

1 **IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI**

2 **THE EXECUTIVE BOARD OF THE**)
3 **MISSOURI BAPTIST CONVENTION,**)
4 a Missouri non-profit corporation,)

5 and)

6 **MISSOURI BAPTIST CONVENTION,**)
7 an unincorporated association of churches, as a)
8 class, by and through the following)
9 representative members:)

Case No.:

10 **FIRST BAPTIST CHURCH OF ARNOLD,**)
11 **MISSOURI,** A Missouri benevolent)
12 corporation; and)

**PETITION FOR DECLARATORY
JUDGMENT, DAMAGES FOR BREACH
OF CONTRACT, AND FOR INJUNCTIVE
RELIEF**

13 **THE FIRST BAPTIST CHURCH OF**)
14 **BETHANY MISSOURI,** a Missouri)
15 benevolent corporation; and)

16 **FIRST BAPTIST CHURCH OF**)
17 **BRANSON, MISSOURI,** a Missouri)
18 benevolent corporation; and)

19 **CONCORD BAPTIST CHURCH OF**)
20 **JEFFERSON CITY, INC.,** a Missouri non-)
21 profit corporation; and)

22 **OAKWOOD BAPTIST CHURCH OF**)
23 **KANSAS CITY, MISSOURI,** a Missouri)
24 non-profit corporation; and)

25 **SPRINGHILL BAPTIST CHURCH OF**)
SPRINGFIELD, a Missouri benevolent)
corporation;)

Plaintiffs,

vs.

26 **MATT BLUNT, in his official capacity as**)
27 **MISSOURI SECRETARY OF STATE**)
28 State Capitol Room 208)
29 Jefferson City, Missouri 65101)

30 and)

31 **THE BAPTIST HOME,**)
32 a Missouri non-profit corporation,)
33 Serve: Larry N. Johnson, registered agent)
34 P.O. Box 87)
35 Ironton, Mo 63650)

1 and)
)
 2 **MISSOURI BAPTIST COLLEGE**)
)
 a Missouri non-profit corporation,)
 3 Serve: R. Alton Lacey, registered agent)
)
 One College Park Drive)
 4 St. Louis, Missouri 63141)
)
 5 and)
)
 6 **MISSOURI BAPTIST FOUNDATION,**)
)
 a Missouri non-profit corporation,)
 7 Serve: James R. Smith, registered agent)
)
 8 400 E. High Street)
)
 Jefferson City, MO 65101-3253)
 9)
 and)
 10)
)
 11 **WINDERMERE BAPTIST**)
)
CONFERENCE CENTER,)
)
 12 a Missouri non-profit corporation,)
)
 Serve: Frank Shock, registered agent)
)
 13 State Rd AA, PO Box 458)
)
 Roach, MO 65787)
 14)
 and)
 15)
)
 16 **WORD AND WAY,**)
)
 a Missouri non-profit corporation,)
)
 17 Serve: Bill Webb, registered agent)
)
 400 E. High Street)
 18 Jefferson City, MO 65101-3253)
)
 19 Defendants.)

20
 21 **INTRODUCTION**

- 22
 23 1. Over the years, thousands of Missouri Baptists have entrusted millions of dollars to five
 24 agencies of the Missouri Baptist Convention (hereinafter, the Convention), relying on their
 25 contract promises to remain agencies accountable to the Convention. When their

1 cumulative assets totaled about \$200 million, the five agencies tried to amend their charters
2 in order to steal themselves away from Convention governance. Their actions broke trust
3 with Missouri Baptists who have given the money to build the institutions for all these
4 years. The five non-profit corporations (herein sometimes referred to as “agencies,”) had
5 charters that guaranteed the Convention’s continued right to govern via the exclusive right
6 of the Convention and/or The Executive Board of the Missouri Baptist Convention
7 (“Executive Board”) to elect agency trustees. Three agencies’ charters guaranteed the
8 exclusive right of the Convention to approve all charter amendments. Nonetheless, the five
9 agencies filed amended charters with the Secretary of State, and declared themselves to be
10 self-electing, autonomous corporate boards, all without Convention or Executive Board
11 approval.

- 12 2. The Plaintiffs seek declaratory and injunctive relief, which will declare the new charters to
13 be null and void *ab initio*, and will declare that the five agencies are still subject to
14 accountability and control of the Convention and the Executive Board. The Plaintiffs
15 further seek a declaration that the Secretary of State should strike the new charters from the
16 public record, due to violations of filing requirements under the Non-Profit Corporations
17 Act. The Plaintiffs seek an injunction to prevent the agencies from dissipating the assets by
18 extraordinary transactions during the pendency of this case, and relief for breach of
19 contract. Plaintiffs allege fifteen counts, consisting of three counts against each of the five
20 corporations: one count for declaratory judgment; one count for breach of contract, and
21 one count for injunctive relief.

22 **JURISDICTION AND VENUE**

- 23 3. The Court has subject matter jurisdiction over this civil case under R.S. Mo. § 478.070.
24 This action arises under the Missouri Declaratory Judgment Act, R.S. Mo. § 527.010,
25

1 which authorizes the circuit courts to declare the rights, status and legal relations of the
2 parties.

3 4. This Court has personal jurisdiction over the Secretary of State and over each corporate
4 defendant, which is a Missouri non-profit corporation, with a registered agent and
5 principal office located in Missouri. The transactions and acts giving rise to the causes
6 of action set forth occurred within the state of Missouri.

7 5. Venue in this Court is proper pursuant to R.S. Mo. § 508.010(2), which provides that
8 “when there are several defendants, and they reside in different counties, the suit may be
9 brought in any such county.” Defendants Missouri Baptist Foundation and Word and
10 Way have their registered offices in Cole County, Missouri, which is deemed to be the
11 place of residence for these corporations. The Secretary of State also maintains his
12 principal office in Cole County, Missouri.

13 6. Upon information and belief, the five defendant corporations conspired together and with
14 others who will be identified in discovery to develop a common plan and scheme to
15 abrogate the Convention’s and the Executive Board’s respective legal and contractual
16 right to control governance of each of the defendant corporations. Upon information and
17 belief, the defendant corporations communicated and cooperated together and with others
18 who will be identified in discovery in executing the plan, so that there are many common
19 factual and legal issues, which warrant the joinder of all parties in one action.

20 **IDENTIFICATION OF PLAINTIFFS**

21 7. The Executive Board of the Missouri Baptist Convention, a plaintiff herein, referred to as
22 “Executive Board,” is a Missouri non-profit corporation, with principal offices at 400 E.
23 High Street, Jefferson City, Missouri. The Convention caused the Executive Board to be
24
25

1 incorporated in 1917 for the purposes set forth in the Executive Board's Articles of
2 Incorporation.

3 7.1 According to its Articles of Incorporation, Article 9, the Executive Board:

4 "shall have charge of the religious, missionary, educational and
5 benevolent work of the Missouri Baptist Convention and shall
6 have full power and authority to act for the Convention between its
7 annual meetings in any and all matters pertaining to the
8 Convention's business, provided however, the Board shall not have
9 power to reverse any action of the Convention or to do anything
10 contrary to the Convention's Constitution, Bylaws, and Business
11 and Financial Plan, or to violate accepted Baptist faith, polity and
12 practice."

13 7.2 According to its Articles of Incorporation, Article 11, the Executive Board:

14 "shall exercise any, all and every power which a non-profit
15 corporation organized under Missouri law may exercise."

16 7.3 On or about November 1, 2001, the Convention, meeting in annual session in
17 Cape Girardeau, Missouri, authorized the Executive Board:

18 "to take any and all steps necessary to restore the defendant
19 corporations to their former relationship with The Missouri Baptist
20 Convention."

21 7.4 The Executive Board is authorized to bring this action.

22 8. The Missouri Baptist Convention (hereinafter "the Convention") is an unincorporated
23 association of affiliated Southern Baptist churches in the State of Missouri, and functions
24 as the state denomination of Southern Baptist churches in Missouri.

25 8.1 The Convention promotes and coordinates charitable giving and cooperative
ministry among the state's Baptist churches, including ministry through various
Convention organizations such as the five defendant corporations.

1 8.2 Formerly known as The Missouri Baptist General Association, the Convention
2 was organized in 1834 and changed its name in 1958 to the Missouri Baptist
3 Convention.

4 8.3 Approximately 1,950 Baptist churches in Missouri are affiliated members of the
5 Convention, pursuant to the requirements for membership contained in the
6 constitution of the Convention.

7 8.4 Member churches contribute financial support through the Convention to the
8 Cooperative Program of the Southern Baptists Convention, the financial support
9 mechanism for the denomination's missionary, educational and benevolent work.

10 8.5 The member churches meet in annual convention once each year in the fall, and
11 met on October 30-November 1, 2001, in Cape Girardeau, Missouri.

12 8.6 The Convention has designated the Executive Board as its agent and
13 representative, as a general rule and in this action in particular.

14 8.7 On or about November 1, 2001, the Missouri Baptist Convention, meeting in
15 annual session in Cape Girardeau, Missouri, authorized the President working
16 with the Executive Board:

17 "to take any and all steps necessary to restore the defendant
18 corporations to their former relationship with the Missouri
19 Baptist Convention."

20 8.8 The Executive Board has the full legal powers, rights, and duties of the
21 Convention and has the right and capacity to bring this action in its corporate
22 name for itself and as the agent, the Convention.

23 8.9 For the purposes of this action, and pursuant to the governing documents, all legal
24 rights relations and duties of the Convention are co-extensive and co-equal with
25 the legal rights, relations and duties of the Executive Board.

