

**THE BUSINESS COURT OF TEXAS  
ELEVENTH DIVISION**

JEREMIAH COUNSEL CORP.,  
*Plaintiff,*

v.

BEN YOUNG, HOMER EDWIN  
YOUNG, LEE MAXCY, DENNIS  
BREWER, JR., AND SECOND  
BAPTIST CHURCH,  
*Defendant.*

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CAUSE NO. 25-BC11B-0031

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**DEFENDANT DENNIS BREWER, JR.'S RESPONSE TO  
PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

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Defendant Dennis Brewer, Jr., responds to Plaintiff Jeremiah Counsel Corporation's ("JCC") Motion for Partial Summary Judgment and moves the Court to deny the motion.

**I. JOINDER IN DEFENDANTS' RESPONSE**

Dennis Brewer joins in and adopts Defendants' Response in Opposition to Plaintiff's Motion for Partial Summary Judgment in full and joins and incorporates Defendant's Second Motion for Summary Judgment in full, including the Factual Background, Arguments and Authorities, and exhibits. As the other Defendants specifically note, the Court should first resolve issues of jurisdiction, standing, and church autonomy before the addressing the substantive legal matters raised by this motion.

## II. INTRODUCTION AND SUMMARY

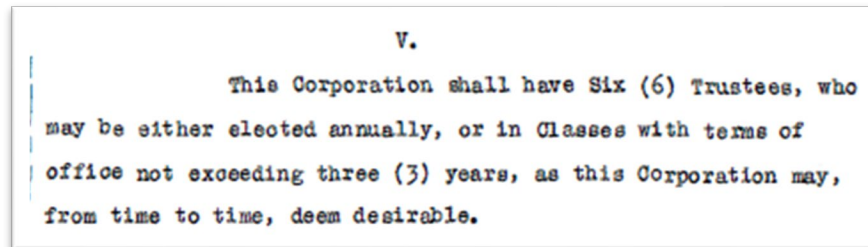
JCC moves the Court for a summary judgment declaring that the 1928 Articles of Incorporation (“AOI”) and the 1978 Amendments for Second Baptist Church remain in effect. Motion at 14. The motion: (1) is devoid of citation to any authority other than provisions of the Chapter 22 of the Texas Business Organizations Code; (2) reads more like a hit piece on the individual defendants rather than a proper motion acknowledging the evidence in the light most favorable to the nonmovants; (3) grossly overreads the import of the 1928 Articles and 1978 Amendments as they pertain to church members’ voting privileges; and (4) selectively relies on Chapter 22’s provisions without considering all relevant provisions and their implications.

As explained below, all JCC’s arguments come to nothing if the 1928 AOI does not, as JCC claims, “enshrine the members right to vote.” Who can vote and what is subject to a vote have always been addressed through the Bylaws at Second Baptist Church, not the Articles of Incorporation. The Court should deny the motion or postpone consideration until the parties have fully briefed the issues raised in Defendant’s Second Motion for Summary Judgment. By separate filing, Dennis Brewer joins Defendants’ Motion to Continue Hearing and Consolidate Motions for Summary Judgment.

### III. RELEVANT AOI AND BYLAW PROVISIONS

#### A. The 1928 Articles of Incorporation and the 2023 Amendment

The first step is reviewing the relevant provisions of the 1928 Articles and the 2023 Amendment. Section V of the 1928 Articles states the number of Trustees and states that they may be “elected” annually or in classes:



V.  
This Corporation shall have Six (6) Trustees, who may be either elected annually, or in Classes with terms of office not exceeding three (3) years, as this Corporation may, from time to time, deem desirable.

PX (“Plaintiff Exhibit”) 1. The 1928 AOI says only that Trustees are elected but says nothing about who gets to vote in any election. It contains standard requires statutory provisions—the name of the church, its location, its purpose, the initial trustees—but says nothing about how the church will be governed.<sup>1</sup>

The 2023 Amendment replaced Article V with a provision allowing for a variable number of directors who may be “elected, appointed or designated”:

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<sup>1</sup> Texas statutes in 1928 required religious corporations to have trustees to manage the “secular affairs” of the corporation and to hold title to the property of any religious corporation. Tex. Rev. Civ. Stat. Arts. 1397 (1925). These trustees were, however, not to interfere in “spiritual affairs.” *Id.* at Art. 1398. These specific requirements (and limitations on property ownership) long ago ceased to exist. The 1978 Amendments updated the AOI to the then-current statutes by making the corporation of unlimited duration and designating it as a nonprofit corporation. Even so, the trustee provision was not amended.

**III.**

**Article V of the Articles of Incorporation is hereby amended to read as follows:**

**“This Corporation shall have no less than the minimum number of directors as required by law up to the maximum number established by the Corporation’s Bylaws, who shall hold office for a period of one year or until his successor is elected, appointed, or designated, and may serve successive terms.”**

PX 4. The Trustees approved the 2023 Amendment at a meeting on May 30, 2023. Ex. A-2 at 175 (Defendants’ Second MSJ, incorporated above). Both the 2023 Amendment and the 1978 Amendment conclude with the statement that the provisions were approved at a “meeting of the members” by at least 2/3 of the members present. PX 1 and 4.

**B. The 2005 Bylaws and Policies**

The 2005 Bylaws establish the process for becoming a member of church (Art. I, § 1) and the rights and privileges of membership (Art. I, § 2). The right and privilege to vote is straightforward:

(1) Every member of the church is entitled to vote at all church business conferences, provided the member is present.

