

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

BETHANY UNITED METHODIST CHURCH : NO. 2023-06007
OF WESCOSVILLE PENNSYLVANIA, ET AL. :
 :
vs. :
 :
EASTERN PENNSYLVANIA CONFERENCE :
OF THE UNITED METHODIST CHURCH, :
ET AL. :

MEMORANDUM AND ORDER

This action was filed by approximately fifty churches affiliated with the United Methodist Church (“the UMC”) and located in the Eastern Pennsylvania Conference of the United Methodist Church (“the Eastern PA Conference”). The Plaintiff churches desire to disaffiliate from the UMC. The three Defendants are the Eastern PA Conference, the Board of Trustees of the Eastern PA Conference (“the Eastern PA Conference Board”), and John Schol, as Bishop of the Eastern PA Conference.

The matter is currently before the Court on the Plaintiffs’ Motion for Injunctive Relief, filed on August 21, 2023. In the Motion, eleven of the Plaintiffs (“Movant Plaintiffs”)¹ seek a preliminary injunction compelling Defendants to (a) call a church conference for each of the Movant Plaintiffs to vote on disaffiliation, (b) call and conduct such conferences in sufficient time for execution of disaffiliation agreements on the terms previously approved by the Eastern

¹ The eleven Movant Plaintiffs are the Bethlehem Methodist Episcopal Church of Thornbury Township, Delaware County; Covenant United Methodist Church of Moore Township; First United Methodist Church of Ephrata; Fredericksburg United Methodist Church; Marticville United Methodist Church; Oak Grove Church; Memorial United Methodist Church of Quarryville; St. Paul’s United Methodist Church, Geigertown; Washington Crossing United Methodist Church; Welcome United Methodist Church; and Zion United Methodist Church. Two other Plaintiffs — Millers Cross Roads United Methodist Episcopal Church and St. Peter’s United Methodist Church of Saylorsburg — were originally parties to the Motion but have since withdrawn.

PA Conference Board, and (c) call a Special Called Conference of the Eastern PA Conference on or before December 1, 2023, to conduct a vote on accepting the disaffiliations. An administrative and scheduling conference on the Motion was held on September 20, 2023. An evidentiary hearing on the Motion was held on October 10 and 11, 2023. Prior to the hearing, the parties agreed on Stipulated Facts for Injunction Hearing (Seq. 27).

The Court now makes the following Findings of Fact and Conclusions of Law.

Findings of Fact

1. The UMC is a worldwide Christian Protestant denomination. It acts through regional “annual conferences” (roughly equivalent to dioceses in other denominations), such as the Eastern PA Conference. Each annual conference has a Bishop and a Board of Trustees.
2. The UMC is hierarchical in its governing structure.
3. The principal governing document of the UMC is the Book of Discipline (“B.O.D.”) (Ex. D-2, D-3).² It includes the Constitution of the UMC.
4. The UMC’s worldwide governing structure has three branches.
 - a. The legislative branch is headed by the General Conference, the highest legislative body of the UMC. The General Conference is a global assembly of the UMC and meets regularly every four years. It has the sole authority to adopt and amend provisions in the Book of Discipline.
 - b. The executive branch is headed by the Council of Bishops. The bishop of each annual conference appoints district superintendents.

² Exhibit D-2 is a bound volume of the Book of Discipline published in 2016. Exhibit D-3 is a compilation of amendments that have been adopted since the issuance of the bound volume.

c. The judicial branch is headed by the Judicial Council. The Judicial Council is the highest judicial authority in the UMC. It can rule on the validity of actions taken by the General Conference or an annual conference and can review the rulings of bishops on matters of church law.

5. Each local church within the UMC is governed by a Church Council.

6. Under the structure of the UMC, and under chapter 6 of the Book of Discipline — including ¶ 2501, the so-called Trust Clause — all property of local churches and other UMC agencies and institutions is held in trust for the benefit of the entire denomination, and ownership and usage of church property are subject to the Book of Discipline.

7. For many years, churches, congregants, and annual conferences within the UMC have been divided over doctrinal issues relating to human sexuality, particularly issues relating to the role of gay and lesbian individuals within the denomination. The traditional view, as set forth in the Book of Discipline, prohibits the ordination as clergy of avowed practicing homosexual persons and prohibits clergy from conducting weddings of same-sex couples.

