Offer of Proof
June 21, 2011
9:00 a.m.

Thank you, Bishop Lee, for this opportunity to read into the record an offer of proof from the Respondent, the Rev. Amy DeLong. I am Scott Campbell, an elder in the New England Annual Conference, and am counsel for Rev. Amy DeLong. We understand that the purpose of this narrative is to enter into the record, in order to preserve this material for appeal, a description of the defense that the respondent would have mounted had she been permitted to do so by the Presiding Officer. We will begin by entering our objections to the rulings issued by the Presiding Officer on June 8, 2011.

First, for the record, it is the understanding of the respondent that all of its exhibits have been ruled irrelevant and the proposed testimony of the following witnesses has been ruled irrelevant for the trial phase: District Superintendents Garnhardt, Moffatt and Schwerin, Expert witnesses Wogaman and Wolk, and Assistant to the Bishop Rev. Steve Polster. (I note that there has been a late ruling that will allow Rev. Polster to testify in a limited way, but that he may not testify as to whether the process mandated by church law has been followed in the supervisory process.)

Objections

1. **Exclusion of Civil Rights**—In the Presiding Officer's ruling on "*Proposed Testimony of the Respondent's Witnesses*" you state "I will not permit any references to civil law and civil rights in this proceeding." The *Discipline* clearly states that "No such trial as herein provided shall be construed to deprive the respondent or the Church of legal civil rights." (Par. 2707) The Presiding Officer's exclusion of rights guaranteed by the *Discipline* from the consideration of the court leaves the respondent with no venue in which to raise concerns that her civil rights are being violated by the church. The Presiding Officer's refusal to hear testimony related to this guaranteed right is in violation of what is specified in the *Discipline* as being included among the "Fundamental Principles for Trials." We object to this exclusion.

2. **Exceeding the Authority of the Presiding Officer**—In the Presiding Officer's ruling on "*Proposed Testimony of the Respondent's Witnesses"* he states, "I find that, unlike the clergy woman at issue in Judicial Council Decision 920, Rev. DeLong has admitted that she is a self-avowed practicing homosexual and, therefore, the technical question noted in that Judicial Council decision was not required to be asked here." This statement is a serious violation of the judicial process of the United Methodist Church on numerous levels.

   The Presiding Officer is not a trier of the facts. He claims the Respondent has admitted to being a self-avowed practicing homosexual. He has no authority to pass judgment on what the respondent has admitted to. That is the sole responsibility of the trial court after all the facts are in evidence and the relevance and reliability of those facts are duly considered. This is a violation of rights guaranteed to the respondent by the *Discipline,* which states "*The presumption of innocence shall be maintained until the trial concludes.*" (Par. 2701) Further, this improper assumption is based upon a document not in

evidence before the trial court. Neither the respondent nor the church has listed the transcript of the Committee on Investigation among their exhibits.

In addition, the Presiding Officer has decided to substitute his own interpretation of facts for the clear instruction of the Judicial Council in Decision 920 in which the Council states: "When a clergy person makes a statement ***such as*** that set forth in the petition for declaratory decision, a bishop may not take unilateral action not to appoint such a person. This information must be brought to the attention of the annual conference so that the membership of his or her ministerial office is subjected to review." JC 920 is then explicit about what ***must*** be included in that review.

Moreover, the Presiding Officer is mistaken in his assessment that a statement in which the respondent has allegedly admitted to being a self avowed homosexual is substantively different from a woman acknowledging that she is "living in a partnered, covenanted homosexual relationship with another woman." These alleged admissions are so close in meaning that surely the respondent has a right to present evidence, and the court has the duty to decide what she said and what she meant. He then goes on to assume that on the basis of his false distinction the mandates of 920 are set aside. Nothing in Decision 920 gives any support to magical words eliminating the need to follow the procedures set forth in 920. It is not within the authority of the presiding officer to elaborate on Judicial Council decisions in such a substantial way. Only the Judicial Council itself has the authority to expand upon its rulings.

