

Case Nos. G036096 and G036408

**IN THE COURT OF APPEAL  
OF THE STATE OF CALIFORNIA**

**Fourth Appellate District  
Division Three**

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Jane Hyde Rasmussen, et al.

*Plaintiffs and Appellants,*

vs.

The Rev. Praveen Bunyan, et al.

*Defendants and Respondents.*

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Appeal from the Superior Court for Orange County (04CC00647; JJP 4392)  
David C. Velasquez, Coordination Trial Judge

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**AMICI CURIAE BRIEF OF THE PRESBYTERIAN  
CHURCH (U.S.A.), A CORPORATION, THE SYNOD  
OF SOUTHERN CALIFORNIA AND HAWAII AND  
PRESBYTERY OF HANMI IN SUPPORT OF  
APPELLANTS**

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## I.

### INTRODUCTION.

The First and Fourteenth Amendments of the United States Constitution and Article I, Section 4 of the California Constitution strictly limit the jurisdiction of civil courts over the internal affairs and administration of hierarchical religious institutions such as the Protestant Episcopal Church. Therefore, civil courts must defer to decisions made by a hierarchical church organization regarding religious doctrine and polity. This specifically includes decisions made regarding which faction of a local church in schism is entitled to control and manage the church's affairs.

In this case, the congregation of St. James Parish had been in schism regarding theological issues for several years. The Episcopal Diocese of Los Angeles (the "Diocese") unsuccessfully attempted to reconcile the factions. Therefore, applying its internal Constitution and Canons, the Diocese determined which faction was entitled to manage the affairs of St. James Parish. The Diocese and several individuals then filed a complaint in which they sought relief including a declaration of rights giving effect to this determination as to which faction shall control St. James' affairs.

Rather than deferring to the Diocese's decision, the lower court utterly ignored these allegations of the complaint. Instead, the lower court's Statement of Decision focused exclusively on the entirely separate issue of whether the Episcopal Church had proven a cognizable property interest in St. James' real and personal property. The court, finding it did not, dismissed the complaint as a strategic lawsuit against public interest which supposedly infringed upon the Respondents' free speech rights.

The lower court was mistaken. Directly to the contrary, the lower court had no authority to make an independent determination of the merits of the Diocese's "true church" declaration, as alleged in the complaint. Rather, the Free Exercise Clause of the First Amendment demands that civil courts defer to the internal decisions of hierarchical religious denominations carried out in the ordinary course of governance. This specifically includes that, where a denomination resolves a factional dispute by identifying the "true church," the civil court cannot overrule that decision. The lower court committed reversible error by dismissing this action seeking a ruling giving effect to the Diocese's actions, rather than affirming it, as settled constitutional law required it to do.

## II.

### STATEMENT OF FACTS.

#### **A. The complaint sought a declaratory judgment affirming the Diocesan “true church” declaration.**

The record before the lower court included the following. The Episcopal Church is organized into a three tier hierarchy. At the local level, the 7,500 parishes and missions are governed by their vestry. Every parish and mission belongs to a diocese, which promulgates governing rules. 5 AA 981-2 (declaration of Rev. Wright); 2 Appellant’s Index (“AA”) 420-421 (pages from the church’s Constitution and Canons). The General Convention governs the 110 dioceses. 5 AA 981. The General Convention maintains a Constitution and Canons that are binding on each diocese, parish and mission. 2 AA 420-421. Therefore, the Episcopal Church is an organization of churches with similar faith and doctrine, with a common ruling convocation or ecclesiastical head vested with ultimate ecclesiastical authority over the individual congregations.

The polity of the Episcopal Church prevents a local church from unilaterally voting to leave the denomination. A local church’s worshipping congregation is a parish, governed by its vestry. A parish within this Diocese is subject to its supervision, and cannot unilaterally withdraw from the Diocese or the Episcopal Church. 5 AA 981 ¶ 9 (Wright decl.); 5 AA 102-115 (Diocesan Constitution).