- 1 9. At all times mentioned herein, the following churches, plaintiffs herein, were Missouri
2 corporations, not for profit or benevolent: First Baptist Church of Arnold, Missouri, The
3 First Baptist Church of Bethany, Missouri, First Baptist Church of Branson, Missouri,
4 Concord Baptist Church of Jefferson City, Inc., Oakwood Baptist Church of Kansas City,
5 Missouri, and Springhill Baptist Church of Springfield.
- 6 10. At all times mentioned herein, each of the churches in paragraph 9 was and is a member
7 in good standing of the Missouri Baptist Convention.
- 8 11. The foregoing plaintiff churches named in paragraph 9 above, as representatives of all
9 members of the Convention, pursuant to Missouri Civil Rule 52.10, bring this action for
10 and on behalf of the members of the Convention seeking redress for damage and injury
11 suffered by the Convention and jointly by the members of the Convention.
- 12 12. The foregoing plaintiff churches will fairly and adequately protect the interests of the
13 Convention and its members. Hereinafter, plaintiff churches named in paragraph 9 above
14 in their representative capacity for the Convention and all its members will be referred to
15 as “MBC.”

16 **IDENTIFICATION OF DEFENDANTS**

- 17 13. Defendant Matt Blunt is sued in his official capacity as the duly elected Secretary of
18 State of Missouri, an executive office of the state government of Missouri, (hereinafter
19 “Secretary of State”) with his principal office and seat of government located in Room
20 208 State Capitol Building, Jefferson City, Cole County, Missouri. He may be served
21 at his office address in Cole County. The Secretary of State is joined as a party for the
22 reasons stated below and as a party with an interest affected by the declarations sought
23 herein.

- 1 14. Defendant The Baptist Home (hereinafter “Defendant Home”) is a Missouri non-profit
2 corporation, whose registered agent is Larry Johnson, who may be served at the
3 registered office, P.O. Box 87, Ironton, Missouri. Defendant Home operates three senior
4 adult facilities, in Ironton, Chillicothe and Ozark, Missouri, providing retirement
5 apartments, residential care and nursing home care for elderly Missouri Baptists.
- 6 15. Defendant Missouri Baptist College (hereinafter “Defendant College”) is a Missouri
7 non-profit corporation whose registered agent is R. Alton Lacey, who may be served at
8 the principal offices at One College Park Drive, St. Louis, Missouri. The college
9 currently enrolls over 3,000 students, with a main campus in St. Louis and extension
10 centers in Franklin County, Jefferson County and Troy/Wentzville, Missouri.
- 11 16. Defendant Missouri Baptist Foundation (hereinafter “Defendant Foundation”) is a
12 Missouri non-profit corporation, whose registered agent is James R. Smith, who may be
13 served at the registered office, 400 E. High Street, Jefferson City, Missouri. Defendant
14 Foundation is the trust services agency of MBC, and it currently manages about \$136.8
15 million in assets and distributes about \$6 million annually for various causes supported
16 by Missouri Baptists.
- 17 17. Defendant Windermere Baptist Conference Center (hereinafter “Defendant Conference
18 Center,”) is a Missouri non-profit corporation, whose registered agent is Frank Shock,
19 who may be served at the registered office, State Road AA, Box 458, Roach, Camden
20 County, Missouri. Defendant Conference Center provides recreational facilities, retreat
21 lodging and conference center services for Missouri Baptist churches and others, on
22 shore line acreage on the Lake of the Ozarks, in Camden County, Missouri.
- 23 18. Defendant Word and Way (hereinafter “Defendant Newspaper,”) is a Missouri non-profit
24 corporation whose registered agent is Bill Webb, who may be served at the registered
25

1 office, 400 East High Street, Jefferson City, Missouri. Defendant Newspaper has served
2 as the official newspaper and press service of Missouri Baptists.

- 3 19. MBC entered into agreements with each of the defendant corporations, each of which is
4 owned by, operated by, or in covenant relationship with MBC in accordance with each
5 agency's respective charter, to manage and perform religious, missionary, educational or
6 benevolent work, and to hold and manage the assets contributed by MBC to each
7 respective defendant corporation for agreed religious ministry purposes.

8 **FACTS COMMON TO ALL COUNTS**

- 9
10 20. In this petition, when referring to any defendant corporation's charter, the term
11 "authorized charter" shall refer to the corporate charter or articles of incorporation which
12 had the express approval of MBC and which was in effect immediately prior to the vote
13 for the putative amendments which abrogated the rights of control of MBC and/or The
14 Executive Board (hereinafter, sometimes jointly referred to as "Plaintiffs").

- 15 21. In this petition, when referring to any defendant corporation's charter, the term
16 "unauthorized amendment" shall refer to the putative amendments to the charter or
17 articles of incorporation, which abrogated the rights of control vested in MBC and /or the
18 Executive Board, and which were not approved by MBC.

- 19 22. The Constitution of MBC states, in part, the following:

20 Article IX, Agencies, Section 1. This Convention shall own,
21 operate, or in covenant relationship contribute to such educational,
22 benevolent or other agencies approved by the Convention. Section
23 2. All charters and charter changes shall be approved by the
24 Convention upon recommendation by the Executive Board.
25 Section 3. The Convention shall elect or approve members of the
governing board of each agency. Each board shall have full
authority over the internal operation of the agency, but shall be
required to make a report of its operation and financial condition to

1 the annual meeting of the Convention in accordance with the
2 Business and Financial Plan.

3 23. On or about November 1, 2001, the MBC, meeting in Cape Girardeau, Missouri, adopted
4 a motion disapproving and repudiating the actions of all five defendant corporations for
5 the unauthorized amendments abrogating MBC's and the Executive Board's rights of
6 control.

7 24. On or about November 1, 2001, MBC elected trustees for each defendant corporation,
8 hereinafter referred to as the "2001 MBC-elected Trustees."

9 24.1 Under the authorized charters, MBC had the exclusive legal right to vote to elect
10 trustees for each of the defendant corporations.

11 24.2 Since November 1, 2001, each defendant corporation has failed and refused to
12 recognize the MBC's exclusive legal right to elect its trustees.

13 24.3 Since November 1, 2001, each defendant corporation has refused to recognize and
14 seat MBC-elected trustees for 2001 who were elected pursuant to the MBC's
15 exclusive legal right to elect agency trustees.

16 25. MBC has demanded that each of the defendant corporations rescind the unauthorized
17 amendments and restate the authorized charters, and further that each defendant
18 corporation recognize as trustees only those persons elected and approved by MBC.
19 Each defendant corporation has failed and refused to comply with MBC's demand.

20 26. The Secretary of State accepted for filing the unauthorized amendments of each
21 defendant corporation before discovering MBC and/or the Executive Board's rights to
22 control the selection of trustees and/or approve charter changes.

23 27. On or about April 17, 2002, MBC informed the Secretary of State about the unauthorized
24 amendments and requested the Secretary to strike the unauthorized amendments from the
25 Secretary's record.

1 28. On July 9, 2002, the Secretary of State denied MBC's above request to strike the
2 unauthorized amendments from the Secretary's records.

3 29. Plaintiffs now seek an order *inter alia* commanding the Secretary of State to strike the
4 unauthorized amendments of each defendant corporation from the Secretary's record and
5 reinstate their authorized charters.

6 30. The Secretary of State has a duty to protect the accuracy and truthfulness of corporate
7 records filed in his office, and not to accept for filing documents which he knows contain
8 false statements. Such false statements mislead the public and those who do business
9 with the subject corporations.

10 31. Plaintiffs will suffer irreparable injury from such actions and have no adequate remedy at
11 law since no legal remedy can timely remove the misleading charters from the public
12 record.

13 32. Upon information and belief, the defendant corporations are considering transactions
14 which threaten to do irreparable harm to the long-term interests of MBC and the
15 Executive Board, including the disposition or dissipation of assets, the re-titling of assets,
16 and the entering of long-term contracts.

17 32.1 Defendant Conference Center has announced that it is considering logging
18 operations to cut down and sell off some of its trees for revenue.

19 32.2 Defendant Home has announced that it has formed a new legal entity and has
20 transferred the Baptist Home endowment fund to the entity, a foundation.
21 Defendant Home refuses to disclose to the Plaintiffs the value of the endowment
22 in the new foundation, but it is believed to be tens of millions of dollars, received
23 over many years while the Baptist Home was controlled by MBC.

1 32.3 Defendant Home has announced that it is trying to replace MBC support funds
2 with revenue from other sources, including new business relationships with
3 religious and secular organizations, and may be considering sale or lease of
4 substantial assets to other commercial nursing home operators.

5 32.4 Other defendant corporations have encumbered or are considering plans to
6 encumber the organizations with long-term contracts, including long-term
7 employment contracts with certain persons.

8 33. The status quo should be preserved and no major changes should be made in the assets or
9 liabilities of the defendant corporations while this case is pending.

10 34. Only the requested injunctive relief can protect the interests of Plaintiffs and prevent
11 irreparable damage to plaintiffs during the pendency of this case.

12 **APPLICABLE STATUTES**

13 35. Section 355.561.1, R.S.Mo., provides, in part, that:

14 “[A]n amendment to a corporation’s articles to be adopted must be
15 approved: (1) By the board...; (2)...by the members...; and (3) In
16 writing by any person or persons whose approval is required by a
provision of the articles authorized by section 355.606.”

17 36. Section 355.066 (21), R.S.Mo, defines a “member” of a non-profit
corporation, in part, as follows:

18 “[W]ithout regard to what a person is called in the articles or
19 bylaws, any person or persons who on more than one occasion,
20 pursuant to a provision of a corporation's articles or bylaws, have
the right to vote for the election of a director or directors...”

21 37. Section 355.606, R.S.Mo, 1995, states:

22 “The articles may require an amendment to the articles or bylaws
23 to be approved in writing by a specified person or persons other
24 than the board. Such an article provision may only be amended
with the approval in writing of such person or persons.”