Bishop Linda Lee clearly did not think JC 920 was irrelevant when she initiated the process of review. The Presiding Officer would have us believe that the guidelines for such a review can be disregarded if certain magic words are spoken, even if no proof has been established that those words were spoken. Further, it had not been established that whatever words the respondent might have spoken corresponded in meaning with the church's understanding of those words. Until we know what the respondent meant by "practicing" and what the church means by "practicing" we are in no position to determine whether the respondent's alleged acknowledgment tends to make the specifications more probable or less probable. The definition of what each party means by the word "practicing" is crucial to establishing whether the law of the church has been violated.

Judicial Council Decision 1027 states: "*No provision of the Discipline bars a person with a same-sex orientation from the ordained ministry of The United Methodist Church. Rather, ¶ 304.3 is directed towards those persons who practice that same-sex orientation by engaging in prohibited sexual activity."* For the Presiding Officer to assume that the respondent's words were an admission that she was engaging in prohibited sexual activity, and therefore the church was excused from asking her if that were true, is a serious and prejudicial reading of both the facts and the law of the Church.

We object to the exclusion of expert witness, the Rev. Dr. Phil Wogaman, who would have discussed Judicial Council Decisions 920 and 1027 and helped the court to understand what those decisions require.

3. **Objection to Church Exhibit 8**—The respondent previously agreed to the inclusion of the email identified in Church Exhibit No. 8, expecting to be able to include this material in an argument that Rev. DeLong had openly acknowledged her sexual orientation and partnered status within the annual

conference. Since our original line of defense has been ruled out of order, we now object to the inclusion of this item on the grounds of its relevance. It does not meet the test of "self-avowal" spelled out in the *Discipline* in that it does not specifically address a bishop, district superintendent, board of ordained ministry, district committee on ordained ministry or clergy session of the annual conference. We object to its inclusion among the church's exhibits.

4. **Objection to Venue**—The respondent has been clear since the venue of the trial was changed from Appelton to Kaukauna that the current trial setting is inadequate to accommodate a truly open trial. We expressed this concern to both the presiding officer and to the resident bishop and were unsuccessful in securing a more accommodating venue. We did not exercise our right to request a change of venue outside of the Wisconsin Annual Conference, because we had no desire to leave the conference. The extremely limited seating space for guests infringes upon the respondent's right to have a truly open trial.

5. **Objection to Exclusion of Witnesses and Exhibits—**The respondent objects to the ruling of the Presiding Officer that the testimony of former or current District Superintendents is irrelevant. It is the contention of the defense that the respondent has been open about her sexual orientation and her partnered relationship since she received her first appointment in the Wisconsin Annual Conference. The exhibits submitted by the respondent were offered in support of this same contention. The defense contends that Bishops and Superintendents in the Wisconsin Annual Conference had full knowledge of the respondent's sexual orientation and partnered relationship and chose not to initiate the review mandated in JC 920. The testimony of the excluded witnesses would have shown that cabinets devised strategies to avoid the requirements of church law. We further contend that because the church failed to act in a timely manner, it cannot now, eleven years later, use what it has agreed to and supported for so many years to cause harm to the respondent.

   The Presiding Officer has concluded that the actions of the church and its failure to follow its own specified processes are not germane to the Disciplinary mandate of achieving justice in judicial proceedings (par. 2701.) We disagree and believe that the respondent has been singled out for unequal treatment under the law of the church. She did not fix her own appointment. She simply told the truth about her orientation and her partnered relationship. The appointive authorities did not follow the law of the church as it is currently constituted. The decision of the Presiding Officer to exclude testimony on this subject will prevent the trial court from knowing the context in which the alleged offense took place, and will make achieving justice more difficult. We object to the exclusion of the Rev.'s Garnhart, Moffatt and Schwerin, and to the exclusion of all of our exhibits.

   We also object to the exclusion of Attorney Christine Wolk who would have demonstrated to the court that the fundamental principle of Western law known as *estoppel* is relevant in this trial. The principle of estoppel holds that in an agreement between two parties (in this case, between the Church and Rev. DeLong) one party, by its words or actions, makes a promise to the other party that comes to be relied upon, the first party may not unilaterally withdraw that promise if to do so would be to cause harm to the second party.

