

Missouri convention to appeal ruling in suit against agency

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By Vicki Brown

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JEFFERSON CITY, Mo. (ABP)—The Missouri Baptist Convention has filed notice that it will appeal [a judge's ruling](#) in its case against a formerly affiliated institution.

In a related ruling, Cole County Circuit Court Judge Richard Callahan on April 14 granted a stay in convention litigation against four other entities until the appeal is complete.

Convention attorneys filed a notice of appeal with the Cole County Circuit Court on April 9 to contest Judge Richard Callahan's March 4 ruling that Windermere Baptist Conference Center acted legally when it changed its articles of incorporation.

The appeal is the latest round in legal action the state convention took against Windermere. The convention sued the center as well as the Baptist Home retirement-home system, Missouri Baptist University, the Word & Way newspaper and the Missouri Baptist Foundation in an effort to force the entities to rescind changes they had made in their corporate charters.

The Baptist Home changed its articles of incorporation in 2000 to elect its own trustees. The other four took the same action in 2001. The convention filed suit Aug. 13, 2002.

The March 4 ruling centered on two main aspects of the convention's contention—corporate membership and a contractual relationship with Windermere. The judge ruled the MBC is not a member of Windermere's corporation and that no contract exists between the two entities.

"We feel confident that Judge Callahan's well-reasoned and legally sound judgment of March 4 will be affirmed by the Court of Appeals," noted Windermere lead attorney Jim Shoemake.

The court will send the notice to the Missouri Court of Appeals for the Western District, based in Kansas City. The legal file for the case must be given to the appeals court within 30 days. MBC attorneys must file their brief 60 days later.

Windermere will have 30 days in which to respond to the MBC appeal, and the convention will have an additional 15 days to reply. Most likely, the case will not be heard until sometime this fall.

The convention plans to ask the appellate court to offer a ruling rather than to return the case to the circuit court.

In 2005, appellate judges sent the case back to Cole County after the MBC appealed Cole County Circuit Judge Thomas Brown's dismissal of the legal action against the university.

In that decision, Brown ruled the MBC Executive Board and six individuals who filed the original lawsuit against the agencies did not have the legal right to do so. The appeals court overturned that decision. standing and upheld Brown's decision regarding the six churches.

MBC attorneys filed the motion to stay, or delay, proceedings, except two motions, against the other four pending the appeal outcome.

In the convention's original motion to stay, attorneys requested Judge Callahan proceed with a motion each against the Foundation and The Home.

The MBC contends the Foundation changed the nature of its corporate status under Missouri statutes without convention approval. The two sides argued that motion on Nov. 20, 2007, but the judge did not rule.

At the April 14 hearing, convention attorneys dropped the request to continue with the two motions. Lawyers for all parties agreed to stay all proceedings pending a decision by the Missouri Court of Appeals for the Western District. The case likely will be heard in the fall.

"There is a benefit to seeing what the court has to say about Windermere.... It's a way of getting issues narrowed without spending a lot of time and money," Missouri Baptist Foundation attorney Laurence Tucker said.