# SDASignet

"And thou shalt make a plate of pure gold, and grave upon it, like the engravings of a signet, HOLINESS TO YAH" (Exodus 28:36)

A bi-monthly publication of The Creation Seventh Day Adventist Church



As those who are able to keep abreast of the legal updates on our website are aware, the General Conference's attorneys have recently submitted a document to the Court for its consideration – the nature of which is difficult to overstate. Writing as though they are the Court themselves, the General Conference, in the person of it's attorneys, has proposed persecution against Christ, in the person of His saints.

While the document is reproduced in the pages of this edition of the Signet, there are several points which are worthy of serious consideration as to their spiritual significance.

First and foremost, it may confuse some to note that the document reads as a Court order, referring to its author as the Judge of the case. While the Judge has yet to either adopt or reject this paper, the reason for the apparent authorship is simply this: The General Conference's sought purpose is for the Judge to merely sign his name to their words and put them into effect. Whether this happens or not, the spirit is plain, and the parallel obvious:

#### Who is it that at one time put their judgments into the mouths of rulers, to be executed without question against dissenters?

Second are the actions sought by the Conference against not only Pastor McGill, but all those participating in the illegal activity of spreading the gospel of Christ under His banner. Writing as the Court, the General Conference says thus:

"Accordingly, the Plaintiffs requested at the hearing that they be allowed to conduct limited discovery in order to determine the extent of Defendant's violation of the Injunction, including third party discovery to ascertain the identities of and/or the extent to which Defendant's agents, servants, employees, and those persons in active concert or participation with them have assisted Defendant in violating the Permanent Injunction." \*\*\*\*\*\*\*\*\*\*

As we have seen already from the Conference's website confiscation, their application of what constitutes "concert or The Spirit of the Beast participation" is rather broad. Analysis of the latest legal Anyone within the CSDA Church and update is regarded as one "assisting the The Force of Memory

Defendant in violating the The Force of Memory permanent injunction," and thus a Overcoming fear the Conference seeks what Proposed Order of Proposed Order of McGill (which is sin enough), but **Contempt** against all who dare name the name of Christ. Let it be once more considered:

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#### Who is it that at one time conducted inquisition into the identity of not only those charged with the civil crime of heresy, but all those who aided or assisted those so charged?

Third are the penalties themselves, and these are perhaps the most clear indication of what motivates this wolf in sheep's clothing. The parallels are so shocking to any even remotely familiar with the history of Protestantism and the Great Controversy that they ought to make the most hard-hearted opposer of our position reconsider their assertions. The first is thus:

"Accordingly, due to Defendant's failure to act and to take down and/or dispose of signage and other promotional materials that are violative of the injunction, the Court hereby Orders that such materials be seized for destruction by the United States Marshal. The United States Marshal of this District is directed to take all appropriate steps to ensure that this order is executed. [...] In accordance with 28 U.S.C. § 566(c), the United States Marshal shall command all necessary assistance to execute this order and the costs of such services shall be presented to the Court for further Order directing their payment by Defendant. Plaintiffs' counsel shall accompany the United States Marshal in executing this Order in case questions arise during the execution."

According to this proposed Court order, the Conference wishes not only for the destruction of all materials even containing the word "Adventist," much less bearing it - not only the dispatch of a Federal Marshal to put this into effect - but even for a representative of the church to physically supervise said Marshal and instruct him as to proper procedure in the event of questions arising during "the execution" of our faith. Surely a clearer picture of a church and State union could scarcely be conceived. Let the question once more be asked:

Who is it that at one time commanded not only the destruction of heretical materials. but sent their representatives to accompany the civil authorities in their enforcement of these orders?

And the second:

"Accordingly, the Court hereby Orders the arrest of Defendant, wherever he may be found within the jurisdiction of the United States, and his incarceration in this District pending his full and complete compliance with the Injunction Order. This Court will release him upon his full and complete compliance with the Injunction Order. The United States Marshal of this District is directed to take all appropriate steps to ensure that this order of arrest and civil commitment is executed wherever Defendant may be found within the United States or its territories, including appropriate notification of the United States Customs Service."

Who is it that at one time ordered the arrest and imprisonment of those who violated it's regulation of religious observances?

Who is it that did so with the clear-cut qualification of "You may go as soon as you recant," as though it absolved them of their sin of persecution?

Who did so while conducting an inquisition into those who helped in such violations, that they may also be punished?

Who did so while directing the words of the magistrate to their own ends?

Who was it that directed the authorities, counseling them as to proper church instruction while destroying such materials as deemed under the ban?

Let those with eyes to see discern the true nature of the image before them.

A brief parable in closing:

A large, aggressive, and paranoid dog finds another it believes to be a challenger, and it prepares to attack. The smaller dog does not wish to fight and instead rolls over, exposing its throat. The larger dog acknowledges the "turned cheek," and its aggression is withdrawn.

Even the dogs will not go for the throat of those who do not resist. What then shall be said of those who see such a spirit and yet still attack? They exhibit a nature lower than even that of dogs; surely, Yahweh will judge.

- L.J. Chartier

"Force is the last resort of every false religion. At first it tries attraction, as the king of Babylon tried the power of music and outward show. If these attractions, invented by men inspired by Satan, failed to make men worship the image, the hungry flames of the furnace were ready to consume them. So it will be now.

