

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

GENERAL CONFERENCE CORPORATION  
OF SEVENTH-DAY ADVENTISTS, *et al.*,

Plaintiffs,

v.

Nos. 1:06-cv-01207-JDB-egb

1:15-mc-00009

WALTER MCGILL d/b/a CREATION  
SEVENTH DAY ADVENTIST CHURCH, *et al.*,

Defendants.

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MOTION AND SUPPORTING MEMORANDUM FOR EXTENSION TO  
RESPOND TO OBJECTION FILED BY DAVID AGUILAR

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The Plaintiff, by and through counsel pursuant to Fed. Civ. P. 6(b) moves the Court for an extension of time within in which to respond to the objection to Plaintiff's pending Motion (D.E. 195) which has recently been filed by David Aguilar (D.E. 197). Grounds for this motion are as follows:

1. David Aguilar ("Aguilar") has filed and served an Objection to Motion to Add Further Specifics to the Court's Permanent Injunction entered on May 28, 2009 as further defined by Order entered January 6, 2010 (D.E. 112) (The "Aguilar Objection"). The Certificate of Service with that Objection certifies that it was served via FedEx on undersigned counsel on August 31, 2015, a date which has not yet arrived.<sup>1</sup> According the Court's docket, the Aguilar Objection was filed August 5, 2015. This Motion for Extension is being filed within 14 days from the date of that filing.

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<sup>1</sup> The Aguilar Objection states to the Court that Aguilar currently resides in Belize. The telephone number he lists in his signature block contains an area code in Central Arkansas.

2. Although the local rules of Court of the Western District of Tennessee set a response date for Motions, other than dispositive Motions, of 14 days, it is not clear as to whether a response to the Aguilar Objection is due within 14 days.

3. Plaintiff files this Motion as a Motion for Extension in order to set a reasonable briefing schedule, and to afford Plaintiff with additional time necessary for Plaintiff to prepare and file its response. Plaintiff requests that the Court enter an Order granting Plaintiff 30 days from August 19, 2015 within which to file and serve Plaintiff's response to the Aguilar Objection. By filing this Motion or filing a Response to the Aguilar Objection, Plaintiff is not admitting that Aguilar has standing to file the Objection, nor is Plaintiff waiving any other rights.

WHEREFORE, Plaintiff requests 30 days from August 19, 2015 to and including September 18, 2015, within which to file and serve a response to the Aguilar Objection. Plaintiff submits herewith a proposed Order to that effect for the Court's consideration.

SUPPORTING MEMORAMDUM

Plaintiff files this Memorandum in support of its Motion for Extension.

An Objection to Plaintiff's Motion to Add Further Specifics has been filed by David Aguilar ("Aguilar"), who Plaintiff presumes received a copy of Plaintiff's Motion from Defendant McGill or was notified of the Motion by Defendant McGill. As the Court may recall from some of the history of the original action, Aguilar has been a member of Defendant McGill's church, and was acknowledged under questioning by the Court in a hearing to have been involved in making some decisions regarding infringing activity.

THE COURT: Okay. Now, Mr. Aguilar, is he also of this church that you belong to?

THE WITNESS: Yes.

THE COURT: And does he -- you've obviously discussed this with him. As I look through my notes, you had some communications with him?

THE WITNESS: I talk with him fairly regularly, yes.

THE COURT: And do you look to him for advice and counsel? Is he an elder to you? Not in the legal sense, but elder in a church, but someone that you look up to guidance -- [overlapping speech] church guidance from?

THE WITNESS: Yes.

THE COURT: Okay. Did he instruct you or encourage you to repaint these signs and put these signs back up?

THE WITNESS: He didn't instruct me, but again, as a member of the church, it was agreed by him as well.

THE COURT: Okay. Now, are either Mr. McGill or Mr. Aguilar prepared to come back to this jurisdiction of this Court and stand in the witness box as you're doing and defend those actions that [overlapping speech] --

THE WITNESS: I really couldn't answer on their behalves for that. I haven't asked them specifically that question. My understanding -- I don't believe that Pastor McGill intends to return at this point. It may be if there's an appeal hearing that he has to appear for. I'm not really certain on his -- on the specifics of it. I couldn't answer on his behalf.

THE COURT: When the Court has issued sanctions -- and I'll have to go back and review those and -- if it were to appear to the Court that you've -- would -- in the Court's view be required to have additional sanctions against you, would Mr. McGill or Mr. Aguilar come back into the country, into the jurisdiction of this Court and stand with you to accept these sanctions?

THE WITNESS: I don't know if they would or not. I certainly wouldn't advise them to, but that would be entirely between them and what God advises them to do.

*Transcript of the Court's examination of Lucian Chartier, May 25, 2010 Motion Hearing before the Honorable Edward G. Bryant, Pg. 75, L. 11 through Pg. 76, L. 5., attached hereto as Exhibit 1 to this Motion and Memorandum.*

Fed. R. Civ. P. 6(b) provides that the Court may, for good cause, extend the time period for an act to be performed. Plaintiff's motion is filed within 14 days of the filing of the Aguilar Objection, and the Plaintiff needs the additional time within which to prepare its Response thereto, notwithstanding that the Aguilar Objection creates additional expense for the Plaintiff to enforce the Permanent Injunction entered in this case.

Respectfully Submitted,

/s/ Philip M. Kirkpatrick  
Philip M. Kirkpatrick (BPR No. 6161)  
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*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

Undersigned counsel for the Plaintiffs hereby certifies that a true and correct copy of the foregoing Motion have been sent to David Aguilar via U.S. First Class Mail as follows, which addresses were determined from the source specified below on this the 19<sup>th</sup> day of August, 2015, and that Defendant McGill, whose email address is now contained in the Court's ECF database as appearing *pro se*, is expected to receive service via the Court's ECF notification system.

