

**Evidence of Errors in  
The Lutheran Church—Missouri Synod**



**Association of Confessing Evangelical  
Lutheran Congregations**

# **X. Dispute Resolution**

**January 10, 2011  
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Note: This document is one of several ACELC documents on evidence of errors in the LCMS. As the documents are completed they will be posted to the ACELC web site at <http://www.acelc.net/>. Topics include:

- Pure Doctrine
- Holy Communion
- The Divine Service and Liturgical Offices
- Unionism and Syncretism
- Service of Women in the Church
- The Office of the Holy Ministry
- The Unbiblical Removal of Pastors from their Calls
- The Church’s Mission and Her Evangelistic Task
- Ecclesiastical Supervision
- Dispute Resolution

Additional topics may be added as needed. If you have a comment, question, or concern, please contact the ACELC (<http://www.acelc.net>). Your input will be seriously considered.

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The references from the Lutheran Confessions include some words or passages from the German 1580 or Latin 1584 edition, these are set apart with < >.

### Record of Document Updates

Version	Changes/Additions	Date
January 10, 2011	Original Document	January 10, 2011
May 07, 2011	Corrected typo bottom page 9; change from “authority...to judge sheep” to “authority...to judge shepherd.”	May 07, 2011

## A Fraternal Admonition to Correct the Errors of Our Beloved Lutheran Church—Missouri Synod

### Preamble

"And they continued steadfastly in the Apostles' doctrine and fellowship in the breaking of bread and in the prayers." Acts 2:42

C.F.W. Walther (first President of the LCMS), wrote:

"A fellowship in which the Word of God is fundamentally falsified, or in which a fundamental falsification of it is tolerated, is not a true orthodox church, but a false, heterodox church or sect."

*(Essays For the Church Vol I, "Communion Fellowship," Concordia Publishing House, 1992, p.207)*

Presented in this document are concerns over variant teachings and practices by some pastors, congregations, and institutions of the Lutheran Church – Missouri Synod. These errors have largely been ignored and even tolerated by those elected for the supervision of doctrine and practice in our fellowship. Even the Synod itself in convention has adopted resolutions that violate our fidelity as a synod to Holy Scripture and our Lutheran Confessions.

Many attempts have been made to address and correct these errors. Numerous pastors, laity, congregations, respected doctors of the Church, circuits, district pastoral conferences, even sister synods and their pastoral conferences have taken public issue with these errors and the recent "positions" the LCMS has taken in its past conventions, but to no avail. Districts also have sought redress of these errors through resolutions and overtures to the Synod in Convention only to have them never come to the convention floor for consideration.

In addition, various publications and organizations have attempted to address the adoption of worship forms, texts, and ceremonies that come from alien and errant confessions - as to whether this may be done without also adopting their error. Church history and the inseparable correlation between doctrine and practice teach us that how we pray and worship is in fact our faith, our belief, and our confession (*Lex orandi, lex credendi*).

At stake is the very doctrine upon which the Church stands or falls - the genuine confession of justification by grace alone through faith alone for the sake of Christ's death and resurrection alone. As the Lutheran Confessions state, "this article of justification by faith is the chief article of the entire Christian doctrine." [SD III, 6] When this chief article is at stake so also is the evangelical mission of the Church in our midst, and likewise the ongoing presence of the marks of the Church, and thus the LCMS as a light of the true Gospel of Christ.

Therefore we are compelled out of faithfulness to Holy Scripture and our Lutheran Confessions (to which The Lutheran Church – Missouri Synod claims fidelity) to seek Biblical reproof and correction of these errors. Our cause is to offer a fraternal critique of our teaching and practice, and to call our much loved Missouri Synod, her pastors, congregations, and institutions to repentance and back to what she has previously claimed as her source and norm of faith and life – Holy Scripture and its correct exposition, the Book of Concord of 1580.

In this process we seek not to contend over the trivial, nor matters merely of denominational custom or tradition, but over those matters that challenge our very fidelity to the changeless faith that was once for all delivered to the saints (Jude 3). It is our intent to hold the LCMS to the Scripturally faithful teaching of the Book of Concord as catholic teaching and not simply something that we, as Lutherans, believe. Thus, when we speak of theological "positions" and the "position of synod," this should be understood as nothing less than what the Athanasian Creed calls "the catholic (or universally held) faith."

It is our sincere prayer that the LCMS would give serious and fraternal consideration to the words here given according to their benevolent intention. Our mission/purpose is to restore what has been compromised – that is a fellowship of unabashed confessional Lutheran congregations in North America and throughout the world for the sake of our children and grandchildren – and yes, for the life of the world. *May God the Holy Spirit, through the Word of Law and Gospel, call, gather, enlighten and sanctify the Church gathered within the Missouri Synod!*

***(Please note: All evidence for the existence of error is only illustrative, not exhaustive.)***

## X. Dispute Resolution:

**Holy Scripture and the Lutheran Confessions declare that all things within the Christian congregation should be done in a spirit of Christian love, be ordered ethically, and in accord with God's Word. Today the Dispute Resolution Process of The Lutheran Church—Missouri Synod has placed a man-made Constitution and Bylaws, convention resolutions, and Commission on Constitutional Matters opinions above Scripture and the Confessions, and has therefore failed to provide either a fair hearing or justice to aggrieved members of the Synod. We reject this error.**

**A. Original Position** - There was a time in the history of the LCMS when disputes over theology were settled only by the Word of God. It was precisely this sentiment which is still reflected in the Constitution of our Synod in Article VIII, Section C which reads:

