

DISTRICT COURT, CITY AND COUNTY OF DENVER,  
COLORADO  
1437 Bannock Street, Denver, Colorado 80202

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**Plaintiffs:**

Ananda Marga, Inc., et al.

v.

**Defendants:**

Acharya Vimalananda Avadhuta, et al.,  
And

**Intevenor:**

Ananda Marga Pracaraka Samgha

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Case No: 2010CV1867

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**DEFENDANTS/COUNTER-PLAINTIFFS' AND INTERVENOR'S MEMORANDUM OF  
LAW IN SUPPORT OF JOINT MOTION FOR SUMMARY JUDGMENT**

COME NOW the Defendants and Counterplaintiffs Acharya Vimalananda Avadhuta, Clark E. Forden, Dipendra Kumar Singh (a.k.a. Ac. Dharmapremananda Avt.), Dirk Duill (a.k.a. Ac. Divyalokeshananda Avt.), Shyam Sundar Kaushesh, and Piyush Bhatnagar (collectively "Defendants"), and Intervenor Ananda Marga Pracaraka Samgha, by counsel, and file this Memorandum of Law in support of their Joint Motion for Summary Judgment, and state in support of their Motion for Summary Judgment as follows.

**Introduction**

Since its formation in 1974 up until October 30, 2005, putative Plaintiff Ananda Marga, Inc. considered Intervenor Ananda Marga Pracaraka Samgha ("AMPS" or "AMPS Central") to be its parent organization. For over thirty years, until October 30, 2005, Ananda Marga Inc. represented AMPS Central to be its global parent organization in its newsletters, guidebooks, manuals, Articles of Incorporation, Bylaws, Board meeting minutes, and filings and communications with the United States Internal Revenue Service, Department of Justice, U.S. Embassies, and United States Citizenship and Immigration Services. It further behaved as a subordinate of AMPS Central from 1974 to October 30, 2005 – its formation was a decision made by the AMPS Central Committee (AMPS' highest policy-making body), its Articles of Incorporation and Bylaws were approved by AMPS Central, it submitted its Board resolutions to AMPS Central for approval, it carried out the programs, policies and goals of AMPS Central, it

sent money to India for the support of AMPS Central, it submitted to inspections by AMPS Central, and AM Inc.'s leader, the Sectorial Secretary, was unilaterally appointed by the AMPS General Secretary, as provided in Ananda Marga, Inc.'s Bylaws.

On October 30, 2005, the AMPS General Secretary transferred Plaintiff Fernando Kumar (a.k.a. Acarya Tiirthananda Avadhuta), a religious minister of AMPS, from the position of Sectorial Secretary of Ananda Marga, Inc. and appointed another religious minister of AMPS to hold that position. This transfer was also approved by the Purodha Pramukha, the spiritual head of AMPS. Although this was the same General Secretary who had posted Fernando Kumar as Sectorial Secretary in 2003, Fernando Kumar ignored the General Secretary's posting order and incited the other members of the Board of Directors of Ananda Marga Inc. to amend Ananda Marga, Inc.'s bylaws so as to subject the General Secretary's power of appointment to Board approval.

This case thus presents this Court with the quintessentially religious question of who gets to decide who is in control of Ananda Marga, Inc., a church organization and religious corporation that is part of a larger worldwide religious denomination, Intervenor Ananda Marga Pracaraka Samgha. From its founding, AMPS is and has been a highly structured hierarchical religious denomination with a clear ecclesiastical governance that was instituted by its Founder, Rev. Baba, Shrii Shrii Anandamurtijii, Guru, a.k.a. Prabhat Ranjan Sakar ("Rev. Baba").

In an attempt to subvert the ecclesiastical structure of AMPS as instituted by Rev. Baba, the individual named Plaintiffs purported to amend the Bylaws of Ananda Marga, Inc. on February 10, 2006, so as to remove the ability of AMPS Central to make the fundamentally ecclesiastical decision as to who would serve as the highest religious minister and representative of AMPS in the New York Sector (encompassing North America, Central America, the

Caribbean and Hawaii). This act of disobedience was spearheaded by the removed Sectorial Secretary Fernando Kumar in contravention of the Holy Scriptures of AMPS promulgated by Rev. Baba, a specific procedural order of AMPS Central, the ecclesiastical structure of governance of AMPS as instituted by Rev. Baba, and in violation of Ananda Marga, Inc.'s own Bylaws and of Fernando Kumar's vows as an Acarya and Avadhuta of AMPS.

Rather than attempt to resolve their disagreements by following the established ecclesiastical and spiritual procedures of AMPS – including Plaintiff Kumar refusing to pursue any appeal of the decision to remove him to the full Central Purodha Board, the highest judicatory within AMPS – the Plaintiffs instead filed the instant lawsuit in Colorado state court. By filing this lawsuit, Plaintiffs now are attempting to have this Honorable Court overrule the decisions of their ecclesiastical superiors regarding spiritual and governance authority within their religious organization. Plaintiffs, however, ignore the fact that, under well-established United States Supreme Court precedent, the First Amendment to the United States Constitution does not permit secular courts to set aside the determinations of authorities within a religious denomination regarding who will speak for and govern the denomination and its subordinate sectors, regions, and dioceses.<sup>1</sup> *See, e.g., Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 708-09 (1976); *Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 116 (1952); *Gonzalez v. Roman Catholic Archbishop*, 280 U.S. 1, 16 (1929).<sup>2</sup> Indeed, the undisputed facts in this case,

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<sup>1</sup> The *First Amendment's* free exercise guarantee and its prohibition against laws respecting the establishment of religion have been made applicable to the states by incorporation through the Fourteenth Amendment. *School District of Abington Township v. Schempp*, 374 U.S. 203, 215-216 (1963); *Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940).

<sup>2</sup> This is particularly true where, as here, the religious organization is a hierarchical one, as demonstrated not only by AMPS' religious scriptures, procedural orders, and other governing documents, or even by the uncontroverted testimony of Defendants' and Intervenor's expert witness, but also by the Plaintiffs' own repeated statements and actions – including statements made under penalty of perjury in filings with the United States Internal Revenue Service and

as explained more fully below, are almost identical to those presented in the leading Supreme Court case in such matters, *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 708-09 (1976), and it is that case and its progeny that control this dispute. Under this well-established precedent by the Supreme Court of the United States, this Court must enforce the decision of the highest ecclesiastical body, i.e., AMPS Central, thereby enforcing the claims of the Defendants and Intervenor and rejecting the claims of the Plaintiffs/Counterdefendants. *Id.*

### **Statement of Material Facts Not In Dispute**<sup>3</sup>

1. Ananda Marga Pracaraka Samgha is a worldwide religious denomination headquartered in Ananda Nagar, India, with its Central Camp Office in Ranchi, India. AMPS was founded to propagate the teachings of its Founder, Rev. Baba. See Exhibits 1-4, and 7. Rev. Baba revealed to the world “Ananda Marga” (which means the “path or way of bliss”) in 1954. *Id.* Rev. Baba founded and first registered the Religious Society “Ananda Marga Pracaraka Samgha” (Samgha means “society”) in 1955 in Bihar, India and later under the Societies Act of West Bengal, India in 1964, for the purposes of propagating “Ananda Marga.” *Id.*

2. During his physical life, the Rev. Baba gave AMPS its Holy Scriptures, which include Ananda Sutram, Subhasita Samgraha, Ananda Vacanamrtam, Namami Krsna Sundaram, Namah Shivaya Shimtaya, Guide to Human Conduct (Yama and Niyama), and Caryacarya Parts 1, 2, and 3. Exhibits 1-2 and 6; Exhibit 13 at 29:8-30:4 and 89:11-91:10. Caryacarya is the social code portion of the AMPS Holy Scriptures. Exhibit 2. In 1956, Rev. Baba gave AMPS Caryacarya Parts 1, 2, and 3, in Bengali. The first English addition was published in 1962. *Id.* In 1995, the sixth addition of Caryacarya was approved by the Central Committee and published

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Immigration and Naturalization Service

<sup>3</sup> For ease of reading and reference, attached hereto as Appendix A is an Exhibit list with a description of each Exhibit with corresponding number. In this Memo of Law, the Exhibits are referenced by number.

in English, Hindi and Bengali. It is currently the official version of the Carayacarya and has been since its publication in 1995. *Id.*

3. AMPS' recognized creed and form of worship is detailed in an extensive array of books, publications, and Conventions that establish the various doctrines, social codes, practices, disciplines, ecclesiastical governance and hierarchy, and worship procedures. Exhibits 1-2. The Conventions of AMPS are procedures, resolutions and orders of the ecclesiastical bodies at AMPS Central. Exhibits 1-2.

A. *Ecclesiastical Hierarchical Structure*

4. As AMPS started to grow rapidly in the 1960s in India, Rev. Baba determined that AMPS should send missionaries throughout the world to propagate the teachings and beliefs of AMPS. Exhibit 1. For organizational purposes, Rev. Baba created an ecclesiastical hierarchical system of governance for AMPS. Rev. Baba divided the globe into nine large geographical areas called Sectors, all reporting to their corresponding authorities at AMPS Central. Each Sector is further divided into subunits called (in descending order) Regions, Dioceses (States or Provinces), Districts/Bhukti, Villages, and local Units according to geography, size and population. Exhibits 1-2 and 4-5.

5. Under the ecclesiastical hierarchical system, the General Secretary of AMPS Central issues all posting orders assigning Wholetimer Acaryas to various organizational positions at one or more of these various levels. These Wholetimer Acaryas remain in these postings until removed or reassigned by the General Secretary. Exhibits 1-6, 8-10. Each of the various levels in the ecclesiastical organizational hierarchy are led by a secretary who reports to, receives direction from, and is subordinate to the next higher level of authority, with AMPS Central as the highest level and the local Unit the lowest level. *Id.*

6. The General Secretary and the Central Executive Committee of AMPS Central are appointed by the Purodha Pramukha from amongst the ranks of the Central Committee.

Exhibits 1-2. Under the ecclesiastical governance system of AMPS, the General Secretary is charged with the administration of the entire denomination/organization. *Id.* The General Secretary reports to the Purodha Pramukha and President. Exhibit 1-2 and 10.

7. A Sectorial Secretary is the head of a Sector and serves as the representative of the General Secretary in the Sector where he or she is posted. The Sectorial Secretary is the General Secretary's liaison to the Sector and serves at the pleasure of the General Secretary. This means, among other things, that the Sectorial Secretary: receives his or her direction from the General Secretary, is required to report to the General Secretary ten times a year in paper form, must have his or her travel pre-approved by AMPS Central, must seek approval from AMPS Central and/or the General Secretary on a host of Sectorial matters, is required to meet with the General Secretary in person five times a year at AMPS Central in India, and can be transferred or removed by the General Secretary.