8. A special meeting of the General Conference was held in 2019, for the purpose of resolving divisions within the denomination over whether to maintain or change the traditional view. Among the options before the delegates were the Traditional Plan, which would maintain the existing prohibitions, and the One Church Plan, which would allow different practices regarding gay and lesbian individuals to coexist within the denomination.

9. The General Conference ultimately voted for the Traditional Plan.

10. The General Conference also voted to amend the Book of Discipline by adding a new paragraph, ¶ 2553, titled Disaffiliation of a Local Church over Issues Related to Human

Sexuality. The complete terms of ¶ 2553 are in the record (Ex. P-10), but in summary they include the following:

a. The “current deep conflict” within the UMC over the issues referred to above is recognized. A local church shall have a limited right, under the provisions of ¶ 2553, to disaffiliate from the UMC for reasons of conscience regarding any changes to the Book of Discipline adopted at the 2019 conference regarding these issues “or the actions or inactions of [the local church’s] annual conference related to these issues which follow.” (B.O.D. ¶ 2553.1)

b. The provisions of ¶ 2553 expire on December 31, 2023, and the choice by a local church to disaffiliate must be made in sufficient time to permit the exiting process to be complete before that date. (B.O.D. ¶ 2553.2.)

c. A church conference to decide on disaffiliation must be conducted in accordance with ¶ 248 of the Book of Discipline (relating to church conferences) and held within 120 days after the district superintendent calls for the church conference. The decision to disaffiliate requires approval of a two-thirds vote of the church members present at the church conference. (B.O.D. ¶ 2553.3.)

d. Upon a vote to disaffiliate, the terms and conditions of the disaffiliation are established by the Board of Trustees of the annual conference, with the advice of other bodies in the governing structure of the annual conference. These terms and conditions shall be memorialized in a binding Disaffiliation Agreement between the annual conference and the trustees of the disaffiliating church and must include certain required provisions. (B.O.D. ¶ 2553.4.) The General Council on Finance and Administration shall develop a standard form for Disaffiliation Agreements “to protect the [UMC].” The agreement “shall include a recognition of the validity and applicability of ¶ 2501 [the Trust Clause], notwithstanding the

release of property therefrom. Annual conferences may develop additional standard terms that are not inconsistent with the standard form” (B.O.D. ¶ 2553.4(a).) The standard agreement must provide that the disaffiliating church shall pay any unpaid apportionments for the twelve months prior to the disaffiliation and for an additional twelve months (B.O.D. ¶ 2553.4(b)); shall be entitled to retain its real and personal tangible and intangible property (notwithstanding the Trust Clause) (B.O.D. ¶ 2553.4(c)); shall contribute withdrawal liability for its share of unfunded pension obligations to the annual conference (B.O.D. ¶ 2553.4(d)); shall satisfy all other debts, loans, and liabilities or transfer them to its new entity (B.O.D. ¶ 2553.4(e)); shall make all required payments prior to the effective date of disaffiliation (B.O.D. ¶ 2553.4(f)); shall retain eligibility to sponsor voluntary employee benefit plans through the UMC’s General Board of Pension and Health Benefits (B.O.D. ¶ 2553.4(g)); and upon compliance with these requirements, shall be released by the annual conference from any claims under the Book of Discipline, including the Trust Clause (B.O.D. ¶ 2553.4(h)).

11. John Schol has served as Bishop of the Eastern PA Conference since September 2021.

12. Between March 2022 and October 2022, Bishop Schol issued several letters to the laity and clergy in the Eastern PA Conference regarding disaffiliation.

13. In his letter of March 10, 2022, Bishop Schol stated:

A group of [Eastern PA Conference] leaders are working and will move deliberately to ensure that there is clarity about the process and materials so that congregations who wish to disaffiliate can transition smoothly. Due to the approval process required, and the need to do this well, it may take up to a year for a congregation and the leadership of [the Eastern PA Conference] to work through the process and approvals. [D-5, p. 2.]