“All matters of doctrine and of conscience shall be decided only by the Word of God. All other matters shall be decided by majority vote.” (*Synodical Handbook 2007*, p. 14)

The doctrine of Holy Scripture and its proper practice are not subject to man's approval or disapproval since they are an expression of God's truth itself. Voting on doctrine was specifically being excluded in this article as inappropriate and simply wrong. Pure doctrine and the practice of that doctrine are clearly revealed in Holy Scripture and rightly expounded in our Lutheran Confessions. The only purpose of voting with respect to Christian doctrine is as Dr. Francis Pieper says:

“The only purpose of voting in matters of doctrine is to see whether all now understand the teaching of the divine Word and agree to it; the purpose of the vote is not to decide the correctness of a doctrine by majority vote or even by unanimous vote. The orthodox Christian Church remains aware of the fact that it cannot by resolution make or give birth to Christian doctrines, but must always merely set forth from Scripture and profess over against the prevailing error the doctrines submitted and settled in Scripture.

“Axiom: ‘The decretals of a council neither construct nor give authority to the articles of faith, but if the councils are orthodox, they profess the articles of faith already delivered in Scripture over against the insurgent errors.’

“What holds true of councils applies likewise to all small or large church assemblies. In *adiaphora* a vote is taken to ascertain what the majority regards as best. The natural order is that in *adiaphora* the minority yields to the majority and acquiesces, not because the majority has the right to rule, but for love's sake. Since, however, love is queen here, it may happen that the majority will yield to the minority...Christians as Christians, never quarrel about *adiaphora*, since in so far as they are Christians and walk in the Spirit, ‘none of them desires to be the ruler of the other, but everyone wants to be the other's servant,’ as Luther expresses it.” (Pieper, Francis, *Christian Dogmatics*, vol. III, p. 430.)

Thus the original position of The Lutheran Church – Missouri Synod was that all decisions regarding doctrine and practice must be predicated only on the Word of God and our Confessions as correct expositions of that same divine Word.

### 1. The Witness of Holy Scripture:

#### **Matthew 15:1-9**

<sup>1</sup> Then Pharisees and scribes came to Jesus from Jerusalem and said, <sup>2</sup> “Why do your disciples break the tradition of the elders? For they do not wash their hands when they eat.” <sup>3</sup> He answered them, “And why do you break the commandment of God for the sake

of your tradition? <sup>4</sup> For God commanded, 'Honor your father and your mother,' and, 'Whoever reviles father or mother must surely die.'<sup>5</sup> But you say, 'If anyone tells his father or his mother, "What you would have gained from me is given to God,"<sup>6</sup> he need not honor his father.' So for the sake of your tradition you have made void the word of God.<sup>7</sup> You hypocrites! Well did Isaiah prophesy of you, when he said: <sup>8</sup> "This people honors me with their lips, but their heart is far from me; <sup>9</sup> in vain do they worship me, teaching as doctrines the commandments of men."

**Matthew 18:15-20**

<sup>15</sup> If your brother sins against you, go and tell him his fault, between you and him alone. If he listens to you, you have gained your brother. <sup>16</sup> But if he does not listen, take one or two others along with you, that every charge may be established by the evidence of two or three witnesses.

<sup>17</sup> If he refuses to listen to them, tell it to the church. And if he refuses to listen even to the church, let him be to you as a Gentile and a tax collector. <sup>18</sup> Truly, I say to you, whatever you bind on earth shall be bound in heaven, and whatever you loose on earth shall be loosed in heaven. <sup>19</sup> Again I say to you, if two of you agree on earth about anything they ask, it will be done for them by my Father in heaven. <sup>20</sup> For where two or three are gathered in my name, there am I among them."

**Luke 11:37-41**

<sup>37</sup> While Jesus was speaking, a Pharisee asked him to dine with him, so he went in and reclined at table. <sup>38</sup> The Pharisee was astonished to see that he did not first wash before dinner. <sup>39</sup> And the Lord said to him, "Now you Pharisees cleanse the outside of the cup and of the dish, but inside you are full of greed and wickedness. <sup>40</sup> You fools! Did not he who made the outside make the inside also? <sup>41</sup> But give as alms those things that are within, and behold, everything is clean for you.

**Luke 16:14-15**

<sup>14</sup> The Pharisees, who were lovers of money, heard all these things, and they ridiculed him. <sup>15</sup> And he said to them, "You are those who justify yourselves before men, but God knows your hearts. For what is exalted among men is an abomination in the sight of God.

**Luke 17:3**

<sup>3</sup> Pay attention to yourselves! If your brother sins, rebuke him, and if he repents, forgive him, ...

**Acts 17:10-11**

<sup>10</sup> The brothers immediately sent Paul and Silas away by night to Berea, and when they arrived they went into the Jewish synagogue. <sup>11</sup> Now these Jews were more noble than those in Thessalonica; they received the word with all eagerness, examining the Scriptures daily to see if these things were so.

**II Corinthians 13:1**

<sup>1</sup> This is the third time I am coming to you. Every charge must be established by the evidence of two or three witnesses.

**2. The Witness of the Lutheran Confessions:**

**Augsburg Confession, Article XVI, Civil Government, 1-7**

[1] Our churches teach that lawful civil regulations are good works of God. [2] They teach that it is right for Christians to hold political office, to serve as judges, to judge matters by

imperial laws and other existing laws, to impose just punishments, to engage in just wars, to serve as soldiers, to make legal contracts, to hold property, to take oaths when required by the magistrates, for a man to marry a wife, or a woman to be given in marriage [Romans 13; 1 Corinthians 7:2].

