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March 30, 2010

LCMS Desperate to Push Lawsuit against Four CA Women Past Convention

In January, LCMS legal counsel for the LCMS Board of Directors filed her motion for Summary Judgment in the California-Nevada-Hawaii District of the Lutheran Church-Missouri Synod (CNHD-LCMS) lawsuit against Sharon Bowles, Mary-Ann Hill, Portia Ridgeway, and Celia Moyer of Oakland CA for their church property. At the end of February, attorney for the defense Paul Nelson filed his own Motion for Summary Judgment. Both parties are waiting for the judge to make his decision on May 7th. Then the Synod blinked. Attorney Timothy Noelker, Thompson Coburn LLP associate on the lawsuit with Attorney Sherri Strand, sent a 17 page letter to Nelson opening up new issues not stated in the original suit filed by CNHD-LCMS in December of 2007. In other words, the original suit filed by attorney Sherri Strand in behalf of the CNHD-LCMS is weak. Nelson's claim that the District has no right to remove people from their church who are not members of the Synod from property CNHD-LCMS doesn't own is devastating. In other words, Nelson claims that CNHD-LCMS has no standing to bring suit against these four California ladies. President Gerald Kieschnick's Ash

Wednesday seven-hour deposition had so many inconsistencies that his election and convention agenda could be jeopardized by a May 7th ruling in the lawsuit.

In a 17 page letter, attorney Timothy Noelker—an Episcopalian—writes a flailing attempt to redirect the suit. We are not surprised that attorney Sherri Strand's name is not on the letter. Much of the letter appears to be written to confuse the 2010 convention delegates about the original reason the suit was filed and justify an estimated half million dollars in legal fees. The original lawsuit was supposedly written for doctrinal reasons about women clergy. The congregation is currently being served by former LCMS pastor Rev. Lawrence Richmond, who was driven out of the Synod for refusing to serve open communion. When Kieschnick was questioned under oath, he was not able to name the Bible passages on which the suit was supposedly based, nor were the Bible passages identified in the original suit. The new 17 page letter is about anything but doctrine.

1. The CNHD-LCMS is trying to cut off the supply of all donations to the congregation. They want to intimidate all current donors by claiming they have a right to examine the congregation's numbered accounts. The 90 LCMS pastors who sued Kieschnick for voter-fraud at the 2004 Convention and their support group were subject to public humiliation at the 2007 Convention and recrimination by LCMS District Presidents. What does the Synod plan to do if it learns the names of those who donated funds to help pay to the legal defense of Our Redeemer Lutheran Church?

Noekler writes for CNHD-LCMS: "C. Request for Product No. 5 - All bank records of OUR REDEEMER relating to the period between January 1, 2003, **and the present**, including but not limited to bank statements, copies of cancelled checks, deposit slips, withdrawal slips, and records of electronic transfers, withdrawals, or deposits."

What does this have to do with false doctrine?

2. The Synod thought they could win the lawsuit by suing four elderly women who are officers of the congregation. However, to everyone's surprise, they are thriving, including 77 year-old special education teacher Mary-Ann Hill. Now CNHD-LCMS realizes they should have sued congregational vice-president Dr. Ben Chavis, but they really didn't want to tangle with him.

Chavis is an independently wealthy entrepreneur, has two earned doctorates in Education and Philosophy, is a faculty member at the University of Arizona, and is a successful businessman. He recently won a lawsuit with the Oakland California School District Teachers Union to open a very successful charter school on Our Redeemer Lutheran Church's property. When Strand accused Dr. Chavis during his deposition of making money on the charter school, he replied that he hoped he could make more.

When this writer first learned about Chavis's involvement with Our Redeemer in August of 2009, he knew the Synod had stuck its head in a noose from which it could not withdraw. Noelker's letter is aimed at preventing Chavis from donating to the defense of the suit. Noelker writes: "Dr. Chavis' personal contributions to Defendants'

defense and any relevant documents and information are discoverable because they are not protected by the California constitutional right to privacy.” Again Noelker writes: “Even a bank customer's personal financial information transmitted ‘to the bank in the course of his business operations,’ is not absolutely protected by the right to privacy.”

In other words, when the Synod sues a member of a congregation they claim the right to know everything about you. Welcome to the evangelical hand of church fellowship.

This is astonishing because CNHD-LCMS refuses to tell Nelson the source of the mission funds used to sue Our Redeemer Lutheran Church for its property. Kieschnick testified under oath that he had no idea where the money CNHD-LCMS spent on the suit is coming from, even though Sherri Strand is acting as his personal attorney. Nelson believes CNHD-LCMS has been paying the legal fees of the four plaintiffs with mission funds and running the suit through the Synod’s legal counsel. Strand ordered Kieschnick not to answer when Nelson asked if Kieschnick had discussed the suit with the LCMS Board of Directors.

3. The CNHD-LCMS asked Chavis about his religion as follows under oath:

Strand: Question: "Could you please describe for us your religious background, your religious history?" Chavis Dep. 47:6-7.

Nelson: Objection: "For the record, I'm going to object that that invades his right to privacy. He's not a party to this case and his personal religious history is not discoverable; however, to avoid having to go

in on a motion, I'll permit him to answer those questions subject to a motion to strike them on the basis that they're not discoverable and they're without any waiver of his right to privacy." Chavis Dep. 47:7-15.

Why didn't they simply ask Dr. Chavis when he was confirmed? But they wanted much more! This must be the first time in the history of the LCMS that a member of a congregation has been asked to justify his faith on the witness stand.

Noelker writes: "Plaintiffs merely wish to depose Dr. Chavis on his alleged membership and involvement at Our Redeemer solely for purposes of litigating this action;"

This reads like the Inquisition. They want the court to judge Dr. Chavis's faith merely for the purpose of litigation! In Kieschnick's era of Church Growth, where LCMS mega-churches confirm new members in one afternoon meeting with the pastor and then go back to listen to the praise band, the Synod wants the court to judge what kind of Lutheran Chavis is. But the Court cannot do that because it would be a fundamental violation of the separation of Church and State under the First Amendment.