8. AMPS Central periodically inspects each Sector to make sure that, among other things, the Sector is in compliance with the Caryacarya and Conventions and to provide input related to changes that need to be made in the Sector. Exhibits 1-3, 9-12, and 49-50. Among the things that AMPS Central inspects in a Sector are: the progress of each Sector in meeting its targets that were set in previous inspections; the completeness of the Sector's office records and filing systems; the Sector's finances (including progress in paying off loans); the Sector's land and asset records; and the Sector's progress on its comprehension and implementation of, and compliance with, Central Committee or Central Executive Committee resolutions. If the AMPS Central finds areas of deficiency, those are noted in a rectification report, which is sent to AMPS

Central. Part of the inspection process involves checking up on the progress of previous rectification reports. The results of the entire inspection are written up in reports that are sent to AMPS Central. Exhibits 49 and 50.

9. The Central Committee is an ecclesiastical governing body comprised of Purodhas and elected by the general body of Purodhas. The Purodha Pramukha selects the Central Executive Committee from the members of the Central Committee. The Central Committee is the highest policy-making body in AMPS. Exhibits 2 and 15.

10. A Purodha is the highest level of religious minister in AMPS (equivalent or similar to a Cardinal in the Roman Catholic Church). Exhibit 2.

11. The Purodha Pramukha is the spiritual head of AMPS. It is a position that is held for life unless the Purodha Pramukha resigns, such as for reason of ill health (equivalent or similar to the Pope in the Roman Catholic Church). The Purodha Pramukha serves as the President of AMPS unless he or she chooses not to, in which case he approves the President. The Purodha Pramukha also appoints and oversees the General Secretary and selects who are the members of the Central Executive Committee. Exhibits 1-2 and 15.

12. The highest ecclesiastical body of AMPS is the Central Purodha Board, of which the Purodha Pramukha is its head. The decision of the Purodha Pramukha is final and unappealable. However, the Purodha Pramukha may change any decision previously taken. Exhibits 1-2, 5 and 15.

13. The first Purodha Pramukha was Rev. Baba, who held that position until His physical death. After Rev. Baba's physical death, Ac. Shraddhananda Avt. was unanimously chosen as the Purodha Pramukha, and he held that position until his death in 2008. Presently, the Courts in India have held that Ac. Dhruvananda Avt., the General Secretary of AMPS, is the

acting Purodha Pramukha of AMPS. Exhibits 2, 15 and 16.

14. Rev. Baba created a judicial system to resolve disputes within the AMPS worldwide organization, as set forth in the Caryacarya and the Conventions of AMPS. Shortly after the physical death of Rev. Baba, the Central Committee memorialized in writing *A Manual on Tribunal*, that was instituted in 1992. Rev. Baba had the final determination on all matters involving AMPS during his physical life. Because Ananda Margiis believe that Rev. Baba was infallible, His words were final and must be followed by all adherents of Ananda Marga. Exhibits 2 and 17-18.

15. Ministers of AMPS are of two distinct types: Grhi (married, "Family") Acaryas and Wholetimer Sannyasin (celibate and renunciate) Acaryas. Wholetimers are ministers of AMPS Central, are ordained by AMPS Central, receive their postings (assignments) from AMPS Central through the General Secretary, are posted to work at Central or in the various Sectors at one or more of the various levels, provide reports to AMPS Central regarding their work on a frequent basis, and must receive pre-approval for all travel. Exhibits 1-2.

B. *Global Growth of Ananda Marga Pracaraka Samgha*

16. The first missionary outside of India, Ac. Atmananda Avt., was sent by Rev. Baba to Africa in 1966 to propagate and teach Ananda Marga and establish the Nairobi Sector of AMPS according to the Caryacarya and the Conventions of AMPS. Exhibit 2.

17. In 1967, Rev. Baba sent missionaries to the Philippines to propagate and teach Ananda Marga and establish the Manila Sector of AMPS according to the Caryacarya and the Conventions of AMPS. Exhibit 2.

C. *Establishing AMPS in the New York Sector*

18. Shortly thereafter, Rev. Baba sent the first missionary and Sectorial Secretary to

the United States in 1969 to propagate and teach Ananda Marga and establish AMPS in the New York Sector according to the Caryacarya and the Conventions of AMPS. Exhibits 1-2 and 19.

19. In 1969, with the approval of AMPS Central, Ananda Marga Yoga Society was incorporated in Illinois to further the work of AMPS in the New York Sector and implement the programs of Rev. Baba. In 1970, with the approval of AMPS Central, Ananda Marga Yoga Society of Kansas, Inc. was incorporated in Kansas to further the work of AMPS in the New York Sector and implement the programs of Rev. Baba. Exhibits 1-2 and 19.

20. During the 1969 through 1974 time period AMPS grew rapidly in the New York Sector, primarily in the United States. Exhibit 2. In 1974, with the approval of AMPS Central, Ananda Marga, Inc. was incorporated in Colorado to further the work of AMPS in the New York Sector and implement the programs of Rev. Baba. Exhibits 2 and 55. In 1974, AMPS Central decided that Ananda Marga, Inc. would be the successor corporation of both Ananda Marga Yoga Society, Inc. and Ananda Marga Yoga Society of Kansas, Inc., and that all of the work of the New York Sector would be conducted through Ananda Marga, Inc. Exhibits 1-2 and 24. Ananda Marga, Inc. was created to be and is the legal embodiment of the New York Sector of AMPS, whose jurisdiction is the work of AMPS Central in the New York Sector. Exhibits 1-2, 4-6, 20, and 21-24; Exhibit 14 at 53:25-54:14.

21. The Bylaws of Ananda Marga, Inc. were approved by AMPS Central in 1974 (“1974 Bylaws”). Exhibit 2. The 1974 Bylaws set forth in their “Purposes Section” the basic religious ideology and teachings of AMPS. They also state that the purpose of the organization is to propagate the teaching of Ananda Marga. Exhibits 2, 11, and 25. When Ananda Marga, Inc. was formed, the original Bylaws were created in a manner to reflect the hierarchical ecclesiastical structure of AMPS, with AMPS Central having authority over its subordinate

corporation. Exhibits 2 and 25. This is exercised primarily (but not exclusively) through the General Secretary's power, at the General Secretary's discretion, to appoint and remove the Sectorial Secretary and all Acarayas in the New York Sector (as stated in Article XV), and through the manner in which the Board of Directors is appointed or removed, to ensure that AMPS Central maintains control over its Sector. *Id.* This power of appointment is according to the hierarchical structure instituted by Rev. Baba. *Id.*

22. The 1974 Bylaws state that AMPS Central is the parent of Ananda Marga, Inc. and the programs listed in Article XIV of the 1974 Bylaws reflect the various standing programs of AMPS Central. Exhibits 2 and 25.

23. Ananda Marga, Inc., a.k.a. the New York Sector of AMPS, is one of the nine Sectors of AMPS and comprises North America, Central America, the Caribbean, and Hawaii. Ananda Marga, Inc., is a subordinate branch of AMPS, and AMPS is its parent. Exhibits 1-6 and 8-10.

24. With the prior authorization of Rev. Baba and AMPS Central, Ananda Marga, Inc. amended its Bylaws in 1982. Exhibit 2. The Board Minutes of Ananda Marga, Inc. dated February 15, 1981, state, in relevant part, that the "Bylaws of Ananda Marga, Inc. [need to] be updated and amended, as Ananda Marga is now much greater in its scope (due to refinements and additions made by the Founder to its structure and functions)." Exhibit 20.

D. *Crimson Dawn Publication*

25. In accordance with AMPS Central's policies and procedures and at the direction of AMPS Central, Ananda Marga Yoga Society of Kansas, Inc. began publishing a monthly newsletter for the New York Sector in 1972 entitled *Crimson Dawn*. Exhibit 2. Once Ananda Marga, Inc. was created and became the legal embodiment of the New York Sector in 1974,

Ananda Marga, Inc. took over the responsibility of publishing *Crimson Dawn*. Exhibits 2 and 14.

26. The December 1972 issue of *Crimson Dawn*, pg. 4, provides an accurate depiction of the hierarchy of Ananda Marga Yoga Society at the time, depicting Rev. Baba as the highest authority, with the General Secretary under Him, and the Sectorial Secretary as the next level below. Exhibits 2 and 12. The April-June 1980 Issue of *Crimson Dawn*, pg. 6, contains a letter from the Sectorial Secretary of the New York Sector, Ac. Yatiishvarananda Avt., stating in relevant part, “He [Rev. Baba] gives us valuable guidance on how to implement His program in the field . . . Now Baba has projected the position of SS [Sectorial Secretary] as the most responsible position in the Sector. The SS’s duty is to oversee and coordinate the activities of various organizations which are functioning under the umbrella of Ananda Marga in his sector.” Exhibit 45.

27. The October 1974 issue of *Crimson Dawn*, pg 22, contains a letter from the first President of Ananda Marga, Inc., Robert Lantaff, a.k.a. Bhupathi, stating in relevant part: “As we should all know, Baba has given very complete guidelines for us to follow in the organization. . . . It is the job of the President to keep an eye and ear tuned to the whole flow of the organization and see that all efforts are coordinated and all programs are flowing in the right direction according to Baba’s guidelines.” Exhibit 46.

28. Pages 32-34 of the July 1974 issue of *Crimson Dawn*, Message from the President of Ananda Marga, Inc., states in relevant part: “as a collective group, we also find many obstacles in our path as we strive to establish Baba’s Mission here in North America . . . . Without a sectorial office . . . there would be no legal structure and no recognition from the government. In short, no organized pracar [propagation], no guidance, and no progress. We would be leading ourselves in circles instead of leading others to the path. The most important

point is that Baba will not come to any sector which is not trying to implement His organizational system.” Exhibit 47.

29. Page 10 of the Jan.-Mar. 1994 issue of *Crimson Dawn* states in relevant part: “All Sectors of the world including our own New York Sector, have been requested by Ananda Marga Central in India to form their own sectorial planning committee. The planning committee has been created to develop, help implement and monitor plans to practically bring about the growth of Ananda Marga and its service work in each sector. The committees emphasize the importance of both acharyas and margiis working hand in hand for the benefit of the mission in each sector.” Exhibit 48.

30. The inside cover page of the April 1975 issue of *Crimson Dawn*, identifies Ananda Marga, Inc. as the publisher and, immediately below that, informs readers that: “[t]here have been some changes in the format and content of Crimson Dawn (and all sectorial newsletters) brought to us from Central Office, Calcutta, by Ac. Yatiishvarananda Avt. Some contributions originally slated for this issue have been deleted in compliance with these changes.” Also, on page 16 of this issue, Ananda Marga, Inc. writes, in relevant part: “An overview of New York Sector reveals an ever-growing sense of dedication and responsibility to Ba’ba’s mission . . . . In addition, the importance of observing and respecting the concepts of Pyramidical Order (P.O.) and Structural Solidarity (S.S.) is being increasingly realized by the Margiis in New York Sector. Only by proper attention and respect for Ba’ba’s organizational guidelines can our mission for Dharma prosper and so we are witnessing a general tightening of the organizational structure as a whole.” Exhibit 53.