[3] Our churches condemn the Anabaptists who forbid these political offices to Christians. [4] They also condemn those who do not locate evangelical perfection in the fear of God and in faith, but place it in forsaking political offices. [5] For the Gospel teaches an eternal righteousness of the heart (Romans 10:10). At the same time, it does not require the destruction of the civil state or the family. The Gospel very much requires that they be preserved as God's ordinances and that love be practiced in such ordinances. [6] Therefore, it is necessary for Christians to be obedient to their rulers and laws. [7] The only exception is when they are commanded to sin. Then they ought to obey God rather than men (Acts 5:29).

**Apology to the Augsburg Confession, Article XVI, Political Order, 58-60**

[58] Julian the Aspostate, Celsus, and very many others objected to Christians that the Gospel would tear states apart because it forbade legal remedy and taught certain other things ill-suited to political association. Origen, Nazianzus, and others wonderfully worked on these questions. However, they can be easily explained if we keep this in mind: The Gospel does not introduce laws about the public state, but is the forgiveness of sins and the beginning of a new life in the hearts of believers. Besides, the Gospel not only approves outward governments, but also subjects us to them (Romans 13:1). In a similar way we have been necessarily placed under the laws of seasons, the changes of winter and summer, as divine ordinances.

[59] The Gospel forbids private remedy. Christ instills this often so that the apostles do not think they should seize the governments from those who held otherwise, just as the Jewish people dreamed about the kingdom of the Messiah. Christ did this so that the apostles might know they should teach that the spiritual kingdom does not change the public state. Therefore, private remedy is prohibited not by advice, but by a command (Matt 5:39, Rom 12:19). Public remedy made through the office of the public official, is not condemned, but is commanded and is God's work, according to Paul (Rom 13). Now the different kinds of public remedy are legal decisions, capital punishment, wars, and military service.

[60] Clearly, many writers have thought wrongly about these matters. They were in the error that the Gospel is an outward, new, and monastic form of government. Also, they did not see that the Gospel brings eternal righteousness to hearts, while it outwardly approves the public state.

**Power and Primacy of the Pope, Testimony of Scripture, 9, 11**

[III.] John 20:21. Christ sends forth His disciples in equality, without any distinction <so that no one of them was to have more or less power than any other>. He says, "As the Father has sent Me, even so I am sending you." He says that He sends them individually in the same way He Himself was sent [John 12:44–50]. Therefore, He grants no one a privilege or lordship above the rest.

[V.] In 1 Corinthians 3, Paul makes ministers equal. He also teaches that the Church is superior to <or: more than> the ministers. Superiority or lordship over the Church or the rest of the ministers is not attributed to Peter. For he says, "All things are yours, whether Paul or Apollos or Cephas" [3:21–22]. That is, do not let the other ministers or Peter

assume for themselves lordship or superiority over the Church. Do not let the authority of anyone prevail more than ‹God's› Word. ...

**Large Catechism, The Eighth Commandment, 284**

[284]...But where the sin is quite public, so that the judge and everybody know about it, you can without any sin shun the offender and let him go his own way, because he has brought himself into disgrace. You may also publicly testify about him. For when a matter is public in the daylight, there can be no slandering or false judging or testifying. It is like when we now rebuke the pope with his doctrine, which is publicly set forth in books and proclaimed in all the world. Where the sin is public, the rebuke also must be public, that everyone may learn to guard against it.

**3. The Witness of the Church Since the Time of the Apostles:**

The three oldest Christian groups: Eastern Orthodox, Coptic Christian, and Roman Catholic retain the orthodox practice of reserving the Office of Pastor or Priest to men to this day. While some Protestant groups in America permitted women to lead congregations in the 1800's, no Lutheran Church body either in Europe or in America did until the 20<sup>th</sup> Century. The first Lutheran body to ordain a woman occurred in Norway in 1961 because the State demanded that it be done. In America the first church body to ordain women into the Pastorate was the United Methodist Church in 1956. In November 1970, the Lutheran Church in America became the first American Lutheran body to ordain women. The American Lutheran Church ordained its first woman pastor the next month in December 1970. In other words, the ordination of the first Lutheran woman as a pastor in 1956 overturned over 4,000 years of doctrine and practice among God's people at a time when the Feminist Movement was the true cause of the change. The Church's doctrine had not changed.

"Ordination of women is a monumental turn in the history of the Church. Yet the practice is not a progressive step forward; it is a veering away from the received tradition of the Church. It puts those church bodies that practice it on dangerous ground, for it indicates that they are out of step not only with two thousand years of Christian history but with the will of the Lord of the Church." (*Women Pastors? The Ordination of Women in Biblical Lutheran Perspective*, a Collection of Essays edited by Matthew C. Harrison and John T. Pless, Introduction to Historical Studies, p.107.)

**4. The Witness of Our Reformation Fathers and Our Synodical Fathers:**

a. **Dr. Martin Luther:**

"To recognize and judge doctrine behooves each and every Christian, so much so that he is accursed who infringes upon this right by as little as a hairbreadth. For Christ Himself has established this right by various and unassailable statements, such as Matthew 7:15: 'Beware of false prophets, which come to you in sheep's clothing.' But how can they avoid them if they do not recognize them? And how can they recognize them if they do not have the right to judge them? But now He gives them not only the right but also the command to judge..." (What Luther Says, #1233, p. 418)

b. **Dr. Francis Pieper:**

"In Dr. Francis Pieper's *Brief Statement of the Doctrinal Position of the Missouri Synod*, we are again reminded that: 'Since God has ordained that His word only, without the admixture of human doctrine be taught and believed in the Christian Church (1 Peter 4:11; John 8:31,32; 1 Timothy 6:3-4), all Christians are required by God to

discriminate between orthodox and heterodox [i.e. true and false teaching] church bodies...' And again, 'Since the Christians are the church, it is self-evident that they alone originally possess the spiritual gifts and rights which Christ has gained for, and given to, His church... The officers of the church publicly administer their offices only by virtue of delegated powers, conferred on them by the original possessors of such powers, and such administration remains under the supervision of the latter, Colossians 4:17. Naturally all Christians have the right and duty to judge and decide matters of doctrine, not according to their own notions, of course, but according to the Word of God, 1 John 4:1; 1 Pet. 4:11.'" (p. 14).