"Hi, I'm from the LCMS District Office. We want to know about your church membership for the purpose of litigation;" We can see why Strand had Noelker sign this letter. Why are LCMS district presidents exempt from judgment of their faith? Why doesn't the Synod put Atlantic District President Dr. David Benke under oath and ask why he is still a member of the LCMS when Benke claims that Moslems worship the

true God? Why aren't LCMS District Presidents accountable for the firing of Dr. Wallace Schulz from the Lutheran Hour? This is because Kieschnick protects his District Presidents. Noelker claims Chavis's vote was important in Our Redeemer's leaving the Synod. However, the vote was unanimous. Dr. Chavis's vote wouldn't have changed anything. The CNHD-LCMS is doing everything possible to stop Dr. Chavis, and they don't know how many others, from giving any financial support to these women.

Noelker keeps asking for more than financial records, which is really nothing more than harassment. This suit was supposedly about doctrine, and now we find out it is about money and Dr. Chavis running a successful charter school on the former site of Concordia Oakland. Numerous LCMS churches have leased their property to charter schools. Other LCMS congregations consider charter schools a blessed source of income and an opportunity for outreach. Why is the CHND-LCMS trying to shut down this charter school?

Noelker complains: "Defendants continue to exercise exclusive dominion and control over the property, books, accounts, and membership rosters of Our Redeemer in spite of the fact that they are no longer 'communicant members' of Our Redeemer and in spite of the efforts of the District President to rectify and resolve the issues on behalf of the LCMS-affiliated members of Our Redeemer." The Defendants are only four of the congregants who voted to disaffiliate and they do not personally exercise exclusive dominion or control over property

owned by the church. They are part of the church that exercises control of its own property under its constitution.

We ask, why shouldn't the majority of the congregants of Our Redeemer continue exclusive dominion and control over the property of Our Redeemer Lutheran Church? The State of California says they own the property. The State of California has issued them a document declaring them to be a tax-exempt church including their own tax ID number, regardless of what the LCMS says, which is why CNHD-LCMS is suing them. If it were otherwise, CNHD-LCMS could simply ask the Sheriff to throw them off the property.

There is a lot more to this suit than anyone is talking about. If these four women win their case, some LCMS officials may be leaving the country for the mission field. These women will then have standing in court to discover what happened to some of their church property that was used by the former Concordia Oakland.

From: Reclaim News <reclaimnews@earthlink.net>

[Reclaim News] LCMS Abandons Lawsuit against 4 CA Women: Victory for Oakland 4: Congregation Free to Leave LCMS

June 7, 2010

Judge Holds Hearing on CNHD-LCMS vs. Four Oakland CA Women

A Hearing was held in Alameda Superior Court before Judge Marshall

Whitley on June 1st 2010 at 3:00PM in the California-Nevada-Hawaii

District of the LCMS (CNHD-LCMS) lawsuit against Sharon Bowles, Mary-Ann Hill, Portia Ridgeway, and Celia Moyer for the property of Our Redeemer Lutheran Church of Oakland CA (case number RGo7363452).

Representing the plaintiffs were Attorney Sherri Strand (Legal Counsel for the LCMS Board of Directors) and Attorney Clayton Thompson of Thompson Coburn LLP St. Louis, and Attorney Robert Bader of Goodwin Procter LLP San Francisco. Attorney Timothy Noelker of St. Louis was not present. There appeared to be three or four paralegals or staff with the Plaintiffs' attorneys present in the courtroom. Attorney Paul Nelson of Bullivant Houser Bailey PC San Francisco represented the Defendants. At this time the legal expenses for the Defendants have reached \$569,000 and the CNHD-LCMS's expenses may be twice that amount.

Since the LCMS laypeople are funding the District with their mission dollars, the Defendants are pleading with the laypeople of the LCMS to donate to their defense fund for the freedom of the Gospel and in defense of their church property.

This is an eyewitness account from handwritten notes. The transcript of events is not yet available.

When I walked into the courtroom, Strand turned towards me. We locked eyes, glared at each other, and I sat down about 15 feet behind her. She quickly walked around the rail to tell CNHD-LCMS District President Robert Newton (who was about four rows behind and above me) that I was in the room. I heard Newton's insult, which I'm not going to publish.

There are three sides to a trial, the plaintiffs, the defendants, and the judge. The judge sits alone and both parties want to convince the judge they are right. It's the nature of courts. You could feel the adrenaline in the room. The attorneys' body language as they shifted in their chairs resembled racehorses at the gate. This was their moment. The Judge opens the hearing and they're off. God bless the U. S. Constitution.

The Hearing was held first at the request of Sherri Strand and then at the request of Paul Nelson for the purpose of the Judge ruling on their Motion for Summary Judgment. This means the attorney wants the judge to decide if the other side's case should be thrown out of court before it goes to trial because their suit lacks merit.

The suit first filed by the CNHD-LCMS on December 28, 2007 has generated an enormous amount of paperwork from the District. Between April 1 and May 20, 2010, Attorneys for the Plaintiffs, at best count, filed 40 documents for a total of 909 pages. Over the entire 2½ years, they filed 56 documents for a total of 1,149 pages.

I wondered how the Judge would wade through all that paper, more than 80% of which was filed within 60 days of the Hearing.

The events and dialogue were riveting. It was the fastest two hours in my memory. I could have sat, watched, and listened all day. With a soft-spoken voice, the Judge kept referring to the voluminous filings and documents he had to read. All this, he observed, because 14 people voted to leave the LCMS. He said he didn't want to go over the documents again.

I wondered if he actually read, studied, and understood them. There is a job I don't envy.

The Judge asked Strand if she would like to try mediation again and Strand said no. He also asked Nelson, who gave the same reply.

He told the Attorneys to tell him in their own words, "in bullet points," what their case was. He started with Attorney Sherri Strand, who proceeded to look down at her papers and speak quickly. The Judge chided Strand for reading to him. He asked Strand to slow down for the court reporter, and "look at" and talk to him. At first she appeared flustered, and stumbled in her replies.

When her responses drifted to comments about the filings the Judge replied, "I read all that." He started quoting facts from the documents to Strand from his own memory. We then realized the Judge had actually read the documents, understood them, and was cross-examining the Attorneys. Suddenly, the Judge was the brightest person in room. This is where the Synodical steamroller stopped.

The Judge drew us into his quiet, measured conversation with probing questions—each building on the last, articulate responses, and engaging demeanor. He said he didn't have much time for the Hearing but kept asking Strand questions for 20 to 30 minutes. It was cat and mouse. The Judge was trying to get Strand to open up on the uncontested facts of the case. The transcript will be interesting to read.