1 38. Section 355.586 RSMo, states in part as follows:

2 “An amendment to Articles of Incorporation does not affect a
3 cause of action existing against or in favor of the corporation, or
4 the existing rights of persons other than members of the
corporation.”

5 39. Section 355.036.1, RSMo, states as follows:

6 “If a document delivered to the office of the secretary of state for
7 filing satisfies the requirements of Section 355.011, the secretary
of state shall file it.”

8 40. Section 355.011.1, RSMo, states as follows:

9 “A document must satisfy the requirements of this section, and of
10 any other section that adds to or varies these requirements, to be
entitled to filing by the secretary of state.”

11 41. Section 355.056, RSMo, states:

12 “1. A person commits an offense by signing a document which
13 such person knows is false in any material respect with the intent
14 that the document be delivered to the Secretary of State for filing.
2. An offense under this section is a class A misdemeanor.”

15
16 **COUNT I**

17 **DECLARATORY JUDGMENT AGAINST DEFENDANT HOME**

18 **AND THE SECRETARY OF STATE**

19 42. Plaintiffs hereby incorporate by reference paragraphs 1 through 41 of this Petition as
20 though fully set forth herein.

21 43. In 1935, Defendant Home filed its Articles of Agreement in, and was incorporated by *pro*
22 *forma decree* of, the Circuit Court of Iron County, Missouri, under the name “The Home
23 for Aged Baptists” (“1935 Home Articles”).
24
25

1 44. In December 1959, Defendant Home secured a decree from the Circuit Court of Iron
2 County, Missouri, approving Defendant Home's Articles of Acceptance of the General
3 Not-for-Profit Corporation Act, Chapter 355, R. S. Mo ("1959 Home Articles"). The
4 1959 Home Articles were filed with the Missouri Secretary of State, who issued his
5 Certificate of Acceptance on January 5, 1960.

6 45. In 1960, Defendant Home filed Articles of Amendment to the Articles of Agreement [sic]
7 under the General Not-for-Profit Act, and the Secretary of State issued his Certificate of
8 Amendment on or about July 8, 1960. ("1960 Home Articles").

9 46. In the 1960 Home Articles, Defendant Home amended the 1959 Home Articles to include
10 Article VII, "Affiliation and Government", Section 2 of which provides as follows:
11

12 This Corporation shall be affiliated with and subject to Missouri
13 Baptist Convention. The members of the Board of Trustees of this
14 Corporation shall be nominated and elected by Missouri Baptist
15 Convention at the Annual Meeting of said Convention and shall
16 automatically be removed upon withdrawal of the Approval by
17 Missouri Baptist Convention or the Executive Board of Missouri
18 Baptist Convention. Vacancies occurring on the Board of the
19 Board of Trustees shall be filled, for the unexpired term of said
20 Trustee, by the Executive Board of Missouri Baptist Convention.

21 47. The 1960 Home Articles also amended the 1959 Home Articles by including Article IX,
22 "Amendments", which provides as follows:
23

24 This Agreement of the corporation may be amended by an affirmative vote of
25 two-thirds (2/3) of the members of the Board of Trustees at any meeting of Board
of Trustees provided written notice and the proposed wording thereof is mailed to
each Trustee at least thirty (30) days prior to the date of said meeting by the
Secretary of the corporation, and provided said Amendment is approved by MBC.

26 48. The 1960 Home Articles also amended the 1959 Home Articles to include Article VI,
27 "Powers", Section 2 of which empowered Defendant Home to, among other things, deal
28 with Defendant Home's assets, "PROVIDED always that the final approval of the
29

1 Missouri Baptist Convention is obtained before any real property owned by the
2 corporation on the Home site which is the site of The Home for Aged Baptists is
3 encumbered in any manner or sold”.

4 49. In the 1960 Home Articles, Section 4 of amended Article VI, granted Defendant Home
5 certain corporate governance powers, but also said of those powers, “All of which shall
6 not be inconsistent with the Constitution of the Missouri Baptist Convention or the Laws
7 of Missouri.”

8 50. In the 1960 Home Articles, Section 3 of amended Article VI states as follows:
9

10 If at anytime the said corporation, “The Home for Aged Baptists”
11 shall cease to operate as such for the purposes and objects as set
12 out herein all of the assets of the corporation shall be disposed of
13 by the Trustees of the corporation as directed by the Missouri
14 Baptist Convention and shall be construed to be the property of the
15 Missouri Baptist Convention.

16 51. In November 1978, Defendant Home filed with the Secretary of State its Amendment of
17 Articles of Incorporation, by which it changed the Defendant Home’s name from “The
18 Home for Aged Baptists” to “The Baptist Home” (The “1978 Home Amendment”).
19 Nothing in the 1978 Home Amendment amended any of the provisions of the 1960
20 Home Articles quoted above in paragraphs 46 through 50. (Hereinafter, The 1935 Home
21 Articles, The 1959 Home Articles, The 1960 Home Articles, and The 1978 Home
22 Amendment, shall be referred to collectively as “The Baptist Home Charter”).

23 52. Since 1960, MBC has on more than one occasion nominated and elected the trustees of
24 Defendant Home.

25 53. On or about September 12, 2000, the Defendant Home’s Board of Trustees adopted
Amended Articles of Agreement for the Baptist Home, which purported to eliminate the

1 following exclusive rights of MBC and/or the Executive Board under the Baptist Home
2 Charter:

3 53.1 The right to nominate and elect Defendant Home trustees, remove Defendant
4 Home trustees; and fill vacancies occurring on Defendant Home's Board of
5 Trustees;

6 53.2 The right to approve any amendments to the Baptist Home Charter;

7 53.3 The right to direct the disposition of Defendant Home assets in the event of
8 Defendant Home's dissolution;

9 53.4 The right to approve the sale or encumbrance of any real property owned by
10 Defendant Home on the Defendant Home site; and

11 53.5 The right to have all Defendant Home corporate governance powers exercised
12 consistently with the provisions of the MBC Constitution (hereinafter The "2000
13 Home Amended Articles").

14 54. On or about October 13, 2000, Defendant Home filed its 2000 Home Amended Articles
15 with the Secretary of State, and the Secretary of State issued her Certificate of
16 Amendment of a Missouri Non-Profit Corporation for the Baptist Home.

17 55. MBC was not given an opportunity before filing to approve the 2000 Home Amended
18 Articles adopted by the Defendant Home. Said unauthorized amendment was expressly
19 disapproved by MBC, at the annual meeting, October 30-November 1, 2001.

20 56. Since the filing of the 2000 Home Amended Articles, Defendant Home has refused to
21 recognize or seat trustees nominated and elected by MBC in 2001, or to permit them to
22 participate in governance. Defendant Home has threatened to have MBC-elected trustees
23 arrested for criminal trespassing if they merely attend a regular, public board meeting.
24
25

1 57. The Baptist Home Charter constitutes a contract between Defendant Home and Plaintiffs,
2 or in the alternative, the Defendant Home Charter is intended by its parties to confer
3 rights and privileges upon Plaintiffs' as third-party beneficiaries.

4 58. The 2000 Home Amended Articles are invalid, unlawful, ineffective, and *void ab initio*
5 because the 2000 Home Amended Articles were not approved by the sole member of
6 Defendant Home as required by R. S. Mo. § 355.561.1(2). MBC is the sole member of
7 Defendant Home pursuant to R. S. Mo. § 355.066(21).

8 59. In the alternative, the 2000 Home Amended Articles are invalid, unlawful, ineffective,
9 and *void ab initio* in that the 2000 Home Amended Articles of Agreement were not
10 approved by MBC, in violation of the Baptist Home Charter and R. S. Mo. § 355.606.
11 Pursuant to its Constitution, MBC prepares written minutes of all actions taken at its
12 annual meetings, and pursuant to its Bylaws, MBC provides written notice to Defendant
13 Home of any motions affecting it, including motions to approve charter amendments.
14 MBC thereby meets the "in writing" requirements of R. S. Mo. § 355.606.

15 60. In the alternative, the 2000 Home Amended Articles of Agreement are invalid, unlawful,
16 ineffective and *void ab initio* because they constitute an attempt by Defendant Home to
17 extinguish the existing rights of persons other than members, in violation of R. S. Mo. §
18 355.586 and common law.

19 61. Upon information and belief, Defendant Home filed the 2000 Home Amended Articles in
20 the Secretary of State's office without advising the Secretary of State (a) of MBC's right
21 to approve all amendments to The Baptist Home Charter and (b) that MBC had not
22 approved the 2000 Home Amended Articles. Upon information and belief, Defendant
23 Home intentionally withheld this information in order fraudulently to induce the
24 Secretary of State to file the 2000 Home Amended Articles.

1 62. By filing the 2000 Home Amended Articles, the Secretary of State violated statutory
2 duties set forth in R. S. Mo. § 355.036.1 and § 355.011 because the 2000 Home
3 Amended Articles of Agreement had not been approved by MBC as required by The
4 Baptist Home Charter, Missouri statutes, and common law.

5 63. Since November 1, 2001, Plaintiffs have requested Defendant Home to rescind the 2000
6 Home Amended Articles and to abide by The Baptist Home Charter, but Defendant
7 Home has refused to do so.

8 64. MBC has requested the Secretary of State to strike the 2000 Home Amended Articles
9 from its records, but the Secretary of State has refused to do so.

10 65. There exists between the parties an actual controversy regarding which person or entity
11 has the lawful right and authority to approve amendments to The Baptist Home Charter
12 and elect its trustees, which controversy is ripe for judicial resolution by this Court.