14. In his letter of May 3, 2022, Bishop Schol stated that the disaffiliation process would involve seven steps, each with its own timeline. Those seven steps and their timelines are set forth in the letter (Ex. D-7, pp. 2-3), but in summary they were as follows:

a. The Church Council votes to “explore and discern” disaffiliation and notifies the District Superintendent of its desire to engage in the disaffiliation process. The timeline for this step was June through September 2022.

b. Two Guides (including one clergy elder of the church) will be appointed to work with the congregation to explore disaffiliation. The Guides will receive a stipend from the congregation for their services. The timeline for this step was up to six months, starting in September or October 2022. (It appears that a vote by the church members would occur at or near the end of this process, although the letter is not explicit on this point.)

c. If a congregation votes to disaffiliate, the Guides will present and guide the congregation through a “covenanting process” about ministries that may continue to be shared with the Eastern PA Conference and communication during the disaffiliation period. The timeline for this step was up to one month after the vote to disaffiliate.

d. The congregation will engage in a due diligence process to gather materials and documents, including church deeds, necessary to present to the Eastern PA Conference Board. The timeline for this step was up to two months after the vote to disaffiliate.

e. The Eastern PA Conference Board will prepare a Term Sheet outlining the terms and costs of disaffiliation, to be voted on by the congregation’s representative body. The timeline for this step was up to two months after the vote to disaffiliate, but the process was to be completed by March 31, 2023.

f. The Annual Conference will vote on approval of the disaffiliation at its regular session in May 2023.

g. The congregation will make all payments and fulfill the requirements of the Term Sheet. This step was to be completed on or before the date of disaffiliation, but no later than December 31, 2023.

15. In his letter of August 9, 2022, Bishop Schol reiterated the seven-step process in substantially the same language as in his letter of May 3, 2022, except that the fifth step, relating to the Term Sheet, added the following:

There has been a request for a church's Term Sheet. The Board of Trustees will not prepare a Term Sheet for a congregation until it votes to disaffiliate. It is a legal document and will change depending on the date and the particular circumstances of a congregation. On Friday August 5, the Board of Trustees completed the terms to be included in a term sheet and you may find them by selecting this link: **Summary of Disaffiliation Terms**. [Ex. D-10, pp. 2-3.]

16. The "Summary of Disaffiliation Terms" link led to a document titled Preliminary Summary of Disaffiliation Terms and Conditions, consisting of two pages. The first page included the following language: "This document is NOT a final term sheet/disaffiliation agreement, but includes a good faith disclosure and estimation of the terms and conditions that the Conference Trustees currently believe will appear in the final term sheet/disaffiliation agreement." (Ex. D-9.) Similar language reinforced the concept that the amounts listed were only estimates. The first page also included a list of provisions titled Summary of Disaffiliation Terms Unrelated to Pre-Disaffiliation Payments.

17. The second page was a form titled Payments Due Prior to Disaffiliation Date. The form listed fourteen line items, purportedly to reimburse the Eastern PA Conference for the financial losses to be incurred as a result of a church's disaffiliation. The dollar amounts were

left blank for most of the line items. The form included line items that did not correspond to any specific provisions required by ¶ 2553.4 to be included in a Disaffiliation Agreement. The form noted that inclusion of certain line items on the final version may depend on the particular circumstances of the disaffiliating church. (For instance, if the church's pastor decided to remain with the UMC rather than exit with the church, the church would be assessed a "Ministry Transition Payment" to cover the salary obligation that would be assumed by the UMC. If the pastor was staying with the disaffiliating church, which would continue to pay the pastor's salary, then this line item would not be assessed.)

18. The seven-step process and the categories of payments on the form Term Sheet were established by the Eastern PA Conference Board.

19. The second step, providing for a process of up to six months for the exploration of the disaffiliation issue among the members of a congregation, was referred to by the Eastern PA Conference as a period of "discernment." Bishop Scholl and the Eastern PA Conference Board considered the period of discernment to be an essential part of the process for the making of a considered and spiritually-guided decision by a faith-based institution. On the other hand, some churches, desiring to disaffiliate, considered the discernment process to be unnecessary and dilatory and not authorized by ¶ 2553.

20. Five churches in the Eastern PA Conference opted to follow the disaffiliation process established by ¶ 2553 and the Eastern PA Conference Board. As of the time of the hearing in this matter, three of those churches had completed disaffiliation; the other two churches are in the process of completing disaffiliation.

21. In accordance with the Preliminary Summary of Disaffiliation Terms and Conditions document linked to in Bishop Schol's letter of May 3, 2022, the Eastern PA

Conference provided to some churches desiring to disaffiliate a Payments Due Prior to Disaffiliation Date form, with preliminary dollar amounts filled in, prior to the church members' vote on disaffiliation. In some cases, the preliminary estimates far exceeded the final amounts provided in advance of the actual disaffiliation date. Some of the reductions were made because the preliminary figures assumed contingencies (for instance, a pastor's decision to remain with the UMC) that did not come to pass.