From the signature block of the Aguilar Objection:

David P. Aguilar  
P.O. Box 572  
Belmopan City, Belize, C.A.

/s/ Philip M. Kirkpatrick

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EASTERN DIVISION

GENERAL CONFERENCE  
CORPORATION OF SEVENTH-DAY  
ADVENTISTS and GENERAL CONFERENCE  
OF SEVENTH-DAY ADVENTISTS,

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1:06-cv-01207-JDB

WALTER MCGILL d/b/a CREATION  
SEVENTH DAY ADVENTIST CHURCH  
et al.,

Defendants.

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Motion Hearing  
Before The Honorable EDWARD G. BRYANT  
May 25, 2010

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Transcribed from AUDIO CD by: Shara D. Sohn, CCR

APPEARANCES:

For the Plaintiffs:

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Brentwood Court Reporting Services, LLC  
(615) 791-6983 \*\*\* (866) 939-3376

1 THE WITNESS: He is a pastor.  
 2 THE COURT: And what would you be?  
 3 THE WITNESS: I'm his assistant I  
 4 suppose. I guess I'd be an assistant pastor. I take  
 5 over the services when he's gone.  
 6 THE COURT: And everybody else would be  
 7 members?  
 8 THE WITNESS: We have other pastors,  
 9 evangelists, members. Depends on the position  
 10 [inaudible].  
 11 THE COURT: Okay. Now, Mr. Aguilar, is  
 12 he also of this church that you belong to?  
 13 THE WITNESS: Yes.  
 14 THE COURT: And does he -- you've  
 15 obviously discussed this with him. As I look through  
 16 my notes, you had some communications with him?  
 17 THE WITNESS: I talk with him fairly  
 18 regularly, yes.  
 19 THE COURT: And do you look to him for  
 20 advice and counsel? Is he an elder to you? Not in  
 21 the legal sense, but elder in a church, but someone  
 22 that you look up to guidance -- [overlapping speech]  
 23 church guidance from?  
 24 THE WITNESS: Yes.  
 25 THE COURT: Okay. Did he instruct you or

1 encourage you to repaint these signs and put these  
 2 signs back up?  
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 4 again, as a member of the church, it was agreed by him  
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 7 Mr. McGill or Mr. Aguilar prepared to come back to  
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 21 and -- if it were to appear to the Court that  
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 23 have additional sanctions against you, would  
 24 Mr. McGill or Mr. Aguilar come back into the country,  
 25 into the jurisdiction of this Court and stand with you

1 to accept these sanctions?  
 2 THE WITNESS: I don't know if they would  
 3 or not. I certainly wouldn't advise them to, but that  
 4 would be entirely between them and what God advises  
 5 them to do.  
 6 THE COURT: And how old are you? How old  
 7 are you right now?  
 8 THE WITNESS: Pardon?  
 9 THE COURT: How old are you?  
 10 THE WITNESS: I'm 24.  
 11 THE COURT: Okay. And how old is  
 12 Mr. McGill?  
 13 THE WITNESS: Sixties somewhere.  
 14 THE COURT: And Mr. Aguilar?  
 15 THE WITNESS: I think he's over 30. I  
 16 don't know their exact ages.  
 17 THE COURT: Tell me about this place, a  
 18 little bit more, this 1162 Old Highway 45. Is this  
 19 the location where the signs are at issue have been  
 20 and are?  
 21 THE WITNESS: Yes.  
 22 THE COURT: And is that -- as I  
 23 understood maybe an old gasoline service station?  
 24 THE WITNESS: Right. It was an old  
 25 gasoline station, and it has been [inaudible] store

1 and a few other things before we had purchased it.  
 2 THE COURT: And who actually owns it?  
 3 Who's the title owner?  
 4 THE WITNESS: I think it's  
 5 Pastor McGill's wife, Barbara Eisenberg.  
 6 THE COURT: All right. And you now live  
 7 there?  
 8 THE WITNESS: Correct. Well, not in the  
 9 church, but there's a mobile home on the property  
 10 where I live.  
 11 THE COURT: And you believe Mr. McGill  
 12 and his wife own that trailer, mobile home?  
 13 THE WITNESS: I believe either him or his  
 14 wife does, yes. It's on their property.  
 15 THE COURT: How much property are we  
 16 talking? Is it an acre? Half acre?  
 17 THE WITNESS: I'm very bad at estimates  
 18 for measurements. I would say maybe an acre or so.  
 19 THE COURT: And when you would gather as  
 20 a church, where would you gather on that property if  
 21 it were indoors?  
 22 THE WITNESS: Generally, it would be in  
 23 the church or the former gas station. They have a  
 24 fairly large sanctuary.  
 25 THE COURT: Okay. Let me ask you, if

REPORTER'S CERTIFICATE

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I, Shara D. Sohn, CCR, Notary Public and Court Reporter, do hereby certify that I transcribed the RECORDED presentation to the best of my skill and ability, and that said transcript is a true, accurate, and complete transcript to the best of my ability.

I further certify that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

SIGNED this 21st day of June, 2010.

\_\_\_\_\_  
Shara D. Sohn, CCR

My commission expires: March 11, 2013.

PREPARED BY ORIGINAL CERTIFIED E-TRANSCRIPT FILED AS ELECTRONICALLY SIGNED USING REALLEGAL TECHNOLOGY.