Thus, Francis Pieper was teaching only what has been taught by Walther, Luther, the Confessions, and Scripture. (*Pure Doctrine: The Laity's Responsibility*, prepared by participants and supporters of the "Called to Confess" Free Conferences of the Northwest District, 2004)

c. **Dr. C.F.W. Walther:**

"Christ says in his sermon on the mount, where not only disciples, but also a great multitude were present, 'Beware of false prophets ... Ye shall know them by their fruits.' This admonition by the Son of God shows us plainly how entirely false the principle is that the preachers should teach and the hearers only listen, that the shepherds should lead and the sheep only follow, that the clergy should resolve and the congregation only acquiesce. No, when Christ calls upon his hearers to beware of false prophets and to know the true and the false by their fruits, Christ thereby seats all hearers upon the seat of judgment, placed the balance scale of truth in their hands, and bids them confidently execute judgment on their teachers." (*The Sheep Judge their Shepherds*, A Sermon by C.F.W. Walther)

**5. The Witness of the History of The Lutheran Church—Missouri Synod:**

a. **The Reconciliation, Adjudication, Reconciliation and Appeals System before the 1992 Synodical Convention:**

Before the new Dispute Resolution Process in 1992, the LCMS had a true adjudication system (with laity and pastors) where justice was rightly served by church courts which rendered their judgments primarily on the basis of the clear Word of God and our Lutheran Confessions. This system was available to LCMS organizations, congregations, ordained and commissioned ministers and other church workers. This Dispute Resolution Process worked very well and justice was done. Each LCMS district had a Commission on Adjudication which decided cases arising in a District. The Synodical Commission on Adjudication decided disputes at the Synod level, for those holding positions with Synod including the colleges and seminaries. A party could appeal a decision of a District or Synodical Commission on Adjudication to the Synodical Commission on Appeals (COA), the LCMS supreme court. (*Dispute Resolution in the Missouri Synod* by Raymond G. Munroe, Elder, 1997, p. 1, includes quotations from *Christian News*, 10/13/1997).

Those serving on the synodical COAs and district COAs were elected by delegates at Synod or District conventions, respectively. According to a layman who served for 20 years on both COA and Commission on Appeals panels, most of the laymen were experienced lawyers, with the majority of members being ordained ministers.

Together they brought “expertise in Christian doctrine, in LCMS polity, in the concept of justice and in the adjudication process.” (*Ibid*, p. 1 ff.)

**b. The Dispute Resolution Process after the 1992 Synodical Convention:**

Beginning after 1986, many of the actions of the COA’s and the synodical Commission on Appeals began to be challenged by former LCMS President Ralph Bohlmann. With the help of a self-selected “task force,” former President Bohlmann drew up a new dispute resolution system which the 1992 Synodical Convention adopted. (*Ibid*, p.3)

Under the new system, three district-appointed reconcilers made up a Dispute Resolution Panel (DRP), which decided the cases. [Remember that in the past these reconcilers were elected.] There was also an Appeals Panel made up of three District Presidents. If an appeal was made on a DRP decision the Appeals Panel could draw five reconcilers from a pool of District-appointed reconcilers; this was the Review Panel. There was no Commission on Appeals. The 1992 DRP also precluded members of Synod from using civil courts as a means of redress. The 1995 convention did amend Bylaw 8.09 to provide for an appeal procedure, but did not remove the restriction on the use of civil courts. (*Ibid*)

**B. Position Advocated and/or Practiced Today -**

The system today gives preeminence to the LCMS man-made Constitution and Bylaws. It fails to redress those seeking correction to errors either officially adopted by Synod or tolerated by its elected officials. There can be no discipline unless it is instigated by a District President and if a District President (Ecclesiastical Supervisor) does not discipline an errant pastor or congregation, there is nothing that can be done. This is contrary to the Word of God that tells us to identify, correct, rebuke, shun, flee, and purge false teachers from among us. It is also contrary to the Smalcald Articles (Smalcald Part II, Article IV: Of the Papacy, 8, 9) and The Treatise on the Power and Primacy of the Pope (Power and Primacy of the Pope, Testimony of Scripture, 9, 11 ), which remind us that all bishops, i.e., pastors have equal authority when it comes to such things regarding the right hand kingdom of the Church.

The 1995 amendments to Bylaw 8.09 made a slight improvement in the Dispute Resolution Process, in that it again provided for an appeal process within Synod; however, a careful reading of this added provision indicates it is still something far short of the pre-1992 Adjudication process summarized above. Furthermore, the preclusion of members using civil courts as a means of redress seeks to set 1 Corinthians 6 against Romans 13, Augsburg Confession XVI, and Apology to the Augsburg Confession XVI (quoted above).

**More Changes in 2004 and Reaffirmation in 2007:**

While the 1992 changes removed the church courts from the system, the 2004 changes also **removed the laity from the process and placed the office of prosecutor, judge, jury, and executioner in the hands of the District Presidents alone.** Here are the facts.