22. Under the timeline prescribed for the seven-step process established by the Eastern PA Conference, it is now too late for a congregation to begin the process and complete it by December 31, 2023.

23. Defendants did not deprive Movant Plaintiffs of the opportunity to participate in the seven-step process within the timelines provided.

24. Movant Plaintiffs desire to disaffiliate from the UMC under ¶ 2553 because they believe that the UMC and its Eastern PA Conference have deviated from the Traditional Plan approved at the 2019 General Conference.

25. The District Superintendents of the Eastern PA Conference have refused requests by some Movant Plaintiffs to call a church conference for a vote on disaffiliation, because the churches have failed to participate in the required discernment process.

26. Movant Plaintiffs assert that the additional procedures adopted by the Eastern PA Conference for disaffiliation go beyond the procedures prescribed by ¶ 2553 and that Defendants breached their obligations to Movant Plaintiffs under ¶ 2553 by requiring Movant Plaintiffs to follow those additional procedures in order to disaffiliate. In particular, Movant Plaintiffs maintain that Defendants have no authority to require that a congregation undergo the process of discernment as a precondition to disaffiliation. Therefore, Movant Plaintiffs assert, the Eastern

PA Conference is obligated to call church conferences for Movant Plaintiffs and to permit them to vote on disaffiliation under ¶ 2553 and otherwise proceed with disaffiliation, without first going through the period of discernment. Movant Plaintiffs seek a preliminary injunction requiring Defendants to comply with these asserted obligations.

27. Plaintiffs also object to many of the financial line items established by the Eastern PA Conference Board as unauthorized by ¶ 2553; however, Movant Plaintiffs have disclaimed that objection as a basis for their Motion and have represented that they will pay those financial line items if the preliminary injunction is granted.

28. The Judicial Council of the UMC has made several rulings on issues relating to ¶ 2553. These rulings include the following:

a. In Decision No. 1379 dated April 25, 2019, the Judicial Council considered the validity of ¶ 2553 under the UMC Constitution. The Judicial Council ruled that annual conferences have a role separate from that of the General Conference in the disaffiliation process:

Since the disaffiliation of local churches is *not* mentioned among the enumerated powers of the General Conference, this subject matter has not been delegated to the General Conference under the Constitution, and, therefore, the final decision concerning exiting local churches belongs to the annual conference as part of its reserved rights. [Ex. D-4, unnumbered pp. 4-5 (quotation marks omitted).]

The Judicial Council noted that ¶ 2553 does not expressly provide for final approval by vote of the annual conference before a local church within that conference may disaffiliate and that the absence of such a requirement raises an issue of the constitutionality of ¶ 2553. Nevertheless, the Judicial Council ruled, a different provision of the Book of Discipline, ¶ 2529.1(b)(3), requires that any disaffiliation by a local church must have the consent of the annual conference. Although this requirement does not appear explicitly in ¶ 2553, “its constitutionality, meaning,

application, and effect should not be determined in isolation,” but rather in the context of all relevant provisions of the Book of Discipline. (Ex. D-4, unnumbered p. 5.) “Even though ¶ 2553 contains no reference to ¶ 2529.1(b)(3), it is indisputable that both provisions regulate the same subject matter, namely the disaffiliation of local churches, and, thus, should be read together.” (Ex. D-4, unnumbered p. 6.) The Judicial Council concluded that under the UMC Constitution, “the annual conference as the basic body in the Church has the reserved right to make final decisions regarding the disaffiliation of local churches within its boundaries” and that this reserved right is preserved by the requirement under ¶ 2529.1(b)(3) that any disaffiliation by a local church must be ratified by its annual conference. (Ex. D-4, unnumbered p. 6.)

b. In Decision No. 1425, the Judicial Council considered the validity of a resolution by the New England Annual Conference adopting procedures that must be followed before a local church could disaffiliate under ¶ 2553. These procedures included “a discernment period of no shorter than eight months.” (Ex. D-17, p. 1.) During the discernment period, the local church must seek the views on a potential disaffiliation from several specified bodies within the annual conference. “The church . . . shall also develop a statement articulating their theological and missional foundations in seeking disaffiliation for reasons of conscience ‘related to human sexuality.’” (Ex. D-17, p. 1.) In addition, the local church must hold a minimum of four “listening sessions,” to be facilitated by the District Superintendent and not by the pastor of the church. (Ex. D-17, p. 2.) The Judicial Council upheld the validity of this resolution. It explained:

The core issue in this case is whether an annual conference has the authority to adopt procedures in addition to the ones enacted by the General Conference in 2019 for the disaffiliation of local churches. The Constitution established a sound balance of powers between the General Conference and annual conferences, ensuring that no single body has absolute authority in matters of disaffiliation. . . . [T]he annual

conference, having reserved to it . . . such other rights as have not been delegated to the General Conference under the Constitution, exercises autonomous control over the agenda, business, discussion, and vote on the question of withdrawal. . . . We affirmed this principle, in [Decision No.] 1379

. . . [T]he disaffiliation process established by the General Conference constitutes minimum standards, which do not preclude additional procedures and standard terms created by annual conferences, provided that the latter do not negate or violate the former. If it had intended to occupy the field with the passage of ¶ 2553, the General Conference would have said so [Ex. D-17, p. 3 (quotation marks omitted).]

Finally, the Judicial Council held that the additional procedures adopted by the New England Annual Conference requiring a period of discernment did not “negate or violate” the provisions of ¶ 2553:

All [the resolution] does is require that congregations contemplating disaffiliation examine the potential impact of their exit from the denomination by obtaining assessments from conference agencies and officials whose work areas intersect directly with the local church’s disaffiliation and by soliciting the input of professing members and constituents, and that the findings together with the Disaffiliation Agreement be reported to the members of the annual conference prior to their vote. . . . We do not see how this discernment process ignores, negates, or violates the instructions of ¶ 2553. [Ex. D-17, p. 4.]

29. The discernment process required by the New England Annual Conference, upheld in Decision No. 1425, is more onerous than the discernment process required by the Eastern PA Conference. Among other differences, the required period of discernment in New England is longer than in Eastern Pennsylvania, and it requires solicitation of the views of multiple bodies within the annual conference and the holding of “listening sessions,” which are not expressly required in Eastern Pennsylvania.

Discussion

Although this Motion raises a number of legal issues, the most prominent and challenging is the extent of the restraints that the First Amendment places on this Court's authority to resolve a dispute between parties within a religious institution.³ The case law on the power of secular courts to rule on disputes involving religious institutions is lengthy and complex and, in some respects, difficult to reconcile. Certain principles, however, are clear.

On the one hand, courts cannot resolve disputes involving religious doctrine or practice. "[T]he right to practice one's belief and worship as one chooses is so deep a root of our constitutional culture that a court, even one with the best intentions, can be no more than a clumsy intruder into the most delicate and sensitive areas of human life." *Presbytery of Beaver-Butler of United Presbyterian Church in the U.S. v. Middlesex Presbyterian Church*, 489 A.2d 1317, 1320 (Pa. 1985). This principle applies even when the ownership of church property is in dispute:

First Amendment values are plainly jeopardized when church property litigation is made to turn on the resolution by civil courts of controversies over religious doctrine and practice. If civil courts undertake to resolve such controversies in order to adjudicate the property dispute, the hazards are ever present of inhibiting the free development of religious doctrine and of implicating secular interests in matters of purely ecclesiastical concern. Because of these hazards, the First Amendment enjoins the employment of organs of government for essentially religious purposes; the Amendment therefore commands civil courts to decide church property disputes without resolving underlying controversies over religious doctrine. Hence, States, religious organizations, and individuals must structure relationships involving church property so as not to require the civil courts to resolve ecclesiastical questions.

Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church, 393 U.S. 440, 449 (1969). Similarly, when the highest judicial authority of a religious institution has ruled

³ The Religion Clauses of the First Amendment are, of course, applicable to the states through the Fourteenth Amendment. *See, e.g., Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940).

on “questions of discipline, or of faith, or ecclesiastical rule, custom, or law,” courts must accept that ruling as final and binding. *Presbytery of Beaver-Butler*, 489 A.2d at 1319 (emphasis omitted) (quoting *Watson v. Jones*, 80 U.S. 679, 727 (1871)).

On the other hand, courts may resolve “disputes as to meaning of agreements on wills, trusts, contracts, and property ownership [that raise] questions of civil law and are not predicated on any religious doctrine.” *Id.* at 1320-21. In resolving such disputes, courts must apply “neutral principles of law, developed for use in all property disputes.” *Id.* at 1321 (quoting *Hull Mem'l Presbyterian Church*, 393 U.S. at 449). Even then, the First Amendment “commands civil courts to decide church property disputes without resolving underlying controversies over religious doctrine.” *Id.* (quoting *Hull Mem'l Presbyterian Church*, 393 U.S. at 449).