31. Page 4 of the November 1978 issue of *Crimson Dawn* states in relevant part: “The two main priorities for our Sector now are: 1) massive Dharma Pracar as per BABA’s guidelines

for our Sector, and 2) to activate the Sectorial and Regional level boards. All of the targets and directives for the various departments are now coming directly from BABA. The speed He expects is astounding!” Also, of relevance on page 4 of this issue, Ananda Marga, Inc. writes: “Most of the profits will go into the repairs done on the Los Altos Hills jagrti in anticipation of its sale (which Ba’ba’ has since vetoed).” Exhibit 22.

E. *Transfer of Fernando Kumar, formerly known as Ac. Tiirthananda Avt.*

32. As has been the Convention of AMPS since the time of Rev. Baba, once the General Secretary issues a posting order, including an order of a Sectorial Secretary, the posting takes immediate effect. If the posting occurs related to a Sectorial Secretary, and if the Sectorial Secretary is not physically present in the Sector, the Sectorial ERAWS Secretary is the Acting Sectorial Secretary until the newly-posted Sectorial Secretary arrives in the Sector. Exhibits 2, 8 and 26-27.

33. Fernando Kumar was posted as the Sectorial Secretary in 2003 by the General Secretary of AMPS Central, Ac. Dhruvananda Avt. This posting was announced publicly at AMPS Central and Fernando Kumar obeyed the posting order as he was required to do under AMPS Conventions. Exhibits 2 and 28 at 13:11-113:7.

34. On October 30, 2005, the General Secretary of AMPS Central, Ac. Dhruvananda Avt. posted Ac. Shubhatmananda Avt. (a.k.a. Sarva Dutta) as the Sectorial Secretary of the New York Sector, replacing Fernando Kumar, and assigning Fernando Kumar as Sectorial Secretary Suva Sector. Exhibits 2, 8, 26 and 28 at 59:5-60:10. This posting was announced publicly at AMPS Central in accordance with the Conventions of AMPS. *Id.* Fernando Kumar was at AMPS Central at the time of the announcement and personally received notice of the posting. *Id.* The October 30, 2005 Posting Order was approved by the Purodha Pramukha Ac.

Shraddhananda Avt., according to the Conventions of AMPS Exhibits 2 and 8.

35. Because Ac. Shubhatmananda Avt. (Sarva Dutta) was in India at the time of his posting as Sectorial Secretary of the New York Sector, the Sectorial ERAWS Secretary of the New York Sector of AMPS at the time, Ac. Dharmapremananda Avt (also known as Dipendra Kumar Singh), was the Acting Sectorial Secretary, according to the Conventions of AMPS, until such time as the newly-posted Sectorial Secretary could arrive in the New York Sector.

Exhibits 2, 8 and 26.

36. AMPS Central subsequently learned that Fernando Kumar was not obeying the Posting Order. Because Ac. Shubhatmananda Avt. (Sarva Dutta) needed to remain at AMPS Central, on February 28, 2006, the General Secretary posted Ac. Vimalananda Avt. as the Sectorial Secretary of the New York Sector and transferred Fernando Kumar to the Qahira Sector. Exhibit 2. This posting order was also approved by the Purodha Pramukha Ac. Shraddhananda Avt. *Id.*

37. In April 2006, individuals from the New York Sector met with the acting General Secretary and the Central Office Secretary at AMPS Central's camp office in Ranchi, India to ask that AMPS Central reconsider the transfer of Fernando Kumar. The individuals from the New York Sector were Ac. Rainjitinanda Avt. (also known as Rubens Teixeira), Didi Ananda Vibha (also known as Prabha Thakur), and Ac. Shuddhatmananda Avt. AMPS Central informed these three individuals that Fernando Kumar needed to abide by the posting orders. Ac. Dharmapremananda Avt., the Acting Sectorial Secretary of the New York Sector, was also present for part of the meeting. Exhibits 2 and 30.

F. *Unauthorized Amendments to Ananda Marga, Inc.'s Bylaws*

38. In March 2006, Fernando Kumar changed the Bylaws of Ananda Marga, Inc.

Shortly after the posting of Dada Vimalananda as Sectorial Secretary of the New York Sector, AMPS Central learned of the purported amendments to Ananda Marga, Inc.'s Bylaws and that Fernando Kumar was not allowing Ac. Vimalananda Avt., the Sectorial Secretary of the New York Sector, to serve in this role as assigned by the General Secretary. AMPS Central also learned that certain board members of Ananda Marga, Inc. were not allowing Ac. Vimalananda Avt. to perform his duties. Exhibits 2 and 31.

39. According to longstanding Convention, memorialized in a Resolution of the Central Committee in 1996, the Board of Directors of Ananda Marga, Inc. was not allowed to amend its Bylaws without the express written approval of AMPS Central. No such approval was ever requested or given. Exhibits 2, 32-33.

40. Furthermore, at the time of the purported amendments to the Bylaws of Ananda Marga, Inc. in 2006, Fernando Kumar, was no longer the Sectorial Secretary, and the purported amendments to the Bylaws are contrary to the ecclesiastical, hierarchical governance structure of AMPS and go against the very core of the teachings of Rev. Baba. Exhibit 2.

G. *Reconstitution of Ananda Marga, Inc.'s Board of Directors*

41. The General Secretary sent a series of communiqués to Fernando Kumar and members of the Board of Ananda Marga, Inc. related to the purported Bylaw amendments and the refusal of Fernando Kumar to abide by the posting orders. Exhibit 34.

42. On September 12, 2007, AMPS Central sent a letter to the Board of Directors of Ananda Marga, Inc. regarding their troublesome and destructive behavior. Exhibit 35. The Board members of Ananda Marga, Inc. and Fernando Kumar ignored this and subsequent letters from AMPS Central. Exhibit 2.

43. Because the Board of Directors of Ananda Marga, Inc. ignored and refused to

comply with the directions from AMPS Central, in January 2009, the General Secretary instructed Ac. Vimalananda Avt., the Sectorial Secretary of the New York Sector, to reconstitute the Board of Directors of Ananda Marga, Inc., which he did with AMPS Central's approval.

Exhibit 2.

H. *Seizure of Fernando Kumar's Religious Titles and Certificates*

44. Because of the continued defiance by Fernando Kumar, AMPS Central began an investigation into Fernando Kumar's actions. This investigation ultimately resulted in AMPS Central's decision to seize all titles from Fernando Kumar and cancel all his religious certificates (equivalent or similar to defrocking a bishop in the Roman Catholic Church). The Purodha Pramukha and President of AMPS Central approved this decision. On February 26, 2010, AMPS Central sent a letter to Fernando Kumar to inform him of this decision. Exhibits 2 and 36. Therefore, according to the Conventions of AMPS, Fernando Kumar is no longer eligible to serve as Sectorial Secretary. Exhibit 2.

I. *Ananda Marga, Inc. Obtaining "Church" Status from the IRS*

45. In 2003, Ananda Marga, Inc. filed an IRS Form 1023 Application with the Internal Revenue Service seeking recognition of "church" status, retroactive to 1969. Ananda Marga, Inc. amended this filing in 2004 to provide the IRS additional information (the "Church Status Filing"). In 2004, the IRS ruled that based upon its submissions, putative Plaintiff Ananda Marga, Inc. is a "church" retroactive to 1974, the date of its incorporation. In this filing, putative Plaintiff Ananda Marga, Inc. made the following factual statements under penalty of perjury:

- a. The first Ananda Marga Minster came here in 1969.
- b. Our primary stated purposes in the Articles of Incorporation is exclusively religious.
- c. We are organized and operated exclusively for religious purposes.

- d. We want to fulfill our Founder's dictums; without our Ministers, this would be difficult if not impossible.
- e. Not only are we a church organization, we are the central church organization for our Mission in North America, plus being the seat of ecclesiastical administration as well.
- f. The religious beliefs of the adherents of our church are truly and sincerely held . . . The activities in furtherance of these beliefs are exclusively religious . . . and We have fulfilled these requirements for the entire existence of our organization (since 1969).
- g. Our Founder Shrii Shrii Anandamurtijii (1921-1990) . . . created Ananda Marga – the Path of Bliss -- in 1954.
- h. The Founder gave all our practices, philosophy, ceremonies, and code of conduct.
- i. Ananda Marga Pracaraka Samgha (AMPS) Central based in Ananda Nagar, India is the world headquarters and parent organization of our Mission, and was registered in Bihar in 1956 and later under the Societies Act of West Bengal in 1961. It exists as a means to propagate the Tantric disciplines Anandamurtijii resurrected and modernized for today's world.
- j. The North American branch of Ananda Marga was formed and has existed as a nonprofit corporation in various States in the USA since 1969 to propagate our ideals in the countries of North and Central America and the Caribbean.
- k. We continue our work under the auspices of our Corporation and family of organizations and assemblies.
- l. Ananda Marga's recognized creed and form of worship is detailed in an extensive array of our key books and publications that establish various doctrines, social codes and practices, and worship procedures. Most Particularly, . . . Ananda Marga-The Path of Bliss, CaryaCarya Part Parts 1, 2, and 3, Ananda Sutram, and Ananda Marga Elementary Philosophy.
- m. Ananda Marga has its own distinct and extensive codes of doctrines and disciplines that were given by our Founder, Shrii Shrii Anandamurtijii . . . For details, please refer to CaryaCarya Parts 2 and 3.
- n. All our Ministerial trainees undergo a rigorous, systematic and prescribed program of instruction and training in one of the Global Basic Training Centers, and their goal is to become an Acarya, which is the generic term we use to describe a duly ordained, bonafide Minister.

- o. Our Ministers are of two distinct types: Grhi (married, “Family”) Acaryas, and Wholetimer Sannyasin (celibate and renunciate) Acaryas.
- p. Wholetimer Ministers receive their assignment from AMPS Central Office in India.
- q. The Ananda Marga Mission is worldwide and is organized legally as such, possessing definite and distinct ecclesiastical government. For organizations purposes, the world is comprised of nine large geographical areas called Sectors, with corresponding subsections called Regions, Dioceses (States or Provinces), Districts, Villages, and local Chapters according to geography, size and population.
- r. Central based in Ananda Nagar, India, is the world headquarters and parent organization of our Mission.
- s. The jurisdiction of our Corporation as parent organization *Ananda Marga New York Sector* is all countries of North and Central America and the Caribbean.
- t. The Purodha Pramukha [is] the spiritual head of Ananda Marga.
- u. The Purodha Pramukha appoints the General Secretary (GS) and the Central Executive Committee from among the ranks of the Central Committee.
- v. The GS signs all posting orders for sending Wholetimer Acaryas to various organizational positions at one or more of these various levels throughout the whole world. They remain in these postings until reassigned.
- w. Proceeding from the Purodha Pramukha, there are organizational structural authorities all the way through and including the Central, Sectorial, Regional, Diocesan, District and Village levels throughout the world.
- x. All Ministerial positions are defined, recognized and further regulated solely by the global governing body of Ananda Marga, *AMPS Central*.
- y. The duties of all our Ministers, regardless of which group they belong to, are directly related to the creed and doctrines of the Mission.
- z. AMPS Central authorities assign Wholetimer Acaryas to various organizational positions at one or more of these various levels throughout the world [i.e., Central, Sectorial, Regional, Diocesan, District and Village levels]. They then travel to these locations to carry on their vocations until the Central authorities restation them elsewhere.

aa. Ananda Marga, Inc. does not ordain Ministers. That function is reserved solely for AMPS Central.

bb. Our NY Sectorial family of assemblies actively supports AMPS Central and its projects.