The Church, through the actions of the bishops and superintendents of the Wisconsin Annual Conference, made a *de facto* promise to Rev. DeLong that her openly acknowledged sexual orientation and partnered relationship would not submit her to charges. For eleven years all of her superiors in office have been informed of both her orientation and partnered relationship. The Church cannot now take what it has agreed to for eleven years and suddenly seek to use what it has helped to create to do harm to the respondent.

We object to the exclusion of an expert witness, Attorney Christine Wolk, who would have testified to the relevance of the principle of *estoppel* in this case.

We will now move to an exposition of our arguments and a summary of what the testimony of our witnesses would have established.

Arguments

The defense rests on four primary assertions. They are as follows:

1. Judicial Council Decision 1027 states: "*No provision of the Discipline bars a person with a same-sex orientation from the ordained ministry of The United Methodist Church. Rather, ¶ 304.3 is directed towards those persons who practice that same-sex orientation by engaging in prohibited sexual activity."* The church has presented no evidence that Rev. DeLong is engaged in prohibited sexual activity.
2. Judicial Council Decision 920 mandates that the church follow a specified procedure when a clergy member of the annual conferences acknowledges that she is living in a partnered, covenanted homosexual relationship. The leaders of the Wisconsin Annual Conference did not follow the mandated procedures.
3. The respondent has openly acknowledged her sexual orientation and partnered relationship to her Bishops, her Superintendents, her Board of Ordained Ministry and the clergy session of her annual conference for more than a decade. In response, the appointive authorities have continued to appoint her year after year. Under the legal principle of *estoppel* the church cannot use against the respondent what it has known about and accepted for many years if to do so would cause harm to the respondent.
4. The civil rights of Rev. DeLong will be violated if her orders and conference membership were terminated by the Church.
5. The decision of the respondent to conduct a holy union was grounded in the highest laws of the *Discipline*.

Testimony

The Rev. Dr. J. Philip Wogaman, Expert Witness

Credentials: Dr. Wogaman is an expert in United Methodist Polity and Christian Social Ethics. He is former Senior Minister at Foundry United Methodist Church in Washington, D.C. (1992-2002), and former Professor of Christian Ethics at Wesley Theological Seminary Washington, D.C. (1966-92), serving as dean of that institution from 1972-83. Wogaman is perhaps best known as one of the religious leaders who counseled President Bill Clinton, who attended Foundry Church during his terms as U.S. president. Wogaman is a past president of the Society of Christian Ethics of the United States and Canada (1976-77) and the American Theological Society (2004-05), and a member of the founding board of the Interfaith Alliance. A United Methodist Minister (ordained in 1957), he was a delegate to that denomination's General Conference four times. After retirement from Foundry Church in 2002, Wogaman served as Interim President of Iliff School of Theology, Denver, Colorado (2004-06) and as interim Senior Pastor of St. Luke United Methodist Church, Omaha, Nebraska (2008-09). He is Professor Emeritus of Christian Ethics at Wesley Theological Seminary. In addition, Dr. Wogaman was a director of the General Commission on Finance and Administration, the legal arm of the church, for eight years. He also chaired the Board of Ordained Ministry of the Baltimore Washington Annual Conference for four years.

Charge I

Dr. Wogaman's testimony would acknowledge that Par. 341.6, which prohibits pastors in the United Methodist Church from conducting ceremonies that celebrate homosexual unions is a law of the church. His testimony would then go on to show that the application of every law must be interpreted in the context of the whole *Discipline*. He would not argue that 341.6 is contradicted by other portions of the *Discipline*, only that in the application of such a law there are a great many other statements in the *Discipline*, and in our Methodist heritage that come to bear. He would cite Par. 335.c.4, which calls upon our pastors to be willing to be in ministry with all persons, without regard to gender or sexual orientation. He would cite Par. 139, "Called to Inclusiveness" which states "inclusiveness denies every semblance of discrimination." He would speak of the General Rules of the United Societies, a part of the doctrinal tradition of the church, which admonish believers to "Do No Harm." He would lift up the statement in the Social Principles imploring "families and churches not to reject or condemn lesbian and gay members and friends." He would cite Par. 340.2.a.(3).(a) which declares "The decision to perform the ceremony (of marriage) shall be the right and responsibility of the pastor." He would conclude that the application of the whole *Discipline* might lead a pastor to affirm the moral dignity of gay and lesbian Christians by offering a blessing on their relationships, superceding a legalistic and narrowly focused application of 341.6.