- Ellen G. White

## THE FORCE OF MEMORY

A former president of the United States once famously said, "We have nothing to fear but fear itself." An Inspired Adventist writer once said, "We have nothing to fear for the future, except as we shall forget the way the Lord has led us, and His teaching in our past history." [Selected Messages Book 3, page 162]

As it turns out, both statements are true, both are confirmed by Biblical doctrine, and both (while appearing to say different things are the only significant source of legitimate fear) are actually pointing out the same basic principle.

Of "fear itself" we may read from the Book of Numbers: "And Caleb stilled the people before Moses, and said, 'Let us go up at once, and possess [Canaan], for we are well able to overcome it.' But the men that went up with him said, We be not able to go up against the people; for they are stronger than we.' And they brought up an evil report of the land which they had searched unto the children of Israel, saying, 'The land, through which we have gone to search it, is a land that eateth up the inhabitants thereof; and all the people that we saw in it are men of a great stature. And there we saw the giants, the sons of Anak, which come of the giants: and we were in our own sight as grasshoppers, and so we were in their sight.'

And all the congregation lifted up their voice, and cried; and the people wept that night." (Num 13:30-33, 14:1)

Because the congregation accepted the "evil report" of the land that Yahweh had promised them, they did not rise up as they had been instructed and take possession of the country. As a result of this fearful reaction, that generation had to wander in the desert, rather than enjoying the good of the Promised Land. It was "fear itself," and no physical enemy or barrier, that kept the congregation from receiving the fulfillment of Yahweh's promises. And yet, this fear did not merely appear out of nowhere. It had a source, as do all things, both good and evil.

Before this incident with the spies' report of Canaan and its inhabitants, Israel had been delivered from many and dramatic dangers by the Hand of Yah. They had seen miraculous deliverance in the 10 Plagues that fell upon Egypt. (Exo 7:14 - 12:33) They had seen a Pillar of Fire and Cloud directing their course through the wilderness. (Exo 13:21) They had been witness to the parting of the Red Sea while pursued by the Egyptian army. (Exo 14:21-28)

In addition to this, Yahweh specifically instructed the Israelites to put His deliverance of them into their daily conversation, particularly with their children. To that end He said, "And these words, which I command thee this day, shall be in thine heart; and thou shalt teach them diligently unto thy children, and shalt

shalt talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down, and when thou risest up. And thou shalt bind them for a sign upon thine hand, and they shall be as frontlets between thine eyes. And thou shalt write them upon the posts of thy house, and on thy gates.

"And it shall be, when Yahweh thy God shall have brought thee into the land which he sware unto thy fathers, to Abraham, to Isaac, and to Jacob, to give thee great and goodly cities, which thou buildedst not, and houses full of all good things, which thou filledst not, and wells digged, which thou diggedst not, vineyards and olive trees, which thou plantedst not; when thou shalt have eaten and be full... Then beware lest thou forget Yahweh, which brought thee forth out of the land of Egypt, from the house of bondage." (Deu 6:6-12)

There is quite a lot of vital knowledge that may be gleaned from this instruction by Yahweh. It is often the case that when human beings have the "good things in life" the temptation to be less zealous in their prayers, praise and devotions becomes more intense. Difficulties in the visible, material world are often reminders to these individuals that their dependency is truly upon Yahweh, and not the strength of their hands or the sharpness of their intellect. For the fully converted, of course, praise and worship are a way of life despite the outward circumstances, and this is the end to which Yah attempts to draw all who claim to be His committed followers.

We see that a life of praise involves both formal times of worship (when thou liest down, and when thou risest up), and "casual" times of worship that we meet with during the course of the day (when thou sittest in thine house, and when thou walkest by the way).

We see, as we are discussing in this article, that it is very important to remember the things that our Father has done for us; Yahweh says, "beware lest thou forget." There is danger, actual danger, in forgetting Yahweh and what He has done, for without this record of deliverance and blessings fresh in our minds, we have no effective shield against temptation to fear. This is how the two quotes with which we began fit together; it is fear that leads us away from claiming and receiving the promises of our Almighty; but it is forgetting the past, and His prior evidences of deliverance, blessings and love that allow this to occur.

Now in many forms of Christianity, it is taught that after we accept Yahshua as our personal Savior, the work of salvation is completed. The wording used as they explain this is generally correct, but they view the "work of salvation" differently than

that which is explained in the Scriptures themselves. example, while Yahshua said "It is finished" on the Cross, (John 19:30) did He then cease to act on our behalf for salvation? Absolutely not. We read: "Seeing then that we have a great High Priest, that is passed into the heavens, Yahshua the Son of God, let us hold fast our profession." (Heb 4:14) And is this designation of "High Priest" merely a title that He obtains, or is it a job description? This is also answered in the Bible: "But this man, because He continueth ever, hath an unchangeable priesthood. Wherefore He is able also to save them to the uttermost that come unto God by Him, seeing He ever liveth to make intercession for them. For such an High Priest became us, who is holy, harmless, undefiled, separate from sinners, and made higher than the heavens; Who needeth not daily, as those high priests, to offer up sacrifice, first for his own sins, and then for the people's; for this He did once, when He offered up himself. " (Heb 7:24-27)

This passage explains the apparent dichotomy perfectly. That which was "finished" on earth, on the cross, was not the entire work of salvation on behalf of mankind, but specifically the antitype of what the human priests did when they went forth daily "to offer up sacrifice." Yahshua did this but once, and that work is finished; but then He takes on the role (not merely the title) of the High Priest, and "ever liveth to make intercession" for those who come to Him for everlasting life.