The Judge asked Strand who was suing the Defendants, the District or the

LCMS. Strand said it was the District, not the LCMS. The confusion is that the District—not the LCMS—is suing the four women officers of Our Redeemer Lutheran Church personally for voting their church out of the LCMS. Instead of the LCMS suing churches for leaving the LCMS the districts sue churches for leaving the LCMS.

The Judge asked Strand how many of the alleged 18 people she claims should have been at Our Redeemer's April 29, 2007 Voters' Meeting complained that they were not there. Strand could only name one, who also happens to be one of the Plaintiffs. The District President had held a secret meeting in her home without inviting the church officers. This is SOP for LCMS District Presidents according to CCM 267-2004. Only two of the four Plaintiffs were present at the Hearing, Ron Lee and Leona Gatzke.

The Judge wanted to know who gets the property if the District wins. Strand couldn't fully explain who was going to get the property, but said "Not the District." The Judge asked if it's not the District, is it Ron Lee? (Ron Lee was voted out of office by the congregation for malfeasance in office, but the District claims he is the rightful president.) Strand said Lee wouldn't get the property; Our Redeemer gets the property. But who is Our Redeemer if it's not Ron Lee and the present congregation has been ejected from the church property? Our Redeemer's constitution says the District gets the property if the church closes. The District told the congregation to close in 2003 but they refused.

The Judge asked Strand, hypothetically, if the District would still file suit

against Our Redeemer if it thought the April 29, 2007 Voters' Meeting to leave the LCMS had been conducted properly. Strand said the District would still bring suit. Her answer made nearly half the 1,149 pages she had filed with the court irrelevant. The District was going to file suit whether or not the April 29, 2007 meeting was valid or invalid.

The Judge wanted to know what Our Redeemer had done that the defendants deserved to be sued by the CNHD-LCMS. Strand raised her voice and said their vote to leave the LCMS violated "the governing documents of the congregation." "What documents?" the Judge asked. She said the congregation's 1925, 1930, 1967, and 1979 constitutions, as if all the congregation's constitutions were in force at the same time. Then she raised a copy of the Synodical Handbook over her head (with its Synodical purple cover) and declared that it was one of the congregation's governing documents. Here, **Strand lied to the Judge**. The Synodical Handbook has never been a governing document of an LCMS congregation nor is it a governing document of any LCMS congregation. An LCMS congregation can't be sued for violating the Synodical Handbook, at least not until now.

The Judge's questions confirm he had a clear understanding of the issues before him.

The Judge asked Paul Nelson to give his side of the case. He asked Nelson not to bring up the issue that the CNHD-LCMS has no standing to sue for property it doesn't own because the Judge had read all that.

At first, like Strand, Nelson was caught off guard. The Judge had just taken

his primary argument off the table.

The Judge wanted to know why the April 30, 2007 meeting requested by the District President at Our Redeemer was not a valid meeting. The April 30, 2007 meeting overturned the April 29, 2007 Voters' Meeting.

Nelson explained that the April 29, 2007 meeting was valid because the members of Our Redeemer have a right to leave the LCMS. The Voters' Assembly is the highest authority in the church. The vote of seven people on April 30, 2007 can't overturn the vote of 14 people on April 29th, 2007. With that reply, both Strand and Nelson had raised the primary conflict surrounding the formation of the Synod in 1847. Strand claiming the Handbook governed the congregations, and Nelson claiming that LCMS congregations are self-governing. The Synod was formed in 1847 with the proviso that no one outside the congregation has authority over the congregation.

Nelson explained that during his deposition, President Kieschnick said LCMS congregations were self-governing. He also stated that Kieschnick agreed that a congregation could follow Lutheran doctrine without being a member of the LCMS.

The Judge looked surprised when Nelson said there never was a Voters' Meeting on April 30, 2007. The letter that called for the meeting was signed by District President Robert Newton instead of Ron Lee. The District President had no authority to call a Voters' Meeting at Our Redeemer. The letter actually said it was a congregational meeting, not a

Voters' Meeting. There was never a notice given that the purpose of the April 30, 2007 meeting for Our Redeemer was to take a vote to sue the members of Our Redeemer. Our Redeemer can't be a plaintiff in the suit without approval of the Voters' Assembly.

Nelson's revelation made everyone aware that the entire suit was initiated by the District President. The Judge asked Strand if what Nelson said about the letter was true, but Strand was unable to give a clear answer.

That night, at supper, I asked the Defendants what would have happened in 2007 if the District President had promised the new pastor they had been requesting since 2003. They said they would have returned to the Synod. But now, with \$569,000 in legal expenses, that is never going to happen.

The Judge gave Strand five more minutes to respond to Nelson and then gave Nelson five more minutes to respond to Strand. When Strand raised her hand again and wanted to speak, the Judge told her to be quiet.

The Judge began to lecture Strand about filing too much paper and said, "When I told you five pages, I meant five pages, but you didn't listen to me." I'm not sure which document or documents he was referencing.

The Judge has 90 days to make a ruling on the Motion for Summary Judgment. It would be a mistake to speculate on what he is going to rule.

Judge Whitley had brought to light the real issues in the lawsuit. For the first time in 2½ years the Defendants felt that someone actually

understood their case and asked relevant questions.

Whitley was the kind of judge you hope you meet if you ever have to go to court. The tragedy is that it cost the Defendants \$569,000 to meet in his court. The American court system is so designed that a church corporation can pay for an endless number of filings and lawyers with tax-free mission funds before the defendants even get to court. There is no one to stop an LCMS District President who wants to break people financially.

Oakland Four' Sued by LCMS - Interview by Rev. Cascione (first half)

<http://www.youtube.com/watch?v=e8Gpy7hkACw>

'Oakland Four' Sued by LCMS - Interview by Rev. Cascione (second half)

<http://www.youtube.com/watch?v=X6CevDyUiuI>

September 1, 2010

Judge Throws LCMS-CNHD Out of Court: Justice for Oakland 4

Forget about the trial. The Judge told the LCMS-CNHD they had not right to sue four Oakland, CA women.

The LCMS-CNHD suit against Sharon Bowles, Mary-Ann Hill, Portia Ridgeway, and Celia Moyer for the church property of Our Redeemer Lutheran Church of Oakland, CA (case number RGo7363452) has been thrown out of court on an Order on Summary Motions by Alameda County Superior Court Judge Marshall Witley.