By a 56% majority, the 2004 Synod in convention voted to implement Resolution 8-01A, which removes the rights of laymen, pastors and congregations to initiate actions against members of synod; Resolution 8-01A gives only the district presidents and synodical president authority to file charges. Members of synod are only accountable to the ecclesiastical supervisor above them.

God’s Word gives authority to the laity to judge the shepherd. Referring back to the quote from C.F.W. Walther’s sermon, *The Sheep Judge Their Shepherds* (page 8, above), Walther says

**“Christ thereby seats all hearers upon the seat of judgment, placed the balance scale of truth in their hands, and bids them confidently execute judgment on their teachers.”** (Emphasis added.) The Dispute Resolution Process has removed “all hearers” from “the seat of judgment,” taken away the “balance scale of truth in their hands,” and made it impossible for them to “confidently execute judgment on their teachers.”

Resolution 8-01A ***adds to God’s Word*** [bold, italics added] in that it requires a face-to-face meeting even where the matter is a public sin (“Matthew 18 does not apply directly in cases of public sin, but face-to-face meetings are required nonetheless, even in the case of public sin...” LCMS Bylaws, 2007, 1.10.1.2). Thus it does not follow the example of Jesus when he publicly rebuked the Pharisees, who sinned publicly. It also ignores what Luther wrote in the Large Catechism regarding public sin and the eighth commandment.

In 2007, the synod in convention reaffirmed 2004 Resolution 8-01A with a 66% favorable vote to pass Resolution 8-02A (Convention Proceedings 2007, p. 163). The following regarding 8-02A is from the December 2007 *Reporter Online*:

Resolution 8-02A “...calls on Synod members to honor their commitment to utilize the Synod’s dispute-resolution process, quoted in its Bylaws, which says the process is ‘the exclusive and final remedy’ to resolve disputes, conflicts, disagreements, or offenses within the Synod. ... The resolution cites 1 Cor 6, noting ‘that brothers and sisters in the faith not enter into lawsuits against one another.’

“The resolution referenced the Synod’s Bylaws, and noted a 2005 opinion of the Synod’s Commission on Constitutional Matters. That opinion states that Synod members must resolve matters of dissent or disputes using the Constitution and Bylaws of the Synod ‘without resorting to secular courts and without resorting to avenues, means, structures, or communications that are foreign or contrary to the synodical agreements and which are not in harmony with the polity of the Synod.’”

Note the 2005 CCM opinion (05-2444, Nov 28-29, 2005) says that disputants should not resort to any avenues [plural] “that are foreign or contrary to synodical agreements and which are not in harmony with the polity of the Synod.” Unfortunately these resolutions have established a system of redress that binds people to a process that itself is questionable in its faithfulness to Scripture, as well as to not seeking any other alternatives when the process also fails to accomplish what God’s Word clearly demands when dealing with dispute and dissent, that both the process and the outcome accomplish biblical resolution. In this way “synodical agreements” and “the polity of the Synod” are given ultimate authority and relegate God’s Word to a subordinate role.

Though written as a concern about the way theology is being done today in the LCMS, increasingly do we find the same concerning synod polity with synodical resolutions and CCM opinions and how God’s Word and the Confessions are playing a lesser role in our dispute resolution process and its outcome.

“Doing theology solely by referencing historic and officially approved documents can become an obstacle to taking the Scriptures on their own terms and to looking to the Confessions in controverted issues. Later documents become theological playing fields and *sola scriptura* and confessional subscription play a lesser role in doing theology. Another step is taken by a complex cross-referencing of CTCR documents. The end product is a midrash requiring knowing the intended sense of the CTCR at the time of their composition and the emotions of the conventions adopting these documents. We are faced with an historical criticism of another kind. Church documents can never be received as secondary

scriptures, so that we assume for the synod an infallibility that we deny the Bishop of Rome.” (David P. Scaer. “Missouri’s Identity Crisis: Rootless in America,” *Logia: A Journal of Lutheran Theology* (Volume XII, Number 1, 2003); p.37)

**Evidence of this Error:**

1. Rev. Tim Tolar's experience.

One of the most recent cases involving contradictions in a Dispute Resolution Panel case is that of Rev. Tim Tolar and the “faithful” at Star of the North Lutheran Church in Kenai, AK. It began in 2006, and concluded in 2008. Here, in Rev. Tolar’s own words, is a summary of their experience.

The Dispute Resolution Process case was in response to actions and events which resulted from an improperly called meeting that was forced upon the congregation by a group of parishioners in cooperation with the Northwest District President, Alaska Regional Vice-President, and Alaska Circuit Counselor.

The meeting took place on May 7, 2006, and primarily involved two parishioners making accusations against me pertaining to my interaction with them and others as the pastor of Star of the North Lutheran Church. Both individuals stated that no one was claiming, nor wanted to claim, that I was a "bad pastor" and they even testified that I would be a "good pastor" at some other parish, but I just was not a "good match for Star of the North." There was no evidence provided to demonstrate any violation of sound doctrine or pastoral duties, but yet there was a supposed "vote" by some present at this meeting which asked me to "resign" as the pastor of Star of the North Lutheran Church or they would "rescind my call."

The President and Vice President of the Congregation both declared the meeting null and void because it violated the Parish Constitution and Bylaws, but the Northwest District President associated with them, claimed the meeting was valid and that the vote had removed me as the pastor of Star of the North Lutheran Church and also from the Office of the Holy Ministry.

There were of course many conversations with ecclesiastical supervisors, etc, during the following weeks while attempting to reconcile the various parties which were becoming ever more polarized within the parish. Approximately two weeks after this May 7, 2006, meeting, the ensuing division within the parish was greatly increased by three individuals going to the local police department and filing a complaint against me "on behalf of Star of the North Lutheran Church" and threatening to call the police on Sunday to have me forcibly removed from the pulpit if I entered the building.