And if the work of salvation continues for Christ Himself, does it also continue for those who accept Him as their Savior? Contrary to such doctrines as strict Predestination and Once-Saved-Always-Saved theology, the Bible tells us that the cross cleanses us from unrighteousness, specifically that the Blood of Yahshua is for "the remission of sins that are past, through the forbearance of God." (Rom 3:25) Entering into the Kingdom is not called "Living again." It is called being "Born again." There is a difference. Birth is not an ending, or the entirety of the new experience as a Christian – it is the beginning.

After this we have the obligation (not merely a suggestion) to grow and mature in preparation for the world to come. A verse rarely quoted in the incomplete and depowered versions of Christianity is found here: "Therefore leaving the principles of the doctrine of Christ, let us go on unto perfection; not laying again the foundation of repentance from dead works, and of faith toward God." (Heb 6:1) We are told to go on unto "perfection," the very instruction Christ gave to His hearers during the Sermon on the Mount, (Mat 5:48) and the explanation Paul gives of Christian development. (Phil 3:15)

Without going into the grace vs. works doctrines as deeply as we have in other CSDA studies, the "work" that is left to human beings as they "endureth to the end" (Mat 10:22) may be explained in terms of two forces: The Force of Will and The Force of Memory.

The Force of Will is what allows us to begin the journey, to be born again, to be redeemed. It is the ability we have (because of grace) to make the choice despite being "dead in trespasses and sins" (Eph 2:1) to serve Yahweh. Joshua said to the people of Israel: "And if it seem evil unto you to serve Yahweh, choose you this day whom ye will serve; whether the gods which your fathers served that were on the other side of the flood, or the gods of the Amorites, in whose land ye dwell: but as for me and my house, we will serve Yahweh." (Josh 24:15) Despite what some versions of Christianity think about the "illusion of free will," the fact of the matter is that *every* book of the Canonical Scriptures offers (either obviously or implicitly) an opportunity for readers to choose to serve the Almighty.

Ellen White speaks of the Force of Will: "Pure religion has to do with the will. The will is the governing power in the nature of man, bringing all the other faculties under its sway. The will is not the taste or the inclination, but it is the deciding power which works in the children of men unto obedience to God or unto disobedience." [The Faith I Live By, page 154] It needs to be pointed out, and carefully explained, that this concept does not put the true power into the hands or minds of men. The power to decide comes from Yahweh, and it is only in His strength that we can choose to do the right. In essence, the "power" that humans possess to make righteous decisions is a gift from Yah, the true source of Power.

A sanctified will is what allows agreement with statements such as this: "Resolve, not in your own strength, but in the strength and grace given of God, that you will consecrate to Him now, just now, every power, every ability. You will then follow Jesus because He bids you, and you will not ask where, or what reward will be given." [God's Amazing Grace, page 37]

The Force of Will is what allows us to begin our journey in the Christian life (although it is not the only time and place it is to be applied). But the Force of Memory is what *keeps* us on that path we have chosen. Christ tells us, "Remember the word that I said unto you, 'The servant is not greater than his lord. If they have persecuted me, they will also persecute you.'" (John 15:20a) The Bible says of the last generation of saints also, "And when the dragon saw that he was cast unto the earth, he persecuted the woman which brought forth the man child." (Rev 12:13) "The morning is come unto thee, O thou that dwellest in the land: the time is come, the day of trouble is near, and not the sounding again of the mountains." (Ezek 7:7)

The life of the Christian is not, in this earth, to be an easy one. It is a joyful one, and a restful one on the spirit, but we are aware that the enemies of our Father become our enemies also. In looking at the verses that speak of the time of trouble we expect through the Image of The Beast – through the union of apostate Christianity and civil power – there may be a temptation to fear. And yet, if we read through those verses that

speak of the time of trouble, Yahweh is careful ever to remind us of His promises:

"Alas! for that day is great, so that none is like it; it is even the time of Jacob's trouble; but he shall be saved out of it." (Jer 30:7)

"For in the time of trouble He shall hide me in His pavilion; in the secret of His tabernacle shall He hide me; He shall set me up upon a rock." (Psa 27:5)

"But the salvation of the righteous is of Yahweh; He is their strength in the time of trouble." (Psa 37:39)

"O Yahweh, be gracious unto us; we have waited for thee. Be thou their arm every morning, our salvation also in the time of trouble." (Isa 33:2)

In this last generation, the CSDA Church teaches that the Trademark Law formed through the union of the mainstream SDA Church's corporation and the United States civil government constitutes a final test of the people of Yahweh. It is a test of their loyalty to the instructions of Heaven. It is a test of their spiritual sensitivity. It is a test of their commitment to keeping the Sabbath in both letter and spirit. It is a test of their understanding of prophecy. It is a test of their adherence to the teachings of the Three Angels of Revelation 14, and in particular the Third Angel that is leading a united people through the valley of the shadow of death.

Those who are on the outside of the mainstream church are tempted with fear for the persecution that is upon them.

Those that are inside the mainstream church are tempted with the Laodicean tendency to do nothing when the facts are presented before them. They are taught that a National Sunday Law will arise to restrict their religious liberty, yet when they are told that a law for which they are corporately responsible is now, just now, attempting to strip other commandment-keeping Christians of their religious liberty... this is when their true characters are revealed in those who abide by the Messiah's "Golden Rule," and those who are not followers of Christ at all, "for this is the law and the prophets." (Mat 7:12)

Those that are neither SDAs nor CSDAs are tested on their ability to see the leading of the Spirit of God. They see the attacks made by one supposedly Christian organization against a small group of believers, for this is the prophecy of Scripture. This small group does not "desire" persecution, but it knows the statements of Christ, and is seeking the blessing in even this. The question the spiritually alert must ask themselves is, "Why?" There is no legitimate legal, monetary or even reputation-based reason for the attacks... the answer can only be spiritual in nature. The right questions, inspired by the leadings of the Holy Spirit, will lead to the right answers in this test of the relative "outsiders" to this issue.

