

## **APPENDIX**

**APPENDIX**

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**APPENDIX A**

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**UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

**No. 20-168**

**SUMMARY ORDER**

**[Filed: November 5, 2020]**

**RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007 IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.**

**At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 5th day of November, two thousand twenty.**

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Present:

JON O. NEWMAN,  
ROBERT A. KATZMANN,  
JOSEPH F. BIANCO,  
*Circuit Judges.*

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HYUNG JIN MOON, "SEAN", )  
)  
*Plaintiff-Appellant,* )  
)  
v. )  
)  
HAK JA HAN MOON, HOLY SPIRIT )  
ASSOCIATION FOR THE UNIFICATION )  
OF WORLD CHRISTIANITY, FAMILY )  
FEDERATION FOR WORLD PEACE )  
AND UNIFICATION INTERNATIONAL, )  
HYO YUL KIM, "PETER," DOUGLAS )  
D.M. JOO, CHANG SHIK YANG, )  
KI HOON KIM, MICHAEL W. JENKINS, )  
MICHAEL BALCOMB, FARLEY JONES, )  
ALEXA WARD, JOHN DOES 1-6, )  
)  
*Defendants-Appellees.* )

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For Plaintiff-Appellant:

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LLP, Cincinnati, OH.

For Defendants-Appellees:

LAURA G. FERGUSON (Alan I. Horowitz, Brian A. Hill, *on the brief*), Miller & Chevalier Chartered, Washington, DC.

For Amici Curiae Hyun Jin (Preston) Moon and UCI:

William A. Burck, Derek L. Shaffer, Jan-Philip Kernisan, Quinn Emanuel Urquhart & Sullivan, LLP, Washington, DC; William G. Laxton, Jr., Jacob M. Roth, David T. Raimer, Jones Day, Washington, DC; Henry W. Asbill, Veena Viswanatha, Buckley LLP, Washington, DC.

Appeal from the judgment of the United States District Court for the Southern District of New York (Buchwald, *J.*).

**UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the judgment of the district court is **MODIFIED** and, as modified, **AFFIRMED**.

Plaintiff-Appellant Hyung Jin Moon appeals from a judgment of the United States District Court for the Southern District of New York dismissing his lawsuit for lack of subject matter jurisdiction on grounds of ecclesiastical abstention. We assume the parties' familiarity with the underlying facts, the procedural history of the case, and the issues on appeal.

We review an abstention decision that implicates subject-matter jurisdiction *de novo*. See *Hartford Courant Co. v. Pellegrino*, 380 F.3d 83, 90 (2d Cir. 2004).

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“Since at least the turn of the century, courts have declined to interfere with ecclesiastical hierarchies, church administration, and appointment of clergy.” *Rweyemamu v. Cote*, 520 F.3d 198, 204–05 (2d Cir. 2008).<sup>1</sup> “First Amendment values are plainly jeopardized when church property litigation is made to turn on the resolution by civil courts of controversies over religious doctrine and practice. . . . [T]he Amendment therefore commands civil courts to decide church property disputes without resolving underlying controversies over religious doctrine.” *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem’l Presbyterian Church*, 393 U.S. 440, 449 (1969); see also *Serbian E. Orthodox Diocese for U.S. of Am. & Can. v. Milivojevich*, 426 U.S. 696, 709–10 (1976) (holding that the principle articulated in *Presbyterian Church* “applies with equal force to church disputes,” like the present one, “over church polity and church administration”). Indeed, “where the identity of the governing body or bodies that exercise general authority within a church is a matter of substantial controversy, civil courts are not to make the inquiry into religious law and usage that would be essential to the resolution of the controversy.” *Md. & Va. Eldership of Churches of God v. Church of God at Sharpsburg, Inc.*, 396 U.S. 367, 369–70 (1970) (Brennan, J., concurring).

At the same time, courts are not precluded from resolving disputes simply because the outcome would

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<sup>1</sup> Unless otherwise indicated, in quoting cases, all internal quotation marks, alterations, emphases, footnotes, and citations are omitted.

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have religious implications. For instance, courts may apply “neutral principles of law” for the resolution of disputes involving religious matters, so long as the “neutral principles” allow the court to avoid deciding questions of religious doctrine, polity, and practice. *Jones v. Wolf*, 443 U.S. 595, 602–04 (1979). Relying on *Jones*, the plaintiff argues that the ecclesiastical abstention doctrine does not apply because we may rely on neutral principles of corporate, nonprofit, agency, property, and gift law to grant him the relief sought.

Beginning with the claims for declaratory judgment, we hold that, based on the allegations in the complaint, there are no neutral principles by which we can adjudicate these claims without deciding the religious question of who the rightful successor to the late Rev. Sun Moon is. The complaint alleges that defendant-appellee Family Federation for World Peace and Unification International (the “Family Federation”) is a Korean entity, but its precise corporate status is unclear. The complaint also alleges that the Family Federation has no articles of organization or written bylaws governing its affairs, as the Family Federation is “governed and operated pursuant to an established and recognized set of practices, procedures, policies and customs,” in which the edicts and instructions by Rev. Moon were “authoritative and required to be followed by all Unification Church entities and organizations.” Joint App’x 10. And both the complaint and the plaintiff’s briefs are silent as to any Korean law that might govern the organization of the Family Federation in the absence of written documents. On the basis of these allegations, we find no neutral principles of corporate, non-profit, or agency law that would allow us

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to declare rights and obligations that concern “matter[s] of internal church government, an issue at the core of ecclesiastical affairs,” *Milivojevich*, 426 U.S. at 721, without making a decision “on the basis of religious doctrine or practice,” *Jones*, 443 U.S. at 602.

Similarly, we reject the plaintiff’s argument that we can rely on neutral principles of property and gift law to grant him the declaratory relief sought. The plaintiff’s attempt to recast this case as a property dispute is belied by the complaint, which does not request any relief specific to certain crowns and robes that were given to him as part of his alleged appointment as the leader, and which vaguely refers to other “property and assets” without identifying specific property interests in them. Joint App’x 14, 21, 29–30. As in *Milivojevich*, which incidentally involved church property, “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.” 426 U.S. at 709.<sup>2</sup>

Alternatively, the plaintiff contends that a purported exception to the ecclesiastical abstention

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<sup>2</sup> For the first time on appeal, the plaintiff argues that the Family Federation should be judicially estopped from arguing for ecclesiastical abstention because it argued against the doctrine in a different litigation. Because this argument was not properly presented before the district court, we do not consider it here. See *Broidy Cap. Mgmt. LLC v. Benomar*, 944 F.3d 436, 444 n.7 (2d Cir. 2019). Even if we were to consider it, “no action of the parties can confer subject-matter jurisdiction upon a federal court. Thus[,] . . . principles of estoppel do not apply.” *Ins. Corp. of Ir., Ltd. v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 701–02 (1982).



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doctrine for fraud or collusion should apply. In *Milivojevich*, the U.S. Supreme Court noted the possibility of an exception for fraud or collusion “when church tribunals act in bad faith for secular purposes.” 426 U.S. at 713. But as that phrase suggests, if the exception exists, it would apply where a religious entity engaged in a bad faith attempt to conceal a secular act behind a religious smokescreen. Here, the fact that the plaintiff has failed to articulate a secular legal right implies that he has also failed to articulate how the defendants may have deprived him of that right in the guise of a religious act. While we might not owe deference to a church’s decision whose religious nature was a pretext for its secular purposes, we cannot intervene here to adjudicate what remains an essentially religious question over who the rightful leader of the Family Federation is.

Other than the claims for defamation for a statement made in April 2015, tortious interference, and violation of New York’s whistleblower protection statute, each of the remaining claims depends squarely on the resolution of the plaintiff’s core claim that he, not defendant-appellee Hak Ja Han Moon, is the rightful leader of the Family Federation. Accordingly, we lack jurisdiction to adjudicate these remaining claims on ecclesiastical abstention grounds.

With respect to the claims for defamation for a statement made in April 2015 and tortious interference, we have a neutral principle to adjudicate them: the statute of limitations. Accordingly, we affirm the district court’s dismissal of these claims on the

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basis that they are time-barred, with the modification that such dismissal be with prejudice.

With respect to the claim for violation of New York’s whistleblower protection statute, contrary to the district court’s dismissal on ecclesiastical abstention grounds, we hold that a small subset of the allegations in support of the claim—specifically, that the plaintiff was “suspended from his role as the International President of Family Federation” for exposing that the Unification Church and Family Federation leaders “were benefitting from excessive salaries and benefits at the expense of the Unification Church and Family Federation,” Joint App’x 37– 38—can be evaluated without reference to any religious doctrine.<sup>3</sup> Nevertheless, we affirm the district court’s dismissal on grounds that the complaint fails to adequately allege what law or adopted policy of the Unification Church and Family Federation these officials violated (or, with particularity, what fraud they have committed) in paying themselves excessive salaries. *See* N.Y. Not-for-Profit Corp. Law § 715-b(a); *see also* Fed. R. Civ. P. 9(b).<sup>4</sup>

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<sup>3</sup> To clarify, on ecclesiastical abstention grounds, we lack jurisdiction to adjudicate the claim for violation of whistleblower protections to the extent that it is based on the succession dispute or other issues of religious practice—for instance, that these officials were acting improperly by “dishonoring the directions and teachings of Rev. Moon to curry favor with Mrs. Moon,” that the retaliation consisted of these officials “asking him to go along with Mrs. Moon’s exercise of authority,” and the like. Joint App’x 37.

<sup>4</sup> We do not reach the unsettled issue of whether N.Y. Not-for-Profit Corp. Law § 715-b(a) confers a private right of action.

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We have considered all of the plaintiff's remaining arguments and have found in them no grounds for reversal. For the reasons above, we **MODIFY** the judgment of the district court to reflect that the time-barred claims are dismissed with prejudice and all other claims are dismissed without prejudice and **AFFIRM** the judgment as modified.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk  
/s/ Catherine O'Hagan Wolfe

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**APPENDIX B**

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**MEMORANDUM AND ORDER**

**19 Civ. 1705 (NRB)**

**[Filed: December 19, 2019]**

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HYUNG JIN "SEAN" MOON, )  
 )  
 Plaintiff, )  
 )  
 - against - )  
 )  
 HAK JA HAN MOON, HOLY SPIRIT )  
 ASSOCIATION FOR THE )  
 UNIFICATION OF WORLD )  
 CHRISTIANITY, THE FAMILY )  
 FEDERATION FOR WORLD )  
 PEACE AND UNIFICATION )  
 INTERNATIONAL, HYO YUL )  
 "PETER" KIM, DOUGLAS D. M. JOO, )  
 CHANG SHIK YANG, KI HOON KIM, )  
 MICHAEL W. JENKINS, MICHAEL )  
 BALCOMB, FARLEY JONES, ALEXA )  
 WARD, AND JOHN DOES 1-6. )  
 )  
 Defendants. )  

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**NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE**

Before the Court is a dispute over control of the South Korea-based Unification Church and related entities, including the Family Federation for World Peace and Unification International (“Family Federation”) and the Holy Spirit Association for the Unification of World Christianity (“HSA-UWC”).<sup>1</sup> Plaintiff Hyung Jin “Sean” Moon, the son of Unification Church founder Reverend Sun Myung Moon (“Rev. Moon”) and defendant Hak Ja Han Moon (“Mrs. Moon”), brings this action to, *inter alia*, confirm that he, rather than his mother, is the rightful “Leader of Family Federation and the Unification Church as authorized and appointed by Rev. Moon.” FAC ¶ 2.<sup>2</sup>

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<sup>1</sup> The Unification Church, which was founded in Seoul, Korea in 1954, is described in the operative complaint as a “religious denomination that is hierarchical.” First. Am. Compl. (“FAC”) at ¶ 32. Family Federation “is the authoritative religious entity that directs Unification Churches worldwide,” FAC ¶ 5, and HSA-UWC (USA) is the “only embodiment of the Unification Church recognized by the Family Federation in the United States,” FAC ¶ 29.

<sup>2</sup> The Court notes at the outset that several of plaintiff’s filings, see ECF Nos. 44, 71, and 91, fail to comply with the requirement of the Local Civil Rules that “all documents must have at least one-inch margins on all sides.” Loc. Civ. R. 11.1(b)(2). Noncompliance with this Rule has enabled plaintiff to include more content per page than the Local Rules permit. It should go without saying that, absent permission from the Court to the contrary, plaintiff’s counsel shall in all instances comply with the Local Rules of this District.

Before the Court are defendants' motions to dismiss. For the reasons that follow, those motions are granted in their entirety.

**I. Background**<sup>3</sup>

This action arises from a succession dispute that followed the death in 2012 of Unification Church founder Rev. Moon. Plaintiff alleges that defendants have engaged in a variety of tortious and conspiratorial conduct to remove plaintiff from several positions of leadership within various Unification Church organizations, including his positions as (1) International President and agent of Family Federation; (2) successor "Leader"<sup>4</sup> of the Unification Church and Family Federation; and (3) President of HSA-UWC (USA).

The relevant events began in April of 2008, when Rev. Moon appointed plaintiff to the position of International President of Family Federation. FAC

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<sup>3</sup> The following facts are taken from the operative complaint and the documents cited therein.

<sup>4</sup> The complaint acknowledges that insofar as it refers to plaintiff as the "successor Leader," at the time plaintiff purportedly was appointed as Rev. Moon's successor "[t]here was not a specific officer title reserved for this highest position of leadership in the Family Federation and the Unification Church worldwide," and that "in the context of the church [plaintiff] was also referred to as heir, king, successor, and other titles which reflected that he was the appointed successor of Rev. Moon intended to serve as the top Leader of the church worldwide." FAC ¶ 49. In plaintiff's opposition to defendants' motions to dismiss, plaintiff further describes his role as "Leader" of Family Federation as "the equivalent of a chief executive officer." ECF No. 71 at 26.

¶ 39. Thereafter, by way of three “coronation ceremonies” held in January of 2009, Rev. Moon publicly confirmed plaintiff’s appointment to the post of “successor Leader of Family Federation and the Unification Church worldwide.” FAC ¶ 48. Plaintiff’s appointment as successor to Rev. Moon, which plaintiff alleges was separate from and in addition to plaintiff’s appointment as International President of Family Federation, FAC ¶ 53, was further confirmed in 2010, when Rev. Moon purportedly “prepared and signed a written proclamation in which he appointed Sean Moon as his rightful heir, successor and Leader of the Unification Church worldwide,”<sup>5</sup> FAC ¶ 52. Based on the allegations in the complaint and the materials annexed thereto, that proclamation is believed to state, in relevant part:

There is only one King of Kings, who is God, only one True Parents, throughout tens of thousands of generations, all families are the people who share a single lineage, and are the children of one heavenly kingdom. They have the same blood lineage. The

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<sup>5</sup> The complaint goes on to state that “[a] true and correct copy of [the written proclamation] as translated from Korean, is attached as Exhibit 1.” FAC ¶ 52. Exhibit 1 to the complaint, however, appears to be a transcript of a conversation during which Rev. Moon drafted the purported proclamation, rather than a copy of the proclamation itself. See FAC Ex. 2. The transcript, titled “June 5 Proclamation with Translation Added,” reflects a conversation between Rev. Moon, Mrs. Moon, and plaintiff, who are identified in the transcript as “Father,” “Mother,” and “Hyung Jin Nim,” respectively. Further, while the transcript is titled “June 5 Proclamation,” the transcript indicates that the written proclamation was signed on April 23, 2010. See FAC Ex. 1 at 2.

Universal Peace and Unification Federation Headquarters is the absolute and unique Headquarters. There cannot be two Headquarters . . . Its representative and inheritor is Hyung Jin Moon. Anybody else is a heretic and a destroyer. This is the proclamation of the True Parents.

FAC Ex. 1 at 2.

Plaintiff further alleges that, after Rev. Moon's death, defendant Mrs. Moon "coerced [plaintiff] to leave Korea and move to the United States to serve as President of HSA-UWC (USA)." FAC ¶ 73. Thereafter, on February 23, 2013, the board of HSA-UWC (USA) voted to remove Sean Moon as President of that organization. FAC ¶ 76. Plaintiff remained International President of Family Federation until February of 2015, when, in "direct retaliation" for having exposed certain misdeeds of top management of Family Federation, FAC ¶¶ 83, 263, plaintiff purportedly was suspended from that role. Plaintiff maintains that, notwithstanding defendants' attempts to remove him from various positions of leadership within the Unification Church, he remains Rev. Moon's successor and "Leader" of Family Federation because Rev. Moon irrevocably appointed him to that role and "[t]here is no executive, board of directors, or other entity or individual with authority to revoke Rev. Moon's appointment of Sean Moon as Leader of Family Federation and the Unification Church." FAC ¶ 91.