The Judge ruled against the suit filed by Attorney Sherri Strand, LCMS

Legal Counsel to the LCMS Board of Director as follows:

“Finally, nothing has been presented that amounts to authority that would compel the conclusion that where a ‘division’ occurs in congregation, the District is entitled to remove certain members and replace them, or that by voting to disaffiliate, the Defendants’ lost their membership the congregation.

Summary Judgment is therefore DENIED.”

This is what the LCMS paid at least a million dollars in legal fees from mission funds to hear the judge tell them, “Summary Judgment is therefore DENIED.”

This was a victory for C. F. W. Walther and congregational autonomy. The LCMS has created such a labyrinth of contradictory CCM rulings on the authority of District Presidents; they actually beat themselves in court.

The Judge used the Handbook against the LCMS as follows in a small excerpt from his ruling:

“The Defendants are four individual members of Our Redeemer who voted to disaffiliate Our Redeemer from the LCMS. Plaintiffs’ contention that the District could deem these Defendants non-members of Our Redeemer is contrary to the governing documents and other evidence before the court. The LCMS Constitution and Bylaws do not describe the LCMS or District as an authority with respect to membership status issues in the

congregation. The documents specifically provide that the LCMS is not an “ecclesiastical government” but acts only as “an advisory body” to member congregations (LCMS Handbook, Const. Art VII.1, Bylaw 1.7.2, Ex. B to Defs.’ Appendix.). Congregations are members of the LCMS, but individual members in the congregations, with exceptions not relevant here, are not (Id. Art. V; Bylaw 1.2.1.). A congregation’s membership in the LCMS gives the LCMS no interest in the property of the congregation (Id., Art. VII.2).

The Plaintiffs cite to a District President’s power of ecclesiastical supervision over congregations, including the powers of supervision and investigation found in Bylaws 4.4.5 and 4.4.6. These provisions gave District President Newton the power to supervise “the doctrine, the life and the official administration on the part of the ordained or commissioned ministers who are members through his district” and the power to investigate “continuing and unresolved problems in doctrine or practice” within congregations. President Newton’s “supervisory” powers are limited to the ministers under the District’s control. And while Bylaw 4.4.6 specifies the Newton may “investigate” doctrinal issues in a congregation, which is acknowledged as his authority for calling a meeting on April 30, 2007 (see Plfs.’ Ex. 36), nothing provides that Newton’s power to investigate included the power to adjudicate doctrinal issues, or to declare certain members of the church to be in or out. Instead, if a District President found evidence of a “continuing, unresolved problem of doctrine or practice” in a congregation, the ultimate sanction would be expulsion of the congregation from the synod – whether after exhaustion of internal

procedure or otherwise (LCMS Const. Art. XIII; Bylaw 2.14.).”

Kieschnick’s appointees on the CCM ruled in CCM 267-04 that a District President doesn’t have to follow proper channels in an LCMS congregational constitution. Obviously the Judge didn’t agree with their interpretation of the LCMS Handbook.

In favor of the Defendants’ the judge ruled:

“Defendants’ request for summary adjudication of the individual Plaintiffs’ standing to sue for ejection and declaratory relief (save Lee’s claim of improper removal from office) is GRANTED.” [Lee’s removal as president was never a part of the motion for summary judgment.]

“Defendants’ request for summary adjudication of the issue of the District’s standing is GRANTED. The District has no claim related to Our Redeemer’s property. The District’s only claim to the property would arise if Our Redeemer were to dissolve or disband (ORC. ART. VII.)’

The Judge used Kieschnick’s deposition as evidence that the Defendants should not be sued.

Through his own examination of the LCMS Handbook, Witley has amazingly accurate understanding of LCMS polity.

The Judge ruled just as Attorney Paul Nelson had pleaded, namely that Our Redeemer could not be a plaintiff in the suit, and that the LCMS-CNHD had no standing to sue for Our Redeemer Church property.

There is no question that the LCMS attempted to break these women financially with a false suit at a cost to them of \$569,000.

The LCMS Board of Directors, President Kieschnick, and the COP could have at anytime instructed Attorney Sherry Strand, LCMS legal counsel to the Board of Directors, and the District President Newton to stop the suit. They did not.

There is a lot more to be said about this suit, the money the LCMS owes these women, and not to mention significant punitive damages.

Kieschnick was drawn into a controversy in Yankee Stadium over District President David Benke's prayer with Moslem clergy at the beginning of his Presidency, a controversy from which he never recovered.

Now, at the beginning of his Presidency, Matt Harrison may be drawn into litigation filed by the defendants over a false suit that was supported by the COP, for a dollar amount the LCMS has never dreamed it would have to pay.

In both cases the cause is a runaway COP whose first goal is to support, protect, and defend its own interests.

Now that the Convention has rewritten the LCMS Constitution, we will see what the courts do.

October 14, 2010

See <http://groups.yahoo.com/group/ReclaimNews/> for previous articles

LCMS Argues Against Itself in Two Different Lawsuits

The Lutheran Church-Missouri Synod is arguing against itself in two different lawsuits at the same time in two different courts.

In Washington D. C. (Case No. 0005499-10) Faith Satellite Radio, LLC is suing the LCMS for failure to pay \$755,949.75 that it owes for satellite radio time in Kenya and Ethiopia. Ron Schultz, Executive Administrator to

the LCMS Board of Directors explained to the D.C. court that Faith Satellite Radio (FSR) can't sue the LCMS in Washington D. C., because the LCMS is not hierarchical. On September 7, 2010 Schultz wrote:

"The LCMS is a **not a hierarchical** religious organization. Member congregations, such as Mount Olive Lutheran Church and Peace Lutheran Church, [in D. C.] own their own property, hire their own employees, call their own ministers, and are not legal affiliates of the LCMS."

However in a different lawsuit the LCMS-CNHD is suing Sharon Bowles, Mary-Ann Hill, Portia Ridgeway, and Celia Moyer for the church property of Our Redeemer Lutheran Church in Oakland, CA (Case No. RGo7363452). On September 9, 2010 Legal Counsel to the LCMS Board of Directors, Sherri Strand wrote to Alameda County Superior Court in her Motion to Reconsider:

"Therefore, the cases resolving property disputes involving so called '**hierarchical**' churches are most applicable to resolving a property dispute within the LCMS."

The law firm representing FSR found out about the suit in Oakland CA and so did Herman Otten, the editor of Christian News.

