

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WORLD SERVICE OFFICE, INC. : CIVIL ACTION

VS.

DAVID MOORHEAD : NO. 90-7631

PHILADELPHIA, PENNSYLVANIA  
April 29, 1992  
BEFORE THE HONORABLE LOUIS H. POLLAK, S.J.

APPEARANCES:

FOR THE PLAINTIFF: JOHN T. SYNNESTVEDT, ESQUIRE  
SCOTT FIELDS, ESQUIRE  
2600 One Reading Center  
Philadelphia, Pennsylvania 19107

FOR THE DEFENDANT: GREG B. EMMONS, ESQUIRE  
One Aldie Mansion  
85 Old Dublin Pike  
Doylestown, Pennsylvania 18901

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(The Court began the telephone conference in  
chambers at 10:30 a.m.)

THE COURT: Mr. Wolfe is here taking down our  
conversation, and also my colleague, Mr. Cooper, is here  
with us.

What's the situation, Mr. Emmons? I guess I  
should hear from you.

MR. EMMONS: Yes, Your Honor. Following our  
conference on Friday, an attempt was made for a  
resolution. My client was contacted and a rather lengthy  
position letter was submitted to the attorney for the WSO  
on Saturday. Actually, I guess it was faxed up finally on  
Sunday, setting forth what they requested as the bottom

line.

On Monday, we were advised that that was not acceptable. That particular proposal concerned my client's request that this matter was vacated, and the ultimate copyright issue would be determined.

My client then authorized me to go back with a counterproposal which concerned the immediate issue rather than the long-range issue of using Fellowship literature; the immediate issue concerning the prejudice that could perhaps happen as a result of this trust document being approved in Dallas this week, and requested that the WSO withdraw the motion for approval and appoint an advocacy committee to continue to work on input review of the trust document to provide for a fair legal document for all parties involved.

We have heard no response to that, unless, John, you received a response since we spoke earlier this morning.

MR. SYNNESTVEDT: No, I have not had contact again. I should report to the Court that the proceedings are going forward in Dallas this morning, and the motion is going to be reached on the agenda in the normal course of business. There is the expectation by the leadership that there will be various efforts to table the motion, and so that it's uncertain whether those efforts will be successful or not. As we speak, it may be already moot.

MR. EMMONS: It certainly would be important, since this motion was filed, if the conference commenced and they changed their voting procedures by not allowing abstentions to count as votes, which is another difficult thing in the Fellowship for voting purposes.

There were many areas that abstained on this trust document because of not understanding the legal ramifications of it. Now, the WSO has changed the voting calculation procedures in Dallas, so that those abstentions do not count as votes in the quorum.

do not count as votes in the system.

MR. SYNNESTVEDT: I'm not aware of this element that Mr. Emmons is speaking of, Your Honor.

MR. EMMONS: I was just advised of that after our phone call this morning, John.

THE COURT: Mr. Synnestvedt, you don't know when this addenda item will be reached, or whether it's already been reached?

MR. SYNNESTVEDT: I think it has been reached, and, as we speak it already may have been tabled. I'm not sure.

THE COURT: Don't you think it would be desirable if we had some information?

MR. SYNNESTVEDT: I think it would be very desirable, Your Honor. I'm waiting to hear. I'll let you know as soon as I can.

THE COURT: I don't think we can sit around and wait for them to decide -- I mean if we're going to wait for your clients to finish an agenda item that's now ongoing in discussion, that doesn't seem like a very useful thing.

MR. SYNNESTVEDT: I just wanted to alert the Court to what the status was in Dallas.

THE COURT: I understand. But when have you last talked to your client?

MR. SYNNESTVEDT: I last talked to my client about 6 o'clock yesterday evening.

THE COURT: You mean --

MR. EMMONS: I thought we could discuss this last evening so we wouldn't have this last minute problem this morning.

THE COURT: Have you been in touch, Mr. Emmons, with anybody on the floor?