13 WHEREFORE, Plaintiff prays the Court for relief as follows:

14 a. For a declaration that:

- 15 1. MBC's right to approve Baptist Home Charter amendments is valid and
16 enforceable;
- 17 2. MBC's right to nominate and elect Defendant Home trustees is valid and
18 enforceable;
- 19 3. The actions of Defendant Home purporting to extinguish Plaintiffs' rights as
20 provided in the Baptist Home Charter were of no force and effect;
- 21 4. The 2000 Home Amended Articles are invalid, unlawful, ineffective, and *void*
22 *ab initio*;
- 23 5. The filing of the 2000 Home Amended Articles by the Secretary of State was
24 unlawful; and
25

1 Board of Trustees, in exchange for which Defendant Home granted MBC and the
2 Executive Board the rights and privileges set forth in paragraphs 46 through 50 above.

3 69. Defendant Home breached the contract represented by The Baptist Home Charter by
4 adopting and filing The 2000 Home Amended Articles and thereafter conducting the
5 business of Defendant Home so as to abrogate the rights and privileges of MBC and the
6 Executive Board granted by the Baptist Home Charter.

7 70. Prior to Defendant Home's breach, MBC and/or the Executive Board had performed
8 their obligations under the contract, or in the alternative, there had been no breach by
9 MBC of the rights and privileges of Defendant Home under The Baptist Home Charter.

10 71. As a direct result of the breach, Defendant Home has caused Plaintiffs to suffer damages,
11 including loss of control and accountability over the Defendant Home board, charter
12 amendments and disposition of assets, and including the legal costs of this action.

13 WHEREFORE, Plaintiffs respectfully pray this Court for Judgment in their favor and
14 against Defendant Home, for fair and just compensation in an amount to be determined by the
15 Court according to the evidence at trial; for an award of Plaintiffs' costs and attorneys' fees
16 herein as permitted by law; and for such other relief as the court deems just and proper.
17

18
19 **COUNT III**

20 **FOR TEMPORARY, PRELIMINARY, AND PERMANENT INJUNCTION AGAINST**

21 **DEFENDANT HOME**

22 72. Plaintiffs hereby incorporate paragraphs 1 through 71 above as though fully set forth
23 herein.
24

1 73. Defendant Home's conduct herein is wrongful, constituting a continuing breach of
2 contract and breach of the statutory rights of Plaintiffs.

3 74. Upon information and belief, Defendant Home is involved in transactions, and will
4 continue to be involved in transactions, designed to dispose of or dissipate assets, re-title
5 assets, and/or enter into long-term contracts in an effort to deprive Plaintiffs of their
6 rights to control the Defendant Home assets and religious ministry through their control
7 of the Defendant Home itself.

8 75. Plaintiffs will suffer irreparable injury from such actions and have no adequate remedy at
9 law for the abrogation of their rights under The Baptist Home Charter.
10

11 WHEREFORE, Plaintiffs pray the Court temporarily, preliminarily, and permanently to
12 enjoin Defendant Home from transferring or encumbering Defendant Home's interest in
13 Defendant Home assets other than in the ordinary course of business, from permitting waste of
14 Defendant Home assets, or from entering any contract, lease or other obligation for a term
15 longer than six (6) months duration.
16

17
18 **COUNT IV**

19 **FOR DECLARATORY JUDGMENT AGAINST**

20 **DEFENDANT MISSOURI BAPTIST COLLEGE AND SECRETARY OF STATE**

21 76. Plaintiffs hereby incorporate paragraphs 1 through 75 of this Petition as though fully set
22 forth herein.

23 77. In 1960, Defendant College was created by motion of MBC, and was formally
24 established in 1964.
25

1 78. In November 1997, Defendant College adopted and filed Articles of Restatement for a
2 Non-Profit Corporation, and the Secretary of State issued her Certificate of Amendment
3 on December 5, 1997 (hereinafter, “The College Charter”).

4
5 79. The College Charter, contains *inter alia*, the following provisions:

6 79.1 At Article II, Section 8: “The board of trustees shall consist of
7 twenty-seven persons appointed by the Missouri Baptist
8 Convention. At least seventy-five (75) percent of the trustees shall
9 be members of Baptist churches affiliated with the Missouri
10 Baptist Convention. Vacancies occurring on the board of trustees
may be filled by the Convention Nominating Committee until the
next annual meeting of the Convention, when the vacancy shall be
filled by the Convention for the unexpired term.”

11 79.2 At Article II, Section 12: “The board of trustees may adopt one or
12 more amendments to these articles of incorporation subject to the
13 approval of the Missouri Baptist Convention upon
recommendation of the Executive Board of the Missouri Baptist
Convention.”

14 79.3 At Article IV: “Approval of members was not required. However,
15 the restatement contains amendments requiring approval by a
person other than the board of directors (board of trustees).”

16 79.4 At Article V: “Approval of the restatement of articles by some
17 person other than members or the board of directors (board of
18 trustees) was required pursuant to section 355.606 and such an
approval was obtained on October 28, 1997.”

19 79.5 At Article II, Section 10: “Dissolution, merger or the sale, lease,
20 exchange or other disposition of all the corporations’ property,
21 other than in the usual and regular course of its activities, shall be
approved by the Missouri Baptist Convention.”

22 79.6 At Article II, Section 11: “Upon the dissolution of the corporation,
23 assets shall be distributed...to organizations which are affiliated
with the Missouri Baptist Convention”

24 80. Since 1960, MBC has on more than one occasion nominated and elected the trustees of
25 Defendant College.

1 81. On or about August 23, 2001, the Defendant College's Board of Trustees adopted
2 Articles of Restatement for a Nonprofit Corporation, which purported to eliminate the
3 following exclusive rights of the MBC and/or The Executive Board under the College
4 Charter:

5 81.1 The right to nominate and elect Defendant College trustees; and fill vacancies
6 occurring on Defendant College's Board of Trustees;

7 81.2 The right to approve any amendments to the College Charter;

8 81.3 The right to direct the disposition of Defendant College assets in the event of
9 Defendant College's dissolution; and

10 81.4 The right to approve Defendant College's dissolution, merger or disposition of
11 assets outside the usual and regular course of Defendant College's activities ("The
12 2001 College Restatement).

13
14 82. On or about August 23, 2001, Defendant College filed the 2001 College Restatement
15 with the Secretary of State, and the Secretary of State issued his Certificate of
16 Amendment and Restatement of a Missouri Non-Profit Corporation for the Defendant
17 College.

18 83. Neither the Executive Board, nor MBC, was given an opportunity before filing to
19 recommend and approve the 2001 College Restatement adopted by the Defendant
20 College Board of Trustees. The 2001 College Restatement was expressly disapproved by
21 MBC, at its annual meeting, on October 30-November 1, 2001.

22
23 84. Since the filing of the 2001 College Restatement, Defendant College has refused to
24 recognize or seat trustees nominated and elected by MBC in 2001, or to permit them to
25 participate in corporate governance.

1 85. The College Charter constitutes a contract between Defendant College and Plaintiffs, or
2 in the alternative, the College Charter is intended by its parties to confer rights and
3 privileges upon Plaintiffs as third-party beneficiaries.

4 86. The 2001 College Restatement is invalid, unlawful, ineffective and *void ab initio* because
5 the 2001 College Restatement was not approved by the sole member of Defendant
6 College pursuant to R. S. Mo. § 355.561.1(2). MBC is the sole member of Defendant
7 College pursuant to R. S. Mo. § 355.066(21).

8 87. In the alternative, the 2001 College Restatement is invalid, unlawful, in effective and *void*
9 *ab initio* in that the 2001 College Restatement was not approved by Plaintiffs in violation
10 of the College Charter and R. S. Mo. § 355.606. Pursuant to its Constitution, MBC
11 prepares written minutes of all actions taken at its annual meetings, and pursuant to its
12 Bylaws, MBC provides written notice to Defendant College of any motions affecting it,
13 including motions to approve charter amendments. MBC thereby meets the “in writing”
14 requirement of R. S. Mo. § 355.606.

15 88. In the alternative, the 2001 College Restatement is invalid, unlawful, ineffective and *void*
16 *ab initio* because it constitutes an attempt by Defendant College to extinguish the existing
17 rights of persons other than a member, in violation of R. S. Mo. § 355.586 and common
18 law.

19 89. Upon information and belief, Defendant College filed the 2001 College Restatement in
20 the Secretary of State’s office without advising the Secretary of State (a) of Plaintiffs’
21 right to recommend and approve all amendments to the College Charter and (b) that
22 Plaintiffs had not recommended and approved the 2001 College Restatement. Upon
23
24
25

1 information and belief, Defendant College intentionally withheld this information in
2 order fraudulently to induce the Secretary of State to file the 2001 College Restatement.

3 90. By filing the 2001 College Restatement, the Secretary of State violated statutory duties
4 set forth in R. S. Mo. § 355.036.1 and 355.011 because the 2001 College Restatement
5 had not been approved by Plaintiffs as required by the College Charter, Missouri statutes,
6 and common law.

7 91. Since November 1, 2001, MBC has requested Defendant College to rescind the 2001
8 College Restatement and to abide by the College Charter, but Defendant College has
9 refused to do so.

10 92. Plaintiffs have requested the Secretary of State to strike the 2001 College Restatement
11 from its records, but the Secretary of State has refused to do so.

12 93. There exists between the parties an actual controversy regarding which person or entity
13 has the lawful right and authority to approve amendments to the College Charter and to
14 elect Defendant College's trustees, which controversy is ripe for judicial resolution by
15 this Court.
16

17 WHEREFORE, Plaintiffs pray the Court for relief as follows:

18 a. For a declaration that:

- 19 1. Plaintiffs' right to recommend and approve College Charter amendments
20 is valid and enforceable;
- 21 2. MBC's right to nominate and elect Defendant College trustees is valid and
22 enforceable
- 23 3. The actions of Defendant College purporting to extinguish Plaintiffs'
24 rights as provided in the College Charter were of no force and effect;
25

1 96. Under the contract represented by the College Charter, MBC supported Defendant
2 College financially; encouraged third-parties to support Defendant College; promoted
3 and assisted the Defendant College to provide services to Missouri Baptists; and allowed
4 and granted control of the day-to-day affairs of Defendant College to its Board of
5 Trustees, in exchange for which Defendant College granted MBC and the Executive
6 Board the rights and privileges set forth in paragraph 79 above.