Plaintiff also alleges that defendants Family Federation and Mrs. Moon have published certain false statements "disput[ing] [plaintiff's] proper authority to lead the Family Federation and Unification Church as



the Leader.” FAC ¶ 209. While the complaint fails to identify the specific statements that plaintiff maintains are defamatory, plaintiff attaches as exhibits to the complaint: (1) an April 18, 2015 letter from Family Federation, signed by defendants Dr. Ki Hoon Kim and Dr. Michael Balcomb,<sup>6</sup> FAC Ex. 3; and (2) a February 22, 2018 Family Federation press release, FAC Ex. 4. The 2015 letter states, *inter alia*, that “[i]n [plaintiff’s] current state of rebellion against True Parents, Hyung Jin Moon by his own words and actions renounced and repudiated his position as heir and representative of True Parents.” FAC Ex. 3 at 3. The 2015 letter goes on to state that “because True Parents removed [plaintiff] from his former position as International President, Hyung Jin Moon has no official authority and position within our movement at this time.” FAC Ex. 3 at 3. The 2018 press release states that “[s]ince the death of Rev. Moon back in 2012, Family Federation has been led by Mrs. Hak Ja Han Moon, the co-founder.” FAC Ex. 4 at 2. The press release concludes with Family Federation’s mission statement: “To guide America back to God through the teachings and Marriage Blessing of True Parents.” FAC Ex. 4 at 3.

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<sup>6</sup> According to the FAC, defendant Dr. Ki Hoon Kim is the Continental Director, Regional Chairman and Vice President of Family Federation in North America, and was appointed chairman of the HSA-UWC Board of Directors “after Sean Moon’s improper removal.” FAC ¶ 12. Defendant Dr. Michael Balcomb is also alleged to have been a member of the HSA-UWC (USA) Board of Directors at the time of plaintiff’s removal, and the complaint alleges upon information and belief that Dr. Balcomb “continues to serve in a leadership role on behalf of Family Federation, HSA-UWC (USA) and the Unification Church.” FAC ¶ 14.

Finally, plaintiff asserts that as part of defendant Mrs. Moon's efforts to usurp plaintiff's authority, Mrs. Moon created the "Cheon II Guk Constitution," which established a "Supreme Council" to participate in the selection of future heads of the Unification Church following Mrs. Moon's death. FAC ¶ 117. Plaintiff claims that because he did not authorize the Cheon II Guk Constitution or the creation of the Supreme Council, both the Cheon II Guk Constitution and the Supreme Council are without legal effect. FAC ¶ 119.

### **A. Procedural History**

Plaintiff filed the initial complaint in this case on February 22, 2019 against defendants Mrs. Moon, HSA-UWC, Family Federation, and eight individually named defendants believed to be "senior members of HSA-UWC and/or Family Federation." ECF No. 1 at ¶ 65. On April 15, 2019, the defendants that had been served filed a letter requesting a pre-motion conference in connection with their anticipated motion to dismiss. ECF No. 33. In response, plaintiff requested leave to conduct discovery as to the personal jurisdiction arguments raised by the defendants in their April 15 letter. On May 22, 2019, after this case was transferred to the undersigned,<sup>7</sup> the Court issued an Order declining plaintiff's request for jurisdictional discovery but granting plaintiff leave to file an amended complaint if, consistent with Rule 11, plaintiff could

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<sup>7</sup> The complaint was initially filed in the Southern District of New York, White Plains division. The case was transferred to this Court on May 20, 2019, following a determination that assignment to White Plains was improper.

assert additional allegations to cure the deficiencies asserted in defendants' April 15 letter. ECF No. 41.

Plaintiff thereafter filed a 275-paragraph amended complaint asserting twelve causes of action against the initially named defendants. Two of plaintiff's claims seek declaratory relief: (1) that plaintiff "is the properly authorized and appointed successor and worldwide Leader of the Unification Church and Family Federation," FAC ¶ 112 (Count I); and (2) that "the Cheon II Guk Constitution is a legal nullity, void, without authority, unenforceable and without effect" and that "the Supreme Council is not properly authorized and is without legal authority to govern the conduct or operation of Family Federation or the Unification Church and should be immediately disbanded," FAC ¶¶ 119, 120 (Count II). Plaintiff additionally asserts causes of action for breach of fiduciary duty (Counts III and IV); tortious interference with business relationship (Count V); breach of agency agreement (Count VI); breach of fiduciary duties, unjust enrichment, and constructive trust (Count VII); defamation (Count VIII); and civil RICO violations and conspiracy to commit RICO violations (Counts IX and X). Plaintiff also asserts a claim for violation of New York's Whistleblower Statute (Count XI), and seeks an accounting related to HSA-UWC and Family Federation (Count XII).

On June 28, 2019, defendants Mrs. Moon, HSA-UWC, Family Federation, and Dr. Ki Hoon Kim moved to dismiss the FAC for lack subject matter jurisdiction, lack of personal jurisdiction as to all defendants except HSA-UWC, and failure to state a claim. ECF No. 50.

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The Court thereafter granted leave for defendant Dr. Michael Balcomb, for whom proof of service was filed on July 1, 2019, to join the June 28 motion to dismiss and to file a supplemental brief addressing issues unique to him.<sup>8</sup> Both motions to dismiss are presently before the Court. Also before the Court is plaintiff's motion to extend the ninety-day service deadline under Federal Rule of Civil Procedure 4(m) as to certain of the individual defendants, and to excuse untimely service on defendants Douglas D.M. Joo, Chang Shik Yang, and Michael Jenkins. See ECF No. 75.

For the reasons stated herein, the Court grants defendants' motions to dismiss pursuant to Federal

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<sup>8</sup> As of June 28, 2019, the docket reflected that four of the eleven named defendants -- Mrs. Moon, HSA-UWC, Family Federation and Dr. Ki Hoon Kim -- had been served. Because the July 1, 2019 proof of service as to Dr. Balcomb reflected that he had been served on June 27, 2019, the Court granted him leave to file a supplemental motion to dismiss. See ECF No. 55. In addition to moving to dismiss on the bases set forth in the June 28 motion to dismiss, Balcomb also moved to dismiss, pursuant to Federal Rule of Civil Procedure 12(b)(5), on the basis of untimely service.

On August 14, 2019, counsel for the served defendants informed the Court that three of the additionally named defendants (*i.e.*, Douglas D.M. Joo, Chang Shik Yang, and Michael Jenkins) had recently been served. See ECF No. 74. In the interest of avoiding duplicative briefing, the Court stayed the case as to those defendants pending resolution of the previously filed motions to dismiss. See ECF No. 76. At present, the docket reflects that all but one of the named defendants have been served.

Rule of Civil Procedure 12(b)(1).<sup>9</sup> Plaintiff's motion to extend the 90-day service deadline and to excuse the late service upon the additionally named defendants, is, accordingly, denied as moot.

## **II. Discussion**

Because the crux of plaintiff's multi-count complaint is his request for a declaration that he, rather than his mother, "is the properly authorized and appointed successor and worldwide Leader of the Unification Church and Family Federation," FAC ¶ 112, the Court begins by considering whether, as defendants maintain, the doctrine of ecclesiastical abstention bars the Court from adjudicating that claim. After concluding that the Court may not resolve that dispute without running afoul of the First Amendment, the Court considers whether any of plaintiff's remaining claims can be adjudicated by reference to neutral principles of law. Because each of the remaining claims either turns on or cannot be divorced from the issue of whether plaintiff is entitled to the position of "successor Leader" of the Unification Church -- a question that this Court may not resolve without wading impermissibly into questions of ecclesiastical concern -- plaintiff's remaining claims must also be dismissed.

Indeed, notwithstanding plaintiff's efforts to cast this proceeding as a "classic corporate dispute" resolvable by reference to neutral principles of law,

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<sup>9</sup> As used herein, "defendants" refers to the defendants who have filed motions to dismiss (*i.e.*, Mrs. Moon, HSA-UWC, Family Federation, Dr. Ki Hoon Kim, and Dr. Michael Balcomb).

ECF No. 71 at 2, this matter is, at bottom, the latest chapter in a protracted controversy over who should replace the late Rev. Moon as leader of the Unification Church. Because this Court may not, consistent with the First Amendment, intervene in that dispute, plaintiff's complaint must be dismissed in its entirety for lack of subject matter jurisdiction.<sup>10</sup>

### A. Legal Standard

“A case is properly dismissed for lack of subject matter jurisdiction under Rule 12(b)(1) when the district court lacks the statutory or constitutional power to adjudicate it.” Makarova v. United States, 201 F.3d 110, 113 (2d Cir. 2000). “In defending a motion to dismiss for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1), the plaintiff bears the burden of proving the Court’s jurisdiction by a preponderance of the evidence.” Id. While the Court “must accept as true all material factual allegations in the complaint,” J.S. ex rel. N.S. v. Attica Cent. Schs., 386 F.3d 107, 110 (2d Cir. 2004), “jurisdiction must be shown affirmatively, and that showing is not made by drawing from the pleadings inferences favorable to the

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<sup>10</sup> Consistent with the longstanding practice of treating questions of ecclesiastical entanglement as jurisdictional, see Watson v. Jones, 80 U.S. 679, 733 (1871) (stating that “civil courts exercise no jurisdiction” over a matter that is “strictly and purely ecclesiastical in its character”), the Court analyzes defendants’ ecclesiastical abstention arguments through a Rule 12(b)(1) lens. See also Kavanagh v. Zwilling, 12 Civ. 7062 (JMF), 997 F. Supp. 2d 241, 248 n.7 (S.D.N.Y.), *aff’d*, 578 F. App’x 24 (2d Cir. 2014) (“Most district courts to consider the question [of whether the First Amendment bars review of ecclesiastical questions] have treated it as jurisdictional.”).

party asserting it,” Shipping Fin. Servs. Corp. v. Drakos, 140 F.3d 129, 131 (2d Cir. 1998). Moreover, the Court “may consider affidavits and other materials beyond the pleadings to resolve the jurisdictional issue.” Attica, 386 F.3d at 110.

“Where, as here, the defendant moves for dismissal under Rule 12(b)(1), Fed. R. Civ. P., as well as on other grounds, the court should consider the Rule 12(b)(1) challenge first since if it must dismiss the complaint for lack of subject matter jurisdiction, the accompanying defenses and objections become moot and do not need to be determined.” Rhulen Agency, Inc. v. Ala. Ins. Guar. Ass’n, 896 F.2d 674, 678 (2d Cir. 1990) (internal quotation marks omitted). The Court thus begins by considering defendants’ argument that “[t]he First Amendment ecclesiastical abstention doctrine bars this Court from exercising jurisdiction over a dispute about who controls a church and its assets.” ECF No. 50 at 5. Because the Court concludes that dismissal on that basis is warranted, the Court does not reach defendants’ other arguments for dismissal.

### **B. Ecclesiastical Abstention**

Defendants’ motions to dismiss draw on a long line of Supreme Court cases holding that the First Amendment precludes judicial review of proceedings that turn on issues of church administration or religious doctrine. In 1871, the Supreme Court in Watson v. Jones articulated as a matter of federal common law the principle, “founded in a broad and sound view of the relations of church and state under our system of laws,” that civil courts are to defer to religious authorities on “questions of [church]

discipline, or of faith, or ecclesiastical rule, custom, or law.” 80 U.S. 679, 727 (1871). The Supreme Court constitutionalized the principle from Watson, which had been decided without explicit reference to the First Amendment, in Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am., 344 U.S. 94, 116 (1952). Since Kedroff, the doctrine of ecclesiastical abstention, variously referred to as the “church autonomy doctrine,” has continued to evolve (albeit somewhat sporadically) on a case-by-case basis.<sup>11</sup> See, e.g., Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem’l Presbyterian Church, 393 U.S. 440, 449, 451 (1969) (reciting the principle that civil courts may not resolve questions that would require them “to engage in the forbidden process of interpreting and weighing church doctrine” and citing the “hazards . . . of implicating secular interests in matters of purely ecclesiastical concern”); Serbian E. Orthodox Diocese for U.S. of Am. & Canada v. Milivojevich, 426 U.S. 696, 713 (1976) (asserting “the general rule that religious controversies are not the proper subject of civil court inquiry”).<sup>12</sup> Most recently, the Supreme Court in

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<sup>11</sup> While unimportant for purposes of this Memorandum and Order, there remains some ambiguity over whether the ecclesiastical abstention doctrine derives from the Free Exercise Clause or the Establishment Clause. See Kavanagh, 997 F. Supp. 2d at 250.

<sup>12</sup> While plaintiff notes correctly that “[t]he First Amendment generally prevents courts from ruling on the truth of religious beliefs and courts cannot interpret religious doctrine,” ECF No. 71 at 4, the case law is clear that issues pertaining to internal church organization and governance, no less than questions of “religious beliefs” and “religious doctrine,” id., are to be regarded as religious matters beyond the purview of civil courts’ authority. See, e.g.,



Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C. affirmed that “the authority to select and control who will minister to the faithful--a matter ‘strictly ecclesiastical,’--is the church’s alone.” 565 U.S. 171, 195 (2012) (quoting Kedroff, 344 U.S. at 119 (1952)).<sup>13</sup>

While the ecclesiastical abstention doctrine has evolved principally in the context of church property disputes, the Supreme Court in Milivojevich recognized a distinct category of cases involving religious organizations -- those involving questions “at the core

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Milivojevich, 426 U.S. at 717 (deeming it “[beyond] dispute that questions [concerning] the composition of the church hierarchy [are] at the core of ecclesiastical concern”); Kedroff, 344 U.S. at 116 (affirming the freedom of religious organizations “to decide for themselves, free from state interference, *matters of church government* as well as those of faith and doctrine”) (emphasis added).

<sup>13</sup> While Hosanna-Tabor was not a case about ecclesiastical abstention, it addressed “the related--but distinct--‘ministerial exception,’” Kavanagh, 997 F. Supp. 2d at 248 n.7, which “protects religious employers from employment discrimination lawsuits brought by their ministers.” Penn v. N.Y. Methodist Hosp., 884 F.3d 416, 418 (2d Cir. 2018). While plaintiff notes correctly that this is not an employment discrimination lawsuit and thus that cases concerning the ministerial exception are not directly relevant, see ECF No. 71 at 8, Hosanna-Tabor is instructive insofar as it articulates the rationale behind judicial non-interference in disputes over church leadership. As the Court in Hosanna-Tabor explained, “[r]equiring a church to accept or retain an unwanted minister, or punishing a church for failing to do so . . . interferes with the internal governance of the church, depriving the church of control over the selection of those who will personify its beliefs.” 565 U.S. at 188.

of ecclesiastical concern,” id. at 717 -- that, though they may incidentally affect church property or other secular matters, cannot properly be adjudicated by civil courts.<sup>14</sup> And while the line separating such claims from the secular church disputes that civil courts permissibly may adjudicate is often a blurry one, see Kavanagh, 997 F. Supp. 2d at 252, courts have generally concluded that intrachurch succession disputes, such as the one at issue here, fall squarely within the nonjusticiable category. See, e.g., Congregation Beth Yitzhok v. Briskman, 566 F. Supp. 555, 558 (E.D.N.Y. 1983) (dismissing the complaint for lack of subject matter jurisdiction where resolution of the legal issues would require the court to determine the rightful successor to a deceased religious leader); Maktab Tarighe Oveyssi Shah Maghsoudi, Inc. v. Kianfar, 179 F.3d 1244, 1250 (9th Cir. 1999)(explaining that any decision concerning the legitimacy of a religious leader’s succession “could only be made by a recognized decision-making body” within the religious organization itself); Kabbalah Ctr. Int’l, Inc. v. Youdkevitch, 2008 WL 11336117, at \*6 (C.D. Cal. Oct. 30, 2008) (stating that the court could not adjudicate the claim that defendants had falsely held out one of the named defendants as the successor to the founder

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<sup>14</sup> Professor Larry Tribe has explained that the Supreme Court in Serbian Eastern Orthodox Diocese v. Milivojevich “settled a question left open by the Court’s prior decisions: whatever room the first amendment might leave for independent civil resolution of secular but church-related disputes . . . it leaves no room whatever for independent civil adjudication of ‘questions . . . at the core of ecclesiastical concern.’”). LAURENCE H. TRIBE, AMERICAN CONSTITUTIONAL LAW 1241 (3d ed. 2000) (quoting Milivojevich, 426 U.S. at 717).

of a religious organization because doing so “would require the Court to apply religious doctrine or principles”).