Since 2003, the congregation of St. James Parish has been “torn apart” by a schism regarding ecclesiastical/theological issues. A portion of the congregation purported to declare that the church had left the denomination. 1 AA 75, ¶ 2, 78, ¶ 11, 91, ¶ 79. The Diocese attempted to reconcile the factions of St. James. 1 AA 89-91. When it was unsuccessful, pursuant to the Constitution of the Episcopal Church and its Canons, the Diocese Standing Committee unanimously voted to “inhibit” the St. James reverends (strip them of authority to exercise priestly functions). Further, it determined which faction was the “true church,” entitled to control St. James Parish, appointed a priest-in-charge and so informed St. James. 1 AA 76, ¶ 4 (verified complaint); 6 AA 1122, ¶ 15 (Declaration of David Tumilty) 1284.

After the Respondents refused to acknowledge that determination, the Diocese filed its complaint. The very first contention in the first cause of action for declaratory relief - - in other words, the primary demand for relief in the entire pleading - - explicitly alleged that the controversy between the parties included that:

“Plaintiff contends that the Episcopal Church hierarchy has already resolved the intra-congregational dispute between Plaintiffs and Defendants by determining (1) the congregants who are loyal to the Church are the true members of the Parish, (2) the true Parish leadership is the duly appointed Priest-in-charge and the reconstituted Vestry, and (3) the true Parish has the right to use, manage and control

the Parish property in accordance with the Episcopal Church and Diocesan Canons and Supreme Court and California authority requires civil courts to defer to that ecclesiastical resolution to avoid establishing one church over another in violation of the First and Fourteenth Amendments.

1 AA 93 (Verified First Amended Complaint, ¶ 91). The First Amended Complaint, in its prayer for relief, sought that same declaratory judgment. AA 0093, ¶ 129(a).

**B. The lower court ignored the request for a declaratory judgment affirming the Diocesan “true church” determination.**

The lower court, finding this was a “SLAPP” suit, dismissed the First Amended Complaint, finding that plaintiffs had “not established a legally cognizable claim.” 7 AA 1497:14-15. However, in characterizing the nature of the First Amended Complaint, the lower court simply ignored its above-referenced allegations. As the lower court erroneously wrote in its Statement of Decision, “all of the instant causes of action, except breach of contract, promissory estoppel and unjust enrichment, are based on the assertion the defendants hold parish property under an express trust for the benefit of plaintiff the Protestant Episcopal Church.” 7 AA 1492:15-19 (Statement of Decision). The court then stated that its analysis of the First Amended Complaint was based exclusively on “neutral principles of law in resolving church disputes over church property.” 7 AA 1498:7-9. The lower court’s incorrect basis for its ruling in its

Statement of Decision completely ignores these allegations of the First Amended Complaint seeking a judgment confirming that the civil court is bound to defer to this “true church” determination. 7 AA 1497-1502. These allegations, which sought relief entirely separate from the issue of whether a trust existed over the real and personal property of St. James, cannot be analyzed under a “neutral principles” standard. Rather, as discussed below, the court is constitutionally prohibited from substituting its judgment for the Diocese’s decisions on these issues.

### **III. ARGUMENT.**

#### **A. The Episcopal Church is a hierarchical church.**

The First and Fourteenth Amendments to the United States Constitution strictly limit the jurisdiction of civil courts over the internal affairs of hierarchical churches:

The First and Fourteenth Amendments of the federal constitution-and their counterpart in the California constitution (Cal. Const., art. I, § 4)-impose limitations on the jurisdiction of civil courts over the internal affairs and administration of ecclesiastical institutions. . . . Generally, civil jurisdiction is more limited with respect to hierarchical religious organizations than it is in the case of congregational or independent ones.

Concord Christian Center v. Open Bible Standard Churches, 132 Cal.App.4th 1396, 1409, 34 Cal.Rptr.3d 412 (2005).