7
8 97. Defendant College breached the contract represented by The College Charter by adopting
9 and filing The 2001 College Restatement and thereafter conducting the business of
10 Defendant College so as to abrogate the rights and privileges of MBC and the Executive
11 Board granted in the College Charter.

12 98. Prior to Defendant College's breach, Plaintiffs had performed their obligations under the
13 contract, or in the alternative, there has been no breach by MBC of the rights and
14 privileges of Defendant College under The College Charter.

15 99. As a direct result of the breach, Defendant College has caused Plaintiffs to suffer
16 damages, including loss of control and accountability over the Defendant College board,
17 charter amendments and disposition of assets, and including the legal costs of this action.

18 WHEREFORE, Plaintiffs respectfully pray this Court for Judgment in their favor and
19 against Defendant College, for fair and just compensation in an amount to be determined by the
20 Court according to the evidence at trial; for an award of Plaintiff's costs and attorneys' fees
21 herein as permitted by law; and for such other relief as the court deems just and proper.
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1 COUNT VI

2 FOR TEMPORARY, PRELIMINARY, AND PERMANENT INJUNCTION AGAINST

3 DEFENDANT COLLEGE

4
5 100. Plaintiffs hereby incorporate paragraphs 1 through 99 above as though fully set forth
6 herein.

7 101. Defendant College's conduct herein is wrongful, constituting a continuing breach of
8 contract and breach of the statutory rights of Plaintiffs.

9 102. Upon information and belief, Defendant College is involved in transactions, and will
10 continue to be involved in transactions, designed to dispose of or dissipate assets, re-title
11 assets, and enter into long-term contracts, in an effort to deprive Plaintiffs of their rights
12 to control such Defendant College assets and religious ministry by virtue of their right to
13 control the Defendant College itself.

14 103. Plaintiffs will suffer irreparable injury from such actions and have no adequate remedy at
15 law for abrogation of their rights under The College Charter.

16
17 WHEREFORE, Plaintiffs pray the Court temporarily, preliminarily, and permanently to
18 enjoin Defendant College from transferring or encumbering Defendant College's interest in
19 Defendant College assets other than in the ordinary course of business, from permitting any
20 waste of Defendant College assets, or from entering into any contract, lease or other obligation
21 for a term longer than six (6) months duration.

1 COUNT VII

2 FOR DECLARATORY JUDGMENT AGAINST DEFENDANT MISSOURI BAPTIST

3 FOUNDATION AND SECRETARY OF STATE

4 104. Plaintiffs hereby incorporate paragraphs 1 through 103 of this Petition as though fully set
5 forth herein.

6 105. On August 5, 1946, Defendant Foundation filed its Articles of Agreement in, and was
7 incorporated by *pro forma decree* of, the Circuit Court of Jackson County, Missouri
8 (“1946 Foundation Articles”). Thereafter, on September 6, 1951, by a Decree of the
9 Circuit Court of Cole County, Missouri, the principal office and place of business was
10 moved from Kansas City to Jefferson City, and said corporation was reincorporated in
11 the County of Cole, State of Missouri (“1951 Foundation Articles”).

12 106. On November 22, 1989, defendant Foundation secured an amended *pro forma* decree in
13 the Cole County Circuit Court, adding an Article V to its Articles of Agreement to
14 expand its powers to provide personal representative and trust services, which was
15 recorded in the real estate records of Cole County, on November 27, 1989, and filed in
16 the Secretary of State’s records on December 15, 1989 (“1989 Foundation
17 Amendments”).

18 107. On November 4, 1994, Defendant Foundation secured an amended *pro forma* decree,
19 amending and restating in full its Articles of Agreement (“1994 Foundation Articles”).
20 On November 15, 1994, the 1994 Foundation Articles were recorded in the real estate
21 records of Cole County, and on November 17, 1994, the Secretary of State filed the 1994
22 Foundation Articles and issued his Certificate of Corporate Records for Defendant
23 Foundation (hereinafter, the 1946 Foundation Articles, 1951 Foundation Articles, the
24
25

1 1989 Foundation Amendments and the 1994 Foundation Articles are referred to as the
2 “Foundation Charter”).

3 108. The Foundation Charter included, *inter alia*, the following:

4 108.1 At Article VII, Section 1: “The members of the Board of Trustees of this
5 corporation shall be nominated and elected by the Missouri Baptist Convention at
6 the Annual Meeting of said Convention and shall automatically be removed upon
7 withdrawal of the approval by the Missouri Baptist Convention or the Executive
8 Board of Missouri Baptist Convention. Vacancies occurring on the Board of
9 Trustees of this corporation shall be filled, for the unexpired term of said Trustee
10 by the Executive Board of the Missouri Baptist Convention.”

11 108.2 At Article IX: “This agreement of the corporation may be amended by an
12 affirmative vote of two-thirds (2/3) of the members of the Board of Trustees at
13 any meeting of the said Board of Trustees provided written notice of the
14 amendment and the proposed wording thereof is mailed to each Trustee at least
15 thirty (30) days prior to the date of said meeting by the Secretary of the
16 corporation, and provided said Amendment is approved by the Missouri Baptist
17 Convention.”

18 108.3 At Article IV, Section G: “In the event of the dissolution of the Foundation, the
19 Board of trustees shall, after paying or making provision for payment of all the
20 liabilities of the Foundation, distribute all the remaining assets of the Foundation
21 to the Executive Board of the Missouri Baptist Convention.”

22 108.4 At Article IV (B): “The corporation shall not have the right to mortgage,
23 hypothecate or otherwise pledge either the real, personal or mixed property, or
24 income therefrom, under the ownership or control of the corporation, without the
25 formal approval in writing of the Executive Board of the Missouri Baptist
Convention...”

108.5 At Article IV, Section C: “In the absence of specific directions by the donor,
grantor or testator or testatrix, gifts, bequests and donations to the Foundation
shall be known as Undesignated Funds and a distribution of the principal or
income of such funds or property shall be made only upon the prior approval of
the Executive Board of the Missouri Baptist Convention. ... If the object or
purpose to which such designated gift was made shall cease to exist, and if in the
opinion of the Executive Board of the Missouri Baptist Convention, no similar
agency or institution can be found to exist in Missouri, then such designated gift
shall be come and be part of the undesignated funds or property of the
corporation.”

1 108.6 At Article II: “The principal office and place of business shall be located in
2 Jefferson City, Cole County, Missouri, until otherwise ordered by the Missouri
Baptist Convention.”

3 108.7 At Article IV, Section A: “to strengthen the mission and ministry efforts of
4 Missouri Baptists within the State and around the world by developing, managing
5 and distributing financial resources for the support of these efforts as the trust
services agency of the Missouri Baptist Convention.”

6 108.8 At Article IV, Section D: that the Foundation is required to make quarterly
7 reports to the Executive Board of the Missouri Baptist Convention.

8 108.9 At Article V, the following: “The corporation shall have the authority to succeed
9 to all of the rights and powers of the corporation known as the Executive Board of
10 the Missouri Baptist General Association created by pro forma decree...and to
11 execute the trusts now being executed by said Executive Board and known as the
12 “Permanent Fund,” provided that such transfer does not conflict with the
intentions of the testator, grantor or donor creating the trust. Upon such transfer
to this Foundation such property or funds will be administered as Designated Gifts
if so administered by the Executive Board, or undesignated gifts, by direction of
the Missouri Baptist Convention as herein provided.”

13 108.10 At Amendment 3, Article VI, Section 4: sets forth corporate powers of the board
14 and then states the proviso: “all of which shall not be inconsistent with the
Constitution of the Missouri Baptist Convention or the laws of Missouri.”

15 108.11 At Article VII, Section 1: “This corporation shall be affiliated with and subject to
16 the Missouri Baptist Convention.”

17 108.12 At Article IV (F): “The operational cost of the Foundation shall be paid by
18 allocation from the Missouri Baptist Convention Cooperative Program
Allocations Budget, fees and charges assessed by the Foundation and other
unrestricted support and revenue of the Foundation.”

19 109. Since 1946, MBC has on more than one occasion nominated and elected the Trustees of
20 Defendant Foundation.

21 110. On October 1, 2001, the defendant Foundation filed a petition with the Cole County
22 Circuit Court for a *pro forma* decree approving the restated articles and approving the
23 acceptance of Chapter 355, R.S. Mo, as an amendment to the Foundation Charter, and on
24 October 1, 2001, the Court issued the requested decree. MBC was never given an
25

1 opportunity before filing to approve this amendment, but expressly disapproved such
2 amendment on November 1, 2001.

3 111. On October 5, 2001, the Defendant Foundation filed a revised petition and copy of the
4 restated charter, and the Court entered a decree *nunc pro tunc* on October 9, 2001.

5 112. On October 9, 2001, the Secretary of State issued a Certificate of Acceptance of the
6 Missouri Nonprofit Corporation Law.

7 113. On October 10, 2001, the Defendant Foundation filed with the office of Secretary of State
8 an amended charter, under chapter 355, which is hereinafter referred to as the “2001
9 Foundation Amended Articles.”