Dr. Wogaman would offer the following insights from John Wesley:

When Mary Bosanquet wrote to Wesley in 1771 expressing her sense of an extraordinary call to preach, he responded in words emphasizing that the context helps determine how a rule should be applied:

"I think the strength of the cause rests there; on your having an extraordinary call. So I am persuaded has every one of our lay preachers; otherwise I could not countenance his preaching at all. It is plain to me that the whole work of God termed Methodism is an extraordinary dispensation of his providence. Therefore I do not wonder if several things occur therein which do not fall under ordinary rules of discipline. St. Paul's ordinary rule was, 'I permit not a woman to speak in the congregation.' Yet in extraordinary cases he made a few exceptions; at Corinth, in particular." (John Wesley, *Letters of John Wesley*, ed. George Eayrs and Augustine Birrell [New York: Hodder and Stoughton, 1915], 360)

Dr. Wogaman would show how the call of God embodied in the noble principles contained in our *Discipline* sometimes necessitate exceptions to specific laws in the service of the whole work of God. Finally, Dr. Wogaman would testify that Bishop Bruce Blake, the initial presiding officer in this trial, in testifying before the Judicial Council in 1998 stated "When the **spirit** and **intent** of the *Book of Discipline* is violated, all of the book is violated. All of the book depends on each part of the book." Therefore, in applying the law, each pastor must take into account the spirit and intent of the whole book.

Charge II

Dr. Wogaman's testimony would show that Judicial Council Decision 920, reaffirmed in decisions 980 and 1027, specifies that when a clergy person acknowledges that she is living in a partnered, covenanted homosexual relationship with a person of the same gender the annual conference must initiate a review of her conference membership. According to JC 920 it is imperative that during such a review the clergyperson in question be asked whether she is "engaged in genital sexual acts with a person of the same gender." Dr. Wogaman would explain that because the term "practicing" can mean many things, the test of genital contact, according to JC 920, must be applied. He would further indicate that the decision allows no exceptions to the application of this rule. He would explain that even if the clergyperson had used the word "practicing" that it is a word laden with ambiguity. The Judicial Council did not consider **t**he meaning of "practicing" self-evident, and therefore, in JC 702, required that the either the annual conferences or the General Conference had to define the word. When the General Conference did not define "practicing," the Judicial Council adopted its own definition in JC 920. It required that individuals under review be asked about genital acts in order to establish whether the clergyperson meets the definition of the church of being a self-avowed practicing homosexual.

Dr. Wogaman would further testify that Judicial Council Decision 1027 states: "*No provision of the Discipline bars a person with a same-sex orientation from the ordained ministry of The United Methodist Church. Rather, ¶ 304.3 is directed towards those persons who practice that same-sex orientation by engaging in prohibited sexual activity."* His testimony would show that the law of the Church requires the Church to demonstrate clearly and convincingly that the respondent is engaging in prohibited sexual activity for the provisions of 304.3 to be applicable to her.

Even if the Presiding Officer had ruled that Dr. Wogaman's testimony on the law of the church was not appropriate to present before the trial court, he should have asked for an extended dialogue among the counsels and Dr. Wogaman before ruling on the relevance of decisions 920 and 1027 to this case. Finally, Dr. Wogaman's testimony would show that according to JC 980 it is an "egregious error of Church law" not to apply JC 920 to the agreed facts stated in a case.