Both California courts and the United States Supreme Court define a hierarchical church as:

[O]ne in which individual churches are organized as a body with other churches having similar faith and doctrine[, and] with a common ruling convocation or ecclesiastical head” vested with ultimate ecclesiastical authority over the individual congregations and members of the entire organized church.

Concord Christian, Id, citing Kedroff v. St. Nicholas Cathedral, 344 U.S. 94, 110 & fn. 15, 73 S.Ct. 143, 97 L.Ed. 120 (1952) and Watson v. Jones, 80 U.S. 679, 722-723, 13 Wall 679, 20 L.Ed. 666 (1871).

California courts have specifically held that the Episcopal Church is a hierarchical church. See Protestant Episcopal Church v. Barker, 171 Cal.App.3d 599, 611, 171 Cal.Rptr. 541 (1981). In their opening brief at pp. 4-10, the appellants presented overwhelming evidence confirming the Barker holding that the Episcopal Church is hierarchical, including the declaration of Rev. Wright. 5 AA 979-92 and exhibits thereto.

**B. Courts must defer to ecclesiastical decisions of hierarchical churches.**

In a hierarchical church system, a local congregation is deemed to have agreed to be bound by the orders of the national church:

It has long been established that in such a hierarchical church, an individual local congregation which affiliates with the national church body becomes "a member of a much larger and more important religious organization . . . under its government and control, and . . . bound by its orders and judgments."

Concord Christian, Id., citing Watson v. Jones, *supra*, 80 U.S. at pp. 726-727. Accordingly, the First and Fourteenth Amendments require civil courts to defer to rules of hierarchical churches for internal discipline and government:

In short, the First and Fourteenth Amendments permit hierarchical religious organizations **to establish their own rules and regulations for internal discipline and government**, and to create tribunals for adjudicating disputes over these matters. When this choice is exercised and ecclesiastical tribunals are created to decide disputes over the government and direction of subordinate bodies, **the Constitution requires that civil courts accept their decisions as binding on them.**

Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696, 725, 96 S.Ct. 2372, 49 L.Ed.2d 151 (1976) (emphasis added).

Since the Episcopal Church is hierarchical, the lower court was required to defer to the ecclesiastical decisions of its Diocese. As shown immediately below, that included the Diocese's decision as to which faction of St. James was its "true church," entitled to manage its affairs.

**C. The lower court erred when it failed to defer to the Diocese's determination regarding which St. James' faction was entitled to control St. James' property.**

The court must fully defer to the decision of a hierarchical religious denomination which resolves a schism at a member church by identifying its "true church," *i.e.*, the faction entitled to control the affairs of the local church. This is the clear rule set out in cases including Korean United Presbyterian Church of Los Angeles v. Presbytery of the Pacific, 230 Cal.App.3d 480, 500, 281 Cal.Rptr. 396 (1991); Metropolitan Philip v. Steiger, 82 Cal.App.4th 923, 931, 98 Cal.Rptr.2d 605 (2000) and First English Evangelical Lutheran Church v. Dysinger, 120 Cal.App. 139, 6 P.2d 522 (1932).

In Korean United, a local church's session voted to leave the Presbyterian Church, in violation of the PCUSA Constitution which requires the Presbytery to approve that decision. The Presbytery empaneled an "administrative commission" to replace the session, just as in this case the Episcopal Diocese voted to reconstitute the

vestry of St. James. The Presbytery then determined which faction of the local church was the "true church," exclusively entitled to manage its affairs, just as the Episcopal Diocese did in the present case.

The lower court refused to recognize these ecclesiastical decisions, and found in favor of the local church, which decision was reversed as error. Instead, the Second District Court of Appeal held that the civil court was absolutely required to defer to the Presbytery's "true church" declaration. It was irrelevant that the prior session attempted to amend the church's bylaws to sever its ties to the rules of governance set forth in the Presbyterian Church's Constitution. The Court of Appeal therefore reversed the judgment of the lower court refusing to adhere to the Presbytery's decision. Korean United, 230 Cal.App.3d at 505. As it held, the lower court erred because, when a court is confronted with two factions of a local church vying for the use of a hierarchical church property, the court **must** defer to the hierarchical church's resolution of the issue:

The Presbytery was the authoritative ecclesiastical body charged with the responsibility of determining which of the two factions of KUPC was the "true church." It did so, and its decision became binding and conclusive on the lower court. **On this basis alone, the congregation designated by Presbytery as the true church became entitled to the use and enjoyment of the Church property.**

Korean United, 230 Cal.App.3d at 503 (emphasis added).