This escalation led to a severe schism that resulted in roughly half of the church and myself holding worship services in a parishioner's garage and my making formal request for a Dispute Resolution Process Panel.

In June 2006, I was notified by the District office that my family's Concordia Health Plan coverage had been cancelled and I would not be receiving any compensation from Star of the North Lutheran Church.

In August of 2006 the Northwest District President sent a synodically trained reconciler to chair a formal "reconciliation" meeting regarding the case and this reconciler told us that the purpose of the hearing was not to resolve the dispute or reconcile the parties,

and that there was no way I would be reinstated as the pastor of Star of the North Lutheran Church due to the meeting.

The official report/decision of this Northwest reconciler stated the same position and led to me requesting a Dispute Resolution Process Panel be formed to hear and reconcile the case. We had a Dispute Resolution Process Panel convene in January of 2007 and they delivered their official decision in April of 2007. That decision declared that the actions taken against me were not in accord with the Holy Scriptures, the Lutheran Confessions, the LCMS Constitution and Bylaws, nor the Constitution and Bylaws of Star of the North Lutheran Church and thus should be "reconsidered and amended" by Star of the North Lutheran Church.

Unfortunately, this decision, in a subsection of the decision, listed several allegations of abuse and/or dereliction of duty against me that were never mentioned during the events leading to the Dispute Resolution Panel nor during the Dispute Resolution Process Panel hearing. I requested evidence or proof of these allegations as well as their source since nothing mentioning these allegations was contained in the record/evidence from the case. In fact, the evidential documentation that was provided by myself and Star of the North Lutheran Church for this Dispute Resolution Panel instead proved that these allegations made by the Dispute Resolution Process Panel were false.

The moderator/chair of the Dispute Resolution Process Panel responded to my inquiry by informing me that nothing would be provided to substantiate these allegations so I appealed this part of the Dispute Resolution Process Panel's official decision which resulted in a Dispute Resolution Process Review Panel hearing which took place in January of 2008.

The Dispute Resolution Process Review Panel issued a decision in May of 2008 which did not include the false allegations, and basically repeated the previous panel's declaration of the actions taken against me being null and void. The individuals who had seized the parish property through the threat of disrupting divine service by calling the police back in 2006 refused to acknowledge this decision and the Northwest District President refused to take any action to enforce the Dispute Resolution Process Panel decision and instead produced a document stating his opinion of the case as well as his opinion that I was no longer the pastor of Star of the North Lutheran Church nor a holder of the Office of the Holy Ministry.

This resulted in the duly elected officers and dispossessed members of the parish attempting to gain control of the property and assets of the parish in the summer of 2008 in order to implement the Dispute Resolution Process Panel decision and hopefully facilitate a meeting of all parties to move toward reconciliation of the differences. This attempt to implement the Dispute Resolution Process Panel decision resulted in those opposed to me, along with the Northwest District Panel, Alaska Regional Vice-President, and Alaska Circuit Counselor plus legal counsel acquired by these individuals, attempting to bring criminal and/or civil suit against myself, the officers of the parish, and certain other individuals who supported me.

The civil/criminal suit initiated by those opposed to my serving as pastor of Star of the North Lutheran Church required the dispossessed (faithful) parishioners of Star of the North Lutheran Church and me to enlist the services of legal counsel and convinced us that the half-dozen or so congregational members (along with certain synodical officers)

who were opposed to me serving as pastor of Star of the North Lutheran Church were willing to destroy the parish, as well as consume any and all assets the parish possessed, in order to prevent the faithful members from gaining control of the parish and/or have me serve as the pastor of Star of the North Lutheran Church.

Though we were told by our legal council that we could win the court case and that I had a solid case for wrongful termination, we believed the damage that would be done to the body of Christ, as well as the proclamation of His gospel in our community and beyond would be far too great if either action were initiated. Since for us the central issue from the beginning had been the pure proclamation of the Holy Gospel and the rightful administration of the Sacraments as instituted by our dear Lord Jesus Christ, the faithful members of Star of the North Lutheran Church chose to relinquish any claim to the property and/or name of the corporation known as Star of the North Lutheran Church.

This resulted in the case being settled out of court in the spring of 2009 with all claims being dropped and the dispossessed members of Star of the North Lutheran Church receiving a settlement from the opposing parties involved in the case. The faithful parishioners subsequently formed Saint Luke Lutheran Church (UAC) and issued a divine call asking me to shepherd them as their overseer. In the meantime I requested and received removal from the LCMS clergy roster, was received into membership of the Evangelical Lutheran Diocese of North America (ELDoNA), and accepted the divine call as pastor of Saint Luke.

soli Deo gloria,  
Rev. Tim H. Tolar  
Evangelical Lutheran Diocese of North America  
Pastor, Saint Luke Lutheran (UAC) - Kenai & Homer, AK  
Chaplain/Firefighter/EMT, Nikiski Fire Department - Nikiski, AK  
Deckhand, F/V Ryan J - Soldotna, AK  
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2. Rev. Dr. Wallace Schulz vs. Rev. Dr. David Benke  
The Dispute Resolution Panel made a decision in early 2003 regarding a dispute between Rev. Dr. Wallace Schulz and Rev. Dr. David Benke. The dispute concerned whether Rev. Schulz made a correct decision when he suspended Rev. Benke for his participation in a worship service at Yankee Stadium on September 23, 2001.