District Superintendent Nancy Moffatt

Rev. Moffatt has known Rev. DeLong since their years together in seminary. She has also served as Rev. DeLong's District Superintendent from 2002-2008. She would testify that Rev. DeLong asked her to preside at a ceremony of blessing for Rev. DeLong and her partner in 1996, an invitation that Rev. Moffatt declined. She has known from the beginning of Rev. Delong's ministry about both Rev. DeLong's sexual orientation and partnered relationship, both of which have been "openly acknowledged to her." Her testimony would also indicate that at no point did she seek to initiate the review process mandated in Judicial Council Decision 920.

District Superintendent Tom Garnhardt

This affidavit was received by Rev. Garnhardt:

I am an ordained retired elder in good standing in the Wisconsin Conference of the United Methodist Church. I served as a superintendent for the Wisconsin Conference from July 1, 1996 to June 30, 2002.

The Rev. Ms. Amy Delong was under my supervision during the first year of her full time service in the Conference.

My assessments of her performance as a United Methodist Pastor were excellent. She served well. It was clear that her ministry was appreciated by the three congregations which she served.

I was aware that Amy was in a committed, faithful and loving relationship with another woman. I did not see this in any way to be a hindrance to her effective ministry. There were no complaints or questions in this regard from her congregations.

I was aware that the Discipline proscribed ministry by a "practicing homosexual." However, since the term "practicing homosexual" was undefined in the Discipline, I did not have knowledge as to whether this phrase applied to her. The phrase itself, it seemed to me, is meaningful only to those who are strongly anti-gay in their outlook. It has no medical or scientific meaning. Personally, I am in a committed, faithful and loving relationship with a woman (with whom I am legally married). We're now in our older years. Does our love for each other make us "practicing heterosexuals?" Or would the definition require intruding into our most private and personal interactions?

The Rev. Dan Schwerin

The following affidavit was received from Rev. Schwerin:

This record is a chronicle related to an introductory meeting for an appointment in 2004. It speaks to what Bishop Rader knew about Rev. DeLong, and our consideration of an appointment for Amy.

In the spring of 2004, Rev. DeLong was before us as an elder who was open to a move, but not a pastor in a 'must move' situation. When we considered the position at Summerfield UMC, I suggested Amy for her gifts and because I believe she matched the community context which was a diverse setting, near several urban universities. It was openly known and understood that Rev. DeLong's gifts were incarnate in a lesbian person, and we worked harder on her appointment than any I can recall that year.

Dr. Velma Smith, the Superintendent of the Metro North region, and the one responsible for Summerfield, called in sick the day of Rev. DeLong's introductory meeting. The call came into the office after Amy would already be on the road from where she lived in northwest Wisconsin. The recent material from the Summerfield SPRC file was in the trunk of Velma's car. I took the larger file to my office to study it, and opened my cabinet notes. I was taking careful notes on appointments in the metro region because it was possible I might be named to serve in the metro north region. Bishop Rader was clear that she wanted Rev. DeLong to bring her partner Val along, that there be no surprises, but that Rev. DeLong introduce Val as a roommate or friend, not as Amy's partner. I called Bishop Rader that day and asked about this again, since it seemed so fine a distinction, and so impossible to maintain for long. Yes, this was what Bishop Rader wanted, and these were my instructions.

It was my perception that Rev. DeLong was close to Bishop Rader, so I never knew what was discussed between them. So it was not a surprise to me when Amy kicked off the evening by introducing Val as

her partner. I thought perhaps it was something the two of them agreed upon, that Amy disclosed it and not me.

However, the appointment did not move to fruition. In the course of the meal before the introductory meeting, the chair, Ken Gawley, revealed that the church was living off the principle of a small endowment. At the current rate, the church had five years or less to live. If Velma knew this, it was not shared at cabinet, and I found out later, it was not known to Bishop Rader.

During the introductory conversation with the full SPRC committee, the chair asked Rev. DeLong about her experience with turning a ministry around from decline to something more vital. Amy said, “don’t ask me to turn a church around.” She went on to say she saw her gifts as being prophetic, and having gifts for advocacy, that the church would have responsibility for the
turn-around.