Nevertheless, the application of the ecclesiastical abstention doctrine is fact-specific, and civil courts may adjudicate secular issues that arise in the context of church disputes “when inquiry ‘into religious law and polity’ is not required.” Kavanagh, 997 F. Supp. 2d at 249–50 (quoting Ram v. Lal, 906 F. Supp. 2d 59, 69–70 (E.D.N.Y. 2012)). To that end, the Supreme Court has articulated two methods -- deference to a church’s highest decision-making authority (the “deference approach”) and the “neutral principles of law” approach -- by which civil courts can adjudicate church disputes “without resolving underlying controversies over religious doctrine.” Presbyterian Church, 393 U.S. at 449. Because the two methods provide a useful framework for analyzing this dispute, each is addressed in turn.

### **1. Deference to Ecclesiastical Authority**

Under the deference approach, courts avoid entanglement in disputes concerning internal church governance by deferring to the decisions of the religious organization’s established decision-making body.<sup>15</sup>

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<sup>15</sup> In accordance with this principle, courts have recognized that the First Amendment “permit[s] hierarchical religious organizations to establish their own rules and regulations for internal discipline and government, and to create tribunals for adjudicating disputes over these matters.” Milivojevich, 426 U.S. at 724. Religious bodies, in turn, have developed institutions capable of adjudicating intra-church disputes. See Michael A.

While the Supreme Court in Milivojevich originally suggested a rule of compulsory deference to the decisions of authoritative church bodies where such decisions had been made, see 426 U.S. at 79 (noting that “[c]ivil courts shall not disturb the decisions of the highest ecclesiastical tribunal within a church of hierarchical polity”),<sup>16</sup> the Supreme Court in Jones v. Wolf acknowledged that compulsory deference would prove difficult in cases where a religious organization’s authoritative decisionmaking body could not easily be identified. Rejecting the principle of compulsory deference advocated by the dissenting justices, the Jones v. Wolf majority explained that, “where the locus of control [is] ambiguous . . . [compulsory deference] would appear to require ‘a searching and therefore impermissible inquiry into church polity.’” Jones, 443 U.S. at 605 (quoting Milivojevich, 426 U.S. at 723).

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Helfand, *Litigating Religion*, 93 B.U. L. REV. 493, 498 (2013) (“In practice, religious communities have largely filled the void left by the judicial refusal to decide cases implicating religion by developing institutions capable of doing so.”).

<sup>16</sup> The Supreme Court’s ecclesiastical abstention jurisprudence has long distinguished between churches that are “hierarchical” and those that are “congregational” in structure. “Hierarchical” churches are churches that have “a common ruling convocation or ecclesiastical head.” Kedroff, 344 U.S. 94, 110 (1952). “Congregational” churches, by contrast, “generally [do not] recognize superior authority over the local congregation.” Arlin M. Adams & William R. Hanlon, *Jones v. Wolf: Church Autonomy and the Religion Clauses of the First Amendment*, 128 U. PA. L. REV. 1291, 1292 (1980). For present purposes, the complaint alleges, and the Court accepts as true, that the Unification Church is hierarchical in nature. FAC ¶ 32.

Where, as here, there is a dispute as to the identity of a religious organization's authoritative decision-making body, the deference approach -- which requires the Court to identify in the first instance the body to whom it may defer -- cannot be applied without engaging in precisely the sort of "impermissible inquiry into church polity" that the Supreme Court anticipated in Jones v. Wolf. Stated otherwise, "where the identity of the governing body or bodies that exercise general authority within a church is a matter of substantial controversy, civil courts are not to make the inquiry into religious law and usage that would be essential to the resolution of the controversy." Maryland & Virginia Eldership of Churches of God v. Church of God at Sharpsburg, Inc., 396 U.S. 367, 369–70 (1970). See also Briskman, 566 F. Supp. 555 at 558 (concluding that, because a "dispute exists as to who is entitled to succeed the late [religious leader]. . . it is impossible for this Court to resolve the controversy without first wading deeply (and impermissibly) into religious issues.").<sup>17</sup>

In short, the deference approach presupposes that the identity of the church's authoritative decision-making body is undisputed. Because the central question before the Court is whether plaintiff or his

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<sup>17</sup> Defendants describe Serbian Eastern Orthodox Diocese v. Milivojevich as the "leading case" in support of their argument that plaintiff's claims are barred by the First Amendment ecclesiastical abstention doctrine. ECF No. 50 at 5. In Milivojevich, however, there was no dispute over which religious entities held "the exclusive power to remove, suspend, defrock, or appoint Diocesan Bishops," 426 U.S. at 699, thus entitling the decisions of those entities to judicial deference.

mother is properly entitled to succeed Rev. Moon, thus rendering the identification of the authoritative decision-making body a matter of “substantial controversy,” Sharpsburg, 396 U.S. at 369, the deference principle is of limited utility in resolving this action.<sup>18</sup>

## 2. Neutral Principles of Law

The alternative method for resolving secular disputes involving religious entities, and the approach plaintiff urges the Court to adopt, permits civil courts to resolve disputes to the extent they are amenable to the application of neutral principles of law. See Jones, 443 U.S. at 603 (explaining that the neutral principles approach permits civil courts to resolve church property disputes when they can do so by “rel[ying] exclusively on objective, well-established concepts of trust and property law familiar to lawyers and judges”).

At least in the context of a church property dispute,<sup>19</sup> the preliminary inquiry under the neutral

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<sup>18</sup> The Court thus disagrees with defendants’ contention that because Family Federation “has determined that Reverend Moon’s widow, not Plaintiff Sean Moon, is the leader of the Unification Church . . . this Court lacks jurisdiction to hold otherwise.” ECF No. 87 at 5-6. Insofar as the parties agree that Family Federation is the authoritative religious body within the Unification Church, see FAC ¶ 5, they disagree over who is the legitimate leader of that entity and thus over the identity of the proper decision-making authority.

<sup>19</sup> The Court assumes for purposes of this Memorandum and Order that the neutral principles approach -- a well-established method

principles approach is to evaluate whether church documents (*e.g.*, church charters or constitutions) contain secular language that civil courts may interpret in order to resolve the dispute on a non-theological basis. See, e.g., id. (“Through appropriate reversionary clauses and trust provisions, religious societies can specify what is to happen to church property in the event of a particular contingency, or what religious body will determine the ownership in the event of a schism or doctrinal controversy.”). Here, however, plaintiff concedes that there exists neither a “charter [n]or [any other] governing documents . . . that would govern how or whether Sean Moon could be removed as the Leader and successor of Rev. Moon.” FAC ¶ 87. While plaintiff alleges that his appointment as successor Leader is “evidenced in a written proclamation,” FAC ¶ 2, that proclamation, discussed *supra* at 3-4, turns on the meaning of plainly non-

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for resolving church *property* disputes, see, e.g., Jones, 443 U.S. at 604 (noting that states may “adopt neutral principles of law as a means of adjudicating *a church property dispute*”) (emphasis added); Presbyterian Church, 393 U.S. at 449 (describing “neutral principles of law, *developed for use in all property disputes*”) (emphasis added) -- may also be applied to other kinds of secular disputes involving religious entities. See, e.g., Puri v. Khalsa, 844 F.3d 1152, 1165 (9th Cir. 2017) (“Property disputes have proved especially amenable to application of the neutral-principles approach. But we are unaware of any authority or reason precluding courts from deciding other types of church disputes by application of purely secular legal rules”). Here, notwithstanding plaintiff’s purported entitlement to certain church property -- namely, the “crowns and robes which were part of the required attire in the commencement of his duties,” FAC ¶ 160 -- plaintiff does not characterize this proceeding as a church property dispute (nor could he credibly do so).

secular terms and concepts (*e.g.*, the “one King of Kings, who is God”), and an understanding of the authority of the “True Parents” within the Unification Church movement. It suffices to say that this Court could not ascertain the meaning of those concepts -- nor the significance of Rev. Moon’s purported admonition that “anybody [other than plaintiff] is a heretic and a destroyer,” FAC Ex. 1 at 2 -- by reference to ordinary principles of contract interpretation.<sup>20</sup>

Citing a 1963 opinion of the New York Supreme Court, Bronx County, plaintiff maintains that in the absence of governing documents that would permit a court to resolve a church dispute on a secular basis, courts can still apply the neutral principles approach by “rely[ing] on [a religious entity’s] ‘accepted and honored custom, policies, and usage’ to determine the rights of the parties.” ECF No. 71 at 5 (quoting Evans v. Criss, 240 N.Y.S. 2d 517, 520 (N.Y. Sup. Ct. 1963)). In an apparent effort to identify a Unification Church practice that this Court could enforce in order to affirm plaintiff’s status as “Leader,” plaintiff asserts that “[p]ursuant to the customs, policies and procedures of [Family Federation], Rev. Moon had unilateral authority to appoint and remove the heads of [Family Federation and HSA-UWC].” ECF No. 71 at 3.

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<sup>20</sup> Nor is the Court persuaded by plaintiff’s contention that “Rev. Moon was very intentional in making his appointment of Sean Moon irrevocable and on neutral principles of non-profit and/or corporate law such appointment cannot be revoked as there is no one with authority to do so.” FAC ¶ 93. Plaintiff fails to identify the specific principles of “corporate and/or non-profit law” that supposedly would aid this Court in resolving his claims.



Even if Rev. Moon’s “unilateral authority” over the selection and removal of Unification Church leaders could accurately be characterized as an “accepted and honored custom,” any such custom would not aid this Court’s evaluation of the legitimacy of plaintiff’s removal from various church leadership positions following Rev. Moon’s death. Insofar as Rev. Moon founded the Unification Church and acted as its first spiritual leader, the Unification Church has had no prior occasion to establish an “accepted and honored custom” for selecting its successor leaders. Furthermore, the 1963 New York state court opinion that plaintiff cites as authority for the proposition that church disputes may be resolved by reference to prior customs and practices expressly premised its reliance on the church’s prior practices on the fact that the church in question was congregational rather than hierarchical in structure. The court reasoned that:

Unlike other religious denominations, there is no central governing body in the Baptist faith. Thus, *inasmuch as there exists no superior ecclesiastical entity vested with the power to prescribe rules by which a Baptist church may appoint or discharge a pastor*, past and accepted customs must be relied upon as the basis for effecting designations and discharges.

Id. (emphasis added). As noted *supra* at 16 n.16, the Unification Church is hierarchically structured (*i.e.*, it possesses a “central governing body” in Family Federation). Thus, the state court’s reasoning is factually inapplicable to this proceeding.

In summary, whether plaintiff or his mother is the rightful successor to Rev. Moon as leader of the Unification Church -- a question that the case law suggests is “at the core of ecclesiastical concern,” Milivojevich, 426 U.S. at 717 -- simply cannot be resolved via the deference approach or by reference to neutral principles of law. Thus, Count I of plaintiff’s complaint must be dismissed as barred by the First Amendment. It follows that plaintiff’s request for a declaration that the Cheon II Guk Constitution and the Supreme Council are “without legal authority,” see FAC ¶¶ 119, 120 (Count II) -- a request premised solely upon plaintiff’s contention that he, rather than his mother, is the true “Leader” of the Unification Church -- must also be dismissed.

### **C. Plaintiff’s Remaining Claims**

In an effort to characterize this proceeding as one that this Court can adjudicate, plaintiff alleges a variety of business torts arising from his purportedly improper ouster as International President of Family Federation.<sup>21</sup> It is well-settled, however, that “[i]n cases involving a dispute between two or more religious factions, the Court must look beyond the allegations of the complaint to ascertain what lies at the heart of [the] controversy.” Kedroff, 344 U.S. at 122 (1952) (Frankfurter, J., concurring). See also Kavanagh, 997

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<sup>21</sup> Indeed, plaintiff characterizes this proceeding as a secular dispute concerning “whether [Rev. Moon] had authority under the organization’s practices and procedures to appoint Sean Moon as [Family Federation’s] agent, whether he did in fact appoint him, and whether that agency agreement has been tortiously interfered with and/or breached.” ECF No. 71 at 2.

F. Supp. 2d at 250–51 (noting that, to determine whether the First Amendment permits adjudication of claims involving religious entities, civil courts rely not “on conclusory labeling of the whole dispute as either ‘secular’ or ‘ecclesiastical,’ but rather on the specific elements of the plaintiffs’ claim[s]”) (internal quotation marks omitted).

Here, a review of plaintiff’s claims leads inescapably to the conclusion that to resolve the allegations in the complaint would require resolution of the threshold question, discussed at length *supra*, of whether plaintiff or defendant Mrs. Moon is the rightful successor to Rev. Moon. And because that inquiry is barred by the First Amendment ecclesiastical abstention doctrine, those claims must be dismissed for want of subject matter jurisdiction, *even if those claims would otherwise be justiciable by reference to neutral principles*. Cf. Russian Orthodox Convent Novo-Diveevo, Inc. v. Sukharevskaya, 166 A.D.3d 1036, 1039 (N.Y. App. Div. 2018) (concluding that the existence of threshold ecclesiastical issues that directly affected the secular issues before the court prohibited the court from resolving the secular issues “that would otherwise have been subject to neutral principles of law”).

For the avoidance of doubt, the Court briefly addresses plaintiff’s remaining claims.<sup>22</sup>

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<sup>22</sup> Plaintiff devotes multiple pages of his opposition to defendants’ motions to dismiss to explaining why Family Federation’s arguments in favor of ecclesiastical abstention in this case are “disingenuous” in light of the fact that, in an unrelated lawsuit, Family Federation, as plaintiff, argued successfully *against* dismissal on the basis of ecclesiastical abstention. See ECF No. 71

### 1. Breach of Fiduciary Duty

Plaintiff alleges that “[a]t all relevant times . . . Mrs. Moon has owed the Unification Church, Family Federation, HSA-UWC (USA), and Sean Moon a fiduciary duty to act in their best interests by virtue of her public role as Rev. Moon’s wife, Sean Moon’s mother and the role she claims as ‘True Mother’ and her influence over the entities as a result.” FAC ¶ 123. Plaintiff further alleges that his mother’s breach of her purported fiduciary duties “is ongoing as she continues to purport to be the Leader of Family Federation and the Unification Church in direct disobedience, disrespect and disregard of Rev. Moon’s express appointment of Sean Moon as Leader.” FAC ¶ 129.