10 114. The 2001 Foundation Amended Articles purported to eliminate the following exclusive
11 rights of the Plaintiffs under the Foundation Charter:

12 114.1 The right to nominate and elect Defendant Foundation trustees, remove Defendant
13 Foundation trustees, and fill vacancies occurring on Defendant Foundation’s
14 Board of Trustees;

15 114.2 The right to approve any amendments to the Foundation Charter;

16 114.3 The right to direct the disposition of Defendant Foundation’s assets in the event of
17 Defendant Foundation’s dissolution;

18 114.4 The right to approve the encumbrance of any property, real or personal, owned by
19 Defendant Foundation;

20 114.5 The right to control the location of Defendant Foundation’s registered office;

21 114.6 The right to receive quarterly reports from Defendant Foundation;

22 114.7 The right to direct the management of certain funds under Article V of the
23 Foundation Charter, including undesignated funds; and
24
25

1 114.8 The right to have all Defendant Foundation corporate governance powers
2 exercised consistently with the provisions of MBC Constitution.

3 115. MBC was not given an opportunity before filing to approve the 2001 Foundation
4 Amended Articles adopted by the Defendant Foundation Board of Trustees. The 2001
5 Articles were expressly disapproved by MBC, at the annual meeting, October 30-
6 November 1, 2001.

7 116. Since the filing of the 2001 Foundation Amended Articles, Defendant Foundation has
8 refused to recognize or seat trustees nominated and elected by MBC in 2001 pursuant to
9 MBC's exclusive legal right to elect trustees, and has refused to permit them to
10 participate in corporate governance. The Defendant Foundation recognizes 2001 MBC-
11 elected trustees only if also elected by Defendant Foundation.

12 117. The Foundation Charter constitutes a contract between Defendant Foundation and
13 Plaintiffs, or in the alternative, the Foundation Charter is intended by its parties to confer
14 rights and privileges upon Plaintiffs as third-party beneficiaries.

15 118. The 2001 Foundation Amended Articles are invalid, unlawful, ineffective and *void ab*
16 *initio* because the 2001 Foundation Amended Articles were not approved by the sole
17 member of Defendant Foundation pursuant to R. S. Mo. § 355.561.1(2). MBC is the sole
18 member of Defendant Foundation pursuant to R. S. Mo. § 355.066(21).

19 119. In the alternative, the 2001 Foundation Amended Articles are invalid, unlawful,
20 ineffective and *void ab initio* in that the 2001 Foundation Amended Articles were not
21 approved by MBC, in violation of the Foundation Charter and R. S. Mo. § 355.606.
22 Pursuant to its Constitution, MBC prepares written minutes of all actions taken at its
23 annual meetings, and pursuant to its Bylaws, MBC provides written notice to Defendant
24 Foundation of any motions affecting it, including motions to approve charter
25

1 amendments. MBC, therefore, meets the “in writing” requirement of R. S. Mo. §
2 355.606.

3 120. In the alternative, the 2001 Articles are invalid, unlawful, ineffective and *void ab initio*
4 because they constitute an attempt by Defendant Foundation to extinguish the existing
5 rights of persons other than a member, in violation of R. S. Mo. § 355.586 and common
6 law.

7 121. Upon information and belief, Defendant Foundation filed the 2001 Petition in the Circuit
8 Court of Cole County, without advising the Court (a) of MBC’s right to approve all
9 amendments to the Foundation Charter; (b) that MBC had not approved the Articles of
10 Acceptance attached to the 2001 Petition, and (c) upon entry of a decree by the Circuit
11 Court, Defendant Foundation intended to eliminate the exclusive rights of the Plaintiffs
12 under the Foundation Charter as provided in paragraph 108 above. Upon information and
13 belief, Defendant Foundation intentionally withheld this information in order
14 fraudulently to induce the Circuit Court to enter its decree, approving the 2001 Petition.

15 122. Upon information and belief, Defendant Foundation filed the 2001 Foundation Amended
16 Articles in the Secretary of State’s office without advising the Secretary of State (a) of
17 MBC’s right to approve all amendments to the Foundation Charter and (b) that MBC had
18 not approved the 2001 Foundation Amended Articles. Upon information and belief,
19 Defendant Foundation intentionally withheld this information in order fraudulently to
20 induce the Secretary of State to file the 2001 Foundation Amended Articles.

21 123. By filing the 2001 Foundation Amended Articles, the Secretary of State violated
22 statutory duties set forth in R. S. Mo. § 355.036.1 and 355.011 because the 2001
23 Foundation Amended Articles had not been approved by MBC as required by the
24 Foundation Charter, Missouri statutes, and common law.

1 124. Since November 1, 2001, Plaintiffs have requested Defendant Foundation to rescind the
2 2001 Foundation Amended Articles and abide by the Foundation Charter, but Defendant
3 Foundation has refused to do so.

4 125. Plaintiffs have requested the Secretary of State to strike the 2001 Foundation Amended
5 Articles from its records, but the Secretary of State has refused to do so.

6 126. There exists between the parties an actual controversy regarding which person or entity
7 has the lawful right and authority to approve the amendments to the Foundation Charter
8 and elect its trustees, which controversy is ripe for judicial resolution by this Court.

9 WHEREFORE, Plaintiffs pray the Court for relief as follows:

10 a. For a declaration that:

- 11 1. MBC's right to approve Foundation Charter amendments is valid and enforceable;
- 12 2. Plaintiffs' right to nominate, elect and remove Defendant Foundation trustees is
13 valid and enforceable;
- 14 3. The actions of Defendant Foundation purporting to extinguish Plaintiffs' rights as
15 provided in the Foundation Charter were of no force and effect;
- 16 4. The 2001 Foundation Amended Articles are invalid, unlawful, ineffective and
17 *void ab initio*;
- 18 5. The filing of the 2001 Petition in Cole County Circuit Court and the filing of the
19 2001 Foundation Amended Articles by the Secretary of State were unlawful; and
- 20 6. The Foundation Charter remains in effect;

21 b. For an order setting aside the *pro forma decree* and the Order *nunc pro tunc*, dated
22 October 1, and October 9, 2001, respectively, pursuant to Missouri Civil Rule
23 74.06, and further directing the Secretary of State to strike from its files, cancel,
24
25

1 annul and render void and of no effect, *ab initio*, the 2001 Foundation Amended
2 Articles and to reinstate the Foundation Charter;

3 f. For an order directing the Defendant Foundation to take all steps necessary in
4 order to give effect to the foregoing declarations, and in order to rescind, cancel,
5 annul and render void and of no effect, *ab initio*, the 2001 Foundation Amended
6 Articles, and reinstate the Foundation Charter;

7 g. For an award of Plaintiffs' costs and attorneys' fees herein as permitted by law;
8 and

9 h. For such other relief that the Court deems just and proper.
10

11
12 **COUNT VIII**

13 **BREACH OF CONTRACT AGAINST DEFENDANT FOUNDATION**

- 14 127. Plaintiffs hereby incorporate paragraphs 1 through 126 as though fully set forth herein.
- 15 128. The Foundation Charter constitutes a contract between Defendant Foundation and
16 Plaintiffs, or in the alternative, The Foundation Charter is intended by its parties to
17 confer rights and privileges upon Plaintiffs as third-party beneficiaries.
- 18 129. Under the contract represented by The Foundation Charter, MBC supported Defendant
19 Foundation financially; encouraged third-parties to support Defendant Foundation;
20 promoted and assisted the Defendant Foundation to provide services to Missouri
21 Baptists; and allowed and granted control of the day-to-day affairs of Defendant
22 Foundation to its Board of Trustees in exchange for which Defendant Foundation granted
23 MBC and the Executive Board the rights and privileges set forth in paragraph 108 above.
24
25

1 130. Defendant Foundation breached the contract represented by The Foundation Charter by
2 filing the 2001 Petition in Cole County Circuit Court, by adopting and filing The 2001
3 Foundation Amended Articles and thereafter conducting the business of Defendant
4 Foundation so as to abrogate the rights and privileges of MBC and the Executive Board
5 granted by The Foundation Charter.

6 131. Prior to Defendant Foundation's breach, Plaintiffs had performed their obligations under
7 the contract, or in the alternative, there had been no breach by MBC of the rights and
8 privileges of Defendant Foundation under The Baptist Foundation Charter.

9 132. As a direct result of the breach, Defendant Foundation has caused Plaintiffs to suffer
10 damages, including loss of control and accountability over the Defendant Foundation
11 board, charter amendments and disposition of assets, and including the legal costs of this
12 action.

13
14 WHEREFORE, Plaintiffs respectfully pray this Court for Judgment in their favor and
15 against Defendant Foundation, for fair and just compensation in an amount to be determined by
16 the Court according to the evidence at trial; for an award of Plaintiffs' costs and attorneys' fees
17 herein as permitted by law; and for such other relief as the court deems just and proper.

18
19 **COUNT IX**

20 **FOR TEMPORARY, PRELIMINARY, AND PERMANENT INJUNCTION AGAINST**

21 **DEFENDANT FOUNDATION**

22 133. Plaintiffs hereby incorporate paragraphs 1 through 132 above as though fully set forth
23 herein.

1 134. Defendant Foundation's conduct herein is wrongful, constituting a continuing breach of
2 contract and breach of the statutory rights of Plaintiffs.

3 135. Upon information and belief, Defendant Foundation is involved in transactions, and will
4 continue to be involved in transactions, designed to dispose of or dissipate assets, re-title
5 assets, and enter into long-term contracts in an effort to deprive Plaintiffs of their right to
6 control such Defendant Foundation assets and religious ministry by virtue of their right
7 to control the governance of Defendant Foundation itself.

8 136. Plaintiffs will suffer irreparable injury from such actions and have no adequate remedy at
9 law for the abrogation of their rights under The Foundation Charter.

10 WHEREFORE, Plaintiffs pray the Court temporarily, preliminarily, and permanently to
11 enjoin Defendant Foundation from transferring or encumbering Defendant Foundation's
12 interest in Defendant Foundation assets other than in the ordinary course of business, from
13 permitting any waste of Defendant Foundation assets, or from entering into any contract, lease
14 or other obligation for a term longer than six (6) months duration.