The chair was a business person, and I could see he was unsettled by that response, but he liked Amy. When I polled the SPRC with Rev. DeLong out of the room, they were unanimous about moving the appointment forward. It was my custom to poll each person. However, the next morning brought a flurry of electronic mail and phone calls objecting to the appointment on two grounds. Most were afraid of the controversy and division she would bring the older members of the church, and second, two members of the SPRC did not like her answer about the turn-around. I reminded the chair of his yes, and responsibility to interpret why they were 100% in favor of her appointment the night before. I spoke of her ministry in Grantsburg. I tried to keep this in process; it is not uncommon for a little buyer’s remorse. However, in a matter of days the Episcopal office was flooded with letters and objections via electronic mail.

When we discussed this at a subsequent cabinet meeting, it became clear that if we continued with this appointment, one strong possibility was that we would have a very vulnerable ministry quickly destabilize even more, and Summerfield and Rev. DeLong would be reduced to a story summarized as a lesbian going to a church and then it destabilized. No one wanted this for Amy or for Summerfield.

Since it was a general conference year, and this appointment was late, we bumped into a trip to Korea and a general conference, and although we worked on other appointments for Amy, none materialized. It was clear to me Bishop Rader wanted to make an appointment for Amy, but since she was not a ‘must move,’ and since it was late, if we initiated an appointment where none was sought, we would likely plant seeds that would poison the appointment later. Given these realities, no new appointment materialized.

In retrospect, I was the one who worked to place Amy in the metro region. No other region seemed to have a suitable place. I regret that perhaps I did harm because I suggested a move that did not have enough local support to make it work. We did the best we could to appoint Amy in a place that would

be a gift to her and Val. I also regret that these comments, if made public, may harm colleagues and a relationship we held in trust. Even so, I would be willing to testify to the veracity of my statement.

Sincerely,
Rev. Daniel W. Schwerin

The Rev. Richard Strait

Rev. Strait was a witness to a conversation between the respondent and Bishop Linda Lee.

He would testify that Rev. DeLong openly acknowledged her sexual orientation and partnered relationship to Bishop Lee. He would further testify that Bishop Lee indicated during the course of that conversation that she would not bring charges against the respondent.

The Rev. Steve Polster

Rev. Polster serves as the assistant to Bishop Linda Lee and was the record keeper for Church exhibits 6, 7 and 12, accounts of the supervisory process.

The testimony of Rev. Polster would show that at no point in the review process initiated by Bishop Linda Lee was the respondent asked whether she is "engaged in genital sexual activity," a question that must be asked during the review process spelled out in Judicial Council Decision 920.

Rev. Polster would also testify that at no point in the review process initiated by Bishop Linda Lee did the respondent state that she was a "self-avowed practicing homosexual."

Finally, Rev. Polster would testify that at no point in the review process initiated by Bishop Linda Lee did the respondent state that she was "engaging in prohibited sexual acts."

Attorney Christine Wolk, Expert Witness

Credentials: Christine Wolk is an attorney in private practice in the State of Wisconsin. She has over twenty years of experience and serves on the Board of Directors of the State Bar Association of Wisconsin. She is also an active lay person in the United Methodist Church.

Her testimony would address two issues:

First, Attorney Wolk, would have addressed the concept of estoppel spelled out in Objection #5 on page four of this offer of proof and shown the principle to be applicable to this case.

Second, Attorney Wolk would have addressed the deprivation of the respondent's civil rights by testifying that under the antidiscrimination statutes of the State of Wisconsin, the sexual orientation of a party to a contract cannot be cause for abrogating that contract. The employment relationship between clergypersons and the Wisconsin Annual Conference is contractual. Churches are given an exemption from the provisions of the antidiscrimination statute if they can demonstrate that the law is in conflict with a core tenet of their faith, but the Wisconsin Annual Conference has not exercised this exemption in a timely fashion. It cannot choose **not** to exercise its legal exemption for more than a decade and then credibly argue that its objection is based on a central tenet of its faith. Further, Judicial Council Decision 1027 indicates that the statement from the Discipline of the United Methodist Church that "The practice of homosexuality is incompatible with Christian teaching" is not a doctrinal statement, and thus, it is questionable whether the statement amounts to a core tenet. The unilateral abrogation of the contractual relationship between the respondent and the Wisconsin Annual Conference on the basis of her sexual orientation is a violation of the respondent's civil rights. The Discipline of the church states: "*No such trial as herein provided shall be construed to deprive the respondent or the Church of legal civil rights*."