Exhibit 1.

46. On the Form 1023 Application it filed with the IRS, Ananda Marga, Inc. answered “yes” to the following two questions: (1) “does the organization have a written creed or statement of faith;” and (2) “Does the organization have a formal code of doctrine and discipline for its members.” Ananda Marga, Inc. also attached to its IRS Form 1023 Application a copy of Caryacarya Parts 1, 2, and 3 as its formal code of doctrine and discipline, as well as its written creed or statement of faith. In addition, Ananda Marga, Inc. attached as authority for its church status filing a 1972 decision by the Regional Commissioner (Northwest Regional Office, INS)(“1972 Decision”). Exhibits 1 and 19.

47. In 1972, AMYS (Ananda Marga, Inc.’s predecessor in interest) petitioned the United States Department of Justice to accord third preference immigrant status for Acharya Yatiishvarananda Avadhuta, who had been posted to AMYS as Sectorial Secretary of the New York Sector by AMPS Central. Based upon the documents and facts presented by AMYS, the Regional Commissioner (Northwest Regional Office, INS) found that “[t]he record reveals that in March of 1971, the Acting General Secretary of the Ananda Mara Pracaraka Samgha in India appointed the beneficiary as religious minister attached to the Ananda Marga Yoga Society in North America which is a branch of Ananda Marga Pracaraka Samgha (Central). The record also reveals that the founder and general secretary of Ananda Marga Pracaraka Samgha had bestowed his power of attorney upon the beneficiary in order that he be free to perform all the duties and shoulder all the responsibilities of a sectorial secretary of the New York sector which includes the entire North American continent and Hawaiian Islands. This power of attorney

authorized him to do all the work on behalf of the Samgha, such as to form units, to accept donations, and to be authorized for the purpose of propagating the beliefs of the Society.”

Exhibit 19.

J. *Website of Ananda Marga, Inc.*

48. According to Ananda Marga, Inc.’s current website, Ananda Marga started in 1955 in India. “By 1970 Ananda Marga had become a global organization with branches in Europe, America, Africa, Asia and Australasia.” Exhibit 37.

K. *Board Minutes of Ananda Marga, Inc.*

49. The Board Minutes of Ananda Marga, Inc. reflect that Ananda Marga, Inc. and the New York Sector of AMPS are one and the same. For example, the 1981 Minutes of the Meeting of Directors of Ananda Marga, Inc. identifies Ananda Marga, Inc. as “Ananda Marga, North American Sectorial Headquarters” and states that “the officers for all sectorial-level corporations (Ananda Marga, Inc.; Ananda Marga Yoga Society of Kansas, Inc.; Ananda Marga Publications (c/o Los Altos Hills CA) are as follows . . . . [T]hese officers, plus Sectorial Secretary Ac. Yatiishvarananda Avt., comprise the Board of Directors of the aforesaid sectorial-level corporations.” The 1981 Minutes also state: “that legal counsel has suggested that the By-Laws of Ananda Marga, Inc. be updated and amended, as Ananda Marga is now much greater in its scope (due to the refinements and additions made by the Founder to its structure and functions). Exhibit 20.

50. The December 10, 1998 Minutes of Special Joint Board of Directors Meeting identify Ananda Marga, Inc. as “the legal embodiment of Ananda Marga Pracaraka Samgha New York Sector.” These minutes also list the Sectorial Secretary appointed by the General Secretary

of AMPS Central, Ac. Dhyaneshananda Avt., as “Sectorial Secretary, Spiritual Director, President, CEO, and Board Chair.” Exhibit 21.

51. The 2000 through 2003 Minutes of Ananda Marga, Inc. identify the corporation as “Ananda Marga, Inc. (also referred to at times as Ananda Marga Pracaraka Samgha New York Sector).” Exhibit 21.

L. *Immigration Filings by Ananda Marga, Inc.*

52. Throughout the course of the New York Sector’s history, both AMYS and, later, Ananda Marga, Inc. made numerous filings with United States immigration authorities related to postings of Wholetimers to the New York Sector by the AMPS Central General Secretary. A sampling of these filings quickly reveal that Ananda Marga, Inc. is a subordinate of AMPS Central and that Ananda Marga, Inc. and New York Sector are one and the same. Exhibits 4-7, 23-24 and 38.

53. For example, Ananda Marga, Inc.’s Petition to the Immigration and Naturalization Services for Nonimmigrant Worker, seeking R-1 Visa 8/7/2002 and 9/4/2002, states that: “Ananda Marga India is the parent organization for Ananda Marga, Inc in the USA. Ananda Marga is a Worlwide Mission (for organizational purposes, the world is divided into nine large areas called Sectors, with corresponding subsections called Regions, Dioceses, Districts and local Units. The Ananda Marga Central Headquarters in India posts Acaryas to various organizational positions in one or more of these various levels throughout the world. North America, Central America and the Caribbean are considered one sector, which is the jurisdiction of Ananda Marga, Inc.” Exhibit 4.

54. In Ananda Marga, Inc.’s letter to the United States Citizenship and Immigration Services (“USCIS”) dated June 5, 2003, Rubens C. Teixeira, as the Ananda Marga, Inc.

Corporate Secretary and authorized representative of Ananda Marga, Inc., made the following representations:

“In Ananda Marga, there is a distinct hierarchy of Ministers”; and

“A definite and distinct ecclesiastical government -- The Ananda Marga Mission is worldwide. For organizations purposes, the planet is divided into nine large areas called Sectors, with corresponding subsections called Regions, Dioceses (States or Provinces), Districts, and local Units according to geography, size and population. Ananda Marga Pracaraka Samgha (AMPS) Central based in Ananda Nagar, India is the parent organization of our Mission worldwide. The spiritual head of Ananda Marga is called the Purodha Pramukha, and authority proceeds from him all the way through and including the Central, Sectorial, Regional, Diocesan, and Unit authorities throughout the world. The jurisdiction of our corporation is referred to as New York Sector, and comprises all the countries of North & Central America and the Caribbean.”

Exhibit 5.

55. In Ananda Marga, Inc.’s letter to the United States Citizenship and Immigration Services (“USCIS”) dated January 20, 2006, Rubens C. Teixeira, as the Ananda Marga, Inc. Corporate Secretary and authorized representative, stated:

- a. “Ananda Marga is a worldwide mission which has been in existence since 1954”;
- b. “Ananda Marga’s history and official status in the USA is as follows: 1970, the IRS determined that Ananda Marga is a not-for-profit . . .”;
- c. “Mr. [ ] [is] an Acarya of our denomination who, by virtue of having successfully passed his final examination from our global office in Calcutta, India in 1989”;
- d. “A large number of the various Arcaryas stationed here since 1971 have since been reposted by the Central authorities to other locations throughout the world”;
- e. “at this time Ananda Marga has not more than 1,400 Acaryas to serve the entire world, and of these only twenty-seven remain posted within the USA”; and
- f. “The jurisdiction of our organization is called “New York Sector,” and comprises all the countries of North America and the Caribbean.”

Exhibit 23.

56. In its filing with the USCIS, dated January 18, 2006, putative Plaintiff Ananda Marga, Inc. stated in relevant part:

- a. “Ananda Marga is a worldwide religious organization, which has been in existence since 1954.”
- b. “Ananda Marga, Inc. and its qualified subordinates will provide for all of his maintenance and upkeep (which includes room, board, medical care and travel expenses).”
- c. “The scriptures of Ananda Marga, such as Caryacarya (the social code), Subhasita Samgraha (expository spiritual teachings of the founder), and Ananda Sutram (our fundamental spiritual doctrine).”
- d. “Since Ananda Marga Mission is worldwide (for organizational purposes, the planet is divided into nine large areas called Sectors, with corresponding subsections called Regions, Dioceses (States or Provinces), Districts, and local Units according to size and population. The Ananda Marga Central Headquarters posts fulltime Acaryas to various organizational positions at one or more of these various levels throughout the world.” and
- e. “The jurisdiction of our organization is called “New York Sector,” and comprises all the countries of North America, Central America and the Caribbean.”

Exhibit 6.

57. An April 12, 2010 Affidavit of Rubens C. Teixeira (Ac. Rainjitananda Avt.), Ananda Marga, Inc.’s purported corporate Secretary and a 30(b)(6) designee of putative Plaintiff Ananda Marga, Inc., states in relevant part:

- a. “I was ordained in 1984 as a minister (Acarya) of the Ananda Marga Mission, founded by P.R. Sarkar, aka Shrii Shrii Anandamurtijii (Rev. Baba) in India in 1954.”
- b. “Based on conducting a painstaking examination of corporate and organizational records, I have confirmed the following facts: A. It has been the standing policy of the Ananda Marga Mission worldwide that no ministers are paid a salary . . . B. The first minister of our Mission to the USA came in 1969 under an R-1 Visa, the second came in 1971. C. These ministers were sponsored by our predecessor Ananda Marga Yoga Society of Kansas, Inc. Ananda Marga, Inc. is their direct successor. . . I. Our Board continues to maintain strict adherence to the standing policy of the Ananda Marga Mission worldwide.”

Exhibit 24.

58. A separate 2010 Affidavit of Rubens C. Teixeira (Ac. Rainjitananda Avt.), as purported Corporate Secretary of Ananda Marga, Inc., attached to an immigration filing, contains the following representations:

- a. “I can further attest that the applicant serves Ananda Marga in South Korea solely in the capacity of an ordained minister of our denomination.”
- b. “The Regional Secretary of Ananda Marga is the authorized regional organizational representative of the Mission’s administration for this region.”
- c. “Ananda Marga is a world-wide religious and social service organization, with headquarters in India and having a bona fide organization within the United States.”

Exhibit 7.