15
16
17 **COUNT X**

18 **FOR DECLARATORY JUDGMENT AGAINST**

19 **DEFENDANT CONFERENCE CENTER AND SECRETARY OF STATE**

20 137. MBC hereby incorporates paragraphs 1 through 136 of this Petition as though fully set
21 forth herein.

22 138. Prior to 2001, the Windermere Conference Center was owned, operated and funded by
23 MBC as a department of MBC.
24
25

1 139. On August 25, 2000, the Executive Director of MBC, James L. Hill, acting as
2 incorporator for Defendant Conference Center, caused articles of incorporation to be
3 prepared and filed, and on the same date the Secretary of State issued her Certificate of
4 Incorporation (“Conference Center Charter”).

5 140. The Conference Center Charter provided, in part, the following:

6 a. At Article XII:

7 “The board of trustees shall consist of nine persons. Three of the
8 nine trustees shall be permanent members by virtue of office. The
9 permanent members are the Missouri Baptist Convention
10 Executive Director, the Missouri Baptist Convention President,
11 and the Chairman of the Windermere Board of Advisors. The
12 remaining six trustees shall be presented by the Convention
13 Nominating Committee for election by the Missouri Baptist
14 Convention;” and

15 b. At Article X: that upon dissolution, assets would be distributed to “organizations
16 affiliated with the Missouri Baptist Convention ...”

17 141. The Conference Center Charter did not contain an express requirement that charter
18 amendments must be approved by MBC. Upon information and belief, this standard
19 clause was intentionally omitted, and this omission was intentionally concealed from
20 MBC by Defendant Conference Center, in order to facilitate the abrogation of MBC’s
21 rights to control the assets and ministry of Defendant Conference Center.

22 142. At the 2000 annual meeting, MBC relied on representations by Defendant Conference
23 Center and its incorporator that the Conference Center Charter contained all standard
24 clauses required by the MBC, and MBC voted to approve the Conference Center Charter
25 without knowledge that the aforesaid standard clause had been intentionally omitted.

143. At the 2000 annual meeting, MBC nominated and elected the trustees of Defendant
Conference Center, for service beginning January 1, 2001, and under the terms of the

1 Conference Center Charter, MBC would have the right to elect trustees on more than one
2 occasion.

3 144. On or about August 15, 2001, the Defendant Conference Center's Board of Trustees
4 adopted Amended and Restated Articles, which purported to eliminate the following
5 exclusive rights of the MBC under the Conference Center Charter:

- 6 a. The right to nominate and elect Defendant Conference Center trustees; and
- 7 b. The right to direct the disposition of Defendant Conference Center assets in the
8 event of Defendant Conference Center's dissolution. (The "2001 Conference
9 Center Restated Articles")

10 145. MBC was not given an opportunity before filing to approve the 2001 Conference Center
11 Restated Articles adopted by the Defendant Conference Center Board of Trustees. The
12 2001 Conference Center Restated Articles were expressly disapproved by MBC, at the
13 annual meeting, October 30-November 1, 2001.

14 146. Since the filing of the 2001 Conference Center Restated Articles, Defendant Conference
15 Center has refused to recognize or seat trustees nominated and elected by MBC in 2001,
16 or to permit them to participate in corporate governance.

17 147. The Conference Center Charter constitutes a contract between Defendant Conference
18 Center and MBC, or in the alternative, the Defendant Conference Center Charter is
19 intended by its parties to confer rights and privileges upon MBC as a third-party
20 beneficiary.

21 148. The 2001 Conference Center Restated Articles are invalid, unlawful, ineffective and *void*
22 *ab initio* because the 2001 Conference Center Restated Articles were not approved by the
23 sole member of Defendant Conference Center pursuant to R. S. Mo. § 355.561.1(2).
24
25

1 MBC is the sole member of Defendant Conference Center pursuant to R. S. Mo. §
2 355.066(21).

3 149. In the alternative, the 2001 Conference Center Restated Articles are invalid, unlawful, in
4 effective, and *void ab initio* because they constitute an attempt by Defendant Conference
5 Center to extinguish the existing rights of a person other than a member, in violation of
6 R. S. Mo. § 355.586 and common law.

7 150. Upon information and belief, Defendant Conference Center filed the 2001 Conference
8 Center Restated Articles in the Secretary of State's office without advising the Secretary
9 of State (a) of MBC's right to approve all amendments to the Defendant Conference
10 Center Charter and (b) that MBC had not approved the 2001 Conference Center Restated
11 Articles. Upon information and belief, Defendant Conference Center intentionally
12 withheld this information in order fraudulently to induce the Secretary of State to file the
13 2001 Conference Center Restated Articles.

14 151. By filing the 2001 Conference Center Restated Articles, the Secretary of State violated
15 statutory duties set forth in R. S. Mo. § 355.036.1 and 355.011 because the 2001
16 Conference Center Restated Articles had not been approved by MBC as required by the
17 Defendant Conference Center Charter, Missouri statutes, and common law.

18 152. Since November 1, 2001, MBC has requested Defendant Conference Center to rescind
19 the 2001 Conference Center Restated Articles and to abide by the Conference Center
20 Charter, but Defendant Conference Center has refused to do so.

21 153. MBC has requested the Secretary of State to strike the 2001 Conference Center Restated
22 Articles from its records, but the Secretary of State has refused to do so.

23 154. There exists between the parties an actual controversy regarding which person or entity
24 has the lawful right and authority to approve amendments to the Conference Center
25

1 Charter and elect its trustees, which controversy is ripe for judicial resolution by this
2 Court.

3 WHEREFORE, MBC prays the Court for relief as follows:

4 a. For a declaration that:

5 1. MBC's right to approve Conference Center Charter amendments is valid and
6 enforceable;

7 2. MBC's right to nominate and elect Defendant Conference Center trustees is
8 valid and enforceable;

9 3. The actions of Defendant Conference Center purporting to extinguish MBC's
10 rights as provided in the Conference Center Charter were of no force and
11 effect;

12 4. The 2001 Conference Center Restated Articles are invalid, unlawful, in
13 effective and *void ab initio*;

14 5. The filing of the 2001 Conference Center Restated Articles by the Secretary of
15 State was unlawful; and

16 6. The Conference Center Charter remains in effect;

17 b. For an order directing the Secretary of State to strike from its files, cancel, annul
18 and render void and of no effect, *ab initio*, the 2001 Conference Center Restated
19 Articles, and to reinstate the Conference Center Charter.

20 c. For an order directing the Defendant Conference Center to take all steps necessary
21 in order to give effect to the foregoing declarations, and in order to rescind, cancel,
22 annul and render void and of no effect, *ab initio*, the 2001 Conference Center
23 Restated Articles, and reinstate the Conference Center Charter;
24
25

1 d. For an award of MBC's costs and attorneys' fees herein as permitted by law; and

2 e. For such other relief as the Court deems just and proper.

3
4 **COUNT XI**

5 **FOR BREACH CONTRACT AGAINST DEFENDANT CONFERENCE CENTER**

6 155. MBC hereby incorporates paragraphs 1 through 154 as though fully set forth herein.

7 156. The Conference Center Charter constitutes a contract between Defendant Conference
8 Center and MBC, or in the alternative, the Conference Center Charter is intended by its
9 parties to confer rights and privileges upon MBC as a third-party beneficiary.

10 157. Under the contract represented by the Conference Center Charter, MBC provided
11 substantial financial support to Defendant Conference Center; encouraged third-parties to
12 support Defendant Conference Center; promoted and assisted the Defendant Conference
13 Center to provide services to Missouri Baptists; and allowed and granted control of the
14 day-to-day affairs of Defendant Conference Center to its Board of Trustees, in exchange
15 for which Defendant Conference Center granted MBC the rights and privileges set forth
16 in paragraph 141 above.

17
18 158. Defendant Conference Center breached the contract represented by the Conference
19 Center Charter by adopting and filing The 2000 Conference Center Restated Articles and
20 thereafter conducting the business of Defendant Conference Center so as to abrogate the
21 rights and privileges of MBC granted by the Conference Center Charter.

22 159. Prior to Defendant Conference Center's breach, MBC had performed its obligations
23 under the contract, or in the alternative, there had been no breach by MBC of the rights
24 and privileges of Defendant Conference Center under the Conference Center Charter.
25

1 160. As a direct result of the breach, Defendant Conference Center has caused MBC to suffer
2 damages, including loss of control and accountability over the Defendant Conference
3 Center board, charter amendments and disposition of assets, and including the legal costs
4 of this action.

5 WHEREFORE, MBC respectfully prays this Court for Judgment in its favor and against
6 Defendant Conference Center, for fair and just compensation in an amount to be determined by
7 the Court according to the evidence at trial; for an award of MBC's costs and attorneys' fees
8 herein as permitted by law; and for such other relief as the court deems just and proper.
9

10 **COUNT XII**

11 **FOR TEMPORARY, PRELIMINARY, AND PERMANENT INJUNCTION AGAINST**
12 **DEFENDANT CONFERENCE CENTER**

13
14 161. MBC hereby incorporates paragraphs 1 thru 160 above as though fully set forth herein.

15 162. Defendant Conference Center's conduct herein is wrongful, constituting a continuing
16 breach of contract and a breach of the statutory rights of MBC.

17 163. Upon information and belief, Defendant Conference Center is involved in transactions,
18 and will continue to be involved in transactions, designed to dispose of and dissipate
19 assets, re-title assets, and enter into long-term contracts in an effort to deprive MBC of its
20 right to control such assets by virtue of its control of the Defendant Conference Center
21 itself.