Even assuming that plaintiff could plausibly allege a fiduciary relationship with his mother, any

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at 4-6; Family Fed’n for World Peace v. Hyun Jin Moon, 129 A.3d 234 (D.C. Cir. 2015). If anything, that case -- which did not, as here, require the court to resolve a church leadership dispute -- is supportive of the conclusion that this Court lacks jurisdiction over the claims asserted in plaintiff’s complaint. Indeed, in reversing the trial court’s dismissal for lack of subject matter jurisdiction, the D.C. Circuit reasoned that the suit was not “directly against a church, synagogue, or mosque or their immediate leadership . . . Nor does it appear that the individual defendants have a direct religious role within the church as such, but rather are basically operating in a secular capacity.” Id. at 249. Here, Family Federation -- an organization whose mission statement is “[t]o guide America back to God through the teachings and Marriage Blessing of True Parents,” FAC Ex. 4 at 3 -- is described in the FAC as the Unification Church’s “authoritative *religious entity*,” id. at ¶ 5 (emphasis added). Further, defendants are being sued not for actions taken in a secular capacity but for, *inter alia*, facilitating “modifications of church doctrines,” FAC ¶¶ 81, 261.

evaluation of the behavior that purportedly constitutes the fiduciary breach -- *inter alia*, Mrs. Moon “wrongfully holding herself out to be the Leader of the Unification Church and Family Federation,” and “misrepresenting her role, authority, and status to members of the organizations,” FAC ¶ 126 -- would require an inquiry into the threshold issue of whether Mrs. Moon, rather than plaintiff, is the rightful successor to the late Rev. Moon. The same is true with respect to the claimed wrongdoing by the director defendants, who allegedly breached their purported fiduciary duties to plaintiff by, *inter alia*, “refus[ing] to honor . . . Rev. Moon’s appointment of Sean Moon as his successor Leader and agent of HSA-UWC (USA) and all Family Federation organizations.” FAC ¶¶ 134-40. Because the alleged breaches are inextricably linked to the ecclesiastical determination of who is the legitimate leader of the Unification Church, plaintiff’s breach of fiduciary duty claims must be dismissed.<sup>23</sup>

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<sup>23</sup> State and federal courts have often been reluctant to adjudicate allegations of intra-church fiduciary violations on the grounds that doing so presumes that the secular concept of a “fiduciary” is capable of fully capturing the nature of a fundamentally non-secular relationship. See, e.g., Schmidt v. Bishop, 779 F. Supp. 321, 326 (S.D.N.Y. 1991) (noting the “constitutional difficulties” that the court would encounter “in analyzing and defining the scope of a fiduciary duty owed persons by their clergy”). But see Martinelli v. Bridgeport Roman Catholic Diocesan Corp., 196 F.3d 409, 430–31 (2d Cir. 1999) (concluding in the context of a sexual assault claim that a jury could find the Diocese liable for breaches of a fiduciary duty owed to a parishioner without impermissibly inquiring into religious issues). The Second Circuit’s reasoning in Martinelli relied, however, upon the distinction “between consideration of religious teachings and tenets as brute facts, which is permissible under the First Amendment, and evaluation

## 2. Tortious Interference

Plaintiff alleges tortious interference with plaintiff's relationship with Family Federation based upon defendants' "interfer[ence] with Sean Moon's rightful authority to act as Leader of Family Federation and Unification Church." FAC ¶ 169. Assuming, *arguendo*, that plaintiff could plausibly allege a tortious interference claim in this context, any such claim would have accrued in February 2015 when plaintiff purportedly was suspended from his role as International President of Family Federation. FAC ¶ 263. Because plaintiff filed the initial complaint over three years after his alleged suspension, any tortious interference claim is time-barred. NY CPLR § 214(4).<sup>24</sup>

## 3. Civil RICO

Plaintiff alleges a civil RICO claim based on defendants' "fraudulent scheme . . . to steal control of the Unification Church and Family Federation from Sean Moon." FAC ¶ 69. Assuming, *arguendo*, that plaintiff could adequately plead civil RICO violations

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of their validity, which is not." Kavanagh, 997 F. Supp. 2d at 254. Plaintiff's breach of fiduciary claims are distinguishable from those alleged in Martinelli because plaintiff's claims would require consideration of the validity of plaintiff's status as "Leader."

<sup>24</sup> Plaintiff attempts to save this claim by alleging that defendants' interference is "*continuing* and *ongoing*," ECF No. 71 at 28 (emphasis in original). This argument is unavailing, however, because tortious interference is not a "continuing tort." Enzo Biochem, Inc. v. Amersham PLC, No. 02 Civ. 8448 (RJS), 981 F. Supp. 2d 217, 225 (S.D.N.Y. 2013) (internal quotation marks omitted).

under 18 U.S.C. § 1962(b) that are not time-barred, any such violations could not be disentangled from the threshold determination of whether plaintiff is the “Leader” of the Unification Church. See FAC ¶ 221(c) (“To execute their fraudulent scheme, Defendants caused documents to be sent and delivered through the United States mail, to followers of the Unification Church and Family Federation falsely stating that Sean Moon was not the Leader, each of which constitutes a separate violation of 18 U.S.C. § 1341 and a separate act of racketeering activity”); FAC ¶ 221(f) (“To execute their fraudulent scheme, Defendants caused numerous writings, signs, signals, pictures, or sounds to be transmitted by means of wire, radio, or television communications to followers of the Unification Church and Family Federation falsely stating that Sean Moon was not the Leader, each of which constitutes a separate violation of 18 U.S.C. § 1343”).<sup>25</sup> In short, plaintiff’s RICO claims turn on the Court’s resolution of the succession dispute, since the alleged acts of racketeering activity presume plaintiff’s status as “Leader.”

In dismissing a RICO claim arising from a religious succession dispute not dissimilar to the one at issue here, the court in Congregation Beth Yitzhok v.

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<sup>25</sup> While the Court need not address whether plaintiff has adequately pled the elements of a civil RICO claim, much less the merits of any such claim, it regards with some skepticism plaintiff’s attempt to cast a dispute of this nature as a RICO violation in the first instance. Cf. Briskman, 566 F. Supp. 555, 557 (E.D.N.Y. 1983) (“The core of this litigation is an internecine dispute between rival religious factions. If there can be a case that should not be covered by the RICO statute, this is it.”).

Briskman explained that “an issue of religious doctrine must be decided before it can be determined whether the defendants’ acts were wrongful.” 566 F. Supp. 555 at 558. “The first RICO claim, for example, alleges misuse and conversion of Congregational funds. But if applicable religious law authorized defendants to expend those funds, the claim must fail. Resolution of the other allegations in the complaint would require similar, judicially proscribed, determinations of religious tenets.” Id. Similarly here, because “an issue of religious doctrine must be decided before it can be determined whether the defendants’ acts were wrongful,” id., plaintiff’s RICO claims must be dismissed.

#### **4. Breach of Agency Agreement**

Plaintiff’s claim for breach of agency agreement is premised on the allegation that “Rev. Moon made it clear that Sean Moon . . . exercise[d] full control and authority over Family Federation,” FAC ¶ 176, and on defendants’ purported “refus[al] to acknowledge Sean Moon’s authority to act as agent for Family Federation,” FAC ¶ 175. As with plaintiff’s other claims, resolution of this claim turns on the validity of Rev. Moon’s purported appointment of Sean Moon as “successor Leader” of a religious organization, and thus cannot permissibly be resolved in a civil forum.<sup>26</sup>

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<sup>26</sup> The application of agency principles to church disputes can raise concerns similar to those that arise in the context of intrachurch fiduciary claims. See, e.g., Swanson v. Roman Catholic Bishop of Portland, 1997 ME 63, ¶ 10, 692 A.2d 441, 443 (“When a civil court undertakes to compare the relationship between a religious institution and its clergy with the agency relationship of the



## 5. Defamation

Plaintiff asserts defamation claims on the basis of two statements that purportedly challenge plaintiff's authority as granted by Rev. Moon. See FAC ¶¶ 196, 208-09. The first defamation claim, which is based on the contents of a letter circulated in April of 2015, is time-barred under New York's one-year statute of limitations. NY CPLR § 215(3). With respect to the statements contained in the February 2018 press release -- namely, that "[s]ince the death of Rev. Moon back in 2012, Family Federation has been led by Mrs. Hak Ja Han Moon, the co-founder," FAC Ex. 4 at 2 -- the Court would not be able to engage the merits of that claim without running afoul of the First Amendment.

"It is axiomatic, of course, that truth is an absolute defense to a defamation claim." Martin v. Hearst Corp., 777 F.3d 546, 552 (2d Cir. 2015). Because the Court may not, consistent with the First Amendment, pass upon the truth or falsity of statements concerning plaintiff's or Mrs. Moon's purported religious standing, plaintiff's remaining defamation claim must be dismissed. Cf. Kavanagh, 997 F. Supp. 2d at 250 ("Where a court or jury would have to determine the truth of the defendants' statements . . . and, in doing so, would examine and weigh competing views of church doctrine, the result is entanglement in a matter

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business world, secular duties are necessarily introduced into the ecclesiastical relationship and the risk of constitutional violation is evident.").

of ecclesiastical concern that is barred by the First Amendment”) (internal quotation marks omitted).

### **6. Violation of New York State’s Whistleblower Statute**

Finally, plaintiff alleges that he “function[ed] as a whistleblower [by] exposing the improper conduct of those claiming power within Family Federation and the Unification Church,” FAC ¶ 82, including that they were “dishonoring the directions and teachings of Rev. Moon to curry favor with Mrs. Moon and preserve their resulting political power and compensation,” FAC ¶ 260. Because defendants purportedly suspended plaintiff from his role as International President of Family Federation “[i]n direct retaliation” for exposing such conduct, plaintiff asserts a violation of N.Y. Not-for-Profit Corp. Law (“NPCL”) § 715-b(a), which requires certain corporations to “adopt . . . a whistleblower policy to protect from retaliation persons who report suspected improper conduct.” NPCL § 715-b(a).

It is unclear that there even exists a private right of action under NPCL § 715-b(a). See Joshi v. Trustees of Columbia Univ. in City of New York, No. 17 Civ. 4112 (JGK), 2018 WL 2417846, at \*10 (S.D.N.Y. May 29, 2018) (noting that “Section 715-b does not contain an express private right of action for employees of not-for-profit corporations who report suspected improper conduct and are the subject of retaliation” and that “[t]here is disagreement within the New York State Supreme Court over whether Section 715-b implicitly provides a private right of action”). Assuming, *arguendo*, that an implied private right of action exists

under Section 715-b for non-profit employees and that plaintiff would have standing to assert such a claim,<sup>27</sup> both the purported “misdeeds of top management members” (*i.e.*, “dishonoring the directions and teachings of Rev. Moon,” FAC ¶ 260) and defendants’ allegedly retaliatory actions (*i.e.*, suspending plaintiff from his position within Family Federation and “intimidat[ing] [plaintiff] by asking him to go along with Mrs. Moon’s exercise of authority in violation of Rev. Moon’s appointment,” FAC ¶ 261) -- turn once again on the threshold premise that plaintiff, rather than his mother, is the rightful leader of Family Federation.

#### **D. The “Fraud or Collusion” Exception**

Plaintiff maintains that even if the doctrine of ecclesiastical abstention would otherwise preclude this court from exercising subject matter jurisdiction, his claims are susceptible to judicial review under the so-called “fraud or collusion” exception to the general rule of judicial non-interference in ecclesiastical matters.

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<sup>27</sup> At least for purposes of defendants’ alleged violations of NPCL § 715-b(a), plaintiff maintains that in addition to serving as a Director of HSA-UWC (USA) and “Leader” of both Family Federation and HSA-UWC, he also was an employee of both HSA-UWC (USA) and Family Federation. FAC ¶ 259.

Somewhat at odds with plaintiff’s purported entitlement to whistleblower protections is plaintiff’s contention that, in response to the improper conduct of certain (unidentified) Unification Church leaders, plaintiff “asserted and threatened to exercise his power as Leader to remove any management members who failed to conduct themselves lawfully under the church’s practices, procedures and policies.” FAC ¶ 262.

See ECF No. 71 at 7-8. Though the precise contours of the “fraud or collusion” exception are unclear,<sup>28</sup> the Supreme Court in Milivojevic provided for the possibility of “marginal civil court review [of church disputes] under the narrow rubrics of ‘fraud’ or ‘collusion’ when church tribunals act in bad faith *for secular purposes*.” 426 U.S. at 713 (emphasis added). Here, any allegations of fraud pertain not to secular activities but to defendants’ purported efforts to, *inter alia*, remove plaintiff from his position as “Leader” of the Unification Church and related religious entities. To the extent the “narrow exception” that plaintiff invokes exists in the first instance, it would only apply where, unlike here, “no ecclesiastical determinations are necessary.” Ram v. Lal, 906 F. Supp. 2d 59, 70 (E.D.N.Y. 2012).

\* \* \*

In dismissing plaintiff’s complaint, the Court is not unmindful of the concern, reflected in the case law and academic literature, that deeming cases nonjusticiable on the basis of ecclesiastical abstention will in certain instances leave aggrieved parties without a forum for the adjudication of their claims. See, e.g., Congregation Yetev Lev D’Satmar, Inc. v. Kahana, 879 N.E.2d 1282, 1286 (N.Y. 2007) (Smith, J., dissenting) (describing the majority’s determination that the case was nonjusticiable on the basis of ecclesiastical abstention

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<sup>28</sup> Plaintiff fails to cite (and this Court has been unable to identify) a single case applying the “fraud or collusion” exception as the basis for civil court intervention in an otherwise nonjusticiable church controversy.

as “a drastic measure, because when a case is nonjusticiable it means the wrong committed, if there is one, cannot be remedied anywhere.”). The interests of aggrieved parties in obtaining civil court adjudication of their claims must nevertheless be balanced against the strong First Amendment interests favoring judicial non-intervention in matters of ecclesiastical concern. Particularly where, as here, adjudication would impliedly endorse a litigant’s efforts -- using the guise of the neutral principles approach -- to invoke a civil court’s assistance in resolving a dispute that is essentially religious in character, that balance tilts strongly in favor of judicial non-intervention.

Perhaps most problematically, resolving plaintiff’s claims would require a ruling in favor of the views of one faction of a religious organization over those of another on an issue “at the core of ecclesiastical concern,” Milivojevich, 426 U.S. at 717. Because “[t]he First Amendment serves to prevent exactly this sort of picking of winners in ecclesiastical matters,” Kavanagh, 997 F. Supp. 2d at 254, this action must be, and is, dismissed.

### **III. Conclusion**

Having concluded that the ecclesiastical abstention doctrine bars review of the claims in this case, defendants’ motions to dismiss are granted. Plaintiff’s motion to extend the 90-day service deadline and excuse late service pursuant to Federal Rule of Civil Procedure 4(m) is denied as moot, and the Clerk of Court is respectfully requested to terminate all pending motions.

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Dated: New York, New York  
December 19, 2019

/s/ Naomi Reice Buchwald  
NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE

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**APPENDIX C**

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**19 CIVIL 1705 (NRB)**

**[Filed: December 20, 2019]**

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HYUNG JIN “SEAN” MOON, )  
 )  
 Plaintiff, )  
 )  
 -against- )  
 )  
 HAK JA HAN MOON, HOLY SPIRIT )  
 ASSOCIATION FOR THE UNIFICATION )  
 OF WORLD CHRISTIANITY, THE )  
 FAMILY FEDERATION FOR WORLD )  
 PEACE AND UNIFICATION )  
 INTERNATIONAL, HYO YUL “PETER” )  
 KIM, DOUGLAS D. M. JOO, CHANG SHIK )  
 YANG, KI HOON KIM, MICHAEL W. )  
 JENKINS, MICHAEL BALCOMB, FARLEY )  
 JONES, ALEXA WARD, AND )  
 JOHN DOES 1-6. )  
 Defendants. )

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**JUDGMENT**

It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court’s

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Memorandum and Order dated December 19, 2019, having concluded that the ecclesiastical abstention doctrine bars review of the claims this case, defendants' motions to dismiss are granted; Plaintiffs motion to extend the 90-day service deadline and excuse late service pursuant to Federal Rules Civil Procedure 4(m) is denied as moot.

**Dated:** New York, New York  
December 20, 2019

**RUBY J. KRAJICK**

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**Clerk of Court**

**BY: /s/** \_\_\_\_\_  
**Deputy Clerk**

THIS DOCUMENT WAS ENTERED  
ON THE DOCKET ON 12/20/2019



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**APPENDIX D**

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF  
NEW YORK**

**CIVIL ACTION LAW**

**CASE NO. 7:19-cv-01705-NRB**

**[Filed: June 14, 2019]**

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HYUNG JIN "SEAN" MOON,	)
	)
Plaintiff,	)
	)
v.	)
	)
HAK JA HAN MOON, HOLY SPIRIT	)
ASSOCIATION FOR THE UNIFICATION	)
OF WORLD CHRISTIANITY, THE	)
FAMILY FEDERATION FOR WORLD	)
PEACE AND UNIFICATION	)
INTERNATIONAL, HYO YUL "PETER"	)
KIM, DOUGLAS D. M. JOO, CHANG SHIK	)
YANG, KI HOON KIM, MICHAEL W.	)
JENKINS, MICHAEL BALCOMB, FARLEY	)
JONES, ALEXA WARD, JOHN DOES 1-6,	)
	)
Defendants.	)

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**JUDGE NAOMI REICE BUCHWALD**

FIRST AMENDED COMPLAINT  
(JURY TRIAL DEMANDED)

Plaintiff, Hyung Jin “Sean” Moon, for his First Amended Complaint<sup>1</sup> against Defendants Hak Ja Han Moon, Holy Spirit Association for the Unification of World Christianity, The Family Federation for World Peace and Unification International, Hyo Yul Peter Kim, Douglas D. M. Joo, Chang Shik Yang, Ki Hoon Kim, Michael Jenkins, Michael Balcomb, Farley Jones and Alexa Ward (collectively, “Defendants”) alleges as follows:

**SUMMARY**

1. Reverend Sun Myung Moon (“Rev. Moon”) founded and, until his death, was the undisputed leader, chief executive, and agent (“Leader”) of the Unification Church and all related entities including The Family Federation for World Peace and Unification International (“Family Federation”). As the Leader of Family Federation, Rev. Moon had undisputed unilateral authority to appoint and remove the heads of all Unification Church denomination churches and organizations, and to appoint his successor Leader.