M. *Charge Handover*

59. As stated above, when a posting order occurs from AMPS Central it has immediate effect. Normally, the outgoing Sectorial Secretary will assist the incoming Sectorial Secretary so that there is an orderly transition. For example, in 1999, the outgoing Sectorial Secretary Sushil Ghosh, signed a General Power of Attorney, dated June 9, 1999 in favor of the incoming Sectorial Secretary. This General Power of Attorney contains the following statement: “Sushil Ghosh, AKA Acarya Devashraddhananda Avadhuta, current Sectorial Secretary, Spiritual Director, Board Chair, and President and CEO of Ananda Marga Pracaraka Samgha New York Sector (... legally known as Ananda Marga, Inc.)” Exhibit 39.

60. In 2002, the outgoing Sectorial Secretary New York Sector, the incoming Sectorial Secretary of the New York Sector and the General Secretary of AMPS executed a document to assist in the charge handover, stating the following of the newly posted Sectorial Secretary: “Henceforth he will be the president of Ananda Marga, Inc. USA.” Exhibit 40.

N. *Newsletters of Ananda Marga, Inc. and Publications:*

61. From its beginning in 1974 Ananda Marga, Inc. published the *Crimson Dawn* and also, on occasion, sent newsletters to Margiis (adherents) of Ananda Marga in the New York Sector. The *Crimson Dawn* along with some newsletters of Ananda Marga, Inc. produced in discovery by putative Plaintiff Ananda Marga, Inc., further affirm that Ananda Marga, Inc. is subordinate to AMPS Central and exists to serve AMPS Central's interests in the New York Sector. For example, the July 25, 1996 newsletter of Ananda Marga, Inc. contains a detailed narrative by putative Plaintiff Ananda Marga, Inc. of its place within the structure of AMPS. Exhibit 18. This newsletter also highlights the *Manual on Tribunal* developed by the Central Committee. Exhibit 17. Finally, this newsletter highlights the new edition of the New York Sector Organizational Handbook developed by Ananda Marga, Inc. called "Moving Together" and informs Margiis that the manual is available for purchase. Exhibits 18 and 41.

62. *Moving Together*, the New York Sector Organizational Handbook (the "Manual"), describes in clear and precise terms the hierarchical structure of AMPS. Page two of the Manual describes the geographical organizational structure of AMPS. Page five of the Manual defines the role of Sectorial Secretary as having "the responsibility of overall guardianship of the Ananda Marga organization in the sector. The Sectorial Secretary reports directly to the General Secretary of Ananda Marga Central. The Sectorial Secretary coordinates between all sectorial Departmental secretaries and their Central-level department heads." Page twenty of the Manual sets forth Ananda Marga, Inc.'s views on the "Ananda Marga Central Decision-Making Structure" and states in relevant part: "The General Secretary is the structural head of the Ananda Marga Organization. All Sectorial Secretaries and Departments of Ananda

Marga report to the General Secretary. The General Secretary's performance is reviewed by the Purodha Pramukha." Exhibit 10.

63. In 2004, Ananda Marga, Inc. distributed another booklet to incoming Wholetimers assigned to the New York Sector by the General Secretary. See Exhibits 8-9. This booklet defines the role of Sectorial Secretary in the same manner as described in *Moving Together.* Exhibit 9.

O. *Statements by the Board of Ananda Marga, Inc. on March 11, 2006*

64. In a March 11, 2006 email to the Margiss in the New York Sector, the alleged Board of Directors of Ananda Marga, Inc. made the following statements:

- a. The Ananda Marga Pracaraka Samgha (AMPS) organization was founded by Baba in 1955 to propagate HIS ideology.
- b. Ananda Marga, Inc. is the nonprofit corporation set up in 1974 to be the primary legal entity in the United States. AMPS Central, headed by Ac. Shraddhananda Avt., Purodha Pramukha, is the organization with which Ananda Marga, Inc. is affiliated. AMPS Central has its Central Headquarters in Ananda Nagar, India, with its Camp Office in Ranchi, India.
- c. The General Secretary [AMPS] also had total power to appoint the Sectorial Secretary, and the Sectorial Secretary had unchecked power to determine all workers and directors in Ananda Marga, Inc. Therefore, any Sectorial Secretary appointed by the General Secretary would have complete control over the decisions and organizational assets of Ananda Marga, Inc.

Exhibit 3.

P. *Tax Returns of Ananda Marga, Inc.*

65. The tax return for the years 1994 through 2003 (the last year that Ananda Marga, Inc. filed a tax return), which putative Plaintiff Ananda Marga, Inc. produced in discovery, states under penalty of perjury, that AMPS Central is the parent organization of Ananda Marga, Inc.

Exhibit 42.

Q. *July 6, 2010 electronic mail from Ananda Marga, Inc. to Kolkata faction*

66. On June 16, 2010, Ac. Sambhutyanda Avt. of the Kolkata faction sent an email to Wayland Secrest, stating, in relevant part:

The members of legal sub-committee and all concerned of Kolkata administration have gone through the documents and letters sent by you. Accordingly, I, on behalf of the Kolkata administration, do hereby reply as under [sic]

We all are strongly committed to uphold and preserve Rev. Marga Guru's basic spirits and values in all matters including legal battles here in India and everywhere in the world. We would like to frankly let you know that we don't appreciate and we don't agree with latest amendments of bylaws of Ananda Marga, Inc. Jan. 28<sup>th</sup>, 2006, in which the role of the parent organization Ananda Marga Pracaraka Samgha and its Sectorial Secretary has been reduced to an ineffective nominal instrument.

The provisions, rules, bylaws as contained in the original constitution of Ananda Marga, Inc. 1974 were in consonance with the basic spirit and the organizational system as cherished by BABA, thus the same should be follow and preserved.

Exhibit 43.

67. In response, on July 6, 2010, Wayland Secrest forwarded a letter (dated July 5, 2010) signed by all the individual Plaintiffs as the purported Board of Directors of Ananda Marga, Inc. stating, in relevant part: "It is our understanding that you wish some additional clarifications regarding the 2006 Amended Bylaws of Ananda Marga, Inc. First of all, we would like to assure you that all Board members of Ananda Marga, Inc. are fully committed to Baba's Mission and Ideology, and have never had any intention to create another "independent" organizational entity. . . Secondly, the by-laws were amended in 2006 in response to the declaration of the so-called "Organizational Emergency" by Dada Dhruvananda.... [W]e look forward to the re-establishment of the trust and cooperation that underlies the spirit of the 1974 and 1982 Bylaws in relation to AMPS Central. As the situation changes and evolves, the current Board of Directors of Ananda Marga, Inc. is ready to make changes to reflect the changes in the situation, in the spirit of the 1974 Bylaws." Exhibit 43.

R. *Article Signed by Counter-Defendant Fernando Kumar*

68. In 2007, Fernando Kumar signed a document under the name Ac. Tirthananda Avt. entitled *A History of the Conflict in the Ananda Marga Mission*. In this document Fernando Kumar sets forth his beliefs as to what has occurred in AMPS since the physical death of Rev. Baba. In no manner does he claim that General Secretary Ac. Dhruvananda Avt. was without authority on October 30, 2005, the date that Fernando Kumar no longer was Sectorial Secretary of the New York Sector. Rather, Fernando Kumar questioned the Emergency called by the General Secretary in December 2005. Exhibit 15. Likewise, Fernando Kumar admitted in deposition that he contends that the General Secretary Ac. Dhruvananda Avt. became the illegitimate General Secretary of Central in the end of 2005, in December. Exhibit 28.

S. *Electronic Mail from Fernando Kumar, dated March 22, 2007*

69. On March 22, 2007, in response to an email question related to various actions he had taken, Fernando Kumar wrote in relevant part: “It is clear that we have 2 administrations of the same AMPS both claiming the legal ownership of the same. I do not recognize those based in Kolkotta [*sic*] as legitimate so I use in my writings that the [*sic*] are Kolkotta [*sic*] based workers.” Exhibit 44.

T. *Factual Statements by Plaintiff Ananda Marga, Inc.’s Rule 30(b)(6) Designees*

70. The Rule 30(b)(6) designees of Plaintiff Ananda Marga, Inc. made the following admissions:

- a. “In Ananda Marga, Inc. we follow the teachings of Baba. Therefore, we follow Caryacarya.” Exhibit 13 at 29:20-24;
- b. “Caryacarya are the Scriptures of Ananda Marga.” Exhibit 13 at 29:18-19;
- c. Ananda Marga, Inc. is part of the Ananda Marga Mission, the worldwide organization, which is the denomination. This denomination is governed by the Caryacayra and procedural orders. Exhibit 13 at 73-78;

- d. Ananda Marga, Inc. is part of the Ananda Marga Mission because its purpose is to propagate the teaching of Baba. Exhibit 13 at 82;
- e. It was after the Central Committee meeting in April 2006 that the Ranchi Administration was started. Prior to that time AMPS Central's camp headquarters were in Ranchi, India. Exhibit 13 at 162-163;
- f. If Fernando Kumar was not the Sectorial Secretary at the time of the bylaws amendments in 2006, the bylaws amendments are invalid. Exhibit 13 at 239-251; and
- g. Ananda Marga, Inc. is the legal embodiment of Ananda Marga Pracaraka Samgha New York Sector. Exhibit 14 at 54:11-14.

U. *Court Rulings in India*

71. In India there have been a series of attempts by individuals to challenge the authority of the General Secretary, Ac. Dhruvananda Avt. In each case where the question of the General Secretary, Ac. Dhruvananda Avt., authority has been challenged, the highest court in that case has ordered Ac. Dhruvananda Avt. to continue to be the General Secretary of AMPS and also ordering Ac. Dhruvananda Avt. to be the acting Promodha Pramukha. Exhibit 16.

72. In Misc. Appeal 6 of 2006, the Court of the Additional District Judge (2<sup>nd</sup> Court of Purulia, Sri S.C. Chatterjee) (the "Intermediate Appellate Court") affirmed the lower court's decision (in Title Suit No. 305 of 2003) not to temporarily enjoin the existing Governing Body of AMPS (with Ac. Dhruvananda Avt. as General Secretary) from functioning as such until resolution of the pending litigation over the legitimacy of the Governing Body. In the opinion on Misc. Appeal 6 of 2006, the Intermediate Appellate Court agreed with the lower court's denial of the preliminary injunction and ordered that the existing Governing Body (with Ac. Dhruvananda Avt. as the General Secretary) should continue to function as the governing body of AMPS until the resolution of the pending litigation. Exhibit 16.

73. On September 25, 2006, the Calcutta High Court (similar to a state supreme court), issued C.O. 3721 of 2006, affirming the Intermediate Appellate Court's ruling in Misc. Appeal 6 of 2006 and ordering that "the present governing body of the Samgha [society] shall continue to function." Exhibit 16.

74. In an opinion Misc. Appeal 25 of 2005, issued on the 24<sup>th</sup> day of December 2007, the Intermediate Appellate Court ordered, in relevant part, that the present Governing Body (with Ac. Dhruvananda Avt. as General Secretary), "will remain in management" of AMPS until final resolution of the pending litigation regarding the legitimacy of the Governing Body. Exhibit 16.