MR. EMMONS: I have heard from people in Dallas that there's considerable effort being made to table this

motion for the trust document, but that the vote count appears to be in favor of the trust being approved.

THE COURT: Mr. Emmons, when did you hear, and from whom?

MR. EMMONS: I heard from my client, Mr. Moorhead, this morning. I also heard from one of the declarants on the motion, Mr. Allen yesterday through an RSR representative in Dallas by the name of Zimmerman. That information came yesterday, late.

THE COURT: I think we're spinning our wheels unless somebody can get some immediate information now as to whether the agenda item has been reached or, if, as has been suggested --

MR. EMMONS: I'm certainly caught by surprise, that I've heard from counsel now that they are going forward knowing that we were going to arrange this conference this morning. In fact, I had requested a status conference yesterday, but was waiting for a response back in hopes that we could reach an amicable resolution. So I'm really caught by surprise, their intent to go forward with this despite this pending legal action.

THE COURT: Mr. Synnestvedt, do your clients understand that an application has been made to this court?

MR. SYNNESTVEDT: Yes, they understand, Your Honor.

THE COURT: And they propose to go ahead, anyhow?

MR. SYNNESTVEDT: They feel that the matter is not entirely in their hands. It's in the hands of the World Service Conference. The agenda has been long published and issued and --

THE COURT: I'm not interested when the agenda was published and issued. Your clients are managers -- conveners and managers of the conference; is that not

right?

MR. SYNNESTVEDT: That's right, Your Honor.

THE COURT: So to tell me that it's not in their hands is not really a very helpful response, is it?

MR. SYNNESTVEDT: If the conference decides to go forward, we have to go forward unless there's a court order not to.

THE COURT: Mr. Synnestvedt, let's not quibble, you and I. We have an application made, the thrust of which is that proceedings are imminent at the conference, which, in the view of Mr. Emmons' client, would be disruptive of undertakings made to him pursuant to a consent order. I asked you and Mr. Emmons to try to work out some modus vivendi.

MR. SYNNESTVEDT: That proved to be impossible to accomplish, Your Honor.

THE COURT: That may be, but you surely understood that my request was one which carried with it a concern that this Court be in a position to be advised forthwith if there was not going to be a resolution, so that the Court could, if need be, intervene at least with a view to determining whether there was any basis for a judicial determination that the agenda item be suspended or put in some other form.

MR. SYNNESTVEDT: As I understood it, Your Honor, this was last Thursday, and Your Honor wanted to know when the agenda item would be reached. I got that information as soon as I could, and relayed it back to the Court and to Mr. Emmons, that the agenda item would not be reached until Wednesday.

THE COURT: Mr. Synnestvedt, we were under that understanding, and it was based on that understanding that we thought we had some time in which you folks could try and work out some amicable resolution, some standby resolution.

Are you now telling me that you had no awareness

that there remained a pending application, and that the failure to resolve this matter in some amicable way might call upon this Court to do something? Are you saying that you were unaware that that was the thrust of our understanding?

MR. SYNNESTVEDT: I'm not aware that that was the thrust of the understanding, Your Honor.

THE COURT: Mr. Synnestvedt --

MR. SYNNESTVEDT: I was aware that the Court was worried about trying to intervene to stop the start of the conference on the 25th.

THE COURT: Mr. Synnestvedt, I think you better call your client right now --

MR. SYNNESTVEDT: I'd like to do that, Your Honor.

THE COURT: -- immediately, and report back at once. If this agenda item has been reached, then we will have to consider whether we should direct the conference to suspend consideration of the item pending Mr. Emmons and you coming down here and pursuing this matter somewhat further.

I'm really quite concerned, Mr. Synnestvedt, that --

MR. SYNNESTVEDT: Your Honor, I will endeavor to reach them at the convention floor, Your Honor, and call you right back.

THE COURT: At once.

MR. EMMONS: Thank you, Your Honor.

(Recess was held at 10:45 a.m.)

(The Court resumed the proceedings at 11:00 a.m.)