The Force of Memory is what keeps those who are enduring these tests on the right path. We remember the way that Yahweh has protected His people in times of trouble.

We remember the way that Yahweh leads His people out of apostasy and unions with civil government to a pure and holy Woman. We remember the way that Yahweh has used even the seemingly insignificant events to affect great changes in human history.

We remember that Yahweh has always had a people, a single and united people, who have been charged with doing His will in the earth. This does not mean that there are no sincere or devoted followers of Christ in other organizations, but it is the work of the Holy Spirit to awaken in the minds of such individuals the knowledge that a religious organization is not always the same as a Church, an *Ekklesia*. The Church of Christ is, according to the definition of the word, both a "called out" people (from error and darkness) and a "called together" people in a public assembly.

The Force of Memory reminds us that Yahweh is able to do miracles for the deliverance of His people, and this gives us peace in times of trouble. We also know that His deliverance is *perfectly* timed, which is not always to say "timed as we would like." Paul had to endure several disadvantages, and for two different reasons. He said, "And lest I should be exalted above measure through the abundance of the revelations, there was given to me a thorn in the flesh, the messenger of Satan to buffet me, lest I should be exalted above measure. For this thing I besought the Lord thrice, that it might depart from me. And He said unto me, 'My grace is sufficient for thee: for my strength is made perfect in weakness.' Most gladly therefore will I rather glory in my infirmities, that the power of Christ may rest upon me." (2Cor 12:7-9)

And of another event Paul writes, "For I am in a strait betwixt two, having a desire to depart, and to be with Christ; which is far better. Nevertheless to abide in the flesh is more needful for you. And having this confidence, I know that I shall abide and continue with you all for your furtherance and joy of faith; that your rejoicing may be more abundant in Jesus Christ for me by my coming to you again." (Phil 1:23-26)

Thus, while we remember that Yahweh is able to "speedily" deliver His people, (Luke 18:8) we find that there are two reasons why this deliverance may be delayed. First, it is often of benefit to us that we endure trial, "That the trial of your faith, being much more precious than of gold that perisheth, though it be tried with fire, might be found unto praise and honour and glory at the appearing of Yahshua the Messiah." (1Pet 1:7) Second, it is often of benefit to others that they witness our endurance, our persecution, and our final triumph through faith.

But whether we are dealing with temptations to fear persecution, or the persecution itself, it is the memory of Yahweh's love for us, and deliverance of His people, and the patience we are being trained to manifest, that allows us to rely entirely upon Him, and thus to stand fast in the promises we have been given; and "Let us hold fast the profession of our faith without wavering; for He is faithful that promised." (Heb 10:23)

- D.P. Aguilar

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

GENERAL CONFERENCE CORPORATION	)		
OF SEVENTH-DAY ADVENTISTS and	)		
GENERAL CONFERENCE OF SEVENTH-DAY	)		
ADVENTISTS, an Unincorporated Association,	)		
Plaintiffs,		)	
v.		)	Case No. 1:06-cv-01207
WALTER McGILL, d/b/a CREATION SEVENTH DAY ADVENTIST CHURCH,	)	,	
et al.,		)	
Defendants.		)	

#### [PROPOSED] ORDER OF CONTEMPT AND SANCTIONS

This matter is before the Court on Plaintiffs', General Conference Corporation of Seventh-day Adventists and General Conference of Seventh-day Adventists' ("Plaintiffs"), Renewed Motion and Memorandum for Order to Show Cause (D.E. No. 105) and the September 3, 2009 Order of Reference. (D.E. No. 106) Upon consideration of the Plaintiffs' Motion and Memoranda, and arguments of counsel at the hearing held by this Court on November 5, 2009, and the entire record in this matter, it appears to the Court that Plaintiffs' motion is well taken and should be GRANTED.

#### PROCEDURAL BACKGROUND

As a result of the Defendant's repeated refusal to participate in a Court ordered mediation conference, and in accordance with Rules 16(f) and 37(b)(2)(A)(ii) –(vii), Fed.R.Civ.P, Plaintiffs filed a Motion for Sanctions and Permanent Injunctive Relief ("Motion for Sanctions"), requesting that this Court sanction Defendant for his actions, including the sanctions of the entry of default judgment as well as permanent injunctive relief against Defendant. (D.E. No. 85)

On April 16, 2009, a Report and Recommendation (the "R&R") was entered recommending that Plaintiffs' Motion for Sanctions be granted, and that a permanent injunction be issued. (D.E. No. 94) The Defendant filed an objection to the R&R, and the Plaintiffs filed a limited exception. After considering the parties' positions, on May 28, 2009, this Court entered its Injunction Order, therein adopting the R&R in full, including its recommendation that a permanent injunction be issued against the Defendant. (D.E. No. 98)(the "Injunction Order").