It does not matter if the true church constitutes a minority of the congregation:

It is immaterial that the faction which Presbytery has designated as the true church is a minority of the original membership.

Korean United, 230 Cal.App.3d at 502. See also Dysinger, 120 Cal.App. at 147 (it is irrelevant whether the true church is a small minority of members.)

In Dysinger, a pastor of First English Evangelical Lutheran Church ("FEELC") refused to abide by the discipline of the United Lutheran Church of America, a hierarchical church. He led a faction of FEELC which attempted to break away from the United Lutheran Church by amending the governing documents of FEELC and submitting that to a congregation vote. A portion of the congregation opposing the disaffiliation appealed the decision to the hierarchy of the United Lutheran Church. The hierarchy ruled in favor of the faction wishing to remain part of the United Lutheran Church and designated that faction as the true church. Dysinger, 120 Cal.App. at 143. The pastor's faction refused to recognize the ruling, so the true church sued. The lower court ruled in favor of the pastor's faction, and the true church appealed.

The Court of Appeal, relying on Watson v. Jones, held that the lower court should have deferred to the hierarchy's decision regarding the identity of the true church. Dysinger, 120 Cal.App. at 144-145. The Court of Appeal then held it was immaterial if the true

church “constituted a large or small minority of the church members.” Dysinger, 120 Cal.App. at 147-148.

Similarly, in Metropolitan Philip, 82 Cal.App.4th at 931 the court affirmed judgment in favor of a national church whose internal Spiritual Court had ruled that the local church’s affairs should be under control of the “true church” faction which did not vote to leave the denomination. Quoting Korean United, the court wrote, “the question of which group is the ‘true church’ is clearly ecclesiastical and therefore the ecclesiastical authorities’ determination of the issue is binding and conclusive on the lower court.” Accord, Singh v. Singh, 114 Cal.App.4th 1265, 1283, 9 Cal.Rptr.3d 4 (2004) (in cases involving a schism at a local church, court must defer to its internal “authoritative ecclesiastical body”).

Here, the congregation of St. James was in schism for several years. 1 AA 75-76, 89. Ultimately, the Diocese determined which faction of St. James was entitled to control and manage the parish’s affairs. It then filed the present complaint which expressly sought a judgment that the Diocese had declared one faction of St. James to be the “true church,” and that the civil court must “defer to that ecclesiastical decision.” 1 AA 101:15-24 (first amended complaint).

The lower court ruled that this complaint, and the evidence presented in opposition to the SLAPP suit motion, did not present “a legally cognizable claim.” That ruling constituted reversible error, because the lower court applied the wrong legal standard, and in so

doing violated Appellants' constitutional rights.<sup>1</sup> Courts must conduct separate analyses, applying different standards of review, to resolve claims in a complaint seeking **control** over a church within a hierarchical denomination versus claims seeking to quiet **title** to that church's property. While the court has jurisdiction to conduct an independent analysis of claims to quiet title to church property, it has no such jurisdiction to overrule a hierarchical church's internal decision over managing the local church's affairs. Concord Christian, supra.

In Concord Christian, a national hierarchical denomination placed its local church under the jurisdiction of a regional supervising body pursuant to the denomination's ecclesiastical rules. The local church argued that the court should overrule that decision based on "neutral principles" of law. The lower court disagreed that this was the proper standard. Rather, it held that a "neutral principles" analysis applies only to claims against title to property. By contrast, the court must apply a strict rule of judicial deference in deciding who shall **control** that local church.