Ex. 2 to Plaintiff’s First Amended Petition.

The Trustees are church officers and are elected as provided in the Bylaws (Art. II). The 2005 Bylaws and the 1928 AOI require six Trustees. They serve as “legal officers” of the church. If the church membership authorizes a transaction, the Trustees are “empowered to buy, sell, mortgage,

lease, or transfer any church property” and to execute the documents necessary to accomplish a transaction (Art. II, § 2). They are elected by vote of the church (Art. II, § 8). Although the Trustees in 2023 functioned as something like a board of directors, the 1928 or 1978 Articles or 2005 Bylaws do not expressly vest any other powers in the Trustees. Under the 2005 Bylaws, matters such as budgets and personnel other than the Pastor are managed through unelected committees and generally voted on by the church membership. The 2005 Bylaws were subject to amendment by a majority vote in a church business conference (Art. XIII).

### **C. The 2023 First Amended and Restated Bylaws**

The members of Second Baptist Church present at the called business meeting on May 31, 2023 voted to approve the First Amended and Restated Bylaws that replaced the 2005 Bylaws. Ex. A-2 at 201 (Defendants’ Second MSJ). The 2023 Bylaws provide expressly that the Ministry Leadership Team will function as the board of directors and have powers and functions that were dispersed among elected and unelected officers and committees under the 2005 Bylaws. Ex. A-2 at 180; Art. 5.02. The power to acquire and dispose of property, the power assigned to the Trustees under the 2005 Bylaws, is re-assigned to the Ministry Leadership Team. *Id.* The Ministry Leadership Team is a self-perpetuating board, a common method of nonprofit governance. Arts. 5.01, 5.03, and 5.04.

There is no provision in the 2023 Bylaws for a church membership vote on church governance; this is clearly stated in Art. 4.03(b). In other words, the over 300 members present at the May 31, 2023 meeting expressly gave up the right to vote on church business by 315-2 majority. Ex. A-2 at 180.

#### **IV. RELEVANT TBOC CHAPTER 22 PROVISIONS**

The provisions of Chapter 22 of the Texas Business Organizations Code contain several exceptions specifically tailored for churches. These are all relevant provisions that JCC fails to consider in its motion. First, under Section 22.103:

A change in the number of directors by amendment to the bylaws controls over the number stated in the certificate of formation, unless the certificate of formation provides that a change in the number of directors may be made only by amendment to the certificate.

The 2023 Amendment changes the number of directors from six to the number established by the 2023 Bylaws. This change in the Bylaws controls over the 2028 Articles even if the 2023 Amendment is somehow not valid.

Section 22.156(b) allows a church to give any required notice “at a regularly scheduled worship service before the meeting or as otherwise provided by the certificate of formation or bylaws of the corporation.” The record is undisputed that the church provided notice both by announcements and in writing. This church-based exception similarly applies to the notice provisions of Sections 22.105, 106, and 107 related to amendments to the

articles of incorporation. Section 22.159(c) provides that, for churches incorporated before May 12, 1959, a quorum consists of whoever attends a meeting for which notice has been given. As a matter of law, the members attending the May 31, 2023 constituted a quorum of Second Baptist membership.

It is indisputable that the church members' voting rights are established and defined by the Bylaws, and not by the 1928 Articles under which Second Baptist needed trustees, as a matter of law at that time, to own and hold church property. In an unincorporated church in 1928, three people, at least two being Texas residents, had to get together and vote to form a corporation. Tex. Rev. Stat. Art. 1305 (1925). Messrs. Creekmore, Hall, and Willett, did this along with "the other members of said Second Baptist Church whose names appear as of this date upon the Roll of Membership." PX 1. The 1928 Articles "evinced" only that the statutorily-required events for formation occurred.

JCC's arguments are based on the wrong assumption that invalidating the 2023 Amendment somehow restores the members right to vote on all church business. That the AOI may somehow show that members have voted to form the corporation in 1928 is meaningless as a matter of law in 2025 when those rights are defined and governed by the Bylaws. Putting the Trustees back in place would accomplish nothing when their duties have been assigned to the Ministry Leadership Team.

The members having voting rights under the 2005 Bylaws willingly relinquished those rights in approving the 2023 Bylaws. That this decision may have been in the best interests of the entire 94,000 member church and that the new leadership might act with integrity in exercising its powers appears to escape the limited imagination of JCC and its members.

### **PRAYER**

For these reasons, defendant Dennis Brewer, Jr. asks this Court to deny Plaintiff's Motion for Partial Summary Judgment or postpone consideration of this motion as requested in the Motion to Continue Hearing and Consolidate Motions for Summary Judgment, and to grant him all other and further relief to which he is entitled.

Respectfully submitted,

**BURFORD PERRY, LLP**

/s/Brent C. Perry

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### **CERTIFICATE OF SERVICE**

I served the foregoing document on all interested parties in compliance with Rule 21a of the Texas Rule of Civil Procedure on October 20, 2025.

/s/ Brent C. Perry

Brent C. Perry

### Automated Certificate of eService

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Filing Code Description: Answer/Response

Filing Description: Defendant Dennis Brewer, Jr.'s Response to Plaintiff's

Motion for Partial Summary Judgment

Status as of 12/31/2025 4:19 PM CST

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