22 164. MBC will suffer irreparable injury from such actions and has no adequate remedy at law
23 for abrogation of its rights under the Conference Center Charter.
24
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1 intentionally omitted, and this omission was intentionally concealed, by Defendant
2 Newspaper in order to facilitate the subsequent abrogation of MBC's right to control the
3 assets and religious ministry of Defendant Newspaper.

4 170. At the 2000 annual meeting, MBC relied on representations by Defendant Newspaper
5 and its incorporator that the Newspaper Charter contained all standard clauses required
6 by the MBC Constitution, and MBC voted to approve the Newspaper Charter without
7 knowledge that the aforesaid standard clause had been intentionally omitted.

8 171. At the 2000 annual meeting, MBC nominated and elected the trustees of Defendant
9 Newspaper, for service beginning January 1, 2001, and under the terms of the Newspaper
10 Charter, MBC would have the right to elect trustees on more than one occasion.

11 172. On or about October 19, 2001, the Defendant Newspaper's Board of Trustees adopted
12 Amended and Restated Articles, which purported to eliminate the following exclusive
13 rights of the MBC under the Newspaper Charter:

- 14 a. The right to nominate and elect Defendant Newspaper trustees; and
- 15 f. The right to direct the disposition of Defendant Newspaper assets in the event of
16 Defendant Newspaper's dissolution ("2001 Newspaper Restated Articles").

17 173. On or about October 19, 2001, Defendant Newspaper filed its 2001 Newspaper Restated
18 Articles with the Secretary of State, and the Secretary of State issued his Certificate of
19 Amendment and Restatement of a Missouri Non-Profit Corporation for the Defendant
20 Newspaper.

21 174. MBC was not given an opportunity before filing to approve the 2001 Newspaper
22 Restated Articles adopted by the Defendant Newspaper Board of Trustees. The 2001
23 Newspaper Restated Articles were expressly disapproved by MBC, at the annual
24 meeting, October 30-November 1, 2001.

1 175. Since the filing of the 2001 Newspaper Restated Articles, Defendant Newspaper has
2 refused to recognize or seat trustees nominated and elected by MBC in 2001, or to
3 permit them to participate in corporate governance.

4 176. The Newspaper Charter constitutes a contract between Defendant Newspaper and MBC,
5 or in the alternative, the Newspaper Charter is intended by its parties to confer rights and
6 privileges upon MBC as a third-party beneficiary.

7 177. The 2001 Newspaper Restated Articles are invalid, unlawful, in effective, and *void ab*
8 *initio* because the 2001 Newspaper Restated Articles were not approved by the sole
9 member of Defendant Newspaper pursuant to R. S. Mo. § 355.561.1(2). MBC is the sole
10 member of Defendant Newspaper pursuant to R. S. Mo. § 355.066(21).

11 178. In the alternative, the 2001 Newspaper Restated Articles are invalid, unlawful,
12 ineffective, and *void ab initio* because they constitute an attempt by Defendant
13 Newspaper to extinguish the existing rights of a person other than a member, in violation
14 of R. S. Mo. § 355.586 and common law.

15 179. Upon information and belief, Defendant Newspaper filed the 2001 Newspaper Restated
16 Articles in the Secretary of State's office without advising the Secretary of State (a) of
17 MBC's right to approve all amendments to the Newspaper Charter and (b) that MBC had
18 not approved the 2001 Newspaper Restated Articles. Upon information and belief,
19 Defendant Newspaper intentionally withheld this information in order fraudulently to
20 induce the Secretary of State to file the 2001 Newspaper Restated Articles.

21 180. By filing the 2001 Newspaper Restated Articles, the Secretary of State violated statutory
22 duties set forth in R. S. Mo. § 355.036.1 and 355.011 because the 2001 Newspaper
23 Restated Articles had not been approved by MBC as required by the Newspaper Charter,
24 Missouri statutes, and common law.

1 181. Since November 1, 2001, MBC has requested Defendant Newspaper to rescind the 2001
2 Newspaper Restated Articles and to abide by the Newspaper Charter, but Defendant
3 Newspaper has refused to do so.

4 182. MBC has requested the Secretary of State to strike the 2001 Newspaper Restated Articles
5 from its records, but the Secretary of State has refused to do so.

6 183. There exists between the parties an actual controversy regarding which person or entity
7 has the lawful right and authority to approve amendments to the Newspaper Charter and
8 elect its trustees, which controversy is ripe for judicial resolution by this Court.

9 WHEREFORE, MBC prays the Court for relief as follows:

10 A. For a declaration that:

- 11 1. MBC's right to approve Newspaper Charter amendments is valid and
12 enforceable;
- 13 2. MBC's right to nominate and elect Defendant Newspaper trustees is valid
14 and enforceable;
- 15 3. The actions of Defendant Newspaper purporting to extinguish MBC's
16 rights as provided in the Newspaper Charter are of no force and effect;
- 17 4. The 2001 Newspaper Restated Articles are invalid, unlawful, ineffective
18 and *void ab initio*;
- 19 5. The filing of the 2001 Newspaper Restated Articles by the Secretary of
20 State was unlawful; and
- 21 6. The Newspaper Charter remains in effect;

22 B. For an order directing the Secretary of State to strike from its files, cancel, annul
23 and render void and of no effect, *ab initio*, the 2001 Newspaper Restated Articles;
24
25

- 1 C. For an order directing the Defendant Newspaper to take all steps necessary in
2 order to give effect to the foregoing declarations, and in order to rescind, cancel,
3 annul and render void and of no effect, *ab initio*, the 2001 Newspaper Restated
4 Articles, and to reinstate the Newspaper Charter; and thereafter, to amend the
5 charter to include a requirement pursuant to R.S. Mo. 355.606 that amendments to
6 the charter shall require the approval in writing of the Missouri Baptist
7 Convention;
8
9 D. For an award of MBC's costs and attorneys' fees herein as permitted by law; and
10 E. For such other relief as the Court deems just and proper.

11 **COUNT XIV**

12 **FOR BREACH CONTRACT AGAINST DEFENDANT NEWSPAPER**

- 13 184. MBC hereby incorporates paragraphs 1 through 183 as though fully set forth herein.
14 185. The Newspaper Charter constitutes a contract between Defendant Newspaper and MBC,
15 or in the alternative, the Newspaper Charter is intended by its parties to confer rights and
16 privileges upon MBC as a third-party beneficiary.
17 186. Under the contract represented by the Newspaper Charter, MBC supported Defendant
18 Newspaper financially; encouraged third-parties to support Defendant Newspaper;
19 promoted and assisted the Defendant Newspaper to use MBC assets to provide services
20 to Missouri Baptists; and allowed and granted control of the day-to-day affairs of
21 Defendant Newspaper to its Board of Trustees, in exchange for which Defendant
22 Newspaper granted MBC the rights and privileges set forth in paragraph 168 above.
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1 187. Defendant Newspaper breached the contract represented by The Newspaper Charter by
2 adopting and filing The 2001 Newspaper Restated Articles and thereafter conducting the
3 business of Defendant Newspaper so as to abrogate the rights and privileges of MBC.

4 188. Prior to Defendant Newspaper's breach, MBC performed its obligations under the
5 contract, or in the alternative, there had been no breach by MBC of the rights and
6 privileges of Defendant Newspaper under The Newspaper Charter.

7 189. As a direct result of the breach, Defendant Newspaper has caused MBC to suffer
8 damages, including loss of control and accountability over the Defendant Newspaper
9 board, charter amendments, and disposition of assets, and including the legal costs of this
10 action.
11

12 WHEREFORE, MBC respectfully prays this Court for Judgment in its favor and against
13 Defendant Newspaper, for fair and just compensation in an amount to be determined by the
14 Court according to the evidence at trial; for an award of MBC's costs and attorneys' fees herein
15 as permitted by law; and for such other relief as the court deems just and proper.

16 **COUNT XV**

17 **FOR TEMPORARY, PRELIMINARY, AND PERMANENT INJUNCTION AGAINST**
18 **DEFENDANT NEWSPAPER**

19 190. MBC by incorporates paragraphs 1 through 189 above as though fully set forth herein.

20 191. Defendant Newspaper's conduct herein is wrongful, constituting a breach of contract and
21 breach of the statutory rights of MBC.
22

23 192. Upon information and belief, Defendant Newspaper is soliciting and accepting
24 advertising revenue and is publishing advertisements which seek to persuade subscribers
25 and donors to divert funds from the MBC Cooperative Program to a new start-up

1 convention, the Baptist General Convention of Missouri, which is not in sympathy with
2 the ministry purposes of the MBC, and which in turn distributes diverted funds to the
3 five defendant corporations herein. Defendant Newspaper engages in such disloyal
4 activity using property furnished rent-free by MBC, including office space in the Baptist
5 Building, equipment, and mailing lists.

6 193. Furthermore, upon information and belief, Defendant Newspaper is involved in
7 transactions, and will continue to be involved in transactions, designed to dispose of or
8 dissipate assets, re-title assets, and enter into long-term contracts in an effort to deprive
9 MBC of its right to control such assets and religious ministry by virtue of its control of
10 the Defendant Newspaper itself.
11

12 194. All of the foregoing cause harm and damages to the MBC which are irreparable, for
13 which MBC has no adequate remedy at law for abrogation of its rights under The
14 Newspaper Charter.

15 WHEREFORE, MBC prays the Court temporarily, preliminarily, and permanently to
16 enjoin Defendant Newspaper from soliciting or accepting advertising revenue from the Baptist
17 General Convention of Missouri, directly or indirectly; from publishing advertisements for or
18 from Baptist General Convention of Missouri; and further, to restrain Defendant Newspaper
19 from transferring or encumbering any interest in Defendant Newspaper assets other than in the
20 ordinary course of business, from permitting waste of Defendant Newspaper assets, or from
21 entering into any contract, lease or other obligation for a term longer than six (6) months
22 duration.
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Respectfully submitted,

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