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## D.C.-Bound?

Chabad of Michigan will attempt to appeal its case to U.S. Supreme Court.

David Sachs | Senior Copy Editor

**C**habad-Lubavitch of Michigan will attempt to take its dispute against the Bais Chabad Torah Center of West Bloomfield to the U.S. Supreme Court.

Back on April 17, 2012, Oak Park-based Chabad of Michigan filed suit in Oakland County Circuit Court seeking the deed to the Torah Center synagogue building to enforce what it said was a binding decision of a *beit din*, a Jewish ecclesiastical court.

Chabad of Michigan had sought to rein in a “subordinate” congregation that it said acted independently and challenged the hierarchal authority it describes as the essence of the Brooklyn-based Lubavitch movement that dispatches emissaries around the world to set up synagogues and Chabad centers.

The Oakland County court, however, dismissed the case summarily because it said that Chabad of Michigan waited too long to sue — in violation of the deadlines imposed by Michigan’s statutes of limitations.

Chabad of Michigan, led by Rabbi Berel Shemtov, then appealed and won a reversal in the Michigan Court of Appeals. That court ruled that the statutes of limitations were suspended in deference to the dispute’s resolution in the *beit din*.

But later, the Michigan Supreme Court reversed that ruling and reinstated the dismissal of the lawsuit, saying in a briefly worded opinion that no grounds existed to suspend the statutes of limitations.

Thus, Chabad’s only avenue to further pursue its case is to ask the United States Supreme Court to consider an appeal. The high court, however, agrees to hear only a limited number of cases per year.

On Nov. 24, 2015, Chabad of Michigan told the U.S. Supreme Court that it will request that the court hear its appeal. The court granted an extension of time until Feb. 5 for Chabad of Michigan to file its formal petition. The attorney signing Chabad of Michigan’s Supreme Court paperwork was Nathan Lewin of Washington, D.C.

Chabad of Michigan told the Supreme Court that it will raise a freedom of religion issue based on the First Amendment of the U.S. Constitution. That issue is whether Michigan civil courts can use statutes of limitations to prevent a court’s enforcement of the decision of an ecclesiastical tribunal — even if the dispute was handled in a timely manner pursuant to the religious sect’s own rules.

Attorney Norman Ankers of Detroit-based Honigman Miller Schwartz & Cohn LLP, one of three law firms representing Chabad of Michigan, said that the case presents a “significant constitutional issue” — whether an ecclesiastical tribunal can do its work and not be constrained by the civil statutes of limitations.

The Michigan Supreme Court did not address this issue in its one-paragraph ruling, Ankers said.

Rabbi Elimelech Silberberg of the Torah Center, however, said the continuing litigation is squandering “enormous sums of money” on legal fees “despite the fact that chances of the U.S. Supreme Court hearing the case are remote.”

“This is all charity money, money that should be spent on Jewish outreach, education, programming, etc.,” he said.

In Silberberg’s view, the synagogue’s board, which owns the building, was not a party to the ruling of the *beit din* that Chabad of Michigan seeks to enforce. He has a letter from the Rabbinical Court of the Central Committee of Chabad-Lubavitch Rabbis in the United States and Canada (which provided the original *beit din*) stating it did not give permission for the civil lawsuit because the Torah Center board was not a party to the *beit din* case.

Attorney Todd Mendel of the Detroit-based law firm Barris Sott Denn & Driker PLLC is representing the Torah Center.

If the Supreme Court declines to accept Chabad of Michigan’s appeal, the case would be over. If it agrees to hear the appeal, it would be assigned to the Supreme Court term beginning in October with a ruling coming months later. \*