75. On July 1, 2008, the Civil Judge (Sr. Division) District Purulia (the "Trial Court") issued an opinion in Title Suit No. 90 of 2008. In this opinion, the Trial Court denied the plaintiff's request for a temporary injunction and ruled that the plaintiff, an avadhutika (nun) who had been posted as the principal of the Ananda Marga Primary School by General Secretary Ac. Dhruvananda Avt. in 2003, was also validly transferred by General Secretary Ac. Dhruvananda Avt. in 2007. The Trial Court gave two bases for its ruling: (1) that based on the orders of the Calcutta High Court in C.O. 3721 of 2006 and the Intermediate Appellate Court in Misc. Appeal 6 of 2006 "the function of the defendant no. 1 [Ac. Dhruvananda Avt.] cannot be challenged," and (2) that "in view of clause (g) Rule 25 of the Constitution of Ananda Marga Pracaraka Samgha it is very much clear that the defendant no. 1, i.e. the General Secretary of said Samgha has every right to pass any transfer or posting order" of the plaintiff. Exhibit 16.

76. In an opinion in Title Suit No. 152/2008, issued on December 6, 2008, the Trial Court granted the plaintiffs' request to temporarily enjoin Ac. Vishvadevananda Avt. from acting as the Purodha Pramukha of Ananda Marga and President of AMPS until resolution of the merits

of the case. The Trial Court further ordered that the General Secretary of AMPS, Ac. Dhruvananda Avt., should function as the Purodha Pramukha until resolution of the case.

Exhibit 16.

77. The Rule 30(b)(6) designees of Ananda Marga, Inc. testified during their depositions that they are not aware of any cases in India or elsewhere holding that during the 2005-2006 time frame General Secretary AMPS, Ac. Dhruvananda Avt. was not the legitimate General Secretary of AMPS. Exhibit 13 at 236:12-238:2 and Exhibit 14 at 19:11-20:12.

Likewise, the designees testified that they are not aware of any case in India holding that the entity they call the Ranchi administration (i.e., the Intervenor in this case) is not in charge of the administration of AMPS. Exhibit 13 at 390:5-391:20.

V. *Expert Report of Professor Lorne L. Dawson, Professor of Sociology*

78. Professor Lorne L. Dawson is a sociologist whose area of specialization is in the study of new religious movements. Professor Dawson has reviewed a number of the documents that the parties have produced in this litigation, including the initial pleadings, Caryacarya parts 1, 2 and 3, the Articles of Incorporation and Bylaws of Ananda Marga, Inc., documents filed by Ananda Marga, Inc. with the IRS and other United States governmental agencies, various issues of the *Crimson Dawn*, and the *Moving Together* manual. Exhibit 52.

79. Based on his review of the documents, his review of the relevant academic research literature, and his expertise in the sociology of new religious movements, Professor Dawson concluded that (1) “it is indisputable that Ananda Marga is a hierarchical religious organization;” (2) “Ananda Marga is also an organization in which spiritual objectives are meant to subsume all others, and no sound reasons exist for thinking that a meaningful and realistic distinction can be drawn between separate legal and socio-spiritual organizational entities within

the movement;” and (3) “it is not credible to claim that A[nanda] M[arga] Inc. (the “New York Sector”) is an autonomous organization that has operated independently of the authority of the central AMPS in India, and its leader the *Purodha Pramukha*.” Exhibit 52.

80. The Plaintiffs have not designated any expert witness to rebut the findings and conclusions of Professor Dawson. The Plaintiffs have not designated an expert witness to opine on any issue in this litigation.

81. Ananda Marga, Inc. has not withdrawn from Rev. Baba’s AMPS structure. Exhibit 28 at 23:14-23:17 and Exhibit 54.

### **ARGUMENT**

**I. THIS COURT SHOULD ENTER SUMMARY JUDGMENT IN FAVOR OF INTERVENOR AMPS AND DEFENDANTS BECAUSE THERE ARE NO GENUINE MATERIAL DISPUTED FACTS AND SUPREME COURT PRECEDENT REQUIRE JUDGMENT IN THEIR FAVOR AS A MATTER OF LAW.**

“Summary judgment is appropriate when the pleadings and supporting documentation demonstrate that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law.” *Woodward v. Board of Directors of Tamarron Ass'n of Condominium Owners, Inc.*, 155 P.3d 621, 623 (Colo.App. 2007). *See also Mancuso v. United Bank of Pueblo*, 818 P.2d 732, 736 (Colo. 1991). “The purpose of summary judgment is to permit the parties to pierce the formal allegations of the pleadings and save the time and expense connected with trial when, as a matter of law, based on undisputed facts, one party could not prevail.” *Peterson v. Halsted*, 829 P.2d 373, 375 (Colo. 1992). “[S]ummary judgment serves the salutary goal of saving judicial resources that otherwise might be expended in protracted litigation.” *Mt. Emmons Min. Co. v. Town of Crested Butte*, 690 P.2d 231, 239 (Colo. 1984).

On a motion for summary judgment, the moving party has the initial burden of showing that there is no genuine issue of material fact, but after that initial burden has been met, the nonmoving party bears the burden of establishing that there is a triable issue of fact. *Mancuso*, 818 P.2d at 736 (citing *Continental Airlines, Inc. v. Keenan*, 731 P.2d 708, 712 (Colo. 1987)). The nonmoving party receives all favorable inferences that may reasonably be drawn from the undisputed facts. *Id.* (quoting *Tapley v. Golden Big O Tires*, 676 P.2d 676, 678 (Colo. 1983)). “However, once the moving party makes a convincing showing that there are no genuine issues of material fact, the opposing party must demonstrate with relevant and specific facts that a real controversy exists. Thus, the opposing party may not rest upon mere allegations or denials in its pleadings, but must provide specific facts demonstrating the existence of a genuine issue for trial.” *Sender v. Powell*, 902 P.2d 947, 950 (Colo.App. 1995). When neither party disputes the competence or admissibility of the evidentiary materials offered in support of summary judgment, a court may consider all of that evidence in its analysis. *Greenwood Trust Co. v. Conley*, 938 P.2d 1141, 1149 (Colo. 1997).

Summary judgment is appropriate here because the applicable law is well-established and the relevant material facts are undisputed. Summary judgment for Intervenors and Defendants is proper on the basis of the governing religious scriptures and organizational authorities acknowledged by all parties on the declarations submitted by Intervenors and Defendants from the highest ecclesiastical authorities within the denomination and from a leading sociologist of religious movements. But the numerous statements of the Plaintiffs themselves provide this Court an additional and independent basis for summary judgment, including statements submitted under penalty of perjury to the United States Internal Revenue Service and immigration authorities.

**A. The First Amendment And Supreme Court Precedent Require That This Dispute Regarding Removal Of Officials Within And Control Of Religious Organizations Be Decided By Enforcing The Decisions Of The Highest AMPS Authorities.**

This case involves a dispute over the control of a religious organization that arises from the decision by the highest authorities within that religious denomination to remove and reassign a subordinate religious official and from the subsequent actions of that reassigned (and later defrocked) subordinate religious official and his supporters to disregard the decisions of religious authorities, to attempt to hijack subordinate religious organizations, and to seek to persuade the secular courts to enforce their decisions rather than those of the highest denominational authorities. As such, this case is directly controlled by the United States Supreme Court's decision in *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 708-09 (1976) ("Serbian Orthodox"). See also *Presbyterian Church v. Hull Church*, 393 U.S. 440, 449 (1969); *Kreshik v. St. Nicholas Cathedral of the Russian Orthodox Church of North America*, 363 U.S. 190 (1960); *Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 116 (1952); *Gonzalez v. Roman Catholic Archbishop*, 280 U.S. 1, 16 (1929).<sup>4</sup>

In *Serbian Orthodox*, the Supreme Court instructed that decisions regarding the structure and administration of a hierarchical religious organization and the removal of officials within that hierarchy – in other words, decisions regarding who will speak for and control the religious organization and its various affiliated entities – must be made by deferring to and enforcing the decisions of the highest authorities within the religious denomination. The Court explained that this approach was in fact constitutionally required:

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<sup>4</sup> See also *Watson v. Jones*, 80 U.S. 679, 727 (13 Wall.) (1871) (deciding under federal common law, prior to incorporation of First Amendment to apply to the States, that "whenever the questions of discipline, or of faith, or ecclesiastical rule, custom or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final and as binding on them, in their application to the case before them.")

[T]he *First* and *Fourteenth Amendments* mandate that civil courts shall not disturb the decisions of the highest ecclesiastical tribunal within a church of hierarchical polity, but must accept such decisions as binding on them, in their application to the religious issues of doctrine or polity before them.”

*Serbian Orthodox*, 426 U.S. at 709, citing *Md. & Va. Churches v. Sharpsburg Church*, 396 U.S. 367, 369 (1970) (Brennan, J., concurring).

Significantly, the Supreme Court further stated that such deference was constitutionally necessary even where resolution of the religious disputes regarding removal of religious officials and church structure and administration would have the practical effect of determining control over church property. That was precisely what was at issue in *Serbian Orthodox*.

Resolution of the religious disputes at issue here affects the control of church property in addition to the structure and administration of the American-Canadian Diocese. This is because the Diocesan Bishop controls respondent Monastery of St. Sava and is the principal officer of respondent property-holding corporations. Resolution of the religious dispute over [the American Bishop’s] defrockment therefore determines control of the property. Thus, this case essentially involves not a church property dispute, but a religious dispute the resolution of which under our cases is for ecclesiastical and not civil tribunals. Even when rival church factions seek resolution of a church property dispute in the civil courts there is substantial danger that the State will become entangled in essentially religious controversies or intervene on behalf of groups espousing particular doctrinal beliefs. Because of this danger, “the First Amendment severely circumscribes the role that civil courts may play in resolving church property disputes.”

*Serbian Orthodox*, 426 U.S. at 709-10 (citations omitted), quoting *Presbyterian Church v. Hull Church*, 393 U.S. 440, 449 (1969).

Numerous other decisions apply this same analysis whenever a lawsuit involves a significant dispute over the identity of an ecclesiastical officeholder. For example, in *Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 96-97, 116 (1952), the U.S. Supreme Court employed this approach and enforced the decision of the highest authorities of the international religious denomination. State courts around the country have applied this same approach in similar

contexts. *See, e.g., Alexander v. Allen*, 2005 WL 3369884 (Tex. App. 2005) (although resolution of dispute would determine control over church property, “no one disputes [the corporate entity] owns the property held in the court registry. This dispute concerns who should run the church; that is, who comprises the official board of directors, and how the church should be governed.”); *St. Mark's Coptic Orthodox Church v. Tanios*, 572 N.E.2d 283, 291-92 (Ill.App. 1991) (where underlying dispute was about the identity of and control over the organization’s board of directors, rather than ownership of property per se, rule of judicial deference must be applied).