THE COURT: What do we know?

MR. SYNNESTVEDT: I was able to reach Mr. Edmondson, and I have the following news to report. A few moments ago there was a motion carried to commit this motion, and we have the exact wording of the motion.

THE COURT: You say to commit it?

MR. EMMONS: Meaning to table it.

MR. SYNNESTVEDT: It was, in effect, tabled for a year. So you can read the wording of the motion.

THE COURT: If you would.

MR. FIELDS: This motion was passed that motion Number Eight be committed to the World Service Board, and an RSR working group appointed by the World Service Conference chairperson to solicit, review and factor in, where appropriate, additional input on the fellowship intellectual property trust for presentation to the fellowship in the 1993 conference agenda report.

MR. SYNNESTVEDT: That motion was carried, Your Honor.

THE COURT: I see. Well, I guess that withdraws immediate problems.

MR. FIELDS: Absolutely, Your Honor. It was certainly very suspenseful for us how this was done, but that is what the immediate requested relief was, and I'm very pleased that that's what was done. It certainly would save a lot of unnecessary work for counsel and Your Honor.

THE COURT: Right.

MR. EMMONS: We have now merely a motion pending for the determination to vacate the existing order, and in the normal course of things between counsel we'll determine whether or not we need a hearing.

MR. SYNNESTVEDT: Wait a minute, there are papers filed that charges breach of the settlement agreement and contempt of court.

MR. EMMONS: That's the motion to enforce and/or vacate. There has been no motion for contempt of court. There was a motion filed for preliminary injunction concerning this motion. We'll withdraw that motion for a preliminary injunction.

MR. FIELDS: We have a paper that was served on

us called Rule to Show Cause, which charges us with contempt, including an affidavit as a basis for a motion for contempt signed by David Moorhead, and served by your office.

MR. EMMONS: You didn't read the service instructions. That was served on you for notice only. Read your service instructions.

THE COURT: Well, gentlemen, you can carry on this discussion among yourselves. The motion for preliminary injunction is to be withdrawn. I take it that, in timely fashion, Mr. Fields and Mr. Synnestvedt will respond to the longer term motion that has been filed. Maybe, in the meanwhile, you will be able to effectuate some resolution of the matter. In any event, I am gratified that the immediate problem has been resolved.

I remain puzzled, Mr. Synnestvedt -- and I underline puzzled, very puzzled indeed -- how you could have supposed that the only information that I sought was to know when this week the resolution would be presented, and that I had no interest in seeing you folks work out a resolution with a view to avoiding further court action. As it turns out, no court action is called for, and that is gratifying.

But I will suggest to you, Mr. Synnestvedt, that you might go back and review your notes and memory of our prior conversation, and consider whether your reconstruction of those events really harmonizes with any sensible understanding of what a court would be called upon to do in an emergent situation of that kind.

MR. SYNNESTVEDT: I understood that Your Honor would like us to find a longer term solution, I have no doubt about that, but I was unable to do that with my client, Your Honor.

MR. FIELDS: We were getting no response back,



which was frustrating. That was the difficult part from our end.

MR. COOPER: Certainly, the logic of the situation was that if the parties were unable to resolve this immediate emergent problem, then you would have to report that fact back to the Court with a view to determining whether we would have a hearing, or what other form of court consideration would be required with a view to resolving one way or another Mr. Moorhead's immediate concerns. As it turns out, the problem is moot, and that is gratifying.

All right, thank you very much, gentlemen.

MR. EMMONS: Your Honor, if I may, the motion to enforce or vacate, is there a date to be set for a response to that?

THE COURT: The rules provide what the times are for response, and I trust that Mr. Fields and Mr. Synnestvedt will have that in mind. I do charge you, once again on both sides, with an obligation to get together to see whether the issues now being proposed to be further litigated can't be subject to some resolution or at least some narrowing.

All right, thank you very much.

(The Court adjourned the proceedings at 11:10 a.m.)