In each suit the LCMS presents a different polity and definition of "ecclesiastical." Actually, the LCMS is telling the courts that it has two different forms of church government. The Districts are hierarchical but the Synod is congregational. In a Supplementary Affidavit filed on September 30, 2010, after tough questions by Herman Otten, Schulz wrote

the D. C. Court:

“6. The Lutheran Church—Missouri Synod is **not an ecclesiastical** government exercising legislative or coercive power over member congregations or their pastors.”and again,

“8. The LCMS does not have the right to, and does not, own or control, the governance or property of individual member congregations....”

This contradicts Strand’s definition of ecclesiastical when she wrote to the Oakland Superior Court on September 9, 2010:

“This Court, ‘must accept as binding ‘any church adjudication ‘regarding questions of discipline, or faith, or **ecclesiastical rule**, custom, or law....In short, ‘if resolution of a property dispute involves a point of doctrine, the court must defer to the position of the **highest ecclesiastical authority**.’” (Page 5)

“The LCMS more resembles—at least for present purposes involving secular court determinations of property disputes—a **‘hierarchical’ structure** where the congregation is ‘itself part of a larger and general organization of more religious denomination, with which it is more or less intimately connected by religious views and **ecclesiastical government**.’” (page 6)

Strand is telling the court that the LCMS has a right to Our Redeemer Lutheran Church property based on doctrine and the District President’s ecclesiastical authority to determine who owns the property. She told the

Oakland Court, “...a district president must be able to determine who, on behalf of the congregation, properly speaks for the congregation.” (page 9) Strand argues that the District President’s authority supersedes Our Redeemer’s Voters’ Assembly that voted itself out of the LCMS.

When Schultz found out that law firms opposing the LCMS in both courts were aware of each other’s cases, he wrote to the D. C. court on September 30, 2010, “10. The LCMS is not a party to the case titled Ron Lee, et al. v. Sharon Bowles Case. NO. RGO7363452.”

However, on September 9, 2010 Strand wrote to the Oakland Court, “The LCMS more resembles—at least for present purposes involving secular court determinations of property disputes—a ‘hierarchical’ structure...” If the LCMS is not involved in the suit, (1) why is Strand talking about the LCMS, (2) quoting a new LCMS-CCM Opinion issued on September 9, 2010, and (3) telling the Oakland Court in a hearing on June 1, 2010 that the four women violated the LCMS Handbook?

Strand cites at least 6 cases from Episcopal Church case law as support for ‘hierarchical’ LCMS polity in her Motion to Reconsider.

Strand is arguing contrary to LCMS practice in the San Francisco area. There have been at least four LCMS churches that have left the Synod and joined the ELCA for which the LCMS raised no doctrinal objection or claim on the property. Our Redeemer simply wants to be independent of the LCMS because the District refuses to give the congregation a call list for a new pastor. Why would any church want to be part of the LCMS if the

LCMS refuses to supply a pastor and wants to close the church and claim the property?

1. Grand Lake Lutheran Church on Euclid and Grand Avenues in Oakland used to be an LCMS congregation. It is now ELCA and has changed its name to Resurrection Lutheran Church. They now have a woman pastor who is also a Community organizer according to the website. There is no record of the ELCA buying property from the LCMS.

2. St. John's Lutheran in San Francisco became an ELCA congregation and changed its name to Mary and Martha Lutheran Church. The ELCA congregation then sold the property to become a Buddhist Temple. There is no record of the ELCA buying property from the LCMS.

3. St Paulus Lutheran Church in San Francisco was the first LCMS congregation west of the Rockies. It also became a member of ELCA. There is no record of the ELCA buying property from the LCMS. <http://www.saintpaulus.org/index.html>

4. There was another St. Paulus Lutheran Church LCMS at 40th and Telegraph Ave. or right near there, in Oakland. The church no longer exists. There is no record of the LCMS receiving money for the church.

Strand wants Judge Marshall Whitley to reconsider his ruling against the LCMS. Whitley wrote in point 8, "The LCMS does not have the right to, and does not, own or control, the governance or property of individual member congregations." How can Strand tell Judge Whitley he is wrong when Schultz tells the D. C. Court exactly what Whitley says?

As legal counsel to the LCMS Board of Directors Strand is responsible for picking the law firm that is defending the LCMS in Washington D. C. Strand and Schultz both sit on the same board of directors. They have obviously conspired to deceive the courts on LCMS doctrine and practice. The LCMS considers its right to freedom of religion in the United States a right to deceive the courts.

The LCMS President has no authority on legal matters. However he does have doctrinal authority. At this time Harrison has made no statement to clarify the LCMS contradiction on its ecclesiastical doctrine and practice.

The LCMS practice of deceiving the courts will now follow them in every trial before every judge in the U. S. The public has come to expect a lack of

accountability and truthfulness from LCMS officials and the COP.

May 10, 2011

See <http://groups.yahoo.com/group/ReclaimNews/> for previous articles

LCMS Removes Accusations against 4 CA Women from Website

Under the pretense of responding to frequently asked questions, the LCMS published a vicious and defamatory attack against 4 California women on LCMS.org.

Just days before the trial, scheduled for April 18, 2011, the LCMS walked away from the lawsuit. Suddenly, all the propaganda against the women was removed from LCMS.org.

The LCMS had no intention of proving its outrageous lies and deceptions about these women in court.

Sherri Strand, attorney to the LCMS Board of Directors, filed a lawsuit on December 28, 2007 against 4 Oakland California women. The suit was filed against Sharon Bowles, Mary-Ann Hill, Portia Ridgeway, and Celia Moyer (case number RG07363452) seeking to expel and exclude them from their church property of Our Redeemer Lutheran Church in Oakland California.

Ron Lee, the individual plaintiff whose legal fees were paid by the Synod, suddenly dropped his suit and all his accusations. Lee served as the

President and treasurer of Our Redeemer for more than 20 years, which is illegal in the State of California. Before leaving the congregation, Lee conveniently dropped the directors and officers insurance coverage that would have paid to defend the women whom he intended to sue.

Lee, with the CNH District and three other individuals, then filed suit to take control of the property of Our Redeemer Lutheran Church in Oakland CA and forcibly remove the four women in the congregation from their church, using LCMS Mission funds supplied by the California-Hawaii-Nevada District.