This approach is consistent with subsequent U.S. Supreme Court First Amendment decisions, including those applying the “neutral principles of law” approach to resolution of disputes that are strictly about church property and do not involve issues of the removal of religious officials and control of religious organizations. As the Supreme Court stated in *Jones v. Wolf*, 443 U. S. at 602, its leading “neutral principles” decision:

[T]he First Amendment prohibits civil courts from resolving church property disputes on the basis of religious doctrine and practice. As a corollary to this commandment, the Amendment requires that civil courts defer to the resolution of issues of religious doctrine or polity by the highest court of a hierarchical church.

This approach is also consistent with that taken by the Colorado state courts in resolving similar disputes. Although Colorado has adopted the neutral principles of law approach for pure church property disputes, *see Bishop and the Diocese of Colorado v. Mote*, 716 P.2d 85, 96 (Colo. 1986), the Colorado courts have nevertheless recognized the continuing vitality of the *Serbian Orthodox* analysis and have applied it to resolve disputes about the identity of church leaders or members. *See, e.g., Moses v. Diocese of Colorado*, 863 P.2d 310, 320 (Colo. 1993) (“courts must not become embroiled in disputes involving a religious organization if the court would be required to interpret or weigh church doctrine,” *citing Serbian Orthodox and Kedroff*, among others). For example, *Levitt v. Calvary Temple of Denver*, 33 P.3d 1227, 1230 (Colo.

App. 2001), involved a dispute over whether the plaintiff was a member of a church. Even though *Mote* had been decided by that time and its neutral principles analysis was available, the Colorado Court of Appeals instead applied the Serbian Orthodox analysis to resolve the case. The Court ruled that “a civil court simply has no authority to reverse” the decision by the hierarchy of the church “no matter how arbitrary or unfair, to expel Levitt or any other member.” *Id.*

**B. The Undisputed Facts in This Case Directly Parallel the Facts in *Serbian Orthodox* and Thus Require Judgment in Intervenor’s and Defendants’ Favor.**

The facts of *Serbian Orthodox* closely parallel the facts here. In *Serbian Orthodox*, the authorities in the international church commenced disciplinary proceedings against the appointed leader (Bishop Milivojevic) of the church’s American Diocese. *Id.* at 703. After beginning the disciplinary proceeding, the international church reorganized the American Diocese into three smaller dioceses. Bishop Milivojevic objected to this change and refused to comply with religious orders limiting his activity during the disciplinary process. *Id.* at 704. The international church then removed him from his position. Instead of complying with this removal, Bishop Milivojevic and his followers declared that the American Diocese had seceded from the international church and were no longer under its authority. The domestic governing authorities of the American Diocese changed its governing documents and recalled Bishop Milivojevic to serve as its Bishop. *Id.* at 705-06. Then, before the disciplinary proceedings commenced by the international church had concluded, Bishop Milivojevic filed a pre-emptive civil lawsuit to have him declared bishop and to enjoin the international church from interfering with the property titled to the American Diocese. *Id.* at 706-07. The Illinois Supreme Court entered judgment for Bishop Milivojevic utilizing the neutral principles of law analysis. But the United States Supreme Court reversed and instead deferred to and enforced the decisions of the highest authorities within the international church. *Id.* at 708-09. The Supreme Court did so with the express recognition that

its decision regarding the ecclesiastical officers of the United States branch of the international church would necessarily be dispositive of the issues of control over related property-holding corporations and thus of issues of ownership of property. *Id.* at 709 (“because the Diocesan Bishop ... is the principal officer of the respondent property-holding corporations ... [r]esolution of the religious dispute over [Bishop Milivojevich's] defrockment therefore determines control of the property.”).

In the instant case, the facts closely parallel those presented in *Serbian Orthodox*. And to the extent that there is any divergence, the facts here actually present an even more compelling case for application of *Serbian Orthodox*'s requirement that courts defer to and enforce the decisions of the highest authorities within the religious denomination.

Like the international church in *Serbian Orthodox*, Intervenor AMPS is a hierarchical religious organization/denomination that has a well-established ecclesiastical governance system. AMPS was founded by Rev. Baba, the Guru, who provided its Holy Scriptures by which AMPS is to be governed. Its purpose is to propagate the teachings of Rev. Baba throughout the entire world.

For organizational purposes, Rev. Baba divided the world into nine sectors, one of which is the New York Sector (of which Ananda Marga, Inc. is the legal embodiment). Under the ecclesiastical system established by Rev. Baba, embodied in the Caryacarya and the Conventions, and consistently followed by Ananda Marga, Inc. prior to Kumar's rebellion, the General Secretary of AMPS assigns the Wholetimers ministers throughout the world at all levels in the Sectors. The General Secretary also assigns at his pleasure the Sectorial Secretaries for each Sector. Each Sectorial Secretary is to serve as the representative of the General Secretary in the Sector, in essence the ambassador or liaison of the General Secretary. The system of

hierarchy descends from AMPS Central, to Sector, to Region, to Diocese, to Village/Bhukti, and to Unit, in descending order. However, the General Secretary of AMPS has the power of appointment and removal of Acarya Wholetimers at all levels throughout the entire worldwide organization.

The Articles of Incorporation of Ananda Marga, Inc. clearly reflect that the purpose of Ananda Marga, Inc. is to propagate the Ananda Marga religion. Likewise, the bylaws of Ananda Marga, Inc., prior to the purported amendments in 2006, clearly reflect the hierarchical ecclesiastical structure of AMPS and its Holy Scriptures through the assignment and removal powers of the General Secretary and the role that the Sectorial Secretary plays in the organization.

Plaintiff Fernando Kumar was originally posted to the United States in 2003 to serve as Sectorial Secretary of Ananda Marga, Inc. by the General Secretary of AMPS. The General Secretary in the same way on October 30, 2005, reassigned Fernando Kumar from serving as Sectorial Secretary of Ananda Marga, Inc. and assigned a new Sectorial Secretary to head Ananda Marga, Inc. This re-assignment or posting was approved by the then-serving Purodha Pramukha of AMPS and the posting took affect immediately on October 30, 2005, at which time the Sectorial ERAWS Secretary became the Acting Sectorial Secretary for Ananda Marga, Inc., until the arrival of the newly appointed/posted Sectorial Secretary in the Sector.

Like Bishop Milivojevich in *Serbian Orthodox*, Fernando Kumar objected to this change and refused to comply with the posting order of the General Secretary assigning him to a different Sector. He did so even though he admits that the General Secretary Ac. Dhruvananda Avt. was the legitimate General Secretary of AMPS Central at the time and that Purodha Pramukha Shradhdhananda was the legitimate Purodha Pramukha until his death in 2008.

Like Bishop Milivojevich in *Serbian Orthodox*, Fernando Kumar and his followers then took purported actions to attempt declare themselves no longer under the authority of AMPS and to seize control of Ananda Marga, Inc. Just as the followers of Bishop Milivojevich attempted to change the governing documents of the American Diocese and recalled Bishop Milivojevich to serve as its religious leader, here the followers of Kumar purported to amend the Bylaws of Ananda Marga, Inc. and to continue Kumar as Sectorial Secretary of Ananda Marga, Inc.

Furthermore the facts here present an even more compelling argument for deference to the highest authorities of AMPS by this Court.

First, in *Serbian Orthodox*, Bishop Milivojevich and the American Diocese filed their preemptive civil lawsuit to have him declared bishop and to enjoin the international church from interfering with the property titled to the American Diocese *before* the disciplinary proceedings commenced by the international church had concluded. *Id.* at 706-07. Here, in contrast, AMPS had already defrocked Kumar before he and his followers filed the instant lawsuit. The Plaintiffs' purported actions asserting control over Ananda Marga, Inc. therefore have even less pretense to legitimacy than those of Bishop Milivojevich in *Serbian Orthodox*.

Second, the Supreme Court in *Serbian Orthodox* observed that the sources of law within the international church that established and documented the church's hierarchy were "sometimes ambiguous and seemingly inconsistent." *Id.* at 699. Here, the relevant provisions of the Caryacarya, the Conventions, the Articles and Bylaws of Ananda Marga, Inc., and other documents establishing or explaining the ecclesiastical structure of AMPS are clear and consistent, as outlined above.

Third, the Supreme Court's opinion in *Serbian Orthodox* does not refer to any decisions by the courts in the international church's mother country of Yugoslavia. But here, to the extent that

these issues have been litigated in the courts of India, where Rev. Baba established AMPS, all of those cases have been resolved to date in ways that consistently recognize the authority of the current General Secretary to govern and control AMPS and to re-assign subordinate officials. *See infra* at ¶¶ 71-77 and Exhibit 16.

Fourth, the Supreme Court's opinion in *Serbian Orthodox* references only the religious denomination's own documents to support its conclusion that the international church was hierarchical in structure and therefore entitled to deference by the United States courts. Here, however, in addition to the relevant authoritative documents of AMPS and the governing documents of Ananda Marga, Inc., Intervenor and Defendants/Counterplaintiffs have also submitted the detailed affidavit of Dr. Lorne Dawson, an internationally recognized sociologist of religion who has extensively studied similar Eastern religious movements. Dr. Dawson confirms, from a secular academic sociological perspective and from his review of the relevant documents of AMPS and Ananda Marga and of relevant filings in this case, that AMPS is a hierarchical religious organization and that such hierarchical authority and control is in fact an inherent characteristic of such religious movements. Exhibit 52.

Finally, and most importantly, the Supreme Court's opinion in *Serbian Orthodox* makes no reference to any statements by Bishop Milivojevich and the American Diocese expressly acknowledging the hierarchical nature of the international church and the authority of its highest religious officials. But here, in contrast, Intervenor and Defendants have provided in support of their Joint Motion for Summary Judgment substantial documentation of the many ways in which Kumar and the other Plaintiffs have acknowledged the hierarchical nature of AMPS, the subordinate status of Ananda Marga, Inc. as a Sector of AMPS, and the authority of the General Secretary over Sectors and Sectorial Secretary. These admissions include (but are not limited to)

sworn filings submitted by Ananda Marga, Inc. (in many instances signed by one of the Plaintiffs) to the IRS and INS/USCIS. *See Exhibits 1, 4-7, 19, 23, 38 and 42.* Plaintiffs testified at deposition that these documents are authentic and accurate and in fact produced nearly all of these documents in discovery.