Defendant was duly notified of and served with a copy of the Injunction Order, evidenced by the fact that he filed a Notice of Appeal to the Sixth Circuit Court of Appeals (D.E. 99), as well as a Motion to Stay Injunction pending Defendant's appeal. (D.E. No. 100)

On June 30, 2009, Plaintiffs filed a Motion for Order to Show Cause (D.E. No. 102) due to Defendant's failure to comply with the Injunction entered by this Court on May 28, 2009 (D.E. No. 98). Due to the pendency of Defendant's Motion to Stay Injunction Pending Appeal, the Court denied without prejudice the Plaintiffs' Show Cause Motion. The Court noted, however, the seriousness of the assertions, that the Injunction Order must be complied with henceforth, and the consequences of continued noncompliance. (Order dated Aug. 5, 2009, D.E. No. 103)

In response to the Court's Order of August 5, 2009, Plaintiffs' counsel requested that the Defendant comply with the prohibitions and requirements placed upon him through the Court's Orders and the Injunction. (*See* D.E. No. 105, Exhibit 1, 8/7/09 email from Galanter to Holliday). In that regard, among the other requirements of the Injunction, it was requested that the Defendant promptly cease using numerous violative domain names and websites, that Defendant remove all violative signage and other promotional materials, and that the sworn compliance statement be filed within 20 days of the Court's August 5, 2009 Order. (<u>Id.</u>) Later that day, Defendant himself responded to that email. (<u>Id.</u>, email from Defendant to Holliday) By that email, Defendant suggested that he would continue to violate the Injunction Order and August 5, 2009 Order and further suggested a belief that some of his activities and websites were beyond the Court's jurisdictional reach. (Id.)

In response, Plaintiffs subsequently filed their Renewed Motion and Memorandum for Order to Show Cause. (D.E. No. 105) By Docket Entry dated October 20, 2009 this Motion was set for hearing on November 5, 2009. Although Defendant had the opportunity to show cause as to why he should not be held in contempt of court for his failure to abide by the Court's Injunction by either a written response to the original or renewed motion, or by appearing at the hearing held on November 5, 2009, Defendant did not file any written response or appear at the hearing. Instead, Defendant's counsel appeared alone at this hearing, without his client, and offered a general objection to a finding of contempt.

#### ANALYSIS

#### A. Standard for Civil Contempt

A decision on a motion for contempt lies within the sound discretion of the court. See Electrical Workers Pension Trust Fund of Local Union #58 v. Gary's Elec. Serv., 340 F.3d 373, 378 (6<sup>th</sup> Cir. 2003). The contempt power "is a necessary and integral part of the independence of the judiciary, and is absolutely essential to the performance of the duties imposed" by law. <u>Id.</u> (quoting Gompers v. Buck's Stove & Range Co., 221 U.S. 418, 450 (1911). Contempt proceedings are used to enforce the message that court orders are not to be taken lightly, but rather are to be complied with in a prompt manner. <u>Id.</u>

In civil contempt proceedings, judicial sanctions may be imposed for either or both of two purposes: (1) to coerce the defendant into compliance with the court's order; and (2) to compensate the movant for the losses sustained. <u>Id.</u> at 379 (*citing* United States v. United Mine Workers of America, 330 U.S. 258, 303-04 (1947)).

To establish a *prima facie* case of contempt, the movant must produce clear and convincing evidence to show a violation of a definite and specific order of which that party had knowledge, and which directed that party to perform or refrain from performing a particular act or acts. <u>Id.</u>, (*citing* <u>NLRB v. Cincinnati Bronze, Inc.</u>, 829 F.2d 585, 588 (6<sup>th</sup> Cir. 1987)). Once the movant establishes his prima facie case, the burden shifts to the contemnor to show why he is unable to comply with the court's order. <u>Id.</u> To meet this burden in the Sixth Circuit, the party charged with contempt must show "categorically and in detail" why they are unable to comply with the Court's order. <u>Id.</u> (quoting <u>Rolex Watch U.S.A., Inc. v. Crowley</u>, 74 F.3d 716, 720 (6<sup>th</sup> Cir. 1996). The court must then consider whether the party charged with contempt took all reasonable steps within their power to comply with the court's order. <u>Id.</u>, at 383.

#### B. <u>Defendant Is In Contempt for His Failure to Comply with the Injunction Order</u>

The Permanent Injunction entered by this Court on May 28, 2009, orders as follows:

Defendant and his agents, servants and employees, and all those persons in active concert or participation with them, should be forever enjoined from using the mark SEVENTH-DAY ADVENTIST, including the use of the words SEVENTH-DAY or ADVENTIST, or the acronym SDA, either together, apart, or as part of, or in combination with any other words, phrases, acronyms or designs, or any mark similar thereto or likely to cause confusion therewith, in the sale, offering for sale, distribution, promotion, provision or advertising of any products and services, and including on the Internet, in any domain name, key words, metatags, links, and any other use for the purpose of directing Internet traffic, at any locality in the United States. Subject to the foregoing, Defendant may use these terms in a non-trademark sense, such as oral or written use of the marks to refer to the Plaintiffs, or oral or written use of certain terms in a non-trademark descriptive sense, such as "this Church honors the Sabbath on the 'seventh day,'" or "the members of this church believe in the 'advent' of Christ."

As it pertains to all labels, signs, packages, wrappers, receptacles, and advertisements bearing the SEVENTH-DAY ADVENTIST mark, or bearing the words SEVENTH-DAY or ADVENTIST, or the acronym SDA, either together, apart, or as part of, or in combination with any other words, phrases, acronyms or designs, or any mark similar thereto or likely to cause confusion therewith, and all plates, molds, matrices, and other means of making the same (collectively, "Defendant's Infringing Articles"), Defendant shall either:" (1) deliver Defendant's Infringing Articles to Plaintiffs' attorney within twenty (20) days after issuance of the Order, to be impounded or permanently disposed of by Plaintiffs; or (2) permanently dispose of Defendant's Infringing Articles himself within twenty (20) days of this Order, certifying in writing and under oath that he has personally complied with this Order.