The Court of Appeal affirmed, emphasizing this clear distinction between the court's jurisdiction in resolving claims to title of church property versus which faction controls its affairs. While

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Amici further take the position that the lower court erroneously applied the "neutral principles" standards, and erroneously ruled that the anti-SLAPP statute applies to this case at all. However, those issues are fully addressed in Appellants' brief.

the claims regarding **ownership** of the local church's property had already been resolved by a pre-trial motion:

On the other hand, because the issues before the trial court affected the ultimate *control* of Concord Christian's property and assets, the trial court properly ruled that it had jurisdiction to adjudicate these issues to the extent it could do so without impinging on exclusive ecclesiastical authority . . . The "propriety of [the hierarchical church's] **regional supervision** as a matter of ecclesiastical polity" is one of the "issues which both the United States Supreme Court and the Courts of this state have traditionally applied **the ecclesiastical rule of judicial deference.**"

Concord Christian, 132 Cal.App.4th at 1412-1413.

Under the rule explained in Concord Christian, the lower court erred by applying the wrong standard of review over the actions of the Diocese. To resolve **title** to church property, the court must apply a de novo standard set out in the so-called "neutral principles" analysis in which the court reviews documents such as the national church's constitution, state law and the local church's corporate and title documents to determine the existence of a trust. However, the court cannot independently review the hierarchical church's actions in its regional supervision of a local church. To the contrary, as shown above, Concord Christian's requirement that the court completely defer to the hierarchical church's "true church" decision is consistent with the holdings of Korean United and Metropolitan Philip.

Therefore, the lower court erred in completely ignoring the portion of the complaint seeking a declaration that the civil court must apply the rule of judicial deference and affirm the Diocese's decision regarding which faction of St. James was the true church, pursuant to Korean United and Metropolitan Philip.

**D. The lower court's error infringes on Appellants' constitutional rights.**

The lower court not only failed to correctly apply the law, but in doing so it crossed over an important Constitutional bright line established to ensure that hierarchical religious denominations be allowed to manage their internal affairs free of government interference. A hierarchical church's claim to title of real or personal property is subject to the "neutral principles" doctrine, which allows the court to independently weigh the evidence. By contrast, the separation of church and state demands that the government fully defer to a hierarchical church's internal polity decisions. Paramount among those functions is the denomination's authority to resolve disputes as between factions of a local church. It is essential that a hierarchical denomination retain the authority as the sole arbiter of internal disputes over church doctrine, management, discipline or membership. One faction of a local church, even a majority, cannot by fiat or litigation usurp the denomination's authority over these matters. The decision of the lower court must be reversed on this basis. Any other ruling would encourage a slippery slope, where parties attempt to recharacterize the nature of their church's internal factional disputes to try to plead around the constitutional protections

afforded to hierarchical denominations to manage their internal affairs free of government interference.

**E. The court must decline Respondents' suggestion to resolve constitutional issues with a stopwatch.**

Respondents claim that the rule in the above-cited cases turns exclusively on a timing issue; whether the local church faction sought to cause the parish to leave the denomination before the Diocese had time to react. They assert that, "in California, the ecclesiastical deference rule is not applicable where a local church disaffiliates from a denomination and the denomination then purports to make such a 'true church' determination". Respondents' brief, p. 54. Respondents cite as authority for this sweeping statement Presbytery of Riverside v. Community Church of Palm Springs, 89 Cal.App.3d 910, 152 Cal.Rptr. 854 (1979), and later also refer to Protestant Episcopal Church v. Barker, *supra*.

Riverside is easily distinguishable. It involved a church which broke off from a predecessor denomination to PCUSA called UPCUSA. The trial court had ruled that, under the UPCUSA Constitution, it was "**undisputed that a local church within UPCUSA may withdraw and terminate its affiliation.**" Presbytery of Riverside, 89 Cal.App.3d at 924.<sup>2</sup> Therefore, since the record

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<sup>2</sup>

PCUSA does not endorse this as an accurate statement of the polity of the UPCUSA in 1979, but simply notes that this was the record presented to the Court of Appeal on which it decided the case.

indicated that the local church was free to leave, the only issue before the court was ownership of the property, not whether the denomination could properly exercise regional control over the church over the local church's objection.