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<sup>1</sup> Sean Moon files this Amended Complaint pursuant to the Court’s Order entered on May 23, 2019. The Amended Complaint was filed on the deadline set in such Order of June 6, 2019. However, due to an inadvertent administrative error in filing, the Amended Complaint was not accepted by the Clerk’s Office. Counsel to all defendants who have appeared has consented to the Amended Complaint being filed on or before June 12, 2019. A copy of opposing counsel’s written consent is attached as Exhibit A hereto.

2. In January, 2009, Rev. Moon asserted his authority and appointed his son, Plaintiff Hyung Jin “Sean” Moon, as his successor and Leader of Family Federation and the Unification Church. Rev. Moon’s appointment of Sean Moon as successor Leader of the Unification Church, made by way of multiple public coronation ceremonies and evidenced in a written proclamation, was witnessed, recognized and accepted by Family Federation and the Unification Churches and members, including most importantly, by defendant Hak Ja Han Moon (“Mrs. Moon”) and her co-conspirators. However, after Rev. Moon’s death, Mrs. Moon and her co-conspirators orchestrated a malicious and illegal scheme to seize control of these organizations, to strip Sean Moon of his proper authority as Leader of Family Federation and the Unification Church, and to deprive Sean Moon of property and benefits he is entitled to as Leader. Because Mrs. Moon and her co-conspirators lacked authority to remove Sean Moon, he brings this action seeking a declaration of this Court, and related claims, to confirm his legal status as Leader of Family Federation and the Unification Church as authorized and appointed by Rev. Moon.

### **PARTIES**

3. Plaintiff Hyung Jin “Sean” Moon (“Sean Moon”), is an individual who currently resides in the state of Pennsylvania. Sean Moon is the son of the Reverend Sun Myung Moon and Defendant Hak Ja Han Moon. Sean Moon was appointed by Rev. Moon to be the Leader of Family Federation and the Unification Church in multiple formal coronation ceremonies, including a ceremony in New York, New York on

January 31, 2009, which was attended by multiple defendants herein. Sean Moon lived at the property in Westchester, New York owned by HSA-UWC (USA)(defined below), while serving as Family Federation's International President and agent, as President of HSA-UWC (USA), and as Leader of Family Federation and the Unification Church.

4. Defendant Holy Spirit Association for the Unification of World Christianity ("HSA-UWC (USA)"), is a California not-for-profit corporation, organized under the laws of California having an address and principal place of business at 481 Eighth Avenue, New York, New York, 10001. HSA-UWC (USA) transacts business in and owns real property located in the state of New York.

5. Defendant Family Federation is the authoritative religious entity that directs Unification Churches worldwide.

6. Family Federation is a Korean entity with a principal place of business at 324-275 Misari-ro, Seorak-myeon, Gapyeong-gun, Gyeonggi-do Republic of Korea 12461. The entity was known as HSA-UWC (Korea) from 1954 to 1997. Family Federation ultimately controls the operations and leadership of HSA-UWC (USA) including through its activities at its principal place of business in New York, New York and engages in international commerce with the United States. Family Federation is registered with the New York Division of Corporations as a foreign not-for-profit corporation in New York. According to the prior testimony of Mrs. Moon, The New Yorker Hotel, located in New York, New York, is the international

headquarters of Family Federation and the Unification Church. Mrs. Moon also exercises complete control over Family Federation and its appointed leaders, including acting on its behalf and directing its activities in the United States and in the state of New York. Family Federation solicits donations, derives substantial revenue and transacts business in the state of New York and throughout the United States using the mails and electronic communications through proclamations and instructions issued to Unification Church organizations in New York and throughout the United States via letters, memorandum, email and internet communications with entities and individuals. Family Federation, under Mrs. Moon's control, engaged in tortious conduct which harmed Sean Moon in New York. Family Federation also continues to issue press releases published in New York which are defamatory and constitute tortious acts within the state of New York. Finally, Family Federation has engaged in mail fraud, wire fraud and laundering of monetary instruments in New York and throughout the United States.

7. Defendant Mrs. Moon, is a Korean citizen who has a residence in Korea at 324-275, Misari-ro, Seorak-meyon, Gapyeong-gun, Gyeonggi-do, 12461, Republic of Korea and also regularly lives in the United States at a residence in the state of New York located at 50 East Sunnyside Lane, Irvington, NY 10533. Mrs. Moon resided full time at this residence in New York during the time period commencing in 1972 and, upon information and belief, until at least 2012. Mrs. Moon currently holds a U.S. permanent residence card, commonly referred to as a "green card."

8. Mrs. Moon is exercising purported authority as managing agent over HSA-UWC (USA) in New York, New York, including tortious acts and omissions which have harmed Sean Moon both inside and outside of the state of New York. As the individual who controls this New York entity in all regards, including with regard to the claims asserted here, Mrs. Moon was acting in New York with regard to these claims. Through her regular activities in the state of New York, including appearing at conventions and speaking engagements on a regular basis including as recently as November, 2018, Mrs. Moon has generated substantial revenue in the state of New York. Additionally, Mrs. Moon renders services for HSA-UWC (USA) from its principal place of business in New York, New York. Mrs. Moon should have expected or reasonably expected her activities related to the Family Federation (as defined below) and the operations of HSA-UWC (USA), including her improper and tortious acts with regard to Sean Moon, to have consequences in New York. At Mrs. Moon's insistence, Sean Moon was living in Westchester, New York when Mrs. Moon engaged in tortious and conspiratorial conduct to remove him from leadership positions, causing harm from such conduct in New York. Mrs. Moon improperly exercised her authority over Sean Moon through HSA-UWC (USA) while he was living in the United States, including in the state of New York during certain relevant time periods. These activities related to Family Federation and the operations of HSA-UWC (USA) generate substantial revenue from interstate and/or international commerce. Mrs. Moon also has exercised her purported authority throughout the United States to further her tortious and

conspiratorial acts which form the basis of the claims asserted herein. Finally, personal jurisdiction over Mrs. Moon is also supported by additional facts to which she testified which are currently designated as confidential and/or Attorneys' Eyes Only, despite challenges to such designation.

9. Defendant Hyo Yul "Peter" Kim ("Peter Kim") is an individual who does not reside in the state of Pennsylvania. Peter Kim is a naturalized U.S. citizen and upon information and belief currently holds citizenship in the United States and/or Korea. Peter Kim lived in the state of New York with the Moon family from approximately 1972 to 2012. In 2014, Peter Kim was appointed as a member of the unauthorized rogue "Supreme Council," which is a committee assembled by Mrs. Moon after Rev. Moon's death without proper corporate authority. Upon information and belief, Peter Kim regularly visits and derives income from activities in the state of New York in connection with his work with the Family Federation and Unification Church.

10. Defendant Douglas D.M. Joo ("Douglas Joo") is an individual who is a citizen of the United States and upon information and belief he resides in the state of Maryland. Upon information and belief, Douglas Joo regularly visits and derives income from activities in the state of New York in connection with his work with the Family Federation and Unification Church.

11. Defendant Chang Shik Yang ("Chang Yang") is an individual who is a citizen of the Republic of Korea and upon information and belief is not a resident of the state of Pennsylvania. Mr. Yang is a former

president of Family Federation Korea and the former Continental Director for Family Federation in North America. Upon information and belief, Chang Yang regularly visits and derives income from activities in the state of New York and throughout the United States in connection with his work with the Family Federation and Unification Church.

12. Defendant Dr. Ki Hoon Kim (“Ki Hoon Kim”) is the current Continental Director and Regional Chairman for Family Federation in North America. Ki Hoon Kim is also a Vice President of Family Federation. Dr. Ki Hoon Kim is an individual who is a citizen of the United States residing in the state of Illinois. Ki Hoon Kim was appointed chairman of the HSA-UWC (USA) Board of Directors after Sean Moon’s improper removal. Ki Hoon Kim has been a member of the unauthorized rogue “Supreme Council” since approximately 2014. Ki Hoon Kim regularly visits and derives income from activities in the state of New York in connection with his work with the Family Federation and Unification Church, and with HSA-UWC (USA), including activities at its principal place of business in New York, New York. Moreover, at Mrs. Moon’s insistence, Sean Moon was living in Westchester, New York when Ki Hoon Kim engaged in tortious and conspiratorial conduct to remove him from leadership positions, causing harm from such conduct in New York. In fact, Ki Hoon Kim met with individuals in Westchester, New York to attempt to persuade Sean Moon to step down from his leadership positions as part of the tortious and conspiratorial conduct which forms the basis for the claims asserted herein. Finally, personal jurisdiction over Ki Hoon Kim



is also supported by additional facts to which he testified which are currently designated as confidential and/or Attorneys' Eyes Only despite challenges to such designation.

13. Defendant Michael W. Jenkins ("Jenkins") was a member of the HSA-UWC (USA) Board of Directors when Sean Moon was removed as President of HSA-UWC (USA) and upon information and belief continues to serve in a leadership role on behalf of Family Federation, HSA-UWC (USA) and the Unification Church. Jenkins is an individual who is a citizen of the United States and, upon information and belief, Jenkins resides at 10016 Cypress Branch Lane, Manassas, Virginia 20110-2722. Upon information and belief, Jenkins regularly visits and derives income from activities in the state of New York in connection with his work with the Family Federation and Unification Church.

14. Defendant Michael Balcomb ("Balcomb") was a member of the HSA-UWC (USA) Board of Directors when Sean Moon was removed as President of HSA-UWC (USA) and upon information and belief continues to serve in a leadership role on behalf of Family Federation, HSA-UWC (USA) and the Unification Church. Balcomb is an individual who is a citizen of the United States and, upon information and belief, Balcomb is a resident of the state of New York. Upon information and belief, Balcomb derives income from activities in the state of New York in connection with his work with the Family Federation and Unification Church.

15. Defendant Farley Jones (“Jones”) was a member of the HSA-UWC (USA) Board of Directors when Sean Moon was removed as President of HSA-UWC (USA) and upon information and belief continues to serve in a leadership role on behalf of Family Federation, HSA-UWC (USA) and the Unification Church. Additionally, Jones was appointed by Mrs. Moon and currently serves as a member of the unauthorized rogue “Supreme Council.” Jones is an individual who is a citizen of the United States and resides at 89-706 Lani Kona Road, Captain Cook, Hawaii 96704. Upon information and belief, Jones regularly visits and derives income from activities in the state of New York in connection with his work with the Family Federation and Unification Church.

16. Defendant Alexa Ward (“Ward”) was a Vice President and Director of HSA-UWC (USA) when Sean Moon was removed as President of HSA-UWC (USA) and upon information and belief continues to serve in a leadership role on behalf of Family Federation, HSA-UWC (USA) and the Unification Church. Ward is an individual who is a citizen of the United States and, upon information and belief, Ward is a resident of the state of Connecticut. Upon information and belief, Ward regularly visits and derives income from activities in the state of New York in connection with her work with the Family Federation and Unification Church.

17. Defendant John Does 1-6 are individuals who have not been identified that may have been involved in these events. Upon information and belief, the John Doe defendants do not reside in the state of Pennsylvania. For purposes of this Complaint, any

references to “Defendants” shall include the John Doe defendants.

### **JURISDICTION AND VENUE**

18. This Court has subject matter jurisdiction to hear this action pursuant to 28 U.S.C. § 1332(a)(1), because there is complete diversity of citizenship of the parties and the amount in controversy exceeds \$75,000.00.

19. The Court also has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 because the action arises under the laws of the United States, specifically 18 U.S.C. § 1961, *et seq.* The Court has pendant jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

20. This Court has personal jurisdiction over the foreign and/or out-of-state defendants pursuant to Fed. R. Civ. P. 4 and New York’s Long Arm Statute, CVP § 302, because each Defendant has either: (a) transacted business in New York, (b) committed a tortious act in New York, and/or (c) caused injury in New York by a tortious act or omission outside the state of New York and (i) regularly does or solicits business, or derives substantial revenue from goods used or services rendered in New York, or (ii) expected or reasonably should expected the act to have consequences in New York and derives substantial revenue from interstate or international commerce.

21. Alternatively, this Court has personal jurisdiction over any Defendant who is served with process in this action in the state of New York pursuant to N.Y. C.P.L.R. § 301 and Fed. R. Civ. P.

4(e). Mrs. Moon was served by hand delivery in New York, New York on March 25, 2019. Mrs. Moon did not have immunity from service of process. Mrs. Moon was in New York, New York for multiple reasons, including to attend her compelled deposition in the closely related action of *Holy Spirit Association for the Unification of World Christianity v. World Peace and Unification Sanctuary, Inc.*, Case No. 3:18-cv-01508-RDM (M.D. Pa.)(the “Trademark Action”). The Trademark Action is a closely related case which involves vindicating the same cluster of rights and interests and at least limited jurisdictional discovery was conducted in Mrs. Moon’s compelled deposition in New York. Finally, Mrs. Moon was also in New York at the time of service for unrelated business and social purposes and remained in New York for longer than necessary to simply appear at her compelled deposition. Ki Hoon Kim was also served by hand delivery in New York, New York on March 25, 2019. Ki Hoon Kim did not have immunity from service of process. Ki Hoon Kim was in New York at the time of service for unrelated business and social purposes and remained in New York for longer than necessary to testify at his deposition held on different date than when he was served. Ki Hoon Kim was not served at his deposition. The deposition he was subpoenaed for was in the Trademark Action which is a closely related case which involves vindicating the same cluster of rights and interests.

22. Finally, this Court has personal jurisdiction over the foreign defendants pursuant to the federal long-arm statute of Federal Rule of Civil Procedure 4(k)(2) based on their extensive contacts with the

United States and specifically as such contacts and activities relate to the claims asserted herein.

23. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(2) & (b)(3).

## **FACTUAL BACKGROUND**

### **Introduction**

24. Rev. Moon founded the Unification Church in Seoul, Korea in 1954.

25. On May 1, 1954, Rev. Moon registered the Unification Church in Korea under the name The Holy Spirit Association for the Unification of World Christianity (“HSA-UWC (Korea)”).

26. For purposes of this Complaint, the “Unification Church” shall include all non-profit and for-profit organizations and churches which follow the teachings of Rev. Moon and take direction from Family Federation.

27. In the late 1950s and early 1960s, the Unification Church began to expand into the United States under the direction of Rev. Moon.

28. In 1961, the Unification Church was registered in the United States as a nonprofit corporation in California under the name The Holy Spirit Association for the Unification of World Christianity (“HSA-UWC (USA)”).

29. HSA-UWC (USA) is the only embodiment of the Unification Church recognized by the Family Federation in the United States.

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30. Since 1997, HSA-UWC (Korea) has been known as the Family Federation and is the authoritative entity that directs and controls all Unification Churches worldwide.

31. HSA-UWC (USA), like all Unification Church organizations, is required to take its direction from Family Federation and from the Leader of Family Federation.

32. The Unification Church is a religious denomination that is hierarchical.

33. Upon information and belief, although a legal entity, Family Federation does not have any governing Articles of Organization or written bylaws.

34. Instead, Family Federation is governed and operated pursuant to an established and recognized set of practices, procedures, policies and customs.

35. Rev. Moon was the founder and undisputed Leader of the Family Federation and all of his edicts and instructions were authoritative and required to be followed by all Unification Church entities and organizations.

36. The heads of all churches and organizations under the Family Federation were appointed and removed pursuant to the unilateral authority of Rev. Moon as Leader.

37. All members of the Boards of Directors of all churches and organizations under the Family Federation were appointed or designated to serve and subject to removal pursuant to the unilateral authority

of Rev. Moon as Leader of the Unification Church denomination.

38. Pursuant to the accepted practices, procedures, polices and customs of the Unification Church and all entities organized under it for the time period commencing in the 1970s, heads of any Unification Church organizations could only be appointed or removed at Rev. Moon's direction. There are multiple examples of this pattern and practice.

**Sean Moon Appointed International President of Family Federation**

39. On April 18, 2008, Sean Moon was appointed International President of Family Federation by Rev. Moon to manage and oversee all Unification Church organizations.

40. The Family Federation issued communications to the Unification Church and its members throughout the world, including in the state of New York, through use of mail and email communications from Korea advising Unification Churches and members that Sean Moon had been appointed as International President.

41. As the International President of Family Federation, Sean Moon reported to and served at the direction of Rev. Moon, because ultimate final authority for the Unification Church worldwide resided with Rev. Moon as its undisputed Leader.