Regardless of the manner of disposal of Defendant's Infringing Articles, Defendant shall file with the Clerk of this Court and serve on Plaintiffs, within twenty (20) days after issuance of this Order, a report in writing, under oath, setting forth in detail the manner and form in which Defendant has complied with the forgoing injunction.

(D.E. No. 98, pp. 12-13)

It is undisputed that Defendant has knowledge of the existence and terms of the Injunction Order. It is also undisputed that Defendant has wholly failed to comply with the terms of the Injunction Order in that he has: (1) continued to use the mark SEVENTH-DAY ADVENTIST, including the use of the words SEVENTH-DAY and ADVENTIST, and the acronym SDA, either together, apart, or as part of, or in combination with other words, phrases, acronyms or designs, in the sale, offering for sale, distribution, promotion, provision or advertising of products and services, including on the Internet in domain names; (2) failed to either (i) deliver Defendant's Infringing Articles to Plaintiffs' attorney, or (ii) permanently dispose of Defendant's Infringing Articles himself, and certify in writing and under oath that he has personally complied with this order; and (3) failed to file with the Clerk of this Court and serve on Plaintiffs, a report in writing, under oath, setting forth in detail the manner and form in which Defendant has complied with the terms of the Permanent Injunction.

Defendant, however, has not stopped there. Since the entry of the injunction, Defendant has publicized his failure to comply on at least one of his websites, and has taken affirmative actions to violate the Injunction Order.

In this regard, Defendant has posted an "Update" on his <www.creationseventhdayadventistchurch.ca> website that states that:

**Update 05/27/09:** An injunction is issued by judge Daniel Breen enjoining the Church from using the names Seventh-day Adventist, Seventh-day, Adventist, or the acronym SDA with an order to submit a sworn notice of compliance to the Court by June 17, 2009. No compliance report was filed.

(See, D.E. 102, Exhibit 1, p. 9)

Additionally, it is uncontested that after it became apparent that Defendant was not going to comply with the Injunction Order, Plaintiffs, through counsel, began discussions with the website hosts and domain name registrars for Defendant's numerous websites. In response to these efforts, several of Defendant's websites were taken off of the Internet and the domain names were "locked" by the website hosts and domain name registrars. However, in response to this, Defendant actively began "redirecting" his prohibited domain names to other websites and domain names that had yet to be taken down and/or disabled by these third parties. (See, Id. Exhibit 2) By doing this, Defendant was actively violating the injunction.

In view of the foregoing, the Court finds by clear and convincing evidence that Defendant has and continues to willfully disobey a valid order of this Court and is therefore in Contempt of this Court.

#### C. Sanctions and Other Relief

#### 1. Award of Attorneys' Fees and Costs

It is well established that upon a finding of contempt, a court has broad discretion in assessing sanctions to protect the sanctity of its decrees and the legal process, including allowing a movant to recover attorneys' fees and expenses incurred in prosecuting a contempt motion. see, Board of Supervisors of The Louisiana State University v. Smack Apparel Co., 574 F.Supp.2d 601 (E.D.La. 2008); See also, Premium Nutritional Products, Inc. v. DuCote, 571 F.Supp.2d 1216, 1220 (D.Kan. 2008). Plaintiffs have incurred attorneys' fees and costs in the amount of \$35,567.00 seeking compliance with the Injunction Order and this Order of Contempt, for which they should be compensated. (See, D.E. No. 110, Notice of Filing Galanter Dec'l in Support of Fee Request) Accordingly, as a sanction against Defendant, Plaintiffs are hereby awarded and Defendant is Ordered to pay to Plaintiffs \$35,567.00.

#### 2. Remedies Related to Ongoing Internet Violations

Defendant continues to violate the injunction on the Internet through the use of domain names that violate the Injunction and/or websites that contain content that violates the Injunction. (*See* D.E. No. 105, Exhibit 1, 8/7/09 email from Galanter to Holliday) Further, Defendant has indicated that he intends to continue to violate the Injunction in this way. (*See* Id., email from Defendant to Holliday)

Defendant has asserted that some of these domain names and websites may be registered, hosted, and or operated outside of the United States and are thus beyond its jurisdiction. While this Court's Jurisdiction beyond the territorial borders of the United States is certainly limited, its jurisdiction over the Defendant is not similarly restricted. "It is a familiar rule of Anglo-American law that once a court has obtained personal jurisdiction over a defendant, the court has power to command the defendant to do or not to do acts outside the territorial jurisdiction of the court." McCarthy on Trademarks §30:15 (*citing*, in pertinent part, New Jersey v. New York, 283 U.S. 473, 75 L. Ed. 1176, 51 S. Ct. 519 (1931).

Additionally, at the hearing held on Plaintiffs' Motion, Defendant's counsel suggested that certain of the violative domain names and websites may be registered and/or operated by individuals other than the Defendant. In this event, it is likely that such individuals are also violating the terms of the Injunction Order as it expressly applies to "Defendant and his agents, servants and employees, and all those persons in active concert or participation with them[.]" (See D.E. No. 98 and Fed.R.Civ.P. 65(d)(2)).

Accordingly, the Plaintiffs requested at the hearing that they be allowed to conduct limited discovery in order to determine the extent of Defendant's violation of the Injunction, including third party discovery to ascertain the identities of and/or the extent to which Defendant's agents, servants, employees, and those persons in active concert or participation with them have assisted Defendant in violating the Permanent Injunction.