Similarly, in Barker, the Diocese in that case had not chosen to impose any "regional supervision procedures over the local church," so once again the issue was not before the court. See Concord Christian, 132 Cal.App.4th at 1412, n. 6 (distinguishing Barker on these grounds).

In fact, Korean United directly states that Presbytery of Riverside and Barker stand for the rule that the identification of a "true church" is a matter of internal church polity in which civil courts cannot overrule the internal church's decisional body. As stated above, Korean United reversed a decision by the lower court refusing to give effect to the presbytery's true church declaration, which the presbytery enforced by putting a regional board in place to supplanting the local church's session (just as the Diocese in this case ordered the vestry of St. James to be reconstituted). 2 AA 0370. As the court wrote:

"Thus, in rendering its judgment, the court, in effect, substituted its own judgment for the previous determination made by the Presbytery on a matter of religious doctrine and polity—the identity of the true church congregation. On this point, the court erred as a matter of law . . . The decision of the superior court violates the First and

Fourteenth Amendments by substituting the court's judgment for the judgment of the Presbytery regarding the identity of the particular church entitled to use and enjoy the church property, a question of church doctrine and polity. While the opinions in [cases including] Presbytery of Riverside Jones v. Wolf and Protestant Episcopal Church [Barker] support the use of neutral principles of law to resolve church property disputes, they also mandate that on ecclesiastical issues, including matters of religious doctrine or polity, civil courts must defer to the highest judicatory of the hierarchical church hearing and addressing the matter."

230 Cal.App.3d at 500.

Respondents then try to distinguish Metropolitan v. Steiger, Concord Christian and Korean United. All those cases were decided subsequent to Presbytery of Riverside and Barker, and directly hold that the identification of the true church is a matter in which the civil court cannot overturn the decision of the hierarchical denomination. Respondents basically argue that the results in all those cases would have been different had the local churches voted to leave their respective denominations before regional control was imposed. Respondents' brief, pp. 48-49.

Respondents cite to no case that holds that the proper application of the Free Exercise Clause is to be decided by a "race" between a dissenting faction of a local church and its supervisory hierarchical body to see who can first issue competing proclamations. Rather, the key fact is **whether** a hierarchical

denomination which prohibits unilateral disaffiliation imposed regional supervision, made a “true church” declaration, etc., not **when** it did so. If it does so, the civil court must respect it. In Presbytery of Riverside, the trial court determined that the denomination expressly allowed any local church to unilaterally “withdraw and terminate its affiliation,” as discussed above. By contrast, in Korean United, “the relationship of a particular church to PCUSA can be severed only by action on the part of the Presbytery.” 230 Cal.App.3d at 505. Similarly, in Barker, the denomination did not choose to take supervisory action over the local church to resolve a factional dispute, whereas the respective denominations all did so as discussed in Korean United and Steiger and Concord Christian.

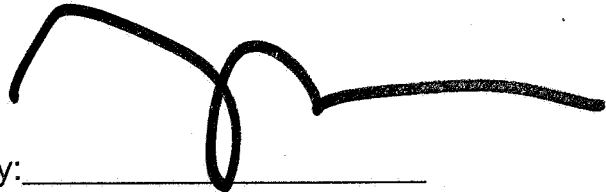
According to the record before the lower court, St. James belonged to a hierarchical denomination that does not allow a local parish church to unilaterally quit its Diocese. The Diocese made a “true church” declaration, as in Korean United, Steiger and Concord Christian. Therefore, when the Diocese acted, the civil court lacked jurisdiction to disregard its declaration of church polity. The lower court erred when it dismissed this suit without even acknowledging that the complaint sought a judicial declaration giving effect to the Diocese’s “true church” declaration. The Free Exercise Clause demands the court affirm that declaration, not dismiss the suit without even acknowledging it.

