

## **TIME FOR ECCLESIASTICAL OVERSIGHT OF CTX ROSTERED CHURCH WORKERS**

### **I. Introduction**

1.1 The lawsuit that the Lutheran Church - Missouri Synod (LCMS) filed against Concordia University - Texas (CTX), CTX President Don Christian (Christian), and CTX Board of Regents (BOD) chairman Christopher Bannwolf (Bannwolf) on September 1, 2023 in federal court in Austin, Texas continues unabated. Seven months have passed. Several truths stand out. The top CTX administrators and a majority of its Board of Regents (BOR) defy the will of the Milwaukee convention and its overwhelming approval of Resolution 7-03 on August 1, 2023. This lawsuit, and a new lawsuit that the CTX BOR brought against the LCMS in a Texas state court, will generate astronomical attorneys fee costs for both sides. Those members of the BOR who are ordained ministers and commissioned ministers who continue to support the change of governance are involved in ongoing egregious violations of the LCMS Constitution, Article XIII, 1, and Bylaws.

1.2 The CTX regents who are ordained ministers and commissioned ministers who voted to change CTX governance on November 8, 2022 and subsequently affirmed that decision on April 4, 2023; who rejected the entreaties of the President and BOD of Synod and Concordia University System BOD to reverse their illegal actions; and who rejected the Synodical Convention's approval of Resolution 7-03 should be subject to prompt disciplinary action, without delay, to include suspension and expulsion from Synod.

1.3 Since the passage of Resolution 7-03 on August 1, 2023, this writer is not aware that any then-member of the CTX BOR has resigned in opposition to the CTX BOR decision to separate from the LCMS. Instead, the BOR has refused to seat the four regents the convention elected on August 2, 2023.

## II. Overview of LCMS and CTX Lawsuits

2.1 The LCMS filed its initial lawsuit in an Austin, Texas federal district court on September 1, 2023.<sup>1</sup> CTX, Christian, and Bannwolf filed their initial response to this lawsuit on January 23, 2024. CTX, Christian, and Bannwolf are collectively referred to in this paper as the CTX Defendants. The CTX Defendants asked the Court to dismiss the LCMS lawsuit claiming that the LCMS is only the Missouri nonprofit corporation formed by the Lutheran Church - Missouri Synod or the "Synod". The CTX defendants claim that the Synod is actually an "unincorporated association with members throughout the United States, including Texas . . .". CTX claims that Synod is the real party in interest and so is an "indispensable party that must be joined"; that is, the LCMS must join the members of Synod as plaintiffs in the lawsuit.

2.2 The CTX defendants then expand their definition of the Synod by stating that Synod is a "union of independent Lutheran congregations . . . composed of nearly 6000 congregations and nearly 2 million baptized members." The members of Synod include "congregations and individual ordained ministers. Synod divides its member congregations into districts, including a Texas District . . .".<sup>2</sup>

2.3 On January 19, 2024, CTX filed a new separate lawsuit in a Texas state district court in Travis County, Texas. This new lawsuit was essentially the reverse of the lawsuit that the LCMS had filed in federal court.<sup>3</sup> CTX expands upon its description of The Lutheran Church - Missouri Synod by stating that it is an "unincorporated association of Lutheran Congregations with members in Travis County, Texas, and other counties throughout the state of Texas ("Synod").

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<sup>1</sup> This lawsuit is identified as The Lutheran Church - Missouri Synod, a Missouri Nonprofit Corporation, Plaintiff, v. Donald Christian, Christopher Bannwolf, Concordia University Texas, Inc., & John Does 1-12; Case No. 1:23-cv-1042-RP; U.S. District Court, Western District of Texas, Austin Division. This original lawsuit will be referred to as the LCMS federal lawsuit.

<sup>2</sup> LCMS lawsuit, Defendants' Motion To Dismiss For Lack of Subject Matter Jurisdiction And Failure To Join Indispensable Parties, filed January 22, 2024, paragraphs 6 and 7.

<sup>3</sup> See Plaintiff's Original Petition, Case No. D-1-GN-24-000358; Concordia University Texas, Plaintiff, v. The Lutheran Church - Missouri Synod, An Unincorporated Association Of Lutheran Congregations, And The Lutheran Church - Missouri Synod, A Missouri Corporation, Defendants. This case will be referred to as the CTX Texas lawsuit.

2.4 The strategy that CTX has adopted by adding Synod as an unincorporated association is stunning, bizarre, and self-incriminating. The CTX Defendants, by stating that Synod is an unincorporated association of congregations and ordained ministers who are indispensable parties, is seemingly challenging the LCMS to join all Texas ordained ministers, congregations, and the Texas District itself as plaintiffs in the federal lawsuit. The logical extension of the CTX characterization of Synod in its Texas state lawsuit is, arguably, to challenge the Texas District, and Texas ministers and congregations, to intervene in the lawsuit to contest CTX's change of governance if those ministers and congregations believe that the change of governance violated the LCMS's rights as to CTX.