Perhaps most damning to the Plaintiffs' current position are the emails and other documents produced in discovery in which they acknowledge that Plaintiffs' current positions regarding the hierarchical nature of AMPS and its authority over Ananda Marga, Inc. have been adopted simply for purposes of the present litigation. Thus, in an email exchange with Wayland Secrest, on behalf of Plaintiff Ananda Marga, Inc., a leading official of the Kolkata faction, Ac. Sambhutananda Avt., expressly rejected the Plaintiffs' purported 2006 amendments to the Bylaws of Ananda Marga, Inc. as contrary to the basic spirit and organizational values established by Rev. Baba for AMPS:

The members of legal sub-committee and all concerned of Kolkata administration have gone through the documents and letters sent by you. Accordingly, I, on behalf of the Kolkata administration, do hereby reply as under [*sic*]

We all are strongly committed to uphold and preserve Rev. Marga Guru's basic spirits and values in all matters including legal battles here in India and everywhere in the world. We would like to frankly let you know that we don't appreciate and we don't agree with latest amendments of bylaws of Ananda Marga, Inc. Jan. 28<sup>th</sup>, 2006, in which the role of the parent organization Ananda Marga Pracaraka Samgha and its Sectorial Secretary has been reduced to an ineffective nominal instrument.

The provisions, rules, bylaws as contained in the original constitution of Ananda Marga, Inc. 1974 were in consonance with the basic spirit and the organizational system as cherished by BABA, thus the same should be follow and preserved.

Exhibit 43. In response, Wayland Secrest forwarded a letter signed by the purported Board of Directors of Ananda Marga, Inc., *i.e.*, the individual Plaintiffs in this case, indicating that the Plaintiffs made the changes to the Bylaws in an effort to avoid compliance with the orders of

AMPS General Secretary Dhruvananda and that they intend to restore the Bylaws to their pre-2006 condition after conclusion of their disputes with AMPS (presumably including the instant lawsuit). See Exhibit 43.

## **II PLAINTIFFS' THIRD AND FOURTH CLAIMS FOR RELIEF ARE NOT COGNIZABLE ACTIONS FOR WHICH RELIEF MAY BE GRANTED.**

The Plaintiffs' Amended Complaint claims to seek relief against Defendants for violations of the Colorado Nonprofit Corporation Act. Specifically, the Plaintiffs seek relief for the Defendants' alleged unauthorized assumption of corporate powers and alleged unauthorized possession of corporate assets and property. In their Amended Complaint, the Plaintiffs cite to no authority to recover for such alleged violations. Furthermore, the Colorado Nonprofit Corporation Act contains no provision for a private right of action for alleged violations thereof. This Court should grant Defendants summary judgment on Plaintiffs' third and fourth claims for relief as not raising actionable claims.

## **CONCLUSION**

In summary, the facts presented in this case provide an even more compelling argument than was present in *Serbian Orthodox* for this Court to defer to and enforce the decisions of the highest authorities within the AMPS religious denomination. Furthermore, Plaintiffs' third and fourth claims for relief to do not allege actions that are cognizable grounds for relief. For all of the reasons set forth above, Intervenor AMPS and the Defendants respectfully request that this Honorable Court grant summary judgment in their favor dismissing all of the claims filed by Plaintiffs with prejudice and granting judgment in favor of Intervenor AMPS and Defendants on all of their counterclaims.

Dated: March 28, 2010

Respectfully Submitted,

/original signatures on file/

Timothy R. Obitts, Esq.

Mae Cheung, Esq.

Counsel for Defendants/Counter-Plaintiffs  
and Intervenor

## APPENDIX A – EXHIBIT LIST

Counsel for Plaintiffs and counsel for Defendants have stipulated to the authenticity of many documents related to this case. The Exhibit Numbers with an asterisk “\*” next to them have been stipulated to by Counsel for the Plaintiffs as a true and accurate copy for authentication purposes.

| <u>Exhibit Number</u> | <u>Description</u>   |
|-----------------------|--|
| 1 *                   | Various IRS filings for Ananda Marga, Inc.   |
| 2                     | Declaration of Rudra Nanda, aka Ac. Rudranananda Avt.  |
| 3 *                   | Email from Ananda Marga NY Office to NYS Org re: Recent Bylaw changes for Ananda Marga, Inc. – March 11, 2006  |
| 4 *                   | Various Immigration & Naturalization Forms for Ananda Marga, Inc.  |
| 5 *                   | Letter from Ananda Marga, Inc. to U.S. Immigration & Naturalization Service – Nebraska Service Center re: Documentation to Supplement Form I-360 for Ramananda Avadhuta – June 5, 2003   |
| 6 *                   | Letter from Ananda Marga, Inc. to U.S. Citizenship and Immigration Services – Vermont Service Center to accompany INS Form I-360 by Ananda Marga, Inc. on behalf of ordained religious minister in U.S. – January 18, 2006                                     |
| 7 *                   | Affidavit of Rubens C. Teixeira, Secretary of Ananda Marga, Inc.   |
| 8                     | Declaration of Dipendra Kuma Singh, aka Ac. Dharmapremananda Avt.  |
| 9                     | NY Sector Booklet targeting the needs of newly arriving  |
| 10 *                  | Moving Together Handbook to help navigate the Ananda Marga organization in New York Sector – July 1995   |
| 11                    | <i>Crimson Dawn</i> Publication – July 1973  |
| 12                    | <i>Crimson Dawn</i> Publication – December 1972  |
| 13                    | Deposition of Rubens C. Teixeira – March 7, 2011   |
| 14                    | Deposition of Michael Hemmelgarn – March 8, 2011   |
| 15 *                  | Various emails regarding the History of the Conflict in Ananda Marga and Ananda Marga Mission  |
| 16                    | Various Indian Cases with accompanying Affidavit   |
| 17                    | A Manual on Tribunal per December 27-28, 1991 Central Committee of Ananda Marga Pracaraka Samgha meeting – hand dated March 9, 1992  |
| 18 *                  | Circular to review the organization, recognize problems and identify solutions – July 25, 1996   |
| 19 *                  | U.S. Department of Justice Petition to Accord Third Preference Immigration Status Under Section 203(a)(3) of the Immigration and Nationality Act, As Amended in re: Ananda Marga Yoga Society, petitioner, on behalf of Acharya Y. Acadhuta – October 11, 1972 |
| 20 *                  | Minutes of Meeting of Board of Directors of Ananda Marga North America Sectorial Headquarters on February 7, 1981 – February 15, 1981  |
| 21 *                  | Minutes of the Special Joint Board of Directors Meeting – December 10, 1998  |
| 22                    | <i>Crimson Dawn</i> Publication – November 1978  |
| 23 *                  | Letter from Ananda Marga, Inc. to Immigration Officer at U.S. International Airport to   |

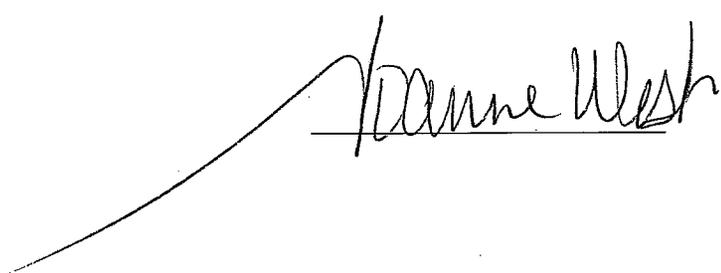
|      |  |
|------|--|
|      | accompany R-1 Visa for ordained religious minister – January 20, 2006  |
| 24 * | Affidavit of Acarya Rainjitananda Avadhuta   |
| 25 * | Bylaws of Ananda Marga, Inc. – March 30, 1974  |
| 26   | Declaration of Sarva Dutta, aka Ac. Shubhatmananda Avt.  |
| 27   | Declaration of Dr. Ramesh Kohli, aka Dr. Satush Chander Kohli, aka Acarya Shambhushivananda Avaduhta   |
| 28   | Deposition of Fernando Kumar – March 8, 2011   |
| 29 * | AMPS Central Office Order No: 609-06   |
| 30 * | Email with Minutes from Representative’s Meeting in Central  |
| 31 * | Email and Letter regarding unauthorized changes to organizational documents  |
| 32 * | Minutes & Resolutions of the meeting of Central Committee held on December 26-28, 1996 at Anandanagar  |
| 33 * | Email regarding 1996 Resolutions   |
| 34 * | Various emails and letters regarding Charge Handover   |
| 35 * | Various letters from Ananda Marga Pracaraka Samgha   |
| 36 * | Letter from Ananda Marga Pracaraka Samgha regarding several failure to respond to several prior letters – February 26, 2010  |
| 37 * | Various webpages from <a href="http://www.yogainnewyork.com">www.yogainnewyork.com</a> , <a href="http://www.anandamarga.us">www.anandamarga.us</a> and <a href="http://www.nysamps.org">www.nysamps.org</a> |
| 38 * | Various Immigration & Naturalization Documents for Ananda Marga, Inc.  |
| 39 * | General Power of Attorney appointing A’carya Dhyaneshananda Avadhuta as power of attorney for Sushi Ghosh – June 9, 1999   |
| 40 * | Various Office Orders and Posting Letters regarding the New York Sector  |
| 41   | Declaration of Tor Bjoernsen, aka Daniel C. Haven, aka Ac. Daneshananda Avt., formerly aka Ac. Danaviira Brc.  |
| 42 * | Various IRS Form 990 filings for Ananda Marga, Inc.  |
| 43 * | Email from Owner-Secretorial-NYS to SEC NS re: Resolutions to be reviewed within 24 hours – May 11, 2006   |
| 44 * | Email from Ananda Marga Sectorial Office re: a division – March 22, 2007   |
| 45   | <i>Crimson Dawn</i> Publication – April-June 1980  |
| 46   | <i>Crimson Dawn</i> Publication – October 1974   |
| 47   | <i>Crimson Dawn</i> Publication – July 1974  |
| 48   | <i>Crimson Dawn</i> Publication – January-March 1994   |
| 49   | Intervenor Ananda Marga Pracaraka Samgha’s Objections and Responses to Putative Plaintiff Ananda Marga, Inc.’s First Set of Interrogatories  |
| 50   | Defendant Ac. Vimalananda Avt.’s Responses to Putative Plaintiff Ananda Marga, Inc.’s First Set of Interrogatories to Defendant Acharya Vimalananda Avadhuta   |
| 51   | Affidavit of Clark E. Forden   |
| 52   | Declaration of Lorne L. Dawson   |
| 53   | <i>Crimson Dawn</i> Publication – April 1975   |
| 54*  | Email regarding NYS-org Communication from Sectorial Office  |
| 55*  | Articles of Incorporation of Ananda Marga, Inc. – March 21, 1974   |

**CERTIFICATE OF SERVICE**

I hereby certify that on this 28th day of March, 2011, I have served a copy of the foregoing ~~DEFENDANTS/COUNTER-PLAINTIFFS' AND INTERVENOR'S~~ **MEMORANDUM OF LAW IN SUPPORT OF JOINT MOTION FOR SUMMARY JUDGMENT** on the following via electronic mail:

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\_\_\_\_\_  
Joanne Welsh