

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.

No. 1:06-cv-01207-JDB-egb

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

Defendants.

MOTION FOR LEAVE TO FILE A REPLY MEMORANDUM AND FOR ENTRY OF AN
ORDER FOR THE DEPOSITION OF WALTER MCGILL AND WALTER MCGILL d/b/a
CREATION SEVENTH DAY ADVENTIST CHURCH, ET AL.

Plaintiffs, pursuant to L.R. 7.2(c), and consistent with the proceedings held on Tuesday, November 3, 2015, in the Status Conference before the Honorable Edward Bryant, Magistrate Judge, hereby move the Court for entry of an Order granting Plaintiff's leave to file a reply memorandum, subsequent to taking the deposition of Walter McGill, individually and d/b/a Creation Seventh Day Adventist Church, et al. (hereinafter "McGill"), and for entry of an Order compelling and setting that deposition to be taken in the offices of Adams and Reese LLP, 424 Church Street, Suite 2700, Nashville, Tennessee 37219, on Monday, November 9, 2015, commencing at 10:00 a.m. Grounds for this motion are as follows:

1. McGill filed a response entitled "Objection" to Plaintiffs' pending Motion on Thursday, October 29, 2015. The Plaintiffs have need of taking McGill's deposition with regard to the content of the objection/response which he filed on October 29, 2015, and this litigation.

2. Plaintiffs' counsel advised the Court and McGill of the forthcoming request to be granted leave to file a reply memorandum and to take McGill's deposition during the status conference of November 3, at which time McGill stated to the Court that it would be advantageous to him for his deposition to be taken in Nashville, Tennessee as opposed to Jackson, Tennessee, and counsel for the Plaintiffs, McGill and the Court discussed the logistics and setting of the deposition on Monday, November 9, 2015, which McGill advised was agreeable to him. Further, counsel for the Plaintiffs advised the Court that the Plaintiffs desired to have an order from the Court which sets the deposition.

3. Plaintiffs' counsel advised the Court during the Status Conference that Plaintiffs' request fifteen (15) pages in length for the reply memorandum in light of statements contained in the objection/response filed by McGill and the forthcoming deposition of McGill.

4. Plaintiffs request that they have twenty-one (21) days from the date of completion of the deposition of McGill within which to file and serve their reply memorandum, grounds being that it will take a period of time for the transcript to be prepared, and for Plaintiffs' counsel to thereafter prepare and file the reply. The request for a three week filing period is not made to unduly delay these proceedings, and should work no prejudice to the Defendants.

5. With regard to consultation, the reply memorandum and the deposition requested herein were discussed with the Court during the Status Conference, and the Court is thus aware of the communication by Plaintiffs' counsel and McGill with the Court which occurred during that Status Conference.

WHEREFORE, for grounds stated herein, Plaintiffs submit that good cause exists for entry of an order granting Plaintiffs leave to file a reply memorandum of up to 15 pages in length along with any further supporting material, and further an order of the Court compelling the

deposition of McGill, including as the representative of all Defendants pursuant to Fed. R. Civ. P. 30(b)(6). A copy of the Notice of Deposition being served on McGill is attached hereto as Exhibit 1. Additionally, Plaintiffs submit herewith for the Court's consideration a proposed order granting this motion in a word processing format being sent to the ECF mailbox for the presiding judge and magistrate judge.

Respectfully Submitted,

/s/ Philip M. Kirkpatrick
Philip M. Kirkpatrick (BPR No. 6161)
ADAMS AND REESE LLP
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Nashville, Tennessee 37219
Phone: 615-259-1485
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phil.kirkpatrick@arlaw.com
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

Undersigned counsel for the Plaintiffs hereby certifies that a true and correct copy of the foregoing Motion has been sent via First Class Mail and Certified Mail this 4th day of November, 2015 to:

Walter McGill
PO Box 424
Idyllwild, CA 92549

and Electronically to:

Sda_trademark_lawsuit@yahoo.com

/s/ Philip M. Kirkpatrick

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

Defendants.