Here are some pertinent quotes from the decision document dated April 10, 2003. (All emphases are ours.)

From page seven of the document, regarding how Synod established its doctrinal position, it cites a letter Dr. Samuel Nafzger wrote on January 10, 2003:

The **Synod itself determines what it understands the Scriptures and the Lutheran Confessions to teach.** It alone establishes the doctrinal position of the Synod. It does this by adopting, **by majority vote** at synodical conventions, doctrinal resolutions and more formal statements of belief.

From page eight of the document:

In summary, the doctrinal resolutions and statements of belief adopted by the Synod in Convention present the Synod's own collective understanding of the teaching of Holy Scripture as the final judge, rule and norm of faith and practice. **The Synod is not elevating resolutions which it adopts over the Scriptures when it requires its members to honor and uphold such doctrinal resolutions and statements. This is rather a recognition of what it is that the majority of its members understand the Scriptures to teach.** Since synods, councils, commissions, theologians, officers, and pastors can err, the Synod has provided for proper ways for its members to express dissent to resolutions and statements adopted by the Synod, should anyone believe that they are in any way contrary to Holy Scripture. And, of course, individual members of the Synod are always free to disassociate themselves from this voluntary association, should they be unable to convince the majority of the members of the Synod of their own opinion regarding what the Scriptures teach. But the members of the Synod are not free to disregard synodically adopted doctrinal resolutions and statements or to teach and act contrary to them as they carry out their ministries.

**ACELC Comment:**

First we are told that "...Synod itself determines what it understands the Scriptures and the Lutheran Confessions to teach." Also, "...Synod is not elevating resolutions...over Scripture...This is rather a recognition of what it is that the majority of its members understand the Scriptures to teach." If it is what Synod "understands the Scriptures ... to teach" rather than Scripture itself that determines Synod's position, then Synod is elevating itself above Scripture.

Bear in mind that a Dispute Resolution Panel is not elected by Synod. How then, can the DRP's decision reflect what "the majority of [Synod's] members understand the Scriptures to teach" (p. 8), even if such a method were a valid and God-pleasing way to interpret Scripture? What we have in essence is a system where whoever controls the selection of members of the DRP also controls its decisions.

Further, the DRP's claim that "Synod has provided proper ways for its members to express dissent to resolutions and statements adopted by the Synod" is true, but this does not guarantee a biblical resolution in its outcome, nor that the process itself will be faithfully concluded. One such congregation that followed Synod's dissent process through all the steps was Trinity Lutheran Church in Herrin, IL. They identified six areas of dissent, one of which was Ecclesiastical Supervision and Dispute Resolution. Here is a summary of their experience as written by the pastor who led them through the process,

Rev. Michael Henson.

"Decisions and actions by Synodical officials and commissions following the 2001 Lutheran Church—Missouri Synod Convention were contrary to the Scriptures and the Lutheran Confessions. Our congregation spoke up against these decisions and actions, but needed to wait until 2004 to see how the Synod would respond. The 2004 LCMS Convention did not discipline or correct those errors; instead, the LCMS changed her historic public profession to include these new false teachings. On January 9, 2005, Trinity Lutheran Church (Herrin, IL) entered a State of Confession in order to bear witness to these errors and not commune with error. At the same time we also followed the Synodically-mandated three-step Dissent Process in order to call the Synod back from six points of false teaching and undisciplined false practice.

“For some six years we wrote letters, delivered papers, and published articles. We continued to attend every circuit, district and Synodical gathering in order to voice our opposition to the newly approved false teachings of our Synod. We meticulously followed every Synodical rule for expressing our dissent, including a letter to the Commission on Theology and Church Relations on September 18, 2005. We submitted overtures to our Southern Illinois District Convention in 2003 and 2006. In the final step of the dissent process we submitted ten overtures calling for revision or rescission to the July 2007, LCMS Convention in Houston. Despite our every effort to call the Synod back, the 2007 LCMS Convention did not correct the false teachings and undisciplined false practices of even one of our six points.

“In Christian love and in accord with the truth of God's word, we severed our association with the Lutheran Church-Missouri Synod on August 19, 2007, declaring that she is a heterodox church, tolerating and approving falsehood and refusing to correct her errors. (Several papers are available at [www.trinityh.org](http://www.trinityh.org), but for complete pastor and layman packets email [mdhauz@trinityh.org](mailto:mdhauz@trinityh.org).)”

Additionally, if a disputant wanted a theological issue (in the form of a resolution), such as the Yankee Stadium case, to go before the Synod in Convention, where it might get a fair hearing, the issue would first have to get past the President of Synod, which, in recent years, has been nearly impossible to do if the President is not in agreement with the resolution.

Important questions arise: Are theological decisions really made by “Synod in Convention,” when they are made under the guidance of a Commission on Theology and Church Relations (where only five of sixteen voting members are elected by Synod's Convention), and/or by a wholly non-elected Commission on Constitutional Matters? Or, as the case may dictate, by a wholly non-elected Dispute Resolution Panel?

Concerning the Dispute Resolution Process decision regarding the Benke/Schulz case referenced above, it says in the Conclusion:

The Panel concludes that the evidence, **especially from the Constitution and Bylaws themselves**, and from **the Opinions of the Commission on Constitutional Matters** (Opinions which must be honored by the Panel] does not support the suspension of Rev David H. Benke. **While it is true that only The Holy Scriptures and the Lutheran Confessions are the basis of membership in or expulsion from the Synod, it is also true that the Constitution and Bylaws of the Synod represent the collective study and will of the members of the Synod as to what the Scriptures say and how its members covenant together to teach and practice its doctrines.** For that reason the collective will of the synod's members is to honor and carry out its resolutions and to provide avenue for dissent for any in disagreement until such time as the Synod itself in Convention alters its position or practice. (Bylaw 1.09, 2.39c).