**Sean Moon Appointed as Successor to Rev.  
Moon as Worldwide Leader of Family  
Federation and Unification Church**

42. After Sean Moon had served for nearly a year as International President, Rev. Moon appointed Sean Moon as his successor to take over as the Leader of Family Federation and the Unification Church and to continue Family Federation and Unification Church's religious work worldwide.

43. Rev. Moon had undisputed authority to appoint his successor.

44. Prior to Sean Moon's appointment as Leader of Family Federation and Unification Church, no one had ever been identified by Rev. Moon as the designated individual to step into this role after Rev. Moon's death.

45. From the founding of the Unification Church until his death, as Leader, Rev. Moon had unquestioned authority over and served as the spiritual head of the Family Federation.

46. As Leader, Rev. Moon served as the chief executive of Family Federation and all Unification Church organizations.

47. As Leader, Rev. Moon had sole and exclusive decision-making authority for Family Federation, including the authority to appoint heads and board members for, and to direct the activities of, all Unification Church organizations.

48. Rev. Moon publicly confirmed Sean Moon's appointment as successor Leader of Family Federation



and the Unification Church worldwide at three separate formal coronation ceremonies. These coronation ceremonies occurred twice in Korea on January 15 and 31, 2009, and once in New York, New York on January 31, 2009.

49. There was not a specific officer title reserved for this highest position of leadership in the Family Federation and the Unification Church worldwide. Instead, Rev. Moon, and Sean Moon as his successor, served in a unique capacity in that each of them was at the head of the church serving in the highest management, leadership, and exclusive decision-making role. For purposes of this Complaint, we refer to Sean Moon as the successor "Leader," but in the context of the church he was also referred to as heir, king, successor, and other titles which reflected that he was the appointed successor of Rev. Moon intended to serve as the top Leader of the church worldwide.

50. Mrs. Moon attended all three coronation ceremonies appointing Sean Moon as Leader of the Unification Church and Family Federation, publicly acquiesced to his appointment, and never challenged him as the rightful Leader until after the death of Rev. Moon.

51. On February 24, 2009, Family Federation issued notice of Sean Moon's appointment as Leader to all Unification Church organizations throughout the world through use of the mail and other forms of communication.

52. On June 5, 2010, Rev. Moon prepared and signed a written proclamation in which he appointed

Sean Moon as his rightful heir, successor and Leader of the Unification Church worldwide. A true and correct copy of this document as translated from Korean, is attached as Exhibit 1.

53. Sean Moon's appointment as Leader was distinct from and in addition to his position as International President of the Family Federation. Rev. Moon's act of writing and signing the appointment of Sean Moon as his successor is indisputable. Mrs. Moon was with Rev. Moon when he issued this written appointment of Sean Moon as Leader.

54. Mrs. Moon has testified under oath that Rev. Moon was the Leader of the Unification Church and Family Federation and that he had the sole authority to sign this appointment of his successor Leader.

55. Family Federation issued a written international proclamation as to Rev. Moon's declaration and appointment of Sean Moon as the Leader of the Unification Church worldwide.

56. Rev. Moon specifically declared Sean Moon was the sole representative, heir and successor to lead the Family Federation and Unification Church.

**Sean Moon Appointed as Family Federation's  
Agent**

57. Rev. Moon's written proclamation also appointed Sean Moon as agent to act on behalf of Family Federation and the Unification Church.

58. Rev. Moon's intent to appoint Sean Moon as Family Federation's agent had also been previously manifested by statements made by Rev. Moon in the

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three coronation ceremonies held in 2009 in which he declared Sean Moon to be his successor.

59. Rev. Moon had the capacity to act on behalf of Family Federation as principal to enter into an agency relationship with Sean Moon.

60. Mrs. Moon has testified under oath that Rev. Moon had legal capacity to appoint Sean Moon as his successor and as Leader.

61. Sean Moon accepted Rev. Moon's appointment as Family Federation's agent.

62. When Rev. Moon appointed Sean Moon as Family Federation's agent, he granted Sean Moon a vested, present right in Family Federation's assets for the purpose and benefit of continuing to act on behalf of the Unification Church as its Leader.

63. For example, Rev. Moon gave Sean Moon and Sean Moon's wife the crowns which signify the leadership position to which he was appointed. This property has significant value and was irrevocably granted to Sean Moon at his coronation ceremonies in 2009.

64. In consideration for Rev. Moon's grants of authority and property related to his role as Leader in 2009, Sean Moon immediately began serving as Family Federation's agent and Rev. Moon's successor.

65. As Rev. Moon's successor, Sean Moon was authorized and expected to fill the role as Leader and to exercise authority to the same extent as previously exercised by Rev. Moon.

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66. Sean Moon performed marriage blessing ceremonies in his capacity as Family Federation's agent and Rev. Moon's successor.

67. Rev. Moon died on September 3, 2012.

68. After his death, Rev. Moon's appointment of Sean Moon as Family Federation's agent was irrevocable.

**Mrs. Moon's Scheme to Take Control of Family Federation after Rev. Moon's Death**

69. After Rev. Moon's death, Mrs. Moon conspired with Defendants, who are senior members of Family Federation and HSA-UWC (USA), to devise and execute a fraudulent scheme to steal control of the Unification Church and Family Federation from Sean Moon, to use the money and property belonging to the Unification Church and Family Federation for their own personal benefit, and to deprive Sean Moon of property and benefits he is entitled to as Leader.

70. In 2012, shortly after Rev. Moon's death, Mrs. Moon conspired with the leaders of the Family Federation to remove Sean Moon as President of the HSA-UWC Korean entity.

71. Mrs. Moon did not have authority to remove Sean Moon as Korean President.

72. Sean Moon was forced to sign resignation documents by a Family Federation administrator. Sean Moon signed the documents under duress – with the understanding that his removal had no effect on his role as successor to Rev. Moon and Leader of Family Federation.

73. To further facilitate her fraudulent scheme, Mrs. Moon coerced Sean Moon to leave Korea and move to the United States to serve as President of HSA-UWC (USA). The stated purpose of asking Sean Moon to go to the United States at the time was to address a crisis of leadership at HSA-UWC (USA). Sean Moon continued to also serve as International President of Family Federation and as Leader of Family Federation and the Unification Church worldwide.

74. Mrs. Moon and her co-conspirators understood that they lacked authority to remove Sean Moon as he was Rev. Moon's appointed successor – and, as such, he had full and ultimate authority to direct Family Federation's operations and make decisions regarding its governance.

75. Despite this knowledge, Mrs. Moon and her co-conspirators continued their efforts to remove Sean Moon from his positions within Family Federation.

76. Conspiring with Mrs. Moon, on February 23, 2013, the board of HSA-UWC (USA) voted to remove Sean Moon as President of HSA-UWC (USA).

77. On February 24, 2013, Sean Moon wrote a letter to Unification Church members in the United States in which he advised that Mrs. Moon had announced that he would be removed from his role as President of HSA-UWC (USA). No explanation was given for Sean Moon's improper removal.

78. In the letter, Sean Moon stated that he would remain as International President of Family Federation.

79. The confusing and clumsy nature of the purported “removals” of Sean Moon demonstrate Mrs. Moon and her co-conspirators’ lack of authority, plotting, and commitment to undermine Sean Moon’s proper authority.

80. In January, 2015, Sean Moon exposed certain misdeeds of top management members of the Unification Church and Family Federation. Specifically, Sean Moon disclosed that these leaders were benefitting from excessive salaries and benefits at the expense of the Unification Church and Family Federation. He further asserted that these leaders were dishonoring the directions and teachings of Rev. Moon to curry favor with Mrs. Moon and preserve their resulting political power and compensation.

81. These leaders approached Sean Moon and encouraged him to go along with Mrs. Moon’s exercise of authority in violation of Rev. Moon’s appointment and to facilitate her modifications of church doctrines. They wanted Sean Moon to stay silent as to the matters he was exposing and speaking publicly about until Mrs. Moon’s death, with the promise that after her death they would be able to correct any of Mrs. Moon’s missteps.

82. Sean Moon viewed this as an improper request as it would require him to disobey Rev. Moon’s directives and to betray his mother after her death. He refused to back down and continued to function as a whistleblower exposing the improper conduct of those claiming power within Family Federation and the Unification Church. He also asserted and threatened to exercise his power as Leader to remove any members

who failed to conduct themselves lawfully under the church's practices, procedures and policies.

83. In direct retaliation, on February 26, 2015, Sean Moon was purportedly suspended from his role as the International President of Family Federation.

84. Since stealing control of the Unification Church and Family Federation from Sean Moon, Mrs. Moon, with the assistance of Defendants, has used the money and property belonging to the Unification Church and Family Federation for her own personal benefit, including taking possession, custody and control of the crowns and religious writings of Rev. Moon which were given to Sean Moon as Rev. Moon's successor Leader.

**Sean Moon is Still the Rightful Leader of  
Family Federation And the Unification Church  
as Rev. Moon's Successor**

85. Sean Moon has not been, and could not be, removed as Rev. Moon's successor and Leader of Family Federation and the Unification Church worldwide.

86. Rev. Moon's appointment of Sean Moon to this position was authorized, irrevocable, and acknowledged and acquiesced to by the Family Federation, Mrs. Moon, and her co-conspirators.

87. Aside from the written appointment and other writings of Rev. Moon, there are no charter or governing documents for the Unification Church or Family Federation that would govern how or whether

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Sean Moon could be removed as the Leader and successor of Rev. Moon.

88. The lack of charter and governing documents for Family Federation and the Unification Church was a result of the undisputed structure and long-standing practices of the organizations that Rev. Moon had the unlimited and sole authority to govern.

89. All of Rev. Moon's edicts and instructions were authoritative and required to be followed by all entities included within the Unification Church family of entities. There was therefore no need for the organization to have written charter documents as the organization was governed exclusively by him.

90. Rev. Moon irrevocably appointed his son Sean Moon to succeed him as the Leader of Family Federation and the Unification Church as evidenced by the written appointment and the public coronations and publications issued prior to Rev. Moon's death.

91. There is no executive, board of directors, or other entity or individual with authority to revoke Rev. Moon's appointment of Sean Moon as Leader of Family Federation and the Unification Church.

92. The fact that Sean Moon has been irrevocably appointed to be the Leader of the Unification Church worldwide and over Family Federation is not a matter of theology. Instead, Sean Moon was appointed to this position irrevocably by the only individual authorized by these entities to designate such worldwide Leader.

93. Rev. Moon was very intentional in making his appointment of Sean Moon irrevocable and on neutral



principles of non-profit and/or corporate law such appointment cannot be revoked as there is no one with authority to do so.

**Mrs. Moon's *Ultra Vires* Acts**

94. Mrs. Moon purports to be the worldwide leader of the Family Federation and the Unification Church following Rev. Moon's death, despite Sean Moon's authority as irrevocably granted by Rev. Moon.

95. After Rev. Moon's death, in furtherance of her fraudulent scheme, Mrs. Moon created the "Cheon Il Guk Constitution" which established a "Supreme Council" to lead the Unification Church and assume power after Mrs. Moon's death.

96. Prior to Rev. Moon's death, the Unification Church and Family Federation did not have any constitution or any other written governing documents other than the hierarchical practices, procedures, polices and customs that gave all governing authority to Rev. Moon.

97. Mrs. Moon testified under oath that the Cheon Il Guk Constitution she created will not go into effect until 2020.

98. The Cheon Il Guk Constitution does not govern this dispute, as this constitution is not in effect.

99. Additionally, the Cheon Il Guk Constitution was not authorized by Sean Moon and, as such, is an *ultra vires* act of Mrs. Moon and her co-conspirators to fraudulently usurp authority from Sean Moon. As a result, the Cheon Il Guk Constitution is a nullity and

does not govern the activities of the Unification Church and/or Family Federation.

100. In connection with this invalid constitution, Mrs. Moon also created a Supreme Council to participate in selecting future leaders of Family Federation and the Unification Church.

101. Upon information and belief, co-conspirators and defendants Ki Hoon Kim and Farley Jones were appointed by Mrs. Moon to serve on this rogue Supreme Council. These co-conspirators were selected by Mrs. Moon to facilitate the selection of a Leader of the church in the future other than Sean Moon.

102. The creation of this new "Supreme Council" is evidence that no such committee or board of directors ever existed for Family Federation or the Unification Church.

103. Family Federation and the Unification Church were not organized to be run by a committee or a Supreme Council, because all authority for the organization was vested solely in Rev. Moon prior to his death and in his appointed successor Sean Moon after his death.

104. Sean Moon did not authorize the creation of the Supreme Council or the appointment of its members and such Supreme Council is therefore an *ultra vires* act of Mrs. Moon and her co-conspirators which is a nullity.

**COUNT I – Declaratory Judgment**  
**(28 U.S.C. § 2201)**

105. Plaintiff incorporates by reference paragraphs 1 - 104 above as if fully set forth herein.

106. A real and actual dispute, case and/or controversy exists between the Parties as to Sean Moon's authority to serve as the worldwide Leader of the Unification Church and Family Federation.

107. Rev. Moon had authority to appoint Sean Moon as his successor and the Leader of the Unification Church and Family Federation.

108. Mrs. Moon publicly acquiesced to Rev. Moon's irrevocable appointment of Sean Moon as his successor and the Leader of the Unification Church and Family Federation effective upon Rev. Moon's death.

109. After Rev. Moon's death, there was no one in the Unification Church or Family Federation with authority to remove Sean Moon as the Leader of the organization.

110. Sean Moon has never been removed as Rev. Moon's successor and is currently the worldwide Leader of the Unification Church and Family Federation.

111. To the extent Defendants assert that Sean Moon is not Rev. Moon's successor, such position is an unauthorized violation of the irrevocable grant of authority from Rev. Moon.

112. Plaintiff seeks judgment from this Court declaring that Sean Moon is the properly authorized

and appointed successor and worldwide Leader of the Unification Church and Family Federation. Such a declaration will conclusively confirm Sean Moon's leadership and terminate the controversy between the parties.

**COUNT II – Declaratory Judgment**  
**(28 U.S.C. § 2201)**

113. Plaintiff incorporates by reference paragraphs 1- 112 above as if fully set forth herein.

114. A real and actual dispute, case, and/or controversy exists between the Parties as to the validity of the Cheon Il Guk Constitution and the Supreme Council appointed in connection with such constitution.

115. The Cheon Il Guk Constitution was not authorized by Sean Moon and, as such, is an *ultra vires* act of Mrs. Moon and her co-conspirators to usurp authority from Sean Moon.

116. As a result, the Cheon Il Guk Constitution is a nullity and does not govern the activities of the Unification Church and/or Family Federation.

117. In connection with this invalid constitution, Mrs. Moon also created a Supreme Council to participate in selecting future heads of the Unification Church.

118. Because the Supreme Council was not formed or constituted pursuant to any proper authorization, the Supreme Council is invalid and does not have authority to govern the conduct or operation of Family Federation or the Unification Church.

119. Plaintiff seeks judgment from this Court declaring that the Cheon Il Guk Constitution is a legal nullity, void, without authority, unenforceable and without effect.

120. Plaintiff seeks judgment from this Court declaring that the Supreme Council is not properly authorized and is without legal authority to govern the conduct or operation of Family Federation or the Unification Church and should be immediately disbanded.

121. The requested declarations will conclusively confirm that the referenced constitution and councils created thereunder are improper and without authority to govern Family Federation or the Unification Church.

**COUNT III – Breach of Fiduciary Duty**  
**(Against Mrs. Moon)**

122. Plaintiff incorporates by reference paragraphs 1- 121 above as if fully set forth herein.

123. At all relevant times, including the present, Mrs. Moon has owed the Unification Church, Family Federation, HSA-UWC (USA), and Sean Moon a fiduciary duty to act in their best interests by virtue of her public role as Rev. Moon's wife, Sean Moon's mother and the role she claims as "True Mother" and her influence over the entities as a result.

124. Sean Moon placed his faith, trust, and confidence in Mrs. Moon, believing that she would act in his best interest and in the best interests of the Unification Church, Family Federation, and HSA-UWC (USA).

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125. Mrs. Moon took advantage of Sean Moon's trust and used her influence and status within the Unification Church for her own personal gain.

