



The Expensive Presbyterian Life

by the Revs. Mary Holder Naegeli, Mark Stryker, and Margaret Gelini

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We began a three-part series yesterday that was generated by our reflections upon the judicial process of which we are now a part. Our basic point was that raising an issue through the PCUSA remedial case process (found in that little-read and mostly unfamiliar “D-book” in the *Book of Order*, sections D-6, D-7, and D-8) is our duty as ordained officers. Our vows indicate that it is part of the normal Presbyterian life to ask the Body’s help in adjudicating areas of concern and controversy. This we have done in the case now before the GAPJC on appeal, *Naegeli et al v. San Francisco Presbytery*, likely to be heard on November 6, 2009.

What is *not* normal (or shouldn’t be) is the frustrating, patience-testing, confusing, and expensive process that is still going on eighteen months after the irregularity occurred (January 15, 2008). We understand why so few follow this path; it isn’t fun, it is distracting in a slow-motion sort of way, and fund-raising is hard.

Today we focus on the expense of judicial process in the PCUSA. Our thoughts are our own, and different presbyteries do things differently. But take our experience as one example of how “decency and order” play out, by doing things “by the book,” in this case the *Book of Order’s* Rule of Discipline.

Though legal counsel is not required, we were advised that an experienced attorney acquainted with the Normal Presbyterian Life (i.e. an officer of the church) was essential to navigate the complex process leading to the trial on March 20, 2009. Because the deadlines to initiate a judicial case are short and complicated, we had to decide quickly on legal counsel.

As background, the Presbytery of San Francisco in the past has financed legal counsel for both sides of disciplinary cases, which focus on allegations against an individual church officer of the church. In the present case, however, the Presbytery is the Respondent (that is, the Presbytery is accused of an irregularity in its process and decision). The leaders of the Presbytery observed that the divisive nature of the situation would make it difficult to justify spending per capita funds on its defense. Therefore, each side (Complainant and Respondent) agreed to fund its own way in this remedial case.

Attempts to secure *pro bono* help for the Complainants were unfruitful, and the clock was ticking. Meanwhile, we recognized a steep learning curve and time commitment would require the full attention of an experienced lawyer. In consultation with an advisory group of pastors and elders, we retained the services of a Presbyterian attorney and signed a fee agreement with his firm. The Presbytery, however, *was* able to secure *pro bono* legal services, and solicited donations to cover expenses so as not to use per capita funds.

The work is billed at \$300 per hour, and as the trial approached twelve months later, two attorneys were working full time to prepare witnesses, evidence, and oral arguments. The “60 Minutes” clock was ticking in our heads constantly. The lawyers had assistance from the Complainants, but we fully appreciate now just how technical this process can get, and the insights and skills of our attorneys were indispensable.

Meanwhile, as publicity spread about the case, we were gratified to receive gifts large and small from like-minded churches and individuals throughout the country. We were able to keep up with our bills until the final two weeks before and including the trial, when all that full-time work accumulated. There is no “super fund” anywhere to cover the resulting deficit; none of the renewal groups has legal money set aside, and due to prevailing economic conditions no such fund is even feasible now. We have had to raise this money on our own, and we owe a debt of thanks to many of our readers who have responded to our need.

We are taking the risk of being open about our finances, because we think the PCUSA judicial system should be studied with an eye to reforming its processes. Legal fees for the Complainants alone have amounted to \$155,000 so far, not counting endless hours expended *gratis* by us Complainants; and we have no idea how much the real cost of the Presbytery’s defense is. The expenses of the next six months will add perhaps \$30-

40,000 more to our bill, even as one of our team assumes responsibility for more of the legal tasks to save money. So we predict that the entire project will cost approximately \$190,000.

“That’s a lot of money,” you say, “better spent elsewhere.” We agree that there are many directions our money could be going, but we disagree that this expenditure is irrelevant to mission or less important. Until the GAPJC makes a ruling in the current environment (more on that legal environment in our next post), many presbyters will feel free to exercise local option in enforcing ordination standards. The exercise of local option in this matter confuses the gospel message, compromises our hope in Christ’s transforming power, and discredits our witness in the world.

Knowing it would be expensive, we proceeded with our case because we felt that the church needed a definitive answer to the pressing question before us. If this is how the church gets that answer, then this is what we must do.

If this is what we must do, then we—the whole church—have a moral obligation to pay for the services required to do it well and thoroughly. It is unjust to depend on the good will of a few presbyters or attorneys (through *pro bono*) to bear the financial burden for a process required by the PCUSA and necessary to bring resolution to its covenant life. Even lawyers are “laborers deserving to be paid” (1Tim 5:18). Having said that, there are aspects of the judicial process that need clarification, streamlining, and acceleration for remedial cases to be a viable option in the future.

The *best* way to spend less money on litigation is to hold one another morally accountable to Scripture, our ordination vows, and the mandatory requirements in our *Book of Order*. If there is no offense, there is no need for litigation. But when there is an irregularity or delinquency alleged, it must be investigated and tried, for the sake of the peace, unity and purity of the church.

So what can you do? The obvious response to the realities of The Expensive Presbyterian Life is to contribute financially to this effort, knowing it is part and parcel to our mission to the world. The Complainants currently owe \$50,000 to our attorney’s law firm. This expense is beyond our personal resources, and even if we could pay it, it would be inappropriate for us to bear the burden alone. If the denomination needs clarity—and this case could be the vehicle for acquiring it—then it is right that the cost be shared across the denomination, and not just by a few, or even only within the San Francisco Presbytery. If you or your congregation share our vision and recognize the need for a few ordinary Presbyterian pastors to coordinate this work *for you*, you can express this support with a financial gift.

In a future piece, we will spell out some of the legal issues that make this case so important for the future of the PCUSA, so stay tuned.

As One Body, let us love God with all our heart, mind, soul, and strength. “Teach us your way, O Lord, that we may walk in your truth; give us an undivided heart to revere your name” (Ps. 86:11).

*Contributions: Checks made out to “CPC—Denominational Relations,”
with “Legal Fund—Complaint” on the memo line, should be mailed to
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