2.5 The LCMS has contested CTX's characterization of it as an unincorporated association. Dr. John Sias, secretary of the LCMS, took issue with the CTX in a sworn declaration filed in the LCMS federal lawsuit:

In the Petition, the Plaintiff asserts claims against LCMS and a previously unknown and in fact Plaintiff-created, fictitious entity called "The Lutheran Church - Missouri Synod, an unincorporated association of Lutheran congregations," which appears to be the Plaintiff's attempt at recasting and transforming the ecclesiastical denomination named the Lutheran Church - Missouri Synod (the "Synod") into a separate civil law entity, alongside the actual civil law entity the Synod has definitively established for itself in LCMS, the eponymous Missouri nonprofit corporation.<sup>4</sup>

2.6 The LCMS also indicates that it will identify, name, and serve as additional defendants in the LCMS federal lawsuits the regents on the CTX BOR who voted to amend the CTX Charter, bylaws and policy manual in 2022. At that time, regents included three ordained ministers, including president of the Texas District Michael Newman, and two commissioned ministers.<sup>5</sup>

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<sup>4</sup> Declaration of Rev. Dr. John W. Sias, paragraph 4, attached as Exhibit A to Advisory To The Court, filed February 26, 2024 in LCMS federal lawsuit.

<sup>5</sup> Plaintiff's First Amended Complaint, page two, paragraph five, filed on February 29, 2024 in LCMS federal lawsuit. See CTX website (Concordia.edu), "President's Office" tab.

2.7 The CTX BOR voted to change its governance on November 8, 2022 and affirmed this decision on April 4, 2023. It is noteworthy that the individual votes of each regent, voting for or against, have never been publicly released. Why not? If the regents who voted the governance change, as fiduciaries, are convinced of the rectitude of their votes, public disclosure should have been obvious. "All you need to say is simply 'Yes' or 'No'; anything beyond this comes from the evil one." Matthew 5:37 (NIV).

2.8 There is another basic issue that the CTX BOR has never explained. What did the LCMS do to harm CTX? Dr. Christian had an opportunity during the debate on Resolution 7-03 at the Convention on August 1, 2023 to explain. He did not mention a single, obvious wrong that the LCMS had perpetuated against CTX. The most obvious action that the CTX BOR could have taken would have been to prepare and submit to the 68<sup>th</sup> regular convention a detailed overture that requested the convention to change Synodical bylaws and grant to CTX what the regents did illegally on November 8, 2022.

### III. Issues Confronting Texas District

3.1 The two pending lawsuits, especially the federal lawsuit, may continue for years. Why do the CTX regents, all members of LCMS congregations in the Texas District, continue to betray us by violating the democratic, overwhelmingly majority vote of the Convention supporting Resolution 7-03? Texas District officials, both administrators and directors, certainly expect Synod officials, the two seminaries, and Synod agencies to support the work of the Texas District. Speaking for myself as a director and voting delegate to the recent convention, I have a duty to support the implementation of Resolution 7-03.<sup>6</sup>

3.2 Texas District President Michael Newman continues to serve on the CTX BOR. Why? He does so under the authority of Synodical Bylaw 3.10.6.2, 4.<sup>7</sup> Why do the CTX regents

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<sup>6</sup> 2023 LCM Handbook, Bylaws 3.1.2.2 and 4.5.1(d).

<sup>7</sup> 2023 LCMS Handbook; Bylaw 3.10.6.2, 4; page 174.

retain him as a regent when they have refused to seat the four regents elected at the 6<sup>th</sup> regular convention?

3.3 Will CTX allow the election of four regents at the 2025 Texas District Convention?

## VI. Conclusion

4.1 The required ethical conduct of ordained ministers, commissioned ministers, and district directors is clear: comply with the Synodical Constitution and Bylaws. This obedience and loyalty cannot tolerate any conflicts of interest. "No one can serve two masters. Either you will hate the one and love the other, or you will be devoted to the one and despise the other." Matthew 6:24 (NIV).

4.2 "If anyone, then, knows the good they ought to do and doesn't do it, it is sin for them." James 4:17 (NIV). When will the CTX administrators and regents do the good they know they ought to do? If they do not, the appropriate ecclesiastic overseers need to act now.

## Disclaimers

James Runzheimer is the lay director at large for the Texas District of the LCMS. He was elected to a six year term at the June 2021 convention of the Texas District. Runzheimer was also a voting delegate to both the 67<sup>th</sup> regular convention in Tampa and the 68<sup>th</sup> regular convention in Milwaukee. He is a practicing attorney and CPA in Arlington, Texas. His views and observations in this article are solely his own as an individual director and do not represent the position of the Texas District. Nothing in this article should be taken as legal advice to any person(s) and/or entity(ies) involved in the lawsuits referred to and any related legal matters.