The LCMS spent an estimated \$1,200,000 in Mission funds suing the four women. The women spent more than \$600,000 defending themselves against the LCMS. The LCMS denies it was involved in the suit, as if Districts are not part of the LCMS and funds collected by districts from congregations are not mission funds. The LCMS website would have laypeople believe that the 4 women spent \$600,000 defending themselves against a phantom plaintiff.

After enduring years of defamation, threats, and harassment from the LCMS, the women won the case on summary adjudication against all of the plaintiffs. The LCMS moved for reconsideration, then suddenly dropped the suit.

The Synod, still denying any involvement in the suit, nonetheless published false information on its website in defense of the plaintiffs' position, including the Californian-Hawaii-Nevada District and Mr. Ron Lee, then

suddenly removed it.

The LCMS also removed the CCM rulings that were created specifically for the Lawsuit from its website. The CCM rulings were represented to the Court in Oakland on September 9, 2010 as LCMS doctrine. When questioned about the underlying procedure and process of the rulings in depositions Dr. Wilbert Sohns and Dr. Raymond Hartwig both pleaded the First Amendment to the US Constitution and refused to answer. How can they plead the First Amendment if they are not involved in the suit?

The LCMS apparent goal was to break their opponents financially before they could get to trial and thus seize control of their church property. They had no intention of going to court, because, as the Court ruled, they had no legal grounds to bring suit against the four women.

The following statement was removed from the LCMS Website. When it came time for the trial the LCMS refused to defend any of its accusations published against these women in its article. These accusations were nothing more than propaganda from the Council of District Presidents fed to a gullible LCMS laity who continue to be told that the LCMS was not involved in the suit.

Is The Lutheran Church—Missouri Synod (LCMS) suing four women to claim ownership of the church property of Our Redeemer Lutheran Church in Oakland, California? <http://www.lcms.org/pages/internal.asp?NavID=18314>

A: The LCMS is not suing four women in California; it is not claiming any right to the property of Our Redeemer Lutheran Church, an LCMS member congregation since 1925; and it is not paying legal fees associated with the

case.

False information is being published by people outside the Synod concerning a lawsuit that was filed against four women (the Defendants) who are claimed to have unlawfully usurped control over the governance and property of Our Redeemer Lutheran Church. Contrary to the misstatements and distortions of fact being circulated by outsiders, the LCMS is not a party to this litigation and is not claiming any right to the property of Our Redeemer.

The lawsuit against the Defendants was filed by four individual congregants of Our Redeemer, including the congregational president, who allege that the Defendants failed and refused to abide by Our Redeemer's governing documents by, among other things, retaining a female pastor in violation of the doctrine of The Lutheran Church—Missouri Synod and in violation of the congregation's Constitution.

The Complaint alleges that the four Defendants refused to attend meetings with the Plaintiffs; other members of Our Redeemer who wish to retain Our Redeemer's membership in the Synod; and the District President of the California-Nevada-Hawaii District, the ecclesiastical supervisor of Our Redeemer under the Synod's Bylaws.

The Plaintiffs claim in particular that the Defendants refused to attend a meeting in April 2007 scheduled to address several issues, including the Defendants' alleged violation of church doctrine. Instead, according to the assertions in the Complaint on file in Court, the Defendants held their own meeting the night before the scheduled meeting in April 2007, in which they (and others the Defendants had invited to their meeting) purportedly voted to “disaffiliate” Our Redeemer from The Lutheran Church—Missouri Synod.

Also named as Plaintiffs in the Complaint are Our Redeemer Lutheran Church, a California corporation (the member congregation whose governance is in issue and the legal entity that owns the property currently under the control of the Defendants), and the California-Nevada-Hawaii District of the LCMS, a California corporation, that the Plaintiffs allege is named in the congregation's governing documents as having a contingent interest in the property.

The Plaintiffs have asked the Court to enter a judgment declaring that the individuals named as Plaintiffs, together with other members of Our Redeemer who wish to remain affiliated with the LCMS, have the exclusive right to possess and control the property of the church, and to enjoin the Defendants from interfering with the Plaintiffs' rights. The court file for

this case (#RGO7363452) is open to the public on the website of the Superior Court of California, Alameda County, which can be found at: <http://apps.alameda.courts.ca.gov/domainweb/html/index.html>

In summary, the litigation in Oakland, California, is between two factions of a formerly united LCMS congregation. The District President of the California-Nevada-Hawaii District has worked with the Plaintiffs, whom he recognizes as the proper representatives of Our Redeemer who wish to remain faithful to Synod doctrine and the governing documents of their congregation, in an effort to protect and support Our Redeemer, a long-time member congregation of The Lutheran Church—Missouri Synod.

April 12, 2011

See <http://groups.yahoo.com/group/ReclaimNews/> for previous articles

LCMS Abandons Lawsuit against 4 CA Women:

Victory for Oakland 4:

Congregation Free to Leave LCMS

LCMS “o” Women “1”

After the deceptions, misinformation, and false doctrine coming from the LCMS attorney, LCMS.org, and depositions from LCMS officials, the question was “How could the LCMS walk into a courtroom on April 18, 2011?” The answer is, “They couldn’t.”

Sherri Strand, attorney to the LCMS Board of Directors, filed a lawsuit on

December 28, 2007 against 4 Oakland California women. The suit was filed against Sharon Bowles, Mary-Ann Hill, Portia Ridgeway, and Celia Moyer (case number RGO7363452) seeking to expel and exclude them from their church property of Our Redeemer Lutheran Church in Oakland California.

Suddenly, after nearly 3 1/2 years, just two weeks before the trial, the LCMS is conceding that judgment will be entered against it and in favor of the defendant women, ending the suit. The four women and the other members who voted to disaffiliate from the LCMS will keep their church property.

Following this ruling against the LCMS, there remained only unrelated issues for the April 18 trial between former church president Ron Lee and the four defendants. Lee sought to have the court reinstate him as church president (to a term that had expired in 2007), and the defendants, as trustees and secretary of the church, had a cross-complaint seeking an accounting of Lee's spending of church funds while improperly acting simultaneously as church president and treasurer.

Lee and the defendants entered into a last-minute separate settlement of these issues, and of all other claims by Lee as a plaintiff, so the trial will not go forward. With these issues resolved, the defendants are considering other motions against the unsettled plaintiffs seeking attorneys' fees, and

will submit a formal judgment to be entered against the CNHD-LCMS and the other individual plaintiffs, to recover their costs of the lawsuit and any legal fees permitted by the Court.