**IV.**  
**CONCLUSION.**

The lower court clearly erred when it simply ignored the portions of the complaint that demanded that it enter judgment giving effect to the Diocese's determination of the true church. Not only was that a plain error of law, it violated the constitutional rights under the Free Exercise Clause of the Episcopal Church to manage its internal affairs free from governmental interference.

Dated: October 9, 2006

Law Offices of George S. Burns



By: \_\_\_\_\_  
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**CERTIFICATE OF WORD COUNT**

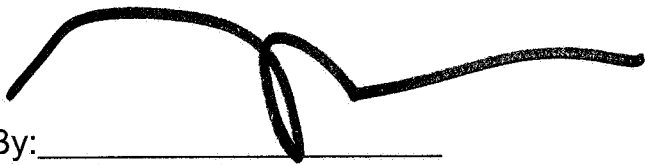
**(Cal. Rules of Court, Rule 14(c)(1))**

I certify under penalty of perjury under the laws of the State of California that I have fully complied with all applicable provisions of the California Rules of Court, Rule 14(c)(1) that appellate counsel state the number of words in the brief.

The attached brief contains 4855 words. This information is based on the word count of the computer program used to prepare the brief.

Dated: October 9, 2006

Law Offices of George S. Burns

  
By: \_\_\_\_\_  
George S. Burns

Attorneys for Amici Curiae,  
Presbyterian Church (U.S.A.), A  
Corporation, Synod of Southern  
California and Hawaii, and  
Presbytery of Hanmi

1 **PROOF OF SERVICE**

2  
3 I, the undersigned, declare:

4 I am employed in the County of Orange, State of California. I am over the age of  
5 18 years and not a party to this action. My business address is the Law Offices of  
6 George S. Burns, 4100 MacArthur Boulevard, Suite 305, Newport Beach, California  
7 92660.

8 On October 10, 2006, I served a copy, including all exhibits, if any, of the  
9 following document(s):

10 **AMICI CURIAE BRIEF OF THE PRESBYTERIAN CHURCH (U.S.A.), THE  
11 SYNOD OF SOUTHERN CALIFORNIA AND HAWAII AND PRESBYTERY OF  
12 HANMI IN SUPPORT OF APPELLANTS**

13 on the parties in this action listed in the attached Proof of Service List, which is  
14 incorporated herein by this reference, by the following means:

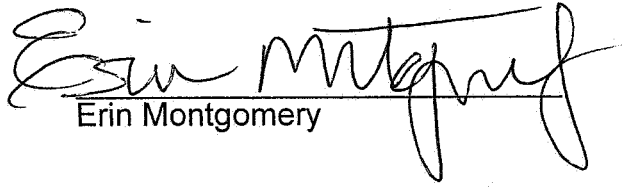
- 15  **(BY MAIL)** I caused each such envelop to be sealed and placed for collection  
16 and mailing from my business address, which is located in the county where the  
17 mailing is described below took place. I am readily familiar with the practice of  
18 the Law Offices of George S. Burns for collection and processing of  
19 correspondence for mailing, said practice being that in the ordinary course of  
20 business mail is deposited with the postage thereon fully prepaid in the United  
21 States Postal Service the same day as it is placed for collection. I am aware that  
22 upon motion of the party served, service is presumed invalid if the postal  
23 cancellation date or postage meter date on the envelope is more than one day  
24 after the date of deposit for mailing contained in this affidavit.
- 25  **(BY PERSONAL SERVICE)** I caused each such envelop to be sealed and given  
26 to a courier authorized by our attorney service to receive documents for delivery  
27 on the same date. A proof of service signed by the authorized courier will be  
28 filed forthwith.
- (BY FEDERAL EXPRESS)** I am readily familiar with the practice of the Law  
Offices of George S. Burns for the collection and processing of correspondence  
for overnight delivery and know that the document(s) described herein will be  
deposited in a box or other facility regularly maintained by Federal Express for  
overnight delivery.
- (BY FACSIMILE)** This document was transmitted by facsimile transmission from  
(949) 263-6780 and the transmission was reported as complete and without  
error. I then cause the transmitting facsimile machine to properly issue a  
transmission report, a copy of which is attached to this affidavit.
- (STATE)** I declare under the penalty of perjury under the laws of the State of  
California that the foregoing is true and correct.