Ms. Carrie Johnson

Ms Johnson is one of the two women for whom Rev. DeLong conducted a covenant service.

Ms. Johnson's testimony would show that Rev. DeLong's ministry to her embodied the principles lifted up in Dr. Wogaman's testimony in relation to Charge I.

The Rev. Amy DeLong

Rev. DeLong is the respondent.

Rev. DeLong's testimony would have showed that she openly acknowledged her sexual orientation to both of her Bishops and all of her District Superintendents. She would testify that in the fall of 2000 she went to Bishop Sharon Rader and said "I don't want you to hear this from someone else. My partner Val will be moving into the parsonage with me." She would testify that Bishop Rader replied that Rev. DeLong's gifts were too important for the church to lose and that she would not initiate a complaint.

Rev. DeLong would further testify that she openly acknowledged her sexual orientation to Bishop Linda Lee at a retreat in 2008 and that Bishop Lee indicated she would not initiate a complaint against her.

Rev. DeLong's testimony would show that at no point did she openly acknowledge to a bishop, district superintendent, district committee on ordained ministry, board of ordained ministry or the clergy session of the annual conference that she was engaging in prohibited sexual activity. Her testimony

would also demonstrate that she was never asked during the process of review if she were engaging in genital sexual contact with a person of the same gender.

Finally, Rev. DeLong's testimony would show that in an email to a list serve in May of 2010, in which she used the words "self-avowed practicing homosexual" in relation to herself, that the words were put in quotation marks in order to distinguish her own words about her identity from the way the church characterizes her. She would testify that by using those words she was only reiterating what she has said from the beginning of her ministry. Namely, she is a lesbian living in a loving, partnered relationship. Her testimony would disavow any notion that this email was intending to self-avow to a district superintendent that she was engaging in prohibited sexual activity.

Conclusion

In summary, had the defense been permitted to mount its entire case, the testimony of the witnesses would have established the following:

1. The respondent has not self-avowed that she is engaged in prohibited sexual activity.
2. The Wisconsin Annual Conference did not follow the requirements of Judicial Council Decision 920 and the Presiding Officer erred in his interpretation of the need for those requirements to be applied. Further, he exceeded his authority by adding to a Judicial Council ruling exceptions that are not included in the decision itself. He also erred when he decided that a statement by the respondent, taken out of context and not discussed with counsel, met the Disciplinary definition of "self-avowed practicing homosexual", even though the statement in question was not made to any of the parties enumerated in the footnote to *¶ 304.3.* The Presiding Officer made an egregious error in Church law in declaring "I rule that, to the extent the respondent is arguing that there has been a violation of fair process leading up to the trial on the referred charges and specifications, that there has been no such violation." (See Presiding Officer's Ruling on Proposed Testimony of the Respondent's Witnesses, p. 7.)
3. The Wisconsin Annual Conference has forfeited its right to bring charges against the respondent because its officers colluded to ignore the provisions of *¶ 304.3* for more than a decade. The legal principle of estoppel prevents the church from using what it has agreed to because to do so would harm to Rev. DeLong. The Presiding Officer erred in ruling out this line of defense.
4. The civil rights of the respondent are at risk in this trial. The Presiding Officer erred in refusing to permit expert testimony that would show the nature of that risk.
5. The respondent was obedient to the highest laws in the Discipline in making a pastoral decision to perform a holy union. The Presiding Officer erred in refusing to allow expert testimony that would have permitted the trial court to understand the competing claims that a pastor must weigh in making such decisions.