The conclusion of the Panel is no surprise since the “evidence” used (as stated in the above paragraph) is from the Constitution, Bylaws, and Commission on Constitutional Matters opinions.

Furthermore, when the document says that “...only the Holy Scriptures and the Lutheran Confessions are the basis of membership in or expulsion from the Synod,” that is well and good, but when it then adds that “it is also true that the Constitution and Bylaws of the Synod represent the collective study and will of the members of the Synod as to what the Scriptures say...” it is, at a minimum, putting Synod's man-made governing documents and it's various entities which interpret them on the same level with God's Word.

And again, concerning the DRP Decision:

On the basis of the testimony and evidence received, **the Panel concludes that there is not sufficient reason or evidence according to the Synod's Constitution and Bylaws for suspending Rev. Benke.** Therefore, the Panel concludes that the decision of Rev. Schulz for expulsion of Rev. Benke under Article XIII of the Constitution of the Synod is not substantiated. The suspension of Rev. Benke is lifted and his LCMS membership in good standing is continued.

Note that the document reaffirms that it is “the testimony and evidence received” and the “Synod’s Constitution and Bylaws” that were used to make the final decision. The Word of God had no say in it whatsoever, and the evidence itself, as is pointed out above, is suspect and/or faulty.

Finally, on p. 4, the Dispute Resolution Process Panel states in their Conclusions: “The Panel concluded that Rev. Schulz did follow the proper process indicated by the Constitution and Bylaws of the Synod.” They then go on in their Decision to state: “On the basis of testimony and evidence received, the Panel concluded that Rev. Schulz did follow Synod's prescribed procedures in suspending Rev. Benke.” How then do they set aside Rev. Schulz's decision?

The Dispute Resolution Panel determined that Rev. Schulz's analysis and conclusions regarding the role Resolution 3-07A should play in Rev. Benke's case as conclusion that “appear biased, subjective, and without credible and sustainable fact” (p. 6). Then they state in their conclusion to some of his arguments: “His caricature ... is without good evidence” (p. 6). Such derogatory comments on the part of the Dispute Resolution Panel toward a synodical officer carrying out his assigned responsibilities, especially in light of Rev. Schulz's actual evidence to substantiate his contention that Resolution 3-07A was misapplied, is at best misleading and diverts attention from the real issue.

### C. ACELC Response:

As shown by the citations from God’s Word, The Lutheran Confessions, and Lutheran theologians, the laity and Pastors have the primary role in judging doctrine. However, Synod has removed the role of the laity and Pastors from judging disputes. Before 1992, laity and Pastors were involved in adjudication by being elected to serve as arbitrators. In 1992, the system became exclusive with the reconcilers being appointed by the District Board of Directors. In 2004, all power was handed over to the District Presidents.

It is very disturbing that in less than a generation, the Synod, in seeking to adjudicate cases of erring pastors and congregations, has moved from a pastor/laity ratio of 4:3 (or 3:4) in 1989, to 2:1 (or 1:2) in 1992, to **ZERO:ZERO** in 2004. (*Pure Doctrine: The Laity’s Responsibility*, prepared by participants and supporters of the “Called to Confess” Free Conferences of the Northwest District, 2004)

How did this turn-around happen when according to its constitution Synod (Article VII) is an “advisory body”? To quote part of this section of the constitution, “...no resolution of the Synod imposing anything upon the individual congregation is of binding force if it is not in accordance with the Word of God...” Either Synod has erred or God’s Word has changed. We contend it is the former.

Perhaps it was best stated for us by an LCMS pastor who himself was wrongly treated in the post 1992 Dispute Resolution Process. He wrote: "Absent from these bylaws is the language of ‘truth,’ ‘justice,’ and any hint of fair due process. The only points at which the bylaws and their

intent is clear is when they say things like: the synod's Dispute Resolution Process shall be 'the exclusive remedy' for all controversies and conflicts between the members of the synod."

[Pastor Craig Stanford, "Three Walls Preventing Reform of the LC-MS," found at: <http://www.reformationtoday.net/id2.html>]

Finally, we can think of no more appropriate way to conclude our response to this Dispute Resolution Process than the following words taken from a May 11, 2003, letter to Dr. Raymond L. Hartwig, Secretary, The Lutheran Church—Missouri Synod, from Rev. Wallace Schulz, Second Vice-President, The Lutheran Church—Missouri Synod:

"I am also deeply shocked, as I am sure others will be, that the Panel states:

'Rev. Wallace Schulz went on to present a very thorough argument concerning the charges on the basis of the Holy Scriptures alone,' after which the Panel immediately writes:

'However,' and then maintains that this case had to be determined on the basis of an LCMS convention resolution. In fact, the Panel's decision makes over 25 references to the controversial resolution and an additional 35 references to bylaws but fails to make even a single reference to the Holy Scriptures! In other words, even though this case involves a very serious offense against God's First Commandment and must therefore be dealt with on the basis of God's Word, the Panel has decided to rule on the basis of a man-made resolution! In its decision the Panel has clearly violated the Constitution of The Lutheran Church—Missouri Synod and sinned against the Word of God, since Article VIII of the LCMS Constitution states 'All matters of doctrine and conscience shall be decided only by the Word of God.'

"If the Panel's decision is permitted to stand unchallenged, its impact will reach far beyond the Benke case, fundamentally changing our Synod and leading it to resolve spiritual issues on the basis of men's opinions rather than God's Word."