126. Mrs. Moon has breached her fiduciary duties in the past, and continues to breach such duties, by, among other things, the following conduct: (a) repudiating Rev. Moon's irrevocable appointment of Sean Moon as the Leader of the Unification Church and Family Federation as his successor; (b) wrongfully holding herself out to be the Leader of the Unification Church and Family Federation; (c) misrepresenting her role, authority, and status to members of the organizations, (d) unlawfully exercising power over the organizations and their members; (e) upon information and belief, unlawfully seizing and exercising dominion over the organization's property, financial accounts, and other assets; (f) proposing the unauthorized Cheon Il Guk Constitution; (g) creating and constituting the rogue Supreme Council; (h) mismanaging the organization's charitable property and assets; (i) using and/or applying the organizations' charitable property and assets in a manner inconsistent with the stated goals of the organizations and their members; (j) upon information and belief violating the constructive trust of these entities by diverting assets for her personal benefit; (k) preying upon unaware members of the organization with clear purpose to manipulate the members making charitable donations; and, (l) creating dysfunction, conflict, and confusion within the organizations – all to achieve her objective of usurping Sean Moon's authority.

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127. Mrs. Moon has, and had at all relevant times, a duty to act in good faith with the best interests of the Family Federation in mind – and she has not.

128. Mrs. Moon owed Family Federation a duty of undivided and undiluted loyalty and she violated said duties by acting in her own self-interest and in a manner inconsistent with the Family Federation's established customs and practices.

129. Mrs. Moon's breach of fiduciary duties is ongoing as she continues to purport to be the Leader of Family Federation and the Unification Church in direct disobedience, disrespect and disregard of Rev. Moon's express appointment of Sean Moon as Leader.

130. Mrs. Moon's conduct has caused considerable harm to Sean Moon and to the Family Federation and Unification – the entities he was chosen by Rev. Moon to lead.

131. Sean Moon has suffered damages as a result of such breaches of fiduciary duties in an amount to be established at trial in excess of \$75,000.00.

132. Plaintiff seeks injunctive relief to unwind the *ultra vires* acts of Mrs. Moon which have been taken in breach of her fiduciary duties and to prevent further harm to the Unification Church and Family Federation as a result.

**COUNT IV – Breach of Fiduciary Duty**  
**(Against All Director Defendants)**

133. Plaintiff incorporates by reference paragraphs 1 - 132 as if fully set forth herein.

134. Defendant Ki Hoon Kim was a Director and the Chairman of the Board of Directors of HSA-UWC (USA) in 2013. Ki Hoon Kim has aided and abetted, and continues to aid and abet, Mrs. Moon in her scheme to take control of HSA-UWC (USA), Family Federation and the Unification Church, and has breached his fiduciary duties by refusing to honor and breaching Rev. Moon's appointment of Sean Moon as his successor Leader and agent of HSA-UWC (USA) and all Family Federation organizations. By dishonoring and breaching Rev. Moon's appointment of the authorized Leader, Ki Hoon Kim has violated the entity's original stated purpose and mission.

135. Defendant Peter Kim was a Director of HSA-UWC (USA) in 2013. Peter Kim has aided and abetted, and continues to aid and abet, Mrs. Moon in her scheme to take control of HSA-UWC (USA), Family Federation and the Unification Church, and has breached his fiduciary duties by refusing to honor and breaching Rev. Moon's appointment of Sean Moon as his successor Leader and agent of HSA-UWC (USA) and all Family Federation organizations. By dishonoring and breaching Rev. Moon's appointment of the authorized Leader, Peter Kim has violated the entity's original stated purpose and mission.

136. Defendant Chang Shik Yang was a Director of HSA-UWC (USA) in 2013. Chang Shik Yang has aided and abetted, and continues to aid and abet, Mrs. Moon in her scheme to take control of HSA-UWC (USA), Family Federation and the Unification Church, and has breached his fiduciary duties by refusing to honor and breaching Rev. Moon's appointment of Sean Moon as his successor Leader and agent of HSA-UWC



(USA) and all Family Federation organizations. By dishonoring and breaching Rev. Moon's appointment of the authorized Leader, Chang Shik Yang has violated the entity's original stated purpose and mission.

137. Defendant Balcomb was a Director of HSA-UWC (USA) in 2013. Balcomb has aided and abetted, and continues to aid and abet, Mrs. Moon in her scheme to take control of HSA-UWC (USA), Family Federation and the Unification Church, and has breached his fiduciary duties by refusing to honor and breaching Rev. Moon's appointment of Sean Moon as his successor Leader and agent of HSA-UWC (USA) and all Family Federation organizations. By dishonoring and breaching Rev. Moon's appointment of the authorized Leader, Balcomb has violated the entity's original stated purpose and mission.

138. Defendant Jenkins was a Director of HSA-UWC (USA) in 2013. Jenkins has aided and abetted, and continues to aid and abet, Mrs. Moon in her scheme to take control of HSA-UWC (USA), Family Federation and the Unification Church, and has breached his fiduciary duties by refusing to honor and breaching Rev. Moon's appointment of Sean Moon as his successor Leader and agent of HSA-UWC (USA) and all Family Federation organizations. By dishonoring and breaching Rev. Moon's appointment of the authorized Leader, Jenkins has violated the entity's original stated purpose and mission.

139. Defendant Jones was a Director of HSA-UWC (USA) in 2013. Jones has aided and abetted, and continues to aid and abet, Mrs. Moon in her scheme to take control of HSA-UWC (USA), Family Federation

and the Unification Church, and has breached his fiduciary duties by refusing to honor and breaching Rev. Moon's appointment of Sean Moon as his successor Leader and agent of HSA-UWC (USA) and all Family Federation organizations. By dishonoring and breaching Rev. Moon's appointment of the authorized Leader, Jones has violated the entity's original stated purpose and mission.

140. Defendant Alexa Ward was a Director of HSA-UWC (USA) in 2013. Ward has aided and abetted, and continues to aid and abet, Mrs. Moon in her scheme to take control of HSA-UWC (USA), Family Federation and the Unification Church, and has breached her fiduciary duties by refusing to honor and breaching Rev. Moon's appointment of Sean Moon as his successor Leader and agent of HSA-UWC (USA) and all Family Federation organizations. By dishonoring and breaching Rev. Moon's appointment of the authorized Leader, Ward has violated the entity's original stated purpose and mission.

141. Defendants Ki Hoon Kim, Peter Kim, Chang Yang, Balcomb, Jenkins, Jones and Ward shall be collectively referred to as the "Director Defendants."

142. The Director Defendants have, and had at all relevant times, a duty to act in good faith with the best interests of HSA-UWC (USA) in mind – and they have not.

143. The Director Defendants owe, and have owed at all relevant times, a duty of obedience to act within the purposes of HSA-UWC (USA) and to ensure that its mission is pursued.

144. In failing to honor Rev. Moon's proper and authorized appointment of his successor Leader, Sean Moon, the Director Defendants have breached their duty of obedience and have failed to ensure that the organization's mission be pursued as defined and dictated by Rev. Moon.

145. Sean Moon placed his faith, trust, and confidence in the Director Defendants, believing that they would act in his best interest and in the best interests of the Unification Church, Family Federation, and HSA-UWC (USA).

146. The Defendant Directors took advantage of Sean Moon's trust and failed to use their influence and status within the Unification Church to ensure that the mission was pursued.

147. The allegiance of the Director Defendants has been misplaced with their advancement of Mrs. Moon's new theology and her exercise of authority over HSA-UWC (USA), in direct contravention of the only person with authority to appoint the proper Leader to succeed him after death – Rev. Moon.

148. The Director Defendants acquiesced to Rev. Moon's appointment of Sean Moon as Leader and never expressed any concern about adhering to his directions until after Rev. Moon's death.

149. The Director Defendants owe a duty of loyalty and a duty of care in their capacities as directors of HSA-UWC (USA).

150. In dishonoring Rev. Moon's unambiguous and irrevocable appointment of Sean Moon as Leader, the

Director Defendants have breached their primary obligation related to the organization's top executive, and continue to breach this obligation currently as they continue to permit, facilitate, and follow the directions of Mrs. Moon designed to usurp power from the properly appointed Leader, Sean Moon.

151. The Director Defendants' conduct was and is grossly negligent and/or intentionally designed to cause harm to Sean Moon, as all of these defendants acknowledged Rev. Moon's exclusive authority to appoint his successor, were aware that he had appointed Sean Moon as Leader prior to his death, and are disregarding Rev. Moon's express and unambiguous grant of authority to Sean Moon in an effort to curry favor and approval of Mrs. Moon in her effort to usurp such power.

152. These breaches of fiduciary duties are ongoing, as the Defendant Directors continue to refuse to recognize Sean Moon as Leader.

153. Sean Moon has suffered damages as a result of such breaches of fiduciary duties in an amount to be established at trial in excess of \$75,000.00.

154. Plaintiff seeks injunctive relief to unwind the *ultra vires* acts of the Director Defendants which have been taken in breach of their fiduciary duties and to prevent further harm to HSA-UWC (USA), the Unification Church and Family Federation as a result.

**COUNT V – Tortious Interference with  
Business Relationship  
(Against All Defendants)**

155. Plaintiff incorporates by reference paragraphs 1- 154 above as if fully set forth herein.

156. Defendants have orchestrated a harmful campaign with the intent to improperly interfere with and damage Sean Moon's present and prospective business relations with Family Federation.

157. Rev. Moon had authority to act on behalf of Family Federation as principal in appointing Sean Moon to be Family Federation's agent to act on its behalf.

158. Rev. Moon appointed Sean Moon as Family Federation's agent to act on its behalf.

159. This agency relationship created a present and continuing business relationship between Family Federation and Sean Moon.

160. As part of his newly appointed role, Sean Moon was entitled to, and expected, additional income by way of salary, as well as various assets, such as crowns and robes which were part of the required attire in his commencement of duties.

161. Defendants are and have been aware of the agency relationship between Family Federation and Sean Moon which was publicly manifested in the coronation ceremonies conducted in 2009 and in Rev. Moon's written proclamation issued in June, 2010.

162. Defendants know, and knew at all relevant times, that Sean Moon was appointed by Rev. Moon to lead Family Federation and the Unification Church.

163. Despite this knowledge, Defendants intentionally interfered with, and continue to intentionally interfere with, Sean Moon's current and prospective business relationship with Family Federation.

164. Defendants continue to interfere with and disrupt Sean Moon's current and prospective business relations by refusing to acknowledge Sean Moon's authority to act as Leader and agent of Family Federation.

165. Defendants used and continue to use dishonest, unfair and/or improper means of interfering with Sean Moon's authority as successor and agent and his business relationship with Family Federation.

166. Defendants engaged and continue to engage in these acts for the sole purpose of harming Sean Moon by depriving him of any and all rights he was entitled to, and expected, as part of his business relationship with Family Federation as its Leader and agent.

167. Much of this activity has taken place in New York in connection with the activities of HSA-UWC (USA) and at events held at The New Yorker Hotel, East Garden, and/or other locations within in New York, all of which continue to interfere with Sean Moon's existing and prospective business relationships.

168. Defendants' conduct has injured and continues to harm Sean Moon's business relationship with Family Federation and interfered with and continues to interfere with his ability to lead Family Federation as intended by Rev. Moon.

169. Defendants' tortious interference with Sean Moon's existing and prospective business relationships is ongoing as they continue to interfere with Sean Moon's rightful authority to act as Leader of Family Federation and the Unification Church.

170. Sean Moon has suffered damages as a result of such tortious interference in an amount to be established at trial in excess of \$75,000.00.

**COUNT VI – Breach of Agency Agreement**  
**(Against Mrs. Moon and Family Federation)**

171. Plaintiff incorporates by reference paragraphs 1 - 170 above as if fully set forth herein.

172. Family Federation entered into an agency agreement with Sean Moon in 2009 when Rev. Moon irrevocably appointed Sean Moon as Family Federation's agent.

173. Acting as Family Federation's principal, Rev. Moon further ratified such oral agency agreement in writing on June 5, 2010.

174. At all relevant times, Rev. Moon had authority to act on behalf of Family Federation as principal to enter into an agency agreement with Sean Moon.

175. Acting as Family Federation's principal, Rev. Moon intended to and did grant Sean Moon actual authority to act as Family Federation's agent.

176. In appointing Sean Moon as Family Federation's agent, Rev. Moon made it clear that Sean Moon was authorized to exercise full control and authority over Family Federation to the same extent as had been exercised by Rev. Moon previously in governing Family Federation.

177. Sean Moon's actual authority to act as Family Federation's agent was both express and implied.

178. Sean Moon accepted Rev. Moon's appointment as Family Federation's agent.

179. Sean Moon acted as Family Federation's agent on multiple occasions after entering into the agency agreement, including performing marriage blessing ceremonies.

180. Mrs. Moon was aware of Sean Moon's acts taken as an agent of Family Federation prior to Rev. Moon's death and never objected to and instead ratified all such actions until Rev. Moon died.

181. Family Federation has a continuing obligation under the agency agreement to acknowledge Sean Moon's right to act as its agent.

182. The agency agreement between Family Federation and Sean Moon was irrevocable under the terms dictated by Rev. Moon, accepted by Sean Moon, and acknowledged by Mrs. Moon.



183. Mrs. Moon lacks the authority to terminate Family Federation's agency agreement with Sean Moon.

184. To the extent any Defendant now claims that the agency agreement with Sean Moon can be, or has been, terminated, such termination of the agency relationship is wrongful.

185. Further, any such wrongful termination of Sean Moon's agency is a breach of the agency agreement.

186. Family Federation's breach of this agency agreement at the direction of Mrs. Moon is ongoing as they continue to refuse to acknowledge Sean Moon's authority to act as agent for Family Federation.

187. Family Federation and Mrs. Moon have engaged in activities in New York independently and through their wholly-controlled New York entity HSA-UWC (USA) related to their ongoing breach of this agency agreement.

188. Sean Moon has suffered damages as a result of such breach in an amount to be established at trial in excess of \$75,000.00.

189. Sean Moon seeks specific performance of Family Federation's continuing obligations under the agency agreement.

**COUNT VII – Breach of Fiduciary Duties,  
Unjust Enrichment, and Constructive Trust  
(Against All Defendants)**

190. Plaintiff incorporates by reference paragraphs 1 - 189 above as if fully set forth herein.

191. As Leader of the Unification Church and Family Federation, Sean Moon is obligated to ensure that the organization stays true to its mission and that all property and assets are used in furtherance of that mission.

192. As Leader of the Unification Church and Family Federation, Sean Moon has an interest in preserving the organization's property and assets.

193. Rev. Moon made promises to Sean Moon in connection with his appointment of Sean Moon as Rev. Moon's successor Leader, that Sean Moon would have authority to govern Family Federation and the Unification Church and to control the entities' assets for the benefit of the church and its mission.

194. When Mrs. Moon with the aid of the Director Defendants orchestrated the coup to remove Sean Moon as the rightful heir, successor, and Leader of the Unification Church and from his positions of authority in the Unification Church, Family Federation and HSA-UWC, Mrs. Moon and the Director Defendants became trustees of those assets wrongfully removed from Sean Moon's control.

195. While controlling the entities' assets, Mrs. Moon and Director Defendants were obligated to hold and use the assets for the benefit of the organizations.

Despite these obligations, Mrs. Moon and the Director Defendants did not act in the best interest of the organizations. Family Federation, Unification Church, and Sean Moon have been harmed by the wrongful conduct.

196. There is a confidential and/or fiduciary relationship between Sean Moon and his mother Mrs. Moon.

197. Sean Moon has a confidential and/or fiduciary relationship with Director Defendants by virtue of the practices, procedures and customs of Family Federation and the Unification Church.

198. To the extent any individual Defendant has: (a) mismanaged the organizations' charitable property and assets; (b) used and/or applied the organizations' charitable property and assets in a manner inconsistent with the stated goals of the organizations and their members; or (c) violated the trust of these organizations and entities by diverting assets for his or her personal benefit, such assets are subject to a constructive trust for the benefit of HSA-UWC (USA), Family Federation and the Unification Church.

199. Relying on influence over the organizations, certain Defendants have improperly directed that property and assets be transferred in a manner inconsistent with the goals of the Unification Church and Family Federation, and HSA-UWC (USA) and their members.

200. Plaintiff has no adequate remedy at law.

201. Permitting Defendants to retain control over property and assets belonging to the Unification Church, Family Federation and HSA-UWC (USA) and to continue to use and transfer said property and assets without authority is unjust and warrants the imposition of a constructive trust whereby all property and assets can be returned.

202. Equity requires, and Plaintiff requests, the imposition of a constructive trust.

203. Further, in connection with this constructive trust, Defendants owe Sean Moon certain fiduciary duties to preserve, protect and maintain the assets over which they hold control in their capacity as constructive trustees.