The scope of discovery is within the sound discretion of the trial court. Chrysler Corp. v. Fedders Corp., 643 F.2d 1229, 1240 (6<sup>th</sup> Cir. 1981). Further, this Court's authority to enforce its orders through the contempt process includes the authority to allow discovery of Defendant and those persons in active concert or participation with Defendant as it relates to continued violations of the Injunction Order. See, Palmer v. Rice, 231 F.R.D. 21 (D.D.C. 2005) (granting plaintiff's request to take discovery in aid of enforcement of 10-year old permanent injunction); see also, E. & J. Gallo Winery v. Andina Licores S.A., 2007 WL 333386 (E.D. Cal. 2007) (holding that court retained jurisdiction to implement and enforce permanent injunction, including by way of post-judgment discovery related thereto, and allowing plaintiff to conduct post-judgment discovery directed to compliance with and enforcement of permanent injunction).

Accordingly, the Court finds that ascertaining the identities of those persons acting on behalf of or in concert with the Defendant, as well as the extent to which those persons have assisted Defendant, will help this Court with enforcement of its Injunction Order. Accordingly, this Court finds that limited discovery is appropriate and Plaintiffs shall be permitted to take reasonable discovery of Defendant and/or third parties concerning the identity of those acting in concert with Defendant and the extent and methods by which Defendant and those acting in concert with him are continuing to violate the terms of the Injunction Order.

Finally, it is uncontested that since the entry of the Injunction Order the creation and use of domain names and websites that are violative of the Injunction has proliferated. It is also not contested that such actions have been carried out by Defendant and/or individuals acting in concert with him. These domain names and the websites found at such domain names have been as identified as follows:

www.creationseventhdayadventistchurch.ca

www.csdadventistchurch.co.cc

www.csdachurch.co.cc/

www.csdachurch.0adz.com

www.creationsdadventistrelief.to

www.csda-adventistchurch.to

www.creationsdadventistrelief.to

www.adventistry.org

www.creationseventhdayadventist.org.rw

www.creationsdarelief.0adz.com

www.seventhdayadventistsda-v-creation7thdayadventistcsda-uslawsuit.net

www.seventhdayadventism.org

www.7thdayadventism.org/

www.whypastorwaltermcgillisnotaffiliatedwithgcsdaadventistchurch.net

www.csdachurch.wordpress.com

www.csda-korea.org

www.creationseventhdayadventistreliefprojectsint.ltd.ug

www.seventhdayadventistchurchfoundwanting.us

www.home.comcast.net/~7thdayadventist

www.home.comcast.net/~csdachurch

www.home.comcast.net/~creationsda

www.home.comcast.net/~creation-adventist

www.binaryangel.net

www.thefourthangel.net

www.home.comcast.net/~creation-sabbath

www.home.comcast.net/~barbara lim

www.home.comcast.net/~crmin

(See D.E. No. 105, Exhibit 1, 8/7/09 email from Galanter to Holliday)

Accordingly, in addition to the more general prohibitions contained in the Injunction Order, it is Ordered that these domain names and the websites found at the domain names are also violative of the Injunction Order and that all persons acting in concert with Defendant, including any website hosting companies and domain name registrars, are hereby enjoined from using or enabling the use of such domain names and websites.

#### 3. Remedies Related to Defendant's Signage and other Promotional Material

It is also uncontested that Defendant has failed to either (i) deliver Defendant's Infringing Articles to Plaintiffs' attorney, or (ii) permanently dispose of Defendant's Infringing Articles himself, and certify in writing and under oath that he has personally complied with this order. Defendant has also failed to file a report in writing, under oath, setting forth in detail the manner and form in which Defendant has complied with the terms of the Permanent Injunction. Accordingly, due to Defendant's failure to act and to take down and/or dispose of signage and other promotional materials that are violative of the injunction, the Court hereby Orders that such materials be seized for destruction by the United States Marshal. The United States Marshal of this District is directed to take all appropriate steps to ensure that this order is executed. *See*, 28 U.S.C. § 566(c) and 15 U.S.C. § 1118; *see also* Kabushiki Kaisha Hattori Seiko v. Star Mart, 1985 WL 1142 \*2 (N.D.III. April 30, 1985)(directing United States Marshal to seize for destruction pursuant to 15 U.S.C. § 1118, all labels, signs, prints, packages, wrappers, receptacles, brochures and advertisements, in the possession, custody or control of the Defendants, bearing the infringed trademark). In accordance with 28 U.S.C. § 566(c), the United States Marshal shall command all necessary assistance to execute this order and the costs of such services shall be presented to the Court for further Order directing their payment by Defendant. Plaintiffs' counsel shall accompany the United States Marshal in executing this Order in case questions arise during the execution. *See*, www.usmarshals.gov/process/attachment.htm. Additionally, at his discretion, Defendant's counsel may also accompany the United States Marshal in executing this Order.

#### 4. <u>Civil Commitment</u>

Fed.R.Civ.P. 4.1(b) provides in relevant part that: "An order of civil commitment of a person held to be in contempt of a decree or injunction issued to enforce the laws of the United States may be served and enforced in any district." An order of civil commitment is entirely appropriate here. *See*, Federal Trade Commission v. Verity International, Ltd., 140 F.Supp.2d 313, 318-19 (S.D.N.Y. 2001)(holding individuals in contempt of court and sanctioning such individuals with an order of civil commitment with arrest to be carried out whenever contemnors returned to the United States and their incarceration pending their full and complete compliance with the Court's injunction). As in Verity International, the contempt of Defendant is deliberate, calculated and willful. Similarly, while Defendant, like the contemnors in Verity International, may be able to remain outside the country for a long period in order to avoid arrest, it is likely that this order will give Defendant an incentive to comply with the Court's order. *See*, Id. at 318, see also Electrical Workers Pension Trust Fund of Local Union #58 v. Gary's Elec. Serv., 340 F.3d 373, 379 (6<sup>th</sup> Cir. 2003) (holding that judicial sanctions may be imposed in civil contempt proceedings to coerce the defendant into compliance with the court's order).