Thus, even on issues of property ownership, the “neutral principles” approach is limited by the constitutional mandate that courts avoid entanglement with religious disputes. This principle is illustrated by the decision of the United States Supreme Court in *Serbian Eastern Orthodox Diocese for the United States & Canada v. Milivojevich*, 426 U.S. 696 (1976). *Milivojevich* was a dispute “over control of the Serbian Eastern Orthodox Diocese for the United States of America and Canada . . . , its property and assets.” *Id.* at 698. The case challenged, among other things, the decision of the Holy Assembly of Bishops of the Serbian Orthodox Church — its “highest legislative, judicial, ecclesiastical, and administrative authority,” *id.* at 699 — to reorganize the diocese comprising the United States and Canada into three separate dioceses. The bishop of the former diocese brought suit in Illinois state court, asserting that the Holy Assembly lacked authority under the governing church documents to reorganize the diocese and that control of the property of the diocese should remain with the bishop. The Illinois Supreme Court held that “the Diocesan reorganization was invalid because it was beyond

the scope of the Mother Church's authority to effectuate such changes without Diocesan approval." *Id.* at 708 (citing *Serbian E. Orthodox Diocese for U. S. of Am. & Can. v. Milivojevich*, 328 N.E.2d 268 (Ill. 1975)).

The United States Supreme Court reversed, holding that the Illinois court's analysis of the governing documents of the denomination was an intrusion into its internal religious affairs, protected from civil court scrutiny by the First Amendment — notwithstanding the “neutral principles” doctrine for determining the ownership of disputed church property:

[T]he Illinois Supreme Court relied on purported “neutral principles” for resolving property disputes which would “not in any way entangle this court in the determination of theological or doctrinal matters.” Nevertheless the Supreme Court of Illinois substituted its interpretation of the Diocesan and Mother Church constitutions for that of the highest ecclesiastical tribunals in which church law vests authority to make that interpretation. This the First and Fourteenth Amendments forbid.

We will not delve into the various church constitutional provisions relevant to this conclusion, for that would repeat the error of the Illinois Supreme Court. It suffices to note that the reorganization of the Diocese involves a matter of *internal church government*, an issue at the core of ecclesiastical affairs.

Id. at 721 (emphasis added) (quoting *Serbian E. Orthodox Diocese for U. S. of Am. & Can. v. Milivojevich*, 328 N.E.2d 268, 282 (Ill. 1975)).

[W]here resolution of the disputes cannot be made without extensive inquiry by civil courts into religious law and polity, the First and Fourteenth Amendments mandate that civil courts shall not disturb the decisions of the highest ecclesiastical tribunal within a church of hierarchical polity, but must accept such decisions as binding on them, in their application to the religious issues of doctrine or polity before them.

Id. at 709.

Milivojevich is, of course, binding on the courts of Pennsylvania. It was considered determinative by the Commonwealth Court in *Southeastern Pennsylvania Synod of the Evangelical Lutheran Church in America v. Meena*, 19 A.3d 1191 (Pa. Cmwlth. 2011). In

Meena, the Synod decided to place a local church under “involuntary synodical administration” and ultimately to close the church, under a provision of the Synod constitution authorizing such action where the Synod Council determines that membership of the church “has become so scattered or so diminished in numbers as to make it impractical for such congregation to fulfill the purposes for which it was organized.” *Id.* at 1193. It therefore directed the church to turn over all of its assets to the Synod. The church appealed to the Synod Assembly, “the highest judicatory body” in the Synod, which affirmed the determination of the Synod Council. *Id.* at 1194.

In subsequent litigation over ownership of the property of the church, the Commonwealth Court held that under *Milivojevich*, civil courts could not question the ruling of the Synod Assembly. The Commonwealth Court explained: “[T]he ‘neutral principles of law approach’ applies *only* when a trial court is able to determine the underlying issue by utilizing purely legal principles without delving into ecclesiastical matters.” *Id.* at 1196. The Court elaborated by quoting from *Milivojevich*:

[W]henver the questions of discipline, or of faith, or ecclesiastical rule, custom, or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final, and as binding on them, in their application to the case before them.