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**(DISTRICT)** I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on October 10, 2006, at Newport Beach, California.

  
Erin Montgomery

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**SERVICE LIST**

Jane Hyde Rasmussen, et al. v. The Rev. Praveen Bunyan, et al.  
Appeal Case Nos. G036096 and G036408  
Case No. 04CC00647

California Appellate Court  
Fourth Appellate District, Division 3  
925 North Spurgeon Street  
Santa Ana, CA 92701

*(Original and Five Copies)*

1 **PROOF OF SERVICE**

2 I, the undersigned, declare:

3 I am employed in the County of Orange, State of California. I am over the age of  
4 18 years and not a party to this action. My business address is the Law Offices of  
George S. Burns, 4100 MacArthur Boulevard, Suite 305, Newport Beach, California  
5 92660.

6 On October 10, 2006, I served a copy, including all exhibits, if any, of the  
following document(s):

7 **AMICI CURIAE BRIEF OF THE PRESBYTERIAN CHURCH (U.S.A.), THE**  
8 **SYNOD OF SOUTHERN CALIFORNIA AND HAWAII AND PRESBYTERY OF**  
**HANMI IN SUPPORT OF APPELLANTS**

9 on the parties in this action listed in the attached Proof of Service List, which is  
10 incorporated herein by this reference, by the following means:

11  **(BY MAIL)** I caused each such envelop to be sealed and placed for collection  
and mailing from my business address, which is located in the county where the  
12 mailing is described below took place. I am readily familiar with the practice of  
the Law Offices of George S. Burns for collection and processing of  
13 correspondence for mailing, said practice being that in the ordinary course of  
business mail is deposited with the postage thereon fully prepaid in the United  
14 States Postal Service the same day as it is placed for collection. I am aware that  
upon motion of the party served, service is presumed invalid if the postal  
15 cancellation date or postage meter date on the envelope is more than one day  
after the date of deposit for mailing contained in this affidavit.

16  **(BY PERSONAL SERVICE)** I caused each such envelop to be sealed and given  
to a courier authorized by our attorney service to receive documents for delivery  
17 on the same date. A proof of service signed by the authorized courier will be  
filed forthwith.

18  **(BY FEDERAL EXPRESS)** I am readily familiar with the practice of the Law  
19 Offices of George S. Burns for the collection and processing of correspondence  
for overnight delivery and know that the document(s) described herein will be  
20 deposited in a box or other facility regularly maintained by Federal Express for  
overnight delivery.

21  **(BY FACSIMILE)** This document was transmitted by facsimile transmission from  
22 (949) 263-6780 and the transmission was reported as complete and without  
error. I then cause the transmitting facsimile machine to properly issue a  
23 transmission report, a copy of which is attached to this affidavit.

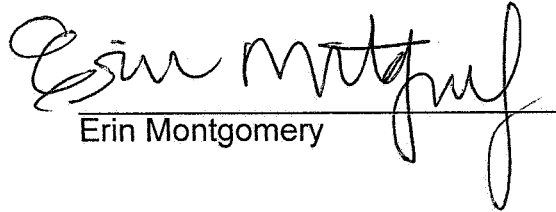
24  **(STATE)** I declare under the penalty of perjury under the laws of the State of  
25 California that the foregoing is true and correct.

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(DISTRICT) I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on October 10, 2006, at Newport Beach, California.

  
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**SERVICE LIST**

Jane Hyde Rasmussen, et al. v. The Rev. Praveen Bunyan, et al.  
Appeal Case Nos. G036096 and G036408  
Case No. 04CC00647

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