Accordingly, the Court hereby Orders the arrest of Defendant, wherever he may be found within the jurisdiction of the United States, and his incarceration in this District pending his full and complete compliance with the Injunction Order. This Court will release him upon his full and complete compliance with the Injunction Order. The United States Marshal of this District is directed to take all appropriate steps to ensure that this order of arrest and civil commitment is executed wherever Defendant may be found within the United States or its territories, including appropriate notification of the United States Customs Service. *See*, <u>Id.</u> at 319 and 28 U.S.C. § 566(c).

IT IS SO ORDERED.	
	HON. EDWARD G. BRYANT U.S. DISTRICT COURT MAGISTRATE JUDGE

<sup>1.</sup> This Order applies to signage and other promotional materials that contain words, phrases and or acronyms prohibited by the Injunction Order, and which may be found at 1162 Old Highway 45 South, Guys, Tennessee, which is the location of Defendant's "Creation Seventh Day Adventist Church," and 1321 Hwy 72 East, Suite #6, which is the location of Defendant's "Help 4-U" office. At the November 5, 2009 Hearing, Plaintiffs' counsel presented to the Court photographs taken on November 4, 2009, depicting, in part, the violative signage at these locations.

### BIBLE QUESTIONS ANSWERED

#### Q) Do you believe in Predestination?

A) That depends on what is meant by the term "Predestination." The Bible, of course, says that some have been "predestinated according to the purpose of him who worketh all things after the counsel of his own will." (Eph 1:11) The ones who have been predestined for Heaven are called "the very elect." (Matt 24:24) The only question is... is this selection process arbitrary? Some say it is. Some read the following verse in support of that: "As it is written, 'Jacob have I loved, but Esau have I hated,' What shall we say then? Is there unrighteousness with God? God forbid. For he saith to Moses, 'I will have mercy on whom I will have mercy, and I will have compassion on whom I will have compassion.' So then it is not of him that willeth, nor of him that runneth, but of God that sheweth mercy." (Rom 9:13-16)

Those who take this to mean there is an arbitrary (from the human point of view) selection of those to whom God shows mercy have neglected the intent of Romans 9. This chapter is not speaking of salvation, but of the choice of the Almighty of which of the two brothers, Esau and Jacob, would serve Him (Rom 9:12). Both boys had an opportunity to find eternal life, as many other verses say. Yahweh is "not willing that any should perish," that is to say, He does not "will" anyone to heaven or Hell. The Bible clearly tells us, "For whom He did foreknow, He also did predestinate to be conformed to the image of His Son, that He might be the Firstborn among many brethren." (Rom 8:29)

A careful reader of the Scriptures will notice that whenever this matter is spoken of, it is typically with limited application. In other words, the author is generally using it as an example of, for instance, why Yahweh chose Israel to be His people, and why they were given benefits while other groups were left out. It is never used of individuals when speaking of salvation (though Esau and Jacob were used as examples of their respective nations). Romans 8:29 speaks of individuals, saying that those who are chosen are those whom Yahweh foreknows. Being all-knowing, of course the Almighty is aware of who will be with Him in eternity - but, He Himself does not "cause" this. Some have a hard time understanding how there can be true freedom, if God is "Sovereign." One person with whom I spoke told me that if human beings are truly free, this "limits" God, because it takes away from His ability to control all the universe.

The truth is, the fact that God can create beings that are truly free is evidence of His limitless power, because all human beings can do is create things that follow orders (sometimes badly). But Yahweh not only created man, He made him "in His image," (Gen 1:26) and ensured that He would have true, moral responsibility. This is why every Book of the Bible requires man to make a moral choice. The fact that Yahweh "foreknows" the future does not limit man's freedom, because He has not revealed His counsel to humanity. We must still choose between life and death.

The ultimate proof comes in the words of one of the apostles, for Peter gives us this "ladder to life," if you will. He writes, "[By God's divine power] are given unto us exceeding great and precious promises: that by these ye might be partakers of the divine nature, having escaped the corruption that is in the world through lust. And beside this, giving all diligence, add to your faith virtue; and to virtue knowledge; and to knowledge temperance; and to temperance patience; and to patience godliness; and to godliness brotherly kindness; and to brotherly kindness charity. For if these things be in you, and abound, they make you that ye shall neither be barren nor unfruitful in the knowledge of our Lord Jesus Christ. But he that lacketh these things is blind, and cannot see afar off, and hath forgotten that he was purged from his old sins.

Wherefore the rather, brethren, give diligence to make your calling and election sure; for if ye do these things, ye shall never fall." (2Peter 1:4-10) There is a calling; there is an "election of grace;" there is a "predestination" in the limitless wisdom of the Father, but Yahweh does not force anyone either into His Kingdom or into the fires of destruction. Through Christ, the Creator "ministers" unto us a way to attain His salvation, (1Pet 4:11) and encourages us, in every book of the Canon, to use our freedom to choose Him. (Josh 24:15)

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