Id. (quoting *Milivojevich*, 426 U.S. at 710). The Commonwealth Court concluded:

To review Synod’s decision to impose synodical administration, the trial court would have to examine the internal processes and criteria utilized by Synod and the Synod Assembly to determine the on-going viability of their congregations. We agree with the trial court that this decision concerns *ecclesiastical matters regarding internal church governance and organization* beyond the purview of our courts.

Id. at 1197 (emphasis added).

In the present case, the Motion for Preliminary Injunction does not directly address ownership of the property of the Movant Plaintiffs, but its outcome could have a significant effect on such ownership. Nevertheless, the application of the “neutral principles” approach is limited by *Milivojevich* and *Meena*. As the above Findings make clear, the Judicial Council of the UMC — its highest judicial authority — has held that annual conferences have the authority to establish additional procedures as part of the process that a local church must undergo in order to disaffiliate under ¶ 2553. Such additional procedures may include an extended period of discernment before the church can proceed to a vote of its membership. Movant Plaintiffs ask this Court to hold that the Eastern PA Conference lacks such authority and that the only procedures that apply to a disaffiliation under ¶ 2553 are those expressly set forth in that paragraph. Such a holding would be directly contrary to the rulings of “the highest of [the] church judicatories,” to which this civil Court must defer. *Id.* at 1196 (quoting *Milivojevich*, 426 U.S. at 710). It would also involve this Court in determining the allocation of power between the General Conference and an annual conference on issues of church affiliation. “Neutral principles” cannot be applied to “a matter of internal church government, an issue at the core of ecclesiastical affairs.” *Milivojevich*, 426 U.S. at 721; *see Meena*, 19 A.3d at 1197 (“[E]cclesiastical matters regarding internal church governance and organization [are] beyond the purview of our courts.”).⁴

⁴ Even if the Judicial Council rulings were not binding on this civil Court, Movant Plaintiffs have not presented to the Court any evidence or argument that the rulings state an erroneous interpretation of UMC law. They state simply that the procedures mandated by the Eastern PA Conference are not set forth in ¶ 2553, standing alone. But they do not address the reasoning of the Judicial Council that ¶ 2553 cannot be read “in isolation” (Finding No. 28(a), *supra*) and that under the UMC Constitution, the separation of powers between the General Conference and the annual conferences grants to the latter the authority to prescribe procedures in addition to those mandated by the former.

In short, “[r]eligious freedom encompasses the ‘power [of religious bodies] to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.’” *Milivojevich*, 426 U.S. at 721-22 (quoting *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952)) (bracketed insertion by the *Milivojevich* Court). Religious liberty would be undermined, not promoted, by this Court’s intrusion into the internal governance of a religious denomination over its own ecclesiastical affairs.

Conclusions of Law

1. Although the UMC itself has a potential interest in the outcome of this case, it is not a necessary party where its “official designee is already a party.” *City of Philadelphia v. Commonwealth*, 838 A.2d 566, 582 (Pa. 2003). Because both Bishop Schol and the Eastern PA Conference Board are parties in this case, the UMC is not a necessary party.⁵

2. The “essential prerequisites” for a preliminary injunction are as follows:

First, a party seeking a preliminary injunction must show that an injunction is necessary to prevent immediate and irreparable harm that cannot be adequately compensated by damages. Second, the party must show that greater injury would result from refusing an injunction than from granting it, and, concomitantly, that issuance of an injunction will not substantially harm other interested parties in the proceedings. Third, the party must show that a preliminary injunction will properly restore the parties to their status as it existed immediately prior to the alleged wrongful conduct. Fourth, the party seeking an injunction must show that the activity it seeks to restrain is actionable, that its right to relief is clear, and that the wrong is manifest, or, in other words, must show that it is likely to prevail on the merits. Fifth, the party must show that the injunction it seeks is reasonably suited to abate the offending activity. Sixth and finally, the party seeking an injunction must show that a preliminary injunction will not adversely affect the public interest.

⁵ The Court therefore need not determine whether the UMC is an entity that *could* be joined as a party.