NOTICE OF DEPOSITION

Pursuant to Fed. R. Civ. P. 30 and 30(b)(6), Plaintiffs hereby give notice that consistent with the Status Conference proceedings held November 3, 2015, before the Honorable Edward Bryant, Magistrate Judge of the United States District Court for the Western District of Tennessee, Plaintiffs will take the deposition of Walter McGill individually and d/b/a Creation Seventh Day Adventist Church, et al. as well as on behalf of all other Defendants, including all associations, past or present, including, but not limited to, on the following particularized subject matters.

1. The Plaintiffs' pending Motion to Add Further Specifics to the Court's Permanent Injunction Entered May 28, 2009, as Further Defined by Order Entered January 6, 2010;
2. The Objection to Plaintiffs' Motion to Add Further Specifics to the Court's Permanent Injunction filed on October 29, 2015;
3. The uses of Plaintiffs' marks in violation of the standing Permanent Injunction in this action;

EXHIBIT 1

4. Walter McGill's connection with all Defendants as named in this civil action;
5. The creation, membership and operation of the Creation Seventh Day Adventist Church, all other named Defendants in this civil action, and all persons associated therewith;
6. All internet use of the language prohibited by the standing Permanent Injunction in this civil action;
7. The Objection to Plaintiffs' Motion to Add Further Specifics to the Court's Permanent Injunction filed by Dr. David P. Aguilar and all connection and association between Walter McGill and/or the other Defendants as named in this civil action and Dr. David P. Aguilar and any association or entity associated with Dr. David P. Aguilar.

The deposition will be taken before a court reporter authorized to administer an oath, and will continue until such time as it has been completed.

Respectfully Submitted,

/s/ Philip M. Kirkpatrick
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ADAMS AND REESE LLP
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Nashville, Tennessee 37219
Phone: 615-259-1485
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WALTER MCGILL d/b/a CREATION
SEVENTH DAY ADVENTIST CHURCH, *et al.*,

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MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR LEAVE
TO FILE A REPLY MEMORANDUM AND FOR ENTRY OF AN ORDER FOR
THE DEPOSITION OF WALTER MCGILL AND WALTER MCGILL
d/b/a CREATION SEVENTH DAY ADVENTIST CHURCH, ET AL.

Plaintiffs, by and through counsel, pursuant to L.R. 7.2(c) file this their Memorandum in Support of their Motion for Leave to File a Reply Memorandum and for Entry of an Order for the Deposition of Walter McGill and Walter McGill d/b/a Creation Seventh Day Adventist Church, et al. state as follows:

L.R. 7.2(c) Reply Memoranda states as follows:

Except as provided by LR 12.1(c) and LR 56.1(c), reply memoranda may be filed only upon court order granting a motion for leave to reply. Such motion for leave must be filed within 7 days of service of the response.

Plaintiffs have filed a Motion seeking leave to file a reply memorandum, setting forth the grounds therefor, which Plaintiffs submit constitute good cause for granting the Motion. Rule 7.2(c) provides for the filing of a motion making this request, and Plaintiffs Motion and supporting Memorandum are filed within seven days of the date of service of the Defendants' Objection/Response.

In the Motion, Plaintiffs request a period of three weeks from the date of completion of Mr. McGill's deposition within which to file and serve their reply memorandum, so as to afford time for the transcript for the deposition to be prepared so as to be utilized in the drafting of the reply.

Plaintiffs also have moved for entry of an order compelling and setting the deposition of Walter McGill individually and d/b/a Creation Seventh Day Adventist Church, et al. pursuant to Fed. R. Civ. P. 30 and 30(b)(6).

Respectfully Submitted,

/s/ Philip M. Kirkpatrick
Philip M. Kirkpatrick (BPR No. 6161)
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424 Church Street, Suite 2700
Nashville, Tennessee 37219
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/s/ Philip M. Kirkpatrick