Even after the Court had ruled against the LCMS, and without mentioning either of these staggering events that ended the suit, the official LCMS website <http://www.lcms.org/pages/internal.asp?NavID=18314> describes Ron Lee as the innocent party, and accuses the four women of false doctrine, unlawfully usurping control over the governance and property of Our Redeemer Lutheran Church (as duly-elected trustees and officers), issuing false statements to the court, disorderly conduct, and violation of their church constitution.

The LCMS.org embellishes its hit piece on these four women with character assassination and a public smear campaign against the women, while conspicuously concealing the fact that the women actually voted with the rest of their congregation to disaffiliate only because CNHD-LCMS President had denied their church an LCMS call list for a pastor since 2002. The CNHD-LCMS gave them no choice but to close and give the church property to the CNHD-LCMS, or disaffiliate from the LCMS.

The statement on LCMS.org was a surprising “official” step for the LCMS to take with respect to a suit in which it claims it had no involvement or knowledge, and contradicts what really has been going on. With the suit

over, we will be interviewing the defense attorney in the future to get the point-by-point evidence in response to these accusations on LCMS.org, to finally lay them to rest.

So what exactly happened?

After the congregation's overwhelming vote to disaffiliate, the California-Nevada-Hawaii-District of the LCMS set up a dummy congregation composed of four former members who stopped worshipping at Our Redeemer before disaffiliation. The CNHD-LCMS pronounced them to be Our Redeemer Lutheran Church of Oakland CA, notwithstanding the congregation's rights; then paid more than one million dollars in legal fees to finance the lawsuit, trying to convince the court that the dummy congregation was the real church and owned its valuable property.

Everyone knew these four individuals could not constitute a viable LCMS congregation and would never have an LCMS pastor, so the only outcome had to be closing the church and giving its property to the CNHD. Why else would it spend more than \$1 million to "help" four individuals claim ownership of a non-viable church? The LCMS could have spent far less by providing them a pastor.

Mama Synod has lots of mission bucks to break people before they walk into court, but suddenly Mama Synod doesn't want to go to trial.

Mama Synod has cost these four women more than \$600,000 to defend themselves against a barrage of false accusations and malicious claims, but the defendants have won.

In 2010, the California-Nevada-Hawaii LCMS District filed a motion for summary judgment against the defendants, claiming that it was entitled to eject the four women from their church as a matter of law, by merely pronouncing them non-members of their church.

The defendants filed a counter-motion seeking summary adjudication against the plaintiffs on all claims (except Lee's unrelated personal claims). The court granted the defendants' motion, holding that the plaintiffs, including the CNHD-LCMS had no standing (legal capacity) to sue the defendants as individual members of the church, or right to claim an ownership interest in their church's property.

The CNHD-LCMS then filed a motion seeking reconsideration of the Court's order. In early March of 2011, the Court issued a tentative ruling denying the CNHD-LCMS reconsideration. The CNHD requested a formal hearing, which was set on April 6. The CNHD-LCMS then reversed its position at the last moment and decided to concede the ruling against it.

The hearing was cancelled and the Court's order granting summary adjudication against the CNHD-LCMS and the other plaintiffs is now final.

More than a million dollars in church mission funds was spent for the “Christian mission” cause of visiting financial hardship on older female communicant church members who dared to vote with the rest of their congregation to disaffiliate from the LCMS. They only voted to disaffiliate because they could not get an LCMS pastor and did not want their church to close.

In other words, notwithstanding the vile accusations and personal attacks against the four women defendants on the LCMS website before the trial and hearing on the motion for reconsideration were to be held, the women won and the LCMS lost everything.

Our Redeemer is now being served by Rev. Lawrence Richmond, a 1985 St. Louis Seminary graduate, who has been barred from the LCMS clergy roster for the past 14 years for refusing to serve open communion.

The four women seriously are considering taking legal action against the unsettled plaintiffs and the LCMS, for bringing the lawsuit and making them expend huge sums for legal fees to defend themselves, when the plaintiffs actually had no legal capacity to sue them at all. This was a serious misuse of the legal system, and it was done for all of the wrong reasons.

It is sad that none of the white suburban LCMS congregations came to the aid of these women. The LCMS only sued these four older women in the congregation, and none of the male officers, trustees or other members who voted with them to disaffiliate. No one thought these retired female educators, from the ages of 58 to 78, would hold-up for more than three years under the sexist, racist, malicious and false lawsuit. By the grace and mercy of almighty God, the God of widows and orphans, these women have been victorious in court and received justice from Judge Marshall Whitley.

LCMS officers in St. Louis pleaded the First Amendment to the U. S. Constitution during depositions, apparently to avoid answering any questions about their knowledge of, or involvement in the suit. This occurred after they met privately with the plaintiffs' attorney, Sherri Strand, and fashioned an emergency CCM opinion that she used to seek reconsideration.

Although everyone in the LCMS acknowledged that the defendants and their church members were free, under the LCMS Handbook, to leave the LCMS at any time and for any reason, CNHD President Robert Newton would not let them take their church's property without imposing financial ruin upon them through the suit.

If the CNHD-LCMS could not have the millions of dollars in profit from selling their property by withholding any pastoral support for years, it

would use its vast financial resources to destroy them financially and defame them to the world. In the end it all was for nothing.

There will be a lot more information coming out about this LCMS lawsuit in the next few months. The women are considering writing a book, "Sued by the LCMS: The COP Land-Grab"

This suit has taught us that the LCMS Council of District Presidents is an unbridled law unto itself. They squander 50 million dollars in mission funds every year for the administration of 35 district offices and 700 staff. The COP apparently viewed these four older women as an easy target to set a legal precedent for replenishing these funds by suing members of smaller, poorer or minority LCMS congregations to take and sell their church property.

It didn't work this time because the defendants stood up mightily to the LCMS machine and saved their church. It is unlikely that the COP can try this again, since it will have a final adverse judgment against an LCMS District holding that LCMS Districts have no legal capacity to sue individual church members or exclude them from their church after disaffiliation. The law has worked this time.

The LCMS hierarchy, including the LCMS President, the spokesman and secretary of the CCM, claimed to have had no knowledge of the suit, or of their attorney, Sherri Strand's involvement in it. At least that was their

position up until they gave depositions in this case, represented by the same attorney Strand. They continue to claim that the LCMS had no involvement in the suit, even as they post defamatory charges against the defendants on LCMS.org, and as questions mount about exactly where the millions of dollars came from to fund this capricious legal adventure.