Summit Towne Ctr., Inc. v. Shoe Show of Rocky Mount, Inc., 828 A.2d 995, 1001 (Pa. 2003) (citations omitted). The failure to satisfy “any one of the . . . ‘essential prerequisites’” is a sufficient basis for denial of a preliminary injunction. *Id.*

3. This burden is enhanced when the preliminary injunction that is sought is mandatory rather than prohibitory:

Generally, preliminary injunctions are preventive in nature and are designed to maintain the status quo until the rights of the parties are finally determined. There is, however, a distinction between mandatory injunctions, which command the performance of some positive act to preserve the status quo, and prohibitory injunctions, which enjoin the doing of an act that will change the status quo. This Court has engaged in greater scrutiny of mandatory injunctions and has often stated that they should be issued more sparingly than injunctions that are merely prohibitory. Thus, in reviewing the grant of a mandatory injunction, we have insisted that a clear right to relief in the plaintiff be established.

Mazzie v. Commonwealth, 432 A.2d 985, 988 (Pa. 1981).

4. The Court has jurisdiction over the subject matter of the Motion, but in exercising such jurisdiction, it may not depart from the rulings of the highest judicial authority within the UMC on ecclesiastical matters of internal church government and organization, including the allocation of authority over the disaffiliation process between the General Conference and the Eastern PA Conference. *See, e.g., Serbian E. Orthodox Diocese for the U.S. & Can. v. Milivojevich*, 426 U.S. 696 (1976); *Se. Pa. Synod of the Evangelical Lutheran Church in Am. v. Meena*, 19 A.3d 1191 (Pa. Cmwlth. 2011).

5. Because the Court must defer to the above-stated rulings of the Judicial Council of the UMC, the additional procedures prescribed by the Eastern PA Conference for disaffiliation under ¶ 2553, including the requirement for a period of discernment, must be considered valid and enforceable as a matter of church law.

6. It is unnecessary to rule on whether ¶ 2553 is a contract (as Movant Plaintiffs assert) or legislation (as Defendants assert). In either case, the Court must follow the interpretation of ¶ 2553 by the Judicial Council.

7. Because the basis of the Motion is contrary to the rulings of the Judicial Council, Movant Plaintiffs have not shown a clear right to relief or a likelihood of success on the merits.

8. The Court has respectfully considered the contrary conclusion set forth in the Order of the Superior Court of Cobb County, Georgia, in *Carrollton 1st United Methodist Church v. Trustees of the N. Ga. Conference of the United Methodist Church*, No. 23102495-65 (May 19, 2023), but does not find it persuasive. Among other reasons, the Georgia court does not address the rulings of the Judicial Council that this Court considers dispositive.

9. It is unnecessary to address Defendants' argument that Movant Plaintiffs' claim for injunctive relief is barred by laches.

10. Finally, because Movant Plaintiffs' have not established a right to relief on the merits, it is unnecessary to address the other factors required for issuance of a preliminary injunction.

An appropriate Order follows.

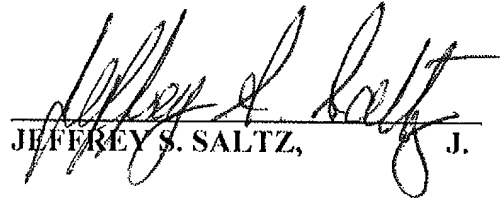
IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

BETHANY UNITED METHODIST CHURCH : NO. 2023-06007
OF WESCOSVILLE PENNSYLVANIA, ET AL. :
: :
vs. : :
: :
EASTERN PENNSYLVANIA CONFERENCE :
OF THE UNITED METHODIST CHURCH, :
ET AL. :

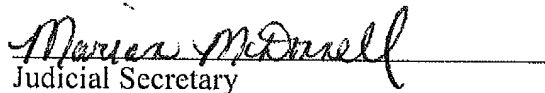
ORDER

AND NOW, this 20th day of October, 2023, upon consideration of Plaintiffs' Motion for Injunctive Relief and all related submissions, and after a hearing, and in accordance with the foregoing Findings of Fact and Conclusions of Law, it is hereby **ORDERED** that the Motion is **DENIED**.

BY THE COURT:


JEFFREY S. SALTZ, J.

efiled on: 10-20-23
copies emailed on: 10-20-23 to:
Andrea Grace, Esquire, Court Administration – Civil Division
Michael Jorgensen, Court Administration – Civil Division
Bruce L. Castor, Jr., Esquire (BCastor@mtvlaw.com)
Raymond McGarry, Esquire (RMcGarry@bmnlawyers.com)
Mary Kay Brown, Esquire (mkbrown@bmnlawyers.com)
David Gibbs, Esquire (DGibbs@gibbsfirm.com)


Judicial Secretary