what constitutes
13 the ordinary course of business may be --

14 THE COURT: I'm not going to continue
15 that.

16 MR. GIBSON: Okay.

17 THE COURT: I don't think there has been
18 a sufficient showing of any basis for me to question
19 their authority to do anything other than manhandle
20 people who come to worship. I'm sure that was not
21 anybody's intention, but it was not a pretty sight,
22 and it should not happen again.

23 Mr. Metzger, you will want to file a
24 Motion to Transfer this case and give notice of that
25 motion to the judge of the 192nd District Court. Under

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1 the Local Rules, it's his decision whether to transfer
2 the case or to leave it with me. And I will abide by
3 his decision, whatever that is.

4 Since that case is closed and on appeal,
5 it may or may not make a great deal of difference.

6 MR. GIBSON: And I will submit a proposed
7 order to counsel and get it down to the Court ASAP.

8 THE COURT: And --

9 MR. METZGER: May I ask for a form of
10 clarification, Your Honor?

11 THE COURT: Yes, please.

12 MR. METZGER: There's been no evidence
13 presented as to any document destruction of any kind.
14 So, consequently, are you asking -- are you telling
15 us something other than as required under the rules
16 at present?

17 THE COURT: Probably not. But I'm going
18 to continue that part of the Temporary Restraining
19 Order just out of an abundance of caution, and because
20 I don't see how it can cause your clients harm by
21 restraining them from doing something that they
22 shouldn't do anyway.

23 MR. METZGER: One further point of
24 clarification. Are you removing expedited discovery
25 requirements since we haven't --

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1 THE COURT: I am vacating the expedited
2 discovery requirement. I don't think there is any
3 need for it since we have finished with the temporary
4 injunction.

5 MR. METZGER: So the normal times are
6 in effect with respect to discovery and responding to

7 discovery and --

8 THE COURT: Going forward. If there are
9 any responses to any outstanding discovery, just extend
10 them to the appropriate 30 days or whatever.

11 MR. METZGER: Only the Rule 194 requests
12 as contained in the petition. But you will accept our
13 Motion to Transfer -- I'm sorry, you said to file it --

14 THE COURT: File it in this case and
15 give notice to the judge -- file the notice with the
16 judge of the 192nd because Judge Smith, under the Local
17 Rules, it is his decision whether he wants to see these
18 folks again or leave them with me.

19 MR. THOMAS: Administratively, how does
20 that work? Do we ask Judge Smith to set a hearing,
21 or just bring it to his attention?

22 THE COURT: I think if you will just
23 bring it to his attention. As soon as I have a chance,
24 I will send him an e-mail and let him know what's going
25 on.

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1 But we try -- we try most of the time --
2 I mean, I can transfer it right now because I think
3 that's what's going to happen. But under the Local
4 Rules, it is really his decision. But the close
5 relationship of the two cases is pretty apparent to me.
6 And since he has already been through summary judgment
7 on it, he may feel that he can dispose of this more
8 expeditiously than I can.

9 MR. METZGER: If the Motion to Transfer
10 is filed in here, should it also include a request to
11 abate further proceedings?

12 THE COURT: No. I think just -- I will
13 try to make sure that Judge Smith -- between us, Judge
14 Smith and I will get that ruled on promptly.

15 MR. METZGER: Thank you.

16 THE COURT: And either way, you've got a
17 case in district court in Dallas County, so whatever it
18 is that you and Mr. Gibson feel like you may need to be
19 doing, you can do it. And whichever judge it winds up
20 in front of, that's where it is.

21 would there be any possible benefit to
22 another mediation in this matter?

23 MR. GIBSON: I believe so.

24 THE COURT: Well, let's put it this way.
25 I'm not going to order it because it may not be in

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1 front of me a week from now. But --

2 MR. METZGER: Your Honor, we mediated the
3 last case without any real success. We are always
4 happy to go sit and talk about it, but the complainants
5 are not --

6 THE COURT: Who mediated the case out of
7 the 192nd?

8 MR. METZGER: A big old tall guy who
9 offices out at Premier Place. I would have to --

10 THE COURT: Bob Bliss?

11 MR. METZGER: Yes.

12 THE COURT: I'm not sure I know who I
13 think would be best for this case, but I'm not sure
14 it would be Bob Bliss, just in terms of temperament.

15 MR. METZGER: Why don't we wait to see
16 about the transfer --

17 THE COURT: Yes.
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18 MR. METZGER: -- and then deal with that.

19 THE COURT: That's fine. As I say, I'm
20 not going to order it at this point, but I certainly
21 would encourage the parties to try to see if there
22 isn't some way to try to bridge this gap. It borders
23 on --

24 You know, I don't think it really at this
25 point is an ecclesiastical issue, but it's got that

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1 flavor. And at the end of the day, either these folks
2 have got to stay together in one church, or they are
3 going to wind up splitting into two.

4 MR. METZGER: I think that's a correct
5 analysis, Your Honor.

6 THE COURT: Thank you very much, Counsel.

7 MR. GIBSON: Thank you, Judge.

8 MR. METZGER: Your Honor, I'm assuming
9 that the Motion to Extend is denied?

10 THE COURT: It is denied.

11 MR. METZGER: Thank you.

12 THE COURT: We are adjourned for today.

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16 (This completes the Partial Reporter's
17 Record, Ruling by the Court on the
18 Temporary Injunction hearing which was
19 heard on Tuesday, May 18, 2010.)

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