Funding for the lawsuit mysteriously has disappeared as an expense line in the CNHD's 2011 balance sheet. If the CNHD did not pay for it, who did? With what funds?

Missouri District President Mirly, the ecclesiastical supervisor of LCMS officials who testified, ignored the entire case while the LCMS website defamed the four women being sued. The fight is not over by any means; only the first round. This one went to the Oakland Four by a knockout.

[P. S. It really pays to have good attorney like Paul Nelson.]

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May 19, 2011

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LCMS Northwest District Takes Ownership of Church Property

Gloria Dei Lutheran Church, Spokane Washington, has been a member of the LCMS Northwest District since 1957. Rev. Alan Daugherty, pastor of Gloria Dei Lutheran Church in Spokane Washington provided the following information during a telephone interview:

“He graduated from Luther Seminary in St. Paul MN in 1992. He served two churches in the AALC because he did not want to be involved in the ELCA. In 2001 he was licensed by the Northwest District LCMS to serve a word and sacrament ministry as a licensed lay minister to Gloria Dei Lutheran Church LCMS. District President Schumacher placed Daugherty's name on the LCMS clergy roster in 2008 and he was installed at Gloria Dei in February 2009, after Daugherty satisfied the requirements of his colloquy by appearing for an

interview, reading a book on church and ministry and *Zion on the Mississippi*.

Unknown to Pastor Daugherty, in December of 2010, Northwest District President Paul Linnemann communicated secretly with at least 2 members of Gloria Dei's Church Council and two other members of the congregation including former council member Paul Kuhlmann, for the purpose of closing Gloria Dei and deeding the property to the District. About a year earlier Kuhlmann had been suspended from the church council by recommendation of the elders and vote of the church council and was advised to seek anger management counseling.

This small group of people, with whom the District President had been speaking, called an emergency congregational meeting on December 12th at which meeting Kuhlmann was elected president. Kuhlmann was not present at the meeting when he was elected. After Kuhlmann was elected he entered the meeting. At the time, Mr. Ricky Lewin, who had been elected president in the September of 2010, was still serving a two year term when Kuhlmann was elected president on December 12th, 2010. During the same emergency meeting those present voted to close Gloria Dei at the request the District. There was no quorum for the meeting. There was no written communication sent to the congregation about the meeting, and members did not receive notice as required by their constitution.

A few days later District President Linnemann emailed Daugherty to inform him that he was no longer pastor of the congregation. Linnemann put Daugherty on restricted status because Daugherty didn't agree to closing the church. On December 28, 2010, Kuhlmann signed the church property over to the Northwest District on a quitclaim deed. Paul Kuhlmann's bother and sister-in-law rotate membership on the Northwest District Board of

Directors. Kulhmann's sister is an employee of the District.

The District gave use of the church building to New Vision Lutheran Church who is served by Pastor Doug Wagley. Wagely also colloquized into the LCMS from the Free Lutheran Church in 2004.”

Daugherty and his congregation have received a firsthand lesson in the Council of District Presidents’ “covenant of love.” Daugherty and his congregation now worship in a home at 22 West Garland in West Spokane. Daugherty can be reached at 509-326-0828 and can be contacted on the congregation's Facebook page Gloria Dei. Daugherty's email address is lmnw@netzero.com

District President Linnemann now refuses to acknowledge the existence of Gloria Dei Lutheran Church even though the State of Washington recognizes Gloria Dei as a 501(c)3 organization and Daugherty remains on the LCMS clergy roster. Who are the phantom members meeting with Daugherty? The District President disbanded the church without a vote of the Congregation, contrary to its Constitution. The district has taken ownership of the church property even though the LCMS constitution says it doesn't own local church property. Gloria Dei was current with its Lutheran Church Extension fund debt of \$40,000.

In a letter from the Northwest District Attorney Daniel C. Lorenz, who is also a member of the LCMS Commission on Constitutional Matters, dated May 13, 2011, Lorenz informed Pastor Daugherty that he could not ask for a written document that Gloria Dei Lutheran Church had closed because, “You have no legal standing to be requesting documents from me as a representative of a dissolved congregation.”

President Ricky Lewin reports that the property was worth 1.4

million, but is now worth \$750,000. Lewin states, “Paul Kuhlmann and four cronies created a counterfeit congregation which was immediately recognized by Linnemann, and Kuhlmann signed the property over to the district. They stole our property.” Lewin can be reached at 253-651-3343 and his email address is Ricky_Z3@yahoo.com.

According to the State of Washington directory of corporations, Lynda Hedquist is the named agent of New Vision Free Lutheran Church which now has the same address as the former Gloria Dei Lutheran Church, at 3307 W Rowan, Spokane Washington 99280.

http://www.sos.wa.gov/corps/search_detail.aspx?ubi=601144219

Pastor Doug Wagley is listed as the Pastor of New Vision Lutheran Church in the 2011 Lutheran Annual. The secretary of Pilgrim Lutheran Church in Spokane reports that New Vision moved out of their building and is now worshipping in the old Gloria Dei building.

This is the same scenario that was attempted by the California-Nevada-Hawaii District in its suit to gain the property of Our Redeemer Lutheran Church in Oakland CA. The CNHD-LCMS created a counterfeit congregation and paid approximately 1.2 Million in mission funds to have Ron Lee win legal rights to the Our Redeemer church property. They failed.

This is another example of the Council of District Presidents exercising their purported authority under CCM May, 2004, 267 (04-2387) to ignore proper channels in congregational constitutions and thus take ownership and control of church property. LCMS district presidents falsely claim to have the authority to appoint people as members and officers of the congregation and suspend congregational procedural and property

rights. In the depositions of Lee vs. Bowles they plead the First Amendment of the US Constitution as a basis to suspend congregational rights to own their property.

LCMS President Kieschnick, during his deposition on February 17, 2010 and in filings by Attorney Sherri Strand, explained that LCMS Districts are separate corporations from the LCMS. Therefore, the LCMS is not involved in lawsuits conducted by Districts. If this is true, there is no legal basis preventing an LCMS District from withdrawing itself from the LCMS. However, the LCMS Handbook states that LCMS Districts are part of the LCMS.

Reclaim News has in its possession copies of the quitclaim deed signed by Paul Kulhmann and the letter signed by Northwest District attorney Daniel Lorenz.