204. Defendants have breached these fiduciary duties to Sean Moon, and caused him monetary damages.

205. Plaintiff also seeks punitive damages.

**COUNT VIII- Defamation**  
**(Against Mrs. Moon and Family Federation)**

206. Plaintiff incorporates by reference paragraphs 1 - 205 above as if fully set forth herein.

207. In refusing to acknowledge Sean Moon's authority in the Unification Church and Family Federation as Rev. Moon's successor Leader, Mrs. Moon and Family Federation have made false statements regarding Sean Moon.

208. Commencing in 2015, Defendants Family Federation and Mrs. Moon published false and

defamatory statements to third parties regarding Sean Moon which state that he is not the Leader of Family Federation and the Unification Church and challenge his authority as granted by Rev. Moon. A copy of this statement is attached as Exhibit 2.

209. These defamatory statements have continued with a recent false statement being published by Family Federation and Mrs. Moon in February, 2018, which again disputes Sean Moon's proper authority to lead the Family Federation and Unification Church as the Leader. A copy of this statement is attached as Exhibit 3.

210. Mrs. Moon and Family Federation published these false statements to third parties in press releases issued by Mrs. Moon and/or Family Federation to members of the media and members of Family Federation and the Unification Church worldwide, without privilege or authorization. Many of these press releases were published from New York and/or to individuals and/or entities within New York.

211. Defendants Mrs. Moon and Family Federation made such defamatory statements regarding Sean Moon in such a nature that it can be presumed as a matter of law that they intended to denigrate or disgrace Sean Moon and to hold him up to public hatred, contempt or scorn.

212. Defendants Mrs. Moon and Family Federation made such false statements with actual malice and with an intent to injure Sean Moon's reputation and interfere with his ability to perform his leadership duties for the Unification Church.

213. Defendants Mrs. Moon and Family Federation made such false statements with a reckless disregard for their falsity and/or or without using reasonable care as to the truth or falsity of such statements.

214. As a direct and proximate cause of such defamatory statements, Sean Moon has suffered damages in an amount to be established at trial in excess of \$75,000.00.

**COUNT IX – RICO Violation Under**  
**18 U.S.C. § 1962(b)**  
**(Against All Defendants)**

215. Plaintiff incorporates by reference paragraphs 1 - 214 above as if fully set forth herein.

216. Each Defendant is a person as defined in 18 U.S.C. § 1961(3).

217. Family Federation is an enterprise as defined in 18 U.S.C. § 1961(4).

218. The activities of Family Federation affect interstate and foreign commerce.

219. Unification Church is an enterprise as defined in 18 U.S.C. § 1961(4)

220. The activities of Unification Church affect interstate and foreign commerce.

221. Defendants acquired and maintained an interest in and control of Family Federation and Unification Church through the following acts of racketeering activity:

**18 U.S.C. § 1341 (Mail Fraud)**

- a. Defendants knowingly devised or intended to devise a scheme or artifice to defraud Plaintiff and members of the Unification Church and Family Federation.
- b. The object of Defendants' fraudulent scheme was to steal control of the Unification Church and Family Federation from Sean Moon and to use the money and property belonging to the Unification Church and Family Federation, including crowns, robes and religious writings of Rev. Moon which were given to Sean Mon as Rev. Moon's successor Leader, for their own personal benefit.
- c. To execute their fraudulent scheme, Defendants caused documents to be sent and delivered through the United States mail, to followers of the Unification Church and Family Federation falsely stating that Sean Moon was not the Leader, each of which constitutes a separate violation of 18 U.S.C. § 1341 and a separate act of racketeering activity.

**18 U.S.C. § 1343 (Wire Fraud)**

- d. Defendants knowingly devised or intended to devise a scheme or artifice to defraud Plaintiff and members of the Unification Church and Family Federation.
- e. The object of Defendants' fraudulent scheme was to steal control of the Unification Church and Family Federation from Sean Moon and to use

the money and property belonging to the Unification Church and Family Federation, including crowns, robes and religious writings of Rev. Moon which were given to Sean Moon as Rev. Moon's successor Leader, for their own personal benefit.

- f. To execute their fraudulent scheme, Defendants caused numerous writings, signs, signals, pictures, or sounds to be transmitted by means of wire, radio, or television communications to followers of the Unification Church and Family Federation falsely stating that Sean Moon was not the Leader, each of which constitutes a separate violation of 18 U.S.C. § 1343 and a separate act of racketeering activity.

***18 U.S.C. § 1956 (Laundering of Monetary Instruments)***

- g. Defendants used the mail fraud and wire fraud schemes detailed above to steal control of the Unification Church and Family Federation from Sean Moon and to obtain control over the money and property belonging to the Unification Church and Family Federation.
- h. Defendants knowingly engaged or attempted to engage in numerous monetary transactions using the money and property belonging to the Unification Church and Family Federation, each of which constitutes a separate violation of 18 U.S.C. § 1957 and a separate act of racketeering activity.



- i. Each of the monetary transactions involves money or property worth more than \$10,000 and derived from Defendants' mail fraud and wire fraud schemes to obtain control over the money and property belonging to the Unification Church and Family Federation.

222. Each Defendant participated in at least two acts of racketeering activity.

223. The above acts of racketeering activity constitute a pattern of racketeering activity because there are at least two acts of racketeering activity, one of which occurred after the effective date of Title 18, Chapter 96 of the United States Code 18 U.S.C. § 1961, *et seq.* and the last of which occurred within ten years after the commission of a prior act of racketeering activity.

224. As a direct and proximate result of the Defendants' violation of 18 U.S.C. § 1962(b), Plaintiff suffered damages in excess of \$75,000, the precise amount to be determined at trial.

225. Pursuant to 18 U.S.C. § 1964(c), Plaintiff is entitled to recover threefold damages, plus costs and attorneys' fees from Defendants.

**COUNT X – Conspiracy to Commit RICO**  
**Violations**  
**(Against All Defendants)**

226. Plaintiff incorporates by reference paragraphs 1 - 225 above as if fully set forth herein.

227. Each Defendant is a person as defined in 18 U.S.C. § 1961(3).

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228. Family Federation is an enterprise as defined in 18 U.S.C. § 1961(4).

229. The activities of Family Federation affect interstate and foreign commerce.

230. Unification Church is an enterprise as defined in 18 U.S.C. § 1961(4)

231. The activities of Unification Church affect interstate and foreign commerce.

232. In violation of 18 U.S.C. § 1962(d), the Defendants knowingly and intentionally conspired with each other to violate 18 U.S.C. § 1962(b), that is, to acquire and maintain an interest in and control of Family Federation and Unification Church through a pattern of racketeering activity involving multiple acts of racketeering activity as set forth in paragraph 51.

233. It was part of the conspiracy that the Defendants agreed that each conspirator would commit at least two acts of racketeering activity in furtherance of the conspiracy.

234. The object of such conspiracy was to obtain money or property.

235. Each Defendant received financial benefit from their involvement in the conspiracy.

236. As a direct and proximate result of the Defendants' violation of 18 U.S.C. § 1962(d), Plaintiff suffered damages in excess of \$75,000, the precise amount to be determined at trial.

237. Pursuant to 18 U.S.C. § 1964(c), Plaintiff is entitled to recover threefold damages, plus costs and attorneys' fees from Defendants.

**Allegations Common to Following  
State Law Claims**

238. Family Federation and HSA-UWC (USA) are not-for-profit corporations which are subject to all New York state laws governing and concerning not-for-profit entities.

239. The organizations' directors, officers, key persons, and all persons asserting influence or power over the organizations are subject to laws concerning and governing their conduct, which is codified in New York not-for-profit law.

240. Mrs. Moon wields significant influence over the organizations.

241. Given her influence, Mrs. Moon is required to act in the best interests of the organizations—and has instead put her own personal interest before the organizations' interests.

242. The organizations' senior leadership has often acted out of fear of Mrs. Moon and in a sycophantic manner towards Mrs. Moon.

243. Mrs. Moon improperly used her influence and conspired with Defendants and coerced others to act on her behalf rather than on behalf of the organizations.

244. When Sean Moon properly challenged and reported the misdeeds of senior leaders of Family Federation and the Unification Church as a

whistleblower, Mrs. Moon and her co-conspirators harassed, intimidated and retaliated against him, including removing him as International President of Family Federation.

245. Since removing Sean Moon as International President in retaliation for his whistleblower disclosures, Mrs. Moon and her co-conspirators have continued to make every effort to prevent Sean Moon from functioning as Leader of Family Federation and the Unification Church as he was properly appointed to do by Rev. Moon.

246. On information and belief, Mrs. Moon also directed the Family Federation and HSA-UWC to enter into a series of financial transactions that benefitted her and her co-conspirators and that were in direct conflict with the organizations' missions and purpose.

247. Mrs. Moon and her co-conspirators' conduct violated New York state law.

248. Under New York law "[n]o corporation shall enter into any related party transaction unless the transaction is determined by the board, or an authorized committee thereof, to be fair, reasonable and in the corporation's best interest at the time of such determination. Any director, officer, or key person who has an interest in a related party transaction shall disclose in good faith to the board, or an authorized committee thereof, the material facts concerning such interest." N.Y. Not-for-Profit Corp. Law § 715(a).

249. In addition, a related party cannot participate in deliberations or voting regarding a

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related party transaction in which he or she has an interest. N.Y. Not-for-Profit Corp. Law § 715(h).

250. On information and belief, Mrs. Moon directed the organizations to engage in financial transactions in which she had significant financial interest and in which she was motivated by personal gain.

251. Mrs. Moon failed to properly disclose her interests.

252. Mrs. Moon was motivated by personal financial gain and acted in her own self-interest.

253. Mrs. Moon directed directors, officers, and influential persons within Family Federation and HSA-UWC to act in accordance with her wishes and against the organizations' best interests.

254. Due to the conduct of Mrs. Moon and her co-conspirators, the organizations (i) failed to consider alternative transactions; (ii) failed to document proper bases to engage in the transactions; and (iii) failed to properly account for the improper transactions.

255. Mrs. Moon and co-conspirators should be required to return or replace any property or other assets lost by the organizations as a result of the improper transactions.

**Count XI - Violation of Whistleblower  
Protections**  
**(Against All Defendants)**

256. Plaintiff incorporates by reference paragraphs 1 - 255 above as if fully set forth herein.

257. New York law requires that a not-for-profit corporation adopt and comply with a whistleblower policy to protect persons who report suspected improper conduct from retaliation, harassment and intimidation. N.Y. Not-for-Profit Corp. Law § 715-b (a).

258. Both Family Federation and HSA-UWC (USA) are required to comply with this statute, because both entities are authorized to conduct and/or do conduct activities in the state of New York. N.Y. Not-for-Profit Corp. Law § 103(a).

259. Sean Moon was an employee of both HSA-UWC (USA) and Family Federation. Sean Moon also served as a Director of HSA-UWC (USA) and as Leader over both entities.

260. In January, 2015, Sean Moon exposed certain misdeeds of top management members of the Unification Church and Family Federation. Specifically, Sean Moon disclosed that these leaders were benefitting from excessive salaries and benefits at the expense of the Unification Church and Family Federation. He further asserted that these leaders were dishonoring the directions and teachings of Rev. Moon to curry favor with Mrs. Moon and preserve their resulting political power and compensation.

261. These leaders approached Sean Moon and tried to intimidate him by asking him to go along with Mrs. Moon's exercise of authority in violation of Rev. Moon's appointment and to facilitate her modifications of church doctrines. They wanted Sean Moon to stay silent as to the matters he was exposing and speaking publicly about until Mrs. Moon's death, with the

promise that after her death Sean Moon would be restored to his proper position of Leader and able to correct any of Mrs. Moon's missteps.

262. Sean Moon viewed this as an improper request that he dishonor Rev. Moon's directives and betray his mother after her death. He refused to back down and continued to function as a whistleblower exposing the improper conduct of those claiming power within Family Federation and the Unification Church. He also asserted and threatened to exercise his power as Leader to remove any management members who failed to conduct themselves lawfully under the church's practices, procedures and policies.

263. In direct retaliation and in an effort to intimidate and harass him, on February 26, 2015, Sean Moon was purportedly suspended from his role as the International President of Family Federation.

264. Since stealing control of the Unification Church and Family Federation from Sean Moon, Mrs. Moon, with the assistance of Defendants, has used the money and property belonging to the Unification Church and Family Federation for her own personal benefit, including taking possession, custody and control of the crowns and religious writings of Rev. Moon which were given to Sean Moon as Rev. Moon's successor Leader.

265. This conduct is a violation of New York state law.

266. As a direct and proximate cause of such retaliation, harassment and intimidation in violation of New York state law, Sean Moon has suffered damages

in an amount to be established at trial in excess of \$75,000.00.

267. In addition to damages, Sean Moon is entitled to an order reinstating him to his prior positions of leadership.

**Count XII - Accounting  
(Against Mrs. Moon and the Director  
Defendants)**

268. Plaintiff incorporates by reference paragraphs 1 - 267 above as if fully set forth herein.

269. Directors, officers, and key persons of a corporation are required to act in good faith, in the best interest of the corporations they serve and with undivided loyalty—Mrs. Moon and her co-conspirators, the Director Defendants, have failed in all respects.

270. Mrs. Moon and the Director Defendants have violated their duties in the management and disposition of corporate assets.

271. Upon information and belief, Mrs. Moon and the Director Defendants have unlawfully seized and exercised dominion over Family Federation and HSA-UWC (USA)'s property, financial accounts, and other assets.

272. Upon information and belief, Mrs. Moon and her co-conspirators have mismanaged the organizations' charitable property and assets—using and/or applying the organizations' charitable property and assets in a manner inconsistent with the stated goals of the organizations and their members.



273. Upon information and belief, Mrs. Moon, with the help of the Director Defendants, has diverted assets belonging to Family Federation and HSA-UWC (USA) for her own personal benefit acting in direct conflict with the interests of the organizations.

274. As Leader of the Unification Church and Family Federation, Sean Moon has an interest in preservation of the organizations' property and assets.

275. Plaintiff formally requests that Mrs. Moon and Director Defendants be required to account for their conduct and provide a full accounting related to HSA-UWC (USA) and Family Federation.

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter a Judgment and Order in his favor and against Defendants as follows:

A. Declaring that Sean Moon is the successor to Rev. Moon and Leader of Family Federation and the Unification Church;

B. Declaring that the Cheon Il Guk Constitution was not validly authorized by Family Federation and/or the Unification Church and is a legal nullity, void, without authority, unenforceable and without effect;

C. Declaring that the Supreme Council is not properly authorized by Family Federation and/or the Unification Church and is without legal authority to govern the conduct or operation of Family Federation and/or the Unification Church and should be immediately disbanded;

D. Enjoining Defendants and any other third parties from interfering with Sean Moon's exercise of authority in the Family Federation as the organization's Leader;

E. Ordering specific performance of Family Federation's continuing obligations under the agency agreement;

F. Awarding damages for Defendants' breach of fiduciary duties, tortious interference with agency, breach of agency agreement and defamation;

G. Imposing a constructive trust on any and all property and assets belonging to the Unification Church and Family Federation that is wrongfully in the hands or control of Defendants.

H. Awarding damages for Sean Moon's improper removal in retaliation for his whistleblower disclosures and requiring his reinstatement to his proper position;

I. Requiring all property and assets being improperly held to be returned to the Unification Church and Family Federation and its rightful Leader so the property and assets can be used for the benefit of the organization and its members worldwide;

J. Surcharging all Defendants for diversion and dissipation of Unification Church and Family Federation property and assets;

K. Awarding treble damages and attorneys' fees for Defendants' RICO violations;

L. Punitive damages;

M. Statutory damages;

N. Order an accounting of any and all assets subject to the constructive trust and directing all individual Defendants to provide a true and accurate account for any and all activities involving or concerning the finances, transfer, and/or distribution of assets of HSA-UWC (USA), Family Federation, and the Unification Church during the time periods referenced herein; and

O. Granting to Plaintiff such other and further relief as the Court may deem just, proper and equitable under the circumstances.

Date: June 13, 2019

**BY:**

***/s/Jonathan G. Polak***

**Jonathan G. Polak (IN. No. 21954-49)**

*Admitted Pro Hac Vice*

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 13, 2019, a copy of the foregoing was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the court's electronic filing system. Parties may access this filing through the court's system.

*/s/ Jonathan G. Polak*